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#### **EXP {} \$ E OF Ä # CTFS**

This Act aims to define a specific institutional framework for cooperative savings and credit for saving the peculiarities inherent to their organization and working methods, without jeopardizing their status Credit Institution.

| important to note that to date, cooperatives are governed by the provisions of the Decree of 24 March 1956 on the indigenous cooperatives.

However it turns out that during the development of this legislation, savings and credit cooperatives had not yet emerged.

Indeed, the first Cooperative Savings and Credit in the Democratic Republic of Congo have established themselves successfully from the early 1970s.

In 1985, a first attempt for the supervision of these financial structures was tempted by the Central Bank which has issued an instruction to regulate their activities under the powers recognized him by Ordinance-Law No. 72-004 of 44 January 1972 on the protection of savings and control of financial intermediaries.

The consecration of savings and credit cooperatives as Credit Institution intervene with the Law on the activities and supervision of Credit Institutions. g

This legal text has completely remodeled the national financial system, by defining a single framework applicable to all companies jointly carrying out banking operations, but without affecting the peculiarities of each class of Credit Institution.

This Act contains provisions in its main features that make the cooperative savings and credit of a particular type Credit Institution, whose vocation to provide assistance to its members in ensuring their access Sufficient Financial Services.

#### **TITLE I: DEFINITIONS, SCOPE AND APPLICATION PROCEDURES**

This title includes two chapters deal successively definitions of key concepts used in this Act, on the one hand, and its fields and methods of application, on the other.

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## CHAPTRE {er: Definitions

Savings and credit cooperatives are groups of people with legal personality, which pursue primarily a social objective. The services rendered to their members. This aspect distinguishes the commercial companies whose activities aim first realization of profit.

Furthermore, the legislature, for efficiency, structured the cooperative system in an overall architecture comprising the following three levels

- The primary cooperative savings and credit, SACCOs abbreviation;
- The Central Cooperative Savings and Credit, in COOCEC acronym;
- FEDERATION central cooperative savings and credit, abbreviated Federation.

These umbrella organizations are called upon to provide leadership and 1'éducation cooperative members at the same time they should serve as a relay to promote the efficient supervision of the Central Bank on the entire network.

## II CHAPTER: SCOPE AND IMPLEMENTING PROVISIONS

Savings and credit cooperatives are credit institutions as defined in the Banking LOj,

However, the Banking Act shall apply to Cooperative Savings and Credit that to the extent that this Act contains express provisions to that effect.

This Act is specific to the cooperative savings and credit, its provisions prevail over those of the Banking Act, which is the common framework for all Credit Institutions.

The provisions of the Decree of 24 March 1956 on the indigenous cooperatives do not apply to savings and credit cooperatives.

The savings and credit cooperative is governed by the principle of cooperation and its central values of equality, fairness and mutual support. (Article 9)

## TITLE II: CONSTITUTION, APPROVAL AND CAPITAL

Title II applies mainly to primary cooperative savings and credit (SACCOs). It includes three chapters dealing with the constitution, and social capital 1'agrément primary cooperative savings and credit.

The creation of a primary cooperative savings and credit requires the holding of a constituent general assembly during which the founders adopt its statutes and sign a founding statement.

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The founding declaration and the articles are filed with the Registry of the Court of First Instance in whose primary cooperative savings and credits Headquartered (Articles 40 and 11).

She gets legal personality only after its approval by the Central Bank, The conditions of obtaining this approval are laid down in

Articles 15 to 19 of the Act.

The share capital of the primary cooperative savings and credit consists of shares whose value is determined by the statutes. (Article 20)

TITLE || : MEMBERS - MANAGEMENT BODIES - GERANCE

The ill as defined in four separate chapters the access conditions to the shareholder base of savings and credit cooperatives and the terms of their organization and operation.

I CONDITIONS FOR ACCESS TO MEMBERSHIP (CHAPTER I - Articles 22 to 27)

While stating that SACCOs are mainly composed of natural persons, the legislature did not exclude the possibility for a corporation to become a member of such Credit Institution.

The main condition for access to the shareholder base of a primary cooperative savings and credit is the sharing of "common bond" defined in section 2 of this Act.

Additional conditions are also planned including the subscription and payment of at least one share, signed an application for membership, etc. (art. 22)

SACCOs may also provide in their statutes a class of auxiliary members (art. 23).

Membership in a SACCO is free, Parliament has also backed the freedom for any member to withdraw from the SACCO,

The resigning member is, however, required to pay off its obligations with regard to the SACCO. Similarly, a resignation may be denied for up to two years, when it results in the dissolution due to the SACCO.

2. ORGANIZATION AND OPERATION OF THE COOPERATIVE PRIMARY  
DEPARGNE AND CREDIT (|| CHAPTER IV - Articles 28 to 57) The  
bodies of SACCOs are

the General Assembly,

board of directors;

the Supervisory Board;

Credit Commission.

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The legislator establishes the powers of each organ and leaves the SACCOs the freedom to determine the operating rules in their statutes and regulations.

Among the principles adopted by Parliament in this context, it should indicate:

- Accumulation of the prohibition of management and control functions by the same body;
- All leaders are elected for a renewable term of three years they exercise free of charge, except the manager who is salaried,

The legislator also sets strict criteria of morality and competence that must meet a member to apply to become leader of a SACCO,

#### PART IV: RULES OF MANAGEMENT, FINANCIAL DISCLOSURE AND RECORDS

The activity of savings and credit cooperatives like that of other Credit Institutions, generates risks that could jeopardize the savings of their members,

Through the provisions of Articles 58 to 61, the legislator intends to introduce the basic principles of prudential regulation of the activities of the cooperative savings and credit to ensure sound management and financial strength of the Credit Institutions, which will now stand as an alternative offered in the monetary authority in the banking layers of the unserved population.

Tax incentives are also planned to promote the activities of savings and credit cooperatives and the social advancement of their members, without disturbing the normal competition should exist in the domestic financial system (Article 62), 9.

Protecting members' savings also requires the establishment of mechanisms, standards and rules designed to ensure transparency in the management of savings and credit cooperatives in view of allowing the supervisory authority to the supervisory bodies to members and to any interested third parties to obtain all the necessary information (Articles 63 to 66).

Savings and credit cooperatives are thus required to produce and publish as appropriate, documents, reports and information in the form and at intervals set by the Central Bank.

#### TITLE V: SELF-CONTROL, EXTERNAL AUDIT AND OVERSIGHT

The supervisory bodies established by the legislature are responsible for ensuring compliance by savings and credit cooperatives sound management rules, in order to better protect members' savings,

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##### 1. The control within a network (self-control)

Any non-affiliated Federation COOCEC or is required to conduct monitoring on site and rooms as well as the inspection of SACCOS COOCEC or, as applicable, affiliated to it (Article 69).

Inspectors COCCEC or the Federation are entitled, as part of the inspection mission, communication of all documents and information necessary to 1'exercice their function without that professional secrecy is binding on them (Article 71 ).

They can, for interim measures to suspend for a period not

exceeding three months following any leader of any serious matter affecting the interests of the savings and credit cooperative or its members (Article 73).

## 2. The external control and supervision

The Central Bank surveille compliance of operations of the cooperative savings and credit to the regulations in force, given the periodic reports that they establish and reports following investigations inspectors networks to which they are affiliated.

The Central Bank may make or cause to check on rooms and on site of a savings and credit cooperative in order to consider including operating conditions and the quality of its financial situation.

It must undertake or at least once a year, inspection of SACCOs unaffiliated and must ensure control on the spot and on.

Control of the Central Bank may also extend to companies controlled by the savings and credit cooperative.

Verification of a primary cooperative savings and unaffiliated credit is performed by an external auditor appointed by the members at the Annual General Meeting for a term of one year (Article 76).

## Title VI: SECRECY AND WITHDRAWAL OF APPROVAL

This title includes two chapters devoted, first, to professional secrecy and the second, the withdrawal of approval.

### CHAPTER 4 er: SECRECY

Any person who participates or participated in the management or control of a savings and credit cooperative is invested with a function of confidence and can as such be regarded as custodian of the secrets entrusted to him part of his profession.

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The general and absolute professional secrecy must, therefore, the submit to criminal 1'obligation of silence

However, the legislator brings limitations to this obligation not to disclose the

professional secret,

Thus, professional secrecy can not be opposed neither the Central Bank nor

the judicial authority acting within the framework of criminal proceedings.

### **AIOH**

The Constituent and Legislative Assembly, Transitional Parliament adopted the President of the Republic promulgates the law dontia reads as follows:

## TITLE I: DEFINITIONS, SCOPE AND APPLICATION PROCEDURES

### L CHAPTER: DEFINITIONS

*Article ser:*

For the purposes of this Act, are considered

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"Cooperative Savings and Credit": any group of persons, with variable capital, with legal personality and based on the principles of unity, solidarity and mutual assistance and whose primary intent is to collect savings its members and their Consent of credit;

"Primary Cooperative Savings and Credit" or "SACCO" means any savings and credit cooperative composed mainly of individuals and have at least twenty members, and operating according to the principles listed in Article 9. The denomination a primary cooperative savings and credit includes the acronym "SACCO";

"Central Cooperative Savings and Credit" or "COOCEC."; Any cooperative savings and credit whose members are exclusively SACCOs The designation of a central cooperative savings and credit includes the acronym "COOCEC" -

"Central Cooperatives Federation of Savings and Credit or" FEDERATION "means any cooperative savings and Créditformée exclusively COOCEC.

"NETWORK": a set of savings and credit cooperatives affiliated to the same central cooperative or a FEDERATION following grouping rules defined by this Law.

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*Article 2:*

In this Act, the following expressions shall:

1. "Common Link": the identity of profession, employer, place of residence,

association or objective

2. "Officer" means a member of the Board of the Supervisory Board of Credit Commission and the Manager;

"Banking Law"; Law on the activities and supervision of Credit Institutions "Central Bank": Central Bank of Congo,

## CHAPTER I SCOPE AND APPLICATION PROCEDURES

*Article 3:*

This Act applies to credit and savings cooperatives operating on the territory of the Democratic Republic of Congo.

*Article 4:*

The Banking Act applies to me Cooperative Savings and Credit governed by this Act only insofar as it contains specific provisions to this effect.

*Article 5:*

Savings and credit cooperatives are a credit institution within the meaning

of Article | of the Banking Act and is part of the Credit Institutions categories provided for in Article 2 of that Act.

*Article 6:*

The details of banking operations provided for in Article 6, the first paragraph of Article 7 and Article 8 of the Banking Act also apply to savings and credit cooperatives.

However, under the second paragraph of Article 3 of the Banking Act, deposits with savings and credit cooperatives are not transferable.

*Article 7:*

No one can claim in its name or company name of one of the following names or a combination of these, "Cooperative Savings and Credit", "Primary Cooperative Savings and Credit" or "SACCO", "Central cooperative savings and credit or" COOCEC "and" Federation of cooperative savings and credit Facilities ", nor use them for its activities, ní create the appearance of such quality, without having been authorized in accordance with Articles 15 to 19.

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Any notice of name change must be communicated to the Centraie Bank and at the Court of competent Instance.

*Article 8:*

The savings and credit cooperative may exercise another activity that collect savings of its members and extend credit, except as determined by the Central Bank.

In this case, these transactions should remain a limited importance in relation to all key activities and are deemed not to be carrying on a trade or a means of profit.

Subject to the first paragraph, the activities of the cooperative savings and credit are reserved à its members,

*Article 9:*

The savings and credit cooperative is governed by the principle of cooperation and its central values of equality, fairness and mutual assistance, self-determination and democratic control.

It acts according to the following rules of cooperative action:

1, membership is free and volunteer; 2 °. the number of members is not limited 3, members have equal voting rights according to the principle "one person, one

voice ", regardless of the number of shares they hold; 4. A member may vote by proxy; 5 °. interest on the shares is limited; 6 °. the annual operating surplus are first paid to the general reserve within the limits provided in the articles, then the balance is distributed to members in proportion to the operations carried out by each of them with the savings and credit cooperative; 7 °, actions co-op members are preferred.

CHAPTER H: withdrawal of approval

The Central Bank delivers the withdrawal of approval of a savings and

credit cooperative under the administrative and disciplinary powers it has on all Credit Institutions.

## 1. Withdrawal of the authorization as an administrative measure

The approval may be withdrawn in the following cases - at the express request of the SACCO;

- When the activities it does not intervene in the year following the decision

Approval or when SACCO not active for over a year;

- The sale of the SACCO activities;

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- In case of merger or demerger.

## 2. Withdrawal of approval as disciplinary sanctions

The withdrawal of authorization is issued in case of serious or repeated under this Act, subject to respect for the rights of defense.

## TITLE VII: THE MERGER, SPLIT DISSOLUTION AND LIQUIDATION

Mergers, divisions, dissolution and liquidation of savings and credit cooperatives are performed under the supervision of the Central Bank who shall safeguard the interests of members,

With specific regard to the liquidation, when at the end, there remains a surplus, the General Assembly may decide to allocate the reimbursement of shares members.

The optionally available balance after this operation is vested in another cooperative savings and créditou to works of social interest.

The heritage of a savings and credit cooperative, which is often the product of savings of several generations of cooperators, should the liquidation thereof, to serve community interests rather than those of individuals, however, adhering to the cooperative ideal, do not pursue an essentially profit

## Title VIII: CONSOLIDATION OF SAVINGS AND CREDIT COOPERATIVES

The legislature retains as apex bodies of savings and credit cooperatives, the Central Cooperative Savings and Credit COOCEC in initials and the FEDERATION of Savings and Credit Cooperatives Federation acronym,

These are umbrella organizations with legal personality can clearly distinguishing their members be exceptions, the primary savings and credit cooperatives, for COOCED, and central cooperative savings and credit for federations,

A 1<sup>instar</sup> SACCO, the COOCEC and Federations can practice after their approval by the Central Bank.

The COOCEC and federations have the dual role of ensuring 1<sup>éducation</sup> cooperative members and assist the central bank in controlling all the networks to which they are affiliated, respectively.

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## TITLE IX: PENALTIES

In return, the legislator provides for disciplinary, administrative and criminal for the crime of savings and credit cooperatives and any person directly or indirectly involved in their administration, management or control,

The Central Bank may be parties before the courts seized for violations of provisions of this Act.

## TITLE X: TRANSITORES AND FINAL

The Central Bank defines as required by regulation, the rules of application of this Law (Article 105).

The review of the legality of the actions of the Central Bank in this context is the jurisdiction of administrative courts established by the legislation.

Cooperative savings and credit activities and duly authorized before the entry into force of this Act are deemed to be authorized by simple declaration to the Central Bank,

They have a period of one year from the effective date of the pre feel Act to comply with its provisions,

## PART II: ESTABLISHMENT, REGISTRATION AND CAPITAL

### CHAPTER I: CONSTITUTION

#### *Article 10:*

SACCO is constituted in accordance with this Law, in the form of variable capital cooperative whose primary intent is to collect savings from its members and grant them credit.

The constitution of a SACCO requires the holding of a constituent General Assembly designed in particular to rule on the subject of the SACCO, its name and its headquarters,

Constitutive General Assembly must also establish the list of subscribers to the capital, to approve the draft constitution and to elect members of the organs. -

The founding members must sign at the Constituent Assembly, a statement of the name of the SACCO, its headquarters, the common bond, names, occupation and residence of the signatories and the name of the C00CEC which may SACCO eventually join.

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#### *Article 44:*

The Foundation Statement filled in Article 10 must be signed by at least twenty persons capable of contracting, and filed with the Clerk of the District Court in whose jurisdiction the SACCO is headquartered.

The declaration must be accompanied by the articles of the SACCO.

#### *Article f2:*

The statutes define the SACCOs include:

1, the object, the name, head office and the geographical area of intervention; 2, the common bond; 3 °. the rights and obligations of members; 4 °. life COOPEC, 5 °. the nominal value and the terms of acquisition, divestiture and

redemption of shares; - 6 °, conditions and terms of membership, suspension, resignation or expulsion

members ; 7 °. the conditions of access for Member Services SACCO; 8 °. responsibility vis-à-vis third parties; 9 °, organs, their role, their composition and mode of operation; 10 °, the minimum and maximum number of members of bodies, their powers, their term and conditions of renewal or dismissal; 11 °. the rules and standards of financial management and the distribution of surplus

Annual subject to Article 59; 12 °, the SACCO Control.

*Article f3.*

Any modification of the statutes must be adopted by the Extraordinary General Meeting by the decision taken at the two-thirds majority vote of the members present.

This change is subject to approval of the Central Bank within one month from the date of the General Meeting that approves the change. She then lodged at the competent court Copy of the modification is transmitted to the C00CEC or the Federation, as appropriate.

}} CHAPTER: APPROVAL

*Article 44:*

The primary cooperative savings and credit must, before exercising its activities in the territory of the Democratic Republic of Congo, to be approved beforehand by the Central Bank, in accordance with Articles 15 to 19.

Accreditation confers legal personality,

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*Article 15:*

The application for approval is submitted to the Central Bank. The accreditation application, includes the following information and documents:

1) the statutes duly signed by the founders; 2) the minutes of the constituent General Assembly; 3) the founding declaration under Article 10; 4) the names, addresses and occupations of leaders;

") Documents certifying payments made under capital subscriptions;

) Estimates of activities, implementation and organization; ) Details of the financial and technical means and human resources

SACCO that intends to implement in relation to its objectives and needs,

8 °) the accounting and financial rules and procedures;

9 °) all other documents and information that could inform the decision of the Central bank.

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*Article 16:*

In the process of reviewing the application for approval, the Central Bank is entitled to collect all information and documents deemed relevant to the examination of the application.

*Article 17:*

The application for approval is deposited at the place indicated by the Central Bank.

In the case of the SACCOs in the process of affiliation with a C00CEC, a license application may be submitted by the latter to the Central Bank.

*Article 18:*

Upon receipt of the approval application, the Central Bank issues a receipt. The review of the application for approval can be given to other bodies or persons under the conditions specified by the Central Bank.

*Article 19:*

Accreditation is granted within 90 days of the date stated on the receipt, exceeded this time the cooperative is deemed approved.

The accreditation document is published at the expense of the applicant, in the Official Gazette and in at least one organ of great diffusion of the national press.

The precise act of accreditation activities exercisable SACCO,

The refusal of authorization shall be notified to the applicant by the Central Bank within the same period as fixed in the first paragraph.

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CHAPTER II : Share capital

*Article 20:*

The share capital of the SACCO consists of shares whose nominal value is determined by the statutes,

Social capital varies with changes in the value and number of shares and the number of members.

*Article 21:*

The shares must be fully paid.

They are personal and non-negotiable; they are transferable only in accordance with the statutes. The shares are seizable, except for the minimum required for the membership, and to the extent that their entry does not entail the dissolution of the SACCO. The shares may be paid within the limits set by the General Assembly.

## LII TITLE: MEMBERS-BODIES-LEADERS-GERANCE

### Chapter I: MEMBERS

#### *Article 22:*

Be a member of a SACCO, any legal or natural person capable of contract and which:

1. sharing the common bond as defined in Article 2;
- 2 °. Subscribed and releases at least a share;
- 3, sign an application for membership, except in the case of a founder;
- 4 °, committed to respect the statutes and regulations of the SACCO;
- 5 °. pays the fixed membership fee, where applicable, by the General Assembly
- 6 °. is admitted by the Board of Directors.

#### *Article 23:*

SACCO may provide in its articles in a class of auxiliary members. These members are natural or legal persons who do not fulfill the conditions laid down in Article 22 Accession

The statutes shall, moreover, the conditions of their admission and their rights and obligations, subject to paragraph below.

These members have the right to attend meetings but can not Vote or fulfill any function within the SACCO.

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#### *Article 24:*

A member may withdraw, provided he is not endorsing or borrower of a loan. However, a resignation may be refused for up to two years, when it results in the dissolution due to the SACCO. The decision refusing the resignation of a member may be appealed before the General Assembly.

#### *Article 25:*

The Board of Directors may exclude any member who does not respect the principles of cooperation as defined in this Act, the statutes or the rules of the SACCO, or puts PERii the proper functioning of the SACCO. The decision to expel a member may be appealed before the General Assembly.

#### *Article 26:*

Regarding the debts of the SACCO, the financial liability of members committed to the extent of their shares,

#### *Article 27:*

The loss of membership results in the clearance of its debts and commitments of the SACCO,

### Chapter I: BODIES

#### *Article 28:*

SACCO has the following bodies: - the General Assembly; - The Management Consultant; - The Supervisory Board; - Credit Commission.

The statutes and rules of procedure of the SACCO specify the rules of functioning of its organs.

#### Section I: General Assembly

##### *Article 29:*

The General Assembly is the supreme body of the SACCO. It consists of all the members convened in accordance with the Articles.

##### *Article 30:*

The General Assembly has jurisdiction to:

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ensure the proper administration and functioning of the SACCO; modify the statutes and rules of procedure of the SACCO; change the registered office and the common bond of the SACCO; approve the reports of other organs; elect and dismiss members of the SACCO members; decide on the allocation of the annual surplus earnings; define the SACCO credit policy; Create reserves and any structure it deems useful for achieving the purpose of the SACCO, deal with other matters relating to the organization and functioning of the SACCO,

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##### *Article 34:*

Excluding provisions for amendment of the bylaws, the election of members of bodies, approval of accounts and allocation of results, "General Assembly may delegate some of his powers to any other organ of the SACCO.

##### *Article 32:*

Members meet in Ordinary General Assembly at least once a year, mainly in the three months following the close of each financial year, in view in particular:

to adopt the report of activities for the year; to examine and approve the financial statements; to discharge the members of the management bodies; to elect members of the organs; to appoint an auditor, if necessary.



##### *Article 33:*

Members can meet in extraordinary General Assembly convened for | Initiative:

1. Board of Directors of the SACCO; 2. at least one third of members of the SACCO; 3. Board of Directors of the COOCEC that the SACCO is affiliated;

4. the SACCO Supervisory Board; 5. Central Bank.

Only questions contained in the notice of meeting may be the proceedings of the Extraordinary General Meeting.

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Section II; Board of Directors

*Article 34:*

The Board of Directors of the SACCO is composed of at least five directors. However, the statutes of the SACCO may provide a higher odd number of directors can not exceed nine.

No employee of the SACCO can not be part of the Board.

Manager attend or be represented at meetings of the Board which he also assumes the secretariat.

*Article 35:*

The Board of Directors shall, within the limits of the statutes and rules of procedure, the powers generally or specially delegated by the General Assembly.

To this effect, it shall in particular:

1o. SACCO define the resource management policy; 2 °. ensure compliance with statutory, regulatory and statutory 3. promote the work of inspectors and any monitoring mission from the

Central Bank, the COOCEC or the Federation, as applicable; 4 °. promote by any measure, Economic Education, Social and Cooperative

members; 5 °. decide appeals on decisions Credit Commission to place a

member; 6 °. propose solutions for amicable settlement of disputes; 7 °. implement the decisions of the General Assembly; 8 °, report periodically on its mandate to the General Assembly.

*Article 36:*

The Board of Directors meets in the forms provided by the statutes and rules of procedure of the SACCO.

*Article 37:*

The majority of the directors constitutes a quorum of the Board. The decisions of the Board are taken by a majority of the directors present,

|| Section: Supervisory Board

*Article 38:*

The Supervisory Board consists of three members elected by the General Assembly. .

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*Article 39.*

The Supervisory Board is responsible for overseeing the operations of the SACCO, has access to all parts and can get all the information he requires.

*Article 40:*

The Supervisory Board is in charge of: 1. check the assets and liabilities of the SACCO; 2. monitor the operations arising from decisions of the credit committee; 3. submit recommendations to the Board; 4

ensure that the operations of the SACCOs are controlled periodically and in accordance with Articles 69, 74, 75 and 76;

5. convene an extraordinary general meeting if it considers that if Council

Administration delay in taking the measures necessary situation;

6. ensure that the rules of ethics applicable to the SACCOs are met.

The Supervisory Board of an unaffiliated SACCO adopts rules to protect the interests of the SACCO and its members.

Section IV: Credit Commission

*Article 44:*

Credit Committee consists of three members,

*Article 42:*

The majority of members constitutes a quorum of the Credit Commission. The Manager of the SACCO office ensures the secretariat and assists in an advisory capacity, in the meetings.

*Article 43:*

The Credit Committee has the responsibility to manage the distribution and repayment of credit in accordance with policies and procedures defined in this field.

The decisions of the Credit Committee are taken unanimously.

Any member of the SACCO can lodge an appeal with the Board against a decision of the Credit Committee.

Section V: Provisions common to the administrative, management and control

*Article 44:*

In a SACCO, management and control functions are performed by separate bodies,

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*Article 45:*

The term of office of members of the Board of Directors, Supervisory Board and Credit Commission is three years renewable each year one third of the members,

The statutes set the renewal terms.

*Article 46:*

The functions performed by the members in the organs are volunteers. Only expenses incurred by members of the organs in the exercise of their functions, they can be reimbursed under conditions established by the General Assembly.

Outside of such refunds, it can be granted to them any direct or indirect advantage in any form whatsoever.

*Article 47:*

Members of bodies hold office until the election of their SU C C3SS3 ili S. ...:

Any vacancy in a body is filled for the remainder of the term by a member elected by the General Assembly,

*Article 48:*

The Supervisory Board and Credit Commission shall forward to the end of the financial year of the SACCO, their activity reports to the Board and present at the Annual General Meeting.

## || CHAPTER: OFFICERS

*Article 49:*

No one can be a leader SACCO, if; 1 is not a member of the SACCO; 2, has a dispute with the SACCO or the COOCEC that the SACCO is affiliated;

3. gainfully employed within the SACCO or network, except

respect the Manager; 4. holds, other than a member, any interest in the savings and credit cooperative, or performs a different function such as to call into question its impartiality; 5, is not of good conduct and good character; 6. was sentenced in Democratic Republic of Congo or abroad as author or accomplice to attempt any of the following offenses:

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a counterfeiting, b. counterfeiting or forgery of banknotes, public brands and effects; c. counterfeiting or falsifying seals, stamps, dies and trademarks; d. forgery and use handwriting; e. theft, extortion, embezzlement or breach of trust, fraud, or rece

griwêlerie f. single or fraudulent bankruptcy, fictitious circulation effect of Commerce; g. issuance of bad check; h. Corruption or extortion; i money laundering; 1. has already ceased to be leader of a savings and credit cooperative in the

Following a serious or gross negligence; 2. has been convicted of an offense under this Act or the regulations of the exchange; 3. has been declared bankrupt, unless rehabilitation in his favor, even if the bankruptcy has

opened abroad: 4. took part in the administration, management or the ongoing management of a credit institution whose forced liquidation was ordered or whose failite was déciarée.



When the decision which resulted in one of interdiction is under this section is later revoked or invalidated, the prohibition ceases automatically, unless the new decision is subject to appeal.

*Article 50:*

No one can be president of a savings and credit cooperative if it performs functions of responsibility in a business competitor, have entirely or partially the same purpose. Officials of the Central Bank can not hold a permanent function in a cooperative.

*Article 51:*

No one can be leader in several SACCOs, that they are affiliated or not to the same COOCEC. Similarly, in a SACCO, or COOCEC Federation, no one can be a member of several organs at once.

*Article 52:*

Leaders can obtain credit or other services provided by the cooperative savings and credit at more favorable terms than those enjoyed by other members.

It is the same employees or any other interested person or associate of an officer under the rules of ethics,

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*Article 53:*

Leaders are financially responsible, individually or jointly, for offenses committed in the exercise of their functions.

*Article 54:*

A member of a member may resign in the form and conditions set by the bylaws.

A member of a member can be suspended or removed by the General Meeting or by the Board of Directors for serious misconduct, including breach of statutory, regulatory or statutory.

The dismissed member loses the right to exercise any function within the SACCO or network,

*Article 55:*

A person who ceased to be director of a cooperative savings and credit as a result of a serious or gross negligence can not be elected leader of a SACCO, a COOCEC have a Federation

It is the same for any employee of a cooperative savings and credit.

#### CHAPTRE IV: FACILITIES MANAGEMENT

*Article 56:*

The manager is appointed by the Board of Directors, which sets the terms of his commitment and his dismissal, the nature of his contract, the amount of his remuneration and other benefits that may be granted.

He acts under the authority of the Board of Directors.

*Article 57:*

The Manager is responsible for the ongoing management of the SACCO. The extent of his powers is determined by the rules of the SACCO.

## PART IV: RULES OF MANAGEMENT, FINANCIAL DISCLOSURE AND RECORDS

### CHAPTER I: MANAGEMENT RULES

#### *Article 58:*

The savings and credit cooperative must ensure the maintenance of the balance of its financial structure and, in the case of COOCEC and federation, one of the cooperative savings and credit their affiliates.

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#### *Article 59:*

For the purposes of Article 58, the savings and credit cooperative must respect the following standards the elements taken into account in their calculation and the calculation methods are defined by instruction of the Central Bank.

4, establish a general reserve by an annual levy of at least 15% net surplus earnings before patronage each year, after charging everything to losses carried forward; 2. cover at any time, the medium and long term jobs by resources

stable: 3. ensure that its values available, achievable and short-term marketable permanently represent at least 80% of all of its liabilities and its outstanding short-term signature commitments; 4. ensure that the total amount of loans outstanding to officers does not exceed 20%

of the aggregate deposits of its members, 5, to ensure that the risks it carries can not exceed double the overall

deposits of its members: 6. do not take on one member of the risks for an amount exceeding 10%

of the aggregate deposits of its members -

#### *Article 60:*

For the purposes of paragraphs 5 and 6 of Article 59 is meant by "risk" all loans and all signed commitments made by the cooperative savings and credit,

The risks borne by donors, the resources allocated are not referred to in paragraphs 5 and 6 of Article 59,

#### *Article 64:*

The standards set out in paragraphs 2, 4, 5 and 6 of Article 59 are subject to derogations from the Central Bank.

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### | CHAPTER I: TAX INCENTIVES

#### *Article 62:*

The savings and credit cooperative is exempt from all taxes and

levies pertaining to its collection of savings and credit distribution operations. The member of the savings and credit cooperative is also exempt from all dues and taxes on shares and on income from savings.

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## CHAPTER II ; DISCLOSURE FINANCERE

### *Article 63:*

The financial year of a savings and credit cooperative begins on January 1 and ends on December 31 of each year, except for the first fiscal year that begins on the date of obtaining approval.

### *Article 64:*

Within 60 days of the end to financial year, the Board is prepared for approval by the General Assembly an annual report which includes, in Sus information on the activities of the SACCO, certified statements and prepared in accordance with standards of the Central Bank.

### *Article 65:*

The Board of Directors of the SACCO address the annual report, as applicable, to COOCEC or the Federation to which it belongs, which is responsible for preparing the annual report on a consolidated basis for the network.

The financial statements and annual reports of the savings and credit cooperatives affiliated, prepared on a consolidated basis, are communicated to the Central Bank within six months of the year end.

SACCOs unaffiliated transmit in the same period their annual reports and financial statements certified by the Central Bank.

### *Article 66:*

SACCO must produce all documents, reports and information in the form, content and following the schedule set by the Central Bank.

It sends copies of such documents, reports and information to the COOCEC to which it is affiliated. Where appropriate, i same goes for the COOCEC at the location of the FEDERATHON.

## Chapter IV: RECORDS

### *Article 67:*

The savings and credit cooperative shall keep and maintain at its head office, books or records content and access conditions are determined by the internal regulations.

### *Article 68:*

A member may consult the documents filed in the register or obtain copies or extracts in cases and under the conditions set by the rules.

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## TITLE V: TREASURY, EXTERNAL AUDIT AND OVERSIGHT

### CHAPTER ter: SELF

#### *Article 69:*

Any unaffiliated COOCEC or any Federation is responsible for the control on the spot and on the operations of SACCOS COOCEC or, as applicable, its affiliated.

For this purpose, it can edit any manual procedures conform to the standards in the matter by the Central Bank,

The unaffiliated COOCEC or the Federation shall, as appropriate, to undertake or certification of financial statements and inspection, at least once a fan, SACCOS and COOCEC affiliated to it,

#### *Article 70:*

The inspection particular to evaluate financial policies and practices of savings and credit cooperatives, as well as their internal control system, and ensure the reliability of financial statements and compliance with provisions of this Act and its implementing measures.

#### *Article 71:*

Inspectors COOCEC or the Federation, as applicable, are entitled, as part of the inspection mission, communication of all documents and information necessary to exercise their function without their professional secrecy be enforceable.

#### *Article 72:*

The anomalies should be a report with recommendations to the Board of Directors of the SACCO concerned and COOCEC to what it is affiliated. A copy of this rapportest forwarded to the Central Bank.

#### *Article 73:*

For the purpose of inquiry, the COOCEC or the Federation, as the case may suspend any officer of a SACCO following any serious matter affecting the interests of the SACCO or its members. This suspension may not exceed three months.

### CHAPTRE II: EXTERNAL CONTROL AND SUPERVISION

#### *Article 74:*

The Central Bank supervises the monitoring activities of the cooperative savings and credit, she launches or procures, at least once a year, inspection

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on documents and on SACCOS, the COOCEC and federations as well as any company under the control of the latter.

#### *Article 75:*

The Central Bank shall make or cause, at least once a year, inspection unaffiliated Cooperatives and should ensure control on documents and on the spot,

SACCOS concerned contribute to the costs of inspection and

control, in accordance with Article 91 of the Law on the activities and supervision of Credit Institutions.

*Article 76:*

The certification of the financial statements of an unaffiliated SACCO is performed by an auditor appointed by the members at the Annual General Meeting for a term of one year,

The Auditor may conduct an audit of the SACCO to which he belongs.

*Article 77:*

The standards for the selection and remuneration of the auditors are determined by the Central Bank.

*Article 78:*

When the Central Bank finds:

1. that the operations of SACCOs are conducted in contravention of this Act, the Laws and Regulations in force
2. the management bodies of a cooperative savings and credit its administrative and accounting organization as well as its internal control have serious shortcomings;
- 3, a cooperative savings and credit refuses to submit to the control or hinders in any way this control; and depending on the gravity of the facts, it may:
  - a. lui send a warning after putting its leaders able to present their explanations;
  - b. lui an injunction in particular to take, within a specified period, all appropriate corrective action;
  - c. prendre any protective measure deemed necessary including the designation, for a period not exceeding six months, a Provisional Representative;
  - d. mettre under administration a savings and credit cooperative. These measures are taken in accordance with rules established by the Central Bank.

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COOCEC the Federation or, as applicable, is informed of any initiative taken by the Central Bank to place its members under this article.

TITLE VI: SECRECY AND APPROVAL Retrat

CHAPTER 4er: SECRECY

*Article 79:*

Any person who, in any capacity, or has been involved in the management or control of a savings and credit cooperative is bound by professional secrecy under pain of sanctions under Article 73 of the Congolese Penal Code Book I .

Besides the cases where the law provides, professional secrecy can not be opposed neither the Central Bank nor the judicial authority acting within the framework of criminal proceedings,

## Chapter II: WITHDRAWAL OF APPROVAL

### *Article 80:*

The approval may be withdrawn in the following cases:

- 1, at the express request of the SACCO;
- 2 "when the activities it does not intervene in the year following the decision
- Approval or when SACCO not active for over a year;
- 3, termination of the SACCO activities;
- 4 ° in case of merger or demerger;
- 5 ° in case of serious or repeated with this Law.

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### *Article 84:*

The decision of withdrawal of authorization shall be notified to the SACCO. It must specify the reason and the effective date of the decision.

The Central Bank shall, at the expense of the SACCO, with its publication in the Official Gazette and in at least one member of the national press of large diffusion.

### *Article 82:*

Withdrawal of authorization automatically entails the cancellation of the SACCO to the list of approved Credit Institutions.

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## TITLE VII: MERGER, SPLIT, DISSOLUTION AND LIQUIDATION.

### CHAPTER 1: THE MERGER AND SCÍSSION

#### *Article 83:*

Two or more savings cooperatives and the same level of credit can merge,

A savings and credit cooperative can be divided into two or more cooperative savings and credit the same level, conditions and terms of the merger or division specified by the Central Bank.

The decision of merger or demerger is subject to the prior approval of the Central Bank, it must first ensure that members' interests are preserved.

### CHAPTER II ; DISSOLUTION AND LIQUIDATION

#### *Article 84:*

The dissolution of a savings and credit cooperative may be voluntary or forced. Dissolution is called Voluntary when decided, as provided in the bylaws, a majority of three quarters of members at an Extraordinary General Meeting,

Dissolution is called forced when performed by the Central Bank or of the judicial authority, on referral from any interested person.

*Article 85:*

The dissolution decision entails the liquidation of the cooperative savings and credit. It must be accompanied by the appointment of one or more liquidators by the Extraordinary General Meeting when the dissolution is voluntary, or by the Central Bank in the case of a forced dissolution.

The COOCEC and Federations, as the case may be associated with the conduct of the liquidation SACCOS COOCEC or their affiliates,

*Article 86:*

At the close of liquidation when a surplus exists, the General Assembly may decide to allocate the reimbursement of shares members.

The available balance after this transaction is vested in another SACCO or works of social or humanitarian interest,

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*Article 87:*

Subject to the provisions of this Act, liquidation is done under regulations established by the Law on the activities and supervision of Credit Institutions.

PART VIII: COOPERATIVE CONSOLIDATION SAVINGS AND CREDIT

CHAPTER 4er: PROVISIONS COMMON TO THE CONSOLIDATION

*Article 88:*

Unless inconsistent, the provisions of the securities he and Li and their implementing measures shall apply mutatis mutandis to COOCEC and Federations.

*Article 89:*

When several savings and credit cooperatives of a network are assigned by this Act the same mission, it is their regulations determining which of them shall exercise this award,

CHAPTER II CENTRAL COOPERATIVE SAVINGS AND CREDIT OR "COOCEC"

*Article 90:*

Seven primary cooperative savings and credit at least may, with the approval of the Central Bank, come together to form a central cooperative savings and credit or CQQCEC.

*Article 91:*

SACCOS wishing to form a COOCEC must sign a founding statement:

1. the name of the proposed COOCEC;
- 2 °. the Common link;
- 3, names of member SACCOS and the number of shares subscribed by each of them;

4. the names, occupation and residence of the person appointed to act as interim secretary of the COOCEC for the convening of the Constituent Assembly;

5 °. Headquartered.

This declaration must be signed by representatives of the SACCO, which representatives must be authorized for this purpose by resolutions of their respective boards of directors, ratified by the general meetings of their members. These

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Resolutions must mention the names of persons authorized to sign the founding statement.

A copy of the declaration and the bylaws and internal regulations are filed with the Registry of the Court of First Instance in whose jurisdiction the C00CEC has som headquarters.

*Article 92;*

A C00CEC aims to promote and protect the interests of its members. To this end, it may:

1. receive effaire grow deposits SACCOs; 2. Consent loans to its members;
3. Enter into agreements with an affiliated SACCOs to control or manage its business for a specified period;
- 4, establish the mode of payment of contributions from affiliated SACCOs;
- 5, take care, at the request of SACCOs, recoveries and collections, facilitate the exchange of negotiable instruments between the SACCO members and other Credit Institutions:
6. invest and as are considered necessary for its own behalf and on behalf of the SACCO;
7. carry out the administrative control and SACCO management; 8. advise on the creation and approval of a SACCO; 9. Organise training sessions and technical assistance; 10. define, for the use of its members, the rules of ethics.

*Article 93:*

The articles of C00CEC determine, within the limits established by this Act, including membership, resignation or expulsion of members, modes of administration and control.

CHAPTER || : CENTRAL COOPERATIVE FEDERATION OF SAVINGS AND CREDIT

*Article 94:*

Two central cooperative savings and credit COOCEC or at least may, with the approval of the Central Bank, come together to form a federation of savings cooperatives and créditou Federation, abbreviated.

*Article 95:*



The Federation aims to:

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taking on technical, administrative and financial benefit of its members;

COOCEC represent them vis-à-vis the partners both nationally and internationally:

to strengthen the bonds that unite COOCEC and defend their interests  
Commlins;

promote growth and development;

perform control of administrative and financial management of COOCEC and SACCOs;

promote the expansion of the cooperative philosophy and ensure compliance; to define common goals to achieve unity of thought and action

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propose measures to guide and coordinate the activities of COOCEC;

provide advice on the creation and approval of a SACCO or COOCEC;

10. defining, for the use of its members, the rules of ethics; 11.

assumes another task that COOCEC entrust,

*Article 96:*

The statutes of the Federation define, within the limits established by this Act, the

rules for its organization and functioning.

## TITLE IX: PENALTIES

## Chapter I: ADMINISTRATIVE SANCTIONS AND DISCIPLINARY

*Article 97:*

If a savings and credit cooperative violated a law or

regulations relating to its business, does not comply with an order or does not take account of a warning, the Central Bank may impose one of the following disciplinary sanctions:

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warning;

the blame ; the prohibition of certain activities or operations;  
suspension or compulsory resignation of senior managers; dismissal  
of the external auditor;

the withdrawal of authorization:

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*Article 98;*

Without prejudice to Article 97, the Central Bank may specify a time at a credit union and of *créditafin*

1. comply with certain provisions of this Act and its measures application
2. make the necessary adaptations to its organization and its operation.

Failing this, the cooperative savings and credit concerned is punishable by an administrative fine at the rate set by the Central Bank.

The disciplinary measures are taken without prejudice to criminal sanctions law *U o ħ iiiii] vŷŷ*.

#### CHAPTER f: PENALTY PAYMENTS

*Article 99;*

The savings and credit cooperative that does not respect the prudential norms established by the Central Bank is liable to a penalty at the rate fixed by the latter. The fines shall be paid to the Treasury by the care of the Central Bank.

#### CHAPTRE: CRIMINAL SANCTIONS

*Article 100:*

Is punishable by penal servitude of one month to one year and a fine of 30,000 to 300,000 Congolese Francs or one of these penalties:

1. any person who contravenes the provisions of Articles 7, 8 and 49
  - 2 °. any person directly or indirectly involved in the administration, management, control or management of a savings and credit cooperative:
    - a) impedes the mission persons authorized by the Central Bank to carry out an inspection provided for in Articles 71, 74 and 75
    - b) impedes the mission of the Provisional Representative under Article 78
    - c) Communicate to the public at the Central Bank or persons authorized by them of knowingly inaccurate or incomplete information;
  - 3 °. any person directly or indirectly involved in the administration, management, control or management of a savings and credit cooperative, knowingly contravenes the provisions of Articles 13, 49-79 and 83;
  - 4 °. anyone who refuses to submit its books, accounts and records review the Central Bank pursuant to Article 66.

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*Article 404:*

Savings and credit cooperatives are legally responsible sentences the fine imposed pursuant to Articles 98 and 400 against anyone who participates directly or indirectly in administration, management or control.

However, the civil liability of savings and credit cooperatives do not play with regard to directors, interim managers and representatives and the auditors appointed by the Central Bank,

*Article 402:*

Any information relating to an offense under this Act shall be paid to the

knowledge of the Central Bank by the judicial or administrative authority that is

entry.

*Article 103:*

The judicial authorities dealing with the prosecution of offenses under this Act may, in any of the proceedings, request the Central Bank any relevant advice and information.

For the purposes of this Act, the Central Bank may be parties.

*Article 104:*

The Central Bank is authorized to transact and set itself the conditions of the transaction for offenses committed with the provisions of this Act.

The transaction accepted by the prosecution off public action, even in regard to penal servitude sentences.

#### TITLE X: TRANSITIONAL AND FINAL PROVISIONS

*Article 105:*

Instructions and regulations of the Central Bank defines, as necessary, the procedures for implementing this Act,

*Article 106: -*

The decisions of the Central Bank may be appealed before the competent court -

*Article 407:*

Cooperative savings and credit, duly authorized in accordance with the legal provisions in force at the date of the enactment of this Act are

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considered approved by a simple declaration to the Central Bank. They have one year from the entry into force of this Act, to comply with these provisions,

*Article 108:*

This Act, which comes into force on the date of its enactment, repeal and replace all previous provisions governing savings and

credit cooperatives.

Done at Kinshasa, 1 February 2, 2002

Joseph Kabila

Major General

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The banking industry knows, in recent years, profound changes due in particular to the globalization of financial activities, the interconnection of markets and computerization increasingly thrust management.

These mutations amplify the traditional risks of the profession provided that they are new master, making necessary the establishment of adequate supervision systems focus on prudential supervision, rather than the sectoral audits retrospectively.

Insofar as the Democratic Republic of Congo embarked on deep reforms of its monetary management, the need is felt all the more acutely than the success thereof depends largely on the health sector financial in general and banking in particular as the main vector of monetary policy.

The introduction of these devices through the establishment of an appropriate legal framework, to replace the Ordinance-Law No. 72-004 of 14 January 1972 on the protection of savings and control of financial intermediaries known as the "Banking Law".

This law proposes to set a single framework covering all financial sector activities, some beyond the provisions of Ordinance-Law No. 72-004 of 14 January 1972 cited above,