

**STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES  
OFFICE OF CREDIT UNIONS**

**Before the Director of the Department of Insurance and Financial Services**

**In the matter of:**

**Clarkston Brandon Community Credit Union  
Clarkston, Michigan  
Charter No. 0630**

**Enforcement No. 16-12870**

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**ORDER APPOINTING CONSERVATOR**

**Issued and entered  
On July 13, 2016  
By Patrick M. McPharlin  
Director**

**BACKGROUND AND APPLICABLE LAW**

WHEREAS, the Director (“Director”) of the Department of Insurance and Financial Services (“DIFS”) has determined, for the reasons set forth in this Order and based on the information contained in the confidential DIFS Staff Memorandum recommending the appointment of a conservator, that it is necessary to appoint a conservator for Clarkston Brandon Community Credit Union (“CBCCU”) in order to conserve the credit union’s assets for the benefit of its members, depositors and other creditors, pursuant to section 241(1) of the Michigan Credit Union Act (“MCUA”), MCL 490.241(1).

WHEREAS, the Director administers the laws of this state relating to credit unions transacting business in this state and exercises general supervision over domestic credit unions pursuant to section 201(1) of the MCUA, MCL 490.201(1).

WHEREAS, CBCCU is a Michigan-chartered credit union, charter number 0630, authorized by the MCUA, MCL 490.101 *et seq.*, and subject to the provisions of the MCUA and the jurisdiction of the Director.

WHEREAS, pursuant to the Federal Credit Union Act, 12 U.S.C. § 1751 *et seq.*, the National Credit Union Administration Board (“NCUA Board”) is the federal agency that administers the National Credit Union Share Insurance Fund (“NCUSIF”), which among other things provides share (deposit) insurance to credit union member share (deposit) accounts. The NCUA Board has in place regulations that provide for the administration of the NCUSIF.

WHEREAS, section 387(1) of the MCUA, MCL 490.387(1), requires CBCCU to maintain federal deposit insurance, and CBCCU’s deposits are insured by the NCUA under insurance certificate number 61293, thereby subjecting CBCCU to the NCUA’s regulations and conditions for deposit insurance.

WHEREAS, section 241 of the MCUA, MCL 490.241, authorizes the Director to appoint a conservator for CBCCU if any of the specified grounds exist, providing as follows:

- (1) If any of the grounds under section 232 authorizing the appointment of a receiver exist or if the commissioner considers it necessary in order to conserve the assets of a domestic credit union for the benefit of the members and depositors and other creditors of the domestic credit union, the commissioner may appoint a conservator for the domestic credit union and require of the conservator a bond and security as determined by the commissioner.
- (2) The commissioner may appoint as conservator an employee of the office of insurance and financial services or any other competent and disinterested person. The conservator shall reimburse the office of insurance and financial services out of the assets of the conservatorship for all sums expended by it in connection with the conservatorship as administrative expenses. The conservator shall pay all administration expenses of the conservatorship out of the assets of the domestic credit union, upon the approval of the commissioner. The administrative expenses are a first charge on the assets of the domestic credit union and the conservator shall pay the administrative expenses in full before any final distribution or payment of dividends to creditors or members.

WHEREAS, section 232(1) of the MCUA, MCL 490.232(1), authorizes the Director to appoint a conservator under section 241 if a domestic credit union becomes insolvent, in providing as follows:

If a domestic credit union refuses to pay its shares, deposits, or obligations in accordance with the terms under which the shares were received or the deposits or obligations were incurred, becomes insolvent, or refuses to submit its books, papers, and records for inspection by the commissioner, or if it appears to the commissioner that the domestic credit union is in an unsafe or unsound condition, the commissioner may either appoint a conservator under section 241 or apply to the circuit court for Ingham county or for the county in which the principal place of business of the domestic credit union is located for the appointment of a receiver for the domestic credit union.

WHEREAS, section 242 of the MCUA, MCL 490.242, authorizes a conservator appointed by the Director to, *inter alia*, take possession of the books, records and assets of CBCCU, take any action necessary to conserve the credit union's assets, and vests the conservator with all the rights, powers, and privileges of a receiver appointed under Article 2, Part 2 of the MCUA (MCL 490.231 – 490.235), except for the power to liquidate CBCCU. Section 242 provides:

- (1) Under the direction of the commissioner, a conservator appointed under this part shall take possession of the books, records, and assets of the domestic credit union and take any action necessary to conserve the assets of the domestic credit union pending liquidation under part 2 of this article or further disposition of its business as provided by law. The conservator has all the rights, powers, and privileges of a receiver appointed under part 2 of this article, except the power to liquidate a domestic credit union, and is subject to those obligations and penalties to which a receiver is subject that are not inconsistent with this part with respect to conservators.
- (2) While a conservator remains in possession of the domestic credit union under this part, the rights of all parties with respect to the domestic credit union, subject to the other provisions of this part with respect to conservators, are the same as if a receiver had been appointed under part 2 of this article.
- (3) A conservator appointed under this part may execute the discharge of any real estate mortgage held as part of the assets of the domestic credit union.

WHEREAS, the other, uncited provisions of Article 2, Part 3 of the MCUA (MCL 490.241 – 490.245) additionally govern any conservatorship of a domestic credit union commenced by the Director.

WHEREAS, based on its supervisory review of CBCCU, DIFS staff has determined that CBCCU is insolvent and has recommended to the Director that the appointment of a conservator is necessary in order to conserve the assets of CBCCU for the benefit of its members, depositors and other creditors.

### **DIRECTOR'S FINDINGS AND ORDER**

Based on the supervisory review by DIFS staff, consultations with DIFS staff, and review of the confidential DIFS Staff Memorandum recommending the appointment of a conservator for CBCCU, I find that CBCCU is insolvent, as that term is defined in section 102(s) of the MCUA, MCL 490.102(s). I further find that the appointment of a conservator for CBCCU is necessary in order to conserve the assets of CBCCU for the benefit of its members, depositors and other creditors. Under MCL 490.241(1) and MCL 490.232(1), each of these findings supports and authorizes my appointment of a conservator for CBCCU.

I further find that the NCUA Board is a competent and disinterested person as required by section 241(2) of the MCUA, MCL 490.241(2). Accordingly, I find that the NCUA Board is a qualified and appropriate choice to serve as conservator for CBCCU.

NOW THEREFORE, IT IS HEREBY ORDERED that the NCUA Board is appointed as conservator for CBCCU (“Conservator”) without any requirement of a bond or other security, pursuant to section 241(1) of the MCUA, MCL 490.241(1). In its role as Conservator, the NCUA Board shall have all the rights, powers and privileges granted to a conservator under the MCUA, MCL 490.101 *et seq.*, including but not limited to the power to take possession of the books, records and assets of CBCCU, the power to take any action necessary to conserve CBCCU’s assets,

and the authority to exercise all rights, powers, and privileges of a receiver appointed under Article 2, Part 2 of the MCL 490.231 – 490.235), except for the power to liquidate CBCCU.

IT IS FURTHER ORDERED that pursuant to MCL 490.242(1), the NCUA Board or its duly designated agents, in their capacity as Conservator and under the direction of the Director, shall immediately take possession of the books, records, and assets of CBCCU, and shall take any action as may be necessary to conserve the assets of CBCCU pending further disposition of its business as provided by law.

IT IS FURTHER ORDERED that the Board of Directors of CBCCU, its officers, employees and agents shall immediately turn over and release to the NCUA Board or its duly designated agents, in their capacity as Conservator, all books, records, accounts, data, information, documents, attorney-client privileged and/or attorney work product materials, assets and property (both real and personal), of every description, belonging or pertaining to CBCCU.

IT IS FURTHER ORDERED that CBCCU, its Board of Directors, officers, employees and agents are hereby prohibited and restrained from the further transaction of CBCCU's business and from the disposition of CBCCU's assets and property (both real and personal) of every description whatsoever, whether located within the State of Michigan or elsewhere, except as directed by the NCUA Board or its duly designated agents, in their capacity as Conservator for CBCCU, or as otherwise ordered by the Director.

IT IS FURTHER ORDERED that CBCCU, its Board of Directors, officers, employees and agents shall cooperate with and facilitate the actions of the NCUA Board or its duly designated agents, in their capacity as Conservator, in carrying out their duties and responsibilities under the law.

IT IS FURTHER ORDERED that consistent with MCL 490.245(3), if the Director and/or Conservator subsequently determine that the liquidation of CBCCU is in the public interest, the Director will terminate this conservatorship and apply for the appointment of a receiver for CBCCU as provided in Article 2, Part 2 of MCL 490.231 – 490.235).

The Director specifically retains jurisdiction over the matters contained in this Order and the authority to issue any further order or orders as he shall deem just, necessary and appropriate.

IT IS SO ORDERED.



Patrick M. McPharlin, Director  
Department of Insurance and Financial Services