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For more information concerning the history of these regulations, please see the [Table of Regulations](#).

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CHAPTER L-8.2
LENDING AGENCY ACT
REGULATIONS

Pursuant to section 13 of the *Lending Agency Act* R.S.P.E.I. 1988, Cap. L-8.2, Council made the following regulations:

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| 1. In these regulations | Definitions |
| (a) “account manager” means an employee of the Agency responsible for supervising certain loan accounts, who reports to and is directly responsible to the Chief Executive Officer. | account manager |
| (b) “affiliate” means any person
(i) directly or indirectly controlling, or controlled by, or
(ii) under direct, indirect, or common control with
a person making an application pursuant to the Act and these regulations; | affiliate |
| (c) “application” means a request for a loan or credit by a person to the Agency; | application |
| (d) “approved borrower” means a person whose application has been approved by the Agency; | approved borrower |
| (e) “person” includes any partnership, corporation, cooperative, or syndicate formed or existing for the purpose of jointly acquiring or administering assets. (EC406/99) | person |
| 2. (1) The Agency may, with the approval of the board, advance any loan to any person where the total indebtedness of the person, including guarantees provided on behalf of that person or affiliate does not exceed \$2,500,000 in the aggregate. | Maximum loan approved by board |
| (2) The Agency may, with the approval of the Lieutenant Governor in Council, advance any loan to any person where the total indebtedness of the person, including guarantees provided on behalf of that person or affiliate exceeds \$2,500,000 in the aggregate. (EC406/99) | Loans where indebtedness in excess of \$2,500,000 |
| 3. Any guarantee being provided by the Agency shall require a resolution of the board. (EC406/99) | Guarantees |
| 4. (1) The minimum security which shall be provided in return for a loan or credit shall be | Security |

- (a) where the approved borrower is an individual, the approved borrower's personal promise or covenant to repay the loan or credit;
- (b) where the approved borrower is a partnership, the approved borrower's personal covenant or promise to repay the loan or credit, together with the personal covenant of each member of the partnership;
- (c) where the approved borrower is a corporation, the approved borrower's covenant or promise to repay the loan or credit and the personal, joint, and several guarantees of its shareholders and, in addition, where a shareholder of the approved borrower is a corporation, the guarantee of the corporation,

together with any additional security specified in writing by the Agency.

Waiver

(2) The board may waive the requirement for guarantees of any or all of the shareholders of a corporate borrower imposed by clause (1)(c).

Investment protection

- (3) In granting loans and taking security, the Agency
- (a) shall take all reasonable measures to protect the investment of the Agency; and
 - (b) shall not subsidize interest rates or provide any grant, subsidy or concession to any person. (EC406/99)

Write-offs

5. The board shall issue final approval for write-offs, which write-offs shall not affect any obligation of the borrower to repay the balance of any loan, together with any accrued interest, being written off. (EC406/99)

Repayment

6. A capital loan shall be repaid within any period of time the account manager responsible for the management of the loan or the Chief Executive Officer may direct, but in no case shall the period of time for repayment of a capital loan exceed 20 years. (EC406/99)

Interest rate policy

7. (1) For the purposes of subsection 9(2) of the Act, the interest rate policy shall be

- (a) for operating credit and floating rate term loans, between 1% - 2.75% above the Agency's floating base rate; and
- (b) for capital loans and leases, between 1% - 2.75% above the Agency's fixed term base rate.

(2) Notwithstanding subsection (1), the Agency may, with the approval of the Lieutenant Governor in Council, charge interest on

- (a) operating credit and floating rate term loans; and
- (b) capital loans and leases,

at a rate other than the rate specified by subsection (1).

(3) Every rate approved by the Lieutenant Governor in Council pursuant to subsection (2) is deemed to be within the interest rate policy of the Agency for the purposes of subsection 9(2) of the Act. (EC406/99; 184/00)

Approved rate
deemed interest rate
policy

8. (1) All expenses, including appraisal fees, legal fees, application fees and other incidental costs that are incurred by and on behalf of a person in preparing, completing and submitting an application pursuant to subsection 9(1) of the Act for evaluation, and for the drawing of security documentation on approved and accepted loans, shall be paid by the person submitting the application.

Payment of
expenses

(2) All expenses, legal fees and other incidental costs that are incurred by and on behalf of any existing borrower during the term of the loan, shall be paid by the borrower. (EC406/99)

Expenses paid by
borrower

9. The annual report of the board which includes the audited financial statement for the immediately preceding fiscal year shall be submitted to the Minister on or before September 30 in each year. (EC406/99); (EC729/00).

Annual report

10. Pursuant to clause 13(c) of the Act, the following terms are defined:

Definitions

- (a) “agricultural sector” includes any person that
- (i) carries on business, or intends to carry on business, in the province,
 - (ii) owns or will acquire farm assets with loan proceeds received pursuant to the Act or the regulations, and
 - (iii) is actively engaged in farming or intends to work actively at producing farm products;
- (b) “fisheries and aquaculture sector” includes any person that
- (i) carries on business, or intends to carry on business, in the province, and
 - (ii) is licensed or qualified to obtain a license or aquaculture permit issued by the Federal Department of Fisheries & Oceans, for any of the commercial fisheries or aquaculture industries in the province;
- (c) “information technology sector” includes any person that
- (i) carries on business, or intends to carry on business, in the province, and
 - (ii) operates a business that derives at least 60% of revenue from
 - (A) software publishing,
 - (B) computer system design and related services,
 - (C) the provision of on-line information services, or

agricultural sector

fisheries and
aquaculture sector

information
technology sector

(D) the manufacture of computer and peripheral equipment or related electronic components;

manufacturing and
processing sector

- (d) “manufacturing and processing sector” includes any person that
- (i) carries on business, or intends to carry on business, in the province, and
 - (ii) operates a business which produces a product by mechanical method from a raw material that is altered to add value;

small business
sector

- (e) “small business sector” includes any person that
- (i) carries on business, or intends to carry on business, in the province,
 - (ii) does not employ more than 100 employees,
 - (iii) did not have annual gross sales exceeding \$5 million in the fiscal year immediately preceding an application made pursuant to section 9 of the Act, and
 - (iv) purchases a finished product from a supplier and resells that product without alteration;

tourism sector

- (f) “tourism sector” includes any person that
- (i) carries on business, or intends to carry on business, in the province, and
 - (ii) operates a business, other than a Bed & Breakfast establishment as defined in the *Tourism Industry Act* Regulations (EC267/99), that holds a valid tourism establishment licence issued pursuant to the *Tourism Industry Act* Regulations;

aerospace sector

- (g) “aerospace sector” includes any person that
- (i) carries on business, or intends to carry on business, in the province,
 - (ii) owns or will acquire assets of an aviation or aerospace-related business with loan proceeds received pursuant to the Act or the regulations, and
 - (iii) is actively engaged in or intends to work actively in an aviation or aerospace-related business. (EC124/00; 311/02)