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Credit Unions and Caisses Populaires Act, 2020

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Schedule 7

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pART I  
iNTERPRETATION

Definitions

**1** In this Act,

“affiliate” means an affiliated body corporate within the meaning of section 5; (“membre du même groupe”)

“articles of incorporation” or “articles” means the original or restated articles of incorporation, articles of amalgamation, articles of amendment, memorandum of association, a special Act or other instrument by which a credit union is incorporated and includes any amendment thereto; (“statuts constitutifs” ou “statuts”)

“Authority” means the Financial Services Regulatory Authority of Ontario continued under subsection 2 (1) of the Financial Services Regulatory Authority of Ontario Act, 2016; (“Autorité”)

“Authority rule” means a rule made under subsection 285 (1) of this Act or under subsection 21 (2) of the Financial Services Regulatory Authority of Ontario Act, 2016; (“règle de l’Autorité”)

“board” means, with respect to a credit union, its board of directors; (“conseil”)

“body corporate” means any body corporate with or without share capital and whether or not it is a corporation to which this Act applies; (“personne morale”)

“borrow” does not include the taking of deposits; (“emprunter”)

“central” means a corporation incorporated as a credit union central or federation under this Act; (“fédération”)

“Chief Executive Officer” means the Chief Executive Officer appointed under subsection 10 (2) of the Financial Services Regulatory Authority of Ontario Act, 2016; (“directeur général”)

“court”, except where the context indicates otherwise, means the Superior Court of Justice; (“tribunal”)

“credit union” means a corporation incorporated or continued as a credit union or caisse populaire under this Act or a predecessor of this Act; (“caisse”, “caisse populaire”)

“debt obligation” means a bond, debenture, note or other evidence of indebtedness of an entity, whether secured or unsecured; (“titre de créance”)

“deposit” includes money deposited with a credit union under a federal or provincial registered savings plan or fund; (“dépôt”)

“depositor” means a person with funds on deposit with a credit union; (“déposant”)

“entity” means a body corporate, trust, partnership, fund, an unincorporated organization, Her Majesty in right of Canada or of a province, an agency of Her Majesty in either of such rights and the government of a foreign country or any political subdivision thereof and any agency thereof; (“entité”)

“financial institution” means,

(a) a bank or authorized foreign bank within the meaning of section 2 of the Bank Act (Canada),

(b) an insurer licensed under the Insurance Act,

(c) a corporation registered under the Loan and Trust Corporations Act,

(d) an entity that is,

(i) incorporated or formed by or under an Act of the Parliament of Canada or of the legislature of a province, and

(ii) primarily engaged in dealing in securities, including portfolio management and investment counselling,

(e) a credit union,

(f) a central,

(g) a retail association as defined under the Cooperative Credit Associations Act (Canada), and

(h) such other entities or classes of entities as may be prescribed by regulation; (“institution financière”)

“financial statement” means a financial statement referred to in section 177; (“état financier”)

“incorporator” means an individual who signs articles of incorporation; (“fondateur”)

“member” means a person who is a member of a credit union under this Act, the articles and the by-laws of the credit union governing membership; (“sociétaire”)

“membership share” means an interest in the equity of a credit union that confers the rights referred to in subsection 44 (1); (“part sociale”)

“Minister” means the Minister of Finance or any other member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the Executive Council Act; (“ministre”)

“patronage share” means a share of a class provided for by the articles of a credit union in accordance with section 45; (“part de ristourne”)

“personal representative” means a person who stands in place of and represents another person and includes, as the circumstances require, a trustee, an executor, an administrator, a committee, a guardian, a curator, an assignee, a receiver, an agent or an attorney of any person, but does not include a delegate; (“représentant personnel”)

“regulations” means the regulations made under this Act; (“règlement”)

“regulatory capital” in respect of a credit union, has the meaning given to that expression by the Authority rules; (“capital réglementaire”)

“related person”, when used to indicate a relationship with any natural person, means,

(a) a spouse of the person,

(b) any son or daughter of the person, or

(c) any relative by blood, marriage or adoption, of the person or of any person mentioned in clause (a) or (b); (“personne liée”)

“security” means a security as defined under the Securities Act but does not include a deposit with a financial institution or any instrument evidencing the deposit; (“valeur mobilière”)

“share” includes a membership share unless specifically excluded by this Act; (“action”)

“shareholder” means a shareholder as defined in subsection 8 (1); (“actionnaire”)

“special resolution” means a resolution passed by two-thirds or more of the votes cast by or on behalf of the persons who voted in respect of that resolution; (“résolution extraordinaire”)

“spouse” means a spouse as defined under Part III of the Family Law Act; (“conjoint”)

“subordinated indebtedness” means an instrument evidencing an indebtedness of a credit union that, by its terms, provides that the indebtedness will, in the event of the insolvency or winding up of the credit union, be subordinate in right of payment to all deposit liabilities of the credit union and all other liabilities of the credit union except those that, by their terms, rank equally with or are subordinate to the indebtedness; (“titre secondaire”)

“Tribunal” means the Financial Services Tribunal continued under the Financial Services Tribunal Act, 2017. (“Tribunal”). 2020, c. 36, Sched. 7, s. 1; 2021, c. 4, Sched. 11, s. 6 (1); 2021, c. 40, Sched. 5, s. 1.

**Section Amendments with date in force (d/m/y)**

[2021, c. 4, Sched. 11, s. 6 (1)](http://www.ontario.ca/laws/statute/S21004" \l "sched11s6s1) - 01/03/2022; [2021, c. 40, Sched. 5, s. 1](http://www.ontario.ca/laws/statute/S21040" \l "sched5s1) - 01/03/2022

Joint shareholders

**2** (1)  For the purposes of this Act, two or more persons holding the same share or shares jointly are considered as one member or shareholder.

Exception

(2)  Despite subsection (1), two or more persons jointly holding enough membership shares to entitle each of them to be a member in their own right are all considered as separate members.

Subsidiary

**3** For the purposes of this Act, a body corporate is a subsidiary of another body corporate if,

(a) it is controlled by,

(i) that other,

(ii) that other and one or more bodies corporate each of which is controlled by that other, or

(iii) two or more bodies corporate that are that other’s subsidiary; or

(b) it is a subsidiary of a body corporate that is that other’s subsidiary.

Holding body corporate

**4** For the purposes of this Act, a body corporate is another’s holding body corporate if that other is its subsidiary.

Affiliation

**5** (1)  For the purposes of this Act, one body corporate is affiliated with another body corporate if one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person.

Affiliate by order

(2)  On application in writing by a credit union, the Chief Executive Officer may, by order and on the terms specified in the order, deem a corporate body named in the order to be an affiliate for the purposes of this Act or for the purpose of specific provisions of this Act.

Revocation of order

(3)  The Chief Executive Officer may, by order, revoke an order under subsection (2) if the Chief Executive Officer believes that the credit union has failed to comply with a term set out in the order under subsection (2) or that it is no longer appropriate to deem the corporate body in respect of which the order under subsection (2) was made to be an affiliate.

Procedural rules

(4)  Section 209 applies with respect to an order under this section.

Controlling body corporate

**6** For the purposes of this Act, a body corporate is controlled by another person or by two or more bodies corporate if,

(a) voting securities of the first mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of the other person or by or for the benefit of the other bodies corporate; and

(b) the votes carried by the securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate.

Member

**7** (1)  For the purposes of this Act, a person is a holder of a membership share of a credit union when, according to the register under section 202, the person is the owner of the membership share or is entitled to be entered in the register as the owner of the share.

Holder of membership share

(2)  A reference in this Act to the holding of a membership share by or in the name of a person is a reference to the fact that the person is registered or is entitled to be registered in the register under section 202 as the holder of the share.

Shareholder

**8** (1)  For the purposes of this Act, a person is a shareholder of a body corporate when, according to the securities register of the body corporate, the person is the owner of a share of the body corporate or is entitled to be entered in the securities register or like record of the body corporate as the owner of a share.

Holder of a share

(2)  A reference in this Act to the holding of a share by or in the name of any person is a reference to the fact that the person is registered or is entitled to be registered in the securities register or a similar register of the body corporate as the holder of that share.

Part II  
Establishing a Credit union

Incorporation

Corporate charter

**9** (1)  The certificate of incorporation, articles of incorporation and the by-laws of a credit union, together with this Act, constitute the charter of the credit union.

Date of incorporation

(2)  A credit union comes into existence on the date set out in the certificate of incorporation.

Articles of incorporation

**10** (1)  The required number of individuals, as determined by Authority rule, may incorporate a credit union by signing articles of incorporation and complying with section 12.

Restriction

(2)  An individual is disqualified from being an incorporator if the individual,

(a) is less than 18 years of age;

(b) has been found under the Substitute Decisions Act, 1992 or under the Mental Health Act to be incapable of managing property or has been found to be incapable by a court in Canada or elsewhere; or

(c) is an undischarged bankrupt or has been discharged as a bankrupt in the five years preceding the date the application to incorporate the credit union is made under subsection 12 (1).

Contents of articles

**11** (1)  The articles of incorporation must set out the information prescribed by the regulations.

Same

(2)  The articles may include any provision that is permitted under this Act to be set out in the articles or that could be the subject of a by-law of the credit union.

Same

(3)  The articles must set out any restrictions on the business that the credit union may carry on or on the powers that the credit union may exercise.

First directors

(4)  The articles must name at least five individuals who hold office as the first directors of the credit union.

Affidavit

(5)  An affidavit verifying the following matters must accompany the articles:

1. The signature of each incorporator and each first director.

2. The fact that each first director meets the criteria for eligibility under section 83, and that each incorporator and first director is not disqualified under subsection 10 (2) or section 84, as applicable.

Where consent required

(6)  If a person who is not an incorporator is named in the articles as a first director, the person’s consent to act as a first director must accompany the articles.

Form of consent

(7)  The consent must be in a form approved by the Chief Executive Officer.

Application for incorporation

**12** (1)  An application to incorporate a credit union may be made by sending to the Chief Executive Officer a copy of the proposed articles of incorporation, the proposed by-laws of the credit union and such other information as may be prescribed by Authority rule and paying the application fee established by Authority rule.

Inquiry before incorporation

(2)  The Chief Executive Officer shall inquire into the circumstances, sufficiency and regularity of the articles and by-laws and may do any of the following before issuing a certificate of incorporation:

1. Require the incorporators to provide such additional information as the Chief Executive Officer considers relevant to the application.

2. Require any matter set out in the articles or by-laws or in the additional information provided to the Chief Executive Officer to be verified under oath.

3. Require the articles or by-laws to be amended if the Chief Executive Officer considers that they are inconsistent with this Act, the regulations or the Authority rules.

Certificate of incorporation

**13** (1)  Subject to subsection (2), the Chief Executive Officer shall issue a certificate of incorporation to the incorporators. 2020, c. 36, Sched. 7, s. 13 (1).

Grounds for refusing certificate

(2)  The Chief Executive Officer shall not issue a certificate of incorporation if the articles do not meet the requirements of section 11 or 12 or if the incorporators do not satisfy the Chief Executive Officer of the following matters:

1. The plans for the conduct and development of the business of the credit union are feasible and sound.

2. The credit union will be operated on a co-operative basis in accordance with subsection 23 (2).

3. The credit union will be operated in such a way that deposits will be safeguarded without the likelihood of a claim against the Authority.

4. The credit union will be operated responsibly by individuals who, by virtue of their character, competence and experience, are suited to operating a financial institution.

5. The incorporation of the credit union will serve the best interests of the co-operative financial system in Ontario. 2020, c. 36, Sched. 7, s. 13 (2); 2021, c. 40, Sched. 5, s. 2.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 2](http://www.ontario.ca/laws/statute/S21040" \l "sched5s2) - 01/03/2022

Effect of certificate

**14** (1)  A certificate of incorporation is conclusive proof that the incorporators have complied with all conditions precedent to incorporating a credit union and that the credit union was incorporated under this Act on the date set out in the certificate.

Exception

(2)  Subsection (1) does not apply in a proceeding under section 241.

Refusal of certificate

**15** If the Chief Executive Officer decides, after giving the applicants for incorporation an opportunity to make written submissions, not to issue a certificate of incorporation, the Chief Executive Officer shall notify the incorporators, in writing, and set out the reasons for the decision.

Language and form of corporate name

**16** (1)  The corporate name of a credit union must be in the language and form authorized in the articles and approved by the Chief Executive Officer.

Use of “credit union”

(2)  Subject to subsections (3) and (4), the corporate name of a credit union must include the words “credit union”, “caisse populaire” or “caisse”.

Use of “caisse populaire”

(3)  Only a corporation incorporated under this Act or a predecessor of this Act that provides financial services to its members and promotes the interests of the French-speaking community in Ontario by providing management and democratic control in French may include “caisse populaire” or “caisse” in its corporate name, and all other corporations incorporated under this Act or a predecessor of this Act shall include “credit union” in their corporate names.

Use of “Limited”, etc.

(4)  The corporate name of a credit union must have at the end of it one of the following: “Limited”, “Ltd”, “Limitée”, “Ltée”, “incorporated”, “incorporée” or “Inc”.

Use of other name

**17** (1)  A credit union shall not carry on business under or identify itself by a name other than its corporate name unless the Chief Executive Officer has approved that name.

Restriction on approval

(2)  The Chief Executive Officer shall not approve a name under subsection (1),

(a) if the name includes “credit union”, “caisse populaire” or “caisse”, unless the name is derived from the credit union’s corporate name; or

(b) if the name would be precluded as a corporate name under section 19.

Corporate name to be used in all documents

(3)  A credit union shall set out its corporate name in legible characters in all documents that evidence rights or obligations with respect to other parties (including contracts, invoices and negotiable instruments) and that are issued or made by or on behalf of the credit union.

Prohibition, use of “credit union”, “caisse populaire”

**18** No person, other than a credit union or person or entity prescribed by regulation, shall carry on business using a name in which “credit union” or “caisse populaire” is used.

Restrictions re corporate names

**19** (1)  A credit union may not be incorporated under this Act with a corporate name that,

(a) is prohibited under an Act of the Parliament of Canada or a province or territory of Canada;

(b) does not meet the requirements prescribed by regulation;

(c) is reserved under section 20 for another credit union;

(d) is the same as or confusingly similar to any existing trade-mark or trade name or corporate name of a body corporate;

(e) is the same as or confusingly similar to the known name under or by which another entity carries on business or is identified;

(f) contains a word or phrase that indicates or suggests that it is incorporated for any object other than one set out in its articles; or

(g) is deceptively misdescriptive.

Exception re trade-marks, etc.

(2)  Clause (1) (d) does not apply if the Chief Executive Officer is satisfied that,

(a) the trade-mark or trade name is being changed or the body corporate is being dissolved or is changing its corporate name; and

(b) in the case of a corporate name, there is consent to the use of the corporate name.

Exception for affiliate

(3)  Clauses (1) (d) and (e) do not apply with respect to a credit union that is affiliated with another entity if the Chief Executive Officer is satisfied that the entity consents to it having a corporate name substantially similar to the entity’s name.

Change of corporate name

(4)  If a credit union has acquired a corporate name contrary to subsection (1), the Chief Executive Officer may, by order, issue a certificate of amendment to the articles changing the name of the credit union.

Procedural rules

(5)  Section 209 applies with respect to an order under subsection (4).

Reserving a corporate name

**20** (1)  A person may reserve a corporate name for a period of up to 90 days by making an application to the Chief Executive Officer and paying the fee established by Authority rule.

Effect of reservation

(2)  During the period that the corporate name is reserved, a body corporate is not entitled to acquire the name or a similar name without the written consent of the person for whose use and benefit the name is reserved.

Renewal of reservation of corporate name

(3)  Within 30 days before the expiry of the reservation of a corporate name under subsection (1), the person who reserved the name may apply for a renewal of the reservation for a further period of not more than 90 days by submitting an application for the renewal to the Chief Executive Officer and paying the fee established by Authority rule.

Corporate seal

**21** A credit union may, but is not required to, have a corporate seal.

Location of head office

**22** (1)  A credit union shall have its head office in Ontario at the place indicated in its articles.

Change

(2)  A credit union may by articles of amendment change the location of its head office to another place in Ontario.

Objects and Powers

Objects

**23** (1)  The object of a credit union is to provide on a co-operative basis financial services primarily for its members.

Co-operative basis

(2)  A credit union shall operate on a co-operative basis such that,

(a) membership is voluntary and is open to those that fall within its bond of association, if the credit union’s by-laws so provide;

(b) its business is carried on primarily for the benefit of its members;

(c) the net income that accrues from its business is,

(i) used to provide services for its members,

(ii) used to develop its business,

(iii) used to increase its reserves or retained earnings,

(iv) distributed to its members and shareholders, or

(v) used for another purpose approved by the members; and

(d) each member has only one vote at its general meetings or in respect of elections of its directors.

Exception

(3)  Clause (2) (d) does not prevent a member from voting as a proxy holder as allowed under section 183.

Powers

**24** (1)  A credit union has the capacity of a natural person and, subject to this Act, the rights, powers and privileges of a natural person.

Powers outside Ontario

(2)  A credit union may exercise its powers outside of Ontario to the extent permitted under the laws of the applicable jurisdiction.

Extra-provincial powers

(3)  A credit union may accept extra-provincial powers and rights.

Acting outside powers

**25** (1)  No act of a credit union and no transfer of real or personal property to or by a credit union before or after this section comes into force, that is otherwise lawful, is invalid because the credit union was without capacity or power to do the act or make or receive the transfer, but a lack of capacity or power may be asserted,

(a) in a proceeding against the credit union by a member under subsection (2);

(b) in a proceeding by the credit union, whether acting directly or through a receiver, liquidator, trustee or their legal representative or through members in a representative capacity, against a director or officer or former director or officer of the credit union; or

(c) as a cause for the cancellation of the certificate of incorporation of the credit union.

Restraining order

(2)  A member of a credit union may apply to court for an order restraining the credit union from doing any act on the ground that the credit union lacks capacity to do so.

Granting order

(3)  Subject to subsection (4), the court may, if it considers it to be just and equitable, grant the order.

Where contract

(4)  If the act or transfer that the member seeks to restrain is to be done under a contract to which the credit union is a party,

(a) all the parties to the contract are parties to the proceedings;

(b) the court may,

(i) grant the order and set aside the contract, and

(ii) award compensation to the credit union or other parties to the contract for any damages or loss, other than anticipated profits from the contract, sustained by them because the order is granted and the contract is set aside.

Miscellaneous

Indoor management rule

**26** (1)  A credit union or a guarantor of an obligation of one shall not assert against a person dealing with the credit union or with a person who has acquired rights from the credit union any of the following matters:

1. The articles or by-laws have not been complied with.

2. The individuals named in the most recent notice filed under the Corporations Information Act or named in the articles, whichever is more current, are not the directors of the credit union.

3. The location of its head office indicated in a notice filed under the Corporations Information Act, as named in the by-laws, or named in the articles, whichever is more current, is not the head office of the credit union.

4. A person held out by the credit union as a director, officer or agent has not been duly appointed or does not have authority to exercise the powers and perform the duties that are customary in the business of the credit union or usual for the director, officer or agent.

5. A document issued by a director, officer or agent of the credit union with actual or usual authority to issue the document is not valid or not genuine.

6. Financial assistance was not authorized.

7. The sale, lease, exchange or disposition of property of the credit union was not authorized under section 174.

Exception

(2)  Subsection (1) does not apply if the person has or ought to have knowledge of the matter by virtue of the person’s position with or relationship to the credit union.

No deemed notice

(3)  No person is affected by or is deemed to have knowledge of the contents of a document concerning a credit union by reason only that the document has been filed with the Chief Executive Officer or is available for inspection at an office of the credit union.

Financial years

**27** The financial year of a credit union must end on the date specified by Authority rule.

*C*orporations Act not to apply

**28** The Corporations Act does not apply to credit unions.

Part iii  
membership

Who May Be Member

Membership

**29** Membership in a credit union is governed by the credit union’s by-laws, subject to the provisions of this Act, the Authority rules and the credit union’s articles.

Membership of incorporators

**30** Each incorporator who has subscribed for the minimum number of membership shares in a credit union required by the by-laws of the credit union and who is issued those membership shares becomes a member upon the effective date of incorporation.

Applicants for membership

**31** Subject to section 30, no person shall become a member of a credit union until the person’s application for membership has been approved by the board or an employee authorized by the board and the applicant has complied fully with the by-laws governing admission of members.

Limitation on membership

**32** (1)  The by-laws of a credit union may provide that the membership of the credit union is limited to persons, related persons and entities who come within a bond of association and shall specify the nature of the bond of association.

Exception

(2)  Despite subsection (1), the by-laws may provide that an employee of a credit union may become a member.

Same

(3)  Despite subsection (1), the by-laws may provide that certain persons, related persons and entities who do not come within the bond of association may become members.

Same

(4)  A person or entity admitted as a member who does not come within the bond of association has all the rights and obligations of membership.

Retaining membership

(5)  If authorized by the by-laws, a member who no longer falls within the bond of association may retain membership in the credit union.

Record, information relating to membership

**33** (1)  Every person or entity whose name is registered in the register under section 202 is entitled to,

(a) a record specifying the amount paid upon membership shares, deposits and loans by the person or entity; and

(b) such other information as may be specified by the by-laws of the credit union.

Same

(2)  The record referred to in clause (1) (a) is admissible in evidence as proof, in the absence of evidence to the contrary, of membership and of the information entered therein.

Rights and Liabilities

Liability of members

**34** The members of a credit union are not, by reason only of holding membership shares of a credit union, liable for any liability, act or default of the credit union except as otherwise provided by this Act.

Not bound by trust

**35** (1)  A credit union is not bound to see to the execution of any trust to which any membership share is subject.

Application

(2)  Subsection (1) applies whether the trust is express, implied or constructive.

Trust for named beneficiary

**35.1**(1)  A credit union may accept deposits from a member in trust for a named beneficiary. 2023, c. 20, Sched. 6, s. 1.

Deposit is separate for deposit insurance purposes

(2)  A deposit of a member in trust for a named beneficiary shall be deemed, for the purpose of paragraph 2 of subsection 218 (2), to be a deposit separate from any other deposit of the member. 2021, c. 40, Sched. 5, s. 3.

Exercise of rights of membership shares held in trust

(3)  The following apply with respect to membership shares held by a member in trust for a beneficiary:

1. The member shall exercise the rights attached to the shares, subject to paragraph 2.

2. At a meeting of members, the member does not have an additional vote as a result of holding the membership shares in trust. 2021, c. 40, Sched. 5, s. 3.

Disclosure of beneficiary

(4)  The member shall disclose to the credit union such personal information concerning the beneficiary as the credit union requires to comply with all applicable laws. 2021, c. 40, Sched. 5, s. 3.

Failure to disclose

(5)  A credit union may refuse to accept or maintain a deposit made by a member in trust for a named beneficiary if the member refuses or fails to provide the information referred to in subsection (4). 2021, c. 40, Sched. 5, s. 3.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 3](http://www.ontario.ca/laws/statute/S21040" \l "sched5s3) - 01/03/2022

[2023, c. 20, Sched. 6, s. 1](http://www.ontario.ca/laws/statute/S23020" \l "sched6s1) - 01/01/2024

Joint accounts

**36** Two or more members may hold their membership shares and deposits in a joint account and, in the absence of written notice to the contrary, payment by the credit union to any of the members or to the survivor or any of the survivors of the members of any money standing to the credit of the joint share or deposit account discharges the credit union from any further liability for such payment.

Members under the age of 18 years

**37** If permitted by the by-laws of a credit union, a person under the age of 18 years may be a member of the credit union, subject to such conditions and restrictions as may be set out in the by-laws.

Death, etc.

Limited payment re deceased member

**38** (1)  If a member of a credit union dies and the credit union makes a payment of an amount described in subsection (2) to such person as the credit union is satisfied is entitled to receive the amount, the payment discharges any obligation of the credit union and its board in respect of and to the extent of the amount paid even if the payment is made without letters probate or letters of administration being taken out.

Type of payments

(2)  The payment referred to in subsection (1) is a payment of the following:

1. An amount not exceeding the amount prescribed by regulation payable from the amount on deposit in the name of the deceased or in consideration for the membership shares of the deceased.

2. An amount not exceeding the amount prescribed by regulation payable from any money that is received by the credit union under any policy of insurance on the life of the deceased.

Restrictions

(3)  Subsection (1) applies only if the credit union pays the amount in good faith and the credit union receives, before the payment,

(a) a statutory declaration attesting to the person’s entitlement to receive the amount; or

(b) such other evidence of the person’s entitlement to the amount as the credit union considers to be appropriate in the circumstances.

Credit union can require more

(4)  Nothing in this section prevents the credit union from requiring additional documentation or evidence as the credit union considers appropriate.

Recovery from recipient

(5)  Subsection (1) does not affect any right of a person claiming to be entitled to recover the amount from the person to whom it was paid.

No limit on other powers, requirements

(6)  For greater certainty, this section does not prevent a credit union from making a payment or transfer as otherwise allowed or required by law.

If deceased member was trustee

(7)  If a member of a credit union dies holding membership shares or money on deposit in trust for a named beneficiary, the credit union may pay the amount of, or transfer, the membership shares or deposit and any interest or dividends on them,

(a) to the executor or administrator of the estate of the deceased member; or

(b) to the beneficiary if there is no executor or administrator of the estate of the deceased member or, if the beneficiary is a minor, to the beneficiary’s parent or guardian.

Liens

Lien for liability

**39** (1)  A credit union has a lien on the deposits and membership shares of a member for any liability to it by the member, and may set off any sum standing to the credit of the member on the books of the credit union towards the payment of the liability.

Limitation, member’s share account

(2)  Despite subsection (1), a credit union shall not apply any service charges or other deductions against a member’s share account except upon the termination of the membership.

Withdrawals and Expulsions

Withdrawal of members

**40** (1)  A member of a credit union may withdraw from the credit union at any time by giving notice in accordance with the by-laws.

Same, member’s death

(2)  A deceased member shall be deemed to have given notice to the credit union of intention to withdraw on the day of the member’s death.

Same, Authority rules

(3)  The withdrawal of a member is subject to such conditions and requirements as may be prescribed by Authority rule.

Expulsion of members

**41** (1)  A member of a credit union may be expelled from membership, in accordance with the by-laws, by a resolution of the board on the grounds set out in the by-laws.

Same, Authority rules

(2)  The expulsion of a member is subject to such conditions and requirements as may be prescribed by Authority rule.

Representative Actions by Members

Members may maintain representative actions

**42** (1)  Subject to subsection (2), a member of a credit union may maintain an action in a court of competent jurisdiction in a representative capacity for the member and all other members of the credit union suing for and on behalf of the credit union to enforce any right, duty or obligation owed to the credit union under this Act or under any other statute or rule of law or equity that could be enforced by the credit union itself, or to obtain damages for any breach of any such right, duty or obligation.

Court order required

(2)  An action under subsection (1) shall not be commenced until the member has obtained an order of the court permitting the commencement of the action.

Application to court

(3)  A member may, upon at least seven days notice to the credit union, apply to the court for an order referred to in subsection (2).

Court order

(4)  The court may make the order upon such conditions as the court thinks fit if the court is satisfied that,

(a) the member was a member of the credit union at the time of the transaction or other event giving rise to the cause of action;

(b) the member has made reasonable efforts to cause the credit union to commence or prosecute diligently the action on its own behalf; and

(c) the member is acting in good faith and it is apparently in the interests of the credit union or its members that the action be commenced.

Costs

(5)  At any time while an action commenced under this section is pending, the plaintiff may apply to the court for an order for the payment to the plaintiff by the credit union of reasonable interim costs, including legal fees and disbursements.

Accountability for costs

(6)  The plaintiff is accountable to the credit union for the interim costs if the action is dismissed on final disposition at the trial or on appeal.

Action, court approval

(7)  An action commenced under this section shall not be discontinued, settled or dismissed for want of prosecution without the approval of the court.

Same

(8)  If the court determines that the interests of the members or any class of members may be substantially affected by a discontinuance, settlement or dismissal, the court may direct that notice in manner, form and content satisfactory to the court shall be given, at the expense of the credit union or any other party to the action as the court directs, to the members or class of members whose interests the court determines may be affected.

Part iv  
Capital Structure

Shares

Classes of shares

**43** (1)  The articles of a credit union must provide for a class of shares known as membership shares and may provide for additional classes of shares, including patronage shares referred to in section 45.

Nature of shares

(2)  The shares of a credit union are personal property.

Form

(3)  The shares of a credit union are without nominal or par value and, if they are not membership shares or patronage shares, must be in registered form.

Membership shares

**44** (1)  Membership shares confer on the holder the right to receive dividends declared on the shares and to receive the remaining property of the credit union on dissolution.

Transfer prohibited

(2)  The holder of a membership share may not transfer an interest in the share to a person other than the credit union or another credit union and any transaction that purports to make such a transfer is void.

Certificates not mandatory

(3)  The by-laws of a credit union may provide that membership share certificates need not be issued but, if this is the case, the credit union shall give each member who requests one a statement of the number of membership shares held by the member.

Certificates

(4)  Membership share certificates issued after this subsection comes into force must include such information as may be prescribed by regulation.

Patronage shares

**45** (1)  The articles of a credit union may provide for a class of shares known as patronage shares to be payable to members as a dividend under section 57 or as a patronage return under section 58.

Nature of share

(2)  A patronage share does not confer on the holder the right to vote at meetings of the members of the credit union, the right to notice of any meeting of members of the credit union, the right to receive dividends or the right to receive the remaining property of the credit union on dissolution.

Transfer prohibited

(3)  The holder of a patronage share may not transfer an interest in the share to a person other than the credit union or another credit union and any transaction that purports to make such a transfer is void.

Rights of classes

**46** (1)  For each class of shares, the articles must set out,

(a) the rights, privileges, restrictions and conditions attaching to the shares of the class; and

(b) the maximum number, if any, of shares of the class that the credit union is authorized to issue.

Restrictions

(2)  Shares, other than membership shares, do not confer on their holder the right to vote at meetings of the members of the credit union except as permitted under this Act or the right to receive any of the remaining property of the credit union on dissolution.

Shares in series

**47** (1)  The articles of a credit union may authorize the issue of any class of shares, other than membership shares, in one or more series and may fix the number of shares in, and set out the designation, rights, privileges, restrictions and conditions attaching to the shares of each series.

Same

(2)  The articles may authorize the board to fix the maximum number, if any, of shares in each series and to determine the designation, rights, privileges, restrictions and conditions attaching to the shares of each series, subject to the limitations set out in the articles and the limitations under this Act.

Series participation

(3)  If any cumulative dividend or amounts payable on return of capital in respect of a series of shares are not paid in full, the shares of all series of the same class participate rateably in respect of accumulated dividends and return of capital.

Voting rights

(4)  If voting rights are attached to any series of a class of shares, the shares of every other series of that class have the same voting rights.

Restriction on series

(5)  No rights, privileges, restrictions or conditions attached to a series of shares confer on the series a priority in respect of dividends or return of capital over any other series of shares of the same class that are then outstanding.

Information to Chief Executive Officer

(6)  Before issuing shares in series, the credit union must file with the Chief Executive Officer articles of amendment designating the series and setting out the rights, privileges, restrictions and conditions attaching to the shares.

Pre-emptive rights

**48** (1)  If the articles so provide, a credit union shall not issue shares of a class, other than membership shares or patronage shares, unless the shares have first been offered to shareholders holding shares of that class.

Same

(2)  Those shareholders have a pre-emptive right to acquire the offered shares in proportion to their holdings of the shares of that class, at the same price and on the same conditions as the shares are to be offered to others.

Exception

(3)  A shareholder has no pre-emptive right in respect of shares that are to be issued,

(a) as a share dividend;

(b) pursuant to the exercise of conversion privileges, options or rights previously granted by the credit union;

(c) if the issuance of shares to the shareholder is prohibited under this Act; or

(d) if, to the knowledge of the board, the offer of shares to a shareholder whose recorded address is outside Ontario ought not to be made unless the appropriate authority in that jurisdiction is provided with information in addition to that submitted to the shareholders at the most recent annual meeting.

Conversion privileges

**49** (1)  A credit union may issue conversion privileges, options or rights to acquire its securities, other than membership shares or patronage shares, and shall set out the applicable conditions,

(a) in the documents that evidence the conversion privileges, options or rights; or

(b) in the securities to which the conversion privileges, options or rights are attached.

Transferable rights

(2)  Conversion privileges, options and rights to acquire securities of a credit union may be made transferable or non-transferable, and options and rights to acquire such securities may be made separable or inseparable from the securities to which they are attached.

Reserved shares

(3)  If a credit union has granted privileges to convert its securities into shares or into shares of another class or series, or has issued or granted options or rights to acquire shares, and if the articles limit the number of authorized shares, the credit union shall reserve and continue to reserve sufficient authorized shares to meet the exercise of the conversion privileges, options and rights.

Issuing Shares

Power to issue shares

**50** (1)  A credit union may issue shares at such times, to such persons and for such consideration as the board may determine.

Restrictions re shares

(2)  A credit union may issue shares only in accordance with this Act and the articles and by-laws of the credit union.

Consideration

**51** (1)  A credit union shall not issue any share, other than a patronage share, until the credit union has received full payment for it in cash or, with the approval of the Chief Executive Officer, in property.

Exception for certain asset purchases

(2)  Subsection (1) does not apply to the issue of shares by a credit union if the issue is part of a transaction in which the credit union acquires the assets of another credit union and, as part of that transaction, shareholders of the vendor credit union are to be issued with shares of the purchaser credit union.

Prohibition re commission

(3)  No person shall charge or accept payment of a commission on the purchase or sale of a membership share of a credit union.

Shares non-assessable

**52** Shares issued by a credit union are non-assessable and no person is liable to the credit union or to its creditors in respect of the person’s shares.

Redemption and Cancellation of Shares

Holding own shares

**53** (1)  Except as permitted under this Act or prescribed by regulation, a credit union shall not,

(a) hold shares of the credit union;

(b) permit a subsidiary to hold a greater number of membership shares than the minimum number required for membership in the credit union; or

(c) permit a subsidiary to hold any other shares of the credit union.

Holding as personal representative

(2)  A credit union may hold its shares in the capacity of a personal representative and may permit a subsidiary to do so, but only if neither the credit union nor any subsidiary has a beneficial interest in the shares.

Security interest

(3)  A credit union may hold its shares by way of a security interest and may permit a subsidiary to do so if the security interest is nominal or immaterial when measured by criteria established by the credit union that have been approved in writing by the Chief Executive Officer.

Transition

(4)  Nothing in this section precludes a credit union or any of its subsidiaries from holding a security interest held immediately before this Part comes into force.

Exception

(5)  Section 28 of the Business Corporations Act does not apply to prevent a subsidiary of a credit union from holding membership shares in a credit union that is its holding body corporate.

Purchase and redemption of shares

**54** (1)  A credit union may purchase or redeem its shares only in accordance with this section and the articles and by-laws of the credit union.

Same

(2)  A credit union may purchase, for the purpose of cancellation, any of its shares or redeem any of its redeemable shares at a price not exceeding the redemption price of the share calculated according to a formula stated in its articles or, in the case of shares other than membership shares, according to the conditions attaching to the shares.

Restrictions

(3)  A credit union shall not make any payment to purchase or redeem its shares if there are reasonable grounds for believing that the credit union is, or the payment would cause it to be, in contravention of section 77.

Donations

(4)  A credit union may accept a share surrendered to it as a gift but may not extinguish or reduce a liability in respect of an amount unpaid on the share except in accordance with section 64.

Cancellation of shares

**55** A credit union shall cancel its shares or fractions of its shares that it has purchased, redeemed or otherwise acquired, other than through the realization of security.

Shares acquired through realization of security

**56** (1)  If a credit union acquires shares of the credit union through the realization of security, the credit union shall sell, cancel or otherwise dispose of them within six months after the day of the realization.

Same

(2)  If a subsidiary of a credit union acquires shares of the credit union through the realization of security, the credit union shall cause the subsidiary to sell or otherwise dispose of them within six months after the day of the realization.

Dividends and Patronage Returns

Declaration of dividend

**57** (1)  The board may declare, subject to the by-laws, and the credit union may pay a dividend.

Form of dividend

(2)  A dividend may be paid,

(a) in cash;

(b) by issuing patronage shares;

(c) by issuing fully paid shares, other than membership shares, or options or rights to acquire fully paid shares, other than membership shares, in any class or series of shares;

(d) in a combination of two or more forms of dividends described in clauses (a), (b) and (c); or

(e) in property, with the approval of the Chief Executive Officer.

Declaration of patronage return

**58** (1)  The board may declare, subject to the by-laws, and the credit union may pay, a patronage return to its members.

Form of patronage return

(2)  A patronage return may be paid,

(a) in cash;

(b) by issuing patronage shares;

(c) by issuing fully paid shares, other than membership shares, or options or rights to acquire fully paid shares, other than membership shares, in any class or series of shares; or

(d) in a combination of two or more forms of patronage returns described in clauses (a), (b) and (c).

Rebate of interest

(3)  A patronage return may include a rebate of interest paid by members during a financial year in respect of loans from the credit union.

Restriction on dividends, etc.

**59** The board shall not declare, and the credit union shall not pay, a dividend or patronage return if there are reasonable grounds for believing that the credit union is, or the payment would cause it to be, in contravention of section 77.

Stated Capital

Stated capital account

**60** (1)  A credit union shall maintain a separate stated capital account for each class and series of shares it issues.

Addition to account

(2)  A credit union shall record in the appropriate stated capital account the full amount of any consideration it receives for any shares it issues.

Adjustment due to conversion

**61** (1)  On a conversion of outstanding shares, other than membership shares or patronage shares, of a credit union into shares of another class or series, the credit union shall,

(a) deduct from the stated capital account maintained for the class or series of shares converted an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series converted, and dividing by the number of outstanding shares of that class or series immediately before the conversion; and

(b) record the result obtained under clause (a) and any additional consideration received on the conversion in the stated capital account maintained for the class or series of shares into which the shares have been converted.

Stated capital of convertible shares

(2)  For the purposes of subsection (1) and subject to the articles, if a credit union issues two classes of shares and there is attached to each class a right to convert a share of one class into a share of the other class and a share is so converted, the amount of stated capital attributable to a share in either class is the aggregate of the stated capital of both classes divided by the number of outstanding shares of both classes immediately before the conversion.

Conversion or change of shares

(3)  Shares issued by a credit union and converted into shares of another class or series become issued shares of the class or series into which the shares have been converted.

Definition

(4)  In this section,

“conversion” of a share includes a change made under subsection 253 (1) into another class or series.

Addition due to debt conversion

**62** On conversion of a debt obligation of a credit union into shares, the credit union shall,

(a) deduct from the liabilities of the credit union the nominal value of the debt obligation; and

(b) record the result obtained under clause (a) and any additional consideration received for the conversion in the stated capital account maintained for the class or series of shares into which the debt obligation has been converted.

Reduction due to purchase, etc.

**63** (1)  On a purchase, redemption or other acquisition of shares or fractions of shares by a credit union, the credit union shall deduct from the stated capital account maintained for the applicable class or series of shares an amount equal to the result obtained by multiplying the stated capital in respect of the shares of that class or series by the number of shares purchased, redeemed or acquired and dividing by the number of shares of that class or series outstanding immediately before the purchase, redemption or acquisition.

Exception

(2)  This section does not apply with respect to shares acquired as described in subsection 53 (2) or acquired through the realization of security and sold in accordance with subsection 56 (1).

Reduction by special resolution

**64** (1)  The stated capital of a credit union may be reduced by special resolution of the members of the credit union.

Contents of special resolution

(2)  The special resolution must specify each stated capital account to be affected by the reduction.

Approval

(3)  The special resolution has no effect until it is approved in writing by the Chief Executive Officer.

Conditions for approval

(4)  The Chief Executive Officer may not approve the special resolution unless an application for the Chief Executive Officer’s approval is made within three months after the resolution is passed and a copy of the resolution, together with a notice of intention to apply for approval, has been published on the website of the Authority.

Information

(5)  An application for approval must include such information and documents as the Chief Executive Officer may require.

Restriction

(6)  A credit union shall not reduce its stated capital by special resolution if there are reasonable grounds for believing that the credit union is, or the reduction would cause it to be, in contravention of section 77.

Reducing capital account

(7)  A credit union shall adjust its stated capital account or accounts in accordance with any special resolution referred to in subsection (1).

Recovery by action

**65** (1)  If money has been paid or property distributed as a consequence of a reduction of capital made contrary to section 64, a creditor of the credit union may apply to a court for an order compelling the member, shareholder or other person to pay the money or deliver the property to the credit union.

Shares held by personal representative

(2)  A person holding shares as a personal representative who is registered in the register under section 202 as a member or shareholder and described as the personal representative for a named person is not personally liable under subsection (1) of this section, but the named person is liable.

Remedy preserved

(3)  This section does not affect any liability that arises under section 119.

Transfer of Securities

Application of Securities Transfer Act, 2006

**66** The Securities Transfer Act, 2006 applies, with necessary modifications, with respect to the transfer of securities, other than membership shares or patronage shares.

Restriction on transfer of securities

**67** (1)  A security issued under circumstances described in clause 68 (1) (a) shall not be transferred except to another member of the credit union or to a person prescribed by regulation.

Same

(2)  The transfer of a security that is permitted under subsection (1) shall be made in the manner prescribed by regulation and subject to the conditions prescribed by regulation.

Same

(3)  The transfer of a security that is permitted under subsection (1) is effective when the transfer is recorded in the register under section 202.

Offering Statements

Selling securities

**68** (1)  A credit union may sell its securities to a member or accept from a member, directly or indirectly, consideration for its securities if,

(a) the credit union has obtained a receipt under section 71 for an offering statement respecting the securities and the receipt has not been revoked or expired;

(b) the credit union has provided the Chief Executive Officer with a copy of receipts from the Ontario Securities Commission under the Securities Act for a preliminary prospectus and a prospectus respecting the offering of the securities; or

(c) the sale is exempt from the prospectus requirements of the Securities Act under one of the following exemptions:

i. Section 2.3 of National Instrument 45-106 Prospectus Exemptions.

ii. Section 2.5 of National Instrument 45-106 Prospectus Exemptions.

iii. Section 2.9 of National Instrument 45-106 Prospectus Exemptions.

iv. Section 2.10 of National Instrument 45-106 Prospectus Exemptions.

v. Section 5 of Multilateral Instrument 45-108 Crowdfunding.

When Securities Act does not apply

(2)  The Securities Act does not apply to securities sold or disposed of by a credit union pursuant to a receipt, under section 71, for an offering statement.

Exception

(3)  Subsection (1) and the Securities Act do not apply with respect to the issuance of,

(a) membership shares;

(b) patronage shares; or

(c) shares under section 57 or 58.

Interpretation

(4)  When, in subsection (1), credit union is read to mean central, a member of a central includes a member of a credit union that is a member of the central.

Permitted sellers

**69** Securities sold under the circumstances described in clause 68 (1) (a) may be sold by,

(a) the directors, officers and employees of the issuing credit union;

(b) in the case of an issuing central, the directors, officers and employees of the central or of a credit union that is a member of the central; or

(c) a person registered under the Securities Act as an investment dealer. 2020, c. 36, Sched. 7, s. 69; 2021, c. 40, Sched. 5, s. 4.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 4](http://www.ontario.ca/laws/statute/S21040" \l "sched5s4) - 01/03/2022

Offering statement

**70** (1)  Application for a receipt for an offering statement is made by filing with the Chief Executive Officer a copy of the offering statement and paying the fee established by Authority rule.

Contents

(2)  The offering statement must contain such information as may be prescribed by regulation.

Standard of disclosure

(3)  The offering statement must provide full, true and plain disclosure of all material facts relating to the securities that the credit union proposes to issue.

Certificate

(4)  The offering statement must be accompanied by a disclosure certificate signed by the chair of the board and the chief executive officer of the credit union, certifying that the offering statement satisfies the requirements of subsections (2) and (3).

Additional material

(5)  The Chief Executive Officer may require,

(a) the credit union to provide additional documents, reports and other material; and

(b) that the information contained in the material referred to in clause (a) form part of the offering statement.

Examination

(6)  Before issuing a receipt, the Chief Executive Officer may require the credit union to permit an examination of its affairs, at its own expense, by a person authorized in writing by the Chief Executive Officer.

Receipt for offering statement

**71** (1)  The Chief Executive Officer shall issue a receipt for an offering statement unless it appears to the Chief Executive Officer that,

(a) the statement or any document accompanying it,

(i) fails to comply in any substantial respect with this Act or the regulations,

(ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive,

(iii) contains an extract from an opinion or statement of an expert that does not fairly represent the opinion or statement, or

(iv) conceals or omits to state any material facts necessary in order to make any statement contained in the offering statement not misleading in light of the circumstances in which it was made;

(b) the proceeds from the sale of the securities are insufficient, together with the other resources of the credit union, to accomplish the purpose of the issue that is stated in the offering statement; or

(c) it would not be in the public interest to issue a receipt for the offering statement.

Refusal to issue, revocation

(2)  The Chief Executive Officer may refuse to issue or may revoke a receipt for an offering statement in any of the following circumstances:

1. The credit union is in contravention of section 77.

2. The credit union is subject to the supervision of the Chief Executive Officer or under the administration of the Chief Executive Officer.

Same

(3)  Before refusing to issue a receipt or revoking a receipt, the Chief Executive Officer shall give the applicant an opportunity to make written submissions.

Same

(4)  A decision to refuse to issue a receipt or a decision to revoke a receipt must be given in writing and must include the reasons for the refusal or revocation.

Expiry of receipt

(5)  A receipt for an offering statement expires on the earlier of,

(a) the date that is six months after the day it is issued; and

(b) the date on which the offering of securities contemplated by the offering statement for which the receipt is granted is closed in accordance with the offering statement.

Renewal of receipt

**72** (1)  Application for renewal of the receipt for an offering statement may be made by filing an application with the Chief Executive Officer with a copy of the statement and paying the fee established by Authority rule.

Time for application

(2)  Application for renewal must be made before the receipt for the offering statement expires.

Receipt

(3)  Section 71 applies, with necessary modifications, with respect to the renewal of a receipt.

Material change

**73** (1)  If there is a material change in the facts set out in an offering statement, the credit union shall file with the Chief Executive Officer,

(a) an amendment to the offering statement, if no receipt has been issued for the statement; or

(b) a statement of material change, if a receipt has been issued for the offering statement and the receipt has not been revoked or expired. 2020, c. 36, Sched. 7, s. 73 (1).

Time

(2)  The credit union shall give the Chief Executive Officer the amendment or statement of material change promptly and, in any event, within ten days after the date on which the material change occurred. 2020, c. 36, Sched. 7, s. 73 (2).

Notice to persons

(3)  The credit union shall give a copy of the amendment or statement of material change to every person to whom it gave a copy of the offering statement. 2020, c. 36, Sched. 7, s. 73 (3).

Replacement statement

(4)  A credit union may, and if requested to do so by the Chief Executive Officer, shall file with the Chief Executive Officer a new offering statement instead of one or more statements of material change. 2020, c. 36, Sched. 7, s. 73 (4).

Contents

(5)  Sections 70 and 71 apply with respect to a statement of material change as if it were an offering statement. 2020, c. 36, Sched. 7, s. 73 (5).

(6)  Repealed: 2021, c. 40, Sched. 5, s. 5.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 5](http://www.ontario.ca/laws/statute/S21040" \l "sched5s5) - 01/03/2022

Distribution of statements

**74** (1)  A credit union shall give a copy of an offering statement or statement of material change to each member that requests a copy of one.

Same

(2)  A person who offers a security in a credit union for sale shall give a copy of the offering statement and statement of material change, if any, to a prospective purchaser upon request and to a purchaser.

Withdrawal from purchase

(3)  An agreement of purchase and sale in respect of securities is not binding on the purchaser if the person from whom the purchaser has agreed to purchase the security receives written notice of the purchaser’s intention not to be bound by the agreement not later than midnight on the second business day after receipt by the purchaser of the latest offering statement and any statement of material change.

Same

(4)  Subsection (3) applies with necessary modifications in respect of a person who is subscribing for securities to be issued by a credit union.

Business day

(5)  In subsection (3),

“business day” means a day that is not,

(a) Saturday, or

(b) Sunday or any other holiday, other than Easter Monday and Remembrance Day.

Effect of misrepresentation

**75** (1)  If an offering statement or a statement of material change contains a misrepresentation, a purchaser of a security shall be deemed to have relied upon the misrepresentation if it was a misrepresentation when the purchase was made.

Exception

(2)  Subsection (1) does not apply if the purchaser knew about the misrepresentation when purchasing the security.

Right of action

(3)  The purchaser has a right of action for damages against,

(a) the credit union;

(b) every person, other than an employee of a credit union, who sells the security on behalf of the credit union;

(c) every director of the credit union at the time the offering statement or statement of material change was filed with the Chief Executive Officer;

(d) every person whose consent has been filed pursuant to a requirement of the regulations but only with respect to reports, opinions or statements that have been made by them; and

(e) every person who signed the offering statement or statement of material change other than the persons included in clauses (a) to (d).

Same

(4)  If the purchaser purchased the security from a credit union, the purchaser may elect to exercise a right of rescission against the credit union, in which case the purchaser has no right of action for damages against the credit union.

Defence

(5)  A person who signed the disclosure certificate required under subsection 70 (4) or a director is not liable under this section if the person proves one of the following:

1. The offering statement or statement of material change was filed with the Chief Executive Officer without the person’s knowledge or consent. As soon as the person became aware that it had been filed with the Chief Executive Officer, the person advised the Chief Executive Officer that it was filed with the Chief Executive Officer without the person’s knowledge or consent.

2. The person was not aware of the misrepresentation when the offering statement or material change statement was filed with the Chief Executive Officer. After the receipt for the statement was issued but before the purchaser bought the security, the person immediately after the person became aware of the misrepresentation advised the Chief Executive Officer that the person withdrew consent to the filing of the statement with the Chief Executive Officer.

3. The person had no reasonable grounds to believe, and did not believe, that there had been a misrepresentation.

Interpretation

(6)  In this section,

“misrepresentation” means,

(a) an untrue statement of material fact, or

(b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made.

Restriction on Commission for Purchase or Sale

No commission by directors, officers, employees

**76** None of the following persons shall charge or accept payment of a commission on the purchase or sale of a security of a credit union:

1. The directors, officers and employees of the credit union.

2. The related persons of a director, officer or employee of the credit union.

3. If the credit union is a member of a central, the directors, officers and employees of the central.

part v  
Capital and Liquidity

Adequacy of capital and liquidity

**77** (1)  A credit union shall maintain, in relation to its operations, adequate and appropriate forms of capital and liquidity. 2020, c. 36, Sched. 7, s. 77 (1).

Same

(2)  A credit union shall comply with the Authority rules governing adequate and appropriate forms of capital and liquidity. 2020, c. 36, Sched. 7, s. 77 (2); 2021, c. 40, Sched. 5, s. 6.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 6](http://www.ontario.ca/laws/statute/S21040" \l "sched5s6) - 01/03/2022

Capital and liquidity policies

**78** (1)  A credit union shall establish capital and liquidity policies for the credit union consistent with the Authority rules governing adequate capital and liquidity and the credit union shall adhere to those policies.

Policies to be prudent

(2)  The capital and liquidity policies of a credit union shall consist of policies, standards and procedures that a reasonable and prudent person would apply in order to ensure the financial soundness of the credit union, avoid undue risk of loss and obtain a reasonable return.

Approval and review by board

(3)  The capital and liquidity policies of a credit union are subject to the approval of the board and the board shall review the policies at least once each year.

Order if policies inadequate, etc.

(4)  If the Chief Executive Officer considers the capital and liquidity policies of a credit union to be inadequate or imprudent, the Chief Executive Officer may order the credit union to amend them in accordance with the order.

Procedural rules

(5)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(6)  A credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Additional requirements

**79** (1)  The Chief Executive Officer may order a credit union,

(a) to increase its capital; or

(b) to provide additional liquidity in such forms and amounts as the Chief Executive Officer may require.

Circumstances

(2)  Despite a credit union’s compliance with the Authority rules governing adequate capital and liquidity, the Chief Executive Officer may impose the requirements set out in subsection (1),

(a) if there are reasonable grounds to believe that the credit union is not complying with the requirements of this Act, the regulations and the Authority rules concerning the management of risk in making loans and investments and in the general management of credit union business;

(b) if the Chief Executive Officer considers that imposing the requirement is necessary to protect the interests of members, shareholders or depositors; or

(c) if the Chief Executive Officer considers that imposing the requirement is necessary to ensure the financial security and integrity of the credit union.

Compliance

(3)  The credit union shall comply with the order within such time as the Chief Executive Officer specifies in the order.

Procedural rules

(4)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(5)  A credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Variation of requirements

**80** (1)  A credit union may apply to the Chief Executive Officer for a variation of the requirements under section 77.

Application

(2)  An application must be in a form approved by the Chief Executive Officer and must describe how and when the credit union will meet the requirements under section 77.

Variation

(3)  The Chief Executive Officer may grant the variation subject to any terms the Chief Executive Officer considers appropriate if the Chief Executive Officer considers that granting the variation is in the interest of the members of the credit union and that the credit union will meet the requirements under section 77 within a reasonable time.

Valuation of asset

**81** If the Chief Executive Officer has appraised the value of an asset held by a credit union or a subsidiary and the value determined by the Chief Executive Officer varies materially from the value placed by the credit union or the subsidiary on the asset, the Chief Executive Officer shall send to the credit union, its auditor and its audit committee a written notice of the value of the asset as determined by the Chief Executive Officer.

Report re adequacy

**82** A credit union shall provide a report in a form approved by the Chief Executive Officer concerning its compliance with section 77 to such persons and at such times as required by the Chief Executive Officer.

Provision for losses and accrued interest

**82.1**A credit union shall make monthly provision for doubtful loans and establish reserves as required by the Authority rules or the Authority by-laws. 2021, c. 40, Sched. 5, s. 7.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 7](http://www.ontario.ca/laws/statute/S21040" \l "sched5s7) - 01/03/2022

Part VI  
Governing the Credit union

Directors

Qualifications of directors

**83** Only an individual who meets the following criteria is eligible to be a director of a credit union:

1. The person is a member of the credit union.

2. The person is at least 18 years of age.

3. The person is a Canadian citizen or a person lawfully admitted to Canada for permanent residency who is ordinarily resident in Canada.

Disqualified individuals

**84** Such individuals as may be prescribed by Authority rule are disqualified from being directors of a credit union.

Credit union CEO director

**85** If the by-laws of a credit union permit it, the chief executive officer of the credit union may be a director of the credit union, subject to any limits or restrictions set out in the regulations.

Number of directors

**86** A credit union must have the minimum number of directors prescribed by Authority rule.

Election of board

**87** Subject to the Authority rules, directors shall be elected in the manner provided in the by-laws of the credit union. 2021, c. 40, Sched. 5, s. 8.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 8](http://www.ontario.ca/laws/statute/S21040" \l "sched5s8) - 01/03/2022

Composition of board

**88** The board shall be composed in the manner provided in the Authority rules.

Term of office, directors

**89** Subject to the Authority rules, directors shall hold office for such term as the by-laws of the credit union provide. 2021, c. 40, Sched. 5, s. 9.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 9](http://www.ontario.ca/laws/statute/S21040" \l "sched5s9) - 01/03/2022

Quorum

**90** A majority of the board constitutes a quorum, unless the Authority rules provide otherwise.

Vacancies

**91** If a vacancy occurs in the board, the vacancy shall be filled in accordance with the Authority rules.

Ceasing to hold office

**92** A director ceases to hold office in the circumstances prescribed by Authority rule.

Removal by board

**93** (1)  The boardmay remove a director in accordance with the Authority rules.

Same

(2)  The removal of a director is subject to such conditions and requirements as may be prescribed by Authority rule.

Removal by Chief Executive Officer

**94** (1)  The Chief Executive Officer may, by order, remove a director of a credit union if the Chief Executive Officer is of the opinion,

(a) that the director is not suitable to hold office as a director on the basis of the character or competence of the director; or

(b) that it is in the best interests of the credit union’s members that the director be removed.

Risk of prejudice

(2)  In forming an opinion under subsection (1), the Chief Executive Officer must consider whether the interests of the members, depositors and creditors of the credit union have been or are likely to be prejudiced by the director’s holding office.

Order re more than one director

(3)  An order made under this section may remove more than one director of a credit union.

Same

(4)  If there is not a quorum of directors in office because of an order made under this section to remove directors, the Chief Executive Officer shall appoint the necessary number of directors so there is a quorum of directors in office.

Procedural rules

(5)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(6)  A director who is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Resignation of director

**95** (1)  A director may resign from the board in accordance with the Authority rules.

Same

(2)  The resignation of a director is subject to such conditions and requirements as may be prescribed by Authority rule.

Statement re opposition

**96** (1)  A director who opposes any proposed action or resolution by the directors or members is entitled to give the credit union a written statement setting out why the director opposes the proposed action or resolution.

Circulation of statement

(2)  The credit union shall, within 30 days after receipt of the statement, send a copy of the statement to the Chief Executive Officer.

Immunity

(3)  A credit union and a person acting on its behalf do not incur any liability by reason only of sending the statement as required by subsection (2).

Powers and Duties of Board

Duties of the board

**97** (1)  The board shall manage or supervise the management of the business and affairs of the credit union and shall perform such additional duties as may be imposed under this Act, the regulations or the Authority rules respecting credit unions, or the by-laws of the credit union.

Board, etc., not to manage day to day activities

(2)  The board, a committee of the board or a director shall not directly manage, or be involved in, the day to day activities of the credit union.

First directors

(3)  The first directors of a credit union named in the articles have all the powers and duties and are subject to all the liabilities of directors.

By-law powers

**98** (1)  The board may pass by-laws governing the conduct of the affairs of the credit union. 2020, c. 36, Sched. 7, s. 98 (1).

Required matters

(2)  The by-laws of a credit union shall provide for the following matters:

1. The appointment of officers of the credit union and the establishment of their duties.

2. The calling of meetings of the board, including the minimum number of times the board must meet each financial year if the minimum number of times exceeds the minimum number of times prescribed by regulation, the place or places where meetings of the board may be held and the manner in which notice of the meetings must be given.

3. Such other matters as may be prescribed by regulation. 2020, c. 36, Sched. 7, s. 98 (2); 2021, c. 40, Sched. 5, s. 10 (1).

(3)  Repealed: 2021, c. 40, Sched. 5, s. 10 (2).

Limitation

(4)  By-laws that are contrary to this Act, the regulations or the articles of the credit union are void. 2020, c. 36, Sched. 7, s. 98 (4).

Same

(5)  By-laws that relieve a person of obligations or requirements under this Act or the regulations are void. 2020, c. 36, Sched. 7, s. 98 (5).

Restrictive by-laws

(6)  A by-law may impose greater restrictions in respect of a matter than are imposed under this Act or the regulations. 2020, c. 36, Sched. 7, s. 98 (6).

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 10 (1, 2)](http://www.ontario.ca/laws/statute/S21040" \l "sched5s10s1) - 01/03/2022

Remuneration of directors

**99** The procedures for setting, paying and disclosing the remuneration and expenses of directors and members of committees shall be established by Authority rule.

When by-law effective

**100** (1)  A by-law is not effective until it is passed by the board and confirmed, with or without variation, by a special resolution passed at a general meeting of the members duly called for that purpose or by such greater proportion of the votes cast as the articles may provide.

Filing

(2)  Within 30 days after a by-law is confirmed, the credit union shall file a copy of it with the Chief Executive Officer.

Establishment of and delegation to committees

**101** The board may establish committees in accordance with the Authority rules and may delegate powers and assign duties to those committees in accordance with the Authority rules.

Code of market conduct

**102** (1)  The board of every credit union shall adopt a code of market conduct.

Same, filing requirement

(2)  The board of a credit union shall file a copy of the credit union’s code of market conduct, and any amendments to the code, with the Chief Executive Officer.

Chief Executive Officer may require amendment of code

(3)  The Chief Executive Officer may direct the board of a credit union to amend the credit union’s code of market conduct at any time.

Chief Executive Officer may require adoption of code

(4)  If the board of a credit union does not adopt a code of market conduct under subsection (1), the Chief Executive Officer may require that the board adopt a code of market conduct selected by the Chief Executive Officer.

Compliance

(5)  A credit union shall comply with its code of market conduct.

Gender diversity report

**103** (1)  The board of every credit union shall report annually on the gender diversity of the board.

Same

(2)  A gender diversity report must comply with such requirements as may be prescribed by regulation.

Audit Committee

Audit committee

**104** (1)  The board of every credit union shall establish an audit committee composed of members appointed by the board from among the directors.

Powers and duties of audit committee

(2)  The audit committee has such powers and duties as are set out in this Act, prescribed by the Authority rules or set out in the by-laws of the credit union.

Officers

Officers

**105** (1)  A credit union must have such officers as are provided for in the Authority rules and may have such additional officers as are provided for in the credit union’s by-laws.

Powers and duties of officers

(2)  Subject to this Act, the regulations, the Authority rules and the by-laws of the credit union, the board may establish the duties of the credit union’s officers.

Remuneration of officers

**106** The procedures for setting, paying and disclosing the remuneration and expenses of officers shall be established by Authority rule.

Duties of Directors, Officers and Committee Members

Duty of confidentiality

**107** (1)  Every director, officer, member of a committee or employee of a credit union shall keep confidential all information received by the credit union or by a subsidiary or other affiliate of the credit union that the director, officer, committee member or employee knows or should know is confidential to the credit union or subsidiary or other affiliate.

Use of information

(2)  No director, officer, member of a committee or employee of a credit union shall make use of information referred to in subsection (1) in any transaction in order to obtain, directly or indirectly, a benefit or advantage for any person other than the credit union or a subsidiary or other affiliate of the credit union.

Confidentiality re members

**108** (1)  Every director, officer, member of a committee or employee of a credit union shall keep confidential all information respecting members of the credit union.

Exception — consent

(2)  Despite subsection (1), information respecting a member may be disclosed with the consent of the member.

Exceptions

(3)  Despite subsection (1), a director, officer or member of a committee or an employee authorized by the board may disclose information,

(a) to a person acting in a confidential or professional relationship to the credit union, including an employee of a central in which the credit union is a member;

(b) to a financial institution with which the credit union has transactions that may involve confidential matters;

(c) to another credit union with which the credit union of the director, officer, committee member or employee proposes to amalgamate, for the purposes of the amalgamation, if the credit unions have signed letters of intent to enter into an agreement for the amalgamation;

(d) to a person to whom the credit union proposes to sell assets, for the purposes of the sale, if the credit union and the person have signed letters of intent to enter into an agreement of purchase and sale for the sale;

(e) to a credit grantor or to a reporting agency, if the disclosure is for the purpose of determining the creditworthiness of the member;

(f) to the Chief Executive Officer and the Authority; and

(g) to any other person entitled to the information by law.

Duty of care

**109** (1)  Every director, officer and member of a committee shall exercise their powers and discharge their duties honestly, in good faith and in the best interests of the credit union.

Standard of care

(2)  The director, officer or committee member shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Duty to comply

**110** (1)  Every director, officer, member of a committee and employee of a credit union shall comply with this Act, the regulations, the Authority rules, the by-laws of the credit union and any requirements imposed by the Chief Executive Officer under this Act. 2020, c. 36, Sched. 7, s. 110.

No exculpation

(2)  No provision in any contract, in any resolution or in the by-laws of a credit union relieves a director, an officer, a committee member or an employee from a duty under this section or relieves that individual from liability for a breach of a duty. 2021, c. 40, Sched. 5, s. 11.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 11](http://www.ontario.ca/laws/statute/S21040" \l "sched5s11) - 01/03/2022

Conflicts of Interest

Disclosure of interest

**111** (1)  This section applies to every director, officer, member of a committee or employee of a credit union who,

(a) is a party to a material contract or proposed material contract with the credit union;

(b) is a director or an officer of an entity that is a party to a material contract or proposed material contract with the credit union;

(c) has a material interest in a person who is a party to a material contract or proposed material contract with the credit union; or

(d) is a spouse, parent or child of an individual who is a party to a material contract or proposed material contract with the credit union. 2020, c. 36, Sched. 7, s. 111 (1); 2021, c. 4, Sched. 11, s. 6 (2).

Same

(2)  The director, officer, committee member or employee shall disclose, in writing, to the credit union or ask to have the nature and extent of that person’s interest entered in the minutes of board meetings. 2020, c. 36, Sched. 7, s. 111 (2).

Time of disclosure, director

(3)  A director shall make the disclosure,

(a) at the board meeting at which a proposed contract is first considered;

(b) if the director was not then interested in a proposed contract, at the first meeting after the director becomes so interested;

(c) if the director becomes interested after a contract is made, at the first meeting after the director becomes so interested; or

(d) if a person who is interested in a contract later becomes a director, at the first meeting after that person becomes a director. 2020, c. 36, Sched. 7, s. 111 (3).

Same, officer or committee member

(4)  An officer, committee member or employee shall make the disclosure,

(a) promptly after the officer, committee member or employee becomes aware that a proposed contract is to be considered or a contract has been considered at a board meeting;

(b) if the officer, committee member or employee becomes interested after a contract is made, promptly after becoming so interested; or

(c) if a person who is interested in a contract later becomes an officer, committee member or employee, promptly after becoming an officer, committee member or employee. 2020, c. 36, Sched. 7, s. 111 (4).

Same, no board approval

(5)  If a material contract or proposed material contract is one that, in the ordinary course of business of the credit union, would not require approval by the board or the members, the director, officer, committee member or employee shall make the disclosure promptly after becoming aware of the contract or proposed contract. 2020, c. 36, Sched. 7, s. 111 (5).

Continuing disclosure

(6)  A general notice to the board by a director, officer, committee member or employee declaring that the director, officer, committee member or employee is a director or officer of an entity, or has a material interest in a person, and is to be regarded as interested in any contract made with that entity or person, is sufficient disclosure of an interest in relation to any contract so made. 2020, c. 36, Sched. 7, s. 111 (6).

**Section Amendments with date in force (d/m/y)**

[2021, c. 4, Sched. 11, s. 6 (2)](http://www.ontario.ca/laws/statute/S21004" \l "sched11s6s2) – 01/03/2022

Voting

**112** (1)  A director to whom section 111 applies shall not be present at any meeting while the contract is being discussed or vote on, or attempt to influence the voting on, any resolution to approve the contract.

Exception

(2)  Subsection (1) does not apply if the contract is,

(a) an arrangement by way of security for money lent to or obligations undertaken by the director for the benefit of the credit union or a subsidiary of it;

(b) a contract relating primarily to the director’s remuneration as a director or as a member of a committee or an officer, employee or agent of the credit union or a subsidiary of it or an entity controlled by it;

(c) a contract for indemnity under section 123 or for insurance under section 122; or

(d) a contract with a subsidiary of the credit union.

Ineligibility

(3)  A director who knowingly contravenes subsection (1) ceases to hold office as a director and is not eligible, for a period of five years after the date on which the contravention occurred, for election or appointment as a director of any financial institution that is incorporated or formed by or under an Act of the Province of Ontario.

Avoidance standards

**113** (1)  If a director, officer, committee member or employee made a required disclosure in respect of a contract referred to in subsection 111 (1), the contract was approved by the board or by the members of the credit union and the contract was reasonable and fair to the credit union at the time it was approved, the contract is neither void nor voidable by reason only,

(a) of the relationship between the person or entity and the director, officer, committee member or employee; or

(b) that an interested director is present at or is counted to determine the presence of a quorum at the board meeting that authorized the contract.

Application to court

(2)  If a director, officer, committee member or employee of a credit union fails to disclose an interest in a material contract in accordance with section 111, a court may, on the application of the credit union or a member of the credit union, set aside the contract on such conditions as the court thinks fit.

Prohibition re acting for credit union

**114** (1)  This section applies with respect to a person who is a director of a credit union or a member of a committee.

Same

(2)  The person or a partnership or corporation from which the person receives compensation shall not act, for compensation, in a professional capacity in respect of business matters related to the credit union.

Prohibition re acting as trustee

**115** An officer or employee of a credit union shall not act as a trustee with respect to a deposit with the credit union or any other business or transaction with the credit union unless the beneficiary is a related person of the officer or employee.

Miscellaneous

Validity of actions

**116** An act by a director, officer or member of a committee is not invalid by reason only of a defect discovered afterward in the appointment, election or qualification of the director, officer or member.

Requirement for bond

**117** (1)  Every director, officer or employee of a credit union who receives or has charge of money shall, on assuming the director, officer or employee’s duties, furnish to the credit union proof of bonding insurance that is satisfactory to the Chief Executive Officer.

Bond

(2)  The bond must be for an amount equal to or greater than the amount that is prescribed by Authority rule or determined in the manner prescribed by Authority rule and must satisfy such conditions as may be prescribed by Authority rule.

Liability of directors, etc.

**118** A liability imposed under this Act upon a director, officer or member of a committee is in addition to any other liability that is imposed upon that person by law.

Specific liability of directors

**119** (1)  The directors of a credit union who vote for or consent to a resolution of the directors authorizing the issue of shares contrary to subsection 51 (1), or the issue of subordinated indebtedness contrary to section 151 for a consideration other than money are jointly and severally liable to the credit union to make good any amount by which the consideration is less than the fair market value that the credit union would have received if the share or subordinated indebtedness had been issued for money on the date of the resolution.

Further liabilities

(2)  The directors of a credit union who vote for or consent to a resolution of the directors authorizing any of the distributions or payments listed in subsection (3) are jointly and severally liable to restore to the credit union any amounts so distributed or paid and not otherwise recovered by the credit union and any amounts in relation to any loss suffered by the credit union.

Same

(3)  The following are the distributions and payments referred to in subsection (2):

1. A redemption or purchase of shares contrary to this Act.

2. A reduction of capital contrary to this Act.

3. A payment of a dividend contrary to this Act.

4. The payment of an indemnity contrary to this Act.

5. Any transaction with a restricted party contrary to this Act.

Contribution

**120** (1)  A director who has satisfied a judgment in relation to the director’s liability under section 119 is entitled to contribution from the other directors who voted for or consented to the unlawful act on which the judgment was founded.

Recovery

(2)  A director who is liable under section 119 is entitled to apply to a court for an order compelling a member, shareholder or other person to pay or deliver to the director,

(a) any money or property that was paid or distributed to the member, shareholder or other person contrary to this Act; or

(b) an amount equal to the value of the loss suffered by the credit union as a result of any transaction contrary to Part IX or the regulations made for the purposes of that Part.

Court order

(3)  Where an application is made to a court under subsection (2), the court may, where it is satisfied that it is equitable to do so,

(a) order a member, shareholder, or other person to pay or deliver to a director any money or property that was paid or distributed to the member, shareholder or other person contrary to this Act or any amount referred to in clause (2) (b);

(b) order a credit union to return or issue membership shares or shares to a member or shareholder from whom the credit union has purchased, redeemed or otherwise acquired membership shares or shares; or

(c) make any further order it thinks fit.

Due diligence, reliance on statement, etc.

**121** (1)  A director, officer, member of a committee or an employee of a credit union is not liable under section 119 or 196 and has fulfilled their duty under section 110 if they exercised the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, including reliance in good faith on,

(a) financial statements of the credit union represented to them by an officer of the credit union or in a written report of the auditor of the credit union fairly to reflect the financial condition of the credit union; or

(b) a report of an accountant, lawyer or other professional person whose profession lends credibility to a statement made by the person.

Same

(2)  A director, officer or member of a committee of a credit union has fulfilled their duty under section 109 if they relied in good faith on,

(a) financial statements of the credit union represented to them by an officer of the credit union or in a written report of the auditor of the credit union fairly to reflect the financial condition of the credit union; or

(b) a report of an accountant, lawyer or other professional person whose profession lends credibility to a statement made by the person.

Insurance for directors and officers

**122** (1)  A credit union may purchase and maintain insurance for the benefit of an eligible person as defined in section 123 against any liability incurred by the person in the person’s capacity as,

(a) a director, officer or member of a committee; or

(b) a director or officer of another entity if the person acts or acted in that capacity at the credit union’s request.

Exception

(2)  Subsection (1) does not apply if the liability relates to the person’s failure to act honestly, in good faith and in the best interests of the credit union.

Indemnity for directors, etc.

**123** (1)  In this section,

“eligible person” means, with respect to a credit union,

(a) a director, officer or member of a committee,

(b) a former director, officer or member of such a committee, or

(c) a person who acts or acted at the request of the credit union as a director or an officer of an entity of which the credit union is or was a member, shareholder or creditor.

Indemnification

(2)  A credit union may indemnify an eligible person in respect of any proceeding to which the person is made a party by reason of serving or having served in a qualifying capacity.

Exception

(3)  Despite subsection (2), the credit union may not indemnify the person in respect of a proceeding by or on behalf of the credit union to procure a judgment in its favour.

Advance to pay for costs, etc.

(4)  A credit union may advance money to an eligible person to pay for the costs, charges and expenses of any proceeding to which the person is made a party by reason of serving or having served in a qualifying capacity, but the person is required to repay the money if either of the conditions described in subsection (7) is not satisfied.

Same, derivative action

(5)  With the approval of a court, a credit union may indemnify an eligible person in respect of a proceeding by or on behalf of the credit union or entity to procure a judgment in its favour to which the person is made a party by reason of serving or having served in a qualifying capacity.

Advance to pay for costs, etc., derivative action

(6)  With the approval of a court, a credit union may advance money to an eligible person to pay for the costs, charges and expenses of a proceeding described in subsection (5) to which the person is made a party by reason of serving or having served in a qualifying capacity, but the person is required to repay the money if either of the conditions described in subsection (7) is not satisfied.

Restriction

(7)  The credit union may indemnify an eligible person under this section only if,

(a) the person acted honestly and in good faith with a view to the best interests of the credit union; and

(b) in the case of a proceeding enforced by a monetary penalty, the person had reasonable grounds for believing that the impugned conduct was lawful.

Right to indemnity

(8)  An eligible person is entitled to indemnity from the credit union in connection with the defence of a proceeding to which the person is made a party by reason of serving or having served in a qualifying capacity if the eligible person,

(a) was substantially successful on the merits in the defence of the proceeding; and

(b) fulfils the conditions set out in clauses (7) (a) and (b).

Extent of indemnity

(9)  An indemnity under this section is against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment reasonably incurred by the person in connection with the specified proceeding.

Heirs

(10)  A credit union may indemnify the heirs or personal representatives of any eligible person that the credit union is authorized to indemnify under this section.

Interpretation

(11)  In this section, to serve in a qualifying capacity means,

(a) acting or having acted as a director, officer or member of a committee; or

(b) acting or having acted at the request of the credit union as a director or an officer of an entity of which the credit union is or was a member, shareholder or creditor.

Application for indemnification

**124** (1)  A credit union or an eligible person under section 123 may apply to a court for an order approving an indemnity under that section and the court may so order and make any further order it thinks fit.

Notice

(2)  The applicant shall give the Chief Executive Officer written notice of the application.

Other notice

(3)  The court may order notice to be given to any interested person.

Right to participate

(4)  The Chief Executive Officer and each interested person is entitled to appear and to be heard at the hearing of the application in person or by counsel.

Auditor

Auditor

**125** (1)  A credit union shall appoint an auditor in accordance with the Authority rules.

Qualifications of auditor

(2)  The auditor must have the qualifications prescribed by Authority rule.

Removal by credit union

**126** (1)  The credit union may remove an auditor in accordance with the Authority rules.

Same

(2)  The removal of an auditor is subject to such conditions and requirements as may be prescribed by Authority rule.

Removal by Chief Executive Officer

**127** The Chief Executive Officer may, by order, remove an auditor of a credit union if the Chief Executive Officer is of the opinion that it is in the best interests of the credit union that the auditor be removed.

Resignation of auditor

**128** (1)  An auditor may resign from the credit union in accordance with the Authority rules.

Same

(2)  The resignation of an auditor is subject to such conditions and requirements as may be prescribed by Authority rule.

Replacement of auditor

**129** If an auditor is removed or resigns, the credit union must appoint a replacement auditor in accordance with the Authority rules.

Remuneration of auditor

**130** The procedures for setting, paying and disclosing the remuneration of auditors shall be established by the board of the credit union, subject to the Authority rules. 2021, c. 40, Sched. 5, s. 12.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 12](http://www.ontario.ca/laws/statute/S21040" \l "sched5s12) - 01/03/2022

Auditor for subsidiaries

**131** (1)  A credit union shall take all necessary steps to ensure that its auditor is duly appointed as the auditor of each of its subsidiaries unless the Chief Executive Officer authorizes another person to act as auditor of a subsidiary.

Exception

(2)  If a person is appointed as auditor by a body corporate before it becomes a subsidiary of a credit union, the person may complete the term of the appointment.

Rights and Duties of Auditors

Right of access

**132** (1)  The auditor of a credit union has a right of access at all times to all records and documents of the credit union.

Same

(2)  The auditor is entitled to require from the board, directors, officers, employees and agents of the credit union such information and explanations as the auditor considers necessary to enable the auditor to make such reports as are required under this Act.

Same

(3)  On the request of the auditor, the former directors, officers, employees or agents of the credit union shall, to the extent that they are reasonably able to do so, provide such information and explanations as are, in the opinion of the auditor, necessary to enable the auditor to perform the auditor’s duties.

Right to attend meetings

**133** (1)  The auditor is entitled,

(a) to attend any meeting of members or shareholders of the credit union;

(b) to receive all notices and other communications relating to a meeting that a member or shareholder is entitled to receive; and

(c) to be heard at a meeting on any part of the business of the meeting that concerns the auditor.

Required attendance

(2)  A member of a credit union who is entitled to vote at a meeting of members may require the auditor to attend such a meeting and the auditor shall do so at the credit union’s expense.

Notice

(3)  The member must give written notice to the credit union at least five days before the meeting that the member wishes the auditor to attend.

Power to call meetings

**134** (1)  The auditor is entitled to call a meeting with the board, the audit committee or the internal auditor of the credit union.

Required attendance

(2)  If the auditor calls a meeting under subsection (1), the board, the audit committee or the internal auditor of the credit union, as the case may be, shall attend the meeting.

Auditor’s report

**135** (1)  The auditor shall make such examinations as will enable the auditor to report to the members of the credit union in accordance with this section.

Same

(2)  The auditor shall report to the members on the financial statements to be placed before them at the annual meeting.

Qualified report

(3)  If the auditor’s report is not an unqualified report, the auditor shall state in the report the reason for the qualified report.

Facts discovered subsequently

(4)  If facts come to the attention of an officer, the board or the audit committee which, if they had been known before the most recent annual meeting, would have required a material adjustment to the financial statement presented at the meeting, the officer, board or audit committee shall notify the auditor who reported to the members at the meeting and the board shall promptly amend the financial statement and send it to the auditor.

Amendment of report

(5)  Upon receipt of the facts furnished under subsection (4) or from any other source, the auditor shall amend the report in respect of the financial statement furnished under that subsection if the auditor considers the amendment necessary.

Notice of amendment

(6)  The board shall deliver the amended report to the members but, if the board does not do so within a reasonable time, the auditor shall deliver it to them.

Amended report to Chief Executive Officer

(7)  Within 10 days after providing the amended report to the credit union, the auditor shall provide a copy of the amended report to the Chief Executive Officer.

Auditing standards

(8)  The auditor’s examination referred to in subsection (1) shall, except as otherwise specified by the Chief Executive Officer, be conducted in accordance with generally accepted auditing standards, the primary source of which is the Handbook of the Chartered Professional Accountants of Canada.

Report to address adequacy of capital

(9)  The auditor’s report shall address the credit union’s compliance with section 77.

Extended examination required by Chief Executive Officer

**136** (1)  The Chief Executive Officer may, in writing, require that the auditor of a credit union,

(a) report to the Chief Executive Officer on the extent of the auditor’s procedures in the examination of the credit union’s financial statements;

(b) enlarge or extend the scope of that examination; or

(c) perform any other specific procedure.

Same

(2)  The auditor shall comply with any direction by the Chief Executive Officer under subsection (1) and report to the Chief Executive Officer the results of the extended examination of specified procedure.

Special examination

(3)  The Chief Executive Officer may, in writing, require that the auditor make an examination relating to the adequacy of the procedures adopted by the credit union for the safety of its creditors, members and shareholders, or any other examination that the public interest may require.

Same

(4)  The auditor shall report the results of an examination to the Chief Executive Officer or to such persons as the Chief Executive Officer may direct.

Special examination by auditor appointed by Chief Executive Officer

(5)  The Chief Executive Officer may direct that a special audit of a credit union be made if, in the opinion of the Chief Executive Officer, it is necessary and may appoint, for that purpose, an auditor qualified pursuant to subsection 125 (2).

Expenses payable by credit union

(6)  The credit union shall pay the expenses of an examination or audit referred to in this section after the expenses have been approved, in writing, by the Chief Executive Officer.

Duty to report contravention

**137** (1)  The auditor of a credit union shall report in writing to the chair of the board and to the audit committee of the credit union any transaction or conditions that have come to the auditor’s attention adversely affecting the credit union that, in the auditor’s opinion, are not satisfactory and require rectification.

Same

(2)  A report under subsection (1) shall include such information as may be prescribed by Authority rule and shall be transmitted by the auditor to the persons prescribed by Authority rule.

Part vii  
Business powers

Permitted Business Activities

Permitted activities

**138** Subject to this Act, a credit union shall not engage in or carry on a business or business activity other than the following businesses and business activities:

1. Provide financial services primarily to its members, depositors, subsidiaries and affiliates.

2. Hold and deal with real property.

3. Act as a custodian of property on behalf of its members, depositors, subsidiaries and affiliates.

4. Provide administrative, educational, promotional, technical, research and consultative services to its members, depositors, subsidiaries and affiliates.

5. Make loans to officers and employees of the credit union.

6. Such other businesses and business activities as may be authorized by this Act or prescribed by the Authority rules.

Restrictions on Powers

Ancillary businesses

**139** (1)  A credit union shall not deal in goods or engage in any trade or business except as authorized by this Act or the Authority rules.

Same

(2)  Despite subsection (1), a credit union may, with the Chief Executive Officer’s written approval, deal in goods or engage in a trade or business that is not otherwise authorized by this Act, the regulations or the Authority rules.

Same

(3)  A credit union may request a written approval under subsection (2) in accordance with the Authority rules and the approval is subject to such conditions or limitations as may be prescribed by the Authority rules.

Prohibition

(4)  A credit union shall not provide services that are prescribed by Authority rule as prohibited.

Networking

(5)  Subject to this Act, a credit union may act as an agent for a subsidiary or other persons or entities prescribed by Authority rule in respect of the provision of services to the credit union’s members, depositors, affiliates and other subsidiaries and refer members, depositors, affiliates or subsidiaries to one of its subsidiaries or other persons or entities prescribed by Authority rule.

Restriction re partnerships

**140** (1)  A credit union shall not be a general partner in a limited partnership or a partner in any other partnership.

Exception

(2)  Despite subsection (1), the Chief Executive Officer may authorize a credit union to become a general partner in a limited partnership or a partner in another partnership.

Restriction on insurance

**141** (1)  A credit union may undertake the business of insurance or act as an agent for any person in placing insurance only to the extent permitted by the Authority rules.

Savings

(2)  Nothing in this section precludes a credit union from,

(a) requiring insurance to be placed by a member for the security of the credit union; or

(b) obtaining group insurance for its employees, its members or the employees of a subsidiary.

Same

(3)  Nothing in this section precludes a central from obtaining group insurance for its employees, its members or the employees of its members or of a subsidiary.

No pressure

(4)  A credit union shall not exercise pressure on a member to place insurance for the security of the credit union with any particular insurance company.

Insurance requirement

(5)  A credit union may require that any insurance chosen by a member meet with its approval.

Same

(6)  The approval required under subsection (5) shall not be unreasonably withheld.

Interpretation

(7)  For the purpose of this section, the business of insurance includes the issuing of an annuity where the liability thereon is contingent on the death of a person.

Restrictions on fiduciary activities

**142** A credit union may undertake fiduciary activities only to the extent permitted by the Authority rules.

Guarantees

**143** (1)  A credit union may not guarantee the payment of money on behalf of another person unless,

(a) it is a fixed sum of money, with or without interest thereon; and

(b) the person has an unqualified obligation to reimburse the credit union for the full amount being guaranteed. 2020, c. 36, Sched. 7, s. 143 (1).

Authorization by the Chief Executive Officer

(2)  Despite subsection (1), the Chief Executive Officer may authorize a credit union to guarantee a payment in circumstances other than those described in that subsection. 2020, c. 36, Sched. 7, s. 143 (2).

Conditions

(3)  A guarantee is subject to such conditions and restrictions as may be prescribed by regulation. 2020, c. 36, Sched. 7, s. 143 (3).

Limit on amount

(4)  The aggregate value of a credit union’s guarantees together with those of its subsidiaries must not exceed a prescribed per cent of the regulatory capital and deposits of the credit union. 2020, c. 36, Sched. 7, s. 143 (4).

Exemption

(5)  The Chief Executive Officer may exempt a credit union from the limit under subsection (4) on the aggregate value of guarantees. 2020, c. 36, Sched. 7, s. 143 (5).

Non-application

(6)  Subsection (1) does not apply in the case of an indemnity under section 123. 2020, c. 36, Sched. 7, s. 143 (6).

Non-application of subs. (1) (a)

(7)  Clause (1) (a) does not apply with respect to a guarantee given by a credit union on behalf of a central or a financial institution that is a member of Canadian Payments Association if the payment guaranteed represents the obligation of the central or financial institution to settle for payment items in accordance with the by-laws and rules of Canadian Payments Association or such other guarantees as may be prescribed by regulation. 2020, c. 36, Sched. 7, s. 143 (7); 2021, c. 40, Sched. 5, s. 13.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 13](http://www.ontario.ca/laws/statute/S21040" \l "sched5s13) - 01/03/2022

Appointment of receiver, etc.

**144** A credit union shall not give a person the right to appoint a receiver or a receiver and manager of the property or business of the credit union.

Deposits

Deposits accepted from members, etc.

**145** (1)  A credit union may accept deposits only from,

(a) its members;

(b) the Authority;

(c) Her Majesty in right of Canada or of a province;

(d) an agency of Her Majesty in right of either Canada or of a province;

(e) the government of a foreign country;

(f) a political subdivision or an agency of a government of a foreign country;

(g) municipalities;

(h) crown agencies;

(i) entities directly funded by the federal government, a provincial government or a municipality;

(j) centrals;

(k) subject to any restrictions in the by-laws of the credit union, persons who have not become members of the credit union but whose deposit accounts were acquired by the credit union as a result of the purchase of all or part of the business of another financial institution that is not a credit union; and

(l) other persons or entities approved by the Chief Executive Officer.

Authority to accept deposits

(2)  A credit union may, without the intervention of another person,

(a) accept a deposit from a person referred to in subsection (1) whether or not the person is qualified by law to enter into contracts; and

(b) pay all or part of the principal of the deposit and all or part of the interest earned on the deposit to or to the order of that person.

Exception

(3)  Clause (2) (b) does not apply if, before the payment is made, the money deposited with the credit union is claimed by another person,

(a) in an action or proceeding to which the credit union is a party and in respect of which service of a claim or other process originating that action or proceeding has been made on the credit union; or

(b) in an action or proceeding pursuant to which an injunction or order made by the court requiring the credit union not to make payment of that money or to make payment of it to some person other than the depositor has been served on the credit union.

Same

(4)  In the case of a claim referred to in subsection (3), the money may be paid to the depositor only with the consent of the claimant or to the claimant only with the consent of the depositor.

RRSPs for employees of a member

(5)  Despite subsection (1), a credit union may accept deposits for RRSPs for employees of a member if the member was involved in the establishment of the RRSPs at the credit union and the member makes payments into the RRSPs on behalf of the employees.

Application of other provisions

(6)  Subsections (2), (3) and (4) apply, with necessary modifications, with respect to employees referred to in subsection (5).

Definition

(7)  In subsection (5),

“RRSPs” means registered retirement savings plans within the meaning of subsection 146 (1) of the Income Tax Act (Canada).

Not bound by trust

**146** (1)  A credit union is not bound to see to the execution of any trust to which any deposit is subject.

Application, payment when credit union has notice of trust

(2)  Subsection (1) applies whether the trust is express, implied or constructive and applies even when the credit union has notice of the trust if the credit union acts on the order of or under the authority of the holder or holders of the account into which the deposit is made.

Note: Section 147 of this Act is not yet in force. It comes into force on a day to be named by proclamation of the Lieutenant Governor.

Unclaimed deposits

**147** (1)  In this section,

“transferred unclaimed amount” means an unclaimed deposit that has been paid by a credit union to the Authority, and includes interest, if any accrues; (“somme non réclamée transférée”)

“unclaimed deposit” means a deposit that has been made to a credit union and in respect of which no transaction has taken place and no statement of account has been requested or acknowledged by the depositor during a period of 10 years from the day on which the last transaction took place or a statement of account was last requested or acknowledged by the depositor, whichever is later. (“dépôt non réclamé”)

Same

(2)  A credit union shall pay an amount equal to the unclaimed deposits made to it to the Authority in accordance with the Authority rules.

Limitation on credit union liability

(3)  Once a payment has been made under subsection (2), the credit union is discharged from all liability in respect of the amounts paid.

Payment by Authority

(4)  The Authority shall pay transferred unclaimed amounts to a person claiming to be entitled to them upon being furnished with satisfactory evidence of the person’s entitlement to the transferred unclaimed amounts in accordance with the Authority rules.

Interest on transferred unclaimed amounts

(5)  Interest payable on transferred unclaimed amounts shall be determined in accordance with the Authority rules and is payable for the period specified in the Authority rules.

Same

(6)  No interest is payable on transferred unclaimed amounts if the Authority rules so specify.

Limitation on Authority liability

(7)  The Authority is not liable to pay a claim for transferred unclaimed amounts if,

(a) the transferred unclaimed amount is less than $1,000 and at least 40 years have elapsed since the transfer from the credit union to the Authority under subsection (2); or

(b) the transferred unclaimed amount is $1,000 or more and at least 100 years have elapsed since the transfer from the credit union to the Authority under subsection (2).

Same, application

(8)  For greater certainty, subsection (7) applies in respect of transferred unclaimed amounts paid to the Authority before that subsection comes into force.

Amounts to be paid to Minister

(9)  The Authority shall pay into the Consolidated Revenue Fund an amount equal to any transferred unclaimed amounts that the Authority is not liable to pay a claim for under subsection (7) within two months from the end of the applicable time limit set out in that subsection and no claim may be made in respect of those amounts paid into the Consolidated Revenue Fund.

Unclaimed amounts database

(10)  The Authority shall, for the purpose of allowing the public to search for transferred unclaimed amounts,

(a) maintain a searchable database of transferred unclaimed amounts;

(b) include in the database such information as the Authority considers appropriate in respect of each transferred unclaimed amount; and

(c) publish and maintain an up-to-date version of the database on the website of the Authority.

Same, no liability

(11)  The Authority is not liable for any loss, cost or damage suffered by any person as a result of any information included in or omitted from the database unless the inclusion or omission was in bad faith.

Application despite other Act

(12)  This section applies despite the provisions of any other Act that would apply with respect to the disposition of an unclaimed and unpaid amount on deposit and the provisions of any such other Act shall not apply with respect to such an amount.

Debt Obligations

Limit on borrowing

**148** (1)  A credit union shall not borrow an aggregate amount exceeding 50 per cent of its regulatory capital and deposits or such lesser amount as may be established by its by-laws.

Restriction on borrowing from another credit union

(2)  No credit union shall borrow money from another credit union except as authorized by the Authority rules.

Definition, “borrow”

(3)  For the purposes of subsection (1), “borrow” has the meaning set out in section 1 unless a different meaning is prescribed by the Authority rules.

Security interests in credit union property

**149** A credit union may create a security interest in property of the credit union only as authorized by the Authority rules.

Notice re acquisitions subject to security interests

**150** A credit union shall notify the Chief Executive Officer in writing if it acquires, other than by way of realization on the security for a loan, a beneficial interest in property that is subject to a security interest.

Restrictions on subordinated indebtedness

**151** (1)  A credit union shall not issue subordinated indebtedness unless it is fully paid for in money or, with the approval of the Chief Executive Officer, in property.

References to subordinated indebtedness

(2)  No person shall, in any prospectus, offering statement, advertisement, correspondence or literature relating to any subordinated indebtedness issued or to be issued by a credit union, refer to the subordinated indebtedness other than as subordinated indebtedness.

Not a deposit

(3)  Subordinated indebtedness issued by a credit union is not considered to be a deposit.

Other currencies

(4)  When issuing subordinated indebtedness, a credit union shall provide that any aspect of the subordinated indebtedness relating to money or involving the payment of or the liability to pay money in relation to the subordinated indebtedness be in Canadian currency.

Limit on borrowing

**152** (1)  The Chief Executive Officer may inquire into the borrowing by a credit union and may, by order, limit the credit union’s authority to borrow money.

Effect

(2)  The credit union shall not exercise its borrowing power in excess of any limit set out in the order of the Chief Executive Officer.

Procedural rules

(3)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(4)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Investment and lending policies

**153** (1)  A credit union shall establish investment and lending policies for the credit union and the credit union shall adhere to those policies.

Policies to be prudent

(2)  The investment and lending policies of a credit union shall consist of policies, standards and procedures that a reasonable and prudent person would apply in respect of a portfolio of investments and loans in order to avoid undue risk of loss and obtain a reasonable return.

Approval and review by board

(3)  The investment and lending policies of a credit union are subject to the approval of the board and the board shall review the policies at least once each year.

Order if policies inadequate, etc.

(4)  If the Chief Executive Officer considers the investment and lending policies of the credit union to be inadequate or imprudent, the Chief Executive Officer may order the credit union to cease investing or lending as specified in the order until the policies are amended in accordance with the order.

Procedural rules

(5)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(6)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Loans

Lending

**154** (1)  A credit union may loan money,

(a) to its members;

(b) to non-members; and

(c) subject to the requirements prescribed by regulation, by participating in a syndicated loan.

Exception — loans acquired by purchase

(2)  If a credit union acquires a loan as a result of a purchase of all or part of the business of another financial institution, the credit union may continue that loan, despite subsection (1), for one year after the loan is acquired or, if the loan is for a specified term, until the end of that term.

Prescribed lending limits

**155** (1)  A credit union shall not make loans in excess of such lending limits as may be prescribed by regulation, or as may be ordered under subsection (2) or (5).

Lowering lending limits

(2)  The Chief Executive Officer may, by order, lower a credit union’s lending limits if the Chief Executive Officer believes on reasonable grounds that the credit union’s current lending limits may adversely affect the interests of the credit union’s members, depositors or shareholders.

Procedural rules

(3)  Section 209 applies with respect to an order under subsection (2).

Appeal to Tribunal

(4)  The credit union that is subject to an order under subsection (2) may appeal the order to the Tribunal in accordance with section 212.

Raising lending limits

(5)  On application by a credit union, the Chief Executive Officer may, by order on terms specified in the order, raise the credit union’s lending limits if the Chief Executive Officer is satisfied there are reasonable grounds for doing so.

Loan workouts

**156** (1)  Despite anything in this Part, if a credit union has made a loan and a default has occurred, the credit union may, subject to the agreement between the credit union and entity governing the loan, acquire,

(a) if the entity is a body corporate, all or any of the shares of the body corporate;

(b) if the entity is an unincorporated entity, all or any of the ownership interests in the entity;

(c) all or any of the shares or all or any of the ownership interests in any entity that is an affiliate of the entity; or

(d) all or any of the shares of a body corporate that is primarily engaged in holding shares of, ownership interests in, or assets acquired from, the entity or any of its affiliates.

Divestment if not in compliance with investment and lending policies

(2)  If the securities acquired by a credit union because of a default on a loan are not an investment permitted by the credit union’s investment and lending policies, the credit union shall divest itself of the securities within two years after their acquisition or within such further time as the Chief Executive Officer may authorize.

Order for call of unauthorized loans

**157** (1)  The Chief Executive Officer may order a credit union to call any loan it has made that is not authorized by this Act, the regulations or the by-laws of the credit union.

Time to comply

(2)  Despite section 211, an order under this section shall allow the credit union at least 60 days to comply with the order.

Procedural rules

(3)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(4)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Cost of Borrowing

Definition of “cost of borrowing”

**158** (1)  Subject to subsection (2), in sections 159 to 166,

“cost of borrowing”, for a loan made by a credit union, means,

(a) the interest or discount applicable to the loan,

(b) any amount charged in connection with the loan that is payable by the borrower to the credit union,

(c) any amount charged in connection with the loan that is payable by the borrower to a person other than the credit union, where the amount is chargeable, directly or indirectly, by the person to the credit union, and

(d) any charge prescribed by regulation as included in the cost of borrowing.

Same

(2)  Cost of borrowing does not include any charge prescribed by regulation as excluded from the cost of borrowing.

Rebate of borrowing costs

**159** (1)  This section applies where,

(a) a credit union makes a loan to a natural person;

(b) the loan is not secured by a mortgage on real property;

(c) the loan is required to be repaid either on a fixed future date or by instalments; and

(d) the loan is prepaid in full.

Same

(2)  In the circumstances described in subsection (1), the credit union shall, in accordance with the regulations, rebate to the borrower a portion of the cost of borrowing for the loan.

Limitation

(3)  For the purposes of subsection (2) and the regulations made under clause 280 (1) (b), the cost of borrowing for a loan does not include the interest or discount applicable to the loan.

Disclosure of cost of borrowing

**160** (1)  A credit union shall not make a loan to a natural person unless the cost of borrowing and any other information prescribed for the purposes of this section by the regulations have been disclosed by the credit union to the person.

Same

(2)  For the purposes of disclosure required by subsection (1), the cost of borrowing,

(a) shall be calculated on the basis that all obligations of the borrower are duly fulfilled;

(b) shall be calculated in accordance with the regulations;

(c) shall be expressed as a rate per annum; and

(d) where required by the regulations, shall be expressed as an amount in dollars and cents.

Additional disclosure — term loans

**161** Where a credit union makes a loan to a natural person and the loan is required to be repaid either on a fixed future date or by instalments, the credit union shall disclose the following to the borrower:

1. Whether the borrower has the right to repay the amount borrowed before the maturity of the loan.

2. Any terms and conditions relating to a right described in paragraph 1, including particulars of the circumstances in which the borrower may exercise the right.

3. Whether any portion of the cost of borrowing for the loan is to be rebated to the borrower or any charge or penalty is to be imposed on the borrower, if the borrower exercises a right described in paragraph 1.

4. The manner in which any rebate, charge or penalty referred to in paragraph 3 is to be calculated.

5. Particulars of any charges or penalties to be imposed on the borrower if the borrower fails to repay the amount of the loan at maturity or fails to pay an instalment on the day the instalment is due to be paid.

6. Particulars of any change prescribed by the regulations relating to the loan agreement or the cost of borrowing for the loan.

7. Particulars of any rights or obligations of the borrower prescribed by the regulations for the purposes of this section.

8. Any other information prescribed by the regulations for the purposes of this section.

Disclosure in applications for credit cards, etc.

**162** A form or other document used by a credit union for the purposes of an application for a credit card, payment card or charge card shall contain the information prescribed by the regulations for the purposes of this section or be accompanied by a document that contains that information.

Disclosure where credit cards, etc., issued

**163** Where a credit union issues a credit card, payment card or charge card to a natural person, the credit union shall disclose the following to the person:

1. Particulars of any charges or penalties to be imposed on the person if the person fails to pay an amount in accordance with the agreement governing the card.

2. Particulars of any charges for which the person becomes responsible by accepting or using the card.

3. Particulars of any change prescribed by the regulations relating to the loan agreement or the cost of borrowing for any loan obtained through the use of the card.

4. Particulars of any rights or obligations of the person prescribed by the regulations for the purposes of this section.

5. Any other information prescribed by the regulations for the purposes of this section.

Additional disclosure: loans to which ss. 161 and 163 do not apply

**164** (1)  Where a credit union enters into an arrangement for the making of a loan to a natural person and neither section 161 nor section 163 apply in respect of the arrangement, the credit union shall disclose the following to the person:

1. Particulars of any charges or penalties to be imposed on the person if the person fails to pay an amount in accordance with the arrangement.

2. Particulars of any charges for which the person becomes responsible by entering the arrangement.

3. Particulars of any change prescribed by the regulations relating to the arrangement or the cost of borrowing under the arrangement.

4. Particulars of any rights or obligations of the person prescribed by the regulations for the purposes of this section.

5. Any other information prescribed by the regulations for the purposes of this section.

Interpretation

(2)  For the purposes of subsection (1), an arrangement for the making of a loan includes an arrangement for a line of credit.

Statement re mortgage renewal

**165** Where a credit union makes a loan to a natural person and the loan is secured by a mortgage on real property, the credit union shall disclose to the person such information respecting renewal of the loan as is prescribed by the regulations.

Disclosure in advertising

**166** (1)  This section applies to an advertisement that,

(a) relates to loans, credit cards, payment cards or charge cards that are offered by a credit union to a natural person or to arrangements to which section 164 applies that are offered by a credit union to a natural person; and

(b) purports to contain information relating to the cost of borrowing or any other matter prescribed by regulation.

Same

(2)  No person shall authorize any advertisement described in subsection (1) unless the advertisement contains the information that may be required by the regulations and is in the form and manner that may be prescribed by the regulations.

Investments

Eligible investments

**167** A credit union shall invest only in such types of securities or property as are prescribed by Authority rule and on such conditions as are prescribed by Authority rule.

Establishing or acquiring subsidiary

**168** (1)  A credit union may establish or acquire a subsidiary only with the approval of the Chief Executive Officer and the establishment or acquisition of a subsidiary is subject to such restrictions as may be prescribed by regulation and to such additional conditions as the Chief Executive Officer may, by order, impose. 2020, c. 36, Sched. 7, s. 168 (1).

Refusal of approval to be by order

(2)  If the Chief Executive Officer refuses to approve the establishment or acquisition of a subsidiary, the Chief Executive Officer shall do so by order. 2020, c. 36, Sched. 7, s. 168 (2).

Anti-avoidance

(3)  The Chief Executive Officer shall issue an order refusing to approve the establishment or acquisition of a subsidiary if it considers that the establishment or acquisition is primarily for the purpose of allowing the credit union to avoid the limits under this Act, the regulations or the Authority rules on its investments. 2020, c. 36, Sched. 7, s. 168 (3).

Revocation of approval

(4)  The Chief Executive Officer may, by order, revoke its approval if,

(a) the credit union has failed to comply with the conditions and restrictions applicable to the investment; or

(b) Repealed: 2021, c. 40, Sched. 5, s. 14.

2020, c. 36, Sched. 7, s. 168 (4); 2021, c. 40, Sched. 5, s. 14.

Effect of revocation

(5)  Upon a revocation of an approval, the credit union shall divest itself of the investment in accordance with the order effecting the revocation. 2020, c. 36, Sched. 7, s. 168 (5).

Restriction on investments in subsidiaries

(6)  A credit union shall ensure that the total book value of investments held by the credit union in subsidiaries of the credit union and of guarantees by the credit union of the obligations of such subsidiaries does not exceed the percentage prescribed by regulation of the regulatory capital of the credit union. 2020, c. 36, Sched. 7, s. 168 (6).

Procedural rules

(7)  Section 209 applies with respect to an order under this section. 2020, c. 36, Sched. 7, s. 168 (7).

Appeal to Tribunal

(8)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212. 2020, c. 36, Sched. 7, s. 168 (8).

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 14](http://www.ontario.ca/laws/statute/S21040" \l "sched5s14) - 01/03/2022

Variation of requirements

**169** (1)  A credit union may apply to the Chief Executive Officer for a variation of the requirements under section 167 or subsection 168 (6).

Application

(2)  An application must be in a form approved by the Chief Executive Officer.

Variation

(3)  The Chief Executive Officer may grant the variation subject to any terms the Chief Executive Officer considers appropriate if the Chief Executive Officer considers that granting the variation is in the interest of the members of the credit union.

Investment in another credit union

**170** (1)  A credit union shall not invest in another credit union without the approval of the Chief Executive Officer.

Refusal of approval to be by order

(2)  If the Chief Executive Officer refuses to approve an investment in another credit union, the Chief Executive Officer shall do so by order.

Procedural rules

(3)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(4)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Status of investments upon amalgamation, etc.

**171** (1)  The Chief Executive Officer may authorize the acceptance by a credit union of securities or other assets not fulfilling the requirements of this Act,

(a) obtained under an arrangement made in good faith for the reorganization of a body corporate whose securities were previously owned by the credit union;

(b) obtained under an amalgamation with another body corporate of the body corporate whose securities were previously owned by the credit union;

(c) obtained in good faith for the purpose of protecting investments of the credit union;

(d) obtained by virtue of the purchase by the credit union of the assets of another credit union;

(e) obtained by virtue of realizing on the security for a loan where the security is shares in a body corporate; or

(f) obtained in payment or part payment for securities sold by the credit union.

Divestment

(2)  The credit union shall divest itself of the securities or other assets within two years after their acquisition or within such further time as the Chief Executive Officer may authorize.

Exception

(3)  The Chief Executive Officer may relieve the credit union of the obligation to divest itself of the securities or other assets if the Chief Executive Officer is satisfied that they are not inferior in status or value to the securities for which they have been substituted.

Order for disposal of unauthorized investments

**172** (1)  The Chief Executive Officer may order a credit union to dispose of any investment that was not made or is not held in accordance with this Act, the regulations, the Authority rules or the credit union’s investment and lending policies.

Time to comply

(2)  Despite section 211, an order under this section shall allow the credit union at least 60 days to comply with the order.

Procedural rules

(3)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(4)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Directors’ liability

(5)  Subject to subsection (8), if the amount realized from the disposal of the investment is less than the amount paid by the credit union for it, the directors of the credit union are jointly and severally liable for the payment to the credit union of the amount of the difference.

Objection to investment

(6)  A director who is present at a directors’ meeting at which an investment to which the director objects is authorized may,

(a) immediately deliver or send to the credit union a protest against the investment; and

(b) within 30 days after delivering or sending the protest referred to in clause (a), send a copy of the protest to the Chief Executive Officer.

Same

(7)  A director who is absent from a meeting at which an investment to which the director objects is authorized may,

(a) within 14 days after the director becomes aware of the investment and is able to do so, deliver or send to the credit union a protest against the investment; and

(b) within 30 days after delivering or sending the protest referred to in clause (a), send a copy of the protest to the Chief Executive Officer.

Exoneration

(8)  A director who takes the steps set out in subsection (6) or (7) has no liability with respect to an investment to which the director objected.

Purchase and Sale of Assets

Interpretation

**173** For the purposes of section 174, a sale of property includes a sale, lease, exchange or other disposition of property and a purchase of property includes a lease, exchange of property or other acquisition of property.

Purchase or sale of substantial assets

**174** (1)  A credit union shall not do any of the following unless authorized to do so by special resolution of the members of the credit union:

1. Sell assets if the market value of the assets is 15 per cent or more of the value of the credit union’s total assets.

2. Purchase assets of a financial institution if the market value of the assets is 15 per cent or more of the value of the credit union’s total assets. 2020, c. 36, Sched. 7, s. 174 (1).

Alternative for certain sales

(2)  A credit union may proceed with a sale described in paragraph 1 of subsection (1) without a special resolution of the members if the sale is in the ordinary course of business and the purchaser pays the purchase price by paying cash. 2020, c. 36, Sched. 7, s. 174 (2).

Determination of value of total assets

(3)  For the purposes of subsection (1), the value of the credit union’s total assets shall be as set out in the audited financial statements placed before the members at the most recent annual meeting. 2020, c. 36, Sched. 7, s. 174 (3).

If more than one class of shares

(4)  If the credit union has more than one class of issued shares, the special resolution referred to in subsection (1) shall be in the form of a special resolution passed by the holders of each class of shares. 2020, c. 36, Sched. 7, s. 174 (4).

Agreement and Chief Executive Officer approval required

(5)  A credit union shall not proceed with a sale or purchase described in subsection (1), including a sale to which subsection (2) applies, unless there is an agreement for the sale or purchase and that agreement has been approved by the Chief Executive Officer. 2020, c. 36, Sched. 7, s. 174 (5).

Chief Executive Officer approval required before authorization of members, etc.

(6)  A credit union shall not seek the authorization of the members and shareholders required under subsection (1) until the Chief Executive Officer has approved the agreement under subsection (5). 2020, c. 36, Sched. 7, s. 174 (6).

Refusal of approval to be by order

(7)  If the Chief Executive Officer refuses to approve an agreement under subsection (5), the Chief Executive Officer shall do so by order. 2020, c. 36, Sched. 7, s. 174 (7).

Procedural rules

(8)  Section 209 applies with respect to an order under subsection (7). 2020, c. 36, Sched. 7, s. 174 (8).

Appeal to Tribunal

(9)  The credit union that is subject to an order under subsection (7) may appeal the order to the Tribunal in accordance with section 212. 2020, c. 36, Sched. 7, s. 174 (9).

Purchase price if transaction is between credit unions

(10)  In a purchase or sale described in subsection (1) in which both the purchaser and the seller are credit unions, the purchaser may pay the purchase price only in one or more of the following ways:

1. By assuming liabilities of the seller.

2. By paying cash.

3. By issuing shares.

4. By issuing promissory notes. 2020, c. 36, Sched. 7, s. 174 (10); 2023, c. 20, Sched. 6, s. 2.

No splitting to avoid requirements

(11)  A credit union shall not structure a sale or purchase as two or more sales or purchases for the purpose of avoiding a requirement under this section. 2020, c. 36, Sched. 7, s. 174 (11).

**Section Amendments with date in force (d/m/y)**

[2023, c. 20, Sched. 6, s. 2](http://www.ontario.ca/laws/statute/S23020" \l "sched6s2) - 01/01/2024

Part VIII  
Meetings

Members’ and Shareholders’ Meetings

Notice of meetings

**175** (1)  Unless the Authority rules provide otherwise, notice of the time and place for holding a meeting of the members of a credit union shall be given at the time and in the manner specified in the by-laws of the credit union to each member of the credit union who, on the record date for the notice, appears in the records of the credit union as a member.

Same

(2)  A notice under subsection (1) must meet the requirements set out in the Authority rules.

Interpretation

(3)  For the purposes of subsection (1), the record date means the record date as established by the by-laws of the credit union.

Shareholder meetings

(4)  This section applies with necessary modifications to meetings of holders of shares of the credit union other than patronage shares.

Annual meeting

**176** (1)  Subject to the by-laws, an annual meeting of the members of a credit union shall be held at such time and place in Ontario as the board determines.

Same, Authority rules

(2)  An annual meeting of the members of a credit union must be conducted in accordance with the Authority rules.

Financial statements

**177** (1)  The financial statements to be placed before the members must show the matters prescribed by regulation relating separately to the time periods prescribed by regulation.

Approval of financial statements

(2)  Financial statements that have not been approved by the credit union’s board may not be placed before the members.

Evidence of approval

(3)  The signature, at the foot of the balance sheet, of two authorized directors is evidence of the approval of the board.

Available to members

(4)  The credit union shall make copies of the audited financial statements, the auditor’s report and the audit committee report available for inspection, by any member, at the meeting at which the statements and reports are to be placed before the members and at the offices of the credit union and electronically at least 10 days before the meeting.

Accepted principles

(5)  The financial statements shall, except as otherwise specified by the Chief Executive Officer, be prepared in accordance with generally accepted accounting principles, the primary source of which is the Handbook of the Chartered Professional Accountants of Canada.

General meetings

**178** The board may at any time call a general meeting of the members or shareholders for the transaction of any business if the general nature of the business is specified in the notice calling the meeting.

Proposals

**179** (1)  Any member may,

(a) submit notice of any matter that the member proposes to raise at the annual meeting; and

(b) discuss at the annual meeting any matter in respect of which the member would have been entitled to submit a proposal.

Same, form and other requirements

(2)  A proposal must be in the form required by the Authority rules and must meet any other requirements set out in the Authority rules.

Same, notice

(3)  Notice of a proposal shall be given in accordance with the Authority rules.

Requisition for members’ meeting

**180** Five per cent of the members of a credit union may requisition the board to call a general meeting of the members for any purpose that is connected with the affairs of the credit union and that is not inconsistent with this Act.

Voting rights at members’ meetings

**181** Each member of a credit union has one vote at a meeting of the members of the credit union.

Different manners of member voting

**182** A member of a credit union may vote in person and in such other manners as may be prescribed by Authority rule.

Proxies, members

**183** (1)  No member of a credit union shall vote by proxy except when the member is Her Majesty the Queen in right of Ontario or in right of Canada, a corporation, including a municipality defined in the Municipal Affairs Act, an unincorporated association or a partnership registered under the Business Names Act or a predecessor of that Act.

Only one proxy vote

(2)  A person may cast only one vote by proxy on a matter.

Member’s vote not affected

(3)  For greater certainty, subsection (2) does not prevent a member who votes as a proxy holder from casting the member’s own vote.

Proxies, other shareholders

**184** (1)  Part VIII of the Business Corporations Act applies, with necessary modifications, with respect to proxies for voting by shareholders in respect of shares other than membership shares or patronage shares as if the credit union were incorporated under that Act.

Same

(2)  For the purposes of subsection (1), any reference in Part VIII of the Business Corporations Act to “offering corporation” shall be deemed to be a reference to the “credit union” and, if the credit union is not an “offering corporation” as defined in section 1 of that Act, any reference in Part VIII of that Act to “Commission” shall be deemed to be a reference to the “Chief Executive Officer”.

Exception, information circular

(3)  Despite Part VIII of the Business Corporations Act, as made applicable by subsection (1), neither a credit union nor a dissident is required to deliver an information circular to holders of membership shares or patronage shares.

Remote members’ meetings by-laws

**185** (1)  Subject to such requirements as may be prescribed by Authority rule, the by-laws of a credit union shall set out a policy in respect of the rights of members to participate and vote at meetings remotely.

Member considered present

(2)  Except as otherwise provided for in the by-laws of the credit union, every member participating remotely in a meeting described in subsection (1) is considered present at the meeting for the purposes of this Act.

Directors’ Meetings

Remote directors’ meetings by-laws

**186** (1)  Subject to such requirements as may be prescribed by Authority rule, the by-laws of a credit union shall set out a policy in respect of the rights of directors to participate and vote at meetings remotely.

Director considered present

(2)  Every director participating remotely in a meeting described in subsection (1) is considered present at the meeting for the purposes of this Act.

Dissent of director

**187** (1)  A director who is present at a meeting of directors or a committee of directors shall be deemed to have consented to any resolution passed or action taken at that meeting unless the director dissents in a manner and within the time specified in the by-laws of the credit union and before the conclusion of the meeting, in any event.

Loss of right to dissent

(2)  A director who votes for or consents to a resolution is not entitled to dissent under subsection (1).

Dissent of absent director

(3)  A director who is not present at a meeting at which a resolution is passed or action is taken shall be deemed to have consented to the resolution or action unless, within seven days after the director becomes aware of the resolution or action, the director,

(a) has the dissent placed in the minutes of the meeting; or

(b) sends the dissent to the credit union.

Meeting required by Chief Executive Officer

**188** (1)  The Chief Executive Officer may, by written notice to the credit union and each director, require a credit union to hold a meeting of the directors to consider any matter set out in the notice.

Attendance by Chief Executive Officer

(2)  The Chief Executive Officer may attend and be heard at a meeting.

Miscellaneous

Annual statement to be given to members

**189** Every credit union shall, without charge, supply a copy of its last audited financial statement to every member and shareholder who requests it.

Inspection of books

**190** (1)  Except as provided in this Act, no person has a right to inspect the books of a credit union.

Inspection of person’s own account

(2)  A person may inspect, at all reasonable hours, the person’s own account.

By-laws may authorize inspection

(3)  A credit union may, by by-law, authorize the inspection of any of its books under such conditions as the by-laws may set out.

Limits on inspection

(4)  The right to inspect books is subject to such conditions as to time and manner of inspection as the by-laws may specify.

Inspection of other’s account

(5)  No person, except an officer or employee of the credit union or a person specifically authorized by a resolution of the board, has the right to inspect the loan or deposit account of any other person without that person’s written consent.

Additional information

**191** (1)  A member may access such information about a credit union’s business or its members and shareholders as may be prescribed by Authority rule.

Same

(2)  The use of information accessed under subsection (1) is subject to such limitations or restrictions as may be established by Authority rule.

Financial statements of subsidiaries

**192** (1)  Copies of the latest financial statements of each subsidiary of a credit union,

(a) shall be kept by the credit union at such place in Ontario as is specified in the by-laws; and

(b) shall be open to examination by the members and shareholders of the credit union and their agents.

Extracts

(2)  Everyone entitled to examine the copies of the financial statements may make extracts of the material free of charge during the normal business hours of the credit union.

Application to court

(3)  A credit union may, within fifteen days after receiving a request to examine copies of financial statements, apply to the court for an order barring the examination, and the court may, if satisfied that the examination would be detrimental to the credit union or a subsidiary, bar the examination and make any further order it thinks fit.

Branches and other member groups

**193** (1)  A credit union may establish branches and such other member groups as may be specified in the by-laws, subject to such conditions as may be set out in the by-laws.

Branch and member group meetings

(2)  A credit union may, by by-law, provide for the holding of branch and member group meetings for members of branches and member groups.

Election of delegates

(3)  If a by-law of a credit union provides for a branch or member group meeting, the members of the branch or member group shall elect delegates, by a resolution passed by a majority of the votes cast at the meeting, to represent the members at general meetings of the members of the credit union.

Powers of delegates

(4)  Delegates elected from a branch or member group shall exercise the powers of the members of the branch or member group at all general meetings of the members of the credit union.

When members lose vote

(5)  Members of a branch or member group who are represented by elected delegates at a general meeting of the members of the credit union are entitled to attend the meeting but are not entitled to vote at the meeting.

Branch meeting procedures

(6)  If a by-law of a credit union provides for branch or member group meetings, the by-laws of the credit union shall specify,

(a) the number of delegates and votes allowed to each branch and member group at a general meeting of the members of the credit union, as determined on a basis that is reasonable given the number of members in each branch or member group;

(b) the time, place and manner of calling branch and member group meetings;

(c) the number of members of a branch or member group that constitute a quorum; and

(d) the procedure to be followed in the conduct of branch and member group meetings.

Majority

(7)  The required majority vote for deciding an issue to be voted on at a branch or member group meeting is the same as that required for deciding a similar issue at a general meeting of the members of the credit union.

Part IX  
Restricted Party Transactions

General prohibition

**194** Except to the extent permitted under this Act, the regulations or the Authority rules, a credit union or a subsidiary shall not directly or indirectly enter into any transaction with a restricted party of the credit union.

Loans to officers and directors

**195** (1)  A credit union may lend to an officer or a director an amount in excess of the aggregate of deposits of the officer or director pledged as collateral for the loan only if the board approves the loan before it is made.

Delegation of authority to approve loan to committee

(2)  The board may delegate its authority to grant an approval under subsection (1) to a committee of the board on such terms and with such restrictions as may be specified by the board.

Committee to report

(3)  A committee referred to in subsection (2) shall report details of the loans approved by the committee to the board at the first meeting of the board after the approval is given.

Setting aside transactions

**196** (1)  If a transaction with a restricted person that is prohibited or restricted by this Act, the regulations or the Authority rules takes place, any interested person, including the Chief Executive Officer, may apply to the court for an order,

(a) setting aside the transaction and directing that the restricted party account to a credit union for any profit or gain realized; and

(b) that each person who participated in or facilitated the transaction pay to the credit union on a joint and several basis the damages suffered, the face value of the transaction or the amount expended by the credit union in the transaction.

Order

(2)  The court may make the order applied for or such other order as it thinks appropriate.

Same

(3)  An order under subsection (2) may order compensation for a loss or damage suffered by the credit union and punitive damages from the restricted party.

Exemption

(4)  A person who is not a director is not liable under clause (1) (b) unless the person knew or ought reasonably to have known that the transaction was made in contravention of a restricted party provision.

Interpretation

**197** In this Part,

“restricted party” and “transaction” have the meaning given to those expressions in the regulations.

Part X  
Returns, examinations and records

Returns and Examinations

Information required by Chief Executive Officer

**198** (1)  The Chief Executive Officer may require a credit union, a subsidiary of a credit union or any other person to provide the Chief Executive Officer with such information as the Chief Executive Officer may require for the purpose of carrying out the Chief Executive Officer’s powers and duties under this Act.

Time and form

(2)  The Chief Executive Officer may specify the form in which the information is to be provided and the time within which it is to be provided.

Information required by Authority

**199** (1)  The Authority may require a credit union, a subsidiary of a credit union or any other person to provide the Authority with such information as the Authority may require for the purpose of carrying out its powers and duties under this Act.

Time and form

(2)  The Authority may specify the form in which the information is to be provided and the time within which it is to be provided.

Annual return

**200** (1)  A credit union shall file an annual return with the Chief Executive Officer at such time, in such form and containing such information as the Chief Executive Officer requires.

Review

(2)  The Chief Executive Officer shall review the annual return and, for that purpose, may require the credit union and any central of which it is a member to provide such additional information concerning the affairs of the credit union as the Chief Executive Officer may require.

Same

(3)  A credit union and central shall provide any additional information required by the Chief Executive Officer under subsection (2).

Access to business premises for examination

**201** (1)  The Chief Executive Officer or a person designated by the Chief Executive Officer may, at any reasonable time, enter and have access to any business premises where the Chief Executive Officer or the designated person has reasonable grounds to believe records and documents of a credit union or a subsidiary of the credit union are kept, for the purpose of determining whether the credit union is complying with this Act, the regulations, orders made by the Chief Executive Officer, the Authority rules, conditions imposed on the deposit insurance of the credit union under subsection 218 (4), the by-laws of the credit union or policies established by the board of the credit union.

Examination by Chief Executive Officer or designate

(2)  The Chief Executive Officer or the person designated by the Chief Executive Officer under subsection (1) may conduct an examination of the affairs of the credit union or the credit union’s subsidiary.

Access to records and documents, etc.

(3)  The person conducting an examination under subsection (2) is entitled to access to all records and documents of a credit union or a subsidiary of the credit union for the purpose of the examination.

Answering questions

(4)  Every director, officer and employee of a credit union or a subsidiary of the credit union shall answer such questions during the course of the examination as may be necessary for the person conducting the examination to determine if the credit union has complied with this Act, the regulations, orders made by the Chief Executive Officer, the Authority rules, conditions imposed on the deposit insurance of the credit union under subsection 218 (4), the by-laws of the credit union or policies established by the board of the credit union.

Materials to be furnished on examination

(5)  For the purposes of an examination,

(a) a credit union or a subsidiary of the credit union shall prepare and submit to the person conducting the examination such statements with respect to its business, finances or other affairs as the person requires; and

(b) the person conducting the examination may require the directors, officers and auditor of a credit union or a subsidiary of the credit union to provide information and explanations, to the extent that they are reasonably able to do so, in respect of the condition and affairs of the credit union or subsidiary and any entity in which the credit union or subsidiary has made an investment.

Copies

(6)  If a record or document has been examined or produced under this section, the person conducting the examination may make, or cause to be made, one or more copies of it and, if necessary, may temporarily remove the record or document for the purposes only of making the copy or copies.

Records and Documents

Register of members, shareholders, etc.

**202** (1)  Every credit union shall keep a register of members, shareholders and other security holders.

Contents of register

(2)  The register shall contain,

(a) the name and address of each member, shareholder or other security holder;

(b) the number of shares of each class held by each member or shareholder and the number and type of the securities held by each of the other security holders;

(c) the date on which the name of any person or entity was entered in the register as a member, shareholder or other security holder; and

(d) the date on which any person or entity ceased to be a member.

Certificate as evidence

(3)  A copy of all or part of the register, or a statement as to the contents of all or part of the register, purporting to be certified by the secretary of the credit union is, without proof of the office or signature of the secretary, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated in it for all purposes in any action, proceeding or prosecution.

Requirement to maintain records and documents, etc.

**203** (1)  Every credit union shall keep and maintain at its head office or at such other place in Ontario as may be specified in its by-laws such books, registers and other records and documents in either English or French as may be required by the regulations.

When records or registers are kept outside Ontario

(2)  Despite subsection (1), but subject to federal and Ontario tax statutes or any other Act, a credit union may keep all or any of its records at a place outside of Ontario if,

(a) the records are available for inspection, by means of any technology, during regular office hours at the credit union’s head office; and

(b) the credit union provides the technical assistance to facilitate an inspection of the records.

Chief Executive Officer’s order re location

(3)  The Chief Executive Officer may order a credit union to keep its books, registers and other records and documents at a place in Ontario, specified in the order.

Procedural rules

(4)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(5)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Form of records and documents

**204** Any record or document required or authorized by this Act to be prepared and kept by a credit union may be in any form, provided that the records are capable of being reproduced in intelligible written form within a reasonable time.

Copies of by-laws

**205** (1)  A credit union shall, on request and free of charge, provide to a member an electronic copy of the by-laws of the credit union.

Same, paper copy

(2)  A credit union shall, on request and upon payment of a fee fixed by the by-laws, provide to a member a paper copy of the by-laws of the credit union.

Fee

(3)  The fee shall not exceed the amount prescribed by regulation.

Part XI  
Enforcement

Certain Orders

Chief Executive Officer’s order — general

**206** (1)  The Chief Executive Officer may make an order under this section against,

(a) any person if, in the Chief Executive Officer’s opinion, the person is doing anything that contravenes this Act, the regulations or the Authority rules or might reasonably be expected, if continued, to result in a contravention of this Act, the regulations or the Authority rules; or

(b) a credit union or a director, officer or employee of a credit union if, in the Chief Executive Officer’s opinion, the credit union, director, officer or employee is doing anything that constitutes a practice that might prejudice or adversely affect the interest of a member, depositor or shareholder of the credit union.

What order may require

(2)  An order under this section may require a person,

(a) to stop doing any act or pursuing any course of conduct; or

(b) to do any act or pursue any course of conduct.

Procedural rules

(3)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(4)  The person who is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Appeal to court

(5)  A party to the proceedings before the Tribunal may appeal the decision of the Tribunal, within 30 days after the party received notice of the decision, to the court upon a question of law only.

Suspension of business

**207** (1)  The Chief Executive Officer may order a credit union to discontinue doing business for such time as the Chief Executive Officer determines if, after the receipt of verifiable information, the Chief Executive Officer is satisfied that the continuance in business of the credit union is not in the interest of members, depositors or shareholders.

Procedural rules

(2)  Section 209 applies with respect to an order under this section.

Reasons

(3)  The Chief Executive Officer shall set out the reasons for the Chief Executive Officer’s decision in the order.

Appeal to Tribunal

(4)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Exemption orders

**208** (1)  The Chief Executive Officer may, on the application of a person or entity, and if in the Chief Executive Officer’s opinion it would not be prejudicial to the public interest, make an order exempting the person or entity from any requirement imposed by, or from the application of any provision in, this Act, the regulations or an Authority rule that is prescribed by regulation, and may make the order subject to such conditions as are set out in the order.

Same

(2)  An order under this section is subject to such limits and conditions as may be prescribed by regulation.

General Provisions Relating to Orders

Procedural rules for certain orders

**209** (1)  This section applies with respect to an order by the Chief Executive Officer under this Act if the section under which the order is made provides for this section to apply.

Notice before order made

(2)  Before making an order, the Chief Executive Officer shall give notice of the Chief Executive Officer’s intention to do so to the person who would be subject to the order and, if the Chief Executive Officer would be relying on information not provided by the person, the Chief Executive Officer shall inform the person of that information and give the person an opportunity to explain or refute it.

Reasons

(3)  The Chief Executive Officer shall set out the reasons for which the Chief Executive Officer proposes to make the order in the notice.

Written submissions

(4)  The Chief Executive Officer is not required to hold a hearing but shall, before making an order, allow the person who would be subject to the order, and any other person who would be affected by the order, to make written submissions.

Notice not required other than to person subject to order

(5)  The Chief Executive Officer is not required to give notice to persons who would be affected by an order other than the person who would be subject to the order as required under subsection (2).

Rules for practice and procedure

(6)  The Chief Executive Officer may make rules for the practice and procedure to be observed in relation to orders made by the Chief Executive Officer.

Inquiries can be made before order made

(7)  Before making an order under this Act, the Chief Executive Officer may inquire into the affairs of a person as the Chief Executive Officer considers necessary to determine whether the order should be made.

Order made without opportunity to make submissions

(8)  The Chief Executive Officer may make an order to which a person is subject without giving notice or allowing the person or any other person to make submissions if the Chief Executive Officer is of the opinion that the interests of the members, depositors or shareholders of any credit union may be prejudiced or adversely affected by a delay in making the order.

Special procedures if no opportunity to make submissions

(9)  The following apply with respect to an order under subsection (8):

1. The person who is subject to the order or any other person affected by the order may request an opportunity to make written submissions by giving written notice to the Chief Executive Officer, within 15 days after the person who is subject to the order received it.

2. If the person who is subject to the order or any other person affected by the order requests an opportunity to make written submissions, the Chief Executive Officer may defer compliance with the order until the submissions have been considered or any appeal is concluded and the order is confirmed, varied or revoked.

3. After considering the submissions, the Chief Executive Officer may confirm, vary or revoke the order.

Variation of orders

(10)  Subject to subsections (2) and (4), the Chief Executive Officer may reconsider and vary or revoke an order made by the Chief Executive Officer if the Chief Executive Officer considers it advisable to do so.

Copies of orders to be given

**210** The Chief Executive Officer shall give a copy of an order the Chief Executive Officer makes under this Act to the person who is subject to the order and, if the person who is subject to the order is a credit union, to each director of the credit union.

When orders take effect

**211** An order by the Chief Executive Officer under this Act comes into effect when it is made or at such later time as the order provides.

Appeals of orders to Tribunal

**212** (1)  This section applies with respect to an appeal to the Tribunal of an order by the Chief Executive Officer under this Act if the section under which the order is made provides for such an appeal in accordance with this section.

How appeal is made

(2)  The appeal shall be made by filing a written notice of appeal with the Tribunal and serving a copy of the notice on the Chief Executive Officer.

Time for filing and serving notice

(3)  The notice of appeal must be filed and served, as required under subsection (2), within 15 days after the order was received by the person appealing the order.

No stay of decision unless granted

(4)  An appeal from an order does not stay the order but the Tribunal may grant a stay until it disposes of the appeal.

Exception

(5)  Despite subsection (4), an appeal of an order under section 241, 250 or 269 stays the order.

Hearing

(6)  The Tribunal shall hold a hearing of the appeal.

Parties

(7)  The parties to the appeal are,

(a) the person appealing the order;

(b) the Chief Executive Officer; and

(c) such other persons as the Tribunal specifies.

Power of the Tribunal

(8)  Upon hearing the appeal, the Tribunal may, by order, confirm, vary or revoke the order being appealed or substitute its order for the order being appealed.

Orders, etc., not stayed by judicial review

**213** (1)  An application for judicial review of an order of the Chief Executive Officer under this Act or of a decision of the Tribunal on the appeal of such an order and any appeal from an order of the court on such an application for judicial review does not stay the order of the Chief Executive Officer or the decision of the Tribunal.

Court may grant stay

(2)  Despite subsection (1), a judge of the court to which the application is made or a subsequent appeal is taken may grant a stay until the disposition of the judicial review or appeal.

Part XII  
Centrals

Incorporating centrals

**214** (1)  A group of credit unions may incorporate a central, subject to the approval of the Chief Executive Officer. 2020, c. 36, Sched. 7, s. 214 (1).

Objects

(2)  The objects of a central are to,

(a) provide services primarily to members;

(b) provide and manage a liquidity system for credit unions;

(c) manage those investments that are held by the central for its members; and

(d) carry out such other objects as may be prescribed by regulation. 2020, c. 36, Sched. 7, s. 214 (2).

General restriction

(3)  A central may engage in or carry on a business or business activity only as allowed under this section. 2020, c. 36, Sched. 7, s. 214 (3).

Businesses, services

(4)  A central may engage in or carry on a business or business activity that a credit union may engage in or carry on and may engage in or carry on such other businesses or business activities, or provide such services, as may be prescribed by regulation. 2020, c. 36, Sched. 7, s. 214 (4).

Same

(5)  A central may provide services and a liquidity system to any credit union whether it is a member of the central or not. 2020, c. 36, Sched. 7, s. 214 (5).

General business

(6)  Centrals may carry on business, consistent with their objects, through subsidiaries approved under section 168. 2020, c. 36, Sched. 7, s. 214 (6); 2021, c. 40, Sched. 5, s. 15.

Subsidiaries

(7)  A central’s subsidiaries may, if permitted by the central’s by-laws, provide services to the general public. 2020, c. 36, Sched. 7, s. 214 (7).

Stabilization fund

(8)  Without limiting anything else a central may do, a central may establish and maintain a stabilization fund for the benefit of the credit unions that are members of the central. 2020, c. 36, Sched. 7, s. 214 (8).

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 15](http://www.ontario.ca/laws/statute/S21040" \l "sched5s15) - 01/03/2022

Application of Act

**215** (1)  This Act, with necessary modifications, applies to centrals and their incorporation if consistent with this Part.

Exclusion

(2)  The Lieutenant Governor in Council may, by regulation, exempt centrals from any provision of this Act.

Corporations Act not to apply

**216** The Corporations Act does not apply to centrals.

Members

**217** Subject to any restrictions as may be prescribed by regulation, the following may be members of a central:

1. Credit unions.

2. Entities prescribed by regulation.

Part XIII  
Deposit Insurance

Deposit Insurance

Insurance of deposits with credit unions

**218** (1)  Subject to subsection (2), the deposits with every credit union that, under the regulations, are insurable deposits, are insured by the Authority in accordance with this Act, except if the deposit insurance of the credit union is cancelled under section 222.

Exceptions

(2)  The following are not insured:

1. A deposit that is not payable in Canada or not in Canadian currency.

2. The amount of an insurable deposit that exceeds the amount prescribed by regulation.

Conditions on deposit insurance

(3)  The deposit insurance of a credit union is subject to the conditions prescribed by Authority rule and any other conditions imposed by the Authority under subsection (4).

Conditions imposed by notice

(4)  The Authority may impose conditions on the deposit insurance of a credit union, or amend such conditions, at any time by written notice to the credit union.

Certificate

(5)  The Authority shall issue a certificate of deposit insurance to every credit union whose deposits the Authority insures.

Insurance continues after member withdraws, etc.

(6)  For greater certainty, the obligation to insure an insurable deposit of a member of a credit union continues after the member withdraws or is expelled.

Shares not insurable

(7)  The shares of a credit union are not insurable by the Authority.

Payment for insured deposits

**219** (1)  The Authority has an obligation to make payment from the Deposit Insurance Reserve Fund in respect of any deposit insured by the Authority if,

(a) the members of the credit union that holds the deposit pass a resolution for the voluntary liquidation and dissolution of the credit union;

(b) the credit union becomes a bankrupt under the Bankruptcy and Insolvency Act (Canada) or a liquidator is appointed for the credit union under this Act or the Winding-Up and Restructuring Act (Canada);

(c) the Authority is satisfied that the credit union will be unable to make payment in full, without delay, in respect of any deposits insured by deposit insurance; or

(d) the Chief Executive Officer, as administrator, requires the credit union to be wound up under subparagraph 6 iii of subsection 234 (1).

Payment to person apparently entitled

(2)  The Authority, if it is obliged to make payment in respect of any deposit insured by deposit insurance, shall make payment to the person who appears entitled to the payment by the records of the credit union.

Amount of payment

(3)  The Authority may pay,

(a) the amount of the deposit according to the terms of the deposit; or

(b) before maturity of the deposit, an amount equal to the principal of the deposit and the accrued and unpaid interest on the deposit on the day it is paid.

Withholding to cover lien

(4)  If the credit union has a lien on a deposit under section 39, the Authority may withhold payment of an amount equal to the amount of the lien and pay that amount to the liquidator of the credit union.

Withholding of amount held as security

(5)  If the credit union held a deposit as security for a loan, the Authority may withhold payment of an amount necessary to repay the loan and pay that amount to the liquidator of the credit union.

Discharge of liability

(6)  Payment, under this section, by the Authority in respect of any deposit insured by deposit insurance discharges the Authority from all liability in respect of that deposit, and in no case is the Authority under any obligation to see to the proper application of the payment made.

Subrogation

(7)  If the Authority makes a payment under this section in respect of any deposit with a credit union, the Authority is subrogated to the extent of the payment made to all the rights and interests of the depositor as against that credit union.

Assignment

(8)  If the Authority considers it advisable, it may withhold payment in respect of any deposit with a credit union until the Authority has received a written assignment of all the rights and interests of the depositor against that credit union.

Agreement to administer payments

(9)  The Authority may enter into a deposit administration agreement with a financial institution under which that financial institution agrees to make the payments under this section on behalf of the Authority.

Insurance of deposits with amalgamating credit unions

**220** (1)  This section applies to the deposits of a person who has deposits with two or more credit unions that amalgamate and continue in operation as one credit union.

Remain separate

(2)  A deposit with an amalgamating credit union on the day on which the amalgamated credit union is formed, less any withdrawals from the deposit, is, for the purpose of deposit insurance with the Authority, separate from a deposit of the same person on that day with another amalgamating credit union that became part of the amalgamated credit union.

Deposits with amalgamated credit union

(3)  A deposit made by a person referred to in subsection (2) with an amalgamated credit union after the day on which the amalgamated credit union is formed is insured by the Authority only to the extent that the aggregate of that person’s deposits with the amalgamated credit union, exclusive of the deposit in respect of which the calculation is made, does not exceed the amount prescribed by regulation.

If undertaking acquired

(4)  For the purpose of deposit insurance with the Authority, if one credit union acquires the undertaking and assets of another credit union, those credit unions are considered to be amalgamating credit unions.

Preparatory examination

**221** (1)  The Authority may examine the records and documents of the credit union if the Authority believes that a payment by the Authority under this Act in respect of a deposit held by a credit union is imminent and that it is in the best interest of both the depositors with the credit union and the Authority to make early preparations for the payment.

Same

(2)  The examination may be made by a person designated by the Authority.

Examination powers

(3)  Section 201 applies, with necessary modifications, with respect to an examination under this section.

Application to receivers and liquidators

(4)  Under clause 201 (5) (b), as it applies under subsection (3) of this section, the person conducting the examination may also require a receiver or liquidator to provide information and explanations.

Cancellation of deposit insurance

**222** (1)  The deposit insurance of a credit union may be cancelled on not less than 30 days notice to the credit union by the Authority when,

(a) the credit union is in breach of the standards of business and financial practices established by the Authority or any conditions of its deposit insurance;

(b) the credit union ceases to accept deposits;

(c) an order has been made appointing the Chief Executive Officer or another person as the liquidator of the credit union;

(d) the credit union fails to pay its deposit insurance premiums; or

(e) the Authority determines, on reasonable grounds, that the credit union is unable to meet its obligations as they come due.

Effect of cancellation

(2)  If the deposit insurance of a credit union is cancelled by the Authority, the deposits with the credit union on the day the cancellation takes effect, less any withdrawals from those deposits, continue to be insured for a period of two years or, in the case of a term deposit with a remaining term exceeding two years, to the maturity of that term.

Notification to depositors

(3)  If the deposit insurance of a credit union has been cancelled, the credit union shall notify its depositors of that fact and shall stop accepting deposits from the date of cancellation.

Public notice

(4)  The Authority may, in the manner it considers expedient, give public notice of the cancellation of deposit insurance of a credit union if, in the opinion of the Authority, the public interest requires that notice be given.

Notice to central

(5)  The Authority shall give the central for the credit union written notice of the cancellation of deposit insurance.

Prohibition, advertising, holding out as insured

**223** (1)  Except as allowed under this section, no person shall, by written or oral representations, advertise or hold out the deposits made to any entity as being insured by the Authority.

Advertisement, etc., by credit union or central

(2)  A credit union may advertise or hold out that deposits made to it are insured and a central may advertise or hold out that deposits to its members are insured if the advertising or holding out is by marks, signs, advertisements or other devices authorized by the Authority rules and used in the manner and on the occasions set out by the Authority rules.

Deposit Insurance Reserve Fund and Premiums

Deposit Insurance Reserve Fund

**224** (1)  The Authority shall maintain a fund, called the Deposit Insurance Reserve Fund. 2020, c. 36, Sched. 7, s. 224 (1).

Use of the Fund

(2)  The Deposit Insurance Reserve Fund may be used to pay only for the following:

1. Deposit insurance claims.

2. The costs associated with the orderly winding up of credit unions in financial difficulty.

3. Financial assistance provided under clause 228 (1) (a).

4. Payments made under clause 228 (1) (b).

5. Assets acquired or liabilities assumed under clause 228 (1) (c).

6. Fees in respect of credit agreements entered into by the Authority to provide financial assistance to the credit union sector. 2020, c. 36, Sched. 7, s. 224 (2); 2021, c. 8, Sched. 2, s. 1.

Same

(3)  The Authority has the power to manage and invest the money in the Deposit Insurance Reserve Fund and may disburse money from the Fund for anything under subsection (2). 2020, c. 36, Sched. 7, s. 224 (3).

Liability of Authority limited

(4)  The total liability of the Authority to insure deposits at any particular time is limited to the assets of the Deposit Insurance Reserve Fund at that time. 2020, c. 36, Sched. 7, s. 224 (4).

Not public money

(5)  The assets of the Deposit Insurance Reserve Fund are not public money within the meaning of the Financial Administration Act and do not form part of the Consolidated Revenue Fund. 2020, c. 36, Sched. 7, s. 224 (5).

Immunity of Crown

(6)  The Crown is not liable for any liability or obligation in respect of the Deposit Insurance Reserve Fund. 2020, c. 36, Sched. 7, s. 224 (6).

**Section Amendments with date in force (d/m/y)**

[2021, c. 8, Sched. 2, s. 1](http://www.ontario.ca/laws/statute/S21008" \l "sched2s1) – 01/03/2022

Annual premiums

**225** (1)  Within 120 days after the start of a credit union’s financial year, the Authority shall do the following:

1. Determine the credit union’s annual premium for that financial year in accordance with the regulations.

2. Collect the annual premium determined under paragraph 1.

Deposit of premiums

(2)  The Authority shall credit the annual premiums to the Deposit Insurance Reserve Fund.

Overdue premiums

**226** The Authority may charge interest at a rate equal to the rate prescribed under subsection 161 (1) of the Income Tax Act (Canada) plus 2 per cent on the unpaid amount of any premium instalment that is not paid on or before the due date of that instalment.

Deferral of premiums

**227** The Authority may, upon such conditions as it may direct, defer the collection of, or cancel, all or part of an annual premium assessed by the Authority.

Part XIV  
Supervision and Administration

Powers of Authority and Chief Executive Officer

Powers of Authority

**228** (1)  The Authority may, in furtherance of its objects in respect of credit unions, as set out in section 3 of the Financial Services Regulatory Authority of Ontario Act, 2016,

(a) provide, in its discretion, financial assistance for the purpose of,

(i) assisting a credit union under administration in its continued operation, or

(ii) assisting in the orderly winding up of the operations of a credit union;

(b) make an advance or grant for the purpose of paying lawful claims against a credit union in respect of any claims of its members for withdrawal of deposits;

(c) acquire assets or assume the liabilities of credit unions;

(d) with the approval of the Minister, require the payment of special levies by credit unions;

(e) accept powers conferred on it under the Canada Deposit Insurance Corporation Act;

(f) declare and pay premium rebates to credit unions; and

(g) collect or disclose information concerning a credit union.

Same

(2)  The Authority may attach conditions to financial assistance provided under clause (1) (a) and, without limiting the form in which such financial assistance may be provided, the Authority may provide such financial assistance by,

(a) purchasing securities of a credit union;

(b) making or guaranteeing loans, with or without security, or advances to or deposits with a credit union;

(c) taking security for loans or advances to a credit union; or

(d) guaranteeing the payment of the fees of, and the costs incurred by, a liquidator of a credit union.

Subrogation

(3)  If the Authority makes an advance under clause (1) (b), it is subrogated as an unsecured creditor for the amount of the advance.

Membership

(4)  If the Authority holds membership shares of a credit union, the Authority is a member of the credit union and has the rights and benefits of a member.

Powers of Chief Executive Officer

**229** The Chief Executive Officer may act as the supervisor, administrator or liquidator of a credit union.

Supervision

Supervision by Chief Executive Officer

**230** (1)  The Chief Executive Officer may order that a credit union is subject to the supervision of the Chief Executive Officer in any of the following circumstances:

1. The credit union requests, in writing, that it be subject to supervision.

2. The credit union is in contravention of section 77.

3. The Chief Executive Officer, on reasonable grounds, believes that the credit union is conducting its affairs in a way that might be expected to harm the interests of members or depositors or that tends to increase the risk of claims by depositors against the Authority.

4. The credit union or an officer or director of it does not file, submit or deliver a report or document required to be filed, submitted or delivered under this Act within the time limited under this Act.

5. The credit union has failed to comply with an order of the Chief Executive Officer.

Interpretation

(2)  For the purposes of paragraph 2 of subsection (1), a variation under section 80 does not bring a credit union into compliance with section 77.

Release

(3)  The credit union remains subject to supervision until,

(a) the credit union is being wound up or placed under administration; or

(b) the Chief Executive Officer rescinds the order that the credit union be subject to supervision.

Same

(4)  The Chief Executive Officer may rescind an order under clause (3) (b) on the application of the credit union or on the Chief Executive Officer’s own initiative if there are reasonable grounds for believing that the credit union is no longer in need of supervision.

Procedural rules

(5)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(6)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Exception, if order at credit union’s request

(7)  Subsections (5) and (6) do not apply if the order is made after the credit union requests, in writing, that it be subject to supervision as described in paragraph 1 of subsection (1).

Powers when credit union supervised

**231** (1)  If a credit union is subject to the supervision of the Chief Executive Officer, the Chief Executive Officer may,

(a) order the credit union to correct any practices that the Chief Executive Officer believes are contributing to the problem or situation that caused the credit union to be ordered subject to its supervision;

(b) order the credit union and its directors, committee members, officers and employees to not exercise any powers of the credit union or of its directors, committee members, officers and employees;

(c) establish guidelines for the operation of the credit union;

(d) order the credit union not to declare or pay a dividend or to restrict the amount of a dividend to be paid to a rate or amount set by the Chief Executive Officer;

(e) attend meetings of the credit union’s board and its audit committee; and

(f) propose by-laws for the credit union and amendments to its articles of incorporation.

Approval of by-laws, etc.

(2)  No by-law, policy or resolution relating to the business, affairs or management of a credit union passed or made by the board during the time the credit union is subject to supervision is of any effect until approved in writing by the Chief Executive Officer.

Enforcement

(3)  If a credit union fails to comply with an order of the Chief Executive Officer under this section, the Chief Executive Officer may apply to the court for,

(a) an order directing compliance with the Chief Executive Officer’s order; or

(b) such other order as the court considers appropriate.

Expenses of Chief Executive Officer

**232** The Chief Executive Officer may require a credit union to pay the expenses of and disbursements by the Chief Executive Officer in supervising the credit union.

Administration

Administration by Chief Executive Officer

**233** (1)  The Chief Executive Officer may order that a credit union is subject to administration by the Chief Executive Officer in any of the following circumstances:

1. The Chief Executive Officer, on reasonable grounds, believes that the credit union is conducting its affairs in a way that might be expected to harm the interests of members, depositors or shareholders or that tends to increase the risk of claims by depositors against the Chief Executive Officer, but that supervision would, in the circumstances, not be appropriate.

2. The credit union has failed to comply with an order of the Chief Executive Officer made while the credit union was subject to the supervision of the Chief Executive Officer.

3. The Chief Executive Officer is of the opinion that the assets of the credit union are not sufficient to give adequate protection to its depositors.

4. The credit union has failed to pay any liability that is due or, in the opinion of the Chief Executive Officer, will not be able to pay its liabilities as they become due.

5. After a general meeting and any adjournment of no more than two weeks, the members of the credit union have failed to elect the minimum number of directors required under section 86.

6. The Chief Executive Officer has made an order under section 207.

Procedural rules

(2)  Section 209 applies with respect to an order under this section.

Appeal to court

(3)  The credit union that is subject to an order under this section may appeal the order to the court, within seven days after receiving the order, upon a question of law only.

Administrator’s powers

**234** (1)  As an administrator, the Chief Executive Officer may exercise the following powers:

1. Carry on, manage and conduct the operations of a credit union.

2. Preserve, maintain, realize, dispose of and add to the property of a credit union.

3. Receive the income and revenues of the credit union.

4. Exercise the powers of the credit union and of the directors, officers and committees.

5. Exclude the directors of the credit union and its officers, committee members, employees and agents from the property and business of the credit union.

6. Require the credit union to,

i. amalgamate, by requiring the credit union to enter into an amalgamation agreement under section 251,

ii. dispose of its assets and liabilities, or

iii. be wound up.

Same

(2)  In exercising its powers under paragraph 6 of subsection (1), the administrator does not require the consent of the members or shareholders of a credit union.

Same

(3)  If the administrator causes a credit union to be wound up, the wind-up shall proceed as a voluntary wind-up under section 238.

Release from administration

(4)  The Chief Executive Officer may release a credit union from administration on such conditions as the Chief Executive Officer may impose.

Expenses of the Chief Executive Officer

**235** The Chief Executive Officer may require a credit union to pay the expenses of and disbursements by the Chief Executive Officer in administering the credit union.

part xv  
dissolution, amalgamation, other fundamental changes

Definition

**236** In this Part,

“contributory” means a person who is liable to contribute to the property of a credit union being wound up under this Act.

Dissolution

Dissolution where no assets

**237** (1)  A credit union that has no assets and no liabilities may, if authorized by a special resolution of the members, apply to the Chief Executive Officer for an order dissolving the credit union.

Same

(2)  The Chief Executive Officer may, if the Chief Executive Officer receives an application under subsection (1) and is satisfied that a dissolution of the credit union is appropriate, issue an order dissolving the credit union.

Same

(3)  A credit union in respect of which an order is issued under subsection (2) ceases to exist on the day stated in the order.

Voluntary winding up

**238** (1)  The members of a credit union may, by special resolution passed at a general meeting called for that purpose, require the credit union to be wound up voluntarily.

If more than one class of shares

(2)  If the credit union has more than one class of issued shares, the special resolution referred to in subsection (1) shall be in the form of a special resolution passed by the holders of each class of shares.

Appointment of liquidator

(3)  At the meeting passing the special resolution, the members shall appoint a person as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property.

Same

(4)  Only the following may be appointed as a liquidator under this section:

1. The Chief Executive Officer.

2. A licensed trustee in bankruptcy.

Remuneration and expenses of liquidator

(5)  The remuneration of the liquidator and the costs, charges and expenses of the winding up shall be determined in accordance with the following:

1. If the liquidator is the Chief Executive Officer, the remuneration and costs, charges and expenses shall be as set by the Chief Executive Officer as of the day the resolution is passed.

2. If the liquidator is a licensed trustee in bankruptcy, the remuneration and costs, charges and expenses shall be as set out in the appointment of the liquidator.

Filing with Chief Executive Officer

(6)  The liquidator shall file a copy of the resolution under subsection (1) and the appointment under subsection (3) with the Chief Executive Officer within 10 days after the resolution has been passed.

Publication of notice of winding up

(7)  The Chief Executive Officer shall publish a notice of the resolution and the appointment on the website of the Authority within 10 days after the liquidator has filed them under subsection (6).

Vacancy in office of liquidator

(8)  The following apply if a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator appointed under this section:

1. The members of the credit union, by a majority of the votes cast at a general meeting called for that purpose, may appoint a person to fill the vacancy.

2. If the members fail to appoint a person under paragraph 1, the Chief Executive Officer shall appoint a person to fill the vacancy.

Removal of liquidator

(9)  Unless the liquidator is the Chief Executive Officer, the members of the credit union may, by a majority of the votes cast at a general meeting called for that purpose, remove a liquidator appointed under this section and appoint a replacement.

Credit union to cease business

(10)  From the time the resolution under subsection (1) is passed, the credit union shall cease to carry on its business, except in so far as is, in the opinion of the liquidator, required for the beneficial winding-up of the credit union, but the corporate state and all the corporate powers of the credit union, despite anything to the contrary in the charter of the credit union, continue until the affairs of the credit union are wound up.

No proceeding against credit union without leave

(11)  After the resolution under subsection (1) is passed, no suit, action or other proceeding shall be proceeded with or commenced against the credit union, except with the leave of the court and subject to such terms as the court imposes.

Attachments, etc., void

(12)  Every attachment, sequestration, distress or execution put in force against the estate or effects of the credit union after the passing of the resolution under subsection (1) is void.

Liquidator to take custody

(13)  Upon appointment, the liquidator shall take custody and control of all property, rights and privileges of the credit union or to which the credit union appears to be entitled and shall take all necessary steps to wind up the credit union.

Statement of assets and liabilities

(14)  Within 60 days after being appointed, the liquidator shall prepare a statement of the assets and liabilities of the credit union as of the start of the winding up and file the statement with the Chief Executive Officer.

List of contributories and calls

(15)  Upon a voluntary winding-up, the liquidator,

(a) shall settle the list of contributories; and

(b) may, before having ascertained the sufficiency of the property of the credit union, call on any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay any sum that the liquidator considers necessary to satisfy the liabilities of the credit union, and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves.

Same

(16)  The list of contributories settled by the liquidator under clause (15) (a) is admissible in evidence as proof, in the absence of evidence to the contrary, of the liability of the persons named in the list as contributories.

Meetings of credit union during winding-up

(17)  The liquidator may, during the continuance of the voluntary winding-up, call general meetings of the members of the credit union for the purpose of obtaining their approval by resolution or for any other purpose as the liquidator thinks fit.

Arrangements with creditors

(18)  The liquidator may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that the person has a claim, present or future, certain or contingent, liquidated or unliquidated, against the credit union or whereby the credit union may be rendered liable.

Power to compromise with debtors and contributors

(19)  The liquidator may compromise all debts and liabilities capable of resulting in debts and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the credit union and any contributory, alleged contributory or other debtor or person who may be liable to the credit union and all questions in any way relating to or affecting the property of the credit union, or the winding up of the credit union upon the receipt of the sums payable at such times and generally upon such conditions as are agreed, and the liquidator may take any security for the discharge of the debts or liabilities and give a complete discharge in respect of them.

Account to be made by liquidator

(20)  The liquidator shall make up an account showing the manner in which the winding-up has been conducted and the property disposed of.

Same

(21)  After the account is made up, the liquidator shall call a general meeting of the members and shareholders of the credit union for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator.

Calling meeting

(22)  The liquidator shall call the meeting in the manner set out in the credit union’s articles or by-laws.

Extension of time

(23)  The Chief Executive Officer may, in writing, extend the time for filing any documents required to be filed under this section if the Chief Executive Officer is satisfied that an extension is appropriate.

Notice and dissolution

**239** (1)  Following the meeting called under subsection 238 (21), the liquidator shall, within 10 days after the meeting, file a notice with the Chief Executive Officer stating that the meeting was held and its date.

Publication of notice

(2)  The Chief Executive Officer shall, promptly after the liquidator files the notice under subsection (1), publish a notice on the website of the Authority setting out the date that the meeting was held and the date, proposed by the liquidator, for the dissolution of the credit union.

Restriction on dissolution date

(3)  The date proposed by the liquidator for the dissolution of the credit union must be at least three months after the date that the meeting called under subsection 238 (21) was held.

Deferral of date by court

(4)  At any time before the credit union is dissolved, the court may, on the application of the liquidator or any other interested person, make an order deferring the date on which the dissolution of the credit union is to take effect to a date fixed in the order.

Dissolution

(5)  The credit union is dissolved on the date proposed by the liquidator unless the court makes an order under subsection (4), in which case the credit union is dissolved on the date fixed in the order.

Dissolution order

(6)  Despite anything in this Act, the court, at any time after the affairs of the credit union have been fully wound up may, on the application of the liquidator or any other interested person, make an order dissolving it, and it is dissolved on the date fixed in the order.

Winding up by court order

**240** (1)  A credit union may be wound up by order of the court if,

(a) the members, by a special resolution passed at a general meeting called for that purpose, authorize an application to be made to the court to wind up the credit union;

(b) proceedings have been started to wind up the credit union voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;

(c) it is proved to the satisfaction of the court that the credit union, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or

(d) in the opinion of the court it is just and equitable for some reason other than the bankruptcy or insolvency of the credit union that it should be wound up.

If more than one class of shares

(2)  If the credit union has more than one class of issued shares, the special resolution referred to in clause (1) (a) shall be in the form of a special resolution passed by the holders of each class of shares.

Applicants

(3)  A winding-up order may be made upon the application of,

(a) the credit union;

(b) if the credit union is being wound up voluntarily, the liquidator or a contributor; or

(c) the Chief Executive Officer.

Notice to credit union

(4)  Except if the application is made by the credit union, four days notice of the application must be given to the credit union.

Notice to Chief Executive Officer

(5)  Except if the application is made by the Chief Executive Officer, four days notice of the application must be given to the Chief Executive Officer.

Power of court

(6)  The court may,

(a) make the order applied for;

(b) dismiss the application with or without costs;

(c) adjourn the hearing conditionally or unconditionally;

(d) make an interim or such other order as it considers appropriate; or

(e) refer the proceedings for the winding-up to an officer of the court for inquiry and report and authorize the officer to exercise such powers of the court as are necessary for the reference.

Appointment of liquidator

(7)  The court making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property.

Remuneration

(8)  The court may at any time fix the remuneration of the liquidator and the costs, charges and expenses of the winding-up.

Vacancy

(9)  If a liquidator who is appointed by the court dies or resigns or the office becomes vacant for any reason, the court may fill the vacancy.

Removal

(10)  The court may, by order for cause, remove a liquidator appointed by it and appoint another liquidator in the stead of the removed liquidator.

Notice of court order

(11)  A liquidator appointed by the court shall give notice to the Chief Executive Officer of the court order respecting the winding up promptly after the liquidator’s appointment.

Notice of appointment

(12)  The Chief Executive Officer shall publish a notice of the liquidator’s appointment on the website of the Authority.

Proceedings in winding-up after order

(13)  If a winding-up order has been made by the court, proceedings for the winding up of the credit union must be taken in the same manner and with the like consequences as are provided for a voluntary winding-up, except that,

(a) the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order; and

(b) all proceedings in the winding-up are subject to the order and direction of the court.

Review by court

(14)  If the list of contributories has been settled by the liquidator before the winding-up order, it is subject to review by the court.

Meeting of members may be ordered

(15)  If a winding-up order has been made by the court, the court may direct meetings of the members of the credit union to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chair of the meeting and to report the results of it to the court.

Order for delivery of property

(16)  If a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, employee, trustee, receiver, banker, agent or officer of the credit union, to pay, deliver, convey, surrender or transfer promptly, or within such time as the court directs, to the liquidator any money, record, document, estate or effects that are in any such person’s hands and to which the credit union is apparently entitled.

Inspection of documents and records

(17)  If a winding-up order is made by the court, the court may make an order for the inspection of the records and documents of the credit union by its creditors and contributories, and any records and documents in the possession of the credit union may be inspected in conformity with the order.

No proceedings against credit union without leave

(18)  After a winding-up order is made, no suit, action or other proceeding shall be proceeded with or commenced against the credit union, except with the leave of the court and subject to such terms as the court imposes.

Attachments, etc., void

(19)  Every attachment, sequestration, distress or execution put in force against the estate or effects of a credit union after a winding-up order is made is void.

Provision for discharge of liquidator and distribution by the court

(20)  If the realization and distribution of the property of a credit union being wound up under an order of the court has proceeded so far that, in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the credit union remaining in the liquidator’s hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator and the court may make an order directing how the documents and records of the credit union and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court considers appropriate.

Order for dissolution

(21)  The court at any time after the affairs of the credit union have been fully wound up may, upon the application of the liquidator or any other interested person, make an order dissolving it, and it is dissolved on the date fixed in the order.

Notice to Chief Executive Officer

(22)  The person on whose application the order was made shall, within 10 days after it was made, file with the Chief Executive Officer a certified copy of the order and the Chief Executive Officer shall publish notice of the dissolution on the website of the Authority.

Dissolution by Chief Executive Officer

**241** (1)  The Chief Executive Officer may, by order, dissolve a credit union if the Chief Executive Officer is satisfied that,

(a) its incorporation was obtained by fraud or mistake;

(b) it exists for an illegal purpose;

(c) the number of its members is reduced to fewer than the minimum number of members prescribed by Authority rule;

(d) it is not carrying on business or is not in operation; or

(e) it has contravened this Act, the regulations or the Authority rules.

Procedural rules

(2)  Section 209 applies with respect to an order under this section.

Appeal to Tribunal

(3)  The credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 212.

Appointment of liquidator

(4)  If necessary, the Chief Executive Officer shall appoint a liquidator to carry out the dissolution.

Liquidation

(5)  The liquidator, if one is appointed, shall proceed to wind up the credit union and subsections 238 (10) to (23) and 239 (1) apply, except that no approval of the members of the credit union is required.

Notice of dissolution

(6)  The Chief Executive Officer shall publish notice of the dissolution on the website of the Authority.

Liability of members and shareholders to creditors

**242** (1)  Despite the dissolution of a credit union, each of the members or shareholders among whom its property has been distributed other than the refunds of deposits, remains liable to its creditors to the extent of the amount received by the member or shareholder upon the distribution, and an action in a court of competent jurisdiction to enforce such liability may be brought against the member or shareholder.

Action against one member or shareholder as representing a class

(2)  If there are several members or classes of shareholders, the court may permit an action to be brought against one or more members or one or more shareholders of each class of shareholders as representatives of the class of members or shareholders and, if the plaintiff establishes the plaintiff’s claim as creditor, may make an order of reference and add as parties in the referee’s office all such members or shareholders of each class of shareholders as are found, and the referee shall determine the amount that each should contribute towards the plaintiff’s claim and may direct payment of the sums so determined.

Forfeiture of undisposed property

**243** Subject to section 242, any real or personal property of a credit union that has not been disposed of at the date of its dissolution is forfeit to the Crown in right of Ontario.

Responsibilities of liquidator

**244** Upon a winding-up of a credit union,

(a) the liquidator shall apply the property of the credit union in satisfaction of all its debts, obligations and liabilities, and, subject thereto, shall distribute any remaining property rateably among the members or shareholders according to their rights and interests in the credit union;

(b) in distributing the property of the credit union, debts due to the employees of the credit union for services performed due at the commencement of the winding-up or within one month before, not exceeding three months wages and accumulated sickness benefits or vacation pay accrued for not more than twelve months, shall be paid in priority to the claims of the ordinary creditors, and such persons shall rank as ordinary creditors for any additional amount of their claims for wages; and

(c) all the powers of the board of a credit union being wound up cease upon the appointment of a liquidator except to the extent that the liquidator may permit the continuance of these powers for the purpose of assisting the winding-up proceedings.

Distribution of property

**245** Section 53 of the Trustee Act applies with necessary modifications to liquidators.

Payment of costs and expenses

**246** The costs, charges and expenses of the winding-up including the remuneration of the liquidator are payable out of the property of the credit union in priority to all other claims.

Powers of liquidator

**247** (1)  A liquidator may,

(a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the credit union;

(b) carry on the business of the credit union so far as may be necessary for the beneficial winding up of the credit union;

(c) sell the real and personal property of the credit union by public auction or private sale;

(d) borrow money on behalf of the credit union as may be necessary for the winding up of the credit union;

(e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the credit union;

(f) raise upon the security of the property of the credit union such money as may be required;

(g) take out in the liquidator’s official name, letters of administration of the estate of any deceased contributory and in that official name, do any other act that may be necessary for obtaining payment of any money due from a contributory or from a contributory’s estate that cannot conveniently be done in the name of the credit union;

(h) do and perform all acts and other things and execute under the corporate seal or otherwise all documents in the name and on behalf of the credit union as may be necessary for winding up the affairs of the credit union and distributing its property;

(i) engage the services of a solicitor to assist in the performance of the liquidator’s duty;

(j) employ an agent to do any business that the liquidator is unable to do directly;

(k) claim and, where necessary, prove any claim against the estate of a contributory for any debt or liability to the credit union;

(l) receive dividends in the distribution of an estate of a contributory in respect of any debt or liability mentioned in clause (k);

(m) compromise all calls, and liabilities to call, debts and liabilities capable of or resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or alleged as subsisting between the credit union and any other person; and

(n) do and execute all such other things as are necessary for winding up the affairs of the credit union and distributing its property.

Bills of exchange deemed drawn in the course of business

(2)  The execution, endorsement or making of all agreements, contracts, bills of exchange or other documents by a liquidator on behalf of a credit union has the same effect with respect to the rights and liabilities of the credit union as if the agreements, contracts or bills of exchange or other documents had been executed, endorsed or made by or on behalf of the credit union in the course of carrying on its business.

Where approval required

(3)  The liquidator shall not exercise power granted under clause (1) (a), (d), (f), (m) or (n),

(a) in the case of a voluntary winding-up or a liquidator appointed by the Chief Executive Officer under section 241, unless the liquidator has obtained the approval in writing of the Chief Executive Officer; or

(b) in the case of a winding-up by order of the court, unless the liquidator has obtained the approval of the court.

Exception

(4)  Clause (3) (a) does not apply where the Chief Executive Officer is the liquidator.

Notice of liability of contributory

(5)  The liability of a contributory is a debt accruing due from the contributory at the time when the contributory’s liability commenced, but payable at the time when calls are made for enforcing the liability.

Liability in case of death

(6)  If a contributory dies before or after being placed on the list of contributories, the deceased contributory’s personal representative, in administering the estate of the contributory, is liable to contribute to the property of the credit union in discharge of the liability of the deceased contributory and shall be a contributory accordingly.

Examination of persons as to estate

(7)  The court may, at any time after the commencement of the winding-up, summon to appear before the court or liquidator, any director, manager, employee or officer of the credit union, or any other person known or suspected to have possession of any of the estate or effects of the credit union, or alleged to be indebted to the credit union, or any person whom the court thinks capable of giving information concerning the dealings, estate or effects of the credit union.

Damages against delinquent directors, etc.

(8)  If, in the course of the winding-up of a credit union, it appears that a person who has taken part in the formation or promotion of the credit union or any past or present director, manager, officer, employee, liquidator or receiver of the credit union has misapplied or retained in the person’s own hands, or become liable or accountable for money of the credit union, or has committed any misfeasance or breach of trust in relation to the credit union, the court may, on the application of a creditor, member, director, liquidator, or contributory, inquire into the conduct of that person and order the person to restore the money so misapplied or retained, or for which the person has become liable or accountable together with interest at such rate as the court considers just or to contribute such sum to the property of the credit union by way of compensation in respect of the misapplication, retention, misfeasance or breach of trust as the court considers just.

Disposal of records

(9)  If a credit union has been wound up under this Act and is about to be dissolved, the records and documents of the credit union and of the liquidator may be disposed of in such manner as,

(a) the Chief Executive Officer may specify, in the case of voluntary winding up or a liquidator appointed by the Chief Executive Officer under section 241; or

(b) the court may order in the case of winding up under court order.

Retention of records by custodian

(10)  A person who has been granted custody of the records and documents under subsection (9) shall keep them available for production for six years following the date of the dissolution of the credit union or until the expiration of such other period as may be specified by the Chief Executive Officer or ordered by the court under subsection (9).

Rules

(11)  Unless otherwise provided by this Act or by the Authority rules, the practice and procedure in a winding-up under the Winding-up and Restructuring Act (Canada) applies.

Notice of winding-up proceedings

**248** If proceedings are taken under the Winding-up and Restructuring Act (Canada) in respect of a credit union, the secretary of the credit union shall send notice of the proceedings to the Chief Executive Officer.

Security interests remaining after dissolution

**249** (1)  If a credit union is dissolved without discharging a security interest given to the credit union, the Chief Executive Officer may discharge that security interest or do anything else, in relation to that security interest, that the credit union could have done had it not been dissolved.

Clarification with respect to real property

(2)  For greater certainty, and without limiting what other security interests subsection (1) applies to, subsection (1) applies to liens, charges and mortgages or any other security interest in real property.

Amalgamations

Amalgamation of credit union

**250** (1)  Any two or more credit unions may amalgamate and continue as one credit union.

Amalgamation agreement

(2)  The credit unions proposing to amalgamate must enter into an agreement for the amalgamation prescribing the conditions of the amalgamation, the mode of carrying the amalgamation into effect, and, in particular, the agreement must set out the following:

1. The corporate name of the amalgamated credit union.

2. The limitation on membership in the amalgamated credit union.

3. The name in full, callings and places of residence of the first directors of the amalgamated credit union.

4. The time and manner of election of subsequent directors of the amalgamated credit union.

5. The manner of converting the share capital of each of the amalgamating credit unions into that of the amalgamated credit union.

6. If any membership shares of one of the credit unions are not to be converted into membership shares of the amalgamated credit union, the amount of money or securities that the members are to receive in addition or instead of membership shares of the amalgamated credit union.

7. If any shares of one of the credit unions are not to be converted into shares or other securities of the amalgamated credit union, the amount of money or securities that the holders of the shares are to receive in addition or instead of shares or other securities of the amalgamated credit union.

8. The manner of payment of money instead of the issue of fractional shares of the amalgamated credit union or of any other body corporate that are to be issued in the amalgamation.

9. Such other details as are necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated credit union.

10. The proposed effective date of the amalgamation.

Filing of agreement

(3)  Within one month after the agreement is signed, the parties must file with the Chief Executive Officer a true copy of the amalgamation agreement and pay the fee established by Authority rule.

Approvals required

(4)  The agreement is subject to the approval of the Chief Executive Officer and to adoption by special resolutions of the members of each of the amalgamating credit unions, passed at meetings called for the purpose of considering the agreement.

If more than one class of shares

(5)  If the credit union has more than one class of issued shares, each special resolution referred to in subsection (4) shall be in the form of a special resolution passed by the holders of each class of shares.

Conditions of approval to be by order

(6)  If the Chief Executive Officer approves the agreement, the Chief Executive Officer may impose such conditions on the approval as the Chief Executive Officer considers appropriate and shall do so by order.

Refusal of approval to be by order

(7)  If the Chief Executive Officer refuses to approve the agreement, the Chief Executive Officer shall do so by order.

Procedural rules

(8)  Section 209 applies with respect to an order under subsection (6) or (7) of this section.

Appeal to Tribunal

(9)  The credit union that is subject to an order under subsection (6) or (7) may appeal the order to the Tribunal in accordance with section 212.

Meeting

(10)  The meeting to approve the amalgamation must be held within one month after the approval of the Chief Executive Officer is given.

Certification

(11)  If the amalgamation is approved, that fact must be certified upon the agreement by the secretary of each of the amalgamating credit unions.

Extension of time

(12)  The Chief Executive Officer may extend the time within which the meeting to approve the amalgamation must be held if there are reasonable grounds for doing so.

Application for certificate

(13)  If the agreement is adopted, the amalgamating credit unions may apply jointly for a certificate of amalgamation by submitting an application to the Chief Executive Officer together with articles of amalgamation.

Certificate of amalgamation

(14)  The Chief Executive Officer may, in the Chief Executive Officer’s discretion, issue a certificate of amalgamation which shall set out the effective date of the amalgamation.

Grounds for refusing certificate

(15)  Subsection 13 (2) applies, with necessary modifications, with respect to the issue of a certificate of amalgamation.

Amalgamation and effects

(16)  On and after the effective date of the amalgamation,

(a) the amalgamating credit unions are amalgamated and are continued as one credit union under the corporate name set out in the certificate;

(b) the amalgamated credit union possesses all the property, rights, privileges and franchises and is subject to all the liabilities, contracts, disabilities and debts of each of the amalgamating credit unions; and

(c) the articles of amalgamation shall be deemed to be the articles of incorporation of the amalgamated credit union and the certificate of amalgamation shall be deemed to be the certificate of incorporation of the amalgamated credit union.

Notice

(17)  The Chief Executive Officer shall publish notice of the issue of the certificate of amalgamation on the website of the Authority.

Statement of assets and liabilities

(18)  The amalgamated credit union shall file with the Chief Executive Officer, within 60 days after the effective date of the amalgamation, a statement of the assets and liabilities of the amalgamated credit union as of the date of the certificate.

Amalgamation of credit unions under administration

**251** (1)  If a credit union is under the administration of the Chief Executive Officer, the Chief Executive Officer may require the credit union to enter into an amalgamation agreement or do anything else under section 250.

Application of s. 250

(2)  If the Chief Executive Officer requires a credit union under the administration of the Chief Executive Officer to enter into an amalgamation agreement under section 250, the following apply with respect to the application of section 250:

1. The adoption, under subsection 250 (4), of the amalgamation agreement by the members and shareholders of the credit union under administration is not required.

2. The Chief Executive Officer shall not issue a certificate of amalgamation under subsection 250 (14) unless the amalgamation would,

i. protect the interests of the depositors or members of the credit unions being amalgamated, and

ii. promote the financial security and integrity of the amalgamated credit union.

Reorganization

Articles of amendment

**252** (1)  A credit union may from time to time amend its articles of incorporation to,

(a) limit its business or powers or otherwise vary its business or powers;

(b) change its corporate name; or

(c) add, change or remove any provision that,

(i) is authorized by this Act to be set out in the articles, or

(ii) could be subject to a by-law of the credit union.

Authorization

(2)  An amendment under subsection (1) must be authorized by special resolution of members and such further authorization as the by-laws provide.

Class vote

**253** (1)  The holders of shares of a class or of a series are entitled to vote separately as a class or series on a proposal to amend the articles to,

(a) increase or decrease any maximum number of authorized shares of that class, or increase any maximum number of authorized shares of a class having rights or privileges equal or superior to the shares of that class;

(b) effect an exchange, reclassification or cancellation of all or part of the shares of that class;

(c) add, change or remove the rights, privileges, restrictions or conditions attached to the shares of that class and, without limiting the generality of the foregoing,

(i) prejudicially remove or change rights to accrued dividends or rights to cumulative dividends,

(ii) prejudicially add, remove, or change redemption rights,

(iii) reduce or remove a dividend preference or a liquidation preference, or

(iv) prejudicially add, remove or change conversion privileges, options, voting, transfer or pre-emptive rights, or rights to acquire securities of the credit union;

(d) increase the rights or privileges of any class of shares having rights or privileges equal or superior to the shares of that class;

(e) create a new class of shares equal or superior to the shares of that class;

(f) make any class of shares having rights or privileges inferior to the shares of that class equal or superior to the shares of that class; or

(g) effect an exchange or create a right of exchange of all or part of the shares of another class into the shares of that class.

Exception

(2)  Subsection (1) does not apply to membership shares.

Same

(3)  Subsection (1) does not apply in the case of amendments to the articles referred to in clause (1) (a), (b) or (e) if the articles so provide.

Right limited

(4)  Subject to subsection (3), the holders of a series of shares of a class are entitled to vote separately as a series under subsection (1) if that series is affected by an addition or amendment to the articles in a manner different from other shares of the same class.

Right to vote

(5)  Subsections (1) and (4) apply whether or not the shares of a class otherwise carry the right to vote.

Required documentation

**254** The credit union must deliver to the Chief Executive Officer, within 60 days after the special resolution has been confirmed by its members and affected shareholders, articles of amendment, signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the articles of amendment, setting out,

(a) the corporate name of the credit union;

(b) a certified copy of the special resolution;

(c) that the amendment has been duly confirmed and authorized; and

(d) the date of the confirmation of the special resolution by the members and affected shareholders.

Certificate of amendment

**255** (1)  If the articles of amendment conform to law, the Chief Executive Officer shall, when all fees established by Authority rule have been paid,

(a) endorse on the articles of amendment the word “Filed/Déposé” and the day, month and year of the filing thereof;

(b) file an electronic copy with the Chief Executive Officer’s office; and

(c) issue to the credit union or its agent a certificate of amendment to which the Chief Executive Officer shall affix the original.

Effect of certificate

(2)  The amendment becomes effective upon the date set out in the certificate of amendment and the articles of incorporation are amended accordingly.

Restatement of articles

**256** (1)  Subject to subsections (2) and (3), a credit union may at any time restate its amended articles of incorporation.

Filing of restatement

(2)  The credit union shall deliver to the Chief Executive Officer the restated articles, signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the restated articles, setting out,

(a) all the provisions that are then set out in the original articles of incorporation as amended; and

(b) a statement that the restated articles correctly set out, without change, the corresponding provisions of the original articles as amended.

Certificate of restatement

(3)  If the restated articles of incorporation conform to law, the Chief Executive Officer shall, when all fees established by Authority rule have been paid,

(a) endorse on the restated articles the word “Filed/Déposé” and the day, month and year of the filing thereof;

(b) file an electronic copy with the Chief Executive Officer’s office; and

(c) issue to the credit union or its agent a restated certificate of incorporation to which the Chief Executive Officer shall affix the original.

Effect of certificate

(4)  The restated articles of incorporation become effective upon the date set out in the restated certificate and supersede the original articles of incorporation and all amendments to them.

Continuing or Ceasing to be an Ontario Credit Union

Continuance as an Ontario credit union

**257** (1)  A body corporate incorporated under the laws of another jurisdiction in Canada other than Ontario or under another Ontario Act may, if authorized by the laws of that other jurisdiction or under that other Ontario Act, apply to the Chief Executive Officer for a certificate of continuance.

Authorization

(2)  If a body corporate has shareholders, the application must be authorized by a special resolution of the shareholders.

Articles of continuance, etc.

(3)  Articles of continuance shall be sent to the Chief Executive Officer together with a copy of the special resolution required under subsection (2) and any other prescribed documents.

Requirements for articles

(4)  The articles of continuance shall make any amendments to the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which the body corporate was incorporated and any amendments thereto necessary to make the articles of continuance conform to the laws of Ontario, and may make such other amendments as would be permitted under this Act if the body corporate were incorporated under this Act, provided that at least the same shareholder approval has been obtained for such other amendments as would have been required if the body corporate were incorporated under this Act.

Issue of certificate of continuance

(5)  Upon receipt of the articles of continuance and the other required documents, the Chief Executive Officer may, subject to any prescribed conditions, issue a certificate of continuance on such terms and subject to such limitations and conditions as the Chief Executive Officer considers proper.

Grounds for refusing certificate

(6)  Subsection 13 (2) applies, with necessary modifications, with respect to the issue of a certificate of continuance.

Effect of certificate

(7)  The articles of continuance become effective on the date set out in the certificate of continuance and, as of that date,

(a) the body corporate is continued as a credit union under this Act as though it had been incorporated under this Act;

(b) the articles of continuance are deemed to be the articles of incorporation of the continued credit union; and

(c) the certificate of continuance is deemed to be the certificate of incorporation of the credit union.

Copy of certificate to other jurisdiction, etc.

(8)  The Chief Executive Officer shall send a copy of the certificate of continuance,

(a) to the appropriate official or public body for the jurisdiction in which the body corporate was incorporated; or

(b) if the body corporate was incorporated under another Ontario Act, to the appropriate official or public body for the other Ontario Act.

Rights, liabilities, etc., preserved

(9)  If a body corporate is continued as a credit union under this Act,

(a) the credit union possesses all the property, rights, privileges and franchises and is subject to all the liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of the body corporate;

(b) a conviction against, or ruling, order or judgment in favour of or against, the body corporate may be enforced by or against the credit union; and

(c) the credit union shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil action commenced by or against the body corporate.

Notice

(10)  The Chief Executive Officer shall publish notice of the issue of the certificate of continuance on the website of the Authority.

Transition — outstanding debt and assets, etc.

(11)  The Chief Executive Officer may, by order, allow a continued credit union to,

(a) have outstanding debt obligations which are not authorized by this Act if the debt obligations were outstanding at the time the application for the certificate of continuance was made, for such period and under such conditions as the Chief Executive Officer may order;

(b) hold assets, including loans, that a credit union is not otherwise permitted by this Act to hold if the assets were held at the time the application for the certificate of continuance was made, for such period and under such conditions as the Chief Executive Officer may order; and

(c) acquire and hold assets, including loans, that a credit union is not otherwise permitted by this Act to acquire or hold if the body corporate continued as the credit union was obliged, at the time the application for the certificate of continuance was made, to acquire those assets, for such period and under such conditions as the Chief Executive Officer may order.

Limits on transition period

(12)  The following apply with respect to a period mentioned in clause (11) (a), (b) or (c):

1. The period may not exceed the maximum period prescribed by regulation.

2. The Chief Executive Officer may extend the period but only for a further period that does not exceed the maximum extension period prescribed by regulation.

Transfer to another jurisdiction

**258** (1)  A credit union may, if it has been issued a certificate of approval of continuance under this section, apply to the appropriate official or public body of another jurisdiction in Canada requesting that the credit union be continued as if it had been incorporated under the laws of that other jurisdiction.

Application for certificate of approval

(2)  A credit union may apply to the Chief Executive Officer for a certificate of approval of continuance.

Authorization

(3)  An application must be authorized by a special resolution of the members of the credit union.

If more than one class of shares

(4)  If the credit union has more than one class of issued shares, the special resolution referred to in subsection (3) shall be in the form of a special resolution passed by the holders of each class of shares.

Issue of certificate of approval

(5)  The Chief Executive Officer may, subject to any conditions prescribed by regulation, issue a certificate of approval of continuance if the Chief Executive Officer is satisfied as to the following:

1. If the credit union is to be continued as a deposit-taking institution, the deposits held by the institution will be insured or guaranteed by the Authority or similar entity for the jurisdiction under whose laws the credit union is to be continued.

2. If the credit union is to be continued as a body corporate other than a deposit-taking institution, the body corporate will not hold any deposits when it is continued.

Copy of certificate to other jurisdiction

(6)  The Chief Executive Officer shall send a copy of the certificate of approval of continuance to the appropriate official or public body for the jurisdiction under whose laws the credit union is to be continued.

Effect of continuation in other jurisdiction

(7)  When a credit union is continued under the laws of another jurisdiction following the issue of a certificate of approval of continuance, the credit union ceases to be a credit union for the purposes of this Act.

Filing and notice

(8)  A credit union that is continued under the laws of another jurisdiction shall file a copy of the instrument of continuance with the Chief Executive Officer and the Chief Executive Officer shall publish notice of the continuation on the website of the Authority.

Continuation under other Ontario Act

**259** (1)  A credit union may, if it has been issued a certificate of approval of continuance under this section, apply under another Ontario Act to be continued as if it had been incorporated under that other Act.

Application for certificate of approval

(2)  A credit union may apply to the Chief Executive Officer for a certificate of approval of continuance.

Authorization

(3)  An application must be authorized by a special resolution of the members of the credit union.

If more than one class of shares

(4)  If the credit union has more than one class of issued shares, the special resolution referred to in subsection (3) shall be in the form of a special resolution passed by the holders of each class of shares.

Issue of certificate of approval

(5)  The Chief Executive Officer may, subject to any prescribed conditions, issue a certificate of approval of continuance if the Chief Executive Officer is satisfied that the credit union, when it is continued under the other Ontario Act, will not hold any deposits.

Copy of certificate to other official

(6)  The Chief Executive Officer shall send a copy of the certificate of approval of continuance to the appropriate official or public body under the other Ontario Act.

Effect of continuation under other Act

(7)  When a credit union is continued under another Ontario Act following the issue of a certificate of approval of continuance, the credit union ceases to be a credit union for the purposes of this Act.

Filing and notice

(8)  A credit union that is continued under another Ontario Act shall file a copy of the instrument of continuance with the Chief Executive Officer and the Chief Executive Officer shall publish notice of the continuation on the website of the Authority.

Part xvi  
offences and administrative penalties

Offences

Offence, general

**260** (1)  Every person who contravenes any provision of this Act or the regulations or an order of the Chief Executive Officer is guilty of an offence.

Officers, agents, etc.

(2)  If an entity commits an offence under this Act, every director, officer or agent of the entity who authorized, permitted or acquiesced in the offence is a party to and guilty of the offence and is liable, on summary conviction, to the penalty for the offence whether or not the entity has been prosecuted or convicted.

Penalty

(3)  A person who is guilty of an offence referred to in this section is liable,

(a) in the case of an entity, to a fine of not more than $1,000,000; and

(b) in the case of an individual, to a fine of not more than $500,000 or to imprisonment for not more than two years or to both.

Order to comply

**261** If a person is convicted of an offence under this Act the court making the conviction, in addition to any penalty it may impose, may order that person to comply with the provisions of this Act or the regulations for the contravention of which the person has been convicted.

Restitution

**262** If a person is convicted of an offence under this Act, the court making the conviction, may, in addition to any other penalty, order the person convicted to pay compensation or make restitution in relation to the offence to any person suffering a loss because of the offence.

Repaying benefits

**263** (1)  If a person has been convicted of an offence under this Act, the court may order the convicted person to pay an amount equal to the court’s estimation of the amount of any monetary benefits acquired by the convicted person or accruing to the convicted person or to the spouse or a dependant of the person.

Same

(2)  Subsection (1) applies even though the maximum fine has been imposed on the convicted person.

Order to comply

**264** (1)  If a credit union or any director, officer, employee or agent of a credit union does not comply with any provision of this Act, the regulations, the Authority rules or by-laws, or the articles of incorporation or by-laws of the credit union, the Chief Executive Officer or a member or creditor of the credit union may apply to the court for an order directing the credit union, director, officer, employee or agent to comply with, or restraining the credit union, director, officer, employee or agent from acting in breach of, the provision.

Additional order

(2)  On an application under subsection (1), the court may make the order applied for and such further order it thinks appropriate.

Effect of contravention

**265** A contravention of a provision of this Act or the regulations does not invalidate a contract entered into in contravention of the provision unless otherwise expressly provided in this Act.

Effect of penalty

**266** The fact that a person is subject to or has paid a penalty for an offence under this Act does not relieve that person from any other liability in a civil proceeding.

Limitation period

**267** No proceeding for an offence under this Act shall be started more than two years after the facts on which the proceedings are based first came to the knowledge of the Chief Executive Officer.

Administrative Penalties

Administrative penalties

**268** (1)  An administrative penalty may be imposed under section 269 for either of the following purposes:

1. To promote compliance with the requirements established under this Act.

2. To prevent a person or entity from deriving, directly or indirectly, any economic benefit as a result of contravening a provision of this Act, the regulations or the Authority rules.

Same

(2)  An administrative penalty may be imposed alone or in conjunction with any other regulatory measure provided by this Act, including any other order under this Act or the cancellation of deposit insurance under section 222.

Chief Executive Officer — administrative penalties

**269** (1)  If the Chief Executive Officer is satisfied that a person or entity is contravening or not complying with or has contravened or not complied with a requirement established under this Act, the Chief Executive Officer may, by order, impose an administrative penalty on the person or entity in accordance with this section and the regulations.

Proposal to impose penalty

(2)  If the Chief Executive Officer proposes to impose an administrative penalty under this section, the Chief Executive Officer shall give written notice of the proposal to the person or entity, including the details of the contravention or failure to comply, the amount of the penalty and the payment requirements; the Chief Executive Officer shall also inform the person or entity that the person or entity can request a hearing by the Tribunal about the proposal and shall advise the person or entity about the process for requesting a hearing.

Limitation

(3)  The Chief Executive Officer shall not give notice of a proposal more than two years after the day the Chief Executive Officer became aware of the contravention or failure to comply.

Hearing requested

(4)  If the person or entity requests a hearing in writing within 15 days after the notice under subsection (2) is received, the Tribunal shall hold a hearing.

Order

(5)  The Tribunal may, by order, direct the Chief Executive Officer to carry out the proposal, with or without changes, or substitute its opinion for that of the Chief Executive Officer.

Hearing not requested

(6)  If the person or entity does not request a hearing or does not make the request in accordance with subsection (4), the Chief Executive Officer may carry out the proposal.

Definition

(7)  In this section,

“requirement established under this Act” means a requirement imposed by this Act or by a regulation or an Authority rule, or a requirement imposed by order.

Effect of paying penalty

**270** If a person or entity pays the administrative penalty in accordance with the terms of an order under section 269 or, if the order is varied on appeal, in accordance with the terms of the varied order, the person or entity cannot be charged with an offence under this Act in respect of the same contravention or failure to comply.

Maximum administrative penalties

**271** An administrative penalty imposed under section 269 shall not exceed the following amounts:

1. In the case of an entity, $500,000.

2. In the case of an individual, $100,000.

Enforcement of administrative penalties

**272** (1)  If a person or entity fails to pay an administrative penalty imposed under section 269 in accordance with the terms of the order imposing the penalty, the person who made the order may file the order with the court and the order may be enforced as if it were an order of the court.

Same

(2)  For the purposes of section 129 of the Courts of Justice Act, the date on which the order is filed with the court shall be deemed to be the date of the order.

Same

(3)  An administrative penalty that is not paid in accordance with the terms of the order imposing the penalty is a debt due to the Crown and is also enforceable as such.

Part XVII  
Miscellaneous

Extra-provincial credit unions

**273** (1)  If the Government of Ontario has entered into an agreement providing for reciprocal rights for credit unions with the government of a province or territory of Canada, a credit union incorporated under the laws of that province or territory may register under this Act for such purposes as are specified in the agreement.

Register

(2)  The Chief Executive Officer shall maintain the Extra-Provincial Credit Unions Register and shall record in it the names of the credit unions registered and the limited purposes to which they are subject in Ontario.

Condition precedent to licence

(3)  No credit union that is an extra-provincial corporation within the meaning of the Extra-Provincial Corporations Act shall be licensed under that Act as an extra-provincial corporation unless it has been first registered under this Act by the Chief Executive Officer.

Registration of credit unions to take deposits

(4)  The Chief Executive Officer may, subject to any conditions prescribed by regulation, register a credit union in the Extra-Provincial Credit Unions Register for the purpose of allowing the credit union to borrow money from the public by receiving deposits and lending or investing such money.

Limitation

(5)  A credit union shall not be registered under subsection (4) unless the deposits taken in Ontario are insured or guaranteed by the deposit insurer or similar entity for the jurisdiction under whose laws the credit union was incorporated.

Registration of credit unions to participate in syndicated loans

(6)  The Chief Executive Officer may, subject to any conditions prescribed by regulation,

(a) register a credit union in the Extra-Provincial Credit Unions Register for the purpose of allowing the credit union to participate in syndicated loans under this Act, even if no agreement under subsection (1) applies to the credit union; or

(b) cancel the registration.

Special rules for credit unions registered under subs. (4) or (6) (a)

(7)  The following apply with respect to a credit union registered under subsection (4) or clause (6) (a):

1. References to a credit union in the Loan and Trust Corporations Act and such other statutes and regulations as may be prescribed by regulation shall be deemed to include a credit union registered under subsection (4) or clause (6) (a).

2. The credit union shall comply with any regulations governing the conduct of credit unions registered under this section.

3. This Act shall not apply with respect to the credit union, except as provided in the regulations.

Review

**274** (1)  Within five years after this section comes into force, the Minister shall appoint one or more persons to review the operation of this Act and the regulations and to make recommendations to the Minister.

Subsequent reviews

(2)  The Minister shall, no later than five years after the appointment under subsection (1), appoint one or more persons to conduct a subsequent review and shall, no later than five years after the most recent appointment under this subsection, appoint one or more persons to conduct subsequent reviews.

Public consultation

(3)  When conducting a review, the appointees shall solicit the views of the public.

Public inspection

(4)  The Minister shall make the recommendations of the appointees available to the public.

Cessation of carrying on business

**275** (1)  Subject to subsections (2) and (5), credit unions and centrals shall not carry on business, and extra-provincial credit unions shall not carry on business in Ontario, after the fifth anniversary of the day on which this section comes into force.

Extension

(2)  The Lieutenant Governor in Council may, by order, extend by up to one year the time during which credit unions and centrals may carry on business and extra-provincial credit unions may carry on business in Ontario.

Same, limit

(3)  No more than one order may be made under subsection (2).

Order not a regulation

(4)  An order made under subsection (2) is not a regulation within the meaning of Part III (Regulations) of the Legislation Act, 2006.

Exception — dissolution

(5)  If the Legislature dissolves on the fifth anniversary of the day this section comes into force or on any day within the one-year period before that anniversary or on any day within an extension ordered under subsection (2), credit unions and centrals may continue to carry on business, and extra-provincial credit unions may continue to carry on business in Ontario, until the end of the 180th day after the first day of the first session of the next Legislature.

Electronic format of documents

**276** (1)  Subject to any specific requirements set out in this Act, the regulations, the Authority rules or other applicable law, including the Electronic Commerce Act, 2000, a record or other document that is to be provided, issued or otherwise transmitted under this Act may be provided, issued or otherwise transmitted in electronic format.

Delivery of certain documents

(2)  Delivery of any written notice or document for any purpose of this Act may be made by mail,

(a) in the case of a credit union, addressed to it at its principal place of business;

(b) in the case of a director, addressed to the director at the director’s address as shown on the records of the Authority;

(c) in the case of the Chief Executive Officer, addressed to the Chief Executive Officer at the Chief Executive Officer’s office;

(d) in the case of the Authority, addressed to the Authority at its office; or

(e) in the case of a member, addressed to the member at the member’s address as shown in the records of the credit union or by personal delivery to the member at the member’s place of employment.

Part xviii  
Regulations, rules, forms and fees

Regulations

Regulations, general

**277** (1)  The Lieutenant Governor in Council may make regulations,

(a) respecting any matter in respect of which the Authority may make Authority rules under section 285, with necessary modifications;

(b) governing credit unions and centrals of credit unions;

(c) governing the operations and powers of branches of credit unions;

(d) defining, for the purposes of this Act and the regulations, any word or expression used in this Act that is not defined in this Act;

(e) prescribing any matter that, under this Act, is permitted or required to be prescribed or to be otherwise done by regulation or in accordance with the regulations;

(e.1) authorizing the Chief Executive Officer to require a credit union, a director of a credit union or the board of a credit union to provide information or do a specified thing;

(e.2) authorizing the Chief Executive Officer to provide approvals or authorizations;

(f) defining the interests of a credit union in real property and determining the method of valuing those interests;

(g) respecting the relations between credit unions and,

(i) entities that undertake the business of insurance, and

(ii) insurance agents or insurance brokers;

(h) respecting networking arrangements between credit unions and other persons providing products or services to credit unions or its members;

(h.1) governing the limit on the number of membership shares that may be issued to a member of the credit union;

(i) prohibiting or restricting networking arrangements;

(j) governing the conduct of credit unions in networking arrangements;

(k) respecting the management of risk in making loans and investments and in the general management of a credit union’s business;

(l) prohibiting or restricting the sale by credit unions of a product or service on condition that another product or service is acquired from any person;

(m) respecting the protection of members of credit unions and of the public in their dealings with credit unions including the regulating of representations that may be made by credit unions;

(n) prescribing procedures to be followed by credit unions in dealing with consumer complaints by members or depositors;

(o) setting out limits or restrictions, for the purposes of section 85, respecting the chief executive officer of a credit union acting as a director of the credit union;

(o.1) providing for the removal of directors by the members of a credit union;

(o.2) prescribing matters that shall or may be provided for in the by-laws of a credit union;

(p) prescribing requirements for gender diversity reports under section 103;

(p.1) governing information to be provided by auditors to the Chief Executive Officer;

(q) respecting the retention, in Canada, of assets of a credit union;

(r) requiring the disclosure to depositors of the rate of interest on their accounts and the manner of calculating and paying the interest;

(s) requiring the bonding of and insurance coverage for directors, officers, agents and employees of the credit union and of property of or held by the credit union;

(s.1) prescribing persons who are not eligible to be appointed as a receiver, a receiver and manager or a liquidator of a credit union;

(s.2) governing the duties of auditors present at meetings of members or shareholders;

(t) prescribing and regulating aggregate and individual lending limits for credit unions and methods of calculating limits for the purposes of subsection 155 (1);

(u) prescribing the type and value of security that a credit union must have before making a loan and the method for valuing such security;

(v) prescribing matters to be shown in financial statements under subsection 177 (1) and the periods to which those matters relate;

(w) prescribing the discretionary authorities that may be conferred in proxies and excluding the application of similar provisions in regulations made under Part VIII of the Business Corporations Act;

(x) governing transactions between a credit union or subsidiary and a restricted party for the purposes of Part IX;

(y) respecting the books, registers and other records and documents to be kept and maintained by credit unions for the purposes of subsection 203 (1) and the length of time they are to be retained;

(z) authorizing the Authority to provide services prescribed by the regulations that are ancillary, complementary or similar to services it performs to persons, bodies or classes of persons or bodies prescribed by the regulations, and governing the provision of those services;

(z.1) governing credit unions registered under section 273, including providing for provisions of this Act to apply to such credit unions with such modifications as may be specified in the regulations. 2020, c. 36, Sched. 7, s. 277 (1); 2021, c. 40, Sched. 5, s. 16.

Same

(2)  If an amount or rate is to be prescribed under subsection (1), the regulation may prescribe a method of determining the amount or rate. 2020, c. 36, Sched. 7, s. 277 (2).

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 16 (1-7)](http://www.ontario.ca/laws/statute/S21040" \l "sched5s16s1) - 01/03/2022

Regulations, offering statements

**278** The Lieutenant Governor in Council may make regulations,

(a) specifying the financial statements, reports and other documents that are to be included with an offering statement;

(b) respecting the disclosure of material facts in relation to securities to be distributed;

(c) respecting the distribution of an offering statement;

(d) exempting any class of distributions from the application of sections 68 to 75;

(e) generally, for carrying out the purposes of sections 67 to 75.

Regulations, capital adequacy

**279** The Lieutenant Governor may make regulations,

(a) adopting by reference any code, standard or guideline in respect of capital adequacy requirements;

(b) requiring compliance with any regulation, administrative directive, or prescribed requirement, code standard or guideline in respect of capital adequacy.

Regulations, cost of borrowing

**280** (1)  The Lieutenant Governor in Council may make regulations,

(a) prescribing, for the purposes of section 158, charges that are included in the cost of borrowing and charges that are excluded;

(b) governing rebates to be made under section 159;

(c) prescribing information other than the cost of borrowing that must be disclosed under section 160;

(d) prescribing the manner of calculating the cost of borrowing for the purposes of section 160;

(e) prescribing the circumstances in which the cost of borrowing must be expressed as an amount in dollars and cents for the purposes of section 160;

(f) prescribing the manner of calculating any rebate referred to in paragraph 4 of section 161;

(g) prescribing changes for the purposes of paragraph 6 of section 161, paragraph 3 of section 163 and paragraph 3 of subsection 164 (1);

(h) prescribing rights and obligations of borrowers for the purposes of paragraph 7 of section 161, paragraph 4 of section 163 and paragraph 4 of subsection 164 (1);

(i) prescribing information that must be disclosed under paragraph 8 of section 161, paragraph 5 of section 163 and paragraph 5 of subsection 164 (1);

(j) prescribing information for the purposes of section 162;

(k) prescribing information for the purposes of section 165;

(l) prescribing matters for the purposes of clause 166 (1) (b) and respecting the form, manner and content of advertisements for the purposes of subsection 166 (2);

(m) prescribing the time, manner and form of any disclosure required under sections 160 to 166;

(n) prescribing classes of loans in respect of which some or all of the requirements of sections 159 to 166 do not apply;

(o) prohibiting the imposition of any charge or penalty referred to in section 161, 163 or 164;

(p) governing the nature and amount of any charge or penalty referred to in section 161, 163 or 164 that may be imposed by a credit union, including but not limited to,

(i) regulations providing that such a charge or penalty shall not exceed an amount prescribed in the regulation, and

(ii) regulations respecting the costs of the credit union that may be included or must be excluded in the determination of the charge or penalty;

(q) respecting any other matter or thing that is necessary to carry out the purposes of sections 159 to 166.

Same

(2)  A regulation made under clause (1) (a) may exclude charges described in clause (a), (b) or (c) of the definition of “cost of borrowing” in section 158.

Same

(3)  A regulation made under subsection (1) may be general or particular in its application and may be restricted in its application to the class or classes of loans set out in the regulation.

Regulations, deposit insurance premiums

**281** (1)  The Lieutenant Governor in Council may make regulations prescribing how annual premiums are to be determined under paragraph 1 of subsection 225 (1).

Same

(2)  A regulation under subsection (1) may prescribe different annual premiums for different credit unions or classes of credit unions.

Limitation

(3)  For the purposes of subsection (2), prescribed classes of credit unions shall be based in part on measurable criteria which relate to the risk posed by the credit union and may be based in part on other factors so long as they are not based on membership in a central.

Regulations, administrative penalties

**282** (1)  The Lieutenant Governor in Council may make regulations governing the administrative penalties that may be imposed under section 269.

Same

(2)  Without limiting the generality of subsection (1), a regulation governing administrative penalties may,

(a) prescribe criteria the Chief Executive Officer is required or permitted to consider when imposing a penalty under section 269;

(b) authorize the Chief Executive Officer to determine the amount of a penalty, if the amount of the penalty is not prescribed, and prescribe criteria the Chief Executive Officer is required or permitted to consider when determining the amount of the penalty;

(c) establish different penalties or ranges of penalties for different types of contraventions and for different classes of persons and entities;

(d) authorize a penalty to be imposed for each day or part of a day on which a contravention continues;

(e) authorize higher penalties for a second or subsequent contravention by a person or entity;

(f) require that the penalty be paid before a specified deadline or before a deadline specified by the Chief Executive Officer;

(g) authorize the imposition of late payment fees respecting penalties that are not paid before the deadline, including graduated late payment fees;

(h) establish a maximum cumulative penalty payable in respect of a contravention or in respect of contraventions during a specified period.

Incorporation by reference

**283** A regulation made under this Act may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, standard or guideline, as amended from time to time, whether before or after the regulation is filed, and may require compliance with any code, standard or guideline adopted.

Subdelegation

**283.1**A regulation made under this Act may provide that a matter that may be required, authorized or otherwise determined in accordance with the regulations may be required, authorized or otherwise determined by credit union by-law instead. 2021, c. 40, Sched. 5, s. 17.

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 17](http://www.ontario.ca/laws/statute/S21040" \l "sched5s17) - 01/03/2022

Transitional regulations

**284** (1)  The Lieutenant Governor in Council may make regulations respecting transitional matters related to the implementation of this Act.

Conflict with transitional regulations

(2)  In the event of a conflict between this Act and a regulation made under this section, the regulation prevails.

Authority rules

**285** (1)  The Authority may make rules in respect of the following matters:

1. Establishing standards of sound business and financial practices for credit unions.

2. Establishing any fee described in this Act as being established by Authority rule.

3. Respecting the holding of first meetings, the notice calling the meeting, the quorum, and the business to be transacted.

4. Prescribing the number of individuals required to incorporate a credit union under section 10.

5. Prescribing information for the purposes of subsection 12 (1).

6. Specifying the date on which the financial year of a credit union ends for the purposes of section 27.

7. Governing membership in a credit union for the purposes of Part III.

8. Governing the withdrawal of members from credit unions for the purposes of section 40.

9. Governing the expulsion of members from credit unions for the purposes of section 41.

10. Regulating the maintenance, by credit unions, of adequate and appropriate forms of capital and liquidity.

11. Respecting regulatory capital and the total assets of a credit union.

12. Prescribing phase-in periods for capital adequacy requirements based on a graduated scale.

13. Prescribing classes of subsidiaries whose shares may be included in a credit union’s regulatory capital.

14. Governing transactions between a credit union or a subsidiary and a restricted party.

14.1 Governing, for the purposes of section 82.1, the monthly provision for doubtful loans and the establishment of reserves.

15. Prescribing individuals who are disqualified from being directors of credit unions for the purposes of section 84.

16. Prescribing the minimum number of directors that a credit union must have for the purposes of section 86.

17. Governing the election of directors for the purposes of section 87.

18. Governing the composition of boards for the purposes of section 88.

19. Governing the terms of office of directors for the purposes of section 89.

20. Governing quorum for the purposes of section 90.

21. Governing the filling of board vacancies for the purposes of section 91.

22. Prescribing circumstances for the purposes of section 92.

23. Governing the removal of directors for the purposes of section 93.

24. Governing the resignation of directors for the purposes of section 95.

25. Governing the remuneration of directors for the purposes of section 99.

26. Governing the establishment of committees and the delegation of powers and assignment of duties to committees for the purposes of section 101.

27. Prescribing the powers and duties of audit committees for the purposes of subsection 104 (2).

28. Governing the officers of credit unions and the power and duties of those officers for the purposes of section 105.

29. Establishing the procedures for setting, paying and disclosing the remuneration and expenses of officers for the purposes of section 106.

30. Governing bonds for the purposes of subsection 117 (2).

31. Governing the appointment of auditors and prescribing the required qualifications of auditors for the purposes of section 125.

32. Governing the removal of auditors for the purposes of section 126.

33. Governing the resignation of auditors for the purposes of section 128.

34. Governing the replacement of auditors for the purposes of section 129.

35. Establishing the procedures for setting, paying and disclosing the remuneration of auditors for the purposes of section 130.

36. Prescribing information for the purposes of subsection 137 (2).

37. Governing the transmission of auditors’ reports for the purposes of subsection 137 (2).

38. Prescribing businesses and business activities for the purposes of section 138.

39. Authorizing the dealing in goods or engaging in trade or business for the purposes of subsection 139 (1).

40. Governing requests for approvals and approvals for the purposes of subsection 139 (3).

41. Prescribing services as prohibited for the purposes of subsection 139 (4).

42. Prescribing persons and entities for the purposes of subsection 139 (5).

43. Governing the extent to which a credit union may undertake the business of insurance or act as an agent for any person in placing insurance for the purposes of section 141.

44. Permitting credit unions to undertake fiduciary activities for the purposes of section 142.

Note: Paragraph 45 of subsection 285 (1) of this Act is not yet in force. It comes into force on a day to be named by proclamation of the Lieutenant Governor.

45. Governing unclaimed deposits for the purposes of section 147, including, but not limited to,

i. governing the payment of unpaid deposits by a credit union to the Authority,

ii. governing evidence of entitlement to transferred unclaimed amounts, and

iii. governing the interest payable on transferred unclaimed amounts or specifying that no interest is payable on transferred unclaimed amounts.

46. Governing the restrictions on borrowing for the purposes of subsection 148 (2).

47. Prescribing the meaning of “borrow” for the purposes of subsection 148 (3).

48. Governing security interests in property for the purposes of section 149.

49. Prescribing types of securities or property and prescribing conditions for the purposes of section 167.

50. Governing meeting notices for the purposes of section 175.

51. Governing annual meetings of credit unions for the purposes of section 176.

52. Governing proposals for the purposes of section 179.

53. Prescribing manners of voting for the purposes of section 182.

54. Prescribing requirements for remote members’ meetings by-laws under section 185.

55. Prescribing requirements for remote directors’ meetings by-laws under section 186.

56. Prescribing information for the purposes of section 191 and establishing limitations or restrictions with respect to the use of that information.

57. Prescribing conditions for the purposes of subsection 218 (3).

58. Authorizing, controlling and requiring the use by credit unions of marks, signs, advertisements or devices indicating that deposits with credit unions are insured by the Authority.

59. Prescribing a minimum number of members for the purposes of clause 241 (1) (c).

60. Respecting the procedure to be followed in a winding-up for the purposes of subsection 247 (11). 2020, c. 36, Sched. 7, s. 285 (1); 2021, c. 40, Sched. 5, s. 18.

*Legislation Act, 2006*

(2)  Part III (Regulations) of the Legislation Act, 2006 does not apply to the Authority rules. 2020, c. 36, Sched. 7, s. 285 (2).

Regulation prevails

(3)  If there is a conflict or an inconsistency between a regulation made by the Lieutenant Governor in Council under this Act and an Authority rule, the regulation prevails, but in all other respects an Authority rule has the same force and effect as a regulation. 2020, c. 36, Sched. 7, s. 285 (3).

Transition, rules made under the Credit Unions and Caisses Populaires Act, 1994

(4)  Rules made under section 321.0.4 of the Credit Unions and Caisses Populaires Act, 1994, as it read on the day before the day this section came into force, are deemed, on the day this section comes into force, to be rules made under this Act and those rules apply, with necessary modifications. 2020, c. 36, Sched. 7, s. 285 (4).

Termination of certain Authority by-laws

(5)  The Authority may terminate the by-laws that were deemed under subsections 321.0.4 (4) and (5) of the Credit Unions and Caisses Populaires Act, 1994 to be Authority by-laws made in accordance with the requirements of the Financial Services Regulatory Authority of Ontario Act, 2016 at the time and in the manner that the Authority considers appropriate. 2020, c. 36, Sched. 7, s. 285 (5).

Rule prevails

(6)  If there is a conflict or an inconsistency between a rule made by the Authority under this Act and a by-law described in subsection (5), the rule prevails. 2020, c. 36, Sched. 7, s. 285 (6).

**Section Amendments with date in force (d/m/y)**

[2021, c. 40, Sched. 5, s. 18 (1-3)](http://www.ontario.ca/laws/statute/S21040" \l "sched5s18s1) - 01/03/2022

Approval of Forms, etc.

Forms

**286** The Chief Executive Officer may approve the use of forms, specify the procedure for the use of the forms, and require their use for any purpose of this Act, and the forms may provide for such information to be furnished as the Chief Executive Officer may require.

Reports

**287** The Chief Executive Officer may approve the form and contents of any report required to be prepared under this Act, the regulations or the Authority rules, and the manner of reporting.

Circulars and proxies

**288** The Chief Executive Officer may approve the form and content of information circulars and proxies.

Statements

**289** The Chief Executive Officer may approve the form and content of an offering statement or a statement of material changes.

Fees

Fees

**290** The Minister may make regulations governing fees under this Act, including,

(a) requiring the payment of fees in relation to any matter under this Act, including any services provided by or through the Ministry of Finance;

(b) prescribing the amount of fees or the manner of determining fees;

(c) prescribing the manner in which and the period within which fees must be paid.

Part XIX (OMITTED)

291-339Omitted (amends, repeals or revokes other legislation).

340 Omitted (provides for coming into force of provisions of this Act).

341Omitted (enacts short title of this Act).

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[Français](http://www.ontario.ca/fr/lois/loi/20c36)

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