

# BAHAMAS CO-OPERATIVE CREDIT UNIONS REGULATIONS, 2015

## Arrangement of Regulations

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**BAHAMAS CO-OPERATIVE CREDIT UNIONS ACT, 2015  
(NO. 9 OF 2015)**

**BAHAMAS CO-OPERATIVE CREDIT UNIONS REGULATIONS, 2015**

In exercise of the powers conferred by section 124 of The Bahamas Co-operative Credit Unions Act, 2015, the Central Bank, after consultation with the Minister, makes the following regulations —

**PART I - PRELIMINARY**

**1. Citation.**

These Regulations may be cited as The Bahamas Co-operative Credit Unions Regulations, 2015.

**2. Interpretation.**

In these Regulations —

“**Act**” means The Bahamas Co-operative Credit Unions Act, 2015;

“**associate**” means —

- (a) a person who is related by consanguinity to a director, committee member, officer or employee of a co-operative credit union; or
- (b) a partnership, company, trust or other entity in which a person who is related by consanguinity to a director, committee member, officer or employee of a co-operative credit union, has a controlling interest;

“**Bank**” means the Central Bank of The Bahamas;

“**consanguinity**” means a relationship by descent and the degrees of consanguinity are —

- (a) a relationship within the first degree by consanguinity means a spouse, child or parent;
- (b) a relationship within the second degree by consanguinity means a sibling, grandchild or grandparent;

“**deposit**” includes cash instruments in any form, excluding qualifying shares, which are lodged with the Apex Body by a co-operative credit union;

**“doubtful loan”** means a loan which is impaired, the repayment of which is in doubt;

**“impaired loan”** means a loan in respect of which, it is probable that a co-operative credit union will be unable to collect, on time, the full amount of principal or interest due according to the contractual terms of the loan agreement;

**“past due loan”** means a loan in respect of which a contractual payment of principal and interest has not been made;

**“PEARLS”** mean the financial performance monitoring system used by the World Council of Credit Unions to offer management guidance for credit unions and other savings institutions;

**“retained earnings”** means the net accumulated earnings after allocation to the statutory reserve and other funds;

**“share redemption fund”** means a fund established for the purpose of redeeming qualifying shares;

**“unrealized gain”** means any unrealized gain on available-for-sale investments as at year end;

**“unrealized losses”** means any unrealized losses on available-for-sale investments as at year end.

## **PART II - LOANS**

### **3. Payment of interest on loans.**

- (1) A personal loan granted by a co-operative credit union shall include a provision for monthly payments of principal and interest amortized over a maximum period of eighty-four months.
- (2) A mortgage loan granted by a co-operative credit union on the security of real property shall include a provision for either weekly, bi-weekly or monthly payments of principal and interest amortized over a maximum period of three hundred and sixty months.
- (3) An agricultural loan and other business loans granted by a co-operative credit union shall include a provision for weekly, bi-weekly, monthly or pre-defined seasonal payments of principal and interest amortized over a maximum period of eighty-four months.
- (4) The maximum interval at which interest on a loan shall be paid is one month.
- (5) A co-operative credit union shall not grant a discount or waiver of loan interest rates or other beneficial terms to its directors or committee members.

**4. Interest on past due loans.**

A co-operative credit union shall not continue to accrue interest income on a loan that is past due for ninety days or more.

**PART III - LOANS TO DIRECTORS, COMMITTEE MEMBERS, OFFICERS AND EMPLOYEES**

**5. Criteria for granting loans.**

A co-operative credit union may grant a single loan or aggregate loans to its directors, committee members, officers or employees and their associates subject to the following requirements —

- (a) the terms upon which a loan is granted are in accordance with sections 66 and 68 of the Act, these Regulations and the bye-laws;
- (b) no loan shall be granted on terms more favourable than those extended to other members of the co-operative credit union, except loans granted as a benefit to the employees of the co-operative credit union;
- (c) a director, committee member, officer or employee of the co-operative credit union who makes application for a personal loan or who has a conflict of interest with a borrower shall —
  - (i) disclose to the co-operative credit union the existence and nature of the conflict; and
  - (ii) not participate in any deliberation or decision of the co-operative credit union with respect to his application or the application of the borrower;
- (d) the co-operative credit union shall not permit its directors, committee members, officers, employees or their associates to act as co-makers, guarantors or endorsers of loans to other directors, committee members, officers, employees or their associates, except where a loan is granted to the spouse of the director, committee member, officer or employee;
- (e) a report on loans approved and refused to directors, committee members, officers or employees of the co-operative credit union and their associates, and the minutes of the meeting where the loans were presented and approved or refused by the credit committee shall be submitted to the supervisory committee and the full Board;
- (f) a loan shall not be made by the co-operative credit union to a body corporate if a majority of the shares of the body corporate are held by a director or officer of the co-operative credit union, unless the

application for the loan has been approved by the credit committee and the supervisory committee without the participation of the director or officer in the deliberations or decision of the application.

**6. Loans to directors, committee members, officers and employees, etc.**

A co-operative credit union shall develop, and the Board shall adopt a policy on loans to directors, committee members, officers, employees and their associates and such policy shall be in accordance with the Act.

## **PART IV - ALLOWANCE FOR DOUBTFUL LOANS**

**7. Establishing and determining the monthly provision for doubtful loans.**

- (1) The Board and management of a co-operative credit union shall assess, at the end of each month, whether a loan or group of loans is impaired.
- (2) Where there is evidence that a loan or group of loans is impaired, then the carrying amount of a loan shall be reduced either directly as an expense or through the use of a reserve by establishing an allowance for doubtful loans.
- (3) The amount of the allowance shall be recognized in the calculation of the co-operative credit union's profit or loss for the month in which the assessment referred to under paragraph (1) is carried out, as a monthly provision for doubtful loans.
- (4) A co-operative credit union shall establish the following allowances for doubtful loans —
  - (a) where the arrears of payment with respect to the contractual terms of a loan —
    - (i) do not exceed thirty days in arrears, an allowance of zero per cent;
    - (ii) exceed thirty days but do not exceed three hundred and sixty-five days in arrears, except where the loan is fully secured, an allowance of thirty-five per cent;
    - (iii) exceed three hundred and sixty-five days in arrears, except in the case of a fully secured loan, an allowance of one hundred per cent;
  - (b) where —
    - (i) a loan amount exceeds approved limits;
    - (ii) a debt is assigned to a collection agency;

- (iii) a member has absconded, become a bankrupt or entered into an arrangement or composition with, or for the benefit of, his creditors;
  - (iv) a loan has been postponed and the recovery of principal and interest is deferred by more than six months beyond the loan's original term;
  - (v) a credit card payment is one hundred and eighty days in arrears,  
an allowance of one hundred per cent.
- (5) The annual audited financial statements of a co-operative credit union shall —
- (a) indicate the amount of outstanding loans to members, net of the allowance for doubtful loans;
  - (b) include a note which provides information on the progression of the allowance for doubtful loans in the manner set out in Form 2 in the First Schedule; and
  - (c) include a note that relates to the movement —
    - (i) on the specific provision for doubtful loans during the year in the manner set out in Form 3 in the First Schedule; and
    - (ii) in loans receivable during the year, excluding refinance amounts and loans that are rolled over, in the manner set out in Form 4 in the First Schedule.
- (6) For the purpose of this regulation —
- “carrying amount of a loan” means the outstanding balance of a loan, inclusive of interest due and payable on the loan, on the books of a co-operative credit union;
- “fully secured loan” is a loan which is fully secured by cash, charges on real property such as land and buildings, or security interest in personal property such as an automobile or securities where the fair value of the security or estimated net realizable amount is sufficient to discharge the outstanding principal and interest in full.

**8. Measuring loan impairment.**

- (1) No co-operative credit union shall assign a value to a security interest in a tangible property unless the co-operative credit union possesses a duly registered chattel mortgage.
- (2) No value may be given to security interests in intangibles such as goodwill, quotas, wage assignments, personal or third-party guarantees excluding government guarantees, or lodgement of title.

- (3) Each outstanding loan shall be assessed against the tangible realizable security, cash deposit or assigned co-operative credit union shares held and the net amount shall be deemed to be the impaired loan amount against which the co-operative credit union shall establish an allowance for doubtful loans.
- (4) The calculation relating to the impairment of a loan shall not be based on consequential payments but on contractual missed payments.
- (5) A co-operative credit union shall assess whether or not a loan is current in the manner set out in Form 1 in the First Schedule.

**9. Accrued interest.**

- (1) An interest income on impaired loans which are past due for more than ninety days shall not be reflected in the co-operative credit union's allowance for doubtful loans.
- (2) A payment received from a member of a co-operative credit union on that member's impaired loan shall first be allocated against the accrued interest on the loan, then against the principal until such time as the loan is made current.

**10. Loan loss allowance reversal.**

A loan shall not be considered impaired if the borrower's financial circumstances change to the extent that future repayment is not in doubt and the loan does not satisfy any of the conditions of impairment referred to under regulation 7(4).

**11. Income recognition.**

- (1) Write-offs and recoveries related to impaired loans shall be recorded in the loan allowance account rather than in the income statement, as a charge or credit against loan impairment.
- (2) Each subsequent payment, whether designated as interest or principal, on an impaired loan shall be recorded as the reduction of the recorded investment in a loan.
- (3) Where the recorded investment in a loan is completely written off, subsequent payments shall be credited to the allowance for doubtful loans.

**12. Valuation of mortgage security.**

- (1) Where a co-operative credit union seeks to establish the value of property held as security for a mortgage, the co-operative credit union shall use the valuation form set out in the Second Schedule.

- (2) Where the total value of encumbrances on mortgaged property exceed seventy-five percent of the value of the property, the difference, in excess of the seventy-five percent value, shall be included in the calculation of the allowance for doubtful loans.

## **PART V - APEX BODY AND STATEMENT OF MEMBERS' EQUITY**

### **13. Apex Body.**

- (1) The Apex Body shall maintain the money it receives from its members in segregated pools of funds.
- (2) The funds referred to under paragraph (1), are —
  - (a) the co-operative credit unions' reserve fund;
  - (b) the co-operative credit unions' liquidity deposit fund; and
  - (c) the co-operative credit unions' stabilization fund.
- (3) The Apex Body shall assess such fee against each fund as its board may approve, to cover its administrative costs.
- (4) The return on investment in the funds shall be disbursed on a quarterly basis, pro rata to each co-operative credit union, based on their respective contributions to the funds.
- (5) A co-operative credit union's annual regulatory adjustments to a fund shall be completed within ninety days of its year end, and the adjustments shall be based on year end results.

### **14. Statutory reserve.**

- (1) Where a co-operative credit union is unable to meet its statutory reserve allocation requirements under section 65 of the Act, the co-operative credit union shall, immediately, notify the Central Bank, and the Central Bank shall, by notice in writing, specify a time period for the co-operative credit union to meet its statutory reserve allocation requirement.
- (2) The statutory reserve shall be a part of the co-operative credit union's members' equity.
- (3) The statutory reserve shall be deposited with, and administered by the Apex Body.
- (4) Subject to the approval of the Central Bank, a co-operative credit union may apply funds from the statutory reserve —
  - (a) to meet occasional deficiencies incurred by the co-operative credit union;

- (b) to recoup losses on the co-operative credit union's operations, loans or investments; and
  - (c) for the improvement of the co-operative credit union's products, services, technology and human resources.
- (5) The Central Bank may, in approving the utilisation or application of the statutory reserve of a co-operative credit union, impose such exemption, restrictions, terms and conditions as it considers necessary to ensure the co-operative credit union meets the minimum capital requirement.
  - (6) The statutory reserve of a co-operative credit union shall not constitute any part of the liquidity deposit of the co-operative credit union.
  - (7) The statutory reserve shall not be applied for distribution to members by way of dividends, patronage rebate, bonus or any variation thereof.

**15. Liquidity fund.**

- (1) A co-operative credit union shall maintain funds of no less than ten percent of its members' deposits in a liquidity deposit fund administered by the Apex Body.
- (2) The liquidity deposit fund shall be a part of the co-operative credit union's assets.
- (3) A co-operative credit union shall maintain operational liquidity in compliance with the requirements under PEARLS.
- (4) A co-operative credit union shall maintain a line of credit, in an amount sufficient to enable it to meet its normal cash flow requirements, including withdrawals and disbursements, as estimated by the co-operative credit union.

**16. Stabilization fund.**

- (1) A co-operative credit union registered under the Act, shall contribute to the stabilization fund such amounts, and at such intervals, as the Apex Body may determine.
- (2) A co-operative credit union's annual contribution to the stabilization fund shall be treated as an operational expense.

**17. Statement of members' equity.**

A statement of the financial position of a co-operative credit union shall present the co-operative credit union's members' equity in the manner set out in the Third Schedule.

## PART VI - MISCELLANEOUS

### 18. Fees.

The fees payable to the Central Bank by a co-operative credit union are set out in the Fourth Schedule.

### 19. Fit and proper criteria.

Pursuant to the Act, the Central Bank shall, in determining whether a person is or remains a fit and proper person, have regard to all the circumstances, including —

- (a) that person's integrity, probity, competence and soundness of judgment for fulfilling the responsibilities of that position;
- (b) the diligence with which that person is fulfilling or is likely to fulfil the responsibilities of that position;
- (c) whether the interests of the co-operative credit union are likely to be threatened by that person holding that position;
- (d) whether that person has engaged in any activity or business practices which would discredit that person's method of conducting business; and
- (e) whether there has been impropriety in handling an employers' business.

**FIRST SCHEDULE****FORM 1****(regulation 8(5))****LOAN IMPAIRMENT ASSESSMENT FORM**

<b>LOAN IMPAIRMENT ASSESSMENT FORM</b>	
Name of borrower:	Account #:
Original amount of loan	\$
Original date of loan	Month ___ Year ___
Monthly payments	\$
Term of loan	# ___ months
Number of payments due since inception	# ___ payments
Number of payments made since inception	# ___ payments
Number of payments outstanding	# ___ payments
Number of months outstanding	# ___ months
Outstanding loan amount	\$
Value of security	\$
Impaired loan amount	\$
Allowance factor (35% to 100%)	%
Allowance for doubtful loan	\$

**FORM 2**

(regulation 7)

**PROGRESSION OF THE ALLOWANCE FOR DOUBTFUL LOANS**

<b>Months arrear</b>	<b>Number of loans</b>	<b>Total aggregate impaired loans</b>	<b>Aggregate value of Security held</b>	<b>Exposure</b>	<b>Percentage</b>	<b>Allowance</b>
1					0%	
2 to 3					35%	
4 to 6					35%	
7 to 12					35%	
Over 12					100%	
<b>Total</b>						

**FORM 3**  
**(regulation 7)**

**SPECIFIC PROVISION FOR DOUBTFUL LOANS (YR)**

	<b>Current year</b>	<b>Previous year</b>
Opening Balance		
Increase <decrease> in provision		
Loans written off	< >	< >
Loans recovery	< >	< >
Allowance for doubtful loans		

**FORM 4**

(regulation 7)

**LOANS RECEIVABLE (YR)**

<b>Loans to members</b>	<b>Current year</b>	<b>Previous year</b>
Opening balance		
Loans disbursed during the year		
Less loans paid during the year	< >	< >
Less allowance for doubtful loans	< >	< >
Total net loans to members		

**SECOND SCHEDULE**

**(regulation 12(1))**

**VALUATION OF MORTGAGE SECURITY**

Value of property	\$
First mortgage	\$
Second mortgage	\$
Outstanding property taxes	\$
Outstanding condominium fees	\$
Total encumbrances	\$ _____
 75% value of property	 \$ _____
 Allowance factor	
(Total encumbrances – 75% value)	\$ _____

**THIRD SCHEDULE**

(regulation 17)

**STATEMENT OF MEMBERS' EQUITY**

**Members' Equity**

	<b>Current year</b>	<b>Previous year</b>
Qualifying shares	\$	\$
Equity shares	\$	\$
Statutory reserve fund	\$	\$
Share redemption fund	\$	\$
Other fund	\$	\$
Unrealized gain (losses)	\$	\$
Retained earnings (deficit)	\$ _____	\$ _____
<b>Total Member's Equity</b>	<b>\$ _____</b>	<b>\$ _____</b>

**FOURTH SCHEDULE**

(regulation 18)

**FEEES**

	\$
(a) Registration of a co-operative credit union by the Central Bank	100
(b) Continuance in being on the first day of January in any year as a person registered as mentioned in paragraph (a) above	50
(c) Continuance in being on the first day of January in any year as a person deemed to be registered pursuant to section 126(1) of the Act	50

Made this *4<sup>th</sup>* day of *December*, 2015.

  
The Central Bank of The Bahamas