

CENTRAL BANK OF KENYA(DIGITAL CREDIT PROVIDERS) REGULATIONS,2021

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Background

The digital credit space has been unregulated. These new regulations will take effect on March 23rd. The regulations will provide for the licensing, governance and credit operations of digital credit providers.

Demand side risks:

- Private information being abused by third parties
- Borrowers do not know the full nurture of the credit product that they are consuming. Therefore, a lack of transparency means borrowers risk incurring hidden charges.
- Borrowing beyond repayment capacity which then leads to a negative credit rating.

Supply side risks:

- Non-repayment. They base their own predictions on data mined from smartphones and social media.
- Absence of free-flowing information. Incomplete information provided to the Kenyan credit bureau makes it hard for other lenders to confirm the total number or type of loans that a borrower has.

Exemptions from this regulation

- Institutions licensed under the Banking Act, Microfinance Act and Sacco Societies Act.
- Kenya Post Office Savings Bank supervised under the Kenya Post Office Savings Bank Act.
- Credit arrangements involving the provision of credit by a person that is merely incidental to the sale of goods or provision of services by the person.
- Any other entity approved by CBK.

Licensing

- Shall not collect deposits in any form in the course of carrying out digital credit business.
- No person shall carry out a digital credit business in Kenya unless licensed under this Act.
- The application process.
- Revocation of the license.

Confidentiality

- A digital credit provider and its stakeholders i.e., employees, directors and agents shall protect the confidentiality of customer information and not share this information without the customer's consent.

Customer Consent

- A digital credit provider is allowed to submit negative or and positive information that is complete and accurate about its customers to licensed credit bureaus upon getting consent from the customer.
- A customer may give consent through oral, print and electronic means.

Place of Business

- Digital credit providers shall have at least one registered physical office in accordance with the requirements of the companies Act and shall no place shall be opened, relocated or closed without an approval from CBK.

Digital Credit

- The provider shall disclose terms and conditions such as the charges and fees and the circumstances under which they may be imposed; interest rate to be charged and whether it is on reducing balance or not; total cost of credit which shall include the principal amount, interest, fees and charges; the date in which the principal and interest are due and; customer complaint handling procedures.
- In regards to a no performing loan, a digital credit provider can only recover the sum of the principal owing when the loan became non-performing; interest as agreed not exceeding the principal owing when the loan became non-performing and any expenses incurred in the recovery of any amounts owed by the customer.

Debt Collection

A digital credit provider, its officers, employees, or agents shall not in the course of debt collection engage in any of the following conduct against the customer or any other person:

- Use of threat, or violence or other criminal means to physically harm the person, or his reputation or property;
- Use of obscene or profane language;
- Make unauthorized or unsolicited calls or messages to a customer's contacts;
- Improper or unconscionable debt collection tactic, method or conduct.
- Any other conduct whose consequence is to harass, oppress, or abuse any person in connection with the collection of a debt.

Consumer Protection

- The digital credit provider shall put in place a mechanism to communicate customer complaints and make this mechanism known to its customers. Customer complaints should be addressed within 30 days and the provider should keep a record of all these complaints and how they were resolved.
- The customer should be made aware of the benefits, prices, risks and the terms and conditions and these should be clear, fair and transparent. The information on the products and services should be updated and current. The provider should educate its customers on its services and products.

Economic Regulation

The four reasons for economic regulation:

- Natural monopoly
- Externalities
- Public goods i.e. non-excludable and non-rivalrous
- Information asymmetry