

REPUBLIC OF LIBERIA

**CREDIT UNION
POLICY AND REGULATORY FRAMEWORK**

2012

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PART 1-PRELIMINARY

1. These Regulations may be cited as Republic of Liberia Credit Union Regulations, 2012
2. The purpose of these regulations is to provide minimum operational regulations and prudential standards required of savings, deposit and loan.
3. In these Regulations, unless the context otherwise require-

“Affiliates” One entity is affiliated with another entity if:

- i) One of them is a subsidiary of another;
- ii) Both are subsidiaries of the same entity; or
- iii) Each one of them is controlled by the same person or entity; and
- iv) If two entities are affiliated with the same entity at the same time, they are deemed to be affiliated with each other.

“Central Bank” means the Central Bank of Liberia established under Section 3 of the Central Bank of Liberia Act of 1999.

“Credit exposure” Means the amount at risk arising from the extension of credit by a Credit Union and is stated as the maximum loss that a Credit Union might suffer if a counterparty fails or loss that may be experienced due to realization assets”

“Credit Union” Means a Credit Union registered under financial **Cooperative Act** of 1999, which has its objectives of the promotion of thrift and the creation of a source of credit for its members only.

“Deposit” Deposits are the principal form of funds in the credit union, withdrawal on demand or according to a pre-agreed Term.

“Entity” Means a body corporate, whenever incorporated, a Credit Union with limited liability, a trust, a partnership, a fund or an unincorporated organization.

“Insolvent” In relation to a Credit Union denotes the circumstance in which the realizable value of the Credit Union’s assets is less than the sum of its liabilities and accumulated surplus.

“Delinquent loan” Means any loan which the principal or interest remain unpaid after the due date

“Member” Includes a person or Credit Union joining in the application for the registration of a Credit Union and a person or Credit Union admitted to membership after registration, in accordance with the byelaws of that Credit Union and holding at least one share of the Credit Union.

“Member of the board of Directors”	Means any person by whatever name he may be called, carrying out the same function in relation to the direction of the financial institution as those carried out by a member of the board of directors of a corporate organized under the Association law of Liberia.
“Officer”	Means the chairman of a Credit Union, president, Secretary, Treasurer, member of the Credit Union or other person empowered under the regulations or under Bye-Laws of a Credit Union to give direction with regard to the business of that Credit Union.
“Related Party”	Means:- <ul style="list-style-type: none"> i. A person with an interest in a class of shares of the Credit Union, except for permanent shares; ii. A director or officer of the Credit Union; iii. A spouse, child or relative of a person defined above; iv. An entity in which a person mentioned above has a substantial investment.
“Statutory management“	means the procedure central bank administers to take immediate possession and control of a Credit Union’s business due to unsafe and unsound practices.
“Secondary Body”	Means a second tier association that provides financial services to Credit Unions.
“Substantial Investment”	Means an interest held or investment by a licensed Credit Union in an entity which exceeds or will exceed fifteen (15) percent of the voting securities of or equity interest in the entity.
“Liberia”	Means the Republic of Liberia

PART II REGISTRATIONS

2. (1) Credit Unions shall obtain a onetime Registration Certificate and an annually affiliation Certificate from Liberia Credit Union National Association (LCUNA), Apex body for credit unions upon, meeting the terms specified.

- (2) The resolution of disputes, constitutional matters relating to Credit Unions as the minimum required membership for the formation or continuation of a Credit Union, the rights of members, the election of officials, the conduct of annual general meetings and ensuring adherence to cooperative principles, shall lie in hands of LCUNA
- (3) The power to wind up a Credit Union will reside with LCUNA. LCUNA will wind up the Credit Union in such manner and within such period of time that best protects the interests of depositors and of the financial system of Liberia. Except when decision to wind up a Credit Union is under taken, LCUNA will inform the members of the Credit Union to this effect.

PART III LICENSING

3. (1) No person in Liberia shall carry out banking business or provide non-Bank financial services as a business without a license from the central Bank of Liberia. (Financial Institutions Act, Part11, (3), 2).
 - (2) The Central Bank will issue LCUNA a license outlining the Credit Union's permitted business activities.
 - (3) As a condition of the license the Central Bank will require that the objects of LCUNA be clearly stated in its bye-laws and the Bank may add any other conditions it deems necessary.
 - (4) The license will remain in force until revoked by the Central Bank. The Central Bank may refuse to issue a license where LCUNA has failed to satisfy the licensing requirements under the Financial Institutions Act, 1999 and Central Bank Act 1999.
 - (5) in case LCUNA wishes to vary or expand the classes of business for which it is licensed must first obtain the approval of the Central Bank and the Central Bank may vary the capital requirements and other prudential criteria applicable to LCUNA as a condition of such approval.

PART IV LICENSING NEW CREDIT UNIONS

4. New Credit Unions shall be required to obtain a onetime registration certificate and an annually affiliation certificate from Liberia Credit Union National Association (LCUNA) under the conditions set up by LCUNA as follows:
 - (a) Must submit a written application as a letter of intent for a registration as a credit union
 - (b) Must submit a name of the credit union and a list of initial members and officers,
 - (c) Must provide a two year business plan,
 - (d) Must have an established office and an erected signboard,
 - (e) Must have a bank account under the name of the credit union,
 - (f) Must provide a certificate of volunteer declaration of initial officers;

To move to the next step in the process, LCUNA shall conduct an inspection to verify and validate the provided information. Thereafter, LCUNA shall determine a training program for the members and officers of the new credit union. After the training phase, LCUNA shall issue if criteria are met, a pre-qualification status. Then the new credit union shall organize its first general assembly to elect its core of officers (supervisory committee and the board of directors) within a six week period. Then,

- (g) Must provide a statement signed by the credit union chairman that the elected officers satisfy the fit and proper criteria;
- (h) Must obtain 50 (fifty) or above members for new credit union;
- (i) Must obtain a Copy of the Credit Union's bye-laws and policy and regulatory framework;

Then, as a final step, LCUNA shall issue a permanent registered license certificate upon the payment of the proper registration fees.

PART V LICENSING EXISTING CREDIT UNIONS

- 5. (1) All Existing Credit Unions shall be required to apply for a license to conduct their current lines of business and shall also apply to conduct other activities
- (2) All existing Credit Unions shall be required to submit applications in such form as LCUNA may require and include with the application:-
 - (a) A Certified copy of the Credit Union's Registration Certificate;
 - (b) A copy of the Credit Union's existing bye-laws;
 - (c) A list of the elected directors and other officers of the Credit Union and a statement signed by the Credit Union Chairman that the elected officers satisfy the fit and proper criteria as determined by the Credit Union;
 - (d) A one-year Business Plan (inclusive of projected financial statements, that are, balance sheet and income statement) which demonstrates financial viability and the ability to satisfy the prudential standards under the Credit Union Act, and copies of audited financial statements for the last three years;
 - (e) A statement signed by the Credit Union Chairman attesting that the Credit Union is in compliance with all requirements.

A transition period of six months will be allowed to enable existing Credit Unions to meet the prudential criteria outlined.

LCUNA will work closely with Credit Unions during the transition period to assist them in achieving compliance. Where compliance is not achieved within the required timeframe, LCUNA will recourse to its powers to refuse granting of license.

Where LCUNA refuses to grant license to a credit union, LCUNA will provide reasons for the refusal in writing. The denied Credit Union has the right of appeal.

Credit Unions that have not been licensed shall not be permitted to carry on business.

Where the existing credit unions have satisfied all the above pre-qualification criteria, then they:

- (j) Must provide a statement signed by the credit union chairman that the elected officers satisfy the fit and proper criteria;
- (k) Must obtain 50 (fifty) or above members;
- (l) Must obtain a Copy of the Credit Union's bye-laws and policy and regulatory framework;

Then, as a final step, LCUNA shall issue a new registered license certificate.

PART VI ANNUAL AFFILIATION CERTIFICATE

A credit union shall obtain an affiliation certificate issued by LCUNA and renewable annually upon the payment of the proper affiliation certification fees in order to receive services from LCUNA. This affiliation certificate rule is applicable to both new and existing credit unions.

PART VII RESTRICTION AND REVOCATION OF A LICENSE

- 7. (1) LCUNA shall restrict the affiliation certificate to credit union under certain circumstances, such as where the Credit Union has failed to comply with the requirements of the affiliation certificate set up by LCUNA
- (2) The license shall be restricted by the imposition of conditions deemed necessary for the protection of members' savings, including but not limited to:
 - a. Requiring the Credit Union to take specified corrective action;
 - b. Limiting the granting of loans and the acceptance of shares or deposits;
 - c. Limiting any other business activities in which the Credit Union may be engaged.
- (3) In other circumstances, such as where the Credit Union remains in violation of a direction or has ceased carrying on the business of a Credit Union, LCUNA may revoke its certificate. Where a certificate is revoked, LCUNA will advise the Credit Union and the general public of the revocation and take steps to wind up the Credit Union's operations.

PART VIII CORPORATE GOVERNANCE

- 8. International core principles require that regulators satisfy themselves that deposit taking institutions have in place adequate governance, control and audit mechanisms. Central Bank of Liberia shall introduce requirements or issue guidelines to augment existing requirements under the financial institutions Act, 1999 or any other relevant legislation. LCUNA, on the others hands shall implement these guidelines and requirements.

8. (1) Governance by the Directors of Credit Union

The following provisions shall be introduced in order to promote good corporate governance by Credit Unions:

- a) To ensure that the membership of the Credit Union is refreshed from time to time, the Credit Union will ensure that at least membership to the board be rotated or new members recruited at regular intervals accordingly. Individual Credit Union members will be allowed to serve not more than two consecutive terms.
- b) Given the importance of the Credit Union's board of directors in governance of Credit Unions, Credit Union members should have certain minimum qualifications for the role. Accordingly, every Credit Union member must:-
 - i) Be an individual not less than 18 years old;
 - ii) Be of sound mind and not have been found by any court to be of unsound mind;

For any board of directors member or any other officers of a credit union, the candidate must have the following criteria:

- iii) Must be able to read and write;
- iv) Never have been convicted by a court for an offence involving violence, fraud, or any form of dishonesty;
- v) Never have been adjudicated bankrupt by a court in any jurisdiction; Never have been a director, officer or manager of a Credit Union whose license was revoked during his tenure in office, unless the revocation was due to voluntary winding up or voluntary amalgamation with another Credit Union;
- vi) Have sufficient knowledge and understanding of the business of a Credit Union;
- vii) Meet the fit and proper criteria.

(2) A member of the Credit Union and officers must meet and, where relevant, maintain the following Fit and Proper criteria:

- a) honesty, integrity, fairness and reputation;
- b) competence, diligence, capability, soundness of judgment;
- c) financial soundness, that is, the member should demonstrate prudence in the management of his/her own financial affairs;
- d) specifically, officers should be able to read and write;
- e) with regard to the previous conduct, business activities and financial matters of the person, there is no evidence that he has:
 - i) committed an offence involving fraud, violence or other dishonesty;
 - ii) engaged in business practices that appear to be deceitful, oppressive or improper (whether lawful or not) or which otherwise reflect discredit on his method of conducting business;
 - iii) an employment record which shows that he carried out an act of impropriety in the handling of his employer's business;
 - iv) Engaged in or been associated with any other business practices or otherwise

conducted herself in such a way as to cast doubt on his competence and soundness of judgment.

The responsibility for establishing the fitness and propriety of persons covered by this provision, and for determining the process by which this is done, will rest with the Credit Union.

- (3) The roles and responsibilities of the Credit Union, committees and officers are clearly outlined in the bye-laws of the Credit Union. It is the responsibility of the Credit Union to approve all policies that govern the Credit Union and to ensure compliance with these policies.
- (4) In order to avoid conflicts of interest, members of the Credit Union must excuse themselves from discussions that are taking place or matters being voted on if they or their relatives or related parties stand to benefit or are otherwise involved. The Credit Union should ensure that transactions with all external parties are conducted on an arm's-length basis.
- (5) Where a director's loan becomes delinquent the Credit Union will immediately notify the Director to this effect. The director will be required to resign from the Credit Union if, after having been notified of the delinquency, the director fails to remedy the situation within thirty (30) days of the date of notification. A director who resigns from the Credit Union under these circumstances would still be required to meet his financial obligations to the Credit Union.
- (6) The Credit Union is responsible for ensuring that the management and operations of the Credit Union are fully in compliance with the legislation and regulations. Accordingly, the Credit Union shall be required to attest to this compliance in writing annually to LCUNA. With respect to the fitness and propriety of elected officers, the Credit Union will be required to provide updated listings of the composition of the Credit Union and statutory committees annually to LCUNA.

Committees

- (7) The fit and proper criteria shall be applicable to all members of the Credit and Supervisory Committees, which are statutory committees. The Supervisory Committee conducts an examination of the affairs of the Credit Union at least semi-annually, produces an annual report of its audit and submits same to the members at the Annual General Meeting.
- (8) The Supervisory Committee shall be the primary mechanism for assessing the adequacy of internal controls and for monitoring compliance with these controls.
- (9) The Credit Committee shall be responsible for the approval and general supervision of loans to members and for ensuring compliance with the Credit Union's loan policy. The Credit Committee must also verify the ability of borrowing members and their guarantors to meet their obligations under the terms of their loans.

LCUNA may require the Credit Union to establish, in addition to the Supervisory and Credit Committees, an Investment Committee, a Risk Management Committee or any other committees which it considers necessary in light of the Credit Union's risk profile.

At least one member of the Credit Union should be a member of any such committee.

PART IX INVESTMENT & RISK MANAGEMENT COMMITTEES

9. (1) The Credit Union representative on the Investment Committee and the Risk Management Committee should have experience in auditing, financial management and accounting.
- (2) The function of investment committee;
 - a) To establish the Credit Union's investment policies
 - b) To coordinate and oversee the investment portfolio.
 - c) To monitor and report to the Credit Union on the performance of the Credit Union's investment portfolio and its adherence to approved policies

Members of this Committee should have a sound understanding of investment risks and of liquidity management.

- (3) The function of the Risk Management Committee is;
 - a) To manage the various forms of risk to which the Credit Union may be exposed, including credit, market, liquidity, operational, and legal risks;
 - b) To keep the Credit Union informed on the Credit Union's risk exposure and to inform the Credit Union's risk management practices by submitting regular reports to the Credit Union.

PART X EXTERNAL AUDITOR

10. (1) A Credit Union shall appoint annually an external auditor approved by LCUNA. In determining whether an accountant or a firm of accountants is qualified to conduct an audit of a Credit Union. LCUNA will take into account whether the accountant or at least one member of the firm of accountants meets the following criteria:
 - a) Is a practicing member in good standing of the Institute of Chartered Accountants of Liberia or is the holder of a valid practicing certificate from such other professional association of accountants or auditors as LCUNA may prescribe;
 - b) Has knowledge and experience in the audit of Credit Unions;
 - c) Is independent of the Credit Union, affiliates and the elected officers of the Credit Union;
 - d) Is included on the list of approved auditors prepared by LCUNA. The auditor is expected to report his audit findings to the Credit Union directors and to highlight any material transactions or conditions which, in his view, warrant corrective action.
- (2) LCUNA shall require the Credit Union to submit on an annual basis the Management Letter issued by the auditor. The Central Bank may also require access to the working papers of the auditor with respect to any Credit Union.
- (3) A Credit Union shall be required to advise LCUNA in writing and to provide

reasons where it proposes to replace an auditor or where a person for any reason ceases to be the auditor of the Credit Union.

- (4) A person who resigns as an auditor of a Credit Union or decides not to seek re-appointment must inform LCUNA in writing as to his reasons and provide any further information that LCUNA may require.
- (5) External audits will not be conducted by LCUNA, as this poses a conflict of interest and is not part of the Bank's regulatory mandate.

PART XI SHARES AND DEPOSITS

11. (1) Members' shares and deposits constitute the principal liabilities of a Credit Union and the major source of funding for their loan and investment portfolios.
- (2) Share ownership confers membership in the Credit Union inclusive of voting rights, entitles the shareholder to participate in dividend distributions and usually forms the basis for **determining a member's borrowing limits**.
- (3) Deposits may be either fixed for a period of time or withdrawable on demand, are remunerated in the form of periodic interest payments and may be pledged as collateral for loans.
- (4) ***Withdrawals of Shares and Deposits***
Except for fixed-term deposits and permanent shares where applicable, all deposits and shares of a Credit Union **will be withdrawable** on demand or with a required period of notice where this is stated in the bye-laws.
- (5) ***Members' Shares***
International Accounting Standards (IAS 32) require that shares which are withdrawable be classified as liabilities rather than equity.

LCUNA shall apply this accounting standard for regulatory purposes and Credit Unions shall be required to reclassify all withdrawable shares accordingly.

Credit Unions may, if they so choose, issue permanent (i.e. non-withdrawable) shares to their members as a source of institutional capital. Such shares would be issued on terms agreed between each Credit Union and its members and stated in the bye-laws, and would form part of the Credit Union's capital for regulatory purposes.

- (6) ***Member Statements***
A Credit Union should provide each member at least annually with a statement indicating the balance of funds standing to the member's share and/or deposit accounts and all transactions affecting the accounts since the date of the previous statement.
- (7) ***Dormant Accounts***
An account may be declared dormant where:
 - a) There has been no activity on the account for a period of more than **(two) years** except for the posting of dividends;
 - b) A Credit Union is unable to contact the account holder via registered mail, sent every year at the end of its financial year requesting that the account be either activated or closed and advising of the intention to classify the account as dormant;

- c) At the end of **second year** a statement is read in Annual General Meeting or published in a daily **newspaper indicating** that no transaction has taken place on the account and no statement of account has been requested or acknowledged by the account holder, and requiring the account holder or his legal representative to submit a claim to the Credit Union within three (3) months of the publication or announcement.

Where an account becomes dormant the Credit Union Directors will take steps to transfer all shares, accounts, dividends, interest, and other sums due or standing to that account to the Credit Union's dormant members' account as a liability. Nothing contained in this section shall be deemed to affect the rights of any member to recover a debt due to him by the Credit Union.

PART XII CAPITAL FUND

12. (1) A Credit Union's total capital is defined as the difference between the value of its assets and the value of its liabilities and would include provisions held in any special-purpose fund created by the Credit Union, such as the Education Fund, and the Social Fund. However, for regulatory purposes a distinction should be made between total capital and institutional capital.

(2) *Institutional Capital*

The purpose of institutional capital is to cover possible losses from loans and investments and other contingencies and to protect members' savings and be available to creditors on winding up. The defining features of institutional capital are that such capital belongs to the Credit Union rather than to the members and is unavailable for any purpose or to meet any claims other than those envisaged above, Institutional capital will comprise the following:

- a) Retained Earnings,
 - b) Permanent Shares, where applicable.
- (3) A Credit Union wishing to expand its capital may opt to issue permanent shares. The characteristics of permanent shares are that these shares are paid into the Credit Union by its members. They belong to the Credit Union and are non-withdrawable and must be recognized as such in the Credit Union's **bye-laws**. These shares will be available to the creditors of the society upon winding up and will rank behind the claims of depositors and other creditors.
- (4) Credit Unions shall be required to maintain a minimum level of institutional capital equivalent to ten (10) percent of total assets for the maintenance of a Reserve Fund, but Credit Unions may continue to maintain such a Fund at their option. In this case the balances held in the Fund will form part of the Credit Union's capital.

BORROWING

5. A maximum of five (5) percent of total assets will be applied to the total borrowing of Credit Unions, inclusive of borrowing from other Credit Unions or from other cooperative institutions except with the approval of LCUNA. The practice which allows a Credit Union's maximum liability to be fixed by resolution of the general membership will be subject to this provision.

LIQUIDITY

14. A Credit Union must have sufficient liquidity on hand to meet operating expenses and to meet day-to-day demands for withdrawals, particularly as members' shares and deposits are withdrawable on demand. The cost of illiquidity for a Credit Union can be severe as it has the potential to weaken member confidence and trigger a rush by members to withdraw their funds. Credit Unions **MUST** be required to maintain a minimum **liquid assets** ratio of fifteen (15) percent in relation to total liabilities.

LOANS

15. (1) Credit Union can make loans to its members within the provisions of this Regulation and in accordance with its bye-laws.
 - (2) The Credit Union should approve a policy for granting secured and unsecured loans. The policy should include the terms, conditions of repayment, and maximum amounts that may be borrowed as well as acceptable forms of security. In addition to generally accepted forms of security, assignment of an interest in real or personal property or assignment of shares and deposits may be deemed security.
 - (3) A Credit Union may make loans to its officers, directors, employees and loan officers and the approval process for such loans may be the same as for other members. However, such loans must comply with all requirements to borrowing members.
 - (4) An exception to this provision may be where loans to employees are governed by the terms of an industrial agreement. **The Credit Committee should immediately report the approval of all loans to officers, directors, employees, and loan officers to the Credit Union and to the Supervisory Committee.**
 - (5) Officers, directors, employees and loan officers and members of committees shall not participate in discussions or a vote concerning a loan in respect of which they have acted as guarantor or endorser.

PART XIII INVESTMENTS

13. (1) Credit Unions are required to adopt a reasonable and prudent person approach to investments in order to avoid speculative investments and undue

risk while obtaining a reasonable return. Permitted investments shall include the following and shall be subject to such limits as LCUNA may prescribe:

- i) Securities issued or guaranteed by the Government of Liberia Other domestic securities registered by the Liberia Securities and Exchange Commission;
- ii) Deposits offered by other Credit Unions or Credit Union institutions;
- iii) Securities and deposits offered by other financial institutions licensed by the Central Bank of Liberia under Financial Institutions Act, 1999;
- iv) Mutual funds registered and domiciled in Liberia;
- v) Any other investments or class of investments that LCUNA may approve, either generally or specifically upon application by the Credit Union.

(2) **Substantial Investments**

A Credit Union, either separately or in combination with any affiliates, should not be allowed to hold a substantial investment in other business entities. A Credit Union's investments in such entities should be restricted in relation to its institutional capital, specifically:

- (a) **A Credit Union should not acquire, deal or hold shares of any entity as investment in excess of fifteen (15) percent of the shares of that one entity;**
- (b) A Credit Union's aggregate investment in other entities should not exceed twenty (20) percent of the Credit Union's institutional capital.

PART XIV PROHIBITED TRANSACTIONS

- 14.(1) Transactions with related parties can pose conflicts of interest and expose the Credit Union to special risks. It is international best practice to require that where an institution makes loans to a related party this is done on an arm's length basis and that the transactions are closely monitored.
- (2) A Credit Union shall only engage in those transactions with a related party that are permitted, no transaction between a related party and a Credit Union should be on terms that are less favorable to the Credit Union than would normally apply.
- (3) Transactions with related parties include loans to, or guarantees for the benefit of the related party, investment in any securities of the related party, or any other form of exposure to the related party.
Real Estate
- (4) Investing in real estate is considered speculative. As such a Credit Union should not acquire land directly or indirectly except where this is necessary for conducting its business or housing its officers or employees. Where a Credit Union acquires land in the course of satisfying debts due to it, such land or any interest in it should not be held for a period **longer than five years from the date of acquisition.**
- (5) **As a safeguard against over-investment in fixed assets which normally would not be income generating, a Credit Union's non-earning assets should not exceed 5 percent of its total assets.**
- (6) In circumstances where a Credit Union owns and occupies property primarily

for the purpose of conducting its business but only requires part of the property for this purpose the Credit Union will be permitted to earn rental income from the unoccupied portion of its premises. However, where a fixed asset is used in this manner as an ancillary source of income it would be considered a non-earning asset.

Credit Exposures

- (7) Credit exposure refers to the amount of risk assumed by the Credit Union through lending and is measured by the extent of losses that would result from the failure of a counterparty to honor his or her obligations or that may result from the realization of assets. Credit exposure can arise from loans, investments and participations.
- (8) To mitigate the risks arising from excessive credit exposure, a Credit Union shall grant secured and unsecured credit to a maximum of twenty-five (25) percent of its total institutional capital to any member or related party or parties, either individually or collectively.

Dividends

- (9) The directors of a Credit Union shall declare or propose payment of a dividend only if:
 - (a) Payment will be made from realized, ordinary, undivided surplus;
 - (b) Any impairment of the institutional capital has been corrected;
 - (c) All allowances for impaired assets and loan losses have been fully funded;
 - (d) The accounts have been audited;
 - (e) All prior-year losses have been written off.

PART XV REGULATION AND SUPERVISION

General Powers of LCUNA of Liberia

- 15.(1) In exercise of its function as specified in Central Bank of Liberia 1999 Act,4 (6), As Financial Regulator, LCUNA has at its disposal a wide range of supervisory and regulatory tools with which to ensure the safe and sound operation of Credit Unions.

LCUNA has the power to:

- (a) Issue regulations;
- (b) Issue guidelines;
- (c) Set prudential standards;
- (d) Set general licensing requirements;
- (e) Conduct on-site and off-site examinations;
- (f) Impose sanctions and fines for non-compliance;
- (g) Require statutory filings of financial statements and other statistical and Operational data;
- (h) Require access to all records and documents of the Credit Union; and
- (i) Require a Credit Union to take remedial action where the Credit Union is in breach of the Financial Institutions Act, 1999 & Central Bank of Liberia, Act, 1999 or engages in an unsound practice;
- (j) And approve, restrict and revoke licenses.

Information Requirements

- (2) Access to comprehensive and accurate information on the financial condition of regulated institutions is a critical input in the regulatory process. LCUNA, as regulator shall without limitation, access at all times Credit Unions operations. Accordingly, Credit Unions shall submit to LCUNA, periodic returns on various aspects of their operations. LCUNA will determine the frequency and form of these submissions, which will cover, *inter alia*:
 - (a) Assets and liabilities;
 - (b) Loans, including delinquency; and
 - (c) Revenue and expenses.
- (3) LCUNA, where is of the view that circumstances so warrant, may require a Credit Union to provide any additional information, including special reports, or to report more frequently on its operations.

Audited Financial Statements

- (4) LCUNA shall set out reporting requirements for the institutions under its supervision
- (5) All reporting institutions shall conform to established and internationally recognized reporting standards. These standards may change over time in line with evolving best practice and with changes in the financial environment.

A key instrument for assessing the financial condition of Credit Unions will be their audited financial statements. LCUNA shall therefore require that:

- a) Within three months of the close of its financial year every Credit Union shall submit to LCUNA financial statements of its operations, duly audited by an auditor approved and prepared in accordance with International Accounting Standards.
- b) Financial statements must include:
 - i) An income statement;
 - ii) A balance sheet; and
 - iii) Cash flow statement
- (6) If upon examining these statements, LCUNA determines that there is some risk to the safety and soundness of the Credit Union it will, as a first step, consult with the Credit Union and propose measures to prevent any further financial deterioration.

Preventive and Corrective Measures

- (7) LCUNA shall recommend preventive and corrective measures where, based on information available to it, it considers that a Credit Union may be operating in an unsafe or unsound manner, may be illiquid or insolvent, or is in violation of its Central Bank of Liberia Act, 1999 or Financial Institutions Act, 1999.
- (8) The Credit Union shall be expected to comply with the recommendations of

LCUNA. If it fails to do so and, having been given an opportunity to be heard, does not provide a valid reason, LCUNA may then have recourse to its enforcement powers, including the power to issue directions and administrative orders.

Directions

- (9) LCUNA shall issue a direction where it is of the opinion that a Credit Union's activities or its failure to take certain actions:
- a) Violates or potentially violates the by-laws and policy and regulatory guidelines for credit unions;
 - b) Threatens the safety and soundness of the Credit Union;
 - c) Results in undue loss of members' deposits; or
 - d) Threatens the financial system of Liberia.

- (10) Directions shall also be issued where the directors, officers and employees of a Credit Union fail to meet or maintain the fit and proper criteria and where LCUNA is of the opinion that the Credit Union is illiquid or insolvent.

LCUNA may issue a direction to a Credit Union, its directors, officers, employees and agents requiring the person to whom it is addressed to comply with the by-laws and policy and regulatory guidelines for credit unions; give an undertaking to LCUNA to take such corrective action as LCUNA requires:

- i. to take certain steps or refrain from adopting or pursuing a particular course of action;
- ii. Increase capital and provide additional liquidity, impose limitations on the activities of the Credit Union, or constrain, or place conditions on the conduct or promotion of its business;
- iii. And to inform the members that a direction has been issued.

- (11) LCUNA may also issue directions to remove a director, officer or employee of a Credit Union as described below.

Direction for removal

As part of its regulatory mandate LCUNA, has a responsibility to ensure as far as possible that persons holding decision-making authority in Credit Unions are suitable to hold office and will act in compliance with the law. Where this is not the case LCUNA will have the power to remove the officials concerned by issuing a direction for removal, which may apply to any director or officer or to the entire Credit Union.

Any such action on the part of LCUNA would need to be communicated immediately to the membership of the Credit Union. This will be the responsibility of the Credit Union, which must also take immediate steps to fill the vacancy left by the removal. Where the direction affects the entire Credit Union, LCUNA will ensure arrangements for the continuity of operations.

Administrative Order

- (12) An administrative order permits the takeover of the management of a Credit Union's affairs, business and property by an administrator appointed by

LCUNA. This may arise where the Credit Union:

- (a) Has been determined to be insolvent;
- (b) Has not complied with the FIA, 1999;
- (c) Has failed to comply with a direction;
- (d) Has not observed its own policies and procedures or any standards applicable to the Credit Union.

An administrative order will continue in effect until LCUNA either:

- i. Releases the administration and authorizes the Credit Union to resume normal operations;
- ii. Has addressed the issues causing the Credit Union to be placed under administration, but considers that the Credit Union cannot continue as a long-term, viable, stand-alone organization.
In this case the Credit Union may opt for an appropriate form of consolidation with another Credit Union, ensuring that the members' savings and deposits are safeguarded from undue loss and that Credit Union services can continue; or
- iii. Petitions the High Court for the winding-up of the Credit Union.

Winding up of a Credit Union

- (13) Where all attempts at rehabilitation, including administration, have failed LCUNA, in its discretion, or on the recommendation of the administrator, may determine whether a Credit Union should be involuntarily wound up. LCUNA may also decide to wind up a Credit Union where it finds that the Credit Union is insolvent or where LCUNA has revoked the license of the Credit Union. LCUNA may also act on the recommendation of the Commissioner where he determines that a Credit Union should be wound up.

Order of Distribution upon Winding-up

- (14) LCUNA shall propose that the order of distribution on the winding-up of a Credit Union be similar to what is obtained in the **Companies Act**.
The preferential payments should be as follows:
1. All rates and taxes due and payable within 12 months of the relevant date.
 2. All wages and salaries for employees be paid (not a director) for services rendered during four months prior to the relevant date
 3. Severance and terminal benefits due to employees (not directors).
 4. Rights transferable under the **Workman's Compensation Act**. Surplus assets of Unions on winding up shall be deposited into the Development Fund.

Mergers and Transfers

- (15) For various reasons two or more Credit Unions may choose to merge their operations and form a new Credit Union. Alternatively, a Credit Union may choose to transfer its assets and liabilities to another. In either case the decision would be a purely voluntary one approved by the membership of the participating Credit Unions but approval by LCUNA will also be required.

In the case of a merger the Credit Unions of the participating Credit Unions will need to agree on a plan and have it approved by their respective memberships. Once this is done the participants will give notice of the merger and provide the plan to LCUNA. Upon approval of the merger or transfer by LCUNA, all property, property rights and members' interest of the merging Credit Unions shall vest in the continuing Credit Union without any instrument of transfer. All debts, obligations and liabilities of the merging Credit Unions shall be deemed to have been also assumed by the continuing Credit Union. The rights and privileges of the members of the merging Credit Unions shall be preserved and more particularly set out in the merger agreement.

Voluntary Liquidation

- (16) A Credit Union shall be permitted to voluntarily wind-up its business affairs subject to prior approval by LCUNA. This enables LCUNA to ensure that winding up does not pose undue risk to members' savings or adversely affect public confidence in the financial system of Liberia.

Offences and Penalties

- (17) Membership control of Credit Unions is an important cooperative principle which imposes on members the collective responsibility to be vigilant and to ensure that the highest standards of management and good governance are maintained. The failure to maintain such vigilance could result in losses to the Credit Union through mismanagement or malfeasance on the part of officers or directors or through regulatory penalties arising from infractions of the by-laws and policy and regulatory guidelines for credit unions.

i) **Civil Money Penalties and Fines**

LCUNA shall have the power to assess and impose civil money penalties on Credit Unions for certain breaches of the by-laws and policy and regulatory guidelines for credit unions. Civil money penalties, as an intermediate enforcement tool, can be a useful alternative to costly litigation through the court system. An example of a breach that may attract the imposition of civil money penalties is the late or inaccurate submission of statutory filings, audited financial statements or other information requested by LCUNA. Interest would be payable on overdue penalties. A Credit Union may challenge the imposition of a civil money penalty by appealing to the **Tax Appeal Credit Union (if any)**.

ii) **Criminal Penalties**

Persons found guilty of an offence under the Financial Institutions Act, 1999 and by-laws and policy and regulatory guidelines for credit unions, will be liable for:-

- (a) In the case of an individual,
- i) On summary conviction, pay a fine not exceeding Liberian Dollars____or to imprisonment for a term not exceeding twelve months, or both,

- ii) On conviction on indictment, pay a fine not exceeding Liberian Dollars ____ or to imprisonment for a term not exceeding five years, or both: and
- (b) In the case of an entity,
 - i) on summary conviction, to a fine not exceeding Liberian Dollars ____ or
 - ii) on conviction on indictment, to a fine not exceeding Liberian Dollars ____

Appeals

(18) It is important that Credit Unions have recourse to an avenue of appeal where they are aggrieved by certain decisions of LCUNA, such as refusal to grant a license or revocation of a License and the imposition of any order or direction. (Appeal Desk) for Credit Unions shall be established to provide mechanism to hear and determine appeals by Credit Unions.

PART XVI PRUDENTIAL CRITERIA

16. Statutory Requirements

- (a) Credit Unions shall maintain a minimum level of institutional capital equivalent to ten (10) percent of total assets.
- (b) A maximum of five (5) percent of total assets will be applied to the total borrowing of Credit Unions, inclusive of borrowing from other Credit Unions or from other cooperative institutions.
- (c) A Credit Union shall grant secured and unsecured credit to a maximum of twenty-five (25) percent of its total institutional capital to any member or related party or parties, either individually or collectively.
- (d) A Credit Union shall not acquire, deal or hold shares of any entity as investment in excess of fifteen (15) percent of the shares of that one entity.
- (e) A Credit Union shall limit in aggregate, its investment in other entities to a maximum of twenty (20) percent of the Credit Union's institutional capital.
- (f) Credit Unions shall maintain a minimum liquid assets ratio of fifteen (15) percent in relation to total liabilities.
- (g) A Credit Union's non-earning assets shall not exceed five (5) percent of its total assets.

Other prudential ratios

17. (1) the criteria for Allowance for Loan Losses are as follows:-

- i) Once a loan is more than 90 days delinquent for consumer loans and more than 180 days delinquent for mortgage loans, stringent collection efforts must be made, and any pledged security seized. If a balance is outstanding after one year, this balance should be written off the loan portfolio as an expense. A 100 percent loan loss allowance should be established to cover this loss.
- ii) Treatment of Interest: Interest shall not be included as income in a Credit Union's account in respect of loans for the period specified above where: –

(a) The contractual payment is not made; or

(b) A part of the contractual payment is outstanding unless the loan, including the accrued interest, is fully secured and is in the process of collection or is 100 per cent secured after set-off of deposits/shares.

(2) Treatment of Delinquent Loans:

It is essential that management make every effort to collect delinquent loans and that they recognize losses on loans delinquent more than 12 months, so that financial statements represent the true financial position of the Credit Union. Although a loan has been written off as an expense, collections should continue and money collected at a later date can still be taken into income as recoveries.

Allowance for Loan Losses / Delinquency >12 Months.....100%

Net Allowance for Loan Losses / Delinquency 3-12 Months35%

Accumulated Charge-Offs Recovered/ Accumulated Charge-Offs100%

- Net Loans/ Total AssetsBetween 70 – 80%
- Savings Deposits/Total Assets..... Between 70 – 80%
- Operating Expenses/Average Assets.....Between 3 – 10%

PART XVII BUSINESS OF A CREDIT UNION

17. Business services and activities

- i) **Deposit Taking:** Accepting deposits including share deposits from members, on such terms and conditions as are prescribed in the regulations and standards approved by the Credit Union Board of directors.
- ii) **Loans:** Granting of loans and other credit to members on such terms and conditions as are prescribed in the regulations and standards/approved by the Credit Union board of directors.
- iii) **Mortgage Business:** Mortgage lending.
- iv) **Confirming and Acceptance:** Confirming, accepting import and export bills for financing.
- v) **Investment:** Credit Union commits its collectively owned resources and the investment gains or losses accrue to its own account.
- vi) **Investment Management:** Credit Union acts on behalf of individual members who themselves bear the risk and receive a return on their investments net of any management fees payable to the Credit Union. Loan syndication, investment advisory services, acceptance credit, project development, foreign exchange financing and inter-Credit Union financing.

- vii) **Trust Business:** Management of trust funds, acting as trustee or contractual trust, executor or administrator, administration of pension funds and retirement plans.
- viii) **Transaction services:** Ability to directly or indirectly offer credit cards, debit cards.
- ix) **Brokerage:** Acting as a broker or as a commissioned agent for any other financial institution, except within the securities industry.
- x) **Any other they may deem fit for their operations**

Done in Monrovia, on this February 8, 2013.

Rectified by the General Assembly on this ...