

## COMPLIANCE ORDERS

(Note: Links underlined in blue)

In accordance with the Credit Unions and Caisses Populaires Act (the “Act”), DICO may issue a compliance Order to a credit union where:

- there are reasonable grounds to believe that the credit union is not complying with the requirements of the Act and the regulations; or
- DICO considers it is necessary to protect the interests of the members, shareholders or depositors; or
- DICO considers it necessary to ensure the financial security and integrity of the credit union

DICO may issue a compliance Order to a credit union where it meets established criteria to:

- [Amend Capital and Liquidity Policies: Subsection 85\(4\) of the Act](#)
- [Increase Capital or Provide Additional Liquidity: Subsection 86\(1\) of the Act](#)
- [Limit a Credit Union’s Authority to Borrow Money: Subsection 187\(1\) of the Act](#)
- [Cease Investment and Lending Activities and Amend its Investment and Lending Policies: Subsection 189 \(4\) of the Act](#)
- [Lower Lending Limits: Subsection 191\(2\) of the Act](#)
- [Call Unauthorized Loan: Subsection 197.0.1\(1\) of the Act](#)
- [Dispose of Unauthorized Investment: Subsection 202.1\(1\) of the Act](#)
- [Set aside additional provisions: Subsection 235\(1\) of the Act](#)

DICO may also issue a compliance Order to a credit union where it meets established criteria placing the credit union under:

- [Supervision of DICO pursuant to subsection 279 \(1\) if the Act, and under](#)
- [Administration of DICO pursuant to subsection 294 \(1\) of the Act](#)

**Details of all compliance orders issued by DICO  
will be published on DICO’s web site.**

**ORDER TO AMEND CAPITAL AND LIQUIDITY POLICIES**  
**Subsection 85(4) of the Act**

**Authority**

Under subsection 85(2) of the Act, a credit union is required to establish prudent capital and liquidity policies in order to ensure the financial soundness of the credit union, avoid undue risk of loss and obtain a reasonable return. Under subsection 85(4) of the Act, DICO may order the credit union to amend the capital and liquidity policies if DICO considers them to be inadequate or imprudent.

**Criteria**

DICO shall issue an Order for a credit union to amend its capital and liquidity policies when it has obtained satisfactory evidence that one or more of the following criteria have been met:

- The credit union's capital and liquidity policies are in material non-compliance to the standards as outlined in By-law #5
- The credit union has failed to appropriately address identified material deficiencies in its capital and liquidity policies within a reasonable timeframe
- The credit union has failed to address deteriorating trends in its capital or liquidity position

**Evidence**

DICO will review evidence that constitutes a reasonable basis for issuing an Order pursuant to subsection 85(4) of the Act for changes to capital and liquidity policies, including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination

**Order**

An Order issued pursuant to subsection 85(4) of the Act is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.

**ORDER TO INCREASE CAPITAL OR PROVIDE ADDITIONAL  
LIQUIDITY**  
**Subsection 86(1) of the Act**

**Authority**

Under subsection 86(1) of the Act, DICO may order a credit union to increase its capital or provide additional liquidity despite the credit union's compliance with the regulations where:

- there are reasonable grounds to believe that the credit union is not complying with the requirements of the Act and the regulations regarding making loans and investments or general management of the credit union's business;
- DICO considers it is necessary to protect the interests of the members, shareholders or depositors; or
- DICO considers it necessary to ensure the financial security and integrity of the credit union

**Criteria**

DICO shall issue an Order for a credit union to increase its capital or provide additional liquidity when it has obtained satisfactory evidence that one or more of the following criteria have been met:

- Material non-compliance with the capital and liquidity requirements of By-law #5 and any guidelines or directives issued by DICO
- An abnormal event has occurred that may trigger, for example, demand for deposits, non-payment of loans etc.
- Significant concentration risk in the loan portfolio or composition of member deposits
- Low or declining levels of liquidity that may not adequately meet cash flow requirements
- Excessive borrowings, or insufficient borrowing capacity to meet business needs
- Plant closure or other significant economic event
- High risk loans or investments identified during an examination
- Capital or liquidity insufficient to meet business risks that may not be fully captured under the risk weighted capital test (BIS)

**Evidence**

DICO will review evidence that constitutes a reasonable basis for issuing an Order for an increase in capital or to provide additional liquidity pursuant subsection 86(1) of the Act, including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination

**Order**

An Order issued pursuant to subsection 86(1) of the Act is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.

## LIMIT A CREDIT UNION'S AUTHORITY TO BORROW MONEY Subsection 187(1) of the Act

### Authority

Under subsection 187(1) of the Act, DICO may inquire into the borrowing of a credit union and may by Order limit the credit union's authority to borrow money.

### Criteria

DICO shall issue an Order to limit a credit union's authority to borrow when it has obtained satisfactory evidence that one or more of the following criteria have been met:

- The credit union is in default of the terms and conditions for its existing borrowing
- Existing borrowing is not in the best interests of the members, depositors and shareholders
- Capital levels are insufficient for the business risks undertaken by the credit union, including credit, investment, operational and strategic risks
- The credit union is in sustained material non compliance with the Act, the Regulations, DICO By-law #5 or any conditions of deposit insurance

### Evidence

DICO will review evidence that constitutes a reasonable basis for issuing an Order pursuant to subsection 187(1) of the Act to limit a credit union's authority to borrow, including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination

### Order

An Order issued pursuant to subsection 187(1) of the Act is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.

## CEASE INVESTMENT AND LENDING ACTIVITIES AND AMEND ITS INVESTMENT AND LENDING POLICIES

### Subsection 189 (4) of the Act

#### **Authority**

Under subsection 189(2) of the Act, a credit union is required to establish prudent investment and lending policies in order to avoid undue risk of loss and obtain a reasonable return. Under subsection 189(4) of the Act, where DICO considers the investment and lending policies to be inadequate or imprudent DICO may order the credit union to cease its investment and lending activities until the policies are amended in accordance with the Order.

#### **Criteria**

DICO shall order the credit union to cease its investment and investment activities until the investment and lending policies are amended when it has obtained satisfactory evidence that one or more of the following criteria have been met:

- The credit union's investment and lending policies are in sustained material non-compliance to the standards as outlined in By-law #5
- The credit union has failed to appropriately address identified material deficiencies in its investment and lending policies within a reasonable timeframe
- The credit union has failed to address material deteriorating trends in its investment or lending practices within a reasonable timeframe
- There is a significant decline in the quality of assets
- The credit union is experiencing unacceptable loan and investment losses
- There is a lack of appropriate investment and lending expertise for the activities that the credit union is engaged in

#### **Evidence**

DICO will review evidence that constitutes a reasonable basis for issuing an Order pursuant to subsection 189(4) of the Act to cease lending activities and amend investment and lending policies, including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination

#### **Order**

An Order issued pursuant to subsection 189(4) of the Act is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.

## LOWER LENDING LIMITS Subsection 191(2) of the Act

### Authority

Under subsection 191(1) of the Act, a credit union shall not make loans in excess of such limits as may be prescribed or as ordered. Under subsection 191(2) of the Act, DICO may by Order lower a credit union's lending limits if DICO believes that the current limits may adversely affect the interest of the members, depositors or shareholders.

### Criteria

DICO shall issue an Order to lower a credit union's lending limits when it has obtained satisfactory evidence that one or more of the following criteria have been met:

- The credit union is in sustained material non-compliance with the standards of DICO By-law #5 and lending guidelines
- High loan losses
- Lack of appropriate lending expertise relative to the credit risks undertaken
- Significant concentration risk in the loan portfolio
- Plant closure or other significant economic event that is likely to affect the quality of loans
- Unacceptable levels of high risk loans identified during an examination
- Capital levels are insufficient for the credit risks undertaken by the credit union

### Evidence

DICO will review evidence that constitutes a reasonable basis for issuing an Order pursuant to 191(2) of the Act to lower lending limits, including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination

### Order

An Order issued pursuant to subsection 191(2) of the Act is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.

## CALL UNAUTHORIZED LOAN Subsection 197.0.1(1) of the Act

### Authority

Under subsection 197.0.1(1), DICO may order a credit union to call any loan it has made that is not authorized by the Act, the regulations or the by-laws of the credit union.

### Criteria

DICO shall issue an Order to a credit union to call an unauthorized loan when it has obtained satisfactory evidence that one or more of the following criteria have been met:

- The amount of the loan materially exceeds the lending limits and restrictions specified in the Act or Regulations
- The credit union has not undertaken to comply with the lending limits of the Act or Regulations within a reasonable time after notice by DICO
- The security for the loan is insufficient for the level of risk assumed by the credit union
- The condition of the loan is seriously impacting the financial performance and condition of the credit union
- The credit union is in sustained material non-compliance with the standards of DICO By-law #5

### Evidence

DICO will review evidence that constitutes a reasonable basis for issuing an Order pursuant to 197.0.1 (1) to call an unauthorized loan including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination

### Order

An Order issued pursuant to subsection 197.0.1(1) of the Act is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.

## DISPOSE OF UNAUTHORIZED INVESTMENT Subsection 202.1(1) of the Act

### Authority

Under subsection 202.1(1) DICO may order a credit union to dispose of any investment that was not made or held in accordance with the Act, Regulations, DICO's by-laws, or the lending and investment policies of the credit union.

### Criteria

DICO shall issue an Order to a credit union to dispose of an investment that was not made or held in accordance with the Act, Regulations, DICO's by-laws or the lending and investment policies of the credit union when it has obtained satisfactory evidence that one or more of the following criteria have been met:

- The investment is not in the best interests of the members, depositors or shareholders of the credit union
- The investment is seriously impacting the financial performance and condition of the credit union
- The value of the investment has significantly declined and is not likely to improve in the short term
- The credit union is in sustained material non-compliance with the standards of DICO By-law #5

### Evidence

DICO will review evidence that constitutes a reasonable basis for issuing an Order pursuant to subsection 202.1(1) of the Act to dispose of an investment including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination

### Order

An Order issued pursuant to subsection 202.1(1) of the Act is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.



## SET ASIDE ADDITIONAL PROVISIONS Subsection 235(1)

### Authority

Under subsection 235 (1) if it appears to DICO as a result of an examination of a credit union that assets shown in the books and records of the credit union are for an amount greater than the fair value, DICO may require the credit union to set aside additional provisions as it considers necessary.

### Criteria

DICO shall issue an Order to set aside additional provisions when it has obtained satisfactory evidence that one or more of the following criteria have been met:

- The fair value of the asset is materially lower than the amount shown on the books and records of the credit union and is other than a temporary decline in value as determined under GAAP (Generally Accepted Accounting Principles)
- The value of the asset shown in the books and records of the credit union has not been determined in accordance with appropriate measurement techniques or sources
- There is lack of objective evidence to support the carrying value of the asset as shown on the books and records of the credit union
- The fair value of the asset is less than the carrying value and is not likely to increase in the immediate future
- The asset may not be readily liquidated within a reasonable time

### Evidence

DICO will review evidence that constitutes a reasonable basis for issuing an Order pursuant to subsection 235(1) to set aside additional provisions including:

- Financial performance and condition as reported by the credit union
- Audited financial statements
- Results of an Examination

### Order

An Order issued pursuant to subsection 235(1) of the Act is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.

## SUPERVISION Subsection 279(1)

### Authority

Under subsection 279 (1) of the Act may order a credit union subject to the supervision of DICO in any of the following circumstances:

- The credit union asks, in writing, that it be subject to supervision.
- The credit union has failed to comply with an order of the Superintendent and the Superintendent has requested, in writing, that the credit union be subject to supervision.
- The credit union has failed to comply with an order of DICO.
- The credit union is in contravention of section 84.
- DICO, on reasonable grounds, believes that the credit union 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 DICO.
- The credit union 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.

### Criteria

DICO shall Order a credit union subject to supervision of DICO when it has obtained satisfactory evidence that one or more of the circumstances outlined in subsection 279(1) of the Act have occurred and/or following criteria have been met:

- The credit union conducts its affairs in a way that reasonably might be expected to harm the interests of its members or depositors or that tends to increase the risk of claims against the Deposit Insurance Reserve Fund including, but not limited, to the following circumstances:
  - Material non-compliance with the DICO By-law No. 5
  - Failure of the credit union or its officer or director to file, submit or deliver a report or document required to be filed under the Act within the prescribed time

### Evidence

DICO will review evidence that constitutes a reasonable basis for issuing an Order pursuant to subsection 279(1) including:

- Financial statements or other information provided by the credit union
- Reports from independent experts, including but not limited to:
  - Examination reports commissioned by DICO;
  - Investigative or other reports
  - Information provided by reliable third parties such as the insured institution's internal auditor, external auditor, legal counsel, etc..

### Order

An Order issued pursuant to subsection 279(1) of the Act is subject to the provisions outlined in 240.1 - 240.5 which includes the right of appeal.

## ADMINISTRATION

### Subsection 294(1)

#### Authority

Under subsection 294 (1) of the Act, DICO may order a credit union subject to the administration of DICO in any of the following circumstances:

- DICO, 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 DICO, but that supervision would, in the circumstances, not be appropriate.
- The credit union has failed to comply with an order of DICO made while the credit union was subject to the supervision of DICO.
- DICO is of the opinion that the assets of the credit union are not sufficient to give adequate protection to its depositors.
- The credit union has failed to pay any liability that is due or, in the opinion of DICO, will not be able to pay its liabilities as they become due.
- After a general meeting and any adjournment of no more than two weeks, the members of the credit union have failed to elect the minimum number of directors required under subsection 93 (2).
- If a vacancy occurs in the board of the credit union 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).
- The Superintendent has made an order under section 240.(to discontinue doing business)

#### Criteria

DICO shall Order a credit union subject to administration supervision of DICO when it has obtained satisfactory evidence that one or more of the circumstances outlined in subsection 294(1) of the Act have occurred and/or one of the following criteria have been met:

- Resignation of the credit union's board of directors
- The credit union does not meet the minimum capital levels deemed by DICO to represent the minimum level of capital sufficient to protect depositors:
  - 3% of assets (leverage) – Class 1 and 2 credit unions
  - 5% of risk weighted assets (BIS) – Class 2 credit union
- The initiation of insolvency proceedings by a credit union's creditor

## **Evidence**

DICO will review evidence that constitutes a reasonable basis for issuing an Order pursuant to subsection 294(1) including:

- Financial statements or other information provided by the credit union
- Reports from independent experts, including but not limited to:
  - Examination reports commissioned by DICO
  - Investigative or other reports
  - Information provided by reliable third parties such as the insured institution's internal auditor, external auditor, legal counsel, etc.

## **Order**

An Order issued pursuant to subsection 294(1) of the Act is subject to the provisions outlined in 240.1. In accordance with subsection 294(3) of the Act, a credit union may appeal to the court against an Order issued by DICO to place the credit union under administration pursuant to subsection 294(1) within seven days after receiving the Order, upon only a question of law.