



Amendment
to the
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of 2015

CREDIT UNION (AMENDMENT) ACT, 2015

(Act 10 of 2015)

(a) by inserting in paragraph (b) the word "bus" appearing at the end;

(b) by inserting in paragraph (c) the word "the" at the end;

I assent

J. A. Michel
President

22nd September, 2015



AN ACT to amend the Credit Union Act, 2009 (Act 13 of 2009).

ENACTED by the President and the National Assembly.

1. This Act may be cited, as the Credit Union (Amendment) Act, 2015.

Short title

Amendment of Act 13 of 2009 as last amended by Act 29 of 2010

2. The Credit Union Act, 2009 is amended as follows—

- (a) by inserting in section 4, after paragraph (g), the following paragraph—
 (h) charge such fees for services provided by it as may be prescribed by rules by the Regulatory Authority;”,

2105 (b) in section 5—

- (i) by repealing in paragraph (b) the word “and” appearing at the end;
- (ii) by inserting in paragraph (c) at the end, the word “and”;
- (iii) by inserting after paragraph (c) the following paragraph—
 “(d) provide such other business activities as may be prescribed by regulations, consistent with the activities of a financial institution.”;
- (c) in section 14—
- (i) by inserting after subsection (3), the following subsection—
 “(3A) A member of the credit union shall, before being elected to the Board or Supervisory Committee at an annual general meeting referred to in subsection (3), be approved by the Regulatory Authority in the manner as may be prescribed by rules by the Regulatory Authority.”;

- (ii) by inserting after subsection (5), the following subsections—

“(6) No member of the credit union shall be eligible to be appointed to the Board or Supervisory Committee, if he—

- (a) is mentally or physically incapable of carrying out the functions as a member of Board or Supervisory Committee;

- (b) has been convicted for an offence involving felony, fraud or dishonesty;

- (c) is undischarged insolvent or bankrupt.

(7) A member of the credit union elected to the Board shall be eligible for re-election but no such member shall be elected for more than two terms.

(8) A credit union shall upon the change of any member of the Board or Supervisory Committee notify the Regulatory Authority within 21 days of such change.”

(d) in section 15—

- (i) in subsection (1)—

(A) by inserting in paragraph (b) at the end, the word “and”;

edit (C) paragraph (B) by repealing paragraphs (c) and (d) and substituting therefor the following paragraph—

“(c) three other members;”

(ii) by repealing in subsection (2), the words “Vice-Chairperson and Chief Executive Officer” and substituting therefor the words “and vice-Chairperson”;

(e) in section 22(1), by inserting after paragraph (a), the following paragraph—

“(aa) incurs, at any time after election, any disqualification specified in section 14(6);”

Repealing (D) in section 23—

“(1) by repealing subsection (1) and substituting therefor the following subsection—

“(1) The Board shall, subject to the approval of a general meeting of the members of the credit union, appoint a person as the Chief Executive Officer of the credit union, who has expertise and experience in the fields of finance, banking, accounting, management, cooperation or any other field related to operation of a credit union.”

(ii) by inserting in subsection (2), after the words “credit union” the words “and be responsible to the Board”;

(iii) by inserting after subsection (3), the following subsection—

“(4) The Chief Executive Officer shall attend the meetings of the Board and participate in the deliberations of transaction of any business therein but shall have no right to vote.”

(g) by inserting after section 23, the following section—

“23A. (1) The Board may appoint such number of other officers and employees as may be necessary to carry out the functions of the credit union.

(2) The salary, allowances and other terms and conditions of service of the officers and employees shall be as prescribed in the bye-laws.”

(h) by inserting after section 24, the following section—

“24A. The Board may remove from office of officers, employees or members of a credit union or any member of the Credit Committee or other committee if such officer, employee or member fails to perform his or her duties”;

(i) by repealing section 39 and substituting therefor the following section—

“39. The maximum amount that a member may borrow shall not exceed ten per cent of the capital of credit union in aggregate

Loan Limits

or such other amount as the Regulatory Authority may by rules prescribe.”;

- (j) in section 42, by inserting after subsection (3), the following subsection —

“(4) The Board of a credit union may, with the approval of the credit union at its general meeting, make schemes for grant of special loans for the welfare of its employees.”;

- (k) by inserting after section 48, the following sections —

Minimum required capital
 “48A.(1) A credit union shall at all times maintain in Seychelles unimpaired capital or assigned capital, as may be prescribed by rules by the Regulatory Authority.

(2) A credit union shall not reduce its paid-up capital or its assigned capital, as the case may be, without prior approval of the Regulatory Authority.

(3) Total regulatory capital of the credit union shall be at the minimum level or such higher percentage, as prescribed by rules by the Regulatory Authority, of the total value of its assets (determined on a risk-adjusted basis.

Foreign currency exposure
 48B. A credit union shall hold such maximum net open position in any foreign currency or currencies as the Regulatory Authority may by rules prescribe.”;

- (l) by inserting in section 51(1), after the words “loan loss allowance” the words “in accordance with the guidelines prescribed by rules by the Regulatory Authority”;

(m) in section 53 —

(i) by inserting in paragraph (a) after the words “credit unions” the words “including the procedure for dealing with complaints relating to services provided”;

(ii) by repealing in paragraph (e), the word “and” appearing at the end;

(iii) by inserting after the paragraph (f), the following paragraph (g) —

“(g) prescribe by rules the requirement of classification and evaluation of assets; provisions to be made on the basis of such classification and evaluation against doubtful and non-performing loans; and the time when the earnings on non-performing loans may no longer be accounted for as income except as received in cash.”;

- (n) by inserting after section 54, the following section —

Furnishing of statements and other information
 “54A. Every credit union shall submit to the Regulatory Authority such statements and other information, in such form and within such period, as the Regulatory Authority may, by rules, prescribe.”;

(o) in section 55—

(i) by repealing in paragraph (b), the word "or" appearing at the end;

(ii) by inserting after paragraph (c) and before the words "the Regulatory Authority may", the following paragraph—

"(d) no longer possesses or is not maintaining or not in a position to maintain adequate capital resources, or no longer provides security for the funds entrusted to it,"

(p) by inserting after section 63, the following—

"PART IX-A - OFFENCES AND PENALTIES

63A.(1) A person who—

(a) with intent to deceive, falsifies or destroys any book of account, report, statement, record or other document of the credit union;

(b) signs, issues, publishes or transmits to, Regulatory Authority official any book of account, report, statement, record or other document of a credit union which that person knows to be false;

(c) fails, refuses or unreasonably delays to comply with any requirement of the Regulatory Authority or its officers under section 54(2);

(d) fails to produce any document or record when required to do so by the Regulatory Authority;

(e) knowingly or recklessly uses funds for any purpose other than for those provided in sections 13(3) and 51,

commits an offence and is liable on conviction to a fine not exceeding SCR40,000 or to imprisonment for a term not exceeding 6 months.

(2) A credit union, which—

(a) conducts any business contrary to section 4 or section 5; or

(b) fails to comply with provisions contained in section 12 or section 66;

(c) willfully fails to notify the owner pursuant to section 37(1) or fails to publish a notice pursuant to section 37(3);

(d) contravenes or fails to comply with requirements of section 39, 48, 48A, 48B, or 51;

(e) fails, refuses or unreasonably delays to comply with any direction of the Regulatory Authority under section 53 or section 55;

(f) fails, refuses or unreasonably delays to comply with any requirement of the Regulatory Authority or its officers under section 54(2),

commits an offence and is liable on conviction to a fine not exceeding SCR400,000; and where the offence is continued after the conviction with an additional fine of SCR20,000 for every day or part thereof for which the offence continues.

(3) Any administrator, officer, employee or agent of a credit union who obstructs or endeavors to obstruct the proper performance of the duties of an auditor in accordance with this Act or an inspection of the credit union by any officer or other person appointed by the Regulatory Authority, commits an offence and is liable on conviction to a fine not exceeding SCR40,000 or to imprisonment for a term not exceeding 6 months.

Compounding of offences

63B.(1) Where a credit union or any other person agrees in writing to the compounding of an offence under this Act which is punishable only by a fine, the Regulatory Authority in consultation with the Attorney General may, if it is satisfied that the offence has been committed, compound the

offence by accepting such sum of money as may be prescribed by regulations, which shall not be less than one-third of the maximum fine or exceed the maximum fine provided for the offence.

(2) Where an offence is compounded under subsection (1), no proceedings shall be instituted in relation to that offence against the person referred to in subsection (1) or any other person who is a party to the offence.

(g) By repealing section 68; and by inserting after section 70, the following section—

Power of Regulatory Authority to prescribe certain matters by rules

70A. The Regulatory Authority may, in consultation with the Boards of all credit unions, make rules to provide for—

(a) the rates of fees to be charged by a credit union in connection with the registration of a credit union under section 4(h);

(b) the manner of approval of members of a credit union as set out by a credit union for election to the Board and Supervisory Committee under section 14(3A);

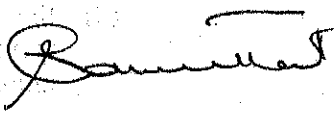
(c) the procedure for dealing with complaints relating to services provided by a credit union; and

(d) the maximum amount that a member may borrow from a credit union under section 39;

(e) the impaired capital or assigned capital which a credit union shall at

- (f) all times maintain in Seychelles under section 48A(1);
- (f) the minimum level of the total regulatory capital or the higher percentage of the total value of its assets, which a credit union is to maintain under section 48A(3);
- (g) the maximum net open position in any foreign currency or currencies which a credit union is to hold under section 48B;
- (h) guidelines concerning the loan loss account under section 51(1);
- (i) the requirement concerning classification and evaluation of assets; provisions to be made on the basis of such classification and evaluation against doubtful and non-performing loans; and the time when the earnings on non-performing loans may no longer be accounted for as income except as received in cash under section 53(g)."

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 22nd September, 2015.



Ms. Shelda Commettant
Clerk to the National Assembly