**Disclaimer:**

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

A Consultation Draft

ontario regulation

to be made under the

Credit Unions and Caisses Populaires Act, 1994

Amending O. Reg. 237/09

(GENERAL)

 1.  The definitions of “class 1 credit union” and “class 2 credit union” in subsection 1 (1) of Ontario Regulation 237/09 are revoked.

 2.  Section 2 of the Regulation is revoked.

 3.  Section 5 of the Regulation is revoked and the following substituted:

Name

 **5.**Central 1 Credit Union, Canadian Credit Union Association and an extra-provincial credit union registered under clause 332 (6) (a) of the Act are prescribed persons for the purposes of section 20 of the Act.

 4.  (1)  Subsection 15 (2) of the Regulation is revoked.

 (2)  Subsection 15 (3) of the Regulation is amended by striking out “class 2” in the portion before paragraph 1.

 5.  Paragraph 4 of subsection 17 (3) of the Regulation is revoked and the following substituted:

 4. The amount of any loan loss allowance, not including an individual loan loss allowance, up to a maximum of 1.25 per cent of the risk weighted assets of the credit union.

 6.  (1)  The English version of paragraph 10 of subsection 18 (2) of the Regulation is amended by striking out “La” before “Fédération”.

 (2)  The English version of paragraph 11 of subsection 18 (2) of the Regulation is amended by striking out “La” before “Fédération”.

 7.  Section 20 of the Regulation is revoked.

 8.  (1)  Subsection 21 (1) of the Regulation is amended by striking out “for class 2 credit unions”.

 (2)  Subsections 21 (2) and (3) of the Regulation are amended by striking out “class 2” wherever it appears.

 9.  Paragraph 8 of section 25 of the Regulation is amended by striking out “types of loans” and substituting “classes of loans”.

 10.  (1)  Paragraph 3 of subsection 34 (1) of the Regulation is revoked.

 (2)  The English version of paragraph 5 of subsection 34 (1) of the Regulation is amended by striking out “La” before “Fédération” at the beginning.

 (3)  Subsection 34 (3) of the Regulation is amended by striking out “a syndicated loan referred to in section 56” at the end and substituting “a syndicated loan within the meaning of section 56”.

 11.  Part VII of the Regulation is amended by adding the following section:

Syndicated Loans

Syndicated loans

 **46.1**For the purposes of clause 190 (1) (b) of the Act, a syndicated loan means a syndicated loan in Ontario within the meaning of section 56 of this Regulation, or a syndicated loan outside Ontario within the meaning of section 56.1 of this Regulation.

 12.  (1)  Paragraph 2 of subsection 48 (3) of the Regulation is amended by,

 (a) adding “or” at the end of the English version of subparagraph ii;

 (b) striking out “La” before “Fédération” in the English version of subparagraph iii;

 (c) striking out “or” at the end of the English version of subparagraph iii; and

 (d) revoking subparagraph iv.

 (2)  Paragraph 1 of subsection 48 (4) of the Regulation is revoked and the following substituted:

 1. The debt is owed to a league, Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

 (3)  Subparagraph 3 i of subsection 48 (4) of the Regulation is amended by striking out “or Credit Union Central of Canada”.

 13.  Paragraph 7 of section 49 of the Regulation is revoked and the following substituted:

 7. Syndicated loans in Ontario.

 7.1 Syndicated loans outside Ontario.

 14.  (1)  Paragraphs 3 to 6 of subsection 52 (1) of the Regulation are revoked and the following substituted:

 3. A loan that consists of deposits made by the credit union with a financial institution, Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

 4. A loan that is fully secured by a deposit with,

 i. a financial institution, including the credit union making the loan, or

 ii. Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

 5. A loan that is fully secured by debt obligations that are guaranteed by,

 i. a financial institution other than the credit union making the loan, or

 ii. Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

 6. A loan that is fully secured by a guarantee of,

 i. a financial institution other than the credit union making the loan, or

 ii. Central 1 Credit Union, Fédération des caisses Desjardins du Québec or La Caisse centrale Desjardins du Québec.

 (2)  The English version of paragraph 10 of subsection 52 (1) of the Regulation is amended by striking out “La” before “Fédération”.

 (3)  The English version of paragraph 14 of subsection 52 (1) of the Regulation is amended by striking out “La” before “Fédération”.

 15.  Section 56 of the Regulation is revoked and the following substituted:

Syndicated loan in Ontario

 **56.**A syndicated loan in Ontario is a loan, including any related credit facilities, to which all of the following conditions apply:

 1. The loan is made under a syndicated loan agreement.

 2. The syndicating credit union is one of the following institutions:

 i. A credit union.

 ii. A league.

 iii. Central 1 Credit Union.

 iv. Fédération des caisses Desjardins du Québec.

 v. La Caisse centrale Desjardins du Québec.

 3. The only parties to the syndicated loan agreement are the following entities:

 i. The syndicating credit union.

 ii. A borrower who is a member of a credit union that is one of the lenders in the syndicated loan.

 iii. One or more of the following entities:

 A. Another credit union or its subsidiary or affiliate.

 B. A league.

 C. Central 1 Credit Union.

 D. Fédération des caisses Desjardins du Québec.

 E. La Caisse centrale Desjardins du Québec.

 F. A financial institution other than a securities dealer.

 G. An extra-provincial credit union registered under clause 332 (6) (a) of the Act.

 4. Each of the parties to the syndicated loan agreement, other than the borrower, agrees to contribute a specified portion of the loan and to be bound by the terms and conditions of the syndicated loan agreement.

 5. The syndicating credit union contributes at least 10 per cent of the loans, including any related credit facilities, and underwrites, disburses and administers them on behalf of the parties to the syndicated loan agreement.

Syndicated loan outside Ontario

 **56.1**A syndicated loan outside Ontario is a loan, including any related credit facilities, to which all of the following conditions apply:

 1. The loan is made under a syndicated loan agreement.

 2. The syndicating credit union is one of the following entities:

 i. An entity that is incorporated as a credit union in a province or territory of Canada other than Ontario under legislation that is comparable to the Act.

 ii. Central 1 Credit Union.

 iii. Fédération des caisses Desjardins du Québec.

 iv. La Caisse centrale Desjardins du Québec.

 3. The parties to the syndicated loan agreement include, but are not limited to, the following entities:

 i. The syndicating credit union.

 ii. A borrower from a province or territory of Canada other than Ontario.

 iii. A credit union or a league.

 4. Each of the parties to the syndicated loan agreement, other than the borrower, agrees to contribute a specified portion of the loan and to be bound by the terms and conditions of the syndicated loan agreement.

 5. The syndicating credit union contributes at least 10 per cent of the loans, including any related credit facilities, and underwrites, disburses and administers them on behalf of the parties to the syndicated loan agreement.

 16.  (1)  Subsection 58 (1) of the Regulation is revoked.

 (2)  Subsections 58 (2) and (3) of the Regulation are revoked and the following substituted:

 (2)  Subject to subsections (3), (4) and (7), a credit union may make a loan to a person if, as a result of making the loan, the total amount of all outstanding loans made to the person and any connected persons would not exceed 25 per cent of the credit union’s regulatory capital.

 (3)  If the person to whom the loan is to be made is listed in clause 53 (c), (d) or (e), the credit union may make the loan if, as a result of making the loan, the total amount of all outstanding loans made to the person and any connected persons would not exceed 50 per cent of the credit union’s regulatory capital.

 (3)  Section 58 of the Regulation is amended by adding the following subsection:

 (7)  A credit union may adopt the following rules as part of its investment and lending policies under section 189 of the Act:

 1. The credit union may make a bridge loan or a residential mortgage loan if,

 i. the credit union’s total assets, as set out in the audited financial statements of the credit union that were placed before its members at the most recent annual meeting, are described in a row in Column 1 of the Table to this section, and

 ii. as a result of making the loan, the total amount of all outstanding loans made by the credit union to the person and any connected persons would not exceed the amount of the total lending limit set out in the same row of Column 2 of the Table.

 2. The credit union may make a loan to a person listed in clause 53 (f) or (g) if,

 i. the credit union’s total assets, as set out in the audited financial statements of the credit union that were placed before its members at the most recent annual meeting, are described in one of row 1, 2, 3, 4, 5 or 6 in Column 1 of the Table to this section, and

 ii. as a result of making the loan, the total amount of all outstanding institutional loans made by the credit union to the person and any connected persons would not exceed 50 per cent of the amount of the total lending limit set out in the same row of Column 2 of the Table.

 (4)  The Table to section 58 of the Regulation is revoked and the following substituted:

Table
Lending Limits to a person or connected persons

|  |  |  |
| --- | --- | --- |
| Item | Column 1Total assets of credit union | Column 2Total lending limit to a person or connected persons |
| 1. | Less than $500,000 | Greater of 100% of regulatory capital and $60,000 |
| 2. | $500,000 or more but less than $1 million  | Greater of 100% of regulatory capital and $100,000 |
| 3. | $1 million or more but less than $2 million | Greater of 80% of regulatory capital and $125,000 |
| 4. | $2 million or more but less than $3 million | Greater of 80% of regulatory capital and $155,000 |
| 5. | $3 million or more but less than $5 million | Greater of 70% of regulatory capital and $185,000 |
| 6. | $5 million or more but less than $10 million | Greater of 60% of regulatory capital and $235,000 |
| 7. | $10 million or more but less than $20 million | Greater of 50% of regulatory capital and $295,000 |
| 8. | $20 million or more but less than $30 million | Greater of 40% of regulatory capital and $345,000 |
| 9. | $30 million or more but less than $50 million | Greater of 30% of regulatory capital and $400,000 |

 17.  (1)  Subsection 59 (1) of the Regulation is revoked.

 (2)  Subsection 59 (2) of the Regulation is amended by striking out “class 2”.

 (3)  Subsection 59 (3) of the Regulation is amended by striking out the portion before clause (a) and substituting the following:

 (3)  For the purposes of the lending limits established by a credit union,

 (4)  Subsections 59 (4) and (5) and the Table to section 59 of the Regulation are revoked.

 18.  Section 60 of the Regulation is revoked.

 19.  (1)  Subsection 61 (1) of the Regulation is revoked and the following substituted:

Eligible investments

 (1)  For the purposes of section 198 of the Act, a credit union may hold as an investment any asset authorized by its investment policies, other than a prohibited investment, subject to the conditions set out in the Act and this Regulation.

 (2)  Subsections 61 (2) to (5) of the Regulation are amended by striking out “class 2” wherever it appears.

 20.  Section 63 of the Regulation is amended by striking out “60” in the portion before the definition of “improved real estate”.

 21.  Subsection 64 (2) of the Regulation is amended by striking out “paragraphs 1 to 15 of” in the portion before clause (a).

 22.  (1)  Section 66 of the Regulation is amended by striking out “for class 1 and class 2 credit unions” in the portion before paragraph 1.

 (2)  Paragraph 1 of section 66 of the Regulation is revoked.

 (3)  The English version of paragraph 2 of section 66 of the Regulation is amended by striking out “La” before “Fédération”.

 23.  Section 67 of the Regulation is amended by striking out “for the purposes of the Act” at the end of the portion before paragraph 1 and substituting “for the purposes of section 199 of the Act”.

 24.  Subsection 68 (1) of the Regulation is amended by adding the following paragraphs:

 12.1 A corporation that is licensed as an agent under the Insurance Act or under comparable legislation of another jurisdiction in Canada.

 12.2 A corporation that is a registered insurance broker under the Registered Insurance Brokers Act or is registered as an insurance broker under comparable legislation of another jurisdiction in Canada.

 25.  Subsection 71 (3) of the Regulation is revoked.

 26.  Paragraph 2 of subsection 84 (1) of the Regulation is amended by striking out “section 20 or 21” at the end and substituting “section 21”.

 27.  The English version of subsection 95 (2) of the Regulation is amended by striking out “La” before “Fédération des caisses Desjardins du Québec” at the end.

 28.  Section 100 of the Regulation is revoked.

 29.  Subsection 101 (1) of the Regulation is amended by striking out “class 2”.

 30.  Section 102 of the Regulation is amended by striking out “class 2”.

 31.  Sections 103 and 104 of the Regulation are revoked and the following substituted:

Deposit Insurance

Insurable deposits

 **103.**(1)  In this section,

“deposit”, for the purpose of deposit insurance, means the unpaid balance of the aggregate of monies received, or held by a credit union, including interest thereon, from or on behalf of a person in the usual course of its deposit-taking business, for which the credit union,

 (a) has given or is obligated to give credit to that person’s account or has issued or is obligated to issue a receipt, certificate, debenture, transferable instrument, draft, certified draft or cheque, prepaid letter of credit, money order or other instrument in respect of which it is liable, and

 (b) is obligated to repay the monies on a fixed day, on demand by the person or within a specified period of time following demand by the person.

 (2)  For the purposes of the Act, each of the following is one insurable deposit:

 1. A person’s deposit with the credit union that is not otherwise described in this section.

 2. A joint deposit with the credit union of two or more persons, not in trust for a named beneficiary. Each unique combination of depositors gives rise to a separate insurable deposit.

 3. A deposit with the credit union of a person, in trust for one named beneficiary.

 4. A joint deposit with the credit union of two or more persons, in trust for one named beneficiary. Each unique combination of depositors gives rise to a separate insurable deposit.

 5. The interest of each named beneficiary in a deposit with the credit union by a person, in trust for more than one named beneficiary.

 6. The interest of each named beneficiary in a joint deposit with the credit union of two or more persons, in trust for more than one named beneficiary. Each unique combination of depositors gives rise to separate insurable deposits.

 7. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s registered retirement savings plans within the meaning of the Income Tax Act (Canada).

 8. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s registered retirement savings plans within the meaning of the Income Tax Act (Canada).

 9. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s registered retirement income funds within the meaning of the Income Tax Act (Canada).

 10. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s registered retirement income funds within the meaning of the Income Tax Act (Canada).

 11. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s tax-free savings accounts within the meaning of section 146.2 of the Income Tax Act (Canada).

 12. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s tax-free savings accounts within the meaning of section 146.2 of the Income Tax Act (Canada).

 13. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s registered disability savings plans within the meaning of the Income Tax Act (Canada).

 14. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s registered disability savings plans within the meaning of the Income Tax Act (Canada).

 15. A deposit with the credit union, not in trust for a named beneficiary, to any of a person’s registered education savings plans within the meaning of the Income Tax Act (Canada).

 16. A deposit with the credit union, in trust for a named beneficiary, to any of a person’s registered education savings plans within the meaning of the Income Tax Act (Canada).

Deposit insurance amount

 **104.**For the purposes of paragraph 2 of subsection 270 (2) of the Act and subsection 271 (3) of the Act, the Corporation shall,

 (a) for an insurable deposit under paragraphs 1 to 6 of subsection 103 (2) of this Regulation, not insure the amount of the insurable deposit that exceeds $250,000;

 (b) for an insurable deposit under paragraphs 7 to 16 of subsection 103 (2) of this Regulation, insure the full amount of the insurable deposit.

 32.  Subsection 118 (1) of the Regulation is amended by striking out “$100 for a class 1 credit union and $250 for a class 2 credit union” at the end and substituting “$250 for a credit union”.

 33.  Part XVIII of the Regulation is revoked and the following substituted:

Part XVIII
Extra-Provincial Credit Unions

Registering

Application for registration

 **119.**An application for registration in the Extra-Provincial Credit Unions Register under clause 332 (6) (a) of the Act must be in a form approved by the Superintendent and include any materials requested by the Superintendent.

Condition for registration

 **120.**Only an entity that is incorporated as a credit union in a province or territory of Canada other than Ontario under legislation that is comparable to the Act may be registered in the Extra-Provincial Credit Unions Register under clause 332 (6) (a) of the Act.

Business Powers

Limited activities

 **121.**The activities of an extra-provincial credit union registered under clause 332 (6) (a) of the Act are limited to participating in a syndicated loan.

Special Rules

Information required by the Superintendent

 **122.**Section 225 of the Act applies to an extra-provincial credit union registered under clause 332 (6) (a) of the Act.

Information required by Corporation

 **123.**Section 226 of the Act applies to an extra-provincial credit union registered under clause 332 (6) (a) of the Act.

Fees

 **124.**Section 321.6 of the Act applies to an extra-provincial credit union registered under clause 332 (6) (a) of the Act.

Mortgage Brokerages, Lenders and Administrators Act, 2006

 **125.**An extra-provincial credit union registered under clause 332 (6) (a) of the Act is deemed to be a credit union for the purposes of the Mortgage Brokerages, Lenders and Administrators Act, 2006.

Cancelling the Registration

Cancellation of registration on request

 **126.**The Superintendent may cancel the registration of an extra-provincial credit union under subsection 332 (6) of the Act at the request of the extra-provincial credit union.

Cancellation of registration, Superintendent’s order

 **127.**(1)  The Superintendent may make an order cancelling the registration of an extra-provincial credit union under subsection 332 (6) of the Act if, in the Superintendent’s opinion, one of the following conditions is satisfied:

 1. The extra-provincial credit union is failing to comply with sections 121 to 124 of this Regulation.

 2. The extra-provincial credit union is doing anything that constitutes a practice that might prejudice or adversely affect the interests of a member, depositor or shareholder of a credit union as defined in section 1 of the Act.

 3. The extra-provincial credit union is not carrying on business or is not in operation.

 (2)  Section 240.1 of the Act applies with respect to an order under this section.

 (3)  The Superintendent shall set out the reasons for his or her decision in the order.

 (4)  The extra-provincial credit union that is subject to an order under this section may appeal the order to the Tribunal in accordance with section 240.4 of the Act.

Cancellation of registration, other jurisdiction

 **128.**The registration of an extra-provincial credit union under subsection 332 (6) of the Act is automatically and immediately cancelled if,

 (a) its incorporation in a province or territory of Canada other than Ontario has ceased; or

 (b) its registration as a credit union in a province or territory of Canada other than Ontario has ceased.

Effect of cancellation

 **129.**An extra-provincial credit union whose registration is cancelled must not participate in a syndicated loan in Ontario except to the extent necessary to wind up its participation in a syndicated loan in Ontario.

[Commencement]

 34.  [Commencement]