

VARIATIONS AND EXEMPTIONS

(Note Links underlined in Blue)

Variations and Exemptions

Under the Credit Unions and Caisses Populaires Act (the “Act”) a credit union may apply for a temporary variation or exemption to certain requirements of the Act.

Under exceptional circumstances, DICO will consider an application for a variation or exemption to the requirements of the Act relating to the following:

- [Capital and liquidity requirements: Section 87 of the Act](#)
- [Guarantees and exemptions to aggregate limits for guarantees: Subsection 178\(2\) and 178\(5\) of the Act](#)
- [Increase in lending limits: Subsection 191\(5\) of the Act](#)
- [Extension to divestment period for securities: Subsection 197\(2\) and 202\(2\) of the Act](#)
- [Deemed prescribed subsidiaries: Subsection 200\(2\) of the Act](#)
- [Investment requirements: Subsection 201\(1\) of the Act](#)
- [Acceptance of unauthorized securities and other assets obtained upon amalgamation: Subsection 202\(1\) of the Act](#)

Application

All applications must be supported by appropriate documentation and submitted for approval prior to the contemplated transaction while in full compliance to regulatory requirements.

Service Standard

DICO will acknowledge all applications within 5 days of receipt.

DICO will communicate its decision to the applicant within 30 days after receipt of all required documentation

VARIATION TO CAPITAL AND LIQUIDITY REQUIREMENTS

Section 87 of the Act

Application

An application for a variation to capital and liquidity requirements of the Act must include the following supporting documentation:

- Board Resolution approving the application for the variation
- Capital or Liquidity policies (as appropriate)
- Business case full supporting rationale including:
 - Purpose, nature and circumstances for the variation
 - Benefit to the credit union, members and shareholders as applicable
 - Cost/benefit analysis of alternative options (e.g. raising additional capital or liquidity)
 - Time frame for achieving compliance
 - Full details and action plan to achieve compliance
 - Business plan and budget for current financial year

Criteria

DICIO will consider and may approve an application for a variation to the capital and liquidity requirements where:

- The credit union can demonstrate that it will be in the best interests of the members of the credit union;
- The variation will not result in any unacceptable increase in market risk, operational risk or credit risk including concentration risk;
- The application is not solely limited to the financial strength and condition of the credit union;
- The timeframe and plans for achieving compliance are reasonable, and
- The credit union is in full compliance with all other sections of the Act and Regulations, DICO By-law #5 and any conditions of deposit insurance

Evidence

DICO will review evidence that constitutes a reasonable basis for considering the approval of an application for a variation to the capital and liquidity requirements of the section 87 of the Act including:

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

Non-Approval

Where an application for a variation to the capital and liquidity requirements of section 87 of the Act is not approved by DICO comprehensive supporting rationale will be provided to the applicant.

**GUARANTEES AND EXEMPTIONS TO AGGREGATE
LIMITS FOR GUARANTEES
Subsection 178(2) and 178(5) of the Act**

Application

An application for authorization to guarantee a payment or for an exemption to the prescribed aggregate limits for guarantees of the Act must include the following supporting documentation:

- Board Resolution approving the application
- Business case full supporting rationale including:
 - Purpose, nature and circumstances for the variation
 - Benefit to the credit union, members and shareholders as applicable
 - Time frame for achieving compliance
 - Full details and action plan to achieve compliance
 - Business plan and budget for current financial year

Criteria

DICO will consider and may approve an application for authorization to guarantee a payment or for an exemption to prescribed aggregate limits for guarantees where:

- The credit union can demonstrate that it will be in the best interests of the members, depositors and shareholders of the credit union;
- The guarantee or exemption will not result in any unacceptable increase in credit risk including concentration risk;
- The application relates to a single new guarantee;
- The timeframe for achieving compliance is reasonable, and
- The credit union is in full compliance with all other sections of the Act and Regulations, DICO By-law #5 and any conditions of deposit insurance

Evidence

DICO will review evidence that constitutes a reasonable basis for considering the approval of an application for a variation or exemption to the requirements for guarantees of the Act including:

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

Non-Approval

Where an application for a variation to the capital and liquidity requirements of section 87 of the Act is not approved by DICO comprehensive supporting rationale will be provided to the applicant.

INCREASE IN LENDING LIMITS Subsection 191(5) of the Act

Application

An application for an increase in a credit union's lending limits of the Act must include the following supporting documentation:

- Board Resolution approving the application for the increase
- Lending policies
- Business case and full supporting rationale including:
 - Purpose, nature and circumstances for the increase requested
 - Purpose, amount, term, security and risk ratings for related loans
 - Latest commercial loan concentration schedule
 - Latest commercial loan risk rating schedule
 - Latest board Loan Report
 - Latest delinquency loan schedule
 - Benefit to the credit union, members and shareholders as applicable
 - Time frame for achieving compliance
 - Full details and action plan to achieve compliance
 - Business plan and budget for current financial year

Criteria

DICO will consider and may approve a temporary increase in a credit union's lending limits of the Act where:

- The credit union can demonstrate that it will be in the best interests of the members of the credit union;
- The increase in lending limits relates to a single borrower or connection;
- The increased lending limits will not result in any unacceptable increase in credit risk including concentration risk;
- The timeframe for achieving compliance is reasonable, and
- The credit union is in full compliance with all sections of the Act and Regulations, DICO By-law #5 and any conditions of deposit insurance

Evidence

DICO will review evidence that constitutes a reasonable basis for considering the approval of an application for an increase in a credit union's lending limits under 191(5) of the Act including:

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

Approval

Where an application for an increase in a credit union's lending limits is approved by DICO it shall do so by Order pursuant to subsection 191(5). An Order issued pursuant to subsection 191(5) is not subject to the provisions of section 240.1 and may not be appealed.

Non-Approval

Where an application for an increase in a credit union's lending limits under 191(5) is not approved is not approved by DICO comprehensive supporting rationale will be provided to the applicant.

EXTENSION TO DIVESTMENT PERIOD FOR SECURITIES **Subsection 197(2) and 202(2) of the Act**

Application

An application for an extension to the two-year divestment period of the Act for securities and other assets as a result of a loan default or upon amalgamation must include the following supporting documentation:

- Board Resolution approving the application
- Business case full supporting rationale including:
 - Purpose, nature and circumstances for the extension
 - Cost/benefit analysis of extension and divestment
 - Benefit to the credit union, members and shareholders as applicable
 - Time frame for achieving compliance
 - Full details and action plan to achieve compliance

Criteria

DICO will consider and may approve an application for an extension to the two-year divestment period of the Act for securities and other assets as a result of a loan default or upon amalgamation where:

- The credit union can demonstrate that it will be in the best interests of the members, depositors and shareholders of the credit union;
- The extension will not result in any unacceptable increase in market risk or credit risk including concentration risk;
- Divestment of the securities will result in a material loss to the credit union, and
- The timeframe for achieving compliance is reasonable

Evidence

DICO will review evidence that constitutes a reasonable basis for considering the approval of an application for an extension to the two year divestment period for securities and other assets as a result of a loan default or upon amalgamation under subsection 197(2) and 202(2) Act including:

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

Non-Approval

Where an application for an extension to the divestment period under subsection 197(2) and 202(2) is not approved by DICO comprehensive supporting rationale will be provided to the applicant.

DEEMED PRESCRIBED SUBSIDIARIES

Subsection 200(2) of the Act

Application

An application to deem a body corporate to be a prescribed subsidiary under the Act must include the following supporting documentation:

- Business case and full supporting rationale including:
 - Nature and extent of business activities of the body corporate
 - Audited financial statements of the body corporate for last three years
 - Financial projections of the body corporate next three years
 - Business plan of the body corporate for current/next financial year

Criteria

DICO will consider and may approve by Order an application to deem a body corporate to be a prescribed subsidiary where the credit union can demonstrate that the activities of the body corporate are substantially similar to a prescribed subsidiary identified in section 67 of the Regulations.

Evidence

DICO will review evidence that constitutes a reasonable basis for considering the approval of an application to deem a body corporate a prescribed subsidiary under subsection 200(2) the Act including:

- Audited financial statements of the body corporate
- Financial projections of the body corporate
- Business plan of the body corporate

Approval (Order)

Where an application to deem a body corporate to be a prescribed subsidiary is approved by DICO it shall do so by Order pursuant to subsection 200(2). Where DICO imposes any conditions to its approval, comprehensive supporting rationale will be provided. An Order issued pursuant to subsection 200(2) is subject to the provisions outlined in 240.1 - 240.5 which include the right of appeal.

Non-Approval (Order)

Where an application to deem a body corporate to be a prescribed subsidiary under 200(2) is not approved by DICO it shall do so by Order pursuant to subsection 200(3) and provide comprehensive supporting rationale to the applicant. An Order issued pursuant to subsection 200(3) is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.

VARIATION TO INVESTMENT REQUIREMENTS

Subsection 201(1) of the Act

Application

An application for a variation under 201(1) of the Act to the investment requirements of subsection 198 [Eligible Investments], 1991(1) [single or connected person investment limit] and 200(7) [aggregate investment limit for subsidiaries] must include the following supporting documentation:

- Board Resolution approving the application for the increase
- Investment policies
- Business case and full supporting rationale including:
 - Purpose, nature and circumstances for the variation or increase
 - Specific details of the proposed investment, including latest three years audited financial statements or valuations (other than an investment related to the establishment of a subsidiary)
 - Latest board Investment Report
 - Benefit and risk to the credit union, members and shareholders as applicable
 - Time frame for achieving compliance
 - Full details and action plan to achieve compliance
 - Business plan and budget for current financial year

Criteria

DICO will consider and may approve an application for a variation to the investment requirements under 201(1) of the Act where:

- The credit union can demonstrate that it will be in the best interests of the members of the credit union;
- The variation will not result in any unacceptable increase in market risk or credit risk;
- The timeframe for achieving compliance is reasonable, and
- The credit union is in full compliance with all sections of the Act and Regulations, DICO By-law #5 and any conditions of deposit insurance

Evidence

DICO will review evidence that constitutes a reasonable basis for considering the approval of an application for a variation to the investment requirements under 201(1) of the Act including:

- Financial performance and condition as reported by the credit union
- Audited financial statements of the credit union (and subsidiary if applicable)
- Results of an Examination

Non-Approval

Where an application for a variation under 201(1) of the Act to the investment requirements of subsection 198 [Eligible Investments], 1991(1) [single or connected person investment limit] and 200(7) [aggregate investment limit for subsidiaries] is not approved by DICO comprehensive supporting rationale will be provided to the applicant.

**ACCEPTANCE OF UNAUTHORIZED SECURITIES AND
OTHER ASSETS OBTAINED UPON AMALGAMATION**
Subsection 202(1) of the Act

Application

An application for authorization to accept securities or other assets upon amalgamation not fulfilling the requirements of the Act must include the following supporting documentation:

- Board Resolution approving the acceptance of securities
- Business case and full supporting rationale including:
 - Amount, nature and valuation of securities or other assets
 - Benefit and risk to the credit union, members and shareholders as applicable
 - Time frame for achieving compliance
 - Full details and action plan to achieve compliance

Criteria

DICI will consider any may approve an application for authorization to accept securities or other assets upon amalgamation not fulfilling the requirements of the Act where:

- The securities were obtained in the circumstances set out in subsection 202(1) (a) to (f);
- The credit union can demonstrate that it will be in the best interests of the members, depositors and shareholders of the credit union;
- Divestment of the securities will result in a material loss to the credit union; and
- The timeframe for achieving compliance is reasonable

Evidence

DICO will review evidence that constitutes a reasonable basis for considering the approval of an application for authorization to accept unauthorized securities and other assets under subsection 202(1) of the Act including:

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

Non-Approval

Where an application to accept securities or other assets upon amalgamation not fulfilling the requirements under subsection 202(1) is not approved by DICO comprehensive supporting rationale will be provided to the applicant.