



BANK OF SOUTH SUDAN (BSS)

CREDIT REPORTING SYSTEMS REGULATION NO ____, 2014

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BANK OF SOUTH SUDAN (BSS)

REGULATION NO. ____, 2014

CREDIT REPORTING SYSTEMS REGULATION

In accordance with the provisions of section 12(1) of the Bank of South Sudan Act, 2011 which authorises the Bank to issue regulations, the Governor hereby issues the following Regulation:

Title and Commencement

- 1 This Regulation shall be cited as Credit Reporting Systems Regulation, 2014, and shall come into force from the date of its signature by the Governor.

Objective

- 2 (1) The main objective of this Regulation is to enable the development of a competitive credit market and mitigating market failures by reducing information asymmetries between borrowers and lenders. In addition to the flow of credit information in a safe and efficient manner, an implementation of CRS will support banking supervision.
(2) This Regulation relates to the establishment of general rules of operations of a CRS where banks, other relevant financial institutions and microfinance institutions operating in South Sudan, or relevant to its credit market, shall provide and access credit information.
(3) All CRS participants including the BSS, data providers and any other party with a relevant interest in the credit reporting activities including other authorities, consumers and micro-finance institutions, shall be subject to the rules and provisions contained in this Regulation.

Definitions

- 3 In this Regulation, unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them respectively:

“**Accurate**” in relation to information in a consumer report, means that the information corresponds to the information received by the CRSP is truthful, complete, and up to date and free of errors.

“**Adverse Action**” means an action that is based in whole or in part on information contained in a consumer report and that is not favourable to the interest of the consumer and includes: (i) a denial or reversal of credit, (ii) an increase in the charge for credit, an adverse change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested; but does not include (i) an attempt to collect a debt owed or allegedly owed; or (ii) an action taken with respect to a credit or insurance transaction or with respect to a review of an account under section 9 if no change is made that affects the interest of the consumer or a change is made that is not unfavourable to the consumer.

“**Authorised Users**” means those individuals that have been authorised by the BSS to access the Credit Reporting Systems for purposes as set out in section 5. It shall include the Data Providers designated employees, the CRS employees, BSS designated employees and examiners duly authorised by the BSS.

“**Bank**” means Bank of South Sudan (BSS).



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“bank” means a legal person engaging in the business and receiving of money deposits or other repayable funds from the public and making credits for its own account, and licensed to do banking business in South Sudan, and may be :

- (a) a commercial bank;
- (b) a savings bank;
- (c) a mortgage bank; or
- (d) a merchant bank, and any other specialised banks, but does not include a depository microfinance institutions.

“Consumer” means any legal or natural person whose data has been or might have been included in the CRS, in spite of a contractual relation with a lender or as a result of a lending application.

“Consumer Consent” means a consumer’s freely informed and specific written agreement, to the collection, processing and disclosure of personal data.

“Credit Information” means information related to the economic obligations of a consumer, including the payment history of such obligations, guarantees, publicly available information and any other relevant data compiled by the CRSP.

“Credit Report” means a product offered by the CRSP containing a consumer’s credit history and may include personal data, transaction data, and information from public sources.

“Credit Reporting Activities” (CRA) means activities that fall under the scope of this Regulation including, the provision of credit reports and additional services in a consistent and reliable manner.

“Credit Reporting Council” (CRC) means the group of participants representing the private sector and the public sector that serves to advance policy dialogue in the credit reporting related matters.

“Credit Reporting System” (CRS) means the institutions, rules and standards, technology, data and infrastructure which enable exchange of credit information among creditors.

“Credit Reporting Oversight Unit” means dedicated unit within the Bank of South Sudan created with the objective of establishing a national strategy for CRS and to ensure the achievement of goals and objectives described thereof and coordinate related actions.

“Credit Reporting Principles” means the General Principles for Credit Reporting, promulgated by the World Bank with the support of the Bank for International Settlements.

“Credit Reporting Service Provider” (CRSP) or **“Credit Reference Bureau”** means an entity that administers networked credit information exchange.

“Data Providers” means banks, insurance companies and any other financial institutions including micro-finance institutions that facilitate loans or any form of credit regulated by the Bank.

“Depository Micro-Finance Institution or Deposit Micro-Finance Institution” means any institution licensed by the Bank of South Sudan to accept deposits from the general public for the purposes of providing micro-finance services.



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“Financial Institution” means a bank, pension fund, asset management company, investment fund, securities underwriter, broker, or dealer, insurance company, leasing institution, and any other company engaging primarily in activities that are incidental to financial sector activities as determined by the BSS.

“Negative Credit Information” means any information relating to the overdue, past due, charge-off, or delinquent status of a credit transaction between a consumer and a bank or another financial institution, or information on bankruptcies and other court judgments.

“Positive Credit Information” any consumer information related to the payment behaviour of a consumer’s loan or deferred payment including but not limited to a consumer’s applications for credit, their total credit exposures, including loan sizes, maturity, terms and conditions, repayments and collateral.

“Privacy Notice” means a communication made to the consumer informing him of the nature of the CRS, the purpose of collection and dissemination, and the generic list of Data Providers and Users accessing the Credit Information and mechanisms to access or challenge Credit Information.

Prohibition to carry out CRS activities

- 4 No person shall carry on Credit Reporting Activities in South Sudan unless licensed for that purpose by the BSS
 - (a) The BSS in its capacity as a Banking Supervisor and overseer of the CRS shall not be required to have a licence to be engaged in Credit Reporting Activities.
 - (b) Credit Reporting Activities carried outside South Sudan including credit information related to South Sudanese citizens shall require the authorisation of the BSS.

Permissible Purpose

- 5 (1) The credit reporting activities shall be provided to:
 - (a) Evaluate credit worthiness and over-indebtedness of an individual or firm that applied for credit/loan or agreed on a service or purchase of goods subject to future payment;
 - (b) Evaluate credit risk of an existing consumer (individual or firm);
 - (c) Support BSS in its supervisory role to monitor credit flow of the financial system, analyse data to produce financial stability reports, and to support off-site and on-site supervision of banks;
 - (d) Develop statistics on the credit market.
- (2) The CRS shall be accessed to confirm the accuracy of information contained in a credit report by the consumers regarding their own data.
- (3) CRS shall be accessed to order investigate or audit the efficiency, reliability and legal compliance of the system by the BSS oversight unit or other designated examiners.
- (4) CRS shall not be used for purposes other than the ones established under this section unless the consumer’s consent is obtained and the BSS authorises such operation.



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Data Quality

- 6 (1) Data collected and distributed in the CRS shall be free of error, truthful, complete and up-to date.
- (2) The data shall be collected by lawful and relevant sources and shall include only the necessary information to obtain a valid identification and a consumer's credit payment behaviour including performing loans and non-performing loans and related relevant data.
- (3) CRS shall establish adequate procedures to ensure completeness and veracity of the information.
- (4) CRS shall ensure that data is updated on a systematic basis according to the frequency rules described under manuals and procedures for updating information developed by the CRS in agreement with the Credit Reporting Council.

Obsolescence

- 7 Data shall not be distributed longer than necessary but shall be kept for a sufficient amount of time. In particular:
- (a) Information collected by CRS shall be available to users for a period of five (5) years from the payment deadline date in case of positive information.
- (b) Court judgment data shall not be distributed after three (3) years from the execution date.
- (c) Information collected by the CRS related to bankruptcies shall be available to users for seven (7) years.

Data Security

- 8 (1) CRS shall have systems, processes and procedures to prevent any loss, misuse, unauthorised access or data corruption.
- (2) CRS shall have in place data back-up and disaster recovery plans.
- (3) Access to the database shall be restricted to authorised users under the circumstances prescribed by this Regulation.
- (4) CRSPs shall establish adequate mechanisms to ensure that data will be used only for permissible purposes as described under section 5 or other lawful purposes with consumer's consent.
- (5) CRSPs, Data Providers and Users must adopt adequate security measures, policies and procedures.

Consumers' Rights

- 9 (1) Consumers' rights regarding their data shall be respected and implemented by all CRS participants.
- (2) A dedicated unit with clear rules and procedures within the CRSP must attend to claims and requests from individuals regarding their data.



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(3) Detailed protocols shall be developed by the Credit Reporting Council to ensure adequate consumer protection framework related to CRS.

(4) All CRS participants shall collaborate with this process and establish protocol to handle complaints in a timely fashion.

Non-discrimination

10 (1) The nature of information to be shared under this Regulation shall not adversely affect the rights and freedoms of the consumer.

(2) No data related to consumer's political, social, religious or ethical opinions, beliefs or affiliations, medical history, physical or mental disability, colour, race or ethnic origins shall be collected and stored in the CRS.

Credit Information

11 (1) Consumers' information which shall be exchanged pursuant to this Regulation shall be related to information concerning a consumer's loan and credit obligations, including performing and non-performing loans and personal information relevant to identify consumers.

(2) Details regarding consumer's personal information include:

(a) The consumer's identity, including:

- i. in the case of a natural person name, date of birth, National Identification Number or Passport, past and current addresses and any other data considered relevant to uniquely identify the individual;
- ii. in the case of juridical person, its name, registration number, personal identification number, tax identification number, names of directors, shareholders or partners, past and current addresses and other contact details, or any other related matters;

(b) The consumer's credit history, including the nature and amounts of loans or advances and other credit facilities granted to a consumer including amount of the loan, maturity, number of instalments, outstanding amount, date of loan, guarantees, and related matters;

(c) The nature and details of security or securities taken or proposed to be taken by an institution as security for the loans, advances and other credit facilities and related matters;

(d) Details of patterns of payment of credit facilities or default in payment by the consumer, debt restructuring and actions taken by the institution to recover unpaid amounts including realisation of securities, legal proceedings and related matters.

(3) Consumer's information shall be furnished using a standard format designed by the Credit Reporting Council and approved by the BSS.

(4) Credit Information provided by BSS regulated banks, financial and non-financial institutions does not require consumer's consent to be included in a CRS. However consumers shall be informed of the Credit Reporting Activities including the name[s] of the CRSPs and the purposes for such data collection.

(5) To access the CRS information authorised users shall first obtain consumer's consent.



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(6) Access to the CRS by authorised users such as the BSS and third party examiners designated by them will not require consumer's consent provided that the access responds to oversight function or banking supervisory activities.

Oversight

- 12 (1) The BSS shall have the powers to regulate, license and supervise all Credit Reference Bureaus according to the terms and conditions established under this Regulation.
- (2) The BSS may issue directives, guidelines, for carrying out of its oversight functions according to this Regulation.

Application for Licence

- 13 (1) An application for a licence to conduct credit reporting activities in South Sudan shall be made in writing and addressed to the BSS;
- (2) An application for a licence shall be accompanied by the following information and supporting documents and any other information that the BSS considers necessary:
- (a) Certified copies of the applicant's certificate of incorporation and its memorandum and articles of association;
 - (b) Feasibility study by the applicant, showing the nature of the planned business, organisational structure and internal control systems and monitoring procedures of the company, covering, inter-alia, the following aspects:
 - i. mission statement and goals;
 - ii. market analysis;
 - iii. ownership structure;
 - iv. governance and management structure;
 - v. financial analysis including - balance sheet, description and projected investments, financial statements for the last three years, and profitability analysis;
 - vi. business plan;
 - vii. business continuity plan;
 - viii. operation manuals including protocols for loading, validating and updating the information, protocols and procedures for accessing the information and manual and procedures for handling complaints.
- (3) Applicant shall pay non-refundable application fee and annual renewable fee as may be determined from time to time by the BSS.
- (4) Every credit reference bureau shall maintain a minimum paid-up capital as shall be determined by the BSS.
- (5) No person shall be eligible to apply for a licence under this Regulation unless that person is a registered company in South Sudan.
- (6) No person shall carry on business as a credit reference bureau in South Sudan unless that person holds a valid licence issued by the BSS.



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Capital requirement and licence fees

- 14 (1) The minimum capital requirement for conducting Credit Reporting Activities shall be determined by BSS.
- (2) An annual fee shall be required to maintain the licence.
- (3) The amount of the fee shall be determined by the BSS.

Grant or refusal of the licence

- 15 (1) The Bank may require further information or documents from the applicant within thirty (30) days after the receipt of the application.
- (2) The Bank shall issue a notice within ninety days (90) after the receipt of an application for a licence or the receipt of additional information from the applicant, granting or refusing the licence.
- (3) The Bank shall indicate in the notice reasons for the refusal not to grant the licence.
- (4) In determining an application, the Bank shall take into account, inter alia, matters relating to:
- (a) The fitness and properness of the Directors and Officers or proposed Directors and Officers of the applicant;
- (b) The adequacy of the applicant's capital structure in relation to the credit reference business;
- (c) The financial position and financial history of the applicant; and
- (d) The conduct of the affairs of the applicant in relation to the interests of the subjects of credit reference reports.
- (5) The Bank shall not grant a licence where it is convinced that issuance of such licence will be against public interest.
- (6) Every credit reference bureau shall at all times conspicuously display its licence at its place of business.

Licensing Conditions

- 16 A credit reporting licence shall be issued by the BSS preceded by a grant of preliminary approval, and under the following additional conditions:
- (a) A proof that the required initial capital has been paid in full;
- (b) That the premises and equipment of the CRSP correspond to the requirements set by the BSS for the safekeeping of customers' information;
- (c) A proof that the founders have developed a viable plan to perform Credit Reporting Activities including projections for at least 3 years acceptable to the BSS;
- (d) That the CRSP has sufficiently trained staff and proper management information systems to handle its expected activities;
- (e) A proof that the CRSP has sufficient commitment from banks and other relevant market participants to submit their credit information in a systematic and secured manner;



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(f) Applicants must promptly report to the BSS any significant change in circumstances following the granting of preliminary approval.

Revocation or suspension of the Licence

- 17 The Bank shall revoke the licence of a credit reference bureau if it appears that:
- (a) The CRSP has committed any violation of law, any regulation, written order of the BSS, written agreement with the BSS, or has engaged in any illegal practice in conducting its operations, which caused or is likely to cause a substantial deterioration in the provision of the service or creating a risk to the interest of the consumers and or any of its participants;
 - (b) CRSP has failed to comply with BSS regulations, guidelines or directives;
 - (c) Books, papers, records, or any other relevant information of the CRSP have been concealed or withheld from the BSS or any of its agents;
 - (d) CRSP has failed to commence business within six months immediately after the date of issue of the licence;
 - (e) BSS has been provided with false, misleading or inaccurate information by or on behalf of the CRSP;
 - (f) The CRSP ceases for more than two weeks to engage in the business of collecting relevant information from the data providers and distributing back this information to the authorised users;
 - (g) The BSS becomes aware of the facts that indicate a significant change in circumstances upon which preliminary approval was granted, and such change was not approved by the BSS or;
 - (h) CRSP has engaged in activities either restricted or not permitted under this Regulation.

Expiration of Licence

- 18 A CRSP's licence shall expire in the following instances:
- (a) In the event of the merger of the CRSP with another CRSP, upon the entry of the new CRSP in the registry of companies;
 - (b) Upon the voluntary surrender of the CRSP's licence;
 - (c) Upon the revocation of the licence by the BSS;
 - (d) Failure to pay annual fees in time after the BSS has already provided notice of payment.

Information to the Bank

- 19
- (1) CRSPs shall communicate to the Bank any changes regarding the composition of its Board and/or management.
 - (2) CRSP in South Sudan shall notify the Bank of the names of all of persons having significant participations in the CRSP, and the amount of each person's ownership.
 - (3) The Bank shall request licensed CRSPs to provide any information that might be deemed necessary for the conduct of the CRS oversight functions.



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Credit reporting activities

- 20 Credit Reporting Activities shall be limited to the following:
- (1) Collecting and receiving information from data providers;
 - (2) Validating, organising and loading provider's data into the system;
 - (3) Generating credit reports and other value added services according to the needs of the users;
 - (4) Generating debt classification or rating as approved by the BSS;
 - (5) Disseminating information to the users according to the security and confidentiality measures adopted by the CRSP and approved by the BSS;
 - (6) Developing reports according to immediate needs of the BSS for banking supervisory purposes, and
 - (7) Performing any other relevant functions as may be specified by the BSS.

Credit Reporting Service Providers' Obligations

- 21 CRSPs shall be obliged to:
- (1) Collect and process information that has been lawfully obtained;
 - (2) Ensure data quality of information contained in its databases;
 - (3) Protect the confidentiality of consumer's information received in accordance with terms and conditions of this Regulation, and shall only report or release such customer information to:
 - (a) The consumer concerned;
 - (b) The BSS or authorised examiner;
 - (c) An authorised user provided that:
 - i. it has received a consumer's application for credit or loan;
 - ii. it has received consumer's consent regarding the access to his/her information;
 - iii. it has agreed to properly dispose consumer's information in a safe and secured manner, and
 - (d) Other authorities, as required by law.
 - (4) Take all such steps as are reasonably necessary to ensure that consumer's information is duly protected against any misuse, loss, corruption, destruction or unauthorised access;
 - (5) Use the information collected solely for the purposes set out in this Regulation;
 - (6) Make all efforts to develop value added services according to the needs of the users;
 - (7) Observe, through its shareholders, directors, officers, employees or agents, a perpetual duty of confidentiality with regard to the information divulged to them under the terms and conditions of this Regulation;
 - (8) Develop protocols, procedures and policies to identify, monitor and manage risks related to the nature of their business;



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- (9) Coordinate with data providers and users to handle consumer's consent adequately;
- (10) Charge for their services as stipulated in the Circulars, provided that the user is not the BSS or any of their appointed examiners.

Data Providers' Rights and Obligations

22 Data providers shall be obliged to:

- (1) Submit lawful and accurate information to the CRS in the format agreed;
- (2) Submit any information related to credit reporting activities to the BSS at their request;
- (3) Inform each consumer of the name and address of the Credit Reporting Service Provider to which the consumer's information has been submitted under this Regulation, within 30 days of the first listing of the customer's information with the Bureaus;
- (4) Issue an Adverse Action Notice informing the consumer about any change in the terms and conditions of the credit or loan affecting negatively, in whole or in part, the interests of the consumer, based on information obtained from a CRS;
- (5) Banks and Financial Institutions shall be entirely responsible and under obligation to submit and update consumer's information to the CRS in accordance with this Regulation and any other regulation issued by the BSS on this matter;
- (6) All other Data Providers shall facilitate information to all licensed CRSPs when BSS understands that such information is relevant for Credit Reporting Activities;
- (7) Where a Data Provider has provided consumer information to the CRSP and subsequently becomes aware that the information was inaccurate at the time it was provided, the Data Provider shall correct such information and replace previous data with the corrected information.

Users' Rights and Obligations

23 Authorised Users shall:

- (1) Access the credit information for the purposes described under this Regulation, provided that consumer's consent has been granted;
- (2) Not sell information obtained from CRS to third parties;
- (3) Pay for the services rendered by the CRSPs; and
- (4) Develop security measures, procedures and policies to ensure the confidentiality of the information obtained from the CRS.

Consumer's Rights

24 Consumers shall have the right to access their credit reports at any time and:

- (1) (a) CRSP shall respond to the consumer in not more than 5 days from the date of the request;
- (b) Consumers shall have access to a free copy of their report every twelve (12) months and at any time they receive an Adverse Action Notification issued under this Regulation;



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- (c) Consumers shall have the right to know what information regarding them is included in the CRS and the names of institutions that have accessed their information at least in the past six (6) months.
- (2) Consumers may authorise the access to their information to any authorised user according to the terms and conditions of this Regulation, by providing their consent;
- (3) Consumers shall request correction of any errors in their credit reports;
- (4) CRSP shall investigate all consumer's requests for data correction and resolve the matter within fifteen (15) working days of receiving a request in writing and such particulars as the CRSP may reasonably require to enable it identify the consumer and investigate the matter;
- (5) Where a consumer has proven the existence of inaccurate data in the CRS, the data provider shall in collaboration with the CRSP correct the information in a period no longer than fifteen (15) days from the date of the request for correction was received at the CRSP and accepted for further investigation;
- (6) Consumers shall appeal to the BSS in case of any dispute regarding their data in the CRS.

Mandate and Objectives

- 25 The BSS shall oversee the credit reporting systems operating in South Sudan and shall disclose its objectives to all relevant parties on an annual basis.

Oversight Instruments

- 26 (1) The BSS will implement instruments, procedures and measures to monitor the Credit Reporting Activities, identify failures in the credit reporting market, prompt action on certain players, as required, and impose penalties for violations of the present and/or any other regulations issued by the BSS related to the Credit Reporting Activities.
- (2) The BSS shall establish a Credit Reporting Council (CRC) to enable the dialogue with CRS participants.
 - (a) The CRC shall be chaired by the BSS;
 - (b) The CRS shall meet regularly to discuss relevant matters of the CRS.

Inspection

- 27 (1) The BSS may at any time cause an inspection to be made by their staff or any person authorised by the BSS in writing of any CRSP and of its books, account, records, policies, contractual arrangements, facilities, ownership, management structure, and information technology systems.
- (2) When an inspection is made under this Regulation, the CRSP concerned and every officer and employee thereof shall provide to the BSS, or to any person authorised by it, unrestricted access to all the information managed by the bureau, whether through access to its systems according to published services, or in the manner stipulated by the BSS, for the purpose of supervision; and shall produce and make available to the examiner all the information, books, accounts, records and other documents of the CRSP and such correspondences, statements and information relating to the CRSP, its activities and the



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conduct thereof as the examiner requires within seven days from the date of information request.

(3) Impeding the examiner to access books, accounts, records, documents, correspondence, statements or information within the period specified in the relevant directive constitute an offence.

Confidentiality of Information

- 28 (1) All information obtained in the course of the inspection shall be treated as confidential and used solely for the purposes of supervising credit reporting activities.
- (2) A CRSP shall deliver any databases containing information to the BSS in the form, and according to the terms and conditions stipulated by the BSS in case of liquidation or winding up of the CRSP.

Offences and Penalties

- 29 Any CRSP that fails or refuses to comply with provisions section 27 (3) above, or any CRSP that furnishes the BSS with incomplete, inaccurate or late return information, commits an offence, and shall upon conviction be liable to a fine not exceeding SSP 30,000 (South Sudanese Pounds thirty thousand).

Made under my hand on this 31st day of December 2014

Kornelio Koriom Mayik

Governor

Bank of South Sudan