

Chapter 3

Superintendent of Credit Unions

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Superintendent of Credit Unions

Background

3.1 The *Credit Unions Act*, proclaimed in 1994, sets the regulatory framework within which the credit union system operates. In order to carry on business in New Brunswick, all credit unions¹ in the Province must belong to a federation; either the Brunswick Credit Union Federation Limited (BCUF) or the Fédération des caisses populaires acadiennes limitée (FCPA). Of the 49 credit unions in New Brunswick, 18 are members of the BCUF while 31 belong to the FCPA. Recently, following a significant cash injection by the Province, the Caisse populaire de Shippagan was transferred from the Brunswick Credit Union Federation to the Fédération des caisses populaires acadiennes.

3.2 Credit unions are also members of the stabilization board established in relation to the federation of which the credit union is a member. There are two stabilization boards in New Brunswick:

- the Brunswick Credit Union Federation Stabilization Board Limited (which operates under the name of Risk Management Agency); and
- l'Office de stabilisation de la Fédération des caisses populaires acadiennes limitée.

3.3 Each stabilization board has a stabilization fund, accumulated through levies paid by member credit unions. The funds can be used to provide assistance to credit unions for stabilization.

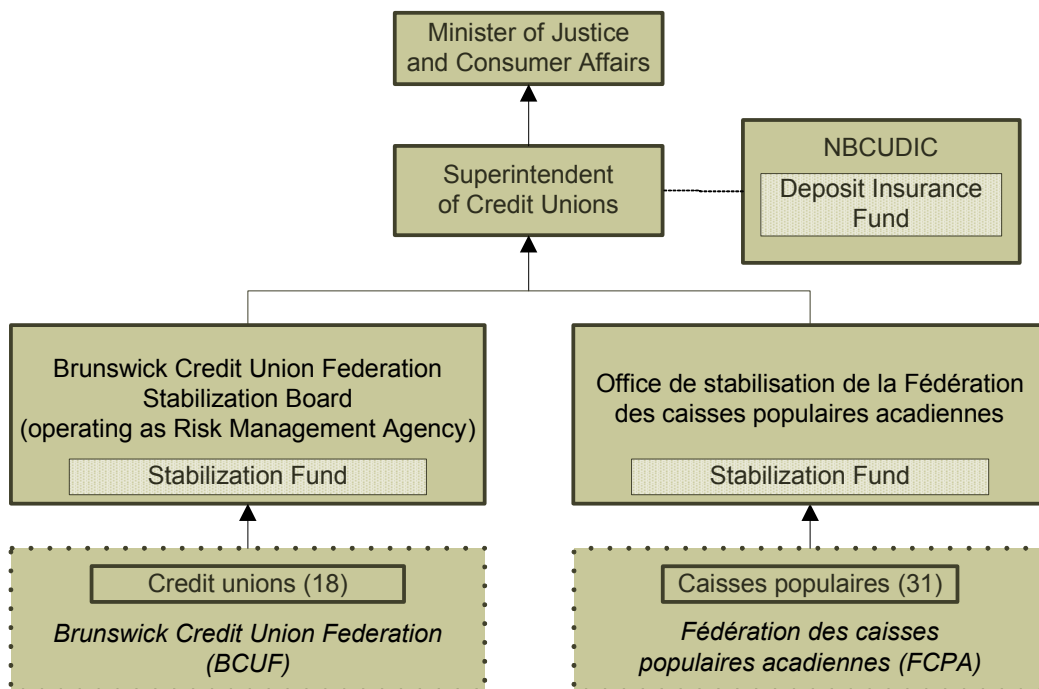
1. Throughout this chapter, the use of the term *credit union* also includes *caisse populaire*.

3.4 In Volume 2 of our 2007 Report, we reported on an audit carried out on deposit insurance. Our audit examined the following topics:

- responsibilities of the New Brunswick Credit Union Deposit Insurance Corporation (NBCUDIC);
- authority, independence and resources of the Corporation;
- information and analysis required by the Corporation to monitor its risks; and
- accountability of the Corporation.

3.5 NBCUDIC is just one component of the larger credit union system in New Brunswick, as seen in Exhibit 3.1.

Exhibit 3.1 Credit union system in New Brunswick



3.6 NBCUDIC also has a role in the system of protection for NB depositors. Based on our audit of NBCUDIC, we found significant weaknesses in the system of protection for depositors of credit unions in the Province. We made recommendations to the New Brunswick Credit Union Deposit Insurance Corporation and the Department of Justice and Consumer Affairs. Since we published that report, numerous changes have been made to the *Credit Unions Act* and the

Caisse populaire de Shippagan was transferred from the Brunswick Credit Union Federation to Fédération des caisses populaires acadiennes.

3.7 We also found that the Superintendent of Credit Unions plays a significant role in a number of entities that make up the system of protection for depositors. For example, the Superintendent is:

- a voting board member of NBCUDIC;
- a non-voting board member of Risk Management Agency; and
- a non-voting board member of l'Office de stabilisation de la Fédération des caisses populaires acadiennes.

3.8 Because of the influence of the Superintendent of Credit Unions and his role in the system of protection for depositors, we thought it necessary to extend our review to the Superintendent of Credit Unions. This audit is the second phase of a review of the system of protection for New Brunswick credit union depositors.

3.9 As stated earlier, the *Credit Unions Act* sets the regulatory framework within which the credit union system operates. The superintendent is appointed and employed by the Minister of Justice and Consumer Affairs. Although the Minister is ultimately responsible for the general administration of the *Credit Unions Act* and its regulations, the Act states that the Superintendent

1. shall act under the instructions of the Minister;
2. shall have general supervision over all matters relating to this Act and the regulations; and
3. shall carry out such duties and may exercise such powers as may be required or authorized by this Act or the regulations.

Scope

3.10 Our audit objective was:

To determine if the Superintendent of Credit Unions is fulfilling his duties and responsibilities to oversee the financial stability and solvency of credit unions and caisses populaires for the protection of New Brunswick depositors.

3.11 To further focus our audit efforts, and to assess the activities carried out by the Superintendent, we developed the following four audit criteria:

1. The Superintendent should monitor the financial condition of all credit unions and caisses populaires.
2. The Superintendent should monitor the financial condition of the stabilization boards.
3. The Superintendent should monitor whether the credit unions, caisses populaires and stabilization boards comply with the *Credit Unions Act* with regard to business operations.
4. The Superintendent should report publicly on performance.

3.12 For the purposes of our audit, we consider:

- **Monitoring** to include obtaining information, reviewing information and acting on the results of the review; and
- **Business operations** to include, for example, capital and liquidity requirements, annual filing requirements, and annual meetings.

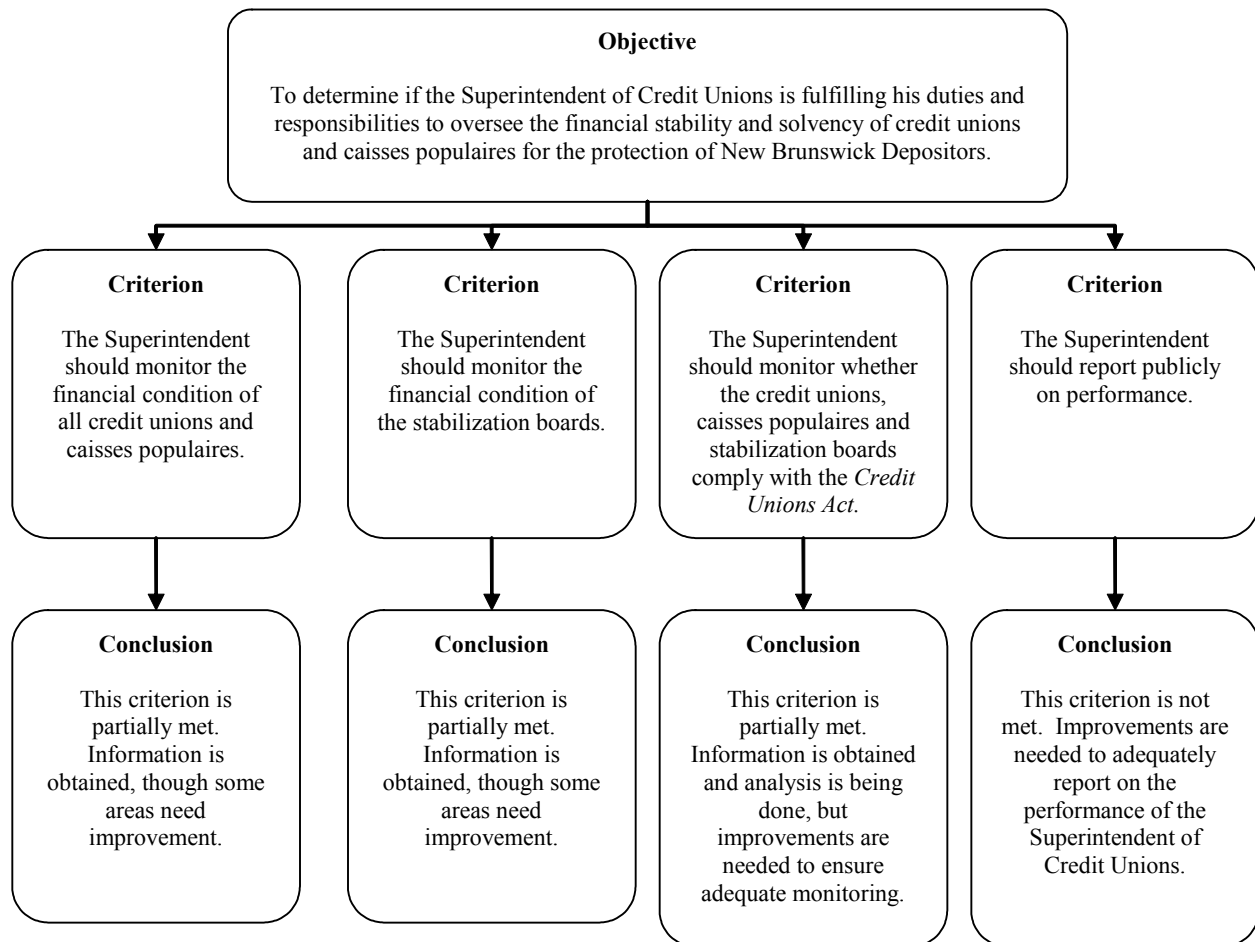
3.13 During the course of our work we met with the Superintendent of Credit Unions, as well as staff of the Credit Unions, Co-operatives, and Trust Companies and Examinations Branch of the Department of Justice and Consumer Affairs. We also reviewed information from the years 2005 to 2007.

3.14 Our audit was performed in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Results in brief

3.15 Exhibit 3.2 summarizes our objective, criteria, and conclusions.

Exhibit 3.2 Audit objective, criteria, and conclusions.



Monitoring

3.16 Our first two criteria looked at the monitoring carried out by the Superintendent of Credit Unions. The criteria were:

The Superintendent should monitor the financial condition of all credit unions and caisses populaires; and

The Superintendent should monitor the financial condition of the stabilization boards.

3.17 The Credit Unions, Co-operatives and Trust Companies and Examinations Branch is responsible for the supervision of credit unions in New Brunswick. The Branch administers the *Credit Unions Act* and regulations and carries out the duties and responsibilities of the Superintendent of Credit Unions. Along with

providing incorporation services for credit unions, the Branch oversees the financial stability and solvency of credit unions for the protection of depositors and recommends policy and legislative changes concerning credit unions. The Superintendent is the director of this branch.

3.18 Based on the mandate of the branch, we expected to find staff at the credit unions branch regularly receiving information, analyzing and studying the information, and the Superintendent making decisions according to the work of his staff. When we spoke to the Superintendent, we found that Branch staff have less involvement in the monitoring of credit unions than we expected. The majority of monitoring of credit unions, as well as the stabilization boards, occurs when the Superintendent attends the quarterly meetings of the stabilization boards.

Conclusion

3.19 These criteria are partially met. Information is being obtained, though some areas need improvement. One example is information on Risk Management Agency's stabilization fund, where little information is being provided to the board. Of the information that the boards do receive, the analysis being carried out is adequate. More detailed information of our findings can be found in the following sections.

Stabilization Board meetings

3.20 There are two stabilization boards in the Province: Risk Management Agency (RMA) and l'Office de stabilisation de la Fédération des caisses populaires acadiennes (l'Office). As per the *Credit Unions Act*, the Superintendent is a director on both stabilization boards. The collection of information presented at the stabilization board meetings is called the "board package".

3.21 We took an in depth look at board packages for meetings of RMA and l'Office held in 2005, 2006 and 2007. While reviewing the information, we considered the following:

- timeliness of information provided at the meetings;
- extent of financial analysis performed;
- reporting of results of inspections on credit unions carried out by the stabilization board;
- extent of information provided on the stabilization fund; and
- reporting on credit unions under supervision or otherwise at risk of supervision.

Timeliness of information

3.22 The stabilization boards meet quarterly. As the meeting frequency seemed timely, we wanted to assess the timeliness of the information shared at the meetings. The timeliness of the information received was assessed using the following scale:

- i. Good** Information provided is dated within 0-2 months of meeting date.
- ii. Fair** Information provided is dated within 2-3 months of meeting date.
- iii. Poor** Information provided is dated more than 3 months of meeting date.

3.23 We examined 13 board packages of l'Office, and assessed the timeliness of information as good in the majority of cases. Of the 12 RMA board packages we examined, the timeliness of information was assessed as good or fair in about 70% of cases; poor in 30% of cases.

3.24 In the case of l'Office, as all credit unions in the FCPA are part of a centralized accounting system, all information at a meeting was generally of the same date. Credit unions with RMA are more decentralized, and there was a range of dates for the information presented at any given meeting.

3.25 Based on our review of the timeliness of information, improvements are needed at RMA to make information assessed by the Board more timely and therefore more useful and relevant.

Financial analysis

3.26 Financial analysis is an important part of monitoring risks. The value of financial analysis will be determined by several factors:

- the analysis is based on relevant, reliable and accurate data;
- the analysis is provided in a timely manner; and
- the analysis includes indicators for results that show a potentially elevated risk.

3.27 L'Office was consistent in their financial analysis for the 13 board packages examined. Information on member credit unions was provided for individual credit unions (when benchmarks are not met) and as a group (in tables). They also provided information on loan impairment. At certain times of the year, they also provided

information on the results of financial audits of their credit unions, such as comments/issues found during the audit.

3.28 The financial analysis report covers many topics:

- detailed discussion on growth in assets;
- detailed discussion on surplus earnings; and
- discussion on risk management, including delinquency rates, risk of loan loss, capitalization rates.

3.29 For RMA, the content of their financial analysis evolved between 2005 and 2007. In 2005, the financial analysis consisted of the following:

- key performance statistics;
- delinquency analysis; and
- impact analysis of the three largest credit unions on assets, equity and delinquency as a percentage of system assets.

3.30 In 2006 and 2007, the financial analysis consisted of credit unions statistics assessed against benchmarks. It compared the individual credit unions against each other and against the statistics for the national average. Specifically, they looked at

- loans;
- deposits;
- earnings;
- share capital and equity;
- income and expenses; and
- allowances for bad debt and bad debt expense.

3.31 One limitation for RMA is the fact that, unlike l'Office, their member credit unions do not all have the same year end and operate under a decentralized system. As mentioned in the previous section, this decreases the timeliness of the information reviewed and the ability to make insightful observations or comparisons based on the financial analysis.

3.32 During our work, we did not test whether the information provided by the stabilization boards was accurate or reliable because we did not have access to the systems that collect and produce the data. This is something the Superintendent should test to determine whether his reliance on the information is warranted and to ensure

that processes are in place to ensure the integrity and the accuracy of the data received from credit unions.

Recommendation

3.33 As part of the inspection process, we recommended the Superintendent of Credit Unions assess the systems that collect and produce data in the financial analysis from the stabilization boards, in order to determine whether he can rely on the information.

Departmental response

3.34 *We will consider incorporating this recommendation into future stabilization board inspections.*

3.35 L'Office provides comparative analysis in a number of areas at each meeting. They also use benchmarks to flag credit unions whose statistics indicate a potential for elevated risk. By using graphs in some of their financial analysis, they are also providing trending information.

3.36 RMA uses a dozen benchmarks to indicate areas of increased risk, and credit unions are compared to one another as well as the national system. Such a comparison to the national system could also be useful to l'Office. However, timeliness of information could be an issue because the information from the national system is not as timely as the in-house figures. One area of weakness for RMA is the lack of trending and comparative analysis – the board may find it useful to trend a few of their key benchmarks, or to isolate certain areas and compare the figures to the previous period or quarter.

Results of inspections

3.37 Stabilization boards are required to carry out inspections of their member credit unions every 18 months. During our review, we found that l'Office was consistent in their reporting of inspection results. Risk Management Agency was generally consistent in their reporting on inspection results. There were some improvements beginning in 2007, which added value to the information reported.

3.38 Though the stabilization boards report on results of inspections differently, both report an adequate amount of information for the purposes of monitoring. Inspections of credit unions are carried out by RMA and SUVI (for l'Office). The inspection process of both organizations was subject to external review in 2007. We discuss the findings of these reviews later in this chapter.

Stabilization Fund

3.39 In all 13 board packages examined, l'Office included a report on the performance of their stabilization fund. The analysis includes details on what is held in the fund, as well as maturity dates. It also includes an assessment of whether the investments are in compliance with the investment policy.

3.40 Based on the review of the board packages of RMA, there was infrequent reporting on the liquidity or quality of the stabilization fund. The only times it appears it was discussed was with regard to the Caisse populaire de Shippagan and the potential impact on the fund. There was also discussion (in relation to Shippagan) which identified the fact that some assets in the fund were not as liquid as others. There were no comments on compliance with investment policy.

Recommendation

3.41 We recommended the Superintendent find a regular and consistent way of monitoring the quality and liquidity of the stabilization fund of RMA.

3.42 Recent changes to the regulations under the *Credit Unions Act* have excluded certain non-liquid assets in determining the total amount of the stabilization fund, such as investments in real estate and loans to employees.

Departmental response

3.43 *We note that*

- *recent amendments to the Credit Unions Act (Bill 56 came into effect on October 31, 2008), included sections to address the liquidity and sufficiency of stabilization funds; and*
- *the investment policy of the respective stabilization boards requires the approval of the Superintendent; and*
- *compliance with approved investment policy is a standard part of the stabilization board inspection process including the inspection of RMA completed in October 2008.*

Credit unions under supervision or otherwise at risk of supervision

3.44 We looked at the information provided to the Superintendent on credit unions under supervision or at risk of being placed under supervision. A credit union can be placed under supervision for a number of reasons, such as:

- violating the *Credit Unions Act* or the regulations;
- unsound business practices;
- committing an act that might prejudice the interests of its members;

- not complying with operating standards;
- requiring financial assistance from the stabilization board;
- failure to file reports or documents as required; and
- failure to comply with an order of the stabilization board or Superintendent.

3.45 L'Office classifies credit unions under "observation" as high, medium or low risk. In their board package, information is provided on each credit union indicating the challenges they face or the reasons they are under observation.

3.46 In the case of RMA, when a credit union is on their "watch list" or under supervision, a summary sheet is prepared for each credit union including a financial analysis report and a risk analysis report on the condition of the credit union.

3.47 In general, the information provided on credit unions under supervision or at risk (under observation) is similar for both stabilization boards. One component of l'Office's summary that we liked was their use of classifications for credit unions at risk. This can help board members better understand the financial health of the credit union.

Benchmarks

Review of Benchmarks

3.48 Though both stabilization boards use benchmarks in their financial analysis, the benchmarks used are not always the same. We reviewed the benchmarks in order to determine whether they were consistent, and if improvements were needed.

3.49 We found that both stabilization boards have benchmarks in key areas: capitalization, profitability and loan loss. The key benchmarks are relatively the same. One area where improvements could be made would be to trend some of these benchmarks. This could be achieved using graphs for the credit unions as a group, or for credit unions showing a higher level of risk.

Inspections of credit unions

3.50 An important part of monitoring the financial condition of credit unions is the process of inspecting them. The inspection, carried out by stabilization boards, looks at a number of areas and the results are reported to the board and to the Superintendent.

3.51 The purpose of the inspection, according to the Act, is:

- to determine whether the credit union is complying with this Act and the regulations or any order made by the stabilization board or the Superintendent;
- to determine whether the credit union is following sound business practices and procedures; and
- to assess the financial condition of the credit union and, in particular, determine whether the stated value of the assets of the credit union fairly represents the realizable value.

3.52 We had originally planned to review a sample of reports on the results of inspections carried out at credit unions by RMA and l'Office (by SUVI). However, the Superintendent advised us that reviews were conducted in 2007 on the inspection process of both RMA and SUVI. Though the scope of the reviews was different, they were recent reviews and the comments made were relevant to the inspection process. The reviews indicated a number of concerns with the inspections processes of both SUVI and RMA. Because of the Superintendent's reliance on the inspections and the work carried out by RMA and SUVI, the Superintendent needs a documented process to satisfy himself that the weaknesses identified during the reviews are not significant. Or, if they are significant, he should perform compensating procedures to address the weaknesses in the process. As well, the Superintendent should have a process to ensure the two agencies implement the recommendations made to them on a timely basis. Therefore, we made the following recommendation.

Recommendation

3.53 We recommended the Superintendent establish a process to satisfy himself as to whether the identified weaknesses in the inspection process are significant, and if so, perform compensating procedures in order to address those weaknesses.

3.54 These findings make it even more important that the Superintendent inspect the processes of the stabilization boards on a regular basis.

Departmental response

3.55 *This recommendation had already been included in the scope of the RMA inspection completed October 2008 and will be included in the scope of the l'Office de stabilisation inspection which we anticipate will be completed in February 2009.*

Independence of SUVI

3.56 Services Unis de Vérification et d'Inspection (SUVI) is an arm of the corporate sector of the Mouvement des caisses populaires acadiennes (MCPA). Their mandate is to:

1. Offer an external auditing service to the credit unions and cooperatives affiliated to the MCPA.
2. Offer inspection services to the credit unions in order to inform them and l'Office de stabilisation de la Fédération des caisses populaires acadiennes regarding the quality of credit management, financial practices and conformity to statutory regulations at the credit union level to promote its continuity and evolution.
3. Offer consulting services (accounting, taxation, committee memberships, etc.) to the various institutions of the MCPA.

3.57 SUVI is specifically identified in the *Credit Unions Act*, which states the organization can be appointed auditor of a credit union. However, based on the range of services performed by SUVI, we began to question whether SUVI's independence had been considered, given the new standards with relation to independence of assurance providers since the Act came into effect.

3.58 During future inspections of stabilization boards, the Superintendent should review the threats to independence faced by SUVI and review what the stabilization boards are doing to ensure that credit union auditors are independent.

Recommendation

3.59 We recommended the Superintendent ensure that appropriate safeguards are in place to eliminate or reduce potential threats to the independence of the auditors of credit unions.

Departmental response

3.60 *SUVI has ceased to offer its services to co-operatives and has discontinued its consulting work. There exists a tripartite agreement between FCPA, l'Office de stabilisation and SUVI which was approved by the Superintendent when it was drafted in 2002. We agree that these arrangements must now be measured against best practices and professional standards in effect in 2009 and as such we intend to re-examine the issue during our inspection of l'Office de stabilisation in February 2009.*

Monitoring of Stabilization Boards

3.61 Aside from reviewing audited financial statements and attending board meetings, the inspection of the stabilization boards is a significant part of monitoring the condition of the stabilization boards. Though the *Credit Unions Act* requires an inspection be carried out on stabilization boards "annually or at such other intervals

as the Superintendent considers necessary”, there has not been an inspection since 1999.

3.62 From discussions with the Superintendent, they do intend to conduct an inspection in the Fall of 2008. Considering the significant role the stabilization boards play, as well as the significant amount of reliance that the Superintendent places on the information provided by the stabilization board, it is critical that these inspections take place. Given the recent struggles of RMA and the needed intervention of the Province in the case of Caisse populaire de Shippagan, it is more important than ever that these inspections take place and that they take place regularly.

Recommendation

3.63 We recommended the Superintendent of Credit Unions inspect the stabilization boards annually.

Departmental response

3.64 *RMA inspection was completed October 2008; l’Office de stabilisation inspection will take place February 2009. Both inspections will remain on an annual cycle hereafter.*

3.65 Another area where the stabilization board should be monitored is the quality and adequacy of their stabilization fund. This is important because when funding was needed to assist Caisse populaire de Shippagan, RMA did not have the funds required to do so, and were placed under supervision as a result. As well, a portion of their stabilization fund was tied up in assets that were not liquid, such as a building and employee loans. Recent changes to the regulations under the *Credit Unions Act* have prohibited the stabilization boards from making loans to employees and investments in real estate from funds held in the stabilization fund.

3.66 During our review of board packages, we found that l’Office was providing regular information at its meetings on the performance of its stabilization fund. The report provides enough information to assess the performance of the fund and its liquidity. Though a summary report on the fund is provided annually, little information on the quality or liquidity of the fund is regularly forthcoming at the board meetings of RMA. Per the Superintendent, the RMA board relies on the fact that the Superintendent approves the investment policy of the fund.

Recommendation

3.67 We recommended more frequent monitoring information be provided to the Superintendent to monitor the quality and liquidity of RMA's stabilization fund.

Departmental response

3.68 *This information will now be included as a standard item in RMA board packages.*

Staffing

3.69 From our discussions with departmental staff, the credit unions branch has been understaffed for some time. In fact, from 2002 to 2006, there was an acting Superintendent of Credit Unions. During that time, the duties were carried out by the Assistant Deputy Minister of the Justice Services Division of the Department, until the position was permanently filled in 2006.

3.70 Other positions haven't been filled due to problems finding qualified, experienced people to take the positions at the current salary level. Of the twelve positions at the branch, there are four that are currently vacant. According to departmental staff, the lack of adequate staffing has had an important impact on the output of the branch. For example, though required annually, no inspections of stabilization boards have taken place since 1999.

3.71 As we mentioned earlier in the chapter, the Branch's mandate states that "the Branch is responsible for the supervision of credit unions and caisses populaires in New Brunswick. It administers the *Credit Unions Act* and Regulations and carries out the duties and responsibilities of the Superintendent of Credit Unions. Along with providing incorporation services for credit unions and caisses populaires, the Branch oversees the financial stability and solvency of credit unions for the protection of depositors and recommends policy and legislative changes concerning credit unions."

3.72 Considering the important role the Branch has in the protection of credit union depositors, and the risk that inaction poses to the Province, it is crucial that the branch has the staff required to carry out its mandate.

Recommendation

3.73 We recommended the Department pursue changes to the position classifications to allow the branch to attract qualified, experienced professionals, enabling it to fill the vacant positions necessary to fulfill its duties.

Departmental response

3.74 *This initiative is underway and we anticipate submitting requisite information for reclassification in February 2009.*

Compliance with the Credit Unions Act

3.75 The third criterion considers compliance with the *Credit Unions Act*:

The Superintendent should monitor whether the credit unions, caisses populaires and stabilization boards comply with the Credit Unions Act with regards to business operations.

3.76 To assess this criterion, we consider business operations to include, for example, capital and liquidity requirements, annual filing requirements, and annual meetings.

Credit unions

3.77 With regards to credit unions specifically, we looked at whether the Superintendent was monitoring their compliance in the following areas:

1. Maintain liquid assets in accordance with regulations.
2. Have annual meeting within four months of year end to consider the annual report, the auditor's report, appoint an auditor and elect directors.
3. File an annual information return.
4. Maintain equity of not less than 5% of total assets.
5. File various reports as required (inspection reports and response to inspection report findings, financial statements, etc.)

3.78 For the three years tested, we examined the information found in the credit union files at the Superintendent's office. We tested all credit unions. Not all requirements of the Act were tested since some were less significant than others.

Liquidity

3.79 We found no documentary evidence that the liquidity requirements were regularly monitored by the Superintendent for the three years tested. Recently however, liquidity was carefully examined due to problems with asset-backed commercial paper, some of which was held by the Fédération des caisses populaires acadiennes.

Equity

3.80 We found that the level of equity held by credit unions was being monitored, mainly by the information presented at stabilization board meetings, and also by statistics compiled by staff at the branch.

Annual filings

3.81 In many instances, we found that an important amount of information was missing from some credit union files at the Superintendent's office. In some cases, specific reports were missing from the files, or reports were not dated to indicate time of receipt. Because of this, we were unable to come up with reliable statistics in most of the testing of annual filings.

3.82 When we discussed this with the Superintendent, he was confident that the reports in question had indeed been submitted. There were some cases where it was clear that departmental staff were monitoring the submission of certain reports, such as the annual information return. In other cases, it's unclear whether the submission of reports as required by the Act is being monitored.

Stabilization Boards

3.83 With regard to stabilization boards, we looked at whether the Superintendent was monitoring their compliance in the following areas:

1. Maintain stabilization fund.
2. Levy credit unions.
3. Submit to the Superintendent the financial statements and auditors' report by April 30.
4. Inspect all credit unions every 18 months, and send copy of inspection report to Superintendent within 30 days.

3.84 For the three years tested, we examined the information found in files at the Superintendent's office. Not all requirements of the Act were tested since some were less significant than others.

- We found that both stabilization boards maintained stabilization funds for the three years tested.
- We found that the stabilization funds of each stabilization board varied in percentage of system assets – l'Office's fund far exceeded the 1.5% benchmark established in legislation, while RMA met the benchmark amount for only two of the three years tested. In both cases, levies were collected.
- We found that RMA and l'Office submitted their financial statements and auditors' reports for all years tested.

3.85 For inspections of credit unions and submission of inspection reports, information found on file was not sufficient to lead to meaningful audit findings. As we mentioned earlier, this was discussed with the Superintendent.

3.86 Based on the results of our test, improvements are needed with regard to ensuring that information required by legislation is indeed submitted to the Superintendent as required. In some cases, we found evidence that the Superintendent's staff is monitoring the submission of documents, such as the information return. We also found that an important amount of information was missing from some credit union files, and that receipt times weren't consistently recorded. This may be a reflection of the limited involvement of branch staff in monitoring credit unions and stabilization boards, or the staffing deficiency.

Recommendation

3.87 We recommended the Superintendent monitor the compliance of credit unions and stabilization boards with the *Credit Unions Act* with regard to business operations.

Departmental response

3.88 *We believe that this is already being done however we will examine our files for improvements in documenting both process and results.*

Conclusion

3.89 Based on our review, the Superintendent has obtained information on the operations of credit unions and stabilization boards, mainly from the information received at stabilization board meetings and from documents submitted by the credit unions and stabilization boards. We did, however, find numerous instances where information was missing from the files at the Superintendent's office. This could be caused by staff having information at their desks or in their own files, or by the information not being submitted.

3.90 The majority of analysis carried out was provided by the stabilization boards; there is limited analysis being carried out by the Superintendent's staff.

3.91 This criterion is partially met. Information is obtained and analysis is being done, but improvements are needed to ensure adequate monitoring is occurring.

Reporting on performance

3.92 Our final criterion looks at how the Superintendent of Credit Unions reports on his performance. The criterion states:

The Superintendent should report publicly on performance

3.93 The Superintendent is accountable to both the Province (Department of Justice and Consumer Affairs, and the Legislative

Assembly) and the public (members of credit unions in New Brunswick). Given the recent struggles of Caisse populaire de Shippagan, and the Province's involvement in remediation, the scrutiny on the credit union system and the performance of the Superintendent of Credit Unions is amplified.

3.94 The Superintendent reports on performance in a number of ways, including the annual report of the Department of Justice and Consumer Affairs and the annual report on Credit Unions, prepared by the Credit Unions, Co-operatives and Trust Companies and Examinations Branch.

Annual Reports Compliance with Annual Report Policy

3.95 The Province's policy on annual reports states that the objective of an annual report is to be the major accountability document for the Legislative Assembly and the general public, serving as the key link between the objectives and plans of an organization and the results obtained.

3.96 The policy identifies the requirements for annual reports. We reviewed the annual report of the Department of Justice and Consumer Affairs for 2005-06 and 2006-07, with specific attention to those sections that pertain to the Justice Services Division, of which the Superintendent of Credit Unions is the Director. We then tested the reports against the requirements of the annual report policy. Our findings are summarized in Exhibit 3.3.

Exhibit 3.3 Compliance with annual report policy

Policy Requirement	2005-06 Annual Report	2006-07 Annual Report
	Met?	Met?
Clear accounts of goals, objectives and performance indicators	No	No
Program relevance	No	Yes
Achievement of plans	No	No
Program acceptance	No	No
Actual and budget information, variances explained	No	No
Clear and simple language	Yes	Yes

3.97 Although the report states the Branch's purpose, we found that there were no objectives, goals or performance indicators in the annual report. Since there are no objectives or goals set, there is no discussion of achievement of plans or program acceptance. Program relevance was somewhat discussed in 2006-07 when the report highlighted that branch staff participated in negotiations which subsequently led to the remediation of the Caisse populaire de Shippagan. Financial information is presented in another report (Credit Unions annual report); however, no such report was published for the years tested. Overall, the report was written in clear and simple language.

3.98 One other problem we noted is that in both the 2005-06 and 2006-07 departmental annual reports, references are made to the Credit Unions annual report for further information pertaining to credit unions. However, at the time of our audit, no such reports had been published since 2004. Based on discussions with branch staff, reports for the calendar years 2005 and 2006 are ready but not yet published. It is our understanding that the Branch intends to cease publication of a separate credit unions report in favour of expanding their section in the Department's annual report. Some financial information is presented in the Credit Unions annual report, and if there had been a report published in the years tested, we could have considered this as part of the reporting package. If the activities in the Credit Unions annual report were tied to goals or plans, it would improve the accountability of the Superintendent and the work of his staff.

Other means of reporting

3.99 We also tried to determine what other ways the Superintendent of Credit Unions reports publicly on his performance and how he keeps the Minister informed on risks faced by the Province. From our discussions with the Superintendent, if the Province is facing risk as a result of the activities in the credit union system, the Superintendent would bring this to the attention of the Deputy Minister in a briefing memo. Otherwise, there is no regular reporting of this nature.

Conclusion

3.100 This criterion is not met. The annual report does not meet all of the requirements of the annual report policy, and improvements are needed to adequately report on the performance of Superintendent of Credit Unions.

Recommendation

3.101 We recommended the Department of Justice and Consumer Affairs comply with the requirements of the annual report policy with respect to the content concerning the work of the Superintendent of Credit Unions in its annual report.

Departmental response

3.102 We will review the annual report policy and ensure that future reporting is in compliance with policy.

Other comments

3.103 We have a few comments that we would like to make concerning the role of the Superintendent. The framework of the credit union system places many hats on the Superintendent's head. Not only is he the Superintendent of Credit Unions, but he is also a member of the RMA board, l'Office board and the NBCUDIC board. In addition, he is also Director of the Credit Unions branch. Having one individual with so many roles could lead to conflicts. For example, the Superintendent was in a conflict of interest when RMA requested authorization to place Caisse populaire de Shippagan under supervision, while also being requested to hear an appeal by the Caisse of the orders made by RMA. Another example would be the Superintendent placing RMA under supervision, while the Superintendent himself is a board member of RMA and would be selecting the agent to act as supervisor.

3.104 There could also be a conflict in reporting. The Superintendent reports to the Minister of Justice. As director of the Credit Unions branch, he would report to the Assistant Deputy Minister of Justice Services Division of the Department. In addition, the Superintendent has responsibilities to the various boards of which he is a member. These differing reporting relationships can lead to conflicts when it comes to the priorities of each party, especially if they are not the same.

Recommendation

3.105 We recommended the Department examine the conflicting roles of the Superintendent and make changes where appropriate.

Departmental response

3.106 We do not share the concerns of the Auditor General in this regard. It is important to remember that the Superintendent is a non-voting member of the respective stabilization boards. As such, it is our opinion that:

- *the Superintendent is able to bring an objective point of view to appeals brought by credit unions against stabilization board Orders since it is an issue on which the Superintendent has neither voted nor otherwise approved prior to hearing the appeal; and*
- *the Superintendent, when placing a stabilization board under supervision, is acting as an objective but informed third party who has not cast a vote on any of the actions of the board giving rise to the need for supervision.*

3.107 *The prior regulatory regime named the Superintendent as the statutory Chair of the New Brunswick Deposit Insurance Corporation. Recent amendments, while leaving the Superintendent as a voting member of the Board, relieved the Superintendent of this responsibility. Extensive consultation prior to introducing the amendments did not reveal objections to the Superintendent's membership on the board.*

3.108 *In fact, we are of the opinion that participation by the Superintendent at the stabilization board level creates a level of accountability and transparency on the part of industry not found in many other regulatory regimes.*

3.109 We also question why there are two separate regulatory regimes. Given the recent strain placed on financial institutions, and the relatively small size of the credit union system in New Brunswick, it would make more sense that the two regimes be combined and benefit from each other's strengths and the economies of scale. In addition, having one regulatory regime could assist the credit union system to be self-sufficient, and possibly avoid further interventions from the Province.

Additional departmental comments

3.110 In addition to responding to each of our recommendations, the Department provided the following comments:

On July 26, 2007, the Government of New Brunswick (GNB) and Fédération des caisses populaires acadiennes (FCPA) signed agreements facilitating the remediation and transfer of affiliation of Caisse populaire de Shippagan (CPS) to FCPA. Reaching these agreements and avoiding further crisis at CPS was the dominant priority on the Superintendent's agenda in the months preceding.

On March 23, 2007, Risk Management Agency (RMA) was placed under the supervision of Grant Thornton LLP acting in concert with the Office of the Superintendent. Supervision ceased in December 2007 when the control and direction of RMA was placed back in the hands of a new and stronger board of directors. Beginning in the supervision period and continuing under the direction of the new board, much of the subject matter of your discussion on stabilization boards has been or is being addressed. For example:

- Financial statements and other relevant information are being provided to board members between meetings for their consideration.*
- RMA will be addressing performance measurement, trending and benchmarking issues during a strategic planning session scheduled for February 2009.*
- Individual credit unions are moving toward a common December 31 year end and this is largely taking place as part of a larger consolidation of the system into fewer larger units.*
- RMA is working with Credit Union Central of New Brunswick to develop and implement more timely and accurate reporting strategies within the context of a system where individual credit unions retain significant autonomy.*