FINANCIAL SERVICES AUTHORITY

SAINT VINCENT & THE GRENADINES

GUIDELINES:

SHARE CAPITAL GUIDELINES FOR CREDIT UNIONS

Issued: December 17, 2021

INTRODUCTION

Credit Unions in St. Vincent and the Grenadines are regulated pursuant to the Cooperative Societies Act No. 12 of 2012. Regulation and supervision of the activities of credit unions is undertaken by the Financial Services Authority ("the FSA") acting under the authority of the Financial Services Authority Act No. 33 of 2011.

The following Guidelines are issued pursuant to section 10 of the Financial Services Authority Act, No. 33 of 2011. The guidance herein specifically addresses the equity structure of credit unions and clarifies areas of ambiguity within the substantive legislative framework relating to shares, thereby unifying the application across the sector.

PURPOSE AND OBJECTIVES

To clarify provisions relating to shares and to allow for consistent application of sections 95, 104,114, 116,117 and 118 of the Cooperative Societies Act #12 of 2012.

SCOPE OF APPLICATION

These Guidelines apply to all Credit Unions registered in St. Vincent and the Grenadines.

PROVISO STATEMENT

These Guidelines provide general guidance and explanation of the law and are not intended to replace or override any legislative provisions in respect of shares. They should be read in conjunction with the provisions of the Cooperative Societies legislation as well as any written directives, notices, circulars and other guidelines that the Authority may issue from time to time.

In the formulation of these Guidelines, the Authority did not consider the circumstances specific to any entity in isolation. As such, these Guidelines should be viewed as general information for the purpose of addressing matters relating to shares issued by credit unions. The Authority expects each institution to review the guidance herein and utilize same to model its internal policy based on its peculiar circumstances.

DEFINITIONS

"Beneficiary" means a person designated as the recipient of funds or other property under will, trust or the like.

"Collateral/ Security" refers to an asset used by a borrower as a deposit with, or a pledge to, a lender as support when trying to obtain a loan. This asset can be sold by the lender if a borrower default.

"Equity shares" are common stock or risk capital in addition to qualifying shares purchased as a member's investment in the safety, soundness and competitiveness of their credit union.

"Qualifying Shares" mean shares of common stock that a person must hold in order to qualify as a member of a credit union.

1. CAPITAL STRUCTURE AND SHARE GUIDANCE

(1) Shares Authorization and General membership guidance

(i) The equity base of a credit union may include two classes of shares, namely:

a. **qualifying shares** which represent the minimum shares requirement to which potential or actual members must subscribe; and

b. **equity shares**, are additional shareholding that credit unions may include as a requirement for membership.

(ii) Each credit union's subscription to equity shares may vary, however, these should be made clear to members and potential members in the bye-laws. Amendments to the value of these shares should be approved by the membership by resolution.

(iii) Shares held in a credit union are non-withdrawable but redeemable only where specific conditions are met. This should be stated at the start of membership and displayed on the membership application form. (*See redemption and transfer of shares*).

(iv) Membership with a credit union is established after all issued shares are fully paid. Payments can be made with any acceptable legal tender or property, the value of which must be the fair equivalent of the monetary value of the share[1].

(v) Where property is the consideration offered for the payment of shares credit unions are required to obtain an expert opinion to support the acceptance of property for payments of shares. This opinion must be in writing and kept on record at the credit union.

(vi) The requirement for membership and procedure for the amendments of membership must be clearly stipulated in a credit union's bye-laws in accordance with the Cooperative Societies Act.

(2) Limitations on share purchase:

A member of a credit union and registered credit union are restricted when purchasing shares in another credit union, that is, the purchase should not exceed one-fifth of the shares in the

[1] Issue of shares Section 97 (5).

entity[2]. However, purchase beyond this threshold is limited to Cooperative Societies and may be approved by the Registrar where:

- the other credit union is insolvent;
- the proposed purchase will not cause the credit union to become insolvent; and
- the purchase would not be detrimental to the financial stability of the purchasing credit union.

(3) **Restriction on the use of Shares as collateral/security[3]:**

(i) Credit unions should not utilize member's qualifying and equity shares as collateral/security for any financial instruments. Further, neither should these shares be considered when assessing members' credit-worthiness. Collateral accepted to support the underwriting of loans are limited to other assets held by the member and the value of property under consideration.

(ii) Qualifying and equity shares are fixed components of a credit union's regulatory capital and as such should not be used as protection against potential loss should a member default. Notwithstanding this, qualifying and equity shares shall be used to offset members indebtedness **upon** the cessation of membership and liquidation of the credit union.

(iii) The death of a member does not destroy the right of a credit union to recover outstanding amounts owed by members to a credit union. Consequently, on the death of a member, a credit union may restrict the transfer or payment to a beneficiary to the residual value of shares after the deceased member's indebtedness has been liquidated.

(4) **Redemption and Transfer of Shares:**

(i) The bye-laws of a credit union shall clearly outline guidance and procedures regulating share redemption and transfers for various outcomes including:

  - general share transfers;
  - transfer to a member of unsound mind; and
  - transfer of shares or interest on the death of a member.

(ii) Credit unions must ensure that share redemption activities are not permitted where such redemption will result in the credit union having insufficient capital in the short to medium term. Standard Operating Procedures should be developed to guide employees' activities regarding share redemption and transfer activities.

(iii) Where it is likely that a transfer may compromise capital, a credit union may establish a holding account and repurchase the share or implement a phased payment system to avoid undercapitalization.

---

[2] Limitations on purchase of shares Section 99.

[3] Lien on shares Section 114 and Regulation 35

(iv) The procedures for the redemption and transfer of shares shall be clearly outlined within the bye-laws and include specific provisions to address restrictions and conditions for validity pertaining to share assignments. Credit Unions are therefore required to ensure that membership application documents clearly address the nomination of at least one beneficiary. Additionally, credit unions shall maintain a separate record for nominated beneficiaries, subsequent revocations and variations at its registered office.

2. FINANCING

1. Capitalization:

A credit union's capital structure is stipulated in the Cooperative Societies Act[4]. Credit unions are permitted to finance their core business activities by issuing shares. In addition, the credit union is required to bolster its capital with mandatory reserves and surpluses generated from operational activities after covering any deficit, and allocations to statutory reserves as per the legislation and the distribution of a dividend. Credit unions are mandated to maintain capital and statutory reserve levels that are not less than ten percent of their total assets at a minimum.

2. Recapitalization:

(i) A credit union may adopt measures to rebuild or support its existing or potentially compromised financial structure. Action enforced to recapitalize a credit union should be reasonable and supported by evidence.

(ii) Where evidence implies that the financial stability of a credit union will become compromised in the short to medium term, the credit union is required to:

- immediately notify the Registrar;
- prepare a recapitalization plan;
- prepare and obtain approval for a resolution for recapitalization; and
- convene a special meeting of members to address the deficiency.

Recapitalization procedures applied by credit unions are ***temporary measures***. As such, where a credit union issues equity shares as a recapitalization measure, it ***must*** be time bound and not perpetual in nature. The Registrar, reserves the right to recommend alterations to resolutions which are not time bound and are likely to disenfranchise members.

Recapitalization activities can also be undertaken through debt financing

COMMENCEMENT

These Guidelines shall come into effect this 17th day of December, 2021.

[4] Interpretation: Capital base Section 2

Issued by:

Financial Services Authority
P.O. Box 356
Kingstown
St. Vincent & the Grenadines
Tel (784) 456-2577
Fax (784) 457-2568
Electronic mail: info@svgfsa.com