



**BUSINESS** | CREDIT & RISK  
INFORMATION

# BUSINESS DATA CENTRAL

INSIGHTS ON OUR BUSCRI  
INITIATIVE

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Dear Valued Stakeholder

## **BUSINESS DATA CENTRAL – ISSUE 1**

Welcome to "*Business Data Central*," your premier source for the latest insights and progress on our business data sharing initiative, called BusCRI. Each edition of this newsletter will be crafted to not only keep you in the loop with progress updates, but also to showcase the tangible benefits and successes that our collaborative efforts are bringing to the table.

As we embark on this journey together, *Business Data Central* aims to be more than just a newsletter; it's a community where ideas flourish and partnerships strengthen. Your participation is the driving force behind the innovation and improvements we are implementing and we invite you to engage, contribute, and grow with us. Let us harness the power of shared business data to unlock new opportunities for our businesses and pave the way for a smarter, more connected future.

### **Business Data Sharing: Current State of Play**

- Access to finance had been singled out as one of the major challenges impeding the survival and growth of businesses, especially SMMEs in South Africa. Although funds are often available, it remains especially difficult for start-up entities to successfully access finance.
- This challenge frequently results from a lack of quality information about the business entities which the appraising credit providers would need in order to assess affordability and credit worthiness.
- The SACRRA, leveraging off our current data sharing infrastructure and using existing associations and industry bodies as the drivers of business data collection and dissemination, is bringing the potential of expanded market opportunities to our members.
- Lessons learnt from past and current data sharing initiatives are expediting the rapid implementation of a data sharing environment about businesses – small and large.

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The **ultimate objective of BusCRI** is to create a collective pool of good quality and standardised business credit and risk data. The collection of previously disparate or limited information on SMMEs will result in:

- the stimulation of SMME growth by opening access to credit and other financial services
- wider industry research and insight on business health and trading trends to assist in building economic policy and to inform on any regulation relating to commercial enterprises
- the support of employment creation
- supporting overall economic growth and financial inclusion
- assistance in the participating members' company strategies through the contribution and receipt of this additional information which will improve risk management through mitigation of credit and financial risk by enabling and accelerating automated risk assessment and decision making
- enhancement to company revenue growth opportunities
- access to comprehensive, consistent, validated data sources, which could close the information and knowledge gap between SMMEs and lenders:
  - increase amount to lenders
  - reduces default rates
  - prevents over-indebtedness
  - enable borrowers to develop credit profiles
- access to wider market and industry research and insight.

*Closing the information gap between small businesses and lenders.*

## Project Status Update

### Legal Opinion and Framework

Key stakeholders, including banks have expressed their support for the BusCRI initiative but were concerned about the absence of a more comprehensive and up to date legal framework to ensure that the initiative is compliant with key legislation. This is because unlike the sharing of consumer credit and risk information, the National Credit Act has limited application to the sharing of business information. Concerns were also raised about the implications of the Competition Act and POPIA.

To address the above concerns, the BusCRI Legal Opinion was commissioned in late 2023 and completed in mid-March 2024 by ENS Africa and will be used as a basis to update the draft legal framework previously developed.

ENS was briefed as follows: To provide a legal opinion considering the three main pieces of legislation as per the scope included below, and to consider any other applicable laws and/or legal obstacles, positions or impediments such legislation may have on the success of this initiative.

Herewith high-level feedback on the Legal Opinion against the scope for each piece of legislation:

**The Competition Act, No. 89 of 1998 and its regulations (Competition Act)**

Scope	Outcome
<p>As the project envisages the sharing of information among competitors, we needed to obtain expert guidance from a competition law perspective (especially in instances where the sharing of the information would not be premised upon a requirement in law). This expert guidance should advise what information may be shared and what controls can be implemented to mitigate the competition law risks ensuring full compliance with competition law.</p>	<p>From the facts provided, the legal opinion has not identified any basis upon which the provision of the data to either the credit bureaus or the credit and data providers would in and of itself give rise to a cartel agreement.</p> <p>However, all parties would nonetheless have to undertake that the purpose of the dissemination of the information is not geared towards giving effect to, or to be utilised as, a component of any cartel agreement or understanding or otherwise serve as a “platform for collusion”.</p> <p>In this regard, it would be critical that the only purpose for which the information is being shared is to allow each credit and/or data provider to make an independent assessment as to whether or not to grant the particular applicant in question a credit agreement, alternatively otherwise fulfil one of the other Authorised Purposes.</p> <p>(It is important to ensure that the sharing of the data – particularly that which may be classified as Competitively Sensitive Information or CSI – is limited to the provision of information required and justifiable in order to fulfil the Authorised Purpose.)</p>

**Protection of Personal Information Act, No. 4 of 2013 and the regulations thereto (POPIA)**

Scope	Outcome
<p>The 8 conditions of lawful processing under POPIA and for the obtaining of the prior approval from the Information Regulator (in terms of the latter, the credit bureaus have an approved Code of Conduct under the Credit Bureau Association – guidance was sought on whether this would be sufficient and whether it could be used to cover business information too).</p>	<p>The legal opinion provides information about the legal framework for BusCRI initiative and its compliance with POPIA. It outlines the roles of the participants, the processing conditions under POPIA, the need for prior authorization in certain instances, and the consequences of non-compliance.</p> <p>The legal opinion emphasized the importance of accountability, minimality, justification, purpose specification, compatibility, accuracy, notification, security safeguards, and data subject rights in ensuring compliance with POPIA. It also highlights the need for further legal analysis and consultation to ensure full compliance with the act.</p>

**National Credit Act, No. 34 of 2005, and the regulations thereto (NCA)**

Scope	Outcome
<p>Whether there is a full, partial or non-application of the NCA to the relevant consumer and/or credit agreements regarding natural persons and juristic persons. Considering the scope of the project and being mostly applicable to juristic persons, to which the NCA has partial or no application at all, we proposed consideration of</p>	<p>The NCA applies to credit agreements between parties transacting at "arm's length" and made within South Africa. It does not apply to certain juristic persons and large credit agreements. The NCA regulates the use and release of confidential information and sets requirements for the source of consumer credit information.</p>

Scope	Outcome
the application of section 68 of the NCA, as it relates to confidentiality.	The data shared through BusCRI that relates to natural-person customers falls under the regulation of the NCA.

We are preparing a summary of the pertinent items raised in the Legal Opinion which will be shared in due course.

### Business Case and Stakeholder Engagement Strategy

The SACRRA Office, through the NCR, is engaging with the International Finance Corporation (IFC) of the World Bank Group (WBG) to procure a consultant to conduct a diagnostic assessment of the current business information, sharing environment in South Africa to assist SACRRA to, inter alia, develop a business case, formulate a strategy for consulting with key stakeholders, including regulators and donors involved in this space and to formulate a roadmap, funding model, and strategy for implementing BusCRI.

Whilst this assessment is being done SACRRA will be putting in place some of the building blocks necessary to ensure the successful implementation of this project. This includes:

- Initiating a series of high-level industry association round table discussions to catalyse attention on the data reporting initiative and revitalise the conversation as regards the value of BusCRI.
- Advocacy discussions with Government and Regulators, for support to drive BusCRI in the industry.
- Subject to the required funding and support, appointment of a Programme Manager, Industry Project Sponsor, and the re-institution of workstreams (legal and technical) and a Steering Committee incorporating industry participants and potentially Government and Regulatory representatives.
- Executing the risk mitigating strategies identified in the Legal Opinion such as governance documentation, rules/guidelines, policies and processes, updating the legal framework including a review of the BusCRI Data Specification in line with the Legal Opinion’s recommendations.

The project will be overseen by a Steering Committee composed of representatives from relevant industry organisations, to ensure practical and informed guidance throughout its duration. We will also host a round table discussion positioning the project to key role players to foster buy-in and support. In the coming weeks, you can expect to receive communications from us detailing the process and opportunities for collaboration. Your involvement and feedback are crucial to our collective success, and we look forward to engaging with each of you.

We are grateful that some members are eager to go, but unfortunately, at this stage we are unable to receive the business data until the above has been finalised.

### Get in touch via SACRRA Support Station

([sacra@sacra.org.za](mailto:sacra@sacra.org.za)), with the subject line “BusCRI” if you want to be added to the *Business Data Central* Newsletter or want to participate in the project or have ideas and/or suggestions to share.

We look forward hearing from you!