Credit Unions and Caisses Populaires Act, 1994

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General

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This is the English version of a bilingual regulation.

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PART I  
Interpretation

Definitions

**1.**(1)  In this Regulation,

“agricultural loan” means an agricultural loan described in section 50; (“prêt agricole”)

“authorized types of insurance” means the types of insurance listed in subsection 35 (1); (“types d’assurance autorisés”)

“bridge loan” means a bridge loan described in section 51; (“prêt-relais”)

“Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires” means the publication with that title that is published in The Ontario Gazette by the Corporation, as the publication may be amended from time to time; (“Lignes directrices relatives à la suffisance du capital des caisses populaires et credit unions de l’Ontario”)

“commercial loan” means a commercial loan described in section 52; (“prêt commercial”)

“credit union website” means a website that a credit union uses in relation to its business, including any information provided by the credit union that is accessible on a telecommunications device, but does not include a website that is accessible only by employees or agents of the credit union; (“site Web de caisse”)

“guarantee” includes the issuance of a letter of credit; (“garantie”)

“institutional loan” means an institutional loan described in section 53; (“prêt institutionnel”)

“insurer” means an insurer licensed under the Insurance Act; (“assureur”)

“participating share” means a share of a body corporate that carries the right to participate in the earnings of the body corporate to an unlimited degree and to participate in a distribution of the remaining property of the body corporate on dissolution; (“action participative”)

“personal loan” means a personal loan described in section 54; (“prêt personnel”)

“regulatory capital” means regulatory capital as determined under section 17; (“capital réglementaire”)

“residential mortgage loan” means a residential mortgage loan described in section 55; (“prêt hypothécaire résidentiel”)

“residential property” means an individual condominium residential unit or a building with one to four units where at least one half of the floor area of the building is utilized as one or more private residential dwellings; (“bien résidentiel”)

“risk weighted assets” means the amount of the risk weighted assets as determined under section 18; (“actif pondéré en fonction des risques”)

“total assets” means total assets as determined under section 16. (“actif total”) O. Reg. 237/09, s. 1 (1); O. Reg. 277/15, s. 1 (1); O. Reg. 68/17, s. 1.

(2)  For the purposes of this Regulation, a lodgement of title is not a mortgage. O. Reg. 237/09, s. 1 (2).

(3)  For the purposes of this Regulation, two or more persons are connected persons if they satisfy the conditions prescribed in section 67. O. Reg. 237/09, s. 1 (3).

(4)  For the purposes of this Regulation, a website is not a credit union website by reason only that the website provides access to a credit union website or promotes the business of a credit union. O. Reg. 277/15, s. 1 (2).

**2.**Revoked: O. Reg. 68/17, s. 2.

Widely distributed security

**3.**(1)  A security is widely distributed,

(a) if it is listed or posted for trading on a recognized stock exchange; or

(b) if a prospectus relating to the issuance of the security is filed under the laws of a province or a jurisdiction outside Canada. O. Reg. 237/09, s. 3 (1).

(2)  A debt obligation is widely distributed if no prospectus is required in respect of its distribution under the laws of a province or a jurisdiction outside Canada and,

(a) at least 90 per cent of the maximum authorized principal of the debt obligation is held by one or more persons other than the credit union making the loan and its subsidiaries and,

(i) the debt obligation is issued to at least 25 persons other than the credit union and its subsidiaries within six months after the day on which the first of the debt obligations is issued, or

(ii) the debt obligations are issued on a continuous basis and there are, on average, at least 25 holders other than the credit union and its subsidiaries; or

(b) when the debt obligation is issued, it meets at least three of the following criteria:

1. Its initial term is one year or less.

2. It is rated by a rating agency.

3. It is distributed through a person authorized to trade in securities.

4. It is distributed in accordance with an offering circular or memorandum or a similar document relating to the distribution of securities. O. Reg. 237/09, s. 3 (2).

PART II  
ESTABLISHING A CREDIT UNION

Articles of incorporation

**4.**(1)  The following information must be set out in the articles of incorporation of a credit union:

1. Its name.

2. The address of its head office and the name of the municipality or township in Ontario where its principal place of business is located.

3. The minimum and maximum number of directors.

4. The full name, date of birth, citizenship or landed immigrant status and residential address of each director.

5. The classes and maximum number, if any, of shares other than membership shares that the credit union is authorized to issue.

6. The rights, privileges, restrictions and conditions, if any, attaching to each class of shares.

7. The board’s authority with respect to any class of shares that may be issued in series. O. Reg. 237/09, s. 4 (1).

(2)  Articles filed when a credit union is first incorporated must also set out the full name, date of birth and residential address of each incorporator. O. Reg. 237/09, s. 4 (2).

(3)  Articles approved by the Minister before March 1, 1995 shall be deemed to comply with subsections (1) and (2). O. Reg. 237/09, s. 4 (3).

Name

**5.**Central 1 Credit Union, Canadian Credit Union Association and an extra-provincial credit union registered under clause 332 (6) (a) of the Act are prescribed persons for the purposes of section 20 of the Act. O. Reg. 68/17, s. 3.

PART III  
MEMBERSHIP

**6.**Revoked: O. Reg. 514/10, s. 1.

Payments re deceased members

**7.**(1)  For the purposes of paragraph 1 of subsection 42 (2) of the Act, the prescribed amount is $50,000. O. Reg. 237/09, s. 7 (1).

(2)  For the purposes of paragraph 2 of subsection 42 (2) of the Act, the prescribed amount is $50,000. O. Reg. 237/09, s. 7 (2).

PART IV  
CAPITAL STRUCTURE

Number of shares

**8.**For the purposes of subsection 52 (2) of the Act and despite any limit set out in the by-laws of a credit union, the prescribed limit on the number of membership shares that may be issued to a member of the credit union is the sum of,

(a) the minimum number of membership shares required under the by-laws of the credit union; and

(b) the number of membership shares that would be issued by the credit union for an additional consideration of $1,000, as determined at the time the membership shares are issued. O. Reg. 237/09, s. 8.

Disclosure re insurance of membership shares

**9.**Prior to issuing any membership share, a credit union shall disclose to the member that membership shares are not insured by the Corporation. O. Reg. 237/09, s. 9.

Membership share certificate

**10.**For the purposes of subsection 52 (6) of the Act, a membership share certificate must include the following information and statements on its face:

1. The name of the credit union as it appears in the articles.

2. The name of each person to whom the certificate is issued.

3. A statement indicating that the credit union is governed by the Credit Unions and Caisses Populaires Act, 1994.

4. A statement indicating that the certificate represents membership shares in the credit union and indicating the number of shares.

5. A statement indicating that there may be a lien on the shares in favour of the credit union for indebtedness to it.

6. A statement indicating that the shares are not guaranteed or insured by the Corporation or another public agency.

7. A statement indicating that the certificate is not transferable. O. Reg. 237/09, s. 10.

Offering statement

**11.**(1)  For the purposes of subsection 77 (2) of the Act, the following information is prescribed as information that an offering statement must contain:

1. The name of the credit union.

2. The credit union’s date of incorporation as set out in the articles or, in the case of an amalgamated credit union, its date of amalgamation as set out in its certificate of amalgamation.

3. The address of the credit union’s head office.

4. The name of each of the credit union’s directors and officers, the municipality in which each resides, the principal occupation of each of them and the title of each officer.

5. A description of the business carried on by the credit union and its subsidiaries, if any, and the business each of them intends to carry on.

6. The details of the capital structure of the credit union.

7. A description of the material characteristics of the securities being offered.

8. The details of the use to which the proceeds from the sale of the securities will be put.

9. If the offering is being made in connection with a plan of reorganization, a purchase and sale or an amalgamation, a description of the general effect of these proposed changes and when they will be made.

10. The details of the method of selling the securities and of any commission payable or discount allowable on the sale.  If the securities are being sold through an underwriter, include the underwriter’s name and the details of the underwriter’s obligation to take up and pay for the securities.  If the securities are being sold by another method, include separate descriptions of the method of distribution of securities underwritten, securities under option and securities being sold on a best efforts basis and also include the amount of any minimum subscription.

11. A description of the market on which the securities may be sold.  If there is no market, a description of how the securities will be redeemed.

12. The name of each transfer agent and registrar and the location of each register of transfer.

13. The details of any securities or other obligations ranking ahead of the securities being offered.

14. A description of any material legal proceeding to which the credit union or its subsidiary is a party.

15. A description of any material interest of a director, officer or employee of the credit union or its subsidiary in the operations of the credit union generally or in the securities being offered, including the following:

i. Particulars of any options to purchase shares of the credit union that are held by a director or officer and the name of any director or officer who holds such options.

ii. Particulars of any options to purchase shares of the credit union that are held by other employees, without naming the employees.

16. A description of every material contract entered into within two years before the date of the offering statement and a description of any contract entered into at any time, if the contract has a bearing on the securities issue.

17. A description of the risk factors of the credit union and the risks associated with the securities being offered.

18. A description, to the extent reasonably practicable, of any substantial variations in the operating results of the credit union during the three years before the date of the offering statement and the financial statements that show the variations.

19. The amount of any dividends, patronage returns, allocations or other distributions paid, declared or accumulated but unpaid by the credit union during the five years before the date of the offering statement.

20. The name and address of the credit union’s auditor.

21. A description of any other material facts. If there are no other material facts, the offering statement must contain the following statement: “There are no other material facts relating to this issue of securities”.

22. Such other information as is required by the Offering Statement Guideline for Credit Unions and Caisses Populairespublished in The Ontario Gazette by the Superintendent, as it may be amended from time to time. O. Reg. 237/09, s. 11 (1).

(2)  The offering statement must include the following documents:

1. The audited financial statements of the credit union that were placed before the members at the most recent annual meeting and signed by the chair of the board and the chief executive officer of the credit union.

2. Interim unaudited financial statements, reviewed by a person licensed under the Public Accounting Act, 2004, for the period ending not more than 90 days before the date on the offering statement, if the audited financial statements required under paragraph 1 are in respect of a period ending more than 90 days before the date on the offering statement.

3. If a report, opinion or statement prepared by a person is used in the offering statement, a document signed by the person indicating that the person consents to the use of the report, opinion or statement.

4. A copy of the board resolution approving the offering, certified by the corporate secretary to be a true copy. O. Reg. 237/09, s. 11 (2).

(3)  If the credit union was incorporated within 90 days before the date on the offering statement, the offering statement must include pro forma financial statements, including projected balance sheets and income statements of the credit union for at least the first three fiscal years of the credit union instead of the financial statements required under paragraphs 1 and 2 of subsection (2). O. Reg. 237/09, s. 11 (3).

(4)  If the credit union was amalgamated within 90 days before the date on the offering statement, the offering statement must include, instead of the financial statements required under paragraphs 1 and 2 of subsection (2),

(a) the audited financial statements of each predecessor credit union that were placed before its members at the most recent annual meeting of the predecessor credit union;

(b) a statement of the assets and liabilities of the amalgamated credit union as of the date of the certificate of amalgamation; and

(c) pro forma financial statements, including projected balance sheets and income statements of the amalgamated credit union for at least the first three fiscal years after the amalgamation. O. Reg. 237/09, s. 11 (4).

(5)  The offering statement must include the following statements in conspicuous, bold type on the front cover, in the same language as is used in the statement:

1. No official of the Government of the Province of Ontario has considered the merits of the matters addressed in the offering statement.

2. The securities being offered are not guaranteed by the Deposit Insurance Corporation of Ontario or any similar public agency. O. Reg. 237/09, s. 11 (5).

(6)  If there is no market on which the securities may be sold, the offering statement must include a statement to that effect in bold type on the front cover. O. Reg. 237/09, s. 11 (6).

Notice of offering

**12.**(1)  A credit union may give any person or entity a notice respecting an offering after the offering statement is filed and before the Superintendent issues a receipt. O. Reg. 237/09, s. 12 (1).

(2)  The notice must contain the following information:

1. A detailed description of the security that the credit union proposes to issue.

2. The price of the security, if the price has been determined.

3. The name and address of a person from whom the securities may be purchased. O. Reg. 237/09, s. 12 (2).

(3)  The notice must include the following statements in conspicuous, bold type on the front cover, in the same language as is used in the offering statement:

1. This is not an offer to sell the securities described in this document.

2. The securities described in this document cannot be sold until after the Superintendent of Financial Services issues a receipt for an offering statement. You are advised to read the offering statement approved by the Superintendent, because the terms and conditions may be changed significantly.

3. The Superintendent may refuse to issue a receipt, in which case the securities described in this document will not be offered for sale. O. Reg. 237/09, s. 12 (3).

Statement of material change

**13.**The following information must be set out in a statement of material change respecting an offering statement by a credit union:

1. The name of the credit union.

2. The date on which the receipt for the offering statement was issued.

3. The date on which the material change occurred.

4. A description of the material change. O. Reg. 237/09, s. 13.

Transfer of securities issued after receipt for an offering statement

**14.**For the purposes of subsection 74.1 (1) of the Act, the Corporation and a league are prescribed as persons to whom a security issued under circumstances described in clause 75 (1) (a) of the Act may be transferred. O. Reg. 237/09, s. 14.

PART V  
CAPITAL AND LIQUIDITY

Adequate capital

**15.**(1)  This section sets out the criteria for determining if a credit union is maintaining adequate capital as required by section 84 of the Act. O. Reg. 237/09, s. 15 (1).

(2)  Revoked: O. Reg. 68/17, s. 4 (1).

(3)  A credit union has adequate capital for a financial year if the following conditions are satisfied:

1. Its regulatory capital expressed as a percentage of its total assets is at least 4 per cent for a financial year ending on or after January 1, 2009.

2. Its regulatory capital, expressed as a percentage of its risk weighted assets, is at least 8 per cent. O. Reg. 237/09, s. 15 (3); O. Reg. 68/17, s. 4 (2).

Total assets

**16.**(1)  The total assets of a credit union is the amount calculated using the formula,

A – B

in which,

“A” is the amount of all the credit union’s assets, and

“B” is the sum of the following amounts:

1. Goodwill.

2. The amount by which,

i. identified intangible assets, other than goodwill, that have been purchased directly or acquired in conjunction with or arising from the acquisition of a business, including trademarks, core deposit intangibles, mortgage servicing rights and purchased credit card relationships,

exceeds,

ii. 5 per cent of the amount of the variable “E” in subsection 17 (2).

3. Investments in subsidiaries that are financial institutions.

4. Any other amounts set out in the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires.

O. Reg. 237/09, s. 16 (1); O. Reg. 514/10, s. 2 (1).

(2)  For the purposes of subsection (1), the following rules apply:

1. The amount of an asset is its value as it would appear in the financial statements of the credit union, if the financial statements were prepared as of the date of the calculation.

2. Provisions or allowances for losses of a general nature must be deducted from the most closely applicable class of assets.

3. An investment in a subsidiary must be calculated using the equity method of accounting described in the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires.

4. Cash deposits in a financial institution must be offset against overdrafts with the same financial institution. O. Reg. 237/09, s. 16 (2); O. Reg. 514/10, s. 2 (2).

Regulatory capital

**17.**(1)  The regulatory capital of a credit union is the amount calculated using the formula,

C + D

in which,

“C” is the amount of the credit union’s Tier 1 Capital as determined under subsection (2), and

“D” is the amount of the credit union’s Tier 2 Capital as determined under subsection (3).

O. Reg. 237/09, s. 17 (1).

(2)  The Tier 1 capital of a credit union is the amount calculated using the formula,

E – B

in which,

“E” is the sum of the following amounts as they would appear in the financial statements of the credit union, if the financial statements were prepared as of the date of the calculation:

1. Membership shares.

2. Retained earnings.

3. Contributed surplus.

4. Patronage shares, other than patronage shares that are redeemable within the following 12-month period.

5. Qualifying shares described in subsection (4), other than qualifying shares that are redeemable within the following 12-month period.

6. Accumulated net after tax unrealized loss on available-for-sale equity securities reported in Other Comprehensive Income.

“B” has the same meaning as in subsection 16 (1).

O. Reg. 237/09, s. 17 (2); O. Reg. 514/10, s. 3 (1).

(3)  The Tier 2 Capital of a credit union is the lesser of the Tier 1 Capital amount determined under subsection (2) and the sum of the following amounts as they would appear in the financial statements of the credit union, if the financial statements were prepared as of the date of the calculation:

1. Patronage shares that are redeemable within the following 12-month period.

2. Fully paid shares issued by the credit union, excluding membership shares, patronage shares and the qualifying shares that are included in the definition of “E” in subsection (2).

3. Subordinated indebtedness that,

i. cannot be redeemed or purchased for cancellation in the first five years after it is issued, and

ii. is not convertible into or exchangeable for a security other than a qualifying share.

4. The amount of any loan loss allowance, not including an individual loan loss allowance, up to a maximum of 1.25 per cent of the risk weighted assets of the credit union.

5. Accumulated net after tax unrealized gain on available-for-sale equity securities reported in Other Comprehensive Income.

6. Any other amount set out in the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires. O. Reg. 237/09, s. 17 (3); O. Reg. 514/10, s. 3 (2-4); O. Reg. 68/17, s. 5.

(4)  For the purposes of paragraph 5 of the definition of “E” in subsection (2), qualifying shares are fully paid shares other than membership shares and patronage shares issued by the credit union, but only if all of the following conditions are met:

1. Any rights or special rights as to the payment of dividends to the holders of the shares are non-cumulative.

2. Any rights or special rights, including the right to redeem the shares or call on the credit union to purchase or otherwise acquire the shares, are restricted so that the credit union is not required to redeem, purchase or otherwise acquire the shares of that class at a rate of more than 10 per cent of the outstanding shares during any one-year period.

3. Shares issued after this paragraph comes into force cannot be redeemed or purchased for cancellation in the first five years after their issue, except upon the death or expulsion from the credit union of the holder.

4. The shares do not give their holders the right to convert the shares into, or exchange the shares for, shares of any class of shares other than a class of shares described in paragraph 1, 2 or 3 that are issued to raise capital. O. Reg. 237/09, s. 17 (4); O. Reg. 514/10, s. 3 (5).

Risk weighted assets of a credit union

**18.**(1)  The amount of a credit union’s risk weighted assets is the amount calculated using the formula,

A + B + C

in which,

“A” is the sum of all amounts each of which is calculated by multiplying the value of an asset of the credit union by the percentage described in subsection (2), (3), (4), (5), (6), (7) or (8), as the case may be, that applies to that asset,

“B” is the amount of the credit union’s applicable operational risk as determined under subsection (9), and

“C” is the amount of the credit union’s applicable interest rate risk as determined under subsection (11).

O. Reg. 237/09, s. 18 (1).

(2)  The percentage is zero per cent for the following types of assets:

1. Cash.

2. Claims against, or guaranteed by, the Government of Canada or an agency of the Government.

3. Claims against, or guaranteed by, the government of a province or territory of Canada.

4. Claims fully secured by collateral consisting of cash or securities issued by the Government of Canada or the government of a province or territory of Canada.

5. Residential mortgage loans described in paragraph 2 of section 55.

6. The portion of a residential mortgage loan described in paragraph 3 of section 55, to the extent that the benefits payable under the policy insuring the loan have a backstop guarantee provided by the Government of Canada.

7. Mortgage-backed securities that are guaranteed by the Canada Mortgage and Housing Corporation and secured against residential mortgages.

8. Investments in bodies corporate that are accounted for in the credit union’s financial statements using the equity method.

9. Any deductions from regulatory capital, including goodwill.

10. Deposits in a league, Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

11. Interest rate contracts with a league, Central 1 Credit Union, Fédération des caisses Desjardins du Québec, La Caisse centrale Desjardins du Québec, a financial institution or another equivalent entity approved in writing by the Corporation. O. Reg. 237/09, s. 18 (2); O. Reg. 68/17, s. 6.

(3)  The percentage is 20 per cent for the following types of assets:

1. Cheques and other items in transit.

2. Claims against or guaranteed by a municipality in Canada.

3. Claims against or guaranteed by a school board, college, university, hospital or social service provider in Canada that receives, as its primary source of funding, regular government financial support.

4. Deposits in a bank or authorized foreign bank within the meaning of section 2 of the Bank Act (Canada), a corporation registered under the Loan and Trust Corporations Act or a corporation to which the Trust and Loan Companies Act (Canada) or similar legislation of another province or territory of Canada applies.

5. Commercial paper, bankers’ acceptances, bankers’ demand notes and similar instruments guaranteed by a bank or authorized foreign bank within the meaning of section 2 of the Bank Act (Canada), a corporation registered under the Loan and Trust Corporations Act or a corporation to which the Trust and Loan Companies Act (Canada) or similar legislation of another province or territory of Canada applies.

6. The value attributed to any off balance sheet exposure relating to assets of the credit union listed in paragraphs 1 to 5, as calculated in accordance with the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires. O. Reg. 237/09, s. 18 (3).

(4)  The percentage is 35 per cent for the following types of assets:

1. Residential mortgage loans described in paragraph 1 of section 55 that are not 90 days or more past due.

2. Mortgage-backed securities that are fully and specifically secured by residential mortgage loans, other than mortgage-backed securities described in paragraph 7 of subsection (2).

3. The value attributed to any off balance sheet exposure relating to assets of the credit union listed in paragraphs 1 and 2, as calculated in accordance with the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires. O. Reg. 237/09, s. 18 (4).

(5)  The percentage is 75 per cent for the following types of assets:

1. Personal loans.

2. Agricultural loans.

3. Commercial loans made to a person where the sum of all commercial loans made to that person and to any connected persons does not exceed the lesser of 0.035 per cent of the credit union’s total assets and $1.25 million.

4. The value attributed to any off balance sheet exposure relating to assets of the credit union listed in paragraphs 1 to 3, as calculated in accordance with the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires. O. Reg. 237/09, s. 18 (5).

(6)  The percentage is 100 per cent for the following types of assets:

1. Commercial loans, other than commercial loans described in paragraph 3 of subsection (5).

2. All assets not described in subsection (2), (3), (4) or (5).

3. Residential mortgage loans described in paragraph 1 of section 55 that are 90 days or more past due.

4. The portion of a residential mortgage loan described in paragraph 3 of section 55 that does not have a backstop guarantee provided by the Government of Canada, if the insurer does not have a credit rating described in the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires.

5. The value attributed to any off balance sheet exposure relating to assets of the credit union listed in paragraphs 1, 2, 3 and 4, as calculated in accordance with the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires. O. Reg. 237/09, s. 18 (6).

(7)  If a person to whom a commercial loan described in paragraph 1 of subsection (6) is made has a credit rating described in the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires, the percentage determined in accordance with that Guideline applies, instead of the percentage specified in subsection (6), in respect of the commercial loan. O. Reg. 237/09, s. 18 (7).

(8)  If an insurer who insures a residential mortgage loan described in paragraph 3 of section 55 has a credit rating described in the Capital Adequacy Guideline for Ontario’s Credit Unions and Caisses Populaires, the percentage determined in accordance with that Guideline applies, instead of the percentage specified in subsection (6), in respect of the portion of the loan that does not have a backstop guarantee by the Government of Canada. O. Reg. 237/09, s. 18 (8).

(9)  Unless another amount is approved by the Corporation, a credit union’s applicable operational risk is the amount calculated using the formula,

D/0.08

in which,

“D” is the amount of the credit union’s capital charge for operational risk as determined under subsection (10).

O. Reg. 237/09, s. 18 (9).

(10)  A credit union’s capital charge for operational risk is the amount calculated using the formula,

0.15 × (E + F + G) / H

in which,

“E” is the greater of,

(a) the amount of the credit union’s interest income less its interest expenses for its most recently ended financial year plus all of its other non-interest income for its most recently ended financial year, and

(b) zero,

“F” is the amount that would be determined under the definition of “E” if that definition applied to the credit union’s second most recently ended financial year,

“G” is the amount that would be determined under the definition of “E” if that definition applied to the credit union’s third most recently ended financial year, and

“H” is the greater of,

(a) the number of years in which the amounts determined under the definitions of “E”, “F” and “G” exceed zero, and

(b) one.

O. Reg. 237/09, s. 18 (10).

(11)  Unless another amount is approved by the Corporation, a credit union’s applicable interest rate risk is the amount calculated using the formula,

J/0.08

in which,

“J” is the amount of the credit union’s capital charge for interest rate risk as determined under subsection (12).

O. Reg. 237/09, s. 18 (11).

(12)  A credit union’s capital charge for interest rate risk is the amount calculated using the formula,

K × 0.15

in which,

“K” is the amount of the credit union’s exposure, determined in accordance with the techniques referred to in paragraph 2 of subsection 71 (1), to interest rate risk.

O. Reg. 237/09, s. 18 (12).

Forming of groups relating to capital requirements

**19.**(1)  The following are requirements for an agreement under subsection 84 (3) of the Act for credit unions and a league to form a group for the purposes of assisting the credit unions in satisfying the requirements of section 84 of the Act relating to capital:

1. The agreement must provide that if an order is issued under clause 86 (1) (a) of the Act against a credit union that is in the group, the league will, within 45 days after the order is issued, invest sufficient monies in the credit union, by purchasing preferred shares or subordinated debt of the credit union, so that the credit union satisfies the requirements of section 84 of the Act relating to capital.

2. The agreement must provide that the credit unions that are in the group agree to jointly and severally indemnify the league for the amount invested under paragraph 1.

3. The agreement must provide that a credit union can withdraw from the group only on 18 months notice to the league and the other credit unions in the group and only if all the credit unions in the group have satisfied the requirements of section 84 of the Act relating to capital throughout the 12-month period preceding the withdrawal. O. Reg. 237/09, s. 19 (1).

(2)  The following are prescribed grounds for the Corporation to revoke its approval under subsection 84 (4) of the Act:

1. The league that is in the group fails to comply with the obligation set out in paragraph 1 of subsection (1).

2. The league that is in the group fails to comply with an order under subsection 85 (4), 86 (1), 187 (1), 189 (4), 191 (2), 197.0.1 (1), 200 (1), (2), (3), (4) or (5), 201.1 (2), 202.1 (1), 204 (7), 231 (2), 234 (1), 235 (1) or 240 (1) of the Act.

3. The league that is in the group is subject to an order under subsection 279 (1) or 294 (1) of the Act. O. Reg. 237/09, s. 19 (2).

**20.**Revoked: O. Reg. 68/17, s. 7.

Adequate liquidity

**21.**(1)  This section sets out the requirements for adequate liquidity under section 84 of the Act. O. Reg. 237/09, s. 21 (1); O. Reg. 68/17, s. 8 (1).

(2)  A credit union shall establish and maintain prudent levels and forms of liquidity that are sufficient to meet its cash flow needs, including depositor withdrawals and all other obligations as they come due. O. Reg. 237/09, s. 21 (2); O. Reg. 68/17, s. 8 (2).

(3)  An asset shall not be used to satisfy the requirements for adequate liquidity for a credit union unless the asset is authorized for that purpose under the capital and liquidity policies of the credit union established under section 85 of the Act. O. Reg. 237/09, s. 21 (3); O. Reg. 68/17, s. 8 (2).

Encumbered asset

**22.**An encumbered asset shall not be used to satisfy the requirements for adequate liquidity unless the asset is encumbered only by a security interest in favour of the Corporation. O. Reg. 237/09, s. 22.

Failure to meet requirements for adequate liquidity

**23.**(1)  The following apply if, for a period of five consecutive days (excluding Saturdays, Sundays and holidays), a credit union does not meet the requirements for adequate liquidity under section 84 of the Act:

1. The credit union shall not make a loan or an investment until the credit union again meets the requirements for adequate liquidity.

2. The credit union shall immediately submit to the Superintendent and to the Corporation a report addressing the following matters:

i. the circumstances that led to the failure to meet the requirements for adequate liquidity,

ii. the steps the credit union has taken to meet the requirements for adequate liquidity, and

iii. when the credit union will again meet the requirements for adequate liquidity. O. Reg. 237/09, s. 23 (1).

(2)  For the purposes of paragraph 1 of subsection (1), changing the terms and conditions of a loan or refinancing a loan in any other way shall be deemed to be making a loan. O. Reg. 237/09, s. 23 (2).

Provision for doubtful loans and required reserves

**24.**(1)  For the purposes of section 90 of the Act, the prescribed monthly provision for doubtful loans is the provision required by the Corporation in its by-laws. O. Reg. 237/09, s. 24 (1).

(2)  For the purposes of section 90 of the Act, the prescribed reserves are those required by By-law No. 6 of the Corporation. O. Reg. 237/09, s. 24 (2).

PART VI  
GOVERNING THE CREDIT UNION

Mandatory by-laws

**25.**The following are prescribed for the purposes of subsection 105 (2) of the Act as matters required to be governed by the by-laws of every credit union, to the extent the matters are not provided for by the Act or the regulations or set out in the articles of the credit union:

1. Admission to membership in the credit union and any fees for admission.

2. Withdrawal, suspension or expulsion from membership in the credit union.

3. The allotment of shares, including the maximum number that may be allotted to a member, the payment for shares, the redemption or transfer of shares and the recording of information about these matters.

4. The procedure for deciding how to distribute the profits of the credit union.

5. If the credit union is a member of a league and assesses its own members to pay for the cost of membership in the league, the procedure for assessing credit union members’ annual assessment to be paid to the league.

6. The language or languages in which the credit union will carry on business.

7. Mandatory procedures governing the operation of the credit union.

8. The classes of loans that the credit union is authorized to make.

9. The time, place and notice to be given for a members’ meeting, the record date for determining who is entitled to vote at such a meeting, and the quorum for such a meeting.

10. The time, place and notice to be given for a board meeting.

11. The time for, and manner of, electing directors and committee members.

12. The term of office of directors and of committee members, and the procedure for setting their remuneration.

13. The appointment and removal of officers and employees of the credit union, any security that they are required to give the credit union and the procedures for establishing their remuneration. O. Reg. 237/09, s. 25; O. Reg. 68/17, s. 9.

Frequency of board meetings

**26.**The board of a credit union shall meet at least quarterly during each financial year of the credit union. O. Reg. 237/09, s. 26.

Duties of audit committee

**27.**(1)  The following are prescribed for the purposes of section 126 of the Act as duties of the audit committee of a credit union:

1. Review and make recommendations to the board about the terms of the engagement letter and the remuneration of the auditor.

2. Review with the auditor the scope and plan of an audit.

3. Discuss with the auditor the audit findings, any restrictions on the scope of the auditor’s work and any problems that the auditor experienced in performing the audit.

4. Review and make recommendations to the board about any management letters, recommendations and reports by the auditor about the business or financial statements of the credit union and any response to them by management of the credit union.

5. Report to the board on any conflict between the auditor and management that the committee is unable to resolve within a reasonable time.

6. Review the annual audited financial statements and make such recommendations to the board as the committee considers appropriate.

7. Review the audited financial statements of each subsidiary of the credit union.

8. Review the effectiveness of the credit union’s internal audit practices and make recommendations to the board to address any deficiencies.

9. Review the organization and assess the degree of independence of the credit union’s internal auditors, if any, including their mandate, work plans and any problems that they experience or issues they raise relating to the performance of audits.

10. Review findings and recommendations of the internal auditors concerning the accounting practices and internal control practices and review the responses by the management of the credit union to any significant or material deficiencies.

11. Report to the board any significant changes in the accounting principles and practices followed by the credit union.

12. Recommend to the board arrangements to safeguard the credit union’s assets, to ensure the timeliness, accuracy and reliability of accounting data, to maintain adherence to the lending and investment policies and procedures and to provide for other matters concerning the financial policies of the credit union.

13. Review any report about the affairs of the credit union made by the Superintendent or the Corporation, monitor the implementation of any significant recommendations and report to the board on the progress of the implementation.

14. Review the credit union’s policies and procedures governing the way in which it meets the requirements under the Act and any other applicable legislation.

15. Review material legal proceedings to which the credit union is a party.

16. Assess whether the staff of the credit union is adequate to fulfil the credit union’s accounting and financial responsibilities.

17. Monitor the adherence of the credit union’s directors, officers and employees to the credit union’s standards of business conduct and ethical behaviour.

18. Review the credit union’s disaster recovery and business continuity plans.

19. Review, at least annually, the effectiveness of the committee in carrying out its duties. O. Reg. 237/09, s. 27 (1).

(2)  The report of the audit committee required under subsection 125 (9) of the Act must contain the following information for the year to which the report relates:

1. The number of meetings held by the committee during the year.

2. A summary of the significant activities undertaken by the committee during the year and a description of the actual and expected results.

3. Confirmation that the committee is conducting its affairs in accordance with the Act and the regulations.

4. Information on any failure of the credit union to implement or complete the implementation of any significant recommendation previously made by the audit committee.

5. Details of any other matter that is required to be disclosed pursuant to the Act or the regulations. O. Reg. 237/09, s. 27 (2).

(3)  The audit committee may, in its annual report, report on such other matters as the committee considers appropriate. O. Reg. 237/09, s. 27 (3).

Remuneration reported in financial statements

**28.**(1)  For the purposes of subsection 140 (5) of the Act, the prescribed information about the remuneration paid during a year to the officers and employees of a credit union that must be disclosed in the credit union’s annual audited financial statements is the following information with respect to each officer and employee of the credit union whose total remuneration for the year was over $150,000:

1. The name of the officer or employee.

2. The title of the officer or position of the employee.

3. The total amount of salary received.

4. The total amount of bonuses received.

5. The monetary value of benefits received. O. Reg. 237/09, s. 28 (1).

(2)  Despite subsection (1), if there are more than five officers and employees of a credit union whose total remuneration for the year was over $150,000, subsection (1) only applies in respect of the five officers and employees with the highest total remuneration for the year. O. Reg. 237/09, s. 28 (2).

(3)  In this section,

“total remuneration” means, in respect of an officer or employee for a year, the total of the amounts described in paragraphs 3, 4 and 5 of subsection (1) for the year. O. Reg. 237/09, s. 28 (3).

Bond for persons handling money

**29.**(1)  For the purposes of subsection 151 (2) of the Act, from the day this section comes into force, the minimum amount of the bond is the lesser of $1 million and the amount of the credit union’s total assets as shown on the audited financial statements of the credit union placed before the members at the most recent annual meeting. O. Reg. 237/09, s. 29 (1).

(2)  After December 31, 2010, the minimum amount of the bond is the lesser of $5 million and the amount of the credit union’s total assets as shown on the audited financial statements of the credit union placed before the members at the most recent annual meeting. O. Reg. 237/09, s. 29 (2).

Bond

**30.**For the purposes of subsection 151 (2) of the Act, after December 31, 2010, the bond shall satisfy all of the following conditions:

1. The bond shall be issued by an insurer licensed under the Insurance Act to write surety and fidelity insurance to indemnify the credit union for any loss in respect of assets owned or held by the credit union arising out of a dishonest, fraudulent or criminal act of a director, officer or employee of the credit union.

2. The bond shall provide that the bond shall not be cancelled or terminated by the insurer or the insured until at least 30 days after the receipt by the Superintendent and the Corporation of a written notice from the insurer or the insured, as the case may be, of its intention to cancel or terminate the bond. O. Reg. 237/09, s. 30.

PART VII  
RESTRICTIONS ON BUSINESS POWERS

Ancillary Businesses

Ancillary businesses

**31.**For the purposes of subsection 174 (1) of the Act, a credit union may engage in the following trades or businesses:

1. Operating a post office.

2. Operating a motor vehicle licence bureau.

3. Acting as an agent to receive payments for utility bills, realty tax, personal income tax and for similar transactions.

4. Providing facsimile transmission facilities.

5. Promoting merchandise and services to its members or the holder of any payment, credit or charge card issued by the credit union, its subsidiaries or affiliates.

6. Engaging in the sale of,

i. tickets, including lottery tickets, on a non-profit, public service basis in connection with special, temporary and infrequent non-commercial celebrations or projects that are of local, municipal, provincial or national interest,

ii. transit fares, and

iii. tickets in respect of a lottery sponsored by the federal government or a provincial or municipal government or an agency of any such government. O. Reg. 237/09, s. 31.

Financial Services

Prohibition re financial services

**32.**For the purposes of subsection 174 (3) of the Act, a credit union shall not directly provide the following financial services:

1. Services provided by a factoring corporation described in subsection 68 (2).

2. Services provided by an investment counselling and portfolio management corporation described in subsection 68 (5).

3. Services provided by a mutual fund corporation described in subsection 68 (6).

4. Services provided by a mutual fund distribution corporation described in subsection 68 (7).

5. Services provided by a securities dealer described in subsection 68 (10). O. Reg. 237/09, s. 32.

Financial lease agreements and conditional sales agreements

**33.**(1)  For the purposes of subsection 174 (3) of the Act, a credit union or subsidiary must not enter into a financial lease agreement or a conditional sales agreement unless the agreement meets the following requirements:

1. The agreement concerns personal property,

i. selected by the lessee or purchaser and acquired by the credit union or subsidiary at the request of the lessee or purchaser, or

ii. previously acquired by the credit union or subsidiary under another financial lease agreement or conditional sales agreement.

2. The primary purpose of the agreement is to extend credit to the lessee or purchaser.

3. The agreement is for a fixed term. O. Reg. 237/09, s. 33 (1).

(2)  A credit union or subsidiary must not direct a customer or prospective customer to particular dealers for the sale of personal property under a conditional sales agreement. O. Reg. 237/09, s. 33 (2).

(3)  A financial lease agreement or conditional sales agreement must yield,

(a) a reasonable rate of return; and

(b) a return that at least equals the investment by the subsidiary in the property that is the subject of the agreement, taking into account in the case of a financial lease agreement,

(i) rental charges payable or paid by the lessee,

(ii) tax benefits to the credit union or subsidiary, and

(iii) the guaranteed purchase or resale price, if any, for the property at the expiry of the agreement or the lesser of the estimated residual value of the property and 25 per cent of the original acquisition cost to the credit union or subsidiary. O. Reg. 237/09, s. 33 (3).

(4)  The financial lease agreement or conditional sales agreement must set out the responsibilities of the credit union or its subsidiary respecting the benefit of the warranties, guarantees and undertakings made by the manufacturer or supplier of the property. O. Reg. 237/09, s. 33 (4).

(5)  The aggregate estimated residual value of all property held by a credit union and its subsidiaries under financial lease agreements must not exceed 10 per cent of the aggregate original acquisition cost. O. Reg. 237/09, s. 33 (5).

(6)  This section does not apply with respect to agreements in which the credit union or its subsidiary is the lessee or conditional purchaser. O. Reg. 237/09, s. 33 (6).

Networking

Networking

**34.**(1)  Subject to sections 35 to 43, for the purposes of subsection 174 (4) of the Act, the following are the prescribed persons or entities in respect of which a credit union may act as agent:

1. A financial institution.

2. The Corporation.

3. Revoked: O. Reg. 68/17, s. 10 (1).

4. Central 1 Credit Union.

5. Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

6. A financial leasing corporation described in subsection 68 (3), whether or not it is a subsidiary of the credit union.

7. A mutual fund corporation described in subsection 68 (6), whether or not it is a subsidiary of the credit union.

8. A mutual fund distribution corporation described in subsection 68 (7), whether or not it is a subsidiary of the credit union. O. Reg. 237/09, s. 34 (1); O. Reg. 68/17, s. 10 (1, 2).

(2)  A credit union may act as agent for the Corporation only with respect to the administration of deposits under a deposit administration agreement. O. Reg. 237/09, s. 34 (2).

(3)  For the purposes of subsection 174 (4) of the Act, a credit union may refer its members to a person or entity listed in paragraphs 1 to 8 of subsection (1), a syndicating credit union or a syndicating league for the purpose of obtaining a syndicated loan within the meaning of section 56. O. Reg. 237/09, s. 34 (3); O. Reg. 68/17, s. 10 (3).

Authorized Types of Insurance

Authorized types of insurance

**35.**(1)  For the purpose of subsection 176 (1) of the Act, a credit union may administer any of the following types of insurance policies offered by insurers that are licensed to carry on business offering that type of insurance policy:

1. Insurance related to a credit card or charge card issued by the credit union.

2. Creditors’ disability insurance.

3. Creditors’ life insurance.

4. Creditors’ insurance for loss of employment.

5. Creditors’ vehicle inventory insurance.

6. Export credit insurance.

7. Group accident and sickness insurance.

8. Group life insurance.

9. Mortgage insurance.

10. Travel insurance. O. Reg. 237/09, s. 35 (1).

(2)  A credit union that, on March 1, 1995, administers an insurance policy other than one authorized under subsection (1) may continue to administer the policy with respect to a person to whom coverage is provided on that date. O. Reg. 237/09, s. 35 (2).

(3)  For the purposes of subsection (1), “insurance related to a credit card or charge card” refers to a policy of an insurer that provides the types of insurance described in this subsection to the holder of a credit card or charge card as a feature of the card without request and without an individual assessment of risk. The policy may provide insurance against the loss of, or damage to, goods purchased with the card. The policy may also provide insurance against any loss arising from a contractual liability assumed by the holder when renting a vehicle, if the rental is paid for with the card. The policy may also provide for the extension of a warranty provided by the manufacturer of the goods purchased with the card. O. Reg. 237/09, s. 35 (3).

(4)  For the purposes of subsection (1), “creditors’ disability insurance” refers to a group insurance policy that will pay to the credit union all or part of the amount of a debt owed to the credit union by a debtor. Payment will be made only in the event of bodily injury to or the illness or disability of,

(a) the debtor or his or her spouse, if the debtor is an individual;

(b) an individual who is a guarantor of all or part of the debt;

(c) a director or officer of a debtor that is a body corporate; or

(d) an individual who is essential to the ability of a debtor that is an entity to meet the debtor’s financial obligations to the credit union. O. Reg. 237/09, s. 35 (4).

(5)  For the purposes of subsection (1), “creditors’ life insurance” refers to a group insurance policy that will pay to the credit union all or part of the amount of a debt owed to the credit union by a debtor or all or part of the amount of the credit limit under a line of credit for a debt relating to a small business, a farm, a fishery or a ranch. Payment will be made only in the event of the death of,

(a) the debtor or his or her spouse, if the debtor is an individual;

(b) an individual who is a guarantor of all or part of the debt;

(c) a director or officer of a debtor that is a body corporate; or

(d) an individual who is essential to the ability of a debtor that is an entity to meet the debtor’s financial obligations to the credit union.

The small business must be a business that is or, if it were incorporated, would be a small business corporation within the meaning of subsection 248 (1) of the Income Tax Act (Canada). The line of credit must be a commitment to lend amounts up to a predetermined limit that does not involve a predetermined repayment schedule. The credit limit must not exceed the reasonable credit needs of the debtor or the lending limits of the credit union. O. Reg. 237/09, s. 35 (5).

(6)  For the purposes of subsection (1), “creditors’ insurance for loss of employment” refers to a policy of an insurer that will pay to the credit union all or part of the amount of a debt owed to the credit union. The insurance policy will be made without an individual assessment of risk. Payment will be made only in the event that,

(a) the debtor becomes involuntarily unemployed, if the debtor is an individual; or

(b) an individual who is a guarantor of any portion of the debt becomes involuntarily unemployed. O. Reg. 237/09, s. 35 (6).

(7)  For the purposes of subsection (1), “creditors’ vehicle inventory insurance” refers to a policy of an insurer that provides insurance against direct and accidental loss or damage to vehicles held in stock for display and sale purposes by a debtor of the credit union. Some or all of the vehicles must have been financed by the credit union. O. Reg. 237/09, s. 35 (7).

(8)  For the purposes of subsection (1), “export credit insurance” refers to a policy of an insurer that provides insurance to an exporter of goods or services against a loss incurred by the exporter because goods or services are not paid for. O. Reg. 237/09, s. 35 (8).

(9)  For the purposes of subsection (1), “group accident and sickness insurance” refers to a group insurance policy between an insurer and the credit union. The policy provides accident and sickness insurance severally for persons who individually hold certificates of insurance. The insurance must be restricted to the credit union’s employees, its members and the employees of its subsidiaries. O. Reg. 237/09, s. 35 (9).

(10)  For the purposes of subsection (1), “group life insurance” refers to a group insurance policy between an insurer and the credit union. The policy provides life insurance severally for persons who individually hold certificates of insurance. The insurance must be restricted to the credit union’s employees, its members and the employees of its subsidiaries. O. Reg. 237/09, s. 35 (10).

(11)  For the purposes of subsection (1), “mortgage insurance” refers to a policy of an insurer that provides insurance to the credit union against a loss caused by a default under a loan by the credit union secured by a mortgage on real estate or an interest in real estate. The debtor must be an individual. O. Reg. 237/09, s. 35 (11).

(12)  For the purposes of subsection (1), “travel insurance” refers to either of the following:

1. A policy of an insurer that provides the types of insurance described in this paragraph to an individual in respect of a trip by him or her away from the place where he or she ordinarily resides. The insurance is provided without an individual assessment of risk. The policy may provide insurance against a loss that results from the cancellation or interruption of the trip. It may provide insurance against the loss of or damage to personal property that occurs while the individual is on the trip. It may provide insurance against a loss caused by the delayed arrival of personal baggage while the individual is on the trip.

2. A group insurance policy that provides the types of insurance described in this paragraph to an individual in respect of a trip by him or her away from the province in which he or she ordinarily resides. The policy may provide insurance against expenses incurred during the trip that result from the individual’s illness or disability that occurs during the trip. It may provide insurance against expenses incurred during the trip that result from bodily injury to or the death of the individual caused by an accident during the trip. It may provide insurance against expenses incurred by the individual for dental care required as a result of an accident during the trip. It may provide insurance in the event that the individual dies during the trip, against expenses incurred for the return of his or her remains to the place where he or she ordinarily resided before death, or for travel expenses incurred by a relative who must travel to identify the remains. The policy may provide that the insurer undertakes to pay money in the event of the individual’s illness or disability that occurs during the trip or bodily injury to or the death of the individual caused by an accident during the trip. O. Reg. 237/09, s. 35 (12).

Group insurance policy

**36.**(1)  A credit union may administer a group insurance policy described in section 35 only for its members, its employees or the employees of its subsidiaries. O. Reg. 237/09, s. 36 (1).

(2)  A group insurance policy is a contract of insurance between an insurer and the credit union that provides insurance severally for a group of identifiable persons who individually hold certificates of insurance. O. Reg. 237/09, s. 36 (2).

Advice about insurance

**37.**(1)  A credit union may provide advice about an authorized type of insurance. O. Reg. 237/09, s. 37 (1).

(2)  A credit union may provide advice in respect of another type of insurance only if,

(a) the advice is general in nature; and

(b) the advice is not about a specific risk, a particular proposal respecting life insurance or a particular insurance policy, insurer, agent, broker or service. O. Reg. 237/09, s. 37 (2).

(3)  A credit union may provide services in respect of an authorized type of insurance. O. Reg. 237/09, s. 37 (3).

(4)  A credit union may provide services in respect of another type of insurance only if the credit union does not refer a person to a particular insurer, agent or broker. O. Reg. 237/09, s. 37 (4).

Restrictions on Insurance

Restriction on insurance

**38.**A credit union shall not underwrite insurance. O. Reg. 237/09, s. 38.

Restriction on agency and office space

**39.**(1)  A credit union shall not act as an agent for any person in the placing of insurance. O. Reg. 237/09, s. 39 (1).

(2)  A credit union shall not lease or provide space in its head office or any other of its offices to a person placing insurance. O. Reg. 237/09, s. 39 (2).

Separate and distinct premises

**40.**(1)  A credit union that carries on business in premises adjacent to an office of an insurer, agent or broker shall clearly indicate to its customers that the credit union’s premises are separate and distinct from the premises of the insurer, agent or broker. O. Reg. 237/09, s. 40 (1).

(2)  The premises of the credit union must be separate and distinct from the premises of the insurer, agent or broker. O. Reg. 237/09, s. 40 (2).

Telecommunications device

**41.**A credit union shall not provide a telecommunications device that is primarily for the use of its customers to link a customer with an insurer, agent or broker. O. Reg. 237/09, s. 41.

Promotion of insurer

**42.**(1)  A credit union shall not promote an insurer, agent or broker unless,

(a) the insurer, agent or broker deals only in authorized types of insurance; or

(b) the promotion takes place outside the head office and any other office of the credit union, and is directed to,

(i) all of the holders of credit cards or charge cards issued by the credit union to whom statements of account are sent regularly,

(ii) all of the credit union members who are individuals and to whom statements of account are sent regularly, or

(iii) the general public. O. Reg. 237/09, s. 42 (1).

(2)  A credit union shall not promote an insurance policy of an insurer, agent or broker, or a service provided in respect of such a policy, unless,

(a) the policy is of an authorized type of insurance or the service is in respect of such a policy;

(b) the policy is to be provided by a corporation without share capital (other than a mutual insurer or a fraternal benefit society) that carries on business without pecuniary gain to its members and the policy provides insurance to an individual in respect of the risks covered by travel insurance;

(c) the service is in respect of a policy described in clause (b); or

(d) the promotion takes place outside the head office of the credit union and any other office of the credit union, and is directed to,

(i) all of the holders of credit cards or charge cards issued by the credit union to whom statements of account are sent regularly,

(ii) all of the credit union members who are individuals and to whom statements of account are sent regularly, or

(iii) the general public. O. Reg. 237/09, s. 42 (2).

(3)  A credit union may exclude the following persons from a promotion described in clause (1) (b) or (2) (d):

1. Persons in respect of whom the promotion would contravene an Act of Parliament or of the legislature of a province.

2. Persons who have notified the credit union in writing that they do not wish to receive promotional material from the credit union.

3. Persons who hold a credit card or charge card issued by the credit union in respect of which the account is not in good standing. O. Reg. 237/09, s. 42 (3).

Web promotion

**42.1**(1)  A credit union shall not, on a credit union website, directly or indirectly promote, or provide access to another website that promotes,

(a) an insurer, agent or broker that deals in a type of insurance that is not an authorized type of insurance; or

(b) an insurance policy of an insurer, agent or broker, or a service in respect of such a policy, that provides a type of insurance that is not an authorized type of insurance. O. Reg. 277/15, s. 2.

(2)  A credit union shall not engage in a promotion described in clause 42 (1) (b) on a credit union website unless the promotion relates to an insurer, agent or broker that deals only in authorized types of insurance. O. Reg. 277/15, s. 2.

(3)  A credit union shall not engage in a promotion described in clause 42 (2) (d) on a credit union website unless the promotion relates to a policy of an authorized type of insurance. O. Reg. 277/15, s. 2.

Sharing of information with insurer

**43.**(1)  Except as permitted by this section, a credit union shall not directly or indirectly give an insurer, agent or broker information about,

(a) a member of the credit union;

(b) an employee of the member;

(c) if the member is an entity with its own members, a member of the entity; or

(d) if the member has partners, a partner of the member. O. Reg. 237/09, s. 43 (1).

(2)  A credit union shall not permit its subsidiary to give directly or indirectly to an insurer, agent or broker information that the subsidiary receives from the credit union. O. Reg. 237/09, s. 43 (2).

(3)  A credit union shall not permit a subsidiary that is a loan or trust corporation to give directly or indirectly to an insurer, agent or broker information about,

(a) a customer of the subsidiary;

(b) an employee of the customer;

(c) if the customer is an entity with members, a member of the customer; or

(d) if the customer has partners, a partner of the customer. O. Reg. 237/09, s. 43 (3).

(4)  A credit union or a subsidiary that is a loan or trust corporation may give information to an insurer, agent or broker if,

(a) the credit union or subsidiary has established procedures to ensure that the insurer, agent or broker does not use the information to promote himself, herself or itself or an insurance policy or services respecting an insurance policy; and

(b) the insurer, agent or broker has given an undertaking to the credit union or subsidiary, in a form acceptable to the Superintendent, that he, she or it will not use the information for such a purpose. O. Reg. 237/09, s. 43 (4).

(5)  In this section,

“loan or trust corporation” means a loan or trust corporation incorporated under an Act of the legislature of a province. O. Reg. 237/09, s. 43 (5).

Fiduciary Activities

Fiduciary activities

**44.**For the purposes of section 177 of the Act, the only fiduciary activity a credit union may undertake is acting as a trustee with respect to,

(a) deposits under registered retirement savings plans, registered retirement income funds, registered education savings plans, registered disability savings plans and tax-free savings accounts under the Income Tax Act (Canada);

(b) trust funds established under the Funeral, Burial and Cremation Services Act, 2002 or any other funds in respect of which a credit union is expressly permitted or required, under an Act or regulation, to act as a trustee; and

(c) loan proceeds and security under loan participation agreements and syndication agreements. O. Reg. 237/09, s. 44; O. Reg. 277/15, s. 3.

Guarantees

Guarantees

**45.**For the purposes of subsection 178 (3) of the Act, the following are the prescribed conditions and restrictions on a guarantee:

1. The guarantee must have a fixed term.

2. The credit union shall not guarantee an obligation, other than its own obligation or one of its subsidiary, unless the credit union has received security at least equal to the amount of the obligation guaranteed. O. Reg. 237/09, s. 45.

Limit on amount of guarantee

**46.**For the purposes of subsection 178 (4) of the Act, the prescribed percentage is 10 per cent. O. Reg. 237/09, s. 46.

Syndicated Loans

Syndicated loans

**46.1**For the purposes of clause 190 (1) (b) of the Act, a syndicated loan means a syndicated loan in Ontario within the meaning of section 56 of this Regulation, or a syndicated loan outside Ontario within the meaning of section 56.1 of this Regulation. O. Reg. 68/17, s. 11.

PART VIII  
INVESTMENT AND LENDING

Interpretation

Interpretation

**47.**For the purposes of this Part, regulatory capital shall be determined under section 17 using the audited financial statements of the credit union that were placed before its members at the most recent annual meeting. O. Reg. 237/09, s. 47.

Security Interests in Credit Union Property

Security interests in credit union property

**48.**(1)  This section sets out, for the purposes of section 184 of the Act, the circumstances in which a credit union may create a security interest in property of the credit union. O. Reg. 237/09, s. 48 (1).

(2)  A credit union may create a security interest in personal property of the credit union if the property, together with any other property of the credit union subject to a security interest under this subsection, has an aggregate value of less than the greater of,

(a) $25,000; and

(b) one per cent of the credit union’s total assets, as set out in the audited financial statements of the credit union that were placed before its members at the most recent annual meeting. O. Reg. 237/09, s. 48 (2).

(3)  A credit union may create a security interest in property of the credit union if the following conditions are satisfied:

1. The security interest is granted to secure a debt, including any obligation of the credit union to an entity listed in paragraph 2 that is a member of the Canadian Payments Association to settle for payment items of the credit union in accordance with the by-laws and rules of the Canadian Payments Association, which together with other debts for which the credit union has granted a security interest does not exceed 15 per cent of the credit union’s total assets, as set out in the audited financial statements of the credit union that were placed before its members at the most recent annual meeting.

2. The debt is owed to,

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

ii. a corporation registered under the Loan and Trust Corporations Act, or

iii. a league, Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

iv. Revoked: O. Reg. 68/17, s. 12 (1).

3. The security agreement under which the security interest is granted provides that the security interest is granted over specifically identified assets and does not create a general charge against the business and undertaking of the credit union.

4. The security interest is limited by its terms to property with a value, together with the total value of all property subject to a security interest under this subsection, that does not exceed 25 per cent of the value of the credit union’s total assets as set out in the audited financial statements of the credit union that were placed before its members at the most recent annual meeting.

5. The security agreement under which the security interest is granted provides that if the value of the property subject to a security interest under this subsection exceeds at any time the limit established in paragraph 4, the security interest does not apply to the portion of the property, or to the portion of the proceeds from the sale of the property, that exceed the limit, regardless of whether the debt in respect of which the security was granted has been repaid in full at that time. O. Reg. 237/09, s. 48 (3); O. Reg. 68/17, s. 12 (1).

(4)  A credit union may create a general security interest in property of the credit union, except property required to satisfy the requirements of adequate liquidity under section 84 of the Act, if the following conditions are satisfied:

1. The debt is owed to a league, Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

2. The security agreement under which the security interest is granted provides that if the Corporation orders the credit union to be subject to administration under section 294 of the Act or the Corporation is appointed as liquidator of the assets of the credit union, the Corporation may require that the security agreement be assigned to the Corporation, if the Corporation delivers one of the following to the secured party:

i. Payment in full of the outstanding balance, as of the close of business on the day of the assignment, of the indebtedness of the credit union secured by the agreement.

ii. A guarantee of payment for the outstanding balance, as of the close of business on the day of the assignment, of the indebtedness of the credit union secured by the agreement.

iii. Partial payment of the outstanding balance of the indebtedness of the credit union secured by the agreement and a guarantee of payment for the portion of the outstanding balance not paid as of the close of business on the day of the assignment.

3. The security agreement under which the security interest is granted provides that despite paragraph 2, if,

i. the security interest granted by the credit union forms part of the collateral security granted or assigned by Central 1 Credit Union to the Bank of Canada as security for an emergency liquidity assistance facility from the Bank of Canada, and

ii. the Corporation orders the credit union to be subject to administration under section 294 of the Act or the Corporation is appointed liquidator of the assets of the credit union,

the Corporation may require the security agreement be assigned to the Corporation only if the Corporation delivers to the Bank of Canada payment in full of the outstanding balance of the indebtedness of the credit union secured by the agreement. O. Reg. 237/09, s. 48 (4); O. Reg. 68/17, s. 12 (2, 3).

(5)  A guarantee of payment made under subparagraph ii or iii of paragraph 2 of subsection (4) must provide the following:

1. The Corporation shall pay the outstanding balance of the indebtedness, including interest at the interest rate provided for in the debt instrument that forms a part of the security agreement prior to any default under that instrument, by the fifth anniversary of the guarantee, or such earlier date as the Corporation may designate.

2. The secured party is not required to exhaust its right to recourse against the credit union or any other person before being entitled to payment or performance by the Corporation under the guarantee.

3. The obligations of the Corporation under the guarantee are continuing, unconditional and absolute, and will not be released, discharged, diminished, limited or otherwise affected by a change affecting the credit union. O. Reg. 237/09, s. 48 (5).

(6)  A credit union may create a security interest in property of the credit union in favour of the Corporation without satisfying the requirements of subsection (2), (3) or (4). O. Reg. 237/09, s. 48 (6).

(7)  If, on the day this section comes into force, a credit union has indebtedness that is subject to a security interest that, if created after this section comes into force, would not comply with this section, the credit union shall,

(a) pay the outstanding balance of the indebtedness and discharge the security interest within 90 days or such longer period as the Corporation considers appropriate; or

(b) amend the terms of the security agreement so as to comply with this section within 90 days or such longer period as the Corporation considers appropriate. O. Reg. 237/09, s. 48 (7).

Classes of Loans

Classes of loans

**49.**The following are prescribed as classes of loans:

1. Agricultural loans.

2. Bridge loans.

3. Commercial loans.

4. Institutional loans.

5. Personal loans.

6. Residential mortgage loans.

7. Syndicated loans in Ontario.

7.1 Syndicated loans outside Ontario.

8. Loans to unincorporated associations. O. Reg. 237/09, s. 49; O. Reg. 68/17, s. 13.

Agricultural loan

**50.**An agricultural loan is a loan that is made for the purposes of financing,

(a) the production of cultivated or uncultivated field-grown crops;

(b) the production of horticultural crops;

(c) the raising of livestock, fish, poultry or fur-bearing animals; or

(d) the production of eggs, milk, honey, maple syrup, tobacco, wood from woodlots or fibre or fodder crops. O. Reg. 237/09, s. 50.

Bridge loan

**51.**A bridge loan is a loan to an individual made under the following circumstances:

1. The loan is for the purchase of residential property in which the purchaser will reside.

2. The term of the loan is not greater than 120 days.

3. The funds from the sale of another residential property owned by the individual will be used to repay the loan.

4. The credit union must receive a copy of the executed purchase and sale agreement for both properties before the loan is made.

5. The conditions of each of the purchase and sale agreements must be satisfied before the loan is made.

6. The loan is fully secured by a mortgage on the residential property being sold or, before the loan is made, the borrower’s solicitor has given the credit union an irrevocable letter of direction from the borrower stating that the funds from the sale of the residential property being sold will be remitted to the credit union. O. Reg. 237/09, s. 51.

Commercial loan

**52.**(1)  A commercial loan is a loan, other than any of the following types of loans, that is made for any purpose:

1. An agricultural loan, a bridge loan, an institutional loan, a personal loan, a residential mortgage loan.

2. A loan to an unincorporated association.

3. A loan that consists of deposits made by the credit union with a financial institution, Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

4. A loan that is fully secured by a deposit with,

i. a financial institution, including the credit union making the loan, or

ii. Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

5. A loan that is fully secured by debt obligations that are guaranteed by,

i. a financial institution other than the credit union making the loan, or

ii. Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

6. A loan that is fully secured by a guarantee of,

i. a financial institution other than the credit union making the loan, or

ii. Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

7. An investment in a debt obligation that is,

i. fully guaranteed by a financial institution other than the credit union making the loan,

ii. fully secured by deposits with a financial institution, including the credit union making the loan, or

iii. fully secured by debt obligations that are fully guaranteed by a financial institution other than the credit union making the loan.

8. An investment in a debt obligation issued by the Government of Canada, the government of a province or territory of Canada or a municipality or by an agency of such a government or municipality.

9. An investment in a debt obligation guaranteed by, or fully secured by securities issued by, the Government of Canada, the government of a province or territory of Canada or a municipality or by an agency of such a government or municipality.

10. An investment in a debt obligation issued by a league, Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

11. An investment in a debt obligation that is widely distributed.

12. An investment in shares or ownership interests that are widely distributed.

13. An investment in a participating share.

14. An investment in shares of a league, Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec. O. Reg. 237/09, s. 52 (1); O. Reg. 68/17, s. 14.

(2)  A commercial loan includes the supply of funds for use in automated bank machines that are not owned and operated by the credit union. O. Reg. 237/09, s. 52 (2).

Institutional loan

**53.**An institutional loan is a loan given to,

(a) the Government of Canada;

(b) the government of a province or territory of Canada;

(c) an agency of the Government of Canada;

(d) an agency of the government of a province or territory of Canada;

(e) a school board or college funded primarily by the Government of Canada or by the government of a province or territory of Canada;

(f) any other entity funded primarily by the Government of Canada, the government of a province or territory of Canada or a municipality; or

(g) a municipality or an agency of one. O. Reg. 237/09, s. 53.

Personal loan

**54.**A personal loan is a loan given to,

(a) an individual for personal, family or household use; or

(b) an individual or an entity for any other use if the loan does not exceed $25,000 and if the total outstanding amount of such loans to him, her or it and to connected persons does not exceed $25,000. O. Reg. 237/09, s. 54.

Residential mortgage loan

**55.**A residential mortgage loan is a loan that is secured by a mortgage on residential property that is occupied by the borrower and to which any of the following apply:

1. The amount of the loan, together with the amount then outstanding of any mortgage having an equal or prior claim against the residential property, does not exceed 80 per cent of the value of the property when the loan is made.

2. The loan is insured under the National Housing Act (Canada), or guaranteed or insured by a government agency.

3. The loan is insured by an insurer licensed to undertake mortgage insurance. O. Reg. 237/09, s. 55.

Syndicated loan in Ontario

**56.**A syndicated loan in Ontario is a loan, including any related credit facilities, to which all of the following conditions apply:

1. The loan is made under a syndicated loan agreement.

2. The syndicating credit union is one of the following institutions:

i. A credit union.

ii. A league.

iii. Central 1 Credit Union.

iv. Fédération des caisses Desjardins du Québec.

v. La Caisse centrale Desjardins du Québec.

3. The only parties to the syndicated loan agreement are the following entities:

i. The syndicating credit union.

ii. A borrower who is a member of a credit union that is one of the lenders in the syndicated loan.

iii. One or more of the following entities:

A. Another credit union or its subsidiary or affiliate.

B. A league.

C. Central 1 Credit Union.

D. Fédération des caisses Desjardins du Québec.

E. La Caisse centrale Desjardins du Québec.

F. A financial institution other than a securities dealer.

G. An extra-provincial credit union registered under clause 332 (6) (a) of the Act.

4. Each of the parties to the syndicated loan agreement, other than the borrower, agrees to contribute a specified portion of the loan and to be bound by the terms and conditions of the syndicated loan agreement.

5. The syndicating credit union contributes at least 10 per cent of the loans, including any related credit facilities, and underwrites, disburses and administers them on behalf of the parties to the syndicated loan agreement. O. Reg. 68/17, s. 15.

Syndicated loan outside Ontario

**56.1**A syndicated loan outside Ontario is a loan, including any related credit facilities, to which all of the following conditions apply:

1. The loan is made under a syndicated loan agreement.

2. The syndicating credit union is one of the following entities:

i. An entity that is incorporated as a credit union in a province or territory of Canada other than Ontario under legislation that is comparable to the Act.

ii. Central 1 Credit Union.

iii. Fédération des caisses Desjardins du Québec.

iv. La Caisse centrale Desjardins du Québec.

3. The parties to the syndicated loan agreement include, but are not limited to, the following entities:

i. The syndicating credit union.

ii. A borrower from a province or territory of Canada other than Ontario.

iii. A credit union or a league.

4. Each of the parties to the syndicated loan agreement, other than the borrower, agrees to contribute a specified portion of the loan and to be bound by the terms and conditions of the syndicated loan agreement.

5. The syndicating credit union contributes at least 10 per cent of the loans, including any related credit facilities, and underwrites, disburses and administers them on behalf of the parties to the syndicated loan agreement. O. Reg. 68/17, s. 15.

Loan to an unincorporated association

**57.**A loan to an unincorporated association is a loan to an unincorporated association or organization,

(a) that is not a partnership registered under the Business Names Act; and

(b) that is operated on a non-profit basis for educational, benevolent, fraternal, charitable, religious or recreational purposes. O. Reg. 237/09, s. 57.

Lending Limits

Lending limits to a person or connected persons

**58.**(1)  Revoked: O. Reg. 68/17, s. 16 (1).

(2)  Subject to subsections (3), (4) and (7), a credit union may make a loan to a person if, as a result of making the loan, the total amount of all outstanding loans made to the person and any connected persons would not exceed 25 per cent of the credit union’s regulatory capital. O. Reg. 68/17, s. 16 (2).

(3)  If the person to whom the loan is to be made is listed in clause 53 (c), (d) or (e), the credit union may make the loan if, as a result of making the loan, the total amount of all outstanding loans made to the person and any connected persons would not exceed 50 per cent of the credit union’s regulatory capital. O. Reg. 68/17, s. 16 (2).

(4)  If the person to whom the loan is made is listed in clause 53 (a) or (b), the lending limit set out in subsection (2) does not apply. O. Reg. 237/09, s. 58 (4).

(5)  For the purposes of this section, the total amount of all outstanding loans made by a credit union to a person and any connected persons excludes the portion, if any, of a loan that,

(a) is insured under the National Housing Act (Canada) or by an insurer licensed to undertake mortgage insurance;

(b) is guaranteed by,

(i) a federal, provincial or territorial government of Canada,

(ii) an agent of a government described in subclause (i), or

(iii) the Corporation; or

(c) is secured by deposits of the borrower with the credit union. O. Reg. 237/09, s. 58 (5).

(6)  For the purposes of this section, changing the terms and conditions of a loan or refinancing a loan in any other way shall be deemed to be making a loan. O. Reg. 237/09, s. 58 (6).

(7)  A credit union may adopt the following rules as part of its investment and lending policies under section 189 of the Act:

1. The credit union may make a bridge loan or a residential mortgage loan if,

i. the credit union’s total assets, as set out in the audited financial statements of the credit union that were placed before its members at the most recent annual meeting, are described in a row in Column 1 of the Table to this section, and

ii. as a result of making the loan, the total amount of all outstanding loans made by the credit union to the person and any connected persons would not exceed the amount of the total lending limit set out in the same row of Column 2 of the Table.

2. The credit union may make a loan to a person listed in clause 53 (f) or (g) if,

i. the credit union’s total assets, as set out in the audited financial statements of the credit union that were placed before its members at the most recent annual meeting, are described in one of row 1, 2, 3, 4, 5 or 6 in Column 1 of the Table to this section, and

ii. as a result of making the loan, the total amount of all outstanding institutional loans made by the credit union to the person and any connected persons would not exceed 50 per cent of the amount of the total lending limit set out in the same row of Column 2 of the Table. O. Reg. 68/17, s. 16 (3).

Table  
Lending Limits to a person or connected persons

|  |  |  |
| --- | --- | --- |
| Item | Column 1  Total assets of credit union | Column 2  Total lending limit to a person or connected persons |
| 1. | Less than $500,000 | Greater of 100% of regulatory capital and $60,000 |
| 2. | $500,000 or more but less than $1 million | Greater of 100% of regulatory capital and $100,000 |
| 3. | $1 million or more but less than $2 million | Greater of 80% of regulatory capital and $125,000 |
| 4. | $2 million or more but less than $3 million | Greater of 80% of regulatory capital and $155,000 |
| 5. | $3 million or more but less than $5 million | Greater of 70% of regulatory capital and $185,000 |
| 6. | $5 million or more but less than $10 million | Greater of 60% of regulatory capital and $235,000 |
| 7. | $10 million or more but less than $20 million | Greater of 50% of regulatory capital and $295,000 |
| 8. | $20 million or more but less than $30 million | Greater of 40% of regulatory capital and $345,000 |
| 9. | $30 million or more but less than $50 million | Greater of 30% of regulatory capital and $400,000 |

O. Reg. 68/17, s. 16 (4).

Limits on loans of same class to a person

**59.**(1)  Revoked: O. Reg. 68/17, s. 17 (1).

(2)  A credit union shall establish prudent lending limits for each class of loans that it is authorized by its by-laws to make. O. Reg. 237/09, s. 59 (2); O. Reg. 68/17, s. 17 (2).

(3)  For the purposes of the lending limits established by a credit union,

(a) a loan in an amount that exceeds the lending value of any property that is given as security for the loan, as determined in accordance with the credit union’s lending policies, is an under-secured loan;

(b) a loan in an amount that does not exceed the lending value of the property that is given as security for the loan, as determined in accordance with the credit union’s lending policies, is a fully secured loan; and

(c) a loan to a person includes a loan to two or more persons for which they are jointly and severally liable. O. Reg. 237/09, s. 59 (3); O. Reg. 68/17, s. 17 (3).

(4), (5)  Revoked: O. Reg. 68/17, s. 17 (4).

Table Revoked: O. Reg. 68/17, s. 17 (4).

Eligible Investments

**60.**Revoked: O. Reg. 68/17, s. 18.

Eligible investments

**61.**(1)  For the purposes of section 198 of the Act, a credit union may hold as an investment any asset authorized by its investment policies, other than a prohibited investment, subject to the conditions set out in the Act and this Regulation. O. Reg. 68/17, s. 19 (1).

(2)  A credit union shall not invest in a derivative instrument unless it is purchased for the purposes of managing interest rate risk. O. Reg. 237/09, s. 61 (2); O. Reg. 68/17, s. 19 (2).

(3)  A credit union shall not make a direct investment in, or purchase of, any commodity, including metals, food and grain, that trades on a commodity exchange. O. Reg. 237/09, s. 61 (3); O. Reg. 68/17, s. 19 (2).

(4)  The total book value of all investments by a credit union in the following types of shares, other than shares in its subsidiaries, must not exceed 70 per cent of the credit union’s regulatory capital:

1. Shares of a body corporate or ownership interests in an unincorporated association that are widely distributed.

2. Participating shares of a body corporate. O. Reg. 237/09, s. 61 (4); O. Reg. 68/17, s. 19 (2).

(5)  The total book value of all investments by a credit union and its subsidiaries in improved real estate in Canada must not exceed 100 per cent of the credit union’s regulatory capital. O. Reg. 237/09, s. 61 (5); O. Reg. 68/17, s. 19 (2).

(6)  For the purposes of subsection (5), the total book value does not include the book value of real estate acquired by the credit union and its subsidiaries,

(a) to protect its investment in a mortgage on the real estate; or

(b) in satisfaction of debts previously contracted in the course of the credit union’s business. O. Reg. 237/09, s. 61 (6).

Prescribed conditions re improved real estate

**62.**(1)  For the purposes of section 198 of the Act, the following are prescribed conditions that must be satisfied if a credit union invests in improved real estate, either by purchasing it or by way of a loan secured by a mortgage on it:

1. The amount advanced on a mortgage plus all outstanding mortgages with an equal or prior claim against the real estate must not exceed the lending value of the real estate.

2. Despite paragraph 1, the amount may exceed the lending value of the real estate if the loan secured by the mortgage is approved or insured under the National Housing Act (Canada).

3. Despite paragraph 1, the amount may exceed the lending value of the real estate,

i. if the excess amount is guaranteed or insured through an agency of the Government of Canada or of the government of a province or territory of Canada, or

ii. if the excess amount is insured by an insurer licensed to undertake mortgage insurance. O. Reg. 237/09, s. 62 (1).

(2)  If a credit union or a subsidiary acquires or has the right to possess or sell real estate for either of the following purposes and then sells it and takes back a mortgage on the sale, the investment in the mortgage need not meet the requirements of subsection (1):

1. To protect its investment in a mortgage on the real estate.

2. In satisfaction of debts previously contracted in the course of the credit union’s business. O. Reg. 237/09, s. 62 (2).

(3)  Subsection (1) does not apply with respect to a mortgage taken back by the credit union on the sale of property held by the credit union for its own use. O. Reg. 237/09, s. 62 (3).

(4)  A credit union shall not retain real estate acquired under circumstances described in subsection (2) for more than two years without obtaining the approval of the Corporation. O. Reg. 237/09, s. 62 (4).

(5)  For the purposes of subsection (1),

“lending value” means, in respect of real estate, 80 per cent of the market value of the real estate, but if the credit union considers a lesser percentage appropriate in the circumstances under its investment and lending policies, the lending value is that lesser percentage of the market value of the real estate. O. Reg. 237/09, s. 62 (5).

Definition

**63.**For the purposes of sections 61 and 62,

“improved real estate” means real estate,

(a) on which there exists a building capable of being used for residential, financial, commercial, industrial, educational, professional, institutional, religious, charitable or recreational purposes,

(b) on which such a building is being built or is about to be built,

(c) on which farming operations are being conducted, or

(d) that is vacant land restricted by law to being used for commercial, industrial or residential purposes. O. Reg. 237/09, s. 63; O. Reg. 68/17, s. 20.

Prescribed conditions re body corporate

**64.**(1)  For the purposes of section 198 of the Act, it is a prescribed condition that a credit union not directly or indirectly invest in the shares of a body corporate if, as a result of the investment,

(a) the voting rights attached to the aggregate of any voting shares of the body corporate beneficially owned by the credit union and by any entities it controls would exceed 30 per cent of the voting rights attached to all of the outstanding voting shares of the body corporate; or

(b) the aggregate of any shares of the body corporate beneficially owned by the credit union and by any entities it controls would represent ownership of more than 30 per cent of the shareholders’ equity of the body corporate. O. Reg. 237/09, s. 64 (1).

(2)  Subsection (1) does not apply to a credit union in respect of an investment in the shares of a body corporate described in subsection 68 (1),

(a) if, after the investment is made, all the voting rights attached to the voting shares of the body corporate would be owned by credit unions; or

(b) if the Corporation approves the credit union’s investment before the investment is made. O. Reg. 237/09, s. 64 (2); O. Reg. 68/17, s. 21.

(3)  For the purposes of section 198 of the Act, it is a prescribed condition that a credit union not directly or indirectly invest in ownership interests in an unincorporated entity if, as a result of the investment, the aggregate of any ownership interests, however designated, into which the entity is divided that would be beneficially owned by the credit union and by entities it controls would exceed 30 per cent of all the ownership interests into which the unincorporated entity is divided. O. Reg. 237/09, s. 64 (3).

Restriction on Single Investments

Restriction re single investments

**65.**For the purposes of section 198 of the Act, a credit union shall not directly or indirectly invest, by way of purchases from or loans to one person or more than one person that, to its knowledge, are connected persons, more than 25 per cent of the credit union’s regulatory capital. O. Reg. 237/09, s. 65.

Exception to restriction re single investments

**66.**For the purposes of subclause 199 (1) (a) (iii) of the Act, the following are prescribed persons and entities:

1. Revoked: O. Reg. 68/17, s. 22 (2).

2. Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec. O. Reg. 237/09, s. 66; O. Reg. 68/17, s. 22.

Connected Persons

Connected persons

**67.**  The following conditions are prescribed as conditions that, if satisfied, result in persons being connected persons for the purposes of section 199 of the Act:

1. In relation to a person or entity, if another person or entity is one of the following:

i. a body corporate in which the person or entity holds or beneficially owns, directly or indirectly, at least 35 per cent of the voting securities,

ii. an affiliate of a body corporate described in subparagraph i,

iii. a person or entity that has a 50 per cent interest in a partnership in which the person or entity also has a 50 per cent interest,

iv. a partnership in which the person or entity is a partner,

v. a trust or estate in which the person or entity has a substantial beneficial interest,

vi. a trust or estate in respect of which the person or entity serves as a trustee or in a similar capacity,

vii. a person or entity on whose financial resources the person or entity depends to repay a loan to the credit union,

viii. a person or entity who provides security to the credit union for a loan to the person or entity.

2. In relation to an individual, if another individual is one of the following:

i. a spouse of the individual who is financially dependent on the individual,

ii. a relative of the individual or of the individual’s spouse who lives in the same home as the individual and who is financially dependant on the individual or spouse. O. Reg. 237/09, s. 67; O. Reg. 68/17, s. 23.

Investment in Subsidiaries

Investment in subsidiaries

**68.**(1)  For the purposes of subsection 200 (1) of the Act, the following are the prescribed subsidiaries:

1. A financial institution.

2. A factoring corporation.

3. A financial leasing corporation.

4. An information services corporation.

5. An investment counselling and portfolio management corporation.

6. A mutual fund corporation.

7. A mutual fund distribution corporation.

8. A real property brokerage corporation.

9. A real property corporation.

10. A service corporation.

11. A body corporate engaging in the activities of a securities dealer.

12. A corporation licensed as a mortgage brokerage under the Mortgage Brokerages, Lenders and Administrators Act, 2006.

12.1 A corporation that is licensed as an agent under the Insurance Act or under comparable legislation of another jurisdiction in Canada.

12.2 A corporation that is a registered insurance broker under the Registered Insurance Brokers Act or is registered as an insurance broker under comparable legislation of another jurisdiction in Canada.

13. A body corporate that engages in two or more of the businesses or activities carried on by corporations referred to in this subsection.

14. An entity that is limited to businesses and activities in which the credit union is permitted to engage.

15. A body corporate whose sole purpose is to hold all of the credit union’s shares in one or more of the subsidiaries described in paragraphs 1 to 14. O. Reg. 237/09, s. 68 (1); O. Reg. 68/17, s. 24.

(2)  A factoring corporation is a body corporate that is restricted to acting as a factor in respect of accounts receivable, raising money for the purpose of acting as a factor and lending money while acting as a factor. O. Reg. 237/09, s. 68 (2).

(3)  A financial leasing corporation is a body corporate that is restricted to,

(a) engaging in financial leasing of personal property;

(b) entering into and accepting assignments of conditional sales agreements in respect of personal property;

(c) administering financial lease agreements and conditional sales agreements on behalf of a person; and

(d) raising money for the purpose of financing its activities and investing the money until it is used for those activities. O. Reg. 237/09, s. 68 (3).

(4)  An information services corporation is a body corporate that is primarily engaged in,

(a) collecting, manipulating and transmitting information that is primarily financial or economic in nature or that relates to the business of an entity referred to in subsection (1);

(b) providing advisory and other services in the design, development and implementation of information management systems; or

(c) designing, developing and marketing computer software.

Its ancillary activities may include the design, development, manufacture or sale of computer equipment that is not generally available and that is integral to the provision of financial services or information services related to the business of financial institutions. O. Reg. 237/09, s. 68 (4).

(5)  An investment counselling and portfolio management corporation is a body corporate whose principal activities are either of the following:

1. Offering advice or advising about investments.

2. Investing or controlling money, property, deposits or securities that it does not own and that are not deposited with it in the ordinary course of business. This must involve the exercise of discretion and judgment. O. Reg. 237/09, s. 68 (5).

(6)  A mutual fund corporation is a body corporate restricted to investing its funds. It may also be a body corporate that issues securities entitling the holder to receive, on demand or within a specified period, an amount computed by reference to the value of a proportionate interest in all or part of its net assets (including a separate fund or a trust account). O. Reg. 237/09, s. 68 (6).

(7)  A mutual fund distribution corporation is a body corporate whose principal activities are acting as an agent selling and collecting payment for interests in a mutual fund. Purchasers must be told about the existence of any sales commission or service fee before buying an interest in the mutual fund. The sales proceeds, less sales commissions and service fees, must be paid to the fund. O. Reg. 237/09, s. 68 (7).

(8)  A real property brokerage corporation is a body corporate that is primarily engaged in,

(a) acting as an agent for vendors, purchasers, mortgagors, mortgagees, lessors or lessees of real estate; and

(b) providing consulting or appraisal services with respect to real estate. O. Reg. 237/09, s. 68 (8).

(9)  A real property corporation is a body corporate that is primarily engaged in holding, managing or otherwise dealing with,

(a) real estate; or

(b) shares of another body corporate or ownership interests in an unincorporated entity, limited partnership or trust that is primarily engaged in holding, managing or otherwise dealing with real estate. O. Reg. 237/09, s. 68 (9).

(10)  A securities dealer is a body corporate that trades in securities in the capacity of principal or agent. “Trade” has the same meaning as in the Securities Act. O. Reg. 237/09, s. 68 (10).

(11)  A service corporation is a body corporate that provides services exclusively to one or more of the following:

1. The credit union.

2. Subsidiaries of the credit union.

3. Financial institutions affiliated with the credit union. O. Reg. 237/09, s. 68 (11).

Restriction on investment in subsidiaries

**69.**For the purpose of subsection 200 (7) of the Act, the prescribed percentage of the credit union’s regulatory capital is 100 per cent. O. Reg. 237/09, s. 69.

PART IX  
INTEREST RATE RISK MANAGEMENT

Interpretation

**70.**A credit union’s exposure to interest rate risk refers to the potential negative impact, expressed in dollars, of changes in interest rates on a credit union’s earnings and net asset values when the dates of its payments of principal and interest and its receipts of principal and interest are not matched. O. Reg. 237/09, s. 70.

Policies and procedures

**71.**(1)  Every credit union shall establish, for the purposes of managing its exposure to interest rate risk, policies and procedures that address the following matters:

1. The limits on the credit union’s exposure to interest rate risk and on the impact of this exposure on its net interest income and surplus. The limits must be clear and prudent.

2. The techniques to be used to calculate the amount of the credit union’s exposure to interest rate risk.

3. The internal controls to be implemented to ensure compliance with the policies and procedures.

4. The corrective action to be taken if the limits on the credit union’s exposure to interest rate risk are exceeded.

5. The content and frequency of reports to be made to the board of directors by the management of the credit union about the management of the credit union’s exposure to interest rate risk. O. Reg. 237/09, s. 71 (1).

(2)  The limits must take into account fluctuations in interest rates that might reasonably be expected to occur. O. Reg. 237/09, s. 71 (2).

(3)  Revoked: O. Reg. 68/17, s. 25.

(4)  The policies and procedures must require the management of the credit union to submit a report to the board of directors and the Corporation if the credit union’s exposure to interest rate risk exceeds the limits established in the policies and procedures, and the report must be submitted within 21 days after the credit union’s exposure to interest rate risk exceeds the limits established in its policies and procedures. O. Reg. 237/09, s. 71 (4).

(5)  A report required by subsection (4) must,

(a) describe the circumstances that led to the credit union’s exposure to interest rate risk exceeding the limits;

(b) describe the effect that this exposure has had, and may have, on net income;

(c) describe the steps taken to bring this exposure within the limits; and

(d) include a schedule indicating when the credit union will comply with its policies and procedures. O. Reg. 237/09, s. 71 (5).

(6)  The policies must be approved by the board of directors of the credit union. O. Reg. 237/09, s. 71 (6).

Interest rate risk that exceeds limits

**72.**(1)  If a credit union’s exposure to interest rate risk exceeds the limits established in its policies and procedures, the credit union shall immediately take steps to bring its exposure within those limits. O. Reg. 237/09, s. 72 (1).

(2)  If a credit union’s exposure to interest rate risk exceeds the limits established in its policies and procedures for two consecutive quarters, the credit union shall promptly submit to the Corporation a plan approved by the board of directors that describes the steps the credit union intends to take to bring its exposure to interest rate risk within those limits. O. Reg. 237/09, s. 72 (2).

Interest rate risk report

**73.**(1)  A credit union shall prepare a report at the end of each quarter of its fiscal year on its management of the credit union’s exposure to interest rate risk. O. Reg. 237/09, s. 73 (1).

(2)  The report must include all information about the management of interest rate risk that the credit union has filed with the Corporation. O. Reg. 237/09, s. 73 (2).

(3)  The report must be presented at the next board meeting immediately after it is prepared and the board shall review it. O. Reg. 237/09, s. 73 (3).

PART X  
RESTRICTED PARTY TRANSACTIONS

Interpretation

Application

**74.**This Part applies with respect to transactions entered into, renewed, extended or modified after March 1, 1995. O. Reg. 237/09, s. 74.

Definition of “restricted party”

**75.**(1)  For the purposes of the Act,

“restricted party” means, in relation to a credit union, a person who is or has been in the preceding 12 months,

(a) a director or officer of the credit union,

(b) a spouse of a director or officer of the credit union,

(c) a relative of a person described in clause (a) or (b), if the relative lives in the home of a person described in clause (a) and is financially dependent on a person described in clause (a) or (b),

(d) the auditor of the credit union, if the auditor is an individual,

(e) a corporation in which a director or officer of the credit union beneficially owns, directly or indirectly, more than 10 per cent of the voting shares,

(f) a corporation controlled by a person described in clause (a), (b), (c) or (d), or

(g) an affiliate of the credit union, other than a subsidiary. O. Reg. 237/09, s. 75 (1).

(2)  For the purposes of subsection (1),

“officer” includes a person who has not yet assumed the office. O. Reg. 237/09, s. 75 (2).

Definition of “transaction”

**76.**(1)  For the purposes of the Act,

“transaction”, as between a credit union and a restricted party, includes,

(a) a guarantee given by the credit union on behalf of the restricted party,

(b) an investment by the credit union in securities issued by the restricted party,

(c) a loan from the credit union to the restricted party,

(d) an assignment taken or acquisition made by the credit union of a loan made by a third party to the restricted party, and

(e) a security interest taken by the credit union in securities issued by the restricted party. O. Reg. 237/09, s. 76 (1).

(2)  The performance of a condition of a transaction forms a part of the transaction and does not constitute a separate transaction. O. Reg. 237/09, s. 76 (2).

(3)  The payment of dividends to a restricted party does not constitute a transaction between a credit union and the restricted party. O. Reg. 237/09, s. 76 (3).

Permitted Transactions

Transactions of nominal value or not material

**77.**A credit union may enter into a transaction with a restricted party if the value of the transaction is nominal or if the transaction is not material when measured by criteria established by the board. O. Reg. 237/09, s. 77.

Issue of shares

**78.**(1)  A credit union may issue to a restricted party shares that are fully paid for with money or that are issued,

(a) upon the conversion of other issued and outstanding securities of the credit union;

(b) as a share dividend;

(c) as a patronage return;

(d) in accordance with an amalgamation agreement;

(e) in exchange for shares of another body corporate; or

(f) in exchange for other property. O. Reg. 237/09, s. 78 (1).

(2)  A credit union may issue shares under clause (1) (e) or (f) only with the prior written approval of the Superintendent. O. Reg. 237/09, s. 78 (2).

Permitted transactions

**79.**(1)  A credit union or its subsidiary may enter into any of the following transactions with a restricted party if the transaction is authorized in advance by at least two-thirds of the members of the board of the credit union:

1. A written contract for the purchase of goods or services, other than management services, required by the credit union or the subsidiary to carry on business.  The term of the contract and of each potential renewal must not exceed five years.  The contract must state the consideration to be paid.

2. A written contract for the provision of management services to or by the credit union or subsidiary.  It must be reasonable that the credit union or subsidiary supply the services.  The amount to be paid must not exceed fair market value.

3. A written lease of personal property for the credit union or subsidiary to use in carrying on business.  The term of the lease and of each potential renewal must not exceed five years.  The amount to be paid must not exceed fair market value.

4. A written lease of real property for the credit union or subsidiary to use in carrying on business.  The term of the lease and of each potential renewal must not exceed 10 years.  The amount to be paid must not exceed fair market value.

5. A contract of employment with an officer of the credit union or a subsidiary.

6. A written contract for employment benefit plans and pension plans and for other reasonable commitments incidental to the credit union or subsidiary employing individuals.

7. A loan. The credit union or subsidiary must be otherwise authorized under the Act to make the loan. The terms of the loan must be no more favourable than those offered in the ordinary course of business by the credit union to its members. O. Reg. 237/09, s. 79 (1).

(2)  A credit union or a subsidiary may enter into any of the following transactions with a restricted party:

1. A contract of employment with an individual who is not a director or officer of the credit union or subsidiary.

2. A deposit made by the credit union for clearing purposes with a financial institution that is a direct clearer or a group clearer member under the by-laws of the Canadian Payments Association.

3. A contract to borrow money from the restricted party.

4. The receipt of deposits from the restricted party.

5. The issuance of debt obligations to the restricted party. O. Reg. 237/09, s. 79 (2).

(3)  The by-laws of the credit union may require the transactions described in subsection (2) to be authorized by a process specified in the by-laws. O. Reg. 237/09, s. 79 (3).

(4)  A credit union may make residential mortgage loans or personal loans to directors or officers of the credit union on terms more favourable than those offered in the ordinary course of business by the credit union to its members if two-thirds of the members of the board have approved the policies and procedures governing the making of such loans. O. Reg. 237/09, s. 79 (4).

Restricted Party Transaction Procedures

Restricted party transaction procedures

**80.**(1)  A credit union shall establish procedures to ensure that it complies with the restrictions governing restricted party transactions. O. Reg. 237/09, s. 80 (1).

(2)  The procedures form part of the investment and lending policies and procedures of the credit union for the purposes of section 189 of the Act. O. Reg. 237/09, s. 80 (2).

(3)  The procedures must include review and approval procedures to be followed by directors, officers and employees. O. Reg. 237/09, s. 80 (3).

(4)  The procedures must require that a restricted party disclose to the credit union, in writing, the party’s interest in a transaction or a proposed transaction with the credit union or its subsidiary. O. Reg. 237/09, s. 80 (4).

(5)  The disclosure to be made by a director or officer must be made in the manner set out in sections 146 and 147 of the Act, with necessary modifications. O. Reg. 237/09, s. 80 (5).

PART XI  
MEETINGS

First Meeting

First Meeting

**81.**(1)  The first meeting of a credit union must be convened by a majority of the incorporators. O. Reg. 237/09, s. 81 (1).

(2)  Written notice of the meeting must be mailed or sent by electronic means to each incorporator at least seven days before the date of the meeting. O. Reg. 237/09, s. 81 (2).

(3)  The notice must state the date, time, place and purpose of the meeting. O. Reg. 237/09, s. 81 (3).

Quorum

**82.**At the first meeting of a credit union, a majority of the incorporators constitutes a quorum. O. Reg. 237/09, s. 82.

Business to be dealt with

**83.**The following business must be transacted at the first meeting of a credit union:

1. The directors must be elected.

2. The mandatory by-laws required under subsection 105 (2) of the Act must be enacted.

3. The auditor must be appointed. O. Reg. 237/09, s. 83.

Financial Statements

Financial statements

**84.**(1)  For the purposes of subsection 213 (1) of the Act, the prescribed matters to be shown on the financial statements of a credit union are:

1. The amount and composition of Tier 1 and Tier 2 capital and the percentage of regulatory capital held for determining compliance to the capital adequacy requirements of section 15.

2. The amount of each type of asset held for liquidity purposes as determined under section 21.

3. The amount of outstanding loans in each of the loan classes described in section 49.

4. The amount of impaired loans, the allowance for impairment and the charge for impairment.

5. The value of investments in marketable securities that are held to maturity, available for sale and designated as held for trading. O. Reg. 237/09, s. 84 (1); O. Reg. 68/17, s. 26.

(2)  The following time periods are prescribed, for the purposes of subsection 213 (1) of the Act, as the time periods to which the prescribed matters must relate:

1. The most recently completed financial year.

2. The financial year immediately before the most recently completed financial year. O. Reg. 237/09, s. 84 (2).

PART XII  
RETURNS, examinations and records

Document retention

**85.**(1)  A credit union shall keep and maintain the following in accordance with section 231 of the Act:

1. A copy of its articles of incorporation and any amendments to them or, if applicable, its other incorporating document and any amendments to it.

2. A copy of its articles of continuance, if applicable.

3. The by-laws and resolutions, including special resolutions, of the credit union.

4. The register of members, shareholders and security holders required by section 230 of the Act to be kept by the credit union.

5. A register of the directors, members of the audit committee and any other committees established by the board and all officers of the credit union, setting out their names, residential addresses, including the street and number, if any, their occupations and the several dates on which they have become or ceased to be a member of the board or committee.

6. A register of all securities held by the credit union.

7. Books of account and accounting records of the credit union.

8. The minutes of all proceedings at meetings of members, shareholders, directors and committees.

9. The audited financial statements of the credit union placed before the members at the most recent annual meeting. O. Reg. 237/09, s. 85 (1).

(2)  Despite paragraph 8 of subsection (1), a credit union may dispose of minutes of committee proceedings that were held more than six years before the disposition. O. Reg. 237/09, s. 85 (2).

Maximum fee for by-laws

**86.**For the purpose of subsection 233 (2) of the Act, the prescribed amount is $25. O. Reg. 237/09, s. 86.

PART XiII  
LEAGUES

Application

Application

**87.**This Regulation applies with respect to a league as if it were a credit union, except to the extent modified by this Part. O. Reg. 237/09, s. 87.

Capital Structure

Capital structure

**88.**For the purposes of subsection 74.1 (1) of the Act, the following are prescribed persons to whom a security of a league issued under circumstances described in clause 75 (1) (a) of the Act may be transferred:

1. A member of the league issuing the securities.

2. A member of a credit union that is a member of the league issuing the securities.

3. The Corporation. O. Reg. 237/09, s. 88.

Adequate Capital

Adequate capital

**89.**(1)  A league has adequate capital if its regulatory capital at least equals 5 per cent of its total assets. O. Reg. 237/09, s. 89 (1).

(2)  Section 15 does not apply with respect to a league. O. Reg. 237/09, s. 89 (2).

Business Powers

Business powers

**90.**For the purposes of subsection 241 (3.1) of the Act, a league may engage in or carry on the following business activities and provide the following services:

1. Accepting deposits and making loans.

2. Guaranteeing loans.

3. Providing administrative, advisory, educational, managerial, promotional and technical services to credit unions.

4. Arranging for one or more pension plans for the directors, officers, employees and members of credit unions, their subsidiaries and subsidiaries of the league.

5. Arranging for group bonding for directors, officers and employees of a credit union, its subsidiaries and subsidiaries of the league.

6. Providing credit counselling to members of credit unions who are repaying loans made by the credit unions. O. Reg. 237/09, s. 90.

Permitted activities

**91.**For the purposes of section 173 of the Act, a league may provide investment counselling and portfolio management services to its members, depositors, subsidiaries and affiliates. O. Reg. 237/09, s. 91.

Group insurance

**92.**(1)  A league may administer a group insurance policy for its employees, its members, the employees of its members or subsidiaries and credit unions that are not members and their employees. O. Reg. 237/09, s. 92 (1).

(2)  Group accident and sickness insurance and group life insurance administered by a league must be restricted to the league’s employees, its members, the employees of its members or subsidiaries and credit unions that are not members and their employees. O. Reg. 237/09, s. 92 (2).

Trustee

**93.**For the purposes of section 177 of the Act, a league is authorized to act as trustee with respect to an escrow agreement relating to share offerings by a credit union. O. Reg. 237/09, s. 93.

Investment and Lending

Investment and lending

**94.**Section 59 does not apply with respect to a loan made by a league to a credit union or to a subsidiary of the league. O. Reg. 237/09, s. 94.

Exception to restriction re single investments

**95.**(1)  For the purposes of subsection 199 (1) of the Act, the prescribed amount is 10 per cent of a league’s deposits and regulatory capital. O. Reg. 237/09, s. 95 (1).

(2)  Despite subsection (1), La Fédération des caisses populaires de l’Ontario may invest 25 per cent of its deposits and regulatory capital in Fédération des caisses Desjardins du Québec. O. Reg. 237/09, s. 95 (2); O. Reg. 68/17, s. 27.

Connected persons

**96.**The following conditions are prescribed as conditions that, if satisfied in relation to a member or a customer of a league, result in persons being connected for the purposes of section 199 of the Act:

1. Another person or entity is one of the following:

i. a body corporate in which the member or customer holds or beneficially owns, directly or indirectly, at least 20 per cent of the voting securities,

ii. an affiliate of a body corporate described in subparagraph i,

iii. a person or entity that has a 50 per cent interest in a partnership in which the member or customer also has a 50 per cent interest,

iv. a partnership in which the member or customer is a partner,

v. a trust or estate in which the member or customer has a substantial beneficial interest,

vi. a trust or estate in respect of which the member or customer serves as trustee or in a similar capacity,

vii. a person or entity on whose financial resources the member or customer depends to repay a loan to a league,

viii. a person who provides security to a league for a loan to the member or customer.

2. Another individual is one of the following:

i. a spouse who is financially dependent on the member or customer,

ii. a relative of the member or customer or of the member’s or customer’s spouse who lives in the same home as the member or customer, who is financially dependent on the member, customer or spouse. O. Reg. 237/09, s. 96.

Subsidiaries

Subsidiaries

**97.**For the purposes of subsection 241 (5) of the Act, leagues may carry on business through the following types of subsidiaries:

1. A subsidiary in which a credit union may invest under the Act.

2. A corporation established to maintain a stabilization fund for the benefit of the credit unions that are members of the league.

3. A corporation established to administer development funds for the creation of new credit unions.

4. A corporation established to administer development funds for investments in, and loans to, small businesses.

5. A corporation that issues payment cards, credit cards or charge cards and operates a payment or charge card plan. O. Reg. 237/09, s. 97.

Restriction on investment in subsidiaries

**98.**For the purpose of subsection 200 (7) of the Act, the prescribed amount is 20 per cent of the league’s regulatory capital and deposits. O. Reg. 237/09, s. 98.

Exemptions from the Act

Exemptions from the Act

**99.**Leagues are exempted under subsection 243 (2) of the Act from the following provisions of the Act:

1. Section 31 (admissions outside bonds of association).

2. Section 46 (withdrawal of members).

3. Section 47 (expulsion of members).

4. Section 201.1 (investment in another credit union).

5. Section 217 (requisitions for meetings). O. Reg. 237/09, s. 99.

PART XIV  
Deposit Insurance Corporation of ontario

**100.**Revoked: O. Reg. 68/17, s. 28.

Investment of Funds

Investment of funds

**101.**(1)  For the purposes of section 269 of the Act, the Corporation may invest any funds not required in carrying out its objectives in securities in which a credit union may invest its funds. O. Reg. 237/09, s. 101 (1); O. Reg. 68/17, s. 29.

(2)  The board of directors of the Corporation shall establish prudent investment policies and procedures for the purpose of carrying out its object of managing the Deposit Insurance Reserve Fund. O. Reg. 237/09, s. 101 (2).

(3)  The board of directors of the Corporation shall review its investment policies and procedures at least once a year and shall make such revisions as may be necessary to ensure that the investment policies and procedures satisfy the requirements of subsection (2). O. Reg. 237/09, s. 101 (3).

Restriction on investments

**102.**For the purposes of section 269 of the Act, the Corporation’s investments are subject to the same restrictions that apply with respect to investments made by credit unions. O. Reg. 237/09, s. 102; O. Reg. 68/17, s. 30.

Deposit Insurance

Insurable deposits

**103.**(1)  In this section,

“deposit”, for the purpose of deposit insurance, means the unpaid balance of the aggregate of monies received, or held by a credit union, including interest thereon, from or on behalf of a person in the usual course of its deposit-taking business, for which the credit union,

(a) has given or is obligated to give credit to that person’s account or has issued or is obligated to issue a receipt, certificate, debenture, transferable instrument, draft, certified draft or cheque, prepaid letter of credit, money order or other instrument in respect of which it is liable, and

(b) is obligated to repay the monies on a fixed day, on demand by the person or within a specified period of time following demand by the person. O. Reg. 68/17, s. 31.

(2)  For the purposes of the Act, each of the following is one insurable deposit:

1. A person’s deposit with the credit union that is not otherwise described in this section.

2. A joint deposit with the credit union of two or more persons, not in trust for a named beneficiary. Each unique combination of depositors gives rise to a separate insurable deposit.

3. A deposit with the credit union of a person, in trust for one named beneficiary.

4. A joint deposit with the credit union of two or more persons, in trust for one named beneficiary. Each unique combination of depositors gives rise to a separate insurable deposit.

5. The interest of each named beneficiary in a deposit with the credit union by a person, in trust for more than one named beneficiary.

6. The interest of each named beneficiary in a joint deposit with the credit union of two or more persons, in trust for more than one named beneficiary. Each unique combination of depositors gives rise to separate insurable deposits.

7. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s registered retirement savings plans within the meaning of the Income Tax Act (Canada).

8. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s registered retirement savings plans within the meaning of the Income Tax Act (Canada).

9. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s registered retirement income funds within the meaning of the Income Tax Act (Canada).

10. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s registered retirement income funds within the meaning of the Income Tax Act (Canada).

11. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s tax-free savings accounts within the meaning of section 146.2 of the Income Tax Act (Canada).

12. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s tax-free savings accounts within the meaning of section 146.2 of the Income Tax Act (Canada).

13. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s registered disability savings plans within the meaning of the Income Tax Act (Canada).

14. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s registered disability savings plans within the meaning of the Income Tax Act (Canada).

15. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s registered education savings plans within the meaning of the Income Tax Act (Canada).

16. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s registered education savings plans within the meaning of the Income Tax Act (Canada). O. Reg. 68/17, s. 31.

Deposit insurance amount

**104.**For the purposes of paragraph 2 of subsection 270 (2) of the Act and subsection 271 (3) of the Act, the Corporation shall,

(a) for an insurable deposit under paragraphs 1 to 6 of subsection 103 (2) of this Regulation, not insure the amount of the insurable deposit that exceeds $250,000;

(b) for an insurable deposit under paragraphs 7 to 16 of subsection 103 (2) of this Regulation, insure the full amount of the insurable deposit. O. Reg. 68/17, s. 31.

Annual Premium

Annual premium

**105.**(1)  For the purposes of paragraph 1 of subsection 276.1 (1) of the Act, the Corporation shall determine the credit union’s annual premium in accordance with this section. O. Reg. 237/09, s. 105 (1).

(2)  The Corporation shall determine the differential premium score of each credit union and league in accordance with subsection (4.3) and with the rules set out in the DICO Differential Premium Score Determination published by the Corporation in The Ontario Gazette, as it may be amended from time to time. O. Reg. 444/17, s. 1 (1).

(3)  Revoked: O. Reg. 444/17, s. 1 (1).

(4)  Revoked: O. Reg. 120/14, s. 1 (2).

(4.1), (4.2)  Revoked: O. Reg. 444/17, s. 1 (1).

(4.3)  The differential premium score of a credit union or league at a particular time is determined with reference to the following components:

1. Capital: the level of regulatory capital of the credit union or league.

2. Corporate governance: the effectiveness of the governance practices of the credit union or league, as determined with reference to the Act and the by-laws of the Corporation. O. Reg. 120/14, s. 1 (5).

(4.4)  The annual premium payable by a credit union or league for a financial year that begins on or after January 1, 2015 is calculated as follows:

1. If the differential premium score of a credit union or league is 90 or over, its annual premium is $1.00 per $1,000 of the funds described in subsection (5) for a credit union and in subsection (6) for a league.

2. If the differential premium score of a credit union or league is 0, its annual premium is $3.00 per $1,000 of those funds.

3. If the differential premium score of a credit union or league is between 0 and 90, its annual premium is the rate per $1,000 of those funds calculated using the formula,

A = $1.75 – [B / 90 × $0.75]

in which,

“A” is the rate, and

“B” is the credit union or league’s differential premium score.

O. Reg. 120/14, s. 1 (5).

(5)  The calculation of the annual premium for a credit union is based only on Canadian funds on deposit with the credit union, and no premium is payable with respect to that portion of a deposit that is uninsured by virtue of section 270 of the Act. O. Reg. 237/09, s. 105 (5).

(6)  The calculation of the annual premium for a league is based on Canadian funds on deposit with the league for a person that is not a credit union, and no premium is payable with respect to that portion of a deposit that is uninsured by virtue of section 270 of the Act. O. Reg. 237/09, s. 105 (6).

(7)  The Corporation may estimate the amount of funds on deposit with the credit union or league using the quarterly financial return of the credit union or league and may adjust the premium upon receiving the audited financial statements. O. Reg. 237/09, s. 105 (7).

(8)  The annual premium payable by a credit union or league that carries on business for less than one year shall be reduced by an amount proportionate to the period during which it did not carry on business. O. Reg. 237/09, s. 105 (8).

(9)  Despite subsections (4.4) and (8), the minimum annual premium payable by a credit union or league is $250. O. Reg. 237/09, s. 105 (9); O. Reg. 514/10, s. 4 (4); O. Reg. 120/14, s. 1 (6); O. Reg. 444/17, s. 1 (2).

(10)  The Corporation may use approximate figures in determining or calculating an amount under this section. O. Reg. 237/09, s. 105 (10).

Payment of annual premium

**106.**A credit union or league shall pay its annual premium within 30 days after the date of the invoice for the premium. O. Reg. 237/09, s. 106.

Audited statement of deposits

**107.**A credit union or league shall file an audited statement of its deposits with the Corporation at such time as the Corporation directs and respecting such period as the Corporation directs. O. Reg. 237/09, s. 107.

PART XV  
Continuing as or Ceasing to be an Ontario Credit Union

Continuing as an Ontario Credit Union

Articles of continuance

**108.**The following are prescribed, for the purposes of subsection 316 (3) of the Act, as documents that must accompany the articles of continuance:

1. A copy of the incorporating document of the body corporate, together with all amendments to the document, certified by the officer of the incorporating jurisdiction who is authorized to so certify.

2. A letter of satisfaction, certificate of continuance or other document issued by the proper officer of the incorporating jurisdiction that indicates that the body corporate is authorized under the laws of the jurisdiction in which it was incorporated or continued to apply for articles of continuance. O. Reg. 237/09, s. 108.

Conditions for issue of certificate of continuance

**109.**The following are prescribed as conditions for the purposes of subsection 316 (5) of the Act:

1. The Superintendent shall not issue a certificate of continuance unless the body corporate satisfies the Superintendent that the matters set out in paragraphs 1 to 5 of subsection 16 (2) of the Act are satisfied.

2. The Superintendent shall not issue a certificate of continuance unless the body corporate satisfies the Superintendent that the body corporate would meet all the requirements of the Act if it were continued as a credit union. O. Reg. 237/09, s. 109.

Limits on transition period

**110.**(1)  The prescribed maximum period for the purposes of paragraph 1 of subsection 316 (12) of the Act is two years beginning on the date the articles of continuance became effective. O. Reg. 237/09, s. 110 (1).

(2)  The prescribed maximum extension period for the purposes of paragraph 2 of subsection 316 (12) of the Act is seven years beginning on the date the articles of continuance became effective. O. Reg. 237/09, s. 110 (2).

Transfer to Another Jurisdiction

Conditions for issue of certificate of continuance

**111.**The following are prescribed as conditions for the purposes of subsection 316.1 (5) of the Act:

1. The Superintendent shall not issue a certificate of approval of continuance unless the credit union satisfies the Superintendent as to the following:

i. the shareholders or members who voted against the special resolution to apply for the certificate of continuance will be entitled to be paid the value of their membership, patronage and other shares, calculated in accordance with subsection 62 (2) of the Act,

ii. the credit union will proceed with the continuation before the certificate of approval of continuation expires, unless the directors, with the authorization of the shareholders or members, abandon the application.

2. The Superintendent shall not issue a certificate of approval of continuance unless the credit union satisfies the Superintendent that after the credit union is continued under the laws of the other jurisdiction, the laws of that jurisdiction provide in effect that,

i. the continued body corporate will possess all the property, rights, privileges and franchises and be subject to all the liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of the credit union,

ii. a conviction against, or ruling, order or judgment in favour of or against, the credit union may be enforced by or against the continued body corporate, and

iii. the continued body corporate will continue as a party in any civil action commenced by or against the credit union.

3. The Superintendent shall include, in each certificate of approval of continuance, a condition that the certificate expires if the credit union has not been continued within six months after the certificate was issued. O. Reg. 237/09, s. 111.

Continuation under Another Ontario Act

Conditions for issue of certificate of continuance

**112.**The following are prescribed as conditions for the purposes of subsection 316.2 (5) of the Act:

1. The Superintendent shall not issue a certificate of approval of continuance unless the credit union satisfies the Superintendent that the shareholders or members who voted against the special resolution to apply for the certificate of continuance will be entitled to be paid the value of their membership, patronage and other shares, calculated in accordance with subsection 62 (2) of the Act.

2. The Superintendent shall not issue a certificate of approval of continuance unless the credit union satisfies the Superintendent that, after the credit union is continued,

i. the continued body corporate will possess all the property, rights, privileges and franchises and be subject to all the liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of the credit union,

ii. a conviction against, or ruling, order or judgment in favour of or against, the credit union may be enforced by or against the continued body corporate, and

iii. the continued body corporate will continue as a party in any civil action commenced by or against the credit union.

3. The Superintendent shall include, in each certificate of approval of continuance, a condition that the certificate expires if the credit union has not been continued within six months after the certificate was issued. O. Reg. 237/09, s. 112.

PART XVI  
CONSUMER PROTECTION

Disclosure Re Interest Rates, etc.

Disclosure re interest rates, etc.

**113.**(1)  A credit union shall disclose to a prospective depositor the applicable rate of interest for the person’s account and the manner of calculating the interest payable. O. Reg. 237/09, s. 113 (1).

(2)  Whenever there is a change in the rate of interest or in the manner of calculating the amount of interest that applies to a deposit account, the credit union shall disclose the change by means of,

(a) delivering a written statement to a person in whose name the account is maintained;

(b) displaying and making available copies of a written statement at each branch of the credit union where the accounts are held; or

(c) displaying a general notice at each branch of the credit union where the accounts are kept. O. Reg. 237/09, s. 113 (2).

Disclosure upon renewal

**114.**If a credit union renews a term deposit account, the credit union shall disclose to the depositor the rate of interest for the account and the manner of calculating the interest payable. O. Reg. 237/09, s. 114.

Disclosure in advertising

**115.**(1)  In an advertisement about an interest-bearing deposit or a debt obligation, a credit union shall disclose how the interest is to be calculated and any circumstances that will affect the rate of interest. O. Reg. 237/09, s. 115 (1).

(2)  An advertisement about an interest-bearing deposit must state how the balance of a deposit account will affect the rate of interest. O. Reg. 237/09, s. 115 (2).

Consumer Complaints by Members and Depositors

Consumer complaints by members and depositors

**116.**(1)  A credit union shall designate an officer or employee of the credit union to receive and attempt to resolve complaints made by members and depositors. O. Reg. 237/09, s. 116 (1).

(2)  A credit union shall advise its members and depositors, in a manner that it considers appropriate, of the name and contact information of the officer or employee designated under subsection (1). O. Reg. 237/09, s. 116 (2).

(3)  If a person makes a written complaint to the credit union about the business activities of the credit union, the credit union shall give the person a written response to the complaint setting out the credit union’s proposed resolution of the complaint. O. Reg. 237/09, s. 116 (3).

(4)  A credit union shall also inform the person who made the complaint that, if the person is not satisfied with the proposed solution and if the person believes that the complaint relates to a contravention of the Act or a regulation made under the Act, the person may refer the complaint to the Superintendent. O. Reg. 237/09, s. 116 (4).

(5)  A credit union shall keep a copy of every complaint it receives, every response it issues and any other document that relates to a complaint for six years from the date of the complaint and shall make them available if requested to do so by the Superintendent. O. Reg. 237/09, s. 116 (5).

(6)  The officer or employee designated under subsection (1) shall report at least once annually to the board about the complaints received and how they were disposed of in a form that is satisfactory to the board. O. Reg. 237/09, s. 116 (6).

Inquiry by Superintendent

**117.**(1)  If, as a result of receiving a complaint, the Superintendent addresses an inquiry to a credit union or an officer about the conduct of the credit union’s business, the credit union or officer shall promptly reply in writing to the inquiry. O. Reg. 237/09, s. 117 (1).

(2)  If requested to do so by the Superintendent, the credit union shall give a copy of the Superintendent’s inquiry and the reply to each director of the credit union and the inquiry and reply shall form part of the minutes of the next board meeting. O. Reg. 237/09, s. 117 (2).

PART XVII  
ADMINISTRATIVE PENALTIES

Administrative penalties

**118.**(1)  For the purposes of subsections 331.2 (1) and 331.3 (1) of the Act, the amount of the administrative penalty for a contravention is, for each day on which the contravention occurs or continues, $250 for a credit union. O. Reg. 237/09, s. 118 (1); O. Reg. 68/17, s. 32.

(2)  If the contravention is a failure to file a document or to provide information in accordance with subsection 331.2 (2) or 331.3 (2) of the Act, the contravention occurs on the day following the day on which the document was required to be filed or the information was required to be provided and continues until it is filed or provided, as the case may be, or until the credit union is notified by the Superintendent or the Corporation that the document or the information is no longer required. O. Reg. 237/09, s. 118 (2).

(3)  Despite subsection (2), where a person or entity has filed a document or provided information in the appropriate form but the document or information is incomplete or inaccurate, the contravention is deemed to have occurred on the day on which the person or entity is given written notice that the document or information is incomplete or inaccurate. O. Reg. 237/09, s. 118 (3).

(4)  If the contravention is a failure to hold a meeting in accordance with subsection 331.2 (2) or 331.3 (2) of the Act, the contravention is deemed to occur on the third day following the day on which the meeting was required to be held and continues until the meeting is held or until the credit union is notified by the Superintendent or the Corporation that the meeting is no longer required. O. Reg. 237/09, s. 118 (4).

(5)  In determining whether to impose an administrative penalty on a person or entity under section 331.2 or 331.3 of the Act for a purpose set out in subsection 331.1 (1) of the Act, the Superintendent or the Corporation, whichever is authorized to impose the penalty, shall consider only the following:

1. Whether the contravention was caused by an event outside the person or entity’s control.

2. Whether the person or entity could have taken steps to prevent the contravention.

3. With respect to incomplete or inaccurate documents or information, whether due diligence was exercised in filing the documents or preparing the information.

4. Whether the person or entity derived or reasonably might have been expected to derive, directly or indirectly, any economic benefit from the contravention or failure. O. Reg. 237/09, s. 118 (5).

(6)  A person or entity on whom an administrative penalty has been imposed must pay the penalty,

(a) if the order is not appealed, within 30 days from the date of the order of the Superintendent or the Corporation imposing the penalty or such longer time as may be specified in the order; or

(b) if the order is appealed under subsection 331.2 (5) or 331.3 (5) of the Act, within 30 days from the date the Tribunal confirms or varies the order or such longer time as may be specified in the order. O. Reg. 237/09, s. 118 (6).

(7)  Administrative penalties shall be paid into the Consolidated Revenue Fund. O. Reg. 237/09, s. 118 (7).

Part XVIII  
Extra-Provincial Credit Unions

Registering

Application for registration

**119.**An application for registration in the Extra-Provincial Credit Unions Register under clause 332 (6) (a) of the Act must be in a form approved by the Superintendent and include any materials requested by the Superintendent. O. Reg. 68/17, s. 33.

Condition for registration

**120.**Only an entity that is incorporated as a credit union in a province or territory of Canada other than Ontario under legislation that is comparable to the Act may be registered in the Extra-Provincial Credit Unions Register under clause 332 (6) (a) of the Act. O. Reg. 68/17, s. 33.

Business Powers

Limited activities

**121.**The activities of an extra-provincial credit union registered under clause 332 (6) (a) of the Act are limited to participating in a syndicated loan. O. Reg. 68/17, s. 33.

Special Rules

Information required by the Superintendent

**122.**Section 225 of the Act applies to an extra-provincial credit union registered under clause 332 (6) (a) of the Act. O. Reg. 68/17, s. 33.

Information required by Corporation

**123.**Section 226 of the Act applies to an extra-provincial credit union registered under clause 332 (6) (a) of the Act. O. Reg. 68/17, s. 33.

Fees

**124.**Section 321.6 of the Act applies to an extra-provincial credit union registered under clause 332 (6) (a) of the Act. O. Reg. 68/17, s. 33.

Mortgage Brokerages, Lenders and Administrators Act, 2006

**125.**An extra-provincial credit union registered under clause 332 (6) (a) of the Act is deemed to be a credit union for the purposes of the Mortgage Brokerages, Lenders and Administrators Act, 2006. O. Reg. 68/17, s. 33.

Cancelling the Registration

Cancellation of registration on request

**126.**The Superintendent may cancel the registration of an extra-provincial credit union under subsection 332 (6) of the Act at the request of the extra-provincial credit union. O. Reg. 68/17, s. 33.

Cancellation of registration, Superintendent’s order

**127.**(1)  The Superintendent may make an order cancelling the registration of an extra-provincial credit union under subsection 332 (6) of the Act if, in the Superintendent’s opinion, one of the following conditions is satisfied:

1. The extra-provincial credit union is failing to comply with sections 121 to 124 of this Regulation.

2. The extra-provincial credit union is doing anything that constitutes a practice that might prejudice or adversely affect the interests of a member, depositor or shareholder of a credit union as defined in section 1 of the Act.

3. The extra-provincial credit union is not carrying on business or is not in operation. O. Reg. 68/17, s. 33.

(2)  Section 240.1 of the Act applies with respect to an order under this section. O. Reg. 68/17, s. 33.

(3)  The Superintendent shall set out the reasons for his or her decision in the order. O. Reg. 68/17, s. 33.

(4)  The extra-provincial credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 240.4 of the Act. O. Reg. 68/17, s. 33.

Cancellation of registration, other jurisdiction

**128.**The registration of an extra-provincial credit union under subsection 332 (6) of the Act is automatically and immediately cancelled if,

(a) its incorporation in a province or territory of Canada other than Ontario has ceased; or

(b) its registration as a credit union in a province or territory of Canada other than Ontario has ceased. O. Reg. 68/17, s. 33.

Effect of cancellation

**129.**An extra-provincial credit union whose registration is cancelled must not participate in a syndicated loan in Ontario except to the extent necessary to wind up its participation in a syndicated loan in Ontario. O. Reg. 68/17, s. 33.