



CREDIT BUREAU CIRCULAR ON ADDITIONAL FORM 43 REQUIREMENTS

This Circular No. 24/November 2016 replaces Circular No. 2/February 2016, which is hereby withdrawn.

This circular is applicable to both credit bureaux and their independent auditors as a supplement to the existing guidelines – Guidelines No. 003/2009 and 001/2014.

The purpose of this circular is to request additional information from registered credit bureaux and their independent auditors in respect of the annual compliance report by credit bureaux as outlined in Section 52(6) and Regulation 70.

The NCR expects registered bureaux and independent auditors to report on the following additional items in the annual Form 43 reports:

1. National Credit Amendment Act 19 of 2014 and Regulation 19(11)

1.1 Section 71A(1) states that the credit provider must submit to all registered credit bureaux within seven days after settlement by a consumer of any obligation under any credit agreement, information regarding such settlement where an obligation under such credit agreement was the subject of –

- (a) an adverse classification of consumer behaviour;
- (b) an adverse classification enforcement action against a consumer;
- (c) an adverse listing recorded in the payment profile of the consumer; or
- (d) a judgment debt.

In terms of Section 71A(2) the credit bureau must remove any adverse listing contemplated in subsection (1) within seven days after receipt of such information from the credit provider.

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For the purposes of this section –

- (a) 'adverse classification of consumer behaviour' means classification relating to consumer behaviour and includes a classification such as 'delinquent', 'default', 'slow paying', 'absconded', or 'not contactable'; and
- (b) '**adverse classification of enforcement action**' means classification relating to enforcement action taken by the credit provider, including a classification such as 'handed over for collection' or 'recovery', 'legal action', or 'write-off'.

1.2 In terms of assessing compliance for the purposes of Section 71A the auditors are required to:

- (a) Obtain a copy of the 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 comply with Section 71A;
- (b) Confirm the number of files processed in each category of information required to be removed within 7 days; and
- (c) Extract a sample on the basis of 5% of the files processed of each category of information required to be removed within 7 days. On the basis of the sample, confirm whether the data files were loaded and the respective records removed within 7 days in compliance with Section 71A.

2. Amendment to Regulation 18(4)(c) and Regulation 19(12) of the Regulations

2.1 The definition for Regulation 18(4)(c) as amended and replaced, was changed to read as follows "considering a candidate for employment in a position that requires honesty in dealing with cash or finances". Regulation 19(12) states that a consumer credit record may not be accessed by an employment agency, recruitment consultant, staffing company or employer unless they certify that any and all requests for consumer credit records relate to positions requiring honesty in dealing with cash or finances and the job descriptions of such positions are clearly outlined.

2.2 In terms of assessing compliance for the purposes of Regulation 18(4)(c) and Regulation 19(12) the auditors are required to obtain a copy of the policies and procedures, which have been implemented by the credit bureau to ensure compliance with Regulation 18(4)(c) and Regulation 19(12).

3. Amendment to Regulation 19(6) of the Regulations

3.1 In terms of Regulation 19(6), credit providers have an obligation not to provide information that has prescribed to a credit bureau. Credit bureaux have an obligation to take reasonable steps to verify the accuracy of any consumer credit information reported to it.

3.2 In terms of taking reasonable steps to verify the accuracy of the consumer credit information reported to it, in terms of Regulation 19(6), the auditors are required to obtain details of the steps taken by the credit bureau to ensure that prescribed debt is not loaded onto the bureau.

4. Amendment to Regulation 19(7) of the Regulations

4.1 Regulation 19(7) as amended states that no source of information shall submit consumer credit information comprising adverse information to a credit bureau, unless the required minimum monthly or such other instalment payments have not been paid for a minimum period of at least three (3) consecutive billing cycles. Credit bureaux have an obligation to take reasonable steps to verify the accuracy of any consumer credit information reported to it, including the accuracy of whether such reported information does not include information that does not meet the requirements of Regulation 19(7).

4.2 In terms of taking reasonable steps to verify the accuracy of the consumer credit information reported to it, in terms of Regulation 19(7) the auditors are required to obtain details of the steps taken by the credit bureau to assist credit providers with meeting their obligations in respect of supplying adverse information to a credit bureau unless the required monthly or such other instalment payments have not been paid for a minimum period of at least three (3) consecutive billing cycles.

5. Amendment to Regulation 19(10) of the Regulations

5.1 Regulation 19(10) states that upon settlement of the amount in arrears which forms the subject matter of the adverse information, the source of data must in its next data submission to the credit bureaux, advise such credit bureaux that the arrear amounts have been settled; the credit bureau must update the consumer's credit records within seven (7) days of being notified as such.

5.2 In terms of assessing compliance for the purposes of Regulation 19(10) the auditors are required to:

- (a) Obtain a copy of the 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 comply with Regulation 19(10);
- (b) Sample of 5% of the population or 100,000 records of each category of information required to be removed, whichever is the lesser, and automate the tests; [removal from display]
- (c) Sample on the basis of 5% of the files processed of each category of information required to be removed within 7 days, and on the basis of the sample, indicate the extent to which the credit bureau has complied with Regulation 19(10).

6. Amendment to Regulation 17 of the Regulations

6.1 Regulation 17 was deleted and replaced with the new Regulation 17.

6.2 In terms of assessing compliance for the purposes of confirming Regulation 17 the auditors are required to –

- (a) 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;
- (b) Sample on the basis of 5% of the population or 100,000 records of each category of retention periods, whichever is the lesser, and automate tests;

- (c) On the basis of a sample, indicate the extent to which consumer credit information records, held by credit bureau, comply with prescribed retention periods;
- (d) Obtain a list of all disputes lodged in the last 3 months of commencing the audit, and report on –
 - (i) The percentage of disputes related to data retention;
 - (ii) The percentage of valid disputes related to data retention;
 - (iii) Provide reasons and explanations for non-compliance with data retention periods.

Further Information

Please contact **Ms Alison Magrath** on **011 554 2822** or **amagrath@ncr.org.za** should you have any queries.

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