

# **FINANCIAL SERVICES COMMISSION**

## **POST-CONSULTATION PAPER**

**To: All Credit Unions**

**Subject: Post-Consultation Paper**

The Financial Services Commission of Barbados (the “Commission”) as the regulator of non-banking financial services in Barbados will introduce a series of guidelines that applies to entities licensed and/or registered pursuant to the Financial Services Commission Act 2010-21, and the Co-operative Societies Act Cap 378A. The rationale of these guidelines was outlined in a consultation document which was circulated to the industry for comments in December 2012.

The period for submission of comments has ended and the Commission has summarized and reviewed the comments received. Accordingly, the Commission has amended the guidelines and has provided feedback with respect to comments. However, the Commission welcomes the dialogue with the industry and will consider proposals and comments from the industry outside of consultation periods.

A summary of the substantive comments received with regards to recommended amendments to the guidelines and the Commission’s response to those comments are included in the attached document. The guidelines will be finalized and issued to the sector thereafter. Both the guidelines and the post-consultation document will be posted on the Commission’s website.

Questions related to the guidelines should be addressed to the following:

**Chief Executive Officer**  
**Financial Services Commission**  
**#34 Warrens Industrial Park**  
**St. Michael**  
**Email: [info@fsc.gov.bb](mailto:info@fsc.gov.bb)**  
**Attention: Credit Union Division**

**FINANCIAL SERVICES COMMISSION**  
**MEASURES TO ENHANCE THE REGULATION OF THE CREDIT UNION SECTOR**  
**IN BARBADOS**  
**POST CONSULTATION PAPER**

The guidelines circulated to the industry during the November 2012 consultation period are listed below:

- 1. Safety and Soundness – Directors**
- 2. Safety and Soundness - Small Credit unions**
- 3. Safety and Soundness – Management**
- 4. Supervisory Committee - Complaints Procedures**
- 5. Liquidity Risk Management**
- 6. Credit Risk Management**
- 7. Operational Risk**
- 8. Doubtful Loans and an Application Guide to Guideline # 8**
- 9. Market Risk Investments**
- 10. Capital Management**
- 11. Deposits**
- 12. Fundamental Changes**
- 13. Valuation of real property**
- 14. Qualifications**
- 15. Directors Remuneration**

A summary of the substantive comments and the Commission's responses in respect of each of the guidelines is outlined below.

Also outlined below is an update relative to the comments received regarding the consultation paper on the regulation of repurchase agreements.

### **Guidelines 1 – 3 Safety & Soundness: Directors, Small Credit Unions, and Management**

The proposed Guidelines, taken together, set out the expectations of the Commission with respect to the safety and soundness of credit unions. Further, it seeks to make a distinction between the requirements for credit unions with assets in excess of \$10 million as against those with assets of less than \$10 million.

#### *Industry Comment Summary*

The proposed classification system should be reviewed to take into account the realities of the existing credit union landscape.

#### *Commission's Response*

The Commission is mindful of credit unions which are fully volunteer-based and those which employ resources. The category of credit unions with assets less than \$10 million was created in recognition of this fact.

There are only three credit unions that fall into a \$5-\$10 million category and some of these credit unions have less sophisticated operations than smaller credit unions and therefore can be treated similarly to credit unions with assets less than \$5 million.

The commission also expects that the requisite policies and systems will be relevant to the size and complexity of the individual credit union as even among the larger credit unions there is a wide disparity in the scope of their operations.

### **Guideline 4 Supervisory Committee - Complaints Procedures**

This Guideline relates to the responsibility of the Supervisory Committee to receive and investigate complaints about the management of the society. It also highlights the procedure for the referral of complaints to the Commission.

#### *Industry Comment Summary*

No issues on the proposed Guideline.

### **Guideline 5 Liquidity Risk Management**

This Guideline requires credit unions to establish and implement policies that outline the range of operational liquidity and conditions of liquidity borrowings, pricing of deposits and loans and on the exposure to changes in interest rates.

#### *Industry Comment Summary*

The concern is not with the Guideline itself but with the definition of liabilities set out in Regulation 21(a) and the meaning of liquidity to include shares other than qualifying share deposits.

#### *Commission's Response*

The Commission recognises the merits of the comments and therefore proposes an amendment to Guideline 5, section 2 to direct credit unions to maintain a liquidity level equivalent to 8% of withdrawable deposits and all other current liabilities.

### **Guideline 6 Credit Risk Management**

Through this Guideline credit unions are required to implement policies that address:

- Authorised types and classes of credit instruments;
- Limits and prohibitions on credit exposures including concentration;
- Assessment criteria and security requirements for each authorised credit instrument; and
- Management of delinquent and doubtful loans.

The Guideline also makes it necessary for credit unions to have a credit assessment and monitoring system and defined levels of decision making authority for approving credit exposures.

#### *Industry Comment Summary*

No issues on the proposed Guideline.

## **Guideline 7 Operational Risk**

This Guideline seeks to ensure that credit unions address operational risk by implementing policies, which covers:

- Defined and prudent levels of decision-making authority;
- The security and operation of a management information system;
- Technology development and maintenance;
- Safeguarding premises, assets and records of financial and other key information;
- Disaster recovery and business continuity plans;
- Outsourcing services;
- Monitoring controls; and
- Human Resources.

### *Industry Comment Summary*

The proposed classification system should be reviewed to take into account the realities of the existing credit union landscape with regards to the internal audit functions.

### *Commission's Response*

For credit unions with assets greater than \$10 million, the requirement relates to the size and complexity of the credit union's operations. Where the scope of the Supervisory Committee review with respect to the internal audit function is limited in nature, it may be sufficient for some credit unions to engage the services of an internal auditor on a part-time or contracted basis.

Credit unions under \$10 million may be required to engage an internal audit function based on results from the off-site/on-site monitoring by the Commission or any other pertinent information which may come to the Commission's attention. The Commission may determine that the internal audit function performed by the Supervisory Committee is not sufficiently assessing the risk faced by the credit union and may direct the credit union to supplement this function by obtaining the services of an internal auditor. This requirement may be enforced on credit unions under \$10 million on a situational basis.

### **Guideline 8 Doubtful Loans**

This Guideline establishes the standards of the Commission with respect to how the allowance for doubtful loans must be established by the board of directors of credit unions, pursuant to international generally accepted accounting standards.

#### *Industry Comment Summary*

The main concern with this Guideline and Application Guide is their consistency with IFRS with respect to recognition of loss on doubtful loan and formally restructured loan.

#### *Commission's Response*

The Commission has drafted a revised Guideline as a result of;

- 1) our additional research in this matter, and
- 2) the comments submitted by the industry.

The revised Guideline will be placed before the industry for consultation.

### **Guideline 9 Market Risk Investments**

This Guideline establishes the standards with respect to the credit unions' management of market risk arising out of the activities permitted under section 34A of the CSA.

#### *Industry Comment Summary*

No issues on the proposed Guideline.

### **Guideline 10 Capital Management**

This Guideline instructs the credit unions to determine and maintain appropriate levels of capital consistent with the CSA. Management must always be aware of the credit union's capital requirements and therefore must implement procedures to monitor these requirements.

### Industry Comment Summary

The capital standard of 10% should be reviewed as some jurisdictions, notably the US, uses an 8% ratio. Placement of the capital standard would be more appropriately dealt with, either in the Regulations or in the Guidelines as opposed to the Act.

### Commission's Response

The Commission has recognised the merits of these comments and is in the process of preparing a submission to the Legal Department which will inform our review of this Guideline. Any amendments to this guideline will follow at a later date since there may be a need for Legislation to be amended to address these concerns

### **Guideline 11 Deposits**

Through this Guideline the Commission establishes its expectations with respect to:

- the deposits of the funds of a credit union pursuant to section 34A of the CSA, and
- the deposits for liquidity purposes pursuant to Regulation 21 of the Co-operative Societies Regulations, 2008 (CSR)
- by clarifying the restrictions on where funds can be deposited and the percentage deposit that can made

### Industry Comment Summary

The limits stated in the Guideline are unjustifiably low and the limitation to where funds could be placed is stringent.

### Commission's Response

The Commission believes that the limits set in this guideline are sufficient to accommodate the needs of the sector. The Guideline speaks to deposits and credit unions are permitted to invest in the League as it is a society registered under the CSA.

### **Guideline 12 Fundamental Changes**

This Guideline seeks to ensure that credit unions approve a policy to facilitate any contemplated changes to their organisation.

#### *Industry Comment Summary*

No issues on the proposed Guideline.

### **Guideline 13 Valuation of Real Property**

This Guideline outlines the expectation of the Commission with respect to the acquisition and valuation of real property pursuant to section 196A of the CSA. Credit unions must receive approval from the Commission unless that real property is located in Barbados.

Also, no credit union may acquire real property where the market value of the property would cause the aggregate value of the property to exceed 6% of the stated assets of the credit union.

#### *Industry Comment Summary*

Determination of how market value is calculated as there are alternative valuation methods.

#### *Commission's Response*

The Commission believes that the guideline is sufficient. It is not necessary for the guideline to state which valuation method the credit union must use once the definition of "market value" quoted in the Guideline is adhered to.

### **Guideline 14 Qualifications**

This Guideline relates to the qualifications of directors and officers of a credit union and should be considered in conjunction with section 57 of the CSA. The Commission may determine if an individual is fit and proper to hold any particular position.

### Industry Comment Summary

Any additional ineligibility criteria deemed relevant, not listed in Section 57 should be spelt out in this Guideline.

### Commission's Response

The concern appears to revolve around the punitive application of the guideline. The Commission believes that this Guideline is sufficient and there is no need to amend. This Guideline is consistent with the Commission's Anti-Money Laundering guideline as well as the Money Laundering and Financing of Terrorism (Prevention and Control) Act. The Commission will provide guidance in the form of a Fit & Proper Questionnaire, which will be made available to credit unions.

### **Guideline 15 Directors Remuneration**

This Guideline addresses the remuneration of Directors and Committee Members of credit unions and should be considered in conjunction with sections 68 and 70 of the CSA. The Supervisory Committee must present a report at the AGM with respect to Directors or Committee Members highlighting:

- all remuneration paid during the year,
- expenses, and
- advances paid or reimbursed.

### Industry Comment Summary

The disclosure of granular details with respect to amounts received by directors and committee members is not justified. A greater concern is the requirement of auditors to perform compilation services to facilitate the additional disclosure requirements.

### Commission's Response

The Commission notes the concerns and proposes that this guideline be amended.

The Commission has considered the merits of the comments with respect to the additional costs attached to the proposed method of reporting expenditure and remuneration to elected officers. The Commission has amended the guideline to provide for a verification regime which is consistent with the requirement for the quarterly returns. The Board is responsible for the compilation of the information and the Supervisory Committee confirms the information submitted.

### **Conclusion**

The Commission recognises that all regulatory change has an impact on the decision making and the internal procedures of those entities affected by it. The Commission is therefore seeking to create an environment in which business decisions can be made in an orderly manner and in a way which avoids causing unnecessary disturbance to credit union operations and to the interests of members and other stakeholders, while also enhancing transparency in the process.

The Commission appreciates the benefit of having the industry involved in the consultative process and welcomed the comments from the sector. The guidelines have been issued concurrently with this document.