

Proposed Changes to Rules 2019 Notice

This document outlines the proposed Rule amendments that members are being asked to consider at the Annual General Meeting on 24 September 2019. This is a summary of the key changes and does not include all minor or consequential changes that are proposed to be made. A full copy of the proposed replacement Rules is available at <https://nzcusteelsands.co.nz> or from your local branch.

There are two sets of proposed Rule changes:

- 1 Changes that reflect the incorporation of the Credit Union (and directly related legislative changes) – these are outlined in **Part A** below.
- 2 Changes that are not part of the requirements for incorporation – these are outlined in **Part B** below.

The special resolution that members are being asked to consider at the meeting will approve **both sets** of proposed Rule changes.

Part A: Rules changes that reflect the incorporation of the Credit Union (and directly related legislative changes)

Rule Number	Old Rule Description	New Rule Description	Comments
1	Nil	Add "Incorporated" to name of Credit Union	For completeness to record the Credit Union's incorporation.
2	Definition of "Trustee"	Deleted	Deleted because the position of Trustees becomes obsolete following incorporation. Various references to the Trustees have been deleted throughout the Rules.
5	Nil	The Rules are binding as between the Credit Union and each member	Mirrors the language of section 105 of the Act.
6 and 7	Nil	<p>Rule 6 clarifies the extended capacity and powers of the Credit Union, following incorporation</p> <p>Rule 7 clarifies that certain activities are specifically permitted</p>	<p>Rule 6 mirrors new section 107B(1) of the Act.</p> <p>Rule 7 gives (by way of clarity) specific rights for the Credit Union to:</p> <ul style="list-style-type: none"> • borrow and invest money; • deal with land; • provide certain ATM services to facilitate the use by Members, of ATM machines; and

Rule Number	Old Rule Description	New Rule Description	Comments
			<ul style="list-style-type: none"> enter into agreements in relation to the provision of direct credit, direct debit, telephone services or electronic transactions. <p>These rights were previously given to the Trustees of the Credit Union.</p>
26(d)	Business of each Annual Meeting included a report from the Trustees	Deleted	Trustees' report no longer applicable, following incorporation of the Credit Union.
30(c) and (d)	Elections were to be conducted first for Directors, then for Trustees	Reference to elections of Trustees deleted	Deleted because following incorporation there will no longer be Trustees. The changes also provide flexibility in relation to voting for Directors which can be taken as a group or individually, depending upon the standing and tenure of the candidates.
38(h)	Arrange for the Trustees to borrow	The Board is to determine the borrowing policy of the Credit Union – the Credit Union itself is the borrower	Change on incorporation.
Old Rule 30(i)	The Board was required to ensure that the Treasurer and every other officer having the receipt or charge of money gave security as required by previous section 114 of the Act	Right of Board to determine the borrowing policy of the Credit Union	Section 114 has been repealed, so that no security is required. The borrowing policy is to be determined by the Board.
Old Rule 35	The Board may enter into agreements to provide certain electronic services	Nil	Following incorporation, these powers previously reserved to the Board will be assumed by the Credit Union. They are therefore moved to new Rule 7.
46(f)(ii)	Reference to the Credit Union's books and accounts being able to be inspected in accordance with section 131 of the Act	Nil	Section 131 has been repealed.
46(f)(iii)	Reference to the Credit Union's financial statements and audit	Nil	Section 132 has been repealed.

Rule Number	Old Rule Description	New Rule Description	Comments
	report being able to be inspected in accordance with section 132 of the Act		
Old Rules 40 to 43	<p>These Rules formerly set out the duties of the Trustees, namely:</p> <ul style="list-style-type: none"> • holding all property; • paying moneys and controlling bank accounts; • borrowing; • lending; • investing surplus funds; and • holding land and buildings 	Nil	These deletions are consequent upon incorporation. Various functions previously required of the Trustees (for example holding the Credit Union's property) will be able to be fulfilled by the Credit Union itself. Various other Trustee functions will be performed by the Board.
55 and 56	<p>Nil</p> <p>Deeds were generally required to be signed by Trustees, whose signatures were witnessed</p>	Clarifies how the Credit Union may execute documents and appoint attorneys	These new provisions mirror sections 133A and 133B of the Act.
Old Rule 50	The Supervisor was deemed to be a person claiming through the members under section 112(1) of the Act	Nil	<p>Section 112 of the Act ceases to apply on incorporation. Section 112(1) previously provided that the Credit Union's property vested in the Trustees for the benefit of members and persons claiming through them.</p> <p>The right for the Supervisor to claim for the members is set out in the Trust Deed.</p>
80	Transfer of engagements	Transfers of engagement	Small wording change to more closely align with the wording of the Act (section 135(2A)).
Old Rule 76	Provisions relating to the dissolution of the Credit Union	Nil	Dissolution replaced with the liquidation provisions of the Act – see Rule 87.

Rule Number	Old Rule Description	New Rule Description	Comments
87	Nil	The Credit Union may be put into liquidation by the appointment of a liquidator, made pursuant to a Special Resolution	Mirrors section 137A of the Act.
88	On a dissolution surplus assets were to be transferred to another credit union, the Association or applied to charitable purposes, but the process involved two-step meetings	Where there is a liquidation, the surplus assets (after repayments to all creditors) will be transferred to such Charity or Charities as the Board may determine	The proposal to transfer to Charity prevents remaining Members receiving a windfall, not available to Members withdrawing earlier.
89	Nil	On certain contingencies the Directors can request removal of the Credit Union from the Register	Facilitates the removal of the Credit Union from the Register. This can only be done where either the Credit Union has no remaining assets or any remaining assets have been transferred to people/entities entitled to them. Added to clarify (as required by section 140(2)(b) of the Act) that the Directors are authorised to make such a request of the Registrar.

Part B – Rule changes that are not part of the requirements for incorporation

Rule Number	Old Rule Description	New Rule Description	Comments
2	Definition of "Association"	Deleted	The Rules previously required the Credit Union to remain a member of the New Zealand Association of Credit Unions. Given the uncertainty and step-in rights it is proposed to remove this obligation. The Credit Union can still choose to remain a member of the Association. However, the change means that the Credit Union will not be in breach of the Rules should the Association cease to exist.
2	Nil	Definition of "Board Committee"	Definition added to clarify subsequent references to committees of the Board.
2	Nil	Definition of "Charity"	Definition added to clarify subsequent references to charities.
2	Nil	Definition of "Electronic Communication"	Definition added to provide clarity over what constitutes a valid electronic communication, when that term is used elsewhere in the Rules.
2	Nil	Definition of "Electronic Transaction"	Definition added to give greater flexibility in communications / banking transactions.
2	Nil	Definition of "Enterprise"	This new definition is taken from 110(3) of the Friendly Securities and Credit Unions Act (as amended) ("Act"). It is added to clarify the entities to which the Credit Union may make loans or provide services.
2	Definition of "Exemption Notice"	Definition of "Exemption Notice"	This definition has been amended to clarify that the Credit Union could have the benefit of exemptions under either the Financial Markets Conduct Act 2013 or the Non-bank Deposit Takers Act 2013.
2	Nil	Definition of "NBDT Act"	Definition added to simplify the Rules. The definition refers to the Non-bank Deposit Takers Act 2013.
3	Nil	Definition of "days"	Added for clarity/completeness.

Rule Number	Old Rule Description	New Rule Description	Comments
3	Nil	Definition of "personal representative"	Added to provide clarity as to persons with whom the Credit Union may deal, following a member's death or bankruptcy.
3	Nil	In the event of any inconsistency between the Act and the Rules, the Act is to prevail	Added for completeness.
4(b)	Credit Union was only permitted to make loans to Members	The Credit Union is able to make loans to members and certain Enterprises as described in Rule 69	Added to expand upon the range of potential loan recipients, as now allowed under the Act.
4(c)	Nil	The Credit Union is permitted to provide products and services to members and Enterprises, as prescribed by Rule 72	This expanded object is to enable the Credit Union to offer a range of services and products to members and Enterprises, as now allowed under the Act.
18	Nil	Provides that shares are issued on the basis and they can be consolidated or written down on the recommendation of the Board and the authorisation of a Special Resolution	Previously in old Rule 55, but repositioned for clarity. Mirrors a provision of the Act.
29	Nil	Meetings of members can be held via electronic means	Allows the Credit Union to hold meetings of members electronically (for example, across multiple locations connected by video conferencing), if it wishes to do so (it is not compulsory). Where this occurs, everyone present (including via electronic means) is counted towards the quorum. This new Rule is included for future flexibility only. There are a number of other incidental changes elsewhere in the Rules to reflect this new Rule.

Rule Number	Old Rule Description	New Rule Description	Comments
30(a)	Director nominees must be likely to pass a "fit and proper" assurance check	Director nominees must be likely to pass a "fit and proper" assurance check and must meet the requirements of the Credit Union's Fit and Proper Person Policy	Removes any confusion that a person nominated to become a Director must meet the "Fit and Proper" requirements of the Non-Bank Deposit Takers Act.
31(b)	Nil	Votes can be given electronically	Allows the Credit Union to receive votes at meetings of members electronically, if it wishes to do so (it is not compulsory). This new Rule is included for future flexibility only. There are a number of other incidental changes elsewhere in the Rules to reflect this new Rule.
31(e)	Vote for dissolution had to be cast in person	Removed	The Act has been amended to remove dissolution for Credit Unions, which are instead to be liquidated.
31(g)	Postal votes to be submitted by 4.00pm on the day of a meeting	Postal votes to be submitted by 4.00pm on the business day before a meeting	This avoids a potential timing issue, depending on the time of day a meeting is held. The revised Rule also allows postal votes to be received electronically.
32(e)	Director suitability	Director suitability	This Rule has been clarified to confirm that a Director will not take office until Reserve Bank of New Zealand / Non-bank Deposit Takers Act 2013 processes for Director suitability have been completed.
35	Originally provided that the Board may establish Committees	Right to establish Board Committees moved to Rule 38(r). New Rule 35 allows the Board to hold meeting by audio or audio and visual links, as well as face to face meetings	Allows for more flexible meeting procedures.
37	Nil	Resolutions in writing	Allows the Board to pass written resolutions instead of resolutions at a Directors' meeting, provided all Directors agree. This is primarily intended to provide flexibility to deal with any urgent matters that arise.

Rule Number	Old Rule Description	New Rule Description	Comments
38(c)	Board to determine lending policy to members and ensure details available	Board to determine lending policy	Lending now permitted to members and entities related to members. Board may wish to keep lending policy confidential, as for good lending practice it should consider loans on a case by case basis.
38(e)	The Board determined Christmas Club and other share types	The Board determines all share types	Clarification of right of Board to settle the terms of all account types.
Old Rule 30(o)	Credit Union obliged to remain member of the Association	Nil	Membership of the Association becomes a discretionary right of the Credit Union. It means that if the Association fails, or the Credit Union elects to leave the Association, there is no inadvertent breach of the Rules. See also the definition of "Association" above.
38(r) and (s)	Nil	General right to establish such Board Committees as the Directors may think fit and delegate the Board's functions	Added to give flexibility to Board operations.
42 and 43	Secretary must be a Director	The Board may appoint a person who is not a Director as Secretary. If this occurs, the same person cannot be both Secretary and Treasurer.	Added to give flexibility. In addition, the Secretary will be appointed for an indefinite term (until they resign or are replaced). Under the current Rules, a one year term applies.
46(d)	Annual return to be lodged within three months	Annual return to be lodged within four months	Changed to reflect the timeframe at law.
49	Nil	The Board may appoint and remove members of the Audit Committee.	Clarification only.
50(e)	Nil	Audit Committee to perform such functions as may be delegated to it by the Board	Flexibility in functions and powers of the Audit Committee.

Rule Number	Old Rule Description	New Rule Description	Comments
Old Rule 55	Share capital must be issued on the basis that it may be written down	Moved to new Rule 18	This Rule is included to meet section 126 of the Act which provides that the Registrar may require the Credit Union to submit proposals (including writing down of the share capital) which will effect a financial improvement of the Credit Union.
64	Definition of "Conflict of Interest"	Definition of "Conflict of Interest"	Change made to recognise that, because a Credit Union may make loans and provide services to Enterprises, a conflict of interest could arise in respect of an Enterprise.
68(h)	Nil	Provides that a Director or Board Committee member must vacate office if removed from office	Added for the sake of completeness. There may be non-members who are on the Board or a Board Committee and that these persons and other Directors must vacate office on their removal.
Old Rule 63	Regulated the way in which loans could be made to Members	Nil	Replaced by new Rules 69 to 74.
69	Nil	Allows the Credit Union to make loans to members and Enterprises related to members	These provisions mirror section 110(1) of the Act.
70	Nil	Gives powers to the Board to prescribe loan purposes, securities, maximum loan amounts and to otherwise set the Credit Union's lending policy	The Board is to set the lending parameters (previously this was also a Board right in Rules 63(a), (b) and (c)).
71	Nil	Sets out that the Board may require loans to be repaid whose membership is terminated	Included to meet the requirements of clause 15 of Schedule 4 to the Act.
72 to 74	Nil	Allows the Board to provide products or services to members, to Enterprises which have loans to the Credit Union and to Enterprises related to a member	Mirrors the provisions of section 110(2), (3), (4), and (5) of the Act.

Rule Number	Old Rule Description	New Rule Description	Comments
76(c) to (e))	Specific Rules relating to the calculation period for distributions, and a discretion concerning the rate of distributions	Nil	Deleted as they are unnecessary. Rules 76(a) and (b) provide the Board with a general discretion around the payment of dividends.
77(b)	Nil	Added requirement for members to provide to the Credit Union all proof of identity required by any applicable legislation	Designed to "future proof" the identity provisions in line with increasing international identity verification obligations.