

OTHER POWERS

(Note: Links are underlined in blue)

Under the Act, DICO has a number of other powers that it may use as the circumstances require. These include the power to:

- [Impose or amend conditions of Deposit Insurance](#)
- [Impose an administrative penalty for failure to perform specified requirements](#)
- [Require an extended audit scope](#)
- [Apply to the court to set aside a restricted party transaction](#)
- [Require a meeting of the directors of an insured institution](#)
- [Apply to the court for an order to comply with a provision of the Act or to restrain acting in breach of a provision of the Act](#)

CONDITIONS OF DEPOSIT INSURANCE
Subsection 270(4) of the Act

Authority

Under subsection 270 (4) of the Act, DICO may impose conditions or amend such conditions of deposit insurance at any time by written notice to the credit union.

Criteria

DICO shall impose conditions of deposit insurance by written notification entitled “Conditions of Deposit Insurance” to a credit union and may amend these conditions from time to time as necessary or appropriate in order to minimize DICO’s exposure to risk.

Where a credit union is identified as posing exceptional insurance risk to DICO, DICO may, by written notice to the credit union, impose or amend previously imposed conditions of insurance by issuing a new or amended notification of Conditions of Deposit Insurance to address that risk.

All imposed or amended conditions of deposit insurance will:

- Be communicated to the credit union by way of an written notification to both the President and the General Manager
- Take effect after a reasonable notice period
- Terminate when the conditions expire or are revoked by DICO

Notice and notice period

DICO shall provide written notice of its intention to impose or amend Conditions of Deposit Insurance.

The length of the notice period will be dependent upon the individual circumstances and the severity of the financial impacts and risks involved.

DICO shall provide a minimum of 30 days notice except where DICO is of the opinion that any delay may result in an unacceptable increase in the Corporation’s exposure to risk.

ADMINISTRATIVE PENALTIES

Subsection 331.3(1) of the Act

Authority

Under subsection 331.3(1), DICO may, by Order, impose an administrative penalty where it is satisfied that the person or entity is contravening any of the requirements set out in subsection 331.3(2).

Amount of Penalty

In accordance with subsection 117 (1) of the Regulations, the amount the administrative penalty for a contravention is, for each day on which the contravention occurs or continues, \$100 for a class 1 credit union and \$250 for a class 2 credit union. The maximum amount of a penalty shall not exceed \$25,000 in accordance with subsection 331.5 of the Act

Criteria

DICO shall issue an Order to impose an administrative penalty on the person or entity when it has obtained satisfactory evidence that it one or more of the following criteria have been met.

The person or entity:

- Did not provide reports under section 89 within a reasonable period of time of the date required
- Did not hold a meeting under subsection 220(1) within a reasonable period of time of the date specified in the notice
- Did not provide information under section 225 within a reasonable period of time of the date required
- Did not file an annual return or provide information under section 227 within a reasonable period of time from the date required
- Did not pay a special levy under clause 262(1)(d) or an annual premium under section 276.1 within a reasonable period of time of the date that payment is due

In accordance with subsection 117(5) of the Regulations, when considering whether to impose an administrative penalty on a person or entity, DICO shall also consider:

- Whether the contravention was caused by an event outside the person or entity's control.
- Whether the person or entity could have taken steps to prevent the contravention.
- With respect to incomplete or inaccurate documents or information, whether due diligence was exercised in filing the documents or preparing the information.

Evidence

DICO will review evidence that constitutes a reasonable basis for recommending an Order to impose an administrative penalty relative to the individual circumstances involved.

Order

An Order issued pursuant to subsection 331.3 (1) of the Act is subject to appeal in accordance with subsection 240.4.

EXTENDED AUDIT SCOPE AND SPECIAL EXAMINATION Subsection 171 and 169(8) of the Act

Authority

Under subsection 171 of the Act, DICO may, require that the auditor of a credit union to:

- report on the extent of the auditor's procedures in the examination of the credit union's financial statements;
- enlarge or extend the scope of that examination
- perform any other specific procedure
- make an examination relating to the adequacy of the procedures adopted by the credit union for the safety of its creditors, members and shareholders, or any other examination that the public interest may require

DICO may also require that a special audit of a credit union be made if necessary and may appoint, for that purpose, an auditor qualified pursuant to subsection 160 (1)

Under subsection 169(8) of the Act, DICO may require that an examination is conducted other than in accordance with generally accepted auditing standards (GAAS).

Criteria

DICO may request an expanded audit scope, require that specified procedures be undertaken and appoint a qualified auditor:

- For the purpose of obtaining additional and sufficient assurances about a credit union's s affairs, operations and business practices from the auditor, for the purposes of deposit insurance
- Where an on-site examination, inspection or investigation has been conducted on a credit union or as a result of findings arising from the audit, to provide DICO with follow up verification that identified problems have been satisfactorily resolved
- Where DICO has a concern with respect to one or more specific issues or circumstances or the validity of the findings of an audit

SET ASIDE RESTRICTED PARTY TRANSACTION
APPLICATION FOR COURT ORDER
Subsection 209.1(1) of the Act

Authority

Under subsection 209.1(1), where a transaction with a restricted party that is prohibited or restricted takes place, DICO may apply to the court for an Order to:

- set aside the transaction and direct the restricted party to account to the credit union for any profit or gain, and
- require persons involved in the transaction to pay any damages, the face value of the transaction or the amount expended by the credit union in the transaction

Criteria

DICO shall apply to the court for an Order to set aside a restricted party transaction where it has obtained satisfactory evidence that one or more of the following criteria have been met:

- The transaction is not in the best interests of the members, depositors or shareholders of the credit union
- The transaction is in material breach of the requirements of the Act and Regulations
- The transaction has resulted in or is likely to result in a material loss or material reduction in income to the credit union
- The transaction has resulted in or is likely to result in an unacceptable increase in risk to the credit union or to DICO

Evidence

DICO will review evidence that constitutes a reasonable basis for applying to the court for an Order pursuant to subsection 209.1(1) to set aside a restricted party transaction, including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination
- Disclosure from the Board of Directors

REQUIRE A MEETING OF DIRECTORS Subsection 220(1) of the Act

Authority

Under subsection 220(1), DICO may, by written notice, require a credit union to hold a meeting of directors to consider any matter set out in the notice. Under subsection 220(2) a representative of DICO may attend and be heard at the meeting.

Criteria

DICO shall issue a notice to a credit union to hold a meeting to consider any matter set out in the notice when it has obtained satisfactory evidence that one or more of the following criteria have been met:

- The credit union has failed to hold a meeting as required under the Act
- The matter is material and has or is likely to have significant impact on the credit union's financial performance and condition and has not been appropriately addressed
- It is in the best interests of the members, depositors or shareholders
- The credit union is in material non-compliance with the standards of DICO By-law #5
- The credit union is a high risk institution identified in the credit union's Risk Assessment Profile

Evidence

DICO will review evidence that constitutes a reasonable basis for requiring the credit union to hold a meeting, including

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination

NON-COMPLIANCE
APPLICATION FOR COURT ORDER
Subsection 327(1) of the Act

Authority

Under subsection 327(1), where a credit union, director, officer, employee or agent of a credit union does not comply with any provision of the Act, the Regulations, the articles of incorporation or the by-laws of the credit union, DICO may apply to the court for an order to comply with the provision or to restrain acting in breach of the provision.

Criteria

DICO shall apply to the court for an Order to comply with a provision or to restrain acting in breach of a provision where it has obtained satisfactory evidence that one or more of the following criteria have been met.

Non-compliance or the action in breach of a provision:

- Is not in the best interests of the members, depositors or shareholders of the credit union
- Is a material breach of the requirements of the Act, Regulations, DICO by-laws, articles of incorporation or by-laws of the credit union
- Has resulted in or is likely to result in a material loss to the credit union
- Has resulted in or is likely to result in an unacceptable increase in risk to the credit union or to DICO

Evidence

DICO will review evidence that constitutes a reasonable basis for applying to the court for an Order pursuant to subsection 327(1) of the Act to comply with a provision or to restrain acting in non-compliance with a provision, including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination