

## ANNEX II: BAHAMAS CO-OPERATIVE CREDIT UNIONS REGULATIONS, 2013

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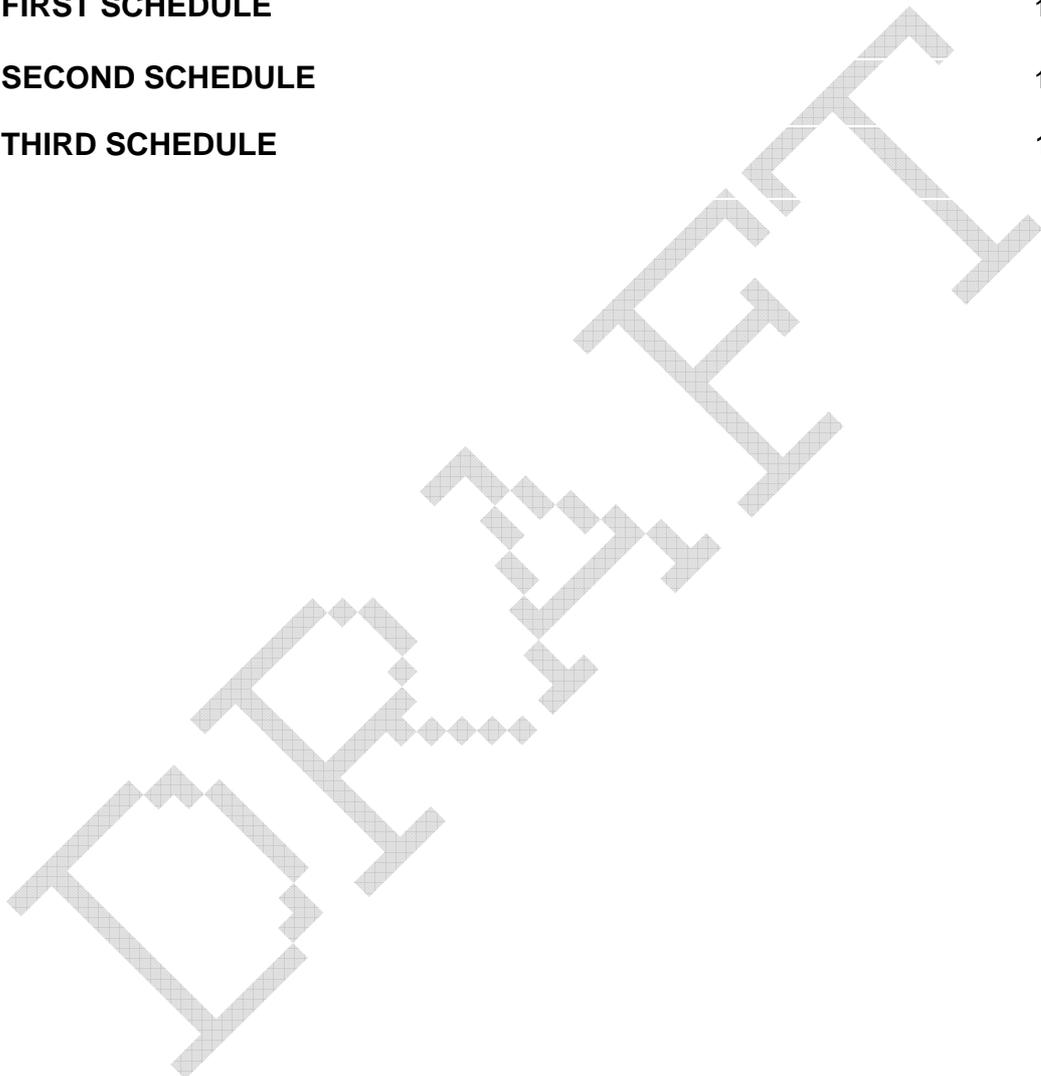
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# BAHAMAS CO-OPERATIVE CREDIT UNIONS ACT, 2013

(No. of 2013)

## BAHAMAS CO-OPERATIVE CREDIT UNIONS REGULATIONS, 2013

The Central Bank of The Bahamas, in exercise of the powers conferred by section 125 of The Bahamas Co-operative Credit Unions Act, 2013, makes the following regulations —

### PART I - PRELIMINARY

#### 1. Citation

- (1) These Regulations may be cited as the Bahamas Co-operative Credit Unions Regulations, 2013.
- (2) These Regulations shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

### CHAPTER 1: INTERPRETATION

#### 2. Interpretation

(1) In these regulations—

“associate” means—

- (a) a person who is related by consanguinity to a director committee member, officer or employee of a 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 credit union, has a controlling interest;

“Bank” means the Central Bank of The Bahamas;

“Consanguinity” means a relationship by descent and for the purposes of these regulations, the degrees of consanguinity are as follows:

- (i) a relationship within the first degree by consanguinity means a spouse, child or parent;
- (ii) a relationship within the second degree by consanguinity means a

sibling, grandchild or grandparent.

“deposit” includes any and all cash instruments in any form whatsoever, excluding qualifying shares, which are lodged with the Apex body by a 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 a contractual payment is not made as agreed;

“qualifying shares” has the meaning assigned to it in the Act;

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

“share redemption fund” has the meaning assigned to it in the Act.

“statutory reserve fund” has the meaning assigned to it in the Act;

“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;

“the Act” means the Bahamas Co-operative Credit Unions Act, 2013;

## **PART II – LOANS**

### **CHAPTER 2: INTEREST ON 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 impaired loans**

A co-operative credit union may include in its income a maximum of ninety days' accrued interest with respect to an impaired loan or overdue loan.

### **CHAPTER 3: 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 shall comply with section 65 and 67 of the Act, these regulations, the credit union's bye-laws and loan policies;
- (b) no loan shall be granted on terms more favourable than those extended to other members of the credit union, except loans granted as a benefit to employees of the credit union;
- (c) an officer or employee of the credit union or a member of the credit union's board of directors, supervisory committee or credit committee who makes application for a personal loan or who has a conflict of interest with a borrower shall —
  - (i) disclose to the credit union the existence and nature of the conflict; or
  - (ii) not take part in any deliberation or decision of the credit union with respect to his or her application or the application of the borrower, as the case may be.
- (d) the 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 of the credit union or their associates, except where a loan is granted to the spouse of one of these persons.

- (e) a report on loans approved and refused to directors, committee members, officers or employees of the credit union and their associates, and the minutes of the meeting where the loan was presented and approved or refused by the credit committee shall be submitted to the supervisory committee and the full board of the credit union;
- (f) a loan shall not be made by the credit union to a body corporate if a majority of the shares of the body corporate are held by the directors and officers of the credit union, unless the application has been approved by the credit committee and the supervisory committee with all related directors and officers abstaining from the discussion of the application for the loan;
- (g) the minutes of the credit committee meeting and the list of approved and refused loans shall be a part of the minutes of the board of directors meetings and subject to review by the external auditors of the credit union and the Central Bank.

**6. Loans to co-operative credit union officials, employees, directors and committee members**

Every co-operative credit union shall develop and the board of directors shall adopt a policy on loans to directors, committee members, officers, employees and their associates, and such policy shall be compliant with the Act and its regulations.

**CHAPTER 4: ALLOWANCE FOR DOUBTFUL LOANS**

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

- (1) The Board and management of each 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 objective evidence that impairment referred to in paragraph (1) has occurred, then the carrying amount of the 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 must be recognized in the calculation of the co-operative credit union's profit or loss for the month in which the assessment referred to in paragraph (1) is carried out, as a monthly provision for doubtful loans.
- (4) Every co-operative credit union is required to establish an allowance for doubtful loans as follows—
  - (a) where the arrears of payment with respect to the contractual terms of a loan,
    - (i) is less than thirty days in arrears, an allowance of zero per cent;
    - (ii) is over thirty one but less than three hundred and sixty five days in

arrears, except where the loan is fully secured, an allowance of thirty five per cent;

(iii) is over three hundred and sixty five days in arrears, except where the loan is fully secured, an allowance of one hundred per cent.

(b) In any case where—

- (i) a loan amount exceeds approved limits;
- (ii) a debt is assigned to a collection agency;
- (iii) a member has absconded, has become a bankrupt or has 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 shall be established.

(5) For the purpose of this regulation—

“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 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 credit union must 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) Every co-operative credit union shall use the Form 1 in the First Schedule to assess whether or not a loan is current.

## **9. Accrued interest**

- (1) Interest income on impaired loans over ninety one days may not continue to be recognized and shall not be reflected in the allowance for doubtful loans.
- (2) Any payment received from a member of a co-operative credit union on his 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 may no longer 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 outlined in regulation 7(3).

## **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) Subsequent payments (whether designated as interest or principal) on an impaired loan shall be recorded as the reduction of the recorded investment in a loan.
- (3) When the recorded investment in a loan is completely written off, subsequent payments shall be credited to the allowance for doubtful loans.

## **12. Disclosure**

Every co-operative credit union's annual audited financial statements shall:

- (a) indicate the amount of outstanding loans to members, net of the allowance for doubtful loans, and a note to the financial statements shall provide information on the progression of the allowance for doubtful loans in the manner set out in Form 2 in the First Schedule;
- (b) include notes relating to:
  - (i) movement on the specific provision for doubtful loans during the year in the manner set out in Form 3 in the First Schedule; and
  - (ii) movement 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.

## **13. Valuation of Mortgage security**

- (1) Where a co-operative credit union seeks to establish the value of a mortgage

held as security, the credit union shall use the valuation form prescribed in the Second Schedule.

- (2) Where the total value of encumbrances on a 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 allowance for doubtful loans' calculation.

#### **14. Application of regulations 9 through 13**

Regulations 9 through 13 shall apply to all financial years of a co-operative credit union commenced after December 31, 2012.

### **PART III – APEX BODY**

#### **CHAPTER 5: APEX BODY**

#### **15. 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 in paragraph (1), shall be known as —
  - (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 administration fee against each fund as its board may approve, to cover its administrative costs.
- (4) The return on investment on the funds is to be disbursed on a quarterly basis, pro rata to each co-operative credit union based on their respective contributions to the fund.
- (5) Every 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.

#### **16. Statutory reserve**

- (1) Where a co-operative credit union cannot meet its statutory reserves allocation requirements under section 89 of the Act, it may apply to the Central Bank for an exemption from the requirements of the section.
- (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 credit union;
  - (b) to recoup losses on the credit union's operations, loans and or investments; and
  - (c) for the improvement of the credit union's products, services, technology and human resources.
- (5) In approving the utilisation or application of the statutory reserve of a co-operative credit union, the Central Bank may impose such exemption, restrictions, terms and conditions as it may consider appropriate to ensure the credit union meets the minimum capital requirement as defined in this regulation.
- (6) The statutory reserve of a co-operative credit union shall not constitute any part of the liquidity deposit of the 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.

#### **17. Liquidity fund**

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

### **CHAPTER 6: STATEMENT OF MEMBERS' EQUITY**

**18. Stabilization fund**

- (1) Every co-operative credit union that is a member of the Apex body shall contribute to the stabilization fund.
- (2) A co-operative credit union's annual contribution to the stabilization fund shall be treated as an operational expense.
- (3) Every co-operative credit union shall contribute to the stabilization fund such amounts and at such intervals as the Apex body may determine.

**19. Statement of members' equity**

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

## **PART IV – POWERS OF LIQUIDATOR**

### **CHAPTER 7: POWERS OF LIQUIDATOR**

**20. Powers of liquidator**

Where the Central Bank appoints a liquidator pursuant to section 100(1) of the Act, the liquidator shall have power to do one or all of the following things-

- (a) to take immediate possession of all assets belonging to the co-operative credit union and of all books, records and other documents relating to the business of the credit union so far as may be necessary for its winding-up and to raise on the security of the assets of the credit union the money requisite for this purpose;
- (b) to refer disputes to the Central Bank with a recommendation that the dispute be settled by arbitration under section 94 of the Act and to institute and defend actions and other legal proceedings on behalf of the co-operative credit union in the name of his office;
- (c) to investigate all claims against the co-operative credit union and, subject to the provisions of the Act, decide questions of priority arising out of such claims, and pay rateably according to the amount of such debts, the surplus, if any, being applied in payment of interest from the date of liquidation at a rate to be fixed by the Central Bank and not exceeding five per cent;
- (d) to fix the time within which creditors shall have to prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved;
- (e) to make any compromise or arrangement with creditors having and alleging to have any claims, present or future, for which the co-operative credit union may

be rendered liable;

- (f) to compromise all claims or liabilities to calls and debts and liabilities capable of resulting in debts and all claims, present and future certain or contingent, subsisting or supposed to subsist between the co-operative credit union and a contributory or alleged contributory or other debtor or person apprehending liability to the credit union and all questions in any way relating to or affecting the assets or winding up of the credit union on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give complete discharge in respect thereof;
- (g) from time to time to determine the contribution to be made or remaining to be made by the members or past members or by the estates or nominees or legal personal representatives of deceased members or by any officer to the assets of the co-operative credit union, such contribution shall include debts due from members or persons;
- (h) to determine by what persons and in what proportions the cost of liquidation shall be borne;
- (i) to arrange for the distribution of the assets of the co-operative credit union in a convenient manner when a scheme of distribution has been approved by the Central Bank;
- (j) to call such general meetings of the co-operative credit union as may be necessary;
- (k) to administer oaths, require the attendance of witnesses and other persons concerned with the management of the co-operative credit union and to require such persons to produce books, documents and other like matters relevant to the credit union.

**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 12(1))**

**PROGRESSION OF THE ALLOWANCE FOR DOUBTFUL LOAN**

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

**FORM 3  
(regulation 12(2))**

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

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

**FORM 4**  
**(regulation 12(3))**  
**LOANS RECEIVABLE (YR)**

Loans to members	Current year	Previous year
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 13(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 19)

**STATEMENT OF MEMBERS' EQUITY**

**Members' Equity**

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

Made this    day of                    A.D., 2013

Central Bank of The Bahamas