

CREDIT UNION BILL 2025  
(BILL NO. 29 OF 2025)

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# BILL NO. 29 OF 2025

## A BILL

FOR AN ACT TO PROVIDE FOR THE REPEAL OF THE CREDIT UNIONS ACT  
1954 AND FOR THE REGULATION OF CREDIT UNION BUSINESS AND  
RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

### PART 1—PRELIMINARY

#### *Short title and commencement*

- 1.—(1) This Act may be cited as the Credit Union Act 2025.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice published in the Gazette.

#### *Interpretation*

2. In this Act, unless the context otherwise requires—
  - “applicants” means 30 or more persons applying for registration under section 10 to carry on credit union business;
  - “board” means the board of directors of a credit union;

- “common bond of membership” means a common interest that forms the membership which is primarily based on occupation, association or residence;
- “co-operative” means a co-operative registered under the Co-operatives Act 1996 and carries out credit union business;
- “credit union” means a voluntary or non-profit institution, or co-operative engaged in credit union business;
- “credit union business” means the business of accepting deposits from members and employing such funds either in whole or in part for the purpose of granting extensions of credit and other financial services to members;
- “Credit Union League” means an entity established under section 155;
- “Credit Union Tribunal” means the tribunal established under section 162;
- “deposit” means a savings balance held by a credit union and owned by a member which constitutes a liability owed by the credit union to that particular member;
- “field of membership” means, with respect to a credit union, persons that share the common bond of membership of that credit union;
- “Fiji Institute of Chartered Accountants” means the institute established under section 4 of the Fiji Institute of Chartered Accountants Act 2021;
- “immediate family” is the relation to the first degree of consanguinity and affinity to a member of the family, that is, the spouse, a parent or children, by blood or adoption, of the member;
- “law enforcement agency” means the police or any other enforcement agency in Fiji established under a written law;
- “licensed financial institution” means an institution that is licensed by the Reserve Bank under the Banking Act 1995 to undertake activities as specified in its licence;
- “licensing” means to license a credit union under this Act to conduct credit union business;
- “membership share” means a share of a credit union subscribed and paid for by a member of the credit union and having the terms and conditions as specified in the credit union’s standard by-laws and supplementary by-laws;
- “Minister” means the Minister responsible for finance;
- “net income” means the amount of money a credit union has left over after subtracting all of its expenses from its total revenue over a specific period;



“organisation” means a corporation, partnership, association, limited liability company, or any other legal entity;

“organiser” means any person who assist in organising the 30 or so individuals to apply for a credit union licence under section 10 to carry on credit union business;

“qualifying share” means a non-refundable share equivalent to a value of one fully paid membership share, which a person applying to be a member of a credit union is required to pay and which is retained by the credit union in its capital account for operational management purposes;

“registration” means the registering of a credit union under this Act;

“related member” means a member that bears any of the following relationships to each other—

(a) immediate family;

(b) shared ownership, substantial investment, or other substantial financial interest in the same business enterprise; or

(c) a business enterprise in which a member has a substantial interest described above if that enterprise is itself a member;

“Reserve Bank” means the Reserve Bank of Fiji established under the Reserve Bank of Fiji Act 1983;

“sponsor” means any person or entity that provides resources or financial support to a credit union;

“supervisory agency” means an organisation, whether established in Fiji or any other jurisdiction, established by law with the responsibility for supervision of one or more types of financial service providers; and

“unsafe or unsound practice” means an action or inaction in the operation of a credit union that is contrary to generally accepted standards of prudent operation, the likely consequences of which, if continued, would be a material risk of loss or danger to a credit union, the credit union’s members, or an organisation insuring or guaranteeing the credit union’s shares and deposits.

*Objective*

**3.** The objective of this Act is to promote a sound financial system through the regulation, registration and supervision of credit unions.

**PART 2—SUPERVISORY AUTHORITY**

*Division 1—Reserve Bank*

*Administration*

**4.—(1)** The Reserve Bank must administer this Act and perform all the functions assigned to it by and under this Act.

(2) The Reserve Bank must discharge its functions in a way that is compatible with the objective of this Act and that the Reserve Bank considers most appropriate for the purpose of meeting the objective.

*Authority to contract for professional services*

**5.** The Reserve Bank may, negotiate, contract or enter into an agreement for professional services, in accordance with applicable procurement requirements.

*Division 2—General provisions*

*Fees*

**6.—(1)** The Minister may, in consultation with the Reserve Bank, prescribe fees to cover expenses associated with the licensing, registration and supervision of credit unions.

(2) The Reserve Bank must have regard to the anticipated costs of the Reserve Bank in performing any other function assigned to it under this Act.

(3) The fees payable under this section must be paid upon the grant of the licence or registration, and thereafter on an annual basis.

*Annual report*

**7.** The Reserve Bank must prepare an annual report detailing its activities for the preceding year, including—

- (a) the number of examinations performed;
- (b) its performance in achieving the objective of this Act;
- (c) financial information on the credit union sector during the preceding year;
- (d) the outlook for the credit union sector; and
- (e) any other pertinent matters necessary to achieving the objective of this Act.

*Other responsibilities*

**8.** The Reserve Bank must—

- (a) maintain accurate and updated records on credit unions;
- (b) act as liaison with all credit unions and with the Credit Union League; and
- (c) provide assistance and advice as necessary to assist officers and members of the Credit Union League in due observance of, and compliance with, this Act.

*Exclusion from liability*

**9.** Neither the Reserve Bank nor any director, officer or an employee of the Reserve Bank or person authorised to assist the Reserve Bank under section 5 or person acting as a director or an employee of the Reserve Bank is liable in any manner whatsoever for anything done or omitted to be done in good faith in the discharge or purported discharge of the functions and duties of the Reserve Bank under this Act.

PART 3—ESTABLISHMENT AND OPERATION OF A CREDIT UNION

*Division 1—Licensing and registration requirements*

*Application for licence*

**10.**—(1) Thirty or more individuals with the intention to carry on credit union business must obtain a licence from the Reserve Bank.

(2) Each individual must—

- (a) be at least 18 years old;
- (b) be a citizen or resident of Fiji for the purposes of tax law;
- (c) have subscribed for a qualifying share of at least 10 membership shares; and
- (d) share the common bond of membership as stated in the application.

(3) The applicants or organisers must file with the Reserve Bank an application in a form approved by the Reserve Bank accompanied with a prescribed fee.

(4) An application for a licence must include—

- (a) the application form which must state—
  - (i) the name of the credit union;
  - (ii) the physical address of the credit union’s principal place of business;
  - (iii) a declaration that the credit union’s term of existence is perpetual;
  - (iv) the aggregate value of all initial qualifying and membership shares;
  - (v) the name and address of, and the number of withdrawable and non-redeemable shares subscribed to by each organiser; and
  - (vi) the number of directors constituting the initial board and the name and address of each person who will serve as director until the first annual meeting;
- (b) the common bond of membership shared by the members of the credit union at the time of application;
- (c) a copy of the by-laws for the general operation of the credit union;
- (d) a business plan covering 3 years and providing a detailed explanation of actions intended to accomplish the primary functions of the credit union; and
- (e) such other information as the Reserve Bank may prescribe consistent with achieving the objective of this Act.

*Application for registration*

**11.**—(1) Less than 30 individuals with the intention to carry on credit union business must obtain registration from the Reserve Bank.

- (2) An individual must—
  - (a) be at least 18 years old;
  - (b) be a citizen or resident of Fiji for the purposes of tax law;
  - (c) have subscribed for a qualifying share of at least 10 membership shares; and
  - (d) share the common bond of membership as stated in the application.
- (3) The applicants must file with the Reserve Bank an application in a form approved by the Reserve Bank accompanied by a prescribed fee.
- (4) An application for registration must include—
  - (a) the application form which must state—
    - (i) the name of the credit union;
    - (ii) the physical address of the credit union's principal place of business;
    - (iii) a declaration that the credit union's term of existence is perpetual;
    - (iv) the aggregate value of all initial qualifying and membership shares;
    - (v) the name and address of, and the number of withdrawable and non-redeemable shares subscribed to by each organiser;
    - (vi) the number of directors constituting the initial board and the name and address of each person to serve as director until the first annual meeting; and
    - (vii) the common bond of membership shared by the members of the credit union at the time of application;
  - (b) a copy of the by-laws for the general operation of the credit union;
  - (c) a business plan covering 3 years and providing a detailed explanation of actions intended to accomplish the primary functions of the credit union; and
  - (d) such other information as the Reserve Bank may require consistent with achieving the objective of this Act.
- (5) Where the Reserve Bank is satisfied that the persons applying to be registered as a credit union under this section have complied with this Act, the Reserve Bank must—
  - (a) enter the name of the credit union in the Register of Credit Unions established and maintained by the Reserve Bank; and
  - (b) issue a certificate of registration.
- (6) The Reserve Bank may determine that a registered credit union be licensed, giving due consideration to its membership and deposit size.

*Co-operatives*

**12.—**(1) A co-operative which is registered under the Co-operatives Act 1996 with 30 or more members and carries out credit union business must apply for a credit union licence under this Act.

(2) A co-operative with less than 30 members and carries out credit union business must apply for registration as a credit union under this Act.

*Viability of credit union*

**13.** No credit union is to be licensed or registered under this Act unless it is considered to be economically viable in the long-term by the Reserve Bank on the basis of the following assessment—

- (a) demand for the proposed services;
- (b) projected asset base of the credit union;
- (c) membership size and growth potential of the credit union; and
- (d) capacity to provide competitive products and services on a sustainable basis.

*Standard by-laws*

**14.—**(1) The Reserve Bank may provide standard by-laws to facilitate the establishment of a credit union and the governance of its operations.

(2) The standard by-laws must be made available without charge to a person desiring to establish a credit union.

(3) A credit union may make by-laws to be known as supplementary by-laws by no less than two-thirds vote of the members present at an annual general meeting or at a special general meeting called for the purpose of making the supplementary by-laws for the credit union.

(4) The supplementary by-laws made under subsection (3) may amend or repeal the standard by-laws, on the approval of the Reserve Bank.

(5) A supplementary by-law may only be used by a credit union on the approval of the Reserve Bank.

*Prohibition from doing credit union business without a licence or registration*

**15.—**(1) A person must not engage in credit union business in Fiji unless the person is licensed or registered under this Part.

(2) The name of a credit union must include the words “Credit Union” or the abbreviation “CU” and an appropriate descriptive word or words, or an acronym made up of initials of the appropriate descriptive word or words and ending in “CU”.

(3) Unless a credit union is formed by merger or consolidation, the Reserve Bank may not issue a licence to the credit union or approve the change of the name of the credit union if it would have the same name as another credit union or a name nearly resembling the name of another credit union as to cause confusion or be calculated to deceive.

(4) An organisation that is not a credit union authorised to do business in Fiji must not use a name or title containing the words “credit union” or any derivation of that term that—

- (a) indicates or reasonably implies that the person or organisation carries on or transacts the kind of business carried on or transacted by a credit union; or
- (b) is calculated to lead a person or organisation to believe that the business being conducted is the type of business carried on or transacted by a credit union.

(5) A person who contravenes this section commits an offence and is liable to a fine not exceeding \$3,000 for each day during which the contravention continues.

*Investigation by Reserve Bank*

**16.** The Reserve Bank may investigate to verify compliance with all the requirements of law and may obtain any information or report from any person or organisation, including a law enforcement agency, that the Reserve Bank considers necessary in connection with its action on an application to licence or register a credit union.

*Decision on an application be in writing*

**17.—(1)** An application to licence or register a credit union must be approved if the Reserve Bank determines—

- (a) that the applicants or organisers have complied with this Act and the regulations issued under this Act; and
- (b) that—
  - (i) the character and general fitness of the initial board members meet the requirements of section 35 and warrant belief that the credit union’s business and affairs will be properly administered in accordance with this Act;
  - (ii) the character and size of the field of membership to be served by the credit union conform with this Act and policies issued under this Act and favour the credit union’s economic viability; and
  - (iii) the applicants or organisers and the members of the initial board are acting in good faith and are making the application in accordance with this Act.

(2) The Reserve Bank must consider the effect of overlapping fields of membership on the applicant and existing credit unions and may consider the availability and adequacy of financial services in the local community and the effect that the opening of a credit union would have on the local community.

(3) As a condition of approval of the application, the Reserve Bank may require the applicant to limit or eliminate overlaps to achieve the objective of this Act and promote the welfare and stability of the credit unions.

(4) Within 60 working days of receipt of the completed application, the Reserve Bank must make a decision on the application.

(5) The Reserve Bank may grant conditional approval of an application and must communicate the conditions in writing to the applicant.

(6) Where the Reserve Bank does not approve the application, it must provide its reasons for doing so in writing.

(7) An approved application must be accompanied with a licence or registration which must—

- (a) be in writing;
- (b) set out the name and business address of the credit union;
- (c) set out the date of licence or registration;
- (d) be accompanied by the approved by-laws; and
- (e) be displayed at the credit union's principal place of business in a prominent manner and a copy of its licence or certificate of registration at each of its branches.

(8) The Reserve Bank must retain copies of the licence and registration and the approved by-laws of the credit union.

*Appeal to Credit Union Tribunal*

**18.** A person aggrieved by a decision of the Reserve Bank on an application to license or register a credit union may appeal to the Credit Union Tribunal.

*Effect of licence or registration*

**19.—**(1) A credit union's existence as a body corporate begins when the Reserve Bank issues the licence or approves the registration.

(2) The licence or registration is conclusive evidence that the credit union is licensed or registered under this Act and may commence business when the requirements of section 20 are met.

*Requirements for commencing business*

**20.—**(1) Before a credit union may transact any business that is not incidental to its establishment, the credit union must have—

- (a) received paid-in membership shares or deposits of at least \$1,000;
- (b) fulfilled all agreements and conditions related to the approval of its application and the issuance of its licence or registration; and
- (c) received written acknowledgement that the Reserve Bank has no objection to the commencement of business by the credit union within 60 working days.

(2) The Reserve Bank may provide additional requirements that a credit union must meet before conducting credit union business.

*Deadline for commencing credit union business*

**21.—**(1) A credit union must begin business within 6 months after the approval and issuance of a licence or registration.

(2) On request and for good cause shown, the Reserve Bank may grant a credit union that has not begun business within the time prescribed under subsection (1) a reasonable extension to provide an opportunity to overcome the cause of the delay.

(3) The applicants may appeal a decision of the Reserve Bank refusing a request for an extension, to the Credit Union Tribunal.

(4) The Reserve Bank may cancel the licence or registration if a credit union does not commence business within the prescribed time.

*Establishment costs*

**22.** All establishment costs and expenses in connection with the credit union and preparation for commencing business may be paid only from funds provided by the applicants or organisers or a sponsor and may be reimbursed by the credit union only out of undivided earnings, after provision has been made for required reserves.

*Division 2—Membership*

*Members*

**23.—(1)** A person may apply to be a member of a credit union if the person—

- (a) shares the common bond of membership as stated in the by-laws;
- (b) has acquired at least one qualifying share and met any membership requirements established by the board; and
- (c) has complied with any other requirement of the by-laws.

(2) A person may also apply to be a member of a credit union if the person is a member of the immediate family of a person who meets the requirements of subsection (1) unless the by-laws adopted by the credit union provides otherwise.

(3) A co-operative, association, or partnership may apply to be a member of a credit union on the grounds of sharing the common bond of membership of the credit union only if it is composed of individuals eligible for membership under subsection (1).

(4) A company may share the common bond of membership if members of the credit union own at least 80% of the voting shares of the company and no non-member controls the company.

(5) A person's membership in a credit union may be terminated or suspended for good cause under the conditions and in accordance with the procedures provided in the by-laws.

(6) A credit union may also discontinue providing any or all services to a member for good cause without terminating or suspending the person's membership.

(7) Termination or suspension of a person's membership in a credit union or discontinuing services does not relieve the person from any outstanding obligations owed to the credit union.

(8) Two or more persons within a credit union's field of membership who have jointly subscribed for one or more share or deposit accounts under a joint account and who have complied with all membership requirements may each be admitted to membership.



(9) A credit union must maintain a register of its members.

*Application for membership*

**24.**—(1) An application for membership must be acted upon by the board of a credit union or by an officer appointed by the board.

(2) The record of the actions taken by the membership officer on applications must be available to the board for inspection at any time.

(3) A person denied membership by a membership officer may appeal the decision to the board.

*Meetings*

**25.**—(1) The members of a credit union must hold an annual general meeting no later than 4 months after each financial year end.

(2) A special meeting of the members may be called by the members or the board in the manner provided for in the by-laws.

(3) A special meeting of the members may also be called by the supervisory committee in accordance with section 33(9).

(4) For any decision requiring action by the members, each member has only one vote.

(5) A member of a credit union is not entitled to vote by proxy.

(6) An organisation who is a member may vote through an agent designated in writing by the organisation's governing body to represent the organisation.

(7) The board may authorise member voting by mail including electronic mail.

(8) The minimum age requirement to vote is 18 years.

*Amendment of by-laws*

**26.**—(1) The members of a credit union may amend the by-laws of the credit union by two-thirds vote of the members present at a duly constituted annual or special meeting.

(2) Any amendment endorsed by the special meeting must be submitted to the Reserve Bank for approval.

(3) The Reserve Bank must approve or not approve an application to amend the by-laws of a credit union no later than 20 working days after the date the notice of an amendment is received and must do so in writing

(4) The Reserve Bank must specify the reasons for not approving an application.

(5) Upon receipt of Reserve Bank's approval, an amendment takes effect on the date determined by the meeting of the members of the credit union that endorsed the amendment.

*Liability of members*

**27.** The members of a credit union are not personally or individually liable for the payment of the credit union's debts in excess of the amount of their individual qualifying and membership shares.

*Division 3—Directors, committees and general manager**Board of directors*

**28.—(1)** A credit union must have a board of not less than 5 and no more than 9 members or such maximum number of members as the Reserve Bank may specify.

(2) The members of the credit union must elect the directors from among the members present at an annual general meeting in the manner provided for in the by-laws of the credit union.

(3) A director holds office until a successor is elected or appointed, unless the director's office becomes vacant in accordance with section 30.

(4) A director must take and subscribe to an oath or affirmation that the director—

- (a) will diligently and honestly perform the director's duties in administering the credit union's affairs;
- (b) will not knowingly violate or willingly permit the violation of an applicable law;
- (c) will exercise the care and diligence reasonable and necessary to administer the affairs of the credit union in a safe and sound manner; and
- (d) understands that, although the board may delegate certain duties to officers, directors, committee members or employees of the credit union, the board remains responsible for the performance of those duties.

(5) The term of office for a director must not exceed 3 years, and must be assigned in such a manner to ensure that the terms of the elected directors do not all expire at the same time.

(6) A director must not serve more than 3 consecutive terms and may be re-elected or reappointed after a period of absence from the board of 3 years.

(7) The board must meet at least once a month.

(8) The minutes of all meetings must be signed by all directors present at the meeting and kept in the records of the credit union.

(9) The presence of more than 50% of the total number of directors constitute a quorum, unless the by-laws require a greater number.

(10) If provided in the by-laws, a director may participate in and act at a meeting of the board by means of electronic communication through which all persons participating in the meeting can communicate with each other.

*Duties of board*

**29.—(1)** A board is responsible to the members of a credit union for the management of the credit union business of the credit union.

(2) The duties of a board are as follows—

- (a) act upon applications for membership or to appoint one or more officers to consider and approve applications for membership under such conditions as the board determines;
- (b) purchase a blanket fidelity guarantee policy of insurance, in accordance with the regulations issued under this Act, to protect the credit union against losses caused by occurrences covered therein such as fraud, dishonesty, forgery, embezzlement, misappropriation, misapplication, or unfaithful performance of duty by a director, officer, employee, member of a committee, or other agent;
- (c) determine the interest rate charged on loans;
- (d) establish the policies of the credit union with respect to the granting of loans and the extending of lines of credit, including requirements for security on loans;
- (e) approve or delegate the approval of any loans as prescribed by the by-laws;
- (f) establish risk-management policies for all major activities of the credit union, in particular, the lending, investments, liquidity and asset liability management, accounting policies and audit and internal control systems;
- (g) establish different types or classes of shares;
- (h) declare dividends on shares in the manner and form as provided in the by-laws, determine the interest rate or rates that will be paid on deposits;
- (i) have charge of the investment of funds, except that the board may designate an investment committee or any qualified professional to have charge of making investments under conditions established by the board;
- (j) if necessary, hire and fix the compensation of a general manager and establish guidelines for the employment of such additional persons as are necessary to carry on the business of the credit union;
- (k) approve an annual operating budget for the credit union;
- (l) authorise the conveyance of property;
- (m) authorise contributions to civic, charitable or service organisations;
- (n) borrow to carry on the functions of the credit union;
- (o) designate a depository or depositories for the funds of the credit union;
- (p) suspend any or all members of the credit or supervisory committee for failure to implement board policies or otherwise perform their duties;
- (q) appoint any special committees deemed necessary; and

- (r) perform any other duty that is necessary and proper to carry out the purposes and powers of a credit union as set out under this Act.

*Vacancies and removal*

**30.—**(1) Any member of the board, executive committee, supervisory committee or credit committee is deemed to have been vacated his or her office if—

- (a) he or she dies or resigns by giving notice to the board, and if a member of a supervisory committee or credit committee, giving notice to the supervisory committee or credit union, as applicable;
- (b) he or she applies for bankruptcy or is declared bankrupt;
- (c) he or she is delinquent with his or her creditors or any other credit union for over one month;
- (d) he or she becomes of unsound mind and has been found as such by a court or an accredited medical facility in Fiji;
- (e) he or she is convicted of any criminal offence under the Crimes Act 2009 resulting in imprisonment of one month or more, or a fine exceeding \$500;
- (f) has been convicted under a law designed to prevent money-laundering, terrorist financing, or other economic crimes; or
- (g) he or she has failed to attend 3 consecutive board or committee meetings, as applicable, without a valid reason.

(2) If the office of a member of the board, supervisory committee or credit committee becomes vacant, the members present at a meeting must, by majority vote, fill the vacant position.

(3) Notwithstanding subsection (2), where—

- (a) there is no quorum at a supervisory committee or credit committee meeting, the board may appoint a member to fill the vacant position; and
- (b) there is no quorum at a meeting the board, the remaining members of the board may call a special meeting for the purpose of electing a member to fill the vacant position.

(4) Where there are no members of the board, 25 members of the credit union or one-fifth of the members of the credit union, whichever is less, may appoint in writing at least 5 persons as interim members of the board for the purpose of calling a special meeting to elect members of the board.

(5) A member of the board elected under subsection (4) holds office until the next annual general meeting, at which the position is filled for the remainder of the unexpired term by vote of the members.

*Executive committee*

**31.—**(1) The board must elect from its members a chairperson and vice chairperson of the board.

(2) The chairperson and vice chairperson elected under subsection (1) may—

- (a) serve a one-year term or until a successor is elected; and
- (b) have the duties set out the by-laws.

(3) The board must also elect from its members a secretary and a treasurer or employ a financial officer and a secretary of the credit union.

(4) The board may designate the executive committee to exercise collectively, between board meetings, authority specifically delegated by the board under conditions specified by the board.

(5) The executive committee must consist of—

- (a) the chairperson;
- (b) the vice chairperson; and
- (c) one other member of the board.

(6) At each board meeting, the executive committee must report to the board regarding any meeting held or action taken by the committee between board meetings.

(7) A person below the age of 18 years must not hold any office or be eligible for any appointment in a credit union.

*General manager*

**32.**—(1) The board may employ a general manager of a credit union to whom it delegates the authority and responsibility for managing the credit union's day-to-day operations.

(2) The general manager may be a board member and must not be the chairperson, vice chairperson or secretary of the executive committee.

(3) The general manager must serve as the financial officer of the credit union, unless the board employs another person to serve as financial officer under subsection (4).

(4) Subject to the board's guidelines, the general manager may appoint or employ, and may discharge, any officer or any employee that the general manager considers necessary to operate the credit union.

*Supervisory committee*

**33.**—(1) A credit union must have a supervisory committee elected by its members at an annual general meeting and must consist of not less than 3 and not more than 5 members.

(2) The supervisory committee may fill vacancies of its own membership under section 30 until the next annual general meeting.

(3) A person who is a member of the board, credit committee or who is an employee of a credit union cannot be a member of the supervisory committee.

(4) The members of a supervisory committee may hold office for such term as the by-laws provide.

(5) The supervisory committee may meet at least quarterly and detailed minutes of its meetings must be kept and be available to the board.

(6) If provided in the by-laws, a committee member may participate in and act at any meeting of the committee by means of electronic communication through which all persons participating in the meeting can communicate with each other.

(7) The supervisory committee must—

- (a) oversee the system of internal controls of the credit union;
- (b) monitor the board's compliance with this Act and regulations as well as the by-laws and policies of the credit union;
- (c) review the financial affairs of the credit union at least quarterly;
- (d) develop a policy on rotation of the auditor under section 41 or the committee under section 42 to ensure continued independence of the person or organisation conducting the audit;
- (e) propose an independent auditor or members of the committee to conduct the audit, to the board in accordance with section 41 or section 42 as appropriate;
- (f) review the performance of the auditor; and
- (g) report to the board on a quarterly basis on any matter which, in its opinion, should be brought to the board's attention.

(8) If the supervisory committee determines that a board member, committee member or general manager of the credit union has breached the credit union's system of internal controls, including policies or procedures, the committee may recommend to the board to suspend the person and include a report to the members of the credit union at the next annual general meeting on the recommendation for termination.

(9) If the supervisory committee becomes aware of any matter which, in their opinion, should be placed before the members of the credit union, the committee may by a majority vote request the board to call a special meeting of the member of the credit union to consider the matter.

(10) A member of the supervisory committee may be removed by a decision of the members of the credit union at a special meeting or annual general meeting.

*Credit committee*

**34.—(1)** A credit union must have a credit committee elected by the members of the credit union at the annual general meeting.

(2) The credit committee must consist of not less than 3 members and not more than 5 members from the members of the credit union.

(3) The credit committee may fill vacancies in its own membership under section 30 until the next annual general meeting.

(4) The members of a credit committee may hold office for such term as the by-laws provide.

(5) A person who is a member of the board, supervisory committee or who is an employee of the credit union cannot be a member of the credit committee.

(6) The credit committee may meet at least once a month to consider applications for loans and other financing transactions, other than loans or financing transactions that are required to be approved by the board.

(7) If provided in the by-laws, a committee member may participate in and act at any meeting of the committee by means of electronic communication through which all persons participating in the meeting can communicate with each other.

(8) The credit committee may delegate to loan officers the authority to approve applications.

(9) Applications approved by the loan officers are to be reviewed by the credit committee at the monthly meetings.

(10) The minutes and reports of a meeting must be kept and be made available to the board.

*Fitness and propriety of directors, committee members and general manager*

**35.—**(1) A board member, committee member or a general manager of a credit union must be fit and proper and be of good repute and must meet the criteria established by the Reserve Bank regarding qualifications, experience and integrity.

(2) A person is not regarded as a fit and proper person if the person—

- (a) has been convicted of a criminal offence under the Crimes Act 2009 resulting in imprisonment of one month or more or a fine exceeding \$500;
- (b) has been convicted under a law designed to prevent money-laundering, terrorist financing, or other economic crimes;
- (c) has defaulted on payment for over one month of an obligation to any financial institution in the last 12 months;
- (d) has filed for bankruptcy or been declared bankrupt;
- (e) has been suspended, removed or prohibited from serving as a director or committee member of a financial institution by a supervisory agency; or
- (f) any other requirements as determined by the Reserve Bank for the purpose of achieving the objectives of this Act.

*Conflict of interest*

**36.—**(1) While serving as a board member, committee member or general manager of a credit union, a person must not—

- (a) participate, directly or indirectly, in the deliberation on or determination of a question affecting the person's pecuniary interest or the pecuniary interest of any related member; or

- (b) be employed by, engaged in, or own an interest in a business or professional activity that the person could reasonably expect to—
  - (i) require or induce the person to disclose confidential information acquired because of the person’s office or employment in the credit union; or
  - (ii) impair the person’s independence or judgment in the performance of the person’s duties or responsibilities to the credit union.

(2) While serving as a director, committee member or general manager of a credit union, a person must disclose to the board any interest that he or she may have in a matter coming before the credit union or its board and thereafter recuse himself or herself from participation in the discussion or voting on that matter.

*Directors, committee members and general manager*

**37.—(1)** A person must not be a member of a board, a committee member or a general manager of a credit union without obtaining the prior approval of the Reserve Bank.

(2) A credit union must notify the Reserve Bank of the proposed appointment of any person to the board or a committee or the employment of a general manager at least 30 days before the appointment or employment becomes effective.

(3) The Reserve Bank may issue a notice of disapproval if the person to be appointed or employed does not meet the criteria established by the Reserve Bank under section 35.

(4) The Reserve Bank may issue a notice of disapproval of the appointment of a member of the board of a credit union if the person already serves on the board of another credit union and the Reserve Bank believes that such service presents serious conflicts of interest or adverse effects on competition in the provision of financial services.

(5) In making a determination under subsection (4), the Reserve Bank must consider, among other things, whether the credit unions being considered by the Reserve Bank are significant competitors and whether they operate in the same geographical market.

(6) Where one of the credit unions is a new credit union, the Reserve Bank may take into consideration whether any adverse effects are outweighed in the public interest by benefits provided through the director’s service to the new credit union.

(7) A credit union must not appoint a member of the board or a committee or employ a person as a general manager if the Reserve Bank issues a notice of disapproval with respect to the person.

(8) Any credit union on becoming aware of circumstances that indicate that a member of the board, a committee or a general manager may not satisfy the criteria established by the Reserve Bank under section 35, must notify the Reserve Bank.

(9) Any director, a committee member or a general manager who falls within any of the disqualifications under section 35 must discontinue serving as a director, committee member or general manager, as the case may be.



*Compensation*

**38.** A person may receive compensation in cash or in kind for serving as a member of the board or committee of a credit union, provided that the compensation is clearly disclosed and approved at an annual general meeting of the credit union.

*Division 4—Financial statements and audits*

*Books and records*

**39.—**(1) A credit union must maintain books and records of its assets and liabilities and all transactions the credit union undertakes for its own account and for that of a member of the credit union.

(2) The books and records of a credit union may be maintained at the place of business of the credit union and must be separate from the books and records of any other organisation or person, including a sponsoring organisation.

*Financial statements*

**40.—**(1) A credit union must prepare financial statements for each financial year in accordance with generally accepted accounting practice and in compliance with any specific requirements provided by the Reserve Bank.

(2) The financial year of the credit union may be 30 June of each year or as determined by the Reserve Bank.

*Audits and auditors*

**41.—**(1) The supervisory committee of each credit union must obtain an annual audit of the financial statements of the credit union, conducted by the auditor appointed in accordance with subsection (6).

(2) Upon completion of the audit, the auditor must report to a joint meeting of the board and the supervisory committee.

(3) A copy of the audited financial statements must be submitted to the Reserve Bank within 90 days of the end of the financial year.

(4) The audited financial statements must be presented at an annual general meeting of the credit union which must be held no later than 4 months after the end of the financial year unless authorised by the Reserve Bank on a written request from the board of a credit union to convene the meeting at a later date.

(5) The board or the supervisory committee of a credit union may obtain a supplementary audit or examination whenever the credit union considers it necessary or when required by the Reserve Bank.

(6) The credit union may appoint an independent auditor at the annual general meeting of the credit union on the recommendation of the supervisory committee and the board, and the appointed auditor must be approved by the Reserve Bank to perform the audits required under this section.

(7) The auditor must meet the necessary qualifications and experience and be registered with the Fiji Institute of Chartered Accountants.

(8) If the members of a credit union at the annual general meeting reject the recommendation of the supervisory committee and the board in subsection (6), a written explanation must be provided to the Reserve Bank of its reasons for rejection.

(9) Prior to changing the auditor, the board must inform the Reserve Bank in writing of the reasons for the change, and the name and qualifications and experience of the proposed new auditor.

(10) A person may not serve as the independent auditor of a credit union if—

- (a) the person is a director, committee member, general manager or employee of the credit union;
- (b) the person is a related member to persons listed in paragraph (a); or
- (c) a situation, condition, or relationship exists that, in the opinion of the Reserve Bank, prevents the person from performing the audit in an objective and independent manner.

(11) If the Reserve Bank finds that the board has not complied with this section, the Reserve Bank may appoint an independent auditor meeting the requirements of this section to perform the audit and the credit union must pay the cost of the audit.

*Alternative optional audit procedure for registered credit unions*

**42.—**(1) Notwithstanding section 41, a credit union with assets less than an amount prescribed by regulations may, with prior approval of the Reserve Bank, obtain an annual audit performed by a committee at the end of the financial year of the credit union.

(2) The committee under subsection (1) must consist of at least 2 and not more than 5 persons who—

- (a) are not members of the board other committees or employees of the credit union;
- (b) are not related members of the board, committees or employees of the credit union listed in paragraph (a);
- (c) in the opinion of the Reserve Bank, have a relevant qualifications and experience to perform the audit in an objective and independent manner and registered with the Fiji Institute of Chartered Accountants; and
- (d) may be a member of the credit union.

(3) The supervisory committee of a credit union may—

- (a) propose members of the committee meeting the qualifications of subsection (2) to the board;
- (b) inform the Reserve Bank of the name and qualifications of the proposed members for approval; or
- (c) prior to changing any member of the committee, inform the Reserve Bank in writing of the reasons for the change and the name and qualification of the proposed new member.

(4) If the board rejects the recommendation of the supervisory committee under subsection (3)(a), the board must provide a written explanation of its reasons for rejection to the supervisory committee.

(5) The supervisory committee must—

- (a) present a written report of its annual audit to the board within 90 days before the end of the financial year of the credit union; and
- (b) present the written report to the members of the credit union at the annual general meeting.

(6) In this section, unless the context otherwise provides “audit” means a comprehensive review of compliance with the internal policies, procedures, and controls of the credit union, this Act, the regulations, and the by-laws that is sufficient for the committee to reach a reasonable conclusion that the financial statements of the credit union fairly and accurately represent the condition of the credit union.

#### *Division 5—Reserves, capital and liquidity*

##### *Regulatory reserves allocations*

**43.**—(1) A credit union must maintain a regulatory reserve that comprises transfers of 20% from net income until the regular reserve equals 10% of the total assets.

(2) The regulatory reserve belongs to the credit union and may be used to meet losses.

(3) In the event of a decrease in the reserves, the Reserve Bank may require additional transfers to the regular reserve above the amount required by subsection (1) until the amount of the loss has been restored to the reserve.

(4) The board of a credit union may establish other reserves whenever it determines the reserve to be necessary or appropriate.

##### *Capital requirement*

**44.**—(1) A credit union must maintain a capital ratio as the Reserve Bank may determine.

(2) For the purposes of the capital ratio, “capital” may include retained earnings, regulatory reserves, qualifying shares, capital donations or other surpluses of the credit union.

(3) Membership shares may be included in the calculation of capital but only if they are fully paid, permanent and non-redeemable.

(4) Complex credit unions and credit unions with over \$100 million in assets may be required by the Reserve Bank to perform the calculation of the capital ratio using risk-weighted assets.

(5) The Reserve Bank may issue prudential requirements regarding capital, including but not limited to requirements specifying the characteristics of a complex credit union and the assignment of risk weights to asset categories.

(6) If the Reserve Bank determines that a credit union has insufficient capital necessary to shield against the risks, both on and off the balance sheet, arising from the business of that credit union, it must direct the credit union to increase its capital to the level determined by the Reserve Bank to be sufficient, consistent with the calculated capital ratio using risk-weighted assets.

*Statutory liquidity deposit*

**45.—**(1) A credit union must maintain a minimum statutory liquidity deposit as the Reserve Bank may determine.

(2) The board of a credit union may establish a higher amount whenever it determines the liquidity needs to be necessary or appropriate.

(3) The statutory liquidity deposit must be used to meet liquidity requirements in the event of demand for cash withdrawals.

(4) The Reserve Bank may require additional liquidity to be maintained based on the type of deposit held by the members.

(5) The funds held in a statutory liquidity deposits must not have a maturity of greater than one year.

(6) A credit union's statutory liquidity deposit may be vested to a Credit Union League for investment subject to the agreement between the credit union and the Credit Union League.

## PART 4—ACTIVITIES OF CREDIT UNION

### *Division 1—Powers of credit union*

#### *General and incidental powers*

**46.—**(1) A credit union may exercise any right, privilege or incidental power necessary or appropriate to accomplish the purpose for which it is established under this Act.

(2) A credit union must not engage in any business or activity except as specifically authorised by this Act unless the Reserve Bank approves a business or activity as permissible for a credit union to accomplish the purposes for which it is established.

#### *Additional powers*

**47.** A credit union licensed or registered under this Act—

- (a) has perpetual succession unless the licence or registration is revoked by the Reserve Bank;
- (b) is authorised to enter into contracts; and
- (c) may sue and be sued in its own name.

#### *Purchase and sale of property*

**48.—**(1) Subject to the approval of the Reserve Bank, a credit union may—

- (a) purchase, hold or lease real property as may be necessary for its use as credit union premises;

(b) purchase, hold or lease such personal property as may be necessary or incidental to the operation of the credit union; and

(c) acquire property in the process of collecting loans.

(2) A credit union must not invest in a credit union premise, directly or indirectly, in an amount that exceeds its capital, provided however that, with the prior approval of the Reserve Bank, and upon having demonstrated to the Reserve Bank's satisfaction an essential need therefore, the limit may be increased to 150 % of the credit union's capital.

(3) Any real property acquired by a credit union in the process of collecting loans must be disposed of as soon as possible but in any event within 5 years from the date on which the credit union acquired such interest.

(4) The credit union may seek an extension of time from the Reserve Bank if the credit union is unable to dispose of the real property within the specified time.

*Division 2—Share accounts, deposit accounts and borrowings*

*Membership shares*

**49.**—(1) A credit union may offer an unlimited amount of membership shares at a par value established in the by-laws.

(2) The by-laws of a credit union may fix the minimum number of membership shares to which a member must subscribe and may limit the number of shares that may be owned by a member, however any such limitation must be applied equally to all members.

(3) The payment of membership shares are to be made in accordance with the manner as provided in the by-laws.

(4) The membership shares may be issued in a certificate form or may be held in an account on the books of the credit union.

(5) A joint share account may hold more than one membership share.

*Authority to mobilise deposits*

**50.**—(1) A credit union may—

(a) receive deposits from members in demand, savings or in fixed-term accounts; and

(b) with the approval of the Reserve Bank, receive deposits from members in other demand deposit accounts.

(2) A credit union may, with the prior approval of the Reserve Bank, accept deposits from non-member co-operatives and other credit unions in fixed-term accounts.

(3) The terms, interest rates and conditions under which deposits are accepted to be established by the board of the credit union and must be set forth in an agreement between the credit union and its depositor.

*Dividends and interest*

**51.—**(1) A credit union may—

- (a) declare and pay dividends on its shares;
- (b) pay interest on deposits; and
- (c) pay patronage rebates.

(2) A dividend or an interest payment may be made at the rates and under the conditions authorised by the board.

(3) A dividend may be paid only after a transfer to reserves required under section 43 has been made.

(4) The Reserve Bank may restrict the payment of a dividend—

- (a) if the restriction is pursuant to an enforcement action taken under section 103;
- (b) if payment of the dividend would cause the credit union to fall below the capital requirement under section 44; or
- (c) as necessary to protect the interests of members and to preserve the solvency of the credit union.

(5) A credit union must obtain the written approval from the Reserve Bank prior to paying dividends in any calendar year in which the credit union suffers a net loss or in which the dividend would be in excess of the amount of the credit union's net income for that year.

*Account withdrawals*

**52.—**(1) A deposit may be withdrawn for payment to a member according to the terms, conditions and classification of the account agreed upon by the credit union and the member.

(2) The Reserve Bank may impose an advance withdrawal notice requirement following issuance of an enforcement action taken pursuant to section 103.

(3) The Reserve Bank must ensure that any requirement imposed under subsection (2) applies to all members of the credit union.

*Receipt, transfer and payment*

**53.—**(1) A credit union may—

- (a) receive money, including payments on shares or money for deposit;
- (b) disburse money; or
- (c) provide for the transfer or withdrawal of money from an account by the means and through the payment systems that the board determines best serve the convenience and needs of the members.

(2) A credit union may also—

- (a) receive money including transfers made on digital platforms for deposit from a bank, an insurance company, or any other intermediary holding money on behalf of the credit union or one of its members;
- (b) accept grants or donations of money from national or international development agencies or other donors;
- (c) act as agent or depository and accept money for deposit from the government, or an international financial institution;
- (d) sell to a member negotiable cheques, money orders, and other similar money transfer instruments or services; or
- (e) cash or issue money orders to a member for a fee.

*Approval for borrowings required*

**54.**—(1) A credit union may incur debt only with the Reserve Bank’s written approval.

(2) The Reserve Bank may issue prudential requirements regarding such borrowings.

*Share and deposit insurance protection*

**55.** A credit union licensed or registered under this Act may be authorised to participate in share and deposit insurance protection plans, subject to requirements as the Reserve Bank may provide.

*Dormant account*

**56.**—(1) If there has been no activity on a member’s redeemable share or deposit account for 5 consecutive years, the board of directors may impose a maintenance fee as the Reserve Bank may determine.

(2) The credit union must give notice of this action to the member at the last known address, allowing at least 60 days for a reply.

(3) Any such maintenance fee may be fixed at a rate that covers administrative costs, but must not reduce a member’s interest in the credit union below one membership share.

(4) The credit union must maintain a separate accounting record of all such accounts.

(5) Any outstanding balance after 2 consecutive years, from which an account is being charged a maintenance fee under subsection (3), is deposited to the credit union’s special reserve account.

*Abandoned property*

**57.**—(1) Redeemable share and deposit accounts, dividends, interest and other sums due to a member and held by the credit union may be presumed to be abandoned unless the member has contacted the credit union in writing or in person within 7 years.

(2) The board of a credit union may credit the abandoned funds to the credit union’s special reserve account and discontinue payment of dividends or interest.

(3) The credit union must send a notice of this action to the member to whom the property is owed, at the last address shown on the credit union's records and allow 90 days for a response.

(4) After 3 years in the special reserve account, the credit union may donate the property to a recognised charity selected by the board of directors.

*Form of account*

**58.**—(1) A member of a credit union may designate one or more persons to own a share or deposit account with the member in a multiple-party account.

(2) The account may provide for rights of survivorship.

*Powers of account holders*

**59.**—(1) A party to a multiple-party account may make payments and withdrawals on a share or deposit account subject to the account agreement and the terms and conditions set by the credit union.

(2) A party to the account may not vote in matters pertaining to, obtain a loan through, or hold office in the credit union unless such party is a member of the credit union.

*Ownership interest*

**60.** Unless otherwise provided by the account agreement, the parties to a multiple-party account are presumed to own the account in equal interests.

*Discharge of liability on payment*

**61.** Payment of part or all of a multiple-party account to a party to the account discharges the credit union's liability to each party to such account to the extent of the payment.

*Division of account on death*

**62.** Unless otherwise provided by the account agreement or a trust agreement, the only effect that the death of a party to a multiple-party account has on the beneficial ownership of the account is to transfer the deceased's right in the account to the deceased's estate.

*Account in the name of minor*

**63.** A credit union may open a membership share or deposit account in the name of a minor through a member and conduct all payments, withdrawals or other matters with respect to the account.

*Voting and office-holding*

**64.** A minor is not eligible to vote at a meeting of a credit union and cannot hold an office or committee membership in the credit union.

*Discharge of liability on payment*

**65.** A payment or delivery of rights made by a credit union to any of the following persons in connection with an account in the name of a minor discharges the credit union to the extent of the payment or delivery to—

- (a) the minor;
- (b) a party to the account; or



- (c) the parent or guardian of a deceased minor.

*Division 3—Loans and investments*

*Power to lend*

**66.**—(1) A credit union may lend its funds to its members, or engage with its members in any other type of secured or unsecured financing transaction subject to this Act, and the by-laws and policies of the credit union.

(2) An extension of credit to a non-member is not permitted, except as provided in section 82.

*Limitations on loans*

**67.**—(1) A credit union must not make a loan to a member or a group of related members if the loan would cause the aggregate amount of loans to the member or the group of related members to exceed—

- (a) an amount equal to 20% of the credit union’s total capital; or
- (b) such lesser amount as may be determined by the Reserve Bank for the purpose of achieving the objectives of this Act.

(2) A credit union or its directors, committee members or employees must not make or grant any loan or gratuity to any employee of the Reserve Bank who has authority to examine or otherwise supervise such credit union.

(3) A credit union that contravenes subsection (2) is subject to an administrative penalty as may be determined by the Reserve Bank.

(4) For the purposes of this section, a loan must include any obligation of a member as guarantor.

*Interest rates*

**68.** A credit union may charge current market rates on loans and lines of credit as approved by the board.

*Written instrument required*

**69.**—(1) A loan must be applied for in writing or permissible electronic means by filling out an application form.

(2) Each loan must be evidenced by an appropriate legal document, such as a loan agreement or promissory note.

*Line of credit*

**70.** A credit union may approve in advance a line of credit and grant advances to a member within the limit of the line of credit.

*Tie in provisions prohibited*

**71.** A credit union must not demand from a potential borrower, in consideration of obtaining a loan, that—

- (a) additional services, such as appraisal valuations or insurance coverage, be acquired from a single provider; or

- (b) require that the borrower utilise other services of the credit union (other than a deposit account).

*Additional requirements for loans to directors, committee members and senior management*

**72.—**(1) A loan to a director, committee member, senior management and their related members—

- (a) must comply with this Act and prudential requirements issued by the Reserve Bank under this Act;
- (b) for the loan applicant, or the director, committee member or senior management related to the loan applicant, must not be present nor participate in the consideration of the credit application and the requirements of section 143 must be met;
- (c) must be approved by the board before the credit union makes or agrees to make the loan, regardless of the amount of the loan; and
- (d) must, when combined with all other outstanding loans to such persons, such persons' business interests, and such persons' related members, not exceed 20% of the credit union's total capital.

(2) For the purposes of this section, a loan to a director, committee member and senior management must include any obligations of such persons as guarantor as authorised under section 73.

*Authorisation to act as guarantor*

**73.** The board must give its approval before the credit union permits a director, committee member or senior management to act as guarantor of any loan to a member, regardless of the amount of the loan.

*Purchases of assets and services from insiders*

**74.** A credit union may purchase assets or obtain services from, or sell assets to, its directors, committee members and senior management only on terms that are no less favourable to the credit union than the terms on which such assets or services could be obtained by the credit union in arm's length transactions with other persons or organisations.

*Borrower payment of loan expenses*

**75.** A credit union may require a member to pay all reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, collecting, or renewing a loan.

*Prepayment privilege*

**76.—**(1) A loan may be prepaid in whole or in part, without penalty, during regular working hours on any day on which the credit union is open for business.

(2) The right of prepayment must be reflected in the written instrument required under section 81.

*Penalty for late payment*

**77.**—(1) A credit union, in accordance with its by-laws, may charge a member a penalty when a loan payment is past due.

(2) A credit union may charge only one penalty on each past due payment.

(3) This section does not prevent the continuing accrual of interest on a past due payment in accordance with the terms of the loan.

*Liens and set offs*

**78.** To the extent of a member's direct or indirect indebtedness to a credit union, the credit union has—

(a) a lien on the member's shares and deposits, accumulated dividends, and interest; and

(b) a right to set off against the member's membership shares, deposits, accumulated dividends, and interest.

*Illegality of loan not a defence*

**79.** The illegality of a loan is not a defence in a credit union's action to recover the loan, and does not prevent enforcement of the loan agreement or collection of the loan from a person who is otherwise liable on the loan, including—

(a) the borrower; or

(b) a guarantor.

*Government loan programmes*

**80.** A credit union may participate in a guaranteed loan programme of the Government, and any other Government loan programme approved by the Reserve Bank.

*Allowance for loan losses*

**81.**—(1) At least quarterly, the board of a credit union must evaluate the quality and collectability of the loan portfolio and establish an adequate loan loss allowance.

(2) The Reserve Bank may issue prudential requirements to implement subsection (1).

*Loans to Credit Union League*

**82.**—(1) Subject to the limitations of this section, a credit union may make—

(a) loans to the Credit Union League established under section 155; and

(b) loans to another credit union, a central liquidity facility established under law, or an organisation established for lending directly or collectively to credit unions.

(2) A loan under subsection (1)(a) must not exceed 10% of the credit union's total assets provided that it meets the requirements under section 67.

*Board responsibility*

**83.** A board must establish written policies for investing funds of a credit union not used in loans to members, and ensure that it complies with this Act.

*Permitted investments*

**84.** A credit union may invest money in—

- (a) obligations, bonds, notes, or other evidence of indebtedness of the Government or statutory corporations;
- (b) certificates of deposit or other accounts issued by a commercial bank, or licensed financial institutions;
- (c) membership shares of, or deposits in another credit union, a reserve liquidity facility established under law, or an organisation established for lending directly or collectively to credit unions; and
- (d) such other investments as the Reserve Bank may approve consistent with achieving the objectives of this Act.

*Insurance for members*

**85.** A credit union may purchase or otherwise provide one or more group insurance policies for the benefit or convenience of its members, and it may act as an agent in connection with the sale of individual insurance policies to members, in accordance with applicable written laws.

*Electronic transfers*

**86.** With the prior written approval of the Reserve Bank, a credit union may establish, operate, or participate in a system that allows the transfer of credit union money or deposits of its members by electronic or other means, including a clearinghouse association, a data processing or other electronic network, or any other government payment or liquidity programme.

*Electronic banking*

**87.—(1)** With the prior approval of the Reserve Bank and subject to any conditions that the Reserve Bank may impose, a credit union may offer permissible financial services to its members and other customers through the use of computers, the internet and other electronic means.

(2) The Reserve Bank may authorise the provision of electronic banking services provided such services do so in a manner that—

- (a) is consistent with safe and sound credit union practices;
- (b) provides adequate security to members and other customers, the credit union itself and to others;
- (c) protects the privacy of members and other customers; and
- (d) does not prejudice the interests of members and other customers.

(3) The Reserve Bank may provide additional requirements regarding the provision of electronic banking services by credit unions.

*Rental of safe deposit boxes*

**88.—(1)** A credit union may maintain and rent safe deposit boxes.

(2) The Reserve Bank may issue requirements and guidelines regarding this activity.

*Other financial services*

**89.**—(1) With the prior approval of the Reserve Bank, and subject to any condition that the Reserve Bank may impose, a credit union may provide other financial services to its members, in accordance with this section.

(2) In considering whether to authorise one credit union or credit unions generally, to engage in a particular activity, the Reserve Bank may consider whether the activity—

- (a) is consistent with safe and sound credit union practices, and whether its performance will advance the purposes for which credit unions are formed;
- (b) is performed by similar credit unions in comparable foreign jurisdictions; and
- (c) will be satisfactorily supervised both by the board of directors of the credit union itself and also by the Reserve Bank.

(3) The Reserve Bank may in writing, provide conclusions regarding issues it considers under this section, and the facts and reasons supporting the conclusions.

(4) A credit union under this Act may provide its lending and deposit services only to members.

(5) Notwithstanding subsection (4) and taking into consideration the needs and convenience of the relevant community, the Reserve Bank may authorise a credit union to provide the other financial services referred to in this section to non-members, provided that business conducted with non-members do not comprise a major portion of the credit union's business.

*Division 4—Miscellaneous authorities and restrictions*

*Fees*

**90.**—(1) A credit union may charge and collect fees for services provided and to cover administrative costs and the fees must be reasonable and properly disclosed for the information of the members.

(2) The Reserve Bank may issue prudential policies that provide requirements for the formulation and disclosure of fees and charges.

*Third party claim*

**91.**—(1) A credit union doing business in Fiji must be served with a judgment, order or other appropriate process issued from a court or a tribunal in connection with a suit instituted by a third party to recover or establish an interest in a deposit or a membership share account before the credit union is required to—

- (a) recognise the third party's claim;
- (b) withhold payment of the account to any party to the account; or
- (c) withhold payment to the order of any party to the account.

(2) A claim against a depositor, joint account holder, or member of a credit union may be delivered or otherwise served as required or permitted by law at the address of the registered agent of the credit union.

*General prohibitions*

**92.** A credit union must not—

- (a) except with the approval of the Reserve Bank, engage in the business of underwriting securities, acting as principal or agent in connection with the sale of securities, developing real estate or acting as agent in connection with the sale of real estate, except as may be approved by the Reserve Bank;
- (b) allow their offices to be used by third parties for any activity that is prohibited to the credit union;
- (c) engage, sponsor or otherwise participate in lotteries, races, games or betting activities;
- (d) contribute to any political party or political campaign; or
- (e) except with the approval of the Reserve Bank, donate monies or other property to another credit union.

*Divestiture of non-conforming investments*

**93.—**(1) A credit union that holds assets or investments that are not eligible to be held by a credit union, including real estate that has been held for more than the 2 year period, or that engages in activities that are not authorised to be engaged in by a credit union, must divest itself of those assets or investments, and terminate those activities no later than 2 years from the date of commencement of this Act.

(2) The Reserve Bank may, in its discretion, extend the time period for divestiture or termination, provided that it is satisfied that—

- (a) the credit union has made diligent efforts to divest, sell or terminate the assets or activities in question; and
- (b) a refusal to extend the time period would cause undue hardship to the credit union or to others.

(3) In no event will the time period for divestiture or termination exceed 5 years from the date of commencement of this Act.

(4) In the event that the divestiture or termination of activities required by this section has not been effected after 5 years from the date of commencement of this Act, then the Reserve Bank may appoint an independent trustee who is charged with authority, acting at the direction of the Reserve Bank, to effect the divestiture or termination of activities on behalf of, and at the expense of, the credit union.

(5) The trustee appointed under subsection (3) must pay to the credit union any proceeds from the divestiture or termination of activities, less any costs of sale or termination, and less any expenses of the trustee.

(6) In the event that divestiture or termination results in a deficit, then that deficit, any expenses of the divestiture or termination, and any expenses of the trustee, must be borne by the credit union.

(7) A divestiture is not considered to have complied with the requirements of this section if the transfer is financed by the credit union or is made to a company controlled by the credit union.

(8) Any transfers of assets or activities by the credit union to directors, committee members, senior management or employees of the credit union, or to companies controlled by such persons, must be made in compliance with the requirement for arms-length dealing, and other applicable requirements, of sections 72 to 74.

(9) Notwithstanding subsections (1) to (6), the Reserve Bank is authorised, in its discretion and in exceptional cases, and acting at the request of a credit union, to permit retention by the credit union of non-conforming assets or investments or the continuation of non-conforming activities.

(10) In determining whether to authorise retention or continuation under subsection (9), the Reserve Bank may consider, among other things, whether such retention or continuation—

- (a) is consistent with safe and sound credit union practices;
- (b) presents undue risks or demands on managerial resources;
- (c) may be subject to adequate prudential supervision by the Reserve Bank;
- (d) whether divestiture or termination would cause undue hardship to the credit union; and
- (e) such other matters as the Reserve Bank determines to be relevant in this regard.

(11) If the Reserve Bank determines to approve retention or continuation, it may make such authority to retain subject to such conditions as the Reserve Bank sees fit consistent with achieving the objective of this Act.

## PART 5—SUPERVISION AND REGULATION

### *Issuance of Regulations and prudential requirements*

**94.—**(1) The Minister may, in consultations with the Reserve Bank, prescribe regulations to implement this Act and carry out its objectives.

(2) The Reserve Bank may issue prudential requirements, guidelines, standards and rules for the implementation of this Act and to carry out its responsibilities.

### *Examinations*

**95.—**(1) The Reserve Bank must examine the affairs of each credit union licensed under this Act.

(2) The periodic interval for each credit union is determined based on the size and complexity of the credit union and the risks that it presents.

(3) The Reserve Bank may conduct a special examination of a credit union at any time that the Reserve Bank has reason to believe that the credit union is engaging in unsafe or unsound practice, its financial condition is deteriorating, or the credit union is in violation of this Act or the regulations thereunder.

*Access to information*

**96.** The Reserve Bank may require a member of the board, member of a committee, a general manager or an employee of a credit union to provide access to all books, records, accounts, cash in hand, data, documents and other papers held, stored or transmitted by the credit union, whether in physical or electronic form and any information deemed necessary and requested by the Reserve Bank must be furnished in a timely manner during the course of the examination.

*Interview and production of documents*

**97.—**(1) In an examination conducted under this part, the Reserve Bank or its delegate may —

- (a) direct a person, including any director, agent, committee member or employee of a credit union to be interviewed on matters concerning the financial condition or the safety and soundness of the activities of a credit union or compliance with this Act and the regulations thereunder; or
- (b) require the production of records that are not voluntarily produced, including documents, books, papers, securities, and records in physical or electronic form.

(2) The Reserve Bank may apply to a court for an order requiring a person to obey a directive, to appear, or to answer questions in connection with the examination.

(3) The court may issue an order under subsection (2) if the court finds good cause to issue the subpoena or to take testimony.

*Report of examination*

**98.** The Reserve Bank must report the results of an examination, including a general statement of the credit union's affairs to the board at the conclusion of the examination.

*Examination of related entities*

**99.** The Reserve Bank may examine a credit union's related entities to the same extent as if the services or activities were performed by a credit union on its own premises —

- (a) a credit union service organisation in which a credit union has a material interest; and
- (b) a third-party contractor providing electronic data processing, electronic fund transfers, or other member services on behalf of a credit union.

*Reports*

**100.—**(1) A credit union must submit to the Reserve Bank a quarterly report of its financial condition and such other reports as the Reserve Bank may require to monitor its compliance with other requirements of this Act and regulations thereunder.



(2) The Reserve Bank may require credit unions generally, or if the Reserve Bank determines this to be required for supervisory purposes, individual credit unions, to file reports under this section more frequently than quarterly.

(3) A report may be in the form and contain the information that the Reserve Bank may require.

(4) The credit union must submit the report on or before the due date determined by the Reserve Bank.

(5) If a credit union does not submit a report by the due date or files an inaccurate or incomplete report, a fee may be charged.

(6) The fee payable to the Reserve Bank must be in an amount set by the Reserve Bank for each day after the due date that the report remains unfiled or each day after a subsequent due date established by the Reserve Bank in a notice to a credit union to correct an inaccurate or incomplete report.

(7) The Reserve Bank may waive all or part of the late fee.

*Relocation and additional places of business*

**101.** A credit union must provide notice to the Reserve Bank to relocate its principal place of business or to establish and maintain, at locations other than its principal place of business, additional offices or service facilities that are reasonably necessary to provide services to the credit union's members.

*Determination of misconduct*

**102.** The Reserve Bank may, in addition to any other course of action available under this Act or any other law, take any action under section 103 against a credit union or its directors, committee members or senior management where the Reserve Bank is of the opinion, either as a result of an examination carried out under section 95 or otherwise, that the credit union itself or its directors, committee members or senior management—

- (a) contravened this Act or any other written law as applicable;
- (b) violated or refused to comply with a directive of the Reserve Bank;
- (c) wilfully neglected to perform an official or legal duty or wilfully committed a breach of trust or fiduciary duty;
- (d) committed a fraudulent practice in the conduct of the credit union's business that endangers the credit union's reputation or threatens its solvency;
- (e) refused to submit to an examination or to permit an examination of the credit union's records and affairs by the Reserve Bank's representative;
- (f) failed or refused to authorise and direct another person to permit the Reserve Bank's representative to examine the credit union's records in the other person's custody after the Reserve Bank has requested the authorisation of and direction to the other person;

- (g) conducted the credit union's business in an unsafe, unauthorised, or unlawful manner, or is engaged in unsafe or unsound practice;
- (h) concealed, destroyed, removed, or falsified a record related to the credit union's business and affairs;
- (i) transacted business while the credit union was in an unsafe or unsound condition;
- (j) violated a condition of the credit union's by-laws or of a written agreement with the Reserve Bank; or
- (k) committed a criminal act that is a detriment to the reputation and conduct of the credit union's business.

*Enforcement actions*

**103.**—(1) The actions that the Reserve Bank may take referred to in section 102 include—

- (a) issue written warnings;
- (b) impose an administrative penalty on the credit union or the directors, committee members, or senior management of the credit union pursuant to section 161;
- (c) issue a directive to discontinue such practice, contravention or non-compliance;
- (d) issue a directive to require the credit union to comply with this Act, regulations or prudential standards;
- (e) conclude a written agreement with the board of directors providing for a program of remedial action;
- (f) issue a directive to remove or suspend the person from his or her position;
- (g) appoint a controller in accordance with section 113 if the grounds for controllership provided in section 113(1) are met;
- (h) cancel the licence or registration; or
- (i) to take any other action necessary for correcting the ground of misconduct.

(2) The measures and penalties provided in this section must not preclude application of other civil penalties or criminal penalties as provided under any other written law.

(3) The action that the Reserve Bank takes pursuant to subsection (1) must be proportionate to the misconduct of the credit union or of its directors, committee members or senior management.

(4) Warnings, directives, agreements or other documents specifying the action to be taken against a credit union must—

- (a) be in writing; and

(b) state the effective date of the action.

*Hearing on appeal of enforcement actions*

**104.**—(1) A credit union or a director, committee member or employee who is charged with an enforcement action under section 103 may appeal the Reserve Bank’s decision in accordance with the procedures set out in section 162 which must be initiated within 10 days following service of the directive.

(2) Enforcement actions with respect to which an appeal was not sought within the time period stated in subsection (1) is final and incontestable.

(3) The filing of a request for the appeal does not suspend an enforcement action.

*Publication of enforcement actions*

**105.** The Reserve Bank may release the summary of enforcement actions to the public, unless the Reserve Bank, in its discretion, determines that publication would be detrimental to the stability of the financial system or to other public interests.

**PART 6—CONFIDENTIALITY**

*Confidentiality of information of Reserve Bank*

**106.**—(1) The following information of the Reserve Bank is confidential and must not be disclosed by the Reserve Bank or agent of the Reserve Bank except as provided in this section—

- (a) information obtained directly or indirectly by the Reserve Bank in any manner, including by application or examination, concerning the financial condition or business affairs of a credit union, its related entities, and its members and other customers, and the files and records of the Reserve Bank relating to that information, except a statement that is public or intended for publication;
- (b) a report of examination;
- (c) a document related to an enforcement action taken pursuant to section 103 whereby the Reserve Bank determines that publication would be contrary to the stability of the financial system or to other public interests; or
- (d) information obtained by the Reserve Bank from another supervisory agency that is designated as confidential by that agency.

(2) Notwithstanding subsection (1), the information under subsection (1) may be disclosed by the Reserve Bank or agent of the Reserve Bank—

- (a) to defend an action instituted by a credit union or its member against the Reserve Bank;
- (b) to prosecute an enforcement proceeding in accordance with this Act;
- (c) pursuant to a court order, subpoena or other legal process;
- (d) to any other supervisory agency pursuant to an agreement or arrangement for the sharing of confidential information;
- (e) if the information is otherwise public; or

(f) pursuant to any provision of law that imposes a specific duty on the Reserve Bank to disclose the information.

(3) Discovery of confidential information from the Reserve Bank under a court order, subpoena or other legal process may—

- (a) restrict release of confidential information to the portion directly relevant to the legal dispute at issue; and
- (b) require that a protective order, in a form and under circumstances specified by the rules, be issued by a court before release of the confidential information.

*Records of members*

**107.**—(1) A credit union must not disclose or produce to a third party or permit a third party to examine a record pertaining to the affairs of a credit union member unless—

- (a) the request is made in connection with an audit of the credit union;
- (b) the member consents, with the member's signature verified by the credit union or any other type of identification approved by the Reserve Bank, to the disclosure or production of the record;
- (c) the information is required by the Reserve Bank;
- (d) the request is made in response to—
  - (i) a subpoena or other court order; or
  - (ii) an administrative subpoena or summons issued by a Government agency as authorised by law; or
- (e) the disclosure is made on the approval of the Reserve Bank under subsection (2).

(2) The Reserve Bank may permit the exchange of information on—

- (a) customers' indebtedness to provide data for determining the soundness of credit;
- (b) bad cheques; or
- (c) any other transaction for which the Reserve Bank determines that disclosure is necessary in the daily operation of the credit union's business.

**PART 7—MERGER AND CONSOLIDATION TRANSACTIONS**

*Authority to merge or consolidate*

**108.** A credit union may merge or consolidate with another credit union, under the credit union's existing by-laws, if—

- (a) the merger or consolidation transaction is in accordance with this Act and any relevant written law developed by the Reserve Bank for the purpose of administering a merger or consolidation; and

- (b) the merger or consolidation transaction takes place under a plan of merger or consolidation that has been—
  - (i) agreed to by a majority of the board of each credit union joining in the merger or consolidation; and
  - (ii) approved by a majority of the members of each credit union voting at a meeting of its members called for that purpose.

*Application to merge or consolidate*

**109.** —(1) After the agreement by the board and approval by the majority of the members, as applicable, the chairperson and secretary of each credit union may execute a certificate of merger or consolidation that—

- (a) includes a copy of the resolution or other action by which the board agreed to the merger or consolidation plan; and
- (b) states—
  - (i) the time and place of the board meeting at which the board agreed to the merger or consolidation plan;
  - (ii) the board's vote on the adoption of the consolidation plan;
  - (iii) the time and place of the meeting at which the members approved the consolidation plan;
  - (iv) the membership's vote on the approval of the consolidation plan; and
  - (v) the name of the surviving credit union.

(2) The merging or consolidating credit union must submit the certificate of merger and a copy of the consolidation plan of merger or consolidation to the Reserve Bank.

(3) The plan of merger or consolidation must include a list of all of the persons who will serve on the board of directors and as committee members of the resulting institution and financial statements consisting of—

- (a) balance sheets and income statements for each of the participating credit unions for the current year and 2 preceding years;
- (b) *pro forma* combined balance sheets and income statement for the resulting institution projected for 3 years;
- (c) the addresses of all offices that will be operated by the resulting credit union; and
- (d) any other information that the Reserve Bank may request for the purpose of successfully executing the merger or consolidation.

(4) Subject to subsection (5), on approving the merger or consolidation, the Reserve Bank may return a duplicate copy of the certificate of merger and plan of merger or consolidation to the resulting credit union.

(5) The Reserve Bank may conditionally approve a merger or consolidation and if the approval is conditional, the Reserve Bank—

- (a) must state the condition of approving the merger or consolidation transaction; and
- (b) may withhold filing the approved official copy of the certificate of merger until the condition has been met.

(6) The merger or consolidation is effective upon the approval of the Reserve Bank on the satisfaction of the requirements under sections 108 and 110.

*Considerations in determination*

**110.**—(1) In determining whether to approve or disapprove the merger or consolidation transaction, the Reserve Bank may—

- (a) consider the availability and adequacy of financial services in the local community;
- (b) the effect that the merger or consolidation would have on the local community; and
- (c) the financial strength and managerial resources of the resulting credit union.

(2) The Reserve Bank must not approve a merger or consolidation transaction unless the resulting institution will commit to comply with all prudential requirements applicable to the operation of a credit union under this Act.

(3) A credit union resulting from the merger or consolidation of 2 or more credit unions may have a redefined common bond of membership of the participating institutions.

*Property, obligations and liabilities of resulting credit union*

**111.**—(1) After a merger or consolidation is effected, the property of the merged or consolidated credit union vests in the resulting credit union without an instrument of transfer or endorsement and the obligations and liabilities of the merged or consolidated credit union are assumed by the surviving credit union.

(2) After a purchase and assumption transaction has been completed, the assets and liabilities of the selling credit union must vest in the purchasing credit union as provided in the purchase and assumption agreement.

*Rules to address certain procedures*

**112.** The Reserve Bank may issue rules under this Part to specify the procedures that a credit union must follow to obtain an approval of a merger or consolidation.

PART 8—CONTROLLERSHIP

*Division 1—Controllership directive*

*Appointment of controller*

**113.**—(1) The Reserve Bank may immediately issue a controllership directive and appoint a controller to manage a credit union’s affairs if—

- (a) the Reserve Bank, in performing the duties under this Act, finds that—
  - (i) the credit union is insolvent or in imminent danger of insolvency; or
  - (ii) the credit union or a director, committee member or senior management of a credit union has—
    - (A) contravened this Act, a rule issued under this Act, or any other written law that applies to credit unions;
    - (B) contravened or neglected to follow a directive of the Reserve Bank;
    - (C) refused to submit to an examination under oath;
    - (D) refused to permit the Reserve Bank or the Reserve Bank’s representative to examine the credit union’s records and affairs, including books, papers, and accounts;
    - (E) conducted the credit union’s business in an unsafe, unauthorised, or unlawful manner; or
    - (F) failed or refused to authorise and direct another person to permit the Reserve Bank or the Reserve Bank’s representative to examine the credit union’s records in the other person’s custody or control, including books, papers, and accounts, following the Reserve Bank’s request for the granting of that authority and direction; or
  - (iii) the credit union is not considered economically viable in the long term, on the basis of the Reserve Bank’s assessment of the conditions listed in section 13; and
- (b) the Reserve Bank determines that the finding under paragraph (a)(ii) is sufficiently severe to require immediate affirmative action to prevent further dissipation of the credit union’s assets.

(2) The directive must clearly state the grounds for controllership.

*Issuance of directive*

**114.**—(1) A controllership directive must be served personally to a director or the general manager of the credit union by the Reserve Bank.

(2) Service may be made by mail if a director or the general manager is not available for service on the date of issuance.

*Reply to directive*

**115.**—(1) Not later than the 30th day after the date on which a controllership directive is served, the board must file a written reply to the directive.

(2) No other person shall have standing to challenge the controllership directive.

*Administrative review of a controllership directive*

**116.** The board may obtain administrative review of the controllership directive as provided in sections 162 and 163.

*Failure to file reply or request hearing*

**117.** If the board does not file a reply to the controllership directive as required by section 115 or fails to request and appear at the hearing provided for by section 116, then the credit union is deemed to have consented to the controllership directive and the Reserve Bank may proceed with the controllership in accordance with this Act.

*Division 2—Administration of controllership**Effect of controllership directive*

**118.**—(1) A controller, under the control of the Reserve Bank, have the authority to—

- (a) take possession and control of the books, records, property, assets, and business of the credit union;
- (b) conduct the business and affairs of the credit union; and
- (c) perform any other action related to achieving the objectives of the controllership.

(2) Following service of the controllership directive, the credit union may conduct only those operations that are authorised by the controller and those operations be conducted under his or her supervision.

*Power to protect, preserve and recover property*

**119.**—(1) The controller is vested with all of the authority and powers of the members, directors, committees and senior management of the credit union and must be authorised to operate the credit union in its own name or to conserve its assets in the manner and to the extent authorised by the Reserve Bank.

(2) The powers of the controller include, inter alia, those powers set forth in this section—

- (a) the controller may take measures necessary to preserve, protect, and recover the assets or property of the credit union, including filing a lawsuit against any person;
- (b) an asset or property of the credit union includes a claim or cause of action that belongs to or that may be asserted by the credit union;
- (c) the controller may file, prosecute, defend or compromise a suit brought by or against the credit union if the controller believes that such action will promote the interests of the controllership;



- (d) at the request of the controller, any litigation pending against the credit union must be stayed for 60 days.

*Duties of controller*

**120.**—(1) The controller may—

- (a) take actions as directed by the Reserve Bank to remove the causes and conditions that made the controllership necessary;
- (b) report to the Reserve Bank from time to time during the controllership as required by the Reserve Bank, and
- (c) within 60 days after the issuance of the controllership directive, the controller must report to the Reserve Bank, and present a recommendation—
  - (i) whether rehabilitation of the credit union is feasible, or alternatively;
  - (ii) whether the credit union should be liquidated.

(2) If the controller believes that rehabilitation is feasible, then the controller may provide a plan of rehabilitation with his or her recommendation

(3) The plan of rehabilitation may include a proposal for reduction in liabilities of the credit union, as provided for in section 121.

(4) At the request of the controller, the time for submission of the plan of rehabilitation may be extended for 30 days.

(5) If the Reserve Bank approves the plan of rehabilitation, then the rehabilitation plan is to be implemented.

(6) If the Reserve Bank determines that rehabilitation is not feasible and that the credit union should be liquidated, then the Reserve Bank must issue a liquidation directive and appoint a liquidating agent.

*Reduction in liabilities*

**121.**—(1) If the controller determines that losses of the credit union resulting from depreciation in the value of its assets or otherwise exceed the value of its retained earnings and reserve fund so that the estimated value of its assets is less than the total of liabilities owing to its members, then the controller may propose that the loss be divided equitably among members through a reduction in liabilities owing to each member.

(2) If the controller makes such a proposal, and if the proposal is approved by a majority of the members at a meeting called to consider that matter, then the controller must include the proposal for a reduction in liabilities in the plan of rehabilitation to be submitted for consideration by the Reserve Bank.

*Term of controller*

**122.** The controller may serve until—

- (a) the credit union has been rehabilitated; or
- (b) the Reserve Bank has issued a liquidation directive regarding the credit union.

*Transfer of management of rehabilitated credit union*

**123.** If the credit union is rehabilitated, the controller may return the management of the credit union to the board under the terms that are reasonable and necessary to prevent a recurrence of the conditions that created the need for controllership.

*Cost of controllership*

**124.**—(1) The Reserve Bank must determine and approve any reasonable expenses attributable to the service of a controller, including costs incurred by the Reserve Bank and the compensation and expenses of the controller and any professional employees appointed to represent or assist the controller.

(2) All approved expenses are to be paid by the credit union.

(3) The Reserve Bank may have a lien against the assets and money of the credit union to secure payment of approved expenses.

(4) The credit union may retain attorneys and hire other persons to assist the credit union in contesting or satisfying the requirements of a controllership directive.

(5) The Reserve Bank may authorise the payment of reasonable fees and expenses for the attorneys and other persons as expenses of the controllership.

(6) The Reserve Bank may waive or defer collection of any fees from the credit union during a period of controllership if the waiver or deferral would appear to benefit the prospects for rehabilitation.

(7) As a condition of release from controllership, the Reserve Bank may require the rehabilitated credit union to pay or develop a reasonable plan for payment of any deferred fees.

*Exhaustion of administrative remedies*

**125.** Administrative remedies must be exhausted before a court may—

- (a) assert jurisdiction over a claim against the controller or the credit union; or
- (b) restrain or otherwise affect the exercise of the powers or functions of the controller.

## PART 9—LIQUIDATION

*Division 1—Liquidation directive**Appointment of liquidating agent*

**126.**—(1) The Reserve Bank may, by a liquidation directive, appoint a liquidating agent and direct that the credit union be liquidated if—

- (a) the board requests issuance of a liquidation directive and the liquidation of the credit union pursuant to a resolution of a special meeting of members to that effect;
- (b) the Reserve Bank finds that the credit union is not viable, cannot be rehabilitated and no suitable merger partner is available; or
- (c) the Reserve Bank has determined to cancel the licence of the credit union pursuant to section 103(1)(h).

(2) The special meeting under subsection (1)(a) is to be held in the same manner as provided in section 150.

*Issuance of directive*

**127.** The Reserve Bank may serve a liquidation directive in the same manner provided for the service of a controllership directive.

*Administrative review of liquidation directive*

**128.** The board may obtain administrative review of a liquidation directive as provided in sections 162 and 163.

*Liquidating agent*

**129.—**(1) The Reserve Bank may tender a credit union that has been closed for liquidation to a liquidating agent.

(2) After acceptance of the tender for the credit union, the liquidating agent must carry out those acts and duties, including the execution of documents, that the agent believes are necessary or desirable to maximise the value of assets available for distribution to members and other creditors, as permitted or required by this Act.

(3) The liquidating agent is subject to oversight and control of the Reserve Bank.

*Division 2—Administration of liquidation*

*Permissible activities in liquidation*

**130.—**(1) A credit union in liquidation continues in existence only for the purposes of discharging debts, collecting and distributing assets, and winding up the credit union's business.

(2) The credit union may sue and be sued to enforce debts and obligations until its affairs are fully adjusted.

*Compensation of credit union employees*

**131.—**(1) This section does not prevent compensation, during the credit union's liquidation, of those salaried employees or officers of a credit union whose services the liquidating agent determines to be needed to carry out the liquidation efficiently and economically.

(2) The compensation is considered an expense of the liquidation.

*Possession, consolidation and disposition of assets*

**132.** The liquidating agent may receive and take possession of the books, records, assets, and property of the credit union and sell, enforce collection of, and liquidate assets and property.

*Repudiation of burdensome transactions*

**133.** The liquidating agent may repudiate a contract or unexpired lease that the liquidating agent considers burdensome to the credit union.

*Agreements made and assets transferred before liquidation*

**134.—**(1) An agreement that tends to diminish or defeat the interest of the liquidating agent in an asset acquired under this Division, either as security for a loan or by purchase, is not valid against the liquidating agent unless the agreement is—

(a) in writing;

- (b) executed by the credit union and each person claiming an adverse interest under the agreement;
- (c) approved by the board with the approval recorded in the minutes of the board; and
- (d) an official record of the credit union continuously from the time of its execution.

(2) The liquidating agent may bring suit in a court of law on behalf of the credit union to reclaim, for the benefit of the liquidation estate, assets that were transferred by the credit union to others—

- (a) within the period commencing 6 months before the credit union went into liquidation and ending on that date;
- (b) for which the credit union did not receive fair consideration, and
- (c) which were made by the credit union and its transferee with knowledge that the transfer would likely have the effect of preferring the interests of the transferee and prejudicing the interests of other creditors.

*Court action*

**135.**—(1) The liquidating agent may sue in the name of the credit union and defend actions brought against the liquidating agent or the credit union.

(2) A suit against a credit union or its liquidating agent while a liquidation directive is in effect must be brought in the High court.

(3) The liquidating agent may file suit to preserve, protect, or recover the credit union's assets or property.

(4) An asset or property of the credit union includes a claim or cause of action that belongs to or that may be asserted by the credit union.

*Division 3—Claims relating to credit union in liquidation*

*Claims against credit union*

**136.** A liquidating agent may—

- (a) determine the existence and amount of claims;
- (b) allow claims that are proven and determine issues regarding the validity of security interests;
- (c) settle or release a claim in favour of or against the credit union;
- (d) disallow claims that are unproven, or security interests that are not substantiated; and
- (e) make distributions to and pay creditors and members of the credit union as their interests appear.

*Notice to creditors and members*

**137.**—(1) The liquidating agent must give a written notice by mail to creditors and members to file their claims.

(2) A general notice must be published twice a week for 2 successive weeks in a newspaper of general circulation and announced in the general media in each area in which the credit union maintained an office or branch to transact business on the date the credit union ceased unrestricted operations.

*Priority of claims*

**138.** The liquidating agent must use the credit union's assets to pay, in the following order—

- (a) secured creditors to the extent of the value of their collateral;
- (b) liquidation expenses, including a security bond if such was required;
- (c) depositors;
- (d) general creditors, including secured creditors to the extent that their claims exceed the value of their collateral; and
- (e) distributions to members in proportion to the shares held by each member.

*Liquidating dividends*

**139.—**(1) The liquidating agent from time to time may, if satisfied that the resources of the liquidation permit this action to be safely taken, make payable a dividends on claims that have been proved to the satisfaction of the liquidating agent or adjusted by a court.

(2) After the credit union's assets have been liquidated, the liquidating agent may make further liquidation dividends on claims previously proved or adjusted.

(3) For the purposes of making a further liquidation dividend under subsection (2), the liquidating agent may accept the statement of an amount due a claimant as shown on the credit union's books and records instead of a formal proof of claim filed on the claimant's behalf.

*Barred claims*

**140.—**(1) A claim not filed with the liquidation agent within 3 months after the date on which notice to present claims was first provided, is to be barred.

(2) A claim rejected by the liquidating agent is to be barred unless the claimant appeals the liquidating agent's rejection in accordance with the procedures of section 162 within 3 months after the date of notice of rejection.

*Division 4—Liquidating agent*

*Removal of liquidating agent*

**141.—**(1) On finding that the liquidating agent has failed to properly perform the liquidating agent's duties in a timely and efficient manner or has contravened this Act or a rule adopted under this Act, the Reserve Bank by a removal directive may take possession and control of the books, records, property, assets, and business of the credit union.

(2) The removal directive must—

- (a) remove the liquidating agent and appoint a successor liquidating agent to complete the liquidation and the winding up of the credit union's affairs subject to the Reserve Bank's supervision and control; and

(b) be served on the liquidating agent being removed.

(3) The removal directive takes effect immediately on service.

*Replacement of liquidating agent*

**142.** The Reserve Bank must appoint another liquidating agent on a liquidating agent's resignation, death, illness, removal, desertion, or incapacity to function.

*Conflict of interest*

**143.—**(1) The liquidating agent must not acquire an asset of the credit union in liquidation or purchase a loan of the credit union without the Reserve Bank's prior written approval.

(2) A liquidating agent must not obtain from the liquidation compensation or income for—

- (a) direct or indirect personal benefit;
- (b) the benefit of a family member of or a person associated with the liquidating agent; or
- (c) the benefit of a business enterprise with which the liquidating agent is associated, other than the credit union.

*Compensation*

**144.—**(1) A liquidating agent is entitled to receive reasonable compensation during the liquidation.

(2) The compensation is considered an expense of the liquidation.

*Division 5—Completion of liquidation*

*Certificate of liquidation and distribution*

**145.** The Reserve Bank may prescribe the form of a certificate to be completed by the liquidating agent attesting that distribution has been made and liquidation is complete.

*Cancellation of licence*

**146.** The Reserve Bank, on receipt and approval of the certificate executed under section 145 must cancel the credit union's licence.

**PART 10—VOLUNTARY LIQUIDATION**

*Board resolution*

**147.** Unless the Reserve Bank has issued a liquidation directive, the board may adopt a resolution recommending voluntary dissolution of the credit union and directing submission of the question of liquidation to the members of the credit union.

*Approval of Reserve Bank*

**148.** A credit union must not enter into voluntary liquidation unless with the prior written approval of the Reserve Bank.

*Notification to Reserve Bank of proposed liquidation*

**149.** Not later than the fifth day after the date on which the board's resolution recommending voluntary dissolution is adopted, the board's presiding officer must notify the Reserve Bank in writing of the reasons for the proposed liquidation.

*Special meeting to liquidate*

**150.**—(1) Notice of the special meeting to consider voluntary liquidation is to be published in at least 2 local newspapers and the Reserve Bank notified no later than the 21st day before the date of the meeting.

(2) A special meeting of members may be called to consider the proposed liquidation.

(3) The transaction may not proceed unless two-thirds of all members are present and vote to dissolve and liquidate the credit union.

*Credit union operations before and after vote*

**151.**—(1) Immediately after notice under section 150(1), the Reserve Bank may restrict control or give direction with respect to the continued business of the credit union pending consideration of voluntary liquidation by the members.

(2) The Reserve Bank may, in its discretion direct that, during that period, no member may withdraw an aggregate amount in excess of an amount to be determined by the Reserve Bank.

(3) No new extensions of credit shall be funded during the period between the board of directors' adoption of the resolution recommending voluntary liquidation and the membership meeting called to consider voluntary liquidation, except for the issuance of loans fully secured by a pledge of deposits and the funding of outstanding loan commitments approved before adoption of the resolution.

(4) If the vote to dissolve and liquidate the credit union is affirmative, the credit union must conduct only business incidental to liquidation.

*Notice to Reserve Bank of affirmative vote to liquidate*

**152.**—(1) The board must notify the Reserve Bank of the affirmative vote of members to liquidate and request approval for its liquidation no later than the fifth day after the special meeting of the members.

(2) The notice must include the resolutions of the meeting and a list of all members present and voting at the meeting and the results of the affirmative vote with the notice.

(3) The Reserve Bank may approve a request under subsection (1) if the credit union is solvent and has sufficient liquid assets or assets to be converted into liquid funds to repay its depositors and other creditors without delay.

*Appointment of liquidating agent*

**153.** If the Reserve Bank approves the liquidation, within 10 days, the board must appoint a liquidating agent to—

- (a) conserve and collect the credit union's assets;
- (b) wind up the credit union's affairs;
- (c) discharge the credit union's debts;
- (d) distribute the credit union's assets; and
- (e) take any other action necessary and incidental to liquidating the credit union.

*Supervision of voluntary liquidation by Reserve Bank*

**154.**—(1) The process of voluntary liquidation is subject to supervision by the Reserve Bank, who may request such reports and conduct such inspections as it believes necessary.

(2) A credit union in the process of voluntary dissolution and liquidation remains subject to this Act, including its enforcement provisions.

(3) The plan of liquidation is to be approved by the Reserve Bank.

(4) If the Reserve Bank determines, including in the course of such liquidation, that the credit union does not ensure an orderly liquidation or it fails to comply with this Act or with any regulations issued by the Reserve Bank, the credit union is to be liquidated pursuant to this Act.

## PART 11—CREDIT UNION LEAGUE

*Establishment of Credit Union League*

**155.**—(1) This section establishes the Credit Union League, whose membership may include the credit unions licensed under this Act.

(2) The Credit Union League must, for the purpose of this Act, be a credit union.

(3) The Credit Union League is to coordinate, assist and promote all credit unions and perform such functions as may be determined in its constitution by its constituent members and approved by the Reserve Bank.

(4) The Credit Union League may—

- (a) pay market rates of return on money under its administration;
- (b) invest in cash, government securities, government guaranteed investments or other investments as approved by the Reserve Bank; and
- (c) establish an investment committee.

(5) An investment committee established pursuant to subsection (4)(c) comprises of individuals who have a sound understanding of investment risks and liquidity management and may be appointed for a maximum of 2 terms of 3 years each.

(6) The committee is to establish the Credit Union League's investment policies and coordinate and oversee its investment portfolio.

## PART 12—OFFENCES

*Defamation*

**156.** A person who knowingly makes, circulates, or transmits to another person a false statement that is derogatory to the financial condition of a credit union with the intent to defame that credit union or counsels, aids, procures, or induces another person to make, circulate, or transmit a false statement that is derogatory to the financial condition of a credit union with the intent to defame that credit union commits an offence and is liable on conviction to a fine not exceeding \$100,000 or imprisonment for a term of 2 years or both.



*Disclosure of confidential information*

**157.** A director, committee member, senior management or employee of a credit union commits an offence if the person knowingly discloses confidential information in possession of the credit union without authorisation and is liable to a fine not exceeding \$20,000.

*Consideration for loan, investment or purchase*

**158.** If a member of the board or a committee, senior management or an employee of a credit union demands or knowingly receives, directly or indirectly, consideration for the credit union's making a specific loan or investment or purchasing an asset, commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term of 5 years or both.

*Loan to non-member*

**159.—(1)** A member of the board, committee, senior management or an employee of a credit union who knowingly permits a loan to be made to a non-member, commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term of 5 years or both .

(2) A person who commits an offence under subsection (1) is liable to the credit union for the amount loaned.

(3) The credit union may recover the loan from the person liable under this section.

*Destruction of records*

**160.—(1)** A person commits an offence if the person knowingly and with the intent to deceive—

- (a) makes a false entry on a record, report, or statement of a credit union; or
- (b) in connection with an examination or investigation of a credit union by the Reserve Bank, exhibits a false paper, instrument, or security or gives under oath a false answer to a question directly related to the examination or investigation asked the person by the Reserve Bank's representative.

(2) A person commits an offence if the person knowingly removes, destroys, or conceals a record of the credit union for the purpose of concealing a fact or information from the Reserve Bank's representative.

*Administrative penalty*

**161.—(1)** If a credit union or other person designated in an issued directive under this Act does not comply with the directive, the Reserve Bank, after giving notice, may assess an administrative penalty against the credit union, the designated person, or both, in an amount of not less than \$100 or more than \$10,000 each for each day of the violation of the directive.

(2) The credit union may not reimburse or indemnify a person for any part of the administrative penalty.

(3) The Reserve Bank may bring suit for injunction or to collect the administrative penalty in a court.

(4) A credit union or other person against whom administrative penalties have been assessed may obtain administrative review as provided in sections 162 and 163.

### PART 13—ADMINISTRATIVE REVIEW

#### *Credit Union Tribunal*

**162.**—(1) This section established the Credit Union Tribunal which consists of the following—

- (a) a representative of the credit unions;
- (b) a representative of Fiji Law Society; and
- (c) an independent third person appointed by the Reserve Bank.

(2) Any party aggrieved by a directive or decision of the Reserve Bank or a decision of a liquidating agent on a claim may, within 30 days of the issuance of such directive or decision, obtain an administrative review by filing a request for appeal with the Credit Union Tribunal.

(3) The Credit Union Tribunal may review the directive or decision of the Reserve Bank or liquidating agent and issue its own decision affirming, modifying, remanding or setting aside the directive or decision.

(4) The Credit Union Tribunal may issue its decision within 60 days of the date on which the request for review was filed.

(5) Any person aggrieved by a decision of the Credit Union Tribunal taken under subsection (3) may, within 30 days of the date of issuance of such decision, appeal the decision of the Credit Union Tribunal to the court.

(6) The court may review the decision of the Credit Union Tribunal and issue its own decision affirming, modifying, remanding, or setting aside such decision.

(7) The court may issue its decision within 90 days of the date on which the request for review was filed.

(8) The court may conduct such review as follows—

- (a) the record on which the review is conducted to be developed during the administrative process before the Reserve Bank and the Credit Union Appeal Tribunal; and
- (b) the scope of review by the court of the decision of the Reserve Bank or of the Credit Union Tribunal is confined to whether such decision was adopted in accordance with lawful procedures, or was arbitrary or capricious, or otherwise contrary to law.

(9) The court may permit the introduction into evidence of factual matters not presented to the Reserve Bank or to the Credit Union Tribunal during the administrative review processes only in extraordinary cases when necessary to achieve the ends of justice.

(10) The filing of a request for review does not affect a suspension of any decision taken or measure imposed by the Reserve Bank.

*Administrative review of controllership and liquidation directives*

**163.**—(1) The board of a credit union may obtain administrative review of controllership and liquidation directives as stated in section 162, except that the time periods provided for filing and acting upon such matters as provided in this section.

(2) Any request for administrative review of such directives is to be accompanied by a certified copy of a board resolution authorising the initiation of such procedures.

(3) If the board of a credit union files a request for administrative review of a controllership or a liquidation directive, the Credit Union Tribunal may promptly set a date for a hearing on such review that is not earlier than the 11th day nor later than the 30th day after the date on which the request is received by the Credit Union Tribunal.

(4) The Credit Union Tribunal must promptly give the credit union notice of the date, time and place of the hearing.

(5) The Credit Union Tribunal must issue its decision affirming, modifying or declaring unjustified the issuance of the controllership or liquidation directive no later than the 15th day after a hearing.

(6) A party to the administrative review proceeding who is aggrieved by the decision of the Credit Union Tribunal may file a petition for review with the court specifying the relief sought.

(7) The court must set a date for a hearing that is not earlier than the 11th day or later than the 30th day after the date on which the Credit Union Tribunal's decision was received and the court must promptly provide notice to the parties of the time and place of the hearing.

(8) No later than the 15th day after the hearing, the court must issue its decision affirming, modifying or declaring unjustified the issuance of the controllership or liquidation directive.

(9) The filing of a request for review of a controllership or liquidation directive will not suspend the effectiveness of the directive which is to remain in full force and effect.

(10) In cases brought under this Part, the court is authorised, in appropriate cases, to award monetary damages to injured parties and not to enjoin, stay, suspend, or set aside the actions of any controller, liquidating agent, the Reserve Bank or the Credit Union Tribunal taken under this Act.

(11) Any award of damages, unless based on actions found by the court to have been taken in bad faith by a controller, a liquidating agent, or the Reserve Bank, is directed against the Reserve Bank and in cases where bad faith is proven, against the wrongdoer as well.

## PART 14—MISCELLANEOUS

*Income tax*

**164.** The income of a credit union is subject to income tax.

*Compliance with Financial Transactions Reporting Act 2004*

**165.** A credit union must comply with the Financial Transactions Reporting Act 2004.

*Business days and legal holidays*

**166.—(1)** A credit union is deemed to be closed on any day, or any part of a day, when it is not open to the public for carrying on substantially all of its functions or transactions.

(2) A credit union must be closed at least one day of the week and on all legal holidays. When a credit union is closed in accordance with subsection (2), it is not under any obligation or duty to conduct any of its business or effect any transaction.

(3) Any notice, item, or deposit of money received on any legal holiday may be treated as being received at the opening of the next business day, and any transaction or other business which would or should have occurred or been transacted on any such legal holiday may be treated as postponed by law to the next business day.

(4) An institution may establish the regular hours of each business day during which each of its branches or offices will be open.

(5) In this section, unless the context otherwise requires—

“business day” means that part of any day on which a credit union is open to the public for carrying on substantially all of its functions or transactions;

“legal holiday” means any day which by law is designated or recognised as a legal, public holiday by the Government; or a bank holiday under section 62 of the Reserve Bank Act 1983;

“transact” means to take action or non-action the result of which is a transaction; and

“transaction” means any one or more of the functions and elements of the business of a credit union and includes, but is not limited to, the receipt or giving of any notice; the receipt or acceptance of deposits; the transmission, acceptance, payment, dishonour, and giving notice of dishonour of items; and its obligations and duties with respect to all thereof.

*Closing during emergencies and other special days*

**167.—(1)** The authorisations provided for an institution to close in case of an emergency means and includes the authority not to open on any business day and, if having opened, to close and suspend business.

(2) Where the Reserve Bank is of the opinion that an emergency exists or is impending, it may, by proclamation, authorise credit unions located in the affected area or areas to close.

(3) The credit unions affected by any such proclamation may close and may remain closed until the Reserve Bank proclaims that the emergency has ended, or until such earlier time as the officers of the institution determine that the credit union should reopen.

(4) Where the senior management of a credit union are of the opinion that an emergency exists, or is impending, which affects, or may affect, the credit union, have the authority, in the reasonable exercise of their discretion, to close the credit union on any business day or days during the continuation of such emergency, even if the Reserve Bank has not issued and does not issue a proclamation of emergency.

(5) The credit union office that has been closed may remain closed until such time as the board or senior management determines that the emergency has ended and for such further time thereafter as may reasonably be required to reopen.

(6) In no case, may a credit union remain closed pursuant to this section for more than 48 consecutive hours, excluding other legal holidays, without requesting the approval of the Reserve Bank.

(7) A credit union that closes under subsection (3) may give notice of its action to the Reserve Bank as promptly as conditions reasonably permit and by any means reasonably available.

(8) The board or senior management of a credit union may close the credit union on any day or days designated by proclamation of the Parliament as a day or days of mourning, rejoicing, or other special observance.

(9) In this section unless the context otherwise requires—

“emergency” means any condition or occurrence, actual or threatened, which may interfere substantially with the conduct of normal business operations of a credit union or which poses an imminent or existing threat to the safety or security of persons or property, or both; and

“office” means any place at which a credit union is authorised to transact its business or conducts operations relating to its business.

*Significant events; notice required*

**168.**—(1) A credit union must notify the Reserve Bank of the occurrence of any of the events listed in subsection (2) by filing a disclosure in a form to be specified by the Reserve Bank.

(2) The form includes the number and caption of all applicable events, along with a summary of each event.

(3) Completed forms are to be certified for authenticity and accuracy by the general manager or equivalent of the credit union.

(4) An event for which disclosure forms must be filed within 10 days of the occurrence of the event must include the following—

(a) the addition, resignation, or termination of a director, committee member, general manager, or external auditor;

- (b) the acquisition or divestiture of an asset or assets the value of which exceeds 20 per cent of capital as of the date of the most recent quarter end;
- (c) any interruption of fidelity insurance coverage; and
- (d) any suspected criminal act perpetrated against a credit union or related entities.

(5) No liability is incurred by any credit union or related entities as a result of making a good faith effort to fulfil this disclosure requirement.

(6) A financial institution that fails to file a disclosure form within 10 days after the occurrence shall be subject to a penalty fine as determined by the Reserve Bank.

*Retention and destruction of certain records*

**169.**—(1) The following credit union records must be retained permanently in either their original form or as a copy or reproduction that complies with subsection (5)—

- (a) licence, registration, by-laws, and amendments;
- (b) certificates of shares if applicable;
- (c) general ledger and supporting subsidiary ledgers;
- (d) minutes of meetings of the members, the board, the credit committee and the supervisory committee;
- (e) audit reports and opinions, under section 41 or 42, and any attachments, supporting work papers, and communications between the auditor and the credit union relating to the audit; and
- (f) listings of records destroyed.

(2) The following credit union records, if used, must be retained in either their original form or as a copy or reproduction that complies with subsection (4), for a period of at least 7 years—

- (a) balance sheets and statements of income and expenses;
- (b) individual share and loan records;
- (c) journal and cash records;
- (d) cash account reconcilements;
- (e) dividend records;
- (f) expense records;
- (g) reports of financial condition;
- (h) matured investment records;
- (i) supervisory or audit committee summary of account verification or the equivalent prepared by a certified public accountant; and
- (j) closed applications for membership and share account agreements.

(4) No liability is accrued against any credit union destroying any such records after the expiration of the period provided in subsection (2), and in any cause or proceedings in which any such records or files are called into question or demanded of the credit union or an employee thereof, a showing that such records or files have been destroyed in accordance with the terms of this section constitutes a sufficient excuse for the failure to produce them.

(5) A credit union may make a copy or reproduction of any of its records by the following methods—

- (a) photocopy;
- (b) scanned electronic copy;
- (c) archival computer media; or
- (d) reproduction on film.

(6) If the copy or reproduction is made in such manner that each page is exposed in its entirety and is duly certified or authenticated by a responsible officer of the credit union under whose supervision the records are kept, then the copy or reproduction or any duly certified or authenticated copy or reproduction thereof, is admitted and received as evidence with the same force and effect as the original record.

*Transitional*

**170.**—(1) A transition period of 12 months from the date of commencement of this Act applies to transactions under subsections (3) to (9).

(2) The transition period may be amended by the Minister on the recommendation of the Reserve Bank, by notice in the Gazette.

(3) The Registrar of Credit Unions must submit all data, records and documentation relating to credit unions registered under the Credit Unions Act 1954 to the Reserve Bank as soon as practicable.

(4) The Registrar of Co-operatives must submit all data, records and documents relating to co-operatives to the Reserve Bank as soon as practicable.

(5) All existing credit unions and co-operatives at the date of commencement of this Act continue and are deemed to be licensed or registered under this Act, as applicable, subject to the approval of the Reserve Bank.

(6) The Reserve Bank must assess the information submitted by the Registrar of Credit Unions and the Registrar of Co-operatives against the requirements of this Act in order to make a determination on whether an existing credit union or co-operative is to be licensed or registered under this Act.

(7) The Reserve Bank must provide a decision in writing to each credit union or co-operative as soon as practicable and the Reserve Bank may issue a licence or certificate of registration with or without conditions.

(8) The Reserve Bank may take any corrective or other action authorised under this Act with respect to non-compliance of a credit union.

(9) The Reserve Bank may not proceed with assessing any new application during the transition period to ensure effective transition.

*Repeal*

**171.** The Credit Unions Act 1954 is repealed.

*Consequential amendments*

**172.**—(1) The Banking Act 1995 is amended in section 70 by deleting “Credit Unions Act 1954” and substituting “Credit Union Act 2025”.

(2) The Companies Act 2015 is amended in section 3 by—

- (a) in the definition of “financial institution”, deleting “Credit Unions Act 1954” and substituting “Credit Union Act 2025”; and
- (b) in the definition of “managed investment or managed investment scheme”, deleting “Credit Union Acts 1954” and substituting “Credit Union Act 2025”.

(3) The Personal Property Securities Act 2017 is amended in section 2, in the definition of “financial institution”, deleting “Credit Unions Act 1954” and substituting “Credit Union Act 2025”;

(4) The Proceeds of Crime Act 1997 is amended in section 3 by deleting the definition of “credit union”.

(5) The Companies (Wholesale Corporate Bonds) Regulations 2021 is amended in regulation 4(1)(b), deleting “Credit Unions Act 1954” and substituting “Credit Union Act 2025”.

(6) The Land Transport (Public Service Vehicles) Regulations 2000 is amended in regulation 11A by, deleting “Credit Unions Act 1954” and substituting “Credit Union Act 2025”.



August 2025

## **CREDIT UNION BILL 2025**

### **EXPLANATORY NOTE**

*(This note is not part of the Bill and is intended only to indicate its general effect)*

#### **1.0 BACKGROUND**

- 1.1 Credit unions have been in existence in Fiji for more than half a century. Their development however, has considerably been slow largely due to the legal framework that has not kept pace with the development of the credit union movement in Fiji and more obviously around the world. A reform was therefore initiated to improve the credit union regulatory regime by strengthening the safety and soundness of credit unions with due consideration to the risk of imposing unreasonable regulatory burdens.
- 1.2 The Credit Union Bill 2025 (**‘Bill’**) therefore proposes a legislative framework to maintain public confidence in the credit unions doing business in Fiji through promoting soundness of the financial system. The Bill was designed with reference to the Model Law developed by the World Council of Credit Unions, the expertise of the technical assistants engaged by the Reserve Bank of Fiji (**‘Reserve Bank’**), and input from the relevant Government stakeholders, the Fiji Savings and Credit Union League and the local credit union industry.
- 1.3 The Bill is intended to replace the Credit Unions Act 1954 (**‘Act’**) and is divided into 14 Parts and 172 clauses.
- 1.4 The Bill provides for the administrative powers and responsibilities of the Reserve Bank to be the Registrar of credit unions including registration, licensing, regulation, supervision and enforcement actions.

#### **2.0 CLAUSES**

- 2.1 Clauses 1 to 3, which come under Part 1 of the Bill, provide for the date of commencement, objectives and interpretation provision. The objectives provision of the Bill set the overarching goal of the Bill to maintain public confidence in credit unions doing business in Fiji through promoting the soundness of the financial system. In addition, the interpretation provision includes a number of terms used frequently in the Bill.

- 2.2 Clauses 4 to 9, which come under Part 2 of the Bill, provide for the regulatory and supervisory authority for credit unions. The Bill proposes the Reserve Bank to be the regulatory and supervisory authority for credit unions conducting credit union business in Fiji. Like financial institutions, credit unions manage substantial funds belonging to others, namely their members and require the supervision by a knowledgeable external agency. Therefore clauses 4 to 9 of the Bill highlights the powers of the Reserve Bank including other general provisions and requirements consistent with achieving the objectives of the Bill.
- 2.3 Clauses 10 to 45, which come under Part 3 of the Bill, provide for the establishment and operation of a credit union. Part 3 of the Bill presents the processes for applicants interested in obtaining a credit union licence or to be registered by the Reserve Bank, and the essential operational, prudential and financial requirements that would need to be met and maintained in order to retain a licence or registration. These include specific membership requirements, proper governance structures, adhering to the standard by-laws, maintaining prudential financial or supervisory requirements and having the accounts of the credit union audited.
- 2.4 Clauses 46 to 93, which come under Part 4 of the Bill, provide for the lawful activities credit unions can engage in and operate. These form the core of credit union operations from its general powers to deposit and share accounts, loans, investments and other financial services.
- 2.5 Clauses 94 and 105, which come under Part 5 of the Bill, highlight the importance of maintaining confidentiality in the operation, supervision and regulation of credit unions by the Reserve Bank as the supervisor of credit unions.
- 2.6 Clauses 106 to 107, which come under Part 6 of the Bill provide for specific grounds where information may be provided overriding the requirement for confidentiality, which is when consent is given by a member of whom the required information pertains to or by a court order.
- 2.7 Clauses 108 to 112, which come under Part 7 of the Bill, provides for the procedure for executing the merger or consolidation of a credit union with another credit union as an alternative to liquidation. However, this process would only be invoked once the Reserve Bank has ensured that remedial action has been carried out to the extent possible. Such a merger must not cause an adverse impact on the receiving credit union, which could seriously affect the financial health or viability of the combined institution. An important criterion to note for this process is that before the transaction takes place, majority of the board and the members of each credit union must agree to the merger or consolidation.

- 2.8 Clauses 113 to 125, which come under Part 8 of the Bill, authorise the Reserve Bank to place a credit union under controllership when the credit union fails to implement directed remedial measures, remains in violation of the laws, or is insolvent when it is necessary to conserve the assets of the credit union or to protect the interests of the members.
- 2.9 Clauses 126 to 146, which come under Part 9 of the Bill, details the process of liquidation of a credit union. This process would be taken once the Reserve Bank has exhausted all attempts at rehabilitation and concluded that no other options are available. Liquidation will almost certainly result in financial losses to members however, in the event that residual value exists after all claims have been paid, the remaining assets of the institution must be distributed to the members of the credit union based on their equity ownership of the institution as evidenced by their membership shares.
- 2.10 Clauses 147 to 154, which come under Part 10 of the Bill, provides for a solvent credit union, subject to the approval of the Reserve Bank, to wind up its business affairs on a voluntary basis.
- 2.11 Clause 155, which is Part 11 of the Bill, provides for the establishment of the role of the credit union league and outlines the functions it may carry out for its members – the credit unions, for example pooling funds for investment, bulk purchases, and provision of training and audit services. The powers, scope, activities and responsibilities of the credit union league will be detailed in its constitution which must be approved by the Reserve Bank.
- 2.12 Clauses 156 to 161, which come under Part 12 of the Bill, provides for a specific number of offences against a credit union or personnel employed by a credit union with corresponding penalties. These include defamation, disclosure of confidential information, demanding or accepting consideration for loans, investments and purchases without following the correct procedures, underwriting loans to non-members, making false statements or documents and knowingly destroying records. Part 12 of the Bill also provides an avenue to register an appeal if an individual disagrees with the decision or accusation of the credit union or the Reserve Bank.

- 2.13 Clauses 162 and 163, which come under Part 13 of the Bill, provide for an appeals process to decisions made by the Reserve Bank in undertaking its responsibilities. The appeal must be submitted to the Credit Union Tribunal which will hear the case of all parties and make a decision on the matter. This particular review and appeals process among financial institutions is unique to credit unions in the spirit of transparency, accountability and democratic participation generally prevalent in the industry. In addition, allowing a process of appeals provides a stronger governance structure warranting more accountability from the Reserve Bank and the Tribunal in serving the credit unions and its members. Part 13 of the Bill also provides for limitations on the scope of investigation to simplify and clearly define cases when they are presented at the Tribunal and in court. Should the aggrieved not be satisfied with the decision of the Tribunal, it may bring the case for judicial review in a court in Fiji and the decision of the court will be final.
- 2.14 Clauses 164 to 172, which come under Part 14 of the Bill, provides for a number of standard provisions for credit unions, including, exemption of income tax for credit unions, requirement to comply with the Financial Transactions Reporting Act 2012 as a requirement for all financial institutions, business days, legal holidays and closing during emergencies declared by the Reserve Bank. In addition, significant events are required to be reported to the Reserve Bank and retention and destruction of records regulated. Moreover, Part 14 of the Bill provides for the transitional arrangements for credit unions registered under the Act given that the Act is intended to be repealed and consequential amendments are also addressed.

### **3.0 MINISTERIAL RESPONSIBILITY**

- 3.1 The Act comes under the responsibility of the Minister for finance.

S. D. TURAGA  
Acting Attorney-General