The Credit Union Act, 1998

being

Chapter C-45.2* of the *Statutes of Saskatchewan, 1998* (effective February 1, 2000, except cl. 2(1)(v) and (aaa), ss. 9(2), cl. 10(c), Parts VI and XXI, cl. 440(1)(o) to (s) and (hh), and ss.440(2) not yet proclaimed) as amended by the *Statutes of Saskatchewan*, 2000, c.L-5.1; 2001, c.12; 2002, c.S-17.2; 2004, c.L-16.1 and T-18.1; 2006, c.26; 2009, c.12; 2010, c.8 and 21; 2012, c.F-13.5; and 2015, c.21.

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER C-45.2

An Act respecting Credit Unions

PART I
Short Title, Interpretation and Application

Short title

1 This Act may be cited as *The Credit Union Act, 1998*.

Interpretation

2(1) In this Act:

(a) **"affiliate"** means an entity within the meaning of subsection 4(1);

(b) **"articles"** means the articles of incorporation of a credit union described in section 12 and includes articles of continuance, articles of amalgamation, articles of revival, articles of arrangement, and articles of dissolution and amendments to or restatements of the articles that may be made pursuant to this Act;

(c) **"associate"**, when used to indicate a relationship with any person, means:

(i) an entity of which that person beneficially owns or controls, directly or indirectly, shares or securities currently convertible into shares carrying more than 10% of the voting rights under all circumstances or by reason of the occurrence of an event that has occurred and is continuing, or a currently exercisable option or right to purchase those shares or those convertible securities;

(ii) a co-operative or credit union of which the person beneficially owns more than 10% of the voting rights that can be cast at a meeting of the co-operative or credit union;

(iii) an unincorporated entity of which the person beneficially owns more than 10% of the ownership interests;

(iv) a partner of that person acting on behalf of the partnership of which they are partners;

(v) a trust or estate in which that person has a substantial beneficial interest or with respect to which that person serves as a trustee or administrator or in a similar capacity;

(vi) a spouse or child of that person; or

(vii) a relative of that person or of his or her spouse if that relative has the same residence as that person;

(d) **"auditor"** includes a partnership of auditors;

(e) **"bearer"**, with respect to a security, means the person who is in possession of a security that is payable to bearer or endorsed in blank;

(f) **"board"** means the board of directors of a credit union;

(g) **"bond of association"** means the common characteristic of the members that may permit them to be members in a credit union;

(h) **"bylaws"** means the bylaws of a credit union that have been approved by the members and registered in accordance with section 422;

(i) **"call"** means an option, transferable by delivery, to demand delivery of a specified number or amount of securities at a fixed price within a specified time but does not include an option or right to acquire securities of a credit union that granted the option or right to acquire;

(i.1) **"capacity"** means, in sections 11 and 102, the ability:

(i) to understand information relevant to making a decision; and

(ii) to appreciate the reasonably foreseeable consequences of making or not making a decision;

(i.2) **"chairperson"** means the chairperson of the board or an individual who performs functions for the board similar to those normally performed by a chairperson;

(j) **"co-operative entity"** means an entity that is organized and operated on co-operative principles;

(k) **"corporation"** means a corporation that is incorporated or continued pursuant to an Act;

(l) **"court"** means the Court of Queen's Bench;

(m) **"credit union"** means, subject to subsection 9(2), a credit union incorporated, continued or registered pursuant to this Act;

(n) **"Credit Union Central"** means Credit Union Central of Saskatchewan continued pursuant to *An Act to amend and consolidate An Act respecting* Saskatchewan Co-operative Credit Society Limited and Saskatchewan *Co-operative Financial Services Limited*, being chapter 89 of the *Statutes of Saskatchewan, 1979*;

(o) **"CUDGC"** means the Credit Union Deposit Guarantee Corporation continued pursuant to section 442;

(p) **"debt obligation"** means a bond, debenture, note or other evidence of indebtedness of an entity, whether secured or unsecured;

(q) **"delegate"** means an individual who is appointed or elected to represent a member at a meeting of members;

(r) **"deposit"** means a deposit as defined in the regulations;

(s) **"director"** means a member of the board of a credit union;

(t) **"distributing credit union"** means a credit union any of whose issued securities, other than membership shares, are or were part of a distribution to the public and remain outstanding and are held by more than one person;

(u) **"entity"** means a body corporate, wherever incorporated, a trust, a partnership, a fund or an unincorporated organization, and includes Her Majesty in right of Saskatchewan, of Canada or of a province, an agency of Her Majesty in any of those rights, and a government of a foreign country or any political subdivision or agency of a government of a foreign country;

(v) **Not yet proclaimed.**

(w) **"extraprovincial entity"** means an entity incorporated, continued, registered or regulated otherwise than by or pursuant to an Act;

(x) **"financial institution"** means:

(i) a bank to which the *Bank Act* (Canada) applies;

(ii) an entity licensed pursuant to *The Trust and Loan Corporations Act, 1997* or an entity incorporated, continued or licensed pursuant to a similar Act of the Parliament of Canada or the Legislature of any province of Canada;

(iii) an entity licensed to transact insurance pursuant to *The Saskatchewan Insurance Act* or an entity incorporated, continued or licensed pursuant to a similar Act of the Parliament of Canada or the Legislature of any province of Canada;

(iv) a cooperative credit society within the meaning of the *Cooperative Credit Associations Act* (Canada) that is incorporated, continued or regulated by or pursuant to an Act of the Legislature of a province of Canada;

(v) an association incorporated or continued pursuant to the *Cooperative Credit Associations Act* (Canada);

(vi) an entity that is incorporated, continued or licensed pursuant to an Act of the Parliament of Canada or of a Legislature of a province of Canada that is primarily engaged in dealing in securities, including portfolio management and investment counselling;

(vii) a foreign financial institution;

(y) **"foreign financial institution"** means an entity that:

(i) is engaged in the business of banking or in the trust, loan or insurance business, the business of a cooperative credit society or the business of dealing in securities or is otherwise engaged primarily in the business of providing financial services; and

(ii) is not incorporated or continued pursuant to an Act of the Parliament of Canada or the Legislature of a province of Canada;

(z) **"holder"** means:

(i) with respect to a security certificate, the person in possession of the certificate issued or endorsed to the person or to bearer or in blank;

(ii) with respect to the ownership of a membership share, the person mentioned in subsection 7(1); and

(iii) with respect to the ownership of an investment share, the person mentioned in subsection 7(2);

(aa) **"incorporator"** means a person who signs articles of incorporation;

(bb) **"insolvent"** includes:

(i) the inability of a credit union to pay its debts as they come due in the ordinary course of business; or

(ii) the circumstance in which the realizable value of the credit union's assets is less than the sum of its liabilities and stated capital of all shares;

(cc) **"investment share"** means a share in the capital of a credit union that is not a membership share;

(dd) **"meeting of a credit union"**, depending on the context, means:

(i) a meeting of members of a credit union; or

(ii) a meeting of the holders of investment shares of a credit union, or a class or series of investment shares;

(ee) **"member"** means a person who has been admitted as a member of a credit union pursuant to section 65;

(ff) **"membership share"** means a share described in section 127;

(gg) **"minister"** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(hh) **"officer"** includes:

(i) the chief executive officer, secretary, treasurer, chief financial officer, general manager or assistant general manager of a credit union;

(ii) a person who performs functions for a credit union normally performed by a person mentioned in subclause (i); and

(iii) any officer that is provided for in the bylaws or in a resolution of the board of a credit union;

(ii) **"ordinary resolution"** means a resolution that is passed by a majority of those members, delegates or shareholders who are entitled to vote and who properly vote on the resolution;

(jj) **"patronage return"** means earnings that are allocated to members or patrons on the basis of patronage;

(kk) **"person"** includes an individual and an entity;

(ll) **"province"** includes a territory of Canada;

(mm) **"proxy"** means a completed and executed form of proxy by means of which a shareholder appoints a proxyholder to attend and act on the shareholder's behalf at a meeting of the shareholders;

(nn) **"put"** means an option, transferable by delivery, to deliver a specified number or amount of securities at a fixed price within a specified time;

(oo) **"redeemable"**, with respect to an investment share issued by a credit union, means an investment share:

(i) that the credit union may acquire or redeem on the demand of the credit union; or

(ii) that the credit union is required by its articles to acquire or redeem at a specified time or on the demand of the holder;

(pp) **"registrar"** means the Registrar of Credit Unions appointed pursuant to section 408, and includes any Deputy Registrar appointed pursuant to section 408;

(qq) **"security"** includes an investment share, a debt obligation of a credit union and a certificate evidencing a share or debt obligation and, for the purposes of Parts XVI , XVII and XXII, includes a membership share;

(rr) **"security interest"** means an interest in or charge on property of a credit union to secure payment of a debt or the performance of an obligation of the credit union;

(ss) **"send"** includes deliver;

(tt) **"series"**, with respect to investment shares, means a division of a class of those shares;

(uu) **"share"**, except in clause (c) and section 3, means a membership share or an investment share;

(vv) **"shareholder"** means a person described in subsection 7(2);

(ww) **"special resolution"** means:

(i) in the case of a special resolution of members, a resolution that is passed by three-fourths of the members or delegates who are entitled to vote and who properly vote on the resolution where at least 21 days' notice of the intention to propose the resolution as a special resolution has been given to those members or delegates who are entitled to vote;

(ii) in the case of a special resolution of shareholders, a resolution that is passed by two-thirds of the shareholders who are entitled to vote and who properly vote on the resolution where at least 21 days' notice of the intention to propose the resolution as a special resolution has been given to those shareholders entitled to vote on the resolution;

(xx) **"standards of sound business practice"** means the standards of sound business practice filed with the registrar by CUDGC pursuant to section 452 and includes any amendments made to them by CUDGC;

(yy) **"subordinated indebtedness"** means an instrument evidencing an indebtedness of a credit union that by its terms provides that the indebtedness will, in the event of insolvency or dissolution of the credit union, be subordinated in right of payment to all deposit liabilities of the credit union and all other liabilities of the credit union except those that, by their terms, rank equally with or are subordinate to that indebtedness;

(zz) **"substantial investment"** means a substantial investment as described in section 3;

(zz.1) **"vice-chairperson"** means the vice-chairperson of the board or an individual who performs functions for the board similar to those normally performed by a vice-chairperson;

(aaa) **Repealed.** 2010, c.8, s.3.

(1.1) Notwithstanding any other provision of this Act or the regulations or of any other Act or law, if, pursuant to *The Financial and Consumer Affairs Authority of Saskatchewan Act*, the Financial and Consumer Affairs Authority of Saskatchewan is assigned the performance of all or any of the responsibilities imposed on the registrar and the exercise of all or any of the powers given to the registrar by this Act or the regulations:

(a) any reference with respect to those responsibilities or powers in this Act or the regulations to the registrar is to be interpreted as a reference to the Financial and Consumer Affairs Authority of Saskatchewan; and

(b) this Act and the regulations are to be interpreted subject to the provisions of *The Financial and Consumer Affairs Authority of Saskatchewan Act*.

(2) A security is in registered form if:

(a) it specifies a person entitled to the security or to the rights it evidences, and its transfer is capable of being recorded in a securities register; or

(b) it bears a statement that it is in registered form.

1998, c.C-45.2, s.2; 2001, c.12, s.3; 2002, S-17.2, s.27; 2010, c.8, s.3; 2012, c.F-13.5, s.50; 2015, c.21, s.64.

Substantial investment

3(1) For the purposes of this Act, a person has a substantial investment in a body corporate or in another entity when that person together with any entity controlled by that person are the beneficial owners of more than:

(a) in the case of an investment in a body corporate, 10% of any class of shares issued by the body corporate;

(b) in the case of an investment in an entity that is not a body corporate, 10% of any ownership interest in the entity.

(2) For the purposes of this Act, a person who has a substantial investment in a body corporate or in another entity increases that substantial investment when that person or any entity controlled by that person acquires beneficial ownership of:

(a) in the case of an investment in a body corporate, any class of shares issued by the body corporate;

(b) in the case of an investment in an entity that is not a body corporate, any ownership interest in the entity.

1998, c.C-45.2, s.3.

Affiliates, control, subsidiaries

4(1) For the purposes of this Act:

(a) one entity is affiliated with another entity if:

(i) one of them is the subsidiary of the other;

(ii) both are subsidiaries of the same entity; or

(iii) each of them is controlled by the same person; and

(b) if two entities are affiliated with the same entity at the same time, they are deemed to be affiliated with each other.

(2) For the purposes of this Act:

(a) a person controls an entity if:

(i) the person beneficially owns securities of the entity to which are attached more than 50% of the votes that may be cast to elect directors of the entity; and

(ii) the votes attached to securities mentioned in subclause (i) are sufficient, if exercised, to elect a majority of the directors of the entity; and

(b) a person controls a co-operative entity if the person has the right to exercise more than 50% of the votes that may be cast at an annual meeting or to appoint or elect a majority of the directors of the co-operative entity.

(3) An entity is the holding entity of another if that other entity is its subsidiary.

(4) An entity is a subsidiary of another entity if:

(a) it is controlled by:

(i) that other entity;

(ii) that other entity and one or more entities each of which is controlled by that other entity; or

(iii) two or more entities each of which is controlled by that other entity; or

(b) it is a subsidiary of an entity that is a subsidiary of that other entity.

1998, c.C-45.2, s.4.

Distribution to the public

5(1) For the purposes of this Act, securities of a credit union issued on a conversion of, or in exchange for, other securities are deemed to be securities that are part of a distribution to the public if those other securities were part of a distribution to the public.

(2) Subject to subsection (3), for the purposes of this Act, a security of a credit union:

(a) is part of a distribution to the public if, with respect to the security, there has been a filing of a prospectus, statement of material facts, registration statement, securities exchange take-over bid circular or similar document pursuant to the laws of Canada, any province of Canada or a jurisdiction outside Canada; or

(b) is deemed to be part of a distribution to the public if the security has been issued and a filing mentioned in clause (a) would be required if the security were being issued currently.

(3) On the application of a credit union, the registrar may determine that a security of the credit union is not or was not part of a distribution to the public if the registrar is satisfied that the determination would not prejudice any security holder of the credit union.

(4) Unless ordered otherwise by the registrar, a distribution of membership shares or securities pursuant to the approval of the Financial and Consumer Affairs Authority of Saskatchewan in accordance with Part XX is not a distribution to the public.

1998, c.C-45.2, s.5; 2010, c.21, s.3; 2012, c.F-13.5, s.50.

Carrying on business

6 For the purposes of this Act, a person is considered to carry on business in Saskatchewan if the person:

(a) is the registered owner of any title or the holder of any interest registered in the Land Titles Registry;

(b) has a resident agent or representative or maintains an office or place of business in Saskatchewan;

(c) is licensed or registered or required to be licensed or registered pursuant to an Act entitling the person or entity to do business;

(d) is the holder of a certificate of registration, issued pursuant to *The Traffic Safety Act* , respecting a public service vehicle, except where that vehicle neither picks up nor delivers goods or passengers in Saskatchewan;

(e) is the holder of a licence issued by the Highway Traffic Board pursuant to the authority of the *Motor Vehicle Transport Act, 1987* (Canada), except where the person or entity neither picks up nor delivers goods in Saskatchewan;

(f) holds himself, herself or itself out as carrying on business in Saskatchewan;

(g) holds himself, herself or itself out as accepting deposits from residents of Saskatchewan; or

(h) otherwise carries on business in Saskatchewan as prescribed in the regulations.

1998, c.C-45.2, s.6; 2001, c.L-5.1, s.237; 2004, c.T-18.1, s.297.

Share ownership

7(1) A member is a holder of a membership share of a credit union if, according to the members' register of the credit union, the member is:

(a) the owner of a membership share; or

(b) entitled to be entered in the members' register or similar record of the credit union as the owner of a membership share.

(2) A person is a shareholder of a credit union if, according to the securities register of the credit union, the person is:

(a) the owner of an investment share; or

(b) entitled to be entered in the securities register or similar record of the credit union as the owner of an investment share.

1998, c.C-45.2, s.7.

Co-operative basis

8 For the purposes of this Act, a credit union operates on a co-operative basis where:

(a) no member has more than one vote by reason of membership or of owning membership shares;

(b) no member or delegate is entitled to vote by proxy;

(c) membership in the credit union is voluntary and open, except to the extent that it is restricted by a bond of association; and

(d) any net income arising out of the operation of the credit union is:

(i) distributed as patronage returns, dividends or payments to members;

(ii) used to develop the business of the credit union;

(iii) used to provide common services for members in a manner determined by the board;

(iv) used for any purpose approved by the members; or

(v) kept as retained earnings.

1998, c.C-45.2, s.8.

Application

9(1) Subject to subsection (2), this Act applies to every credit union carrying on business in Saskatchewan.

(2) **Not yet proclaimed.**

1998, c.C-45.2, s.9.

PART II
Incorporation and Commencement of Business

DIVISION 1
Application and Registration

Prohibition on carrying on business

10 No person shall carry on business as a credit union without:

(a) being incorporated pursuant to section 14 and being issued an order to commence operations and carry on business pursuant to section 25;

(b) in the case of an entity registered or incorporated otherwise than by or pursuant to this Act, being issued a certificate of continuance pursuant to section 309; or

(c) **Not yet proclaimed.**

1998, c.C-45.2, s.10.

Application for incorporation

11(1) Subject to subsection (2) to (5), any 25 or more individuals may apply to be incorporated as a credit union by filing with the registrar:

(a) proposed articles of incorporation that comply with section 12;

(b) proposed bylaws;

(c) notice of the location in Saskatchewan where the registered office of the proposed credit union is to be situated;

(d) any fees that are prescribed in the regulations; and

(e) any information that the registrar may require, including viability studies, a proposed business plan and evidence of the eligibility of the incorporators.

(2) No person, other than an individual who meets the requirements of this section, may be an incorporator of a credit union.

(3) No individual may be an incorporator of a credit union:

(a) unless the individual is 18 years of age or older and has capacity;

(b) if the individual is an undischarged bankrupt; or

(c) if the individual:

(i) subject to subsection (4), has been convicted of a criminal offence relating to theft, fraud or breach of trust;

(ii) has been convicted of an indictable offence pursuant to the *Criminal Code* within the last five years, other than a criminal offence mentioned in subclause (i); or

(iii) subject to subsection (5), has been convicted of an offence pursuant to this Act.

(4) An individual mentioned in subclause (3)(c)(i) may be an incorporator of a credit union if the individual has been pardoned.

(5) An individual mentioned in subclause (3)(c)(iii) may be an incorporator of a credit union if:

(a) the conviction was not within the last five years and the individual was not sentenced to a period of imprisonment; or

(b) it has been more than five years since the completion of any term of imprisonment imposed as a result of a conviction for an offence pursuant to this Act.

1998, c.C-45.2, s.11; 2010, c.8, s.4.

Articles

12(1) The articles of incorporation of a credit union are required to be in the form prescribed in the regulations and are required to set out:

(a) the name of the credit union;

(b) the share capital structure, including:

(i) the par value of membership shares; and

(ii) in the case of investment shares, the matters mentioned in section 131;

(c) subject to subsection 108(1), the number of directors or the minimum and maximum number of directors;

(d) the bond of association, if any;

(e) any restrictions on the business of the credit union or the powers that the credit union may exercise;

(f) a list of the provisional directors who will hold office until the board is elected at the first meeting;

(g) whether or not services may be provided by the credit union to non-members.

(2) The articles may set out any of the matters mentioned in section 127.

(3) The articles may set out any provision permitted by this Act to be set out in the bylaws of the credit union.

1998, c.C-45.2, s.12.

Bylaws

13(1) The bylaws of a credit union must provide for:

(a) the qualifications for membership;

(b) whether an interest of a member may be assigned or transferred, and, if so, the manner of assigning or transferring;

(c) the selection, qualifications, term of office and removal of directors and members of committees of directors;

(d) if the credit union wishes to permit members or shareholders to attend a meeting of the credit union by means of a communication facility mentioned in subsection 76(5), the ways in which votes must be held; and

(e) if the credit union provides for election of directors by districts:

(i) the establishment of district boundaries;

(ii) the procedure for altering district boundaries;

(iii) the number of directors to be elected in each district;

(iv) members' voting rights in a district; and

(v) the matters set out in section 94.

(2) The bylaws of a credit union may provide for:

(a) where there is to be a delegate structure:

(i) the establishment of district boundaries;

(ii) the procedure for altering district boundaries; and

(iii) the defining of the powers, duties, election and voting rights of, and removal proceedings respecting, district delegates;

(b) the total amount of remuneration that may be paid to directors during a fixed period;

(c) where the credit union proposes to elect directors by in-branch voting, the procedures applicable to that voting;

(c.1) subject to the regulations, if the credit union proposes to permit electronic voting by directors or members, the procedures applicable to that voting; and

(d) any matter other than those mentioned in clauses (a) to (c.1) that the members consider necessary.

1998, c.C-45.2, s.13; 2010, c.8, s.5.

Incorporation of credit union

14(1) Where the registrar is satisfied that the articles and bylaws filed pursuant to subsection 11(1) comply with this Act and the regulations and that the incorporators have complied with any other requirements of this Act and the regulations, the registrar may:

(a) register the articles and bylaws;

(b) enter the name of the credit union in the register; and

(c) issue a certificate of incorporation in accordance with section 422, stating that the credit union is incorporated pursuant to this Act and showing the date of incorporation.

(2) Where the registrar issues a certificate of incorporation to a credit union, the registrar shall send to the credit union at its registered office one copy of its articles and bylaws, certified by the registrar as having been registered.

(3) The articles and bylaws of the credit union that are registered by the registrar pursuant to clause (1)(a) are the articles and bylaws of the credit union on and after the date the credit union comes into existence and may be confirmed, amended, repealed or replaced in accordance with this Act.

(4) The registrar shall not approve an application unless the proposed credit union has satisfied the registrar that:

(a) the proposed provisional directors are qualified pursuant to section 102; and

(b) the proposed credit union is organized and will be operated on a co-operative basis.

1998, c.C-45.2, s.14.

Effect of certificate of incorporation

15(1) A credit union comes into existence on the date shown on its certificate of incorporation.

(2) The incorporators are deemed to be members of the credit union.

(3) A certificate of incorporation or a certified copy of it is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts contained in the certificate without proof of the signature or official position of the person purporting to have signed the certificate.

1998, c.C-45.2, s.15.

Articles and bylaws binding

16 The articles of a credit union and its bylaws are deemed to bind the credit union and its members to the same extent as if they:

(a) had been signed and sealed by the credit union and by every member; and

(b) contained covenants on the part of each member and the heirs, executors and administrators of each member to observe all the provisions of the articles and bylaws.

1998, c.C-45.2, s.16.

Limited liability

17 Members and shareholders of a credit union are not liable, as members or shareholders, for any liability, act or default of the credit union except as provided in this Act.

1998, c.C-45.2, s.17.

DIVISION 2
Names

Name

18(1) Every credit union is required to have as part of its name the words "credit union" or "caisse populaire".

(2) Subject to subsection (4), no person shall carry on business in Saskatchewan using a name that includes the words "credit union" or "caisse populaire" or any derivation of those words, or in any other manner in connection with the conduct of its business use a name that includes the words "credit union" or "caisse populaire" or any derivation of those words, without being incorporated, continued or registered pursuant to this Act.

(3) Credit Union Central may use the words "credit union" or "caisse populaire" in a description of services it provides.

(4) The registrar may exempt a person from subsection (2) subject to any terms and conditions that the registrar considers appropriate.

1998, c.C-45.2, s.18.

Alternative forms of name

19(1) Subject to section 20, a credit union may set out its name in:

(a) an English form;

(b) a French form;

(c) a combined English and French form; or

(d) any language form other than English or French that is approved by the registrar.

(2) A credit union may be legally designated by the language form it has chosen pursuant to subsection (1).

1998, c.C-45.2, s.19.

Prohibited names

20(1) In this section, **"public body"** means:

(a) the Government of Canada, of Saskatchewan or of another province;

(b) the government of a jurisdiction outside Canada;

(c) a corporation, board, commission or agency of a government described in clause (a) or (b);

(d) a municipality;

(e) a body elected or appointed pursuant to an Act:

(i) to administer, arrange, undertake development of or regulate schools, hospitals, health facilities, libraries, water utilities, drainage and irrigation works, sewage works, local improvements or public utilities; or

(ii) to levy and collect taxes; or

(f) any body, other than one described in clauses (a) to (e), that is designated in the regulations.

(2) The registrar may refuse to register a credit union, or to register articles amending the name of a credit union if the proposed name of the credit union, in the opinion of the registrar:

(a) is the same as or similar to the name of any other credit union or other entity if the use of that name would be likely to confuse or mislead;

(b) suggests or implies a connection with a public body, unless the public body consents in writing to the proposed name;

(c) suggests or implies a connection with a political party or a leader of a political party or a university or professional association recognized by the laws of Canada or of a province of Canada, unless that person or association consents in writing to the use of the proposed name;

(d) is for any reason misleading, deceptive or objectionable; or

(e) is prohibited in the regulations.

(3) Notwithstanding clause (2)(a), a wholly-owned subsidiary of a credit union providing financial services may use the name of the parent credit union as part of its name.

1998, c.C-45.2, s.20.

Name on amalgamation

21 If a credit union amalgamates with one or more other entities to become an amalgamated credit union, the amalgamated credit union may have:

(a) the name of one of the amalgamating credit unions;

(b) a distinctive combination, that is not confusing, of the names of the amalgamating credit union and entities; or

(c) a distinctive new name that is not confusing.

1998, c.C-45.2, s.21.

Use of name

22(1) Subject to subsection (3), every credit union shall display its name or a business name that is approved by the registrar and that is registered pursuant to *The Business Names Registration Act* in legible characters in a conspicuous place:

(a) at or within every office or place at which it carries on business;

(b) in all notices and other official publications;

(c) on all its contracts, business letters, orders for goods, invoices, statements of account, receipts and letters of credit; and

(d) on all bills of exchange, promissory notes, endorsements, cheques and orders for money it signs or that are signed on its behalf.

(2) Subject to subsection (3), where a credit union has a corporate seal, it shall display its name in legible characters on its corporate seal.

(3) The registrar may exempt a credit union from subsection (1) or (2) subject to any terms and conditions that the registrar considers appropriate.

1998, c.C-45.2, s.22.

DIVISION 3
Seal

Seal

23(1) The board may, by resolution:

(a) adopt a corporate seal; and

(b) change the corporate seal adopted pursuant to clause (a).

(2) An instrument or agreement executed on behalf of a credit union by a director, an officer or an agent of the credit union is not invalid merely because a corporate seal is not affixed to it.

1998, c.C-45.2, s.23.

DIVISION 4
Pre-incorporation Contracts

Personal liability

24(1) Subject to subsections (2) to (6), a person who enters into a written contract in the name of or on behalf of a credit union before the credit union comes into existence is personally bound by the contract and is entitled to the benefits of the contract.

(2) Within a reasonable time after a credit union comes into existence, the credit union may adopt a written contract made in its name or on its behalf before it came into existence by any action or conduct signifying its intention to adopt the contract.

(3) Where a credit union adopts a contract pursuant to subsection (2):

(a) the credit union is bound by the contract and is entitled to the benefits of the contract as if the credit union had been in existence at the day of the contract and had been a party to the contract; and

(b) subject to subsection (4), the person who purported to act in the name of or on behalf of the credit union ceases to be bound by the contract or entitled to the benefits of the contract.

(4) Subject to subsection (6), whether or not a written contract made before the coming into existence of a credit union is adopted by the credit union, a party to the contract may apply to the court for an order fixing the obligations under the contract as joint and several or apportioning liability between the credit union and any person who purported to act in the name of or on behalf of the credit union.

(5) Where the court receives an application pursuant to subsection (4), it may make any order that it considers appropriate.

(6) Where a written contract expressly provides that a person who purported to act in the name of or on behalf of the credit union before it came into existence is not bound by the contract or entitled to the benefits of the contract, the person is deemed not to be bound by the contract and not to be entitled to the benefits of the contract.

1998, c.C-45.2, s.24.

DIVISION 5
Commencement of Business

Commencement of business

25(1) A credit union shall not carry on business until the registrar has, by order, approved the commencement and carrying on of business by the credit union.

(2) On application by a credit union, the registrar may make an order approving the commencement and carrying on of business by the credit union.

(3) An application by a credit union for an order pursuant to subsection (1) must contain a statement setting out the amounts paid or to be paid by the credit union in connection with its incorporation and organization.

(4) Until an order approving the commencement and carrying on of business is made for a credit union, the credit union shall not make any payment on account of incorporation or organization expenses out of moneys received from the issue of the shares of the credit union and interest on those shares, except reasonable sums:

(a) for the remuneration of not more than two officers;

(b) for the payment of costs related to the issue of shares of the credit union; and

(c) for the payment of clerical assistance, legal services, accounting services, office accommodation at one location, office expenses, advertising, stationery, postage and travel expenses.

(5) Where a credit union comes into existence but no order approving the commencement and carrying on of business is made for the credit union, the credit union may only:

(a) deposit, in Saskatchewan, paid-in capital of the credit union in another deposit-taking Canadian financial institution; or

(b) invest paid-in capital of the credit union in unencumbered securities of the Government of Saskatchewan, the Government of Canada or the Government of any other province.

(6) The registrar shall not make an order approving the commencement and carrying on of business by a credit union until it has been shown to the satisfaction of the registrar that:

(a) the meeting of members of the credit union mentioned in section 75 has been duly held;

(b) the expenses of incorporation and organization to be borne by the credit union are reasonable;

(c) all other relevant requirements of this Act and the regulations have been complied with; and

(d) the credit union can comply with this Act, the regulations and the standards of sound business practice.

(7) The registrar shall not make an order approving the commencement and carrying on of business by a credit union more than two years after the day on which the credit union comes into existence.

(8) The registrar may make an order approving the commencement and carrying on of business by a credit union subject to any terms, conditions or limitations that:

(a) are consistent with this Act;

(b) relate to the business of the credit union; and

(c) are, in the opinion of the registrar, expedient and necessary.

(9) With respect to the order approving the commencement and carrying on of business by a credit union, the registrar may at any time, but subject to subsection (10), by further order:

(a) make the order subject to any terms, conditions or limitations that are consistent with this Act, that relate to the business of the credit union and that are, in the opinion of the registrar, expedient and necessary; or

(b) amend or revoke any authorization contained in the order or any term, condition or limitation to which the order is subject.

(10) Before making any further order pursuant to subsection (9), the registrar shall provide the credit union with an opportunity to be heard regarding that further order.

(11) On the making of an order approving the commencement and carrying on of business by a credit union, the credit union shall publish a notice of the making of the order in a newspaper in general circulation at or near the place where the registered office of the credit union is located.

(12) The registrar shall cause to be published in the Gazette a notice of the making of an order approving the commencement and carrying on of business by a credit union.

(13) The credit union shall bear the cost of publishing any notice published pursuant to this section.

(14) Except for the sole purpose of winding up the credit union's affairs, a credit union ceases to exist two years after the date of its incorporation if it does not obtain an order approving the commencement and carrying on of business within those two years.

1998, c.C-45.2, s.25.

Allowed disbursements where no order to carry on business

26 (1) Where an order approving the commencement and carrying on of business is not made for a credit union, no part of the moneys of the credit union shall be used for the payment of incorporation and organization expenses, other than remuneration and costs mentioned in subsection 25(4), unless the payment has been approved by the members and shareholders by a special resolution.

(2) If the amount allowed by a special resolution for the payment of any incorporation and organization expenses mentioned in subsection (1) is considered insufficient by the directors or if no special resolution for the payment of those expenses is passed, the directors may apply to the court to settle and determine the amounts to be paid out of any moneys of the credit union before distribution of the balance to the members and shareholders.

(3) At least 21 days before the date fixed for the hearing of the application mentioned in subsection (2), the directors shall send to the members and shareholders, as the case may be, a notice of the application.

(4) The notice mentioned in subsection (3) must contain a statement of the amounts that are proposed to be settled and determined by the court.

(5) In order that the amounts paid and payable pursuant to this section may be equitably borne by the members or shareholders, as the case may be, the directors shall, after the amounts of the payments have been approved by special resolution or settled and determined by the court, fix the proportion of the amount chargeable to each member or shareholder as the ratio of the amount paid in by the member or shareholder to the aggregate of all the amounts paid in by the members or shareholders.

(6) After the amounts mentioned in this section have been paid, the directors shall pay, with any interest earned, to the members or shareholders, the respective balances of the moneys paid in by them, less the amount chargeable to each member or shareholder pursuant to subsection (5).

1998, c.C-45.2, s.26.

PART III
Registered Office and Records

Registered office

27(1) A credit union is required to have a registered office in Saskatchewan.

(2) The board of a credit union may change the address of the registered office.

(3) A credit union shall send to the registrar a notice setting out the address of its registered office on incorporation and within 15 days after any change of address of the registered office, and the registrar shall file that notice.

1998, c.C-45.2, s.27.

Records

28(1) A credit union shall prepare and maintain the following records at its registered office or at another place in Saskatchewan designated by the board:

(a) its articles and bylaws and all amendments to its articles and bylaws;

(b) minutes of meetings of members and meetings of delegates and resolutions of members and delegates;

(c) minutes of meetings of shareholders and resolutions of shareholders;

(d) a register of its directors setting out the names, addresses and occupations of all persons who are or have been directors of the credit union with the dates on which each person became or ceased to be a director;

(e) a copy of all notices of directors and notices of change of directors required to be sent to the registrar pursuant to this Act;

(f) a register of the members of the board, of members of the executive committee, of members of the conduct review committee, of members of the audit committee and of the officers of the credit union, setting out for each person to be noted in the register:

(i) his or her name;

(ii) his or her residential address;

(iii) his or her occupation; and

(iv) the date he or she became a member of the board or committee or an officer;

(g) a copy of every certificate issued to it by the registrar;

(h) a copy of the order to commence and carry on business issued pursuant to section 25;

(i) a copy of every order of the registrar issued pursuant to section 404 or of a court relating to the credit union;

(j) a copy of every exemption granted by the registrar pursuant to this Act; and

(k) a copy of every notice required to be sent by the credit union to its members and shareholders pursuant to this Act.

(2) In addition to the records described in subsection (1), a credit union shall prepare and maintain the following records:

(a) adequate accounting records regarding deposits, shares, loan accounts, investments, fixed assets, earnings, expenses and all other financial aspects of the operation of the credit union;

(b) records containing the minutes of meetings and resolutions of the board and any committee of the board;

(c) a register of all securities held by the credit union;

(d) documentation in connection with all loans, including applications, approvals and security;

(e) a register of members and shareholders and the shares held by them, including their names arranged in alphabetical or numeric order and their latest addresses known to the credit union;

(f) a register of all security holders and the securities held by them, including their names arranged in alphabetical or numeric order and their latest addresses known to the credit union.

(3) A credit union shall retain the records required pursuant to this section for any period that may be prescribed in the regulations.

(4) Where a credit union is continued pursuant to this Act, **"records"** includes records similar to those described in subsections (1) and (2) that were required by a former *Credit Union Act* to be maintained by the credit union before it was continued.

1998, c.C-45.2, s.28.

Access to corporate records by members

29(1) Members or their agents or legal representatives may examine the records mentioned in subsection 28(1) during the usual business hours of the credit union and may take extracts from those records without charge.

(2) On request, a member is entitled without charge to one copy of the articles and bylaws.

(3) Every member is entitled to a statement of his or her transactions with the credit union.

(4) A credit union shall give access to the records mentioned in section 28 at all reasonable times to the following persons acting in the course of their duties or responsibilities pursuant to this Act:

(a) a director;

(b) a member of the audit committee or the conduct review committee;

(c) any representative of or person appointed by CUDGC;

(d) the credit union's auditor;

(e) the registrar and representative of or person appointed by the registrar.

1998, c.C-45.2, s.29.

Access to member lists

30(1) In this section, **"basic member list"** means the list of members described in subsection (3).

(2) Subject to subsection (3), the credit union's register of members is confidential and no person shall release the register without the authorization of the board.

(3) On payment of a reasonable fee and on sending to a credit union or its transfer agent the affidavit described in subsection (6), any member of a credit union or the member's agents or legal representatives may require the credit union or its agent to provide, within 21 days after the receipt of the affidavit, a list made up to a day not more than one month before the day of receipt of the affidavit setting out, in alphabetical or numeric order, the names of members and their latest addresses known to the credit union.

(4) Any member requiring a credit union to supply a basic member list may require the credit union or its agent to provide a supplemental list setting out changes to the names or addresses of the members from the day to which the basic list was made where:

(a) the member pays to the credit union a reasonable fee set by the credit union; and

(b) the member states in the affidavit mentioned in subsection (3) that a supplemental list is required for the purpose of updating a basic member list.

(5) A credit union or its agent shall provide a supplemental list required pursuant to subsection (4):

(a) on the day the basic member list is provided, where the information relates to changes that took place before that day; and

(b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the day on which the basic member list is provided.

(6) The affidavit mentioned in subsection (3) must contain:

(a) the name and address of the applicant;

(b) where an applicant is an entity, the name and address for service of the entity; and

(c) a declaration that the basic member list and any supplemental list obtained pursuant to this section will not be used for any purpose other than in connection with an effort:

(i) to influence the voting of members of the credit union; or

(ii) to make a written request pursuant to section 78 to call a special meeting of members.

(7) Where an applicant is an entity, the affidavit mentioned in subsection (3) must be made by a director or officer of the entity.

(8) No person who obtains a basic member list, or any supplemental list, shall use the basic member list, or any supplemental list, for any purpose not mentioned in clause (6)(c).

1998, c.C-45.2, s.30; 2010, c.8, s.6.

Access to corporate records by shareholders and creditors

31(1) In this section, **"basic shareholder list"** means the list of shareholders described in subsection (5).

(2) Shareholders and creditors of a credit union and their agents and legal representatives may examine the records mentioned in subsection 28(1) during the usual business hours of the credit union, and may make extracts from those records without charge.

(3) Where a credit union is a distributing credit union, any person may examine the records of a credit union during the usual business hours of the credit union, and make extracts from them, on payment to the credit union of a reasonable fee set by the credit union.

(4) On request, a shareholder of a credit union is entitled without charge to one copy of the articles and bylaws.

(5) On application to a credit union accompanied by an affidavit described in subsection (10) and a reasonable fee set by the credit union, shareholders and creditors of a credit union, their agents and legal representatives may require the credit union or its agent to provide, within 10 days from the receipt of the affidavit and fee, a list made up to a date not more than 10 days before the date of receipt of the affidavit and fee setting out the following information as shown on the records of the credit union:

(a) the names of the shareholders of the credit union;

(b) the number of shares owned by each shareholder;

(c) the address of each shareholder.

(6) On application to a credit union accompanied by an affidavit described in subsection (10) and payment of a reasonable fee set by the credit union, any person may require a distributing credit union to provide the information mentioned in subsection (5).

(7) If a person requiring a credit union to supply a basic shareholder list states in the affidavit that he or she requires supplemental lists, the person may, on payment of a reasonable fee set by the credit union, require the credit union or its agent to furnish supplemental lists setting out:

(a) any changes from the basic shareholder list in the names or addresses of the shareholders; and

(b) the number of shares owned by each shareholder for each business day following the day the basic shareholder list is made up to.

(8) The credit union or its agent shall furnish a supplemental list required pursuant to subsection (7):

(a) on the day the basic shareholder list is furnished, where the information relates to changes that took place before that day; and

(b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the day the basic shareholder list is furnished.

(9) A person requiring a credit union to supply a basic shareholder list or a supplemental list may also require the credit union to include in the list the name and address of any holder of an option or right to acquire investment shares of the credit union who is known to the credit union.

(10) The affidavits mentioned in subsections (5) and (6) must contain:

(a) the names and addresses of the applicants;

(b) where an applicant is an entity, the name and address for service of the entity; and

(c) a declaration that the basic shareholder list and any supplemental list obtained pursuant to this section will not be used for any purpose other than in connection with an effort:

(i) to influence the voting of shareholders of the credit union; or

(ii) to make a written request pursuant to section 78 to call a special meeting of shareholders.

(11) Where an applicant is an entity, the affidavit mentioned in subsection (10) must be made by a director or officer of the entity.

1998, c.C-45.2, s.31.

Form of records

32(1) A credit union may:

(a) prepare and maintain any register or other record that is required by this Act in a bound or loose-leaf form or in a photographic film form; or

(b) enter or record information in the registers and records mentioned in clause (a):

(i) by any system of mechanical or electronic data processing; or

(ii) by any other information storage device that is capable of reproducing any required information in intelligible, written form within a reasonable time.

(2) A credit union may convert a register or other record kept in one form to another form.

(3) A credit union shall take reasonable precautions to:

(a) prevent loss or destruction of, and falsification of entries in, the registers and other records required by this Act to be prepared and maintained;

(b) facilitate detection and correction of inaccuracies in the registers and other records; and

(c) ensure that unauthorized persons do not have access to or use of information contained in the registers or records.

1998, c.C-45.2, s.32.

Confidential information

33(1) Except as permitted by this Act or the regulations or in accordance with Part VI or as may be allowed by any other law or any order of the court, no person shall disclose any information with respect to a business transaction with the credit union or with respect to any record of the credit union.

(2) Information with respect to a member's or customer's business transactions or records may be released on the written authorization of the member or customer.

1998, c.C-45.2, s.33.

PART IV
Capacity, Powers

Capacity and powers

34(1) A credit union has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(2) Subject to this Act, a credit union has the capacity to carry on business, conduct its affairs and exercise its powers outside Saskatchewan to the extent that the laws of the other jurisdiction permit.

(3) Subject to this Act and the regulations, a credit union shall not engage in or carry on any business other than the business of providing financial services, including, without limiting the generality of the foregoing:

(a) taking deposits;

(b) providing financing arrangements;

(c) acting as a financial agent;

(d) providing investment counselling services and portfolio management; and

(e) issuing payment, credit or charge cards and operating payment, credit or charge card plans.

(4) Subject to the regulations, in addition to the business that a credit union may engage in pursuant to subsection (3), a credit union may:

(a) promote merchandise and services to the holders of any payment, credit or charge card issued by the credit union;

(b) act as a custodian of real and personal property;

(c) act as a receiver, liquidator or sequestrator;

(d) hold, manage and otherwise deal with real and personal property;

(e) provide information processing services, advisory services with respect to information management systems and design and market information management systems;

(f) provide services to:

(i) its affiliates and entities in which it has a substantial investment;

(ii) Credit Union Central and any entities in which Credit Union Central has a substantial investment;

(iii) affiliates of Credit Union Central and any entities in which the affiliates of Credit Union Central have a substantial investment;

(iv) affiliates of another credit union and any entities in which the affiliates of another credit union have a substantial investment; and

(v) a financial institution and its affiliates;

(g) provide administrative, educational, promotional, technical, research and consultative services to its members; and

(h) provide any other services that are prescribed in the regulations or that are authorized in the manner set out in the regulations.

1998, c.C-45.2, s.34; 2010, c.8, s.7.

Power to act as agent

35 Subject to section 37, a credit union may:

(a) act as an agent for another credit union for the provision of a service provided by that other credit union if the credit union has entered into an agreement with that other credit union with respect to that service; or

(b) refer any person to another credit union.

1998, c.C-45.2, s.35.

Networking

36 Subject to section 37, a credit union may:

(a) act as an agent for any person with respect to any service that is provided by a financial institution or by an entity in which a credit union may have a substantial investment and enter into an agreement with any person with respect to that service; and

(b) refer any person to a financial institution or to an entity mentioned in clause (a).

1998, c.C-45.2, s.36.

Restrictions and limitations on certain financial services

37(1) A credit union shall not:

(a) underwrite insurance or the issue of securities by another person;

(b) deal in securities to the extent prohibited or restricted by the regulations; or

(c) undertake the business of insurance, except to the extent permitted by this Act or the regulations.

(2) Nothing in subsection (1) precludes a credit union from requiring insurance for the security of the credit union.

(3) A credit union shall not exercise pressure on a member or customer to place insurance for the security of the credit union with any particular insurance company.

(4) A credit union may require that any insurance chosen by a member or customer meet with its approval.

(5) The approval required pursuant to subsection (4) shall not be unreasonably withheld.

1998, c.C-45.2, s.37.

Restriction on fiduciary activities

38 Unless permitted by the regulations, a credit union shall not act as:

(a) an executor, administrator or official guardian or a guardian, tutor, curator, judicial adviser or property guardian of a dependent adult; or

(b) a trustee for a trust.

1998, c.C-45.2, s.38.

Guarantees

39(1) A credit union shall not guarantee on behalf of any person other than itself the payment or repayment of any sum of money unless:

(a) the sum of money is a fixed sum of money with or without interest; and

(b) the person on whose behalf the credit union has undertaken to guarantee the payment or repayment has an unqualified obligation to reimburse the credit union for the full amount of the payment or repayment to be guaranteed.

(2) Subsection (1) does not apply where the person on whose behalf the credit union has undertaken to guarantee the payment or repayment is a subsidiary of the credit union.

1998, c.C-45.2, s.39.

Security interests

40(1) Subject to subsection (3), a credit union shall not create a security interest in the property of the credit union to secure an obligation of the credit union unless:

(a) the obligation is to CUDGC or Credit Union Central; or

(b) CUDGC has approved in writing the creation of the security interest.

(2) A credit union shall notify CUDGC in writing of any beneficial interest in real and personal property acquired by the credit union, other than by way of realization, that is subject to a security interest.

(3) Subsections (1) and (2) do not apply with respect to security interests created on:

(a) personal property reasonably required by the credit union in carrying on its business; or

(b) security interests approved by the standards of sound business practice.

1998, c.C-45.2, s.40.

Receivers

41 A credit union shall not grant to a person the right to appoint a receiver or a receiver and manager of the property or business of the credit union.

1998, c.C-45.2, s.41.

Member services

42(1) A credit union shall provide financial services primarily for the benefit of its members.

(2) A credit union may provide financial services to persons who are not members if:

(a) it is authorized to do so by its articles; and

(b) it complies with the regulations and the standards of sound business practice in providing those services.

1998, c.C-45.2, s.42.

Partnerships

43(1) Unless authorized to do so by order of CUDGC, a credit union shall not be a general partner in a limited partnership or a partner in a general partnership.

(2) For the purposes of subsection (1), **"general partnership"** means any partnership other than a limited partnership.

1998, c.C-45.2, s.43.

Restrictions on services and coercive tied-selling

44(1) A credit union shall not provide financial or other products or services that are:

(a) prohibited by this Act or the regulations; or

(b) restricted by its articles.

(2) No credit union shall require, impose undue pressure on or coerce a customer or a member of a credit union, as a condition of receiving a product or service, to purchase another product or service from the credit union or any entity described in clause 34(4)(f).

(3) Subsection (2) is not to be construed as preventing a credit union from establishing pricing policies for a product or service, or a group of products or services, that is available to all customers of that product or service or group of products or services.

2010, c.8, s.8.

Credit union to comply with articles, etc., in carrying on business

45 A credit union must in all circumstances and in carrying on its business comply with:

(a) its articles and bylaws;

(b) any terms and conditions imposed on the credit union pursuant to this Act or the regulations;

(c) any standard of sound business practice that is applicable to the credit union;

(d) any order of the registrar applicable to the credit union; and

(e) any order of CUDGC applicable to the credit union.

1998, c.C-45.2, s.45.

Acts not invalid

46 No act of a credit union, including any transfer of property to or by the credit union, is invalid by reason only that the act is contrary to this Act or the regulations.

1998, c.C-45.2, s.46.

No constructive notice

47(1) Subject to subsection (2), no person is affected by or deemed to have notice or knowledge of the contents of a document or record of a credit union, or a standard of sound business practice by reason only that the document, record or standard of sound business practice has been filed with the registrar or is available for inspection at an office of the credit union or the registrar.

(2) A member of a credit union is deemed to have notice and knowledge of the content of the articles and bylaws of the credit union.

1998, c.C-45.2, s.47.

Authority of directors, officers, agents

48(1) Subject to subsection (2), no credit union and no guarantor of an obligation of the credit union shall assert against a person dealing with the credit union or with another person who has acquired rights from the credit union that:

(a) this Act, the regulations, the articles or bylaws have not been complied with;

(b) the persons named in the most recent notice sent to the registrar pursuant to this Act are not the directors of the credit union;

(c) the place named in the most recent notice sent to the registrar pursuant to this Act is not the registered office of the credit union;

(d) a person held out by the credit union as a director, an officer or an agent of the credit union has not been duly appointed or has no authority to exercise the powers or perform the duties that are customary in the business of the credit union or are usual for that director, officer or agent;

(e) a document issued by any director, officer or agent of the credit union with actual or usual authority to issue the document is not valid or not genuine; or

(f) any advance of funds or any sale, lease or exchange of all or substantially all of the property of the credit union was not authorized.

(2) Where a person dealing with a credit union or with another person who has acquired rights from the credit union has or ought to have, by virtue of his or her position with or relationship to the credit union, knowledge to the contrary, subsection (1) does not apply.

1998, c.C-45.2, s.48.

PART V
Investments, Loans and Deposits

Investments

49(1) The board shall adopt investment and lending policies and procedures that a reasonable and prudent person would apply with respect to a portfolio of investments and loans to avoid undue risk and to obtain a reasonable return.

(2) The investment and lending policies and procedures mentioned in subsection (1) must:

(a) be in writing; and

(b) meet the requirements of this Act, the regulations and the standards of sound business practice.

(3) CUDGC may order the board of a credit union to revise its investment and lending policies and procedures if CUDGC considers that they are deficient for that credit union.

(4) CUDGC may, by order, direct a credit union to dispose of an investment or a loan if:

(a) the investment or loan does not comply with this Act, the regulations or the standards of sound business practice; or

(b) in the opinion of CUDGC, the investment or loan is not appropriate because of undue financial risk to the credit union.

(5) If a credit union fails to comply with this section, CUDGC may issue an order pursuant to section 464 or place the credit union under supervision or administration in accordance with Part XXIV.

(6) The regulations may restrict any loans or investments that may be made by a credit union.

1998, c.C-45.2, s.49.

Investment in prescribed entities

50(1) A credit union may acquire or increase a substantial investment only in those entities specified in the regulations and in the manner prescribed by the regulations.

(2) CUDGC may, by order, direct a credit union to dispose of an investment in an entity if:

(a) the investment does not comply with this Act, the regulations or the standards of sound business practice; or

(b) in the opinion of CUDGC, the investment is not appropriate because of undue financial risk to the credit union.

(3) If a credit union fails to comply with this section, CUDGC may issue an order pursuant to section 464 or place the credit union under supervision or administration in accordance with Part XXIV.

1998, c.C-45.2, s.50.

Workouts and realizations

51(1) Notwithstanding anything in this Part but subject to subsection (2), a credit union may acquire an investment:

(a) if the credit union has made a loan, default has occurred and the investment is acquired with respect to that loan; or

(b) if the investment is acquired through the realization of a security interest held by the credit union.

(2) CUDGC may, by order, direct a credit union to dispose, within a period specified by CUDGC, of an investment acquired pursuant to subsection (1).

1998, c.C-45.2, s.51.

Investments in property

52 Subject to this Act, the regulations and the standards of sound business practice, a credit union may invest in real and personal property for its own use.

1998, c.C-45.2, s.52.

Deposits

53(1) Without the intervention of any other person, a credit union may:

(a) accept a deposit from any person whether or not the person is qualified by law to enter into contracts; and

(b) pay all or part of the principal of the deposit and all or part of the interest on the deposit to or to the order of the person mentioned in clause (a).

(2) Clause (1)(b) does not apply if, before payment, the money deposited in the credit union is claimed by some other person:

(a) in any action or proceeding to which the credit union is a party and with respect to which service of a document originating that action or proceeding has been made on the credit union;

(b) in any other action or proceeding pursuant to which an injunction or order made by the court requiring the credit union not to pay that money or to pay that money to some person other than the depositor has been served on the credit union; or

(c) for any other lawful reason.

(3) In the case of a claim mentioned in subsection (2), the money deposited may be paid to the depositor with the consent of the claimant or to the claimant with the consent of the depositor.

(4) A credit union shall comply with the terms and conditions prescribed in this Act, the regulations and the standards of sound business practice respecting deposits.

1998, c.C-45.2, s.53.

Charge on deposits

54(1) A credit union has a charge on deposits for a debt of the depositor to the credit union.

(2) A credit union may:

(a) enforce a charge mentioned in subsection (1) in the manner set out in its bylaws; or

(b) apply any moneys standing to the credit of a depositor towards payment of a debt due by the depositor to the credit union.

1998, c.C-45.2, s.54.

Credit union not bound to see to trusts

55 A credit union is not required to see to the execution of any trust, whether express or arising by operation of law, to which any deposit or share is subject.

1998, c.C-45.2, s.55.

Debt obligations

56(1) Debt obligations of a credit union are not discharged by reason only that the indebtedness evidenced by the debt obligation is repaid.

(2) Debt obligations of a credit union that are purchased, redeemed or otherwise acquired by the credit union may be cancelled or, with the approval of CUDGC, secure any obligation of the credit union then existing or later incurred.

1998, c.C-45.2, s.56.

PART VI
Market Practices

Not yet proclaimed.

PART VII
Membership

DIVISION 1
Conditions for Membership

Bylaws govern

64 Subject to this Act and any provision in the articles, membership in a credit union is governed by its bylaws.

1998, c.C-45.2, s.64.

Application for membership

65(1) No person may be admitted to membership in a credit union until:

(a) the person has applied for membership;

(b) the application has been approved by the board or in the manner authorized by the board; and

(c) the person has complied with the membership provisions required in the bylaws, including subscribing for any minimum number of membership shares.

(2) If all the conditions set out in subsection (1) have been met within six months after the date on which the credit union receives the application for membership, the board may admit the member into membership effective as of:

(a) the date of the application; or

(b) any date after the date of the application but before the end of the six months.

1998, c.C-45.2, s.65.

Right to vote

66 Subject to section 83, a member has one vote on all matters to be decided by the members.

1998, c.C-45.2, s.66.

Members under 18 years of age

67(1) Subject to the bylaws, a person less than 18 years of age may be admitted to membership in a credit union and may vote at meetings of the credit union.

(2) The articles and bylaws of a credit union are binding on a member who is less than 18 years of age.

1998, c.C-45.2, s.67.

DIVISION 2
Voluntary Withdrawal from Membership

Voluntary withdrawal of membership

68(1) A member may withdraw from membership in a credit union by written notice to the credit union.

(2) If a member has not transacted business with a credit union for two years or more, the board may consider that inactivity as the member's notice of withdrawal from membership in that credit union.

(3) A withdrawal pursuant to subsection (1) is effective on the later of the date stated in the notice and the date on which the credit union receives the notice.

(4) If the credit union decides to consider the inactivity mentioned in subsection (2) as a member's withdrawal, that withdrawal is effective on the date of the board's decision.

(5) Subject to sections 121, 122 and 124, the credit union must, no later than one year after the effective date of a notice of withdrawal:

(a) redeem all membership shares held by the withdrawing member at their par value; and

(b) repay to the member all other amounts on deposit in the credit union then due together with any interest accrued on those amounts up to the date of the payment.

(6) Unless the board determines otherwise:

(a) the withdrawal of a member pursuant to this Division does not relieve the member of contractual obligations that the member has to the credit union, including the conditions on which the member has agreed to place deposits with the credit union;

(b) the credit union is not required to repay to the member amounts outstanding on deposits or other amounts owing to the member that have a fixed maturity date until that date has arrived; and

(c) the credit union is not required to redeem membership shares at a date earlier than is provided for in the credit union's articles or bylaws.

1998, c.C-45.2, s.68.

DIVISION 3
Termination of Membership

Termination of membership

69(1) The board may, by resolution, terminate the membership of a member.

(2) Where a member is terminated pursuant to subsection (1), the member may appeal the decision to the next meeting of the credit union by giving written notice of appeal to the secretary within 30 days after the date the member received notice of the decision.

(3) On an appeal pursuant to subsection (2), a majority, or any greater percentage that may be specified in the bylaws, of the members present at the meeting shall confirm or rescind the termination.

(4) The member is entitled to at least seven days' written notice of the meeting of the board at which his or her termination is to be considered.

(5) The notice mentioned in subsection (4) must set out:

(a) the time and location of the meeting;

(b) the grounds on which the membership is proposed to be terminated; and

(c) a statement of the member's right to appear at the meeting, to be represented by an agent or counsel at the member's own expense and to make submissions at the meeting.

(6) If the termination of a person's membership is confirmed pursuant to subsection (3), that person may request that the registrar review the termination in the manner prescribed in the regulations, and the registrar shall confirm or set aside the decision or direct the board to reconsider the matter in accordance with any directions that the registrar considers appropriate.

(7) **Repealed.** 2010, c.8, s.9.

(8) Subject to subsection (9), the effective date of a termination is the date set out in the notice of termination.

(9) If a member gives a written notice of appeal or review , the effect of the resolution is suspended until:

(a) in the case of an appeal to the members, the vote of the members pursuant to subsection (3); or

(b) in the case of a request for a review by the registrar, the registrar has dealt with the matter pursuant to subsection (6) or, if the registrar directs the board to reconsider the matter, the board has completed its reconsideration.

1998, c.C-45.2, s.69; 2010, c.8, s.9.

Payments on termination

70(1) Subject to sections 121, 122 and 124, if a member's membership is terminated, a credit union must, not later than one year after the effective date of the termination:

(a) redeem all membership shares held by the member at their par value;

(b) redeem all investment shares held by the member at a price not exceeding the redemption price calculated according to a formula stated in its articles or according to the conditions attached to the investment shares;

(c) redeem any subordinated indebtedness held by the member; and

(d) repay to the member all deposits and other amounts held to the member's credit together with any interest accrued on those amounts up to the date of the payment.

(2) If a redemption or payment mentioned in clauses (1)(a) to (d) is not made by a credit union because of the restrictions mentioned in subsection (1), the credit union shall make that payment as soon as it reasonably is able to do so.

1998, c.C-45.2, s.70.

Termination – address unknown to credit union

71(1) If a member's membership has been terminated by a credit union, or the member has withdrawn from membership in the circumstances mentioned in subsection 68(2), and the member's address is unknown to the credit union after all reasonable efforts have been made to ascertain it and two years have elapsed since the effective date of the termination, the credit union must:

(a) in a case where the total amount owing pursuant to section 70 is less than an amount prescribed in the regulations, deal with the amount in any manner that is prescribed in the regulations; or

(b) in a case where the total amount owing pursuant to section 70 is equal to or more than the amount prescribed in the regulations, transfer the amounts owing to CUDGC.

(2) Notwithstanding section 70, a credit union is not required to pay to CUDGC pursuant to clause (1)(b) any amounts that represent any interest that would have accrued after the end of the two-year period mentioned in subsection (1).

(3) If any amounts are transferred to CUDGC pursuant to subsection (1), CUDGC shall pay those amounts to a person who, within six years of the transfer, provides evidence satisfactory to CUDGC of entitlement to those amounts.

1998, c.C-45.2, s.71.

Obligations continue

72 The termination of a member pursuant to this Division does not relieve the member of contractual obligations that the member has to the credit union, including the conditions on which the terminated member has agreed to place deposits with the credit union.

1998, c.C-45.2, s.72.

DIVISION 4
Payments on Death of Member

Payment on death of member

73(1) In this section:

(a) **"claimant"** means a person claiming to be entitled to membership shares or deposits by virtue of a member's death;

(b) **"court"** means any court.

(2) When a member who has an interest in membership shares or deposits dies and the credit union has not received notice of a transfer or assignment of, or a charge against, the membership shares or deposit, the credit union may, subject to sections 121, 122 and 124, redeem the membership shares and pay the amount of the member's deposit to a claimant, on the delivery to the credit union of:

(a) evidence in a form satisfactory to the credit union stating the grounds on which the claimant claims to be entitled; and

(b) where the claim is based on:

(i) a will or other testamentary instrument, a notarial certified copy of the will or testamentary instrument; or

(ii) a grant of letters probate or a grant of letters of administration or other similar document issued by a court in Canada or by a court or other authority outside Canada, by a notarial certified copy or a certificate issued under the seal of the court or authority of the letters probate, letters of administration or other similar document.

(3) A document purporting to be signed by a judge or officer of a court or by any other proper authority is deemed, in the absence of evidence to the contrary, to have been signed by the proper authority without proof of the judicial or official character or authority or the signature of the person appearing to have signed the document.

(4) Notwithstanding subsection (2), a credit union may refuse to give effect to any transfer resulting from the death of a member until the credit union has received any documentary or other evidence of or in connection with the transfer that it considers necessary.

(5) Where a credit union pays an amount in good faith and without negligence pursuant to this section, the payment discharges the credit union with respect to and to the extent of the amount paid, but does not affect the right of any other person claiming to be entitled to the amount to recover the amount from the person to whom it was paid.

1998, c.C-45.2, s.73.

PART VIII
Corporate Governance

DIVISION 1
Meetings

Meeting of provisional directors

74(1) After a certificate of incorporation of a credit union is issued, a meeting of the provisional directors of the credit union shall be held.

(2) At the meeting mentioned in subsection (1), the provisional directors may:

(a) adopt forms of share certificates and corporate records;

(b) admit persons as members of the credit union;

(c) authorize the issue of membership shares of the credit union;

(d) appoint officers;

(e) appoint an auditor and audit committee to hold office until the first meeting of members;

(f) make banking arrangements; and

(g) deal with any other matters necessary to organize the credit union.

(3) An incorporator or a provisional director named in the application for incorporation may call the meeting mentioned in subsection (1) by giving no fewer than five days' notice of the purpose, time and place of the meeting to each provisional director of the credit union.

1998, c.C-45.2, s.74.

First members meeting

75(1) Before commencing business as a credit union, a credit union shall hold a meeting at which all members are entitled to be present and to vote.

(2) Notice of the meeting held pursuant to this section is to be given in accordance with section 79.

(3) The business at the meeting mentioned in subsection (1) is required to include:

(a) confirmation of the articles and bylaws filed with the registrar pursuant to subsection 11(1);

(b) election of a board; and

(c) appointment of an auditor in accordance with section 270 .

1998, c.C-45.2, s.75.

Place of meetings

76(1) Meetings of members are to be held at the place within Saskatchewan that is provided in the bylaws or, where the bylaws contain no provision, that is determined by the board.

(2) Notwithstanding subsection (1), a meeting of members of a credit union may be held outside Saskatchewan where all the members entitled to vote at that meeting agree.

(3) A member who attends a meeting held outside Saskatchewan is deemed to have agreed to hold the meeting outside Saskatchewan, unless the member attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully held.

(4) Notwithstanding subsections (1) to (3), where the articles provide for meetings to be held outside Saskatchewan, the members may meet at any place specified in the articles.

(5) Subject to the bylaws, a member may attend a meeting of members or a shareholder may attend a meeting of shareholders by means of a telephonic, electronic or other communication facility if it permits all participants to communicate adequately with each other during the meeting.

(6) A person participating in a meeting in the manner mentioned in subsection (5) is deemed to be present at the meeting.

(7) Meetings of shareholders are to be held at the place determined by the board.

1998, c.C-45.2, s.76.

Annual meetings

77(1) A credit union shall hold an annual meeting of members in each year not later than four months after the end of the financial year of the credit union.

(2) If shareholders have a right to elect directors, a credit union shall hold an annual meeting of shareholders for that election in each year not later than four months after the end of the financial year of the credit union.

(3) Notwithstanding subsections (1) and (2) and notwithstanding that the time for holding an annual meeting as required in this section has expired, where the registrar receives a written request from the board, the registrar may authorize the credit union to hold the annual meeting of members or shareholders at any later date that the registrar considers appropriate.

(4) The authorization of the registrar given pursuant to subsection (3) may be a continuing authorization.

(5) The bylaws may provide for holding semi-annual or other periodic meetings.

(6) A credit union shall include on its agenda for the annual meeting of members any items of business that are required by this Act or the bylaws or that may be prescribed in the regulations.

1998, c.C-45.2, s.77.

Special meetings

78(1) The board may call a special meeting of members or shareholders at any time.

(2) Subject to subsection (3), the board shall call a special meeting of the members on receipt of a written request specifying the purpose of the meeting from:

(a) the credit union's audit committee; or

(b) 1% of the members but not less than 25 members.

(3) Where the credit union has a delegate structure, the board is not required to call a special meeting on the request of members pursuant to subsection (2), but shall call a special meeting of delegates on receipt of a written request specifying the purpose of the meeting from 25% of the delegates, unless the request relates to amendments to the bylaws dealing with the delegate structure.

(4) The board shall call a special meeting of shareholders in circumstances where voting rights attached to the shares are exercisable with respect to the shares and where shareholders require a meeting to exercise those rights.

(5) Subject to subsection (6), the board shall call a special meeting within 20 days after the day that it receives a request pursuant to this section.

(6) The board may refuse to call a special meeting described in subsection (2) or (3) where the proposed subject of the meeting:

(a) has been discussed at a meeting in the six months preceding the date of the request; or

(b) is one described in subsection 85(6).

(7) If, within 20 days after the day the board receives the request, the board does not call a special meeting and the subject-matter to be discussed at the special meeting is not one described in subsection (6), any member or any member of the audit committee who signed the request may call the meeting.

(8) The credit union shall reimburse a member for the member's reasonable expenses incurred by the member in requesting, calling and holding the meeting pursuant to subsection (7).

(9) The registrar may call a special meeting of members or shareholders of the credit union:

(a) for the purpose of reporting to the members or shareholders the results of any audit, examination or other investigation of the credit union's business and affairs ordered or made by the registrar or CUDGC; or

(b) where the credit union fails to hold an annual meeting in the period set out in subsection 77(1) or (2), for the purpose of enabling members to secure any information regarding the business and affairs of the credit union that they are entitled to receive pursuant to this Act and the regulations and to deal with any matters affecting the credit union.

(10) CUDGC may call a special meeting of members or shareholders of the credit union for the purpose of reporting to the members or shareholders the results of any audit, examination or other investigation of the credit union's business and affairs ordered or made by the registrar or CUDGC.

(11) No matter is to be dealt with at a special meeting called pursuant to this section other than the matter stated in the notice of meeting.

1998, c.C-45.2, s.78.

Notice of meetings

79(1) A credit union shall give at least 21, and not more than 50, days' notice of any annual or special meeting to its members or shareholders entitled to attend the meeting and to its auditor.

(2) Subject to subsections (3) to (7), notice pursuant to subsection (1) must be given by:

(a) sending the notice by mail to the members, shareholders or auditor at the addresses given in the registers of the credit union; or

(b) inserting the notice in one issue of a newspaper in general circulation in each area served by the credit union and posting the notice in a place that, in the opinion of the board, is prominent and accessible to members and shareholders.

(3) Notice of the time and place of a meeting of the holders of investment shares of any class that is publicly traded on a recognized stock exchange in Canada may be published once a week for at least four consecutive weeks before the date of the meeting in a newspaper in general circulation in the place where the registered office of the credit union is situated and in each place in Canada where the credit union has a transfer agent or where a transfer of the investment shares may be recorded.

(4) The bylaws of a credit union may derogate from subsection (2), but only with respect to the manner in which notice of a meeting of members may be given to members.

(5) A notice of a meeting of a credit union is not required to be sent to shareholders who were not registered on the records of the credit union or its transfer agent on the record date determined pursuant to section 80, but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting.

(6) If a meeting of members or shareholders is adjourned for less than 30 days, it is not necessary, unless the bylaws otherwise provide, to give notice of the adjourned meeting, other than by announcement at the earliest meeting that is adjourned.

(7) If a meeting of members or shareholders is adjourned by one or more adjournments for an aggregate of 30 days or more, notice of the adjourned meeting shall be given in the same manner as for an original meeting but, unless the meeting is adjourned by one or more adjournments for an aggregate of more than 90 days, subsection 182(1) does not apply.

(8) Notwithstanding any other provision of this Act, where a credit union is required to send a statement, agreement, proposal or other document to its members or shareholders with a notice of a meeting and decides to insert the notice of a meeting in a newspaper pursuant to clause (2)(b), the credit union shall:

(a) in the notice, inform the members or shareholders about the document, giving a description of the document that, in the opinion of the board, is adequate to describe its nature; and

(b) make a copy of the document available to any member or shareholder who so requests and who is entitled to attend the meeting.

(9) The notice of any special meeting is required to specify the purpose for which the meeting is being called.

(10) The proceedings and the business transacted at a meeting are deemed not to be invalidated by reason only that a member or shareholder did not receive notice of the meeting.

(11) A member or shareholder who is entitled to attend a meeting may, in any manner, waive notice of the meeting.

(12) Where the regulations authorize providing notice to members using a means of electronic transmission, the credit union may provide the notice required by this section in accordance with the regulations.

1998, c.C-45.2, s.79.

Record date

80(1) Subject to subsection (2), the board may fix in advance a date as the record date:

(a) for determining members or shareholders who are:

(i) entitled to receive payment of a dividend or interest; or

(ii) entitled to participate in a distribution on liquidation; or

(b) for any purpose in addition to those described in clause (a), other than the right to receive notice of or to vote at a meeting.

(2) The record date mentioned in subsection (1) is not to precede by more than 50 days the particular action to be taken.

(3) Subject to subsection (4), for the purpose of determining shareholders entitled to receive notice of a meeting, the board may fix in advance a date as the record date for the determination of shareholders.

(4) The record date mentioned in subsection (3) is not to precede by more than 50 nor less than 21 days the date on which the meeting is to be held.

(5) The record date for the determination of members entitled to receive notice of a meeting is the close of business on the day preceding the day on which the notice is given.

(6) Where the board does not fix a record date:

(a) the record date for the determination of shareholders entitled to receive notice of a meeting is deemed to be at the close of business on the day preceding the day on which the notice is given; and

(b) the record date for the determination of shareholders for any purpose other than one described in clause (a) is deemed to be at the close of business on the day on which the board passes a resolution relating to that purpose.

(7) If a record date is fixed pursuant to this section, notice of the record date must be given not less than seven days before the record date:

(a) by advertisement in a newspaper in general circulation in the place where the credit union has its registered office and in each place in Canada where it has a transfer agent or where a transfer of its investment shares may be recorded; and

(b) by written notice to each stock exchange in Canada on which the investment shares of the credit union are listed for trading.

1998, c.C-45.2, s.80.

Quorum

81(1) Subject to subsections (3) and 84(3), the quorum at any meeting of members is the quorum prescribed in the regulations.

(2) Subject to the bylaws, a quorum of shareholders is present at a meeting of shareholders if the holders of a majority of investment shares entitled to vote at the meeting are present in person or represented by proxy.

(3) Subject to the bylaws, where a quorum is present at the opening of a meeting of members or shareholders, the members or shareholders present may proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting.

(4) Where a quorum is not present at the opening of a meeting of members or shareholders, the members or shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business.

1998, c.C-45.2, s.81.

Meetings at more than one location

82(1) Subject to the regulations, instead of holding one meeting for all members, a credit union may, if authorized in its bylaws, hold meetings at more than one location.

(2) Subject to this section, where a bylaw mentioned in subsection (1) is in force, the provisions of this Part apply to meetings held pursuant to subsection (1).

(3) If a credit union holds meetings at more than one location pursuant to subsection (1), a resolution is passed by the credit union only if:

(a) a meeting is held at every location mentioned in the bylaw authorizing meetings at more than one location;

(b) the resolution is presented at all of the meetings; and

(c) the aggregate of the votes cast in all the meetings taken as a whole approve the resolution.

(4) The credit union may make bylaws specifying locations at which meetings pursuant to this section are to be held and prescribing any specific procedures to be followed at those meetings.

1998, c.C-45.2, s.82.

Delegates

83(1) A credit union may, in its bylaws, provide for the nomination, appointment and election of delegates.

(2) Where the bylaws of a credit union provide for the nomination and appointment of delegates to a meeting:

(a) the delegates exercise at meetings or special meetings the full powers of the members, unless otherwise provided in the bylaws;

(b) the members represented by the delegates, as long as those bylaws remain in force, shall not exercise the powers of membership at any meeting;

(c) any reference in this Act or the regulations to members with respect to the exercise of any power mentioned in clause (b) is deemed to be a reference to delegates; and

(d) the bylaws must comply with the regulations.

(3) The member group that elects the delegate may, at a meeting called for that purpose, remove the delegate in any manner provided for in the bylaws.

(4) Notwithstanding subsection (2), the members may, at a meeting called for the purpose, amend the bylaws to eliminate the nomination and appointment of delegates to meetings.

1998, c.C-45.2, s.83.

Meetings called by court

84(1) On the application of a director, a member, a shareholder entitled to vote at the meeting or the registrar, the court may call a meeting of members or shareholders where:

(a) in the opinion of the board, it is impracticable to:

(i) call a meeting of members or shareholders in the manner in which meetings of members or shareholders may be called; or

(ii) conduct a meeting of members or shareholders in the manner prescribed in this Act or the bylaws; or

(b) in the opinion of the court, it is appropriate for any reason to do so.

(2) A meeting called pursuant to subsection (1) must be held and conducted in any manner that the court may direct.

(3) Without restricting the generality of subsection (1), the court may order that the quorum required by this Act or the bylaws be varied or dispensed with at a meeting called pursuant to this section.

(4) A meeting called pursuant to this section is deemed to be a valid meeting.

1998, c.C-45.2, s.84.

DIVISION 2
Proposals

Proposals

85(1) In this section, **"proposal"** means a notice submitted to a credit union pursuant to subsections (2) and (3).

(2) A member who is entitled to vote at a meeting of members may:

(a) submit to the credit union a notice of any matter that he or she proposes to raise at the meeting; and

(b) discuss at the meeting any matter with respect to which he or she would have been entitled to submit a proposal.

(3) A member or director may make a proposal to amend the articles of a credit union.

(4) On the request of the member or director who submitted the proposal, the board shall:

(a) send the proposal with the notice of the meeting at which the proposal is to be presented; or

(b) make the proposal available in accordance with subsection 79(2) to all members entitled to attend and vote at that meeting.

(5) On the request of the member or director who submitted the proposal, the credit union shall include in or attach to the notice of meeting:

(a) a statement by the member or director of not more than 200 words in support of the proposal; and

(b) the name and address of the member or director.

(6) A credit union is not required to comply with subsections (4) and (5) where:

(a) the proposal is not submitted to the credit union at least 90 days before the anniversary date of the previous annual meeting of members;

(b) in the opinion of the board, the proposal is submitted by the member or director primarily for the purpose of:

(i) enforcing a personal claim or redressing a personal grievance against the credit union or its board, officers or members or security holders; or

(ii) promoting general political, racial, religious or similar causes;

(c) the credit union, at the member's or director's request, included a proposal in a notice of meeting of members held in the two years preceding the receipt of the proposal submitted pursuant to subsection (2), and the member or director failed to present the proposal at the meeting;

(d) substantially the same proposal was submitted to members in the notice of a meeting of members held in the two years preceding the receipt of the member's or director's request and the proposal was defeated; or

(e) in the opinion of the board, the rights conferred by this section are being abused to secure publicity.

(7) The member or director who requests that the proposal and any statement be sent in accordance with subsection (4) or (5) with the notice of the meeting at which the proposal is to be presented shall pay the cost of sending the proposal and statement, unless the members present at the meeting provide otherwise by a majority vote.

(8) No credit union and no person acting on behalf of a credit union incurs any liability by reason only of circulating a proposal or statement in compliance with this section.

(9) Where a credit union refuses to include a proposal in a notice of meeting, the credit union shall, within 30 days after receiving the proposal:

(a) notify the member or director submitting the proposal of its intention not to include the proposal with the notice of meeting; and

(b) send to the member or director a statement of the reasons for the refusal.

(10) Where a member or director claiming to be aggrieved by a refusal pursuant to subsection (9) applies to the court, the court may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it considers appropriate.

(11) The credit union or a person claiming to be aggrieved by a proposal may apply to the court for an order permitting the credit union to not include the proposal with the notice of meeting and, where the court is satisfied that subsection (6) applies, it may make the order.

(12) An applicant mentioned in subsection (10) or (11) shall give the registrar notice of his or her application, and the registrar is entitled to appear and be heard in person or by counsel.

1998, c.C-45.2, s.85.

DIVISION 3
Voting

Voting rights of members

86(1) No member who is less than 16 years of age is entitled to vote.

(2) A member who is not an individual may vote through a representative where that member gives the credit union notice of the appointment of the representative at least 48 hours before the meeting at which the representative is to vote on behalf of the member.

(3) Each member who is present at a meeting is entitled to one vote.

1998, c.C-45.2, s.86.

Voting procedures

87(1) Subject to this Act and the bylaws, members and shareholders shall vote:

(a) by a show of hands; or

(b) where three members or shareholders who are entitled to vote at a meeting so demand before the vote, by secret ballot.

(2) The chairperson of the meeting, if otherwise entitled to vote, has the right to vote, but is not entitled to a second vote in the event of a tie.

(3) Where there is an equality of votes, the motion is to be declared lost.

1998, c.C-45.2, s.87.

Resolution in lieu of meeting

88(1) Except where a written statement is submitted by an auditor pursuant to section 275 or by a director pursuant to section 110:

(a) a written resolution signed by all the members or shareholders entitled to vote on that resolution at a meeting of members or shareholders is as valid as if it had been passed at a meeting of the members or shareholders; and

(b) a written resolution dealing with any matter required by this Act to be dealt with at a meeting of members or shareholders and signed by all the members or shareholders entitled to vote at that meeting:

(i) satisfies all the requirements of this Act relating to meetings of members or shareholders; and

(ii) subject to subsection (2), is effective from the day specified in the resolution.

(2) The effective day of a resolution described in subclause (1)(b)(ii) is not to be before the day on which the first member or shareholder signed the resolution.

(3) A copy of every resolution described in subsection (1) is to be kept with the minutes of the meetings of members and shareholders.

(4) An entry of a resolution in the minutes of the meetings of members or shareholders is, in the absence of evidence to the contrary, proof of the resolution.

1998, c.C-45.2, s.88.

DIVISION 4
Bylaws

Power to enact bylaws

89(1) The members of a credit union may enact bylaws by a special resolution.

(2) A member or director may make a proposal, in the manner provided in section 85, to enact, amend, repeal, replace or confirm any bylaw.

1998, c.C-45.2, s.89.

Effective date of bylaw

90(1) No bylaw, other than a bylaw registered pursuant to clause 14(1)(a), has any force or effect until two copies of the bylaw, certified to be true copies by the chairperson and secretary of the credit union, are approved by and filed with the registrar.

(2) Notwithstanding subsection (1), where the registrar considers it appropriate for the members present at a meeting of the credit union to implement the proposed bylaw at the meeting at which the bylaw is submitted for their approval, the registrar may approve the proposed bylaw before the meeting.

(3) Subject to subsection (4), where a proposed bylaw is approved pursuant to subsection (2) and is passed by the members, the bylaw has immediate force and effect.

(4) A bylaw described in subsection (3) ceases to have any force or effect on the expiration of 20 days after the date of the meeting in which it is approved by the members, unless, within that 20-day period, the bylaw is filed with the registrar pursuant to subsection (1).

(5) Where the registrar approves a bylaw, the registrar shall return to the credit union one copy of the bylaw with the registrar's approval stamped on the bylaw.

1998, c.C-45.2, s.90; 2010, c.8, s.10.

Registrar may refuse to file

91 The registrar may refuse to file a bylaw pursuant to subsection 90(1) where, in the registrar's opinion, the bylaw:

(a) is contrary to this Act, the regulations or the articles of the credit union; or

(b) is confusing.

1998, c.C-45.2, s.91.

PART IX
Directors and Officers

DIVISION 1
General

Provisional directors

92(1) On incorporation of the credit union, the individuals whose names appear in the articles as provisional directors:

(a) are deemed to be the first directors of the credit union; and

(b) shall hold office until the first meeting of members.

(2) At the first meeting of members, the directors are to be elected in accordance with this Act, the regulations and the bylaws.

1998, c.C-45.2, s.92.

Directors' powers

93 Subject to this Act, the regulations, the articles and the bylaws, the board shall:

(a) exercise the powers of the credit union directly or indirectly through the employees and agents of the credit union; and

(b) direct the management of the business and affairs of the credit union.

1998, c.C-45.2, s.93.

Election of directors

94(1) Directors must be elected in accordance with this Act and the procedures established in the regulations and in accordance with the bylaws.

(2) Where a credit union has a bylaw permitting the election of directors by district, the directors may be elected by district.

(3) Where directors are to be elected by district at a meeting held pursuant to subsection (1), the credit union shall, in its bylaws, establish procedures to ensure that the election of a director for a district at a meeting is consistent with district boundaries.

(4) Not less than a majority of directors are to be persons ordinarily resident in Canada.

(5) Not less than 80% of the directors, or any greater percentage that is provided for by the articles, must be members of the credit union.

(6) Where shareholders of a credit union are entitled to elect or appoint directors, not more than 20% of the total number of directors may be elected or appointed by the shareholders.

1998, c.C-45.2, s.94.

Election or appointment of directors (shareholders)

95(1) If the holders of a class or series of investment shares of a credit union have, pursuant to section 131, a right to elect or appoint one or more directors, or have a right to elect or appoint one or more directors by reason of an event that has occurred and is continuing or by reason of a condition that has been fulfilled, the board must call the following meetings for the purpose of electing or appointing the director or directors:

(a) a special meeting of the holders of the class or series of investment shares, to be called within six months or at any earlier date that may be specified in the articles, after the date on which investment shares of the class or series are first issued or after the event has occurred or the condition has been fulfilled; and

(b) an annual meeting of those holders for every year following the year mentioned in clause (a).

(2) If the articles provide, directors who are to be elected by holders of investment shares may be elected by cumulative voting.

(3) If the articles provide for cumulative voting:

(a) the articles must require a fixed number of directors to be elected by the holders of investment shares, and not a minimum and maximum number of directors;

(b) each shareholder who is entitled to vote at an election of directors by holders of investment shares has the right to cast a number of votes equal to the number of votes attached to the investment shares held by that shareholder multiplied by the number of directors to be elected, and the shareholder may cast all the votes in favour of one candidate or distribute them among the candidates in any manner;

(c) a separate vote of shareholders must be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;

(d) if a shareholder has voted for more than one candidate without specifying the distribution of votes among the candidates, the shareholder is deemed to have distributed his, her or its votes equally among the candidates for whom the shareholder voted;

(e) if the number of candidates nominated for director exceeds the number of positions to be filled, the candidates who receive the least number of votes are eliminated until the number of candidates remaining equals the number of positions to be filled;

(f) each director ceases to hold office at the close of the first annual meeting after his or her election by the holders of investment shares entitled to elect that director;

(g) a director may only be removed from office if the number of votes cast in favour of the director's removal is greater than the product of the number of directors and the number of votes cast against the motion; and

(h) the number of directors required by the articles may only be decreased if the votes cast in favour of the motion to decrease the number of directors is greater than the product of the number of directors and the number of votes cast against the motion.

1998, c.C-45.2, s.95.

Term of directors

96(1) Subject to subsection (2), a credit union may make bylaws providing that its directors be elected for a term of one, two or three years.

(2) A director elected or appointed by shareholders holds office for a term of one year.

(3) A director elected or appointed for a term of one, two or three years holds office until the close of the first, second or third annual meeting following the director's election or appointment.

(4) A director who is not elected or appointed for an expressly stated term ceases to hold office at the close of the next annual meeting following the director's election or appointment.

1998, c.C-45.2, s.96.

Committees

97(1) The board may, from time to time:

(a) subject to subsection (3), appoint any committee that it considers necessary and appoint any member of the board to a committee and, if the bylaws allow, appoint any non-member of the board to a committee; and

(b) by resolution, delegate to any committee any powers that it considers necessary for the efficient conduct of the business and affairs of the credit union.

(2) A member of a committee of the board holds office until the member:

(a) is removed by resolution of the board; or

(b) ceases to be a member of the credit union, if the bylaws require members of the committee to be members.

(3) Not less than 80% of the directors on a committee must be directors elected or appointed by members.

(4) A committee may exercise any powers of the board that are delegated to it by resolution of the board, subject to any restrictions contained in the resolution.

(5) Notwithstanding subsection (4), no committee of the board may:

(a) fill a vacancy among the directors;

(b) issue or cause to be issued shares of the credit union;

(c) declare dividends on shares or a patronage return, dividend or payment;

(d) approve any financial statements of the credit union;

(e) assess the solvency of the credit union;

(f) submit to the members any question or matter requiring the approval of members;

(g) make decisions where this Act or the articles require a vote of the board;

(h) appoint signing officers; or

(i) except for an audit committee or conduct review committee, assume the board's responsibility for ensuring that sound and prudent business practices are followed.

(6) A committee of the board shall:

(a) subject to subsection 103(5), fix its quorum at not less than a majority of the committee's members;

(b) keep minutes of its proceedings; and

(c) submit to the board, at each meeting of the board, the minutes of the committee's proceedings during the period since the most recent meeting of the board.

1998, c.C-45.2, s.97.

Audit committee

98(1) The board shall appoint an audit committee consisting of at least three directors.

(2) An employee of the credit union and an officer mentioned in subclause 2(1)(hh)(i) or (ii) of the credit union or a subsidiary are not entitled to be members of the audit committee.

(3) The audit committee shall fulfil the responsibilities and may exercise the powers given to it pursuant to section 285.

1998, c.C-45.2, s.98; 2001, c.12, s.4.

Conduct review committee

99(1) The board shall appoint a conduct review committee to fulfil the responsibilities and exercise the powers mentioned in Part XI.

(2) The conduct review committee must consist of at least three directors.

(3) The conduct review committee shall:

(a) establish procedures for the review of transactions with related parties of the credit union to which Part XI applies and review the effectiveness of those procedures to ensure that the credit union is complying with Part XI;

(b) review all proposed transactions with related parties of the credit union in accordance with Part XI;

(c) review the practices of the credit union to ensure that any transaction with related parties of the credit union that may have a material effect on the stability or solvency of the credit union is identified; and

(d) provide timely reports to the board with respect to the matters described in clauses (a) to (c) and Part XI as required.

(4) Where the board fails to appoint a conduct review committee, the board shall act as the conduct review committee.

1998, c.C-45.2, s.99; 2001, c.12, s.5.

Vacancy

100(1) Where there is a vacancy on the board and:

(a) there is a quorum of directors, the remaining directors may:

(i) exercise all the powers of the directors; and

(ii) subject to the bylaws, fill the vacancy until the next annual meeting;

(b) there is not a quorum of directors, the remaining directors shall call any necessary meeting of the credit union for the purpose of filling any vacancy;

(c) in the case of a credit union where the directors are elected by district, there is not a quorum of directors, the remaining directors may call a meeting of the members in a district for which there is no director, for the purpose of electing directors to fill any vacancies; or

(d) there are no directors remaining, any 10 members may in writing appoint directors solely for the purpose of calling any necessary meeting of the credit union for the purpose of filling any vacancy.

(2) Where an election of directors required in this Act, the regulations or the bylaws does not take place at the proper time, the directors then in office shall:

(a) continue in office until their successors are elected; and

(b) within 30 days call a special meeting of members or shareholders for the election of directors.

(3) Notwithstanding any other provision of this Act but subject to the right that may be given to shareholders to elect or appoint up to 20% of the directors, only the members of a credit union are entitled to elect its directors.

1998, c.C-45.2, s.100.

Notice of change of directors

101(1) Within 15 days after a change is made in its directors, a credit union shall send to the registrar a notice in the form prescribed in the regulations setting out the change.

(2) The registrar shall file a notice sent pursuant to subsection (1).

1998, c.C-45.2, s.101.

Qualifications of directors

102(1) No person, other than an individual who meets the requirements of this section, may be a director.

(1.1) No individual is eligible to be a director:

(a) unless the individual is 18 years of age or older and has capacity;

(b) if the individual is an undischarged bankrupt;

(c) if the individual:

(i) subject to subsection (1.2), has been convicted of a criminal offence relating to theft, fraud or breach of trust;

(ii) has been convicted of an indictable offence pursuant to the *Criminal Code* within the last five years, other than a criminal offence mentioned in subclause (i); or

(iii) subject to subsection (1.3), has been convicted of an offence pursuant to this Act;

(d) in the case of a director elected or appointed by members, if the individual is not a member of the credit union;

(e) if the individual is an employee of the credit union or of CUDGC;

(f) if the individual is a professional adviser to the credit union;

(g) if the individual has failed to comply with Division 6 of Part X; or

(h) if the individual is prescribed in the regulations, or is a member of any class of individuals prescribed in the regulations.

(1.2) An individual mentioned in subclause (1.1)(c)(i) is eligible to be a director if the individual has been pardoned.

(1.3) An individual mentioned in subclause (1.1)(c)(iii) is eligible to be a director if:

(a) the conviction was not within the last five years and the individual was not sentenced to a period of imprisonment; or

(b) it has been more than five years since the completion of any term of imprisonment imposed as a result of a conviction for an offence pursuant to this Act.

(2) A person is disqualified to remain a director if that person fails, without good cause, to attend the minimum number of board meetings that the bylaws may set.

(3) Every nominee for the position of director of a credit union shall confirm in writing to the board that the nominee is eligible to be a director pursuant to this section.

(4) A credit union may, by bylaw, add to the eligibility requirements for directors set out in this section, but may not diminish those eligibility requirements.

(5) Subject to section 94, a director elected by shareholders need not be a member.

1998, c.C-45.2, s.102; 2010, c.8, s.11.

Board meetings

103(1) The board must hold a meeting once in each three-month period.

(2) The chairperson of the board:

(a) may call a meeting of the board at any time; and

(b) shall call a meeting of the board within one week of receiving a written request that a meeting be held from the registrar, CUDGC or at least three directors.

(3) Where a meeting is called pursuant to clause (2)(b), it must be held within three weeks of the date that the chairperson of the board received the written request.

(4) Subject to subsection (2), the board may meet at any place, and may determine any notice requirements for board meetings, that it considers appropriate.

(5) A majority of the number of directors in office constitutes a quorum.

(6) Subject to subsection (8), a director or a member of a committee of the board may attend a meeting of the board or a committee of the board by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.

(7) A person participating in a meeting pursuant to subsection (6) is deemed to be present at that meeting.

(8) At least one meeting each year of the board must be conducted where all directors present at the meeting attend in person and not by a means allowed by subsection (6).

1998, c.C-45.2, s.103; 2010, c.8, s.12.

Resolution without meeting

104 Unless this Act, the regulations or the bylaws require a meeting, a resolution of the board may be passed without a meeting where:

(a) all the directors consent to the resolution in writing; and

(b) the consent is filed with the minutes of the proceedings of the board.

1998, c.C-45.2, s.104.

Minutes of board

105(1) The board shall cause minutes to be kept of:

(a) all appointments of officers and committee members made by the board;

(b) all the names of the directors present at each meeting of the board; and

(c) all resolutions and proceedings at meetings of the credit union or the board.

(2) Every committee of the board shall cause minutes to be kept of:

(a) the names of the committee members present at meetings of the committee; and

(b) all resolutions and proceedings of the committee.

(3) The board shall cause true accounts to be kept of:

(a) all sums of money received and expended by the credit union and the matters with respect to which the receipts and expenditures take place;

(b) the assets and liabilities of the credit union; and

(c) every other transaction affecting the financial position of the credit union.

1998, c.C-45.2, s.105.

Ceasing to hold office

106(1) A director of a credit union ceases to hold office when he or she:

(a) dies or resigns;

(b) is removed in accordance with section 107;

(c) is no longer qualified pursuant to section 102; or

(d) fails to provide a bond pursuant to section 120.

(2) A resignation of a director becomes effective at the later of:

(a) the time a written resignation is sent to the credit union; and

(b) the time specified in the resignation.

1998, c.C-45.2, s.106.

Removal of directors

107(1) Unless the bylaws provide for a smaller proportion, the members of a credit union may remove from office any director, elected or appointed by members, by a resolution approved by two-thirds of the votes cast at a meeting.

(2) Where the holders of any class or series of investment shares have an exclusive right to elect a director, that director may only be removed by an ordinary resolution at a meeting of the shareholders of that class or series.

(3) A vacancy created by the removal of a director may be filled at the meeting of the members or shareholders at which the director is removed or, where not so filled, may be filled pursuant to section 94.

1998, c.C-45.2, s.107.

Number of directors

108(1) A credit union shall have at least five directors or any greater number that is provided for in the articles.

(2) Subject to subsection (1), the members of a credit union may, in its articles, establish a minimum and maximum number of directors.

(3) Subject to subsection (2), the bylaws may determine the number of directors.

(4) If the articles or bylaws are amended to increase or decrease the number of directors, the term of any incumbent director is not affected.

(5) At a meeting to increase the number of directors, the persons who are entitled to do so may elect or appoint the additional number of directors.

1998, c.C-45.2, s.108.

Validity of acts of directors and officers

109 An act of a director or officer is valid notwithstanding an irregularity in the election or appointment of the director or officer or a defect in the director's or officer's qualification.

1998, c.C-45.2, s.109.

Attendance at meeting

110(1) A director of a credit union is entitled to receive notice of and to attend and be heard at every meeting of members or shareholders.

(2) A director is entitled to submit to the credit union a written statement giving the reasons for his or her resignation or the reasons he or she opposes any proposed action or resolution, where the director:

(a) resigns;

(b) receives a notice or otherwise learns of a meeting of members or shareholders called for the purpose of removing the director from office; or

(c) receives a notice or otherwise learns of a meeting of directors, members or shareholders at which another person is to be appointed or elected to fill the office, whether because of his or her resignation or removal or because his or her term of office has expired or is about to expire.

(3) A credit union shall:

(a) immediately send a copy of the statement mentioned in subsection (2) to the registrar; and

(b) make available a copy of the statement to every member, director or shareholder entitled to receive notice of the meeting.

(4) No credit union or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (3).

1998, c.C-45.2, s.110.

Remuneration

111(1) Subject to the bylaws, the directors, members of committees of the board and officers are entitled to any remuneration and reimbursement for expenses that the board may determine.

(2) The board shall make available to members at the annual meeting of members, and to shareholders at the annual meeting of shareholders, the total amount of:

(a) remuneration paid to directors during the previous financial year; and

(b) reimbursement for expenses during the previous financial year.

1998, c.C-45.2, s.111.

DIVISION 2
Duty of Care and Material Contracts

Duty of care of directors and officers

112(1) Every director and officer of a credit union in exercising his or her powers and fulfilling his or her duties shall:

(a) act honestly and in good faith with a view to the best interests of the credit union;

(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;

(c) comply with this Act, the regulations, the articles and the bylaws; and

(d) cause the credit union to comply with this Act, the regulations, the articles, the bylaws, the orders of the registrar and of CUDGC and with the standards of sound business practice.

(2) An officer or director has complied with his or her duty set out in subsection (1) if he or she relies in good faith:

(a) on statements of fact represented to him or her by an officer of the credit union to be correct; or

(b) on statements contained in a written report or opinion of the auditor of the credit union or a professional adviser engaged by the credit union who is competent to give advice with respect to the matter.

1998, c.C-45.2, s.112; 2006, c.26, s.3.

Material contracts

113(1) This section does not require the disclosure of an interest in a contract or transaction that is of a type available to and customarily entered into between the credit union and its members.

(2) A director or officer of a credit union or an associate of that director or officer who is a party to a material contract or proposed material contract with the credit union or who is a director or an officer of, or has a material interest in, a person who is a party to a material contract or proposed material contract with the credit union shall:

(a) disclose in writing to the credit union the nature and extent of that interest; or

(b) request to have entered in the minutes of meetings of directors the nature and extent of that interest.

(3) Where the disclosure required in subsection (2) is to be made by a director, the director shall make the disclosure:

(a) at the meeting at which a proposed contract is first considered;

(b) where the director is not interested in a proposed contract at the meeting mentioned in clause (a), at the first meeting after the director acquires an interest;

(c) where the director becomes interested after a contract is made, at the first meeting after the director acquires an interest; or

(d) where the director has an interest in a contract before becoming a director, at the first meeting after he or she becomes a director.

(4) Where the disclosure required in subsection (2) is to be made by an officer who is not a director, the officer shall make the disclosure:

(a) immediately after the officer becomes aware that the contract or proposed contract is to be considered or has been considered at a meeting of directors;

(b) where the officer acquires an interest after a contract is made, immediately after the officer acquires the interest; or

(c) where the officer has an interest in a contract before becoming an officer, immediately after he or she becomes an officer.

(5) Notwithstanding subsections (3) and (4), where a material contract or proposed material contract is one that in the ordinary course of the credit union's business would not require approval by the directors or members, a director or officer shall disclose in writing to the credit union or request to have entered in the minutes of meetings of directors the nature and extent of his or her interest after he or she becomes aware of the contract or proposed contract.

(6) For the purposes of this section, a general notice to the directors by a director or officer declaring that he or she is to be regarded as interested in any contract made with that person is a sufficient declaration of interest in relation to any contract made with that person.

(7) No director who has or whose associate has an interest in a material contract or proposed material contract may take part in discussions considering or vote on a resolution approving a contract unless the contract is:

(a) an arrangement by way of security for money lent by the director to the credit union or obligations undertaken by the director for the benefit of the credit union or subsidiary of the credit union; or

(b) a contract relating primarily to the director's remuneration as a director, officer, employee or agent of the credit union or a subsidiary of the credit union.

(8) Where a director or officer discloses his or her interest in accordance with this section, and the contract in which the director or officer has a material interest is approved by the directors or members and is reasonable and fair to the credit union at the time it was approved, the material contract is neither void nor voidable:

(a) by reason only of that relationship; or

(b) by reason only that a director with an interest in the contract is present at or is counted to determine the presence of a quorum at a meeting of directors or committee of directors that authorized the contract.

(9) If a director or officer of a credit union fails to disclose his or her interest in a material contract in accordance with this section:

(a) the contract is not void or voidable for reason of failure to disclose if:

(i) a meeting of the credit union is called for the purpose;

(ii) the nature and extent of the director's or officer's interest in the contract is declared and disclosed in reasonable detail in the notice calling the meeting;

(iii) a special resolution of members stating that the contract is fair and reasonable is passed at the meeting called for the purpose; and

(iv) the contract is approved by the directors after the requirements set out in subclauses (i) to (iii) have been fulfilled; or

(b) the court may, on the application of the credit union or a member of the credit union:

(i) confirm the contract; or

(ii) set aside the contract on any terms that the court considers appropriate.

(9.1) A credit union or a member of a credit union that makes an application pursuant to clause (9)(b) shall serve a notice of the application:

(a) on the registrar;

(b) on CUDGC;

(c) if the credit union is making the application, on any members of the credit union who are the subject of the application; and

(d) if a member of the credit union is making the application, on the credit union.

(9.2) Notwithstanding any action that may have been taken pursuant to clause (9)(a), if a director or officer of a credit union fails to disclose his or her interest in a material contract in accordance with this section, the court may, on the application of the registrar or CUDGC:

(a) confirm the contract; or

(b) set aside the contract on any terms that the court considers appropriate.

(9.3) If the registrar or CUDGC makes an application pursuant to subsection (9.2), the registrar or CUDGC, as the case may be, shall serve a notice of the application:

(a) on the credit union;

(b) on any members of the credit union who are the subject of the application;

(c) if the registrar is making the application, on CUDGC; and

(d) if CUDGC is making the application, on the registrar.

(10) A credit union may provide in its bylaws for more restrictive requirements than those provided in this section, but in no case may the requirements of this section be diminished.

1998, c.C-45.2, s.113; 2010, c.8, s.13.

Misuse of confidential information

114(1) A director or officer, or an associate of a director or officer, who, in connection with financial services delivered by a credit union or in connection with a transaction relating to shares of a credit union or a debt obligation of a credit union, makes use of confidential information for the benefit or advantage of himself or herself or an associate that, if generally known, might reasonably be expected to affect materially the value of the share or the debt obligation is:

(a) liable to compensate any person for a direct loss suffered by the person as a result of the use, unless the information was known or reasonably should have been known to the person at the time of the transaction; and

(b) accountable to the credit union for any direct benefit or advantage received or receivable by him or her or his or her associate, as the case may be, as a result of the use.

(2) The credit union may take steps to enforce the liability described in subsection (1).

1998, c.C-45.2, s.114.

DIVISION 3
Liability of Directors

Liability of directors

115(1) Directors are jointly and severally liable to make good any loss or damage suffered by the credit union where they vote for, consent to a resolution authorizing or approve by any other means:

(a) the acquisition of shares contrary to section 121, 122 or 124;

(b) a transfer contrary to section 139;

(c) the payment of a dividend contrary to section 159;

(d) the payment of a patronage return contrary to section 160;

(e) a transaction contrary to Part XI;

(f) a reduction of capital contrary to section 156;

(g) a payment of an indemnity described in section 116 to a director or a former director, without the approval of the court required in subsection 116(5);

(h) an act not consistent with the purpose of the credit union as set out in its articles and with respect to which the credit union has paid compensation to a person; or

(i) the creating of a security interest contrary to section 40 or the granting of the right to appoint a receiver contrary to section 41.

(2) On the application of a director, the court may declare whether or not, having regard to any circumstances that the court considers appropriate:

(a) the credit union is in contravention of section 121, 122 or 124; or

(b) the payment of a dividend or interest on shares or a patronage return or the lending of money would put the credit union in contravention of section 121, 122 or 124 or Part XI.

(3) The liability imposed in subsection (1) is in addition to and not in derogation of a liability imposed on a director by any other Act or law.

(4) For the purposes of this section, a director who is present at a meeting of the board or of a committee of the board is deemed to have cast an affirmative vote, given consent to a resolution or given the approval mentioned in subsection (1), unless:

(a) the director's dissent is entered in the minutes of the meeting;

(b) the director's written dissent is:

(i) delivered to the secretary of the meeting before its adjournment; or

(ii) delivered or sent by registered mail to the registered office of the credit union immediately after the adjournment of the meeting; or

(c) the director proves that he or she did not vote, consent to or approve the resolution or action.

(5) A director who votes for a resolution mentioned in subsection (1) is not entitled to dissent pursuant to subsection (4).

(6) Where a director is not present at a meeting of the board or of a committee of the board at which a vote, resolution or approval mentioned in subsection (1) is cast or given, the director is deemed to have cast an affirmative vote, consented to the resolution or given approval, unless, within 14 days after becoming aware of the proceedings, the director:

(a) causes his or her dissent to be placed on the minutes of the meeting; or

(b) delivers or sends by registered mail his or her written dissent to the registered office of the credit union.

(7) On receipt of a written dissent, the secretary of the credit union shall:

(a) certify on the written dissent the date, time and place it is received; and

(b) keep the written dissent with the minutes of the meeting at which the resolution was passed.

(8) For the purpose of applying *The Limitations Act* to a claim pursuant to this section, the day on which the act or omission on which the claim is based takes place is the day of the meeting at which the vote was taken or the day on which the resolution was passed or the approval given.

(9) In an action to enforce a liability imposed in subsection (1), the court may, on the application of the credit union or a defendant:

(a) join as a defendant a person who received a benefit as a result of the resolution complained of; and

(b) make the person mentioned in clause (a) liable to the credit union jointly and severally with the directors to the extent of the amount paid to him or her.

(10) A director is not liable pursuant to subsection (1) where the director:

(a) proves that he or she did not know or could not reasonably have known that the act authorized by the resolution was contrary to this Act; or

(b) relied and acted in good faith:

(i) on statements of fact represented to him or her by an officer of the credit union to be correct; or

(ii) on statements contained in a written report or opinion of the auditor of the credit union or a professional adviser engaged by the credit union who is competent to give advice with respect to the matter.

(11) A director who is found liable pursuant to subsection (1) is entitled to apply to the court for an order compelling a member, shareholder or other recipient to pay or deliver to the director any money or property that was paid or distributed to the member, shareholder or other recipient contrary to section 40, 41, 116, 121, 122, 124 or 156 or Part XI.

(12) In connection with an application pursuant to subsection (11) and where the court is satisfied that it is equitable to do so, the court may:

(a) order a member, shareholder or other recipient to pay or deliver to a director any money or property that was paid or distributed to the member, shareholder or other recipient contrary to section 40, 41, 116, 121, 122, 124 or 156 or Part XI; or

(b) make any order, other than one described in clause (a), that it considers appropriate.

1998, c.C-45.2, s.115; 2004, c.L-16.1, s.45.

Indemnification

116(1) A credit union may indemnify a director or officer of the credit union, a former director or officer of the credit union, a member of any committee appointed by the board, or another individual who acts or acted at the credit union's request as a director or officer of or in a similar capacity for another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, that the individual reasonably incurs with respect to any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the credit union or other entity, if:

(a) the individual acted honestly and in good faith with a view to the best interests of, as the case may be:

(i) the credit union; or

(ii) the other entity for which, at the credit union's request, the individual acted as a director or officer or in a similar capacity; and

(b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that the individual's conduct was lawful.

(2) A credit union may advance moneys to a director, officer or other individual mentioned in subsection (1) for the costs, charges and expenses of a proceeding mentioned in that subsection, but the individual must repay the moneys to the credit union if the individual does not fulfil the conditions set out in clauses (1)(a) and (b).

(3) With respect to an action by or on behalf of a credit union or other entity to procure a judgment in its favour, the credit union or other entity, with the approval of the court, may indemnify an individual mentioned in subsection (1) against all costs, charges and expenses reasonably incurred by the individual in connection with that action, or advance moneys to that individual pursuant to subsection (2) for the costs, charges and expenses reasonably incurred by the individual in connection with that action, if the individual:

(a) is made a party to the action because of the individual's association with the credit union or other entity as described in subsection (1); and

(b) fulfils the conditions set out in clauses (1)(a) and (b).

(4) Notwithstanding subsection (1), an individual mentioned in that subsection is entitled to indemnity from the credit union against all costs, charges and expenses reasonably incurred by the individual in connection with the defence of any civil, criminal, administrative, investigative or other proceeding to which the individual is subject because of the individual's association with the credit union or other entity as described in subsection (1), if the individual seeking indemnity:

(a) was not judged by the court or other competent authority to have committed any fault or to have omitted to do anything that the individual ought to have done; and

(b) fulfils the conditions set out in clauses (1)(a) and (b).

(5) A credit union, an individual or an entity mentioned in subsection (1) may apply to the court for an order approving an indemnity pursuant to this section, and the court may so order and make any further order that it sees fit.

(6) An applicant pursuant to subsection (5) shall give notice of the application to:

(a) the registrar, and the registrar is entitled to appear and be heard in person or by counsel; and

(b) CUDGC, and CUDGC is entitled to appear and be heard by counsel.

(7) On an application pursuant to subsection (5), the court may order notice to be given to any interested person, and that person is entitled to appear and be heard in person or by counsel.

2006, c.26, s.3.

Insurance

117 A credit union may purchase and maintain insurance for the benefit of any of the following individuals against any liability incurred by the individual in the individual's capacity:

(a) as a director, officer, member of any committee appointed by the board, or employee of the credit union; or

(b) as a director, officer, member of a committee or employee of another entity, or in a similar capacity, if the individual acts or acted in that capacity at the credit union's request.

2006, c.26, s.3.

Duty not to be limited

118 The provisions of a contract, the articles, the bylaws or the circumstances of his or her appointment do not relieve a director, officer or employee of a credit union from:

(a) the duty to act in accordance with this Act and the regulations; and

(b) the liability that by virtue of a rule of law would otherwise attach to the director, officer or employee of a credit union with respect to negligence, default, breach of duty or breach of trust of which he or she may be guilty in relation to the credit union.

1998, c.C-45.2, s.118.

DIVISION 4
Officials and Bonding

Officials

119(1) A credit union shall have:

(a) a chairperson and a vice-chairperson of the board;

(b) a chief executive officer or a general manager; and

(c) a secretary.

(2) Subject to the bylaws, no person shall be the chairperson or vice-chairperson of the board unless the person is a director of the credit union.

2001, c.12, s.7; 2010, c.8, s.14.

Bonding

120(1) Every director and every employee of a credit union shall, within 60 days of commencing his or her duties, furnish the credit union with a security or a fidelity bond in the amount not less than that prescribed by CUDGC and, in any event, in an amount of not less than any amount that may be prescribed in the regulations.

(2) A security or fidelity bond mentioned in subsection (1) is to be obtained from an insurer and in a form approved by CUDGC.

1998, c.C-45.2, s.120.

PART X
Finance

DIVISION 1
Capital and Liquid Assets

Minimum capital and liquid assets

121(1) In this section and in section 122:

(a) **"capital"** means capital consisting of those capital elements set out in subsection 123(1);

(b) **"liquid assets"** means assets maintained by a credit union sufficient to pay its obligations as they come due.

(2) Every credit union shall maintain:

(a) capital that is adequate for its operations; and

(b) liquid assets that are adequate and appropriate for its operations.

(3) No credit union shall fail to comply with the regulations and with the standards of sound business practice respecting capital and liquid assets.

(4) CUDGC may specify in a standard of sound business practice the type and amount of capital and the type and amount of liquid assets that are to be held by a credit union.

(5) If a credit union fails to maintain the capital or liquid assets required by this section, CUDGC may:

(a) issue an order pursuant to section 464; or

(b) place the credit union under supervision or administration in accordance with Part XXIV.

1998, c.C-45.2, s.121.

Special powers of CUDGC re capital and liquid assets

122(1) Notwithstanding the compliance by a credit union with the regulations and standards of sound business practice respecting capital and liquid assets, CUDGC may issue an order pursuant to section 464 that a credit union do one or both of the following:

(a) increase the amount of its capital;

(b) provide additional liquid assets in a form specified by CUDGC.

(2) No credit union shall fail to comply with an order of CUDGC issued pursuant to this section.

(3) CUDGC may place a credit union under supervision or administration in accordance with Part XXIV if the credit union fails to comply with its order.

1998, c.C-45.2, s.122.

DIVISION 2
Capital

Capital elements

123(1) The capital of a credit union may consist of the following capital elements:

(a) membership shares;

(b) investment shares;

(c) subordinated indebtedness;

(d) retained earnings;

(e) a capital element specified by the regulations; and

(f) other capital elements that CUDGC by a standard of sound business practice approves.

(2) CUDGC may, by a standard of sound business practice, specify the amount of any capital element that may be included in the calculation of the capital of a credit union and the deductions that are to be made from the capital elements of a credit union in calculating capital.

1998, c.C-45.2, s.123.

Purchase and redemption of capital elements

124(1) Subject to subsection (2) and its articles, a credit union may, with the approval of CUDGC:

(a) purchase for the purpose of cancellation, any membership or investment share issued by it or redeem any redeemable investment share issued by it at a price not exceeding the redemption price calculated according to a formula stated in its articles or according to the conditions attached to the investment shares; and

(b) redeem any subordinated indebtedness on its due date at the redemption price or at another date at a price not to exceed a fair discount redemption price.

(2) A credit union shall not make any payment to purchase or redeem any membership share, investment share or subordinated indebtedness issued by it if there are reasonable grounds for believing that the credit union is, or the payment would cause the credit union to be, in contravention of section 121 or 122.

(3) A credit union may accept any membership share, investment share or subordinated indebtedness issued by the credit union surrendered to it as a gift, but may not extinguish or reduce liability with respect to an unpaid amount except in accordance with section 156.

(4) If subsection (1) or (2) prevents a credit union from fulfilling its obligations to the owner of a membership share, investment share or subordinated indebtedness, then, until the credit union fulfils those obligations, the other party retains the status of a claimant who is entitled:

(a) to be paid as soon as the credit union is lawfully able to do so; and

(b) in a liquidation, to be ranked in priority to the persons having the same claims, but subordinate among classes of claimants whose rights are in priority to the rights given to that class of claimants.

1998, c.C-45.2, s.124.

Cancellation or restoration of shares

125 A credit union shall:

(a) cancel shares of a credit union that are redeemed or otherwise acquired by it; or

(b) if the articles limit the number of authorized shares, restore the shares mentioned in clause (a) to the status of unissued shares.

1998, c.C-45.2, s.125.

DIVISION 3
Membership Capital

Membership shares

126 A credit union must have one class of membership shares, designated as membership shares in the articles.

1998, c.C-45.2, s.126.

Issuance to members

127(1) Membership shares may be issued only to members, each of whom must hold the minimum number of membership shares prescribed by the bylaws.

(2) The membership shares of a credit union confer on their holders equal rights, including equal rights to:

(a) receive dividends declared on membership shares; and

(b) where provided by the articles, receive the remaining property of the credit union on dissolution.

(3) The articles may not include any preference, right, condition, restriction, limitation or prohibition on membership shares, except as provided for by this Act.

(4) The right to vote attaches to membership in accordance with section 66 and not to a membership share.

(5) The transfer of membership shares is subject to the approval of the board.

1998, c.C-45.2, s.127.

Issue of certificates re membership shares

128(1) The bylaws of a credit union may provide that no membership share certificates need be issued.

(2) If the bylaws provide that no membership share certificates need to be issued, the credit union must, on the request of a member, issue a statement of the number of membership shares held by the member.

(3) The face of each certificate that the credit union issues, with respect to membership shares issued after the coming into force of this section, must contain:

(a) the name of the credit union;

(b) a statement that the credit union is subject to this Act;

(c) the name of the person to whom it is issued;

(d) a statement that the certificate represents membership shares in the credit union, and the number of the membership shares;

(e) a statement that the certificate is not transferable without the approval of the board; and

(f) a statement that there is a charge on the membership shares represented by the certificate in favour of the credit union for any indebtedness of the member to the credit union.

(4) Each member is entitled to a certificate of membership.

1998, c.C-45.2, s.128.

Membership shares at par value

129(1) The membership shares of a credit union may only be issued at par value.

(2) The common shares of a credit union continued pursuant to this Act are deemed to be membership shares with a par value.

1998, c.C-45.2, s.129.

Charge on membership shares for amounts

130(1) A credit union has a charge on a membership share for a debt of the member to the credit union.

(2) A credit union may:

(a) enforce a charge mentioned in subsection (1) in the manner set out in its bylaws; or

(b) apply any moneys standing to the credit of a member towards payment of a debt due by the member to the credit union.

1998, c.C-45.2, s.130.

DIVISION 4
Investment Shares

Investment shares

131(1) A credit union shall issue investment shares only with the approval of CUDGC and in a form approved by CUDGC.

(2) The articles of a credit union may provide that the credit union may issue investment shares, and, if they do, the articles must set out the following:

(a) whether the investment shares may be issued to non-members;

(b) whether the number of investment shares is to be unlimited and, if not, the maximum number of investment shares that may be issued;

(c) the number of classes of investment shares; and

(d) the preferences, rights, privileges, restrictions, limitations, prohibitions and conditions attaching to the investment shares and, if there is to be more than one class, the designation of each class and the special preferences, rights, privileges, restrictions, limitations, prohibitions and conditions attaching to each class.

(3) Subject to subsection (4), no right to vote at a meeting of the credit union attaches to an investment share.

(4) Subject to this Act, the articles may provide that:

(a) an investment share confers on its holder the right to vote at an election of directors by reason of an event that has occurred and is continuing or by reason of a condition that has been fulfilled; or

(b) the shareholders, any class of shareholders or the holders of a series of investment shares may elect a fixed number or a percentage of the directors.

(5) Notwithstanding subsections (3) and (4), the articles may not provide that the shareholders have the right to elect more than 20% of the directors.

(6) If shareholders are entitled to vote in accordance with subsection (4) or otherwise in accordance with this Act, each investment share entitles the holder to one vote.

(7) Notwithstanding section 66, a member who holds an investment share may exercise any voting right that holders of investment shares may exercise.

1998, c.C-45.2, s.131.

No-par-value shares

132(1) Investment shares of a credit union must be in registered form and without a par value.

(2) Investment shares of a credit union that is continued pursuant to this Act are deemed to be investment shares without a par value.

1998, c.C-45.2, s.132.

Shares in series

133(1) Subject to any limitations set out in the articles, the articles may authorize the issue of any class of investment shares in one or more series and may:

(a) fix the number of investment shares in, and determine the designation, preferences, rights, privileges, restrictions, limitations, prohibitions and conditions attaching to the investment shares of, each series; or

(b) authorize the board to fix the number of investment shares in, and to determine the designation, preferences, rights, privileges, restrictions, limitations, prohibitions and conditions attaching to the investment shares of, each series.

(2) If any cumulative dividends or amounts payable on return of capital with respect to a series of investment shares are not paid in full, the investment shares of all series of the same class must participate rateably with respect to accumulated dividends and return of capital.

(3) No preferences, rights, privileges, restrictions, limitations, prohibitions or conditions attached to a series of investment shares authorized pursuant to this section confer a priority with respect to dividends or return of capital on a series over any other series of investment shares of the same class that are then outstanding.

(4) If the board exercises its authority pursuant to clause (1)(b), it must, before the issue of shares of the series, send to the registrar articles of amendment in the form that the registrar fixes to designate a series of investment shares.

(5) On receipt of articles of amendment designating a series of shares pursuant to subsection (4), the registrar must issue a certificate of amendment.

(6) The articles of the credit union are amended accordingly on the date shown in the certificate of amendment.

1998, c.C-45.2, s.133.

Members' authorization required to issue investment shares

134 No investment shares may be issued until the members have authorized the principle of the issuance of investment shares.

1998, c.C-45.2, s.134.

Pre-emptive right

135(1) If the articles provide, no investment shares of any class may be issued unless the investment shares are first offered to the shareholders of that class.

(2) The shareholders mentioned in subsection (1) have a pre-emptive right to acquire the offered investment shares in proportion to their holdings of the investment shares of that class, at the price at which and on the terms on which those investment shares are to be offered to others.

(3) Notwithstanding that the articles provide the pre-emptive right mentioned in subsection (1), shareholders have no pre-emptive right to acquire investment shares that are to be issued:

(a) in exchange for a thing or service other than money;

(b) as an investment of a share dividend or in payment of a patronage return; or

(c) pursuant to the exercise of conversion privileges, options or rights previously granted by the credit union.

1998, c.C-45.2, s.135.

Commissions

136 The board may authorize the credit union to pay a reasonable commission to any person in consideration of the person:

(a) purchasing or agreeing to purchase investment shares from the credit union or from some other person; or

(b) procuring or agreeing to procure purchasers for any investment shares.

1998, c.C-45.2, s.136.

Charge on investment shares

137(1) Subject to subsection 195(2), the articles may provide that the credit union has a charge on an investment share registered in the name of a shareholder or the legal representative of a shareholder for a debt of the shareholder to the credit union, including an amount unpaid as of the date an entity was continued pursuant to this Act, with respect to an investment share issued by it.

(2) A credit union may enforce a charge mentioned in subsection (1) in accordance with its bylaws.

1998, c.C-45.2, s.137.

DIVISION 5
Subordinated Indebtedness

Restriction on subordinated indebtedness

138(1) A credit union shall issue subordinated indebtedness only with the approval of CUDGC and in a form approved by CUDGC.

(2) A credit union shall not issue subordinated indebtedness unless the subordinated indebtedness is fully paid for in money or, with the approval of CUDGC, in property.

(3) No person shall in any offering document, advertisement, correspondence or literature relating to any subordinated indebtedness issued or to be issued by a credit union refer to the subordinated indebtedness otherwise than as subordinated indebtedness.

(4) Any subordinated indebtedness issued by a credit union is not a deposit and is not to be construed as a deposit.

1998, c.C-45.2, s.138.

DIVISION 6
Constraints on Investment Share Ownership

Constraints on investment share ownership

139(1) The total number of investment shares that may be beneficially owned by a person or by a person together with any associate of that person must not exceed 10% of the total number of any class of investment shares issued by a credit union or that are then to be issued, determined on a fully diluted basis.

(2) For the purposes of subsection (1), a credit union may count as investment shares issued:

(a) rights granted by a credit union to shareholders to purchase additional investment shares; and

(b) a distribution or an offering of investment shares.

(3) The validity of a transfer of investment shares that has been made or recorded in the securities register of a credit union or the validity of the issuance of investment shares is not affected by the holding of the shares in contravention of this section.

(4) If two or more persons hold the same investment shares as shareholders or as beneficial owners, each of those persons is deemed to be the sole holder of those shares for the purpose of subsection (1).

(5) For the purposes of this Act, the percentage limit mentioned in subsection (1) does not apply to a person acting as an underwriter in connection with a distribution of investment shares during the period commencing on the commencement date of that distribution and ending 150 days after the commencement date of that distribution.

(6) For the purposes of subsection (5):

(a) **"distribution"** means a distribution as defined in *The Securities Act, 1988*;

(b) **"underwriter"** means an underwriter as defined in *The Securities Act, 1988*.

(7) For the purposes of this Act, the percentage limit mentioned in subsection (1) does not apply to a person during the period commencing on the date of an amalgamation of the credit union pursuant to section 303 and ending 150 days after that date.

(8) For the purposes of this Act, the percentage limit mentioned in subsection (1) does not apply to:

(a) Credit Union Central or an affiliate of Credit Union Central;

(b) CUDGC or an affiliate of CUDGC; or

(c) an entity specified in the regulations.

(9) A shareholder is deemed not to be the holder of investment shares for the purpose of determining whether this section has been contravened if the shareholder submits to the board a statutory declaration:

(a) stating that, with respect to investment shares of which he or she is the shareholder, he or she holds those shares in right of, or for the use or benefit of, another person with whom he or she is not associated; and

(b) showing the name and address of that other person and the number of shares so held.

(10) For the purposes of this Act, if there is a contravention of the percentage limit prescribed in subsection (1), the investment shares in excess of that percentage limit shall be determined based on the order inverse to the order of registration of the shares in the securities register of the credit union.

1998, c.C-45.2, s.139.

Prohibition re dividends on certain investment shares

140(1) When investment shares are held by a person in contravention of subsection 139(1), the credit union shall not pay any dividends with respect to any of the investment shares held by that person.

(2) Notwithstanding subsection (1), a credit union may pay dividends with respect to the number of investment shares not in excess of the percentage limit mentioned in subsection 139(1) if:

(a) investment shares are held in contravention of subsection 139(1) by two or more associated persons; and

(b) the contravention was, in the opinion of the board, inadvertently caused by the acquisition of investment shares by one or more of those persons in circumstances where the person or persons who acquired the investment shares did not know:

(i) of the association; or

(ii) that the acquisition would result in the contravention.

(3) Notwithstanding subsections (1) and (2), the board may authorize the payment of dividends with respect to any investment shares to a shareholder who would otherwise be disentitled to them pursuant to that subsection if the board is of the opinion that:

(a) the contravention was inadvertent or is of a technical nature; or

(b) it would be inequitable not to pay dividends to the shareholder.

(4) If dividends are paid by a credit union with respect to investment shares in contravention of this section, the credit union may, by action, recover the amount of the dividends so paid from the shareholders to whom they were paid whether or not the credit union had knowledge of the contravention of this section.

1998, c.C-45.2, s.140.

Prohibition re voting

141(1) If a person holds or the members of any group of associated persons hold as shareholder, beneficial owner or partly as shareholder and partly as beneficial owner, a number of investment shares contrary to subsection 139(1), that person or those members shall not exercise the voting rights attached to the investment shares held by that person or those members.

(2) If voting rights are exercised in contravention of this section at a meeting of the shareholders, the vote or other proceeding at that meeting is not affected by reason of the exercise of the voting rights in contravention of this section, but the board may cancel the vote or proceedings and direct a new vote on the matter.

1998, c.C-45.2, s.141.

Request for information

142(1) A shareholder of a credit union shall, on the written request of the credit union given in accordance with subsection (2) and the bylaws, submit a statutory declaration to the credit union with respect to:

(a) the beneficial ownership of any investment shares of the credit union held by the shareholder;

(b) the identity of the beneficial owner of all or any of the investment shares of which the shareholder is a holder;

(c) whether the shareholder is associated with any other person; and

(d) any other matter that the board considers relevant for the purposes of determining whether the investment shares held by the shareholder or persons associated with the shareholder are held in contravention of subsection 139(1), whether dividends have been paid in contravention of subsection 140(1) or (2), or whether voting rights have been exercised in contravention of subsection 141(1).

(2) A request pursuant to subsection (1):

(a) may be given by registered mail or personal service; and

(b) is to prescribe the period following the giving of the request, being not less than 30 days, within which the request is to be complied with.

(3) When a statutory declaration has been requested pursuant to this section by a credit union from a shareholder and the shareholder fails or neglects to submit to the credit union a declaration satisfactory to the credit union within the time prescribed in the written request, sections 140 and 141 apply to the shareholder's investment shares as though they were investment shares held in contravention of subsection 139(1) until a declaration satisfactory to the credit union has been submitted to it.

(4) It is a condition of every transfer of an investment share to be made or recorded in the securities register of a credit union and of the issue of any investment share of a credit union that the transferee or purchaser shall, at the request of the credit union, submit to the credit union a statutory declaration in accordance with subsection (1).

(5) When the credit union has requested a statutory declaration pursuant to subsection (4), the credit union shall not, with respect to the person who is required to submit the statutory declaration, accept any offer to purchase an investment share or allow any transfer to be made or recorded in the securities register of the credit union unless:

(a) the declaration has been submitted to the board; and

(b) it appears to the board from the declaration that the purchaser or transferee would not, by the acceptance of the offer to purchase the shares being purchased or the entry in the securities register of the investment shares being transferred, hold those shares in contravention of subsection 139(1).

(6) A credit union may establish reasonable presumptions, procedures and rules not inconsistent with this Act for the purpose of implementing this section and sections 139 and 140 according to their intent.

1998, c.C-45.2, s.142.

Remedies

143 On the application of a credit union, the court may make all or any of the following orders:

(a) an order directing the repayment of a dividend in accordance with subsection 140(4);

(b) if it is satisfied that directors were elected at an election at which voting rights were exercised in contravention of subsection 141(1), an order respecting:

(i) an election of directors; and

(ii) the term of office of directors elected at that election;

(c) an order requiring the divestiture of the investment shares held by a person in contravention of subsection 139(1);

(d) any additional order that the court may direct.

1998, c.C-45.2, s.143.

Reliance on statements, rules and knowledge

144(1) A credit union and any of its directors, officers, employees or agents may rely on any statement made in any declaration submitted pursuant to section 142, any determination made in good faith by any of them in accordance with any presumption, procedure or rule established pursuant to subsection 142(6) or the knowledge of any of its directors, officers, employees or agents in determining, for the purposes of this Act:

(a) whether any investment shares are held in contravention of subsection 139(1);

(b) whether any dividends have been paid in contravention of subsection 140(1) or (2);

(c) whether any voting rights were exercised in contravention of subsection 141(1);

(d) whether a person is associated with any other person; or

(e) any other circumstances relevant to the implementation by the credit union of sections 139, 140 and 141 according to their intent.

(2) A credit union and its directors, officers, employees or agents are not liable in an action for anything done or omitted to be done by them in good faith as a result of any conclusions made by them on the basis of the statements, the determinations or the knowledge mentioned in subsection (1).

1998, c.C-45.2, s.144.

Ruling by board

145(1) On the written application to it by any member or shareholder, beneficial owner of an investment share or other person that the board considers interested in the matter, the board may make a ruling on whether or not:

(a) any person or group of associated persons holds investment shares in contravention of subsection 139(1); or

(b) subsection 141(1) applies to any person or group of associated persons.

(2) The board is bound by a ruling made pursuant to subsection (1) unless:

(a) the applicant did not disclose to the board a fact that is, in the opinion of the board, material in making its ruling; or

(b) there is a subsequent change of circumstances that is, in the opinion of the board, material.

1998, c.C-45.2, s.145.

DIVISION 7
Corporate Finance

Power to issue shares

146 Subject to this Act, the articles and the bylaws, shares may be issued to any person, at any time and for money or in exchange for any thing or service that the board may determine.

1998, c.C-45.2, s.146.

Payment for shares

147(1) A credit union may not issue a share until it is fully paid:

(a) in money; or

(b) with the approval of CUDGC, in past service or any other thing that is not less in value than the fair equivalent of the money that the credit union would have received if the share had been issued for money.

(2) For the purposes of subsection (1), neither a promissory note nor a promise to pay made by a person to whom a share is issued is acceptable in payment of that share.

1998, c.C-45.2, s.147.

Stated capital account

148(1) A credit union must maintain a stated capital account for each class and series of shares that it issues.

(2) A credit union must add to the appropriate stated capital account the full amount of any money, or the value of any thing or service, that it receives for shares it issues.

(3) Notwithstanding subsection (2) but subject to subsection (4), a credit union may add to the stated capital accounts maintained for the shares of classes or series the whole or any part of the amount of the money, or the value of the things and services, it receives in an exchange if the credit union issues shares:

(a) in exchange for:

(i) property of a person who, immediately before the exchange, did not deal with the credit union at arm's length within the meaning of that expression in the *Income Tax Act* (Canada); or

(ii) shares of, or another interest in, an entity that immediately before the exchange, or that because of the exchange, did not deal with the credit union at arm's length within the meaning of that expression in the *Income Tax Act* (Canada); or

(b) pursuant to an amalgamation or arrangement, or to members or shareholders of an amalgamating entity who receive the shares in addition to or instead of securities of the amalgamated credit union.

(4) On the issue of a share, a credit union may not add to a stated capital account with respect to the share it issues an amount greater than the amount of the money, or the value of the thing or service, it received for the share.

(5) The proposed addition of an amount to a stated capital account maintained by a credit union with respect to a class or series of shares must be approved in advance by a special resolution of the members and, if the credit union has issued investment shares, by a separate special resolution of the shareholders, the class of shareholders or the holders of the series of investment shares that is affected by the special resolution, if:

(a) the amount to be added was not received by the credit union as consideration for the issue of the shares; and

(b) the credit union has issued shares of more than one class or series that are outstanding.

(6) For greater certainty, a credit union is deemed, for the purposes of this Act, to have a stated capital account for its membership shares that includes each amount that has been received by the credit union for the membership shares.

1998, c.C-45.2, s.148.

Other additions to stated capital account

149(1) When an entity is continued as a credit union pursuant to this Act, it may add to a stated capital account any money, or the value of any thing or service, received by it for a share it issued.

(2) When an entity is continued as a credit union pursuant to this Act, subsection 148(2) does not apply to the money, or the value of things or services, received by it before it was continued unless the share with respect to which the money, thing or service was received is issued after the entity is continued.

(3) When an entity is continued as a credit union pursuant to this Act, any unpaid amount with respect to a share issued by the entity before it was continued and paid after it was continued is to be added to the stated capital account maintained for the shares of that class or series.

(4) For the purposes of this Act, when a credit union is continued pursuant to this Act, its stated capital account is deemed to include the amount that would have been included if the credit union had been incorporated pursuant to this Act.

(5) When a credit union is continued pursuant to this Act, subsection 148(6) applies to its membership shares.

(6) A credit union must not reduce its stated capital or any stated capital account except in the manner provided in this Act.

1998, c.C-45.2, s.149.

Surplus accounts

150 Subject to subsection 148(5), a credit union continued pursuant to this Act may, at any time, add to a stated capital account any amount it has credited to a retained earnings or other surplus account.

1998, c.C-45.2, s.150.

Shares not assessable

151 The shares of a credit union are non-assessable and the members and shareholders are not liable to the credit union or to its creditors with respect to them.

1998, c.C-45.2, s.151.

Options and rights

152(1) A credit union may issue certificates, warrants or other evidence of conversion privileges, options or rights to acquire shares or securities of the credit union.

(2) A conversion privilege, option or right to acquire membership shares may be granted only to members, and is non-transferable.

(3) The conditions of the conversion privileges, options or rights must be set out in:

(a) the certificate, warrant or other evidence; or

(b) the certificates evidencing the shares or securities to which the conversion privileges, options or rights are attached.

(4) Subject to subsection (2), conversion privileges, options or rights to acquire securities of a credit union may be made transferable or non-transferable, and options and rights to acquire shares or securities of a credit union may be made separable or inseparable from any securities to which they are attached.

1998, c.C-45.2, s.152.

Reserves

153 If the articles limit the number of authorized shares, the credit union must reserve sufficient authorized shares to meet the exercise of any conversion privileges, or any options or rights issued or granted by the credit union to acquire shares.

1998, c.C-45.2, s.153.

Holding own shares

154(1) Subject to sections 155 to 157, a credit union shall not:

(a) hold any shares in itself; or

(b) permit any of its subsidiaries to hold shares in the credit union, other than the minimum number of membership shares required by the bylaws of the credit union to qualify for membership in it.

(2) A credit union must cause any subsidiary that holds shares in the credit union contrary to subsection (1) to dispose of those shares no later than five years after the date on which:

(a) it became a subsidiary; or

(b) the credit union was continued pursuant to this Act.

1998, c.C-45.2, s.154.

Exception for holding own shares

155(1) A credit union may hold, and may permit its subsidiaries to hold, in the capacity of a legal representative, shares in itself only if the credit union or subsidiary does not have a beneficial interest in the shares.

(2) A credit union may hold shares in itself by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money.

1998, c.C-45.2, s.155.

Reduction of capital

156(1) Subject to subsection (2), a credit union may reduce its stated capital for any purpose, by special resolution of its members and, if an investment share is proposed to be affected by the reduction, by the holders of the investment shares.

(2) A credit union shall not reduce its stated capital if there are reasonable grounds to believe that the credit union is, or would after the payment be, insolvent.

(3) Subsection (2) does not apply to a reduction of stated capital that is not represented by realizable assets.

(4) If a credit union maintains more than one stated capital account, the special resolution to reduce stated capital required by subsection (1) must specify the stated capital account or accounts from which the reduction will be deducted.

(5) A creditor of a credit union may apply to the court for an order compelling a person:

(a) to pay to the credit union an amount equal to any liability of the person that was extinguished or reduced contrary to this section; or

(b) to pay or deliver to the credit union any money or property that was paid or distributed to the person as a consequence of a reduction of stated capital made contrary to this section.

(6) **Repealed.** 2004, c.L-16.1, s.45.

1998, c.C-45.2, s.156; 2004, c.L-16.1, s.45.

Adjustment of stated capital account

157(1) On a redemption or acquisition of any of its shares, a credit union must adjust the stated capital account in relation to that share by the ratio of the stated capital for that class to that share.

(2) On a conversion of investment shares of a credit union into investment shares of another class or series or a change pursuant to section 299 or the redemption or exchange of investment shares pursuant to an order made pursuant to section 321, the credit union must:

(a) deduct from the stated capital account maintained for the class or series of investment shares converted or changed, or subject to the reorganization, redemption or exchange, the amount obtained by multiplying the stated capital of the investment shares of that class or series by the number of investment shares of that class or series converted or changed, or subject to the reorganization, redemption or exchange, divided by the number of issued investment shares of that class or series immediately before the conversion, change, reorganization, redemption or exchange; and

(b) add the result obtained pursuant to clause (a) and any additional amount received pursuant to the conversion, change, reorganization, redemption or exchange to the stated capital account maintained or to be maintained for the class or series of investment shares.

(3) For the purposes of subsection (2) and subject to its articles, if a credit union issues two classes of investment shares and there is attached to each class a right to convert an investment share of one class into an investment share of the other class and an investment share of one class is converted into a share of the other class, the amount of stated capital attributable to a share in either class is the aggregate of the stated capital of both classes divided by the number of issued investment shares of both classes immediately before the conversion.

(4) For the purposes of this section, a credit union holding investment shares in itself as permitted by section 155 is deemed not to have redeemed or acquired them.

(5) If investment shares are issued by a credit union and are converted into investment shares of another class or series or changed pursuant to section 299 or the redemption or exchange of investment shares pursuant to an order made pursuant to section 321, those investment shares become investment shares of the other class or series of investment shares.

(6) If the articles limit the number of authorized investment shares of a class of investment shares of a credit union and issued investment shares of that class or of a series of investment shares of that class have become, pursuant to subsection (5), issued investment shares of another class or series, the number of unissued investment shares of the first-mentioned class is, unless the articles provide otherwise, increased by the number of investment shares that, pursuant to subsection (5), became investment shares of another class or series.

1998, c.C-45.2, s.157.

DIVISION 8
Dividends

Form of dividend

158(1) Subject to section 159, a credit union may pay a dividend in all or any of the following ways:

(a) subject to subsection (2), by issuing fully paid shares of the credit union; and

(b) in money or property.

(2) Membership shares may only be issued to members.

(3) If shares of a credit union are issued in payment of a dividend, the declared amount of the dividend stated as an amount of money must be added to the stated capital account.

1998, c.C-45.2, s.158.

Limitation on paying dividends

159 A credit union may declare or pay a dividend if:

(a) CUDGC approves the declaration or payment; and

(b) the declaration or payment will not put the credit union in contravention of section 121 or 122.

1998, c.C-45.2, s.159.

DIVISION 9
Patronage Returns

Patronage returns

160(1) In a financial year, a credit union may allocate among and credit or pay to the members, as a patronage return, all or a part of the surplus arising from the operations of the credit union in that financial year and, with the consent of CUDGC, in any other financial year, in proportion to the business done by the members with or through the credit union in that financial year, calculated in the manner described in subsection (2) at a rate set by the board.

(2) For the purpose of subsection (1), the board may calculate the amount of the business done by each member with or through a credit union in a financial year by taking into account:

(a) the quantity, quality, kind and value of services bought, sold, handled, marketed or dealt in by the credit union; and

(b) the services rendered:

(i) by the credit union on behalf of or to the member; and

(ii) by the member on behalf of or to the credit union.

(3) The bylaws may provide that a credit union may allocate among and credit or pay to persons who use the services of the credit union but who are not members a portion of any surplus at a rate that is equal to or less than the rate at which the surplus is distributed to members.

(4) If a credit union allocates among and credits or pays to persons mentioned in subsection (3) a portion of any surplus, the board must calculate the business done by the non-members in the manner described in subsection (2).

1998, c.C-45.2, s.160.

Investment of patronage return

161(1) A credit union may, by bylaw, provide that the whole, or any part that the board may determine, of the patronage return of each member with respect to each financial year be applied to the purchase for the member of membership or investment shares in the credit union.

(2) If the credit union makes a bylaw for the purposes of subsection (1), the bylaw must provide for the following:

(a) the giving of notice to each member of the number of shares purchased or to be purchased for the member;

(b) the manner of issuance or transfer of shares;

(c) the payment for the shares out of the patronage returns of members;

(d) if applicable, the issuance and forwarding of certificates to members representing shares so issued or transferred.

(3) If shares of a credit union are issued in payment of a patronage return, the amount of the patronage return, stated as an amount of money, must be added to the stated capital account.

1998, c.C-45.2, s.161.

Loans from patronage returns

162 A credit union may, by bylaw, require its members to lend to it the whole, or any part that the board may determine, of the patronage returns to which they may become entitled in each financial year, on the terms and at the rate of interest that the board determines, so long as the rate of interest does not exceed the rate that is provided in the bylaws.

1998, c.C-45.2, s.162.

Insolvent credit union

163 If a credit union is insolvent, no member is required:

(a) pursuant to section 161, to purchase shares; or

(b) pursuant to section 162, to lend a patronage return to the credit union.

1998, c.C-45.2, s.163.

PART XI
Self-dealing

Interpretation of Part

164 In this Part:

(a) **"conduct review committee"** means the conduct review committee of a credit union required by section 99;

(b) **"loan"** includes a deposit, a financial lease, a conditional sales contract, a repurchase agreement and any other similar arrangement for obtaining funds or credit, but does not include investments in securities or the making of an acceptance, endorsement or other guarantee;

(c) **"senior officer"** of an entity means a person who is:

(i) a director of the entity who is a full-time employee of the entity;

(ii) any other officer reporting directly to the entity's board of directors, chief executive officer or chief operating officer;

(iii) the chief executive officer, chief operating officer, president, secretary, treasurer, controller, chief financial officer, chief accountant, chief auditor or chief actuary of the entity;

(iv) a natural person who performs functions for the entity similar to those performed by a person mentioned in subclause (iii);

(v) the head of the strategic planning unit of the entity; or

(vi) the head of the unit of the entity that provides legal services or human resources services to the entity;

(d) **"significant interest"** means ownership or beneficial ownership of 10% or more of the investment shares of a credit union.

1998, c.C-45.2, s.164.

Related party defined

165(1) For the purposes of this Part, a person is a related party of a credit union where the person:

(a) is a person who has a significant interest in a class of investment shares of the credit union;

(b) is a director or senior officer of the credit union;

(c) is the spouse, or a child who is less than 18 years of age, of a person described in clause (a) or (b);

(d) is an entity that is controlled by a person mentioned in any of clauses (a) to (c);

(e) is an entity in which a person mentioned in any of clauses (a) to (c) has a substantial investment;

(f) is an entity in which the spouse, or a child who is less than 18 years of age, of a person mentioned in any of clauses (a) to (c) has a substantial investment; or

(g) is a person, or a member of a class of persons, designated pursuant to subsection (3) or (4) as, or deemed pursuant to subsection (5) to be, a related party of the credit union.

(2) Notwithstanding subsection (1), Credit Union Central, any affiliate of Credit Union Central, CUDGC, any affiliate of CUDGC and any entity or class of entities designated in the standards of sound business practice are not, for the purposes of this Part, related parties of a credit union.

(3) For the purposes of this Part, CUDGC may, with respect to a particular credit union, designate as a related party of the credit union any person or class of persons whose direct or indirect interest in or relationship with the credit union or a related party of the credit union might reasonably be expected to affect the exercise of the best judgment of the credit union with respect to a transaction.

(4) Where a person is designated as a related party of a credit union pursuant to subsection (3), CUDGC may also designate any entity in which the person has a substantial investment and any entity controlled by that entity to be a related party of the credit union.

(5) Where, in contemplation of a person becoming a related party of a credit union, the credit union enters into a transaction with the person, the person is deemed for the purposes of this Part to be a related party of the credit union with respect to that transaction.

(6) CUDGC may, by order, designate a class of non-voting investment shares of a credit union for the purpose of this subsection.

(7) If a class of non-voting investment shares is designated pursuant to subsection (6), a person is deemed, notwithstanding clause (1)(a), not to be a related party of the credit union if the person would otherwise be a related party of the credit union only because the person has a significant interest in that class.

1998, c.C-45.2, s.165.

Non-application of Part

166(1) This Part does not apply with respect to any transaction entered into prior to the coming into force of this Part but, after the coming into force of this Part, any modification of, addition to, or renewal or extension of a prior transaction is subject to this Part.

(2) This Part does not apply with respect to:

(a) the issue of shares of any class if the shares are fully paid for in money or are issued:

(i) in accordance with any provisions for the conversion of other issued and outstanding securities of the credit union into shares of that class of shares;

(ii) as a share dividend or patronage return;

(iii) in accordance with the terms of an amalgamation; or

(iv) with the approval in writing of CUDGC, in exchange for shares of another entity;

(b) the payment of dividends by the credit union;

(c) a transaction that consists of the payment or provision by the credit union to persons who are related parties of the credit union of salaries, fees, stock options, pension benefits, incentive benefits or other benefits or remuneration in their capacity as directors, officers or employees of the credit union;

(d) money borrowed from, deposits taken from, or debt obligations issued to a related party of the credit union; or

(e) any other circumstances prescribed in the standards of sound business practice.

(3) Nothing in clause (2)(c) exempts from the application of this Part the payment by a credit union of fees or other remuneration to a person for:

(a) the provision of services mentioned in clause 172(1)(a); or

(b) duties outside the ordinary course of business of the credit union.

1998, c.C-45.2, s.166.

Transaction defined

167(1) For the purposes of this Part, entering into a transaction with a related party of a credit union includes:

(a) making a guarantee on behalf of the related party;

(b) making an investment in any securities of the related party;

(c) taking an assignment of or otherwise acquiring a loan made by a third party to the related party; and

(d) taking a security interest in the securities of the related party.

(2) For the purposes of this Part, the fulfilment of an obligation under the terms of any transaction, including the payment of interest on a loan or deposit, is part of the transaction, and not a separate transaction.

1998, c.C-45.2, s.167.

Prohibited transactions

168(1) Except as provided in this Part, no credit union shall, directly or indirectly, enter into any transaction with a related party of the credit union.

(2) Without limiting the generality of subsection (1), a credit union is deemed to have indirectly entered into a transaction with respect to which this Part applies where the transaction is entered into by an entity that is controlled by the credit union.

(3) Subsection (2) does not apply where an entity that is controlled by a credit union is a financial institution incorporated, continued or formed pursuant to the laws of the Government of Canada or of a province of Canada and is subject to regulation and supervision, satisfactory to CUDGC, regarding transactions with related parties of the credit union.

(4) Subsection (2) does not apply with respect to transactions entered into by an entity that is controlled by a credit union if the transaction is a transaction or is one of a class of transactions prescribed in the standards of sound business practice.

1998, c.C-45.2, s.168.

Nominal value transactions

169 Notwithstanding any other provision of this Part, a credit union may enter into a transaction with a related party of the credit union if the value of the transaction is nominal or immaterial to the credit union when measured by criteria that have been established by the conduct review committee.

1998, c.C-45.2, s.169.

170 Repealed. 2001, c.12, s.8.

Acquisition and sale of assets

171(1) A credit union may purchase or otherwise acquire any of the following from a related party of the credit union:

(a) securities of, or securities guaranteed by, the Government of Canada or the Government of a province of Canada;

(b) assets fully secured by securities of, or securities guaranteed by, the Government of Canada or the Government of a province of Canada;

(c) goods for use in the ordinary course of business.

(2) A credit union may sell any assets of the credit union to a related party of the credit union if:

(a) the consideration for the assets is fully paid in money; and

(b) there is an active market for those assets.

(3) Notwithstanding subsections (1) and (2), a credit union may, in the ordinary course of business and pursuant to arrangements that have been approved by CUDGC in writing, acquire or dispose of any assets, other than real property, from or to a related party of the credit union that is a financial institution.

(4) Notwithstanding subsections (1) and (2), a credit union may acquire any assets from, or dispose of any assets to, a related party of the credit union as part of, or in the course of, a restructuring, if the acquisition or disposition has been approved in writing by CUDGC.

(5) A credit union may lease assets:

(a) from a related party of the credit union for use in the ordinary course of business of the credit union; or

(b) to a related party of the credit union if the lease payments are made in money.

1998, c.C-45.2, s.171.

Services

172(1) A credit union may enter into a transaction with a related party of the credit union if the transaction:

(a) subject to subsection (2), consists of a written contract for the purchase by the credit union of services used in the ordinary course of business;

(b) subject to subsection (5), involves the provision of services normally offered to the public by the credit union in the ordinary course of business;

(c) consists of a written contract with a financial institution:

(i) for the networking of any services provided by the credit union or the financial institution; or

(ii) for the referral of any person by the credit union to the financial institution, or for the referral of any person by the financial institution to the credit union;

(d) consists of a written contract for pension or benefit plans or their management or administration that are incidental to directorships or to the employment of officers or employees of the credit union or its subsidiaries; or

(e) involves the provision by the credit union of management, advisory, accounting, information processing or other services in relation to any business of the related party.

(2) Where a credit union has entered into a contract pursuant to clause (1)(a) and the contract, when taken together with all other similar contracts entered into by the credit union, results in all or substantially all of the management functions of the credit union being exercised by persons who are not employees of the credit union, CUDGC may, by order, if CUDGC considers that result to be inappropriate, require the credit union, within the time that may be specified in the order, to take all steps necessary to ensure that management functions that are integral to the carrying on of business by the credit union are exercised by employees of the credit union to the extent specified in the order.

(3) If a credit union does not comply with an order of CUDGC made pursuant to subsection (2), CUDGC may issue an order pursuant to section 464 directed to the credit union.

(4) Notwithstanding subsection 168(2), a credit union is deemed not to have indirectly entered into a transaction with respect to which this Part applies if the transaction is entered into by a service corporation that is controlled by the credit union and the transaction is on terms and conditions at least as favourable to the credit union as market terms and conditions, as defined in subsection 176(1).

(5) The provision of services, for the purposes of clause (1)(b), does not include the making of loans or guarantees.

1998, c.C-45.2, s.172.

Directors and officers and their interests

173(1) Subject to section 174, a credit union may enter into any transaction with a related party of the credit union if the related party is:

(a) a natural person who is a related party of the credit union only because the person is:

(i) a director or a senior officer of the credit union; or

(ii) the spouse, or a child who is less than 18 years of age, of a director or senior officer of the credit union;

(b) an entity that is a related party of the credit union only because the entity is controlled by:

(i) a director or senior officer of the credit union; or

(ii) the spouse, or a child who is less than 18 years of age, of a director or senior officer of the credit union; or

(c) an entity that is a related party of the credit union only as a result of any of the following persons having a substantial investment in that entity:

(i) a director or senior officer of the credit union;

(ii) the spouse, or a child who is less than 18 years of age, of a director or senior officer of the credit union.

(2) **Repealed.** 2001, c.12, s.9.

(3) **Repealed.** 2001, c.12, s.9.

(4) **Repealed.** 2001, c.12, s.9.

(5) Notwithstanding section 176, a credit union may make a loan to a senior officer of the credit union on terms and conditions more favourable to the officer than those offered to the public by the credit union if those terms and conditions have been approved by the conduct review committee.

(6) Notwithstanding section 176, a credit union may make a loan on the security of a mortgage of the principal residence of a related party to the spouse of a senior officer of the credit union on terms and conditions more favourable to the spouse of that officer than those offered to the public by the credit union if those terms and conditions have been approved by the conduct review committee.

(7) Notwithstanding section 176, a credit union may offer financial services, other than loans or guarantees, to a senior officer of the credit union, or to the spouse, or a child who is less than 18 years of age, of a senior officer of the credit union, on terms and conditions more favourable than those offered to the public by the credit union if:

(a) the financial services are offered by the credit union to employees of the credit union on those favourable terms and conditions; and

(b) the conduct review committee has approved the practice of making those financial services available on those favourable terms and conditions to senior officers of the credit union or to the spouses, or the children under 18 years of age, of senior officers of the credit union.

1998, c.C-45.2, s.173; 2001, c.12, s.9.

When board approval required

174(1) A credit union may, subject to the prior positive review of the conduct review committee, subsection (4) and the standards of sound business practice, with respect to a related party of the credit union mentioned in subsection 173(1):

(a) make, take an assignment of or otherwise acquire a loan to the related party;

(b) make a guarantee on behalf of the related party;

(c) make an investment in the securities of the related party; or

(d) accept an assurance or security from the related party.

(2) **Repealed.** 2001, c.12, s.10.

(3) In the circumstances mentioned in subsection (4), a credit union shall not, with respect to a related party of the credit union mentioned in subsection 173(1):

(a) make, take an assignment of or otherwise acquire a loan to the related party;

(b) make a guarantee on behalf of the related party;

(c) make an investment in the securities of the related party; or

(d) accept an assurance or security from the related party.

(4) A credit union shall not enter into a transaction mentioned in subsection (3) if, following the transaction, the aggregate of the following would exceed the amount prescribed in the standards of sound business practice:

(a) the principal amount of all outstanding loans to all related parties of the credit union mentioned in subsection 173(1) that are held by the credit union and its subsidiaries;

(b) the sum of all outstanding amounts guaranteed by the credit union and its subsidiaries on behalf of all related parties of the credit union mentioned in subsection 173(1);

(c) the book value of all investments by the credit union and its subsidiaries in the securities of all entities that are related parties of the credit union mentioned in subsection 173(1); and

(d) the sum of all outstanding assurances and security accepted by the credit union and its subsidiaries on behalf of all related parties of the credit union mentioned in subsection 173(1).

(5) The value of a transaction within the meaning of section 169 is not to be included in the calculation of the aggregate of loans, guarantees, investments, assurances and security mentioned in subsection (4).

1998, c.C-45.2, s.174; 2001, c.12, s.10.

Prescribed transactions

175 A credit union may enter into a transaction with a related party of the credit union if the transaction is a transaction or one of a class of transactions that is approved in the standards of sound business practice.

1998, c.C-45.2, s.175.

Market terms and conditions

176(1) In this section, **"market terms and conditions"** means:

(a) with respect to a transaction generally available to members and customers, terms and conditions:

(i) that are no more or less favourable than those offered to the public by the credit union in the ordinary course of business; and

(ii) that comply with the standards of sound business practice;

(b) with respect to any other transaction, terms and conditions, including those relating to price, rent or interest rate, that might reasonably be expected to apply in a similar transaction in an open market under conditions requisite to a fair transaction between parties who are at arm's length and acting prudently, knowledgeably and willingly.

(2) Except as provided in subsections 173(5) to (7), any transaction entered into with a related party of the credit union shall be on terms and conditions that are at least as favourable to the credit union as market terms and conditions.

1998, c.C-45.2, s.176.

Duty to obtain information from related party

177(1) Where, with respect to any proposed transaction permitted by this Part, other than those mentioned in section 169, a credit union has reason to believe that the other party to the transaction is a related party, the credit union shall take all reasonable steps to obtain from the other party full disclosure, in writing, of any interest or relationship, direct or indirect, that would make the other party a related party of the credit union.

(2) A credit union and any director or officer, employee or agent of the credit union may rely on any information contained in any disclosure received by the credit union pursuant to subsection (1) or any information otherwise acquired with respect to any matter that might be the subject of a disclosure, and no action lies against the credit union or any director, officer, employee or agent of the credit union for anything done or omitted in good faith in reliance on that information.

1998, c.C-45.2, s.177.

Credit union to inform CUDGC

178 Where a credit union has entered into a transaction that the credit union is prohibited by this Part from entering into or where a credit union has entered into a transaction for which a prior positive review is required pursuant to subsection 174(1) without having received a prior positive review from the conduct review committee, the credit union shall, on becoming aware of that fact, notify CUDGC without delay.

1998, c.C-45.2, s.178; 2001, c.12, s.11.

Voidable contracts

179(1) Where a credit union enters into a transaction that has not received a prior positive review from the conduct review committee or that the credit union is prohibited by this Part from entering into, the credit union or CUDGC may apply to the court for an order setting aside the transaction and directing that the related party of the credit union involved in the transaction account to the credit union for any profit or gain realized.

(2) On an application to the court pursuant to subsection (1), the court may make an order that it considers appropriate, including an order for compensation for any loss or damage incurred by the credit union.

(3) An application pursuant to subsection (1) with respect to a particular transaction may only be made within three months after the day the notice mentioned in section 178 with respect to the transaction is given to CUDGC.

1998, c.C-45.2, s.179; 2001, c.12, s.12.

PART XII
Proxies

Interpretation and application of Part

180(1) In this Part:

(a) **"form of proxy"** means a written or printed form that, on completion and execution by or on behalf of a shareholder, becomes a proxy;

(b) **"registrant"** means a securities broker or dealer required to be registered to trade or deal in securities pursuant to the laws of any jurisdiction;

(c) **"solicit"** or **"solicitation"** includes:

(i) a request for a proxy whether or not accompanied by or included in a form of proxy;

(ii) a request to execute or not to execute a form of proxy or to revoke a proxy;

(iii) the sending of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy; and

(iv) the sending of a form of proxy to a shareholder pursuant to section 181;

but does not include:

(v) the sending of a form of proxy in response to an unsolicited request made by or on behalf of a shareholder;

(vi) the performance of administrative acts or professional services on behalf of a person soliciting a proxy;

(vii) the sending by a registrant of the documents mentioned in section 186; or

(viii) a solicitation by a person with respect to shares of which he or she is the beneficial owner;

(d) **"solicitation by or on behalf of the management of a credit union"** means a solicitation by any person pursuant to a resolution or instructions of, or with the acquiescence of, the board or a committee of the board.

(2) This Part does not apply to a credit union in those circumstances where the credit union is required to comply with Part XV of *The Securities Act, 1988*.

1998, c.C-45.2, s.180.

Appointing proxyholder

181(1) A shareholder entitled to vote at a meeting of shareholders may, by means of a proxy, appoint a proxyholder or one or more alternate proxyholders, who are not required to be shareholders, to attend and act at the meeting in the manner and to the extent authorized by the proxy and with the authority conferred by the proxy.

(2) The shareholder or his or her attorney authorized in writing shall execute the proxy.

(3) A proxy is valid only at the meeting with respect to which it is given or any adjournment of that meeting.

(4) A shareholder may revoke a proxy:

(a) by depositing an instrument in writing executed by him or her or by his or her attorney authorized in writing:

(i) at the registered office of the credit union at any time up to and including the last business day preceding the day of the meeting, or an adjournment of the meeting, at which the proxy is to be used; or

(ii) with the chairperson of the meeting on the day of the meeting or an adjournment of the meeting; or

(b) in any other manner permitted by law.

(5) The board may specify in a notice calling a meeting of shareholders a time not exceeding 48 hours, excluding Saturdays and holidays, preceding the meeting or an adjournment of the meeting before which time proxies to be used at the meeting must be deposited with the credit union or its agent.

1998, c.C-45.2, s.181.

Mandatory solicitation

182(1) Subject to subsection (2), the board of a credit union shall, concurrently with giving notice of a meeting of shareholders, send a form of proxy in the form prescribed in the regulations to each shareholder who is entitled to receive notice of the meeting.

(2) Where a credit union has fewer than 15 shareholders, two or more joint holders being counted as one shareholder, the board of the credit union is not required to send a form of proxy pursuant to subsection (1).

1998, c.C-45.2, s.182.

Soliciting proxies

183(1) No person shall solicit proxies unless:

(a) in the case of solicitation by or on behalf of the board of a credit union, a management proxy circular in the form prescribed in the regulations, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent to the directors, to the auditor of the credit union and to each shareholder whose proxy is solicited; or

(b) in the case of any other solicitation, a dissident's proxy circular in the form prescribed in the regulations stating the purposes of the solicitation is sent to the directors, to the auditor of the credit union, to each shareholder whose proxy is solicited and to the credit union.

(2) A person required to send a management proxy circular or dissident's proxy circular shall send concurrently a copy of the circular to the registrar together with a copy of the notice of meeting, form of proxy and any other documents for use in connection with the meeting.

(3) A management proxy circular need not be sent:

(a) if all the shareholders of a credit union are members; and

(b) if the credit union has made available to the shareholders as members substantially the same information as that required to be sent in the circular not less than 21 days or more than 60 days before the meeting at which the vote to which the circular relates is to be held.

1998, c.C-45.2, s.183.

Exemption order

184(1) On the application of an interested person, the registrar may, by order, exempt the interested person from any of the requirements of section 182 or subsection 183(1).

(2) The registrar may make an order pursuant to this section that has retrospective effect.

(3) The registrar may impose any terms and conditions on an order pursuant to this section that the registrar considers appropriate.

1998, c.C-45.2, s.184.

Attendance at meeting

185(1) A person who solicits a proxy and is appointed proxyholder shall:

(a) attend in person or cause an alternate proxyholder to attend the meeting with respect to which the proxy is given; and

(b) comply with the directions of the shareholder who appointed him or her.

(2) A proxyholder or an alternate proxyholder has the same right as the shareholder who appointed him or her:

(a) to speak at a meeting of shareholders with respect to any matter;

(b) to vote by way of ballot at the meeting; and

(c) except where a proxyholder or an alternate proxyholder has conflicting instructions from more than one shareholder, to vote at the meeting with respect to any matter by way of a show of hands.

(3) Notwithstanding subsections (1) and (2) but subject to subsection (4), where the chairperson of a meeting of shareholders declares to the meeting that, if a ballot is conducted, the total number of votes attached to investment shares represented at the meeting by proxy required to be voted against what to his or her knowledge will be the decision of the meeting in relation to any matter or group of matters is less than 5% of all the votes that might be cast at the meeting on that ballot:

(a) the chairperson may conduct the vote with respect to that matter or group of matters by a show of hands; and

(b) a proxyholder or alternate proxyholder may vote with respect to that matter or group of matters by a show of hands.

(4) Subsection (3) does not apply if a shareholder or proxyholder demands a ballot.

1998, c.C-45.2, s.185.

Duty of registrant

186(1) No investment shares of a credit union that are registered in the name of a registrant or the registrant's nominee and not beneficially owned by the registrant shall be voted unless, immediately after receipt of the notice of the meeting, financial statements, the management proxy circular, the dissident's proxy circular and any other documents other than the form of proxy sent to shareholders for use in connection with the meeting, the registrant sends to the beneficial owner:

(a) a copy of each of those documents; and

(b) except where the registrant has received written voting instructions from the beneficial owner, a written request for voting instructions.

(2) A registrant shall not vote or appoint a proxyholder to vote investment shares registered in his or her name or in the name of his or her nominee that he or she does not beneficially own unless he or she receives written voting instructions from the beneficial owner.

(3) A person by or on behalf of whom a solicitation is made shall, at the request of a registrant, immediately furnish to the registrant at that person's expense the necessary number of copies of the documents mentioned in subsection (1) other than copies of the document requesting voting instructions.

(4) A registrant shall vote or appoint a proxyholder to vote any investment shares mentioned in subsection (1) in accordance with any written voting instructions received from the beneficial owner.

(5) If requested to do so by a beneficial owner, a registrant shall appoint the beneficial owner or a nominee of the beneficial owner as proxyholder.

(6) The failure of a registrant to comply with this section does not render void any meeting of shareholders or any action taken at the meeting.

(7) Nothing in this section gives a registrant the right to vote investment shares that he or she is otherwise prohibited from voting.

1998, c.C-45.2, s.186.

Restraining order

187(1) If a form of proxy, management proxy circular or dissident's proxy circular contains an untrue statement of a material fact, omits a required material fact or omits a material fact necessary to prevent a statement in the form or circular from being misleading in the light of the circumstances in which it was made, an interested person or the registrar may apply to the court and the court may make any order it thinks fit, including, without limiting the generality of the foregoing:

(a) an order restraining the solicitation, the holding of the meeting, or any person from implementing or acting on any resolution passed at the meeting to which the form of proxy, management proxy circular or dissident's proxy circular relates;

(b) an order requiring correction of any form of proxy or proxy circular and a further solicitation; or

(c) an order adjourning the meeting.

(2) An applicant pursuant to this section shall give to the registrar and CUDGC notice of the application, and the registrar and CUDGC are entitled to appear and to be heard in person or by counsel.

1998, c.C-45.2, s.187.

PART XIII
Security Certificates, Registers and Transfers

DIVISION 1
Interpretation and Application

Definitions

188(1) In this Part:

(a) **"adverse claim"**, with respect to a security, includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security;

(b) **"bearer"** means the person who is in possession of a security that is payable to bearer or endorsed in blank;

(c) **"broker"** means a person who is engaged in whole or in part in the business of buying and selling securities and who, in the transaction concerned, acts for, or buys a security from, or sells a security to a customer;

(d) **"delivery"** means voluntary transfer of possession;

(e) **"fiduciary"** means a trustee, guardian, committee, curator, tutor, executor, administrator, representative of a deceased person, or any other person acting in a fiduciary capacity;

(f) **"fungible"**, in relation to securities, means securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit;

(g) **"genuine"** means free of forgery or counterfeiting;

(h) **"good faith"**, with respect to a transaction, means honesty in fact in the conduct of the transaction;

(i) **"good faith purchaser"**, with respect to a security in bearer form or order form or a security in registered form issued to the purchaser or endorsed to the purchaser or endorsed in blank, means a purchaser for value in good faith and without notice of any adverse claim who takes delivery of the security;

(j) **"holder"** means a person who is in possession of a security that is issued or endorsed to the person or to bearer or in blank;

(k) **"issuer"** includes a credit union that:

(i) is required by this Act to maintain a securities register; or

(ii) directly or indirectly creates fractional interests in its rights or property and issues securities as evidence of the fractional interests;

(l) **"overissue"** means the issue of securities in excess of any maximum number of securities that the issuer is authorized by its articles or a trust indenture to issue;

(m) **"purchaser"** means a person who takes an interest in a security by sale, mortgage, hypothec, pledge, issue, reissue, gift or any other voluntary transaction;

(n) **"security"** or **"security certificate"** means a document issued by a credit union that is:

(i) in bearer, order or registered form;

(ii) of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment;

(iii) one of a class or series or by its terms divisible into a class or series of documents; and

(iv) evidence of an investment share or a participation or other interest in or obligation of a credit union;

but does not include a membership share or a document evidencing a membership share;

(o) **"transfer"** includes transmission by operation of law;

(p) **"trust indenture"** means a trust indenture as defined in Part XV;

(q) **"valid"** means issued in accordance with the applicable law and the articles of the issuer, or validated pursuant to section 208.

(2) Except when a transfer is restricted and noted on a security in accordance with subsection 195(2), a security is a negotiable instrument.

(3) A security is in registered form if it:

(a) specifies a person who is entitled to the security or to the rights it evidences, and its transfer is capable of being recorded in a securities register; or

(b) bears a statement that it is in registered form.

(4) A debt obligation is in order form if, by its terms, it is payable to the order of a person specified with reasonable certainty in it or to a person to whom it is assigned.

(5) A security is in bearer form if it is payable to bearer according to its terms and not by reason of an endorsement.

1998, c.C-45.2, s.188.

Guarantor deemed to be issuer

189 A guarantor for an issuer is deemed to be an issuer to the extent of the guarantee, whether or not the obligation is noted on the security.

1998, c.C-45.2, s.189.

Application

190 This Part governs the transfer of a security.

1998, c.C-45.2, s.190.

DIVISION 2
Security Certificates

Security certificate

191 Subject to section 139, every security holder is entitled, at his or her option, to obtain from the credit union:

(a) a security certificate that complies with this Act; or

(b) a non-transferable written acknowledgement of his or her right to obtain a security certificate.

1998, c.C-45.2, s.191.

Fee

192 A credit union may charge a reasonable fee for a security certificate issued with respect to a transfer.

1998, c.C-45.2, s.192.

Joint owners

193 If securities are held jointly by more than one person:

(a) a credit union is not required to issue more than one security certificate with respect to those securities; and

(b) delivery of a security certificate to one of the joint owners is sufficient delivery to them all.

1998, c.C-45.2, s.193.

Signatures

194(1) A security certificate must be signed manually by one of the following individuals, or a facsimile of the signature must be reproduced on the certificate:

(a) at least one director or officer;

(b) an individual on behalf of a director, transfer agent or branch transfer agent of the credit union;

(c) a trustee who certifies it in accordance with a trust indenture.

(2) A credit union may issue security certificates that contain the signature of a person who is no longer a director or officer and the validity of the certificate is not adversely affected.

1998, c.C-45.2, s.194.

Contents of certificate

195(1) The following information must be stated on the face of each security certificate issued by a credit union:

(a) the name of the credit union;

(b) the words "Incorporated pursuant to *The Credit Union Act, 1998*" or "Subject to *The Credit Union Act, 1998*";

(c) the name of the person to whom it was issued; and

(d) the number and class of shares and the designation of any series that the certificate represents.

(2) No restriction, charge or endorsement described in subsection (3) is effective against a transferee of a security that is issued by a credit union or by an entity before it is continued pursuant to this Act, where the transferee has no actual knowledge of the restriction, charge or endorsement unless it or a reference to it is noted conspicuously on the security certificate.

(3) The restrictions, charges and endorsements mentioned in subsection (2) are:

(a) a restriction on transfer other than a constraint pursuant to section 139;

(b) a charge in favour of the credit union; or

(c) an endorsement pursuant to subsection 315(12).

(4) If the issued investment shares of a credit union are or were part of a distribution to the public, remain outstanding and are held by more than one person, the credit union must not restrict the transfer or ownership of its investment shares of any class or series except by way of a constraint pursuant to section 139.

1998, c.C-45.2, s.195.

Contents of investment share certificate

196(1) Every share certificate for an investment share of a credit union that is authorized to issue shares of more than one class or series must clearly state:

(a) the preferences, rights, privileges, restrictions, limitations, prohibitions and conditions attached to the investment shares of each class and series that exist when the share certificate is issued; or

(b) that the class or series of investment shares that it represents has preferences, rights, privileges, restrictions, limitations, prohibitions or conditions attached to it and that the credit union will provide a shareholder, on demand and without charge, with a full copy of the text of:

(i) any preferences, rights, privileges, restrictions, limitations, prohibitions and conditions attached to each class authorized to be issued, and to each series, that have been fixed by the board; and

(ii) the authority of the board to fix the preferences, rights, privileges, restrictions, limitations, prohibitions and conditions of subsequent series.

(2) If a share certificate for an investment share contains the statement mentioned in clause (1)(b), the credit union must provide the shareholder, on demand and without charge, with a copy of:

(a) the preferences, rights, privileges, restrictions, limitations, prohibitions and conditions attached to each class or series of investment shares authorized to be issued; and

(b) the authority of the board to fix the preferences, rights, privileges, restrictions, limitations, prohibitions and conditions of subsequent series of investment shares in the same class.

1998, c.C-45.2, s.196.

Fractional shares

197(1) A credit union may issue a certificate for a fractional investment share or may instead issue a scrip certificate in bearer form that entitles the holder to receive a certificate for a full investment share in exchange for sufficient scrip certificates equalling a full investment share.

(2) The board may attach conditions to scrip certificates issued by the credit union, including conditions that:

(a) the scrip certificates become null or void if not exchanged for an investment share representing a full investment share before a specified date; and

(b) any investment shares for which the scrip certificates are exchangeable may, despite any pre-emptive right, be issued by the credit union to any person and the proceeds distributed rateably to the holders of the scrip certificates.

(3) A holder of a fractional investment share is not entitled to exercise voting rights or to receive a dividend with respect to the investment share unless:

(a) the fractional share results from a consolidation of investment shares; or

(b) the articles of the credit union provide otherwise.

(4) A holder of a scrip certificate is not entitled to exercise voting rights or to receive a dividend with respect to the scrip certificate.

1998, c.C-45.2, s.197.

DIVISION 3
Registers

Securities register

198(1) A credit union that issues securities must maintain a securities register in which it records the securities issued by it in registered form, showing with respect to each class or series:

(a) the names, in alphabetical order, and the latest known address of each person who holds or previously held the security;

(b) the number of securities held by each security holder; and

(c) the date and particulars of the issue and transfer of each security.

(2) The securities register must be maintained at the credit union's registered office or at any other place in Canada designated by the board.

(3) A credit union may maintain additional branch securities registers in other places designated by the board.

(4) A branch securities register must contain only particulars of securities issued or transferred at the branch.

(5) The information that is in a branch securities register must also be recorded in the central register.

(6) A credit union, its agent or a trustee as defined in section 287 is not required to produce:

(a) a cancelled security certificate in registered form, an instrument mentioned in any of subsections 152(1) to (3) that is cancelled or a like cancelled instrument in registered form after six years after the date of its cancellation;

(b) a cancelled security certificate in bearer form, an instrument mentioned in any of subsections 152(1) to (3) that is cancelled or a like cancelled instrument in bearer form after the date of its cancellation; or

(c) an instrument mentioned in any of subsections 152(1) to (3) or a like instrument, irrespective of its form, after the date of its expiration.

1998, c.C-45.2, s.198.

Agent

199 A credit union may appoint an agent to maintain securities registers on its behalf.

1998, c.C-45.2, s.199.

Registration

200 The registration of the issue or transfer of an investment share in a securities register maintained by the credit union is complete and valid registration for all purposes.

1998, c.C-45.2, s.200.

Trustee

201 A credit union or a trustee as defined in section 287 may treat the person whose name appears on the securities register as the owner of a security as its owner for all purposes.

1998, c.C-45.2, s.201.

Proof of ownership

202 If a credit union restricts the right to transfer its investment shares, the credit union may, notwithstanding section 201, treat a person as the registered security holder if the person provides the credit union with evidence that reasonably meets the requirements of the credit union that the person is:

(a) the heir of a deceased security holder, or the fiduciary of the estate or succession of a deceased security holder, or of a registered security holder who is a minor, an incompetent or incapable person or a missing person; or

(b) a liquidator of, or a trustee in bankruptcy for, a registered security holder.

1998, c.C-45.2, s.202.

Proof of ownership

203 A credit union must treat a person, other than one described in section 202, as being entitled to exercise the rights and privileges attached to a security if the person provides proof that the person has acquired ownership of the security by operation of law or has legal authority to exercise the rights and privileges.

1998, c.C-45.2, s.203.

Joint owners

204 If satisfactory proof of the death of a joint holder of a security is provided to a credit union, it may treat any surviving joint holders as the owner of the security.

1998, c.C-45.2, s.204.

Duties of credit union

205 A credit union is not required to inquire into the existence of, or see to the performance of, any duty owed to a third person by a registered security holder or a person who may be treated as a registered security holder.

1998, c.C-45.2, s.205.

Minors

206 If an individual who is less than 18 years of age exercises a right of ownership in a security of a credit union, no subsequent repudiation or avoidance is effective against the credit union.

1998, c.C-45.2, s.206.

Deceased owner

207(1) Subject to section 139 and any applicable law relating to the collection of taxes, a person who is an heir or a fiduciary of an estate or succession of a deceased security holder is entitled to become the registered holder or to designate a registered holder if the person deposits the following information with the credit union or its transfer agent, together with any reasonable assurances that the credit union may require:

(a) the security certificate or, in default of one, a document proving that the deceased was the security holder;

(b) a document proving the death of the security holder;

(c) a document proving that the heir or fiduciary has the right under the law of the place in which the deceased was domiciled immediately before his or her death to deal with the security.

(2) A security certificate mentioned in clause (1)(a) must be endorsed:

(a) in the case of a transfer to an heir or fiduciary, by that person; and

(b) in any other case, in a manner acceptable to the credit union.

(3) Subject to section 139, deposit of the documents required by subsection (1) empowers a credit union or its transfer agent to record in a securities register the transmission of a security from the deceased holder to the heir or fiduciary or to any person that the heir or fiduciary may designate and to treat the person who becomes a registered holder as the owner of the securities.

1998, c.C-45.2, s.207.

Overissue

208(1) Subject to this section, the provisions of this Part that validate a security or compel its issue or reissue do not apply if the validation, issue or reissue of a security would result in overissue.

(2) If there has been an overissue and if a valid security that is similar in all respects to the security involved in the overissue is reasonably available for purchase, the person who is entitled to a validation or issue may compel the issuer to purchase and deliver that security against the surrender of the security that the person holds.

(3) If a valid security that is similar in all respects to the security involved in the overissue is not reasonably available for purchase, the person who is entitled to the validation or issue may recover from the issuer an amount equal to the price the last purchaser for value paid for the invalid security.

(4) The overissued securities are valid from the date they were issued only if the issuer increases the number of its authorized securities to a number equal to or greater than the number of securities previously authorized plus the number of the securities overissued.

1998, c.C-45.2, s.208.

Overissue payment or purchase exempt from certain provisions

209 Sections 124 and 157 do not apply to a payment or purchase by an issuer pursuant to section 208.

1998, c.C-45.2, s.209.

DIVISION 4
Proceedings

Rules of action

210 The following rules apply in an action on a security:

(a) each signature on the security certificate or in a necessary endorsement is admitted unless specifically denied in the pleadings;

(b) a signature on the security certificate is presumed to be genuine and authorized but, if the effectiveness of the signature is in issue, the burden of establishing that it is genuine and authorized is on the party claiming under the signature;

(c) if a signature is admitted or established, production of a certificate entitles the holder to recover on it unless the other party establishes a defence or defect going to the validity of the security;

(d) if the other party establishes the defence or defect, the plaintiff has the burden of establishing that the defect is ineffective against the plaintiff or some other person under whom the claim is made.

1998, c.C-45.2, s.210.

DIVISION 5
Delivery

Delivery of securities

211(1) A person who is required to deliver securities may deliver any security of the specified issue:

(a) in bearer form;

(b) in registered form in the name of the transferee; or

(c) endorsed to the person or in blank.

(2) Subsection (1) is subject to any agreement to the contrary, to any applicable Act of Saskatchewan or Act of Canada or of any other province or to any applicable regulation or rule of an exchange.

1998, c.C-45.2, s.211.

DIVISION 6
General

Incorporation by reference

212(1) The terms of a security include those stated on the security and those incorporated by reference to another document, an Act of Saskatchewan or an Act of Canada or of any other province, regulation, rule or order to the extent that the incorporated terms do not conflict with those stated on the security.

(2) Subsection (1) applies to a good faith purchaser but the incorporation by reference is itself not notice of a defect to the purchaser notwithstanding that the security expressly states that a person accepting it admits that notice.

1998, c.C-45.2, s.212.

Validity of security

213 A security is valid in the hands of a good faith purchaser.

1998, c.C-45.2, s.213.

Security not genuine

214 Subject to section 217, the fact that a security is not genuine is a complete defence even against a good faith purchaser.

1998, c.C-45.2, s.214.

Defences

215 All defences, other than the defence mentioned in section 214, of an issuer, including non-delivery and conditional delivery of a security, are ineffective against a good faith purchaser.

1998, c.C-45.2, s.215.

Deemed notice

216(1) A purchaser is deemed to have notice of any defect in the issue of a security or any defence of the issuer if the security becomes stale within the meaning of subsection (2).

(2) A security becomes stale if:

(a) the purchaser takes the security more than two years after:

(i) the date on which performance of the principal obligation evidenced by the security was due; or

(ii) the set date on or after which the security is to be presented or surrendered for redemption or exchange; or

(b) the payment of money or the delivery of securities is required in order to present or surrender the security, the money or securities are available on the day for the payment or delivery and the purchaser takes the security more than one year after that day.

1998, c.C-45.2, s.216.

Unauthorized signature

217(1) Subject to subsection (2), an unauthorized signature on a security is ineffective.

(2) An unauthorized signature on a security is effective in favour of a good faith purchaser if the signature was made by:

(a) an authenticating trustee, transfer agent or other person entrusted by the issuer with the duty to sign the security, or similar securities, or to prepare them for signing; or

(b) an employee of the issuer or a person mentioned in clause (a) who handles the security in the ordinary course of his or her duties.

1998, c.C-45.2, s.217.

Completion of form

218 If a security contains the signatures necessary for its issue or transfer but is incomplete in another respect, any person may complete it in accordance with his or her authority.

1998, c.C-45.2, s.218.

Enforceability

219 A security that was completed incorrectly is enforceable by a good faith purchaser.

1998, c.C-45.2, s.219.

Fraud

220 A completed security that was improperly altered, notwithstanding that it was fraudulently altered, remains enforceable but only according to its original terms.

1998, c.C-45.2, s.220.

Guarantees

221(1) Any person who signs a security as an authenticating trustee, transfer agent or other person entrusted by the issuer with the duty to sign the security is deemed to guarantee to a good faith purchaser that:

(a) the security is genuine;

(b) the person's acts in connection with the security are within the person's authority; and

(c) the person has reasonable grounds for believing that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless agreed otherwise, a person mentioned in subsection (1) does not assume any further liability for the validity of the security.

1998, c.C-45.2, s.221.

Acquisition of rights

222(1) Subject to section 139, on delivery of a security, the purchaser of the security acquires the rights in it that the transferor had or had authority to convey.

(2) A good faith purchaser of a security acquires it free from any adverse claim.

(3) A purchaser who was a party to a fraud or illegality affecting a security or who, as a prior holder, had notice of an adverse claim does not have a better position by taking from a later good faith purchaser.

1998, c.C-45.2, s.222.

Limited interests

223 A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

1998, c.C-45.2, s.223.

Deemed notice

224(1) A purchaser of a security, or a broker for a seller or purchaser, is deemed to have notice of an adverse claim if:

(a) the security has been endorsed "for collection" or "for surrender" or for some purpose other than transfer; or

(b) the security is in bearer form and has a statement on it that it belongs to a person other than the transferor.

(2) The mere writing of a name on a security is not a statement for the purposes of clause (1)(b).

1998, c.C-45.2, s.224.

No duty to inquire

225(1) A purchaser of a security, or a broker for a seller or purchaser, has no duty to inquire into the rightfulness of the transfer and, subject to section 226, has no notice of an adverse claim.

(2) Subsection (1) applies notwithstanding that the purchaser or broker has notice that the security is held by a third person or is registered in the name of or endorsed by a fiduciary.

1998, c.C-45.2, s.225.

Deemed notice

226 A purchaser or broker who knows that the transaction is for the personal benefit of the fiduciary or is otherwise in breach of the fiduciary's duty is deemed to have notice of an adverse claim.

1998, c.C-45.2, s.226.

Staleness

227(1) The following events do not constitute notice of an adverse claim except if the security becomes stale within the meaning of subsection (2):

(a) an event that creates a right to performance of the principal obligation evidenced by the security;

(b) an event that sets the date on or after which the security is to be presented or surrendered for redemption or exchange.

(2) A security becomes stale if:

(a) the purchaser takes the security more than one year after:

(i) the date on which performance of the principal obligation evidenced by the security was due; or

(ii) the date on or after which the security was to be presented or surrendered for redemption or exchange; or

(b) the payment of money or the delivery of securities is required in order to present or surrender the security, the money or securities are available on the day for the payment or delivery and the purchaser takes the security more than six months after that day.

1998, c.C-45.2, s.227.

Guarantee

228(1) A person who presents a security for registration of transfer or for payment or exchange guarantees to the issuer that the person is entitled to do so.

(2) A good faith purchaser who receives a new, reissued or reregistered security and who registers a transfer guarantees only that the purchaser has no knowledge of any unauthorized signature in a necessary endorsement.

1998, c.C-45.2, s.228.

Content of guarantee

229 A person who transfers a security to a purchaser for value guarantees by the transfer only that:

(a) the transfer is effective and rightful;

(b) the security is genuine and has not been materially altered; and

(c) the person knows of nothing that might impair the validity of the security.

1998, c.C-45.2, s.229.

Guarantee of intermediary

230 An intermediary delivering a security to a purchaser who knows that the intermediary is an intermediary guarantees only good faith.

1998, c.C-45.2, s.230.

Guarantee of broker

231(1) A broker:

(a) gives to a customer, to the issuer and to a purchaser the guarantees provided in sections 228 to 230; and

(b) has the rights and privileges of a purchaser pursuant to those sections.

(2) The guarantees of and in favour of a broker acting as an agent are in addition to guarantees given by the customer and guarantees given in favour of the customer.

1998, c.C-45.2, s.231.

Right to compel endorsement

232(1) If a registered security is delivered to a purchaser without a necessary endorsement, the purchaser has the right to demand the endorsement.

(2) The purchaser becomes a good faith purchaser after the endorsement is given pursuant to subsection (1).

1998, c.C-45.2, s.232.

Definition of "appropriate"

233(1) In this section, section 234, subsections 241(1), 244(4) and 249(1) and section 253, **"appropriate"**, with respect to a person, means that the person is:

(a) the person who is specified by the security or by a special endorsement to be entitled to the security;

(b) if a person described in clause (a) is described as a fiduciary but is no longer serving as one, either that person or his or her successor;

(c) if the security or endorsement mentioned in clause (a) specifies more than one person as a fiduciary and one or more of those persons is no longer a fiduciary, the remaining fiduciary or group of fiduciaries, whether or not a successor has been appointed or qualified;

(d) if a person described in clause (a) is an individual and is without capacity to act by reason of death, incompetence, minority or other incapacity, the person's fiduciary;

(e) if the security or endorsement mentioned in clause (a) specifies more than one person with right of survivorship and by reason of death not all of the persons can sign, the survivor or group of survivors;

(f) a person who has the legal power to sign; or

(g) to the extent that a person described in any of clauses (a) to (f) may act through an agent, the person's authorized agent.

(2) The authority of a person signing is determined as of the time of signing.

1998, c.C-45.2, s.233.

Endorsement

234(1) An endorsement of a security in registered form for the purposes of assignment or transfer is made when an appropriate person signs either the security or a separate document, or when the signature of an appropriate person is written, without more being required, on the back of the security.

(2) An endorsement may be:

(a) in blank; or

(b) special.

(3) An endorsement in blank includes an endorsement to bearer.

(4) A special endorsement specifies the person to whom the security is to be transferred, or who has power to transfer it.

(5) A holder may convert an endorsement in blank into a special endorsement.

1998, c.C-45.2, s.234.

Immunity of endorser

235 Unless agreed otherwise, the endorser does not, by the endorsement, assume any obligation that the security will be honoured by the issuer.

1998, c.C-45.2, s.235.

Partial endorsement

236 An endorsement purporting to be an endorsement of only part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.

1998, c.C-45.2, s.236.

Effect of failure by fiduciary to comply

237 Failure of a fiduciary to comply with the document that is the source of the fiduciary's power or with the law of the jurisdiction governing the fiduciary relationship does not render the fiduciary's endorsement unauthorized for the purposes of this Part.

1998, c.C-45.2, s.237.

Effect of endorsement without delivery

238 An endorsement of a security does not constitute a transfer until delivery of the security on which it appears or, if the endorsement is on a separate document, until delivery of both the security and the document.

1998, c.C-45.2, s.238.

Endorsement in bearer form

239 An endorsement of a security in bearer form may give notice of an adverse claim pursuant to section 224 but does not otherwise affect any of the holder's rights.

1998, c.C-45.2, s.239.

Effect of unauthorized endorsement

240(1) The owner of a security may assert the ineffectiveness of an endorsement against the issuer or a purchaser, other than a good faith purchaser who has in good faith received a new, reissued or reregistered security on registration of transfer, unless the owner:

(a) has ratified an unauthorized endorsement of the security; or

(b) is otherwise precluded from impugning the effectiveness of an unauthorized endorsement.

(2) An issuer who registers the transfer of a security on an unauthorized endorsement is liable for improper registration.

1998, c.C-45.2, s.240.

Warranties of guarantor of signature

241(1) A person who guarantees the signature of an endorser of a security warrants that, at the time of signing, the signer was an appropriate person and the signature was genuine.

(2) A person who guarantees the signature of an endorser does not otherwise warrant the rightfulness of the transfer to which the signature relates.

(3) A person who guarantees the endorsement of a security warrants both the signature and the rightfulness, in all respects, of the transfer to which the signature relates, but an issuer may not require a guarantee of endorsement as a condition to registration of transfer.

(4) The guarantees mentioned in subsections (1) to (3) are to be treated as being made to any person who, relying on the guarantee, takes or deals with the security, and the guarantor is liable to the person for any loss resulting from breach of warranty.

1998, c.C-45.2, s.241.

Presumption of delivery

242 Delivery of a security to a purchaser occurs when:

(a) the purchaser or a person designated by the purchaser acquires possession of it;

(b) the purchaser's securities broker acquires possession of a security specially endorsed to or issued in the name of the purchaser;

(c) the purchaser's securities broker sends the purchaser confirmation of the purchase and the broker in the broker's records identifies a specific security as belonging to the purchaser; or

(d) with respect to an identified security to be delivered while still in the possession of a third person, that person acknowledges that it is held for the purchaser.

1998, c.C-45.2, s.242.

Presumption of ownership

243(1) A purchaser is the owner of a security held for the purchaser by a securities broker, but a purchaser is not a holder except in the cases described in clauses 242(b) and (c).

(2) If a security is part of a fungible bulk, a purchaser of the security is the owner of the proportionate interest in the fungible bulk.

(3) Notice of an adverse claim received by a securities broker or by a purchaser after the broker takes delivery as a holder for value is not effective against the broker or the purchaser, except that, as between the broker and the purchaser, the purchaser may demand delivery of an equivalent security with respect to which no notice of an adverse claim has been received.

1998, c.C-45.2, s.243.

Delivery of security

244(1) Unless agreed otherwise, if a sale of a security is made on an exchange or otherwise through securities brokers:

(a) the selling customer fulfils his or her duty to deliver when the customer delivers the security to the selling securities broker or to a person designated by the selling securities broker or when they cause an acknowledgement to be made to the selling securities broker; and

(b) the selling securities broker, including a correspondence broker, acting for a selling customer fulfils his or her duty to deliver by:

(i) delivering the security or a like security to the buying securities broker or to a person designated by the buying securities broker; or

(ii) effecting clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as provided otherwise in this section and unless agreed otherwise, a transferor's duty to deliver a security pursuant to a contract of purchase is not fulfilled until the transferor:

(a) delivers the security in negotiable form to the purchaser or to a person designated by the purchaser; or

(b) causes an acknowledgement to be made to the purchaser that the security is held for the purchaser.

(3) A sale to a securities broker purchasing for the securities broker's own account is subject to subsection (2) and but not to subsection (1), unless the sale is made on an exchange.

(4) A transfer or pledge of a security shown in the records of a clearing agency, or an interest in that security, may also be effected by making an appropriate entry in the records of the clearing agency if the security is evidenced by:

(a) a security certificate in the custody of the clearing agency or a custodian, or a nominee of either the agency or custodian, subject to the instructions of the clearing agency, and is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing agency, custodian or nominee; or

(b) an uncertified security registered or recorded in records maintained by or on behalf of the credit union in the name of the clearing agency, custodian or nominee, subject to the instructions of the clearing agency.

(5) Entries may be with respect to like securities or interests in them as part of a fungible bulk pursuant to subsections (4) and (7) to (11) and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or other similar designation.

(6) In appropriate cases, the entries may be on a net basis taking into account other transfers or pledges of the same security.

(7) A transfer or pledge pursuant to subsections (4), (5) and (8) to (11) has the effect of a delivery of a security in bearer form or duly endorsed in blank representing the amount of the obligation or the number of shares or rights transferred or pledged.

(8) If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the person to whom the security interest is pledged or a secured party, and the person or secured party is deemed to have taken possession for all purposes.

(9) A person depositing a security certificate or an uncertified security with a clearing agency, or a transferee or person to whom the security is pledged pursuant to any of subsections (4) to (8), (10) and (11), is deemed to be a holder of the security and is deemed to have possession of the security so deposited, transferred or pledged for all purposes.

(10) A transfer or pledge pursuant to subsections (4) to (9) or subsection (11) does not constitute a registration of transfer pursuant to section 249.

(11) The fact that entries made in the records of the clearing agency as provided in subsection (4) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing agency to any person adversely affected by them.

1998, c.C-45.2, s.244.

Right to reclaim possession

245(1) A person against whom the transfer of a security is wrongful may, against anyone except a good faith purchaser:

(a) reclaim possession of the security or obtain possession of a new security evidencing all or part of the same rights; or

(b) claim damages.

(2) If the transfer of a security is wrongful by reason of an unauthorized endorsement, the owner may reclaim possession of the security, including reclaiming from a good faith purchaser, or claim a new security if the ineffectiveness of the purported endorsement is asserted against the purchaser pursuant to section 240.

1998, c.C-45.2, s.245.

Right to requisites for registration

246(1) Unless agreed otherwise, a transferor must, on demand, supply a purchaser with proof of the transferor's authority to transfer a security or with any other requisite that is necessary to obtain registration of the transfer of a security, but if the transfer is not for value, it is not necessary for the transferor to provide authority to transfer unless the purchaser pays the reasonable and necessary costs of the proof and transfer.

(2) If a transferor fails to comply with a demand pursuant to subsection (1) within a reasonable time, the purchaser may reject or rescind the transfer.

1998, c.C-45.2, s.246.

Seizure of security

247 No seizure of a security or other interest evidenced by the security is effective until the person making the seizure obtains possession of the security.

1998, c.C-45.2, s.247.

Not liable if good faith delivery

248 An agent or a bailee or depositary, who in good faith has received securities and sold, pledged or delivered them according to the instructions of the pledgor, depositor or principal, is not in breach of a fiduciary duty or otherwise liable even though he or she has no right to dispose of the securities.

1998, c.C-45.2, s.248.

Duty to register transfer

249(1) Subject to section 139, if a security in registered form is presented for transfer, the issuer must register the transfer if:

(a) the security is endorsed by an appropriate person;

(b) reasonable assurance is given that the endorsement is genuine and effective;

(c) the issuer has no duty to inquire into adverse claims or has discharged that duty;

(d) all applicable laws relating to the collection of taxes have been complied with;

(e) the transfer is rightful or is to a good faith purchaser; and

(f) any transfer fee mentioned in section 192 has been paid.

(2) An issuer who has a duty to register a transfer of a security is liable to the person presenting it for registration for any loss resulting from an unreasonable delay in registration or from the failure or refusal to register the transfer.

1998, c.C-45.2, s.249.

Assurance of endorsement

250(1) An issuer may require an assurance that each necessary endorsement on a security is genuine and effective by requiring a guarantee of the signature of the person endorsing the security and by requiring:

(a) if the endorsement is by an agent, reasonable assurance of authority to sign;

(b) if the endorsement is by a fiduciary, evidence of appointment or incumbency;

(c) if there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and

(d) in any other case, assurance that corresponds as closely as is feasible to the cases set out in clauses (a) to (c).

(2) For the purpose of subsection (1), a guarantee of the signature of a person is sufficient if it is signed by or on behalf of a person whom the issuer believes, on reasonable grounds, to be a responsible person.

(3) An issuer may adopt reasonable standards to determine what a responsible person is for the purpose of subsection (2).

(4) For the purpose of clause (1)(b), the following constitute sufficient evidence of appointment or incumbency of a fiduciary:

(a) in the case of a fiduciary of a deceased security holder's estate or succession, a certified copy of the document mentioned in clause 207(1)(c) and dated not earlier than 60 days before the day a security is presented for transfer;

(b) in the case of any other fiduciary, a copy of a document showing the appointment or incumbency or other evidence believed by the issuer to be appropriate.

(5) An issuer may adopt reasonable standards with respect to evidence mentioned in clause (4)(b).

(6) An issuer is deemed not to have notice of the contents of a document mentioned in subsection (4) that is obtained by the issuer except to the extent that the contents relate directly to appointment or incumbency.

1998, c.C-45.2, s.250.

Notice from additional documentation

251 If an issuer, in relation to a transfer, requires assurance other than an assurance specified in subsection 249(1) and obtains a copy of a will, trust or partnership agreement or a bylaw or similar document, the issuer is deemed to have notice of all matters contained in the document that affect the transfer.

1998, c.C-45.2, s.251.

Limited duty of inquiry

252(1) An issuer to whom a security is presented for registration has a duty to inquire into adverse claims if the issuer:

(a) receives written notice of an adverse claim at a time and in a manner that provides the issuer with a reasonable opportunity to act on it before the issue of a new, reissued or reregistered security and the notice discloses the name and address of the claimant, the registered owner and the issue of which the security is a part; or

(b) is deemed to have notice of an adverse claim from a document that it obtained pursuant to section 251.

(2) An issuer may discharge a duty of inquiry by any reasonable means, including notifying an adverse claimant by registered mail sent to the address provided by the adverse claimant or, if no address has been provided, to the adverse claimant's residence or regular place of business that a security has been presented for registration of transfer by a named person and that the transfer will be registered unless, not later than 30 days after the date of sending the notice, the issuer:

(a) is served with a restraining order or other order of the court; or

(b) is provided with an indemnity bond sufficient in the issuer's judgment to protect the issuer and any transfer agent or other agent or mandatary of the issuer from any loss that may be incurred by any of them as a result of complying with the adverse claim.

1998, c.C-45.2, s.252.

Inquiry into adverse claim

253(1) Unless an issuer is deemed to have notice of an adverse claim from a document that is obtained pursuant to section 251 or has received notice of an adverse claim pursuant to subsection 256(1), if a security presented for registration is endorsed by the appropriate person, the issuer has no duty to inquire into adverse claims.

(2) Without limiting the generality of subsection (1):

(a) an issuer registering a security in the name of a person who is a fiduciary or who is described as a fiduciary:

(i) is not bound to inquire into the existence, extent or correct description of the fiduciary relationship; and

(ii) may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting in that capacity with respect to the particular security;

(b) an issuer registering a transfer on an endorsement by a fiduciary has no duty to inquire into whether the transfer is made in compliance with the document or with the law of the jurisdiction governing the fiduciary relationship; and

(c) an issuer is deemed not to have notice of the contents of a court record or a registered document notwithstanding that:

(i) the record or document is in the issuer's possession; and

(ii) the transfer is made on the endorsement of a fiduciary to the fiduciary specifically or to the fiduciary's nominee.

1998, c.C-45.2, s.253.

Duration of notice of adverse claim

254 A written notice of adverse claim received by an issuer is effective for 12 months after the day it was received unless the notice is renewed in writing.

1998, c.C-45.2, s.254.

Limitation on issuer's liability

255(1) Except as provided otherwise in any applicable law relating to the collection of taxes, an issuer is not liable to the owner or any other person who incurs a loss as a result of the registration of a transfer of a security if:

(a) the necessary endorsements were on or with the security; and

(b) the issuer had no duty to inquire into adverse claims or had discharged that duty.

(2) If an issuer has registered a transfer of a security to a person not entitled to it, the issuer must, on demand, deliver a like security to the owner unless:

(a) the issuer is not liable by virtue of subsection (1);

(b) the owner is precluded by subsection 245(1) from asserting a claim; or

(c) the delivery would result in an overissue to which section 208 applies.

1998, c.C-45.2, s.255.

Lost or stolen security

256(1) The owner of a security who fails to notify the issuer of an adverse claim, in writing, within a reasonable time after the owner knows of a loss, apparent destruction or wrongful taking of the security is precluded from asserting against the issuer a claim to a new security if the issuer has registered a transfer of the security.

(2) If the owner of a security claims that the security has been lost, destroyed or wrongfully taken, the issuer shall issue a new security in place of the original security if the owner:

(a) requests the issuance before the issuer has notice that the security has been acquired by a good faith purchaser;

(b) provides the issuer with a sufficient indemnity bond; and

(c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of a new security pursuant to subsection (2), a good faith purchaser of the original security presents the original security for registration of transfer, the issuer shall register the transfer unless registration would result in an overissue to which section 208 applies.

(4) In addition to the rights that an issuer has by reason of an indemnity bond, the issuer may recover the new security issued pursuant to subsection (2) from the person to whom it was issued or any person taking under that person other than a good faith purchaser.

1998, c.C-45.2, s.256.

Duty

257 An authenticating trustee, transfer agent or other agent of an issuer has, with respect to the issue, registration of transfer and cancellation of a security of the issuer:

(a) a duty to the issuer to exercise good faith and reasonable diligence; and

(b) the same obligations to the holder or owner of a security and the same rights, privileges and immunities as the issuer.

1998, c.C-45.2, s.257.

Notice to agent

258 Notice to an authenticating trustee, transfer agent or other agent of an issuer is notice to the issuer with respect to the functions performed by the agent.

1998, c.C-45.2, s.258.

PART XIV
Financial Disclosure

DIVISION 1
Financial Statements

Annual financial statement

259(1) The board of a credit union shall place before the members at every annual meeting:

(a) the comparative financial statements relating separately to:

(i) the period that began on the day the credit union came into existence and ended not more than six months before the annual meeting or, where the credit union has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting; and

(ii) where the credit union has completed a financial year, the financial year that preceded the period described in subclause (i);

(b) the report of the credit union's auditor mentioned in section 281;

(c) any information, in addition to that mentioned in clauses (a) and (b), that the board considers necessary to fairly present:

(i) the financial position of the credit union as at the end of the financial year to which the financial statements relate;

(ii) the results of the credit union's operations; and

(iii) the changes in financial position of the credit union for that financial year; and

(d) the information required by section 260 .

(2) The board shall furnish a copy of the materials mentioned in subsection (1) to CUDGC within:

(a) 10 days before the annual meeting at which the materials are to be considered; or

(b) if section 262 applies, within 21 days before the annual meeting at which the materials are to be considered.

(3) A comparative financial statement mentioned in clause (1)(a) must contain, with respect to each of the financial years to which it relates:

(a) a balance sheet as at the end of the financial year;

(b) a statement of income for the financial year;

(c) a statement of change of financial position for the financial year; and

(d) a statement of changes in equity for the financial year.

(4) Notwithstanding subsection (1), the board may omit the financial statements mentioned in subclause (1)(a)(ii) where the reason for the omission is set out in the financial statements to be placed before the members or in a note attached to those financial statements.

1998, c.C-45.2, s.259.

Reports on subsidiaries

260 The board of a credit union shall include with the financial statements required by section 259 a list of the credit union's subsidiaries showing, for each subsidiary:

(a) its name and the location of its head or principal office;

(b) the book value of any shares of the subsidiary that are beneficially owned by the credit union and by other subsidiaries of the credit union;

(c) the percentage of voting rights attached to all outstanding voting shares of the subsidiary that is carried by the aggregate of any voting shares beneficially owned by the credit union and by other subsidiaries of the credit union; and

(d) any other information that may be required by the regulations or the standards of sound business practice.

1998, c.C-45.2, s.260.

Approval of financial statements

261(1) Before the financial statements mentioned in section 259 are placed before the members:

(a) the board shall approve the financial statements; and

(b) the approval must be evidenced by the signature of one or more directors.

(2) No credit union shall issue, publish or circulate copies of the financial statements mentioned in section 259 unless the financial statements:

(a) are approved and signed in accordance with subsection (1); and

(b) are accompanied by the report of the auditor of the credit union.

1998, c.C-45.2, s.261.

Providing financial statements

262(1) Unless all shareholders are members, not less than 21 days before each annual meeting of members, a credit union shall send a copy of the financial statements and report of the auditor mentioned in section 259 to each shareholder except to a shareholder who has informed the credit union in writing that he or she does not require a copy of those documents.

(2) A notice of a meeting given in accordance with section 79 must include a statement that a copy of the financial statements of the credit union are available, on request, at any time after 10 days before the day set for the meeting.

(3) Where a credit union applies to the registrar, and the registrar is satisfied that there are reasonable grounds, the registrar may excuse the credit union from complying with subsections (1) and (2).

(4) A credit union shall send copies of interim financial statements or related documents to CUDGC when the credit union:

(a) sends interim financial statements or related documents to its members or shareholders; or

(b) is required to file interim financial statements or related documents with a public authority or a recognized exchange or send interim financial statements or related documents to a public authority or a recognized exchange.

1998, c.C-45.2, s.262.

Financial statements of subsidiaries

263(1) A credit union shall keep at its registered office, or in any other location in Saskatchewan designated by the board, a copy of the current financial statements of each subsidiary of the credit union.

(2) Subject to this section, members and shareholders may, on request:

(a) examine during normal business hours of the credit union the financial statements mentioned in subsection (1); and

(b) without charge, take extracts from the financial statements mentioned in subsection (1).

(3) A credit union may refuse to permit an examination pursuant to subsection (2) by any person.

(4) Within 15 days after a refusal pursuant to subsection (3), the credit union shall apply to the court for an order barring the right of the person concerned to make an examination pursuant to subsection (2).

(5) On an application pursuant to subsection (4), the court shall either:

(a) order the credit union to permit the examination; or

(b) if it is satisfied that the examination would be detrimental to the credit union or to any other entity the financial statements of which would be subject to examination, bar the right and make any other order the court considers appropriate.

(6) A credit union shall immediately give notice to the registrar of any application made pursuant to this section.

1998, c.C-45.2, s.263.

Notice of appraisal

264(1) CUDGC may appraise the assets of a credit union or a subsidiary of a credit union.

(2) Where CUDGC obtains an appraisal pursuant to subsection (1) and that appraisal results in a value of the assets of a credit union that differs from the value placed by the credit union, CUDGC shall send a written notice of its appraisal and the resulting valuation to:

(a) the credit union;

(b) the auditors of the credit union; and

(c) the credit union's audit committee.

1998, c.C-45.2, s.264.

Accounting principles

265 Except as otherwise directed by the registrar after consultation with CUDGC, every credit union and every auditor of a credit union shall comply with generally accepted accounting principles when preparing any financial statement, report or valuation of assets.

1998, c.C-45.2, s.265.

DIVISION 2
Financial Year

Financial year of credit union

266(1) Subject to subsection (2), the financial year of a credit union is the period commencing on January 1 of one year and ending on December 31 of the same year.

(2) When a credit union has, after September 1 in any year, obtained an order approving commencement and carrying on business, the first financial year of the credit union commences on the day the order approving commencement and carrying on business was obtained and ends on December 31 of the year following the year in which that order was obtained.

1998, c.C-45.2, s.266.

DIVISION 3
Auditor

Qualifications of auditor

267(1) Subject to subsections (2) and (3), a person is qualified to be an auditor of a credit union only where the person:

(a) is independent of:

(i) the credit union;

(ii) any subsidiary of the credit union; and

(iii) the directors or officers of the credit union and its subsidiary; and

(b) is a member in good standing of a recognized professional accounting association.

(2) A person is not disqualified from being an auditor of a credit union by reason only of his or her membership in the credit union.

(3) For the purposes of this section:

(a) independence is a question of fact; and

(b) a person is deemed not to be independent where the person or the person's business partner:

(i) is a business partner, a director, an officer or an employee of the credit union or of any of its subsidiaries or a business partner of any director, officer or employee of the credit union or its subsidiaries;

(ii) beneficially owns or controls, directly or indirectly, a material interest in the securities of the credit union or any of its subsidiaries; or

(iii) has been a liquidator, administrator, receiver or trustee in bankruptcy of the credit union or any of its subsidiaries within two years of his or her proposed appointment as auditor of the credit union.

(4) An auditor who becomes disqualified pursuant to this section shall resign immediately after becoming aware of the disqualification.

(5) Notwithstanding subsection (4), an interested person may apply to the registrar for an order exempting an auditor from disqualification pursuant to this section, and the registrar may, where it is satisfied that an exemption would not unfairly prejudice the members and shareholders, make an exemption order on any terms that the registrar considers appropriate.

(6) The registrar may make an order described in subsection (5) retroactive to any date that the registrar considers appropriate.

1998, c.C-45.2, s.267.

Firm of auditors

268(1) Within 15 days after appointing a firm of auditors as auditor of a credit union, the credit union and the firm shall:

(a) designate a member of the firm who has the qualifications set out in section 267 to conduct an audit of the credit union; and

(b) notify CUDGC in writing of the designation.

(2) If for any reason the person designated as auditor pursuant to subsection (1) ceases to conduct the audit, the credit union and the firm shall immediately:

(a) designate another member of the firm who has the qualifications set out in section 267 to conduct an audit of the credit union; and

(b) notify CUDGC in writing of the designation.

1998, c.C-45.2, s.268.

Auditor of subsidiaries

269(1) Every subsidiary of a credit union must have an auditor.

(2) Unless CUDGC approves otherwise, the auditor of the credit union must be the auditor of the credit union's subsidiaries.

(3) Notwithstanding subsection (2), where a person was auditor of an entity before it became a subsidiary, that person may complete his or her term as auditor of the subsidiary.

1998, c.C-45.2, s.269.

Appointment of auditor

270(1) Subject to the regulations and the bylaws, the members shall, by ordinary resolution, at the first meeting of members and at each succeeding annual meeting, appoint an auditor to hold office until the close of the next annual meeting.

(2) Notwithstanding subsection (1), where an auditor is not appointed at a meeting of members, the incumbent auditor continues in office until his or her successor is appointed.

(3) The remuneration of an auditor may be fixed:

(a) by ordinary resolution of the members; or

(b) where remuneration has not been fixed by the members, by the board.

1998, c.C-45.2, s.270.

Ceasing to hold office

271(1) An auditor of a credit union ceases to hold office when:

(a) the auditor dies or resigns;

(b) another auditor is appointed pursuant to section 270;

(c) the auditor is removed pursuant to section 272; or

(d) the auditor ceases to be qualified pursuant to section 267.

(2) The resignation of an auditor is effective on the later of:

(a) the date that the auditor's written resignation is sent to the credit union; and

(b) the date specified in auditor's written resignation.

1998, c.C-45.2, s.271.

Removal and vacancy

272(1) The members of a credit union may by ordinary resolution at a meeting, remove from office an auditor, other than an auditor appointed by the registrar pursuant to section 274.

(2) A credit union shall immediately give the registrar and CUDGC notice of the removal of an auditor.

(3) A vacancy created by the removal of an auditor may be filled:

(a) at the meeting at which the auditor is removed; or

(b) pursuant to section 273.

(4) CUDGC may at any time revoke the appointment of an auditor made pursuant to section 270 by sending a written notice by registered mail to the credit union and the auditor.

1998, c.C-45.2, s.272.

Filling vacancy

273(1) Subject to subsection (4), the board shall immediately appoint an auditor to fill a vacancy in the office of auditor.

(2) Where there is not a quorum of directors, the directors then in office shall call, within 60 days after a vacancy in the office of auditor occurs, a special meeting of members to fill the vacancy.

(3) Where the directors fail to call a special meeting pursuant to subsection (2) or where there are no directors, a meeting for the purpose of filling a vacancy in the office of auditor may be called by any member.

(4) A credit union may provide in its bylaws that a vacancy in the office of auditor is only to be filled by vote of the members.

(5) An auditor appointed to fill a vacancy holds office for the unexpired term of his or her predecessor.

1998, c.C-45.2, s.273.

Appointment by registrar

274 Where a credit union does not have an auditor and a member or CUDGC applies to the registrar, the registrar may:

(a) appoint an auditor to hold office until an auditor is appointed by the members; and

(b) fix the remuneration of the auditor and determine who is responsible for paying the remuneration.

1998, c.C-45.2, s.274.

Right to attend meetings

275(1) The auditor of a credit union is entitled to receive notice of every meeting of members and, at the expense of the credit union, to attend and be heard at those meetings on matters relating to his or her duties as auditor.

(2) Where any director, member or shareholder gives written notice not less than 10 days before a meeting of members to the auditor or a former auditor of the credit union and the credit union, the auditor or former auditor shall:

(a) attend the meeting at the expense of the credit union; and

(b) answer questions relating to his or her duties as auditor.

(3) A credit union shall immediately inform the registrar and CUDGC of any written notice it receives pursuant to subsection (2).

(4) The registrar and CUDGC are entitled to attend any meeting of which they have notice pursuant to this section.

1998, c.C-45.2, s.275.

Auditor's resignation

276(1) An auditor shall submit to the credit union a written statement giving the reasons for his or her resignation or the reasons why he or she opposes any proposed action or resolution where the auditor:

(a) resigns;

(b) receives a notice or otherwise learns of a meeting:

(i) of members called for the purpose of removing him or her from office; or

(ii) of directors or members at which another person is to be appointed to fill the office of auditor, whether because of his or her resignation or removal or because his or her term of office has expired or is about to expire; or

(c) receives a notice or otherwise learns of a special meeting of members at which a resolution mentioned in section 272 is to be proposed.

(2) Where a credit union receives a written statement pursuant to subsection (1), it shall present the statement at the next meeting and send a copy of the statement to the registrar, CUDGC, and each member and shareholder.

1998, c.C-45.2, s.276.

Limits on appointment of new auditor

277(1) Where an auditor of a credit union has resigned or the appointment of the auditor has been revoked, no person or firm of accountants shall accept an appointment as auditor or consent to be the auditor until the person or firm has requested and received from the former auditor a written statement of the circumstances of and reasons why the former auditor resigned or why the appointment was revoked.

(2) Notwithstanding subsection (1), a person or firm may accept an appointment or consent to be appointed as auditor of a credit union if, within 15 days after making a request, no reply has been received from the former auditor.

(3) Subject to subsection (2), an appointment of an auditor is void if subsection (1) is not complied with.

1998, c.C-45.2, s.277.

Examination by auditor

278(1) An auditor of a credit union shall make any examination that is, in his or her opinion, necessary to enable the auditor to report on the financial statements that are required by this Act to be placed before the members.

(2) Notwithstanding subsection (1), an auditor is not required to report on any financial statements or part of any financial statements that relate to the period mentioned in subclause 259(1)(a)(ii).

(3) An auditor of a credit union may reasonably rely on the report of an auditor of an entity or unincorporated business the accounts of which are included in whole or in part in the financial statements of the credit union.

(4) Except as otherwise directed by the registrar in consultation with CUDGC, the auditor's examination pursuant to this section must be conducted in accordance with generally accepted auditing standards.

1998, c.C-45.2, s.278.

Right to information

279(1) At the request of an auditor of a credit union, the present or former directors, officers, employees or agents of the credit union shall furnish any information and explanations and provide access to records, documents, books, accounts and vouchers of the credit union or any of its subsidiaries that:

(a) are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required pursuant to section 278; and

(b) the directors, officers, employees or agents are reasonably able to furnish.

(2) At the request of the auditor of a credit union, the directors of the credit union shall obtain from the present or former directors, officers, employees or agents of any subsidiary of the credit union and furnish to the auditor the information and explanations that are described in subsection (1).

(3) A person who in good faith provides information to the auditor pursuant to this section is not liable in an action for defamation based on any act done or any information provided.

1998, c.C-45.2, s.279.

Extended examinations

280(1) The registrar or CUDGC may require the auditor of a credit union to do all or any of the following:

(a) report to the registrar and CUDGC on the extent of the auditor's examination of the financial statements required pursuant to section 259;

(b) enlarge or extend the scope of any examination or perform any other procedure and to report the results to the registrar and CUDGC;

(c) make a particular examination relating to the adequacy of procedures adopted by the credit union to protect the safety of the credit union's depositors, creditors, members and shareholders or relating to any other matter that the registrar or CUDGC considers to be in the public interest;

(d) conduct a special audit and report to CUDGC and the registrar.

(2) No auditor of a credit union shall fail to comply with a request pursuant to this section.

(3) When the expenses of an auditor of a credit union have been approved by the registrar or CUDGC, the credit union shall pay those expenses.

1998, c.C-45.2, s.280.

Auditor's report

281(1) Not less than 21 days before the annual meeting of members, the auditor shall make a written report to members on the financial statements mentioned in section 259.

(2) In the auditor's report, the auditor shall state whether or not, in the auditor's opinion, the financial statements present fairly, in accordance with generally accepted accounting principles mentioned in section 265:

(a) the financial position of the credit union as at the end of the financial year to which the financial statements relate; and

(b) the results of the operations and changes in the financial position of the credit union for that financial year.

(3) In each auditor's report, the auditor shall include any remarks the auditor considers necessary when:

(a) the examination has not been made in accordance with generally accepted auditing standards;

(b) the financial statements have not been prepared on a basis consistent with that of the previous financial year; or

(c) the financial statements do not present fairly, in accordance with generally accepted accounting principles:

(i) the financial position of the credit union as at the end of the financial year to which the financial statements relate; or

(ii) the results of the operations and changes in the financial position of the credit union for that financial year.

(4) Within 120 days of the end of a financial year of the credit union, the auditor of the credit union shall provide CUDGC with a copy of all written communications to the credit union that:

(a) relate to the audit of the credit union for that financial year; and

(b) comment on the management of the credit union.

1998, c.C-45.2, s.281.

Report on directors' statement

282(1) If directed by the members, the auditor of a credit union shall:

(a) audit and report on any financial statement submitted by the board to the members;

(b) in a report prepared pursuant to clause (a), state whether, in the auditor's opinion, the financial statement fairly presents the information in the report.

(2) The board shall:

(a) attach every auditor's report made pursuant to subsection (1) to the financial statement to which it relates; and

(b) send a copy of the report to CUDGC.

1998, c.C-45.2, s.282.

Special reports

283(1) No auditor of a credit union shall fail to report in writing to the chief executive officer, the chairperson and the audit committee of the credit union within 120 days of the end of the financial year any transactions or conditions that have come to the auditor's attention and that, in the opinion of the auditor, affect the financial well-being of the credit union and need rectifying.

(2) Without limiting subsection (1), the auditor shall report with respect to:

(a) transactions of the credit union that have come to the auditor's attention and that, in the auditor's opinion, affect the financial well-being of the credit union;

(b) transactions with related parties that are not in compliance with Part XI; and

(c) loans owing to the credit union by any person where:

(i) the total amounts of the loans exceed the limits set out in the regulations or the standards of sound business practice; and

(ii) in the auditor's opinion, the loans are not likely to be repaid.

(3) If the auditor has previously reported on transactions pursuant to clause (2)(b) or loans pursuant to clause (2)(c), the auditor is not required to report on those transactions or loans again unless the amount of any loss to the credit union has increased.

(4) Where the auditor makes a report pursuant to this section:

(a) the report must be presented to the board at the first meeting following its receipt; and

(b) the board shall cause the report to be incorporated in the minutes of that meeting.

(5) At the same time that an auditor makes a report pursuant to this section, the auditor shall send a copy of the report to CUDGC.

1998, c.C-45.2, s.283; 2010, c.8, s.15.

Release of information

284 The auditor of a credit union may release any information that the auditor obtains in the performance of his or her duties pursuant to this Act to CUDGC.

1998, c.C-45.2, s.284.

DIVISION 4
General

Audit committee and relationship with auditor

285(1) Where a credit union fails to appoint an audit committee, the board shall act as the audit committee.

(2) The auditor shall:

(a) send the audit committee a report on the financial statements; and

(b) send the audit committee a copy of written communications mentioned in subsection 281(4).

(3) The auditor of a credit union is entitled to receive notice of every meeting of the audit committee and to attend, at the expense of the credit union, and be heard at a meeting of the audit committee.

(4) Every audit committee shall:

(a) review with the auditor the scope of the audit before the auditor commences his or her duties;

(b) ensure that the recommendations of the auditor receive the attention of the managers of the credit union;

(c) review the financial statements of the credit union before they are approved by the board;

(d) review any returns that the registrar may direct;

(e) review any investments and transactions that could adversely affect the well-being of the credit union and that the auditor or any officer of the credit union may bring to the attention of the audit committee;

(f) meet with the auditor to discuss the financial statements and the returns and transactions mentioned in this subsection; and

(g) meet with the chief internal auditor of the credit union, or the officer or employee of the credit union acting in a capacity similar to a chief internal auditor, and with management of the credit union, to discuss the effectiveness of the internal control procedures established for the credit union.

(5) Where a member of the audit committee requests, the auditor shall attend every meeting of the committee held during his or her term of office.

(6) The auditor of a credit union or a member of the audit committee may call a meeting of the audit committee.

(7) The person responsible for internal auditing functions of a credit union shall meet with the auditor at the request of the auditor.

(8) A director or an officer of a credit union shall immediately notify the audit committee and the auditor of any error or misstatement of which the director or officer becomes aware in a financial statement that the auditor or a former auditor has reported on.

(9) An auditor or former auditor of a credit union shall inform the board and each director of an error where:

(a) the auditor or former auditor is notified or becomes aware of an error or misstatement in a financial statement on which he or she has reported; and

(b) in the opinion of the auditor, the error or misstatement mentioned in clause (a) is material.

(10) Where, pursuant to subsection (9), the auditor or former auditor informs the board or the directors otherwise have knowledge of an error or misstatement in a financial statement, the board shall:

(a) prepare and issue revised financial statements; or

(b) inform CUDGC immediately, and the members at or before the next meeting, of the error or misstatement by a means other than that described in clause (a).

1998, c.C-45.2, s.285.

Qualified privilege

286 Any oral or written statement or report made pursuant to this Act by the auditor or auditors or former auditor or auditors of a credit union has qualified privilege.

1998, c.C-45.2, s.286.

PART XV
Trust Indentures

Interpretation of Part

287(1) In this Part:

(a) **"event of default"** means, subject to subsection (2), an event specified in a trust indenture on the occurrence of which the principal, interest and other moneys payable pursuant to the trust indenture become or may be declared to be payable before maturity;

(b) **"public"** includes members and shareholders of a credit union;

(c) **"trust indenture"** means a deed, indenture or other instrument, including any supplement or amendment to the deed, indenture or other instrument, made by a credit union after its incorporation or continuance pursuant to this Act, under which the credit union issues subordinated indebtedness and in which a person is appointed as trustee for the holders of the subordinated indebtedness issued under the deed, indenture or other instrument;

(d) **"trustee"** means a person appointed as trustee pursuant to the terms of a trust indenture to which a credit union is a party and includes any other person who becomes a successor to the person appointed as trustee.

(2) An event is not an event of default until all the conditions prescribed in the trust indenture connected with the event with respect to the following are fulfilled:

(a) the giving of notice;

(b) the lapse of time;

(c) any conditions other than those mentioned in clause (a) or (b).

1998, c.C-45.2, s.287.

Application of Part

288(1) This Part applies to a trust indenture where the subordinated indebtedness issued or to be issued under the trust indenture is part of a distribution to the public.

(2) The registrar may exempt a trust indenture from this Part where the trust indenture, the subordinated indebtedness issued under the trust indenture and the security interest effected by the trust indenture are subject to a law of a jurisdiction other than Saskatchewan that is, in the registrar's opinion, substantially equivalent to this Part.

1998, c.C-45.2, s.288.

Conflict of interest

289(1) Subject to subsection (2), no person is eligible to be appointed as trustee where there is a material conflict of interest between the person's role as trustee and the person's role in another capacity.

(2) A person may apply to the registrar to be approved as trustee where the person:

(a) is appointed as trustee pursuant to a trust indenture; and

(b) has a material conflict of interest between his or her role as trustee and his or her role in another capacity.

(3) Where the registrar is satisfied that it is appropriate to do so, the registrar may approve the person mentioned in subsection (2) as trustee.

(4) Unless the trustee is approved by the registrar pursuant to subsection (3), the person shall, within 90 days after he or she becomes aware that a material conflict of interest exists:

(a) eliminate the conflict of interest; or

(b) resign from office.

(5) Notwithstanding any material conflict of interest of the trustee, the trust indenture, any subordinated indebtedness issued under the trust indenture and a security interest effected by the trust indenture are valid.

(6) Where a trustee is not in compliance with subsection (1) or (4), an interested person may apply to the court for an order that the trustee be replaced, and the court may make any order on any terms that it considers appropriate.

1998, c.C-45.2, s.289.

Qualification of trustee

290 A trustee, or at least one of the trustees where more than one trustee is appointed, is required to be an entity that is:

(a) registered pursuant to *The Trust and Loan Corporations Act, 1997*; and

(b) authorized to carry on the business of a trust corporation or to exercise the powers of a trustee.

1998, c.C-45.2, s.290; 2001, c.12, s.13.

List of debt holders

291(1) On payment to the trustee of a reasonable fee and within 15 days after delivering to the trustee a statutory declaration, holders of 10% of the amount of subordinated indebtedness issued by a credit union may require the trustee to furnish a list setting out the following information as shown on the records maintained by the trustee on the day that the statutory declaration is delivered:

(a) the names and addresses of the registered holders of that subordinated indebtedness;

(b) the principal amount of the outstanding subordinated indebtedness owned by each holder mentioned in clause (a);

(c) the total principal amount of subordinated indebtedness of the credit union outstanding.

(2) Where a trustee requests, the credit union that is the issuer of subordinated indebtedness shall furnish the trustee with the information required to enable the trustee to comply with subsection (1).

(3) Where any of the persons requiring the trustee to furnish a list pursuant to subsection (1) is an entity, a director or officer of the entity shall make the declaration required pursuant to that subsection.

(4) The statutory declaration mentioned in subsection (1) is required to contain:

(a) the names and addresses of the persons requiring the trustee to furnish the list and, where any of the persons is an entity, the address for service of the entity; and

(b) a statement that the list will not be used except as permitted in subsection (5).

(5) No person shall use a list obtained pursuant to this section other than in connection with:

(a) an effort to influence the voting of the holders of subordinated indebtedness;

(b) an offer to acquire subordinated indebtedness; or

(c) any matter, other than one described in clause (a) or (b), relating to the subordinated indebtedness or the affairs of the issuer or guarantor of the subordinated indebtedness.

1998, c.C-45.2, s.291.

Evidence of compliance

292(1) Before a credit union that is an issuer, or a guarantor, of subordinated indebtedness issued or to be issued under a trust indenture does any of the acts described in clause (a), (b) or (c), the issuer or guarantor shall furnish the trustee with evidence of compliance with the conditions in the trust indenture relating to:

(a) the issue, certification and delivery of subordinated indebtedness under the trust indenture;

(b) the release or release and substitution of property subject to a security interest constituted by the trust indenture; and

(c) the satisfaction and discharge of the trust indenture.

(2) Where a trustee requests, the credit union that is the issuer, or the guarantor, of subordinated indebtedness issued or to be issued under a trust indenture shall furnish the trustee with evidence of compliance with the trust indenture by the issuer or guarantor with respect to any act to be done by the trustee at the request of the issuer or guarantor.

1998, c.C-45.2, s.292.

Contents of declaration

293(1) The evidence of compliance mentioned in section 292 is required to consist of:

(a) a statutory declaration or certificate made by a director or an officer of the issuer or guarantor stating that the conditions mentioned in that section have been complied with; and

(b) where the trust indenture requires compliance with conditions that are subject to review:

(i) by legal counsel, an opinion of legal counsel that those conditions have been complied with; or

(ii) by an auditor or accountant, an opinion or report of the auditor of the issuer or guarantor, or any other accountant that the trustee may select, that those conditions have been complied with.

(2) The evidence of compliance mentioned in subsection (1) is required to include a statement by the person giving the evidence:

(a) declaring that the person has read and understands the conditions of the trust indenture described in section 292;

(b) describing the nature and scope of the examination or investigation on which he or she based the certificate, statement or opinion; and

(c) declaring that the person has made any examination or investigation that he or she believes necessary to enable him or her to make the statements or give the opinions contained or expressed in the evidence of compliance.

1998, c.C-45.2, s.293.

Trustee may require evidence of compliance

294(1) Where a trustee requests, the issuer or guarantor of subordinated indebtedness issued under a trust indenture shall furnish the trustee with evidence, in any form that the trustee may require, showing compliance with any condition of the trust indenture relating to any action required or permitted to be taken by the issuer or guarantor under the trust indenture.

(2) At least once in each 12-month period, beginning on the date of the trust indenture, and at any other time on the demand of a trustee, the issuer or guarantor of subordinated indebtedness issued under a trust indenture shall furnish the trustee with a certificate stating:

(a) that the issuer or guarantor has complied with all the requirements contained in the trust indenture that, if not complied with, would, with the giving of notice, lapse of time or otherwise, constitute an event of default; or

(b) where there has been failure to comply with the requirements contained in a trust indenture described in clause (a), the particulars of the failure.

1998, c.C-45.2, s.294.

Notice of default

295 Unless the trustee reasonably believes that it is in the best interests of the holders of subordinated indebtedness to withhold the notice and provides written notice of that fact to the issuer or guarantor of subordinated indebtedness issued under a trust indenture, the trustee shall give notice to the registrar, CUDGC and the holders of subordinated indebtedness of every event of default arising under the trust indenture and continuing at the time the notice is given within 30 days after the date that the trustee became aware of the event of default.

1998, c.C-45.2, s.295.

Trustee's duty of care

296(1) A trustee, in exercising his or her powers and fulfilling his or her duties, shall:

(a) act honestly and in good faith with a view to the best interests of the holders of subordinated indebtedness issued under the trust indenture; and

(b) exercise the care, diligence and skill of a reasonably prudent trustee.

(2) Notwithstanding subsection (1), a trustee is not liable where the trustee relies in good faith on statements contained in a statutory declaration, certificate, opinion or other report that complies with this Act or the trust indenture.

(3) No trustee is deemed to be relieved of the duties imposed on the trustee in this section by virtue of:

(a) a term of a trust indenture;

(b) any agreement between a trustee and the holders of subordinated indebtedness issued under a trust indenture; or

(c) any agreement between the trustee and the issuer or guarantor of subordinated indebtedness issued under a trust indenture.

1998, c.C-45.2, s.296.

PART XVI
Fundamental Changes

DIVISION 1
Amendments to Articles

Amendment to articles (members)

297(1) Subject to this Act and to the approval of the registrar, the members may, by special resolution, amend the articles of a credit union.

(2) Where, in the special resolution made pursuant to subsection (1), the members authorize the board to revoke the resolution, the board of a credit union may revoke the resolution before it is acted on without further approval of the members.

1998, c.C-45.2, s.297.

Proposal to amend articles

298(1) A member or director may, in the manner provided in section 85, make a proposal to amend the articles.

(2) The board shall:

(a) send a proposal made pursuant to subsection (1) with a notice of a meeting of members at which a proposal to amend the articles is to be considered; or

(b) make the proposal available to any member who is entitled to attend and vote at the meeting.

(3) A proposed amendment to the articles mentioned in subsection (1) is adopted when it is approved by a special resolution of the members.

(4) Each investment share that is affected by a proposed amendment to the articles carries the right to vote in accordance with section 299.

1998, c.C-45.2, s.298.

Amendment to articles (shareholders)

299(1) Where subsection 298(4) provides a shareholder the right to vote, the holders of investment shares of a class or, subject to subsection (3), of a series are, unless the articles provide otherwise in the case of an amendment mentioned in clauses (a), (b) and (e), entitled to vote separately as a class or series on a proposal to amend the articles to:

(a) increase or decrease any maximum number of authorized investment shares of the class, or increase any maximum number of authorized investment shares of a class having rights or privileges equal or superior to the investment shares of the class;

(b) effect an exchange, reclassification or cancellation of all or part of the investment shares of the class;

(c) add, change or remove the preferences, rights, privileges, restrictions, limitations, prohibitions or conditions attached to the investment shares of the class, including:

(i) removing or changing prejudicially rights to accrued dividends or rights to cumulative dividends;

(ii) adding, removing or changing prejudicially redemption rights;

(iii) reducing or removing a dividend preference or a liquidation preference; or

(iv) adding, removing or changing prejudicially conversion privileges, options, voting, transfer or pre-emptive rights, or rights to acquire securities of a credit union, or sinking fund provisions;

(d) increase the rights or privileges of any class or series of investment shares having rights or privileges equal or superior to the investment shares of the class;

(e) create a new class of investment shares equal or superior to the investment shares of the class;

(f) make any class of investment shares having rights or privileges inferior to the investment shares of the class equal or superior to the investment shares of the class;

(g) effect an exchange or create a right of exchange of all or part of the investment shares of another class into the investment shares of the class; or

(h) constrain the issue, transfer or ownership of the investment shares of the class or change or remove a constraint.

(2) The holders of a series of investment shares of a class are entitled to vote separately as a series pursuant to subsection (1) only if the series is affected by an amendment in a manner different from other investment shares of the same class.

(3) Subsection (1) applies whether or not investment shares of a class or series otherwise carry the right to vote.

(4) A proposed amendment to the articles mentioned in subsection (1) is adopted when it is approved by a special resolution of the members and by a separate special resolution of the shareholders of each class.

1998, c.C-45.2, s.299.

Delivery of articles

300(1) Except where a resolution is revoked pursuant to subsection 297(2), when an amendment is adopted pursuant to section 297, or, as required, section 299, the credit union shall send articles of amendment in the form prescribed in the regulations to the registrar.

(2) The registrar may approve articles of amendment received pursuant to subsection (1) and issue a certificate of amendment in accordance with section 422 if the registrar is satisfied that the amendment:

(a) has been duly approved by the members and, if required, the shareholders; and

(b) does not contravene any provision of this Act.

1998, c.C-45.2, s.300.

Effect of certificate

301(1) An amendment to the articles is effective on the date shown in the certificate of amendment issued in accordance with section 422.

(2) No amendment to the articles affects:

(a) an existing cause of action or claim or liability to prosecution in favour of or against the credit union or its directors or officers; or

(b) any civil, criminal or administrative action or proceeding to which a credit union or its directors or officers is a party.

1998, c.C-45.2, s.301.

Restated articles

302(1) The board may, at any time, restate the articles of incorporation as amended.

(2) When directed by the registrar, the board shall restate the articles of incorporation as amended.

(3) A credit union shall send restated articles of incorporation to the registrar in the form prescribed in the regulations.

(4) Where the registrar receives restated articles of incorporation, the registrar shall issue a certificate of restated articles of incorporation in accordance with section 422.

(5) Restated articles of incorporation:

(a) are effective on the date shown in the restated certificate of incorporation issued pursuant to subsection (4); and

(b) supersede the original articles of incorporation and all amendments to the original articles of incorporation.

1998, c.C-45.2, s.302.

DIVISION 2
Amalgamation

Amalgamation of credit unions

303(1) Two or more credit unions may amalgamate and continue as one credit union.

(2) Where the laws governing the incorporation or continuance of an entity permit or authorize the amalgamation, a credit union may amalgamate with the entity and continue as one credit union.

1998, c.C-45.2, s.303.

Amalgamation agreement

304(1) Each credit union and other entity proposing to amalgamate shall enter into an agreement setting out the terms and means of effecting the amalgamation, including:

(a) the provisions that are required to be included in articles pursuant to section 12;

(b) the name and address and term of office of each proposed director of the amalgamated credit union;

(c) the manner in which the shares or memberships of each amalgamating credit union or entity are to be converted into shares or memberships or other securities of the amalgamated credit union;

(d) where shares of an amalgamating credit union or entity are not to be converted into securities or membership shares of the amalgamated credit union, the amount of money or securities of any entity that the holders of those shares are to receive instead of securities or membership shares of the amalgamated credit union;

(e) the manner of payment of money instead of the issue of fractional shares of the amalgamated credit union or of any other entity the securities or membership shares of which are to be received in the amalgamation;

(f) whether the bylaws of the amalgamated credit union are to be those of one of the amalgamating credit unions and, where not, a copy of the proposed bylaws;

(g) details of any arrangements necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated credit union; and

(h) the proposed effective date of the proposed amalgamation.

(2) Where shares of one of the amalgamating credit unions or entities are held by or on behalf of another of the amalgamating credit unions or entities:

(a) the amalgamation agreement is required to provide for the cancellation of those shares when the amalgamation becomes effective without any repayment of capital with respect to those shares; and

(b) no provision is to be made in the agreement for the conversion of those shares into shares of the amalgamated credit union.

1998, c.C-45.2, s.304.

Member and shareholder approval

305(1) The board of an amalgamating credit union shall submit an amalgamation agreement made pursuant to section 304 for approval to a meeting of:

(a) the members of the amalgamating credit union of which they are directors; and

(b) the holders of each class or series of investment shares of the credit union.

(2) The directors of each amalgamating entity other than a credit union shall submit an amalgamation agreement made pursuant to section 304 for approval to a meeting of the members or persons entitled to vote on the affairs of that entity and to the holders of each class or series of the securities of the entity.

(3) The board of an amalgamating credit union shall:

(a) cause a notice of a meeting of members and shareholders to be sent to each member and shareholder of the amalgamating credit union; and

(b) include or send with the notice mentioned in clause (a) a copy or summary of the amalgamation agreement and a statement that shareholders are entitled to dissent pursuant to Division 5.

(4) The directors of an amalgamating entity other than a credit union shall:

(a) cause a notice of a meeting to be sent to each member or person entitled to vote on the affairs of that entity and to the holders of each class or series of the securities of the amalgamating entity; and

(b) include or send with the notice mentioned in clause (a) a copy or summary of the amalgamation agreement and a statement that those persons mentioned in clause (a) are entitled to dissent pursuant to Division 5.

(5) Each investment share of an amalgamating credit union carries the right to vote with respect to an amalgamation whether or not it otherwise carries the right to vote.

(6) Where an amalgamation agreement contains a provision that if contained in a proposed amendment to the articles would entitle the holders of a class of investment shares or a series of investment shares to vote as a class or series pursuant to subsection 298(4), the holders of a class of investment shares or a series of investment shares of an amalgamating credit union are entitled to vote separately as a class or series with respect to an amalgamation.

(7) An amalgamation agreement is adopted when:

(a) in the case of a credit union:

(i) the members approve the amalgamation by special resolution; and

(ii) where the credit union has investment shares, the shareholders approve the amalgamation by special resolution;

(b) in the case of an entity, each member or person entitled to vote on the affairs of that entity and the holders of each class or series of the securities of the amalgamating entity approve the amalgamation by special resolution.

(8) An amalgamation agreement may provide that at any time before the issue of a certificate of amalgamation the agreement may be terminated by the board of an amalgamating credit union, notwithstanding approval of the agreement by the members and shareholders of all or any of the amalgamating credit unions or entities.

(9) Failure to include the statement of the right to dissent in clause (3)(b) or (4)(b) does not invalidate the notice of meeting.

(10) In the case of an amalgamation with another credit union, where the assets of the other credit union with which the amalgamating credit union proposes to amalgamate are less than 10% of the assets of the amalgamating credit union:

(a) members' and shareholders' approval, by special resolution, for the amalgamating credit union's amalgamation is not required; and

(b) the amalgamation may be approved by the board of the amalgamating credit union.

1998, c.C-45.2, s.305.

Subsidiary amalgamations

306(1) A credit union and one or more of its wholly-owned subsidiaries may amalgamate and continue as one credit union without complying with section 305 if:

(a) the amalgamation by the credit union is approved by a resolution of the board of the amalgamating credit union; and

(b) there is an amalgamation agreement providing that:

(i) the shares of each amalgamating subsidiary are to be cancelled without any repayment of capital with respect to those shares;

(ii) the articles of amalgamation are to be the same as the articles of incorporation of the amalgamating credit union; and

(iii) the stated capital of the amalgamated credit union is to be the same as that of the amalgamating credit union.

(2) Before two or more wholly-owned subsidiaries of the same credit union may amalgamate and continue as one corporation, there must be an amalgamation agreement providing that:

(a) the shares of all but one of the amalgamating subsidiaries are to be cancelled without any repayment of capital with respect to those shares;

(b) the articles of amalgamation are to be the same as the articles of incorporation of the amalgamating subsidiary whose shares are not cancelled; and

(c) the stated capital of the amalgamating subsidiaries whose shares are cancelled is to be added to the stated capital of the amalgamating subsidiary whose shares are not cancelled.

1998, c.C-45.2, s.306.

Articles of amalgamation

307(1) After an amalgamation agreement is adopted pursuant to section 305 or 306, the amalgamating credit unions and entities shall send articles of amalgamation in the form prescribed in the regulations to the registrar.

(2) The articles of amalgamation are required to have attached to them a statutory declaration of a director or an officer of each amalgamating credit union and entity that establishes to the satisfaction of the registrar that there are reasonable grounds for believing that:

(a) the amalgamated credit union will be able to pay its liabilities as they become due;

(b) the realizable value of the amalgamated credit union's assets will not be less than the aggregate of its liabilities and stated capital of all classes;

(c) no creditor will be prejudiced by the amalgamation or that adequate notice has been given to all known creditors of the amalgamating credit unions and entities and no creditor has objected to the amalgamation on any ground other than grounds that are frivolous or vexatious; and

(d) CUDGC has approved the amalgamation.

(3) For the purposes of clause (2)(c), adequate notice is given where:

(a) unless otherwise exempted by the registrar, a written notice is sent to each known creditor having a claim against the credit union or entity that is greater than $10,000 or any greater amount set out in the regulations;

(b) a notice is published once in a newspaper published or distributed in the place where the credit union or entity has its registered office and reasonable notice of the amalgamation is given in each province of Canada where the credit union or entity carries on business; and

(c) each notice states that the credit union or entity intends to amalgamate with one or more specified credit unions in accordance with this Act and that a creditor of the credit union or entity may object to the amalgamation within 30 days after the date of the notice.

1998, c.C-45.2, s.307.

Effect of certificate

308(1) Where the registrar receives articles of amalgamation, the registrar shall issue a certificate of amalgamation in accordance with section 422 if the registrar is satisfied that:

(a) the conditions described in subsection 307(2) have been met;

(b) the entity proposing to amalgamate as a credit union has the ability to comply with the requirements established in this Act and the regulations and the standards of sound business practice; and

(c) the amalgamated credit union will be operated as a credit union.

(2) On the date shown in a certificate of amalgamation issued pursuant to subsection (1):

(a) the amalgamation of the amalgamating credit unions and entities and their continuance as one credit union becomes effective;

(b) the property of each amalgamating credit union and entity continues to be the property of the amalgamated credit union;

(c) the amalgamated credit union continues to be liable for the obligations of each amalgamating credit union and entity;

(d) an existing cause of action, claim or liability to prosecution is deemed not to be affected;

(e) a civil, criminal or administrative action or proceeding pending by or against an amalgamating credit union or entity may be continued by or against the amalgamated credit union;

(f) a conviction against or ruling, order or judgment in favour of or against an amalgamating credit union or entity may be enforced by or against the amalgamated credit union;

(g) the persons designated in the articles of amalgamation as provisional directors of the amalgamated entity become the first directors of the amalgamated credit union; and

(h) the articles of amalgamation are deemed to be the articles of incorporation of the amalgamated credit union, and the certificate of amalgamation is deemed to be the certificate of incorporation of the amalgamated credit union.

1998, c.C-45.2, s.308.

DIVISION 3
Continuance

Continuance under this Act

309(1) An entity may apply to the registrar for a certificate of continuance where:

(a) in the case of an extraprovincial credit union, it is authorized to do so by the laws of the jurisdiction where it is incorporated or continued; or

(b) in the case of any other entity:

(i) it is authorized to do so by the Act pursuant to which it was incorporated; and

(ii) in the opinion of the registrar, it will be operated as a credit union and has the ability to comply with the requirements established in this Act and the regulations and the standards of sound business practice.

(2) An entity that applies for a certificate of continuance pursuant to subsection (1) may effect in its articles of continuance any change or amendment to its articles, where the change or amendment is a change or amendment a credit union incorporated pursuant to this Act may make to its articles.

(3) An entity that applies for a certificate of continuance shall send to the registrar:

(a) its articles of continuance in the form prescribed in the regulations; and

(b) its bylaws.

(4) Where the registrar receives articles of continuance and bylaws pursuant to this Act and is satisfied that the entity meets the requirements specified in subsection (1), the registrar may issue a certificate of continuance in accordance with section 422.

(5) On and after the date shown in the certificate of continuance issued pursuant to subsection (4):

(a) the entity becomes a credit union to which this Act applies as if it had been incorporated pursuant to this Act;

(b) the articles of continuance are deemed to be the articles of incorporation of the continued credit union;

(c) the certificate of continuance is deemed to be the certificate of incorporation of the continued credit union;

(d) the articles and bylaws of the entity in effect prior to the date shown in the certificate of continuance do not apply; and

(e) in the case of an entity incorporated pursuant to an Act, no provision of that Act applies to the continued credit union unless the articles provide otherwise.

(6) Where the registrar issues a certificate of continuance to an entity mentioned in clause (1)(a), the registrar shall at the same time send a copy of the certificate of continuance to the appropriate official or regulator in the jurisdiction in which continuance pursuant to this Act was authorized.

(7) When an entity is continued as a credit union pursuant to this Act:

(a) the property of the entity continues to be the property of the credit union;

(b) the credit union continues to be liable for the obligations of the entity;

(c) an existing cause of action, claim or liability to prosecution is deemed not to be affected;

(d) a civil, criminal or administrative action or proceeding pending by or against the entity may be continued by or against the credit union; and

(e) a conviction against or ruling, order or judgment in favour of or against the entity may be enforced by or against the credit union.

1998, c.C-45.2, s.309; 2015, c.21, s.64.

Shares of continued credit unions

310(1) For the purposes of subsections (2) to (4), **"share"** includes an instrument mentioned in subsection 152(1), a share warrant or a like instrument.

(2) A share of an entity issued before the entity was continued pursuant to this Act is deemed to have been issued in compliance with this Act and with the provisions of the articles of continuance regardless of:

(a) whether the share is fully paid; and

(b) any designation, preferences, rights, privileges, restrictions, limitations or conditions set out or referred to in the certificate representing the share.

(3) Where an entity is continued as a credit union pursuant to this Act:

(a) its common shares become membership shares issued at par value to which are attached the rights, privileges and restrictions set out in this Act and the articles;

(b) the holders of the common shares of the entity become the members of the credit union; and

(c) any agreement made before continuance under which the holders of any common shares of the entity have agreed to vote those shares in a manner provided in the agreement is of no effect.

(4) The continuance of an entity as a credit union pursuant to this Act does not deprive a shareholder of any right or privilege that the shareholder claims under an issued share or relieve a shareholder of any liability with respect to an issued share.

(5) Where a credit union continued pursuant to this Act had, before it was continued, issued a share certificate for an investment share in registered form that is convertible to bearer form and a holder of that share certificate exercises the conversion privilege attached to the share, the credit union shall issue a share certificate in bearer form for the same number of shares to the holder.

(6) Where the registrar determines, on the application of an entity, that it is not practicable to change a reference to the nominal or par value of investment shares of a class or series that the entity was authorized to issue before it was continued pursuant to this Act, the registrar may, notwithstanding subsection 132(1), permit the entity to continue to refer in its articles to those shares, whether issued or unissued, as shares having a nominal or par value.

(7) A credit union shall set out in its articles the maximum number of shares of a class or series mentioned in subsection (6).

(8) No credit union shall amend its articles to increase the maximum number of the shares mentioned in subsection (6) or to change the nominal or par value of those shares.

1998, c.C-45.2, s.310.

Continuance pursuant to another Act

311(1) A credit union may continue as an entity licensed pursuant to *The Trust and Loan Corporations Act, 1997*.

(2) Section 312 applies, with any necessary modification, to a continuance mentioned in subsection (1).

1998, c.C-45.2, s.311; 2001, c.12, s.14.

Continuance outside Saskatchewan

312(1) Subject to subsections (2) to (6) and (11), a credit union may apply to the appropriate official or regulator of Canada, a province of Canada or another jurisdiction requesting that the credit union be continued as a financial institution pursuant to the laws of that other jurisdiction if:

(a) the members have approved the continuance by a special resolution;

(b) the holders of each class or series of investment shares entitled to vote on the matter have approved the continuance by a special resolution;

(c) the credit union establishes to the satisfaction of the registrar that its proposed continuance in another jurisdiction will not adversely affect creditors, members or shareholders of the credit union; and

(d) the registrar and CUDGC approve the continuance.

(2) A credit union shall:

(a) send, in accordance with section 79, to each member and shareholder a notice of the intention to continue together with a notice of a meeting of members and a notice of a meeting of shareholders that complies with that section; and

(b) in the notice mentioned in clause (a), state that a dissenting member and shareholder is entitled to be paid the fair value of his or her shares in accordance with Division 5, but failure to make that statement does not invalidate a discontinuance pursuant to this Act.

(3) Each investment share of the credit union carries the right to vote with respect to a continuance whether or not it otherwise carries the right to vote.

(4) The holders of a class of investment shares are entitled to vote separately as a class, and the holders of a series of investment shares are entitled to vote separately as a series only where that series is affected by a continuance in a manner that is different from the manner in which other investment shares of the same class are affected.

(5) An application for continuance becomes authorized when the members and shareholders voting on continuance have separately approved the continuance by a special resolution.

(6) If authorized by the members and shareholders at the time of approving an application for continuance pursuant to this section, the board may abandon the application without further approval of the members or shareholders.

(7) On receipt of notice satisfactory to the registrar that the credit union has been continued pursuant to the laws of another jurisdiction, the registrar shall file the notice and issue a certificate of discontinuance in accordance with section 422.

(8) For the purposes of section 422, a notice mentioned in subsection (7) is deemed to be articles that conform to law.

(9) This Act ceases to apply to the credit union on the date shown in the certificate of discontinuance.

(10) A certificate of discontinuance may be dated as of the day the credit union is continued pursuant to the laws of another jurisdiction.

(11) A credit union shall not be continued as an entity under the laws of another jurisdiction unless those laws provide, in effect, that:

(a) the property of the credit union continues to be the property of the continued entity;

(b) the continued entity continues to be liable for the obligations of the credit union;

(c) an existing cause of action, claim or liability to prosecution is unaffected;

(d) a civil, criminal or administrative action or proceeding pending by or against the credit union may continue to be prosecuted by or against the continued entity; and

(e) a conviction against, or ruling, order or judgment in favour of or against, the credit union may be enforced by or against the continued entity.

1998, c.C-45.2, s.312.

DIVISION 4
Extraordinary Sale of Assets

Extraordinary sales

313(1) A sale, lease or exchange of all or substantially all the property of a credit union other than in the ordinary course of business of the credit union requires the approval of CUDGC and of the members and shareholders in accordance with subsections (2) to (6).

(2) A credit union shall:

(a) send, in accordance with section 79, to each member and shareholder a notice of a meeting of members and a notice of a meeting of shareholders that complies with that section;

(b) include in or send with the notice mentioned in clause (a) a copy or summary of the agreement of sale, lease or exchange; and

(c) state in the notice mentioned in clause (a) that a dissenting member or shareholder is entitled to be paid the fair value of his or her shares in accordance with Division 5, but failure to make that statement does not invalidate a sale, lease or exchange mentioned in subsection (1).

(3) At the meeting mentioned in subsection (2), the members and shareholders may:

(a) authorize the sale, lease or exchange; and

(b) fix or authorize the board to fix any of the terms and conditions of the sale, lease or exchange.

(4) Each investment share of the credit union carries the right to vote with respect to a sale, lease or exchange mentioned in subsection (1) whether or not it otherwise carries the right to vote.

(5) The holders of a class of investment shares are entitled to vote separately as a class, and the holders of a series of investment shares are entitled to vote separately as a series only where that series is affected by a sale, lease or exchange in a manner that is different from the manner in which other investment shares of the same class are affected.

(6) A sale, lease or exchange mentioned in subsection (1) is adopted when:

(a) the members have approved the sale, lease or exchange by a special resolution; and

(b) the holders of each class or series of investment shares entitled to vote on the matter have approved the sale, lease or exchange by a special resolution.

(7) If authorized by the members and shareholders approving a proposed sale, lease or exchange and subject to the rights of third parties, the board may abandon the sale, lease or exchange without further approval of the members or shareholders.

1998, c.C-45.2, s.313.

DIVISION 5
Dissent

Application

314 This Division applies to a credit union only if the articles of the credit union provide:

(a) for the issuance of investment shares; or

(b) for the members of the credit union to receive the remaining property of the credit union in the circumstances set out in subsection 332(2).

1998, c.C-45.2, s.314.

Right to dissent

315(1) Unless Division 6 applies, a member or shareholder may dissent if a credit union resolves to:

(a) amend its articles in a manner that:

(i) adversely affects a member's membership rights; or

(ii) affects the rights of a shareholder with respect to an investment share;

(b) amend its articles to add, change or remove a restriction on the business the credit union may carry on;

(c) amalgamate other than pursuant to section 472 may require amalgamation;

(d) apply for continuance pursuant to Division 3; or

(e) sell, lease or exchange all or substantially all of its property pursuant to Division 4.

(2) A holder of investment shares of any class or series of investment shares entitled to vote pursuant to section 298 may dissent if the credit union resolves to amend its articles in a manner described in that section.

(3) A dissenting member or shareholder must send to the credit union, at or before any meeting of members or meeting of shareholders at which a resolution mentioned in subsection (1) or (2) is to be voted on, a written objection to the resolution, unless the credit union did not give notice to the member or shareholder of the purpose of the meeting and of the right to dissent.

(4) A dissenting member is deemed to have given notice of intent to withdraw from the credit union pursuant to this section if the resolution is passed.

(5) A dissenting shareholder is deemed to have claimed pursuant to this section on behalf of all investment shares in a class held by the shareholder if the resolution is passed.

(6) Not later than 10 days after the members and shareholders have adopted the resolution, the credit union shall send to each dissenting member and shareholder notice that the resolution has been adopted.

(7) Not later than 21 days after receiving the notice pursuant to subsection (6), or if no notice is received, not later than 21 days after learning that the resolution was adopted, a dissenting member or shareholder may send to the credit union a written notice that contains:

(a) the person's name and address;

(b) if the person is a shareholder, the number of investment shares and the class or classes of the shares held; and

(c) a demand:

(i) in the case of a dissenting member, for withdrawal from the credit union, for payment of all membership shares at their fair value and for repayment of any other interest held by the member in the credit union, fair value being determined on the day before the resolution was adopted; and

(ii) in the case of a dissenting shareholder, for payment of the fair market value of all investment shares of each class held by the shareholder, fair market value being determined on the day before the resolution was adopted.

(8) Notwithstanding the articles, the bylaws or section 68, a dissenting member who has sent a demand pursuant to subsection (7) does not have the right to vote at a meeting of the credit union after having sent the notice.

(9) Notwithstanding the articles, the bylaws or section 124, the member is entitled to be paid the fair value of his or her membership shares in the credit union in accordance with this section or an order of the court pursuant to section 318.

(10) Not later than 30 days after sending the notice pursuant to subsection (7), a dissenting shareholder shall send the certificates representing the investment shares held in the credit union to the credit union or to its transfer agent.

(11) A dissenting shareholder who fails to comply with subsection (10) has no right to claim pursuant to this section.

(12) Each certificate sent pursuant to subsection (10) must be endorsed by the credit union or its transfer agent with a notice that the holder is a dissenting shareholder and must be returned to the shareholder.

(13) On sending a notice pursuant to subsection (7), a member's rights as a member, and a shareholder's rights as a shareholder, other than the right to be paid in accordance with subsection (7), are suspended.

(14) The rights of the member or shareholder are reinstated as of the date of the notice mentioned in subsection (7) if:

(a) the dissenting member or shareholder withdraws the demand made pursuant to clause (7)(c) before the credit union makes an offer pursuant to subsection (15);

(b) the credit union fails to make an offer in accordance with subsection (15) and the dissenting member or shareholder withdraws his or her notice; or

(c) the board revokes a resolution to amend the articles pursuant to subsection 297(2), terminate an amalgamation agreement pursuant to subsection 305(8) or an application for continuance pursuant to subsection 312(6), or abandon a sale, lease or exchange pursuant to subsection 313(7).

(15) Not later than seven days after the later of the day on which the resolution pursuant to subsection (1) or (2) is effective or the day the credit union receives the notice pursuant to subsection (7), the credit union shall send to each dissenting member or shareholder:

(a) a written offer to pay the amount determined in accordance with subsection (7) and a statement showing how the amount was calculated; or

(b) a statement describing the limitations imposed by section 317.

(16) Every offer for membership shares must be on the same terms and every offer for the same class or series of investment shares must be on the same terms.

(17) Subject to section 317, a credit union must pay to the dissenting member or shareholder the amount offered pursuant to subsection (15) not later than 10 days after acceptance, but the offer lapses if it is not accepted within 30 days after being made.

1998, c.C-45.2, s.315.

Application to court

316(1) If the dissenting member or shareholder fails to accept the offer made pursuant to section 315, the credit union may, not later than 50 days after the resolution is approved or any later time that the court may allow, apply to the court to fix the amount to be paid pursuant to subsection 315(7).

(2) If the credit union fails to make an application pursuant to subsection (1), or fails to make an offer pursuant to subsection 315(15) within the period set out in that subsection, a dissenting member or shareholder may, not later than 20 days after the end of that period, make an application for the same purpose.

(3) An application pursuant to subsection (1) or (2) may be made to the court in the judicial centre where the registered office of the credit union is located or in the judicial centre where the dissenting member or shareholder resides if the credit union carries on business in that judicial centre.

(4) On an application pursuant to subsection (1) or (2), all dissenting members and shareholders whose shares or other interests have not been purchased are joined as parties and the credit union must notify them, advising each of them of the right to participate in, and the consequences of, the application.

(5) No dissenting member or shareholder is required to give security for costs in the application.

(6) On an application pursuant to subsection (1) or (2), the court:

(a) shall determine who is a dissenting member or shareholder and fix the amount to be paid pursuant to subsection 315(7); and

(b) may make any other order that the court thinks fit.

(7) If section 317 applies, the credit union must, not later than 10 days after the determination pursuant to subsection (6), give notice to each dissenting member and shareholder that section 320 applies.

(8) If section 317 applies:

(a) a dissenting member or shareholder, not later than 30 days after receiving the notice pursuant to subsection (7), may by notice to the credit union withdraw the notice of demand, in which case the member is reinstated as a member or the shareholder is reinstated as a shareholder; or

(b) if no notice is given to the credit union pursuant to clause (a), the dissenting member or shareholder retains the status of a claimant to be paid as soon as the credit union may lawfully do so or, in liquidation, to be paid in priority to the remaining members and shareholders.

1998, c.C-45.2, s.316.

Limitation on payment to dissenters

317 Notwithstanding any other provision of this Part, a credit union shall not make a payment to a dissenting member or shareholder pursuant to this Division unless:

(a) CUDGC, in accordance with section 124, approves the share redemption or purchase; and

(b) the payment would not put the credit union in contravention of section 121 or 122.

1998, c.C-45.2, s.317.

DIVISION 6
Arrangement

Arrangement

318(1) In this section, **"arrangement"** includes:

(a) an amendment to the articles of a credit union;

(b) an amalgamation of two or more credit unions;

(c) an amalgamation of an entity with a credit union that results in the formation of an amalgamated credit union that is subject to this Act;

(d) a sale, lease or exchange of all or substantially all of the property of a credit union to another entity in exchange for property, money or securities of the entity;

(e) an exchange of securities or shares of a credit union held by a security holder or shareholder for property, money or other securities or shares of the credit union or property, money, shares or securities of another entity;

(f) a liquidation and dissolution of a credit union;

(g) a continuance pursuant to this Act; or

(h) any combination of the matters described in clauses (a) to (g).

(2) Where it is not practicable for a credit union that is not insolvent to effect a fundamental change in the nature of an arrangement pursuant to any other provision of this Act, the credit union may apply to the court for an order approving an arrangement proposed by the credit union.

(3) Where the court receives an application pursuant to this section, the court may make any interim or final order that the court considers appropriate, including:

(a) an order determining the notice to be given to any interested person or dispensing with notice to any person other than the registrar or CUDGC;

(b) an order appointing counsel, at the expense of the credit union, to represent the interests of the members and shareholders;

(c) an order requiring a credit union to call, hold and conduct a meeting of members or shareholders or holders of other securities or options or rights to acquire securities in any manner that the court directs;

(d) an order approving an arrangement as proposed by the credit union or as amended in any manner that the court may direct.

(4) An applicant pursuant to this section shall give the registrar and CUDGC notice of the application, and the registrar and CUDGC are entitled to appear and be heard in person or by counsel.

(5) After an order mentioned in clause (3)(d) is made, the credit union shall send the articles of arrangement in the form prescribed in the regulations to the registrar and CUDGC.

(6) Where the registrar receives articles of arrangement pursuant to subsection (5), he or she shall issue a certificate of arrangement in accordance with section 422.

(7) An arrangement becomes effective on the day shown in the certificate of arrangement.

(8) Without the consent of the registrar or CUDGC, the court may not make any order requiring a credit union to do a thing if this Act or the regulations require credit unions to obtain the approval of the registrar or CUDGC to do the thing.

1998, c.C-45.2, s.318.

PART XVII
Remedies

Interpretation of Part

319 In this Part:

(a) **"action"** means an action pursuant to this Act;

(b) **"complainant"** means:

(i) a member or former member of a credit union;

(ii) a registered holder or beneficial owner, or a former registered holder or beneficial owner, of a security of a credit union or any of its affiliates;

(iii) a director or an officer, or a former director or officer, of a credit union or any of its affiliates;

(iv) a creditor of a credit union;

(v) the registrar;

(vi) CUDGC; or

(vii) any other person who, in the opinion of the court, is a proper person to make an application pursuant to this Part.

1998, c.C-45.2, s.319.

Commencement of derivative action

320(1) Subject to subsection (2), a complainant may apply to the court for leave to bring an action in the name and on behalf of a credit union or any of its affiliates, or to intervene in an action to which the credit union or any of its affiliates is a party, for the purpose of prosecuting, defending or discontinuing the action on behalf of the credit union or affiliate.

(2) No person may bring an action and no person may intervene in an action brought pursuant to subsection (1) unless the court is satisfied that:

(a) if the directors of the credit union or its affiliate do not bring, diligently prosecute, defend or discontinue the action, the complainant has given reasonable notice to the directors of the credit union or its affiliate of the complainant's intention to apply to the court pursuant to subsection (1);

(b) the complainant is acting in good faith; and

(c) it appears to be in the interests of the credit union or its affiliate to bring, prosecute, defend or discontinue the action.

(3) In an action brought or intervened in pursuant to this section, the court may make any order it considers appropriate, including an order:

(a) authorizing the complainant or any other person to control the conduct of the action;

(b) giving directions for the conduct of the action;

(c) directing that an amount adjudged payable by a defendant in the action be paid, in whole or in part, directly to a former or present member or to a former or present security holder of the credit union or its affiliate instead of to the credit union or its affiliate; or

(d) requiring the credit union or its affiliate to pay reasonable costs incurred by the complainant in connection with the action.

(4) At the time of making an application to the court pursuant to this section, a complainant, other than the registrar or CUDGC, shall provide the registrar and CUDGC with a written notice of the application.

(5) The registrar and CUDGC are entitled to appear and be heard at any application they receive notice of pursuant to subsection (4).

1998, c.C-45.2, s.320.

Application to court re oppression

321(1) A complainant may apply to the court for an order pursuant to this section.

(2) If the court receives an application pursuant to subsection (1), the court may order the rectification of the matters complained of if the court is satisfied that:

(a) an act or omission of a credit union effects a result that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of a member or shareholder or other security holder, creditor, director or officer of the credit union;

(b) the business or affairs of the credit union are or have been carried on or conducted in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of a member or shareholder or other security holder, creditor, director or officer of the credit union; or

(c) the powers of the directors are or have been exercised in a manner, that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of a member or shareholder or other security holder, creditor, director or officer of the credit union.

(3) For the purpose of subsection (2) and subject to subsection (4), the court may make any order that it considers appropriate, including an order:

(a) restraining the conduct complained of;

(b) with the consent of CUDGC, appointing a receiver or receiver-manager;

(c) requiring the credit union to amend an agreement with members or shareholders generally or with a member or shareholder;

(d) regulating the affairs of the credit union by amending its articles or bylaws;

(e) directing an issue or exchange of securities;

(f) directing changes in the directors;

(g) determining whether a person is or is not qualified to be a member;

(h) determining any matter in regard to the relations between the credit union and a member or shareholder or other security holder;

(i) determining whether the credit union is carrying on business as a credit union in accordance with this Act;

(j) subject to sections 121, 122, 124 and 139, directing the credit union or any other person to purchase securities of a security holder;

(k) subject to sections 121, 122, 124 and 139, directing the credit union or any other person to pay to a security holder any part of the money paid by the security holder for securities;

(l) subject to section 124, directing the credit union to redeem shares, to repay subordinated indebtedness or to pay to a member any other amount standing to the member's credit in the records of the credit union;

(m) varying or setting aside a transaction or contract to which the credit union is a party and compensating the credit union or any other party to the transaction or contract;

(n) directing the production and delivery within a specified time of financial statements of the credit union;

(o) directing an accounting;

(p) compensating an aggrieved person;

(q) directing rectification of the registers or other records of the credit union pursuant to section 323;

(r) liquidating and dissolving the credit union;

(s) directing a special audit or an investigation pursuant to Part XIX; or

(t) requiring the trial of an issue.

(4) Without the consent of the registrar or CUDGC, the court may not make any order requiring a credit union to do a thing if this Act or the regulations require credit unions to obtain the approval of the registrar or CUDGC to do the thing.

(5) If an order made pursuant to this section directs an amendment of the articles or bylaws of a credit union:

(a) the directors, members and shareholders must comply with subsection 318(5); and

(b) no other amendment to the articles or bylaws may be made without the consent of the court, until the court orders otherwise.

(6) A member or shareholder is not entitled to dissent pursuant to Division 5 of Part XVI if an amendment to the articles is effected pursuant to this section.

(7) A complainant may apply for an order pursuant to section 331 instead of the order pursuant to this section.

1998, c.C-45.2, s.321.

Evidence of member or shareholder approval not decisive

322(1) No application made and no action brought or intervened in pursuant to this Part is to be stayed or dismissed by reason only that it is shown that an alleged breach of a right or duty owed to the credit union or any of its affiliates has been or may be approved by the members or shareholders, but evidence of approval by the members or shareholders may be taken into account by the court in making an order pursuant to section 331 or this Part.

(2) No application made and no action brought or intervened in pursuant to this Part is to be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given on any terms that the court considers appropriate.

(3) If the court determines that the interests of a complainant may be substantially affected by a stay, discontinuance, settlement or dismissal mentioned in subsection (2), the court may order any party to the application or action to give notice of the application or action to the complainant.

(4) A complainant is not required to give security for costs in an application made or action brought or intervened in pursuant to this Part.

(5) In an application made or an action brought or intervened in pursuant to this Part, the court may, at any time, order the credit union or its affiliate to pay to the complainant interim costs, including legal fees and disbursements, but the complainant may be held accountable for any interim costs so paid on the final disposition of the application or action.

1998, c.C-45.2, s.322.

Application to court to rectify records

323(1) If the name of a person is alleged to be or to have been wrongly entered or retained in or wrongly deleted or omitted from the registers or other records of a credit union, the credit union, a member, a security holder of the credit union or any aggrieved person may apply to the court for an order that the registers or records be rectified.

(2) On an application made pursuant to this section, the court may make any order it considers appropriate, including an order:

(a) requiring the registers or records of the credit union to be rectified;

(b) restraining the credit union from calling or holding a meeting or allocating or paying a dividend or interest on shares or a patronage return before rectification of the registers or records;

(c) determining the right of a party to the proceedings to have the party's name entered or retained in or deleted or omitted from the registers or records of the credit union, whether the issue arises between two or more members, shareholders or security holders, or alleged members, shareholders or security holders, or between the credit union and a member, shareholder or security holder or alleged member, shareholder or security holder; or

(d) compensating a party who has incurred a loss by reason of the wrongful entry, retention, deletion or omission.

1998, c.C-45.2, s.323.

Compliance or restraining order

324(1) If a credit union or any director, officer, employee, agent, auditor, trustee, receiver, receiver-manager or liquidator of a credit union does not comply with this Act, the regulations, the articles, the bylaws, or any of the standards of sound business practice, a complainant may, in addition to any other right, apply to a court for an order directing that person to comply with or restraining them from acting in contravention of this Act, the regulations, the articles, the bylaws or the standard of sound business practice.

(2) On an application pursuant to subsection (1), the court may order compliance and make any other order it thinks fit.

(3) At the time of making an application to the court pursuant to this section, a complainant, other than the registrar or CUDGC, shall provide the registrar and CUDGC with a written notice of the application.

(4) The registrar and CUDGC are entitled to appear and be heard at any application made pursuant to subsection (1).

1998, c.C-45.2, s.324.

Revival

325(1) Where a credit union is dissolved pursuant to this Part, any interested person may apply to the registrar to have the credit union revived.

(2) Along with an application made pursuant to subsection (1), a person shall send articles of revival in the form prescribed in the regulations.

(3) On receipt of articles of revival that comply with this Act and the regulations, the registrar shall issue a certificate of revival in accordance with section 422 and may impose any terms and conditions the registrar considers reasonable on the revival.

(4) The credit union is revived on the date shown on the certificate of revival.

(5) Subject to any terms and conditions imposed by the registrar pursuant to subsection (3) and to the rights of any person acquired after the dissolution, on and after revival of the credit union, the credit union has all the rights and privileges, and is liable for all the obligations that it would have been liable for, as if it had not been dissolved.

1998, c.C-45.2, s.325.

PART XVIII
Dissolution and Liquidators

DIVISION 1
Dissolution

Application of Part

326 Where a credit union is at any time found in a proceeding pursuant to the *Bankruptcy and Insolvency Act* (Canada) to be bankrupt within the meaning of that Act, this Part does not apply to that credit union, and any proceedings taken pursuant to this Part to dissolve the credit union are to be stayed.

1998, c.C-45.2, s.326.

Dissolution by members and shareholders

327(1) Subject to the approval of the registrar, the members and shareholders of a credit union may authorize, by special resolution of the members and by special resolution of the shareholders, the dissolution of the credit union.

(2) The credit union shall notify CUDGC on making an application for the registrar's approval mentioned in subsection (1).

(3) The board shall cause a notice of a meeting of members and shareholders to be sent in the manner prescribed in section 79 to each member and shareholder for the purpose of authorizing dissolution.

(4) Each investment share of the credit union carries the right to vote with respect to the dissolution whether or not it otherwise carries the right to vote.

(5) The members may appoint a liquidator in the special resolution authorizing dissolution.

(6) For the purpose of subsection (1), dissolution is authorized when:

(a) the members approve the dissolution by a special resolution; and

(b) the shareholders approve the dissolution by a special resolution.

(7) The authorization approved pursuant to subsection (6) must set out:

(a) the assets and liabilities of the credit union; and

(b) the claims of any creditors;

1998, c.C-45.2, s.327.

Notice of dissolution by members

328(1) When the registrar approves the special resolutions passed pursuant to subsection 327(1), the registrar shall cause a notice of the special resolution to be published once a week for two weeks in:

(a) the Gazette; and

(b) a newspaper having general circulation in the district where the registered office of the credit union is located.

(2) The credit union shall pay for publishing the notice in accordance with subsection (1).

(3) Notwithstanding subsection (1), where the registrar receives an affidavit from the officers of a credit union stating that the credit union has no assets and no liabilities and the registrar is satisfied that the dissolution is appropriate, the registrar may:

(a) exempt the credit union from subsections (1) and (2); and

(b) cause at the expense of the credit union a notice of the special resolution passed pursuant to subsection 327(1) to be published in the Gazette.

(4) The registrar may require from a credit union or liquidator appointed by a credit union or any other person who is required to furnish information, an annual or other return showing:

(a) the progress of dissolution;

(b) the distribution of any surplus or reserve; and

(c) any other information that the registrar may require.

1998, c.C-45.2, s.328.

Dissolution by registrar

329(1) The registrar shall send to the secretary of a credit union a letter inquiring whether the credit union is carrying on business, is in operation or is submitting an annual return where the registrar has reasonable cause to believe that the credit union:

(a) has not carried on business for two consecutive years; or

(b) is in default for one year or more in sending the registrar or CUDGC any fee, notice or document required by this Act or the regulations.

(2) The registrar shall send a copy of the letter mentioned in subsection (1) to CUDGC.

(3) Where the registrar does not, within one month of the date the registrar sent a letter pursuant to subsection (1), receive an answer to the letter, the registrar shall, within 14 days after the expiry of the month, send to the secretary of the credit union a letter referring to the letter sent pursuant to subsection (1) and stating that:

(a) no answer to that letter has been received by the registrar; and

(b) if an answer is not received to the letter sent pursuant to this subsection within one month from the date it is sent, a notice will be published in the Gazette to strike the name of the credit union off the register and to dissolve the credit union.

(4) The registrar may publish in the Gazette and send to the credit union a notice that, at the expiry of one month from the date of that notice, the credit union will, unless cause is shown to the contrary, be struck off the register and the credit union will be dissolved, where the registrar:

(a) receives an answer from the credit union that it is not carrying on business or is not in operation or will not be submitting an annual return; or

(b) does not, within one month after the date that he or she sent a letter pursuant to subsection (3), receive an answer to that letter.

(5) At the expiry of the period mentioned in a notice sent pursuant to subsection (4), the registrar may, unless cause to the contrary is previously shown by the credit union:

(a) where the registrar is satisfied that the credit union has no assets or liabilities, issue, in accordance with section 422, a certificate of dissolution in the form prescribed in the regulations; or

(b) appoint a liquidator to dissolve the credit union.

(6) Where a credit union has not obtained an order to commence business pursuant to section 25 within two years after the date shown on its certificate of incorporation, the registrar shall:

(a) where the registrar is satisfied that the credit union has no assets or liabilities, issue, in accordance with section 422, a certificate of dissolution in the form prescribed in the regulations; or

(b) appoint a liquidator to dissolve the credit union.

1998, c.C-45.2, s.329.

Dissolution for failure to account for business transacted

330(1) The registrar may require the board to call a special meeting of the credit union for the purpose of considering the business transacted during the preceding financial year and for the purpose of furnishing to the members and to the registrar a copy of the annual financial statements where a credit union fails to furnish a copy of the annual financial statements to its members:

(a) at an annual or special meeting called for that purpose; or

(b) within 12 months after the close of its financial year.

(2) Where the registrar requires a special meeting to be held pursuant to subsection (1), the registrar shall determine a period within which the special meeting is to be called.

(3) Where the board fails to call a special meeting within the period determined pursuant to subsection (2), the registrar may call the special meeting:

(a) to review the financial position of the credit union and the members' interests in the credit union; and

(b) to ascertain whether the members desire to continue the credit union and to comply with sections 259, 262 and 406.

(4) The registrar may notify the board that, unless the credit union complies with sections 259, 262 and 406 within one month from the date of the notice, the credit union will be struck off the register and dissolved where:

(a) a quorum of members is not present at a special meeting called pursuant to subsection (1) or (3); or

(b) the members fail to pass a resolution to the effect that the credit union is to carry on business and to comply with sections 259, 262 and 406.

(5) Notwithstanding subsection (4), the registrar may extend the period for compliance with sections 259, 262 and 406.

(6) Where a credit union does not comply with sections 259, 262 and 406 within the period mentioned in subsection (4) or set by the registrar pursuant to subsection (5), the registrar may:

(a) where the registrar is satisfied that the credit union has no assets or liabilities, issue, in accordance with section 422, a certificate of dissolution in the form prescribed in the regulations; or

(b) appoint a liquidator to dissolve the credit union.

1998, c.C-45.2, s.330.

Dissolution by court order

331(1) The registrar, CUDGC or an interested person may, after giving the credit union three months' notice of the proposed application, apply to the court for an order dissolving a credit union, where the credit union:

(a) obtained its incorporation by fraud or mistake;

(b) exists for an illegal purpose;

(c) has wilfully, after notice by the registrar, contravened any provision of this Act or its articles;

(d) is not acting in compliance with this Act, the regulations or the standards of sound business practice;

(e) has the number of its members reduced below the minimum number required in this Act for the incorporation of the credit union;

(f) has failed to comply with an order of the registrar issued pursuant to section 404 or an order of CUDGC issued pursuant to section 464; or

(g) is, in the opinion of CUDGC, no longer viable.

(2) Where an interested person applies pursuant to this section, the interested person shall give the registrar and CUDGC notice of his or her application and the registrar and CUDGC are entitled to appear and be heard in person or by counsel.

(3) Where the registrar applies pursuant to this section, the registrar shall give notice to CUDGC of the registrar's application.

(4) Where the court receives an application pursuant to this section, it may order that the credit union be dissolved in accordance with this Part.

(5) Where the registrar receives an order made pursuant to subsection (4), the registrar shall publish a notice in the Gazette.

1998, c.C-45.2, s.331.

Distribution on dissolution

332(1) In this section, **"remaining property of the credit union"** means the remaining property of the credit union to be distributed on dissolution of the credit union after the payment of:

(a) all debts and liabilities, including any declared and unpaid dividends;

(b) the amount to be paid to the holders of any investment shares; and

(c) the amount to be paid on the redemption of membership shares.

(2) The articles may provide that the remaining property of the credit union be distributed or disposed of to any person, including distribution:

(a) among the members at the time of dissolution, in any manner, including equally among the members irrespective of the number of membership shares held by a member;

(b) among the members at the time of dissolution on the basis of business transacted with those members during a stated period before the dissolution.

(3) If the articles do not provide for the distribution of the remaining property of the credit union on dissolution, the remaining property of the credit union is to be paid, in the manner provided in the members' resolution authorizing the dissolution, to:

(a) a non-profit corporation, society, organization or association established for charitable or benevolent purposes; or

(b) another credit union.

(4) Where the members' resolution authorizing the dissolution makes no provision for payment of the remaining property of the credit union as described in subsection (3), the remaining property of the credit union is to be paid to CUDGC.

1998, c.C-45.2, s.332.

Appointment of liquidator

333 Where a credit union is to be dissolved pursuant to this Part and no liquidator is appointed by the members or the court:

(a) CUDGC may appoint any person as a liquidator to wind up the affairs of the credit union; or

(b) where the registrar is satisfied that the credit union has no assets and liabilities, the registrar may issue, in accordance with section 422, a certificate of dissolution in the form prescribed in the regulations.

1998, c.C-45.2, s.333.

Commencement of dissolution

334 The dissolution of a credit union commences when:

(a) the registrar approves, pursuant to section 327, the special resolution or the special resolutions for the dissolution of the credit union;

(b) the registrar appoints a liquidator pursuant to section 329 or 330; or

(c) the court makes an order to dissolve pursuant to section 321 or 331.

1998, c.C-45.2, s.334.

Cessation of business

335 From the date of the commencement of its dissolution:

(a) a credit union continues in existence, but shall cease to carry on its business except insofar as may be required, in the opinion of the liquidator, for an orderly dissolution; and

(b) any transfer of shares, other than a transfer made to or with the approval of the liquidator, and any alteration in the status of the members made after the commencement of the dissolution is void.

1998, c.C-45.2, s.335.

Supervised dissolution

336(1) Any interested person may, at any time during the dissolution of a credit union, apply to the court for an order that the dissolution be continued under the supervision of the court, and, on the application, the court may make that order and any further order it thinks fit.

(2) An applicant pursuant to subsection (1) shall:

(a) give the registrar and CUDGC notice of the application; and

(b) make an affidavit stating the reasons why the court should supervise the dissolution.

(3) If a court makes an order applied for pursuant to subsection (1), the dissolution of the credit union continues under the supervision of the court in accordance with this Act.

(4) The registrar and CUDGC are entitled to appear and be heard at every application made pursuant to this section.

1998, c.C-45.2, s.336.

General provisions respecting liquidators

337(1) Where two or more liquidators are appointed, all the provisions in this section with respect to a liquidator apply to all of the liquidators.

(2) CUDGC may be appointed as a liquidator.

(3) On the appointment of a liquidator pursuant to this Part, all the powers of the board vest in the liquidator.

(4) A liquidator may delegate any of the powers vested in the liquidator pursuant to subsection (3) to the directors or members.

(5) Where the members and shareholders appoint a liquidator, they may, at that time or at a subsequent meeting, pass a resolution giving directions to the liquidator with respect to the disposal of the property of the credit union.

(6) Where the members and shareholders appoint a liquidator and do not issue directions pursuant to subsection (5) or a liquidator is not appointed by the members and shareholders, the liquidator is subject to the directions, orders and instructions of the registrar and CUDGC with respect to the mode in and the terms and conditions on which the liquidator may dispose of the whole or any part of the property of the credit union.

(7) CUDGC may apply to the court for an order:

(a) to remove a liquidator who is not, in the opinion of CUDGC, acting in the best interests of the credit union or its members or shareholders; and

(b) to appoint CUDGC as liquidator.

(8) Where a vacancy in the office of liquidator occurs, the registrar may appoint another person to fill the vacancy.

(9) In all proceedings connected with the credit union, the liquidator is to be described as the liquidator of the (*name of credit union*), and not by his or her individual name only.

(10) A liquidator appointed pursuant to this Division is governed by Division 2.

1998, c.C-45.2, s.337.

Continuation of actions

338(1) Notwithstanding the dissolution of a credit union pursuant to this Act:

(a) a civil, criminal or administrative action or proceeding commenced by or against the credit union before its dissolution may be continued as if the credit union had not been dissolved;

(b) subject to *The Limitations Act*, a civil, criminal or administrative action or proceeding may be brought against the credit union within two years after its dissolution as if the credit union had not been dissolved; and

(c) any property that would have been available to satisfy any judgment or order if the credit union had not been dissolved remains available for that purpose.

(2) Service of a document on a credit union after its dissolution may be effected by serving the document on the person, mentioned in section 346, having custody of the records of the credit union.

(3) Notwithstanding the dissolution of a credit union, a person to whom any of its property has been distributed is liable to any person claiming pursuant to subsection (1) to the extent of the amount received by that person on the distribution with respect to any share of the credit union that person held and, subject to *The Limitations Act*, an action to enforce that liability may be brought within two years after the date of dissolution of the credit union.

1998, c.C-45.2, s.338; 2004, c.L-16.1, s.45.

Unknown claimants or shareholders

339(1) On the dissolution of a credit union, the liquidator shall:

(a) convert into money the portion of the property distributable to a creditor, member or shareholder who cannot be found after a reasonable investigation;

(b) distribute the assets of the credit union in accordance with section 332; and

(c) deposit any remaining money with CUDGC.

(2) A deposit pursuant to subsection (1) is deemed to be in satisfaction of a debt or claim of a creditor or shareholder mentioned in that subsection.

(3) Where a member or creditor establishes within six years after the dissolution of a credit union that the member or creditor is entitled to any moneys deposited with CUDGC pursuant to subsection (1), CUDGC shall pay the amount of the member's or creditor's claim out of the moneys deposited.

(4) Where moneys deposited pursuant to this section are not distributed within six years after the dissolution of a credit union, those moneys, subject to the approval of the registrar, become the property of CUDGC.

1998, c.C-45.2, s.339.

DIVISION 2
Liquidators

Liquidator

340 Where a liquidator is appointed pursuant to this Act, the liquidator shall:

(a) exercise all of the powers of the board of the credit union, and the board shall cease to exercise its powers; and

(b) perform all of the duties set out in this Division.

1998, c.C-45.2, s.340.

Duties of liquidator

341 On a liquidator's appointment, the liquidator shall:

(a) immediately give notice of the liquidator's appointment:

(i) in the case of a liquidator not appointed by the registrar, to the registrar;

(ii) in the case where CUDGC is not the liquidator, to CUDGC;

(iii) to each claimant and creditor of the credit union known to the liquidator; and

(iv) to each member, in a newspaper having general circulation in the places where members are resident;

(b) immediately publish notice of his or her appointment once a week for two consecutive weeks in:

(i) the Gazette; and

(ii) a newspaper having general circulation in the place where the credit union has its registered office;

(c) take any steps that the liquidator considers reasonable to give notice of the dissolution in every jurisdiction where the credit union carries on business;

(d) place in the notices mentioned in clauses (a) to (c) a provision requiring any person who:

(i) is indebted to the credit union to render an account and pay to the liquidator at the time and place specified any amount owing;

(ii) possesses property of the credit union to deliver it to the liquidator at the time and place specified; and

(iii) has a claim against the credit union, whether liquidated, unliquidated, future or contingent, to present particulars of the claim in writing to the liquidator not later than two months after the first publication of the notice;

(e) take into the liquidator's custody and control the property of the credit union;

(f) open and maintain a trust account for the moneys of the credit union;

(g) keep accounts of the moneys of the credit union received and paid out by the liquidator;

(h) maintain separate lists of the members, shareholders, creditors and other persons having claims against the credit union;

(i) where at any time the liquidator determines that the credit union is unable to pay or adequately provide for the discharge of its obligations, apply to the court for directions; and

(j) deliver to the registrar and, if the liquidator is not CUDGC, to CUDGC, at least once in each month after the liquidator's appointment, a report on his or her progress in any form that the registrar may require.

1998, c.C-45.2, s.341.

Powers of liquidator

342(1) The liquidator may:

(a) retain lawyers, accountants, engineers, appraisers and other professional advisers;

(b) bring, defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the credit union;

(c) carry on the business of the credit union as required for an orderly dissolution;

(d) sell by public auction or private sale any property of the credit union;

(e) do all acts and execute any documents in the name and on behalf of the credit union;

(f) borrow money on the security of the property of the credit union;

(g) settle or compromise any claim by or against the credit union;

(h) where the liquidator is not CUDGC, assign all or any of its powers to CUDGC; and

(i) do all other things that the liquidator considers necessary for the dissolution of the credit union and distribution of its property.

(2) Where a liquidator has reason to believe that any person has in his or her possession or under his or her control or has concealed, withheld or misappropriated any property of the credit union, the liquidator may apply to the court for an order requiring that person to appear before the court at the time and place designated in the order and to be examined with respect to that property.

(3) Where the examination mentioned in subsection (2) discloses that a person has concealed, withheld or misappropriated property of the credit union, the court may order that person to restore the property or pay compensation to the liquidator on behalf of the credit union.

(4) Subject to the approval of the registrar, no liquidator shall purchase, directly or indirectly, any part of the debts or assets of the credit union.

1998, c.C-45.2, s.342.

Limitation on liability

343 A liquidator is not liable where the liquidator relies in good faith on:

(a) financial statements of the credit union represented to the liquidator by:

(i) an officer of the credit union; or

(ii) the auditor of the credit union in a written report that states that the financial statements reflect fairly the financial condition of the credit union; or

(b) an opinion, a report or a statement of a lawyer, an accountant, an engineer, an appraiser or another professional adviser reasonably retained by the liquidator.

1998, c.C-45.2, s.343.

Costs of dissolution, distribution of assets

344(1) After the date mentioned in subclause 341(d)(iii), the liquidator may distribute all or any part of the assets of the credit union among the parties entitled to the assets, having regard to the claims of which the liquidator has notice, in accordance with subsection (3).

(2) The liquidator is not liable for any part of the assets of the credit union distributed pursuant to subsection (1) to any person of whose claim the liquidator did not have notice at the time of distribution.

(3) When distributing the assets of a credit union pursuant to this section, the liquidator shall make payments in the following order of priority:

(a) the costs of the dissolution;

(b) the wages or salaries of all persons, other than directors, who were employed by the credit union on the day that the dissolution commenced or in the period of one month preceding the commencement of the dissolution, in an amount of not more than three months' wages or salary, and those persons are entitled to rank as ordinary or general creditors of the credit union for any residue of their claims;

(c) secured creditors of the credit union;

(d) holders of deposits in the amount of their deposits;

(e) CUDGC;

(f) unsecured creditors of the credit union;

(g) subordinated indebtedness;

(h) shares in accordance with their respective rights.

1998, c.C-45.2, s.344.

Final account and certificate of dissolution

345(1) After paying or, to the extent of available assets, making adequate provision for all claims against the credit union, the liquidator shall apply to the registrar for:

(a) approval of the liquidator's final accounts; and

(b) permission to distribute in money or in kind the remaining property of the credit union in accordance with this Act or the articles.

(2) Where the liquidator has not paid or made adequate provision for all claims against the credit union within one year of the liquidator's appointment, the liquidator shall apply to the registrar for an extension of time to complete the liquidator's responsibilities, setting out the reasons for the extension of time.

(3) Where the registrar approves the final accounts rendered by a liquidator pursuant to subsection (1), the registrar shall:

(a) issue directions with respect to the custody or disposal of the documents and records of the credit union; and

(b) discharge the liquidator.

(4) Where the registrar discharges a liquidator pursuant to subsection (3), the registrar shall issue a certificate of dissolution in the manner provided in section 422.

(5) The credit union ceases to exist on the date shown in the certificate of dissolution.

1998, c.C-45.2, s.345.

Custody of records

346(1) A person who has been granted custody of the documents and records of a dissolved credit union pursuant to clause 345(3)(a) remains liable to produce those documents and records for six years following the date of its dissolution or until the expiry of any other shorter period that the registrar may determine.

(2) Any member or shareholder may inspect the documents and records mentioned in subsection (1), including the final accounts of the liquidator, that relate to the member's or shareholder's own accounts.

1998, c.C-45.2, s.346.

PART XIX
Audits, Examinations and Inspections

Special audit

347(1) The registrar or CUDGC, with notice to each other, may appoint an auditor.

(2) An auditor appointed pursuant to this section shall:

(a) make a special audit of the books of the credit union and examine the business and affairs of the credit union; and

(b) make available his or her report to the registrar and CUDGC.

(3) The credit union shall pay the expenses incidental to a special audit undertaken pursuant to this section.

(4) Section 286 applies to an auditor appointed pursuant to this section.

1998, c.C-45.2, s.347.

Examinations

348(1) The registrar or CUDGC may:

(a) make examinations of the business and affairs of any credit union; and

(b) make inquiries of any person in the course of those examinations relating to any aspect of the credit union's or its affiliate's business and affairs and relating to compliance with this Act and the regulations.

(2) The registrar, CUDGC or the auditor appointed pursuant to section 347 may:

(a) access any records, cash, assets and security within the control of a credit union or its affiliates; and

(b) request any person to provide records, information and explanations respecting the condition and business and affairs of the credit union and its affiliates.

1998, c.C-45.2, s.348.

Investigations

349(1) On notice to the registrar and CUDGC and on any other notice that the court may require, a member may apply to the court at the judicial centre where the credit union has its registered office, for an order directing that an investigation be made of the credit union and any of its affiliates.

(2) On an application pursuant to subsection (1), the court may order an investigation of a credit union or of any of its affiliates where it appears to the court that:

(a) the credit union is not fulfilling the purposes stated in its articles;

(b) the credit union is not carrying on business in accordance with:

(i) the restrictions contained in its articles; or

(ii) this Act, the regulations or the bylaws;

(c) the credit union is not organized or being operated on a co-operative basis;

(d) the business of the credit union or any of its affiliates is or has been carried on with intent to defraud any person;

(e) the business or affairs of the credit union or any of its affiliates are or have been carried on or conducted, or the powers of the directors are or have been exercised, in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interest of a member or shareholder;

(f) the credit union or any of its affiliates was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose; or

(g) persons concerned with the formation, business or affairs of the credit union or any of its affiliates have acted fraudulently or dishonestly in connection with the credit union.

(3) An applicant pursuant to this section is not required to give security for costs.

(4) An application pursuant to this section shall be heard with the public excluded.

(5) No person may publish anything relating to proceedings conducted pursuant to this section other than with the authorization of the court or the written consent of the credit union being investigated.

(6) The registrar and CUDGC are entitled to appear and be heard at any application they receive notice of pursuant to subsection (1).

1998, c.C-45.2, s.349.

Order of court re inspector

350 In connection with an investigation pursuant to section 349, the court may make any order it considers appropriate, including an order:

(a) appointing an inspector, which may be CUDGC, fixing the remuneration of an inspector and replacing an inspector;

(b) determining the notice to be given to any interested person or dispensing with notice to that person;

(c) authorizing an inspector to enter any premises in which the court is satisfied there might be relevant information, and to examine anything and make copies of any document or record found on the premises;

(d) requiring any person to produce documents or records to the inspector;

(e) authorizing an inspector to conduct a hearing, administer oaths and examine any person on oath, and prescribing rules for the conduct of the hearing;

(f) requiring any person to attend a hearing conducted by an inspector and to give evidence on oath;

(g) giving directives to an inspector or any interested person on any matter arising out of the investigation;

(h) requiring an inspector to make an interim or final report to the court or the registrar;

(i) determining whether a report of an inspector made pursuant to clause (h) should be published and, where it is to be published, determining whether:

(i) the report is to be published in whole or in part; or

(ii) copies of the report are to be sent to any person;

(j) requiring an inspector to discontinue an investigation;

(k) requiring the person who applied for an order pursuant to section 349 to pay the costs of the investigation where the complaint is unsubstantiated.

1998, c.C-45.2, s.350.

Powers of inspector

351(1) An inspector appointed pursuant to section 350 has the powers set out in the order appointing the inspector.

(2) In addition to the powers set out in the order appointing an inspector, the inspector may furnish to, or exchange information and otherwise co-operate with, any public official in Canada or elsewhere who is:

(a) authorized to exercise investigatory powers; and

(b) investigating, with respect to the credit union, an allegation of improper conduct that is the same as or similar to the conduct described in subsection 349(2).

1998, c.C-45.2, s.351.

Hearing with public excluded

352(1) Any interested person may apply to the court for an order that a hearing conducted by an inspector appointed pursuant to section 350 be heard with the public excluded and for directions on any matter arising out of the investigation.

(2) A person whose conduct is being investigated or who is being examined at a hearing conducted by an inspector appointed pursuant to section 350 has a right to be represented by counsel.

1998, c.C-45.2, s.352.

Incriminating statements

353(1) No person is excused from attending and giving evidence and producing documents and records to an inspector appointed pursuant to section 350 by reason only that the evidence tends to incriminate that person or subject that person to any proceedings or penalty.

(2) No evidence described in subsection (1) is to be used or is receivable against the person in any proceeding instituted against the person after he or she gives the evidence, other than a prosecution:

(a) for perjury in giving the evidence; or

(b) pursuant to section 134 or 136 of the *Criminal Code* with respect to the evidence.

1998, c.C-45.2, s.353.

Absolute privilege, defamation

354(1) Any oral or written statement or report made by an inspector or other person in connection with any investigation pursuant to this Part has absolute privilege.

(2) This Part is deemed not to affect the privilege that exists with respect to a solicitor and the solicitor's client.

1998, c.C-45.2, s.354.

General powers

355 For the purpose of ensuring that any person governed by this Act is complying with this Act, the registrar may do, in addition to anything mentioned in section 348, all or any of the following:

(a) enter and inspect any commercial premises used by the person;

(b) enter any premises, other than a private dwelling, containing any records or property required to be kept pursuant to this Act or related to the business and affairs of the person and inspect those records or that property.

1998, c.C-45.2, s.355.

Written request

356(1) The registrar may serve a written request on any person, including a director, officer or employee of an entity, requiring that person to produce any records or property required to be kept pursuant to this Act or the regulations or related to the affairs of a person governed by this Act.

(2) A person on whom a written request is served pursuant to this section shall provide the records or property mentioned in the written request within the time specified in the written request.

(3) For the purposes of producing a readable record from a computer system used by a person to whom a written request is made pursuant to subsection (1), the registrar may use any computer hardware or software belonging to or used by that person.

1998, c.C-45.2, s.356.

Copies of records and documents

357(1) Where a record or document has been examined, removed, produced or provided pursuant to this Part, the registrar may make copies of that record or document.

(2) A record or document certified by the registrar to be a copy made pursuant to this section:

(a) is admissible in evidence without proof of the office or signature of the person making the certificate; and

(b) has the same probative force as the original record or document.

(3) The registrar shall ensure that after copies of any records or documents examined, removed, produced or provided pursuant to this Part are made, the originals are promptly returned to:

(a) the place they were removed from; or

(b) any other place that may be agreed to by the registrar and the person who produced or provided the records or documents or from whom they were removed.

(4) If the originals of any record or document are to be removed from a premises, the registrar shall take all reasonable steps to ensure that a copy of the record or document is left at the premises to allow business to be carried on.

(5) The person from whom any record, document or other thing is seized pursuant to this Part is entitled, at all reasonable times and subject to any reasonable conditions that may be imposed by the registrar, to inspect the record, document or thing and to obtain one copy of the record or document.

1998, c.C-45.2, s.357.

Warrants

358(1) Where a justice of the peace or judge of the Provincial Court of Saskatchewan is satisfied by information on the oath of the registrar that there are reasonable grounds to believe that an offence against this Act or the regulations has occurred and that evidence of that offence is likely to be found or that a person required to produce or provide any record or document refuses or neglects to produce or provide that record or document, the justice of the peace or the judge of the Provincial Court of Saskatchewan may issue a warrant to do all or any of the following:

(a) enter and search any place or premises named in the warrant;

(b) seize anything that may be evidence of an offence against this Act or the regulations;

(c) remove, for the purpose of making copies, any records or documents examined pursuant to this section.

(2) With a warrant issued pursuant to subsection (1), the registrar may:

(a) enter and search any place or premises named in the warrant;

(b) open and examine any box, parcel or other receptacle that the registrar finds in the place or premises;

(c) require the production of and examine any records, documents or property that the registrar believes, on reasonable grounds, may contain information related to an offence against this Act or the regulations;

(d) remove, for the purpose of making copies, any records or documents examined pursuant to this section; and

(e) seize and remove from any place or premises searched anything that may be evidence of an offence against this Act or the regulations.

1998, c.C-45.2, s.358.

PART XX
Securities Issues to Members

Interpretation of Part

359 In this Part:

(a) **"misrepresentation"** means misrepresentation as defined in *The Securities Act, 1988*;

(b) **"securities board"** means the Financial and Consumer Affairs Authority of Saskatchewan;

(c) **"security"** means security as defined in *The Securities Act, 1988*;

(d) **"trade"** means trade as defined in *The Securities Act, 1988*.

1998, c.C-45.2, s.359; 2010, c.21, s.3; 2012, c.F-13.5, s.50.

Non-application of *The Securities Act, 1988*

360(1) *The Securities Act, 1988* does not apply to:

(a) subject to subsection (2), a trade in a security of a credit union that is incorporated or continued pursuant to this Act where that credit union issues that security only to its members; or

(b) subject to subsection 363(3), a trade in a security that is exempt from review or approval pursuant to section 363.

(2) Where the securities board considers it to be in the public interest, the securities board may direct that the proposed trade of securities by a credit union to its members be subject to *The Securities Act, 1988*.

(3) Where the securities board makes a direction pursuant to subsection (2) with respect to a proposed trade of securities by a credit union to its members, this Part does not apply to any matters related to that trade or proposed trade.

1998, c.C-45.2, s.360.

Invitation to purchase securities

361(1) Subject to any exemptions that may be provided in the regulations, no credit union shall trade in its securities to members until:

(a) the credit union has filed with the securities board any information that the securities board may require with respect to the proposed trade in the securities; and

(b) the securities board grants the credit union written notice of its approval to trade the securities.

(2) For the purposes of clause (1)(a), the securities board may require any information to be filed that it considers necessary, including information dealing with:

(a) a description of the securities to be offered for subscription or purchase;

(b) the purposes for which the securities are to be offered;

(c) the manner by which the securities are to be offered; and

(d) the most recent annual financial statement of the credit union.

1998, c.C-45.2, s.361; 2010, c.21, s.3.

Duties of securities board

362(1) The securities board shall:

(a) review the information filed with the securities board pursuant to section 361;

(b) review the financial position and the operations of the credit union in order to determine the capacity of the credit union to meet the obligations inherent in the security;

(c) when the securities board considers it necessary, specify the manner of creating and setting aside by the credit union of sinking or redemption funds or approve a plan, other than setting aside sinking or redemption funds, to be put into effect by the credit union for the purpose of ensuring the repayment of the securities offered; and

(d) consider any other matter or thing it considers necessary or relevant.

(2) The securities board may set any terms and conditions that it considers necessary to be met by a credit union before it grants approval to trade in securities to its members.

(3) Where a credit union has filed information with the securities board pursuant to section 361 and met any conditions that may be set in subsection (2) and the securities board considers it suitable, the securities board may:

(a) grant approval to the credit union to trade in securities to its members; and

(b) place any condition on the approval granted pursuant to clause (a) that it considers appropriate.

(4) The securities board may withdraw its approval to the credit union given pursuant to subsection (3) where the securities board is satisfied that:

(a) any information filed by a credit union pursuant to section 361 is false or misleading;

(b) a credit union did not provide the securities board with information in the credit union's possession that, in the opinion of the securities board, would have affected its decision to grant approval;

(c) a credit union is not complying with any condition imposed pursuant to subsection (3); or

(d) for any other reason, the approval should be withdrawn to protect the interests of the purchasers or potential purchasers of the securities.

(5) Where the approval of the securities board is withdrawn pursuant to subsection (4), a credit union shall:

(a) cease trading in its securities to its members; and

(b) take any additional measures that the securities board may require to protect the interests of purchasers or potential purchasers of the securities.

1998, c.C-45.2, s.362; 2010, c.21, s.3.

Exemption

363(1) Notwithstanding any other provision of this Part but subject to subsection (2), a credit union is not required to have the securities board review or approve a trade or proposed trade in securities that are:

(a) membership shares;

(b) shares that are distributed to members as patronage returns;

(c) a specific security issued by or on behalf of a credit union for the credit union's account that is not made in the course of continued and successive transactions;

(d) bonds, debentures or other evidence of indebtedness of the credit union guaranteed by the Government of Canada or of any province of Canada;

(e) securities of the credit union guaranteed by CUDGC;

(f) deposits;

(g) securities issued to CUDGC or Credit Union Central; or

(h) securities exempted in the regulations.

(2) Where the regulations provide, no credit union shall trade in a security mentioned in subsection (1) until the securities board reviews the proposed trade and grants its approval for the proposed trade.

(3) Where the securities board considers it to be in the public interest, the securities board may direct that a trade or proposed trade in securities mentioned in subsection (2) be made subject to *The Securities Act, 1988*.

(4) Where the securities board makes a decision pursuant to subsection (3) with respect to a trade in securities mentioned in subsection (2), this Part does not apply to any matters related to that trade or proposed trade.

1998, c.C-45.2, s.363.

Review procedure

364(1) Where the securities board has decided to grant or not to grant approval to a credit union or to impose conditions on an approval pursuant to section 362, the credit union may send a written notice to the securities board within 30 days after the date of the decision requesting a review of the decision by the securities board.

(2) Where the securities board receives a written notice pursuant to subsection (1), it shall, as soon as possible, hold the review.

(3) A credit union is entitled to appear before the securities board and to be heard by the securities board on a review pursuant to this section.

(4) On a review pursuant to this section, the securities board may confirm its decision or amend or vary its decision in any manner that it considers appropriate.

(5) A decision of the securities board on a review pursuant to this section is final.

1998, c.C-45.2, s.364; 2010, c.21, s.3.

Delivery of offering document

365 Where the securities board has required a credit union to prepare an offering document as a condition of its approval pursuant to section 362, the credit union shall deliver the offering document or cause it to be delivered to each purchaser of the securities either before or immediately after the purchaser enters into an agreement to purchase the securities.

1998, c.C-45.2, s.365.

Order to investigate

366(1) The securities board may, by order, appoint a person as an investigator to make any investigation that the securities board considers appropriate where the securities board has reasonable grounds to believe that any person or credit union has:

(a) contravened any of the provisions of this Part or the regulations made for the purposes of this Part;

(b) committed an act that may be unfair, oppressive, injurious, inequitable, improper or discriminatory against:

(i) any holder, prospective holder, purchaser or prospective purchaser of any shares or other securities of that person or credit union; or

(ii) a creditor or prospective creditor of that person or credit union or another person or credit union otherwise beneficially interested in that person or credit union; or

(c) committed an act that secured an unfair advantage for that person or credit union over another person or credit union.

(2) In an order made pursuant to subsection (1), the securities board shall determine the scope of the investigation and set out the powers of the investigator.

(3) Subsections 12(5) to (12.1) of *The Securities Act, 1988* apply, with any necessary modification, to an investigation carried out pursuant to this section.

(4) Where an investigation is ordered pursuant to this section, the securities board may appoint an expert to examine documents, records, properties and matters of the person or credit union whose affairs are being investigated.

(5) An inspector appointed pursuant to subsection (1) shall submit a report in writing of the result of the investigation to the securities board.

(6) On receipt of a report pursuant to subsection (5), the securities board shall forward a copy of the report together with the securities board's recommendation to the registrar and CUDGC.

(7) The report to the registrar and CUDGC pursuant to subsection (6) may include a recommendation that an administrator or supervisor be appointed for the credit union.

1998, c.C-45.2, s.366.

Statutory rights

367(1) An agreement for purchase of securities from a credit union is not binding on the purchaser if the credit union or its agent receives notice in writing indicating the intention of the purchaser not to be bound by the agreement of purchase at any time up to two business days after receipt by the purchaser of the offering document that the purchaser is entitled to receive pursuant to section 365.

(2) A purchaser of a security to whom an offering document was required to be delivered pursuant to section 365 has a right of action for rescission or damages against a credit union that fails to deliver the offering document in compliance with section 365.

1998, c.C-45.2, s.367.

Misrepresentation in offering document

368(1) Where an offering document delivered pursuant to section 365 contains a misrepresentation, a purchaser who purchases a security covered by the offering document is deemed to have relied on that misrepresentation, if it was a misrepresentation at the time of purchase, and has a right of action for damages against:

(a) the credit union; and

(b) every director of the credit union at the time the offering document was filed with the securities board.

(2) No director or credit union is liable pursuant to subsection (1) if the director or credit union proves that the purchaser purchased the securities with knowledge of the misrepresentation.

(3) No director or credit union is liable pursuant to subsection (1) if the director or credit union proves that:

(a) the offering document was filed without the director's or credit union's knowledge or consent and that, on becoming aware of the offering document being filed, the director or credit union immediately gave reasonable general notice that it was so filed; or

(b) after the offering document was approved and before the purchase of the securities by the purchaser, on becoming aware of any misrepresentation in the offering document, the director or credit union withdrew the director's or credit union's consent to it and gave reasonable general notice of the director's or credit union's withdrawal and the reason for it.

(4) In an action for damages pursuant to subsection (1), the defendant is not liable for all or any portion of the damages that the defendant proves do not represent the depreciation in value of the security resulting from the misrepresentation relied on.

(5) The credit union and all or any one of the directors mentioned in subsection (1) are jointly and severally liable, and every credit union or director that becomes liable to make any payment pursuant to this section may recover a contribution from any credit union or director that, if sued separately, would have been liable to make the same payment.

(6) Notwithstanding subsection (5), the court may deny the right to recover a contribution where, in all the circumstances of the case, it is satisfied that to permit recovery of a contribution would not be just and equitable.

(7) In no case shall the amount recoverable pursuant to this section exceed the price at which the securities were offered.

(8) The right of action for rescission or damages conferred by this section is in addition to and does not derogate from any other right the purchaser may have at law.

1998, c.C-45.2, s.368.

Limitation periods

369 Notwithstanding *The Limitations Act*, no action shall be commenced to enforce a right created by this Part more than:

(a) in the case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; and

(b) in the case of any action, other than an action for rescission, the earlier of:

(i) one year after the plaintiff first had knowledge of the facts giving rise to the cause of action; or

(ii) six years after the date of the transaction that gave rise to the cause of the action.

1998, c.C-45.2, s.369; 2004, c.L-16.1, s.45.

Non-liability of securities board, etc.

370 No action or proceeding lies or shall be instituted against the securities board, any member of the securities board or any person acting under the instructions of the securities board, under the instructions of a member of the securities board or under the authority of this Act or the regulations for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of those persons, pursuant to or in the exercise of or ostensible exercise of any power conferred by this Act or the regulations or in the carrying out or ostensible carrying out of any responsibility imposed by this Act or the regulations.

1998, c.C-45.2, s.370.

Offences with respect to Part

371 No person shall:

(a) make a false or misleading statement of a material fact in any document, evidence or information submitted or given pursuant to this Part or the regulations made for the purposes of this Part to the securities board, its representative, the registrar or any person appointed to make an investigation pursuant to this Part;

(b) make a false or misleading statement of a material fact in any application, report, prospectus, return, financial statement or other document required to be filed or furnished pursuant to this Part or the regulations made for the purposes of this Part;

(c) contravene this Part or the regulations made for the purposes of this Part; or

(d) fail to observe or comply with any order, direction or other requirement made pursuant to this Part or the regulations made for the purposes of this Part.

1998, c.C-45.2, s.371.

Regulations respecting securities

372 The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or phrase used in this Part but not defined in this Part or this Act;

(b) exempting any person, entity, trade or security from all or any provision of this Part or the regulations, and, for that purpose, may prescribe any terms or limitations on an exemption and require compliance with those terms or limitations;

(c) removing any exemption on trades or securities granted by this Part or the regulations, and for that purpose, may prescribe any conditions or restrictions on removal of the exemption and require that those trades or trades in those securities be subject to review by the securities board;

(d) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Part.

1998, c.C-45.2, s.372.

PART XXI
Extraprovincial Credit Unions

Not yet proclaimed.

PART XXII
Offences, Penalties and Enforcement

Offences and penalties

401(1) No person or entity shall fail, without reasonable cause, to comply with:

(a) this Act;

(b) the regulations;

(c) an order of the registrar issued pursuant to this Act or the regulations;

(d) any term and condition imposed on the person or entity by this Act, the regulations, or the registrar.

(2) Every person who, without reasonable cause, contravenes any provision of this Act or the regulations is guilty of an offence.

(3) Every person who fails, without reasonable cause, to comply with a written request made by the registrar pursuant to section 356 or who makes a false or misleading statement in any application or in any proceeding or in response to a request made pursuant to clause 348(2)(b) is guilty of an offence.

(4) Every person who knowingly prevents or hinders an examination conducted pursuant to section 348, an investigation pursuant to section 349 or an inspection pursuant to 355 is guilty of an offence.

(5) Every person who knowingly seeks unauthorized access to or falsifies any credit union records or who contravenes section 30 or 33 is guilty of an offence.

(6) Every person who knowingly withholds, destroys, alters or conceals any record, document or property that the registrar reasonably requires for the purposes of determining whether a person governed by this Act is complying with this Act is guilty of an offence.

(7) Every person who knowingly makes or assists in making a report, return, notice or other document, required by this Act or the regulations to be sent to the registrar or to any other person, that contains a false or misleading statement or that omits to state a material fact necessary to make a statement contained in the report not misleading is guilty of an offence.

(8) If an entity commits an offence pursuant to this Act, any officer or director of the entity who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the entity has been prosecuted or convicted.

(9) Every person who is guilty of an offence is liable on summary conviction to:

(a) in the case of an individual, a fine not exceeding $500,000, to imprisonment for a term not exceeding 12 months or to both;

(b) in the case of an entity, a fine not exceeding $1,000,000.

1998, c.C-45.2, s.401.

Limitation on prosecution

402 No prosecution for a contravention of this Act is to be commenced more than three years after the date the facts on which the alleged contravention is based first come to the knowledge of the registrar.

1998, c.C-45.2, s.402.

Civil remedy not affected

403 No civil remedy for an act or omission pursuant to this Act is suspended or affected by reason that the act or omission is an offence pursuant to this Act.

1998, c.C-45.2, s.403.

Power of registrar to order compliance

404(1) The registrar may issue an order pursuant to subsection (2) if the registrar is satisfied that it is in the public interest or that any of the following exists:

(a) a person is not complying with this Act, the regulations or an order of the registrar;

(b) a person's activities or failure or neglect to undertake any activities will result in that person not complying with this Act, the regulations or an order of the registrar;

(c) a person's activities or failure or neglect to undertake any activities may harm the interests of the credit union or its members, security holders, creditors or consumers.

(2) In the circumstances mentioned in subsection (1), the registrar may order a person to do all or any of the following:

(a) to cease doing an act or to cease failing or neglecting to do an act;

(b) to comply with this Act, the regulations or an order of the registrar;

(c) to do or refrain from doing any other thing that the registrar considers necessary.

(3) The registrar shall not issue an order pursuant to this section without giving the person an opportunity to be heard.

(4) The registrar shall not issue an order pursuant to this section with respect to a credit union's compliance with Parts V, X, XI or XIV without giving notice to CUDGC and giving CUDGC an opportunity to be heard.

(5) Notwithstanding subsection (3), if the registrar considers that it is necessary to protect the public interest, the registrar may immediately issue an order pursuant to this section without giving the person an opportunity to be heard, but shall give the person an opportunity to be heard within 15 days after the date on which the registrar issued the order.

1998, c.C-45.2, s.404.

Court may order compliance

405(1) If the registrar is of the opinion that a person has failed to comply with this Act, the regulations or an order issued pursuant to section 404, the registrar may apply to the court for all or any of the following:

(a) an order directing the person to comply with this Act, the regulations or an order issued pursuant to section 404 or restraining that person from contravening this Act, the regulations or an order issued pursuant to section 404; or

(b) any other order, relief or remedy that the registrar may request.

(2) On an application pursuant to subsection (1), the court may grant the order requested and may make any other order that the court considers necessary.

(3) If a person is convicted of an offence, the convicting court may, in addition to any penalty it may impose, do all or any of the following:

(a) order that person to comply with the provision of this Act with respect to which that person was convicted;

(b) if the court is satisfied that the convicted person has acquired any monetary benefits or that monetary benefits have accrued to the convicted person or another person associated with or related to the convicted person:

(i) order the convicted person to pay an additional fine in an amount equal to the amount of the monetary benefits;

(ii) order the convicted person to pay compensation or make restitution to any person to whom the monetary benefits should be paid.

1998, c.C-45.2, s.405.

PART XXIII
Administration and General

Annual and special returns

406(1) Every credit union shall:

(a) file with the registrar an annual return for the previous year, in any form and within any time that the registrar may determine; and

(b) pay any fee that is prescribed in the regulations.

(2) The registrar:

(a) may require, by written notice, a credit union or a director or an officer of a credit union to make a special return on any subject connected with the business and affairs of the credit union; and

(b) if the registrar requires a special return, shall specify in the notice a time within which the special return is to be made.

(3) A credit union shall file with the registrar a notice of any change in its directors, officers or audit and conduct review committees.

(4) A credit union shall submit to the registrar any information that is prescribed in the regulations.

(5) A credit union that defaults in filing with the registrar an annual return is liable to payment of the special filing fee prescribed in the regulations.

1998, c.C-45.2, s.406.

Reports

407(1) Every credit union shall prepare and deliver to the registrar a report at the time, in any form and containing any information that may be prescribed in the regulations.

(2) For the purposes of a report, a credit union shall value its assets in any manner that may be required by the registrar.

1998, c.C-45.2, s.407.

Registrar

408 The minister may appoint a Registrar of Credit Unions and one or more Deputy Registrars of Credit Unions to carry out the duties and exercise the powers of the registrar pursuant to this Act.

1998, c.C-45.2, s.408.

Registrar may apply for directions

409(1) The registrar may apply to the court for directions with respect to any matter concerning the registrar's duties pursuant to this Act.

(2) On an application pursuant to this section, the court may give any directions that it thinks fit.

1998, c.C-45.2, s.409.

Appeal from registrar's decision

410(1) In this section, **"registrar's decision"** means a decision of the registrar:

(a) to refuse to file in the form submitted any notice of registered office required to be filed pursuant to section 27;

(b) to refuse to file in the form submitted any notice of change of directors required to be filed pursuant to section 101;

(c) to refuse to issue a certificate of restated articles of incorporation pursuant to subsection 302(4);

(d) to refuse to issue a certificate of discontinuance pursuant to subsection 312(7);

(e) to refuse to issue a certificate of arrangement pursuant to subsection 318(6); or

(f) to dissolve a credit union pursuant to section 329 or 330.

(2) A person who feels aggrieved by a registrar's decision may apply to the court for an order that it considers appropriate, including an order requiring the registrar to change the registrar's decision.

1998, c.C-45.2, s.410.

Seal

411 The registrar may use a seal in the performance of the registrar's duties.

1998, c.C-45.2, s.411.

Service on registrar

412 A document may be served on the registrar by leaving it at the office of the registrar in Regina or by mailing it to the registrar at that office.

1998, c.C-45.2, s.412.

Register

413(1) The registrar shall maintain a register of credit unions and keep the name of every credit union that is incorporated, continued or registered pursuant to this Act in it.

(2) A credit union whose name appears on the register mentioned in subsection (1) is deemed to be registered pursuant to this Act, and any credit union whose name does not appear on the register is deemed not to be registered pursuant to this Act.

1998, c.C-45.2, s.413.

Right to inspect and obtain copies

414 On payment of any fees prescribed in the regulations, a person may:

(a) examine the register maintained pursuant to section 413 with respect to the following items in relation to a credit union:

(i) its articles;

(ii) its bylaws;

(iii) any amendments to its articles and bylaws;

(iv) any certificates issued to it by the registrar;

(v) a list of its directors;

(vi) the address of its registered office;

(vii) its attorney for service, if any;

(b) require a copy or extract of any document mentioned in clause (a) to be made; and

(c) require the copy or extract made pursuant to clause (b) to be certified by the registrar as a true copy.

1998, c.C-45.2, s.414.

Confidential records

415(1) Notwithstanding *The Freedom of Information and Protection of Privacy Act*, the records and information submitted or provided to the registrar or obtained by an audit, examination, investigation or inspection conducted by or on behalf of the registrar pursuant to this Act are not open to inspection except by:

(a) those members of the public service of Saskatchewan employed in the office of the registrar whose responsibilities require them to inspect the records and information; or

(b) those persons who are authorized in writing by the registrar to inspect the records and information.

(2) Unless authorized by this Act or by any other law or with the consent of the person to whom a record, document or piece of information relates, no member of the public service of Saskatchewan employed in the office of the registrar and no person engaged, appointed or retained by the registrar shall:

(a) communicate or allow to be communicated any record, document or information obtained by the registrar pursuant to this Act to any person who is not legally entitled to the record, document or information; or

(b) allow any person who is not legally entitled to the record, document or information obtained pursuant to this Act to inspect or have access to the record, document or information mentioned in clause (a).

(3) Notwithstanding subsections (1) and (2), the registrar may authorize the release of, or allow the inspection of or access to, records, documents or information mentioned in those subsections to or by any person employed by a government or regulatory authority of any jurisdiction inside or outside Canada or CUDGC or any person designated by CUDGC where:

(a) the record, document or information will be used solely for the purpose of administering or enforcing a law of that jurisdiction that is similar to this Act;

(b) the release, inspection or access is pursuant to an agreement made between the minister or registrar and the government or regulatory authority; or

(c) the registrar believes that it is in the public interest to allow the release, inspection or access.

(4) Notwithstanding subsections (1) and (2), the registrar may authorize the release of, inspection of or access to, records, documents or information mentioned in those subsections to or by a law enforcement agency or investigative body for the purposes of enforcing an Act of Saskatchewan or an Act or law of another jurisdiction inside or outside Canada.

(5) No person to whom a record, document or piece of information is provided pursuant to this section is compellable to give evidence concerning that record, document or information unless:

(a) the person to whom the record, document or information relates consents; or

(b) a court orders the evidence to be given.

(6) In the process of making an order pursuant to subsection (5):

(a) the registrar and the person to whom the record, document or information relates are entitled to appear before the court and to make submissions; and

(b) the person seeking the order compelling the evidence has the onus of showing why it is in the public interest that the order be made.

1998, c.C-45.2, s.415; 2001, c.12, s.15.

Form of copies

416(1) Where the records maintained by the registrar are prepared and maintained in a form mentioned in subsection 32(1), the registrar may furnish, in written or photographic film form or in electronic form, any copy required to be furnished pursuant to section 414.

(2) The registrar is not required to produce any document, other than a certificate and attached articles, bylaws or documents filed pursuant to section 422, after six years from the date the registrar received it.

(3) The registrar is not required to produce any document filed pursuant to this Act after six years from the date on which the name of the credit union was last on the register.

1998, c.C-45.2, s.416.

Certificate of registrar

417(1) The registrar may furnish a person with a certificate stating that:

(a) a document required to be sent to the registrar pursuant to this Act has or has not been received by the registrar;

(b) a name, whether that of a credit union or not, is or is not on the register;

(c) a name, whether that of a credit union or not, was or was not on the register on a stated date.

(2) Where this Act requires or authorizes the registrar to issue a certificate or to certify any fact, the registrar or a deputy registrar shall sign the certificate or the certification.

(3) The signature required in subsection (2) may be printed or mechanically reproduced on the certificate or certification.

(4) A certificate or certification mentioned in subsection (2) is admissible in evidence as conclusive proof of the facts stated in the certificate or certification without proof of the office or signature of the person purporting to have signed the certificate or certification.

1998, c.C-45.2, s.417.

Power to refuse documents

418(1) The registrar may refuse to receive, file or register a document where, in the opinion of the registrar, any document submitted to the registrar:

(a) contains any matter contrary to law;

(b) by reason of any omission or error in description, has not been properly completed;

(c) does not comply with the requirements of this Act;

(d) contains any error, alteration or erasure;

(e) is not sufficiently legible; or

(f) is not sufficiently permanent for the registrar's records.

(2) The registrar may request that:

(a) a document refused pursuant to subsection (1) be amended or completed and resubmitted; or

(b) a new document be submitted in place of a document refused pursuant to subsection (1).

1998, c.C-45.2, s.418.

Notice of refusal by registrar

419(1) If the registrar refuses to file any of the documents mentioned in subsection 418(1), the registrar must, not later than 60 days after the later of the receipt of the document and the receipt of any approval that may be required under any other law, give written notice of the refusal to the person who sent the document, giving reasons for the refusal.

(2) If the registrar does not file or give written reasons of refusal to file the documents within the 60-day period mentioned in subsection (1), the registrar is deemed to have refused to file the document.

1998, c.C-45.2, s.419.

Form of documents filed

420(1) Every document sent to the registrar pursuant to this Act or the regulations is required to be in typed or printed form.

(2) Where any document mentioned in subsection (1) is not in the English or French language, the registrar may require that an English translation of its content, notarially certified, accompany the document.

(3) Subject to the regulations, notices and documents that are sent to or filed with the registrar pursuant to this Act or the regulations may be sent or filed by fax transmission or other method of electronic transmission in any manner that may be specified by the registrar.

(4) Where he or she considers it appropriate, the registrar may exempt a credit union from subsection (1).

1998, c.C-45.2, s.420; 2015, c.21, s.16.

Proof required by registrar

421 The registrar may require that a document or information contained in a document required to be sent to the registrar by this Act or the regulations be verified by affidavit or otherwise.

1998, c.C-45.2, s.421.

Execution and filing

422(1) In this section, **"duplicate originals"** means the two copies of the articles, bylaws or documents required in subsection (2).

(2) Where this Act requires that articles, bylaws or a document relating to a credit union be sent to the registrar, unless otherwise specifically provided, the credit union shall send two copies of the articles, bylaws or document signed by:

(a) a director or an officer of the credit union; or

(b) in the case of articles of incorporation, all of the incorporators.

(3) Subject to the other provisions of this Act, where the registrar receives duplicate originals of any articles, bylaws or document pursuant to subsection (2) and they are in the form prescribed in the regulations and are accompanied by any other required documents and the fees prescribed in the regulations, the registrar shall:

(a) endorse on each of the duplicate originals the word "Registered" or "Filed" and the date of the registration;

(b) issue in duplicate the appropriate certificate and attach to each certificate one of the duplicate originals of the articles, bylaws or document;

(c) file a copy of the certificate and attached articles, bylaws or document;

(d) send to the credit union or its representative the original certificate and attached articles, bylaws or document; and

(e) publish in the Gazette notice of the issue of the certificate.

(4) The registrar may date a certificate mentioned in subsection (3):

(a) as of the day the registrar receives the articles, bylaws, document or court order pursuant to which the certificate is issued; or

(b) as of any later day specified by the court or person who signed the articles or document.

(5) A signature required on a certificate mentioned in subsection (3) may be printed or mechanically reproduced on the certificate.

(6) Notwithstanding subsection (4), a certificate of discontinuance mentioned in subsection 312(7) may be dated as of the day when a credit union is continued pursuant to the laws of another jurisdiction.

1998, c.C-45.2, s.422.

Service, "last known address"

423(1) In this section, **"last known address"** means:

(a) in the case of a member or shareholder or security holder, his or her latest address as shown in the records of the credit union;

(b) in the case of a director, his or her latest address as shown in the records of the credit union, the articles of incorporation or the last notice filed pursuant to section 101.

(2) Any notice or document required by this Act or the regulations to be given or served is, unless otherwise provided for, to be served personally, mailed by registered mail or certified mail or delivered by courier to the last known address of the person being served.

(3) A document served by registered mail or certified mail is deemed to have been received on the seventh day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, he or she did not receive the document or that he or she received it at a later date.

(4) A document served by courier is deemed to have been received on the second day following the day of its sending, unless the person to whom it was sent establishes that, through no fault of that person, he or she did not receive the document or that he or she received it at a later date.

(5) A notice or document may be served on a credit union by:

(a) leaving it at, mailing it by registered mail or certified mail addressed to or delivering by courier to the registered office of the credit union;

(b) personally serving any director, officer, administrator or liquidator of the credit union;

(c) leaving it at the office of, mailing it by registered mail or certified mail addressed to or delivering it by courier to any attorney of the credit union appointed pursuant to section 389; or

(d) any other method specified in the regulations.

(6) A director named in the later of the articles of incorporation and the latest notice sent by a credit union and filed by the registrar is deemed for the purposes of this Act to be a director of the credit union.

(7) Where a credit union sends a notice or document to a member or shareholder in accordance with this section and the notice or document is returned on three consecutive occasions because the member or shareholder cannot be found, the credit union is not required to send any further notices or documents to the member or shareholder until he or she informs the credit union in writing of his or her new address.

1998, c.C-45.2, s.423.

Waiver of notice

424 Where a notice or document is required by this Act or the regulations to be sent, the sending of the notice or document may be waived or the time for the notice or document may be waived or abridged at any time with the consent in writing of the person entitled to the notice or document.

1998, c.C-45.2, s.424.

Certificate of credit union

425(1) A director or officer of a credit union may sign a certificate stating any fact set out in, or certify a copy of the whole or any part of, the articles, the bylaws, the member register, the securities register, a trust indenture or any other contract to which the credit union is a party or the minutes of a meeting of the board, a committee of the board, the members or the shareholders.

(2) A certificate or certified copy described in subsection (1) is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts contained in the certificate or certified copy without proof of the signature or official character of the person appearing to have signed the certificate or the certification.

1998, c.C-45.2, s.425.

Proof of ownership of securities

426 Subject to Part XIII, an entry in a securities register of, or a security certificate issued by, a credit union is proof, in the absence of evidence to the contrary, that the person in whose name the security is registered is owner of the securities described in the register or in the certificate.

1998, c.C-45.2, s.426.

Proof of membership

427 An entry in the member register of, or a membership share certificate issued by, a credit union is proof, in the absence of evidence to the contrary, that the person in whose name the membership share is registered is owner of the membership share described in the member register or in the certificate.

1998, c.C-45.2, s.427.

Alteration

428 Where the registrar is authorized by the person who sent a notice or document or that person's representative, the registrar may alter the notice or document, but the registrar shall not alter an affidavit or statutory declaration.

1998, c.C-45.2, s.428.

Corrections

429(1) Where a certificate containing an error is issued to a credit union by the registrar, the directors, members or shareholders of the credit union shall, on the request of the registrar:

(a) pass the resolutions and send to the registrar the documents required to comply with this Act; and

(b) take any other steps that the registrar may require.

(2) The registrar may demand the surrender of a certificate mentioned in subsection (1) and issue a corrected certificate.

(3) A certificate corrected pursuant to subsection (2) must bear the date of the certificate it replaces.

(4) Where a corrected certificate issued pursuant to subsection (2) materially amends, in the opinion of the registrar, the terms of the original certificate, the registrar shall give notice of the correction in the Gazette.

1998, c.C-45.2, s.429.

Striking name off register

430(1) In addition to any other power authorizing the registrar to strike the name of a credit union off the register, the registrar may strike the name of a credit union off the register where:

(a) the registrar has issued the credit union a certificate of discontinuance pursuant to section 422; or

(b) the credit union is dissolved.

(2) Where the name of a credit union is struck off the register pursuant to this Act, the registrar may, on receipt of an application in the form prescribed in the regulations and on payment of the prescribed fee:

(a) restore the name of the credit union to the register; and

(b) issue a certificate noting the date of restoration to the credit union.

1998, c.C-45.2, s.430.

Statistics

431 The minister, the registrar and CUDGC may compile and publish aggregate statistics relating to credit unions and their subsidiaries.

1998, c.C-45.2, s.431.

Immunity

432(1) No action or other proceeding lies or shall be instituted against:

(a) the Crown in right of Saskatchewan, the minister, the registrar or any member of the public service of Saskatchewan employed in the office of the registrar;

(b) CUDGC or any employee or officer or director of CUDGC;

(c) any representative of the registrar or CUDGC; or

(d) any person engaged, appointed or retained by the registrar or CUDGC to make or conduct any audit, examination, inspection or investigation or to do any other thing pursuant to this Act;

where the person mentioned in clause (a), (b), (c) or (d) is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of the persons mentioned in clauses (a) to (d), pursuant to or in the exercise or ostensible exercise of any power conferred by this Act or the regulations or in the carrying out or ostensible carrying out of any responsibility imposed by this Act or the regulations.

(2) A decision made by a person mentioned in clause (1)(a), (b), (c) or (d) in the exercise of a discretionary power given pursuant to this Act to do or not to do a thing does not constitute negligence.

1998, c.C-45.2, s.432.

Limitation on civil liability

433 No person has any right or remedy, and no person may institute any action or other proceeding, against any other person with respect to any act or omission of the other person that is done or omitted in compliance with, and not in contravention of, this Act, the regulations or any direction, decision, order, ruling or other requirement made or given pursuant to this Act or the regulations.

1998, c.C-45.2, s.433.

Registrar and others not compellable to give evidence

434 Except in the case of a prosecution for an offence pursuant to this Act, no person mentioned in clause 432(1)(a), (b), (c) or (d) is compellable to give evidence in any court or in any proceeding of a judicial nature to which that person is not a party concerning any information obtained by that person or that comes to that person's attention in the exercise of the powers, carrying out of the responsibilities or carrying out of the functions of that person pursuant to this Act.

1998, c.C-45.2, s.434.

Non-application of certain Acts

435 *The Business Corporations Act*, *The Companies Winding Up Act* and *The Trust and Loan Corporations Act, 1997* do not apply to a credit union incorporated, continued or registered pursuant to this Act.

1998, c.C-45.2, s.435; 2001, c.12, s.16.

Agreements

436 Subject to the approval of the Lieutenant Governor in Council, the registrar may make agreements with CUDGC and with any government, government agency, regulatory authority or person inside or outside Canada:

(a) for the purpose of administering or enforcing this Act or any Act or law of the other jurisdiction that is similar to this Act, including agreements authorizing the registrar to perform responsibilities and exercise powers on behalf of the other government, regulatory authority or person and authorizing the other government, regulatory authority or person to perform responsibilities and exercise powers on behalf of the registrar; or

(b) for any other purpose that the registrar believes is in the public interest.

1998, c.C-45.2, s.436.

Appointment of representatives

437(1) The registrar may appoint any person to carry out any responsibility imposed on the registrar pursuant to this Act or to exercise any of the powers conferred on the registrar pursuant to this Act that the registrar believes may be more conveniently carried out or exercised by that person.

(2) The registrar may appoint CUDGC for any of the purposes mentioned in subsection (1).

(3) The exercise of any of the registrar's powers or the carrying out of any of the registrar's responsibilities by a person who is appointed pursuant to subsection (1) is deemed to be the exercise or the carrying out by the registrar.

1998, c.C-45.2, s.437.

Experts

438(1) The registrar may retain any person the registrar considers to be expert in a field of knowledge to assist the registrar in carrying out the registrar's responsibilities or in exercising the registrar's powers pursuant to this Act.

(2) The registrar may apply to the court for an order directing any credit union to pay the costs, fees and other expenses of an expert retained pursuant to subsection (1).

(3) On an application pursuant to subsection (2), the court may make any order respecting the payment of costs, fees and expenses that the court considers appropriate.

1998, c.C-45.2, s.438.

How notices or documents may be sent by registrar

439(1) Where a notice or other document is required or permitted by this Act or the regulations to be sent by the registrar, he or she may do so by ordinary mail, registered mail, certified mail, prepaid courier or similar method, if there is a record that the notice or other document has been sent.

(2) Where the registrar sends a notice or other document mentioned in subsection (1) by ordinary mail, registered mail, certified mail, prepaid courier or similar method to the intended recipient, it is deemed to have been received by the intended recipient on the earlier of:

(a) the day the intended recipient actually receives it; and

(b) the time and day or date set out in the regulations.

(3) A notice or other document mentioned in subsection (1) may be sent by fax or other method of electronic transmission where there is a record that the notice or other document has been sent.

(4) Where the registrar sends a notice or other document mentioned in subsection (1) by fax or other method of electronic transmission to the intended recipient, it is deemed to have been received by the intended recipient on the earlier of:

(a) the day the intended recipient actually receives it; and

(b) the time and day or date set out in the regulations.

(5) For the purposes of this section, **"sent"** includes issued, given, delivered, furnished, produced and served.

1998, c.C-45.2, s.439; 2015, c.21, s.16.

Regulations

440(1) For the purpose of carrying out this Act according to its intent, the Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or phrase used but not defined in this Act or required by this Act to be defined in the regulations, and for that purpose may prescribe different definitions for different Parts or provisions of this Act or the regulations;

(a.1) for the purposes of clause 2(1)(n), prescribing an entity;

(b) **Repealed.** 2010, c.8, s.16.

(b.1) respecting electronic voting by directors and members;

(c) designating a body as a public body for the purposes of section 20;

(d) requiring the payment of and prescribing the amount of any fee or charge with respect to:

(i) the filing, examination or copying of any document;

(ii) any action that the registrar is required or authorized to take pursuant to this Act; or

(iii) any services provided by the registrar pursuant to this Act;

(e) prescribing the form of articles;

(f) prescribing the procedure for reviews by the registrar mentioned in section 69;

(g) prescribing the period records must be retained for the purposes of subsection 28(3);

(h) prescribing terms and conditions for the purposes of subsection 34(4);

(i) prescribing services for the purposes of clause 34(4)(h), or prescribing the manner by which an authorization to provide a service may be obtained for the purposes of clause 34(4)(h), and, for that purpose, the Lieutenant Governor in Council may delegate to any other person the authority to grant an authorization;

(j) for the purposes of section 37:

(i) prescribing the extent to which and the terms and conditions under which credit unions may engage in the business of insurance and respecting the relations between credit unions and entities that undertake the business of insurance or insurance agents or brokers;

(ii) restricting or prohibiting, in whole or in part, and with or without conditions, any dealings by a credit union in securities;

(k) respecting investments for the purposes of sections 49 and 50;

(l) respecting investments for the purposes of section 52;

(m) prescribing the format and contents of any notice or other document sent to or by the registrar by fax or other method of electronic transmission;

(n) respecting the sending or filing of notices or other documents, including:

(i) authorizing a notice of meeting pursuant to section 79 to be provided by means of electronic transmission, prescribing the means of electronic transmission and respecting the manner and terms and conditions pursuant to which that means of electronic transmission may be used;

(ii) respecting the notices or other documents that may be sent or filed by fax or other method of electronic transmission;

(iii) respecting the persons or classes of persons who may send or file notices or other documents by fax or other method of electronic transmission;

(iv) respecting signatures and attestation in notices or other documents sent or filed by fax or other method of electronic transmission and the execution, adoption, or authorization of notices or other documents sent or filed by fax or other method of electronic transmission;

(v) respecting the time and day or date when a notice or other document sent by the registrar pursuant to section 439 or sent to or filed with the registrar is deemed to have been received;

(o) to (s) **Not yet proclaimed.**

(t) prescribing rules with respect to exemptions permitted by this Act;

(u) exempting any credit union or any class of credit unions from any provision of this Act and prescribing conditions that the exempted credit union or class of credit unions must comply with;

(u.1) prescribing the manner in which the registrar shall conduct a review for the purposes of subsection 69(9);

(v) prescribing an amount for the purposes of subsection 71(1) and prescribing the manner in which a credit union must deal with amounts for the purposes of that subsection;

(w) prescribing a quorum for meetings of members;

(x) respecting the holding of meetings of members at more than one location;

(y) establishing procedures that a credit union must comply with respecting delegates;

(z) respecting bylaws providing for the nomination and appointment of delegates for the purposes of subsection 83(2);

(aa) prescribing procedures for electing directors for the purposes of subsection 94(1);

(bb) prescribing forms required pursuant to this Act;

(cc) for the purposes of clause 102(1.1)(h), prescribing individuals or a class of individuals who are not eligible to be a director;

(dd) prescribing the minimum amount of bonds required pursuant to section 120;

(ee) for the purposes of section 121, respecting capital and liquid assets that a credit union is required to maintain;

(ff) for the purposes of section 123, respecting capital elements that may be included in a credit union's capital;

(gg) prescribing other information to be included in reports of subsidiaries for the purposes of clause 260(d);

(hh) **Not yet proclaimed.**

(ii) exempting a credit union or a class of credit unions or a security or class of securities from compliance with subsection 363(1) and removing exemptions for the purposes of subsection 363(2);

(jj) prescribing persons or classes of persons as credit unions for the purposes of clause 441(b);

(kk) respecting insurance services for the purposes of clause 444(l);

(ll) respecting investments that CUDGC may make for the purposes of clause 445(d);

(mm) respecting the manner of notice and the contents of the notice that CUDGC must provide pursuant to section 446;

(nn) respecting the annual statements of CUDGC mentioned in subsection 457(3);

(oo) authorizing or delegating to the registrar or CUDGC the power to make any decision or to do any other thing that the Lieutenant Governor in Council may decide or do in the regulations;

(pp) prescribing any other matter or thing required or authorized in this Act to be prescribed in the regulations;

(qq) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

(2) **Not yet proclaimed.**

1998, c.C-45.2, s.440; 2010, c.8, s.16; 2015, c.21, s.16.

PART XXIV
CUDGC

Interpretation of Part

441 In this Part:

(a) **"board"** means the board of CUDGC appointed in accordance with section 453;

(b) **"credit union"** means:

(i) a credit union incorporated or continued pursuant to this Act; and

(ii) a person prescribed in the regulations;

(c) **"fund"** means the account required to be maintained by CUDGC in accordance with section 447.

1998, c.C-45.2, s.441.

CUDGC continued

442 The Credit Union Deposit Guarantee Corporation is continued as a corporation.

1998, c.C-45.2, s.442.

Capacity

443(1) CUDGC has the capacity of and, subject to this Part, the rights, powers and privileges of a natural person.

(2) For the purposes of carrying on its business with respect to credit unions, CUDGC has the capacity to carry on business, conduct its affairs and exercise its powers outside Saskatchewan to the extent that the laws of the other jurisdiction permit.

1998, c.C-45.2, s.443.

Restrictions

444 The business of CUDGC is restricted to the following:

(a) guaranteeing the repayment of deposits with credit unions;

(b) maintaining, administering and managing the fund;

(c) promoting the adoption by credit unions of policies and procedures designed to control and manage risk;

(d) establishing and enforcing standards of sound business practice;

(e) establishing and enforcing financial and business practices;

(f) monitoring credit unions;

(g) adopting measures to remove or minimize the risk and size of claims against the fund;

(h) providing financial assistance to credit unions;

(i) paying from the fund:

(i) claims on the guarantee of CUDGC; and

(ii) financial assistance;

(j) supporting credit unions in obtaining insurance and financial risk protection services;

(k) administering policies of insurance that insure credit unions;

(l) providing insurance services as permitted by the regulations;

(m) supervising, administering and acting as a liquidator of credit unions;

(n) acquiring, holding and disposing of real and personal property that CUDGC considers reasonably necessary for its business;

(o) doing any other things that CUDGC considers are reasonably necessary for its business.

1998, c.C-45.2, s.444.

Activities

445 Without limiting the business that CUDGC may engage in pursuant to section 444, CUDGC may do all or any of the following:

(a) establish the requirements, frequency and form of reports to be made by credit unions and submitted to CUDGC;

(b) require compliance with standards of sound business practice and financial and business practices;

(c) for the purpose of reducing or eliminating the risk to the fund:

(i) acquire assets from a credit union;

(ii) make to a credit union, with or without security, loans or advances;

(iii) acquire by way of security or otherwise shares or subordinated indebtedness of a credit union and dispose of the security, shares or subordinated indebtedness;

(iv) provide financial assistance to credit unions;

(v) guarantee loans, with or without security, to or had by a credit union;

(d) subject to the regulations, make any investment and enter into any transaction CUDGC considers necessary or desirable for the financial management of CUDGC or the fund;

(e) borrow money, with or without security, in the amount CUDGC considers necessary or desirable;

(f) appoint any person to exercise any power or responsibility of CUDGC that CUDGC considers necessary or desirable;

(g) retain any person considered to be an expert in a field of knowledge that CUDGC considers necessary or desirable;

(h) enter into agreements with the Government of Saskatchewan, any other government, regulatory authority or any credit union or person inside or outside of Canada, including Canada Deposit Insurance Corporation, for any purpose related to its business, including:

(i) the guarantee or insurance of deposits in credit unions or the assumption, in whole or in part, by any person of any liability of CUDGC;

(ii) financial assistance for any credit union;

(iii) establishing, monitoring and enforcing any standard of sound business practice or financial and business practice;

(i) levy and collect from credit unions any premium or assessment that CUDGC considers necessary or desirable to maintain the fund;

(j) establish accounts and funds in addition to the fund to cover the cost of any credit union insurance program and any other service provided by CUDGC and levy and collect any assessment that CUDGC considers necessary or desirable to maintain that account or fund;

(k) prescribe any compulsory insurance program that credit unions must participate in and collect assessments to pay all or any of the costs of that insurance;

(l) advise, as CUDGC considers necessary or desirable, credit unions on their financial and business practices;

(m) pay from the fund any cost incurred by or on behalf of CUDGC in monitoring, supervising, administering or liquidating a credit union, and otherwise in carrying on its business;

(n) make or cause to be made any inspections of a credit union;

(o) obtain services that CUDGC considers necessary or desirable to carry on its business;

(p) prescribe the form and nature of any mark, sign, advertisement or other device that indicates that deposits with a credit union are guaranteed by CUDGC and, if used, the manner by which the mark, sign, advertisement or other device is used;

(q) incorporate a body corporate for the purpose of facilitating the acquisition, management or disposal of property acquired from a credit union;

(r) do all other things that CUDGC considers reasonably necessary or desirable to carry on its business pursuant to this Act.

1998, c.C-45.2, s.445.

Credit union guarantee

446(1) In the guarantee of CUDGC to depositors with a credit union, CUDGC shall guarantee the repayment to a depositor of the full amount of each deposit other than a deposit excluded by the regulations.

(2) Notwithstanding subsection (1) but subject to subsections (3) and (4), CUDGC may reduce its guarantee to depositors.

(3) A reduction in the guarantee pursuant to subsection (2) does not apply to:

(a) any deposit that is held on a term basis, until the expiry of that term;

(b) any deposit until after a period of not less than 30 days after CUDGC provides, in accordance with the regulations, a public announcement of the fact of that reduction and the date on which it will be effective.

(4) CUDGC shall, in accordance with the regulations, take reasonable steps to advise the public of:

(a) the reduced guarantee; and

(b) the date on which the reduced guarantee is to take effect.

1998, c.C-45.2, s.446.

Fund

447(1) CUDGC shall maintain in its records an account to be designated the "Credit Union Deposit Guarantee Fund".

(2) The fund consists of all assets of CUDGC other than assets allocated by CUDGC to other accounts pursuant to clause 445(j).

1998, c.C-45.2, s.447.

Assessments

448(1) CUDGC shall determine the amount and manner of collecting any assessment from credit unions that is necessary or desirable to maintain the fund.

(2) CUDGC shall determine, as an assessment separate from that mentioned in subsection (1), the amount required to establish and maintain any account required to cover the costs of providing any credit union insurance program or any other services.

(3) An assessment established by CUDGC is a debt due to and recoverable by CUDGC from the credit union on the date specified by CUDGC, and CUDGC may maintain an action for the recovery of the debt.

1998, c.C-45.2, s.448.

Claims

449 CUDGC shall establish the procedures that it considers necessary and desirable for:

(a) a depositor making a claim against the fund;

(b) paying claims out of the fund.

1998, c.C-45.2, s.449.

Payments

450(1) When CUDGC is obligated to make payment on its guarantee, it shall make payment to any person that, in the opinion of CUDGC, appears to be entitled to the payment.

(2) Payment by CUDGC with respect to a deposit discharges CUDGC to the extent of the payment made and CUDGC has no obligation to see to the proper application of the payment made.

1998, c.C-45.2, s.450.

Subrogation

451(1) If CUDGC pays an amount to a depositor, creditor, member or shareholder, CUDGC is subrogated for the amount paid to all rights and interests of the depositor, creditor, member or shareholder and may maintain an action with respect to the rights and interests of the depositor, creditor, member or shareholder or in its own name.

(2) If CUDGC pays a claim out of the fund to a depositor, creditor, member or shareholder of a credit union, CUDGC:

(a) has a charge on the assets of the credit union;

(b) has the right to appoint a liquidator of the credit union.

1998, c.C-45.2, s.451.

Standards of sound business practice

452(1) After consultation with the registrar, CUDGC may issue standards of sound business practice.

(2) A standard of sound business practice comes into force when:

(a) it has been approved by the board as a standard of sound business practice; and

(b) it has been filed with the registrar.

(3) No credit union shall fail to comply with a standard of sound business practice that is applicable to the credit union.

(4) A standard of sound business practice may apply to any credit union, but is not required to apply to all credit unions.

1998, c.C-45.2, s.452.

Board of directors

453(1) The business and affairs of CUDGC are to be managed by a board of directors consisting of:

(a) one individual appointed by Credit Union Central;

(b) two individuals, who are not employed by, on retainer from or officers or directors of any credit union, Credit Union Central or CUDGC, appointed by Credit Union Central following consultation with the deputy minister of the ministry presided over by the minister;

(c) the chief executive officer of Credit Union Central or that person's nominee;

(d) the deputy minister of the ministry presided over by the minister or the nominee of the deputy minister;

(e) the Deputy Minister of Finance or the nominee of the Deputy Minister of Finance;

(f) one individual, who is not employed in the public service of the Government of Saskatchewan or by a Crown corporation, appointed by the Lieutenant Governor in Council following consultation with:

(i) the chief executive officer of Credit Union Central; and

(ii) the chairperson of the board of directors of Credit Union Central.

(2) A member appointed pursuant to clause (1)(a) or (b) holds office for a period not exceeding three years, but that member's appointment may be terminated at any time by a resolution of the board of directors of Credit Union Central.

(3) Each successive appointment of a member mentioned in clause (1)(a) or (b) is for a period not exceeding three years but, where Credit Union Central terminates the appointment of a member or a vacancy is caused by death, resignation or otherwise, the subsequent appointment is to be made for the unexpired term.

(4) The members of the board shall elect a chairperson and vice-chairperson from among their number.

(5) The provisions of sections 93, 97, 104, 105, 109, 112, 113, 114, 116 and 117 apply to the board, with any necessary modifications.

1998, c.C-45.2, s.453; 2009, c.12, s.2.

Bylaws

454(1) The board may adopt bylaws concerning any of the following:

(a) the appointment of officers;

(b) any remuneration or other payments to members of the board;

(c) procedures with respect to voting, including the quorum required;

(d) establishment of committees and the activities of those committees;

(e) the administration, management and control of the property and affairs of CUDGC;

(f) any matters respecting standards of sound business practice and financial and business practices;

(g) any matters respecting conflicts of interest;

(h) the manner in which hearings may be held by the board;

(i) any matter that it considers necessary for the proper conduct of the business and affairs of CUDGC.

(2) The board shall file every bylaw made pursuant to subsection (1) with the registrar.

1998, c.C-45.2, s.454.

Bonding

455 Every officer and employee of CUDGC shall furnish CUDGC with a security or a fidelity bond in the amount prescribed by CUDGC within 60 days after commencing his or her duties with CUDGC.

1998, c.C-45.2, s.455.

Financial year

456 The financial year of CUDGC is the period that commences on January 1 in one year and ends on December 31 in the same year.

1998, c.C-45.2, s.456.

Auditor and annual report

457(1) CUDGC shall annually, within 120 days after the end of each financial year, prepare a comparative and, if applicable, consolidated financial statement relating separately to:

(a) the preceding financial year; and

(b) the financial year preceding the financial year mentioned in clause (a).

(2) The annual financial statement must report on:

(a) the financial position of CUDGC as at the end of the financial year to which the statement relates;

(b) the results of the operations of CUDGC for the financial year mentioned in clause (a).

(3) Except as otherwise specified in the regulations, the annual statement must be prepared in accordance with generally accepted accounting principles and must contain information and particulars that the board considers necessary to present fairly those matters mentioned in subsection (2).

(4) The board shall approve the annual statement and its approval is to be evidenced by the signature of the person acting as the chairperson of the board and at least one other director.

(5) The annual statement is to be audited by an auditor who is a member of a recognized accounting profession regulated by an Act.

(6) The audit mentioned in subsection (5) is to be performed in accordance with generally accepted auditing standards.

(7) The auditor shall report with respect to transactions of CUDGC that have come to the auditor's attention and that, in the auditor's opinion, affect the financial well-being of CUDGC.

(8) CUDGC shall provide a copy of the annual statement, together with the auditor's report, to both the registrar and Credit Union Central not later than 120 days after the end of the financial year mentioned in subsection (1).

(9) The registrar may require the auditor of CUDGC to do all or any of the following:

(a) report to the registrar on the extent of the auditor's examination of the annual financial statement;

(b) enlarge or extend the scope of any examination or perform any other procedure and report the results to the registrar;

(c) make a particular examination relating to the adequacy of procedures adopted by CUDGC to protect the fund;

(d) conduct a special audit and report to the registrar.

(10) A credit union may request a copy of an annual statement.

(11) Any oral or written statement or report made pursuant to this section by the auditor or auditors or former auditor or auditors of CUDGC has qualified privilege.

1998, c.C-45.2, s.457.

Registrar's examination

458(1) The registrar may make an examination of the business of CUDGC and for that purpose may:

(a) inspect any record of CUDGC;

(b) work together with regulatory agencies of any government or engage those agencies to conduct the examination on the registrar's behalf;

(c) engage any person to conduct the examination on behalf of the registrar.

(2) The registrar shall report to the minister any findings made pursuant to subsection (1).

(3) As soon as is reasonably possible after providing the registrar's report to the minister in accordance with subsection (2), the registrar shall make that registrar's report available to CUDGC and may make it available to any person who, in the opinion of the registrar, has a legitimate interest in the report.

(4) No information may be released pursuant to this section that relates to the accounts of a credit union, its members or its customers, except information that is required to be released for the purposes of law enforcement.

(5) Neither the registrar or any person acting on behalf of the registrar incur any liability by reason only of making available the report prepared for the purpose of this section.

(6) The registrar may charge to CUDGC the costs of engaging a person pursuant to clause (1)(c) and the costs incurred by that person in conducting an examination.

1998, c.C-45.2, s.458.

Examination

459(1) Where CUDGC considers it necessary or desirable, CUDGC may make or cause to be made an examination of the business of a credit union, its books, records and accounts.

(2) For the purposes of an examination pursuant to this section, CUDGC and any person designated by it:

(a) have the right to access the books, records and accounts of the credit union; and

(b) may require the current or former directors, officers and auditors of the credit union to furnish any information that CUDGC or the person may require.

(3) CUDGC may charge the costs incurred in carrying out the examination pursuant to this section to the credit union and may recover from the credit union the amount of the examination as a debt due and payable to CUDGC.

1998, c.C-45.2, s.459.

Confidentiality

460(1) Subject to subsection (2), all information regarding the business and affairs of a credit union that is obtained by CUDGC or by any person acting on behalf of CUDGC is confidential and shall be treated accordingly.

(2) Nothing in subsection (1) prevents CUDGC from disclosing any information where:

(a) CUDGC considers it necessary to carry on its business;

(b) the information is provided to the registrar or a person appointed by the registrar; or

(c) the disclosure is required by an order of any court of competent jurisdiction.

(3) Where CUDGC discloses information pursuant to clause (2)(a), CUDGC may impose any terms and conditions it considers necessary to ensure the confidentiality of the information.

(4) CUDGC and any person acting on behalf of CUDGC incurs no liability by reason only of making available information as permitted by subsection (2).

1998, c.C-45.2, s.460; 2001, c.12, s.17.

Holding out

461 No person other than a credit union shall, by any written or oral representation of any kind, advertise or hold out that deposits with that person are guaranteed by CUDGC.

1998, c.C-45.2, s.461.

Power of registrar to direct CUDGC to comply

462(1) The registrar may issue a directive to CUDGC pursuant to subsection (2) if the registrar is satisfied that it is in the public interest or that any of the following exists:

(a) CUDGC is not complying with or acting in accordance with this Part;

(b) CUDGC's activities or failure or neglect to undertake any activity will result in CUDGC not complying with this Part;

(c) the business practices of CUDGC are or are likely to create a material risk to the fund.

(2) In the circumstances mentioned in subsection (1), the registrar may direct CUDGC to do all or any of the following:

(a) to cease doing an act or to cease failing or neglecting to do an act;

(b) to comply with this Act, the regulations or any order of the registrar;

(c) to do or refrain from doing any other thing that the registrar considers necessary.

1998, c.C-45.2, s.462.

Compliance orders, supervision and administration of CUDGC

463(1) Where the registrar is satisfied that CUDGC has failed to comply with a directive issued to CUDGC pursuant to section 462, the registrar may:

(a) issue an order that CUDGC comply with the registrar's directive; or

(b) by order, place CUDGC under supervision.

(2) The registrar shall not issue an order pursuant to clause (1)(a) or (b) without giving CUDGC an opportunity to be heard.

(3) Notwithstanding subsection (2), where the registrar considers that it is necessary to protect the public interest, the registrar may immediately issue an order pursuant to this section without giving CUDGC an opportunity to be heard, but shall give CUDGC an opportunity to be heard within 15 days after the date on which the registrar issued the order.

(4) Where the registrar has issued an order pursuant to clause (1)(a) and the registrar is of the opinion that CUDGC has failed to comply with that order, the registrar may apply to the court:

(a) for an order directing CUDGC to comply with the registrar's order; or

(b) for any other order, relief or remedy that the registrar may request.

(5) A supervisor appointed pursuant to this section:

(a) has the powers specified in section 470;

(b) is entitled to receive the information mentioned in clauses 471(a), (c) and (d); and

(c) may appoint a person to attend any meeting of the board of CUDGC or of any committee.

(6) Section 470 applies with any necessary modifications to a supervisor appointed pursuant to this section.

(7) Where the registrar believes that the public interest is in danger because the fund is not adequate to guarantee the claim of any member or depositor that is guaranteed, the registrar may, with the consent of the minister, apply to a judge of the court for the appointment of an administrator.

(8) An administrator appointed pursuant to this section has the powers specified in section 467, and that section applies with any necessary modifications to an administrator appointed pursuant to this section.

1998, c.C-45.2, s.463.

Power of CUDGC to order compliance

464(1) CUDGC may issue an order pursuant to subsection (2) if CUDGC is satisfied that it is in the best interests of the credit union or its members, security holders, shareholders, creditors, depositors or consumers or that any of the following exists:

(a) a person is not complying with Parts V, X, XI or XIV;

(b) a person is not complying with the standards of sound business practice or with any order issued by CUDGC;

(c) a person's activities or failure or neglect to undertake any activities may cause risk to the fund.

(2) In the circumstances mentioned in subsection (1), CUDGC may order a person to do all or any of the following:

(a) to cease doing an act or to cease failing or neglecting to do an act;

(b) to comply with Parts V, X, XI or XIV or with the standards of sound business practice;

(c) to do or refrain from doing any other thing that CUDGC considers necessary.

(3) CUDGC shall not issue an order pursuant to this section without giving the person an opportunity to be heard.

(4) Notwithstanding subsection (3), if CUDGC considers that it is necessary to protect the interests of the credit union or its members, security holders, shareholders, creditors, depositors or consumers, it may immediately issue an order pursuant to this section without giving the person an opportunity to be heard, but shall give the person an opportunity to be heard within 15 days after the date on which CUDGC issued the order.

1998, c.C-45.2, s.464.

Power of court to order compliance

465(1) If CUDGC is of the opinion that a person has failed to comply with an order issued pursuant to section 464, CUDGC may apply to the court for all or any of the following:

(a) an order directing the person to comply with the order issued pursuant to section 464 or restraining that person from contravening the order issued pursuant to section 464;

(b) any other order, relief or remedy that CUDGC may request.

(2) On an application pursuant to subsection (1), the court may grant the order requested and may make any other order that the court considers necessary.

1998, c.C-45.2, s.465.

Supervision and administration of credit union

466(1) In addition to any other circumstances in which CUDGC may do any of the things mentioned in subsection (2), CUDGC may do anything mentioned in subsection (2) if:

(a) CUDGC is of the opinion that a credit union has not observed the standards of sound business practice applicable to the credit union and, after not less than 30 days' notice from CUDGC and after having given the credit union an opportunity to be heard, the credit union continues in default of the standards of sound business practice;

(b) the credit union has failed to comply with an order issued by CUDGC pursuant to section 464; or

(c) CUDGC is of the opinion that there is a risk to the fund.

(2) In any of the circumstances mentioned in subsection (1), CUDGC may, after giving the credit union an opportunity to be heard:

(a) place the credit union under supervision; or

(b) place the credit union under administration.

(3) Notwithstanding subsection (2), if CUDGC considers it necessary to protect the fund, CUDGC may, if any of the circumstances of subsection (1) exist, immediately place the credit union under supervision or administration without giving the credit union an opportunity to be heard but, in that circumstance, CUDGC shall give the credit union an opportunity to be heard within 15 days after that event.

1998, c.C-45.2, s.466.

Powers of administrator

467(1) Subject to subsection (2), when a credit union is placed under administration pursuant to section 466, CUDGC shall exercise all of the powers of the board of the credit union and the board of the credit union, subject to this section, shall cease to exercise its powers.

(2) Notwithstanding subsection (1), CUDGC may permit or direct the board of a credit union that is placed under administration to exercise the powers specified by CUDGC.

(3) If CUDGC revokes the placing of the credit union under administration, the board of the credit union shall exercise all of the powers granted to a board by this Act.

(4) To the extent that the board of the credit union ceases, pursuant to this section, to exercise its powers, the directors of the credit union are relieved of the liability imposed by this Act.

(5) If a credit union has been placed under administration, CUDGC may, in accordance with section 472, cause that credit union to amalgamate with another credit union.

1998, c.C-45.2, s.467.

Duties of CUDGC as administrator

468 If CUDGC places a credit union under administration, CUDGC shall:

(a) immediately give notice of that fact to the registrar;

(b) take into custody and control the property of the credit union;

(c) submit monthly financial statements to the registrar and to the board of the credit union;

(d) manage the business of the credit union; and

(e) report annually to the members and shareholders on the business of the credit union.

1998, c.C-45.2, s.468.

Duties of CUDGC as supervisor

469 If CUDGC places a credit union under supervision, CUDGC shall:

(a) immediately give notice of that fact to the registrar; and

(b) monitor the management of the credit union.

1998, c.C-45.2, s.469.

Powers of CUDGC as supervisor

470(1) If a credit union has been placed under supervision, in addition to any right of CUDGC pursuant to section 464, CUDGC may recommend to the credit union, its directors, any committee or any officer or employee the actions that are to be taken by any of those persons to avoid an act that is likely to:

(a) cause the credit union financial difficulties;

(b) result in the credit union being in contravention of a standard of sound business practice; or

(c) cause a risk to the fund.

(2) If a recommendation made by CUDGC pursuant to subsection (1) is not implemented by the person to whom it is directed, CUDGC may place the credit union under administration.

1998, c.C-45.2, s.470.

Information to CUDGC

471 A credit union that is placed under supervision shall:

(a) notify CUDGC of all meetings of the board of the credit union or any committee, including the audit committee;

(b) permit a person appointed by CUDGC to attend those meetings;

(c) provide to CUDGC copies of all reports to the board of the credit union; and

(d) provide to CUDGC access to all records of the credit union.

1998, c.C-45.2, s.471.

CUDGC may require amalgamation

472(1) After giving a credit union not less than 30 days' notice and an opportunity to be heard, CUDGC may require a credit union to amalgamate with another credit union that is willing to amalgamate if:

(a) CUDGC has made a payment out of the fund to the credit union or on behalf of the credit union;

(b) CUDGC considers the amalgamation desirable to protect the fund;

(c) CUDGC has directed the directors or members of the credit union to undertake any action that CUDGC considers appropriate; and

(d) the directors or members have failed to undertake the actions directed by CUDGC.

(2) Notwithstanding any other provision of this Act, where CUDGC amalgamates a credit union with another credit union pursuant to subsection (1):

(a) CUDGC may exercise any of the powers and rights, mentioned in Part XVI, of the members, shareholders and board of the credit union; and

(b) the members, shareholders and board of the credit union are not entitled to exercise any of the powers mentioned in Part XVI and may not exercise any of the rights mentioned in Part XVII.

(3) No credit union that is subject to administration or supervision may amalgamate with another credit union without the prior approval of CUDGC.

1998, c.C-45.2, s.472.

Non-application of certain Acts

473 No provision of *The Saskatchewan Insurance Act* or *The Insurance Premiums Tax Act* applies to CUDGC.

1998, c.C-45.2, s.473.

PART XXV
Repeal, Transitional, Consequential and Coming into Force

S.S. 1984-85-86, c.C-45.1 repealed by proclamation

474 The Lieutenant Governor in Council may, by proclamation, repeal all or any provision of *The Credit Union Act, 1985*.

1998, c.C-45.2, s.474.

Transitional

475(1) In this section, **"former Act"** means *The Credit Union Act, 1985*, as that Act existed on the day before the coming into force of section 1 of this Act.

(2) Where, immediately before section 1 of this Act comes into force, a credit union is incorporated, continued or registered pursuant to the former Act:

(a) the incorporation, continuance or registration, as the case may be, of that credit union is continued pursuant to this Act on the day section 1 of this Act comes into force and remains subject to any terms, conditions, restrictions or limitations that were imposed by or pursuant to the former Act or that are contained in its constating documents, and the credit union may be dealt with as if the incorporation, continuance or registration were made pursuant to this Act;

(b) every document validly filed by a credit union pursuant to the former Act is deemed to be filed pursuant to this Act;

(c) in the case of a credit union incorporated or continued pursuant to the former Act, the credit union is deemed to have been issued an order to commence operations and carry on business pursuant to this Act; and

(d) loans and investments validly made pursuant to the former Act:

(i) are deemed to be have been validly made pursuant to this Act notwithstanding that the loans or investments do not comply with this Act; and

(ii) are subject to any direction that CUDGC may make pursuant to this Act as if the investments were made pursuant to this Act.

(3) Notwithstanding the repeal of the former Act and notwithstanding any other provisions of this Act, if a credit union that was registered pursuant to the former Act on the day before section 1 of this Act comes into force had joint memberships:

(a) the joint memberships remain in force;

(b) the provisions of *The Credit Union Act, 1985* remain in force for the purposes of dealing with the joint memberships;

(c) the joint members may exercise the rights that are given by, and are bound by the responsibilities of joint membership that are imposed on joint members by, the provisions of *The Credit Union Act, 1985* mentioned in clause (b); and

(d) the credit union shall not issue any new joint memberships.

(4) Security interests created, or rights granted to appoint a receiver, by a credit union before the coming into force of section 1 of this Act and that are outstanding on the day before section 1 of this Act comes into force continue subject to the provisions of this Act.

(5) Sound business practices that were prescribed pursuant to clause 249(2)(a) of the former Act and that are in force on the day before section 1 of this Act comes into force are deemed to be standards of sound business practice made pursuant to this Act, and shall be filed by CUDGC with the registrar not later than one year after the date that section 1 of this Act comes into force.

(6) Common shares issued by a credit union pursuant to the former Act, and amounts held in accordance with the former Act to the credit of a member in a member equity account as allocated retained earnings, that are outstanding on the day before section 1 of this Act comes into force become membership shares issued by the credit union pursuant to this Act on an equal value basis.

(7) Notwithstanding clause 102(1)(h), a professional adviser to a credit union who is, on the day before section 1 of this Act comes into force, a director of the credit union remains eligible to be a director and to hold office until the earliest of the day that:

(a) the professional adviser's term of office expires;

(b) the professional adviser retires; and

(c) the professional adviser is removed from office pursuant to this Act.

1998, c.C-45.2, s.475.

476 **Dispensed**. This section makes consequential amendments to another Act. The amendments have been incorporated into the corresponding Act.

Coming into force

477 This Act comes into force on proclamation.

1998, c.C-45.2, s.477.

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