

4711 Yonge Street
Suite 700
Toronto ON M2N 6K8
Telephone: 416-325-9444
Toll Free 1-800-268-6653
Fax: 416-325-9722

4711, rue Yonge
Bureau 700
Toronto (Ontario) M2N 6K8
Téléphone : 416-325-9444
Sans frais : 1-800-268-6653
Télécopieur : 416-325-9722



SECTOR RELEASE

April 23, 2010

Number 61

To all Boards of Directors, Managers and CEOs

Update on Legal Actions Taken Against Former Directors, Managers and Auditors

This release is intended to provide you with a general update on the legal proceedings commenced by credit unions in liquidation and DICO against former directors, officers and auditors of failed institutions for their alleged failure to properly exercise their duty of care to the credit union as well as to DICO as deposit insurer. Further comments on the actions cannot be provided because they are currently before the courts.

DICO recognizes that the vast majority of directors and officers of credit unions act prudently and exercise an appropriate duty of care. Directors who carry out their responsibilities, as required, can protect themselves against legal repercussions. However, if directors do not properly address these obligations it may lead to significant consequences. As stated below, DICO is obligated to mitigate losses by pursuing recoveries whenever it believes there is a legitimate case against individuals or firms which may have contributed to the loss through their failure to exercise an appropriate duty of care.

Directors' Obligations

In the fall of 2009 DICO issued a revised Director's Handbook (reflecting changes in the Act) which outlines the director's duty of care and fiduciary responsibilities to their credit unions. These are set out in some detail on page 2 of the Handbook. Directors should also be aware of the importance of their obligations to DICO with respect to DICO's By-laws No. 5 and No. 6. These obligations are in addition to their obligations to their credit unions.

Background

During 2009, DICO recorded over \$27.9 million in insurance losses before any amounts that may be recovered from fidelity insurers and other parties. These losses stemmed from the failure of two credit unions – one in 2008 and one in 2009.

DICO is obligated by statute to minimize the cost of deposit insurance for all credit unions and caisses populaires and will take appropriate steps, whenever justified by the circumstances, to achieve that objective. Any recoveries from these claims will ultimately strengthen the Deposit Insurance Reserve Fund, help to protect depositors and minimize any impact on your premiums.

Due to the circumstances and magnitude of these losses, DICO is taking proactive steps to recover on them. These recovery steps include taking control of failed institutions, disposing of assets and where appropriate, causing the credit unions to take legal actions against certain of the credit unions' former directors, officers, contractors, the external auditor, the fidelity insurer as necessary and those alleged to be recipients of misappropriated funds. In addition, DICO, in its own capacity as deposit insurer, is taking legal action against certain former directors, officers and the external auditors of failed credit unions.

In the cases referred to, it should be noted that the defendants have not yet responded to the Statements of Claim, and no findings or decisions have been made by the Court in these cases.