

**No. CUCP-01/09
Credit Unions &
Caisses Populaires**

Important Changes to the Credit Unions and Caisses Populaires Act, 1994 and Regulations

To the attention of all Ontario incorporated credit unions and caisses populaires

The Government of Ontario has introduced significant changes to the Credit Unions and Caisses Populaires Act, 1994 (CUCP Act) and regulations. These amendments will enable credit unions and caisses populaires to better serve their members and will enhance the stability and competitiveness of the sector.

The amendments have the effect of transferring many statutory responsibilities from the Financial Services Commission of Ontario (FSCO) to the Deposit Insurance Corporation of Ontario (DICO). Many administrative responsibilities are being transferred from regulators (FSCO and DICO) to credit unions and caisses populaires also.

The majority of the changes take effect on October 1, 2009. Credit unions and caisses populaires will need to become familiar with the new provisions in the CUCP Act and regulations that will impact the way in which they conduct business operations.

The main areas of change are outlined below. For a detailed list of new and revised sections of the CUCP Act, please refer to *Key Amendments to the Credit Unions and Caisses Populaires Act, 1994*. For a summary of new and revised regulations, please refer to *Key Regulation Changes under the Credit Unions and Caisses Populaires Act, 1994*. Both are enclosed.

The amended CUCP Act and Regulations, in their entirety, are available at www.e-laws.gov.on.ca.

Solvency Regulation

Amendments to the CUCP Act transfer responsibility for solvency regulation from FSCO to DICO. DICO will now regulate activity by credit unions and caisses populaires in:

- Acquiring or establishing a subsidiary, s.200
- Adequacy of capital and liquidity, s.84-89
- Authorizing guarantee of payment, s.178

- Becoming a class 2 credit union, O.Reg 237/09 s.2
- Credit union borrowing limits, s.187 & 188
- Financial statements and annual return, s.213(7) & s.227
- Investment and lending functions, s.198-s.202
- Lending limits variation, s.191(2) & (5)
- Purchase and sale of assets, s.204
- Supervision orders, s.279

Some administrative responsibilities related to solvency have been transferred from FSCO and DICO to the individual credit unions.

Administrative Responsibilities

Amendments to the CUCP Act transfer administrative responsibilities from the regulators (FSCO and DICO) to the individual credit unions and caisses populaires. Specifically:

- The Superintendent no longer has to approve the credit union's bond of association by-law, s.30(7) of previous CUCP Act.
- A credit union is no longer required to establish a credit committee, s.110-s.124 from previous CUCP Act. To encourage accountability to credit union members and improved corporate governance, the credit union's directors and management are now directly responsible for setting the credit union's lending policy, overseeing credit decisions and establishing internal controls.
- Superintendent's approval on the by-law amendment of a credit union's borrowing limit is no longer required. The credit union must stay within the maximum of 50 per cent of regulatory capital and deposits, s.183.
- A credit union may create a security interest in a property of the credit union only as prescribed by the CUCP Act without the Superintendent's approval, s.184.

New Responsibilities for FSCO and DICO

Under the amended CUCP Act, FSCO has the responsibility for imposing administrative penalties (s.331.1-331.6), approving annual meeting extensions (s.212(3)), and granting continuances as or ceasing to be an Ontario credit union (s.316, s.316.1 & s.316.2).

DICO may impose administrative penalties (s.331.1-331.6) and may approve group capital agreements (s.84(3) & (4)).

Compliance Orders

FSCO and DICO both have authority for issuing compliance orders. FSCO has general compliance powers (for detailed information on FSCO's compliance authority refer to s.234 of the CUCP Act). DICO's authority encompasses areas of administration or supervision of the credit union, investment, and lending activities.

Dissolution

FSCO and DICO will continue to be jointly responsible for the dissolution and the wind-up of a credit union or caisse populaire.

New Complaint Process for Consumers

FSCO has a new process for handling complaints from consumers about credit unions and caisses populaires. A key step in the complaint process is the consumer contact with credit union/caisse populaire complaint officers. To facilitate this step, FSCO will publish on its website the names and contact information of credit union and caisse

populaire officers designated to receive and attempt to resolve complaints. For this reason, it is imperative that all credit unions and caisses populaires designate an officer as soon as possible.

Reference Materials

FSCO and DICO offer a number of documents to assist credit unions and caisses populaires and their directors in registering or performing day-to-day operations.

Materials on DICO's website (www.dico.com) include:

- *Capital Adequacy Guideline for Ontario's Credit Unions and Caisses Populaires*
- *Guidance Note: Lending*
- *Guidance Note: Investments*
- *Guidance Note: Liquidity*
- *Guidance Note: Structural (Interest Rate) Risk Measurement and Management*
- *Audit Committee Handbook*
- *Director's Handbook*

FSCO offers helpful information at www.fSCO.gov.on.ca (click on Credit Unions) or at FSCO's contact centre at (416) 250-7250, toll-free 1-800-668-0128. Please check the website regularly, as it will be updated with more information for credit unions and caisses populaires.

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