

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

July 19, 2011

Number 66

*To all Boards of Directors, Managers and CEOs*

### **Notice of a Change in the Intervention Criteria for Supervision and Administration**

Since proclamation of revisions to the Act in 2009, DICO has worked in close collaboration with sector representatives, FSCO and the Ministry of Finance to ensure that the criteria used to intervene in the affairs of member institutions remain consistent, clear and transparent. The purpose of publishing these criteria is to ensure that all institutions that may be affected are able to take the necessary steps to correct any deficiencies that may lead them to be subject to either supervision or administration. This process has helped both DICO and the sector to respond to higher risk situations early enough to prevent or reduce losses. Through our latest survey of the sector, there is broad support for earlier intervention.

The purpose of this sector release is to provide notice that the Board of Directors of DICO has approved changes in the criteria for Supervision and Administration effective January 1, 2012.

### **SUPERVISION**

The criteria include all of the circumstances outlined in subsection 279(1) of the Act with additional clarification of the circumstances under which DICO may issue an *order*. These include additional guidance regarding capital and liquidity (paragraph 2) and more specific examples that DICO will consider relating to harm and increased risk which will allow for earlier intervention where appropriate (paragraph 3). There are no changes in the capital levels which remain at meeting minimum statutory requirements.

### **ADMINISTRATION**

The criteria include all of the circumstances outlined in subsection 294(1) of the Act with additional clarification of the circumstances under which DICO may issue an *order*. Specific examples that DICO will consider relating to harm and increased risk have been added to allow for greater flexibility (paragraph 1). These are the same as those for Supervision and would allow for use of Administration rather than Supervision where appropriate. In addition, the capital thresholds as indicated in Table 1 distinguish different levels of capital for Class 1 and Class 2 institutions (paragraph 3).

## SUPERVISION CRITERIA

1. The insured institution asks, in writing, that it be subject to supervision,
2. *(a) A Class 1 insured institution is in contravention of section 84 of the Act regarding prescribed regulatory minimum capital and/or liquidity levels.*  
*(b) A Class 2 insured institution is in contravention of section 84 of the Act regarding prescribed regulatory minimum capital levels or fails to establish and maintain prudent levels and forms of liquidity that are sufficient to meet its cash flow needs, including depositor withdrawals and all other obligations as they come due.*
3. The Corporation, on reasonable grounds, believes that the insured institution is conducting its affairs in a way that might be expected to harm the interests of members or depositors or that tends to increase the risk of claims by depositors against the Corporation, *including, but not limited to, the following circumstances:*
  - *Material non-compliance with the Corporation's By-law No. 5*
  - *Material non-compliance with the Corporation's By-law No. 6*
  - *Material non-compliance with the Act or Regulations*
  - *Any condition that if left unresolved is projected to result in a decline in capital below prescribed regulatory levels within the next 12 months*
  - *The institution fails to implement an appropriate strategy to ensure its viability*
  - *The overall net risk of the insured institution is rated high as defined in the Corporation's published Risk Assessment Framework*
4. The insured institution or an officer or director of it does not file, submit or deliver a report or document required to be filed, submitted or delivered under this Act within the time limited under this Act
5. The insured institution has failed to comply with an order of the Superintendent and the Superintendent has requested, in writing, that the insured institution be subject to supervision
6. The insured institution has failed to comply with an order of the Corporation

### ADMINISTRATION CRITERIA

The Corporation, on reasonable grounds, believes that the insured institution is conducting its affairs in a way that might be expected to harm the interests of members, depositors or shareholders, or that tends to increase the risk of claims against the Corporation, but that supervision would, in the circumstances, not be appropriate, *including, but not limited to, the following circumstances:*

- *Material non-compliance with the Corporation's By-law No. 5*
  - *Material non-compliance with the Corporation's By-law No. 6*
  - *Material non-compliance with the Act or Regulations*
  - *Any condition that if left unresolved is projected to result in a decline in capital below prescribed regulatory levels within the next 12 months*
  - *The institution fails to implement an appropriate strategy to ensure its viability*
  - *The overall net risk of the insured institution is rated high as defined in the Corporation's published Risk Assessment Framework*
2. The insured institution has failed to comply with an order of the Corporation made while the institution was subject to the supervision of the Corporation.
  3. The Corporation is of the opinion that the assets of the insured institution are not sufficient to give adequate protection to its depositors *as set out in Table 1 below.*
  4. The insured institution has failed to pay any liability that is due or, in the opinion of the Corporation, will not be able to pay its liabilities as they become due.
  5. After a general meeting and any adjournment of no more than two weeks, the members of the insured institution have failed to elect the minimum number of directors required under subsection 93 (2).
  6. If a vacancy occurs in the board of the insured institution resulting in there not being a quorum of directors in office and a general meeting is not called promptly as required under subsection 97 (2)
  7. The Superintendent has made an order under section 240.

**Table 1**  
***Minimum level of capital deemed sufficient to protect depositors***

<b><i>Effective Date: Jan 1, 2012</i></b>	<b><i>Leverage Ratio</i></b>		<b><i>Risk Weighted Ratio (BIS test)</i></b>
<b><i>Class 1</i></b>	<b><i>4.5% of total assets</i></b>		<b><i>n/a</i></b>
<b><i>Class 2</i></b>	<b><i>3.5% of total assets</i></b>	<b><i>Or</i></b>	<b><i>7.0% of total risk weighted assets</i></b>

DICO is required to adhere to the procedural rules for issuing an order for Supervision or Administration as set out in subsection 240.1 the Act. Additional information is outlined on DICO's website.

Should you have any comments or questions, please do not hesitate to contact your regional manager.

The members of the Stakeholder Advisory Committee have reviewed and concur with the intervention criteria as outlined. These include the following representatives:

Alvaro del Castillo, Director, Industrial and Financial Policy Branch, Ministry of Finance

Gisèle Deschamps, Vice-présidente Ontario et directrice générale, La Fédération des caisses populaires de l'Ontario

John Lahey, President & CEO, Alterna Savings & Credit Union

Andrew Poprawa, President & CEO, Deposit Insurance Corporation of Ontario

Lucie Moncion, Directrice générale, L'Alliance des caisses populaires

Anatol Monid, Director, Market Conduct, FSCO

Tom Robins, Executive Director, The Association of Credit Unions of Ontario

Richard Thomas, Senior Vice-President, Government Relations & Corporate Secretary, Central 1

Jack Vanderkooy, President & CEO, DUCA Financial Services Credit Union Ltd.