

OFFICE OF THE MINISTER
OF COMMERCE

The Chair
CABINET ECONOMIC DEVELOPMENT COMMITTEE

CREDIT UNION REVIEW

PROPOSAL

- 1 The purpose of this paper is to seek approval for legislative changes to the Friendly Societies and Credit Unions Act 1982.

EXECUTIVE SUMMARY

- 2 Last year, the New Zealand Association of Credit Unions and Manchester Unity, which represent approximately 90 percent of New Zealand credit unions, reached agreement on proposals for reforming four areas of the Friendly Societies and Credit Unions Act 1982. The main changes proposed by these bodies are:
 - a Relaxation of the membership requirements by allowing credit unions to determine their own bond and to accept charities and incorporated societies as members;
 - b Permission to incorporate a credit union's management committee as a board;
 - c Permission to raise capital by offering non-withdrawable, tradeable, preferential shares to members;
 - d Making the statutory limitations on borrowing, investment and capital reserves into default provisions that can be varied by a credit union's Securities Act trust deed.
- 3 While the NZACU has characterised these proposals as minor, urgent changes, changes to the common bond, the incorporation of a management committee and the authority to issue capital of them are in fact very significant because they would alter the nature of credit unions, their governance structures and their capital structures. In addition, these particular proposals are poorly targeted at the underlying problem and would introduce new problems and deficiencies to the credit union regime. For these reasons, I do not recommend their adoption. I do, however, recommend that credit unions be permitted to have "dual bonds" so that they can serve two distinct customer bases, and that work be undertaken to assess the possibility of making certain provisions variable by the Securities Act trust deed.
- 4 To reduce compliance and administration costs, I also recommend the adoption of the following proposals put forward by the associations:

- a credit union associations should no longer be required to obtain ministerial approval to extend their services;
 - b each credit union should be able to determine its minimum deposit requirement and its own processes for setting service fees.
- 5 The paper also considers two other issues that have arisen during the most recent review - the ability of credit unions to transfer to alternative governance structures, and the concerns that some credit unions have voiced about being supervised under the Securities Act 1978 trust deed regime. I recommend that further work be done to design an appropriate conversion mechanism. At this stage, I do not recommend any change to the Securities Act supervisory regime. However, I note that the option of expanding the Securities Commission's oversight of trustee companies will be considered by the Ministry of Economic Development as part of its review of the Securities Act. I also note that the outcomes of the review of the financial sector, to be conducted by the Treasury, the Reserve Bank and MED, may have implications for the supervision of all deposit taking institutions, including credit unions, in the medium term.
- 6 The paper does not consider whether, in light of the recommended changes, credit unions should continue to enjoy a tax exemption. This matter is to be considered by the Inland Revenue Department after MED has completed its review.
- 7 I anticipate that the NZACU will be disappointed that it has not achieved all of its objectives in the course of this review. However, the government's previous efforts to develop a more appropriate governance framework have met with opposition from the industry. I therefore intend to make it clear to the industry that (apart from planned review of credit unions' tax status) the review of Friendly Societies and Credit Unions Act will end once the issues identified in this paper have been addressed and, where appropriate, legislated for.

BACKGROUND

Industry Background

- 8 Credit unions are regulated primarily by the Friendly Societies and Credit Unions Act 1982 (the "**Act**"). Since 2001, credit unions have also had to comply with the Securities Act 1978 requirement to enter into a trust deed with a trustee corporation, which acts as a front-line supervisor. The Ministry of Economic Development intends to consider the need for the Securities Commission to have additional oversight of trustee corporations and trust deeds, as part of its review of the Securities Act, which is due to commence in mid 2005.
- 9 Traditionally, credit unions have certain features that, in combination, set them apart from other deposit taking institutions. They are member-owned cooperatives established to provide savings and loans within the membership. Each member has one vote regardless of the amount of a member's deposits. They do not issue capital stock and, instead, build capital by retaining earnings. They may only serve customers that meet a common bond requirement.

- 10 Over the last decade, the number of credit unions has fallen from 160 to around 57, including the two associations of credit unions: Manchester Unity and the New Zealand Association of Credit Unions (“**NZACU**”). The decline in numbers has been caused by amalgamations and closures driven by increased compliance and operating costs and, in some cases, management failings and misconduct. At the same time, the number of credit union members has remained fairly stable at around 180,000 to 190,000 and total assets have grown from around \$350 million to around \$490 million. This is very small by financial sector standards. The major trading banks each have assets in the tens of billions of dollars. The largest building society, Southland Building Society, has assets of \$1.5 billion (three times the entire credit union movement). Currently, credit unions service about 0.3 percent of the household loan market.

History of Review

- 11 The impetus for the review has come primarily from NZACU, which represents around 45 credit unions. NZACU believes that the Act is outdated and unduly restrictive. Until recently, Manchester Unity, which represents 8 credit unions, has opposed most of NZACU’s proposals.
- 12 The review dates back to around 1995 when The Treasury consulted on the possibility of adopting a two-tier regime under which credit unions with more than \$5 million assets would incorporate under the Companies Act 1993. The proposal met with objections from the industry and was not pursued.
- 13 In 1998, the Ministers of Revenue and Commerce reinitiated the review, focusing on whether: it was necessary to have specific legislation to recognise credit unions; the appropriate legal form for credit unions was that of a company under the Companies Act 1993; and credit unions should continue to enjoy a tax exemption.
- 14 Submitters were unanimously of the view that specific legislation for credit unions should be retained in order to protect their special character. While there was general agreement that the Act had a number of problems, there was wide divergence as to their cause and extent. Because of stakeholders’ divergent views, the review was suspended. At this stage, the credit union sector was advised that broad ranging consensus was a prerequisite for reform.
- 15 In 2000, the government decided to defer a review of credit unions’ tax status. The Inland Revenue Department and the Treasury intend to carry out a tax review after MED has completed its review of the Act.
- 16 In December 2002, MED released another public discussion document, focusing primarily on proposals by NZACU to amend to four areas of the Act: membership qualifications, legal status and validity of action, capital, and trust deed duplication. MED also sought feedback on the impact of those proposals on competitive neutrality in the financial sector and the need for a “conversion mechanism” to enable credit unions to choose to migrate to more appropriate governance regimes.

- 17 Manchester Unity continued to object to most of NZACU's proposals. Subsequently, at the request of the former Minister of Commerce, Hon. Lianne Dalziel, the two associations developed a *Statement of Agreed Principles*. This proposal was submitted to the Minister in November 2003. To a large extent, it mirrors NZACU's earlier proposals.

Review of the Financial Sector

- 18 The Treasury, the Reserve Bank and MED are in the early stages of scoping a review of aspects of the regulatory framework for New Zealand financial sector. The review will include consideration of a range of issues including whether the existing regulatory arrangements for banks and life insurance companies are appropriate and whether there is scope of greater trans-Tasman coordination or harmonisation.
- 19 Although the review may raise issues or identify principles and objectives that are applicable to all deposit takers, officials do not envisage that it will address small deposit takers such as credit unions unless there is a decision to create a single prudential regulator for all financial institutions. Should the situation change, officials consider that the statutory amendments recommended in this paper would be unlikely to conflict with or foreclose any possible outcomes from the financial sector review.

The Joint NZACU-MU Proposals to Amend the FSCUA

- 20 The intention of the *Statement of Agreed Principles* is that the proposals it contains should form the basis of amendments to the Act. NZACU considers the proposals to be minor and expressed an assumption that agreement within the industry means that the proposals would be adopted automatically by the government.
- 21 In analysing the current proposals, consideration has been given to the following objectives: investor protection; competitive neutrality; sound governance and risk management; contestability of the sector; ease of exit; facilitating adaptation of changing conditions; compliance costs; and regulation administration costs.
- 22 Officials advise that, from this perspective, some of the joint proposals are in fact very significant because they would alter the nature of credit unions, their governance structures and their capital structures. In addition, some of the outcomes sought by the joint proposals are poorly targeted at the underlying problem and would introduce unnecessary risks and consequences. These outcomes should only be considered in the context of a wider review of the role of credit unions in New Zealand and the optimal governance, prudential, and tax regime to deliver the government's objectives. However, previous efforts to address the credit unions' proposals in a broader context have met with continued resistance from the industry. For this reason, I see little value in expending more time and resources on developing further options or relitigating those that have previously been identified. I therefore intend to make it clear to the industry that (apart from planned review of credit unions' tax status) the review of Friendly Societies and Credit Unions Act will end once the issues

identified in this paper have been addressed and, where appropriate, legislated for.

Membership Qualifications

Current requirements

- 23 The Act limits membership of credit unions to individuals that meet a membership qualification rule. The qualification rule must be based on occupation, residence or work in a particular locality, employment, or membership of another association. The Registrar of Credit Unions (the "**Registrar**") can also approve an admixture of those qualifications or any other qualification if a common bond exists.

Joint proposal

- 24 The joint proposal suggests that credit unions should be free to determine their own membership qualification. Instead of approving the qualification, the Registrar should merely confirm that it is sufficiently identified in each credit union's rules. The proposal also suggests that charities and incorporated societies should be able to join a credit union if they share some affiliation with the common bond of that credit union.

Comment

- 25 Allowing credit unions to determine their own membership qualification would facilitate their growth and overcome some of the problems that they have previously encountered when they wanted to merge or to serve a wider area. In recent years, a number of mergers have taken place in order to achieve the economies of scale needed to meet the costs of new technologies and the introduction of Securities Act trust deeds. A few credit unions have closed because the Registrar was not satisfied that proposed mergers would give rise to a common bond. The limits of geographical boundaries, have also, in some cases, prevented existing credit unions from extending their services to underserved communities that could not support their own credit union.
- 26 The extension of services to charities and incorporated societies would also facilitate growth by opening up a new market.
- 27 The common bond proposal raises governance issues; and both proposals raise issues about competitive neutrality and the fundamental nature of credit unions compared with other deposit takers.
- 28 Early architects of the credit union movement regarded the common bond as a risk management tool, ensuring that those making lending decisions would know more about applicants and that borrowers would be reluctant to default. While it may hold true for very small credit unions, the theory is tenuous for large credit unions, particularly those whose membership criterion is based on locality, which may cover a whole region or a large city. So for many credit unions, it is already unlikely that the common bond requirement serves its original purpose.

- 29 However, the proposed relaxation of the common bond may raise other governance issues. It would allow credit unions unlimited scope for widening their membership criteria to the point where they could take deposits from and lend to any member of the public. At this point they would be much the same as any other deposit-taker, in which case it would be difficult to justify retaining a separate credit union regime. Likewise, the extension of services to certain organisations also changes the traditional nature of credit unions. Moreover, the larger credit unions become, the more crucial it is that they have robust governance and risk management arrangements. The current regime was not designed for large institutions.
- 30 Because both proposals would remove significant constraints on credit unions growth that currently limit the competitive advantage credit unions gain from their tax exemption.
- 31 For these reasons, the proposed changes should only be considered in the context of a thorough review of credit unions' governance regime, so that measures aimed at facilitating growth are properly balanced by measures that provide adequate consumer protection and address competitive neutrality. I therefore recommend that credit unions continue to be limited to providing services to individuals.
- 32 While I consider that it would not be prudent to adopt these joint proposals, I believe that there are benefits in allowing credit unions some additional flexibility so that they can more easily achieve viability through mergers or expand their operations into communities that currently lack adequate access to banking services. I therefore propose that the statutory membership requirements be modified so that credit unions can have a dual bond, whereby a credit union may have two membership qualifications, each of which, in itself, gives rise to a common bond. This would, for example, allow a credit union to operate in two regions.

Legal Status and Validity of Action

Current requirements

- 33 Credit Unions do not have full legal personality. The Act requires credit union assets to vest in trustees who hold the assets for the benefit of members and have specific duties relating to investing surplus funds. On a day to day basis, credit unions are administered by a committee of management that is analogous to a company board of directors.

Joint proposal

- 34 The joint proposal suggests that, just as trustees of charitable trusts can incorporate as a board under the Charitable Trusts Act 1957, the management committee of a credit union should be able to incorporate as a board. It would therefore be able to hold assets and represent the credit union and the role of trustees would be obsolete.

Comment

- 35 Over the years, a variety of reasons for this proposal have been put forward. At one stage NZACU proposed the development of its own regulatory body and said that incorporation and removal of the trustees would be necessary to enable the regulator to take control of credit unions in a crisis situation. More recently, NZACU has said that incorporation of a management board would remove any uncertainty or conflict between the trustees and management committee roles. The industry has also said incorporation would resolve any uncertainty about contracts with credit unions. NZACU favours incorporation of the committee rather than the credit union as a whole, on the basis that it retains the mutual nature of credit unions.
- 36 The idea of incorporating credit unions was thoroughly researched during the 1998 review, when officials recommended that credit unions should be able to incorporate under a modified version of the Companies Act 1993. Officials advise that incorporating the management committee as a board is not a viable alternative. Unlike the trustees of charitable trust boards, credit union management committees serve a clearly identifiable group of owners who are not involved in the day to day running of the business. Legally separating the management from the members would weaken credit unions' governance structure by creating uncertainties about the relationship between the committee and the credit union as a whole. Contrary to NZACU's objective, the separation would also undermine the mutuality of credit unions. For these reasons I do not recommend incorporation as a board.

Current requirements

- 37 The Act also controls the activities of associations of credit unions by requiring them to seek the approval of the responsible minister when they wish to provide certain services specified in the Act. Associations are limited to providing services to their members only.

Joint proposal

- 38 The joint proposal suggests that each association should be able to decide what services it can offer, in accordance with its rules, and that associations should be able to provide services to non-members as long as they provide services primarily to credit unions.

Comment

- 39 While I believe the Act should continue to specify the kinds of services that credit union associations can provide, I see no need to continue requiring them to obtain ministerial approval before offering those services. I recommend that this provision be repealed.
- 40 I do not, however, recommend that associations should be able to provide services to non-members. While it would facilitate growth and increased profitability and, to some extent, this may be passed back to the members in the form of lower service fees or improved services, the proposal is not consistent

with the credit union movement's cooperative philosophy of providing services exclusively to members who have a common purpose. Nor is it consistent with the associations' role as representatives of their members.

Capital

Current requirements

- 41 Credit unions can only raise money by accepting deposits, charging interest on loans and investing surpluses. Although the Act says members' deposits are shares, technically, and for the purposes of the Securities Act, they are debt securities because they are withdrawable on demand. Each member must have a minimum of \$10 in "shares", which are in fact deposits, as a condition of membership.

Joint proposal

- 42 The joint proposal suggests that credit unions should be allowed to offer equity shares to their members. These would be non-withdrawable, transferable between members and, at the option of the credit union, preferred over deposits in a winding up of a credit union. Credit unions should also be able to determine their own minimum "shareholding" (ie deposit) requirements.

Comment

- 43 I understand that the objective of this proposal is to allow credit unions to achieve greater financial security. In particular, it appears that the credit union associations are seeking a source of funding that would make it easier for credit unions to meet capital reserve requirements. Although the Act requires established credit unions to maintain a 5 percent reserve, under their trust deeds, most credit unions have a reserve requirement of 7.5 to 10 percent. The reserve must be built from profits on loans and investments so it is difficult to maintain in rapid growth periods.
- 44 While I generally accept that credit unions would benefit from measures that enhance their financial stability, the proposal raises significant concerns. The idea that such investments should be recognised as capital yet preferred over the "ordinary" shares of the credit union is problematic. Generally, capital serves as a buffer to absorb losses and, in the case of deposit taking institutions, to protect depositors. However, the preference could mean that the shares would rank ahead of deposits in a winding up. This would negate the purpose of the capital reserve. It could even increase the incentives for depositors to withdraw their funds if they have fears over a credit union's soundness, potentially destabilising the credit union.
- 45 Trading such shares outside a credit union's membership circle would be inconsistent with the cooperative principles and fundamental purpose of credit unions. If, on the other hand, trading is limited to within the circle of membership, it seems unlikely that many credit unions would provide a viable market. Investors may find that they need to wait for some time to sell their shares. In a worst case scenario, they may be unable to divest their

shareholdings except in a winding up of the credit union - an event that normally stems from financial failure and sometimes results in a loss to members. While the risk can be mitigated by adequate disclosure, I am concerned that many credit union members will be relatively unsophisticated investors who may not fully appreciate the risks of this type of investment.

- 46 For these reasons, I do not agree that credit unions should be permitted to offer the kind of shares outlined in the joint proposals. Should the credit unions continue to want authority to offer some form of shares, it would be necessary to revisit the role of capital in credit unions and the attributes required for it, so that it continues to serve the functions of protecting depositors and buffering the credit unions' losses.
- 47 I do, however, agree that credit unions should be able to determine their own requirements for the minimum amount that each member must deposit. As a safeguard, I recommend that credit unions be required to specify the minimum in their rules. Any change would therefore need to be approved by special resolution. This would mitigate the risk that the management committee could unilaterally raise deposit requirements to a level that excludes low-income members.

Trust Deed Duplication

Current requirements

- 48 The Act prescribes the following controls on credit union borrowing, investing reserve ratios, and fee-setting:
- Credit unions may borrow - for short terms and for restricted amounts – only from other credit unions, friendly societies or associations of credit unions or by way of an overdraft from a registered bank.
 - Credit unions cannot hold land or buildings for investment purposes. Surplus funds may be invested in accordance with the investment provisions of the Trustee Act 1956, or with an association of credit unions. Otherwise they must be kept on current account with a bank. Credit unions may make temporary loans to each other with the prior approval of the Registrar.
 - A portion of each credit union's profits must be retained as capital to offset any losses on loans to members. Credit unions with at least four years operating experience and total assets of more than \$500,000 must maintain a general reserve of at least 5 percent of those assets. Otherwise, credit unions generally have to have reserves of 10 percent or be building their reserves to that level by setting aside a certain percentage of gross earnings each year.
 - Service fees must be set out in a credit union's rules. These rules can only be amended by special resolution of all the members, which means that fee changes can only be made if 75 percent of eligible voters vote in favour of the change.

Joint proposal

- 49 The joint proposal suggests that the restrictions on investment, borrowing and reserves should not apply if addressed (to a no lesser standard in the case of reserves) in a credit union's Securities Act trust deed. The joint proposal also suggests that credit unions should be allowed to adjust fees as permitted by their rules.

Comment

- 50 NZACU has taken the view that the restrictions on investing, borrowing and reserves conflict with or duplicate the trust deeds. In practice, there is no real conflict. The trust deed entered into by members of the NZACU generally contains stricter requirements than the Act, so provided the trust deed provisions are complied with, the Act is also complied with. Also, while it is common for trust deeds to contain restrictions on items such as borrowings or investment ratios, such limitations are not required by the Securities Act. Any restrictions imposed by a trust deed are voluntary commitments and are matters to be agreed between each credit union and its trustee supervisors.
- 51 I agree that, to some extent, statutory prudential requirements could be replaced by trust deed provisions. However, because the trust deed provisions are voluntary contractual arrangements, I believe that there is a need for a statutory framework to ensure that they include appropriate prudential measures. In principle, the joint proposal is an acceptable way of achieving this but it will be necessary to carefully consider whether all or only some of the provisions relating to borrowing and investment and capital reserves should be variable.
- 52 In the case of investment powers, for example, allowing the trust deeds to waive the investment provisions of the Trustee Act 1956 could result in a lower standard of care with consequent risks to depositors.
- 53 Also, the proposal would enable credit unions to avoid the current statutory restriction on investing in building and land. Credit unions' primary purpose is to provide low cost savings and loans services to their members. To support that purpose, the World Council of Credit Unions ("**WOCCU**") recommends that 70 to 80 percent of a credit union's assets should be invested in loans to members and a reasonable percentage should be kept in liquid investments to meet members' withdrawal and loan demands. Investment in less liquid assets should be strictly limited. Permitting investment in property could lead to reductions in liquidity and in the amount of money available for loans to members. Consequently, making the current statutory restrictions optional may not be appropriate. However, at least for some credit unions, it may be possible to permit a limited amount of investment in property without undermining the purpose of credit unions or creating liquidity risks.
- 54 Consequently, I recommend that the possibility of making statutory restrictions on investments, borrowing and reserves default provisions be given further consideration by officials, taking into account the possibility of setting the minimum requirements by regulation rather than primary legislation so that they

can more easily be kept up to date with changes in the economy and the marketplace.

- 55 I agree that the requirement to amend fees by special resolution is impractical and prevents credit unions from responding to business needs as they arise. Credit Unions should be permitted to determine their own rules for fee setting. This would enable credit unions to retain the current voting rule, if they wish to do so, or to authorise the management committee to set fees from time to time.
- 56 I note that, to ensure the robustness of the supervisory regime, officials have recommended to me that the Securities Commission should be given the power to actively oversee the trustee supervisors. Rather than considering this proposal now, I believe it would be more appropriate to do so in the context of the Ministry of Economic Development's review of the Securities Act, which is due to commence in mid 2005. This would mean that the oversight of trustee corporations would be considered in a broader context, ensuring that the provisions relating to trustee corporations are consistent regardless of the form of entity they supervise, unless there is good reason for variation.

Other issues

- 57 [...]
- 58 [...]Credit unions generally agree with the joint proposals relating to the common bond (some would like to replace the bond requirement with "affinity" membership – meaning that anyone who likes credit unions' value-base could join), the removal of limitations on investment and borrowing, and the ability to offer equity shares.
- 59 However, one credit union wishes to convert from the credit union regime to an alternative regime. Because the Act does not provide a framework for conversion, a special Act of Parliament is needed to allow a credit union to move to a different regime without having to dissolve and start again. This is time-consuming and costly for the credit union concerned as well as for the government.
- 60 The introduction of a facilitated conversion could further reduce the number of credit unions and I am aware that NZACU opposes it because of concerns that conversion could be misused to allow reserves to be distributed. However, I believe that conversion is a matter for the members of each credit union to decide, not for the Association; and valuable House time should not be used for such matters. In the interests of efficiency, I recommend that the Act be amended to facilitate conversion to alternative regimes such as the Companies Act and/or the Building Societies Act.
- 61 I note that such conversions give rise to some tax issues. In the past, these have been resolved by the special legislation enacted for the credit union concerned. Officials will need to develop the proposal further to address these issues as well as determining which regime or regimes credit unions should be able to convert to.

62 [...]

63 [...]

64 [...] [O]n the whole, the introduction of trust deeds has significantly improved credit unions' standard of governance. This has undoubtedly come at a price for credit unions but I believe it has provided a much safer system for the individuals who save with them. Other non bank deposit taking institutions are subject to the same regime and I am not convinced that it should be altered because it restricts credit unions' growth or trustee fees are charged on a commercial basis.

65 In addition, I do not consider it feasible to create a special government unit solely for supervising credit unions [...] The industry is too small to justify its own supervisory unit and it would probably be beyond the industry's means to meet the cost of it.

CONSULTATION

66 The Reserve Bank of New Zealand, the Treasury, the Inland Revenue Department, the Registrar of Credit Unions and the Securities Commission were consulted about the proposals discussed in this paper.

67 In November 2002, the Ministry of Economic Development issued a discussion document that sought feedback on most of the issues considered in this paper:

- allowing credit unions to determine their own bond;
- incorporation;
- removal of the requirement on credit union association to seek ministerial approval for new services;
- shares;
- trust deed requirements, reserves, borrowings and investments;
- conversion mechanism; and
- competitive neutrality/taxation.

68 While most credit unions supported the changes sought by NZACU, the Law Society was more cautious about them. The New Zealand Bankers' Association and Financial Services Federation did not support any reforms unless credit unions' tax exemption is reviewed. A few credit unions favoured the introduction of a conversion mechanism. However, as previously noted, NZACU is opposed to it.

FISCAL IMPLICATIONS

69 The proposals recommended in this paper have no fiscal implications.

HUMAN RIGHTS

70 The proposals recommended in this paper have no human rights implications.

LEGISLATIVE IMPLICATIONS

- 71 Amendment to the Friendly Societies and Credit Unions Act would be necessary to give effect to these proposals.

REGULATORY IMPACT AND COMPLIANCE COST STATEMENT

- 72 The proposals recommended in this paper are of a minor or machinery nature that does not substantially alter existing statutory arrangements.

PUBLICITY

- 73 Once Cabinet has reached a decision on the proposals outlined in this paper, I will inform Manchester Unity and NZACU of Cabinet's decision then issue a press statement announcing the government's policies to the general public. The Hon Dr Michael Cullen is also speaking at NZACU's annual conference, in September, and may wish to address this topic.

RECOMMENDATIONS

- 74 It is recommended that the Committee:
- 1 **Note** that Manchester Unity and the New Zealand Association of Credit Unions have developed a joint proposal on four aspects of the Friendly Societies and Credit Unions Act (the "**Act**") that they wish to see reformed: membership qualifications, legal status and validity of action, capital-raising, and trust deed "duplications".
 - 2 **Note** that most of those proposals are significant and give rise to governance and competitive neutrality issues that could only be resolved by comprehensively reviewing the Act.
 - 3 **Note** that a comprehensive review has been proposed previously by officials but not supported by the credit union movement. A comprehensive review is not a priority at present.
 - 4 **Note** that the following amendments would provide some additional flexibility and efficiency for credit unions, without introducing new governance risks.
 - 5 **Agree** to the following changes to the Act:
 - 5.1 the statutory requirements for membership qualifications should be modified to permit credit unions to have a dual bond in the form of a combination of two permitted membership qualifications, each of which gives rise, in itself, to a common bond for those who meet the qualification;
 - 5.2 the statutory requirement that credit union associations obtain Ministerial approval for the provision of new services to their members should be replaced with a provision enabling

associations to provide any services that are permitted by the Act and specified in their rules;

- 5.3 the statutory requirement that each member must hold a minimum of \$10 “shares” should be a default provision and credit unions should be permitted to determine and specify a higher minimum deposit requirements in their rules;
 - 5.4 each credit union should be permitted to determine and specify in its rules its own process for setting service fees; and
- 6 **Direct** the Ministry of Economic Development to develop a detailed proposal for facilitating credit unions’ conversion to alternative governance regimes, for reporting back to Cabinet by February 2005.
 - 7 **Note** that, in the context of a review of the Securities Act, the Ministry of Economic Development will explore the possibility of giving the Securities Commission wider authority to oversee trustees and trust deeds under the Securities Act, for all public issuers, including credit unions, and will report back on that issue in 2006.
 - 8 **Direct** the Ministry of Economic Development to examine in detail the possibility of making statutory restrictions on borrowing, investment and reserves default provisions that can be varied by the Securities Act trust deeds, taking into account the feasibility of specifying minimum requirements in regulations rather than primary legislation, for reporting back to cabinet by February 2005.

Hon Margaret Wilson
Minister of Commerce