

CO-OPERATIVE CREDIT UNION REGULATIONS, 2015 (L.I. 2225)

ARRANGEMENT OF REGULATIONS

Regulation

General provisions

1. Scope
2. Purpose of Regulations
3. Co-operative Credit Union
4. Functions of a Co-operative Credit Union
5. Powers of the Bank
6. Licensing of a Co-operative Credit Union

Co-operative Credit Unions Supervisory Agency

7. Establishment of the Co-operative Credit Unions Supervisory Agency
8. Functions of the Agency
9. Composition of the Agency
10. Qualification for membership of the Agency
11. Tenure of office of members
12. Meetings of the Agency
13. Disclosure of interest
14. Allowances

Conduct of business of a Co-operative Credit Union

15. Registered office and records
16. Financial Standards
17. Deposits
18. Loans
19. Investment
20. Reserves and dividends
21. Borrowing by Co-operative Credit Union
22. Application of section 25(3) to (6) of Act 792

Miscellaneous provisions

23. Interpretation

IN exercise of the power conferred on the Minister responsible for Finance by section 45 of the Non-Bank Financial Institutions Act, 2008 (Act 774) and acting in consultation with the Bank of Ghana, and the power conferred on the Board under section 4(2) of the Bank of Ghana Act, 2002 (Act 612), these Regulations are made this 28th day of October, 2015.

General provisions

Regulation 1—Scope

These Regulations apply to a Co-operative Credit Union registered under a law that provides for the registration of Co-operative Credit Unions in Ghana, and licensed by the Bank of Ghana.

Regulation 2—Purpose of Regulations

The purpose of these Regulations is to

- (a) establish the Co-operative Credit Unions Supervisory Agency and provide for the functions of that Agency; and
- (b) provide for rules to govern the licensing, operation and supervision of Co-operative Credit Unions.

Regulation 3—Co-operative Credit Union

(1) The purpose of a Co-operative Credit Union is to provide financial services to members of that Co-operative Credit Union.

(2) In furtherance of subregulation (1), a Co-operative Credit Union shall promote savings, lending, and operate in accordance with the following co-operative principles:

- (a) membership is voluntary;
 - (b) membership shall not be based on gender, race, colour, ethnic origin, creed, or social or economic status;
 - (c) administration shall be based on democratic principles;
 - (d) education of members shall be a continuous process;
 - (e) a Co-operative Credit Union shall collaborate with other Co-operative Credit Unions to serve the members of the Co-operative Credit Union and communities at the local, national and international level; and
 - (f) the share capital shall yield a limited rate of dividend as prescribed by these Regulations or the by-laws.
- (3) Despite subregulation (2), a person shall not hold an office in the management of a Co-operative Credit Unions Association unless that person is a Ghanaian.

Regulation 4—Functions of a Co-operative Credit Union

A Co-operative Credit Union shall

- (a) accept deposits from members of the Co-operative Credit Union;
- (b) with the approval of the Bank, provide computerised banking services, including the operation of automated teller machines, telephone banking, internet banking, inter-Credit Union networks and smart cards to members of the Co-operative Credit Union;

- (c) grant loans to members of the Co-operative Credit Union;
- (d) operate branches of the Co-operative Credit Union;
- (e) provide safety deposit services to members of the Co-operative Credit Union;
- (f) act as a trustee or an executor, where the Co-operative Credit Union is authorised by the Registrar to provide that service;
- (g) offer credit card and payment card services;
- (h) perform other functions incidental to the purpose of a Co-operative Credit Union; and
- (i) perform any other functions prescribed by law or approved by the Bank.

Regulation 5—Powers of the Bank

- (1) The Bank shall license a Co-operative Credit Union and supervise the management and operation of that Co-operative Credit Union.
- (2) Subject to the powers and functions of the Bank under the Bank of Ghana Act, 2002 (Act 612) and any other enactment, the Agency established under regulation 7(1) may, on behalf of the Board, by notice published in the Gazette and in two daily newspapers of national circulation, delegate specified supervisory functions to a Co-operative Credit Unions Association appointed in accordance with these Regulations.

Regulation 6—Licensing of a Co-operative Credit Union

- (1) A person shall not carry on the business of a Co-operative Credit Union unless
 - (a) the Co-operative Credit Union is registered and incorporated under sections 5 and 6 of the Co-operative Societies Act, 1968 (N.L.C.D. 252); and
 - (b) licensed by the Bank in accordance with the Non-Bank Financial Institutions Act, 2008 (Act 774).
- (2) A person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine of one thousand penalty units or to imprisonment for a term of four years or to both the fine and imprisonment.

Co-operative Credit Unions Supervisory Agency

Regulation 7—Establishment of the Co-operative Credit Unions Supervisory Agency

- (1) There is established by these Regulations a body to be known as the Co-operative Credit Unions Supervisory Agency.
- (2) The Agency is responsible for the inspection and supervision of Co-operative Credit Unions.

Regulation 8—Functions of the Agency

- (1) The Agency shall, under the direction of the Board,
 - (a) issue general rules and guidelines as regards the implementation of policies and enforcement of procedures by Co-operative Credit Unions;
 - (b) enforce credit policies that are approved by the Bank, for Co-operative Credit Unions;

(c) monitor the financial condition of a Co-operative Credit Union and take action where the situation warrants a corrective measure in the operation of the Co-operative Credit Union in order to protect the interest of the members of that Co-operative Credit Union;

(d) appoint a Co-operative Credit Unions Association to carry out routine supervision of Co-operative Credit Unions; and

(e) formulate rules and guidelines for the guidance of a Co-operative Credit Unions Association or any other body authorised by the Agency to undertake the supervision of Co-operative Credit Unions.

(2) In furtherance of the performance of its functions, the Agency shall

(a) submit annual reports to the Bank not later than three calendar months after the end of each financial year;

(b) comply with rules issued by the Bank and enactments;

(c) collaborate with the Bank in the monitoring and supervision of Co-operative Credit Unions;

(d) undertake supervisory functions in respect of Co-operative Credit Unions specified under these Regulations; and

(e) perform any other functions incidental to the performance of its supervisory functions.

Regulation 9—Composition of the Agency

(1) The Agency consists of

(a) an executive chairperson nominated by the Governor of the Bank;

(b) two representatives of the Bank not below the rank of a director, nominated by the Governor of the Bank;

(c) one representative of the Ministry responsible for Finance not below the rank of a director, nominated by the Minister;

(d) one representative nominated by the board of directors of a Co-operative Credit Unions Association appointed under regulation 8 (1) (d);

(e) one representative of the Department of Co-operatives; and

(f) one representative of the Ghana Microfinance Institutions Network.

(2) The Board of the Bank shall appoint the members of the Agency.

Regulation 10—Qualification for membership of the Agency

A person qualifies to be a member of the Agency if that person

(a) has not suspended or compounded payment to creditors;

(b) has not been convicted of an offence involving fraud or dishonesty; and

(c) is not disqualified or suspended from practicing a profession by an order of a competent authority.

Regulation 11—Tenure of office of members

(1) A member of the Agency, other than an executive member, shall hold office for a period of not more than three years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) A member of the Agency may, at any time, resign from office in writing addressed to the Board.

(3) A member of the Agency who is absent from three consecutive meetings of the Agency without sufficient cause ceases to be a member of the Agency.

(4) The Board may, by a letter addressed to a member, revoke the appointment of that member for stated reasons.

(5) Where a member of the Agency is, for sufficient reason unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(6) Where there is a vacancy as a result of a resignation under subregulation (2), the Board shall appoint a person to fill the vacancy.

(7) Where there is a vacancy

(a) under subregulation (3),

(b) as a result of a declaration under subregulation (5); or

(c) by reason of the death of a member,

the Minister shall notify the Board, and the Board shall appoint a person to fill the vacancy.

Regulation 12—Meetings of the Agency

(1) The Agency shall meet at least once every four months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than one-third of the membership of the Agency, convene an extra-ordinary meeting of the Agency at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Agency is five members or a greater number determined by the Agency in respect of an important matter.

(4) The chairperson shall preside at meetings of the Agency and in the absence of the chairperson, a member of the Agency elected by the members present from among their number shall preside.

(5) Matters before the Agency shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Agency may co-opt a person to attend a meeting of the Agency but that person shall not vote on a matter for decision at the meeting.

Regulation 13— Disclosure of interest

(1) A member of the Agency who has an interest in a matter for consideration

(a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not be present or participate in the deliberations of the Agency in respect of the matter.

(2) A member who fails to disclose an interest ceases to be a member of the Agency, and subsections (7) and (8) of section 45 of the Interpretation Act, 2009 (Act 792) shall apply.

Regulation 14—Allowances

Members of the Agency shall be paid the allowances approved by the Minister.

Conduct of business of a Co-operative Credit Union

Regulation 15—Registered office and records

- (1) A Co-operative Credit Union shall have an office with a registered address.
- (2) A Co-operative Credit Union shall, by notice in writing, communicate a change of office or postal address to the Registrar and the Agency.
- (3) A Co-operative Credit Union shall keep and maintain at its registered office,
 - (a) the by-laws of the Co-operative Credit Union;
 - (b) the list of current and past members of the board of the Co-operative Credit Union and their last known addresses;
 - (c) the list of current and past members of the committees of the Co-operative Credit Union and their last known addresses;
 - (d) the register of members of the Co-operative Credit Union and their last known addresses;
 - (e) the register of the shareholding of members of the Co-operative Credit Union;
 - (f) the statement of deposits and loans to members;
 - (g) minute book of the general meetings of the members of the Co-operative Credit Union;
 - (h) minute books of the meetings of the board of directors and committees of the Co-operative Credit Union;
 - (i) audited financial statements of the Co-operative Credit Union; and
 - (j) any other document that the Registrar may direct or the Bank considers necessary.
- (4) The following persons may, during business hours, enter the premises of a Co-operative Credit Union to inspect documents listed in subregulation (3)
 - (a) the Registrar;
 - (b) a member of the Agency;
 - (c) a representative of a Co-operative Credit Unions Association appointed under regulation 8(1)(d);
 - (d) a representative of the Bank; or
 - (e) an auditor of the Co-operative Credit Union.
- (5) A member of a Co-operative Credit Union may during business hours, enter the premises of the Co-operative Credit Union to inspect the following documents:
 - (a) the by-laws of the Co-operative Credit Union;

- (b) the list of current and past members of the board of directors of the Co-operative Credit Union and their last known addresses;
 - (c) the register of members of the Co-operative Credit Union and their last known addresses;
 - (d) the register of the shareholding of members of the Co-operative Credit Union; and
 - (e) audited financial statements of the Co-operative Credit Union.
- (6) A Co-operative Credit Union that contravenes subregulation (1), (2) or (3) commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than five hundred penalty units.
- (7) In the case of a continuing offence, to a further fine of twenty penalty units for each day during which the offence continues after the Agency has served a written notice on the Co-operative Credit Union.
- (8) A person who obstructs any of the persons listed under subregulation (4) from inspecting a document listed under subregulation (3) commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than two thousand penalty units or to imprisonment for a term of not less than three years and not more than five years or to both the fine and imprisonment.

Regulation 16—Financial Standards

- (1) The Agency shall, with the approval of the Bank and in consultation with a Co-operative Credit Unions Association appointed under regulation 8(1)(d), issue Financial Standards to govern the activities of the Co-operative Credit Union.
- (2) The Financial Standards issued under subregulation (1) includes
- (a) the minimum capital adequacy ratio required to be maintained by a Co-operative Credit Union; and
 - (b) the secondary reserve ratio required to be maintained by a Co-operative Credit Union.
- (3) The Agency shall publish the Financial Standards in the Gazette and in at least two newspapers of national circulation.
- (4) The Financial Standards are binding after they have been published in accordance with subregulation (3).
- (5) A Co-operative Credit Union shall, in the conduct of its business, comply with the Financial Standards.
- (6) A Co-operative Credit Union that contravenes the Financial Standards issued under subregulation (1) commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than five hundred penalty units.

Regulation 17—Deposits

- (1) A Co-operative Credit Union shall ensure that a member of that Co-operative Credit Union does not hold more than ten percent of the deposit of the Co-operative Credit Union except with the prior written approval of the Bank.
- (2) A Co-operative Credit Union may pay different rates of interest on deposits taking into account
- (a) the type of deposit;
 - (b) the amount of money deposited;

- (c) the term of the deposit; and
- (d) any other factor that the Co-operative Credit Union considers relevant for the provision of competitive service.

Regulation 18—Loans

- (1) A Co-operative Credit Union shall grant loans in compliance with these Regulations, the policy of the Co-operative Credit Union and the Financial Standards.
- (2) The Board of Directors of a Co-operative Credit Union shall, in writing, establish policies for the grant of loans. including
 - (a) the criteria for the grant of the loan;
 - (b) the conditions for the repayment of the loan;
 - (c) the maximum amount of money which may be granted as a loan; and
 - (d) the forms for security for loans.
- (3) Subject to the by-laws of a Co-operative Credit Union, a Co-operative Credit Union shall not grant a loan unless
 - (a) the loan is executed under a formal contract in writing; and
 - (b) the loan is secured or guaranteed.
- (4) A Co-operative Credit Union shall not grant to a member of that Co-operative Credit Union, a loan which is in excess of ten percent of the assets of the Co-operative Credit Union.
- (5) A Co-operative Credit Union may grant a loan on the security of its own shares.
- (6) A Co-operative Credit Union may
 - (a) create a charge on the shares, deposits, accrued dividends and interest of a member or a former member in respect of a debt due to the Co-operative Credit Union; and
 - (b) use the amount of money credited to the account of a member or former member to offset any debt owed to the Co-operative Credit Union.
- (7) Subject to a prior claim by the Government and any claim in respect of rent, a debt owed by a member or a former member to a Co-operative Credit Union is the first charge on
 - (a) crops or other agricultural produce raised in whole or in part by means of a loan obtained from the Co-operative Credit Union; or
 - (b) cattle, fodder, agricultural or industrial implements or raw materials for manufacture, stores, inventory or stock for sale purchased in whole or in part by way of a loan obtained from the Co-operative Credit Union.
- (8) This regulation does not affect the claim of a bonafide purchaser or transferee for value without notice of the claim of the Co-operative Credit Union.
- (9) A Co-operative Credit Union may charge different rates of interest on loans taking into account
 - (a) the risk involved in the business for which the loan is granted;

- (b) the amount of money involved; .
- (c) the period for repayment of the loan;
- (d) the security for the loan; or
- (e) any other factors that the Co-operative Credit Union considers relevant to the repayment of the loan.

(10) For purposes of this regulation, a loan is not an investment.

(11) A Co-operative Credit Union that contravenes subregulation (1), (2), (3), or (4) commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than five hundred penalty units.

Regulation 19—Investment

(1) A Co-operative Credit Union may invest part of its funds.

(2) Where a Co-operative Credit Union decides to invest part of its funds, the Co-operative Credit Union shall invest in

- (a) deposits in the Co-operative Credit Unions Association;
- (b) shares of the Co-operative Credit Unions Association;
- (c) bank deposits;
- (d) treasury bills and bonds issued by the Government of Ghana;

or

(e) any other investments approved by the Agency in consultation with the Co-operative Credit Unions Association.

(3) The aggregate investment of a Co-operative Credit Union in investments from other Co-operative Credit Unions shall not exceed one percent of the assets of the Co-operative Credit Union.

(4) Despite subregulation (1), a Co-operative Credit Union may invest in real property and equipment for the purposes of the conduct of the business of the Co-operative Credit Union.

Regulation 20—Reserves and dividends

(1) A Co-operative Credit Union shall, at the end of each financial year, pay into the Central Finance Facility, an amount that is equivalent to five percent of the total assets of the Co-operative Credit Union.

(2) A Co-operative Credit Union shall establish and maintain a statutory reserve fund consisting of at least twenty-five percent of the annual profits of the Co-operative Credit Union.

(3) A Co-operative Credit Union may pay dividend out of the remainder of the annual profit, any retained earnings or reserves remaining from the previous year which are available for distribution.

(4) A Co-operative Credit Union shall not

- (a) pay dividend in cash in excess of fifty percent of the annual profit of the Co-operative Credit Union without the prior approval of the Agency; or
- (b) pay out dividend in cash or repay shares

(i) if the Co-operative Credit Union does not meet the minimum capital Financial Standard developed by a Co-operative Credit Unions Association appointed under regulation 8(1)(d) to which that Co-operative Credit Union is a member; or

(ii) if the payment may cause the Co-operative Credit Union not to meet the minimum capital requirement in the Financial Standard developed by a Co-operative Credit Unions Association.

(5) A Co-operative Credit Union that contravenes subregulation (1), (2) or (4) commits an offence and is liable to an administrative penalty of not more than five hundred penalty units.

Regulation 21—Borrowing by Co-operative Credit Union

(1) A Co-operative Credit Union may borrow money but may only do so in accordance with a resolution passed by a two-thirds majority of the directors of the Co-operative Credit Union.

(2) A Co-operative Credit Union shall not borrow in excess of forty percent of the assets of that Co-operative Credit Union.

(3) A Co-operative Credit Union shall not grant a security interest in its property except with the prior written approval of the Co-operative Credit Unions Association to which it is a member.

(4) Subregulation (3) does not apply to the grant of a security interest in the property of a Co-operative Credit Union to a Co-operative Credit Unions Association.

(5) A Co-operative Credit Union that contravenes subregulation (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than two thousand-five hundred penalty units.

Regulation 22—Application of section 25(3) to (6) of Act 792

Section 25(3) to (6) of the Interpretation Act, 2009 (Act 792) applies where a Co-operative Credit Union is convicted for an offence under these Regulations.

Miscellaneous provisions

Regulation 23— Interpretation

In these Regulations, unless the context otherwise requires,

"Agency" means the Co-operative Credit Unions Supervisory Agency established under regulation 7;

"allowance" means a payment made to a member or an officer of a Co-operative Credit Union who attends a meeting related to the business of a Co-operative Credit Union or a retainer;

"Board" means the Board of Directors of the Bank, as specified under section 8 of the Bank of Ghana Act, 2002 (Act 612);

"by-laws" means the rules of a Co-operative Credit Union registered in accordance with the law that provides for the registration of Co-operative Credit Unions;

"capital" includes

(a) the share capital of a Co-operative Credit Union, issued or outstanding;

(b) retained earnings; and

(c) reserves that do not represent definite obligations for future payment and excludes reserve for loan losses other than general reserves;

"Co-operative Credit Union" means a co-operative credit union which is registered and incorporated under sections 5 and 6 of the Co-operative Societies Act, 1968 (N.L.C.D. 252) and licensed by the Bank in accordance with the Act;

"deposit" includes a fixed term deposit, a notice deposit and a payroll deposit;

"director" means a member of a board of directors of a Co-operative Credit Union;

"dividend" means a distribution of the profits or retained earnings or reserves of a Co-operative Credit Union in equal proportions to the number of shares held by a member out of the shares issued by the Co-operative Credit Union;

"Financial Standards" means the standards issued under regulation 16 to govern the operations of Co-operative Credit Unions;

"inter-Credit Union network" means the relationship between a Credit Union and the national association of that Co-operative Credit Union;

"loans" includes loans secured by real property or personal property;

"member" means a person who has met the membership requirements of a Co-operative Credit Union;

"minimum capital adequacy ratio" means a ratio expressed as a percentage of the adjusted capital base to the risk weighted financial exposure;

"Registrar" means the Registrar of Co-operative Societies;

"secondary liquid asset resource" means the total investment in government securities made by a Co-operative Credit Union, as a ratio of total deposits received by that Co-operative Credit Union; and

"smart card" means a pocket-sized card with embedded integrated circuits which may have contact or contactless interfaces with the ability to identify, authenticate and process transaction for the purposes of loading and storing cash or funds, or making payments.

SETH TEKPER

Minister responsible for Finance

DR. H. A.K. WAMPAH

Governor, Bank of Ghana

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