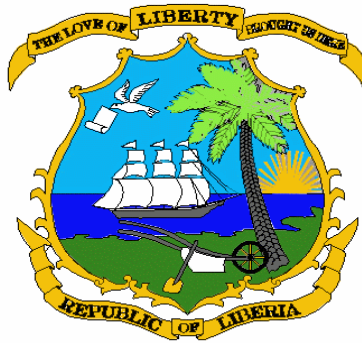


THE

LIBERIA



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EXTRAORDINARY

The Government of the Republic of Liberia announces that the Central Bank of Liberia (CBL), pursuant to its mandate under the Central Bank of Liberia Act of 1999 and its authority under the Financial Institutions Act of 1999, and specifically consistent with Section 55 of the said Central Bank of Liberia Act of 1999 and Section 39 of the Financial Institutions Act of 1999, has issued on August 6, 2010, its Regulation No. CBL/SD/003/2010 herein under:

**CONCERNING
CREDIT REFERENCE REGULATIONS**

BY ORDER OF THE PRESIDENT

**OLUNBANKE KING-AKERELE
MINISTER OF FOREIGN AFFAIRS**

**MINISTRY OF FOREIGN AFFAIRS
MONROVIA, LIBERIA
AUGUST 6, 2010**

THE CREDIT REFERENCE REGULATION

1.0 INTRODUCTION

Pursuant to the authority vested in it by Sections 4, 5 & 55 of the Central Bank of Liberia (CBL) Act of 1999 and Section 39 of the New Financial Institutions Act of 1999, the CBL hereby prescribes, makes and promulgates this regulation on the establishment and operations of a credit reference bureau.

The purpose of this regulation is to provide the legal and regulatory framework for the establishment and operations of a credit reference bureau.

2.0 DEFINITION

In this regulation, unless the context otherwise requires:

- (a) “Central Bank” means the Central Bank of Liberia;
- (b) “Credit information recipient” means any person who receives data in the form of a credit reference report from a credit reference bureau;
- (c) “Credit reference bureau” means any person licensed to prepare or provide credit reference reports to credit information recipients based on data maintained by the bureau;
- (d) “Credit reference report” means any electronic, written, oral, or other communication of any information by a credit reference bureau, relating to a person’s creditworthiness, credit standing, credit capacity, character or general reputation which is used or collected to serve as a factor in establishing that person’s eligibility for credit, insurance, employment or such other purposes as may be established by law;
- (e) “Data provider” means any person, including a financial institution, who provides data regarding any other person to a credit reference bureau;
- (f) “Financial institution” means any financial institution licensed under the laws of Liberia to do banking business in Liberia;
- (g) “Loan” includes borrowing, leasing, factoring and forfeiting;
- (h) “Person” means and includes any individual, company, partnership, association or body of persons, corporate or unincorporated;
- (i) “Creditworthiness” means the ability and character of a person to borrow and pay money;

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- (j) “Subject of a credit reference report” means any person in relation to whom a data provider submits credit information to a credit reference bureau or in relation to whom a credit report is issued by a credit reference bureau; and
- (k) “Registered company” means a company incorporated or registered under the laws of Liberia and whose name has not been struck off the companies register.

3.0 ROLE OF THE CENTRAL BANK OF LIBERIA

3.1 Supervisory and Regulatory Role of the Central Bank.

- (i) The Central Bank shall have overall supervisory and regulatory authority to:
 - a) grant licenses to credit reference bureaux;
 - b) establish the conditions under which a credit reference bureau may carry on business;
 - c) compile and keep a register of all credit reference bureaux;
 - d) control and supervise the activities of credit reference bureaux, data providers, and credit information recipients;
 - e) make rules, regulations, directives or guidelines pursuant to this regulation;
 - f) take measures, where necessary to protect the interest of subjects of credit reference reports;
 - g) maintain and enforce proper standards of conduct and acceptable credit reference practices;
 - h) protect the integrity of the credit reference system against abuses;
 - i) maintain the right to review the adequacy of a credit reference bureau’s operations, including periodic examination of credit reference bureaux, to ensure compliance with this regulation, established standards and applicable law;
 - j) maintain in confidence any information accessed pursuant to this regulation, except where its use is necessary for enforcing any of the provisions of this regulation, or negotiations issued pursuant to this regulation, or subject to applicable laws; and
- (ii) undertake such other activities as are necessary or expedient to give full effect to the provisions of this regulation.
- (iii) be entitled to access information held by any credit reference bureau for its supervisory

purposes;

3.2 Internal Credit Reference Arrangements by the Central Bank

- (i) The Central Bank shall maintain the existing credit reference unit within its structure or organization, pending the licensing of a privately operated credit reference bureau or bureaux; or
- (ii) The Central Bank may maintain and conduct its own credit reference bureau in accordance with this regulation until there is a privately operated credit reference bureau that the Central Bank deems capable of providing credit reference bureau services in Liberia. Upon such determination, the Central Bank shall cease its credit reference bureau operations.

3.3 License

3.3.1 Licensing of Credit Reference Bureaux

- (i) No person shall carry on business as a credit reference bureau in Liberia unless that person holds a valid license issued by the Central Bank.
- (ii) Where the Central Bank finds or has reasonable grounds to believe that a person has contravened subsection 3.3.1(i), it may call for and examine the books, accounts and records of such person in order to ascertain whether such is the case.
- (iii) Any person who intentionally obstructs the Bank in the exercise of the powers conferred by subsection 3.3.1(ii) commits an offence and is liable to a fine not exceeding one million Liberian Dollars.
- (iv) Any person who contravenes subsection 3.3.1(i) commits an offence and is liable:
 - a) to a fine not exceeding one million Liberian Dollars in the case of an individual, or
 - b) to a fine not exceeding two million Liberian Dollars in the case of a body corporate.
- (v) Upon contravention of subsection 3.3.1(iv), such person shall cease credit reference bureau operations. The Central Bank shall seize any credit information held by said person and any equipment containing such information.

3.3.2 Eligibility to apply for license

- (i) No person shall be eligible to apply for a license under this regulation unless that person is a registered company or a statutory body.

3.3.3 Application for a License

- (i) Any registered company or statutory body wishing to conduct business as a credit reference bureau shall apply to the Central Bank for a license.
- (ii) An application for a license shall be:
 - (a) made in writing and addressed to the Executive Governor in such form and manner as the Central Bank shall determine;
 - (b) accompanied by such other information or documents the Central bank may require for the determination of the application;
 - (c) accompanied by an application and annual operating fees as may be determined from time to time by the CBL;
- (iii) The Central Bank may, prior to the determination of an application, by notice in writing, require an applicant to provide additional information or documents.
- (iv) Any information required under subsection 3.3.3(iii) shall be in such form as the Central Bank may prescribe.
- (v) An application may be withdrawn by notice in writing at any time before its determination.
- (vi) Every credit reference bureau shall maintain a minimum paid-up capital as determined by the Central Bank by a regulation, a guideline or a directive.
- (vii) The Central Bank may prescribe:
 - (a) an application fee to be paid by credit reference bureaux upon application for a license;
 - (b) a license fee to be paid by credit reference bureaux upon grant of a license;
and
 - (c) annual operating fee or annual renewable fee, as may be determined by the Central Bank.

3.3.4 Grant or refusal of License

- (i) The Central Bank may, within ninety days after the receipt of an application for a license or where further relevant information or documents has been required, grant a license or inform the applicant that it has refused to grant a license and may state the grounds upon which the refusal is based.

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- (ii) In determining an application, the Central Bank shall take into account, inter alia, matters relating to:
 - (a) the character and fitness 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.
- (iii) The Central Bank shall not grant a license where it is convinced that said issuance will not be in the public interest;
- (iv) Any license granted under this regulation shall be on such terms and conditions as the Central Bank may specify; and
- (v) Every credit reference bureau shall at all times conspicuously display its license at its place of business.

3.3.5 Notice of grant or refusal to grant a license

- (i) Where the Central Bank grants an application for a license it shall give written notice to the concerned applicant; and
- (ii) Where the Central Bank refuses to grant a license it shall issue a written statement to the applicant on the refusal and may give or provide reasons for its decision.

3.3.6 Revocation or suspension of License

- (i) The Central Bank shall revoke the license of a credit reference bureau if it appears to the Central bank that:
 - (a) the credit reference bureau has failed to comply with any material obligation imposed on it by or under this regulation; or
 - (b) the credit reference bureau has materially breached a regulation, guideline or directive issued by the Central Bank; or
 - (c) it has failed to commence business within six months immediately after the date of issue of license; or

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- (d) it has been provided with false, misleading or inaccurate information by or on behalf of the credit reference bureau; or
- (e) it has engaged in activities either restricted or not permitted under this regulation; or
- (f) a winding-up order has been made against it; or
- (g) a resolution for its voluntary winding-up has been passed; or
- (iv) Where the Central Bank suspends the license of a credit reference bureau, the Central Bank shall give notice in writing of the decision to the credit reference bureau and shall specify in the notice, the defect, omission or breach which has occasioned the suspension and request the credit reference bureau to remedy the defect, omission or breach within a period not exceeding thirty (30) working days from the date of issue of such notice.

If the defect, omission or breach is remedied within the time specified, the Central Bank shall by notice restore the license.

3.3.7 Non-Transferability of licenses

- (i) A person shall not transfer a license granted to him by the Central Bank to another person.
- (ii) A person who contravenes subsection 3.3.7(i), commits an offence and shall be liable to a fine not exceeding one million Liberian Dollars.

3.3.8 Register of licenses

The Central Bank shall keep and maintain a public register containing details of all licenses granted under this regulation.

3.3.9 Renewal of license

A license granted under this regulation shall be renewable annually.

4.0 ACTIVITIES AND DUTIES OF CREDIT REFERENCE BUREAUX

4.1 Permissible activities of credit reference bureau

- (i) A credit reference bureau may engage in any or all of the following activities:-
 - (a) gathering and maintaining data for the formation of credit histories, including publicly

available information;

- (b) processing credit related data; and
 - (c) delivering credit reference reports based partly or fully on information not in the public domain.
- (ii) A credit reference bureau shall not engage in activities not specified in this regulation, or directives or guidelines promulgated or issued by the Central Bank from time to time.
- (iii) A credit reference bureau may charge fees for its services within the scope of activities authorized under this regulation. However, the Central Bank may establish a maximum fee that may be charged by credit reference bureau for its services.

4.2 Duties of Credit Reference Bureaux

- i) Every credit reference bureau shall:
 - (a) accept the filing of information from a data provider on such terms as expressly permitted by the Central Bank;
 - (b) quote its license number in an advertisement or information document in which it offers its services;
 - (c) prevent information held by it from being disclosed with the exception of those situations stipulated in this regulation;
 - (d) abide by rules, regulations, directives or codes of conduct issued pursuant to this regulation;
 - (e) use reasonable procedures to ensure the maximum possible accuracy of information reported to it or maintain on its files;
 - (f) request that a data provider corrects and supplements the submitted information that requires reprocessing or specification if there are grounds for this;
 - (g) submit to technical audits and examinations that the Central Bank may require from time to time;
 - (h) submit records and reports to the Central Bank as the Central Bank may require;
 - (i) accept without charge the filing of credit information by a subject of a credit information report to correct information held by that credit reference bureau concerning that subject

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of a credit reference report;

- (j) retain credit information only for the period prescribed in this Regulation;
 - (k) maintain database records of credit information to satisfy the standards prescribed by this Regulation;
 - (l) record in credit reference reports the date, identity of the credit information recipient and reason for each request for the said credit reference report;
 - (m) keep or submit records of its activities; in accordance with this regulation, or any other law in force in Liberia;
 - (n) comply with the standards or code of conduct issued by the Central Bank, for credit reference bureaux;
 - (o) enter into contractual agreements with data providers and credit information recipients, with regard to credit information and credit reference reports respectively; and
 - (p) not prejudice the assessment of a person's creditworthiness merely on the basis that the credit reference bureau does not have credit information concerning that person.
- (ii) Any person who contravenes subsection 4.2 i) commits an offence and is liable to a fine not exceeding one million Liberian Dollars.

4.3 Dissemination and Usage of Information by Credit Reference Bureaux

- (i) No credit reference bureau shall provide a credit reference report to a credit information recipient, unless it has:
 - (a) entered into a contractual agreement with the credit information recipient;
 - (b) verified that such recipient has a lawful reason for obtaining such credit information; and
 - (c) has received certification in writing from the credit information recipient in each instance in which a request for credit information is made, such that the recipient will use the information to:
 - 1) evaluate credit risks in the granting, monitoring or extension of credit;
 - 2) evaluate risks where the terms of the credit agreement are changed;
 - 3) evaluate risks related to other transactions with deferred payments;

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- 4) confirm the accuracy of information contained in a credit reference report;
 - 5) underwrite insurance;
 - 6) evaluate an employment application; or
 - 7) for some other legitimate business needs relating to a transaction initiated by a person.
- (ii) No credit reference bureau shall provide a credit reference report if the request for such report contravenes any provision of this regulation or any other law in force in Liberia.
 - (iii) Any person who contravenes this section commits an offence and is liable to a fine not exceeding one million Liberian Dollars.

4.4 Privacy and Confidentiality

- (i) A person who receives, compiles, retains or reports confidential information that pertains to another person shall protect the confidentiality of the information and shall:
 - (a) use the information only for purposes permitted under this regulation; and
 - (b) only disclose information in good faith and in accordance with the provisions of this regulation.
- (ii) A credit reference bureau, data provider, or credit information recipient shall at all times observe the following principles:
 - (a) the equality of subjects of credit information;
 - (b) the confidentiality of information;
 - (c) non-interference in the private lives of individuals;
 - (d) respect for the rights, liberties and lawful interests of persons;
 - (e) accuracy and transparency of information; and
 - (f) privacy and secrecy of communication.
- (iii) A person who uses information from a credit reference bureau adversely to the interests of the subject of the information shall, at the time the adverse action occurs, provide the subject a written notice stating the adverse action, the name and address of the credit reference bureau, the fact that the credit reference bureau did participate in the action, and the subject's right to obtain a copy of any information held by the credit

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reference bureau about the subject and the right of the subject to dispute with that credit reference bureau at no charge any such information.

- (iv) Any person who contravenes subsection 4.4(i) commits an offence and is liable to a fine not exceeding one million Liberian Dollars;

4.5 Retention of Information by Credit Reference Bureaux

- (i) Every credit reference bureau shall maintain a record of the history of the credit information that it receives;
- (ii) Every credit reference bureau shall only maintain credit information records for a period as may be determined by the CBL; and
- (iii) Every credit reference bureau shall establish and implement procedures to update the information it receives on subjects of credit reference reports.

5.0 DATA PROVIDERS

5.1 (i) Each licensed financial institution shall submit credit information no later than the close of business on the fifth business day after the end of the preceding month or soon as may be prescribed by regulation, in a format prescribed by the Central Bank by regulations or guidelines, to every credit reference bureau, regarding every extension of credit made by such licensed financial institutions, without prior consent from their customers. Such information shall include all positive and negative information, including but not limited to details of loans, including payments made on time and late payments.

5.2 (i) Every data provider shall:

- (a) inform any person with whom it enters into a contractual agreement relevant to this regulation; that it shall provide information in relation to such agreement to a credit reference bureau in accordance with this regulation; and
 - (b) update and notify each such credit reference bureau of changes to information it has provided that it becomes aware of concerning the subject of the credit reference report.
- (ii) No data provider shall submit any information relating to any person to a credit reference bureau which the data provider knows or has reasonable grounds to believe is inaccurate or incomplete. Every data provider must update information previously provided if it later determines such information to be inaccurate or incomplete.
- (iii) A person who contravenes this section commits an offence and is liable to a fine not exceeding two million Liberian Dollars.

6.0 FINANCIAL INSTITUTIONS USE OF CREDIT REFERENCE BUREAU INFORMATION

- 6.1 (i) A financial institution shall conduct a search with respect to a person's credit record on the database of one or more credit reference bureaux licensed under this regulation, before it makes a decision to grant or refuse an application for credit or other facility. If more than one credit reference bureau is operating in Liberia, the Central Bank shall, by regulation, specify whether reports must be obtained from more than one such bureau, taking into account the accuracy and scope of information contained in each such bureau's database.
- (ii) A financial institution may enter into agreements for data submission and credit report delivery with credit reference bureaux to determine:
- (a) the modalities and format for the submission of information by the financial institution;
 - (b) the delivery of credit reports by a credit reference bureau to a financial institution;
 - (c) the type of information to be provided; and
 - (d) the manner and form in which the information is submitted.
- (iii) Regardless of the terms of any agreement between a financial institution and a credit reference bureau, the credit reference bureau must either provide the requested credit report(s) or a statement that it does not have any information relating to the subject(s) of the request no later than 48 hours after the request was made excluding weekends and national holidays.
- (v) A credit reference bureau is expected to develop secure, automated means of delivering requested credit reports to users of such reports. The Central Bank may reduce the maximum period of time in which a credit reference bureau has to respond to requests based on such developments.

7.0 OTHER SOURCES OF INFORMATION ACCESSIBLE TO CREDIT REFERENCE BUREAUX

Any person may furnish the credit reference bureau with information with regards to a person that is ordinarily available to the public.

8.0 RIGHTS OF SUBJECTS OF CREDIT REFERENCE REPORTS

8.1 Right to receive credit information concerning the subject

- (i) Subjects of credit reference reports, upon payment of the requisite fees, shall receive a

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copy of all the information concerning that person held by any credit reference bureau, including the identity of the relevant credit information recipients.

- (ii) All information received by the subject of a credit reference report must be necessary and sufficient to enable him to understand the content, significance and importance of the said information.

8.2 Right to inspect information

- (i) A subject of a credit reference report has the right to inspect during normal business hours information concerning him /her held by a credit reference bureau without charge:
 - (a) Once every 12 months; or
 - (b) If denied credit or other application based in whole or in part on information contained in a credit reference report.
- (ii) A subject of a credit reference report has the right to challenge the accuracy of information held by a credit reference bureau on that person on grounds of veracity or inaccuracy.
- (iii) A subject of a credit reference report has the right to request a credit reference bureau to investigate the accuracy of the challenged information without a charge to him or her.

8.3 Procedure upon challenge of information

- (i) The completeness or accuracy of any item of information contained in a person's file at a credit reference bureau may be disputed by that person or that person's personal representative if the person or their personal representative notifies the credit reference bureau in writing of such dispute. The credit reference bureau shall, free of charge, conduct a reasonable reinvestigation to determine whether the disputed information is incomplete or inaccurate and record the current status of the disputed information, or delete the item from the file before the end of the 30-day period beginning on the date on which the bureau receives the notice of the dispute.
- (ii) Where a person has initiated a challenge to the completeness or accuracy of information held by a credit reference bureau on that person, the credit reference bureau shall at its cost:
 - (a) review and investigate the information held by the credit reference bureau;
 - (b) before the expiration of the 5-business-day period beginning on the date on which the notice of dispute is received, the credit reference bureau shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and

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in the manner established with the person. The notice shall include all relevant information regarding the dispute that the bureau has received;

- (c) the recipient of any such information shall, within 20 days, review all relevant information provided by the credit reference bureau, conduct a reasonable investigation, and report the results of the investigation to the credit reference bureau;
- (d) if the investigation finds that the information is incomplete or inaccurate, the credit reference bureau in question shall report those results to all other credit reference bureaux to which the person furnished the information;
- (e) allow the person making the challenge to provide relevant evidence in support of his challenge.
- (f) conclude its investigation within 30 calendar days of the person's challenge.
- (iii) Where a credit reference bureau provides a credit reference report that contains information under investigation, it shall indicate that fact in the report.

8.4 Conclusion of Investigation

- (i) At the conclusion of its investigation, a credit reference bureau shall promptly inform in writing the person making the challenge and the furnisher of said information, of the result of its investigation, including providing an updated credit report, and shall either:
 - (a) correct or expunge, as appropriate, the information in respect of which the challenge was made where such information is found to be inaccurate or incomplete, and notify any credit information recipient who received such inaccurate or incomplete information with the prior year, of the error;
 - (b) delete the information if it cannot be verified; or
 - (c) maintain the said information if it is found to be accurate.
- (ii) A credit information bureau has no duty to investigate a frivolous dispute.

8.5 Appeal of result of investigation

- (i) A person aggrieved against the result of an investigation made by a credit reference bureau may appeal against the decision to the Central Bank.
- (ii) Where the Central Bank receives an appeal pursuant to subsection 8.5(i), it shall investigate and determine such appeal within 30 calendar days from the date when such

appeal was made.

8.6 Remedies for subjects of credit reference reports

- (i) Where a person suffers harm arising from the supply of inaccurate or incomplete information in a credit information report, that person should seek remedies with the CBL.

9.0 MISCELLANEOUS

9.1 Offences

- (i) Where an offence under this regulation is committed by a body of persons, then:
 - (a) in the event of a body corporate, any person who at the time the offence was committed was a director, manager, or other officer of that body corporate; or
 - (b) in the case of a firm, every person who at the time the offence was committed was a partner or officer of that firm shall be deemed to have committed that offence.
- (ii) In any proceedings for an offence under this regulation it shall be a defense for the person charged to prove that:
 - (a) the offence was committed without his knowledge or connivance; or
 - (b) he/she took all reasonable precautions and exercised all due diligence to prevent the commission of the offence; or
 - (c) he/she acted in good faith.

9.2 Enforcement

Compliance with the requirements imposed under this regulation and any implementing guidelines, directives, rules, or orders shall be enforced by the Central Bank with respect to credit reference bureaux and all other persons subject to this regulation. The Central Bank shall have all procedural, investigative, and enforcement powers necessary for this purpose. In the event of a violation of this regulation or any implementing guidelines, directives, rules, or orders, the Central Bank shall impose the appropriate penalties as stated above. The CBL may also seek redress, disgorgement, injunctions or any other appropriate remedies.

9.3 Liquidation of Credit Reference Bureaux

Where a credit reference bureau ceases doing business or is subject to liquidation, the said credit reference bureau shall deliver all information it possesses, controls or

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owns to the Central Bank.

10. EFFECTIVE DATE

This regulation shall come into full force and effect upon publication in the Official Gazette and shall remain in full force and effect until otherwise changed by operations of laws or the Central Bank of Liberia.

Issued this 6th day of August, A.D. 2010 in the City of Monrovia, Republic of Liberia.

BY ORDER OF THE PRESIDENT

MINISTER OF FOREIGN AFFAIRS

MINISTRY OF FOREIGN AFFAIRS
MONROVIA, LIBERIA
AUGUST 2010