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Legal Alert: Amendments to the Law governing Credit Reference Bureau Business in Uganda.

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The recently issued 2022 Credit Reference Bureau Regulations have revoked the 2005 Regulations and permit credit reference bureaus to release information to entities that are not controlled by the Central Bank.

Legal Implications of the *Financial Institutions (Credit Reference Bureau) Regulations, 2022* on credit reference bureau business in Uganda

Introduction

The *Financial Institutions (Credit Reference Bureau) Regulations, 2022* were issued on September 9, 2022. As a result, the existing *Financial Institutions (Credit Reference Bureau) Regulations, 2005* were revoked (reg. 70 of 2022 Regulations). The new Credit Reference Bureau (CRB) Regulations amend the law governing the conduct of credit bureau business in Uganda and include emerging legal aspects, such as data ownership, protection and management.

In light of the revocation of the 2005 Regulations and the new standards entailed in the registration, operation, conduct and dissolution of credit reference bureau business in Uganda, this legal alert reflects on the legal implications of the 2022 CRB Regulations.

Legal Implications of the 2022 CRB Regulations

The legal implications of the recently issued 2022 CRB Regulations on credit reference bureau business are as follows:

- (a) **Credit information: Regulation 3 of the 2022 CRB Regulations** provides a wider and clear definition of credit information to include a person's credit history, financial history, employment history, identity, financial securities, and any other information relating to the assessment and determination of the credit profile or history of a person. This is a much broader definition of credit information that previously only referred to the history of an individual or entity with regard to credit and financial obligations that a credit reference bureau could collect from financial institutions or micro finance deposit-taking institutions.

The 2022 Regulations, in the definition of credit information, provide that it includes information concerning *the employment history of a person, his or her career, professional or business history, including the circumstances of termination of any employment, career, professional or business relationship, and related matters.*

- (b) **Licensing requirements: Regulation 6 of the Regulations** provides that one cannot operate credit reference bureau business in Uganda without a licence issued in accordance with the Regulations. To obtain a license, a company must firstly submit its application to the Central Bank at a processing fee of UGX 10m/=. Once the application is accepted, the credit reference bureau shall be required to pay licence fees (the greater of UGX 10m/= or 0.05% of Gross Annual Revenue) on or before 31st January of each year.

Further, as per **regulation 10 of the Regulations**, a credit reference bureau shall not be granted or hold a licence unless it has a minimum paid up capital of UGX 200m/= to be invested initially in such liquid assets as the Central Bank may approve.

Previously, an application for a license cost UGX 2,000,000/= and annual licensing fee was UGX 1,000,000/-. The initial capital requirement however has not changed.

- (c) *Governance and management*: The **2022 Regulations** have made provision for the management and governance of credit reference bureaus in accordance with the Regulations. **Regulation 33** requires the directors of a credit reference bureau to be not less than five (5) and to have been approved by the Central Bank.

Notably, under **regulation 66(5)**, the Regulations prohibit a credit reference bureau from having a director who is also a director in another credit reference bureau.

- (d) *Sharing of credit information*: Under **regulation 36(2)**, the Regulations now permit credit reference bureaus to release credit information to registered cooperative societies and accredited credit providers in addition to financial institutions and microfinance deposit-taking institutions. In effect, the scope of entities that can submit and access credit information has broadened.

Similarly, the Regulations have introduced a new term in credit reference bureau business, that of “accredited credit provider”. Under **regulation 54(13)**, an accredited credit provider is an institution that is not licensed by the Central Bank that is involved in the provision of goods and services on credit to the public and that has made an application to a credit reference bureau to use the services of a credit reference bureau; and having complied with the accreditation criteria specified by the Central Bank, has been approved to submit and receive information from a credit reference bureau.

Under **regulation 40**, credit reference bureaus now have authority to share credit information across borders with entities performing similar roles in line with the Regulations and the *Data Protection and Privacy Act, 2019*.

- (e) *Ownership of data collected*: Under **regulation 53(1)**, the Regulations introduced a provision that data collected in the database operated by a credit reference bureau is owned by the Central Bank irrespective of any agreements to the contrary.
- (f) *Restriction on amalgamation and transfer of assets*: Under **regulation 66(3)**, the Regulations have placed restrictions on credit reference bureau business to the effect that a licensed credit reference bureau cannot not amalgamate with another entity or sell or transfer its assets and liabilities to another entity without the prior written consent of the Central Bank
- (g) *Dispute resolution and mediation*: The Regulations have also made provision for dispute resolution processes for credit reference bureaus in Uganda. **Regulation 59 (2)** provides that unless legal or arbitration proceedings are instituted, the Central Bank has the preserve to act as or appoint a mediator in any dispute involving a credit reference bureau.
- (h) *Competition*: In a bid to better regulate credit reference bureau business, the Regulations have gone a step further to regulate competition in the market through prohibiting any engagement in anti-competitive practices and imposing penalties against such practice. Under **regulation 55**, credit reference bureaus are required to adhere strictly to Part XIV of the Regulations and refrain from anti-competitive practices, contracts, arrangements or understandings that are likely to substantially lessen competition in the market.

Failure to refrain from anti-competitive practices shall make a credit reference bureau to be liable to a penalty of not less than UGX 5m/= for each infringement.

Conclusion

The 2022 CRB Regulations are a timely addition to the law governing credit reference bureau business in Uganda since they address the legal gaps that existed in the 2005 Regulations on data protection, ownership, cross-border transfer of credit information, and competition. The Regulations are bound to enhance the quality of credit borrower arrangements and foster improved knowledge and tracking of credit arrangements that were previously a preserve of financial and microfinance deposit-taking institutions.

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For additional information in relation to this alert, please contact the following:

Irene Namuli

Head, Corporate & Commercial Department

inamuli@alp-ea.com

Judith Maryanne Aboto

Associate, Infrastructure Business Department

jaboto@alp-ea.com

ALP East Africa

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Our contacts

ALP Advocates

Lotis Towers, 5th floor
Plot 16 Mackinnon Rd
P.O. Box 28611
Kampala, Uganda
+256 414 671 997
info@alp-ea.com

ALP Kenya

Westpark Towers, 5th floor,
Mpesi Lane (off
Parklands Rd)
P.O. Box 102942-00101
Nairobi, Kenya
+254 721 836 545
Kenya@alp-ea.com

ALP South Sudan

Pyramid Hotel, 4th floor
Stadium Road,
P.O. Box Private Bag
Juba, South Sudan
+211 924 915 199
info@alp-ea.com

ALP Tanzania

Janqid Plaza, 1st floor
Ali Hassan Mwinyi Rd
(off Chambruma Rd)
P.O. Box 1652
Dar-es-Salaam,
Tanzania
+255 717 425 183
Tanzania@alp-ea.com

Website: www.alp-ea.com

Email: info@alp-ea.com

