



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

**COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS,**

**ON THE**

**CREDIT REPORTING BILL, N.A.B. NO 6 OF 2018**

**FOR THE**

**SECOND SESSION OF THE TWELFTH NATIONAL ASSEMBLY**

**APPOINTED ON WEDNESDAY, 20<sup>TH</sup> SEPTEMBER, 2017**

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**REPORT OF THE COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS ON THE CREDIT REPORTING BILL, N.A.B. NO 6 OF 2018, FOR THE SECOND SESSION OF THE TWELFTH NATIONAL ASSEMBLY APPOINTED ON WEDNESDAY, 20<sup>TH</sup> SEPTEMBER, 2017**

*Consisting of:*

Dr S Musokotwane, MP (Chairperson); Ms M Miti, MP (Vice Chairperson); Mr G G Nkombo, MP; Mr E M Mwila, MP; Mr C Chali, MP; Mr D Chisopa, MP; Mr S Kopulande, MP; Mr D Livune, MP; Mr E Kamondo, MP; and Mr M Mubika, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
P O Box 31299  
**LUSAKA**

Sir

Your Committee on National Economy, Trade and Labour Matters has the honour to present its Report on the Credit Reporting Bill, N.A.B No. 6 of 2018, referred to it by the House on Wednesday, 13<sup>th</sup> June, 2018.

**FUNCTIONS OF THE COMMITTEE**

2. The functions of your Committee are provided under Standing Order. In this regard, Standing Order 157 (2) (v) mandates your Committee to consider Bills referred to it by the House.

**MEETINGS OF THE COMMITTEE**

3. Your Committee, in considering the Bill, held nine meetings during which it interacted with various stakeholders and examined in detail the submissions presented to it.

**PROCEDURE ADOPTED BY THE COMMITTEE**

4. In order to acquaint itself with the ramifications of the Bill, your Committee sought both written and oral submissions from different stakeholders. The list of witnesses who submitted comments on the Bill and appeared before your Committee is at Appendix I of this Report.

**OBJECTS OF THE CREDIT REPORTING BILL, N.A.B. NO 6 OF 2018**

5. The objects of the Bill are to provide for:
- a. the regulation of credit reporting agencies by the Bank of Zambia;
  - b. the licensing of credit reporting agencies by the Bank of Zambia;
  - c. the establishment of a Credit Registry;

- d. the governance and management of credit reporting agencies;
- e. the protection of data subjects;
- f. information sharing and reporting to enable assessment of the credit worthiness of a data subject; and
- g. matters connected with , or incidental to, the foregoing.

## **SALIENT PROVISIONS OF THE BILL**

6. The salient provisions of the Credit Reporting Bill, N.A.B No. 6 of 2018 are as set out hereunder.

### **PART I - PRELIMINARY PROVISIONS**

#### *Clauses 1 to 3*

Part I provides for the short title and commencement of the Bill. The part also provides for the definition of the key terms in the Bill. It further provides that the Act will apply to credit reporting agencies licensed under the Act.

### **PART II - ADMINISTRATION**

#### *Clause 4*

Part II provides that the Act shall be administered by the Bank of Zambia and, therefore, empowers the Bank of Zambia to licence, regulate and supervise credit reporting agencies.

### **PART III - LICENSING OF CREDIT REPORTING AGENCIES**

#### *Clauses 5 to 16*

Part III provides for a Register of credit reporting agencies in which particulars of a registered credit reporting agency are to be entered. This permits the inspection of the register which may be admitted into evidence.

The part further provides for the licensing of credit reporting agency by the Bank of Zambia. However, a bank licensed under the Banking and Financial Services Act No. 7 of 2017 is not subject to this Act. The part also provides for the variation surrender, validity, transfer, suspension or cancellation of a licence.

### **PART IV - CREDIT REGISTRY**

#### *Clauses 17 to 18*

Part IV provides for the establishment of a Credit Registry which shall be a database for credit information. The Bank of Zambia is empowered to retain information kept in the Credit Registry for at least ten years.

## **PART V - MANAGEMENT OF CREDIT REPORTING AGENCY**

### ***Clauses 19 - 22***

Part V provides the criteria by which a person may acquire a beneficial interest or a share in a credit reporting agency. It additionally creates offences for persons that do not adhere to the provisions relating to acquisition of shares or any beneficial interest. The Part provides for a mandatory requirement of appointment of a board of directors of a Credit Reporting Agency. It further provides the grounds for disqualification for appointment as a Director or Senior Manager.

## **PART VI - SUPERVISION AND REGULATION OF CREDIT REPORTING AGENCIES**

### ***Clause 23 -34***

Part VI provides for the rules that a Credit Report Agency must adhere to in order to ensure compliance with this Act. Some of the notable regulations provided in this part are, disclosure of credit information which is prohibited, unless a written consent from data subject is obtained or by way of an order of the Court.

The part also provides for information that may be excluded from the credit report relating to a data subject, and empowers the Bank of Zambia to conduct inspection of credit reporting agencies' records.

## **PART VII - CONSUMER RIGHTS AND PROTECTION**

### ***Clause 35 -39***

Part VII provides for the complaints procedure to be taken by a person against a Credit Reporting Agency. The part provides for the right of access to credit information by a data subject. It further accords the right of a data subject to challenge a Credit Reporting Agency, in writing, on the information contained in a credit report in instances of the information being inaccurate, incomplete or out dated.

## **PART VIII - COMPLAINT AND INVESTIGATION**

### ***Clauses 40 -46***

Part VIII empowers the Bank of Zambia to investigate a complaint either on its own or on receipt of a complaint made by a complainant. The Bank of Zambia is permitted under this part to refer a matter under investigation to an appropriate authority. The part provides for the issuance of an enforcement notice by the Bank of Zambia. The effect of the enforcement notice is that it mandates a Credit Reporting Agency to carry out certain steps after an investigation has been conducted. The Bank of Zambia may vary or cancel an enforcement notice issued under this part.

## **PART IX - REPRESENTATIONS AND APPEALS PROCESS**

### *Clauses 47 - 50*

Part IX provides for the right of a person aggrieved by a decision of the Bank of Zambia to appeal. A notification to appeal must be made within seven days of receipt of the decision of the Bank of Zambia to the Minister. The part mandates the Minister to constitute an ad hoc appeals tribunal within seven days of receipt of the notice to appeal. The Chief Justice shall prescribe the rules of procedure for the tribunal.

## **PART X - GENERAL PROVISIONS**

### *Clauses 51 - 65*

Part X provides for the general provisions that are applicable to the entire Bill. Some of the notable provisions in this part relate to exemptions. The Bank of Zambia under this part is empowered to exempt a credit reporting agency from the application of any provisions of the Act. The part provides for immunity of employees or agents of the Bank of Zambia in the exercise of the functions under this Act.

The part additionally provides for administrative penalties, general offences and penalties and the rules that may be promulgated by the Bank of Zambia for the effective administration and implementation of this Act. The part further empowers the Minister to promulgate regulations to ensure effective and efficient implementation of the provisions of this Act.

## **CONCERNS RAISED BY STAKEHOLDERS**

7. All stakeholders who appeared before your Committee supported the Bill. However, they raised the concerns set out below.

### *Clauses 1 to 3*

Some stakeholders were concerned that the definition of "credit information" only referred to natural persons. It was not clear whether it includes artificial persons such as a company. They were further concerned that the Bill does not provide for the definition of "default/delinquency listings" which was provided in the current Credit Data Privacy Code.

## **PART III - LICENSING OF CREDIT REPORTING AGENCIES**

### *Clauses 5 to 16*

Some stakeholders noted that licensing of credit reporting agencies in Clause 5 would ensure that only credible agencies who met the registration requirements were licensed and allowed to maintain financial information on a data subject. However, they were concerned that while the register to be maintained by the Bank of Zambia includes details of particulars of the credit reference agencies and other prescribed information, it did not include credit data from the credit reporting agencies.

### ***Clause 10***

Some stakeholders were concerned that the validity of the licence appears to imply that the credit reporting licence issued to a company wishing to operate as a Credit Reporting Agency was a perpetual licence without any tenure attached and may only be revoked for the reasons specified under Clause 15 of the Bill. They were, therefore, of the view that the tenure of a licence be specified.

### ***Clause 11***

Some stakeholders were concerned that Clause 11 of the Bill gives the Bank of Zambia (BoZ) a leeway to vary the terms and conditions of the licence on the application of a licensee. This was in view of the fact that the terms and conditions under which BoZ could impose a variation of a licence were unclear and as a result could cause regulatory uncertainty and unnecessary challenges to applicants.

### ***Clause 15 and 16***

Some stakeholders noted that Clauses 15 and 16 provide for the power and the grounds for suspension and cancellation of licenses. They also include the handling of credit information once the licence has been cancelled which includes the handing over of all credit information within its possession to the Bank of Zambia. However, stakeholders expressed concern regarding the non availability of a procedure to challenge revocation or to get injunctive relief which was contrary to the spirit of Article 10 of the Constitution to promote and protect economic investment. Therefore, they submitted that this section should expressly provide for a dispute resolution mechanism or injunctive relief to the applicant under this section.

## **PART IV - CREDIT REGISTRY**

### ***Clauses 17 - 18***

Stakeholders welcomed the provision establishing a Credit Registry by the Bank of Zambia and obliging regulated institutions under the Banking and Financial Services Act to submit credit data to the established Credit Registry. The Clause also empowers the Bank to require other credit providers to submit credit data to the Credit Registry. However, they were concerned that it was not clear what information the Credit Registry would collect and the reason for collecting data which is similar to that collected by Credit Reference Agencies (CRAs). The Credit Registry appears to perform the functions of CRAs. This may imply that CRAs will be competing with the Central Registry and may negatively affect the operations of CRAs.

### ***Clause 18***

Some stakeholders contented that the period of six months was too short a time to have the information deleted, in that the credit providers should be able to access this information even after six months, and therefore proposed a period of at least twelve months.



## **PART VI - SUPERVISION AND REGULATION OF CREDIT REPORTING AGENCIES**

### ***Clause 29***

The stakeholders observed that the administrative fine was not defined under Clause 29. They were of the view that the administrative fine should be defined to avoid misinterpretation.

With regard to Clause 29(e) regarding a debt being excluded in a credit report after three years, the stakeholders observed that this Clause did not clearly state whether it had superseded the Credit Data Privacy Code which requires the credit reference agency to keep the same data for seven years from the date of final settlement of the amount in default. The stakeholders recommended that this section clearly states so to avoid ambiguity.

## **PART VII - CONSUMER RIGHTS AND PROTECTION**

### ***Clause 35 -39***

Stakeholders were concerned that Clause 37 of the Bill did not provide for the remedial procedure where credit reporting agencies refused to comply with an access request save for written notification of its refusal with reasons. They proposed that this Clause imbeds a remedial process section for a requestor in cases where their request is denied.

### ***Clause 39 (5)***

Stakeholders noted that while Clause 39(5), introduces the requirement to provide the Bank with a notification that the CRA has removed the information following no response of the credit provider and dispute lodged by the data subject, it however, does not provide the time frame in which this notification would be made to the Bank. In addition, it does not include information that must be provided to the Bank.

## **PART VIII - COMPLAINT AND INVESTIGATION**

### ***Clauses 40 -46***

Under Clause 40(1), stakeholders submitted that paragraph (b) should be recast so that the phrase “complaint made by a complainant” are replaced with the phrase “complaint made by a person”, considering that some complaints will be lodged by persons who might not be the actual complainant.

### ***Clause 42***

With reference to Clause 42, the stakeholders proposed that this Clause moves to Clause 41(e) as it seems to be refereeing to the subject matter there under.

### ***Clause 46***

Stakeholders proposed that Clause 46 should provide for reasons for the cancellation or variation of the enforcement notice in order to ensure transparency and certainty.

## Typographical Errors

The following typographical errors were identified in the Bill by stakeholders and recommended that they be corrected as tabulated below:

Page No.	Clause	Correction
2	Heading	<p>The heading of the Bill reads, 'THECREDIT REPORT BILL, 2018'-this should be amended by inserting a space between the words 'the' and 'credit 'and adding the letters, 'ing' to the word report so as to read as <b>'THE CREDIT REPORTING BILL, 2018'</b></p> <p>Additionally the title, 'Credit Report' in the header of the document throughout the Bill must be amended so as to read as, <b>'Credit Reporting'</b></p>
2	Arrangement of Sections - Part III	<p>The heading under Part III reads as, 'LICENSING OF CREDIT REPORTING AGENCIESI' this should be amended by the deletion of the letter 'I' in the word 'Agencies' so as to read as, <b>'LICENSING OF CREDIT REPORTING AGENCIES'</b></p> <p>This correction should also be undertaken on page 11 in the title under Part III and on page 31 in the title under Part IX.</p>
3	Arrangement of Sections - Part V	<p>The heading under Part V reads as, 'MMANGEMENT OF CREDIT REPORTING AGENCY'this should be amended by the deletion of the extra letter 'M' in the word Management and the insertion of the letter 'A' after the letter 'N' so as to read as, <b>'MANAGEMENT OF CREDIT REPORTING AGENCY'</b></p> <p>This correction should also be undertaken on page 16 in the title under Part V</p>
3	Arrangement of Sections - Part VI	<p>The word Bank under section 31 reads as, 'Bank=s' this should be amended by the deletion of the = symbol and insertion of an apostrophe between the letters 'k' and 's' so as to read as <b>'Bank's order on inaccurate, incomplete or outdated information'</b></p> <p>Deletion of the number 1 in front of section 33</p>
4	Arrangement of Sections - Part VIII	<p>The word 'withdraw' under section 42 should be amended by the insertion of the</p>

		letter 'n' at the end so as to read as <b>'Continuation of investigation where complaint withdrawn'</b>
21	Section 28 (3)(b)	The word officer under section 28 reads as, 'officer=s' this should be amended by the deletion of the = symbol and insertion of an apostrophe between the letters 'r' and 's' so as to read as <b>'law enforcement officer in the course of the officer's duty; or'</b>

## COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

8. Your Committee agrees with most stakeholders who are of the view that if the credit history of a data subject is known in advance, data subjects with less risk of defaulting will be identified and this would make it easier for lenders to provide cheap credit and, ultimately, reduce the cost of borrowing. This will also enable the credit providers to issue personalised loans so that the less risk borrowers are subjected to cheaper credit than the high risk ones. In light of the above, your Committee supports the Bill. In supporting the Bill, your Committee makes the Observations and Recommendations as outlined hereunder.

- (i) With regards to Clause 2 on definitions, your Committee notes that there is no clarity on the definition of a data provider.

In this regard, your Committee recommends that there is need to clarify who a data provider is, in similar line with the way credit provider has been clarified.

- (ii) Your Committee observes that clauses 29 to 31 read together with clause 39 do not stipulate any penalty for a Credit Reference Agency for issuing inaccurate, incomplete or out dated information of a data subject who in most cases would suffer financial loss in trying to have the credit information corrected or updated.

Your Committee, therefore, strongly recommends that a penalty be prescribed to deter the Credit Reporting Agency from producing inaccurate or outdated information on the data subject who in most cases is at loss due to inaccurate information.

- (iii) With reference to the handling of credit information when a licence has been cancelled under clause 16, your Committee observes that the selection criteria of the Credit Reporting Agency to be handed with the credit information from the Credit Reporting Agency whose licence has been cancelled by the Bank of Zambia has not been clearly stipulated to ensure transparency and avoid suspicion in the process.

Your Committee, therefore, recommends that this selection criteria be clearly explained so that when there are two or more Credit Reporting Agencies

available for possible selection by the Bank of Zambia, the selection process and criteria are known in advance by the competing Credit Reporting Agencies.

- (iv) With reference to Clause 29 (e), your Committee notes with concern that a credit reporting agency is not required to include in its report the credit record of a data subject who fails to pay the debt after five years. Further, your Committee feels that this will only encourage the defaulting data subject to contract more debt after five years as he or she will have a clean sheet afterwards.

Your Committee, therefore, recommends that the credit reporting agencies should be allowed to include defaulting debtors in their reports after five years in order to protect the unsuspecting lenders from such high risk data subjects.

- (v) With regard to the appointment to the ad-hoc tribunal under Clause 49, your Committee observes that there is a requirement of at least seven years of being an advocate of the High Court.

However, your Committee is of the view that the years for appointment to this tribunal be equated to that of the High Court Judges which is not less than 10 years. Most stakeholders also had the same view as that of your Committee on this matter.

- (vi) Further on Clause 49, your Committee notes with concern that the Bill is silent on the issue of further appeal beyond the ad-hoc tribunal in the event that the aggrieved person seeks redress of the case beyond the ad hoc tribunal. In the current form of the Bill, it would be assumed that the ad hoc tribunal is the final point of appeal.

Your Committee recommends that this matter be clearly stated to avoid ambiguity.

## **CONCLUSION**

9. Your Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It also wishes to thank you, Mr Speaker, for affording it an opportunity to study the Bill. Your Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly and her support staff during its deliberations.

We have the honour to be, Sir, your Committee on National Economy, Trade and Labour Matters mandated to consider the Credit Reporting Bill, N.A.B No. 6 of 2018.

Dr S Musokotwane, MP  
**(Chairperson)**

Ms M Miti, MP  
**(Vice Chairperson)**

Mr G G Nkombo, MP  
**(Member)**

Mr E M Mwila, MP  
**(Member)**

Mr C Chali, MP  
**(Member)**

Mr D Chisopa, MP  
**(Member)**

Mr S Kopulande, MP  
**(Member)**

Mr D Livune, MP  
**(Member)**

Mr E Kamondo, MP  
**(Member)**

Mr M Mubika, MP  
**(Member)**

June, 2018  
**LUSAKA**

Dr S Musokotwane  
**CHAIRPERSON**

## **APPENDIX I - WITNESSES**

### **TRANSUNION (CREDIT REFERENCE BUREAU AFRICA LTD)**

Ms M Stephenson, Chief Executive Officer

### **ZAMBIA INSTITUTE OF CHARTERED ACCOUNTANTS**

Mr K Mulenga, Technical Committee

Mr C Chiteba, Director

Mr B Mwewa, Manager

### **ZAMBIA POLICE**

Ms L Kamukoshi, Commissioner of Police - Administration

Mr S Mbeti, Principal Legal Officer

Mr M Phiri, Legal Officer

### **COMPENSATION AND CONSUMER PROTECTION COMMISSION**

Ms M B Mwanza, Director - Legal

Ms Marian Mulenga, Manager - Legal

Mr Chilufya Sampa , Executive Director

### **DRUG ENFORCEMENT COMMISSION**

Ms A Mbahwe, Commissioner

Mr F Chishala , Senior Assistant Commissioner (AMLIU)

Mr J Akapelwa, Principal State Advocate

Mr R Chulu, Parliamentary Liaison Officer

### **ZAMBIA REVENUE AUTHORITY**

Mr K Chanda, Commissioner General

Mr E Phiri, Director Research

### **ZAMBIA INSTITUTE FOR POLICY ANALYSIS AND RESEARCH**

Ms Pamela Nankamba Kabaso, Executive Director

Mr Ceasar Cheelo, Research Fellow

Ms Mulima N Mubanga, Research fellow

Mr Ignatius W Masilokwa, Associate Researcher

Mr Felix Mwenge, Research fellow

Mr Bernard Tembo, Research fellow

Mr Shebo Nalishebo, Research fellow

Ms Chama B Munida, Associate Researcher

Mr Kalikeka Mbewe, Associate Researcher

Mr Shimukonku Manchishi, Associate Researcher

### **CONSUMER UNIT TRUST**

Mr Yusuf Dodia , Consumer Unit Trust Board Member

Ms Chenai Mumba, Centre Coordinator

Ms Charity Siwamamundi, Assistant Policy Analyst

## **APPENDIX II - List of National Assembly Officials**

Ms C Musonda, Principal Clerk of Committees

Mr H Mulenga, Deputy Principal Clerk of Committees (FC)

Mr S Mtambo, Senior Committee Clerk (FC)

Mr D Kunda, Committee Clerk

Mr A Chilambwe, Committee Clerk

Ms L Chilala, Typist

Mr D Lupiya, Acting Committee Assistant

Mr M Kantumoya, Parliamentary Messenger