

# Proposed Rule and Guidance: Unclaimed Deposits

## Webinar

The logo for the Financial Services Regulatory Authority of Ontario (FSRA) consists of the letters "FSRA" in a large, bold, blue sans-serif font.

Financial Services Regulatory  
Authority of Ontario

**Date:** Monday, April 22, 2024 @ 10:30 am – 11:30am

**Speakers:** Victoria Lesau, Director – Credit Union, Insurance Prudential and Pension Policy  
Amber McNair, Senior Manager – Credit Union and Insurance Prudential Policy



Ontario

# Agenda

- Introductions
- Land Acknowledgement
- Background
- Principles Based Regulation (PBR Approach)
- Key Elements of the Proposed Rule and Guidance
- Public Consultation / Next Steps
- Questions

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# Introduction of the team presenting today

- **Victoria Lesau**, *Director Credit Union, Insurance Prudential and Pension Policy*
- **Amber McNair**, *Senior Manager, Credit Union and Insurance Prudential Policy*



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# Land Acknowledgement

We acknowledge the land we are on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples. We acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit and the Williams Treaties signed with multiple Mississaugas and Chippewa bands.

## Why is FSRA publishing proposed Rule/Guidance for Unclaimed Deposits?

- FSRA's proposed Unclaimed Deposits (UD) Rule and Guidance will establish uniform processes for administering, and claiming entitlement to, UDs.
- The proposed UD Rule and Guidance will contribute to the creation of a UD regime once the government proclaims s.147 of the of the *Credit Unions and Caisses Populaires Act, 2020 (CUCPA)* into force.
- The proposed UD Rule and Guidance will also:
  - Prevent deposits in members' inactive accounts from being eroded by inactivity fees;
  - Provide clarity, direction and information to CUs and their members regarding unclaimed deposits;
  - Require CUs to attempt to find members that have inactive accounts; and
  - Assist eligible persons in claiming unclaimed deposits.



## What is Principle Based Regulation (PBR)?

- PBR is a regulatory approach that relies on **broadly stated principles that are outcomes focused** as opposed to only prescriptive rules.

## Benefits

- Gives regulators and stakeholders the **flexibility** to relatively quickly respond to market changes, innovation and market practices.
- PBR makes use of **qualitative and evaluative terms** (e.g. “fair,” “reasonable,” “suitable”) to facilitate compliance or adherence as it allows entities to honour the spirit of the law.

## Unclaimed Deposits Rule and Guidance

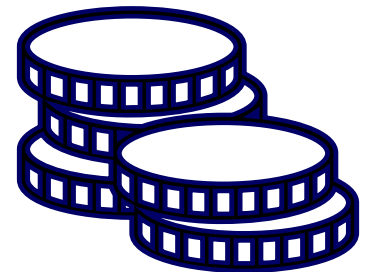
- The proposed UD Rule and Guidance are largely consistent with **FSRA’s principles-based and outcomes-focused regulatory approach**.
  - The Rule sets out high-level requirements (e.g., CUs must submit “material information”, CUs must take “reasonable steps” to locate members).
  - The Guidance further defines these general requirements and sets out high-level outcomes for CUs to achieve.

## What is an “unclaimed deposit”? (see. S.147(1) of CUCPA)

- A deposit that has been made to a CU, and it has been **10 years** since the later of:
  - The last transaction by the depositor; and
  - The last request for, or acknowledgement of, a statement of account by the depositor.

*Note: The proposed Rule/Guidance will only require transfer of unclaimed deposits to FSRA when the entire membership is inactive, not just one account (Rule s.2.1 and section 2 Interpretation Guidance).*

- FSRA interprets the definition of “**deposit**” (section 1 Interpretation Guidance) to include:
  - chequing account balances
  - savings account balances
  - Guaranteed Investment Certificates (GICs)
  - term deposits
  - official cheques/drafts
  - non-negotiated certified cheques
  - non-negotiated money orders



## 1. Reasonable Steps to Locate/Notify Members

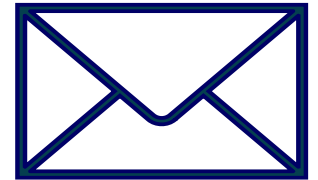
### Rule s. 2(2) to s.2(3)

- CUs must take “**reasonable steps**” to locate members and notify them “**in writing**” that their accounts have become inactive, after 2, 5 and 9 years.

**In Writing:** includes both written and electronic communication in accordance with member’s preferences (*Section 3 Interpretation Guidance*).

**Reasonable Steps:** in determining “reasonable steps” FSRA will consider if the CU (*Section 4 Interpretation Guidance*):

1. notified the member in alignment with their communication preferences;
2. took further steps to locate/notify members proportionate to the deposit amount;
3. attempted to contact member through alternative contact info;
4. maintained documentation of all attempts to locate/notify members; and
5. escalated efforts to locate/notify members depending on the interval.





## 2. Transfer of Unclaimed Deposits

### Rule s. 2(5) to 2(6)

- A UD must be transferred if it will become **unclaimed between January 1 and September 30** of that calendar year (anything outside this window should be submitted the following year).
- CUs must transfer UDs to FSRA as follows:
  - Between **October 15 and December 15** of the same calendar year that a UD becomes unclaimed; and
  - Must be sent to FSRA by electronic fund transfer.



## 3. Material Information

### Rule s. 2(7) to 2(8), 2(9)(ii), 2 (10) to 2(12)

- For a UD to be accepted by FSRA, a CU must also submit all “**material information,**” including any personal information necessary to establish the identity of the member(s) entitled to the UD.
- Officer(s) of the CU must **attest** that the material information submitted is accurate, complete and up to date (*Section 8 Interpretation Guidance and Appendix B for sample attestation form*).
- Failing to provide material information can result in FSRA rejecting payment of the UD.
- CUs must maintain original records of all information for as long as FSRA is required to hold the UD. Material information must be submitted electronically.



**Material Information:** includes all relevant information necessary for FSRA to determine if a claimant is entitled to a UD and to authenticate/validate future claims of entitlement (*Section 5 Interpretation Guidance and Appendix A- sets out examples of what constitutes material information*).

## 4. Foreign Currency Deposits

### Rule s. 2(14) to 2(15)

- CUs holding foreign denominated UDs must first convert them to CDN before sending to FSRA; and
- The rate used for foreign conversion purposes must be the same as used by the CU in their regulatory reporting for September 30 of that year.



## 5. Claiming an Unclaimed Deposit

### Rule s. 3 (1) to 3(4)

- A claimant must submit an application that includes “**satisfactory evidence**” of entitlement to a transferred UD.
- Applications and supporting evidence must be submitted through an electronic portal.
- FSRA will respond in writing within 120 calendar days from the date FSRA issues a receipt confirming a completed request.
- FSRA will either approve, deny or require additional information from the claimant.

**Satisfactory Evidence:** includes identifying elements that will correspond to, confirm, or correct the material information provided by a CU in relation to a UD. The more information that a person can provide that corresponds or confirms the material information provided by a CU, the more likely that FSRA will be able to conclude that they are properly entitled to the UD (*Section 6 Interpretation Guidance*).



## 6. Request for Reconsideration

### Rule s. 4 (1) to 4(6)

- If a claim is rejected, a person may submit a written request for reconsideration.
- Requests must include a “**reasonable basis**” for FSRA to reconsider its original decision.
- Within 120 days calendar days FSRA will respond in writing to a completed reconsideration request.
- FSRA’s decision to confirm or reverse its original decision will be final and binding.

**Reasonable Basis:** When deciding if a person has demonstrated a “reasonable basis,” FSRA will consider whether they have included a valid reason(s) for the original decision to be reconsidered and offered evidence in support of that reason (*Section 7 Interpretation Guidance*). Examples of reasons for reconsideration include:

1. An error was made in assessing the information when FSRA initially decided a claim to entitlement (e.g., administrative error; proof that material information provided is inaccurate);
2. FSRA failed to consider information when deciding a claim to entitlement (e.g., material information was not provided by a CU); and
3. FSRA’s decision was inconsistent with the provisions of the UD Rule or CUCPA.



- You have an opportunity to comment on the Proposed Unclaimed Deposits Rule and Guidance.
- FSRA will be accepting submissions on our [website](#) until **Thursday May 16, 2024.**
- FSRA will consider feedback in revising the Proposed UD Rule and Guidance, as appropriate.

# Questions

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