



**FINANCIAL AND CONSUMER SERVICES COMMISSION
RULE CU-001 GENERAL**

**PART 1
PRELIMINARY MATTERS**

Definitions

1. (1) In this Rule

“Act” means the *Credit Unions Act*; (*Loi*)

“capital” means the capital as identified in the credit union’s financial statements prepared in accordance with generally accepted Canadian accounting principles, the primary source of which is the *CPA Canada Handbook* of the Chartered Professional Accountants of Canada; (*capitaux propres*)

“commercial loan” means a loan made to an individual, a partnership, co-operative, corporation or any other organized body in respect of the development, production and sale of goods or services, or the sale of goods and services, where the loan is secured by the assets of the business or where repayment of the loan is primarily dependant on the cash flow generated by the business, or both, and includes a loan made in respect of forestry, farming or fishing and a commercial line of credit loan; (*prêt commercial*)

“regulatory capital” means, in relation to a credit union, the following, unless the credit union has an accumulated deficit, in which case it means the amounts determined under paragraphs (a) and (b) minus the accumulated deficit,

- (a) the value of the consideration paid for membership shares and any other shares issued by the credit union that are not redeemable within one year,
- (b) the book value of any surplus shares issued by the credit union, and
- (c) the retained earnings of the credit union; (*capital réglementaire*)

“residential property” means real property, the primary use of which is residential, consisting of a building that is used, or is to be used, as no more than four private dwellings at least one of which is, or is to be, occupied by an owner of the real property; (*bien résidentiel*)

“spouse” means either of two persons who are married to each other, or are cohabiting in a conjugal relationship. (*conjoint*)

- (2) The definitions contained in the Act apply to this Rule, unless the terms in question are defined in this Rule.

Prescribed credit unions

2. For the purposes of the definition of “credit union” of the Act, the following credit unions are prescribed:
- (a) Advance Savings Credit Union Ltd.
 - (b) Bayview Credit Union Ltd.
 - (c) Beaubear Credit Union Ltd.
 - (d) Blackville Credit Union Ltd.
 - (e) Citizens Credit Union Ltd.
 - (f) New Brunswick Teachers’ Association Credit Union Ltd.
 - (g) Omista Credit Union Ltd.
 - (h) Progressive Credit Union Ltd.
 - (i) The Credit Union Ltd.

Prescribed group insurance plans

3. For the purposes of paragraph 28(2)(b) of the Act, the following group insurance plans are prescribed:
- (a) Credit Union Creditor Insurance; and
 - (b) Credit Union Savings Insurance.

PART 2 OPERATING STANDARDS

Inactive Accounts

4. (1) Subject to subsection (2), the credit union shall pay to the Corporation where a deposit has been made in a credit union that is payable in Canadian currency and in respect of which no transaction has taken place and no statement of account has been requested or acknowledged by the member during a period of ten years,
- (i) in the case of a deposit made for a fixed period, from the day on which the fixed period terminated, and

- (ii) in the case of any other deposit, from the day on which the last transaction took place or a statement of account was last requested or acknowledged by the member, whichever is later.
- (2)** The credit union shall pay to the Corporation not later than the thirty-first day of December in each year an amount equal to the principal amount of the deposit, plus interest, if any, calculated in accordance with the terms of the deposit and payment accordingly discharges the credit union from all liability in respect of the deposit.

Limited Payments of Deceased Member

- 5.** For the purposes of subsection 57(1) of the Act, a credit union may pay up to twenty thousand dollars out of the deposit account of a deceased member to a person described in that section.

Loans

- 6.** Loans made by a credit union to its members shall be classified and shown on the records of the credit union as follows:
- (a) personal loans, including personal lines of credit loans;
 - (b) real estate mortgage loans on the security of residential property;
 - (c) loans to the Government of the Province or a Crown corporation or agency of the Province, or to a municipality, rural community, school board, regional health authority or a university in the Province, and loans the repayment of which is guaranteed by the Government of Canada or of a province or territory of Canada;
 - (d) commercial loans;
 - (e) real estate mortgage loans on the security of property other than residential property; and
 - (f) loans to corporations or other organized bodies operated on a not for profit basis.
- 7. (1)** A credit union shall not make loans of a kind referred to in paragraphs 6(d), (e) and (f) unless the Superintendent has authorized the credit union to make loans of that kind.
- (2)** The Superintendent shall not authorize a credit union to make loans of a kind referred to in subsection (1) unless it is satisfied that the credit union
- (a) has the necessary expertise to make such loans,
 - (b) maintains a level of capital adequate to justify the credit risk incurred in the making of such loans,
 - (c) has established appropriate criteria for assessing applications for such loans, and
 - (d) has established adequate procedures for monitoring and managing such loans.

- (3)** Where the Superintendent has authorized a credit union to make loans of a kind referred to in paragraphs 6(d), (e) and (f), the total amount of the loans that may be made by the credit union and may be outstanding at any time shall not exceed fifty per cent of the total assets of the credit union.
 - (4)** Notwithstanding subsection (2), where the Superintendent authorizes a credit union to make loans of a kind referred to in paragraphs 6(d), (e) and (f), the Superintendent may specify that the total amount of the loans that may be made by the credit union and may be outstanding at any time shall be an amount less than that permitted under subsection (3) if, in the opinion of the Superintendent, to permit the credit union to make such loans in the total amount permitted under subsection (3) might prejudice the interests of the members of the credit union.
 - (5)** For the purposes of subsection (3), a credit union may exclude from the calculation under that subsection any loan that is fully secured by a deposit with that credit union or with a credit union that is a member of Atlantic Central.
- 8.** A credit union shall not make a real estate mortgage loan on the security of property referred to in paragraph 6(b) or (e) for the purpose of purchasing, renovating or improving the property or to refinance a real estate mortgage loan on the property unless
- (a)** the amount of the indebtedness, together with the amount of the indebtedness under other mortgage loans on the security of the property mortgaged that rank equally with or in priority to the real estate mortgage loan,

 - (i)** in the case of the purchase of the property, does not exceed eighty per cent of the purchase price or the fair market value of the property, whichever is less at the time the real estate mortgage loan is granted,
 - (ii)** in the case of the renovation or the improvement of the property or the refinancing of a real estate mortgage loan, does not exceed eighty per cent of the fair market value of the property at the time the real estate mortgage loan is granted, or
 - (iii)** exceeds eighty per cent of the amount determined under subparagraph (i) or (ii), as the case may be, and the excess is guaranteed or insured by the Government of Canada or of a province or territory of Canada, or is otherwise guaranteed or insured in a manner and to an extent approved by the Superintendent, and
 - (b)** the income from all sources that is available to the borrower is sufficient to repay the principal and interest of the real estate mortgage loan and any fees and taxes related to it.

Loan Policies

- 9. (1)** The loan policies established by a credit union under subsection 58(1) of the Act shall provide for the following:

- (a) the maximum amount of the loans that may be made to a member of a credit union and that may be outstanding at any time;
 - (b) the manner in which loans to directors, officers and employees of the credit union are to be dealt with;
 - (c) the manner in which loans made by the credit union are to be considered and approved;
 - (d) the extent to which, and the manner in which, loans made by the credit union are to be secured;
 - (e) the circumstances, if any, in which unsecured loans may be made to a member of the credit union and the maximum amount of the unsecured loans that may be made to a member and that may be outstanding at any time;
 - (f) the policy, if any, established by the credit union under subsection (5) in relation to overdrafts; and
 - (g) any terms, conditions, restrictions or limitations established by the Superintendent in relation to the lending activities of the credit union and such other matters as may be required by the Superintendent.
- (2)** The loan policies established by a credit union may provide for any matters, in addition to those required under subsection (1), in relation to the loans that may be made by, and the lending activities of, the credit union, if the loan policies so established are not inconsistent with the *Act* and this Regulation and any terms, conditions, restrictions or limitations established by the Superintendent.
- (3)** The loan policies established by a credit union shall, subject to the *Act* and this Rule and any terms, conditions, restrictions or limitations established by the Superintendent, be established in accordance with prudent lending standards.
- (4)** The loan policies established by a credit union shall be reviewed annually by the directors of the credit union.
- (5)** A credit union may permit a member to make an overdraft on a deposit account of the member if
- (a) the credit union establishes a policy in relation to overdrafts, specifying the circumstances in which overdrafts may be made by a member of the credit union and the maximum amount of overdrafts that may be made by a member and that may be outstanding at any time,
 - (b) the policy is approved by the Superintendent and is incorporated into the loan policies established by the credit union, and
 - (c) the overdraft is made in accordance with that policy.

Conflicts of Interest

- 10.** A director, officer or employee of a credit union shall disclose his or her interest in loans described in the following paragraphs before the loans are made by the credit union:
- (a) a loan to a body corporate in which the director, officer or employee of the credit union or the spouse or a dependent child of the director, officer or employee holds directly or indirectly more than ten per cent of the voting shares of the share capital of the body corporate;
 - (b) a loan to a body corporate in which a group, composed exclusively of directors, officers or employees of the credit union or the spouses or dependent children of the directors, officers or employees, or any combination of them, holds directly or indirectly more than fifty per cent of the share capital of the body corporate, if the director, officer or employee or his or her spouse or dependent child is a member of that group; and
 - (c) any other loan to a body corporate in respect of which the director, officer or employee of the credit union can reasonably be considered to have a conflict of interest.

Liquidity

- 11. (1)** A credit union shall maintain liquid assets in an amount not less than ten per cent of its total liabilities as calculated, at the end of each calendar year quarter, in accordance with generally accepted Canadian accounting principles, the primary source of which is the *CPA Canada Handbook* of the Chartered Professional Accountants of Canada.
- (2)** A credit union shall maintain eighty per cent of the minimum amount required under subsection (1) or such greater amount as may be specified in the by-laws of Atlantic Central in the liquidity fund established by it for that purpose.
- (3)** A credit union shall maintain, in cash on hand or in deposits redeemable on demand, the amount equal to the difference between the amount required to be maintained by the credit union as liquid assets under subsection (1) and the amount required to be maintained in the liquidity fund under subsection (2).
- 12.** Atlantic Central may make a loan to a member credit union out of the liquidity fund in an amount not greater than 10 percent of the amount required to be maintained by the credit union as liquid assets under subsection 11(1) if:
- (a) Atlantic Central establishes a policy authorizing the making of such loans and specifying the circumstances in which such loans may be made and any terms, conditions, restrictions or limitations to which such loans are subject,
 - (b) the policy is filed with and approved by the Superintendent, and
 - (c) the loan is made in accordance with that policy.

Investment Policies

13. (1) For the purposes of section 62 of the Act, a credit union may, subject to subsection (2), make investments authorized by the investment policies established by the credit union for that purpose if the investment policies are approved by the Superintendent.
- (2) A credit union may make investments only in accordance with prudent investment standards.
- (3) For the purposes of subsection (2), prudent investment standards are those that a reasonable and prudent person would apply in respect of a portfolio of investments so as to avoid undue risk of loss and to obtain a reasonable return on the investments made.
- (4) Notwithstanding subsection (1), a credit union shall not make an investment in real estate for a credit union's own use if the total cost of that investment, together with the total cost, less any accumulated depreciation, of any investments of that kind already held by the credit union, would exceed fifty per cent of the regulatory capital of the credit union, unless that investment is approved by the Superintendent.

Allowance for Doubtful Accounts

14. (1) For the purposes of section 63 of the Act, a credit union shall maintain an allowance for doubtful accounts in an amount determined in accordance with generally accepted Canadian accounting principles, the primary source of which is the *CPA Canada Handbook* of the Chartered Professional Accountants of Canada.
- (2) The amount of the allowance for doubtful accounts shall be reported in the financial statements of the credit union referred to in subsection 122(1) of the Act.

Regulatory Capital Requirements

15. A credit union shall maintain a level of regulatory capital in an amount not less than 5% of the total assets of the credit union.
16. (1) If at the end of any fiscal year a credit union has not maintained the level of regulatory capital required under section 15, the Corporation may provide financial assistance to the credit union within 4 months after the end of that fiscal year in an amount sufficient to enable the credit union to establish the required level of regulatory capital.
- (2) If the Corporation provides financial assistance to a credit union under subsection (1) it may do so on the terms and conditions that the Superintendent considers appropriate.
- (3) Subsections (1) does not apply where the Superintendent determines that the credit union should be liquidated or amalgamated with another credit union under the Act.
- (4) Nothing in this section limits the authority of the Corporation to provide financial assistance to a member credit union at any time other than the time referred to in subsection (1) in circumstances as the Superintendent, in his or her opinion, considers not contrary to the public interest.

Borrowing

- 17. (1)** The amount that may be borrowed by a credit union under section 65 of the Act shall be an amount not more than ten per cent of the total amount of the deposits of its members and the regulatory capital of the credit union, or such greater amount as may be authorized by the Superintendent.
- (2)** Notwithstanding subsection (1), the amount of any loan made to the credit union under section 12 shall not be included in the calculation of the amount that may be borrowed by the credit union under subsection (1).

Audit Committee

- 18. (1)** The directors of a credit union shall establish an audit committee consisting of a chairperson and at least two other members to be selected in the manner determined by the directors or established in the by-laws of the credit union.
- (2)** The chairperson of the audit committee shall be selected from among the directors of the credit union.
- (3)** The members of the audit committee other than the chairperson shall be selected from among the members of the credit union. Members of the audit committee should be financially literate and sufficiently versed in financial matters so as to understand the credit union's accounting practices and policies, and financial statements.
- (4)** Employees of the credit union shall not be members of the audit committee.
- 19. (1)** The duties and powers of the audit committee are as follows:
- (a)** to meet with the auditor of the credit union before the commencement of the audit to review the audit plan and to ensure that the audit committee understands the scope of the audit;
 - (b)** to review the financial statements of the credit union referred to in paragraph 122(1)(a) of the Act and any other information placed before the members of the credit union in accordance with paragraph 122(1)(c) of the Act;
 - (c)** to review the following with the auditor or any person making an inspection or examination under the Act:
 - (i)** a report made under subsection 137(1), 139(1) or 220(1) of the Act in respect of the audit, inspection or examination;
 - (ii)** any restrictions on the scope of the audit, inspection or examination; and
 - (iii)** any problems or conflicts experienced by the auditor or person making the inspection or examination in the performance of the audit, inspection or examination;

- (d) to report and to make recommendations to the directors of the credit union in respect of the matters referred to in paragraphs (b) and (c);
 - (e) to report to the directors of the credit union any significant changes in the accounting policies and practices of the credit union;
 - (f) review the nature and extent of the auditor's evaluation of the internal control systems of the credit union;
 - (g) review the recommendations made by the auditor to the management of the credit union and the response made by management to the recommendations;
 - (h) review the audited financial statements of the credit union's subsidiaries, if there are subsidiaries;
 - (i) meet with the internal auditor or the officer or employee, agent or consultant of the credit union acting in a similar capacity if any, and with management of the credit union, to discuss the effectiveness of the internal control procedures established for the credit union; and
 - (j) to do such other things as may be required or authorized by the directors of the credit union.
- (2) The audit committee shall keep minutes of its proceedings and shall submit to the directors at each meeting of the directors the minutes of the audit committee's proceedings during the period since the last meeting of the directors.

PART 3 ANNUAL RETURN REQUIREMENT

Annual Return

- 20. (1)** For the purposes of subsection 121(1) of the Act, a credit union shall, within four months after the end of each fiscal year, complete and file a return with the Superintendent showing, as of the end of the preceding fiscal year,
- (a) the name of the credit union,
 - (b) the address of the registered office of the credit union,
 - (c) the date when the latest annual meeting of the members of the credit union was held,
 - (d) the names, residence addresses and principal occupations of the directors of the credit union,
 - (e) the names and addresses of the officers of the credit union, including the general manager, and

- (f) such other information in relation to the credit union as may be required by this Act or the regulations or the Superintendent.

**PART 4
DEPOSIT PROTECTION**

Levy

- 21. (1)** The amount of the total annual levy to be paid by each credit union for the purposes of subsection 193(2) of the Act shall be determined as follows:

$$A = (B/C) \times D$$

Where:

“A” is the credit union’s amount due with respect to the total annual levy determined by the Commission pursuant to subsection 193(1) of the Act;

“B” is the value of the total assets of the credit union as of the thirty-first day of December of the fiscal year preceding the current fiscal year of the Corporation;

“C” is the value of the total assets of all credit unions as of the thirty-first day of December of the fiscal year preceding the current fiscal year of the Corporation; and

“D” is the total annual levy determined by the Commission.

- (2)** For the purposes of subsection (1),
- (a) the value of the total assets of a credit union shall be the value reported by the credit union to the Superintendent, and
 - (b) the value of the total assets of all credit unions shall be the total of all values reported to the Superintendent under paragraph (a).
- (3)** For the purposes of subsection (1), where, between the thirty-first day of December of the fiscal year preceding the current fiscal year of the Corporation and the date of the levy,
- (a) two or more credit unions amalgamate and continue as one credit union, the value of the total assets of each of the amalgamating credit unions as of the thirty-first of December of the fiscal year preceding the current fiscal year of the Corporation shall be attributed to the amalgamated credit union,
 - (b) a credit union makes a sale, lease or exchange of all or substantially all of its property in accordance with section 155 of the Act to or with another credit union, the value of the total assets of the credit union making the sale, lease or exchange, as of the thirty-first of December of the fiscal year preceding the current fiscal year of the Corporation, shall be attributed to the credit union to or with whom the sale, lease or exchange was made if the Superintendent determines that the assets of the credit union making the sale, lease or exchange

are insufficient, because of the sale, lease or exchange, to pay the amount of the levy that would otherwise have been made against it, and

- (c) a credit union is in the process of liquidation or is dissolved, the value of the total assets of the credit union shall be nil unless the value of its total assets is attributed to another credit union under paragraph (b).
- (4) The Commission shall issue an order to the credit union with its amount due with respect to the annual levy as determined under subsection (1) against each credit union before the end of July or as soon as practicable thereafter.
- (5) A credit union shall pay the amount determined under subsection (1) within 30 days after the date of the levy, unless the Commission order specifies otherwise.
- (6) The amount determined under subsection (4) that is not paid in full within ninety days after the date of the order shall bear interest, at the rate charged by the Province for the late payment of accounts receivable, calculated in accordance with subsection (7).
- (7) For the purposes of subsection (6), interest shall be calculated on the balance that remains unpaid
 - (a) on the ninetieth day after the date of the order, for the preceding thirty days, and
 - (b) every thirtieth day thereafter.
- (8) If the Commission issues an order to the credit union for its amount due of an impairment levy, the payment terms and interest rates set out in subsection (5), (6) and (7) apply.

Non-Liquid Assets

- 22. For the purposes of subsections 194(1) of the Act, the book value of non-liquid assets held in the deposit protection fund of the Corporation are excluded in determining the total amount of the deposit protection fund, including, without limitation, the following:
 - (a) the aggregate book value of all investments in real estate held by the Corporation in its deposit protection fund,
 - (b) the aggregate book value of all investments held by the Corporation in the deposit protection fund that were made for the purposes of providing financial assistance to credit unions, and
 - (c) any current liabilities determined in accordance with generally accepted Canadian accounting principles, the primary source of which is the *CPA Canada Handbook* of the Chartered Professional Accountants of Canada.

PART 5 COMING INTO FORCE

- 23. This Rule comes into force on 1 January 2020.