

# PROMOTION OF ACCESS TO INFORMATION ACT (PAIA) MANUAL

Prepared in accordance with Section 51 of the Promotion of Access to Information Act, 2000 for Transaction Capital Risk Services (“the Company”).

## 1. Applicability and Availability of this Manual

- 1.1. The Promotion of Access to Information Act, No 2 of 2000 (“the Act”) gives effect to the constitutional right of access to any information in records held by public or private bodies that is required for the exercise or protection of any rights. The Act sets out the procedural requirements attached to requests for information, the requirements which requests must meet as well as the grounds for refusing requests. This Manual informs requesters of procedural and other requirements which a request must meet.
- 1.2. The Act also recognises that the right to access information must be balanced with other rights and should be subject to limitations including, but not limited to, limitations aimed at the reasonable protection of privacy and commercial confidentiality.
- 1.3. This manual is available for inspection, free of charge, at the Company’s offices and for download on the Company’s website (see details below).
- 1.4. This manual recognises the right of a Data Subject, under the Protection of Personal Information Act to request a responsible party to confirm, free of charge, whether or not the Responsible Party holds personal information about the data subject, subject to identity confirmation.

## 2. The Company’s Contact Details and Information Officer

Mr. Rivaan Maharaj

### Postal Address

PO Box 2413, Pinegowrie, Johannesburg, 2123

### Physical Address

342 Jan Smuts Avenue, Hyde Park, Johannesburg 2196

### Telephone Number

(011) 560 6000

### Fax Number

(011) 560 6000

### Website

[www.tcriskservices.co.za](http://www.tcriskservices.co.za)

### E-mail Address of Information Officer

[rivaanm@transactioncapital.co.za](mailto:rivaanm@transactioncapital.co.za)

### 3. South African Human Rights Commission Guide

The South African Human Rights Commission (“**SAHRC**”) is required, in terms of the Act, to compile a guide containing information that may reasonably be required by a person who wishes to exercise any right contemplated in the Act. The guide can be obtained from the SAHRC. Enquiries should be directed to:

The South African Human Rights Commission

**Telephone Number:**

(011) 484 8300

**Fax Number:**

(011) 484 7149

**Website:**

[www.sahrc.org.za](http://www.sahrc.org.za)

### 4. The Company's Records

#### 4.1. Personnel Records

"*Personnel*" refers to any person who works for or provides services to or on behalf of the Company and who receives or is entitled to receive remuneration, and any other person who assists in carrying out or conducting the Company's business and includes, without limitation, directors (executive and non-executive), all permanent, temporary and part-time staff as well as contract workers. Personnel records include:

- 4.1.1 Personal records (provided by personnel themselves);
- 4.1.2 Records provided by a third party relating to personnel;
- 4.1.3 Conditions of employment and other personnel-related contractual and quasi-legal records;
- 4.1.4 Internal evaluation records and other internal records;
- 4.1.5 Training schedules and material;
- 4.1.6 Pension records;
- 4.1.7 Employee Benefits records;
- 4.1.8 Labour Relations records;
- 4.1.9 Employment Equity records and
- 4.1.10 Correspondence relating to personnel

#### 4.2. Customer Records

A "*customer*" refers to any natural or juristic entity that receives services from the Company. Customer records include:

- 4.2.1. records pertaining to products sold and/or serviced by the Company.;
- 4.2.2. records provided by a customer to a third party acting for or on behalf of the Company;
- 4.2.3. records provided by a third party;
- 4.2.4. records generated by or within the Company relating to its customers, including transactional data.

#### 4.3. Private Body Records

"*Private Body Records*" are records which include, but are not limited to, records which pertain to the Company's own affairs including:

- 4.3.1. financial records;
- 4.3.2. operational records;
- 4.3.3. databases;
- 4.3.4. information technology systems and documents;
- 4.3.5. marketing records;
- 4.3.6. internal correspondence;
- 4.3.7. product records;
- 4.3.8. statutory records;
- 4.3.9. internal policies and procedures;
- 4.3.10 trademarks.

#### **4.4 Records Required by Legislation**

- 4.4.1 Financial Advisory and Intermediary Services Act
- 4.4.2 Long-term Insurance Act
- 4.4.3 Short term Insurance Act
- 4.4.4 Financial Intelligence Centre Act
- 4.4.5 Pensions Fund Act
- 4.4.6 Occupational Health and Safety Act
- 4.4.7 Income Tax Act
- 4.4.8 Value Added Tax Act
- 4.4.9 Consumer Protection Act
- 4.4.10 Companies Act

#### **4.5 Other Party Records**

- 4.5.1. Personnel, customer or private body records which are held by another party on the Company's behalf, as opposed to the records held by the Company itself.
- 4.5.2. Records held by the Company pertaining to other parties, including without limitation, financial records, correspondence, contractual records, and records about the Company's contractors / vendors/ suppliers / service providers.

#### **5. Grounds for Refusal of Access to Records**

The Company may refuse a request for information on, *inter alia*, the following basis:

- 5.1. The mandatory protection of the privacy of a third party who is a natural person, in order to avoid the unreasonable disclosure of personal information concerning that natural person (including a deceased individual).
- 5.2. The mandatory protection of the commercial information of a third party, if the record contains:
  - 5.2.1. trade secrets of that third party;
  - 5.2.2. financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or
  - 5.2.3. information supplied in confidence by a third party, the disclosure of which could reasonably be expected:
    - a. to put that third party at a disadvantage in contractual or other negotiations; or
    - b. to prejudice that third party in commercial competition.
- 5.3. The mandatory protection of confidential information of third parties if disclosure would constitute an action for breach of a duty of confidence owed to that third party in terms of an agreement.
- 5.4. The mandatory protection of the safety of individuals and the protection of property.
- 5.5. The mandatory protection of records which would be privileged from production in legal proceedings.
- 5.6. The protection of the Company's commercial activities including, without limitation, records that contain:
  - 5.6.1. the Company's trade secrets;
  - 5.6.2. financial, commercial, customer, scientific or technical information, the disclosure of which would be likely to cause harm to the Company's commercial or financial interests;
  - 5.6.3. information, the disclosure of which could reasonably be expected:
    - a. to put the Company at a disadvantage in contractual or other negotiations; or
    - b. to prejudice the Company in commercial competition.
  - 5.6.4. computer programs and systems owned by the Company.
- 5.7. Requests for information that are, in the Company's opinion, manifestly frivolous or vexatious or which involve an unreasonable diversion of resources.

#### **6. Request Procedure**

- 6.1. A requester requiring access to information held by the Company must make the request in the prescribed form and submit the request, together with proof of identity, the access fee and deposit, if applicable, to the Company's Information Officer at the contact details above.

- 6.2. The prescribed form must be completed with enough particularity to enable the Company to identify:
  - 6.2.1. the record(s) requested;
  - 6.2.2. the identity of the requester;
  - 6.2.3. the form of access required, if the request is granted;
  - 6.2.4. the postal address or fax number of the requester.
- 6.3. The requester must:
  - 6.3.1. state that the record is required in order to exercise or protect a right; and
  - 6.3.2. provide details of the nature of the right to be exercised or protected.
- 6.4. Subject to the Company's rights relating to extensions in terms of the Act, it will decide on whether to honour the request within 30 (thirty) days of receipt unless the requester has submitted special reasons, to the Company's reasonable satisfaction, in support of a request that the above time periods be dispensed with.
- 6.5. The Company will give the requestor written notice of its decision, including reasons if the request is declined.
- 6.6. The said 30 day period may be extended for a further period of not more than 30 (thirty) days if the request is for a large number of records, or the request requires a search for information which cannot reasonably be obtained within the original 30 day period. The Information Officer will notify the requester in writing should an extension be sought.
- 6.7. If a request is made on behalf of another person, the requester must submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the Company.
- 6.8. If an individual is unable to submit the request in the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 6.9. If the requestor is required to pay a fee for services, the Company will provide the requestor with a written estimate of the fee (based on PAIA prescribed regulations). The requester must pay the request fee, access fee, and deposit (being not more than a third of the access fee) where applicable, before the request will be considered. A personal requestor will not be charged a request fee.

## 7. Access to Records

A requestor will only be given access to a record(s) held by the Company if:

- 7.1. the record is required for the exercise or protection of a right;
- 7.2. the requestor has complied with all procedural requirements relating to a request for access to a particular record including making the request in the prescribed format; and
- 7.3. access to that record is not refused in terms of any ground for refusal.

## 8. Remedies Available when the Company Refuses a Request for Information

- 8.1. An internal appeal in writing addressed to the Information Officer,
- 8.2. A requester or a third party, who is dissatisfied with the decision of the Company in relation to a request for access to a record (including with regard to fees) may, within 30 (thirty) days apply to the High Court, or any other Court having jurisdiction, for relief.

## 9. Fees

- 9.1. The Act provides for two types of fees, namely:
  - 9.1.1. **a request fee**, being a standard fee; and
  - 9.1.2. **an access fee**, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.
- 9.2. When a request is received by the Company; it will, by written notice, require the requester, other than a personal requestor, to pay the request fee (if any), before further processing the request.
- 9.3. If the search for the record has been made and the preparation of the record for disclosure would require more than the hours prescribed for this purpose, the Information Officer will notify the requester to pay, as a deposit, no more than a third of the access fee which would be payable if the request is granted.
- 9.4. The Company will withhold a record until the requester has paid the applicable fees (and deposit where appropriate).
- 9.5. A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure, including making arrangements to make it available in the requested form.
- 9.6. If a deposit has been paid in respect of a request for access, which is refused, then the Company will repay the deposit to the requester.

## 10. Correction of Personal Information

10.1 A data subject may, in the prescribed manner, request the Company to;

- a. Correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
- b. Destroy or delete a record of personal information about the data subject that the Company is no longer authorised to retain in terms of section 14 of the POPI Act.

10.2 On receipt of such a request the Company will, as soon as reasonably practicable:

- (a) correct the information;
- (b) destroy or delete the information;
- (c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
- (d) where agreement cannot be reached between the Company and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.

10.3 If the Company has taken steps that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the Company will, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.

10.4 The Company notify a data subject, who has made a request to correct or delete his personal information, of the action taken as a result of the request.

*This manual is prepared in accordance with the provisions of the Promotion of Access to Information Act and may be amended at the sole discretion of the Company at any time. More specifically the Company may at any time amend the provisions of this manual to align with updated legislation. The scope of this manual excludes the Company's operations outside the borders of the Republic of South Africa.*