



GUIDELINE 003/2009

Guidance and Explanatory Notes for the Certification of Form 43

Guide for Independent Auditors of Credit Bureau
November 2009

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SUMMARY

Guideline in respect of the Certification of Form 43

This document constitutes guidelines issued by the National Credit Regulator, in terms of sections 16(1)(b), 52(6) and 70(5) of the National Credit Act, No. 34 of 2005 and Regulation 70 of the Regulations to the National Credit Act, No. 34 of 2005.

This guideline is intended for independent auditors of the registered credit bureaus who by law are required to submit an annual compliance report which is certified by their independent auditors. This document provides guidance and explanatory notes pertaining to the certification of an annual compliance report, which must be submitted to the National Credit Regulator on an annual basis.

These guidelines should be read with the relevant sections of the National Credit Act, 34 of 2005 and Regulations. Where a definition, within these guidelines does not coincide with that of the National Credit Act, in all instances the definition within the National Credit Act will supersede and take precedence over any definition provided within these guidelines.

These guidelines may be updated from time to time. Credit bureaus will be informed of such changes by e-mail, fax or mail and updated guidelines will be placed on the NCR website.

CONTENTS

1	Definitions.....	4
2	Introduction	7
3	General.....	8
4	Form 43 - Company Details	9
5	Form 43 – Section 1: Company Profile (only update if applicable)	10
6	Form 43 – Section 2: Data Integrity	11
7	Form 43 – Section 3: Credit Reporting Activity.....	14
8	Form 43 – Section 4: Dispute resolution	15
9	Form 43 – Section 5: Non-compliance	16
10	Form 43 – Section 6: General Information	17
11	Form 43 – Section 7: Optional: Further Questions.....	18
12	Additional reporting requirements	18
13	Form 43 – Declaration	19
14	Further information	19

1 Definitions

Act	The National Credit Act No. 34 of 2005
Annual compliance report	The published Form 43 return in terms of Section 52(6) of the National Credit Act, No. 34 of 2005 and Regulation 70 of the Regulations to the National Credit Act, No. 34 of 2005.
Credit record	Any consumer record with one or more account, payment profile entry, adverse record, judgment, or default. With the exclusion of any enquiries.
Credit report (direct to consumer)	Report issued to consumer with or without charge which contains consumer credit information.
Data supplier	Any party who supplies consumer credit information to a credit bureau, irrespective of whether there is a written contractual relationship between the party and the credit bureau. Examples: credit providers, service providers, debt counsellors, judgment and/or debt counselling information providers, information on-sellers etc.
Deemed valid dispute	Where a change or correction on a credit record is required due to the prescribed investigation period that has lapsed.
Dispute	Where investigation is required and feedback is expected.
ID fraud	Identity fraud is a synonym for unlawful identity change. It indicates an unlawful and intentional

misrepresentation by using the identity of another person or of a non-existing person as a target or principal tool.

Identity fraud can occur without identity theft, as in the case where the fraudster has been given someone's identity information for other reasons but uses it to commit fraud, or when the person whose identity is being used is colluding with the person who is committing the fraud.

In progress of being resolved Dispute pending feedback or under investigation.

Information Consumer credit information in terms of Section 70(1) of the National Credit Act, No. 34 of 2005.

Juristic person Includes a partnership, association or other body of persons, corporate or unincorporated, or a trust if (a) there are three or more individual trustees; or (b) the trustee is itself a juristic person, but does not include a stokvel.

NCR National Credit Regulator

Quarterly synoptic report The published Form 44 return in terms of Regulation 71 of the Regulations to the National Credit Act, No. 34 of 2005.

Regulations Regulations to the National Credit Act, No. 34 of 2005

Service provider An entity that provides services to consumers or other entities. Such as a medical practitioner, a telecommunication service provider etc.

Valid dispute Where a change or correction on a credit record is required after investigation.

Where a definition, within these guidelines does not coincide with that of the National Credit Act, No.34 of 2005, in all instances the definition within the National Credit Act, No.34 of 2005 will supersede and take precedence over any definition provided within these guidelines.

2 Introduction

This guideline applies to independent auditors of credit bureaus who have registered with the NCR. The guidance and explanatory notes have been compiled by the NCR to provide assistance to those responsible for certifying Form 43 in terms of Sections 52(6) and 70(5) of the Act and Regulation 70 of the Regulations to the Act.

This document provides guidelines on the annual compliance report that must be certified by an independent auditor for submission to the NCR.

3 General

3.1 Submission Time

The annual compliance report must be submitted by the credit bureau to the NCR by the 15th of March each year for the period 1 January to 31 December of the previous year.

3.2 Submission Procedure and Address

The signed annual compliance report must be submitted in duplicate, with only one being signed as the original, together with an electronic version of the completed return. The signed copy and duplicate must be sent to:

The National Credit Regulator
C/o The Credit Information Division
127, 15th Road
Randjespark
Midrand
1685
E-mail: Form43@ncr.org.za

If applicable, a nil return must be submitted in accordance with the above guidelines and procedures.

3.3 Additional Information

The NCR may direct a credit bureau to furnish additional information and documentation as may be necessary for the purposes of the Act (in terms of section 70(5) of the Act). Any other documents submitted to the NCR, must be;

- An original, accompanied by one copy; or
- A copy, accompanied by one copy, one of which has been certified as correct by the independent auditor of the credit bureau.

The additional documentation will be treated as part of the return for signature purposes.

4 Form 43 - Company Details

Name of registered entity: registered name in terms of section 1(4) of the Companies Act, No. 61 of 1973.

NCR Registration Number: unique registration number that is allocated to each credit bureau at registration by the NCR.

Name of contact: is the person who completed / compiled the compliance report.

Telephone and e-mail contact: telephone and e-mail contact details of the person who completed / compiled the annual compliance report.

Year covered in return: the starting and ending dates pertaining to the relevant reporting period.

5 Form 43 – Section 1: Company Profile (only update if applicable)

5.1 Sub-section 1.1 - Material changes to company

Any changes in ownership or directors; acquisition or disposal of major assets; relocation of business premises; etc

6 Form 43 – Section 2: Data Integrity

6.1 Sub-Section 2.1 – Key measures to verify the data accuracy

- (i) Obtain copy of policies and procedures in respect of any data received from any party, irrespective whether there is an existing contractual relationship between the party and credit bureau, implemented by a credit bureau to -
 - a. Validate and verify the data accuracy before loading onto its database and sending off to other parties, such as consumers, subscribers etc.;
 - b. Validate and verify the data accuracy to avoid reloading or overriding previously rejected, removed or amended data;
 - c. Communicate with the suppliers whose data was rejected due to inaccuracy; and/or who has not been submitting data;
 - d. Monitor turnaround time for data correction and reloading previous rejected data etc.
- (ii) Observe and interview the staff members who execute the tasks; and report on such findings.

6.2 Sub-Section 2.2 – Retention periods Regulation 17.1 of the Regulations

In terms of assessing compliance for the purposes of confirming sub-section 2.2, the auditors are required to –

- (i) Obtain copies of policies and procedures of full process flows and functions in each process, including operational resources and systems, which have been implemented by the credit bureau to ensure compliance with the prescribed retention periods;
- (ii) Observe and interview the staff members who execute the tasks; and report on such findings;
- (iii) Sample on the basis of 5% of population or 100,000 records of each category of retention periods, whichever is the lesser, and automate tests;
- (iv) On the basis of a sample, indicate the extent to which consumer credit information records, held by credit bureau, comply with prescribed retention periods;

- (v) Obtain a list of all disputes lodged in the last 3 month of commencing the audit, and report on –
 - a. The percentage of disputes related to data retention;
 - b. The percentage of valid disputes related to data retention; and
 - c. Provide reasons and explanations for non-compliance with data retention periods.

6.3 Sub-Section 2.3 – Non-displayable data in terms of Regulation 18.3 of the Regulations

In terms of assessing compliance for the purposes of confirming sub-section 2.3, the auditors are required to –

- (i) Obtain a list of fields displayed on the database;
- (ii) Compare the list of fields with that of the fields held on credit bureau databases; and report on the deviations if any;
- (iii) Sample on the basis of 5% of population or 100,000 records of whole database, whichever is the lesser, and automate tests;
- (iv) Indicate the extent to which consumer credit information records, held by the credit bureau, comply with Regulation 18.3 of the Regulations.

6.4 Sub-Section 2.4a – Investigation of challenged information

- (i) Obtain copies of policies and procedures of full process flows and functions in each process, including operational resources and systems, which have been implemented by the credit bureau for the investigation of information challenged by natural and juristic persons;
- (ii) Observe and interview the staff members who execute the tasks; and report on such findings.

6.5 Sub-Section 2.4b – Incorrect information is not repeatedly reflected on credit bureau

- (i) Obtain copies of policies and procedures of full process flows and functions in each process, including operational resources and systems, which are implemented by the credit bureau to ensure that information which was previously rejected, removed

- or amended is not repeatedly reflected on the credit bureau database;
- (ii) Observe and interview the staff members who execute the tasks; and report on such findings.

6.6 Sub-Section 2.4c – Combating or preventing ID fraud

- (i) Obtain copies of policies and procedures of full process flows and functions in each process, including operational resources and systems, which have been implemented by credit bureau to ensure that consumer records and information held on the credit bureau database are not unlawfully accessed by any other consumer or third party for possible fraudulent and/or other illegal activities.
- (ii) Observe and interview the staff members who execute the tasks; and report on such findings.

6.7 Sub-Section 2.4d – Data security and confidentiality

- (i) Obtain copies of policies and procedures of full process flows and functions in each process, including operational resources and systems, which have been implemented by the credit bureau for keeping data, in any form and any source, secure and confidential;
- (ii) Observe and interview the staff members who execute the tasks; and report on such findings.

7 Form 43 – Section 3: Credit Reporting Activity

7.1 Sub-section 3.1 – Credit reports issued without charge

Agree the numbers with relevant supporting documents.

7.2 Sub-section 3.2 – Credit reports issued with charge

Agree the numbers with relevant supporting documents.

7.3 Sub-section 3.3 – Data suppliers

Agree the numbers with relevant supporting documents.

7.4 Sub-section 3.4 – Persons with a credit record

Agree the numbers with relevant supporting documents.

8 Form 43 – Section 4: Dispute resolution

8.1 Sub-section 4.1 – Disputes in respect of credit records

Agree the numbers with relevant supporting documents.

8.2 Sub-section 4.2 – Valid disputes in respect to judgments

Agree the numbers with relevant supporting documents.

8.3 Sub-section 4.3 – Valid disputes where a particular credit agreement was reflected to the incorrect natural or juristic person

Agree the numbers with relevant supporting documents.

8.4 Sub-section 4.4 – Valid disputes where the credit report was reflected to the incorrect natural or juristic person

Agree the numbers with relevant supporting documents.

8.5 Sub-section 4.5 – Valid disputes where the amount reported in respect to a judgment was incorrect

Agree the numbers with relevant supporting documents.

8.6 Sub-section 4.6 – Valid disputes about information that must be erased

Agree the numbers with relevant supporting documents.

8.7 Sub-section 4.7 – Valid disputes about other instances

Agree the numbers with relevant supporting documents.

8.8 Sub-section 4.8 – Estimate average costs and average time for resolving a dispute

Agree the numbers with relevant supporting documents.

9 Form 43 – Section 5: Non-compliance

9.1 Sub-section 5.1 – Problems and reasons of non-compliance

Agree that the problems and reasons of non-compliance are reported accurately.

9.2 Sub-section 5.2 – Resolutions

Agree that corrective action plans are in place and have been agreed to at senior management level.

10 Form 43 – Section 6: General Information

10.1 Sub-section 6.1 – Resources allocated for the education of the public on credit reporting and credit scoring

Obtain and agree the use of resources for education of the public on credit reporting and credit scoring.

10.2 Sub-section 6.2 – Products to promote the objectives of the National Credit Act

Agree that the products offered by the credit bureau promote the objectives of the NCA.

10.3 Sub-section 6.3 – Credit scoring models

Obtain a list of all credit scoring models and variables, and agree that all models and their respective variables have been disclosed.

11 Form 43 – Section 7: Optional: Further Questions

11.1 Sub-section 7.1 – Developments

Not applicable to auditors.

12 Additional reporting requirements

12.1 Enquiries done for prescribed purposes

Not applicable to auditors.

13 Form 43 – Declaration

This section confirms that the person who is authorised to sign off Form 43 as an accurate reflection and truthful account of the content disclosed to the NCR.

14 Further information

For further information please contact the Credit Information Division of the NCR on 011 554 2629 or address an enquiry to Form43@ncr.org.za