

Legal Notice No.

REPUBLIC OF TRINIDAD AND TOBAGO

THE CREDIT UNIONS ACT, 2012

REGULATIONS

Made by the Minister under section 15 of the Credit Unions Act

**THE CREDIT UNIONS (PRUDENTIAL CRITERIA)
REGULATIONS, 2012**

1. These Regulations may be cited as the Credit Unions (Prudential Criteria) Regulations, 2012. Citation

2. In these Regulations – Definition
 - “Act” means the Credit Unions Act, 2012;

 - “carrying amount” means the amount at which an asset is recognised on the balance sheet after deducting accumulated depreciation and accumulated impairment losses;

 - “cash” includes cash balances held –
 - (a) in hand;
 - (b) in a current account at a commercial bank;
 - (c) in a call or demand account at a commercial bank; or
 - (d) in a money market account in Trinidad and Tobago dollars;

 - “counterparty” means for the purpose of measuring a credit exposure, the borrower or customer, the person guaranteed, the issuer of a security in the case of an investment in a security, or the party with whom a contract is made;

 - “encumbered asset” means an asset of the credit union which is subject to a legal claim of another party;

“impaired asset” means an asset in respect of which –

- (a) its estimated recoverable amount is less than its carrying amount shown on the books of a credit union; and
- (b) there is no longer reasonable assurance of collection, within the contractually established time frame, of the amount of principal and interest due to the deterioration in the credit quality of the counterparty or any other factor which may affect contractual performance;

“institutional capital reserve” means any fund set aside by a credit union solely for institutional capital purposes;

“liquid financial instruments” include –

- (a) securities issued or guaranteed by the Government of Trinidad and Tobago that mature in one year or less;
- (b) deposits offered by secondary bodies conducting the business of a credit union;
- (c) deposits offered by other financial institutions regulated by the Central Bank of Trinidad and Tobago;
- (d) mutual funds registered and domiciled in Trinidad and Tobago and approved by the Central Bank of Trinidad and Tobago for use as a liquid financial instrument;
- (e) debt securities issued by regulated financial institutions and registered with the Securities and Exchange Commission of Trinidad and Tobago that mature in one year or less; and
- (f) bankers’ acceptances or discounted notes issued by a commercial bank that mature in one year or less;

“non-financial activity” means an activity which is conducted on a commercial basis and which does not

consist, either wholly or as to a substantial part, of business of a credit union as listed in the First Schedule to the Act, and subject to section 64(1) of the Act, includes the holding of real estate for investment purposes;

“pledged account” means an account held as security to meet a specific obligation;

“withdrawable share” means any share issued by a credit union other than a permanent share.

3. (1) For the purposes of section 55 of the Act, a credit union shall maintain a minimum level of institutional capital equivalent to eight per cent of total assets. Maintenance of minimum level of institutional capital

(2) Notwithstanding subregulation (1), the Central Bank may require a credit union to provide additional institutional capital and satisfy the Central Bank that its institutional capital is adequate in relation to the risk characteristics and complexity of the products or services to be provided by the credit union.

4. (1) For the purposes of section 56 of the Act, a credit union shall maintain a minimum of fifteen per cent of liquid assets in relation to total liabilities. Maintenance of minimum level of liquid assets

(2) Liquid assets shall be in the form of cash or liquid financial instruments.

(3) No credit union shall use an encumbered asset to satisfy the requirement set out in subregulation (1).

(4) For the purpose of calculating the percentage referred to in subregulation (1), the Central Bank shall include withdrawable shares as part of the credit union’s total liabilities.

5. (1) For the purposes of section 63 of the Act and subject to subregulation (2), a credit union shall not borrow in excess of eight per cent of the credit union’s total assets. Limit on borrowing by credit union

(2) Where a credit union wishes to borrow more than the limit referred to in subregulation (1), the maximum borrowing limit shall not exceed ten per cent of the total assets of the credit union and the credit union shall have previously attained and shall

thereafter maintain a minimum institutional capital of twelve per cent of total assets.

Limit on equity investment

6. (1) For the purposes of section 58(4) of the Act, a credit union's equity investment in any entity shall be less than twenty per cent of the shares of that entity, unless the entity is a locally regulated financial entity.

(2) A credit union shall not, in the aggregate, invest more than twenty per cent of the credit union's institutional capital, in other entities.

Approved investments

7. Subject to such limit as may be approved by the Central Bank, a credit union may invest in –

- (a) securities issued by the Government of Trinidad and Tobago;
- (b) other domestic securities registered by the Trinidad and Tobago Securities and Exchange Commission;
- (c) deposits offered by other credit unions or secondary bodies conducting the business of a credit union;
- (d) securities and deposits offered by other financial institutions regulated by the Central Bank;
- (e) mutual funds registered and domiciled in Trinidad and Tobago;
- (f) any investments or classes of investments other than those referred to in clauses (a) to (e) that have been approved by the Central Bank either generally or specifically upon application by the credit union.

Limit on credit exposure of a credit union

8. (1) For the purposes of section 61 of the Act, a credit union may incur credit exposure to a maximum of twenty-five per cent of its total institutional capital in relation to any single entity, individual member, or related party.

(2) Notwithstanding subregulation (1), the maximum limit referred to in subregulation (1) shall not apply in respect of an exposure that is –

- (a) fully guaranteed by the Government of Trinidad and Tobago in a manner that is explicit, unconditional, legally enforceable and irrevocable over the life of the credit exposure in question;
- (b) fully guaranteed by a sovereign state other than the Government of Trinidad and Tobago, with an investment grade rating from a credit rating agency approved by the Central Bank, and the guarantee is explicit, unconditional, legally enforceable and irrevocable over the life of the credit exposure in question; and
- (c) fully secured at all times in cash in Trinidad and Tobago dollars or other currencies readily convertible to Trinidad and Tobago dollars delivered to the credit union and placed with it in a pledged account.

9. (1) Subject to section 22(2) of the Act, the Central Bank may permit a credit union to provide non-financial activities subject to the following limitations:

Limitation on provision of non-financial activities

- (a) the credit union shall meet all prudential criteria established under the Act and these Regulations; and
- (b) the non-financial activities shall operate within the following limits:
 - (i) the assets of the non-financial activities shall not exceed five per cent of the credit union's total assets; or
 - (ii) the gross income generated from the non-financial activities shall not exceed ten per cent of the gross income of the credit union; and

(c) the credit union shall report on its non-financial activities to:

- (i) the Central Bank on a quarterly basis; and
- (ii) to the Annual General Meeting in a report separate from its credit union activities.

(2) Pursuant to section 64(2)(a) of the Act, and subject to the limits set out in sub-regulation (1)(b) a credit union may conduct non-financial activities on the premises where the credit union conducts credit union business.

(3) Where the non-financial activities conducted pursuant to sub-regulation (2) are in excess of the limits set out in sub-regulation 1(b)(i) and (ii), the entire premises shall then become subject to the limitations set out in sub-regulation (1)(b)(i).

(4) Notwithstanding sub-regulation (3) where a credit union rents out part of its owner occupied premises and earns rental income, these premises will not be subject to the limit set out in sub-regulation (1)(b)(i) nor will the income be subject to the limits set out in sub-regulation 1(b)(ii);

(5) Subject to sub-regulation (4), where a credit union wishes to conduct non-financial activities that exceed the limitations set in sub-regulation (1)(b), it shall establish non-financial cooperatives or any other form of business enterprises for the conduct of such non-financial activities.

(6) No credit union shall allocate funds from the net surplus of the credit union to any non-financial cooperative or other business entity established by the credit union unless all requirements for distribution of surplus set out in section 54(1) of the Act and all prudential criteria requirements of the Act and any regulations made thereunder have been met.

(7) The operating expenses of a non-financial cooperative or other business entity established by the credit union shall not be reflected as expenses of the credit union.

Problem loans
and provision for
losses on loans

10. (1) Every credit union shall –

- (a) establish and maintain adequate systems to identify problem loans in a timely manner; and
- (b) make adequate provision for potential losses on loan facilities offered by the credit union.

(2) Every credit union shall establish a general loan loss provision ranging from zero point five per cent to four point five per cent of the value of the credit union's loan portfolio.

Central Bank to
determine
provision for
losses

11. (1) The Central Bank shall, subject to section 5(2)(g) and (h) of the Act, have the power to –

- (a) determine the adequacy of provision for losses referred to in sub-regulation (1)(b); and
- (b) direct a credit union to increase its general provision to exceed zero point five percent

(2) Where a credit union is required by the Central Bank to make specific provision for all or any part of a loan facility, the loan facility shall be reported on the balance sheet of the credit union net of the specific provision.

(3) Notwithstanding these regulations, no provision is required where the loan including the accrued interest is –

- (c) fully secured and is in the process of collection;
or
- (d) is one hundred per cent secured by a cash deposit or withdrawable shares,

even if the exposure is classified as “non-performing”.

(4) For the purposes of this regulation, the credit union shall conduct impairment assessments of the loan portfolio no less than quarterly.

(5) Where the results of an assessment so require –

- (a) the carrying amount of assets shall be reduced to the recoverable amount either directly or through the creation of adequate provisions; and
- (b) the income statement shall be charged in the period in which the impairment occurs.

(6) Where subsequent payments or collections by the credit union result in a reduction of the remaining estimated recoverable amount, the credit union shall apply the proceeds first to the principal and then to the interest.

Interest not be included as income

12. (1) For the purposes of section 60 of the Act, interest shall not be included as income in a credit union's account where-
- (a) the contractual payment is not made; or
 - (b) part of the contractual payment is outstanding on loan facilities ninety days or more in arrears or loan facilities in the form of residential mortgages, one hundred and eighty days or more in arrears,

unless the loan facility, including the accrued interest is fully secured and in the process of collection or is one hundred per cent secured by a cash deposit or withdrawable shares at the credit union.

(2) Subject to sub-regulation (1), interest previously included as income during the period specified shall be reversed in the credit union's account.

Past-due credit exposure

13. A credit exposure is considered past-due one day after the date on which an instalment becomes due and includes all exposures which are due for repayment but have not been repaid.

Categorization of past-due credits

14. Every credit union shall categorize past-due credits as follows:

- (a) 1 day - 30 days;
- (b) 30 days – 89 days;
- (c) 90 days – 179 days;
- (d) 180 days – 359 days;
- (e) 360 days – 720 days; and
- (f) over 720 days.

15. Loans, with the exception of residential mortgage, time and demand loans, shall be classified by the credit union as non-performing when payments are contractually ninety days or more in arrears and are to be further classified as substandard, doubtful or loss in accordance with the Schedule to these regulations.

16. Every credit union shall maintain a watchlist of loans classified as –

- (a) special-mention;
- (b) sub-standard;
- (c) doubtful; or
- (d) loss

in accordance with the Schedule to these regulations

17. Every credit union shall make specific provision for non-performing loans which have been classified as substandard, doubtful or loss in the following amounts:

Categorization of non-performing loans

- (a) substandard – twenty per cent;
- (b) doubtful – fifty percent; and
- (c) loss - one hundred percent.

18. Financial statements, in accordance with section 33(1) of the Act, shall include –

Reporting in financial statements

- (a) a statement of income and expenditure;
- (b) a statement of assets and liabilities;

- (c) a statement of cash flows;
- (d) a statement of changes in equity (appropriation account);
- (e) every compensation and fee paid to a director of a credit union; and
- (f) any other information regarding the financial statements that the Central Bank may require.

SCHEDULE

(Regulations 15 and 16)

Loan Classification

Classification	Description
<p>Unimpaired assets / performing credit exposures: These are facilities which are fully performing</p>	
<p><i>Standard</i></p>	<p>The credit is current and its original source of repayment is adequate. It has adequate collateral support and does not carry more than a normal risk of loss. Such credit is not classified for the purposes of making a specific provision.</p>
<p><i>Special Mention</i></p>	<p>The credit is of acceptable quality. However, due to particular weaknesses, it requires more than usual management attention to prevent deterioration (for example, the loan may be past due for 1-89 days). It is not mandatory that such credits be classified for the purposes of making a specific provision.</p>
<p>Impaired assets / non-performing credit exposures:</p>	
<p><i>Substandard</i></p>	<p>The credit is in arrears 90-179 days and displays weaknesses that jeopardize the full liquidation of the debt and there is a distinct possibility that the financial institution will sustain some loss, if deficiencies are not corrected.</p>

	<p>The credit involves more than a normal risk of loss due to one or a combination of factors, namely: -</p> <ul style="list-style-type: none"> (a) unsatisfactory debt servicing record or financial condition of the customer; (b) inadequacy of cash flow; (c) insufficiency of security; (d) other adverse factors, which give rise to some doubt as to the ability of the customer to comply with the agreed repayment terms. <p>A credit that is currently performing but has weaknesses that throw doubt on the customer's ability to comply with the terms and conditions of the credit, may be classified as substandard.</p>
<p><i>Doubtful</i></p>	<p>The credit is in arrears 180-359 days and exhibits the weaknesses inherent in those classified as substandard with the added characteristic that the weaknesses make collection in full, on the basis of currently known facts, conditions and values, highly improbable.</p> <p>There is a high risk of default. A credit that is not in arrears 180 days, but has weaknesses that make collection in full highly improbable, may warrant to be classified as doubtful.</p>
<p><i>Loss</i></p>	<p>The credit is in arrears 360 days and over. A credit classified as loss is considered uncollectible. A loss credit shall not be kept on the books of a financial</p>

June 2012

	institution in the hope that there may be some eventual recovery.
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Made this day of , 2012.

Minister of Finance