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ACT

No. 6 of 2016

I assent

PRO. ARTHUR PETER MUTHARIKA
PRESIDENT
14th January, 2016

ARRANGEMENT OF SECTIONS

SECTION
1. Short title
2. Amendment of section 2 of Act No. 18 of 2010
3. Amendment of section 13 of the principal Act
4. Insertion of new sections 13A, 13B and 13C into the principal Act
5. Insertion of a new section 14A into the principal Act
6. Amendment of section 24 of the principal Act
7. Amendment of section 26 of the principal Act
8. Transitional arrangements

An Act to amend the Credit Reference Bureau Act, 2010.

ENACTED by the Parliament of Malawi as follows—

Short title

1. This Act may be cited as the Credit Reference Bureau (Amendment) Act, 2015.

Amendment of section 2 of Act No.18 of 2010

2. Section 2 of the Credit Reference Bureau Act, 2010 (hereinafter referred to as the "principal Act") is amended by inserting therein, immediately after the definition of "financial services law", the following new definition—

"information provider" means an institution or any person required under the Act or as prescribed by the Minister pursuant to section 13 to submit credit information or data to a credit reference bureau;".

Amendment of section 13 of the principal Act

3. Section 13 of the principal Act is amended by inserting, immediately after subsection (3), the following new subsection as subsection (4)—

"(4) A credit reference bureau shall report to the Registrar any financial institution which refuses or neglects to submit credit information to the credit reference bureau.".

Insertion of new sections 13A, 13B and 13C into the principal Act

4. The principal Act is amended by inserting, immediately after section 13, the following new sections as sections 13A, 13B and 13C—

"Submission of information by financial institutions

13A.—(1) A financial institution shall submit credit information of its customers to all credit reference bureaux.

(2) An information provider shall, on request, submit credit information to credit reference bureaux.

(3) The credit information referred to in in subsections (1) and (2) shall be submitted to the credit reference bureaux at no cost to the credit reference bureaux.

(4) A financial institution or information provider that contravenes this section commits an offence and shall be liable to an administrative penalty.

Financial institutions to update credit information on monthly basis

13B. A financial institution shall, on a monthly basis, or within such earlier time as an update is necessary, ensure that the credit information furnished to credit reference bureaux is consistently updated in accodance with such procedures as may be prescribed by the Registrar through directives.

Exemption from legal suit for submission of credit information

13C.—(1) A financial institution or information provider that submits information to a credit reference bureau in accordance with this Act does not contravene any law on privacy or confidentiality.

(2) No right of action shall lie against a financial institution or an information provider or its officers for breach of the duty of confidentiality or privacy for information submitted to a credit reference bureau in accordance with this Act.".

5. The principal Act is amended by inserting, immediately after section 14, the following new section as section 14A— Insertion of a new section 14A into the principal

"Financial institutions to obtain credit history before issuing loans to customers

14A.—(1) A financial institution shall consult credit reports of a credit reference bureau before entering into a credit agreement or insurance contract with a customer of the financial institution.

(2) A financial institution that contravenes subsection (1) commits an offence and shall be liable to an administrative penalty.".

6. Section 24 of the principal Act is amended by deleting subsection (4). Amendment of section 24 of the principal Act

7. Section 26 of the principal Act is amended. in subsection (2), by deleting the words "five (5)" and substituting therefor the words "ten (10)". Amendment of section 26 of the principal Act

8.—(1) A financial institution shall submit existing credit information within six months from the date of commencement of this Act. Transitional arrangements

(2) For purposes of this section, existing credit information in subsection (1) shall be the information that has been in existence for a period of two years prior to the commencement of this Act.

Passed in Parliament this seventeenth day of November two thousand and fifteen

FIONA KALEMBA
Clerk of Parliament