

**Financial Services Regulatory Authority of Ontario (FSRA)**  
**Publication of Board Approved Rule on FSRA's Website**  
**Proposed Rule [2021–002]**  
**Capital Adequacy Requirements for Credit Unions and Caisses Populaires**

**Introduction:**

Please find enclosed the materials required by paragraphs 1 to 5 of section 23(2) of the *Financial Services Regulatory Authority of Ontario Act, 2016* (the “**FSRA Act**”) for Proposed Rule 2021–002 Capital Adequacy Requirements for Credit Unions and Caisses Populaires (the “**Board Approved Rule**”). These materials have been compiled by the Financial Services Regulatory Authority of Ontario (“**FSRA**”), following the public consultation period (the “**Consultation Period**”), which commenced on June 14, 2021 and concluded on September 14, 2021.

FSRA's Board of Directors approved the Board Approved Rule on January 31, 2022.

**Background:**

If paragraphs 10 and 11 of section 285(1) of the *Credit Unions and Caisses Populaires Act, 2020* (the “**CUCPA 2020**”) are proclaimed into force, FSRA would be authorized to make a rule “regulating the maintenance, by credit unions, of adequate capital and adequate and appropriate forms of liquidity”, and “respecting regulatory capital and the total assets of a credit union” for Ontario's credit unions and caisses populaires (“**Credit Unions**”).

Prior to making the Board Approved Rule, FSRA established a working group in December 2020 comprised of representatives from the Credit Union sector (the “**Stakeholder Working Group**”) to provide input on FSRA's intention to make a FSRA Rule that would establish requirements for the maintenance of adequate capital, including an internal capital adequacy assessment process. The Stakeholder Working Group's feedback indicated that FSRA should develop a rule to replace the requirements currently set out under sections 15 to 19 of Ontario Regulation 237/09 (“**O. Reg. 237/09**”) under the *Credit Unions and Caisses Populaires Act, 1994* (the “**CUCPA 1994**”) in a manner that is clear, transparent and better aligns with international standards.

Upon the conclusion of the Consultation Period, FSRA analyzed stakeholder feedback and made immaterial amendments to the proposed Capital Adequacy Requirements for Credit Unions and Caisses Populaires Rule (the “**Proposed Rule**”). Once approved by FSRA's Board of Directors, the Proposed Rule became the Board Approved Rule.

The Board Approved Rule responds to the stakeholder feedback and the dynamic nature of Credit Unions. It better aligns capital adequacy requirements with international standards with adjustments similar to other Canadian jurisdictions, to the extent appropriate for Credit Unions, to ensure that Credit Unions assess and maintain adequate capital to promote stability and encourage desirable regulatory outcomes.

### **Delivery to the Minister of Finance:**

The Board Approved Rule and materials required by paragraphs 1 to 3 of section 23(1) of the FSRA Act were delivered to The Honourable Peter Bethlenfalvy, M.P.P (the “**Minister**”) on February 1, 2022.

If the Minister approves the Board Approved Rule, then pursuant to section 24(1) of the FSRA Act, the Board Approved Rule will come into force on the date that paragraphs 10 and 11 of section 285(1) of the CUCPA 2020 come into force.

### **No Action Taken by the Minister:**

If the Minister does not approve, reject or return the Board Approved Rule to FSRA for further consideration within 60 days after the Board Approved Rule is delivered to the Minister, then:

- If paragraphs 10 and 11 of section 285(1) of the CUCPA 2020 are proclaimed in force 75 or more days after the Board Approved Rule is delivered to the Minister, then in accordance with section 19(1) of the Board Approved Rule and section 24(2)(a) of the FSRA Act, the Board Approved Rule will come into force on the date that paragraphs 10 and 11 of section 285(1) of the CUCPA 2020 are proclaimed in force.
- If paragraphs 10 and 11 of section 285(1) of the CUCPA 2020 are proclaimed in force less than 75 days after the Board Approved Rule is delivered to the Minister, then in accordance with section 24(2)(c) of the FSRA Act, the Board Approved Rule will come into force on the date that is 75 days after the Board Approved Rule was delivered to the Minister.

### **Statement of Substance and Purpose:**

Under the CUCPA 1994 and O. Reg. 237/09, Credit Unions are subject to capital adequacy requirements based on Basel II standards, established by the Basel Committee on Banking Supervision (“**BCBS**”) in 2004. In 2010, the BCBS established “Basel III” international standards for capital adequacy of deposit-taking institutions. In November 2017, the Government of Ontario issued a consultation paper entitled “Modernizing Ontario’s Credit Union Legislative Framework – Consultation Paper on a Proposed Capital Adequacy Framework”. The consultation paper identified the key changes and specific measures that would be necessary to align Ontario’s capital adequacy framework more closely with the Basel III framework. Based on this consultation paper and subsequent dialogue between the Ministry of Finance, Deposit Insurance Corporation of Ontario, Financial Services Commission of Ontario, FSRA and representatives from the Credit Union sector, modifications to the proposal described in the 2017 consultation paper were discussed, in order to adapt Basel III concepts by making them more relevant to and appropriate for Credit Unions. Using its rulemaking authority under the CUCPA 2020, FSRA has reflected these discussions and updated the capital adequacy requirements for Credit Unions in the Board Approved Rule.

In the Board Approved Rule, FSRA is aligning its regulatory approach with international standards with adjustments similar to other Canadian jurisdictions. The purpose of the Board Approved Rule is to articulate the methodology that Credit Unions must use to calculate their

capital requirements. The minimum capital requirements are intended to ensure a strong and well-capitalized Credit Union sector.

### **Written Comments Received and Responses to Significant Concerns:**

In accordance with paragraphs 4 and 5 of section 23(2) of the FSRA Act, FSRA is required to publish on its website a summary of written comments received and FSRA's responses to significant issues and concerns brought to FSRA's attention during the Consultation Period.

Please refer to [FSRA's website](#) for a summary of written comments received and FSRA's responses to significant issues and concerns raised during the Consultation Period.

### **Immaterial Amendments made to the Proposed Rule:**

Throughout the Consultation Period, FSRA received stakeholder submissions and, in response, FSRA made immaterial amendments to the Proposed Rule. As the amendments made to the Proposed Rule are immaterial, FSRA is not required to publish an additional notice of change for a second consultation period, which would have been required by section 22(7) of the FSRA Act if FSRA had proposed material changes.

A summary of the amendments made by FSRA includes:

- Expanding the risk weighting categories to include additional investments, in a manner consistent with international best practices (e.g., Basel Committee on Banking Supervision Capital Requirements), including,
  - Inclusion of additional investments that would receive a 100% risk weighting and not be subject, by default, to a 1250% risk weighting,
  - Clarifying the type of investments that receive a 1250% risk weighting,
  - Providing details on the risk weighting for corporate bonds and short-term commercial paper, and
  - Providing details on the risk weighting for equity investments in funds;
- Adding a new section on regulatory adjustments for investments in capital instruments and other Total Loss Absorbing Capacity (TLAC) instruments of financial institutions and foreign institutions;
- Adding a new section on equity investments in funds; and
- Updating the definition section to reflect added risk weighted investments.

Most stakeholder comments were requests for clarification on risk weightings to ensure that all relevant asset categories are treated in accordance with international standards in a manner appropriate for Credit Unions. During the consultation period, it became apparent that a number of asset categories not addressed in the consultation draft are relevant for Credit Unions and should be included in the Proposed Rule.

Although many amendments were made, this was done solely to reflect stakeholder submissions, better align with international standards, and improve consistency. As the changes do not introduce new requirements beyond the internationally accepted treatments, as requested in stakeholder submissions, nor change the original policy intent of the Proposed Rule, the amendments do not represent material changes to the Proposed Rule.

**Board Approved Rule:**

The Board Approved Rule in English is attached as Appendix A, and the Board Approved Rule in French is attached as Appendix B.

# FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO

## Rule 2021 – 002

### Capital Adequacy Requirements for Credit Unions and Caisses Populaires

#### 1. Interpretation

1(1) In this Rule,

- (i) “Act” means the *Credit Unions and Caisses Populaires Act, 2020*;
- (ii) “agricultural loan” has the meaning given to it in **[Ontario regulation xx-xxx (General)]**;
- (iii) “appropriate” in respect of a credit union means appropriate for the structure, size, complexity, risk profile and capital risk exposures of a credit union;
- (iv) “capital conservation buffer ratio” has the meaning given to it in subsection 3(7);
- (v) “capital conservation buffer” has the meaning given to it in subsection 3(6);
- (vi) “capital instruments” includes common stock and all other types of direct, indirect or synthetic capital instruments, including subordinated debt, but excludes other TLAC instruments;
- (vii) “CMHC” means the Canada Mortgage Housing Corporation established under the *Canada Mortgage and Housing Corporation Act (Canada)*;
- (viii) “commercial entity” means any entity that is not a financial institution or a foreign institution;
- (ix) “commercial loan” has the meaning given to it in **[Ontario regulation xx-xxx (General)]**;
- (x) “current loan to value ratio” means, for a credit union’s reverse mortgage exposure, the reverse mortgage exposure divided by: (a) where the most recent appraisal of the residential property is greater than the original appraisal, the greater of the original appraised value or eighty per cent (80%) of the most recent appraised value of the residential property; or (b) where the most recent appraisal is less than the original appraisal, the most recent appraised value of the residential property;
- (xi) “D-SIFI” means a financial institution that has been designated as a domestic systemically important financial institution by its regulator;
- (xii) “designated credit rating organization” has the meaning given to it in the *Securities Act*;
- (xiii) “excluded liability” for a G-SIFI means each of the following:
  - (a) insured deposit,
  - (b) sight deposit and deposit with an original maturity of less than one year,
  - (c) liability arising from a derivative,
  - (d) debt instrument with a derivative-linked feature, such as a structured note,
  - (e) liability arising other than through a contract, such as a tax liability,
  - (f) liability that ranks ahead of the senior unsecured creditors of the G-SIFI under applicable insolvency and bankruptcy laws, and

- (g) any liability that, under the laws governing the G-SIFI, are excluded from bail-in or cannot be written down or converted into equity by the resolution authority for the G-SIFI without giving rise to material risk of successful legal challenge or valid compensation claims;
- (xiv) “expanded TLAC instrument” means an instrument issued by a G-SIFI in a jurisdiction that allows the G-SIFI to recognize an instrument ranking *pari passu* to the G-SIFI’s excluded liabilities as an external TLAC instrument because of a subordination exception;
- (xv) “financial technology investment” means an investment in an entity that has, as its purpose, the enabling of financial innovation using technology that could result in new business models, applications, processes or products with an associated material effect on financial markets and institutions and the provision of financial services;
- (xvi) “foreign institution” means an entity that is: (a) engaged in the business of banking, 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 (b) incorporated or formed otherwise than by, or under, an Act of the Parliament of Canada or of the legislature of a province;
- (xvii) “G-SIFI” means a financial institution or foreign institution that has been designated as globally systemically important by the Financial Stability Board;
- (xviii) “guarantee” means a guarantee and includes a letter of credit;
- (xix) “indirect” with regard to an investment of a credit union, means exposures or part of exposures that, if a direct holding loses its value, will result in a loss to the credit union substantially equivalent to the loss in the value of the direct holding, including an investment in a mutual fund that is a pass-through security;
- (xx) “insurer” means an insurer licensed under the *Insurance Act*;
- (xxi) “internal capital adequacy assessment process” means the internal capital adequacy assessment process specified in section 17;
- (xxii) “investment” in section 7 includes a direct, indirect or synthetic holding of capital instruments or other TLAC instruments;
- (xxiii) “leverage ratio” has the meaning given to it in section 16;
- (xxiv) “local community investment” means an investment of capital, credit or other funds to an organization that provides essential community products or services, such as safe and affordable housing, job opportunities, education, healthcare, financial counselling, and child-care in the communities where members reside;
- (xxv) “minimum capital conservation buffer ratio” has the meaning given to it in subsection 3(8);
- (xxvi) “minimum leverage ratio” has the meaning given to it in subsection 3(12);
- (xxvii) “minimum Tier 1 capital ratio” has the meaning given to it in subsection 3(3);
- (xxviii) “minimum total capital ratio” has the meaning given to it in subsection 3(5);
- (xxix) “minimum total supervisory capital ratio” has the meaning given to it in subsection 3(10);

- (xxx) “net long” with regard to an investment by a credit union, means a gross long position less the short positions in the same underlying exposure where the maturity of the short position either matches the maturity of the long position or has a residual maturity of at least one year;
- (xxxi) “other TLAC instrument” means,
  - (a) a direct, indirect, or synthetic investment in a TLAC instrument of a G-SIFI, D-SIFI or P-SIFI that does not otherwise qualify as regulatory capital for the issuing G-SIFI, D-SIFI or P-SIFI,
  - (b) a direct, indirect, or synthetic investment in a TLAC instrument of a G-SIFI, D-SIFI or P-SIFI resolution entity that does not otherwise qualify as regulatory capital of the issuing G-SIFI, D-SIFI or P-SIFI, except for instruments included in subsection 4(2), and
  - (c) an instrument issued by a resolution entity that ranks *pari passu* to any TLAC instrument included in (b) with the exception of,
    - (i) each excluded liability, and
    - (ii) each instrument ranking *pari passu* with instruments eligible to be recognized as TLAC instruments because of a subordination exception;
- (xxxii) “personal loan” has the meaning given to it in **[Ontario regulation xx-xxx (General)]**;
- (xxxiii) “public sector enterprise” means a municipality or any entity directly and wholly owned by a government, including a school board, hospital, university or social service program that receives, as its primary source of funding, regular financial support from government;
- (xxxiv) “P-SIFI” means a financial institution that has been designated as a provincial systemically important financial institution by its provincial regulator;
- (xxxv) “residential mortgage loan” has the meaning given to it in **[Ontario regulation xx-xxx (General)]**;
- (xxxvi) “residential property” has the meaning given to it in **[Ontario regulation xx-xxx (General)]**;
- (xxxvii) “resolution entity” means the entity used to effect the resolution of a G-SIFI, D-SIFI or P-SIFI;
- (xxxviii) “reverse mortgage” means a non-recourse loan, secured by a residential property, that has no defined term and no monthly repayment of principal and interest whose principal amount grows with time, as interest is accrued and deferred, and which is generally repaid from the net proceeds of the sale of the residential property after the borrower has vacated the residential property for the lesser of the fair market value of the residential property at the time it is sold and the amount of the loan;
- (xxxix) “reverse mortgage exposure” means all advances, plus accrued interest and fifty per cent (50%) of undrawn amounts, net of specific allowances, on a reverse mortgage;
- (xl) “risk weighted assets” has the meaning given to it in section 10;
- (xli) “senior management” means the following members of management:
  - (a) the chief executive officer of a credit union,

- (b) individuals who are responsible for the overall management of a material business or function of a credit union, including that of a subsidiary,
  - (c) the heads of the oversight functions of a credit union,
  - (d) other executives who have a functional reporting line directly to the board or chief executive officer of a credit union, and
  - (e) any other individuals that the board of a credit union designates to be part of that credit union's senior management;
- (xlii) "significant investment" means, (a) in the case of an entity that is a corporation, if the credit union and any entities controlled by the credit union beneficially own, in total, (i) voting shares of the corporation carrying more than ten per cent (10%) of the voting rights attached to all of the outstanding voting shares of the corporation, or (ii) shares of the corporation representing more than twenty per cent (25%) of the shareholders' equity of the corporation; and (b) in the case of an entity that is unincorporated, if the aggregate of any ownership interests into which the entity is divided, however designated, that are beneficially owned by the credit union and any entities controlled by the credit union exceeds 25 per cent (25%) of all the ownership interests into which the entity is divided;
- (xliii) "stress testing program" means the stress testing policies and procedures specified in paragraph 17(3)(ix);
- (xliv) "subordination exception" means that the subordination requirement does not apply if,
- (a) the amount of excluded liabilities on the balance sheet of the resolution entity that rank *pari passu* or is subordinate to the TLAC eligible liabilities does not exceed five per cent (5%) of the resolution entity's eligible external TLAC,
  - (b) the resolution authority of the G-SIFI has the authority to differentiate among *pari passu* creditors in resolution,
  - (c) differentiation in resolution in favour of the excluded liabilities would not give rise to a material risk of successful legal challenge or valid compensation claims, and
  - (d) the absence of the subordination requirement does not have a material adverse impact on resolvability;
- (xlv) "subordination requirement" means that a G-SIFI's TLAC instrument must be,
- (a) contractually subordinated to excluded liabilities on the balance sheet of the resolution entity,
  - (b) is subordinate in the statutory creditor hierarchy to excluded liabilities on the balance sheet of the resolution entity, or
  - (c) issued by a resolution entity, which does not have any excluded liabilities on its balance sheet, and rank *pari passu* or is subordinate to TLAC-eligible instruments on its balance sheet;
- (xlvi) "synthetic" with regard to an investment of a credit union, means if: (i) the credit union invests in the capital of an entity that it does consolidate and is aware that this entity has an investment in the capital of a financial institution or foreign institution, (ii) the credit union enters into a total return swap on capital instruments of another financial institution or foreign institution, (iii) the credit union provides a guarantee or credit protection to a third party in respect of the third party's investments in the capital instruments of another financial institution or foreign institution, (iv) the credit union



owns a call option or has written a put option on the capital instruments of another financial institution or foreign institution, or (v) the credit union has entered into a forward purchase agreement on the capital of another financial institution or foreign institution;

- (xlvii) "Tier 1 capital" has the meaning given to it in subsection 5(1);
  - (xlviii) "Tier 1 capital ratio" has the meaning given to it in subsection 3(2);
  - (xlix) "Tier 2 capital" has the meaning given to it in subsection 6(1);
  - (l) "TLAC" means total loss absorbing capacity;
  - (li) "TLAC instrument" means a share, subordinated indebtedness or debt obligation of a G-SIFI, D-SIFI or P-SIFI that can be converted, in whole or in part, into a common share or a security that is Tier 1 capital of the G-SIFI, D-SIFI or P-SIFI, or any of its affiliates, pursuant to the terms of the instrument or the laws that apply to the G-SIFI, D-SIFI or P-SIFI if the regulator of the financial institution determines and makes an announcement that the financial institution is no longer viable;
  - (lii) "total assets" has the meaning given to it in section 9;
  - (liii) "total capital ratio" has the meaning given to it in subsection 3(4); and
  - (liv) "total supervisory capital ratio" has the meaning given to it in subsection 3(9).
- 1(2) In addition to subsection 1(1), if a term or phrase used in this Rule is defined in the Act, that definition applies for the purposes of this Rule.

## **2. Scope**

- 2(1) In this Rule, unless stated otherwise and except as specified by the Chief Executive Officer pursuant to subsection 177(5) of the Act, the amount of an asset or liability is its value as it would appear in the consolidated financial statements of the credit union if the financial statements were prepared as of the date of calculation.
- 2(2) This Rule applies to every credit union in determining whether it has adequate and appropriate forms of capital, and requires the assets and liabilities of the credit union, its affiliates and its subsidiaries to be considered on a consolidated basis, except for any subsidiary that is,
- (i) an insurer; or
  - (ii) a financial institution, the leverage of which, in the opinion of the Authority, is not appropriate for a credit union.

## **3. Minimum Capital Ratios, Capital Conservation Buffer Ratio and Leverage Ratio**

- 3(1) In accordance with section 77 of the Act, a credit union must always maintain sufficient capital,
- (i) to support the prudent operations of the credit union;
  - (ii) to support the risk profile of the credit union;
  - (iii) to align with the credit union's stress testing program and internal capital adequacy assessment process;

- (iv) for the credit union's Tier 1 capital ratio to be equal to or greater than the minimum Tier 1 capital ratio;
  - (v) for the credit union's total capital ratio to be equal to or greater than the minimum total capital ratio;
  - (vi) for the credit union's capital conservation buffer ratio to be equal to or greater than the minimum capital conservation buffer ratio;
  - (vii) for the credit union's total supervisory capital ratio to be equal to or greater than the minimum total supervisory capital ratio; and
  - (viii) for the credit union's leverage ratio to be equal to or greater than the minimum leverage ratio.
- 3(2) Tier 1 capital ratio means Tier 1 capital expressed as a percentage of risk weighted assets.
- 3(3) Minimum Tier 1 capital ratio means a Tier 1 capital ratio of six and one half per cent (6.5%) that includes retained earnings equal to or greater than three per cent (3.0%) of the credit union's risk weighted assets unless,
- (i) the credit union has been incorporated for less than 6 years, or
  - (ii) the Chief Executive Officer has granted a variation from this requirement pursuant to section 80 of the Act.
- 3(4) Total capital ratio means the sum of Tier 1 capital and Tier 2 capital expressed as a percentage of risk weighted assets.
- 3(5) Minimum total capital ratio means a total capital ratio of eight per cent (8.0%).
- 3(6) Capital conservation buffer means Tier 1 capital in excess of the Tier 1 capital required for a credit union to meet its minimum Tier 1 capital ratio.
- 3(7) Capital conservation buffer ratio means the capital conservation buffer expressed as a percentage of risk weighted assets.
- 3(8) Minimum capital conservation buffer ratio means a capital conservation buffer ratio of two and one half per cent (2.5%).
- 3(9) Total supervisory capital ratio means the sum of Tier 1 capital, including the capital conservation buffer, and Tier 2 capital of the credit union, expressed as a percentage of risk weighted assets.
- 3(10) Minimum total supervisory capital ratio means a total supervisory capital ratio of ten and one half per cent (10.5%).
- 3(11) Leverage ratio means the leverage ratio of a credit union calculated pursuant to section 16.
- 3(12) Minimum leverage ratio means a leverage ratio of three per cent (3.0%).
- 3(13) The amount of each minimum requirement contained in paragraphs 3(1)(iv) to 3(1)(viii) and subsections 3(3), 3(5), 3(8), 3(10) and 3(12) is set out in Table 1.

**Table 1 – Ratios**

Minimum Tier 1 capital ratio	6.5%
Minimum total capital ratio	8.0%
Minimum capital conservation buffer ratio	2.5%
Minimum total supervisory capital ratio	10.5%
Minimum leverage ratio	3.0%

#### 4. Regulatory Adjustments to Capital

- 4(1) A security that a financial institution or foreign institution can no longer count as a TLAC instrument because it has a residual maturity of less than one year can be used by the investing credit union as an other TLAC instrument for the purpose of calculating the regulatory adjustments to the credit union's Tier 1 capital or Tier 2 capital in this Rule.
- 4(2) A credit union may recognize as an other TLAC instrument a portion of an expanded TLAC instrument equal to the funding issued by the resolution entity that ranks *pari passu* with excluded liabilities and that is recognized as an external TLAC Instrument by the resolution entity divided by the funding issued by the resolution entity that ranks *pari passu* with excluded liabilities and that would be recognized as an external TLAC instrument if the subordination requirement was not applied
- 4(3) A credit union must calculate the value of its holdings of other TLAC instruments based on the latest available public information provided by the issuing G-SIFI, D-SIFI or P-SIFI or resolution entity on the proportion to be used.
- 4(4) All deductions from Tier 1 capital pursuant to subsection 5(5) and to Tier 2 capital pursuant to subsection 6(3) are deemed to have a risk-weight of zero per cent (0%) in Table 2 when calculating a credit union's credit risk pursuant to section 11.
- 4(5) Except for shares referred to in paragraph 5(5)(ix), a credit union must not remove from Tier 1 capital unrealized gains or losses on assets or liabilities that are measured at fair value for accounting purposes.

#### 5. Tier 1 Capital

- 5(1) The Tier 1 capital of a credit union is the amount calculated using the formula,  $A - B$ .
- 5(2) "A" in the formula in subsection 5(1) is the sum of the following amounts as they would appear in the financial statements of the credit union, if the financial statements were prepared as of the date of the calculation,
- (i) retained earnings;
  - (ii) retained surpluses including contributed surplus;
  - (iii) membership shares;
  - (iv) patronage shares, other than patronage shares that are redeemable within the following 12-month period;

- (v) investment shares that satisfy the criteria in subsection 5(3) or 5(4), other than investment shares that are redeemable within the following 12-month period; and
  - (vi) accumulated other comprehensive income.
- 5(3) Investment shares for the purposes of paragraph 5(2)(v) are shares, other than membership shares or patronage shares, that must,
- (i) be issued by the credit union;
  - (ii) be paid in full by the holder;
  - (iii) in the event of the insolvency, bankruptcy or winding up of the credit union, be subordinate in right of payment to all subordinated indebtedness, deposits and all other liabilities of the credit union except those that, by their terms, rank equally with or are subordinated to the shares;
  - (iv) be neither secured nor covered by a guarantee of the credit union, a subsidiary or an affiliate of the credit union or by any other arrangement that effectively decreases the share's subordination described in paragraph 5(3)(iii);
  - (v) not require the credit union to redeem or purchase the shares for cancellation;
  - (vi) not be redeemable or purchasable for cancellation by the credit union in the first five years after the shares have been issued, except upon the death or expulsion from the credit union of the holder;
  - (vii) not require the credit union to redeem, purchase or otherwise acquire the shares at a rate of more than ten per cent (10%) of the outstanding shares of that class of shares during any one-year period;
  - (viii) only be redeemed or purchased for cancellation by the credit union if,
    - (a) the shares are replaced with capital, including retained earnings, that qualifies as Tier 1 capital and is of the same quality or of better quality than the shares it is replacing, and
    - (b) the shares are replaced on conditions that do not use a significant amount of retained earnings given the income capacity of the credit union, or
    - (c) the credit union can demonstrate to the Authority that the capital of the credit union will be substantially above the minimum ratios in section 3 after the shares are redeemed or purchased for cancellation;
  - (ix) not contain any right, privilege, restriction or condition or be subject to any other arrangement which provides an incentive for the credit union to redeem or purchase the shares for cancellation;
  - (x) not be sold in a way that creates an expectation that the shares will be redeemed or purchased for cancellation by the credit union in the first five years after the shares have been issued, except upon the death or expulsion from the credit union of the holder;
  - (xi) not give holders the right to convert the shares into, or exchange the shares for, shares of any class of shares other than a class of investment shares;

- (xii) not contain any right, privilege, restriction or condition that entitles the holder to any payment or distribution by the credit union, including dividends, unless the board declares, at its discretion, a dividend under subsection 57(1) of the Act;
  - (xiii) not contain any right, privilege, restriction or condition that allows the holder, if the credit union does not make a payment or distribution to the holder,
    - (i) to compel the credit union to redeem or purchase the shares for cancellation, or
    - (ii) to impose any restriction on the credit union other than restricting the right of the board of the credit union to declare dividends or patronage returns on membership shares or patronage shares;
  - (xiv) not contain any right, privilege, restriction or condition related to dividends that depends upon or varies because of the credit rating or financial condition of the credit union; and
  - (xv) not have been purchased,
    - (a) by the credit union or any subsidiary or affiliate of the credit union, or
    - (b) with funding provided directly or indirectly by the credit union;
- 5(4) Shares issued by a credit union prior to this Rule coming into force that were Tier 1 capital of the credit union pursuant to paragraph 5 of the definition of “E” in subsection 17(2) and subsection 17(4) of Ontario Regulation 237/09 are investment shares for the purposes of paragraph 5(2)(v).
- 5(5) “B” in the formula in subsection 5(1) is the sum of the following amounts as they would appear in the financial statements of the credit union, if the financial statements were prepared as of the date of the calculation,
- (i) goodwill;
  - (ii) deferred tax assets, except those arising from temporary differences (such as those relating to the carry forward of unused tax losses, or unused tax credits);
  - (iii) deferred tax assets arising from temporary differences that do not depend on the future profitability of the credit union and are in excess of ten per cent (10%) of “A” as determined in subsection 5(2);
  - (iv) mortgage servicing rights, including those related to consolidated subsidiaries, subsidiaries deconsolidated pursuant to subsection 2(2), and the proportional share of mortgage servicing rights in joint ventures subject to proportional consolidation or equity method accounting, that are in excess of ten per cent (10%) of “A” as determined in subsection 5(2);
  - (v) the amount by which identified intangible assets, other than goodwill, that have been purchased directly or acquired in conjunction with or arising from the acquisition of a business, including trademarks, core deposit intangibles, mortgage servicing rights and purchased credit card relationships, exceed five per cent (5%) of the amount of “A” as determined in subsection 5(2);
  - (vi) any increase in equity capital resulting from securitization transactions (such as capitalized future margin income or gains on sale) but excluding any increases from mortgage-backed securities that are guaranteed by the CMHC and secured against residential mortgage loans;

- (vii) cumulative gains and losses due to changes in the credit union's credit risk on fair valued financial liabilities;
  - (viii) the amount of any defined benefit pension fund that is an asset on the balance sheet of the credit union;
  - (ix) shares of the credit union that have been repurchased but not cancelled by the credit union that issued the shares;
  - (x) the amount of a reverse mortgage loan that exceeds a loan to value ratio of eighty-five per cent (85%);
  - (xi) deductions from Tier 2 capital pursuant to subsection 6(3) in excess of the amount of Tier 2 capital pursuant to subsection 6(2);
  - (xii) the portion of the deduction amount determined pursuant to subsection 7(4);
  - (xiii) property of the credit union that is subject to a security interest that is not authorized by the Act; and
  - (xiv) computer software that, as an aggregate, exceeds one per cent (1%) of the credit union's Tier 1 capital.
- 5(6) For the purposes of subsection 5(5), the following rules apply,
- (i) provisions or allowances for losses of a general nature must be deducted from the most closely applicable class of assets; and
  - (ii) cash deposits in a financial institution must be offset against overdrafts with the same financial institution.

## 6. Tier 2 Capital

- 6(1) The Tier 2 capital of a credit union is the amount calculated using the formula,  $C - D$ .
- 6(2) "C" in the formula in subsection 6(1) is the sum of the following amounts as they would appear in the financial statements of the credit union, if the financial statements were prepared as of the date of the calculation,
- (i) a general allowance up to one and one quarter per cent (1.25%) of the risk weighted assets of the credit union;
  - (ii) shares issued by the credit union, excluding membership shares, patronage shares and investment shares included in Tier 1 capital, that meet the criteria for inclusion in Tier 2 capital in subsection 6(6);
  - (iii) subordinated indebtedness issued by the credit union that meets the criteria for inclusion in Tier 2 capital in subsection 6(6);
  - (iv) other securities issued by the credit union that meet the criteria for inclusion in Tier 2 capital in subsection 6(6) or 6(7) that are not included in Tier 1 capital; and
  - (v) patronage shares that are redeemable within the credit union's current fiscal year.
- 6(3) "D" in the formula in subsection 6(1) is the sum of the following amounts as they would appear in the financial statements of the credit union, if the financial statements were prepared as of the date of the calculation,

- (i) accumulated actuarial losses for any defined benefit pension fund liability included on the balance sheet of the credit union where the losses have been accounted for through accumulated other comprehensive income and disclosed reserves;
  - (ii) a credit union's investments in its own securities that are included in Tier 2 capital;
  - (iii) the portion of the deduction amount determined pursuant to subsection 7(5);
  - (iv) a credit union's investments that are not significant investments in other TLAC instruments unless such investments are,
    - (a) less than five per cent (5%) of a credit union's Tier 1 capital, or
    - (b) included in the amount specified paragraph zz) of Table 2; and
  - (v) the difference between the total amount of capital required by this Rule, including the additional capital that a credit union determines it should hold pursuant to subparagraph 17(3)(viii)(b), and the amount of regulatory capital that the credit union holds.
- 6(4) If a credit union is required to deduct an amount from its Tier 2 capital pursuant to subsection 6(3) and does not have enough Tier 2 capital to deduct the amount, the shortfall must be deducted from the credit union's Tier 1 capital.
- 6(5) A credit union must, in its financial statements and for each financial quarter, amortize any security that is included in the credit union's Tier 2 capital on a straight-line basis in the five years prior to the date on which the security must be redeemed, repaid or purchased by the credit union.
- 6(6) To be included in Tier 2 capital, a share (other than a membership share, patronage share or investment share included in Tier 1 capital), subordinated indebtedness, or any other security must,
- (i) be issued by the credit union;
  - (ii) be paid in full by the holder;
  - (iii) provide that the security will, in the event of the insolvency or winding up of the credit union, be subordinate 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 the security;
  - (iv) be neither secured nor covered by a guarantee of the credit union, a subsidiary or an affiliate of the credit union or by any other arrangement that effectively decreases the security's subordination described in paragraph 6(6)(iii);
  - (v) not be redeemable or impose an obligation on the credit union to purchase the security for cancellation in the first five years after it is issued;
  - (vi) not be convertible into or exchangeable for a security other than a security that is also Tier 2 capital;
  - (vii) not contain any right, privilege, restriction or condition or be subject to any other arrangement which provides an incentive for the credit union to redeem or purchase the security for cancellation;
  - (viii) only be redeemed or purchased for cancellation by the credit union if,

- (a) it is replaced with capital that qualifies as Tier 1 capital or Tier 2 capital that is of the same quality or of better quality than the security the capital is replacing, and
  - (b) it is replaced on conditions which do not use a significant amount of retained earnings, given the income capacity of the credit union, or
  - (c) the credit union can demonstrate to the Authority that the capital of the credit union will be substantially above the requirements of section 3 after the security is redeemed or purchased for cancellation;
- (ix) not be sold in a way which creates an expectation that the security will be redeemed or purchased by the credit union in the first five years after it is issued;
  - (x) not contain any right, privilege, restriction, or condition that accelerates the payment of any amount to the security holder except if the credit union is wound-up or dissolved;
  - (xi) not contain any right, privilege, restriction, or condition to or related to dividends or interest that depends upon or varies because of the credit rating or financial condition of the credit union; and
  - (xii) not have been purchased,
    - (a) by the credit union or any subsidiary or affiliate of the credit union, or
    - (b) with funding provided directly or indirectly by the credit union.
- 6(7) Securities issued by a credit union prior to this Rule coming into force that were Tier 2 capital of the credit union under Ontario Regulation 237/09 are securities that are eligible as Tier 2 capital pursuant to paragraph 6(2)(iv) of this Rule.

**7. Investments in the capital instruments and other TLAC instruments of financial institutions and foreign institutions**

- 7(1) In this Rule,
- (i) “deduction amount” means the amount of a credit union’s investments that are not significant investments in the capital instruments or other TLAC instruments of financial institutions or foreign institutions in excess of ten per cent (10%) of the credit union’s Tier 1 capital, excluding a credit union’s investments in other TLAC instruments specified in paragraph aaa) of Table 2.
- 7(2) A credit union must deduct the deduction amount,
- (i) in aggregate and on a net long basis;
  - (ii) from the component of the credit union’s capital for which the capital instruments of financial institutions or foreign institutions would qualify if they were issued by the credit union; and
  - (iii) from Tier 2 capital for other TLAC instruments.
- 7(3) A credit union must, when calculating the deduction amount,



- (i) include as investments all guarantees or other capital enhancements provided by the credit union to financial institutions or foreign institutions based on the maximum amount that the credit union could be required to pay out under such arrangements;
  - (ii) value an investment in the capital instruments or other TLAC instruments of a financial institution or foreign institution according to the investment's valuation on the credit union's balance sheet;
  - (iii) value a synthetic exposure to capital instruments or other TLAC instruments of a financial institution or foreign institution using,
    - (a) for call options, the current carrying value,
    - (b) for put options, the number of shares times the strike price, and
    - (c) for any other synthetic holdings, the nominal or notional amount; and
  - (iv) for options or forward purchase agreements with a variable price, periodically estimate the market value, strike price or nominal amount of the underlying holding, as the case may be.
- 7(4) The amount to be deducted from Tier 1 capital pursuant to paragraph 5(5)(xii) is equal to the deduction amount,
- (i) multiplied by the credit union's total holdings in Tier 1 capital instruments of financial institutions and foreign institutions; and
  - (ii) divided by the credit union's total holdings capital instruments and other TLAC instruments of financial institutions and foreign institutions.
- 7(5) The amount to be deducted from Tier 2 capital pursuant to paragraph 6(3)(iii) is equal to the deduction amount,
- (i) multiplied by the credit union's total holdings in Tier 2 capital instruments and other TLAC instruments of financial institutions and foreign institutions excluding investments specified in paragraph aaa) of Table 2; and
  - (ii) divided by the credit union's total holdings of capital instruments and other TLAC instruments of financial institutions and foreign institutions.
- 7(6) A credit union must look through its holdings of index securities in accordance with subsection 8(5) to determine its underlying holdings of capital instruments or other TLAC instruments of financial institutions and foreign institutions when calculating the credit union's deduction amount.
- 7(7) Pursuant to section 80 of the Act, a credit union may apply to the Chief Executive Officer for a variation of the requirement in subsection 7(6).
- 7(8) To calculate the amount under paragraph 6(3)(iv) and the amount specified in paragraph aaa) of Table 2 a credit union must include its gross long position of investments in other TLAC instruments.

- 7(9) If a capital instrument of a financial institution or foreign institution that the credit union has invested in does not meet,
- (i) the criteria to be included in “A” as defined in subsection 5(2) for Tier 1 capital or to be included in “C” as defined in subsection 6(2) for Tier 2 capital of the credit union; or
  - (ii) the criteria for inclusion in the regulatory capital of financial institution or foreign institution pursuant to the laws and guidelines that apply to such financial institution or foreign institution,
- then the credit union must account for the capital instrument as common shares and deduct the capital instrument from Tier 1 capital for the purposes of paragraph 5(5)(xii).

## **8. Equity Investments in Funds**

- 8(1) When calculating a credit union’s credit risk in section 11, a credit union must account for its equity investments in funds using the,
- (i) look-through approach in subsection 8(5) if required by subsection 8(2);
  - (ii) the mandate-based approach in subsection 8(8) if required by subsection 8(7); or
  - (iii) the fall-back approach in subsection 8(9) if the credit union cannot use the approach in paragraph (i) or paragraph (ii).
- 8(2) A credit union must use the look-through approach if,
- (i) there is sufficient and frequent information provided to the credit union regarding the underlying exposures of the fund; and
  - (ii) such information is verified by an independent third party.
- 8(3) To satisfy paragraph 8(2)(i),
- (i) the frequency of financial reporting of the fund must be the same as, or more frequent than, that of the credit union; and
  - (ii) the granularity of the financial information must be sufficient to allow the credit union to calculate the risk weights of the assets underlying the fund.
- 8(4) To satisfy paragraph 8(2)(ii), there must be verification of the underlying exposures by an independent third-party, such as a depository or custodian bank or management company for the fund.
- 8(5) A credit union must, pursuant to subsection 11(2) and Table 2, account for each underlying exposure of its investments in funds as if each exposure was an individual asset held directly by the credit union.
- 8(6) If using the approach in subsection 8(5), a credit union may rely on third-party calculations to determine the risk weights associated with its equity investments in funds if,

- (i) the credit union does not have adequate information to perform the calculations itself; and
  - (ii) the credit union multiplies the applicable risk weights in Table 2 for each fund exposure by 1.2.
- 8(7) If, pursuant to subsection 8(2), a credit union is not required to use the approach in subsection 8(5), the credit union must use the approach in subsection 8(8) if the credit union receives enough information about a fund's mandate or the national regulations governing the investment fund to allow the credit union to determine the types of assets that the fund invests in.
- 8(8) The risk-weighted assets for the fund's exposures are calculated as the sum of the following,
- (i) balance sheet exposures are risk weighted assuming the underlying portfolios are invested to the maximum extent allowed under the fund's mandate in those assets attracting the highest risk weights in Table 2, and then progressively in those other assets with lower risk weights, and if more than one risk weight can be applied to a given exposure, the maximum risk weight applicable to the asset in Table 2 must be used; and
  - (ii) if the underlying risk of a derivative exposure or an off-balance-sheet item receives a risk weighting, the notional amount of the derivative position or of the off-balance sheet exposure is risk weighted according to Table 3 in subsection 11(5).
- 8(9) If the credit union cannot use either approach in paragraph 8(1)(i) or 8(1)(ii), the credit union must multiply the value of its investment in a fund by a one thousand two hundred and fifty percent (1250%) risk weight and add the result as an individual credit risk when calculating the credit union's individuals credit risks in subsection 11(2).
- 8(10) If a credit union invests in a fund that invests in another fund, which the credit union has identified by using either the approach specified in subsection 8(5) or 8(8),
- (i) the risk weight applied to the investment in the first fund can be determined by using one of the three approaches subsection 8(1); and
  - (ii) for all subsequent layers,
    - (a) the risk weights applied to an investment in another fund must be determined by using the approach in subsection 8(5) if this approach was also used to determine the risk weight for the investment in the fund at the previous layer, and
    - (b) otherwise, the credit union must use the approach in subsection 8(9).

## 9. Total Assets

- 9(1) The total assets of a credit union is the amount calculated using the formula,  $K - L - N$  in which,
- (i) "K" is the amount determined pursuant to subsection 16(4);
  - (ii) "L" is the amount determined pursuant to subsection 16(5); and
  - (iii) "N" is the amount determined pursuant to subsection 16(7).

## 10. Risk Weighted Assets

- 10(1) The amount of a credit union's risk weighted assets is the amount calculated using the formula,  $A + B + C$ .
- 10(2) In subsection 10(1), "A" means the amount of the credit union's credit risk using the standardized approach, as determined in section 11.
- 10(3) In subsection 10(1), "B" means the amount of the credit union's operational risk using the basic indicator approach, as determined in section 12.
- 10(4) In subsection 10(1), "C" means the amount of the credit union's general market - interest rate risk, as determined in section 13.

## 11. Credit Risk - Standardized Approach

- 11(1) The amount of the credit union's credit risk is the sum of the credit union's individual credit risks.
- 11(2) An individual credit risk is the amount of an asset of the credit union specified in column one of Table 2, multiplied by the corresponding risk weighting in column two of Table 2.

**Table 2 - Asset Risk Weightings**

Asset Class	Risk Weighting
a) Cash.	0%
b) Claims against, or guaranteed by, the Government of Canada or an agency of the Government.	
c) Claims against, or guaranteed by, the government of the province of Ontario.	
d) Claims against, or guaranteed by, the government of a province or territory of Canada, other than the province of Ontario, with a credit rating from a designated credit rating organization of AAA to A.	
e) Claims fully secured by collateral consisting of cash or securities issued by the Government of Canada or the government of the province of Ontario or a province or territory of Canada with a credit rating from a designated credit rating organization of AAA to A.	
f) Residential mortgage loans that are insured under the <i>National Housing Act</i> (Canada), or guaranteed or insured by a government agency.	
g) The portion of a residential mortgage loan that is insured by an insurer licensed to undertake mortgage insurance, to the extent that the benefits payable under the policy insuring the loan have a backstop guarantee provided by the Government of Canada.	
h) Mortgage-backed securities that are guaranteed by the CMHC and secured against residential mortgage loans.	
i) Investments in corporate entities that are accounted for in the credit union's financial statements using the equity method.	
j) Any amount specified in subsection 5(5) or 6(3).	
k) Claims against the Bank for International Settlements, the International Monetary Fund, the European Central Bank, the European Community, European Stability Mechanism and the European Financial Stability Facility.	

<ul style="list-style-type: none"> <li>l) Claims against a sovereign or its central bank with a credit rating from a designated credit rating organization of AAA to AA- other than a claim described in paragraphs b) to h), p) or ff).</li> <li>m) Claims against a multilateral development bank specified in subsection 11(4).</li> <li>n) Unrealized gains and accrued receivables on foreign exchange and interest rate-related off-balance sheet transactions included in the off-balance sheet calculations in Table 3.</li> </ul>	0%
<ul style="list-style-type: none"> <li>o) Cheques and other items in transit.</li> <li>p) Claims against, or guaranteed by, the government of a province or territory of Canada, other than the province of Ontario, with a credit rating from a designated credit rating organization of A- to BBB.</li> <li>q) Claims against, or guaranteed by, a municipality in Ontario.</li> <li>r) Claims against, or guaranteed by, a municipality in a province or territory of Canada, other than the province of Ontario, with a credit rating from a designated credit rating organization of AAA to A.</li> <li>s) Claims against, or guaranteed by, a school board, college, university, hospital, or social service provider that receives, as its primary source of funding, regular financial support from the government of the province of Ontario.</li> <li>t) Claims against, or guaranteed by a school board, college, university, hospital, or social service provider in Canada that receives, as its primary source of funding, regular financial support from the government of a province or territory of Canada, other than the province of Ontario, with a credit rating from a designated credit rating organization of AAA to A.</li> <li>u) Deposits in a bank or authorized foreign bank within the meaning of section 2 of the <i>Bank Act</i> (Canada), a corporation registered under the <i>Loan and Trust Corporations Act</i> or a corporation to which the <i>Trust and Loan Companies Act</i> (Canada) or similar legislation of another province or territory of Canada applies.</li> <li>v) Commercial paper, bankers' acceptances, bankers' demand notes and similar instruments guaranteed by a bank or authorized foreign bank within the meaning of section 2 of the <i>Bank Act</i> (Canada), a corporation registered under the <i>Loan and Trust Corporations Act</i> or a corporation to which the <i>Trust and Loan Companies Act</i> (Canada) or similar legislation of another province or territory of Canada applies.</li> <li>w) Deposits in a central, Central 1 Credit Union, Fédération des caisses Desjardins du Québec.</li> <li>x) Interest rate contracts, including any current exposure and any potential future exposure on such contracts, with a central, Central 1 Credit Union, Fédération des caisses Desjardins du Québec, a financial institution, credit union or another equivalent entity approved in writing by the Authority.</li> <li>y) Claims against a sovereign or its central bank with a credit rating from a designated credit rating organization of A+ to A- other than a claim described in paragraphs b) to h), p) or ff).</li> </ul>	20%

<p>z) Claims against any public sector enterprise whose sovereign has a credit rating from a designated credit rating organization of AAA to AA- other than a claim described in paragraphs q) to t), gg) and hh).</p> <p>aa) Claims against a multilateral development bank with a credit rating from a designated credit rating organization of AAA to AA-.</p> <p>bb) The value attributed to any off-balance sheet exposure relating to assets of the credit union listed in paragraphs s) to x), as calculated in accordance with Table 3.</p>	20%
<p>cc) Uninsured residential mortgage loans where the amount of the loan, together with the amount then outstanding of any encumbrance having an equal or prior claim against the residential property, does not exceed eighty per cent (80%) of the value of the property when the loan is made, provided that the residential mortgage loans are not 90 days or more past due.</p> <p>dd) Mortgage-backed securities that are fully and specifically secured by residential mortgage loans, including pass-through type mortgage-backed securities, other than mortgage-backed securities described in paragraph h).</p> <p>ee) The value attributed to any off-balance sheet exposure relating to assets of the credit union listed in paragraphs cc) and dd), as calculated in accordance with Table 3.</p>	35%
<p>ff) Claims against, or guaranteed by, the government of a province or territory of Canada, other than the province of Ontario, with a credit rating from a designated credit rating organization of BBB- or less that is not in default.</p> <p>gg) Claims against, or guaranteed by, a municipality in a province or territory of Canada, other than the province of Ontario, with a credit rating from a designated credit rating organization of A- or less that is not in default.</p> <p>hh) Claims against, or guaranteed by, a school board, college, university, hospital, or social service provider in Canada that receives, as its primary source of funding, regular financial support from the government of a province or territory of Canada, other than the province of Ontario, with a credit rating from a designated credit rating organization of A- or less that is not in default.</p> <p>ii) Claims against a sovereign or its central bank with a credit rating from a designated credit rating organization of BBB+ to BBB- other than a claim described in paragraphs b) to h), p) or ff).</p> <p>jj) Claims against any public sector enterprise whose sovereign has a credit rating from a designated credit rating organization of A+ to A- other than a claim described in paragraphs q) to t), gg) and hh).</p> <p>kk) Claims against a multilateral development bank with a credit rating from a designated credit rating organization of A+ to BBB- or that is not rated by a designated credit rating organization.</p>	50%
<p>ll) Personal loans.</p> <p>mm) Agricultural loans.</p>	75%

<p>nn) Uninsured residential mortgage loans if the amount of the loan, together with the amount then outstanding of any encumbrance having an equal or prior claim against the residential property, exceeds eighty per cent (80%) of the value of the property when the loan is made, provided that the residential mortgage loans are not 90 days or more past due.</p> <p>oo) Commercial loans made to a person where the sum of all commercial loans made to that person and to any connected persons does not exceed the lesser of 0.035 per cent of the credit union's total assets and \$2 million.</p> <p>pp) The value attributed to any off-balance sheet exposure relating to assets of the credit union listed in paragraphs ll) to oo), as calculated in accordance with Table 3.</p>	75%
<p>qq) Commercial loans, other than commercial loans described in paragraph oo) if the borrower does not have a credit rating prescribed in Table 4.</p> <p>rr) The unsecured portion of any loan (other than a residential mortgage loan) that is past due for more than 90 days, net of specific allowances, if specific allowances are more than twenty per cent (20%) and less than one hundred per cent (100%) of the outstanding amount of the loan.</p> <p>ss) Residential mortgage loans described in cc) or nn) that are 90 days or more past due.</p> <p>tt) The portion of a residential mortgage loan insured by an insurer licensed to undertake mortgage insurance that does not have a backstop guarantee provided by the Government of Canada if the insurer does not have a credit rating.</p> <p>uu) Claims against a sovereign or its central bank with a credit rating from a designated credit rating organization of BB+ to B- or that is not rated by a designated credit rating organization other than a claim described in paragraphs b) to h), p) or ff).</p> <p>vv) Claims against any public sector enterprise whose sovereign has a credit rating from a designated credit rating organization of BBB+ to B- or that is not rated by a designated credit rating organization other than a claim described in paragraphs q) to t), gg) and hh).</p> <p>ww) Claims against a multilateral development bank with a credit rating from a designated credit rating organization of BB+ to B-.</p> <p>xx) The value attributed to any off-balance sheet exposure relating to assets of the credit union listed in paragraphs qq) to tt), as calculated in accordance with Table 3.</p> <p>yy) Financial technology investments and local community investments that are not specified in any paragraph of this Table other than paragraph uu) or aaaa), up to an aggregate maximum of one per cent (1%) of the credit union's capital in the credit union's financial statements.</p> <p>zz) Investments that are not significant investments in the capital instruments or other TLAC instruments of financial institutions or foreign institutions up to ten per cent (10%) of the credit union's Tier 1 capital.</p>	100%



<ul style="list-style-type: none"> <li>aaa) Investments that are not significant investments in other TLAC instruments up to five per cent (5%) of the credit union's Tier 1 capital.</li> <li>bbb) Investments that are not significant investments in the equity of a commercial entity.</li> <li>ccc) Deferred tax assets from temporary differences that do not depend on the future profitability of the credit union in an aggregate amount of up to 10% of "A" as determined in subsection 5(2).</li> <li>ddd) Computer software assets that have not been deducted from Tier 1 capital.</li> <li>eee) Premises, plant and equipment and other fixed assets.</li> <li>fff) Accrued interest and other receivables.</li> <li>ggg) Real estate and other investments, including consolidated investments in other companies that are not consolidated in the financial results of the credit union.</li> <li>hhh) Prepaid expenses, such as property taxes and utilities.</li> <li>iii) Deferred charges, such as mortgage origination costs.</li> <li>jjj) Right-of-use assets if the leased asset is a tangible asset.</li> <li>kkk) Investment shares in Central 1.</li> <li>lll) Reverse mortgage exposures with a current loan to value ratio equal to or less than eighty five per cent (85%).</li> <li>mmm) All other accounting provisions not listed above in Table 2, such as collection costs recoverable or floorplan customer fees.</li> </ul>	100%
<ul style="list-style-type: none"> <li>nnn) The unsecured portion of any loan (other than a residential mortgage loan) that is past due for more than 90 days, net of specific allowances, if specific allowances are less than twenty per cent (20%) of the outstanding amount of the loan.</li> <li>ooo) Claims against a sovereign or its central bank with a credit rating from a designated credit rating organization below B- other than a claim described in paragraphs b) to h), p) or ff).</li> <li>ppp) Claims against any public sector enterprise whose sovereign has a credit rating from a designated credit rating organization below B- other than a claim described in paragraphs q) to t), gg) and hh).</li> <li>qqq) Claims against a multilateral development bank with a credit rating from a designated credit rating organization below B-.</li> </ul>	150%
<ul style="list-style-type: none"> <li>rrr) Deferred tax assets from temporary differences that depend on the future profitability of the credit union.</li> <li>sss) Mortgage servicing rights, including those related to consolidated subsidiaries, subsidiaries deconsolidated pursuant to subsection 2(2), and the proportional share of mortgage servicing rights in joint ventures subject to proportional consolidation or equity method accounting, up to ten per cent (10%) of "A" as determined in subsection 5(2).</li> <li>ttt) The amount by which identified intangible assets, other than goodwill, that have been purchased directly or acquired in conjunction with or</li> </ul>	250%



arising from the acquisition of a business, including trademarks, core deposit intangibles, mortgage servicing rights and purchased credit card relationships, up to per cent (5%) of the amount of "A" as determined in subsection 5(2).	
uuu) Investments that are significant investments in a commercial entity. vvv) Unrated retained securitization exposures except for (i) the most senior exposure in a securitization, (ii) exposures that are in a second loss position or better in asset-backed commercial paper programs; and (iii) eligible liquidity facilities.	1250%
www) Commercial loans , other than commercial loans described in paragraph oo) if the borrower has a credit rating specified in Table 4.	The percentage determined in accordance with Table 4, subsections 11(7) and 11(8).
xxx) The portion of a residential mortgage loan described in paragraph g) that does not have a backstop guarantee provided by the Government of Canada but is insured by an insurer with a credit rating specified in Table 4.	The percentage determined in accordance with Table 4, subsections 11(7) and 11(8).
yyy) Corporate bonds and short-term commercial paper if the borrower has a credit rating specified in Table 5.	The percentage determined in accordance with Table 5, subsection 11(10).
zzz) Equity investments in funds.	The percentage or percentages determined in accordance with section 8.
aaaa) Investments or assets generated by business activities of the credit union not otherwise included in Table 2.	The percentage determined in accordance with subsection 11(3)

11(3) The Chief Executive Officer may, pursuant to section 80 of the Act, specify a risk weighting for investments or assets generated by business activities of the credit union not included in Table 2 provided that the risk weighting approved by the Chief Executive Officer is consistent with the risk weighting for similar assets or investments in Table 2.

11(4) The following multilateral development banks have a risk weighting of zero per cent (0%) in Table 2,

- (i) International Bank for Reconstruction and Development;
- (ii) International Finance Corporation;
- (iii) Asian Development Bank;
- (iv) African Development Bank;

- (v) European Bank for Reconstruction and Development;
- (vi) Inter-American Development Bank;
- (vii) European Investment Bank;
- (viii) European Investment Fund;
- (ix) Nordic Investment Bank;
- (x) Caribbean Development Bank;
- (xi) Islamic Development Bank;
- (xii) Council of Europe Development Bank;
- (xiii) Multilateral Investment Guarantee Agency;
- (xiv) International Development Agency; and
- (xv) International Finance Facility for Immunisation.

11(5) To determine the value attributed to any off-balance sheet exposure relating to assets of a credit union listed in paragraphs s) to x), cc), dd), ll) to oo) and qq) to tt) in Table 2, the credit union must, for each off-balance sheet exposure listed in column one of Table 3, multiply the face amount or notional principal amount of the off-balance sheet exposure by the corresponding conversion factor in column two of Table 3.

**Table 3 - Off-Balance Sheet Exposures**

Off-balance sheet exposure	Conversion Factor
<ul style="list-style-type: none"> <li>a) Direct credit substitutes.</li> <li>b) Acquisitions of risk participation in bankers' acceptances and participation in direct credit substitutes (for example, standby letters of credit).</li> <li>c) Sale and repurchase agreements.</li> <li>d) Forward asset purchases.</li> </ul>	100%
<ul style="list-style-type: none"> <li>e) Transaction-related contingencies.</li> <li>f) Commitments with an original maturity exceeding one year, including underwriting commitments and commercial credit lines.</li> <li>g) Open-ended commitments that are cancellable by the credit union at any time subject to a notice period.</li> </ul>	50%
<ul style="list-style-type: none"> <li>h) Trade-related contingencies.</li> <li>i) Commitments with an original maturity of one year or less.</li> </ul>	20%

<p>j) Commitments that are legally and practically unconditionally cancellable at any time by the credit union without prior notice or that effectively provide for automatic cancellation due to deterioration in the borrower's creditworthiness. This includes undated or open-ended commitments, such as unused credit card lines, personal lines of credit, and overdraft protection for personal chequing accounts that are legally and practically unconditionally cancellable at any time.</p>	<p>0%</p>
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11(6) In section 11, including Table 2 and Table 3 and in section 16,

- (i) "commitment" means an obligation of a credit union, whether or not it contains a material adverse change clause or a similar clause, and includes an obligation in a written contract or agreement with a commitment fee or some other form of consideration to fund a counterparty in the normal course of business should the member seek to draw down the commitment;
- (ii) when determining the maturity of a commitment, the term is measured from the date when the commitment is accepted by the counterparty until the earliest date on which the commitment is scheduled to expire or the credit union can, at its option, legally and practically unconditionally cancel the commitment;
- (iii) "direct credit substitutes" includes,
  - (a) guarantees or equivalent instruments backing financial claims where the risk of loss to the credit union is directly dependent on the creditworthiness of the counterparty,
  - (b) guarantees or obligations of a member, and
  - (c) guarantees given by the credit union on behalf of a member to satisfy the member's financial obligations should the member fail to do so, such as payment for existing indebtedness for services, payment with respect to a purchase agreement, lease, loan or mortgage payments, payment of uncertified cheques, remittance of tax to the government, payment of existing indebtedness for merchandise purchased, payment of an unfunded pension liability, reinsurance of financial obligations, standby letters of credit or other equivalent irrevocable obligations serving as financial guarantees for, or supporting, loans and securities, risk participation in bankers' acceptances and risk participation in financial letters of credit;
- (iv) "forward asset purchase" means a commitment to purchase a loan, security, or other asset at a specified future date, usually on prearranged terms, and includes financing facilities with certain draw-down;
- (v) "risk participation" means an agreement or arrangement whereby guarantees made by participating credit unions provide that if there is a default by the underlying obligor, the other credit unions will indemnify the selling credit union for the full principal and interest attributable to it under the agreement or arrangement;
- (vi) "trade-related contingencies" includes short-term, self-liquidating, trade-related items such as commercial and documentary letters of credit issued by the credit union that are, or are to be, collateralized by the underlying shipment, and specifically: (a) include letters of credit issued on behalf of a counterparty with letters of credit of which the counterparty is a

beneficiary, and (b) exclude letters of credit advised by the credit union for which the credit union is acting as reimbursement agent; and

- (vii) “transaction-related contingencies” includes bid bonds, performance bonds, warranties, standby letters of credit related to a particular transaction and any other contingencies that relate to the ongoing business activities of a counterparty, where the risk of loss to the credit union depends on the likelihood of a future event that is independent of the creditworthiness of the counterparty.
- 11(7) To determine the value of an asset described in paragraphs www) or xxx) of Table 2, the credit union must multiply the value of the asset by the risk weight in column one of the row containing the credit rating of the borrower in column two, three or four of Table 4.
- 11(8) If a borrower is rated by more than one designated credit rating organization specified in Table 4, the credit union must use the highest risk weight generated by Table 4.
- 11(9) A credit union, if it provides prior notice to the Authority in writing, may use a designated credit rating organization not specified in Table 4 and the equivalent ratings for the designated credit rating organization the credit union has selected will be deemed to be included in the ratings contained in columns 2, 3 and 4 of rows 2, 3, 4 and 5 of Table 4 and in all other references to a credit rating from a designated credit rating organization in this Rule.

**Table 4 - Credit Ratings Table**

Risk Weight	Designated Credit Rating Organizations		
	DBRS	S&P/FITCH	Moody’s
20%	AAA to AA (low)	AAA to AA-	Aaa to Aa3
50%	A(high) to A (low)	A+ to A-	A1 to A3
100%	BBB (high) to B (low)	BBB+ to B-	Ba1 to B3
150%	Below B (low)	Below B-	Below B3

- 11(10) For assets described in paragraph yyy) of Table 2, the credit union must use one of the following methods to calculate risk weighted assets,
  - (i) the sum of the individual risk weighted assets calculated by multiplying the value of each asset by the risk weight in column one of the row containing the credit rating of the borrower in column two, three or four of Table 5; or
  - (ii) the value of the assets multiplied by a risk weight of one hundred per cent (100%) but only if the credit union uses this method for all of the assets described in paragraph yyy) of Table 2.

**Table 5 - Corporate Credit Ratings Table**

Risk Weight	Designated Credit Rating Organizations		
	DBRS	S&P/FITCH	Moody’s
20%	AAA to AA (low)	AAA to AA-	Aaa to Aa3
50%	A(high) to A (low)	A+ to A-	A1 to A3

100%	BBB (high) to B (low)	BBB+ to B-	Ba1 to B3
150%	Below B (low)	Below B-	Below B3
The higher of 100% or the risk weight for the sovereign in which the borrower is incorporated	Unrated	Unrated	Unrated

## 12. Operational Risk - Basic Indicator Approach

- 12(1) A credit union's operational risk, referred to as "B" in subsection 10(1), is the amount calculated using the formula,  $D / 0.08$ .
- 12(2) In subsection 12(1), "D" is the amount of the credit union's capital charge for operational risk, as determined in subsection 12(3).
- 12(3) A credit union's capital charge for operational risk is the amount calculated using the formula,  $0.15 \times (E + F + G) / H$ .
- 12(4) In subsection 12(3), "E" is the greater of
- (i) the amount of the credit union's interest income less its interest expenses for its most recently ended financial year, plus its other non-interest income and fees received for outsourcing services for its most recently ended financial year, but specifically excluding,
    - (a) any provisions,
    - (b) operating expenses, including fees paid to outsourcing service providers,
    - (c) realized profits or losses from the sale of securities held by the credit union and classified as "held to maturity", and
    - (d) extraordinary or irregular items; and
  - (ii) zero.
- 12(5) In subsection 12(3), "F" is the amount that would be determined under the definition of "E" if that definition applied to the credit union's second most recently ended financial year.
- 12(6) In subsection 12(3), "G" is the amount that would be determined under the definition of "E" if that definition applied to the credit union's third most recently ended financial year.
- 12(7) In subsection 12(3), "H" is the greater of,
- (i) the number of years in which the amounts determined under the definitions of "E", "F" and "G" exceed zero, and
  - (ii) one.

## 13. General Market - Interest Rate Risk

- 13(1) A credit union's general market - interest rate risk, referred to as "C" in subsection 10(1), is its risk calculated using the formula,  $(K \times 0.15) / 0.08$ .

- 13(2) In subsection 13(1), “K” means the amount of the credit union’s exposure to interest rate risk, as determined in accordance with the techniques required in paragraph 13(4)(ii).
- 13(3) A credit union’s exposure to interest rate risk means the potential negative impact, expressed in Canadian dollars, of changes in interest rates on a credit union’s earnings and net asset values when the dates of its payments of principal and interest and its receipts of principal and interest are not matched.
- 13(4) Every credit union must establish, for the purposes of managing its exposure to interest rate risk, policies and procedures that include,
- (i) clear and prudent limits on the credit union’s exposure to interest rate risk and on the impact of this exposure on the net interest income and surplus of the credit union which consider fluctuations in interest rates that the credit union reasonably expects to occur;
  - (ii) techniques to be used to calculate the amount of the credit union’s exposure to interest rate risk;
  - (iii) internal controls to be implemented to ensure compliance with the interest rate policies and procedures;
  - (iv) corrective action that the credit union will take if the limits on the credit union’s exposure to interest rate risk are exceeded; and
  - (v) content and frequency of reports to the board and senior management of the credit union about the management of the credit union’s exposure to interest rate risk.
- 13(5) The policies and procedures required in subsection 13(4) must be approved by the board of the credit union.
- 13(6) The policies and procedures of the credit union established pursuant to subsection 13(4) must require that the credit union submit a written report to its board and the Authority if the credit union’s exposure to interest rate risk exceeds the limits established pursuant to paragraph 13(4)(i). The report must be submitted within 21 days after the credit union’s exposure to interest rate risk exceeds the limits established pursuant to paragraph 13(4)(i).
- 13(7) The report required by subsection 13(6) must,
- (i) describe the circumstances that led to the credit union’s exposure to interest rate risk exceeding the limits;
  - (ii) describe the effect that this exposure has had, and may have, on net income;
  - (iii) describe the steps taken to bring this exposure within the limits; and
  - (iv) include a schedule indicating when the credit union will comply with its policies and procedures.
- 13(8) If a credit union’s exposure to interest rate risk exceeds the limits established in its policies and procedures adopted pursuant to paragraph 13(4)(i), the credit union must immediately bring its exposure within those limits.
- 13(9) If a credit union’s exposure to interest rate risk exceeds the limits established in its policies and procedures pursuant to paragraph 13(4)(i) for two consecutive quarters, the credit union must promptly submit to the Authority a plan approved by the board of the credit

union that describes how the credit union will bring its exposure to interest rate risk within the limits established pursuant to paragraph 13(4)(i).

- 13(10) A credit union must prepare a report at the end of each quarter of its fiscal year describing the credit union's management of its exposure to interest rate risk. The report must include all information about the management of interest rate risk that the credit union has filed with the Authority in that quarter. The credit union must present the report at a meeting of the board of the credit union within 60 days after the end of the quarter for which the report is prepared.
- 13(11) A credit union must integrate the policies and procedures it establishes pursuant to subsection 13(4) into the credit union's internal capital adequacy assessment process pursuant to section 17.

#### 14. Capital Conservation Buffer

- 14(1) If a credit union's capital conservation buffer ratio is below the minimum capital conservation buffer ratio, the credit union must immediately implement a plan to meet or exceed the minimum capital conservation buffer ratio, and such plan must include,
- (i) the strategy the credit union will use to complete the plan;
  - (ii) the timeframe for the plan; and
  - (iii) if the credit union expects to complete the plan promptly, assurances that the capital conservation buffer ratio recovery is not temporary.
- 14(2) The credit union must promptly provide the plan described in subsection 14(1) to its board and to the Authority.
- 14(3) In each of its financial quarters, a credit union must not make any distribution that would cause the credit union to retain less than the percentage of the credit union's earnings for its previous financial quarter specified in Table 5 at the intersection of,
- (i) the row of Table 5 that contains the range of percentage values that includes the percentage determined by expressing the credit union's capital conservation buffer as a percentage of the capital conservation buffer required for the credit union to comply with the minimum capital conservation buffer ratio; and
  - (ii) column two of Table 5.

**Table 5 - Capital Conservation Buffer**

Capital conservation buffer as a percentage of the capital conservation buffer required for a credit union to comply with the minimum capital conservation buffer ratio.	Percentage of credit union earnings for previous financial quarter that the credit union must retain.
< 75%	100%
≥75% to 85%	80%

≥85% to 90%	60%
≥90% to 100%	40%
≥100%	0%

14(4) In section 14 of this Rule,

- (i) “distributions” includes dividends, share buybacks, discretionary payments on Tier 1 securities, discretionary bonus payments to employees, directors, officers and contractors of the credit union, its subsidiaries and affiliates, and other discretionary payments, but excludes payments that do not result in a reduction of Tier 1 capital such as non-cash dividends paid on membership shares; and
- (ii) “earnings” means distributable profits calculated prior to the deduction of distributions and after the tax which would have been reported if the credit union had not made distributions.

**15. Transition Rule for Minimum Capital Ratios and Capital Conservation Buffer**

- 15(1) If, on the date that this Rule comes into force, a credit union cannot meet the minimum Tier 1 capital ratio, the minimum capital conservation buffer ratio or the minimum total supervisory capital ratio, the credit union must apply to the Chief Executive Officer for approval of a transition plan to relieve the credit union from complying with its obligations to maintain the minimum Tier 1 capital ratio, the minimum capital conservation buffer ratio or the minimum total supervisory capital ratio or any combination of the these ratios, as provided in the transition plan and subject to the terms of the transition plan.
- 15(2) An application under subsection 15(1) must be in a form approved by the Chief Executive Officer and must describe how and when the credit union will meet the requirements to maintain the minimum Tier 1 capital ratio, minimum capital conservation buffer ratio and minimum total supervisory capital ratio.
- 15(3) The Chief Executive Officer may, pursuant to section 80 of the Act, approve the transition plan referenced in subsection 15(1), subject to any terms the Chief Executive Officer considers appropriate if the Chief Executive Officer considers that approval of the transition plan is in the best interests of the members of the credit union and that the credit union will meet the requirements to maintain the minimum Tier 1 capital ratio, the minimum capital conservation buffer ratio and the minimum total supervisory capital ratio within a reasonable time.

**16. Leverage Ratio**

- 16(1) Leverage ratio means the capital measure expressed as a percentage of the exposure measure.
- 16(2) Capital measure means, at a specific point in time, the regulatory capital of the credit union.
- 16(3) Exposure measure means the amount calculated using the formula,  $K - L + M - N$ .



- 16(4) In subsection 16(3), “K” is the assets of the credit union as they would appear in the financial statements of the credit union, if the financial statements were prepared as of the date of the calculation.
- 16(5) In subsection 16(3), “L” is the sum of the amounts calculated pursuant to subsection 5(5) as they would appear in the financial statements of the credit union, if the financial statements were prepared as of the date of the calculation.
- 16(6) In subsection 16(3), “M” is the sum, as of the date of calculation of the exposure measure, of the face amounts or notional principal amounts of the off-balance sheet exposures of the credit union specified in Table 3 multiplied, for each exposure, by the corresponding conversion factor in column two of Table 3 for that exposure.
- 16(7) In subsection 16(3), “N” is, to the extent included in the credit union’s balance sheet assets, the sum of the amounts of government funded loans that are issued through the credit union but not funded by the credit union and for which the credit union has no credit risk.

## **17. Internal Capital Adequacy Assessment Process**

- 17(1) If a credit union has less than \$500 million in assets and takes appropriate compensating actions and implement controls to allow the credit union to appropriately manage its capital risk, senior management and the board may determine that the credit union is not required to establish an internal capital adequacy assessment process and section 17 does not apply to that credit union.
- 17(2) Subject to subsection 17(1), a credit union must, to comply with section 78 of the Act, establish an internal capital adequacy assessment process.
- 17(3) The internal capital adequacy assessment process of a credit union must include,
- (i) a governance structure;
  - (ii) a capital risk tolerance that is incorporated into the capital policies, business strategies, reporting frameworks, risk management and control functions of the credit union;
  - (iii) a capital management philosophy that contains the capital goals and objectives of the credit union;
  - (iv) a capital policy that describes the credit union’s capital management, including capital targets, limits and diversification of funding sources;
  - (v) processes to allow the credit union to periodically measure, manage and monitor the assets of the credit union held for capital purposes and funding requirements;
  - (vi) capital testing metrics, including an analysis of changes to funding requirements under alternative scenarios;
  - (vii) a capital contingency plan to address capital requirements of the credit union in stressed situations;
  - (viii) an assessment of,
    - (a) all risk exposures of a credit union that are not contemplated by this Rule, including market risk exposures, other than interest rate risk, and counterparty credit risk, and

- (b) the additional capital a credit union determines it should hold to mitigate the additional risks identified in subparagraph 17(3)(viii)(a); and
- (ix) a stress testing program to manage the credit union's capital risk under normal and stressed conditions that includes,
  - (a) a capital risk management framework and controls to identify, measure, manage and monitor a credit union's capital risk exposures under normal conditions,
  - (b) a structurally sound funding plan, and
  - (c) reasonable stress testing scenarios that,
    - (i) stress the credit union's capital levels and capital risk tolerance, and
    - (ii) ensure that the credit union's capital sources and contingency funding plans continue to be adequate in highly unlikely but plausible scenarios.

**18. Failure to Comply with Capital Requirements**

- 18(1) Subject to subsection 18(2), if a credit union does not meet the requirements for adequate capital under section 77 of the Act and this Rule the credit union must,
- (i) not, until the credit union meets the requirements for adequate capital,
    - (a) change the terms and conditions of or refinance any loan made by the credit union if this would have an adverse impact on any of the credit union's compliance with section 3, or
    - (b) directly or indirectly make any loan or investment; and
  - (ii) immediately submit to the Chief Executive Officer a report addressing the following matters,
    - (a) the circumstances that caused the credit union to not meet the requirements for adequate capital,
    - (b) the actions the credit union has taken to meet the requirements for adequate capital, and
    - (c) the date on which the credit union expects to comply with the requirements for adequate capital.
- 18(2) Subsection 18(1) does not apply to:
- (i) a failure by a credit union to meet the requirement of paragraph 3(1)(vi);
  - (ii) a failure by the credit union to meet the requirement of paragraph 3(1)(vii) but only if such failure to meet the requirement is caused by the credit union's failure to meet the requirement in paragraph 3(1)(vi); and
  - (iii) a credit union beginning on the date it applies for approval of a transition plan pursuant to subsection 15(1) and ending on the date the Chief Executive Officer rejects the plan or approves the plan in accordance with subsection 15(3) pursuant to section 80 of the Act.

**19. Coming into force**

19(1) This Rule will come into force on the later of the date that clauses 10 and 11 of subsection 285(1) of the Act come into force and 15 days after the Rule is approved by the Minister.