Introduction

Ontario Credit Union System

Credit unions provide a wide range of financial services to individuals, small and medium-sized businesses, corporations and institutions throughout Ontario. Credit unions are formed among people with a common bond, such as a particular community, language, religion, ethnic background or place of work. Credit unions are cooperatives organizations, and are guided by the internationally recognized cooperative principles of equality, equity and mutual self-help. In accordance with these principles, credit unions are wholly owned by their members, and are governed by boards of directors selected from the membership. Unlike banks, credit unions are provincially licensed.

The following organizations and institutions service, regulate or assist Ontario credit unions:

Financial Services Commission of Ontario (FSCO): FSCO is a provincial government commission. It regulates financial institutions that are provincially incorporated, such as credit unions. FSCO approves incorporations, amalgamations and by-law amendments as well as performing other regulatory functions.

Deposit Insurance Corporation of Ontario (DICO): DICO is an "Operational Enterprise" Agency of the Province of Ontario. It is responsible to the Ontario government for protecting the deposits of members of the credit union and caisse populaire system. DICO provides deposit insurance for all Ontario credit unions.

Leagues: Most Ontario credit unions are affiliated with a provincial league. The leagues are provincially incorporated institutions that act as central bankers and trade associations for their members. They also provide members with access to liquidity pools, training, consulting and other services. The three leagues in Ontario are the Credit Union Central of Ontario (Ontario Central), L'Alliance des caisses populaires de l'Ontario (L'Alliance), and La Fédération des caisses populaires de l'Ontario (La Fédération).

Association of Credit Unions of Ontario: The Association represents a group of credit unions that are not affiliated with a league.

Credit Union Central of Canada (CUCC): CUCC is a national affiliation of provincial leagues and co-operatives. CUCC manages the national liquidity system, acts as advocate for the system with the federal government, and is the national trade association.

Fédération des Caisses Desjardins du Québec: La Fédération is the league of Quebec caisses populaires. La Fédération in Ontario is affiliated with Desjardins.

Credit Union Insurance Services (CUIS): CUIS provides insurance services and products, such as property and casualty insurance, to their members. It is a joint venture of the Co-operators Insurance Group and the Credit Union Members' Insurance Societies (CUMIS).

The Credit Union Bonding Program (TCUBP): TCUBP provides bonding insurance to Ontario credit unions. It is a joint venture of the Co-operators Insurance Group and the Credit Union Members' Insurance Societies (CUMIS).

External Auditors: These professional accountants express an opinion on the financial statements of the credit union and perform other audit or accounting functions.

Other Organizations: Various provincial or national organizations represent various groups of credit unions or credit union professionals, such as Credit Union Directors of Ontario (CUDO); the Credit Union Managers Association (CUMA); the Credit Union Professional Association (CUPA); the Ontario Association of Small Credit Unions; and the Advisory Council of Smaller Credit Unions established by Ontario Central for their members.

Legal Framework of the Ontario System

Ontario credit unions are regulated primarily by the Ontario Credit Unions and Caisses Populaires Act (the Act) and Regulations proclaimed under the Act. The powers of credit unions are also governed by DICO's by-laws, as well as each credit union's by-laws, articles of incorporation and lending licence. Other provincial and federal statutes, and the common law, create additional legal rights and obligations. The various parts of the legal framework are briefly discussed below.

Credit Unions and Caisses Populaires Act (the Act)

The Act is the main statute which governs the incorporation and operation of Ontario credit unions. The authority of the Act extends to regulations proclaimed under the Act, to guidelines and interpretative and administrative bulletins issued by FSCO, and the By-laws of DICO.

Non-compliance

When a credit union does not comply with the Act, FSCO or DICO may intervene. Under the Act, directors can be held personally liable for certain transactions if the transactions are illegal or improperly authorized. Serious offences against the Act committed by a director, officer or agent of the credit union are punishable by fines or imprisonment.

DICO By-laws

Three DICO by-laws directly affect Ontario credit unions:

- **By-law No. 3** prescribes conditions of deposit insurance, coverage, and guidelines for the advertising of deposit insurance coverage by credit unions. The **policy of deposit insurance**, issued pursuant to By-law No. 3 to each credit union, contains binding terms and conditions on the credit union.
- **By-law No. 5** prescribes standards of sound business and financial practices for credit unions, including policies and procedures for risk management. It defines the roles of the board of directors and management in carrying out sound business and financial practices.
- **By-law No. 6** prescribes guidelines for the reporting and accounting of impaired loans, according to Section 3025 of the *Handbook of the Canadian Institute of Chartered Accountants*. An Application Guide to By-law No.6 provides more detailed guidance on impaired loans including the specific and non-specific loan loss allowance.

Credit Union By-laws, Articles and Lending Licence

The articles of incorporation and by-laws of a credit union set out much of what a credit union can and cannot do, including who can become a member, how the credit union's profits may be distributed, and the types of loans the credit union can offer. The board of directors are responsible for ensuring that the credit union complies with the by-laws and the articles.

The lending licence together with the Act and Regulations, define the lending powers of a credit union. If a credit union or its staff contravene the terms of a lending licence, the credit union's lending powers can be revoked.

Other Laws and Acts

Credit unions must comply with all the laws of the province of Ontario and of Canada. The board of directors may be held responsible for any actions taken by a credit union which break the law. Relevant laws include the following:

- The **Ontario Human Rights Code**, which deals with discrimination in the treatment of employees and in hiring.
- The **Employers Health Tax Act**, which requires the credit union to remit health taxes.
- The **Income Tax Act, Canada Pension Plan** and **Employment Insurance Act**, which require the credit union to remit income taxes and Canada Pension Plan and Employment Insurance premiums.
- The **Pay Equity Act**, which ensures that staff and officers receive equitable compensation.
- The **Consumers Protection Act,** which sets out the disclosure requirements of borrowing costs for all credit agreements.
- The **Consumer Reporting Act**, which ensures that proper information is communicated to members about the credit union's products and services.
- The **Employment Standards Act**, which ensures that the credit union meets standards of fair employment.
- The **Bankruptcy and Insolvency Act** and **provincial creditor protection legislation**, which requires the credit union to observe the rights of debtors and creditors in dealing with the assets of a bankrupt individual.
- The **Ontario Health and Safety Act**, which sets out employers duties regarding the health and safety of employees within the workplace.
- **Employment law**, which governs cases such as wrongful dismissal, or the lack of a proper notice period.
- The **Personal Information Protection and Electronics Documents Act (PIPEDA)** which requires the credit union to observe privacy legislation surrounding the collection, use and disclosure of personal information of its members and employees and information obtained in its normal course of business; and
- The **Proceeds of Crime (Money Laundering) and Terrorist Financing Act** which requires the credit union to implement a compliance regime for identifying and reporting certain large and suspicious financial transactions

You can find a more extensive list of lending laws and statutes in Section 5100, Schedule 5.3. For a complete list of relevant laws, the credit union should consult its lawyers.

Board, Management and Committee Roles

This section outlines the separate functions performed by the board, committees and management of a credit union. While each of these contributes greatly to the functioning of the credit union, **the board has the ultimate responsibility for the welfare of the credit union.**

Overview of Roles

The most significant responsibilities of the board are ensuring that the credit union meets the needs of its members by staying in business, planning the broad directions of the organization, and forming policy. The board appoints management to carry out policy and achieve results. Once board policy is decided, the board must give management the latitude to manage the day-to-day operations of the credit union. Management must be able to choose staff, allocate budgets and plan courses of action, provided these actions follow board policy. If the results are unsatisfactory, the board should resist the urge to take over management of the credit union, and instead encourage improvement or take steps to replace management.

The roles of the board, management and committees are discussed on the following pages.

Role of the Board

The board of directors of the credit union is ultimately responsible for ensuring that the institution is operated in a safe and sound manner.

Due to its responsibility, the board must supervise the management of the business and affairs of the credit union. To do this effectively, the board of directors will need to:

- approve new policies and annually review existing policies;
- review and approve the business plan annually;
- ensure that qualified and competent management is appointed to implement appropriate risk measurement techniques and risk management procedures;
- monitor performance to ensure the credit union adheres to the policies and the business plan;
- oversee member and community relations.

Most of these functions are discussed in detail in Section 400 of the Overview of DICO By-law No. 5. The last of these functions, overseeing member and community relations, is discussed below. The duties and legal responsibilities of individual directors, such as those set out in statute and common law, are discussed in Chapter 2.

Overseeing Member and Community Relations

The board of directors represents all members of a credit union, and has a duty to ensure members' deposits are secure and their rights are upheld.

The board also has a duty to ensure that the credit union continues to meet its members' needs. The board does this by promoting the credit union through public relations activities, membership drives and the selection of competent representatives for the board. The following practices will help the board fulfill its duties:

- The board should promote a positive corporate image to retain and attract members. Community involvement is an important influence on corporate image where community bonds exist.
- Individual directors should be willing to volunteer on board committees to solve special problems facing the credit union or respond to the changing needs of the members.
- When new directors are elected, the board should arrange an orientation session to introduce the new directors to credit union operations and their role as directors.
- The board should encourage and budget for directors' attendance at educational seminars, where necessary, to ensure the board is capable and effective.
- At least annually, the directors should evaluate the board's performance and outline areas for improvement. These areas should be reviewed at subsequent appraisal sessions.

Part of the board's role is to protect the legal interests of the credit union. Directors should therefore control important litigation directly, while delegating routine litigation, such as debt collection or trade matters, to management. The board can retain a lawyer, and may wish to retain more than one lawyer or law firm depending on the type of legal advice required. When selecting a lawyer, the board should consider qualifications and experience, as well as the conflict of interest rules described in Chapter 2.

Role of Management

Management is responsible for managing and controlling the day-to-day activities of the credit union.

Although the activities will vary according to the size and complexity of the credit union, management is responsible for:

- developing and recommending policies and the business plan for approval by the board of directors;
- communicating policies and the business plan to appropriate people working in the credit union;
- implementing policies and the business plan, and employing and training qualified and competent personnel;
- measuring the level of operational risk through an appropriate reporting system;
- managing operational risk through the use of appropriate procedures and corrective action.

The board should prepare a description of the general manager/Chief Executive Officer's (CEO's) job. The job description should include the core responsibilities listed above. The general manager/CEO's performance must be reviewed by the board each year. See Chapter 3 on Human Resources/Performance Appraisal.

Role of Committees

Committees are an important resource for the credit union, especially in smaller organizations where lending officers and internal auditors may not be on staff.

Duties and powers of the audit committee, the credit committee and the executive committee are defined in Part VII of the Act, and are discussed briefly below.

Other valuable subcommittees which the credit union may consider establishing, depending on its size, include a finance and budget committee, a strategic planning committee, a nominating committee and a compensation committee. See Schedule A for a summary of the recommended duties of these committees.

Volunteers

Directors working on committees are usually helped in their responsibilities by committee volunteers. Volunteers from among the members of the credit union add a broader perspective to the committee. The board recommends volunteers or associate members for committees. The people selected must be familiar with the affairs of the credit union.

Terms of Reference

To ensure a committee works effectively, its duties and responsibilities should be outlined in writing when the committee is formed. Outlining the terms of reference will avoid later disputes over the powers and responsibilities of the committee. The board establishes the terms of reference, and each committee member must review them. Sample Terms of Reference for an audit committee and a nominating committee are provided in the DICO publication *Sample Policies*. See the Appendix to Version A - Corporate Governance Policy.

Executive Committee

The board of directors can establish an executive committee or other subcommittee of the board to carry out some of the powers of the board. The members of the executive committee or subcommittees must be appointed by the board of directors, from among the directors, according to Section 109(4) of the Act. Some board powers, such as the power to appoint the general manager, may not be delegated to a board subcommittee. For a complete list of powers that cannot be delegated, see section 109(2) of the Act.

The Credit Committee

The duties and authority of the credit committee are prescribed in sections 110 to 124 of the Act, and Sections 24 and 25 of Regulation 76/95. The committee must comprise at least three people elected by the general members. The term of office for Credit committee members must be set out in the credit union's by-laws. Officers, directors and members of the audit committee may not serve on the credit committee.

The credit committee must meet at least monthly to consider all applications for loans. The committee must make prudent lending decisions within the lending limits provided in the credit union's lending licence or by-laws, whichever is more restrictive. According to Section 238(3) of the Act, members of the credit committee may be liable for deficiencies on loans that violate the by-laws or the Act.

Loan Officer

Under sections 122 and 123 of the Act, authority to approve loans may be transferred from the credit committee to a loan officer in two ways:

- A by-law may be passed which appoints a loan officer to assume all the duties of the credit committee, resulting in the elimination of the Committee.
- The credit committee may retain its advisory capacity, but delegate its lending authority and responsibilities to a loan officer.

When lending authority is delegated to a loan officer, the existence of a credit committee that conducts periodic loan reviews is an effective way of retaining control over the lending function. Requiring the credit committee and the loan officer to jointly approve loans that exceed certain dollar amounts also adds a measure of control.

Under Section 124 of the Act, the board of directors cannot overturn a decision of the credit committee or of the loan officer to reject a loan application.

The Audit Committee

Every credit union must form an audit committee. The committee must be either elected from the membership or established as a subcommittee of the board.

The requirement for an audit committee was introduced in 1994. Previously, credit unions were required to have a supervisory committee. The focus of the audit committee is broader than that of the supervisory committee. The powers and duties of the audit committee are set out in Sections 137 to 139 of the Act, and Section 26 of Regulation 76/95.

The main role of the audit committee is to assess and make recommendations on the effectiveness of various internal controls and policies relating to the physical safeguarding of assets, as well as accounting, lending and investment activities. The committee also liaises with the external auditor.

The audit committee helps the board make sure the credit union complies with policies and procedures and with regulatory requirements. Its role is therefore critical in ensuring the credit union follows sound business and financial practices.

An Audit Committee Checklist included in the Director's Handbook and is also available on DICO's website at www.dico.com

Schedule I.1
SUGGESTED DUTIES OF ANCILLARY COMMITTEES

Finance and Budget Committee

- Review and update financial policies and procedures.
- Recommend dividend and interest rebate policy.
- Research insurance and investment decisions.
- Provide expert analysis of budgets and performance reports.
- Provide financial advice to the board and management.

Strategic Planning Committee

- Research competition and market trends for growth.
- Survey members on branches/products.
- Review financial forecasts.

Nominating Committee

- Research board's replacement needs in terms of skill, experience and diversity.
- Promote rotation of directors.
- Survey members and obtain nominations in advance of election meeting.
- Advertise candidates and promote general election.

Compensation Committee

- Review/approve job description and a standard evaluation process for the general manager.
- Research competitive salary ranges for the general manager in the industry.

Policy Development Committee

- Annually review existing policies to ensure they continue to be relevant.
- Recommend necessary changes to existing policy to the board.
- Recommend new policies to the board.

DICO By-law No. 5: Standards of Sound Business and Financial Practices

A credit union cannot avoid financial and other types of risk, but the board and management can reduce risk through sound risk management practices. **DICO By-law No. 5: Standards of Sound Business and Financial Practices** was created specifically to help credit unions manage risk. The by-law prescribes three tools for managing risk.

Risk Management Framework

The first of these tools, the **Risk Management Framework**, provides an overall approach to analyzing and managing risk. It includes four broad tasks: setting policy, planning, measuring risk and performance, and managing risk through corrective action and operational procedures. It defines the roles of the board of directors and management in putting in place sound business and financial practices. The framework is discussed in more detail later in this chapter.

Standards

The second tool is the **standards of sound business and financial practices**. There seven standards that set minimum requirements for policies and procedures in specific areas of credit union operations. The standards deal with the following topics:

1) Governance
2) Capital Management
3) Credit Risk Management
4) Market Risk Management
5) Structural Risk Management
6) Liquidity Risk Management
7) Operational Risk Management

Self-Assessment

The third tool is **Self-assessment** which helps management and the board gauge the level and effectiveness of the credit union's risk management activities and business and financial practices. By-law No.5 requires an annual self-assessment of compliance to the standards and completion of a board resolution.

Complying with DICO By-law No. 5

All credit unions are required to comply with By-law No. 5 as a condition of obtaining deposit insurance coverage. Where a member institution is in non compliance with the standards, DICO may amend or supplement the standard terms and conditions in the Policy of Deposit Insurance issued to credit unions to address specific risks.

Supervision

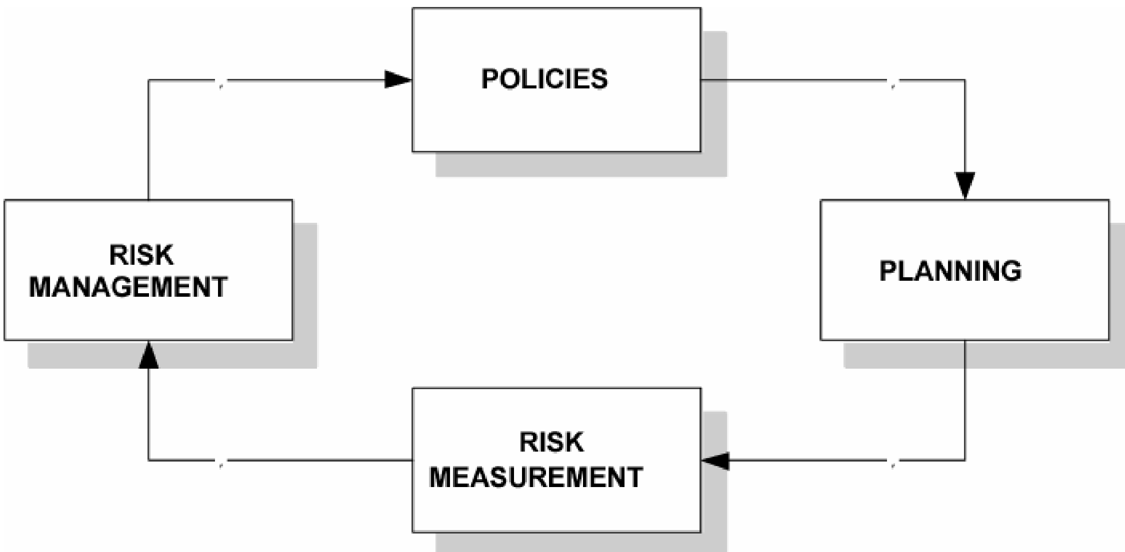
Where a member institution's non-compliance with By-law No.5 represents an unacceptable level of risk, DICO may place a credit union under supervision. In this case, DICO works closely with the board of a credit union under supervision to correct specific operational problems.

Administration

Where there is a high risk that the credit union will fail, DICO may place a credit union under administration. DICO directly manages credit unions under administration by removing the board and operating the credit union in a manner which reduces the risk of claims against the deposit insurance reserve fund.

Risk Management Framework

The Risk Management Framework provides an overall approach to analyzing and managing risk. Using the Risk Management Framework is a sound business and financial practice for the board and management of a credit union. The framework is designed to protect both depositors and the financial health of the credit union over the long term.



An effective Risk Management Framework has four parts – policies, planning, risk measurement and risk management -- which are discussed below. **A Risk Management Framework should be cost effective and appropriate for the size and complexity of the credit union's operations.**

Policies

The first part of an effective Risk Management Framework is the establishment and annual review of policies approved by the board.

Policies put limits on the amount of business risk a credit union can assume. They also summarize the organization's thinking on each of its key activities. Policies should support the credit union's mission and values.

The board of directors will establish written policies and procedures in the following areas of risk management:

1) Governance
2) Capital Management
3) Credit Risk Management
4) Market Risk Management
5) Structural Risk Management
6) Liquidity Risk Management
7) Operational Risk Management

Policy Review

Each year, the board should review all policies to ensure they continue to be relevant. Where policy amendments are needed they should be recorded and delegated to management for completion by a specific date. The board must approve all new policies and policy amendments. The board should set a deadline for completing the task.

The board should consult Sections 104, 190 and 191 of the Act, Sections 50, 78 and 87 of Regulation 76/95, and the FSCO *Guideline for Prudent Investment and Lending Policies and Procedures for Ontario's Credit Unions*.

This manual discusses key board policies in detail. Credit unions can also get help in developing policies from the DICO publication *Sample Policies,* and from league manuals.

Planning

Establishing an annual business plan will help the credit union by setting goals and objectives that will ensure its financial health over the long term. This is the second part of a Risk Management Framework.

The credit union's management should develop the annual business plan with direction from the board. The board must approve the plan. The annual business plan often includes typically include:

- priorities and objectives for the year;
- a strategic financial plan which address all financial areas of operation;
- a product offering and marketing plan;
- a human resources plan;
- an operational budget.

Management should develop strategies and action plans to achieve each of the priorities and objectives for the year. They should compile the strategic financial plan from a study of various operational areas, and include **financial targets** for each financial area of operation.

Chapter 1 discusses the elements of the annual business plan.

Risk Measurement and Reporting

The third part of a Risk Management Framework is a reporting system that measures performance and business risk relative to the business plan and to historical trends.

A reporting system should include:

- the periodic measurement of financial performance indicators, relative to the business plan and to historical figures;
- the periodic measurement of business risk, relative to the business plan and to historical figures;
- the development of risk measurement techniques necessary to measure these performance indicators and measures of business risk;
- regular reports to the board, which enable directors to monitor performance and business risk and ensure the credit union adheres to the policies and the business plan.

A timely and reliable reporting system will allow management and the board to take appropriate action to address variances in performance and business risk.

Board Reporting

The final product of the reporting system is the preparation of regular reports to the board on the credit union's performance and its exposure to risk. Management should prepare a report for each financial area of operation. These reports must summarize:

- performance and the level of risk;
- variances from the annual business plan and the budget;
- any non-compliance with regulatory requirements or with the credit union's policies and lending licence.

The level of detail required and the frequency of individual reports should be set down in board policy. They will vary depending on the size and complexity of each credit union.

Reports are normally provided to directors at least one week before board meetings. Management should be prepared to follow up on any questions raised by the reports. The scope and content of board reports is summarized in Appendix I at the end of the Introduction.

Management and the board should also monitor reports received from people outside the credit union, such as auditors, inspectors and examiners. Appendix I lists the external reports that should be reviewed by the board and management.

The risk measurement and reporting system will need to use techniques to measure performance and business risk. These techniques and the requirements for board reporting are discussed in detail in this manual. Performance and risk measurement indicators are also discussed throughout the manual.

Risk Management

Risk management is a sound business and financial practice for a credit union, and the fourth part of a Risk Management Framework. Risk management involves establishing management procedures to control or respond to operational risk, and to ensure the credit union complies with its policies and business plan, and with regulatory requirements.

Corrective Action

As a follow-up to the risk measurements discussed in the previous section, the board should direct management to investigate all significant variances in risk or performance relative to the annual business plan, and respond with corrective action. Management must also respond to any contravention of board policy or regulatory requirements, or other exceptional risk.

Management must investigate favourable and unfavourable variances. In some cases, a favourable variance can result from an unfavourable cause. For example, an unexpectedly high volume of loans may indicate lower standards for loan approvals. After investigating a variance, management must determine what, if any, action is appropriate.

One way to decide upon a course of action is to compile various solutions to the problem and list the costs and benefits of each. The costs and benefits of each solution can then be compared. In some cases, no action may be the best option. However, this will not be the case where a regulatory requirement is not being met. Where a corrective strategy requires a course of action not contemplated by existing policy, board ratification and committee ratification (where applicable) must be obtained.

Management must report back to the board promptly on the cause of the variance, whether it needs to be addressed, and if so, the action they recommend.

Operational Procedures

Operational procedures should be written down. Written procedures result in higher staff productivity and better control of resources. They can also assist new managers and employees learn their jobs more quickly.

Procedures are different from policies. Board-level policies are broad and conceptual in nature, while operational procedures are specific and detailed.

The board can delegate the writing of detailed procedures to management. However, under Section 191 of the Act, credit and investment procedures must be approved and reviewed each year by the board.

To ensure procedures are complete and detailed enough, the board should consult appropriate sections of the Act and Regulations. Specifically, the board should consult Sections 104, 190 and 191 of the Act, Sections 50, 78 and 87 of Regulation 76/95, and FSCO's *Guideline for Prudent Investment and Lending Policies and Procedures for Ontario's Credit Unions*. Recommended procedures for each operational area are also discussed under the Risk Management sections of Chapters 4 to 8, and throughout Chapter 9.

Operational procedures should be cost effective and appropriate to the size and complexity of the credit union's operations.

Appendix I.1: Reports to the Board

Report	Scope	Frequency
Minutes	• Minutes of previous board meetings • Minutes of committee meetings	Every board meeting
Governance	• Compliance with the Code of Conduct • Performance of the general manager • Report on the general competency and quality of staff	Annually
Capital Management	• DICO By-law No. 5 reporting requirements	Every board meeting
Credit Management	• DICO By-law No. 5 reporting requirements • Regulatory reporting requirements, (Section 24 of Regulation 76/95)	Monthly
Market Risk Management	• DICO By-law No. 5 reporting requirements • Regulatory reporting requirements, (Section 198(4) of the Act)	Every board meeting
Liquidity Risk Management	• DICO By-law No. 5 reporting requirements • Regulatory reporting requirements, (Section 134 of the Act)	Every board meeting
Structural Risk Management	• DICO By-law No. 5 reporting requirement • Regulatory reporting requirements, (Section 80 of Regulation 76/95)	Every board meeting At least quarterly
Operational Risk Management	• DICO By-law No. 5 reporting requirements	As necessary
Internal Controls (prepared by the audit committee)	• Effectiveness of internal controls • Regulatory reporting requirements set out in Section 26 of Regulation 76/95 • Can also include the Report of the Internal Auditor, where appropriate	At least quarterly Refer Audit Committee Checklist
Reports by other committees	• Activities and progress of the committee	As necessary
Report of the External Auditor	• Compliance with generally accepted accounting principles (GAAP) • Report made in accordance with Section 172 of the Act (for example, a derivative report or management letter)	Annually
Examination and OSV reports by FSCO or DICO	• Regulatory compliance • Risk assessment • Compliance with sound business and financial practices	As advised