



GUIDELINE 002/2009

Guidance and Explanatory Notes for the Completion of Form 43

Guide for Credit Bureaus

November 2009

This document is available from www.ncr.org.za

SUMMARY

Guideline in respect of the Completion of Form 43

This document constitutes guidelines issued by the National Credit Regulator, in terms of sections 16(1)(b), 52(6) and 70(5) of the National Credit Act, No. 34 of 2005 and Regulation 70 of the Regulations to the National Credit Act, No. 34 of 2005.

This guideline is intended for registered credit bureaus who by law are required to submit an annual compliance report which is certified by an independent auditor. This document provides guidance and explanatory notes pertaining to the completion of an annual compliance report, which must be submitted to the National Credit Regulator on an annual basis.

These guidelines should be read with the relevant sections of the National Credit Act, 34 of 2005 and Regulations. Where a definition, within these guidelines does not coincide with that of the National Credit Act, in all instances the definition within the National Credit Act will supersede and take precedence over any definition provided within these guidelines.

These guidelines may be updated from time to time. Credit bureaus will be informed of such changes by e-mail, fax or mail and updated guidelines will be placed on the NCR website.

CONTENTS

1	Definitions.....	4
2	Introduction	7
3	General.....	8
4	Form 43 – Company Details	9
5	Form 43 – Section 1: Company Profile (only update if applicable)	10
6	Form 43 – Section 2: Data Integrity	11
7	Form 43 – Section 3: Credit Reporting Activity.....	14
8	Form 43 – Section 4: Dispute resolution	15
9	Form 43 – Section 5: Non-compliance	18
10	Form 43 – Section 6: General Information	19
11	Form 43 – Section 7: Optional: Further Questions.....	20
12	Additional reporting requirements	20
13	Form 43 – Declaration	21
14	Further information	21

1 Definitions

Act	The National Credit Act, No. 34 of 2005
Annual compliance report	The published Form 43 return in terms of Section 52(6) of the National Credit Act, No. 34 of 2005 and Regulation 70 of the Regulations to the National Credit Act, No. 34 of 2005.
Credit record	Any consumer record with one or more account, payment profile entry, adverse record, judgment, or default. With the exclusion of any enquiries.
Credit report (direct to consumer)	Report issued to consumer with or without charge which contains consumer credit information.
Data supplier	Any party who supplies consumer credit information to a credit bureau, irrespective of whether there is a written contractual relationship between the party and the credit bureau. Examples: credit providers, service providers, debt counsellors, judgment and/or debt counselling information providers, information on-sellers etc.
Deemed valid dispute	Where a change or correction on a credit record is required due to the prescribed investigation period that has lapsed.
Dispute	Where investigation is required and feedback is expected.
ID fraud	Identity fraud is a synonym for unlawful identity change. It indicates an unlawful and intentional misrepresentation by using the identity of

another person or of a non-existing person as a target or principal tool.

Identity fraud can occur without identity theft, as in the case where the fraudster has been given someone's identity information for other reasons but uses it to commit fraud, or when the person whose identity is being used is colluding with the person who is committing the fraud.

In progress of being resolved	Dispute pending feedback or under investigation.
Information	Consumer credit information in terms of Section 70(1) of the National Credit Act, No. 34 of 2005.
Juristic person	Includes a partnership, association or other body of persons, corporate or unincorporated, or a trust if (a) there are three or more individual trustees; or (b) the trustee is itself a juristic person, but does not include a stokvel.
NCR	National Credit Regulator
Quarterly synoptic report	The published Form 44 return in terms of Regulation 71 of the Regulations to the National Credit Act, No. 34 of 2005.
Regulations	Regulations to the National Credit Act, No. 34 of 2005
Service provider	An entity that provides services to consumers or other entities. Such as a medical practitioner, a telecommunication service provider etc.
Valid dispute	Where a change or correction on a credit record is required after investigation.

Where a definition, within these guidelines does not coincide with that of the National Credit Act, No.34 of 2005, in all instances the definition within the National Credit Act, No.34 of 2005 will supersede and take precedence over any definition provided within these guidelines.

2 Introduction

This guideline applies to credit bureaus who have registered with the NCR. The guidance and explanatory notes have been compiled by the NCR to provide assistance to those responsible for completing Form 43 return in terms of Sections 52(6) and 70(5) of the Act and Regulation 70 of the Regulations to the Act.

This document provides guidelines on the annual compliance report that must be certified by an independent auditor for submission to the NCR.

3 General

3.1 Submission Time

The annual compliance report must be submitted by a credit bureau to the NCR by the 15th of March each year for the period 1 January to 31 December of the previous year.

3.2 Submission Procedure and Address

The signed annual compliance report must be submitted in duplicate, with only one being signed as the original, together with an electronic version of the completed return. The signed copy and duplicate must be sent to:

The National Credit Regulator
C/o The Credit Information Division
127, 15th Road
Randjespark
Midrand
1685
E-mail: Form43@ncr.org.za

If applicable, a nil return must be submitted in accordance with the above guidelines and procedures.

3.3 Additional Information

The NCR may direct a credit bureau to furnish additional information and documentation as may be necessary for the purposes of the Act (in terms of section 70(5) of the Act). Any other documents submitted to the NCR, must be;

- An original, accompanied by one copy; or
- A copy, accompanied by one copy, one of which has been certified as correct by the independent auditor of the credit bureau.

The additional documentation will be treated as part of the return for signature purposes.

4 Form 43 – Company Details

Name of registered entity: registered name in terms of section 1(4) of the Companies Act, No. 61 of 1973.

NCR Registration Number: unique registration number that is allocated to each credit bureau at registration by the NCR.

Name of contact: is the person who completed / compiled the annual compliance report.

Telephone and e-mail contact: telephone and e-mail contact details of the person who completed / compiled the annual compliance report.

Year covered in return: the starting and ending dates pertaining to the relevant reporting period.

5 Form 43 – Section 1: Company Profile (only update if applicable)

5.1 Sub-section 1.1 - Material changes to company

Any changes in ownership or directors; acquisition or disposal of major assets; relocation of business premises; etc

6 Form 43 – Section 2: Data Integrity

6.1 Sub-Section 2.1 – Key measures to verify the data accuracy

Policies, systems and procedures in respect of any data received from any party, irrespective whether there is an existing contractual relationship between the party and credit bureau, implemented by a credit bureau to -

- (i) Validate and verify the data accuracy before loading onto its database and sending off to other parties, such as consumers, subscribers etc.;
- (ii) Validate and verify the data accuracy to avoid reloading or overriding previously rejected, removed or amended data;
- (iii) Communicate with the suppliers whose data was rejected due to inaccuracy; and/or who has not been submitting data;
- (iv) Monitor turnaround time for data correction and reloading previous rejected data etc.

6.2 Sub-Section 2.2 – Data retention periods as specified in Regulation 17.1 of the Regulations

Provide and illustrate 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.

In terms of assessing compliance for the purposes of confirming sub-section 2.2, the auditors are required to -

- (i) 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;
- (ii) Observe and interview the staff members who execute the tasks; and report on such findings;
- (iii) Sample on the basis of 5% of population or 100,000 records of each category of retention periods, whichever is the lesser, and automate tests;

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

6.3 Sub-Section 2.3 – Non-displayable data in terms of Regulation 18.3 of the Regulations

In terms of assessing compliance for the purposes of confirming sub-section 2.3, the auditors are required to –

- (i) Obtain a list of fields displayed on the database;
- (ii) Compare the list of fields with that of the fields held on credit bureau databases; and report on the deviations if any;
- (iii) Sample on the basis of 5% of population or 100,000 records of whole database, whichever is the lesser, and automate tests;
- (iv) Indicate the extent to which consumer credit information records, held by the credit bureau, comply with Regulation 18.3 of the Regulations.

6.4 Sub-Section 2.4a – Investigation of challenged information

Provide and illustrate full process flows and functions in each process, including operational resources and systems, which have been implemented by the credit bureau for the investigation of information challenged by natural and juristic persons.

6.5 Sub-Section 2.4b – Incorrect information is not repeatedly reflected on credit bureau

Provide and illustrate full process flows and functions in each process, including operational resources and systems, which have been implemented by the credit bureau to ensure that information which

was previously rejected, removed or amended is not repeatedly reflected on the credit bureau database.

6.6 *Sub-Section 2.4c – Combating or preventing ID fraud*

Provide and illustrate full process flows and functions in each process, including operational resources and systems, which have been implemented by the credit bureau to ensure that consumer credit records and information held on the credit bureau database are not unlawfully accessed by any other consumer or third party for possible fraudulent and/or any other illegal activities.

6.7 *Sub-Section 2.4d – Data security and confidentiality*

Provide and illustrate full process flows and functions in each process, including operational resources and systems, which have been implemented by the credit bureau for keeping data, in any form and any source, secure and confidential.

7 Form 43 – Section 3: Credit Reporting Activity

7.1 Sub-section 3.1 – Credit reports issued without charge

Total number of credit reports issued without charge to **consumers**.
These numbers must be consistent with the numbers reported in line item 3.1 of the quarterly synoptic report for the relevant period.

7.2 Sub-section 3.2 – Credit reports issued with charge

Total number of credit reports issued with charge to **consumers**.
These numbers must be consistent with the numbers reported in line item 3.2 of the quarterly synoptic report for the relevant period.

7.3 Sub-section 3.3 – Data suppliers

Total number of data suppliers, including credit providers, service providers, debt counsellors, judgment and/or debt counselling information providers, who furnish credit bureau with any kind of consumer credit information on a regular basis, irrespective of whether a contractual relationship exists or not.

7.4 Sub-section 3.4 – Persons with a credit record

Total number of natural and juristic persons with a credit record, such as any account with payment profile entry, adverse record, judgment, or default, with the exclusion of persons with enquiry only against their names.

These numbers must be consistent with the numbers reported in line items 1.2 (for natural persons) and 2.2 (for juristic persons) of the quarterly synoptic report for the relevant period.

8 Form 43 – Section 4: Dispute resolution

8.1 Sub-section 4.1 – Disputes in respect of credit records

“**Disputes lodged**” are disputes in respect of consumer credit records where investigation is required and feedback is expected.

These numbers must be consistent with the numbers reported in line item 4.3 of the quarterly synoptic report for the relevant period.

“**Valid disputes**” are disputes in respect of consumer credit records where investigation is required and feedback is expected, and **where a change or correction on a credit record is required after investigation.**

These numbers must be consistent with the numbers reported in line items 4.8.1, 4.8.2 and 4.8.3 of the quarterly synoptic report for the relevant period.

“**Deemed valid disputes**” are disputes in respect of consumer credit record where investigation is required and feedback is expected, and **where feedback has not been provided or remained outstanding for more than 20 days and the challenged information has been removed from the consumer credit record.**

These numbers must be consistent with the numbers reported in line item 4.8.4 of the quarterly synoptic report for the relevant period.

“**Disputes resolved where credit records remained unchanged**” are disputes in respect of consumer credit record where investigation is required and feedback is expected, and **where no change or correction on a credit report is required after investigation.**

These numbers must be consistent with the numbers reported in line item 4.9 of the quarterly synoptic report for the relevant period.

“**In progress of being resolved**” refers to disputes in respect of consumer credit report where investigation is required and feedback is expected, and where pending feedback or under investigation and **where the 20 days investigation period has not yet expired.**

These numbers must be the same as the numbers reported in line item 4.7 of the quarterly synoptic report for the relevant period.

8.2 *Sub-section 4.2 – Valid disputes in respect to judgments*

This refers to a valid dispute in respect of any details of judgment where investigation is required and feedback is expected, and where a change or correction on a consumer credit record is required after investigation.

8.3 *Sub-section 4.3 – Valid disputes where a particular credit agreement was reflected to the incorrect natural or juristic person*

This refers to a valid dispute in respect of credit agreement or service agreement or instalment related agreement reflected to the natural or juristic person other than the true owner of the information, where investigation is required and feedback is expected and where a change or correction on a credit record is required after investigation.

8.4 *Sub-section 4.4 – Valid disputes where the credit record was reflected to the incorrect natural or juristic person*

This refers to a valid dispute in respect of whole credit record reflected on the natural or juristic person other than the true owner of the information, where investigation is required and feedback is expected and where a change or correction on credit record is required after investigation.

8.5 *Sub-section 4.5 – Valid disputes where the amount reported in respect to a judgment was incorrect*

This refers to a valid dispute where the amount reported in respect of judgment, i.e. judgment amount, where investigation is required and feedback is expected and where a change or correction on a credit report is required after investigation.

8.6 *Sub-section 4.6 – Valid disputes about information that must be erased*

This refers to a valid dispute about information such as race, political affiliation, trade union memberships, medical information, religion or

thought, belief or opinion, sexual orientation that must not be kept by credit bureau in terms of Regulation 18(3) of the Regulation.

8.7 *Sub-section 4.7 – Valid disputes about other instances*

This refers to a valid dispute which is not covered by sub-sections 4.2 to 4.6. For example, dispute in respect of amount and/or status of payment profile. These numbers must be the difference between sub-section 4.1 and the sum of sub-sections 4.2 to 4.6 for the relevant period.

8.8 *Sub-section 4.8 – Estimate average costs and average time for resolving a dispute*

“**Average cost**” means amount of cost incurred for resolving a dispute. The credit bureau is required to provide commentary on the items considered in the calculations.

“**Average time**” means number of days used for resolving a dispute.

9 Form 43 – Section 5: Non-compliance

9.1 Sub-section 5.1 – Problems and reasons of non-compliance

This refers to any issues raised by another parties and/or credit bureau itself in which credit bureau failed or has problems to comply with the Act in the relevant reporting period, such as data accuracy, reporting etc. For example, the credit bureau was unable to keep the data quality standard due to suppliers and/or internal issues; the credit bureau was unable to report certain information to the NCR due to their system issues etc.

9.2 Sub-section 5.2 – Resolutions

This refers to what the credit bureau has done or intends to do in order to resolve the issues as indicated in sub-section 5.1 of the compliance report.

10 Form 43 – Section 6: General Information

10.1 Sub-section 6.1 – Resources allocated for the education of the public on credit reporting and credit scoring

Provide details of any resources, including number of personnel, amount of annual financial resources etc., which the credit bureau has allocated for the education of the public on credit reporting and credit scoring in the relevant reporting period. The credit bureau should also report the national and sector coverage of such public education that took place during the relevant reporting period.

10.2 Sub-section 6.2 – Products to promote the objectives of the National Credit Act

Provide and illustrate the products offered by the credit bureau to promote the objectives of the Act.

10.3 Sub-section 6.3 – Credit scoring models

Provide a list of all the credit scoring models that the credit bureau uses for producing credit bureau scores and a list of all variables that have been used in each model.

11 Form 43 – Section 7: Optional: Further Questions

11.1 Sub-section 7.1 – Developments

Describe how credit bureau participates and makes a difference in the market that it is active in, such as credit market, property market, employment market etc.

12 Additional reporting requirements

12.1 Enquiries done for prescribed purposes

Provide and illustrate full process flows and functions in each process, including operational resources and systems, which have been implemented by the credit bureau to ensure that consumer credit information is being used for the prescribed purpose and that consumer consents, where applicable, has been obtained prior to accessing/releasing consumer credit information.

13 Form 43 – Declaration

This section confirms that the person is authorised to sign off Form 43 as an accurate reflection and truthful account of the content disclosed to the NCR.

14 Further information

For further information please contact the Credit Information Division of the NCR on 011 554 2629 or address an enquiry to Form43@ncr.org.za