

## **SB.205**

A BILL

FOR

AN ACT TO PROVIDE FOR LEGAL FRAMEWORK FOR CREDIT BUREAU SERVICES; AND FOR OTHER MATTERS CONNECTED THEREWITH

*Sponsored by Senator Rafiu Adedayo Ibrahim*

[        ]

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

### **PART I - ESTABLISHMENT OF THE CREDIT BUREAU REPORT SCHEME**

#### **Citation**

**1.**-(1) This Act may be cited as the Credit Bureau Reporting Bill, 2016.

(2) This Act shall have effect from the day it is signed into law.

#### **Basement of the Act**

**2.** This Act is based on the principles of:

(a) Opening up credit facilities to a larger population of Nigerians through consumer credit rating system.

(b) Producing effective Credit data-base to determine the credit worthiness of individual accessing credit in our financial system.

(c) Qualifications for establishment of a credit bureau

(d) Fair credit reporting guideline.

### **PART II - GUIDELINES FOR THE OPERATIONS OF CREDIT BUREAUS**

#### **Guidelines for operations**

**3.**-(1) Save as may otherwise be provided in this Act, a company shall only be licensed to operate as a Credit Bureau by the Central Bank: of Nigeria upon satisfaction of the following conditions and other guidelines as may be released from time to time by the Central Bank of Nigeria:

(a) A company duly incorporated in Nigeria in accordance with the provisions of the Companies and Allied Matters Act of 1990 as amended and any other relevant law in force for the time being;

(b) The company shall have a minimum paid up capital of N50,000,000 (Fifty Million Naira only);

(c) The company shall have offices in all the states of the federation or have working relationship with local credit bureaus in the case of National Credit Bureaus;

(d) The company shall comply with guidelines and directives that shall be issued by the Central Bank of Nigeria from time to time either prior to or after grant of license to practise by the Central Bank of Nigeria;

(e) Consent of customers shall be a condition precedent to issuance of credit information to prospective employers;

(f) Unemployed persons shall obtain credit reports free from the Credit Bureaus.

(2) In accordance with the principle of Federalism State Governments may make laws for operations of Credit Bureaus within each state subject however to issuance of licenses based on such laws by the States Ministry of Trade or Commerce.

### **PART III - FUNCTIONS OF CREDIT BUREAUS**

#### **Functions of credit bureaus.**

#### **4. Credit Bureaus Shall:**

- (a) Create a credit infrastructured database,
- (b) Access information from users stated below:
  - (i) Banks;
  - (ii) Micro-Finance Institutions/Mortgage Institutions;
  - (iii) Auto equipment and other finance companies;
  - (iv) Leasing Companies;
  - (v) Mortgage institutions;
  - (vi) Insurance companies;
  - (vii) Institutions offering finance for medium, small and micro enterprises;
  - (viii) Cooperative Societies;
  - (ix) Credit issuing Petrol/Gas Filing Stations;
  - (x) Any other institutions that may be licensed to engage in the business of lending from time to time.
- (c) Collate such Credit Information;
- (d) Maintain such data-base in order to analyse and determine the credit worthiness of customers to Credit Institutions;
- (e) Ensure accurate ratings of customers to guarantee reliability of reports;
- (f) Rate Credit performance in categories A for excellent 'B' for Good 'C' for fair, 'D' for poor and 'E' for very poor in accordance with the true reflections of the agreed payment terms;
- (g) Release the credit reports to credit agencies, employers and related bodies without offering opinion on whether or not the credit or job which is the basis for issuance of such credit rating should be granted or declined;
- (h) Shall jointly provide a link system with financial institution for easy exchange of Data;
- (i) The Bureaus shall delete negative information immediately upon liquidation of the loan by the customer;
- (j) The Credit Bureaus shall not include information relating to sex, race, colour religious issues either in its questionnaires or in the credit reports.

#### **Scope of Credit Bureau Operations**

**5.-(1)** The operations of the Credit Bureau shall cover:

- (a) Natural persons;
  - (b) Corporate entities who have existing credit request and or relationship with users.
- (2) Only legal entities with credit and employment issues related basis shall be entitled to request for information from the Bureau save individuals who solely requires personal credit information and data for update, correction and clarification. Provided that those qualified under this section to request for credit information shall be known and referred to as 'users'.

#### **Restriction of usage of Credit Information.**

(3) Usage of Credit Bureaus information shall be limited to the following:

- (a) In response to court order;
- (b) to persons who require the details in respect of a credit transaction;
- (c) to any organisations who requires the usage of the details for employment purposes;
- (d) to organisation who requires the details in respect of contract of insurance;

(e) (b), (c), (d) can only be entertained upon consent of the individual whose credit information is to be accessed.

#### **PART IV - POWERS OF THE CENTRAL BANK OF NIGERIA**

##### **Powers of the Central Bank of Nigeria.**

**6.** The Central Bank of Nigeria (CBN) shall have powers to:

- (a) Make regulations for the operations of the Credit Bureau system in line with this Act;
- (b) Review and monitor the activities of the Bureau, and users;
- (c) Issue guidelines for operation of Credit Bureaus system;
- (d) Issue licences to qualified Credit Bureaus in line with the provision of this act;
- (e) Obtain annual reports of credit ratings of corporate entities from Credit Bureaus for appraisals and interventions when necessary;
- (f) Revoke licences issued to Credit Bureaus for failure to comply with the provisions of this Act and or other guidelines as may be issued from time to time by CBN:

Provided however that prior to revocation of the licence of any Bureau, on non-compliance, the CBN through the Governor shall issue not less than three notices of breach committed by the Bureau, failure to rectify such breaches shall result in suspension or revocation in the case of constant breach of the provisions of this Act of the Bureau's operating licence.

- (g) Approve forms, and other documents that shall govern the relationship between the Bureaus, customers and other relevant parties;
- (h) Specify and inspect the Information Communication Technology department of the Credit Bureaus system to ensure reliability, backup and security of credit data;
- (i) Inspect and ensure that the Credit Bureaus put in place operational tools before final approval;
- (j) Prepare and render returns of credit information obtained from the credit bureaus to the Minister of finance for review and directives by the Federal Executive Council annually;
- (k) Set up monitoring units in the surveillance department of the CBN to monitor the time of request for credit information, the period it takes to render such information by the Bureaus, the accuracy of such information, qualifications and competence of Bureau personnel, and compliance with other rules and regulations necessary for efficient, effective and successful operation of the Credit Bureaus.
- (l) Obtain credit bureau reports from the bureaus for purpose of national planning and economic stability. This should be without prejudice to the individuals right to privacy.

#### **PART V - FUNCTIONS OF CREDIT INFORMATION PROVIDERS**

##### **Functions of Credit Information providers.**

- 7.-(1)** (a) From the commencement of this Act, all credit information providers as outlined in section 4;
- (b) of this Act shall obtain a duly executed mandate from their credit applicants before processing credit reports;
  - (b) Executions of the mandate form as provided in subsection 7 (a) shall be a condition precedent to processing of credit requests by institution licensed to grant credits.;
  - (c) Upon execution of the mandate form as specified above the customer shall be deemed to have consented to issuance of his credit information by the Credit Bureaus to the credit Issuer;

(d) For the purpose of this Act the oath of secrecy governing financial institutions/customer relationship is hereby waived only as it relates to disclosure of credit information by information providers to Credit Bureaus on the one hand and issuance of Credit ratings to authorised end users as provided for in section 5 of this Act on the other hand.

(2) The information provider shall send accurate credit information to the Bureaus which shall include but not limited to the following:

- (a) Credit Limit;
- (b) Date of approval;
- (c) Date of disbursement;
- (d) Moratorium period (if any);
- (e) Agreed instalmental payments;
- (f) Payment schedules;
- (g) Compliance or otherwise with payment schedules;
- (h) Outstanding payment defaults;
- (i) Number of letters of demand issued (if any);
- (j) Concise history of loan approval within the last five years in case of an existing credit customer;
- (k) Duration for which the outstanding had remained unpaid;
- (l) Any other information that may be relevant to the rating agencies.

(3) The information providers shall continually update its customer/clients records forwarded to the Bureaus on monthly basis in cases where there is further disbursement of excess over limit, default which increases the risk or repayment that reduces the credit exposure:

- (a) The information provider shall notify the Bureau of any legal and or Judicial action taken against the customer/client whether or not the customer/client has positive or negative credit information;
- (b) The information provider shall notify the customer/client of negative reports from the Bureau to enable the customer/client protest, correct or rectify any error or situation that might have occasioned the negative report;
- (c) The information provider shall act on complaints from either the Bureau or the customer/client within 15 days of such complaints by the customer;
- (d) The information provider shall ensures that only accurate information is sent to the Bureau at all times, provided that the information provider shall be liable in tort for loss or damage that may be suffered by the Bureau and or the customer/client for failure to correct genuine complaints from the Bureau/customer/client and other third parties as .a result of delay in correcting inaccurate credit report. Judgment debt shall always be referred to the Bureau by the users.

**Obligations on the Part of Credit Information Users.**

**8.-**(a) For the purpose of this Act, users are those outlined in section 4 (b) above and shall have the right to use Credit information obtained from Credit Bureaus for the purpose of Credit analysis;

(b) The user shall use credit information obtained from the Bureau only for the purpose for which the request was made;

(c) The user shall pay a fee to be determined by the Central Bank. Such charges shall be passed to the customer upon approval of such credit;

- (d) The user shall notify the Bureau of changes and substitution of such officers upon resignation, retirement or redeployment of such officers;
- (e) The user shall not alter or substitute the Bureau report for whatever reasons;
- (f) The user shall furnish customers with the name, address and telephone numbers of the Credit Bureau that issue negative credit reports OB customers whenever the credit request is turned down based on the Credit Bureaus report.

**Rights of Customers/clients.**

- 9.**-(a) Every customer covered by this Act shall have the right to demand and be given a copy of his credit report upon payment of a fee of ₦1, 000 or as may be approved through guidelines for the operation of Credit Bureaus by CBN from time to time;
- (b) Customers dissatisfied with the accuracy of his credit report shall file a complaint to that effect with the Bureau and copy the user within 15 days from the day of issuance of such report;
  - (c) If the customer does not file a complaint within the stipulated 15 days period, such credit rating shall be deemed correct except proven otherwise;
  - (d) Whenever a customer complaint is being treated, credit information issued during such period shall carry an addendum thus "Customer objection to report under investigation.
  - (e) The customer shall have his Credit Report updated immediately upon determination of his complaint;
  - (j) If a credit application is denied, the customer shall be entitled to demand for reason behind such denial which in any case may either be because there is 'no credit file' or due to delinquent credit history;
  - (g) The customer may from time to time demand for copies of reports issued out on his account upon payment of the sum of ₦1,000 to the originating Bureau.

**Contract Governing Relationship Between the Credit Bureau and Users of Information.**

- 10.** The relationship between the Credit Bureaus and users shall be governed by a separate agreement which shall contain the following amongst others:
- (a) Non disclosure clause or confidentiality of information for parties involved;
  - (b) Time frame for issuance of information to facilitate credit report;
  - (c) Time frame for issuance of credit report;
  - (d) Accuracy of information supplied;
  - (e) Other provisions as may be necessary for smooth operation of the Scheme.

**Changes in Status of Customer.**

**11.** Once a Credit is consummated changes in the customer's status shall not be a ground for variation of the provisions of the offer letter, if such variation shall adversely affect the customer:

Provided that in certain cases the terms of offer shall be varied by consent of both parties.

**Duration of Validity of Negative Information.**

- 12.** Any negative report on persons shall lapse on expiration of seven years except in the circumstances listed below:
- (a) Report on criminal convictions shall run without limitation;
  - (b) Report on job application for senior positions requiring a minimum qualification of first degree or its equivalent shall have no time limit;
  - (c) Report on Bankruptcy information shall run for 10 years;

(d) Report on lawsuit or outstanding judgment against the judgment debtor shall last for 10 years.

**Minimum Amount Subject to Credit Bureau Report.**

**13.** Credit Report shall only be obtained in respect of loans of N100,000 and above.

**Abolition of Unfair Debt Collection Practices.**

**14.**-(a) From the commencement of this Act, all unfair debt collection practices such as issuance of threat, intimidation, harassment through law enforcement agents which include but not limited to usage of Police, Army, Navy, Air Force and other related security agents to collect debt is hereby prohibited;

(b) All debt collection exercise shall upon failure by the customer to fulfill his obligation after necessary notices have been issued be referred to court for adjudication provided however that the chief judge of each state of the federation and the FCT Chief Judge shall issue special practice directions from time to time to speed up recovery of the loans;

(c) All credit fraudulently obtained shall be treated as criminal offences.

**Power to make regulations.**

**15.** The Minister may make regulations as may be necessary or expedient for giving effects to the provision of this Act.

**Interpretation.**

**16.** In this Bill except the context otherwise requires:

"Credit Bureau" means 'a Bureau licensed under this act and other relevant Legislations to carry out the business of reporting and rating consumer credit history;

"CBN" means the Central Bank of Nigeria;

"Banks" means the Banks licensed under the Banks and other Financial Institutions Act of 1991 and includes Micro-Finance Banks;

"Credit history" means, the abstract of consumer's facts and figures as it relates to loans advances and overdrafts obtained from institutions mentioned in section 4 (b) of this Act;

"Natural persons" means Biological persons;

"Corporate Entities" means companies incorporated in Nigeria under the companies and Allied matters Act 1990 and any other relevant laws for the time being in force;

"Users" means, institutions mentioned in section 4 (b) of this Act;

"Court orders" means Certified True Copies of Judgements of Courts of records, and Tribunals;

"Mandate form" means account opening forms;

"Moratorium period" means, the interim between the time a credit is granted and the time repayment commences;

"Information provider" means the institutions mentioned in section 4 (b) of this Act.