



BANK OF GHANA

**DISCLOSURE AND PRODUCT TRANSPARENCY RULES FOR CREDIT
PRODUCTS AND SERVICES**

FEBRUARY 2017

These rules are in addition to the Borrowers and Lenders Act, 2008 (Act 773) and Regulations made thereunder and does not derogate from the provisions of that Act and Regulations made thereunder. Where there is a conflict between these Rules and the Act, the Act shall take precedence.

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Introduction

In pursuance of Section 7 of the Borrowers and Lenders Act, 2008 (Act 773), the Bank of Ghana hereby on this 10TH February 2017, issues the Disclosure and Product Transparency Rules for Credit Products and Services, for compliance by all Lenders offering such Credit products and operating in Ghana.

Application of the Borrowers and Lenders Act, 2008 (Act 773)

These Rules are in addition to the Borrowers and Lenders Act, 2008 (Act 773) and Regulations made thereunder and does not derogate from the provisions of the Act and Regulations made thereunder.

PART I – PRELIMINARY

1. Title

The Rules may be cited as the Disclosure and Product Transparency Rules for Credit Products and Services, 2017.

2. Application

The Rules apply to a credit agreement or proposed credit agreement whether the lender resides or has its principal office within or outside the country.

3. Interpretation

In these Rules, unless the context otherwise requires, words used have the same meaning as those assigned to them in the applicable law or as follows:

“**Act**” means the Borrowers and Lenders Act, 2008 (Act 773).

“**Agent**” means a person or entity that has been contracted by a lender to provide services to the customers of the lender.

“**Advertisement**” means any form of public notice which is an attempt to invite or induce, directly or indirectly, any person to purchase or acquire an interest in a credit product or service.

“**APR (Annualized Percentage Rate)**” means the annual rate charged to borrow, expressed as a percentage of the yearly cost of funds over the term of the loan, including interest rate, security deposits, bundled products and services, interest fees and all other non-interest fees assessed directly or indirectly against a credit.

“**Bank**” means the Bank of Ghana continued in existence in Section 1 of the Bank of Ghana Act, 2002 (Act 612).

“Borrower” means a person who has concluded a credit agreement with a lender.

“Bundled Product” means any product or service sold in conjunction with, and as an addition to, a credit agreement or loan agreement, regardless of whether or not the client has a choice to buy the bundled product or service.

“Cooling off period” means the period immediately following the signing of a credit agreement, during which a consumer may, upon a written notice to the financial service provider, cancel the agreement with the Financial service provider, provided the loan amount granted has not been accessed by the consumer.

“Commission” means any regular, non-interest fees charged to the consumer/borrower and received by the lender as part of the conditions and terms of acquiring the credit.

“Complaint” means any oral or written expression of dissatisfaction about the provision of, or failure to provide, a financial product or service which is made to a lender by, or on behalf of, a consumer and which alleges that as a result of an act or omission by or on behalf of the lender, the consumer has suffered or may suffer financial loss, inconvenience or distress.

“Complainant” means a consumer, customer, potential customer or duly authorised representative of a customer who presents complaints to a Lender.

“Consumer” means an individual, a group or a firm that uses, has used, or may be contemplating using, any of the products or services provided by a lender.

“Credit Agreement” means an agreement in the nature of a credit facility, a credit transaction, a credit guarantee, or any combination of these which the lender

- a) Resides or has its principal office within or outside the country;
- b) An institution of state;
- c) An entity controlled by an institution; or
- d) Is an entity created by an enactment.

“Credit Facility” means an agreement in which the lender lends stipulated amounts within a specified period or at specified intervals agreed on with the borrower, to the borrower, on behalf of the borrower, or at the direction of the borrower; and in which the lender either defers the borrower's obligation

to repay the stipulated amount to the lender, or bills the borrower periodically for the amount whether or not a charge, fee or interest is payable to the lender in respect of the arrangement.

“Credit Guarantee” means an agreement by which a third party undertakes or promises to satisfy on demand an obligation of a borrower in a credit facility or credit transaction.

“Credit Transaction” means a credit agreement which is

- a pawn transaction;
- an instalment agreement over a fixed period;
- A mortgage or secured loan; or
- A defined or operating lease.

And it is not a credit facility or a credit guarantee.

“Credit Products and Services” refers to all credit agreements, credit facilities, and credit transactions, as defined within these Rules.

“Customer” means an individual, group or an entity that maintains an account and/or has a business relationship with the financial service provider.

“Interest Fees” is the total cost of all non-penalty interest charged to the borrower as part of the credit agreement over the life of the agreement.

“Interest Rate” is the annualized cost charged by the financial service provider to the consumer for the credit or loan provided, calculated as a percentage of the credit or loan amount.

“Lender” means a person or institution which, as part of its business, advances loans and other credit facilities, residing within or outside Ghana including micro credit facilities, institutions of state, entities controlled by an institution of state, and entities created by an enactment.

“Non-Interest Fees” means any and all regular or other charges or costs assessed to the borrower as part of the origination or provision of credit products and services

“Person” means an individual, a company, a partnership, an association, and any other group of persons acting in concert, whether incorporated or not.

“Pre-agreement Statement” refers to a document that highlights the key characteristics of a financial product or service with the intent to facilitate

consumer understanding of the terms and conditions of the product or service.

“Soft Commission” means any agreement under which a lender receives goods and services, in return for which it agrees to direct business through or in the way of another person.

“Total Amount to Pay” means the sum of all principal, interest, commissions, fees, insurance, bundled products and any other non-penalty charges assessed, expressed in the currency as per the loan agreement.

“Working Days” mean Monday to Friday, excluding public holidays.

4. Objectives

The objectives of these Rules are –

- (i) To foster public confidence and trust in the banking sector and to promote financial stability, growth and efficiency.
- (ii) To protect borrowers and businesses by promoting fair banking practices.
- (iii) To educate, increase transparency and disclosure practices to better inform borrowers.
- (iv) To provide efficient and effective mechanisms for handling consumer complaints relating to the provision of financial services.
- (v) To Promote equitable banking practices by setting minimum standards for borrowers in dealing with financial service providers.
- (vi) To foster competition and allow market forces to operate and encourage higher standards for the benefit of financial service providers.

PART II – RELEVANT LEGAL REQUIREMENTS

5. Right to Apply For Credit

According to Section 13 of the Act

- (i) A person who has legal capacity to enter into a contract may apply to a lender for credit.
- (ii) A lender may refuse to enter into a credit agreement with a prospective borrower on reasonable commercial grounds consistent

with the lender's customary risk management and underwriting practices.

6. Protection Against Discrimination in Respect of Credit

Section 14 of the Act requires a lender not to discriminate against a person on the grounds of race, gender, ethnicity, political affiliation, or religion to assess the ability of the person to meet the obligations of a proposed credit agreement.

7. Delivery of Documents

Section 15 of the Act states that a lender shall deliver a document required to be delivered to a borrower in the following manner:

- (i) in person;
- (ii) by ordinary mail;
- (iii) by facsimile;
- (iv) by electronic-mail;
- (v) by printable web-page; or
- (vi) any other means agreed between the lender and the borrower.

8. Protection of Borrower Credit Rights

Section 16 of the Act provides that a lender shall not, in response to a borrower's exercise of right under the Act;

- a) penalise the borrower;
- b) alter or propose to alter the terms or conditions of a credit agreement with the borrower to the detriment of the borrower; or
- c) take an action to accelerate, enforce, suspend or terminate a credit agreement with the borrower.

9. Confidentiality, Personal Information And Borrower Credit Records

Section 17 of the Act requires a lender or a person who acts on behalf of a lender not to disclose information obtained from a borrower unless the information is required under the Credit Reporting Act, 2007 (Act 726), or under any other law, or by a court of law.

10. Pre-Agreement Disclosure

According to Section 18 of the Act, a lender shall not conclude a credit agreement with a prospective borrower unless the lender provides the

prospective borrower with a pre-agreement statement and quotation in the form specified in the Schedule (Annex 2).

11. Marketing Information

Any written solicitation to induce a person to apply for or obtain credit shall include specific information as set out in Section 19 of the Act.

These are:

- a) The name and business address of the lender;
- b) The nature of the proposed credit;
- c) The lender's current annual interest rate and any other costs of credit;
- d) Whether deposit or security is required;
- e) Whether other restrictions apply; and
- f) Any other information determined by the lender.

12. Borrower's or Guarantor's obligations

Section 20 of the Act states that a borrower or guarantor may settle the credit amount at any time, subject to notice requirements and conditions provided for in a credit agreement.

PART III – Governing Principles

These are Rules that are based on principles that guide the interpretation and application of the provisions in this document and all lenders shall follow them when providing credit services.

13. Clear and accurate information

Lenders shall provide clear, comprehensive and accurate information at all stages of product acquisition and usage, including:

- (i) disclosure of all costs attached to the product such as interest rate, fees, commissions, insurance, penalty rates, and any other charges associated with the product.
- (ii) the use of clear and simple language in all marketing information, procedural and contractual documents.

14. Marketing information

The Lender shall ensure that all marketing information and promotional materials are comprehensive, accurate, not misleading, and contain all key features of the product.

15. Suitability

The lender shall ensure that the consumer understands all key features of the product as specified in Annex 2 and the terms and conditions before entering into any formal agreement. In doing this, the lender shall ensure the product is in line with the needs of the consumer and the consumer has been offered a range of options to choose from. In explaining the product, the lender shall take into consideration the capacity and the credit worthiness of the consumer and keep a written record of the interaction it undertakes and any recommendations it provides to the borrower.

16. Undue pressure

The lender shall not exert undue pressure on borrowers at any stage of the product cycle, including coercing them into purchase of a particular product or service, or accepting particular terms or conditions.

17. Accurate and relevant information from Borrowers

The lender shall put all measures in place to obtain accurate information from the borrowers that could be of relevance to assess the credit worthiness of the consumer.

18. Rights and Responsibility of the Borrower

The lender shall inform borrowers of their rights and responsibilities, including the right to present complaints, seek recourse and resolve disputes, the channels by which they may exercise this right and their responsibility to provide accurate information to the lender before a credit agreement is executed.

PART IV – SPECIFIC REQUIREMENTS

19. Preservation of Rights

A lender shall not, in any communication or agreement with a consumer (except where permitted by applicable legislation), exclude or restrict, or seek to exclude or restrict:

- (i) Any legal liability or duty of care to a consumer which it has under applicable law or under these Rules;
- (ii) Any other duty to act with skill, care and diligence which is owed to a consumer in connection with the services provided to that consumer; or

- (iii) Any liability owed to a consumer for failure to exercise the degree of skill, care and diligence that may reasonably be expected of it in the provision of a lender's services.

20. Methods for provision of information to consumer

A lender shall make available the delivery of all documents required to be delivered to a borrower through the following means:

- (i) In person;
- (ii) By ordinary mail;
- (iii) By facsimile;
- (iv) By electronic mail;
- (v) By printable web-page;
- (vi) By sms;
- (vii) By mobile application; or
- (viii) Any other means agreed between the lender and the borrower

21. Quality and Comprehension of Information Provided to Borrowers

- (i) A lender shall ensure that all information it provides to a consumer is clear and comprehensible.
- (ii) A lender shall provide borrowers with written information of the benefits, rights, obligations, risks and terms and conditions of the product or service.
- (iii) A lender shall ensure that where a consumer is unable to read or understand written language, oral explanation is given to the consumer in a language he or she understands by a qualified member of staff of the lender or a designated third party with authority to represent the lender.
- (iv) A lender shall pay particular attention to borrowers who are persons with visual or hearing impairments and shall put in place measures to provide the requisite information in a manner that is accessible to them.

22. Information on Interest, Fees, Charges and Other Requirements

Lenders shall provide the consumer with details of all charges and fees which will be charged to the consumer for the product or service chosen. These include:

(i) Regular charges: Regular charges are those costs or fees incurred as a condition of the product, independent of changes in terms and conditions or actions of the consumer. Lenders shall inform borrowers of all regular charges, including:

a) Annual percentage rate (See Annex 1 for method of calculation).

b) Interest rate and whether the interest rate is variable or fixed.

(ii) Commissions, fees and any other charges:

These include all non-interest costs associated with the product, including any commissions, administrative or processing fees, and bundled products and services such as term-life insurance. These charges shall be disclosed to the consumer both individually and as a sum of all commissions, fees and other charges imposed directly or indirectly incident to the provision of credit.

(iii) Security deposits, savings or any other guarantees that are required as a condition to acquire the loan.

(iv) Bundled products and services.

(v) Total amount to pay:

This is the sum of all principal, interest, commissions, fees, insurance, bundled products and any other non-penalty charges assessed, expressed in the currency in which the facility was given.

(vi) Other charges and fees:

A Lender shall inform the consumer of applicable charges, fees or additional interest the borrower will bear in the event of a late payment, a violation of the terms of the agreement, or upon early termination by the borrower of any contract. These include:

a) Late payment charges: Any costs or fees imposed on the consumer for failure to make a payment in the time required by the financial service provider.

b) Pre-payment charges: Any costs or fees imposed on the consumer for paying either a portion of or whole credit amount in advance of the scheduled payments defined in the credit contract.

- c) Charges for replacement of lost documents: Any costs or fees imposed on the consumer for replacing documents related to the credit agreement.
- d) Charges for requested documents: Any costs or fees imposed on the consumer for requesting information related to their credit agreement or any other related accounts.
- e) Charges for activity and usage: Any penalties linked to activities by the consumer regarding the credit agreement or products or services linked to the credit agreement such as security deposits, savings accounts, collateral, insurance policies, or customer services.
- f) Charges for cancellation of the credit agreement.

The above described regular charges or penalty charges and other key features of the product shall be disclosed in the pre-agreement statement. Charges that are not disclosed to the borrower prior to signing of any credit agreement or receipt of a loan will be considered null and void. A lender shall refund to a borrower, all undisclosed charges previously imposed by the Lender.

23. Credit Agreement

Lenders shall provide all borrowers with a written copy of the credit agreement, which is to be signed by both the borrower and an authorized representative of the Lender. The agreement shall be executed in a mode decided by both parties. The credit agreement shall adhere to the requirements of information and format provided in these Rules and any subsequent amendments to the Rules. This includes providing information with the credit product or service as described in Rule 21, as well as all other terms and conditions associated with the product or service.

- (i) All clauses of the agreement shall be presented in clear and simple language to maximize consumer comprehension.
- (ii) The credit agreement shall include a schedule of payments that details the dates, amounts, and methods for making the scheduled payments of the credit.
- (iii) In case of a contradiction of clauses in the credit agreement, the interpretation that is most favourable to the consumer shall prevail.

24. Pre-agreement Statement

- (i) A lender shall not conclude a credit agreement with a prospective borrower unless the lender provides the prospective borrower with a pre-

agreement statement and quotation in the form specified in the Annex 2 of this document.

- (ii) The pre-agreement statement shall be written in plain language and shall summarize the key terms and conditions of the specific financial product.
- (iii) The pre-agreement statement shall be provided in advance of the finalization of the loan agreement to give the borrower the opportunity to review the pre-agreement statement, including taking the pre-agreement statement off the premises if desired and consulting with the financial service provider, before signing any credit agreement.
- (iv) The terms and conditions within the pre-agreement statement shall be valid for up to five (5) working days of issuance. Within this five (5) day validity period, the lender shall, at the borrower's request enter into the credit agreement under the terms given in the pre-agreement statement. The lender shall not vary the terms of the pre-agreement statement to the disadvantage of the borrower.
- (v) The pre-agreement statement shall adhere to the requirements of information and format provided in these Rules and any subsequent amendments to the Rules.
- (vi) A pre-agreement statement shall specify among other things:
 - a) The amount of loan;
 - b) The amount to be disbursed/received by the consumer and proposed disbursement schedule of the principal debt;
 - c) The APR, calculated as specified in Annex 1;
 - d) All regular charges, as specified in Rule 22, both listed individually as well as summed as the Total Charges;
 - e) The total amount to pay, as defined in these Rules, expressed in the currency of the loan;
 - f) The frequency of interest payments or deductions;
 - g) The amount of scheduled, regular loan payments;
 - h) The total number of such loan payments to be made;
 - i) The loan term, expressed in months, or as per the loan agreement;

- j) The basis of any cost that may be assessed if the borrower breaches the contract, including any penalty fees specified in Rule 22;
- k) The components of a bundled product. For all bundled products and services, it shall be specified in the pre-agreement statement, the particularized cost of the various products in the bundle and whether the inclusion or purchase of the products is a pre-requisite to obtaining the loan or not.
- l) The proposed repayment schedule, presented in the form specified in Annex 2;
- m) The type of interest that is applicable to the product. If the interest rate is variable, the pre-agreement statement shall specify it, and the lender shall provide to the borrower supplementary information on the components of the variable rate which may trigger a change in the interest rate;
- n) Information on the right of borrower to recourse, and the appropriate channel within the financial institution, through which borrower may present complaints against the financial institution. This will include contact information comprising a phone number, physical address, email address, and name of the head of complaints handling unit.
- o) Information on the rights of a borrower to a cooling-off period, and how to exercise this right.
- p) Grace period: information on grace period and the modalities on how it would be applied (i.e. whether interest will be paid during the grace period or not).

25. Marketing, Advertising and Sales materials and information

- (i) All marketing, advertising and sales materials and information shall be fair and clear, contain accurate information, and avoid misleading the consumer.
- (ii) Any written solicitation to induce a person to apply for or obtain credit shall include the following information, presented in a clearly legible format and font size:
 - a) The name and business of the lender and statement that they are licensed by Bank of Ghana;
 - b) The type of the proposed credit agreement;

- c) The lender's average current APR for all active credit and loan agreements on the products and services referenced in the marketing, advertising and sales materials and information;
 - d) Whether other restrictions apply.
- (iii) A person who makes an oral solicitation to induce a person to apply for or obtain credit shall provide a written statement which contains the information set out in sub Rule (ii) above to the prospective customer.
 - (iv) If a consumer responds to the marketing, advertising and sales materials expressing an interest to contract a credit agreement, they shall be provided with a pre-agreement statement, as detailed in Part IV of these Rules, before entering into any credit agreement.
 - (v) All claims made to a borrower in the process of promoting a product shall be summarised in writing and printed out in the form of a flyer, brochure, handbill or some other reading material to ensure full disclosure of the terms and conditions.
 - (vi) Lenders shall be legally responsible for all statements made in marketing, advertising and sales materials and information.
 - (vii) A lender shall display its standard fees and charges conspicuously in all branches, promotional materials and any other communication channels which it uses.

26. Account Statements

- (i) The lender shall provide, at the consumer's request, a monthly statement capturing the status of the credit, including remaining balance, fees and interest, payments and any fees or charges assessed due to late payment or other changes in the condition or execution of the agreement. The statement shall:
 - a) Set out all transactions concerning the account during the period covered by the statement.
 - b) Provide details of interest rates, charges and fees applied to the account during the period covered by the statement.
 - c) State the amount paid during the period, amount paid in total to date, and the total outstanding amount to be paid.

- (ii) These statements can be delivered in any of the manners described in Rule 7, dependent on the preferences of the consumer and availability of such channels by the lender.

27. Changes in Terms and Conditions

- (i) A lender shall notify a borrower in writing at least twenty (20) working days in advance before implementing any changes to the terms and conditions of a product, including changes in interest rates, fees and other costs.
- (ii) In the case where the interest or any other fees related to the product are modified by the lender in any manner not specified in the original credit agreement, the borrower shall be provided with a twenty (20) working day period during which they can cancel the product without suffering any additional penalties, fees, or charges of any kind beyond those agreed upon initially by the borrower and the lender.
- (iii) Where both lender and borrower agree to change the terms and conditions of a product, parties may decide the effective date of implementation of the agreed change(s).
- (iv) When a lender intends to cease operating, it shall provide customers at least three (3) months' notice for them to make alternative arrangements.
- (v) Where a borrower is desirous of paying off a loan earlier than the scheduled date, the lender shall provide the borrower with the full outstanding amount to be paid. The Lender shall allow the borrower 20 working days from the date of receipt of the request to effect full repayment.
- (vi) The lender may charge a penalty fee for early settlement of the loan that is not to exceed 0.25% of the principal amount of the loan. Interest on the product shall continue to accrue until the date of final settlement.
- (vii) Where the borrower fails to notify the lender of his/her intention to pay off the loan 20 (twenty) working days prior to doing so, the lender may charge an amount of not more than one month's interest to the borrower.

28. Bundling of Products

- (i) If additional products and services are sold in conjunction with, or included within, a credit agreement, the lender shall clearly and separately communicate their individual costs to the consumer.
- (ii) Borrowers may be permitted to contract these additional products and services from other sources to comply with any requirements related to a credit agreement offered by the lender.

29. Cooling-off Period

- (i) A lender shall give a consumer a cooling-off period of five (5) working days immediately following the signing of a credit agreement between the lender and the borrower, during which time the borrower may, on a written notice to the lender, cancel the agreement without having to pay penalty charges. The borrower may take advantage of this clause provided the credit amount has not been accessed.
- (ii) The lender may however charge an administrative fee for the cancellation of the loan that is not to exceed 0.25% of the principal amount of the loan. This fee shall be void if the reason for cancellation of the credit agreement is due to improper disclosure or failure to comply with any aspects of these Rules by the lender.
- (iii) The written notice to exercise the cancellation of the credit agreement shall have no effect unless:
 - a) It is signed by the consumer or a person with proven mandate to act on behalf of the consumer, provided this person acting on behalf of the consumer does not have a financial or professional relationship with the lender;
 - b) It refers specifically to the credit agreement;
 - c) It unconditionally cancels the credit agreement.

30. Errors

- (i) A lender shall speedily, efficiently and fairly correct any error in any charge or price levied on or quoted to a consumer in respect of any product or service offered.

- (ii) In the case of such an error as described above, the lender may provide a supplementary credit agreement and pre-agreement sheet to the consumer, with the corrected product information.

31. Guarantor

- (i) Prior to a person acting as a guarantor, a lender shall in writing:
 - a) Advise the guarantor of the amount and nature of his potential liabilities;
 - b) Advise the guarantor to seek independent legal advice before acting as a personal guarantor.
- (ii) A lender shall notify the guarantor of the impending disbursement of the loan prior to its disbursement.

32. Professional Competence and Training

To ensure professional competence of its staff, a lender shall:

- (i) Assess the training needs of its staff.
- (ii) Ensure members of staff receive appropriate training.
- (iii) Ensure members of staff are supervised properly.
- (iv) Ensure staff are competent in carrying out the following roles:
 - a) Dealing directly with borrowers;
 - b) Preparation of pre-agreement statements;
 - c) Preparation of advertisements in accordance with the requirements of these Rules;
 - d) Marketing the services and products of the lender.

33. Conflict of Interest

A lender shall take steps to ensure that none of its staff offer, give, solicit or accept any inducements likely to conflict with any duties of the borrower or of the recipient's employer.

PART V – SANCTIONS

34. Relevant provisions of the Act

The Bank of Ghana may impose an administrative fine of not more than five thousand penalty units and in the case of a continued breach an additional fine

of not more than fifty penalty units for each day the breach continues. The Bank of Ghana shall exercise its discretion to impose fines for non-compliance.

Annex 1. CALCULATION OF ANNUAL PERCENTAGE RATE

The Annual Percentage Rate is calculated using the current Bank of Ghana directive on APR computation stated as:

$$APR = \frac{C}{T \times Pa} \times 100$$

Where:

“**C**” is the Total Cost of the loan and estimated as;

$$C = IP + OC$$

“**IP**” is the total interest payment

“**OC**” is Other Charges such as insurance fee, processing fee, commitment fee, and opportunity cost of Mandatory Savings connected to the loan etc.

“**T**” is the repayment period of the facility stated in the number of years

“**Pa**” equals the average closing balance of the loan

Annex 2. PRE-AGREEMENT TRUTH IN LENDING DISCLOSURE STATEMENT