

## ENABLING ACCESS TO CREDIT IN NIGERIA: AN OVERVIEW OF THE CREDIT REPORTING ACT 2017

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### Introduction

The Credit Reporting Act 2017 (the ‘Act’) provides the framework for credit reporting, licensing and regulation of credit bureaux. The Act is in line with the Federal Government’s Economic Growth and Recovery Plan for 2017 – 2020 (the ‘Plan’) released by the office of the President in April 2017. The Plan recognises Nigeria’s need to become a competitive economy by improving the business environment.

The primary objective of the Act is to facilitate and promote access to credit by ensuring that credit providers have access to accurate and reliable credit information of prospective borrowers. To this end, the Act sets out the standards and conditions for the establishment and operation of credit rating agencies. This law will enable credit providers to evaluate the credit history of a borrower before making decisions on whom to grant credit.

The spate of non-performing loans in Nigeria led the government to establish the Asset Management Corporation of Nigeria (AMCON) in 2010 to take over qualifying non-performing loans to prevent a total collapse of the banking sector. With the establishment of credit rating agencies, credit providers will be able to choose more credit-worthy individuals/businesses to grant credit to leading to better risk management and less reliance on AMCON to offset bad debts.

### *Functions of a Credit Bureau*

The Act makes the Central Bank of Nigeria (CBN) the regulatory body in charge of credit bureaux in Nigeria. It prohibits the establishment or operation of a credit bureau without a licence from the CBN. The CBN is amongst other things, empowered to receive applications for the establishment of a credit bureau, issue licences subject to such terms and conditions, and revoke or suspend any licence granted.

In line with its powers under the Act, the CBN in November 2013 issued the ‘Guideline for the Licensing, Operations and Regulation of Credit Bureaux and Credit Bureau Related Transactions in Nigeria’ (the “Guideline”), which sets out licensing requirements for credit bureaux and provides guidance on who can own or manage a credit bureau.

A credit bureau is required to be duly incorporated as a company limited by shares and should have a minimum share capital requirement of N500,000,000 (Five Hundred Million Naira). The functions to be carried out by credit bureaux include:

- i) receiving and collating credit and credit related information to create a database of such information;
- ii) issuing credit reports;
- iii) investigating at the request of a credit information user, an application for credit on behalf of any person to whom an application for a credit based transaction has been made; and
- iv) carrying out such other activities as are compatible with the preceding or as prescribed by the CBN.

Credit bureaux are prohibited from engaging in any business outside those provided for by the Act.

It should be noted that in issuing credit reports, credit bureaux are not to proffer an opinion on the credit worthiness of the data subject, but are required only to provide the factual information with which the credit provider will determine if it should grant credit and on what terms. A credit bureau is required to implement systems that will ensure that its database is updated on an ongoing basis and to verify the accuracy of its credit information. Also, credit bureaux must maintain credit information for not less than six years.

A credit information user can only access credit information for a purpose permitted under the Act. The permissible purposes outlined in the Act are for:

- i) **considering an application for credit by any person or considering a person’s qualification to act as a guarantor for any credit;**
- ii) reviewing, renewing, restructuring or monitoring of existing credit facilities;
- iii) carrying out employment checks on employees or prospective employees;
- iv) assessing the credit worthiness of a potential tenant in any lease or tenancy;
- v) underwriting, reviewing, renewing insurance policies or analysing insurance claims;
- vi) considering applications for credit contracts or other post-paid services;
- vii) taking actions in respect of debt collection, enforcement of a monetary judgment or enforcement of any other debt;

- viii) satisfying a request for a data subject to validate the correctness or otherwise of credit information held by a credit bureau in respect of such data subject;
- ix) providing credit scoring services by credit bureaux;
- x) complying with any court order to provide credit information or where a person is required by applicable law to provide credit information in respect of any other person;
- xi) complying with the directive of a regulatory authority or a public body to provide credit information;
- xii) carrying out know-your-customer checks on anyone for any permissible purpose or as may be required by law; and
- xiii) such other purposes as CBN may specify or direct.

It is worthy of note that the Act requires credit information users to obtain a credit report from at least one credit bureau before granting any form of credit to make informed decisions in granting credit facilities that will help reduce the incidence of non-performing loans in Nigeria.

Credit information providers include banks, other financial institutions, leasing companies, insurance companies, cooperative societies, institutions that offer credit to medium, small and micro enterprises, utility companies, asset management companies, credit reporting management system and suppliers of goods and providers of services on a post-paid basis.

Notwithstanding, the Act recognises the right of privacy, confidentiality and data protection about credit information and provides for conditions to be fulfilled before credit bureaux can disclose such information. A credit bureau is allowed to disclose credit information to a credit information user:

- a. with which it has data exchange agreements, such disclosure must be for a permissible purpose; or
- b. where the credit information user has obtained written consent of the data subject, and this consent is provided to the credit bureau.

However, to ensure that credit bureaux are supplied with the required information for their database, credit information relating to a data subject can be provided by a credit information provider without the prior consent of the data subject.

Credit bureaux, credit information providers or users will be required to disclose, upon written request, credit information to the CBN, or any other person pursuant to a court order or where required by law with or without the consent of the data subject.

Lastly, the Act provides for various offences for contravening the provisions of the Act and persons convicted of such offences may face imprisonment or fines.

## Conclusion

The Act brings Nigeria in line with many developed countries which have sophisticated **means of checking individuals/businesses' credit worthiness**. It is **expected that this** would translate into financial institutions being willing to make credit facilities readily accessible to more micro, small and medium enterprises, as they may be able to check how such smaller entities have performed in relation to credit previously granted to them. The Act is a laudable step in the right direction to improve the process of credit reporting **which is vital in the progress of the country's economy**. If **credit providers have more confidence to give loans** this may translate to improved economic activities which will in **turn impact the country's economic performance**.