

By-laws on deposit insurance

SCHEDULE "A"

1 In this schedule

"date of deposit" means the day on which credit for the money is given to the account of the member or the day on which an instrument is issued for such monies by the credit union for a deposit,

"depositor" means a member whose account is credited in respect of monies constituting a deposit or part of a deposit or a member to whom a credit union is liable in respect of an instrument issued for monies constituting a deposit or part of a deposit.

2 Deposit protection

For the purposes of these by-laws "deposit" means:

- (a) the unpaid balance of the aggregate of monies received or held by a credit union incorporated under the *Credit Unions Act* of New Brunswick from or on behalf of a member in the usual course of the deposit-taking business of the credit union for which the credit union :
 - (i) has given or is obligated to give credit to that member's account or has issued or is obligated to issue a receipt, certificate, debenture, transferable instrument, draft, certified draft or cheque, traveller's cheques, prepaid letter of credit, money order or other instrument in respect of which the credit union is primarily liable, and
 - (ii) is obligated to repay the monies on a fixed day, on demand by that member or within a specified period of time following demand by that member, including any interest accrued or payable to that member. The accrual of any interest stops immediately after the institution stops taking deposits.
- (b) The following monies are excluded from the monies referred to in subsection(a):
 - (i) monies received or held by the credit union unless the institution is or was obligated or may by the demand of that member become obligated to repay the monies on or before the expiration of five years after the date of the deposit,
 - (ii) monies received or held by the credit union which are not repayable in Canadian dollars,
 - (iii) monies received from the issue of shares as provided in the *Credit Unions Act*,
 - (iv) monies received for the issue of subordinated notes which in the event of insolvency or winding-up rank subordinate in right of payment to all other indebtedness of the credit union except other subordinated notes.
- (c) For the purposes of deposit insurance with the Corporation, where monies received by a credit union from a depositor pursuant to a registered retirement savings plan, within the meaning given that expression for the purposes of the *Income Tax Act*, constitutes a deposit or part of a deposit by or for the benefit of an individual, the aggregate of those monies and other monies received from the same depositor pursuant to any other registered retirement savings plan and that constitutes a deposit or part of a deposit by or for the benefit of the same individual shall be deemed to be a single deposit separate from any other deposit of or for the benefit of that individual.

- (d) For the purpose of deposit insurance with the Corporation, where monies received by a credit union from a depositor pursuant to a registered retirement income fund, within the meaning given that expression under the *Income Tax Act*, constitutes a deposit or part of a deposit by or for the benefit of an individual the aggregate of these monies and other monies received from the same depositor pursuant to any other registered retirement savings plan and that constitutes a deposit or part of a deposit by or for the benefit of the same individual, shall be deemed to be a single deposit separate from any other deposit for the benefit of that individual.
- (e) For the purpose of deposit insurance with the Corporation, where monies received by a credit union from a depositor pursuant to a tax free savings account, within the meaning given that expression under the *Income Tax Act*, constitutes a deposit or part of a deposit by or for the benefit of an individual the aggregate of these monies and other monies received from the same depositor pursuant to any other tax free savings account and that constitutes a deposit or part of a deposit by or for the benefit of the same individual, shall be deemed to be a single deposit separate from any other deposit for the benefit of that individual.
- (f) For the purpose of deposit insurance with the Corporation where a depositor who is acting as trustee for another or as joint owner with another, if the trusteeship or joint interest is disclosed on the records of the credit union, the deposit shall be deemed for the purpose of deposit insurance with the Corporation to be a deposit separate from any deposit of the depositor acting in his own right or acting in another joint or trust capacity with the credit union.

For greater certainty, where two or more members are joint owners of two or more deposits, the aggregate of those deposits shall be insured to a maximum of \$250,000.

Where a trustee is acting for two or more beneficiaries, if the interest of each beneficiary in the deposit is disclosed in the records of the credit union, the interest of each beneficiary in the deposit shall be deemed for the purpose of deposit insurance with the Corporation to be a separate deposit.

Where a trustee is acting for a beneficiary as described above, the deposit is deemed separate from any other deposit of the beneficiary made with the credit union in his own right for his own use and separate from any interest of the beneficiary in respect of any other trust deposit of which he is a beneficiary.

3 Deposit protection – amalgamation of credit unions

- (1) Where a depositor has deposits with two or more member credit unions that amalgamate and continue in operation as one member credit union, in this section referred to as the “amalgamated institution”, the deposits of that depositor with an amalgamating institution on the day on which the amalgamated institution is formed, in this section referred to as the “effective date”, less the aggregate of all subsequent withdrawals from such deposits, shall except as provided in subsection (2), for the purpose of deposit insurance with the Corporation, be deemed to be separately insured to the same effect as if such deposits continued following the effective date to be held by a separate member credit union separate from the other amalgamating institution or institutions that become part of the amalgamated institution.
- (2) A deposit made by a depositor referred to in subsection (1) with an amalgamated institution after the effective date shall be insured by the Corporation only to the extent that the aggregate of that depositor’s deposits with the amalgamated institution, including the balance of all deposits held by the amalgamating institutions referred to in subsection (1), exclusive of the deposit in respect of which the calculation is made, is less than two hundred and fifty thousand dollars.
- (3) For further certainty, where a depositor had a deposit that was a term deposit, investment certificate or similar obligation of an amalgamating institution that matures on or after the effective date and

such obligation is renewed by the amalgamated institution, the amount of such obligation shall, for the purposes of this section, be treated as having been withdrawn on the date of renewal and redeposited with the amalgamated institution.

- (4) For the purpose of deposit insurance with the Corporation, where a member credit union assumes deposit liabilities of another member credit union, those member credit union are deemed to be amalgamating institutions and subsections (1) and (2) apply where a person has deposits with both institutions.
- (5) Where a member credit union assumes deposit liabilities of another member credit union, the deposits in respect of those liabilities are, for the purposes of sections 224 and 225 of the *Act*, deemed to be deposited with the member credit union that assumes them as of the day on which they are assumed.

4 Joint and trust account disclosure

- (a) For the purposes of subsection 2(f) of schedule “A”, where a depositor is acting as joint owner with another, the following information is to be disclosed by the depositor on the records of a member credit union or *caisse populaire*:
 - (i) a statement that the deposit is owned jointly by the joint owners; and
 - (ii) the name and address of each of the joint owners.
- (b) For the purposes of subsection 2(f) of schedule “A”, where a depositor is acting as trustee for a beneficiary, the following information is to be disclosed by the depositor on the records of a member credit union or *caisse populaire*:
 - (i) a statement that the deposit is held in trust by the trustee; and
 - (ii) the name and address of the trustee.
- (c) For the purposes of subsection 2(f) of schedule “A”, where a depositor is acting as trustee for a beneficiary, the information to be disclosed, subject to section 5, by the depositor on the records of the member credit union or *caisse populaire* is the name and address of the beneficiary.
- (d) For the purposes of subsection 2(f) of schedule “A”, where a depositor is acting as trustee for two or more beneficiaries, the following information is to be disclosed by the depositor on the records of the member credit union or *caisse populaire*:
 - (i) a statement that the deposit is the subject of a trust under which there are multiple beneficiaries, and
 - (ii) subject to section 5, the names and address of each beneficiary.

5 Exception

The information referred to in section 4 is not required to be disclosed on the records of a member credit union or *caisse populaire* if the information described in section 6 is disclosed on the records of the institution in lieu thereof and the deposit is held in trust by :

- (i) the public trustee of a province or a similar public official whose duties involve holding moneys in trust for others;

- (ii) a federal, provincial or municipal government, or a department or agency thereof;
- (iii) a solicitor or partnership of solicitors, a law corporation, or a notary or partnership of notaries in the Province of New Brunswick, when they act in that capacity as a trustee of moneys for others;
- (iv) a person who is acting as a trustee of moneys for others in the course of business and is required by or under a statute to hold the deposit in trust ; or
- (v) a person who is acting as a trustee of moneys for others in the course of business and is required to hold the deposit in trust by the rules of a securities commission, or other regulatory or self-regulating organization that audits compliance with those rules.

6 Information to be disclosed on the records

For the purposes of section 5, the information that is to be disclosed on the records of a member credit union or *caisse populaire* is a separate alphanumeric code or other identifier, in respect of each beneficiary, that can be found in records kept by the depositor that contain an up-to-date list of :

- (i) the name and address of each beneficiary.

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SCHEDULE “B”

1 Interpretation

The definitions in this section apply in this by-law.

“interest termination date” means

in the case of interest referred to in section 46 of the by-laws, the date of the commencement of the winding-up;

2 Application

This schedule applies to deposits referred to in section 48 of the by-laws.

3 Prescribed indexes and reference points

Variable indexes and reference points that are ascertainable and numerically measurable are hereby prescribed for the purpose of PART V, subsection 48(d) of the by-laws.

4 Determination of interest

- (a) Subject to subsections (a) to (c), the interest accruing and payable in relation to a deposit shall be determined, as of the interest termination date, in accordance with the provisions of the deposit contract between the depositor and the member institution.
- (b) Where the term of a deposit contract extends beyond the interest termination date and not all of the information necessary for the calculation of interest is available by that date, the interest accruing and payable in relation to the deposit, other than interest that is payable on or before that date, shall be determined as follows:

(b1) if the contract does not provide for periodic interest calculations, the interest is to be determined using the following formula:

$$A \times B (C, D)$$

Where

A is the principal amount,

B is the rate of interest determined by reference to:

- (i) where the contract provides that the rate of interest is to be determined by reference to the change, on one or more dates after the interest termination date, in an index or reference point specified in the contract, the increase or decrease as contemplated by the contract in that index or reference point between the first day of the term of the contract and the interest termination date, or
- (ii) where the contract provides that the rate of interest is to be determined by reference to the value, on one or more dates after the interest termination date, of an index or reference point specified in the contract, the value of that index or reference point on the interest termination date,

C is the number of days in the term of the contract that have elapsed as of the interest termination date, and

D is the total number of days in the term of the contract.

(b2) if the contract provides for periodic interest calculations and the interest termination date occurs before the first interest calculation date specified in the contract, the interest is to be determined using the following formula:

$$E \times F (G, H)$$

Where

E is the principal amount,

F is the rate of interest determined by reference to

- (i) where the contract provides that the rate of interest is to be determined by reference to the change, on one or more dates after the interest termination date, in an index or reference point specified in the contract, the increase or decrease as contemplated by the contract in that index or reference point between the first day of the term of the contract and the interest termination date, or
- (ii) where the contract provides that the rate of interest is to be determined by reference to the value, on one or more dates after the interest termination date, of an index or reference point specified in the contract, the value of that index or reference point on the interest termination date,

G is the number of days in the term of the contract that have elapsed as of the interest termination date, and

H is the number of days from the first day of the term of the contract up to the first interest calculation date specified in the contract.

(b3) if the contract provides for periodic interest calculations and the interest termination date occurs on or after the first interest calculation date specified in the contract, the interest is the sum of

- (i) the amount of any interest that, in accordance with the contract, is to be calculated on or before the interest termination date but is not payable until after that date, and
- (ii) where the interest termination date does not coincide with an interest calculation date specified in the contract, the amount of interest is determined using the following formula :

$$I \times J (K, L)$$

Where

I is the principal amount as of the preceding interest calculation date specified in the contract,

J is the rate of interest determined by reference to

- (i) where the contract provides that the rate of interest is to be determined by reference to the change, on one or more dates after the interest termination date, in an index or reference point specified in the contract, the increase or decrease as contemplated by the contract in that index or reference point between the preceding interest calculation date specified in the contract and the interest termination date, or
- (ii) where the contract provides that the rate of interest is to be determined by reference to the value,

on one or more dates after the interest termination date, of an index or reference point specified in the contract, the value of that index or reference point on the interest termination date,

K is the number of days that have elapsed from the preceding interest calculation date specified in the contract up to the interest termination date, and

L is the number of days from the preceding interest calculation date specified in the contract up to the next interest calculation date specified in the contract.

- (c) Interest shall not be determined in accordance with subsection 4(b) where the deposit contract provides for the payment of a minimum amount of interest that exceeds the amount which would be payable under that subsection, or where it provides for the payment of a maximum amount of interest that is less than the amount which would be payable under that subsection.

5 Exception

- (a) Except where a minimum amount of interest is payable under the deposit contract, no interest is payable in relation to a deposit if
 - (i) the index or reference point specified in the contract has not come into existence by the interest termination date and the contract fails to provide for the substitution of an alternative index or reference point; or
 - (ii) the index or reference point specified in the contract no longer exists on the interest termination date, the contract fails to provide for the substitution of an alternative index or reference point, and not all of the information necessary for the calculation of interest is available by that date.

6 Other

In determining the interest accruing and payable in relation to a deposit, no account shall be taken of any provision of the deposit contract that provides, whether by way of penalty or otherwise, for a reduction in the amount of interest payable in the case of early withdrawal.