

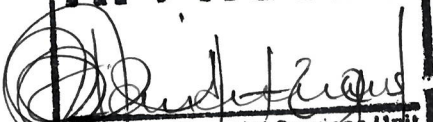
BY-LAWS

OF THE



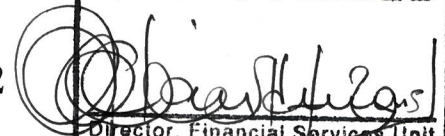
NATIONAL CO-OPERATIVE CREDIT UNION LIMITED

APPROVED


Director, Financial Services Unit
Ministry of Finance
Commonwealth of Dominica

NO. 2 - 2022

REGISTERED


Director, Financial Services Unit
Ministry of Finance
Commonwealth of Dominica

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**UNDER THE TERMS AND PROVISIONS OF
THE CO-OPERATIVE SOCIETIES ACT 02 of 2011**

BY-LAW NO. 1

By-Laws relating generally to the conduct of –

NATIONAL CO-OPERATIVE CREDIT UNION LIMITED

BE IT ENACTED as the general By-laws of the **National Co-operative Credit Union Limited** (hereinafter called “the Society”) as follows: -

**BY-LAWS OF THE
NATIONAL CO-OPERATIVE CREDIT UNION LIMITED**
(hereinafter referred to as “the Society”)

I. NAME AND LEGAL STATUS

1. Under the terms and provisions of the laws of the Commonwealth of Dominica, the name of the Society shall be “NATIONAL CO-OPERATIVE CREDIT UNION LIMITED” The duration of the Society shall be unlimited.

II. INTERPRETATION

2. In these By-Laws, unless the context otherwise requires, expressions defined in the Act or the Regulations shall have the meaning so defined, and words importing the singular shall include the plural and vice-versa, and words importing the masculine gender shall include the feminine gender and words importing persons shall include bodies corporate.

In these By-Laws

“Act” means the Co-operative Societies Act, No.02 of 2011 and includes any amendments thereto;

“Age of Majority” refers to the age of 18 years

“Amalgamated Societies” means those Co-operative Societies previously known as the La Salette Co-operative Credit Union Limited, the St. David’s Co-operative Credit Union Limited, the St. Paul Co-operative Credit Union Limited, the Roseau Co-operative Credit Union Limited and the Vieille Case Co-operative Credit Union Limited.

“Board” means Board of Directors;

“By-Laws” means the registered By-Laws made by the Society in exercise of any power conferred by the Act, and includes registered amendments of these By-Laws;

“Loans”, means money lent by the Society in accordance with the Act, Regulations and the By-Laws to a member who agrees to repay the sum lent, along with interest, at some future point in time.

“Manager”, means the person(s) including the Chief Executive Officer appointed by the Board to manage the day to day affairs of the Society;

“Member” means a registered member of the Society.

“Minister” refers to the “Minister responsible for Finance.”

“Regulations”, means the Co-operative Societies Regulations S.R.O. No. 26 of 2001 and any subsequent amendments thereto;

“Registrar” refers to the Director of the Financial Services Unit.

“Term” refers to tenure in office; irrespective of whether a person was elected or appointed.

III. REGISTERED ADDRESS

3. The registered address of Society shall be 31-37 Independence Street, Roseau, Commonwealth of Dominica or at any other place as may from time to time be determined by the Society.
4. The Society shall inform the Registrar of its intention to change its registered address at least one month prior to the change being made.

IV. OBJECTIVES

5. The objectives of the Society shall be:
 - a) To promote thrift among members by providing ways and means whereby savings can be accumulated and shares in the Society can be acquired.
 - b) To educate members on co-operative principles and the efficient management of their financial affairs.
 - c) To create a source of credit available to members out of their savings and other funds of the Society, on reasonable terms and

conditions, for provident and productive purposes; and ensure repayment thereof.

- d) To provide financial and other developmental services to members and to contribute towards social, non-profit, charitable, or cultural causes in Dominica as funds permit.
- e) To establish and promote co-operative developmental programmes with other co-operative societies in the interest of members and general development of the country.
- f) To comply with the Act and other legislation enacted in the Commonwealth of Dominica from time to time.
- g) To undertake all other acts that are incidental or conducive or consequential to the attainment of the above objectives.

V. CAPITAL, FUNDS AND LIABILITY

- 6. The capital and funds of the Society shall be raised by means of:
 - a) members' subscriptions to shares;
 - b) the savings or deposits of members or non-members including other co-operative societies;
 - c) loans from members or non-members;
 - d) entrance fees, other fees and charges, fines, interest on loans and investments; and
 - e) financial contributions from members and other sources.
- 7. Each member of the Society shall hold a minimum of one share in the Society. Each share of the Society shall be of the par value of fifty dollars (\$50.00). No member shall hold more than 20% of the member capital of the Society.
- 8. Subject to the provisions of the Act, Regulations and By-Laws of the Society, fixed deposits may be received from members or non-members at such rates and on such terms and conditions as the Board may from time to time determine.
- 9. Subject to as hereinafter provided, the Board may, without sanction of a General Meeting, borrow or raise money from any source in any manner the Board thinks fit, provided that this sum does not exceed the maximum liability ceiling, if any, set by the previous Annual General Meeting and in accordance with the Act, Regulations, these By-Laws and the Financial Services Unit Act. That borrowing above a certain percentage would require the approval of the membership.

10. The members at a general meeting shall, in accordance with the provisions of the Act and Regulations, from time to time fix the maximum amount which the Society may at any one time owe in respect of deposits and loans.
11. The funds of the Society may be applied only to the following purposes, namely:
 - a) operational expenses;
 - b) loans to its members for provident or productive purposes;
 - c) such charitable, social, educational, cultural and developmental purposes as the Board may agree and
 - d) any other purpose authorised by the Act, Regulations and these By-Laws.
12. The liability of a member to make contributions to the assets of the Society in case of liquidation shall be limited to his shares.

VI. MEMBERSHIP

13. In order to qualify for membership, a natural person must:
 - a) be a resident of the Commonwealth of Dominica or a citizen of the Commonwealth of Dominica or any other Caricom Member State;
 - b) not be an undischarged bankrupt;
 - c) not be of unsound mind; and
 - d) be of the age of fifteen years or over.

A registered co-operative society is also qualified to be a member of the Society.

14. Any person who meets the required qualifications and is desirous of becoming a member shall apply to the Society stating his name, residence, occupation and such other information as the Board may require in accordance with Anti-Money Laundering legislation and other legislation.
15. Applications for membership shall be addressed to the Board of Directors but shall be presented at the branch offices or registered office of the Society. The Application for membership must be made in writing in the prescribed form and accompanied by photo identification.
16. Every applicant for membership shall pay a non-refundable fee as may be determined by the Board.

17. On approval of membership application and after purchase of at least one (1) share, an applicant shall be registered as a member of the Society and shall be entitled to all rights and privileges of membership subject to the laws of the Commonwealth of Dominica.
18. A person ceases to be a member of the Society:
 - a) on death;
 - b) if he applies for bankruptcy or is declared bankrupt;
 - c) on ceasing to hold at least one share in the Society;
 - d) on the compulsory acquisition of his share pursuant to Section 119 of the Act;
 - e) on expulsion from the Society as provided in Sections 31 or 32 of the Act;
 - f) if, subject to as hereinafter provided, he ceases to be qualified in accordance with By-Law 13;
 - g) on written submission from member terminating his membership subject to the approval of the Board.
19. (1) A member may have his membership terminated by the Board in accordance with Section 31 of the Act where at least two-thirds (2/3) vote of the directors present at a meeting called for that purpose, order the termination of such member of the Society where the member is guilty of any of the following: -
 - a) failure to fulfill financial obligations due to the Society;
 - b) is convicted of a criminal offence involving dishonesty; or
 - c) in the opinion of the Board and after due investigation, acts in a manner which may be detrimental to the interest of the Society.

(2) Where a member is guilty of any of the matters listed in By-Law 19(1) (a) to (c) above, the Board may by notice in writing suspend a member for a period not exceeding three months if it is satisfied that the member is guilty of misconduct.

(3) Notwithstanding By-Law 19(1) above, a member may be terminated by a vote of at least two-thirds (2/3) of the members present at a general meeting once the charge has been communicated to that member in writing at least ten (10) days before the date of the meeting.

20. Subject to the Act, a member whose membership has been terminated may appeal the termination to the Registrar pursuant to Section 34 of the Act.
21. Subject to the provisions of the Act, after settling any financial obligations due to the Society, all amounts held to the credit of a member who withdraws or whose membership has been terminated, together with any interest accrued on those amounts shall be paid.
22. The Society shall keep a Register of all members in accordance with Section 28(2) of the Act wherein shall be entered:-
 - a) The name, address, occupation, account number, email address and date of birth of each member
 - b) The date on which each member's name was entered in the Register
 - c) Date on which a person becomes a member
 - d) Date on which a person ceases to be a member
 - e) Number and value of shares held by member
 - f) Any other pertinent identification information as specified by the Board

VII. SHARES

23. Payment for shares shall be made together with application for membership. Once the application for membership has been approved, shares cannot be withdrawn but are transferable. In the event that the application for membership is not approved, the applicant shall be refunded all money paid towards the purchase of shares.
24. All applications for transfer of shares with or without remuneration shall be made on the Form contained in the Schedule to these By-Laws.
25. Except in the case of a transfer from the account of a deceased person, the application for transfer of shares shall be accompanied by a fee to be determined by the Board.
26. A transfer of shares can only be made to a member of the Society or any other person who meets the requirements of membership with the Society. In extra-ordinary circumstances, to be determined by the Board, the Society may re-purchase shares from members.

27. A transfer of shares shall not bind the Society until notified in writing and unless the transfer complies with the By-Laws of the Society.

VIII. SAVINGS AND DEPOSITS

28. Any single savings or deposits of ten thousand dollars (EC\$10,000.00) and over, or any lesser amount determined by the Board will be accepted from a member or depositor subject to an acceptable written declaration of the source of funds.
29. Notwithstanding By-Law 28 above, the Society will scrutinize all savings and deposits as required by Anti Money Laundering Legislation, or any other law operating in the Commonwealth of Dominica, and may require a subsequent written declaration of source of funds where it deems necessary.
30. Savings and deposits may be received in the name of a minor or in trust for a minor who is a child or ward of a member, in such way or manner as the Board may determine.
31. (1) The Society may receive deposits from a minor and pay to such minor such deposit together with the interest accrued thereon.
- (2) Savings and deposits received in the name of a minor shall be held for the exclusive right and benefit of the minor and free from the control or lien of all other persons except creditors, and shall be paid as follows:
- a) prior to the minor attaining the age of majority, to the legal guardian; provided that the Society may make payment directly to the minor, if in its opinion a case of hardship exists in relation to the minor; or
- b) to the "minor" upon him attaining the age of majority.
- (3) Where a member opens a deposit account under the style "A in trust for B" or "A for B" where B is a minor, withdrawals from that account can only be made by the member (or in the event of his death by his named beneficiary on his membership card or in the absence of a duly executed membership card, his executors or administrators.
32. Term deposits may be accepted from a member or non-member upon such terms and conditions as may be determined by the Board.
33. Fixed deposits for a term exceeding five (5) years shall require the approval of the Registrar.
34. The Board shall fix the rate of interest payable on savings and deposits from time to time.

35. No member may withdraw any pledged savings below the amount of his total liability to the Society as borrower, co-maker or guarantor without the approval of the Board or its authorised representatives.
36. Deposits and savings may be withdrawn on any day in which the Society is open to business but the Board may at any time require the member or depositor to give up to 30 days notice of his intention to withdraw the whole or any part of his deposits.

IX. PASSBOOKS, RECEIPTS AND DISBURSEMENTS

37. Shares acquired or transferred and money paid in or out on account of savings, interest, entrance fees, fines, transfer fees or any other transaction shall be evidenced by an appropriate voucher or receipt. Each voucher or receipt shall identify the person receiving or paying out on behalf of the Society and the money represented thereby.
38. When passbooks are used, the member's permanent official record for all transactions shall be the entries in the passbook.
39. When statements of account plan are used, the member's permanent official record for transactions shall be the statement of account which will itemize all transactions and which must be issued to the member upon request.
40. In the absence of the passbook or statement of account, the member's permanent official record for transactions shall be a computer generated receipt or electronic transaction history as provided by the Society's Online Services platform.
41. If a passbook is lost, destroyed or stolen, immediate notice must be given to the Society. An application must be made for the issuance of a duplicate book; the cost of which shall be borne by the member.

X. MEETINGS OF MEMBERS

42. The supreme authority of the Society shall be vested in the general meeting of members at which every member has a right to attend and vote on all matters concerning the business of the Society.
43. Meetings of members shall be convened and held in accordance with Sections 36 to 50 of the Act.
44. At least ten (10) days notice of any general meeting of members shall be given in accordance with the Act before any such meeting is held.

45. General Meetings may be held from time to time, at the discretion of and at a place determined by the Board. The Board may determine that the meetings be held in person, virtually or utilizing a hybrid format.
46. The Annual General Meeting of members shall be held within four (4) months after the end of the financial year unless authorised by the Registrar, upon a written request by the Board to convene the meeting at a date no later than six (6) months after the end of the financial year.
47. The business of the Annual General Meeting shall be to:-
 - a) Confirm the minutes of the previous Annual General Meeting and of any intervening Special General Meeting.
 - b) Receive, consider and if approved, adopt the Annual Report of the Board for the year ended.
 - c) Receive, consider and if approved, adopt the financial statements, together with comparative statements presented by the Board for the year ended.
 - d) Consider the Report of the Auditor.
 - e) Receive, consider and approve the Auditor's Report or, if accounts are not approved, to cause the Directors to forthwith notify the Auditor of any error or mis-statement.
 - f) Receive, consider and if approved, adopt the reports for the year ended of the Credit and Supervisory and Compliance Committees or any other committee appointed by the General Meeting.
 - g) Allocate the surplus from the preceding year.
 - h) Amend, modify or amplify, if necessary, the By-Laws of the Society provided that due notice as hereunder provided for shall have been given.
 - i) Elect Directors, Credit Committee and Supervisory and Compliance Committee members for the ensuing term.
 - j) Appoint an auditor for the ensuing year.
 - k) Hear and decide upon any complaints brought by members aggrieved by a decision of the Society, provided that notice of such complaint to be brought before the meeting has been given to the Secretary in writing within thirty (30) days from the date of notification of the decision.
 - l) Transact any other appropriate business of the Society.

48. A Special General Meeting of members may be convened at any time by the Board and on receipt of a demand stating the object of the proposed meeting, signed by at least two hundred (200) members. It shall be the duty of the Board to convene such meeting within twenty (20) days of the receipt of the request. The purpose of the Special Meeting shall be set forth in the notice and only such business as is described in the notice shall be dealt with at such meeting.
49. The Registrar may at any time call a special general meeting for the purpose of enabling members to secure any information regarding the affairs of the Society that they are entitled to receive and to deal with any matters affecting the Society.
50. Notice of any General Meeting or Special General Meeting shall be deemed to have been given by:
 - a) sending notice by mail to members at addresses in the Register of members; or,
 - b) publishing the notice in not less than two issues of a newspaper published and circulated in Dominica or by posting the notice in a place or through any medium of communication, which in the opinion of the Board, is prominent and accessible to members.
51. The accidental omission to give notice to or the non-receipt of a notice by any member shall not invalidate the meeting.
52. The President of the Board , or in his absence the Vice-President or in the absence of both, any other Director elected by a majority of those present shall preside at the Annual or Special General Meeting.
53. Minutes of the Meetings shall be entered or recorded in the Minute Book and signed by the Secretary and when confirmed signed by the Chairman and shall contain:-
 - a) The number and names of the members present at the meeting and the name of the President or the person who presided at the meeting.
 - b) The date and the times the meeting commenced and ended
 - c) The total number of members on the date on which the meeting was held; and
 - d) All resolutions passed or decisions made at the meeting.

- e) There shall be detailed resolutions for policies and contractual matters and the resolution should indicate the voting ie. those against and abstentions.
54. No partisan political, sectarian or racial discussion shall be raised or resolution proposed, either at any Committee or General Meeting of the Society.

XI. QUORUM

55. Subject to the laws in force in Dominica, a quorum at any General or Annual General meeting shall be two hundred (200) members present at the commencement of the meeting, provided that when any meeting is summoned by the Registrar, any number of members present at such meetings shall be deemed to form a quorum. A quorum at a Special General Meeting shall be one hundred and fifty (150) members present at the commencement of the meeting.
56. (1) Where a quorum is not present sixty (60) minutes after the time fixed for the commencement of a general meeting of members;
- a) the members present may adjourn the meeting to a time and place to be determined by the Board but not later than 60 days after the date of the adjourned meeting and shall not transact any other business; or
 - b) the Registrar or his representative may direct that the meeting proceed if he is satisfied that the meeting was convened in accordance with the Act and that the members present were properly notified and constitute at least 75% of the amount required for a quorum.
- (2) If at the adjourned meeting, there is no quorum, the members present constitute a quorum and may proceed with the meeting.
57. Subject to the Act, the Regulations and these By-Laws, for the purpose of making decisions concerning the business of the Society, a majority of the members present and casting votes at a meeting shall decide all questions.
58. Subject to the Act, the Regulations and these By-Laws, the Chairman of the meeting shall have the right to vote and in the event of a tie, shall be entitled to a second or casting vote.

XII. ELECTIONS

59. The following procedures shall apply to the conduct of elections in keeping with Sections 72 and 73 of the Act and the Regulations:

- a) Not less than thirty (30) days prior to each Annual General Meeting, the Board shall appoint a Nominating Committee of five (5) persons of which two (2) shall be members of the existing Board. The other members of the Nominating Committee shall comprise a representative from the Credit Committee, a representative from the Supervisory and Compliance Committee and the Chief Executive Officer.
 - b) No member eligible for re-elections shall sit on the Nominating Committee.
 - c) The Nominating Committee shall present its report to the meeting. The Nominating Committee shall propose one member for each vacancy to be filled and present an appropriate biography of the person nominated.
 - d) After the nominations have been placed before the members, the person conducting the elections shall call for nominations from the floor. Nominees from the floor shall present to the membership a one minute profile of themselves.
 - e) Where there are more nominations than vacancies, all elections to the Board and other Committees shall be by secret ballot or utilizing an electronic voting platform.
 - f) Where the number of nominees does not exceed the number of persons to be elected, the person conducting the elections shall declare all the nominees duly elected.
60. No member shall be elected to the Board, the Credit Committee or the Supervisory and Compliance Committee unless the member: -
- a) is at least eighteen (18) years old;
 - b) is a citizen or resident of the Commonwealth of Dominica;
 - c) is not bankrupt;
 - d) has not been sentenced by a Court in any country for any criminal offence involving fraud or dishonesty;
 - e) is not an employee or officer of any other credit union or employed or serving at senior management level at any similar financial institution;
 - f) has been a member of the Society for at least one (1) year;
 - g) is not a delinquent borrower and is otherwise in good financial standing;
 - h) is not involved in any activity which is deemed to bring the Society into disrepute;

- i) has not made an arrangement with his creditors;
- j) has not been convicted of an offence under the Money Laundering (Prevention) Act or the Suppression of the Financing of Terrorism Act;
- k) has not been convicted of an offence under this Act;
- l) has not been convicted on indictment of an offence in connection with the promotion, formation or management of a body corporate;
- m) has not been a director of a failed co-operative society of the same type;
- n) is not of unsound mind and has been so found by a Court in Dominica;
- o) has not been suspended, removed or prohibited from serving as an officer or director of a financial institution, including a credit union by a supervisory authority;
- p) is not an employee of the co-operative society or of the Registrar or is not a partner or employee of the Society's auditor; and
- q) has transacted business with the Society for twelve consecutive months.
- r) Meets the guidelines for a Fit and Proper Person as set out in the Financial Services Unit Act, Act No. 18 of 2008 and subsequent amendments thereto. The said Guidelines are contained at Appendix A to these By-Laws.

XIII. TENURE OF OFFICE

- 61. Subject to By-Law 62 and unless he resigns or is removed in accordance with the Act, a Director or a member of the Credit Committee or a member of the Supervisory and Compliance Committee shall hold office until the conclusion of the meeting in which his successor is elected
- 62. A Director or a Committee member may hold office for no more than two (2) consecutive terms or an aggregate of no more than six (6) years before retiring for a minimum of one (1) year before he can be nominated to the Board or any Committee.
- 63. Where persons are to be elected for varying terms, the member receiving the higher or highest number of votes cast is to be declared elected for the longer or longest term.
- 64. No term of office shall exceed three (3) years.

XIV. TERMINATION OF OFFICE

65. Any member of the Board, Supervisory and Compliance or Credit Committee shall be deemed in the opinion of the Board to have vacated that office if the member: -
- a) resigns by giving notice to the Board or to the relevant Committee;
 - b) applies for bankruptcy or is declared bankrupt;
 - c) becomes of unsound mind and has been so found by a Court in the Commonwealth of Dominica;
 - d) is convicted of any criminal offence involving dishonesty and has not received a pardon or had his conviction expunged;
 - e) fails to attend three consecutive regular meetings without valid written excuse;
 - f) is guilty of any other action which would bring the Society into disrepute;
 - g) fails to undergo the required training provided by the Society in relation to the performance and duties of elected members;
 - h) fails without valid excuse to perform any of the duties allotted to him as an officer;
 - i) is removed from office in accordance with Section 90 of the Act; or
 - j) is no longer qualified in accordance with the Act and these By-Laws.
66. Any member of the Board or other Committees may be removed from office before the expiration of his term or the period of office by a two-third (2/3) majority of the members present at a Special General Meeting at which at least ten (10) days notice has been given specifying the proposed resolution to be passed.
67. Any such member or officer, whose removal from office is contemplated, must be informed in writing of the charges against him at the time of the notice and at such meeting, shall have reasonable opportunity to answer such charges. Where the officer is removed from office, the members present at such meeting shall proceed to elect a replacement to fill the vacancy. Any member so elected shall be subject to the original retirement date of the member he replaces.

XV. BOARD OF DIRECTORS

68. Subject to the provisions of the Act and the Regulations, the general direction, control and management of the Society shall be entrusted to the Board.
69. The Board shall be elected at the Annual General Meeting and shall consist of no more than thirteen (13) members, in keeping with the provisions of the Act, none of whom shall be an employee of the Society.
70. The Board shall direct and control the affairs of the Society and shall act for and on behalf of the Society and be responsible for the general development and performance of the Society in execution of the following duties: -
- a) to review applications for membership of the Society and approve applications for membership where necessary and adjudicate on the exclusion or expulsion of members;
 - b) to determine from time to time the maximum amount to be advanced on loans with or without security and to determine the interest rates on loans. When by action of the Board, the interest rates on future loans are reduced, similar action may be taken with regard to interest rates on unpaid balances of existing loans;
 - c) to fix, from time to time, subject to the approval of the Registrar the amount of fidelity insurance which shall be required of all officers and employees handling money and shall authorize the payment of the premium or premiums therefore by the Society;
 - d) to recommend dividends, to determine the rate of interest on deposits, and to recommend amendments to the By-Laws;
 - e) to fill vacancies on the Board and the Credit Committee and other Committees with the exception of the Supervisory and Compliance Committee.
 - f) to authorize and supervise investments of the Society other than loans to members;
 - g) to appoint the person with whom the Treasurer shall have joint control of the securities;
 - h) to employ, fix the compensation and prescribe the duties of such employees as may be necessary;
 - i) to make, ratify and implement policies for the efficient functioning of the Society.

71. The Board shall meet as often as the business of the Society may require, but no less than once per month. Due notice of such meetings shall be given to the Directors by the Secretary.
72. A simple majority of Directors shall constitute a quorum of the Board.
73. Save as expressly stated in the Act or these By-Laws, the Board shall regulate its own procedure for Board meetings.
74. Minutes of Meetings of the Board shall be recorded by the Secretary in the Minute Book and shall be signed by the President or a Director deputizing for the President and by the Secretary and shall contain the following particulars:-
 - a) The names of the persons present and the date of the meeting
 - b) The name of the President or other presiding Director; and
 - c) Statements of all matters discussed and decisions made and a record as to whether each decision was made unanimously or by a majority to include the number that voted for and against when a resolution is passed by the Board.
75. Where there are vacancies on the Board and there is a quorum of Directors, the remaining Directors shall call a special meeting of the Board for the purpose of appointing members to fill any such vacancy until the next Annual General Meeting.
76. Where the membership of the Board falls below the minimum required for a quorum, the remaining Directors shall call a Special General Meeting for the purpose of electing members to fill such vacancies.
77. Where there are no Directors, twenty-five (25) members may appoint in writing, at least five (5) persons as Directors for the purpose of calling a Special General Meeting to elect members to fill the vacancies.
78. Subject to Sections 57 and 58 of the Act, the Board may appoint from among its members any Committee that it considers necessary and may by resolution delegate to any such Committee such powers that it considers necessary for the efficient conduct of the affairs and business of the Society.
79. A Committee appointed by the Board that has specific powers delegated to it, subject to Sections 57 and 58 of the Act and these By-Laws, must consist of at least one (1) Director and shall exercise these powers consistent with the Act as designated by the Board. The Committee must keep Minutes of all meetings held and submit a written report to the Board.
80. Subject to By-Law 9, the Board may borrow from any source and on such security and terms of repayment as it considers fit, provided

that the total amount borrowed does not exceed the maximum liability limit which was fixed by a resolution of members at a General Meeting, and approved by the Registrar.

81. At the first meeting of the Board or any other meeting called for that purpose, which shall be held within ten (10) days of the Annual General Meeting or Special Meeting whereby the election of officers to serve on the Board occurred, the officers shall elect from among themselves, a President, a Vice President, a Secretary and a Treasurer who shall constitute the Executive of the Board.

82. (1) The duties of the **President** shall be: -

- a) To preside at meetings of the members and of the Board;
- b) To sign and execute jointly with the Secretary, all deeds and conveyances of real or personal property and such other documents as the Board may specify;
- c) To perform such other duties as customarily pertains to the office of the President or as he may be directed to perform by resolution of the Board which shall not be inconsistent with the Act, the Regulations and these By-Laws; and
- d) To perform such other duties as the Act and Regulations may require to be performed as the President of the Board.

(2) The duties of the **Vice President** shall be:-

- a) In the absence or disability of the President or his refusal to act, to perform the duties of the President and such other duties as the Board may from time to time prescribe.

(3) The duties of the **Secretary** shall be: -

- a) To attend meetings of the Board, General and Special Meetings of the Society;
- b) To keep Minutes of meetings of the Board and of the Society;
- c) To conduct any correspondence on behalf of the Society;
- d) To keep charge of all records, books, papers and other documents of the Society;
- e) To issue notices for all meetings of the Board and general membership of the Society, in accordance with the Regulations and By-Laws of the Society;

- f) To sign and execute jointly with the President, all deeds and conveyances of real or personal property and such other documents as the Board may specify; and
 - g) To perform such other duties as are prescribed by the By-Laws or as directed by resolution of the Board, which are not inconsistent with the Act and these By- Laws.
- (4) Subject to such limitations and control as may be imposed by the Board, the duties of the **Treasurer** shall be: -
- a) To receive all monies due and payable to the Society and issue receipts for the same;
 - b) To deposit all monies received in the name of the Society in such bank or depository as specified by the Board;
 - c) To sign all cheques, notes, bills of exchange and other documents necessary to effect the business of the Society;
 - d) To record all financial transactions effected by the Society in the books provided for the purpose;
 - e) To keep charge of all documents, books and vouchers for all payments made, and receipts issued on behalf of the Society;
 - f) To prepare the annual statements of account, balance sheet; monthly financial statements and other statements as the Board may request;
 - g) To prepare and forward to the Registrar such financial and other reports as may be required;
 - h) To keep separate accounts of all monies belonging to the Society;
 - i) To produce a current statement of the Society's monies held on demand;
 - j) To make payments as authorised by the Board and obtain receipts for same;
 - k) To ensure that all promissory notes, drafts, negotiable instruments drawn in favour of the Society are properly prepared; and
 - l) To perform such other duties pertaining to the office of Treasurer.
83. The Board may employ a Chief Executive Officer and Branch Managers and may authorize them or another senior employee to perform, or generally assist with any of the duties assigned to the

Treasurer and Secretary, including the signing of cheques, security of all documents, receipts and management of the Society's Financial Account.

84. During the absence or disability of any Director or Credit Committee member or his refusal to act, the Board may appoint another member to act temporarily in his stead.

XVI. CREDIT COMMITTEE

85. The Credit Committee shall be elected at the Annual General Meeting and shall consist of no more than thirteen (13) members, none of whom shall be a member of the Board, or the Supervisory and Compliance Committee or an employee of the Society:
86. The Credit Committee may be removed from office by a special resolution made at a General or Special General Meeting called for that purpose if it fails to submit a report to the Board pursuant to Section 62 (1)(c) of the Act or fails to submit its annual report to the membership at the Annual General Meeting
87. The Board may fill any vacancy on the Credit Committee, but such member shall hold office only until the next Annual General Meeting at which time such member or another member may be elected to fill the vacancy for the un-expired term of the member who was initially elected.
88. The Credit Committee shall choose from among their members a Chairman and a Secretary. The same person shall not hold these two offices at any one time.
89. The Secretary of the Credit Committee shall prepare and maintain full and correct records of all action taken by the Committee and shall submit a monthly report to the Board pursuant to Section 62(1)(c) of the Act. The report shall state as follows:
- a) The number of loan applications received;
 - b) The number and category of loans granted;
 - c) The security obtained, if any, for such loans;
 - d) The number of applications denied;
 - e) The number and amount of delinquent loans;
 - f) The loan recovery rate;
 - g) The action or actions taken to follow-up delinquent loans;

- h) The quality of the loans considered and the professionalism of the staff in the management of the Loans Portfolio.
90. The Credit Committee shall hold such meetings as the business of the Society may require but at least once per month. Due notice of such meetings shall be given to the other members of the Committee by the Secretary.
91. A simple majority of members of the Credit Committee shall constitute a quorum. A sub-committee of five (5) members of the Credit Committee shall meet for the purpose of loan consideration.
92. (1) The Credit Committee shall consider all applications for loans, make recommendations when necessary to the Board in respect of the Loan Policy of the Society and shall, subject to the authorization of the Board, approve loans to members upon such terms and conditions as specified by the Board.
- (2) Notwithstanding By-Law 92(1) above, the Board may, by resolution, delegate to its employees the power to approve loans to members on such terms and conditions as the Board may specify.
- (3) Any person authorised by the Board to approve loans shall submit a written monthly report to the Credit Committee stating the number of applications received, the number of loans granted and the security obtained, if any, and the number of loans denied. Such report shall become a part of the records of the Credit Committee.
- (4) No individual shall have authority to disburse funds of the Society for any loan which he has written up or approved unless so directed by the Chief Executive Officer or his authorised representatives.
93. The Credit Committee and Loans Officer shall carefully inquire into the character, financial condition and sureties of each applicant for a loan to ascertain the ability of the member to repay fully and promptly any obligation incurred by, and to determine whether the loan sought is for a provident or productive purpose, and will be of profitable benefit to the applicant. The Loans Officer shall endeavour to assist applicants with alternatives if their applications are unsound.
94. (1) Subject to Section 61 of the Act, no loan shall be made unless approved by the Credit Committee, by the Sub-Committee of the Board or by any individual authorised by the Board to approve loans to members.
- (2) A Sub-Committee of the Board comprising no less than five (5) members shall convene a meeting if a Director, Credit Committee member, Supervisory and Compliance Committee member or employee requires a loan in excess of his total holdings in shares, deposits and accumulated earnings, or if a loan is referred to it by the Credit Committee.

(3) No member of the Credit Committee, the Board, the Supervisory and Compliance Committee or any employee shall be present at the discussion for the approval of, or approve a loan to himself or to a person for whom he is proposed as surety or any other person with whom he has a fiduciary relationship.

95. When more loan applications are pending than can be granted disbursement with the available funds, preference shall be given in all cases, to applications for smaller loans, if the need and credit factors are nearly equal.

XVII. SUPERVISORY AND COMPLIANCE COMMITTEE

96. The Supervisory and Compliance Committee shall be elected at the Annual General Meeting and shall consist of no more than thirteen (13) members, none of whom shall be a member of the Board, the Credit Committee, or an employee of the Society or any other similar Society.
97. Any vacancy on the Supervisory and Compliance Committee may be filled by the remaining members of the Supervisory and Compliance Committee who may appoint a qualified member until the next Annual General Meeting at which time such member may be elected to fill the unexpired term of the member who was initially elected.
98. The Supervisory and Compliance Committee shall choose from among its members a Chairman and a Secretary. The same person shall not hold these two offices at any one time.
99. The Supervisory and Compliance Committee shall meet at least once a month. The duties of the Supervisory and Compliance Committee shall include to:
- a) examine the books of the Society at least twice per year;
 - b) scrutinize and appraise the policies and operating procedures and, wherever necessary, to make recommendations to the Board and the Credit Committee;
 - c) confirm the cash instruments, property and securities of the Society;
 - d) confirm the shares, deposits and other balances or holdings of members;
 - e) monitor the management of the Society;
 - f) when necessary assign work to the internal auditor;
 - g) liaise with the external auditor;

- h) audit the functions of management and staff;
- i) audit the asset, liability management and liquidity of the Society;
- j) pay particular attention to the risk management of the Society;
- k) verify the assets of the Society and monitor whether the assets are properly protected;
- l) receive and investigate any complaints made by any members affecting the proper management of the Society;
- m) at least once a year cause a random sample of the pass books and accounts of members to be verified with the records of the Society;
- n) ensure that all advances, loans, deposits and other transactions involving Directors, Committee members and employees are in keeping with the Act, Regulations, By-Laws and Policies of the Society; and
- o) comply with all other functions, duties or tasks provided for under the Act.

100. The Secretary shall give due notice of meetings to all members of the Supervisory and Compliance Committee. A majority of the members of the Committee shall constitute a quorum.

101. In the process of their examination, the Supervisory and Compliance Committee shall:

- a) scrutinize applications for loans made during the period and satisfy itself that for each loan granted, an application is on file and that each application states the purpose for which the loan was approved, the description of the security offered, if any, and that it bears the signatures of approval of the Credit or Sub-Committee of the Board; and
- b) examine loan contracts and satisfy itself that each contract is properly completed and signed by the borrower.

102. The Supervisory and Compliance Committee shall keep Minutes of its meetings and shall in accordance with Section 66(1) of the Act do as follows:

- a) within seven (7) days of each meeting report on the results in writing thereof to the Board; and

- b) submit a written report to the Annual General Meeting of the Society.
103. At the request of the Supervisory and Compliance Committee, the Board shall assign the services of the Internal Auditor, any member of staff of the Society, contracted individuals or a company, to work on or conduct special assignments or projects and the outcome of any such assignment or project shall be forwarded to the Supervisory and Compliance Committee for formal presentation to the necessary authority or authorities.
104. If in the opinion of the Supervisory and Compliance Committee, any Director, officer or employee of the Society is guilty of a flagrant violation of the provisions of the Act, Regulations or the By-Laws or any mis-conduct or malpractice or mis-appropriation or mis-direction of the funds, securities or other property of the Society, the Supervisory and Compliance Committee shall forthwith inform the Board and the Registrar in writing.
105. Consequential to By-Law 104, a person may be removed from office as provided in Section 68 of the Act.

XVIII. JOINT COMMITTEE MEETINGS

106. A joint meeting of the Board, Credit and Supervisory and Compliance Committees shall be held no less than once a quarter. The Secretary of the Society shall be responsible for arranging this meeting. The quorum for commencing such meeting shall be a simple majority.

XIX. CONFLICT OF INTEREST

107. A Director, officer or employee of the Society who is:
- a) a party to a contract or proposed contract with the Society or
 - b) a Director or an Officer of any body or has an interest in any body that is a party to a contract or proposed contract with the Society

shall disclose in writing to the Society or request to have entered in the Minutes of any meeting where the said contract is being considered, the nature and extent of his interest.

108. In the case of a Director, the disclosure required by By-Law 107 above shall be made:
- a) At the meeting at which the proposed contract is first considered;

- b) If the Director was not then interested in the proposed contract, at the first meeting after which he becomes so interested;
 - c) If the Director becomes interested after a contract is made, at the first meeting after he becomes so interested; or
 - d) If a person who is interested in a contract later becomes a Director of the Society, at the first meeting after he becomes a Director.
109. In the case of a Committee member or employee of the Society, the disclosure required in By-Law 107 above shall be made:
- a) Forthwith after he becomes aware that the contract or proposed contract is to be considered or has been considered at a meeting of the Directors of the Society;
 - b) If the officer or staff become interested after the contract is made, forthwith after he becomes so interested; or
 - c) If a person who is interested in a contract later becomes an officer or employee of the Society, forthwith after he joins the services of the Society.
110. Subject to Section 82(1) of the Act, no Director, Committee member or employee shall be present at a meeting or take part in any discussions to consider or vote on a resolution to approve a contract in which he has a personal interest.
111. A contract approved by the Directors or members in which a Director, Committee member or employee disclosed a material interest which was reasonable and fair to the Society at the time it was approved, is neither void or voidable by reason only of the relationship, or by reason only that a Director, Committee member or employee with an interest in the contract is present at, or is counted to determine the presence of a quorum at a meeting of the Board or a Committee appointed by the Board that authorised the contract.
112. (1) A Director, Committee Member or Employee shall before taking part in any business of the Society disclose any personal interest, whether directly or indirectly in that business.
- (2) Any person referred to in By-Law 112(1) above, shall be excluded from being present and participating in any discussion related to the matters in which his interest exists.
 - (3) The phrase “personal interest” referred to in By-Law 112(1) above includes any:
 - a) family interest;
 - b) business interest; or

- c) family, business or close social relationship with a person who has an interest in the transaction.

XX. LOANS

- 113. Loans shall be made only to members and other co-operative societies and for provident or productive purposes. Proceeds of loans shall be applied only to the purpose for which the loan was approved.
- 114. The terms and conditions on which loans may be made to members shall be fixed from time to time by the Board, provided always that in no case shall a sum be lent to any member greater than ten percent (10%) of the aggregate of the Society's share capital plus institutional capital.
- 115. The Board shall fix the rates of interest on loans from time to time and the interest payable on loans shall be calculated on the monthly balance.
- 116. A member who wishes to obtain a loan shall submit an application on the forms provided by the Society and shall state the amount, the purpose for which the loan is required, the source from which he expects to repay the loan, the proposed repayment schedule, the name(s) of proposed sureties, the details of any security being offered and any other information as may be required by the Society.
- 117. (1) The Credit Committee shall conduct the following functions/tasks at all meetings:
 - a) Consider at a meeting every application for a loan, and if the Committee is satisfied with the trustworthiness of the applicant, the sufficiency of the security offered, the loan is for a provident or productive purpose in keeping with By-Law 5(c), it may, if authorised by the Board, approve the loan or shall, if not authorised, recommend any approval as required of the loan to the Board.
- (2) No person other than members of the Credit Committee shall be present at any meeting of the Committee when an application for a loan is under consideration.
- (3) The proceedings or documentation presented with regard to the application for loans at the Credit Committee meetings or Loan Officers' meetings shall be kept secret. Any member of the Committee or officer of the Society infringing this By-Law shall be liable to immediate expulsion or dismissal.
- 118. Loans shall be granted subject to such security and other conditions as shall be stipulated in the Loans Policy and the Act

119. When a loan is approved, a written notice to that effect shall be sent to the applicant. Before the loan is disbursed, the applicant and his sureties shall execute in writing an instrument, setting out the terms of repayment of the loan and such other terms and conditions as the Society may consider necessary.
120. Where a loan is not approved, the Society shall inform the member in writing within seven (7) days of the reasons for such refusal.
121. A member failing to pay any installment of a loan on the due date shall, unless extension of time had been approved, pay such fine as the Board may prescribe from time to time provided that such fine shall not exceed 1.5% of installment per month. All fines collected shall be deposited to the Reserve Fund.
122. If a member fails to pay an installment of a loan within the specified due date, the whole amount or balance of the loan then owing shall immediately become due and payable.
123. When a member is in default in the payment of a loan or fails to pay an installment of a loan and does not satisfy the Board or its authorised representatives that such default is due to good reason, such a member shall not be entitled to receive another loan from the Society during that period of default.
124. If by reason of sickness, disaster or some other good cause, a member is unable to discharge his obligations to the Society, and promptly notifies the Society in writing, the Board or its authorised representatives may extend the time fixed for payment on such conditions as appropriate.
125. Where the Society is satisfied that a member of the Society who has obtained a loan has applied the proceeds thereof to a purpose other than the purpose which is stated in the application or that the facts stated in the loan application were misrepresented, the Society may by notice in writing to the debtor demand payment of the loan before the agreed date of payment and upon such demand the loan shall become immediately due and payable.
126. Where a loan or an installment of a loan has not been paid on the date on which it became due and no extension for the payment thereof has been given to the debtor by the Board or its authorised representatives, under By-Law 124 or where a loan has been made to a Director or Officer of the Society in contravention of the Act the Board shall take steps for the recovery of the same through the following action: -
 - a) apply any monies standing to the credit of the member towards the payment of the debt;
 - b) refer the matter to the Registrar, pursuant to Section 195(1) of the Act;

- c) exercise any rights arising by law pursuant to Sections 112 and 195(7) of the Act: or
- d) take any other action which the Board may deem necessary.

- 127. For purposes of By-Law 126, interest shall be deemed to be part of an installment of a loan.
- 128. All applications for loans and the reports of the Credit Committee thereon shall be filed as permanent records of the Society.
- 129. With the exception of savings covered loans, applications for loans made by members of the Credit Committee shall be submitted to and decided upon by the Board.

XXI. DELINQUENT LOANS

- 130. At the end of each financial year the Board shall cause a list of all delinquent loans to be made available at the registered office of the Society for any examination required by the Credit Committee, the Supervisory and Compliance Committee and the Auditor.
- 131. A copy of the list of all doubtful loans shall be sent to the Registrar.

XXII. RESERVE FUND

- 132. The Society shall where the annual audit indicates a net surplus create a Reserve Fund in pursuance to the provisions of Section 125 of the Act. All membership dues, transfer and other fees and fines shall also be credited to the Reserve Fund.
- 133. The Reserve Fund, which must be maintained in the form of a liquid asset in accordance with Section 125 of the Act, may only be used with the permission of the Registrar.
- 134. The statutory and other reserves shall not be less than ten percent (10%) of the Society's total assets.
- 135. The Reserve Fund shall be the indivisible property of the Society and may be applied with the sanction of the Registrar to meet bad debts or losses sustained through extraordinary circumstances over which the Society has no control.
- 136. The Reserve Fund shall not otherwise be disturbed except in liquidation and shall be placed in a separate account which will be disclosed on the annual financial statement.

XXIII. FINES

137. The Board shall have power to impose on members the fines prescribed by these By-Laws and which shall be added to the Reserve Fund of the Society. Any fine thus imposed shall be considered as a debt due by the members concerned to the Society and shall be collected as such.

XXIV. DIVIDENDS

138. Members at an Annual General Meeting may declare dividends out of the surplus after setting aside the prescribed reserves, and retiring all or any part of a deficit it has previously incurred.

XXV. INVESTMENT OF FUNDS

139. The Society shall invest its funds as provided by Section 120 of the Act.

XXVI. BANKING ACCOUNT

140. The Board shall select one or more reputable financial institutions in which the bank accounts of the Society shall be kept. All cheques shall be signed and endorsed on behalf of the Society by two signatories as authorised by the Chief Executive Officer

XXVII. ANNUAL ACCOUNTS, REPORTS AND AUDITS

141. The Board shall comply with the provisions of Part VIII of the Act and shall:

- a) cause the books of the Society to be audited annually;
- b) approve the financial statements of the Society and place the comparative financial statements before the members at every Annual General Meeting; and
- c) send to the Registrar a copy of the Society's approved and audited financial statements together the external auditor's report and management letter at least 10 days prior to the date of the Annual General Meeting or such shorter period as the Registrar may allow.

XXVIII. POWER TO BORROW

142. Subject to the provisions of the Act and Regulations, the Board may, borrow from any source and on such security and such terms

of repayment as it thinks fit and the rate of interest payable in respect thereof shall not exceed the prevailing commercial rates.

XXIX. FINANCIAL YEAR

143. The financial year of the Society shall end on December 31.

XXX. SEAL AND EXECUTION OF DOCUMENTS

144. The Board may adopt for the use of the Society, a distinctive seal bearing the name of the Society inscribed thereon. The seal may not be affixed to any instrument except by the authority of the Board.

145. Any instrument required to be signed on behalf of the Society shall be duly executed if signed by at least two of its directors, officers or agents duly authorised by the Board

XXXI. RECORDS AND FORMS

146. The Society shall keep the following records and forms:

- a) a register of members;
- b) a register of depositors;
- c) a register of the Society's Directors and Officers;
- d) a personal ledger for each member;
- e) a register of loans;
- f) a file containing the Act, Regulations and the By-Laws of the Society;
- g) a file containing copies of every certificate issued to the Society by the Registrar and every Order of the Registrar relating to the Society;
- h) a file containing copies of the Society's monthly financial statements;
- i) a file containing the Society's share transfer register and investment reports;
- j) separate minute books for meetings of the Board, the Credit Committee, the Supervisory and Compliance Committee and any Sub-Committee appointed by the Board and meetings of members;
- k) fixed asset register;

- l) policies;
- m) a schedule of current fees and charges;
- n) a list of securities;
- o) a copy of the last audited financial statements of the Society;
- p) a copy of the external auditor's report; and
- q) copies of all notices of directors and notices of change of directors.

XXXII. INSPECTION OF RECORDS

147. (1) In compliance with the Act, the corporate records of the Society, as stated in Section 21(2) of the Act, shall be opened during the normal business hours of the Society, for inspection by the Registrar, members of the Society, their duly appointed agent or legal representative.

(2) No person other than the member himself, his duly appointed agent or legal representative, a member of the Board, the Credit Committee or the Supervisory and Compliance Committee, an employee, the Auditor or the Registrar, or anyone appointed by the Registrar shall be allowed to see the personal account, loan agreement or pass book or the register or papers relating to the loan of any other member without the consent of such member in writing with the exception of anyone bearing a Court Order or any legal body authorised by law permitting such inspection.

XXXIII. DISPUTES

148. All disputes shall be determined in accordance with Section 195 of the Act.

149. Any dispute affecting the business of the Society may arise:-

- a) Among members, past members and persons claiming through members, past members and deceased members;
- b) Between a member, past member or person claiming through a member or deceased member and the Society, its Board or any Officer of the Society;
- c) Between the Society or its Board and any officer or employee of the Society;
- d) Between the Society and any other Society.

- e) From a claim by the Society for any debt of demand due to it from a member or the nominee, or the legal representative of a deceased member

XXXIV. DISSOLUTION

- 150. The Society may be dissolved by a resolution of three-fourths (3/4) of the members, but only in the manner provided for in Sections 165 to 169 of the Act.
- 151. In the event of dissolution, the funds of the Society shall be distributed in accordance with Section 179 of the Act.
- 152. After discharging the liabilities of the Society and the repayment of the Member Capital, Savings and Deposits, the Reserve Fund may be used for any co-operative purpose considered fit by the Registrar.

XXXV. AMENDMENT TO THE BY-LAWS

- 153. These By-Laws may be amended or repealed from time to time in accordance with Sections 51 and 52 of the Act, Regulations and these By-Laws.
- 154. No part of the By-Laws of the Society may be amended, rescinded or altered except at an Annual General Meeting or Special General Meeting of the Society called for that purpose.
- 155. Notice of any proposed alteration to the By-Laws shall be included on the agenda of an Annual General Meeting or Special General Meeting. The proposed amendments to the By-Laws of the Society shall be forwarded to the members together with the notice for the Annual General Meeting or Special General Meeting called for that purpose.
- 156. A member may make a proposal in the manner provided in Section 51 to make, amend, repeal, replace or confirm any By-Law.
- 157. No alterations of these By-Laws shall have effect unless it is passed in accordance with Section 51(1) of the Act.
- 158. Any subsequent change to the By-Laws of the Society as originally approved or consented to by the Registrar shall be communicated to him within sixty [60] days following the meeting at which amendments to the By-Laws were approved. The President and the Secretary of the Society must certify all documents as true and correct.

These By-Laws were passed at the Annual General Meeting of the National Co-operative Credit Union Ltd held at the Vieille Case Primary School, Vieille Case on the 20th day of May 2012, and amended at the Annual General Meeting of the National Co-operative Credit Union Ltd. held at the Dominica Public Service Union (DPSU) Hall, Valley Road, Roseau on the 25th day of May 2022.

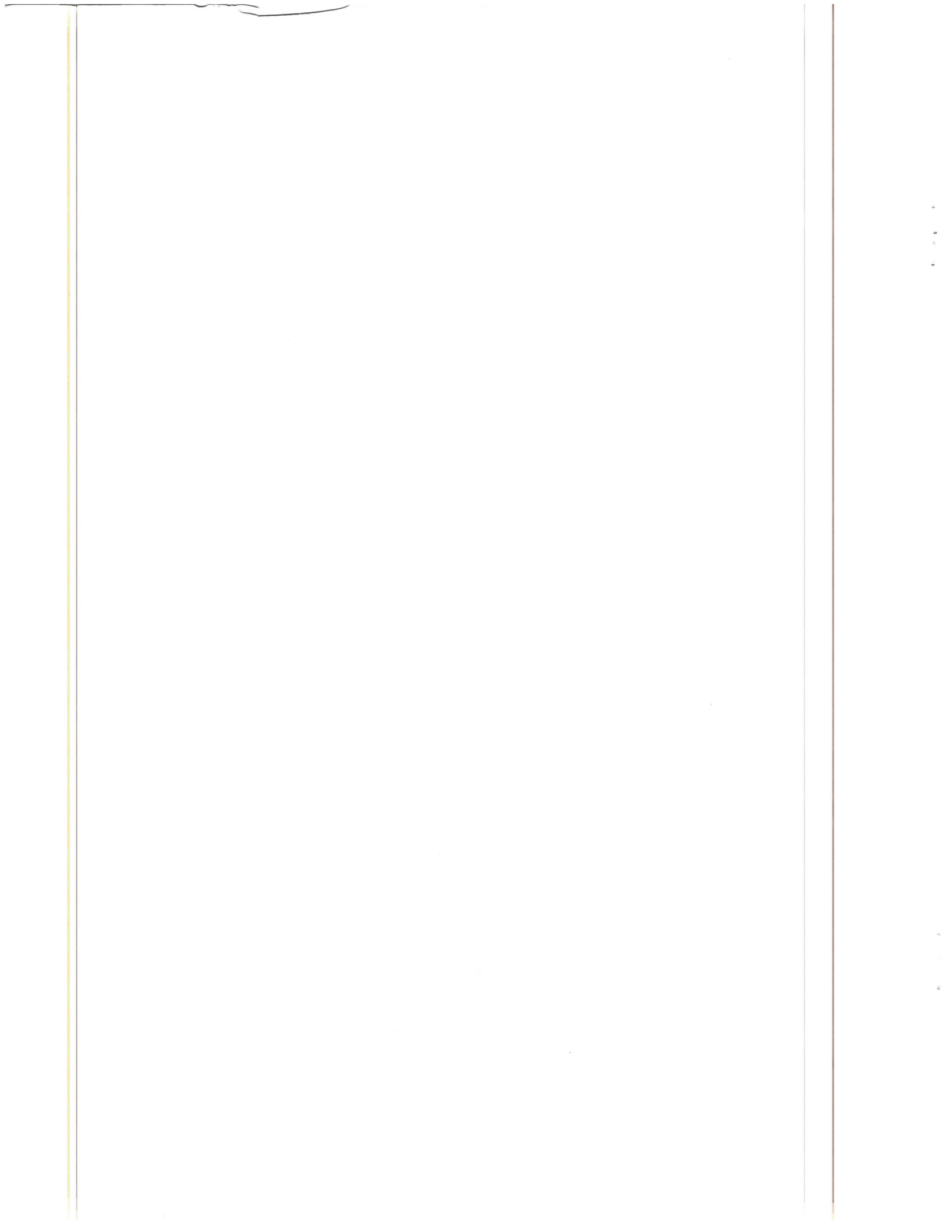
Signed for and on behalf of the National Co-operative Credit Union Ltd: -



PRESIDENT



SECRETARY



APPENDIX A



Commonwealth of Dominica
MINISTRY OF FINANCE
Financial Services Unit

Dominica Financial Services Unit

'Fit and Proper' Guideline

Guideline No: GN003/2020 FSU
FINAL

March
2020

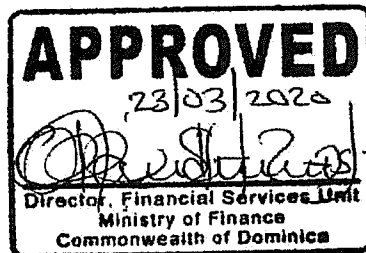


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1. INTRODUCTION

- 1.1 The Financial Services Unit Act 18 of 2008, PART VI, Sections 27; the Cooperatives Societies Act 2 of 2011, Section 53(4); Insurance Act 4 of 2012, Sections 203 and 91; the Money Services Business Act 8 of 2010, sections 15, 41 and Form B require that persons holding key positions in licensed financial institutions, must be a fit and proper person to hold the particular position which he holds or is likely to hold.
- 1.2 Every director and officer of a company shall in exercising his powers and discharging his duties -
- (a) Act honestly and in good faith with a view to the best interests of the company; and
 - (b) Exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.”
- 1.3 The directors of the company, therefore, are required to direct the management of the business and affairs of the company and they do so directly or indirectly through the employees and agents of the company. Accordingly, they have the primary responsibility for appointing persons that are fit and proper to hold key positions within the organization. (*Key positions are defined in Paragraph 4*).
- 1.4 The Financial Services Unit of Dominica as regulator and supervisor of international banks, nonbanks, insurance companies and pension funds etc, has a duty to ensure that licensees under the FSU Act and other relevant legislations are compliant with the provisions of the Acts regarding the fitness and propriety of persons who either manage the affairs of, or exert material influence, on those institutions.
- 1.5 In developing the Guideline, the fit and proper provisions contained in the Second Schedule of the FSU Act have been followed and international best practice, where relevant, has been considered.

2. PURPOSE OF THE GUIDELINE

- 2.1 The purpose of this Guideline is to set out a framework which can be used by financial institutions in determining whether a person is fit and proper to hold a key position within the organization.

3. 'FIT AND PROPER' DEFINED

- 3.1 In accordance with governing legislation a person is considered to be fit and proper if the person essentially is of good character, competent, honest, financially sound, reputable, reliable and discharges or is likely to discharge his/her responsibilities fairly.
- 3.2 In some cases, controlling shareholders may be corporate entities and in these instances, similar fit and proper tests should be applied to those entities and their respective shareholders directors.

4. WHO SHOULD BE FIT AND PROPER?

- 4.1 According to governing legislation the following persons referred to in this Guideline as holding "key positions" are required to be fit and proper: -

4.1.1 Directors of financial institutions.

4.1.2 Trustees/ Management Committees of pension funds.

4.1.3 Controllers of financial institutions, namely:-

- (i) A Managing Director of the financial institution or of another financial institution of which it is a subsidiary.*
- (ii) A Chief Executive (CE) of the financial institution or of another company of which it is a subsidiary.*

4.1.4 Controlling Shareholder – may be an individual or a corporate entity

- (i) any person who is entitled to control at least one-third of the voting power at any general meeting of the company.*
- (ii) any person who controls ten per cent or more of the voting power at any general meeting*

- 4.1.5 Managers of financial institutions.*
- 4.1.6 Insurance agents, salesmen, adjusters, and brokers.*
- 4.1.7 Actuaries.*
- 4.1.8 Senior officers.*

5. ROLE OF THE BOARD OF DIRECTORS

5.1 To effectively discharge its responsibilities, the Board of Directors of a financial institution should:-

- 5.1.1 Establish a fit and proper person policy, taking into account the fit and proper criteria stated in governing legislation;*
- 5.1.2 Have documented the process used to assess whether a person is fit and proper and reasons for any decisions made; and*
- 5.1.3 Make the documentation available to the FSU, as required.*

5.2 The Board's responsibilities also include ensuring that: -

- 5.2.1 Candidates who are being considered for appointment to key positions meet the fit and proper test before appointments are made;*
- 5.2.2 Processes are implemented to keep under constant review the capacity of Directors, controllers, managers, controlling shareholders, registrants under the FSU Act and others with significant influence on the operations of the financial institution to continue to meet the fit and proper test; and*
- 5.2.3 The CEO/Manager applies the fit and proper test to middle and lower level management positions within the organization and reports to the Board periodically on the results of the tests. The test should guide the recruitment of personnel in the institution.*

6. ROLE OF THE EXTERNAL AUDITORS

- 6.1 The Board shall request the external auditors to advise and provide all necessary details if they become aware of information that points to non-compliance or potential non-compliance with the fit and proper requirements of this Guideline.

7. ASSESSING FITNESS AND PROPRIETY

- 7.1 The Board of Directors should consider the following criteria when assessing the fitness and propriety of key personnel within the organization: -

7.1.1 Good character i.e. honesty, integrity, fairness and reputation;

7.1.2 Competence, diligence, capability, soundness of judgment; and

7.1.3 Financial soundness.

- 7.2 In regard to corporate entities, which are controlling shareholders, the Board should review the following: -

7.2.1 Financial soundness and strength;

7.2.2 The nature and scope of the business;

7.2.3 Fitness and propriety of key functionaries (key functionaries include directors, managers, controllers, controlling shareholders; and

7.2.4 Group structure (if applicable) and organization chart.

- 7.3 It should be noted that this list is not exhaustive and accordingly, the Board should consider all other relevant matters on a case-by-case basis.

8. GOOD CHARACTER

- 8.1 Good character i.e. honesty; integrity fairness and reputation are qualities that are demonstrated over time. In determining a person's good character, and to guide the hiring criteria to be applied by the Board and management, the Board of Directors should consider all appropriate factors, including, but not limited to:-

- 8.1.1 *Whether the person has been convicted of a criminal offence, particularly an offence relating to dishonesty, fraud or financial crime;*
- 8.1.2 *Whether the person has been convicted or found guilty in any proceedings of a disciplinary or criminal nature;*
- 8.1.3 *Whether the person has been the subject of any adverse findings or any settlement in civil proceedings, particularly in connection with banking or other financial business, misconduct, or fraud;*
- 8.1.4 *Whether the person, or any business in which the person is controlling shareholder or has controlling interest or exercises significant influence, has been investigated and disciplined or suspended by a regulatory or professional body, a court or tribunal, whether publicly or privately;*
- 8.1.5 *Whether the person has been the owner, manager or director of a company, partnership or other organization that has been refused registration, authorization, membership or a licence to conduct trade, business or profession, or has had that registration, authorization, membership or licence revoked, withdrawn or terminated;*
- 8.1.6 *Whether, as a result of the removal of the licence, registration or other authority the person has been refused the right to carry on a trade, business or profession requiring a licence, registration or other authorization;*
- 8.1.7 *Whether the person has been a director, partner, or otherwise involved in the management of a business that has gone into receivership, insolvency, or compulsory liquidation while the person was connected with that*

organization or within a reasonably short period (e.g. one year) after the person's departure from the institution;

8.1.8 Whether the person has been dismissed, asked to resign or resigned from employment or from a position of trust, fiduciary appointment or similar position because of questions about honesty and integrity;

8.1.9 Whether the person has ever been disqualified from acting as a director or serving in a managerial capacity because of wrongdoing;

8.1.10 Whether the person has not been fair, truthful and forthcoming in dealings with customers, superiors, auditors and regulatory authorities within the past ten years and has been the subject of any justified complaint relating to regulated activities; and

8.1.11 Whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and other legal, regulatory or professional requirements and standards.

8.2 Additionally, in the case of a trustee, no person may be appointed as trustee if there is material conflict of interest between the person's role as a trustee and his/her role in any other capacity. For example, conflict of interest may arise where a trustee is an officer or employee, or a shareholder of a company issuing a debenture or other debt that may be held by the trust.

9. COMPETENCE AND CAPABILITY

9.1 A person must demonstrate the competence and ability to understand the technical requirements of the business, the inherent risks therein and the management processes required to conduct its operations effectively, with due regard to the interests of all stakeholders.

9.2 In assessing the competence and capability of a person, all relevant factors should be considered, including, but not limited to: -

9.2.1 Whether the person has demonstrated, through qualifications and experience, the capacity to successfully undertake the responsibilities of the position;

9.2.2 Whether the person is mentally ill, within the meaning of the Mental Health Act No 29 of 1987;

9.2.3 Whether the person has ever been disciplined by a professional, trade or regulatory body, dismissed or requested to resign from any position or office for negligence, incompetence, fraud or mismanagement; and

9.2.4 Whether the person has a sound knowledge of the business and the responsibilities of the position.

10. FINANCIAL SOUNDNESS

10.1 As an indication of a person's capacity to contribute to the safety and soundness of a financial institution and protection of the interests of depositors and other stakeholders, a person should demonstrate the prudent management of his/her own financial affairs.

10.2 In determining a person's financial soundness, all relevant factors should be considered, including but not limited to: -

10.2.1 Whether the person has been the subject of any judgment or award that remains outstanding or was not satisfied within a reasonable period;

10.2.2 Whether the person has made any arrangements with his creditors, filed for bankruptcy, been adjudged bankrupt, had assets confiscated, or has been involved in proceedings relating to any of the aforementioned.

10.3 The fact that a person may be of limited financial means will not, in itself, affect the person's ability to satisfy the financial soundness criteria.

11. APPLICATION OF FIT AND PROPER TESTS BY THE FINANCIAL SERVICES UNIT (FSU)

11.1 Fit and proper tests will be applied by the FSU at the authorization stage, that is, when a person or a company either applies for a licence or to be registered in accordance with relevant legislative obligations, and thereafter on the occurrence of specified events. The latter include, but are not limited to, new appointments of any such persons listed under Section 4 of this Guideline.

11.2 The application of fitness, propriety or other qualification tests to managers, directors, trustees and controlling shareholders may vary depending on the degree of their influence and on their responsibilities in the affairs of financial institutions. It is recognized that an individual considered fit for a particular position within an institution may not be considered fit for another position with different responsibilities, or for a similar position within another institution. Conversely, an individual considered unfit for a position in a particular institution may be considered fit in different circumstances.

11.3 The Financial Services Unit may have regard to current, past and prospective matters when conducting fit and proper assessments of persons or entities. Each case will be considered on its own merit, taking into account all relevant factors including, but not limited to, the fit and proper criteria set out in this Guideline. Accordingly, certain matters which do not fall precisely within these

specified factors may also be taken into account, for example, abuse of alcohol, drugs or other narcotic substances. In these circumstances, the Financial Services Unit will consider whether such conduct is relevant to the person's fitness and propriety.

11.4 The Financial Services Unit will assess the fulfillment of fit and proper criteria in a holistic manner after due consideration of all relevant areas. For instance, the FSU may determine that a person may not qualify on the basis of several instances of misconduct which, if taken individually, may lead to a different conclusion. However, certain offences (e.g. if a person is convicted of a crime under banking or insurance legislation or other financial impropriety) may lead to automatic disqualification.

11.5 In cases where those being assessed are known to have connections in other jurisdictions, Financial Services Unit will communicate with supervisors in the relevant jurisdictions as part of the assessment procedure, to the extent permitted by law.

12. PERSONS EXERTING A MATERIAL INFLUENCE

12.1 Any other person exerting a material influence on the operations of the financial institution should be fit and proper, for example: -

- (i) Auditors; and
- (ii) Investment advisors; etc.

APPENDIX I

Documents To Be submitted On Application

1. On application, or as otherwise requested, the following documents should be submitted to the Financial Services Unit in order to assess the fitness and propriety of persons:
 - a) Personal Questionnaire and Declaration Form B
 - b) An updated, signed Curriculum Vitae.
 - c) A valid Certificate of Good Character or Conduct from the Commonwealth of Dominica Police Service or from the relevant authority of the relevant jurisdiction in the case of foreign directors, controlling shareholders, controllers and managers.
 - d) Criminal Records
 - e) Any other document that the Financial Services Unit deems necessary.

2. In the case of corporate entities, the following document should be submitted:
 - a) Questionnaire and Declaration (QD) form.
 - b) Copy of the company's Memorandum of Association and Articles of Association *or* Articles of Incorporation or Continuance and By-laws *or* other instrument of incorporation *and* certificate of incorporation.
 - c) Copies of audited financial statements of the company concerned, for three consecutive years immediately preceding its application or for each year it has been in operation, if less than three years.
 - d) Any other document that the Financial Services Unit deems necessary.

APPENDIX II

FORM B: PERSONAL QUESTIONNAIRE

Fit and Proper Test

PART A

NAME: _____

PREVIOUS NAME (IF ANY): _____

ALIASES: _____ DATE OF BIRTH: _____

CITIZENSHIP: _____

PLACE OF BIRTH: _____

SOCIAL SECURITY or NIS NUMBER: _____

PASSPORT NUMBER: _____

ADDRESS (Home & Business): _____

OCCUPATION: _____

- 1 Have you at any time been charged or convicted of any offence by a criminal or military court? (excluding minor Road Traffic offences). If so, please give details of charge, and if convicted, the date of conviction and full particulars of the offence and the penalty imposed.

- 2 Have you ever been the subject of investigation, disciplinary procedure, censured, disciplined by any professional body to which you belong or have belonged? If so, give particulars.

Fit and Proper Guideline

- 3 Have you ever been refused entry to any profession or vocation? If so, give particulars.

- 4 Have you ever been dismissed or requested to resign from any office of employment? If so, give particulars.

- 5 Have you ever been censured, disciplined by, or made the subject of a court order at the instigation of any -

- (a) regulatory authority?
- (b) officially appointed enquiry?
- (c) other established body concerned with the regulation of a relevant activity (as described in the glossary at the end of this form)? If so, give particulars.

- 6 In connection with the formation or management of any corporation, have you been adjudged by a court civilly or criminally liable for any fraud, misfeasance or other misconduct towards that corporation or any member of the corporation? If so, give particulars.

- 7 In connection with the formation or management of any corporation have you been disqualified by a court from being a director or from acting in the management or conduct of the affairs of any corporation? If so, give particulars.

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8 Have you ever -

(d) been adjudged bankrupt by a court in any jurisdiction?

(e) had a receiving order made against you?

(f) entered into a deed of arrangement, or other composition or arrangement with your creditors?

If so, give particulars.

9 Has a bankruptcy petition ever been served on you? If pending, give details of the circumstances and if not pending, how was the matter resolved?

10 Have you, your company or your employer, previously dealt on a regular basis with any person carrying on a relevant activity (as described in the glossary at the end of this form) who has, to your knowledge at any time, indicated that he is unwilling to effect further transactions with you, your company or your employer, by reason of any act or omission by you? If so, give particulars.

11 Will you be actively engaged in the business of the entity to which this application relates and devote the major portion of your time to it?

PART B

RELATED OR OTHER INTEREST

1. Have you been a director of a deposit taking institution, credit extending institution, other financial service provider, any other limited company or corporation other than those stated in the previous questions? If so, state -

- (a) name of company/corporation;
- (b) nature of business;
- (c) date of commencement of directorship;
- (d) date of cessation of directorship;

2. Are you or have you been engaged -

- (a) in partnership; or
- (b) in business as a principal on your own account?

If so, give particulars.

3. Are you a beneficial owner of any controlling interest in any unlisted private or public company? If so, give particulars.

4. Have you ever been a director, or directly concerned with the management of a bank or other financial institution -

- (a) that has been wound up by a court?
- (b) the license of which has been revoked?
- (c) which has been placed in receivership?
- (d) which has entered into a composition with its creditors?
- (e) whose business has been adjudged to have been conducted imprudently or fraudulently?
- (f) which has failed to meet the solvency requirements prescribed by law?

If so, give particulars.

Fit and Proper Guideline

5. Have you ever been a director, or been directly concerned with the management or conduct of affairs of any company which has gone into liquidation, whilst you were, or within one year of you being a director, or so concerned? If so, give details of the circumstances including the following-

- (a) name of company;
- (b) name of liquidator;
- (c) address of liquidator.

6. Have you ever been concerned with the management or conduct of affairs of any corporation which, by reason of any matter relating to a time when you were so concerned, has been censured or disciplined by-

- (a) any regulatory authority?
- (b) any official appointed enquiry?
- (c) any other body concerned with regulation of a relevant activity?

If so, give particulars.

7. Do you (in your personal capacity or through any entity controlled by you) have outstanding debt of any amount sixty or more days in arrears? If so, state the following-

- (a) form
- (b) amount
- (c) source
- (d) maturity date

8. Has any person, firm or company guaranteed the Indebtedness? If so, give Particulars (see previous question).

Fit and Proper Guideline

9. Are you at present guaranteeing the debts and obligations of any third parties?
If so, give particulars:

I certify that all the statements contained in this questionnaire are true, accurate and fair to the best of my knowledge and belief.

.....
Signature

GLOSSARY

“connected” in relation to a company means two or more companies or groups of companies with interests which are so interrelated that they should be considered as a single unit;

“corporation” means a body corporate, incorporated in Dominica or elsewhere;

“relevant activity” means-

- (a) banking, finance, insurance, money-lending, money management, debt-financing, hire purchase financing, leasing or other financial activities;
- (b) dealing in securities;
- (c) providing investment or financial advice and management.

