




THE PROPOSED CREDIT REPORTING SYSTEM

**AN ASSESSMENT FROM THE CARIBBEAN CREDIT BUREAU
LTD**



THE PROPOSED HARMONISED CREDIT REPORTING BILL AND REGULATIONS 2016

The proposed legislation seeks to facilitate the establishment of an advanced and fair credit reporting system throughout the Eastern Caribbean Currency Union (ECCU) region to enable the sharing and reporting of financial information within the financial system with adequate safeguard to protect consumers.

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- **EASTERN CARIBBEAN CENTRAL BANK (ECCB)**
 - **INTERNATIONAL FINANCE CORPORATION (IFC)**
 - **DEPARTMENT FOREIGN AFFAIRS, TRADE AND DEVELOPMENT (DFATD)**

GLOBAL PERSPECTIVE

- According to the World Bank Group's Doing Business 2016 report, approximately 150 out of 189 countries surveyed had either a Credit Bureau or a Credit Registry by the end of 2015.
- 22 economies implemented reforms in 2014/15 ranging from regulatory framework e.g. [Latvia, Namibia, Peru, Mali and Niger (member states of the Central Bank of West African States (BCEAO) etc., to improving the availability of credit information, e.g. Cyprus, Kyrgyz Republic, Seychelles, Rwanda, Zambia, Zimbabwe, etc.
- Afghanistan, the Comoros, Guyana, Lesotho and the Seychelles all established a new credit bureau or registry in 2014/15

WHAT IS A CREDIT REPORTING SYSTEM ?

- It is a system that enables information flows relevant to making sound decision regarding credit and loan agreements.

WHAT IS A CREDIT BUREAU ?

- IFC's Credit Bureau Knowledge Guide (2006) outlines that
“a credit bureau is an institution that collects information from creditors and available public sources on a borrower's credit history. The bureau compiles information on individuals and/or small firms, such as information on credit repayment records, court judgments, and bankruptcies, and then creates a comprehensive credit report that is sold to creditor”

CHALLENGES

- **RELUCTANCE**
- **LACK OF CAPACITY – DATA ACCURACY, TIMELINESS, QUALITY AND SECURITY**
- **FRAGMENTED DATA SHARING**
- **WEAK CONSUMER PROTECTION**

CHALLENGES WITH THE ABSENCE OF CREDIT BUREAU

- Credit Risk Management Challenges
- Slower Process
- Stringent Collateral Requirements
- Lower Access to Credit
- Delinquency and Non- performance

BENEFITS OF THE PROPOSED SYSTEM



Credit Institutions

IMPROVED CREDIT
RSK MANAGEMENT
DIVERSIFICATION OF
PORTFOLIO
IMPROVE EARNINGS
INCREASE ACCESS TO
CREDIT



Economy

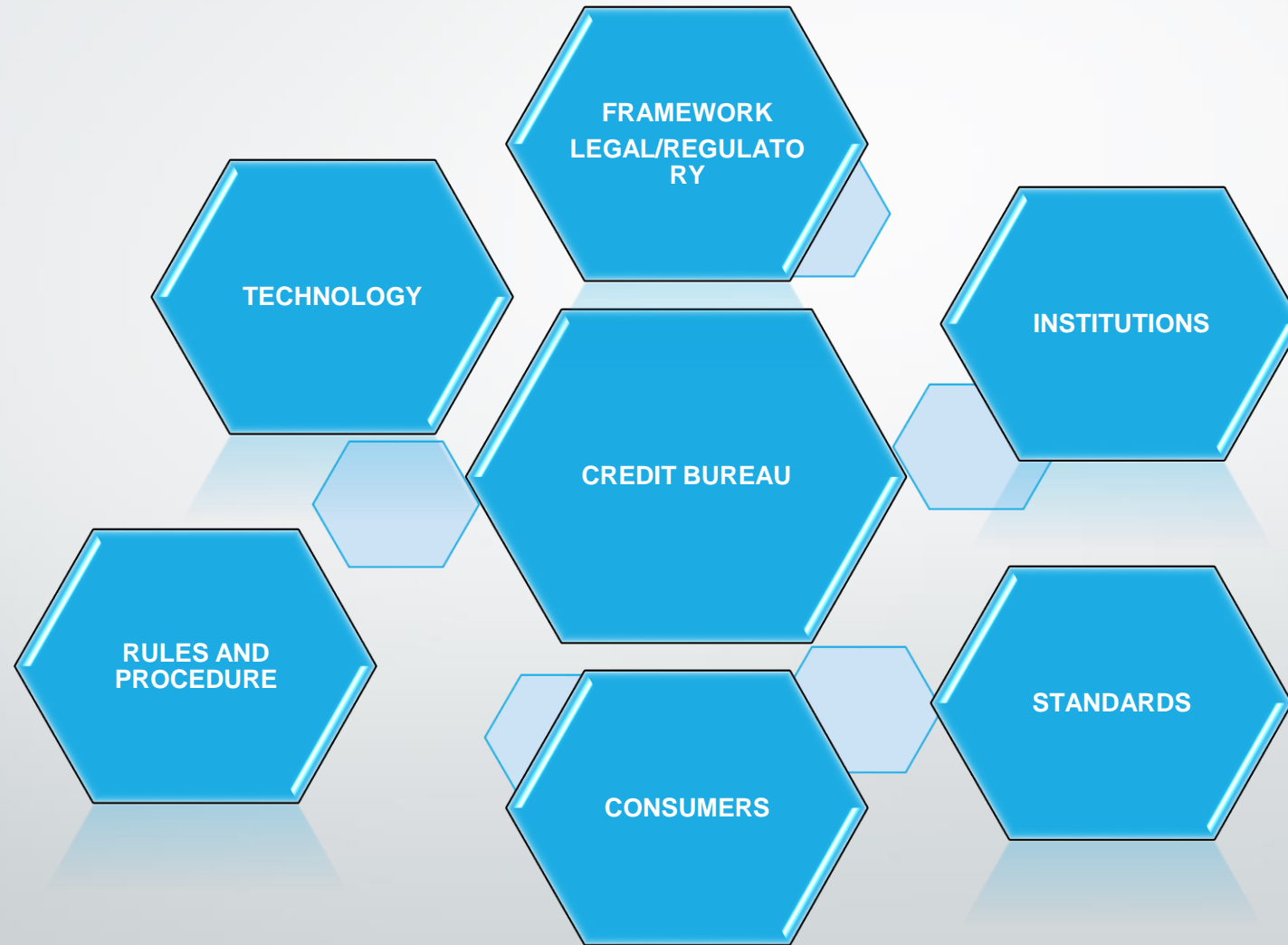
RESPONSIBLE
LENDING
JOB GROWTH
FINANCIAL
STABILITY



Regulators

MARKET
MONITORING
IDENTIFY
ADVERSE
TRENDS

THE INFRASTRUCTURE



THE IFC'S RECOMMENDED FRAMEWORKS

CONSENT AND CODE

REGULATION

DATA PRIVACY LAW

CREDIT BUREAU LAW

REGIONAL PERSPECTIVE



TRINIDAD

- EXISTING CREDIT BUREAU 2004
- NO CREDIT BUREAU LAW
- DATA PRIVACY LAW- DATA PROTECTION ACT 2011



BARBADOS

- LOCAL EXISTING CREDIT BUREAU 1993
- NO CREDIT BUREAU LAW
- ELECTRONIC TRANSACTIONS ACT 2001
- DATA PROTECTION BILL



JAMAICA

- FOREIGN CREDIT BUREAUS
- CREDIT REPORTING ACT 2010



GUYANA

- FOREIGN CREDIT BUREAU
- CREDIT REPORTING ACT 2010 (AMENDED 2016)

THE ECCU REGION- EXISTING FRAMEWORK

- OECS Harmonized E-government Legislation was ratified at the OECS Authority Meeting on the 24th of January 2012
- Electronic Transactions Act,
- Data Protection Act,
- Electronic Crimes Bill,
- Evidence Bill,
- Electronic Funds Transfer Bill,
- EGRIP e-Filing Act and E-Filing Rules and Regulations

EXISTING LEGISLATION

The Electronic Transaction Act

- Gives legal recognition and effect of electronic communications
- Access to information can be met through electronic form
- Facilitates the delivery and service through an electronic medium
- Consent to access information in electronic form

Data Protection Act

- Mandates the rights of consumers regarding their personal data
- Outlines right to access of individuals and directs the control of the processing of their personal data by other parties
- Requires and specifies instances for consent for the processing of personal data
- Requires correction of personal data



FRAMEWORK SELECTED- CREDIT BUREAU LAW

THE PROPOSED CREDIT REPORTING BILL AND REGULATIONS

THE INFRASTRUCTURE



INSTITUTIONS- HOW DOES IT AFFECT YOU ?

MANDATORY OBLIGATIONS

- Bank and Financial institutions licensed under the Banking Act
- Money service business licensed under the Money Service Business Act
- **A Credit Union or similar Co-operative institution registered under the Co-operative Societies Act**
- Insurance company licensed under the Insurance Act;
- Micro-finance institution

CAN AFFECT OTHER ENTITIES – DESIGNATED ENTITY

- **HIRE PURCHASE OR CREDIT SALE COMPANIES**
- **TELECOMMUNICATION PROVIDERS**
- **ELECTRICITY SERVICES COMPANIES**
- **WATER AND SEWERAGE CORPORATIONS**
- **DEVELOPMENT BANKS**

REQUIREMENTS OF CREDIT INFORMATION PROVIDERS

- **SECTION 24** (1) Subject to subsections (7) and (8), **CREDIT INFORMATION PROVIDERS SHALL IMMEDIATELY** upon providing credit to a data subject or entering a credit or loan agreement with a data subject, furnish to a credit bureau **information** respecting the data subject—
 - (a) from the **date of the provision of the credit to the data subject**; and
 - (b) **within the time specified by the credit bureau.**

WHAT INFORMATION MUST BE SUBMITTED BY CREDIT INFORMATION PROVIDERS-THE REGULATIONS

- The Regulations mandate under s 10(2) that credit information providers shall disclose to the credit bureau
- The **amount and nature of loans granted** by the credit provider to any data subject
- The **nature of the security** provided by any data subject in respect of any loan
- The **nature of any guarantee or other non-fund based facility** (letter of credit, bank guarantee)
- Credit information regarding income, creditworthiness, history of financial transactions, adverse court judgments, antecedents of the data subject obtained by the credit information provider.
- Other credit information required to be disclosed under the Act; or
- such **other credit information as the Central Bank.**

WHAT INFORMATION TO BE SUBMITTED BY CREDIT INFORMATION PROVIDERS – THE ACT

S 15 of the Act further stipulates that a credit information provider shall report to a credit bureau the following information **without first obtaining consent** from a data subject

- Information respecting the involvement of the data subject as it relates to financial malpractices and the issuance of dishonored cheques owing to lack of funds or fraud
- Details of payment obligations which are **90 days past the due date for repayment** only if the data subject has **not made satisfactory proposals for the repayment of the debt** and **amounts owed is not in dispute.**

REMEMBER – CONDITIONS IN REPORTING INFORMATION

- **SECTION 24** (1) Subject to subsections (7) and (8),

REQUIREMENTS OF CREDIT INFORMATION PROVIDERS

S24(7) Every credit information provider shall—

- (a)* **pay the relevant prescribed fees and service charges** to furnish data credit information directly to a credit bureau;
- (b)* furnish to a credit bureau data subject information required to **be furnished in the standard data format specified** by the credit bureau after consultation with the Central Bank;
- (c)* upon receipt of **any new information about the data subject**, **immediately** furnish to the credit bureau the new information;
- (d)* be responsible for providing to a credit bureau **timely**, **sufficient and accurate information** respecting data subjects;
- (e)* **be obligated to submit and update** all data subject information to the credit bureau in accordance with this Act and these Regulations; and
- (f)* **comply with the security standards and measures** prescribed in respect of the data credit information it keeps and maintains in respect of data subjects including taking **all the necessary actions to safeguard the data subject information** that it keeps and maintains in accordance with this Act and the Regulations.

COSTS ATTACHED

- A credit bureau may charge fees for the provision of the services under the Act and Regulations
- The Credit Reporting Bill outlines that Credit information providers must **pay the relevant prescribed fees and service charges** to furnish data credit information directly to a credit bureau;
- Credit Bureau Service has to submit a proposal respecting fees for credit reporting services and products to the ECCB
- ECCB must approve the fee schedule
- Notify the Central Bank of any changes of fees

DATA FORMAT

The provision of the information may have to be submitted in a specified data format to standardize and automatic the process for easy integration with the credit bureau database.



TECHNOLOGY

WHEN ARE CREDIT INFORMATION PROVIDERS EXPECTED TO SUPPLY INFORMATION

- **IMMEDIATELY-** upon providing credit to a data subject or entering a credit or loan agreement with a data subject and any new information
- **MONTHLY S 24 (8)** Without prejudice to the generality of subsection (7)(d), a credit information provider shall, on a monthly basis, provide information to a credit bureau on the status of performance of the obligations of the data subject under the credit or loan agreement
- **TIMELY-** as seen under s24(7) (d) be responsible for providing to a credit bureau timely, sufficient and accurate information respecting data subjects

RECAP- BREAKDOWN

INFORMATION MUST BE PROVIDED AS OUTLINED IN REGULATION AND ACT

- AMOUNT AND NATURE OF LOANS
- COLLATERAL FOR LOANS
- GUARANTEE OR NON- FUND BASE FACILITIES
- INCOME
- CREDITWORTHINESS
- HISTORY OF FINANCIAL TRANSACTION
- ADVERSE COURT JUDGMENT
- ANTECEDNET
- FINANCIAL MALPRACTICES
- DISHONOURED CHEQUES OWING TO LACK OF FUNDS OR FRAUD
- NEGATIVE ACCOUNTS- ACCOUNTS 90 DAYS PAST DUE



NEGATIVE ACCOUNTS- 90 DAYS PAST DUE

CREDIT INFORMATION PROVIDERS MANDATORY OBLIGATION

NO CONSENT IS REQUIRED

MUST GIVE AT LEAST 28 DAYS NOTICE

ADDITIONAL INFORMATION THAT MAY BE SUBMITTED (VOLUNTARY)

Individual

- Full Name
- Alias, Previous Names
- Gender
- Date of birth
- Identification numbers
- Address (past & current)
- Contact details

Business

- Business Name
- Incorporation Number
- Registered Address
- Names of Directors
- Names of Significant Shareholders
- Contact Details

Credit Information

- Date account opened
- Monthly payments
- Dates due
- Sum of outstanding loans
- Composition of collateral
- Account Status

THE EXTENT OF THE INFORMATION – FULL FILE DISCLOSURE

- **POSITIVE**

- **REDUCE RISK OF LENDING TO
OVEREXTENDED CONSUMERS**
- **TAILOR LOANS BASED ON LEVEL OF
RISK**
- **REWARD SYSTEM FOR CUSTOMER**
- **STREAMLINE PAYMENT PATTERNS**

- **NEGATIVE**

- **HIGHLIGHT RISKS**
- **ENFORCES PAYMENT**
- **DEBT COLLECTION TOOL**



INSTITUTION- THE CREDIT BUREAU

- **CREDIT REPORTING**
- **CONSULTANCY AND TRAINING**
- **PUBLISH EDUCATIONAL MATERIAL**
- **MARKET AND STATISTICAL RESEARCH**
- **VALUE ADDED PRODUCTS**

CREDIT REPORTING

Public Information

- Restrictions against providing information regarding the race, religion, creed, colour, medical information, ancestry, ethnic origin or political affiliation

Credit Information

- Limitation on the disclosure or reporting of credit information after 7 years from the termination or settlement of the credit.



DISCLOSURE OF INFORMATION

- **COURT ORDER**
- **SUBSCRIBERS AUTHORISED WITH CONSENT IN WRITING BY DATA SUBJECT CONCERNED**
- **3 WORKING DAYS**

WHO MAY INFORMATION BE DISCLOSED TO

- **CONSENT REQUIRED**
 - **SUBSCRIBER**
 - **DATA SUBJECT**
 - **NON SUBSCRIBER
(LANDLORDS, EMPLOYERS)**
- **NO CONSENT (COURT ORDER)**
 - **CONDUCT OF PROCEEDINGS**
 - **ADMINISTRATION OF JUSTICE**
 - **INVESTIGATION ALLEGATION OF
INSURANCE FRAUD**
 - **PROTECT PUBLIC REVENUE**

N.B – NO MENTION OF CIP

SUBSCRIBERS- REQUIREMENT OF CONSENT

- **REQUEST FOR CONSENT**
 - **ACCOUNT OPENING APPLICATIONS**
 - **LOAN APPLICATION FORMS**
 - **LOAN AGREEMENTS**

DURATION OF OBLIGATIONS- CIPs

- Credit Information Providers under s 19(5) of the Bill

Notwithstanding **the termination of an agreement** referred to in subsection (4), the **credit information provider shall**, for such time as the Central Bank specifies, continue to supply to the credit bureau, credit and personal information regarding any data subject who was previously part of the periodic update under the terms and conditions of the agreement as if the agreement were not terminated.

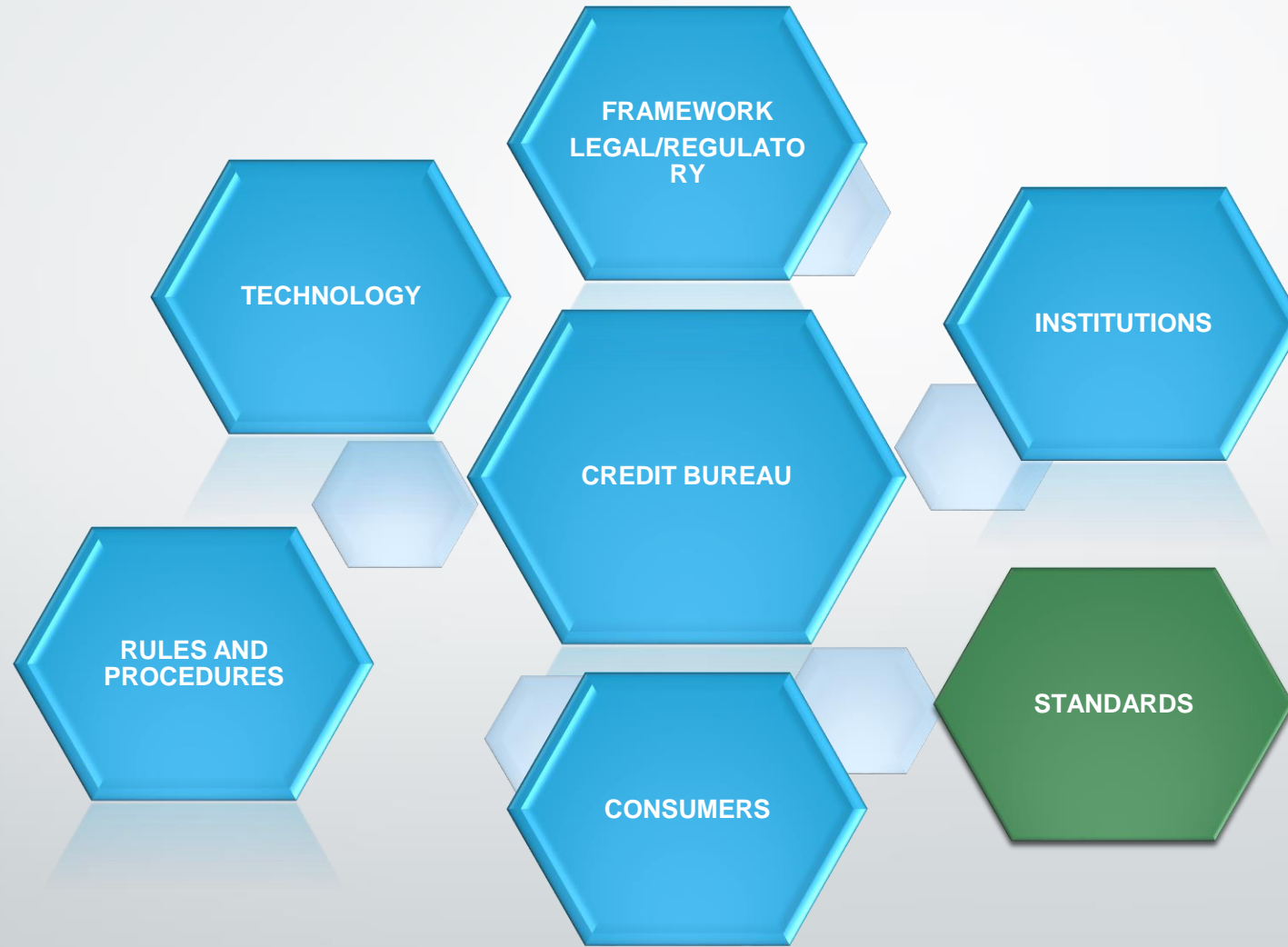
INSTITUTIONS- REGULATOR (THE ECCB)

- **Traditional power to regulate banking business**
- **Proposed Legislation expands the power of the ECCB**
 - **Regulatory and supervisory oversight for not only the commercial banks but other credit institutions within the credit reporting system within the Eastern Caribbean Currency Union (ECCU).**
 - **Evaluate matters under the Act and Regulations**
 - **Further expanded these requirements in the regulations**
 - **Issue further guidelines, rules or directions**
 - **Imposed penalties**

THE AMBIT OF THE ECCB

- Application process and evaluation of matters regarding the operations of the credit bureau (fees, agreements, security etc.)
- Request any information from credit bureau
- Access the books, records, accounts of the credit bureau
- ECCB can release information to any partnering government, regulatory authority, law enforcement agency etc.
- Direct institutions to submit in writing evidence respecting its compliance
- Orders can also be sought from the High Court to require compliance or restrain contravention by a person, directors, officers of a body corporation.

THE INFRASTRUCTURE





THE STANDARD

- ESTABLISHED BY LEGISLATION
- ESTABLISHED BY SUBSCRIPTION AGREEMENTS
- CODE OF CONDUCT
- EXISTING LEGISLATION

THE STANDARD

- **CONFIDENTIALITY**
- **SECURITY- PHYSICAL AND ELECTRONIC MECHANISMS**
- **ACCURACY, RELEVANCY, TIMELINESS AND ADEQUACY**
- **ENFORCEMENT -ANNUAL AUDITS AND COMPLIANCE REVIEW**

CONFIDENTIALITY AND SECURITY – CREDIT BUREAU

- **Everyone from the shareholders, directors, officers, employees and agents will be required to be under a duty of confidentiality with regards to the information obtained.**
- **Assessments will be made into the physical and electronic mechanisms in place to ensure security of the information in its custody and control.**
- **Safeguards should be in place to prevent misuse, unauthorized access or disclosure, illegal interception, loss, destruction, corruption, modification of the information during the exchange, processing or reporting**
- **Access logs should be maintained and usage monitored to cater for a high level of accountability.**

ACCESS/ DISCLOSURE

- Subscribers who are authorised with consent in writing by the data subject
- Permissible Purposes
 - for consideration of an application for credit or to act as a guarantor,
 - to use for collection or purchase of debt,
 - entering or renewing tenancy agreement,
 - underwriting of insurance,
 - employment purposes,
 - portfolio monitoring,
 - skip tracing;
 - identity verification

ACCURACY, RELEVANCY, TIMELINESS, ADEQUACY CREDIT INFORMATION PROVIDERS

ACCURATE

S 10 Every credit information provider shall—

(a) be responsible for providing accurate information to a credit bureau

- Free of error
- Truthful
- Complete

S 23 A person shall not **knowingly, negligently or recklessly** supply false or misleading information regarding a data subject to any credit bureau.

A person who contravenes subsection (1) commits an offence and is liable, on summary conviction, to a fine not less than ten thousand dollars but not exceeding one hundred thousand dollars

SUBMISSION OF INACCURATE INFORMATION S 10 (4)

- **FIVE WORKING DAYS**

- **INFORM CREDIT BUREAU OF INACCURACY**
- **FURNISH THE ACCURATE INFORMATION**
- **SEND NOTICE INSTRUCTION CREDIT BUREAU TO DELETE AND REPLACE INACCURATE INFORMATION**

CREDIT BUREAU

- **MAKE NECESSARY CORRECTION AND CHANGES TO CREDIT INFORMATION**
- **INFORM THE CREDIT INFORMATION PROVIDER AND THE DATE SUBJECT OF THE CORRECTION OR CHANGE**

ACCURACY, RELEVANCY, TIMELINESS, ADEQUACY CREDIT BUREAU

Credit Reports must be valid, up-to-date, fit for the purpose, accurate and relevant

- **Data loading must allow for accurate and positive correlated between data subject and data**
- **Adopt all reasonable procedures to ensure that every credit report issued by that credit bureau is accurate, timely and sufficient**
- **Systems to handle allegations for inaccurate, erroneous or outdated**



ENFORCEMENT OF STANDARD

- **MEASURES WILL HAVE TO BE SYSTEMATICALLY REVIEWED**
- **BREACHES FULLY INVESTIGATED**
- **ANNUAL AUDIT OF CREDIT BUREAU AND COMPLIANCE REVIEWS**
- **PENALTIES**

PENALTIES

- Failure to comply with Central Bank Order - penalties, not exceeding ten thousand dollars
- **Fixed penalties - reason to believe that a person has committed an offence the Central Bank allow the option to discharge any liability to conviction by payment of a fixed penalty of ten thousand dollars within ten working days from the date of receipt of the notice. A person is not liable to conviction for an offence**
 - If a credit bureau fails to pay the fixed penalty within such time recover the amounts due and payable on the fixed penalty from the bank guarantee
- General offences-for which no penalty is specified or provided, the person is liable, on summary conviction, to a fine not less than ten thousand dollars but not exceeding one hundred thousand dollars.

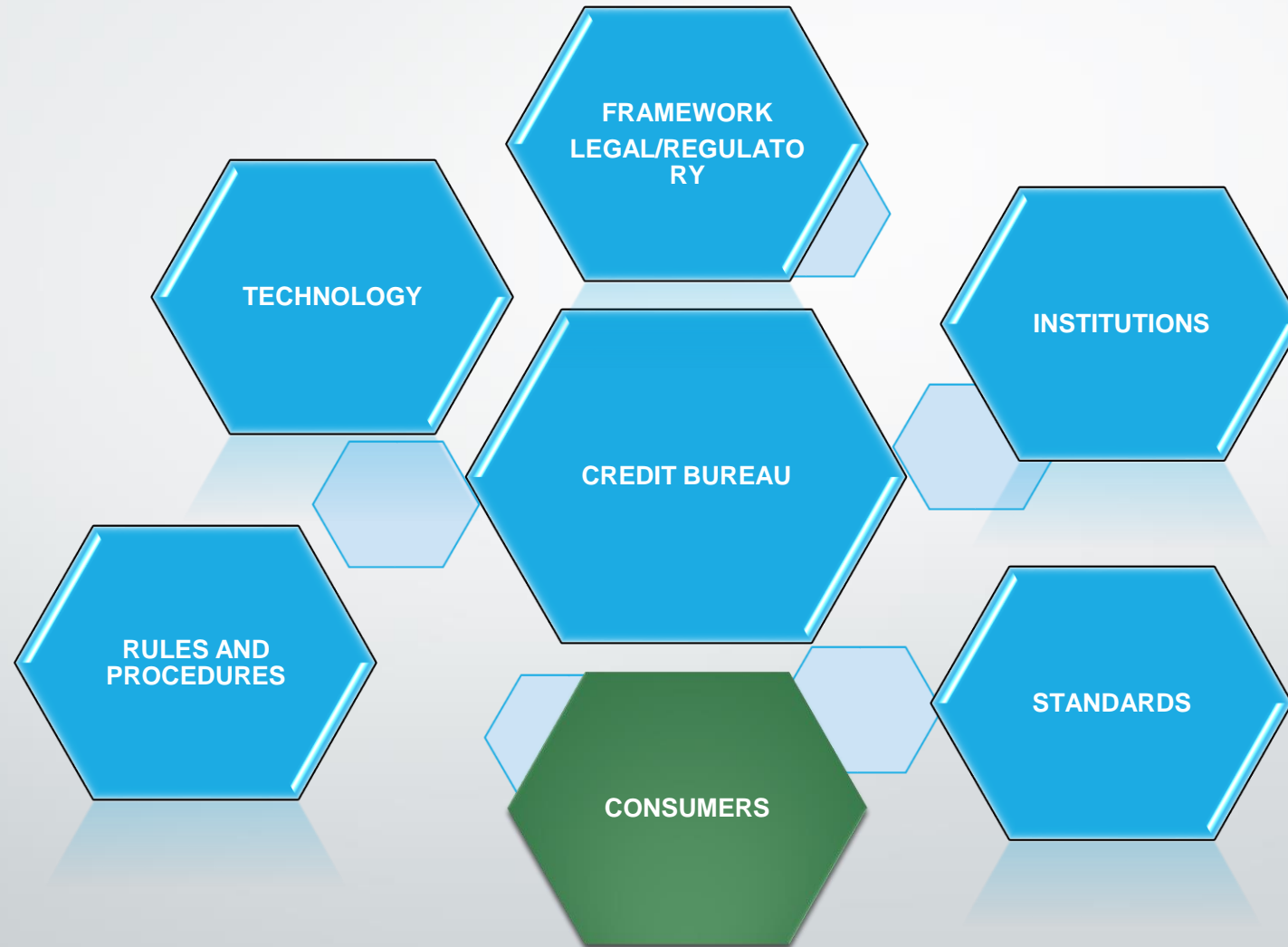
PENALTIES

- **Any person who intentionally and without lawful authority obtains information regarding a data subject from a credit bureau under false pretences commits an offence and is liable, on summary conviction, to a fine of not less than ten thousand dollars but not exceeding one hundred thousand dollars.**

PENALTIES

- Without prejudice to section 36 and any action which may be instituted under this Act, where a credit bureau or any other body corporate commits an offence under this Act, every director, partner or other senior officer of the body corporate—
 - *(a)* shall, subject to subsection (2), be proceeded against as if the director, partner or other senior officer committed the offence; and
 - *(b)* is liable, on summary conviction, to a fine of ten thousand dollars whether or not any action has been instituted against the body corporate.
- (2) A director, partner or other senior officer of a body corporate does not commit an offence under subsection (1) if the director, partner or other senior officer can show that he or she neither knew nor connived in the commission of the offence.

THE INFRASTRUCTURE



DATA SUBJECTS- CONSUMER PROTECTION

- Consumers or data subjects are entitled to receive their own personal credit report
- The consumer has the right to know what is in their file.
- A consumer is entitled to receive one free credit report every twelve (12) months upon the request from the credit bureau
- If adverse action has been taken against a consumer and the consumer was denied credit on the basis of a credit report they must be informed of that and be provided with the name of contact details for the credit bureau service that provided the information relied upon. The consumer will also be required to receive a free copy of the credit report in such an instance.
- Consumers are entitled to dispute misleading, incomplete or inaccurate information
- If there has been incorrect information on the file which has been rectified, the consumer will be entitled to receive a free copy.

DISCLOSURE TO DATA SUBJECTS

- NATURE AND SUBSTANCE OF ALL INFORMATION
- SOURCES OF THE INFORMATION
- NAMES OF ALL PERSONS TO WHOM A CREDIT REPORT HAS BEEN PROVIDED WITHIN 12 MONTH PERIOD
- CONTENTS OF CREDIT REPORT GIVEN TO ANY OTHER PERSON
- DATA SUBJECT MUST SUBMIT REASONABLE IDENTIFICATION



ADVERSE ACTION

Decision based on data subject information—

- (a) to charge a higher interest rate payable by the data subject in respect of a loan,
- (b) to deny the data subject a loan;
- (c) to cancel a loan made to the data subject; or
- (d) that otherwise negatively affects a transaction between the data subject and a credit provider

ADVERSE ACTION

- Credit Information Providers must 15 days after the decision was made provide the data subject
 - Reasons through registered mail or electronically
 - Contact details for credit bureau
 - Notice of right to dispute

DISPUTE SETTLEMENT

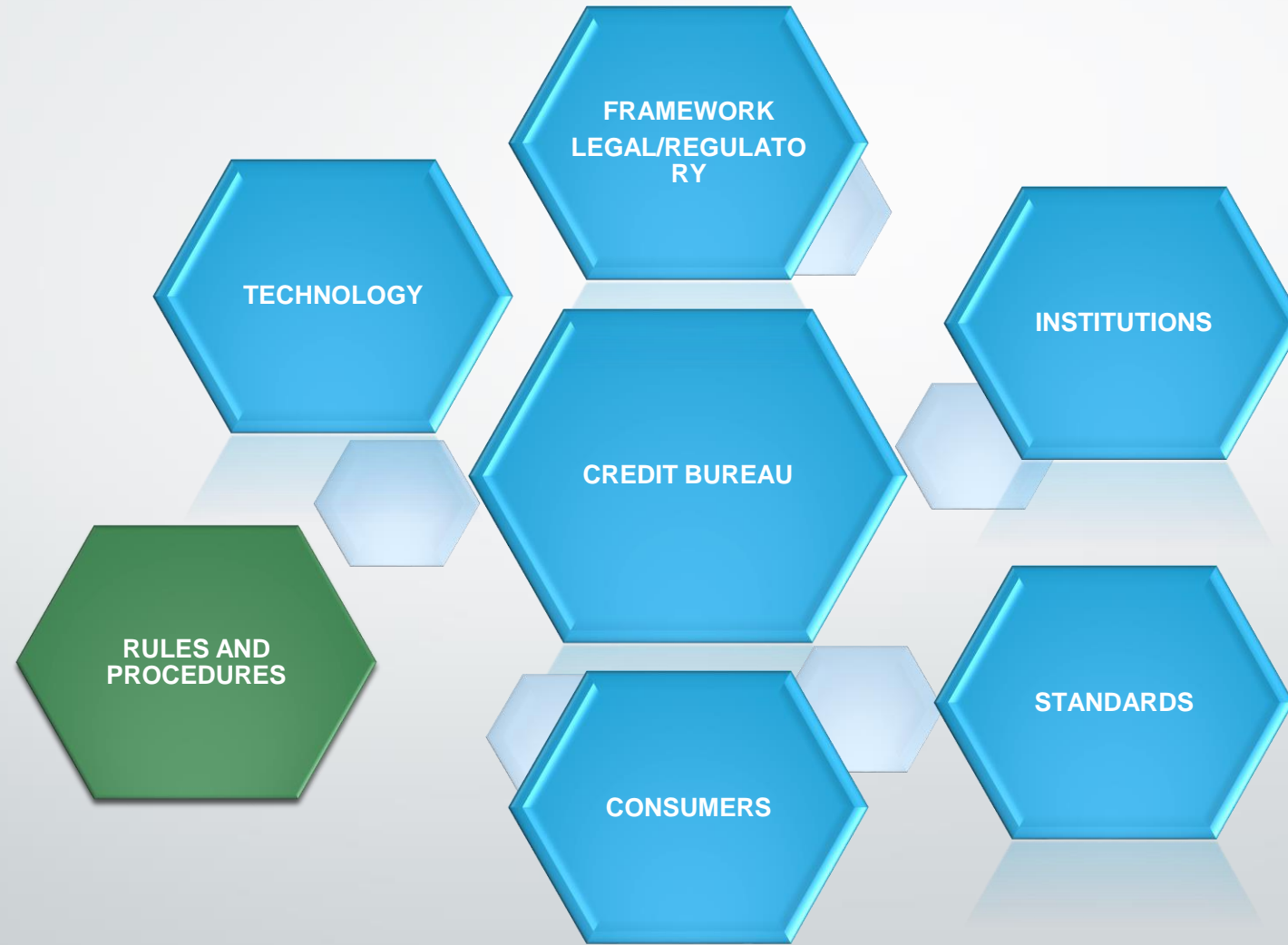


**CREDIT
BUREAU**

**REVIEW
COMMISSION
CIVIL
LIABILITIES**

APPEALS

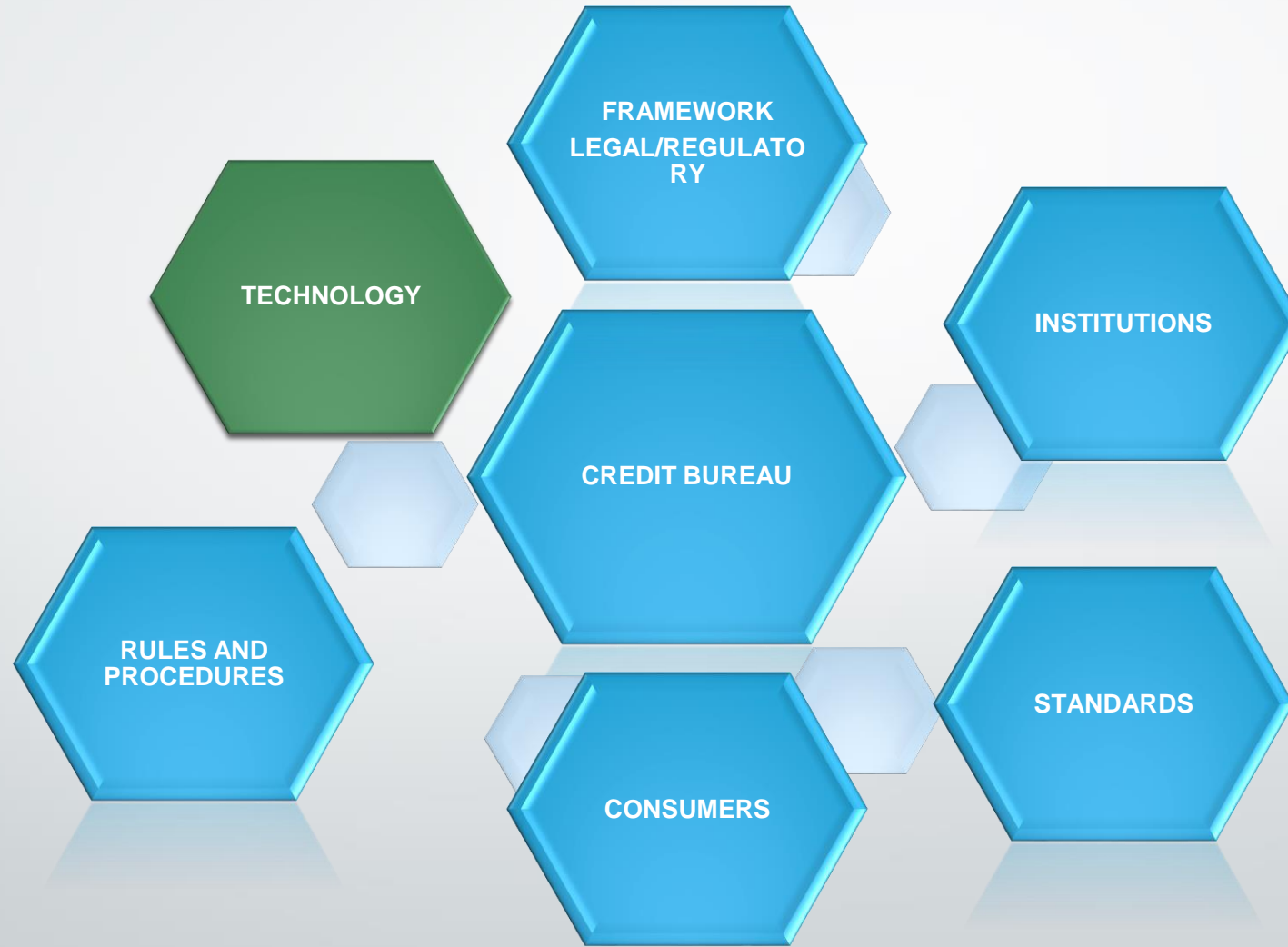
THE INFRASTRUCTURE



RULES AND PROCEDURES

- COLLECTION
- REPORTING
- USE OF SERVICES
- ENFORCEMENT
- CONSUMER RELATION
- STAFF
- STANDARD
- COSTS

THE INFRASTRUCTURE





TECHNOLOGY

- EXPORT DATA
- DATA FORMAT
- TIMELY BASIS
- SEGMENT/ CATEGORIES
- ALERT FOR NOTICE
- SECURITY MEASURES
TRANSMISSION

CONCERNS - FRAMEWORK

- **IS THE FRAMEWORK APPROPRIATE ?**
- **IS THE REGION READY ? ARE YOU READY?**
- **WILL THERE BE ADEQUATE CONSULTATION ?**
- **WILL THE PROPOSED LEGISLATION AND REQUIREMENTS CREATE AN UNEVEN PLAYING FIELD ?**



FRAMEWORK SELECTED FOR ECCU- HARMONIZED CREDIT REPORTING LEGISLATION

- **General Principles for Credit Reporting (World Bank and Bank for International Settlements/International Committee on Credit Reporting - ICCR)**
 - **LEGAL & REGULATORY FRAMEWORK**
 - **CLARITY & PREDICTABILITY**
 - **NON-DISCRIMINATION PROPORTIONALITY**
 - **CONSUMER RIGHTS AND DATA PROTECTION DISPUTE RESOLUTION**

CLARITY & PREDICTABILITY

- DEFINITIONS – Are the definition fair, expansive, accurate
 - Micro-finance
 - Credit report
 - Credit information
 - Loan
 - Negative Information
 - Subscriber

NON-DISCRIMINATION PROPORTIONALITY

- Requirements for credit reporting system
 - Are the requirements onerous ?
 - How many would be able to readily adopt or comply ?



CONSUMER RIGHTS

- Are the provisions adequate?
- What are your thoughts as a consumer ?