

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

to provide for the incorporation and functioning of credit bureaus and to provide for matters connected therewith and incidental thereto

WHEREAS it is expedient to provide for the incorporation and functioning of credit bureaus for collecting credit information relating to debtors of banks, financial institutions, non-banking financial institutions, non-financial companies and other lenders or authorities and maintain data of such information and also for the provision to disseminate such information, on request, for specified purposes with a view to facilitating efficient distribution of credit and for matters connected therewith and incidental thereto;

It is hereby enacted as follows: -

**PART I**

**PRELIMINARY**

**1. Short title, extent and commencement.-** (1) This Act may be called the **Credit Bureaus Act, 2014**.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

**2. Definitions.-** (1) In this Act, unless there is anything repugnant in the subject or context,-

(a) “**adverse action**” means any action which causes a denial, rejection, cancellation of or reduction in or otherwise any unfavourable result in any transaction involving credit, finance, trade, commerce or employment with respect to a debtor;

(b) “**banking**” means the accepting, for the purposes of lending or investment, of deposit of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise;

(c) “**banking company**” means any company which transacts the business of banking in Pakistan ;

- (d) **“banking policy”** means any policy formulated by the State Bank of Pakistan in the interest of banking or in the interest of monetary stability or sound economic growth, having due regard to the interest of the depositors, the volume of deposits and other resources of the bank and the need for equitable allocation and the efficient use of these deposits and resources;
- (e) **“Companies Ordinance”** means the Companies Ordinance, 1984 (XLVII of 1984);
- (f) **“company”** means a company incorporated under the Companies Ordinance;
- (g) **“Court”** means District Courts having territorial jurisdiction in the area where the cause of action arises;
- (h) **“credit bureau”** means a public limited company established under the Companies Ordinance which has been granted a licence by the State Bank of Pakistan in accordance with this Act to undertake the business of collecting credit information from credit information furnishers relating to their customers and to maintain data relating thereto and to disseminate such information in the form of credit information reports for purposes of this Act or that may be specified by the State Bank of Pakistan from time to time;
- (i) **“credit information”** means any information with respect to a debtor relating to-
- (i) the amounts, nature of loans or advances, finance and other credit facilities granted by a credit institution and repayment thereof by the debtor and the nature of security taken by a credit institution for credit facilities granted;
  - (ii) the guarantee or any other non-fund based facility furnished by a credit institution for the benefit thereof;
  - (iii) the amounts and nature of commercial transactions, facilities and services entered into or availed on credit from non-financial companies and bodies and other lenders and authorities including but not limited to retailers, insurance companies, utility providers and landlords;
  - (iv) any and all factors included in the financial history bearing on the credit worthiness, credit standing and credit capacity thereof;
  - (v) public records such as bankruptcies, civil suits, civil judgments, record of arrests and convictions for crimes involving fraud, dishonesty, false statement or moral turpitude;

- (vi) personal information subject to the conditions specified in this Act; and
- (vii) any such information which the State Bank of Pakistan in its opinion may consider relevant for the purposes contained herein to be included in the data collected and maintained by credit bureaus and may specify in its directions issued from time to time under this Act;
- (j) **“credit information furnisher”** means any person or entity which provides credit information to a credit bureau including credit institutions and non-financial companies and bodies and other lenders and authorities including but not limited to retailers, insurance companies, utility providers and landlords;
- (k) **“credit information report”** means any written or electronic communication issued by a credit bureau containing credit information relating to any debtor for purposes of this Act;
- (l) **“credit institutions”** include-
- (i) a banking company;
  - (ii) Microfinance Banks;
  - (iii) a financial institution, which means-
    - (a) any company whether incorporated within or outside Pakistan, which transacts the business of banking or any associated or ancillary business in Pakistan through its branches within or outside Pakistan and includes a government savings bank but excludes the State Bank of Pakistan;
    - (b) a modaraba , leasing company, investment bank, financing company, unit trust or mutual fund of any kind and credit or investment institution, corporation or company; and
    - (c) any company authorized by law to carry on any similar business as may be prescribed;
  - (iv) non-banking financial company; and
  - (v) any company, corporation or institution or class of companies or institutions as the Federal Government may from time to time, by notification in the official Gazette, specify for the purpose.
- (m) **“credit scoring”** means a system whereby points are awarded to debtors enabling users to assess the credit worthiness and capacity of debtors

to repay loans and advances and to discharge any and all other obligations with regard to credit facility availed or to be availed by the debtors;

(n)“**debtor**” means any individual, partnership, company, corporation, institution, trust, estate, cooperative association, Government or governmental subdivision or agency or any other entity, including those who have been credit recipients and who are potential recipients of credit;

(o)“**default**” means omission or failure to perform a legal or contractual obligation involving credit;

(p)“**licence**” means the licence issued by the State Bank of Pakistan to a public limited company for the purpose of functioning as, and carrying out the business of, a credit bureau in accordance with the provisions of this Act;

(q)“**person**” means an individual, association or body of individuals, company, firm, authority, institution or any other entity;

(r)“**prescribed**” means prescribed by rules made under this Act;

(s)“**regulator**” means the State Bank of Pakistan established under the State Bank of Pakistan Act, 1956 (XXXIII of 1956);

(t)“**rules**” means rules made under this Act; and

(u)“**user**” means any person or body, which receives a credit information report from a credit bureau for purposes of this Act.

(2) The words and expressions used and not defined in this Act shall have the meanings as assigned to them in the Companies Ordinance.

## PART II

### ESTABLISHMENT OF THE CREDIT BUREAU AND ITS CAPITAL

3. **Licence.**- Notwithstanding anything contained in any other law for the time being in force and save as hereinafter provided, no person shall commence or carry on the business of a credit bureau without obtaining a licence from the State Bank of Pakistan to function as, and carry on the business of, a credit bureau, such licence being obtained in the manner which may be prescribed.

4. **Eligibility for licencing.**- (1) A person proposing to commence business as a credit bureau shall be eligible for licencing under this Act if he fulfills and complies with the following conditions or requirements, namely:-

(a) that such person is incorporated as a public limited company under the Companies Ordinance;

- (b) that none of the promoters, sponsors, directors, officers or employees of such company-
- (i) has been associated with any illegal banking business, deposit taking or financial dealings or has overdue loans or outstanding installments toward any banking or financial institution that have not been settled within six months or has been convicted of fraud, breach of trust or an offence involving moral turpitude or has defaulted on payment of taxes and has either been adjudicated as insolvent or has defaulted payment of debt or compounded it with his creditors; and
  - (ii) has been a sponsor, director, chief executive or major shareholder in any company, which has been associated with any illegal banking business, deposit taking or financial dealings or has overdue loans or outstanding installments toward any banking or financial institution that have not been settled within six months or has defaulted payment of debt or compounded it with its creditors or has defaulted on payment of taxes;
- (c) that the promoters of such company are, in the opinion of the State Bank of Pakistan, persons of means and integrity and have special knowledge of matters which the company may have to deal with as a credit bureau, are not involved in the capacity of a director or shareholder with any company, business or activity which is likely to be in conflict with the business of the credit bureau and the net worth of each promoter is not less than twice the amount to be subscribed by him personally; and
- (d) that none of the directors of such company shall hold such office with any other company, business or activity which is likely to be in conflict with the business of the credit bureau.

Explanation.-A company, business or activity shall be deemed to be in conflict with the business of the credit bureau, if it directly or indirectly competes with the business of credit information bureaus including but not limited to another credit bureau and financial institution.

(2) Without prejudice to the conditions specified in sub-section (1), the State Bank of Pakistan may impose such additional conditions as it may deem necessary on any company at the time of granting the licence or generally in the rules.

(3) The State Bank of Pakistan may refuse grant of a licence in the event that-

- (a) any of the conditions under this section are not met; or

- (b) the application for a licence has been made subsequent to the issuance of a notification and while such notification is in operation pursuant to which the State Bank of Pakistan has suspended the issuance of licences generally:

Provided that a grant of licence shall not be refused without giving the person applying for the licence an opportunity of being heard.

**5. Paid up capital.-** The paid up capital of a credit bureau shall not be less than the amount that may be prescribed by the State Bank of Pakistan.

**6. Shareholding.-** (1) No person shall acquire shares of a credit bureau either directly or indirectly, which will entitle such person or entity to hold more than such share interest in such credit bureau as may be prescribed, except with prior written approval of the State Bank of Pakistan.

(2) Anyone who knowingly contravenes the provisions of sub-section (1) shall be punishable with fine which shall not be less than one million rupees.

**7. Credit bureau in existence prior to the commencement of this Act.-(1)** Every company conducting the business of a credit bureau on commencement of this Act, other than the credit information bureau of the State Bank of Pakistan, shall before the expiry of six months from such commencement, apply in writing to the State Bank of Pakistan for obtaining a licence to continue to carry on the business of a credit bureau:

Provided that in the case such company is in existence on the commencement of this Act, nothing contained herein shall be deemed to prohibit the same from carrying on the business of a credit bureau, until it is granted a licence by the State Bank of Pakistan or until such time its application, after notice, is rejected by the State Bank of Pakistan.

(2) In the event that the application for the grant of licence submitted by a company conducting the business of a credit bureau on commencement of this Act is rejected by the State Bank of Pakistan, such company shall cease operations as a credit bureau within such time as is specified in the notice. The credit information collected, stored and maintained by such company may not be sold to any entity other than a credit bureau and if the same is not sold to a credit bureau, for whatever reason, it shall be relinquished to the State Bank of Pakistan.

**8. Power to cancel and suspend the licence. -** (1) The State Bank of Pakistan may cancel or suspend a licence, if the credit bureau -

- (a) ceases to carry on the business of a credit bureau in Pakistan;
- (b) fails to comply with or contravenes any provision of this Act or any conditions subject to which the licence was granted to it or any other law for the time being in force; or
- (c) fails to comply with or contravenes any directions or guidelines issued by the State Bank of Pakistan under this Act:

Provided that no licence shall be cancelled or suspended without affording such credit bureau a reasonable opportunity to be heard and an opportunity to take necessary steps to comply with such provisions or fulfill such conditions which, in the opinion of the State Bank of Pakistan, the credit bureau has failed to comply with, unless the delay in cancelling or suspending the licence is likely to be prejudicial or detrimental to public interest or to the interest of the credit institutions or credit information furnishers and debtors.

### PART III

#### REQUIREMENT TO PROVIDE CREDIT INFORMATION

**9. Credit information furnishers to provide credit information.-** Notwithstanding anything to the contrary in any law establishing a credit information furnisher or other law for the time being in force or in any agreement entered into between a credit information furnisher and its debtor, credit information furnishers may provide credit information to credit bureaus, provided that such credit information furnisher is a member of the credit bureau, to which credit information is being provided.

**10. Membership of credit bureaus.-** (1) All credit information furnishers upon membership of a credit bureau shall furnish credit information in accordance with the requirements and specifications prescribed, in addition to the specific requirements of such credit bureau of which the credit information furnisher is a member.

(2) Every credit institution in existence on the commencement of Act shall become member of at least one credit bureau within six months of the commencement of this Act and every credit institution, which comes into existence after the commencement of this Act, shall become member of at least one credit bureau within three months of its coming into existence.

(3) Notwithstanding anything contained in this Act, it is not mandatory upon credit information furnishers excluding credit institutions to become members of credit bureaus.

(4) Notwithstanding anything contained in this Act, a credit information furnisher may terminate its membership with a credit bureau in accordance with the terms and conditions specified for termination by the concerned credit bureau, provided that in case of termination of membership by a credit institution, the same shall obtain membership of another credit bureau either before termination or simultaneously so that the credit institution is at no time in violation of sub-section (2).

(5) The membership of a credit information furnisher shall be subject to such credit information furnisher meeting and adhering to the credit information quality standards and other procedural requirements that may be prescribed or specified by the credit bureau of which the credit information furnisher is a member. In case of failure to comply with its quality standards and procedural requirements aforesaid, credit bureaus may suspend membership of credit information furnisher

either on its own motion upon written notice to such credit information furnisher stating the cause of such cancellation after giving reasonable time for amendment of action or at the direction of the State Bank of Pakistan, provided that no direction for suspension of membership of any credit information furnisher shall be given by the State Bank of Pakistan without affording such credit information furnisher an opportunity to show cause against the proposed cancellation.

(6) Where a credit institution-

- (a) abstains from becoming a member of at least one credit bureau;  
or
- (b) at any time is not a member of any credit bureau,

such credit institution shall be liable to a fine not exceeding one million rupees, and where the contravention is a continuing one, with a further fine which may extend to fifty thousand rupees for every day during which the violation of sub-section (2) continues, provided that no penalty may be adjudged or imposed by the State Bank of Pakistan against a credit institution under this section without affording such credit institution an opportunity to show cause against the proposed imposition of penalty.

#### PART IV

#### POWERS OF THE STATE BANK OF PAKISTAN

**11. Powers of the State Bank of Pakistan.-** (1) Where the State Bank of Pakistan is satisfied that it is necessary and expedient so to do-

- (a) in the public interest; or
- (b) in the interest of banking policy; or
- (c) in the interest of the credit system, credit bureaus, credit information furnishers, users, and debtors in general or to prevent the affairs of a credit bureau being conducted in a manner detrimental or prejudicial to the interests thereof; or
- (d) to secure the proper management of credit bureaus generally,

it may formulate the policy in relation to credit bureaus and issue directions or guidelines to credit bureaus generally or to a credit bureau in particular, from time to time, as it deems fit by way of notification or in any manner as appropriate, and the credit bureau or all the credit bureaus, as the case may be, shall be bound to comply with such policy, directions and guidelines.

(2) The State Bank of Pakistan may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1) and in so modifying or canceling any direction may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.



