

Schedule A: Revised Proposed Rule

UNCLAIMED DEPOSITS

**FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO
RULE 2024 – 004**

CREDIT UNIONS – UNCLAIMED DEPOSITS

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1 Interpretation and Application

- 1(1) In this Rule,
- (i) “Act” means the *Credit Union and Caisses Populaires Act, 2020*, SO 2020, c 36, Sched 7, as amended,
 - (ii) “Fee Rule” means Authority Rule 2022 – 001 Assessments and Fees,
 - (iii) “payment” means payment of an amount under subsection 147(2) of the Act,
 - (iv) “personal information” means personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31, as amended.
- 1(2) If a term or phrase used in this Rule is defined in the Act, the definition used in the Act shall apply for the purposes of this Rule.
- 1(3) This Rule does not apply to:
- (i) deposits less than or equal to \$50 in Canadian dollar currency (CAD), or
 - (ii) money deposited with a credit union under a federal or provincial registered savings plan or fund.

2 Unclaimed deposits – General – Credit unions

- 2(1) For the purposes of this Rule,
- (i) a depositor’s account is considered inactive if:
 - (a) no transaction has taken place by the depositor(s) on any of the accounts associated with the depositor’s profile for two years, and
 - (b) no statement of account has been requested or acknowledged by the depositor(s) for two years following:
 - 1. the depositor(s) last transaction, or
 - 2. the last request for or acknowledgment of a statement of account made by a depositor(s) on any of the accounts associated with the depositor’s profile.

- 2(2) Prior to making payment to the Authority, a credit union shall take reasonable steps to locate depositors and notify depositors in writing that their accounts have become inactive in accordance with subsection 2(1) of this Rule.
- 2(3) If a depositor does not respond to a credit union following the credit union's attempt to locate the depositor and notify the depositor in writing as required under subsection 2(2) of this Rule, then the credit union is required to take reasonable steps to locate the depositor and notify the depositor five and nine years from the latter of the date of the last:
- (i) transaction by the depositor(s) on any of the accounts associated with the depositor's profile, or
 - (ii) statement of account has been requested or acknowledged by the depositor(s) on any of the accounts associated with the depositor's profile.
- 2(4) If a credit union receives a response from a depositor after the credit union has taken reasonable steps to notify the depositor under subsection 2(2) or subsection 2(3) of this Rule but before the inactive account becomes an unclaimed deposit, then the depositor's response constitutes an acknowledgement of a statement of account under subsection 147(1) of the Act.
- 2(5) A credit union shall make payment in accordance with the following requirements:
- (i) for any deposit that is or has become an unclaimed deposit between January 1st and June 30th of a calendar year, the credit union shall make payment to the Authority between October 15th and December 15th of the same calendar year, or
 - (ii) for any deposits that become an unclaimed deposit at any time after June 30th of a given calendar year, the credit union shall make payment to the Authority between October 15th and December 15th of the following calendar year.
- 2(6) Payments shall be transferred to the Authority through an electronic fund transfer.
- 2(7) Immediately prior to making a payment, a credit union shall:
- (i) convert the value of the deposit to a cash amount equal to the principal amount of the unclaimed deposit, plus interest, if any,

calculated in accordance with the terms of the unclaimed deposit;
and

- (ii) convert any foreign currency amounts to Canadian currency (CAD).
- 2(8) The conversion of currency amounts in subsection 2(7) of this Rule shall be based on a credit union's exchange rate as of June 30th of the year the payment is to be made, as used by the credit union for their regulatory reporting pursuant to section 199 of the Act.
- 2(9) A credit union shall not charge any fees, or pay interest that accrues to the depositor, after the depositor's account has become an unclaimed deposit including, for greater clarity, charging any fees in relation to converting a deposit to a lump sum in Canadian dollars that will be a payment.

3 Unclaimed deposits – Material information – Credit unions

- 3(1) When transferring an unclaimed deposit to the Authority, a credit union shall submit all material information, including personal information as described in Appendix A, necessary to establish the identity of the depositor(s) entitled to the unclaimed deposit.
- 3(2) Material information required by subsection 3(1) of this Rule shall be transferred to the Authority through the Authority's electronic portal.
- 3(3) All material information provided by the credit union to the Authority pursuant to subsection 3(1) of this Rule shall be attested by an officer of the credit union to be accurate, complete, and up to date, in so far as it is known to the credit union.
- 3(4) If a credit union provides material information pursuant to subsection 3(1) of this Rule and becomes aware that the information provided is or has become incomplete, out-of-date, or factually incorrect, then the credit union shall as soon as practicable, remedy the deficiencies in the material information through the Authority's electronic portal.
- 3(5) If a credit union is unable to remedy the deficiencies in the material information provided, then the credit union must immediately give written notice to the Authority that the credit union is unable to remedy the deficiencies.
- 3(6) When making payment, the credit union shall provide the Authority with the following:

- (i) evidence of all attempts by the credit union to notify a depositor with inactive accounts as required under subsection 2(2) or subsection 2(3) of this Rule; and
 - (ii) documentation of any foreign currency conversions required under subsection 2(7) of this Rule.
- 3(7) A credit union shall maintain original records of all material information related to an unclaimed deposit for a 10 year period following the date the credit union provides the information under subsection 3(1) of this Rule.
- 3(8) If a credit union fails to provide the material information required by subsection 3(1) of this Rule, then the Authority may reject payment in which case:
 - (i) The Authority shall not accept payment; and
 - (ii) until such time that payment is accepted, a credit union is still liable for the purposes of subsection 147(3) of the Act.
- 3(9) A credit union shall provide the Authority with any information related to subsection 3(7) at the Authority's request.

4 Material information – Personal Information

- 4(1) The Authority is authorized to directly or indirectly collect, use and disclose personal information, and credit unions may disclose personal information to the Authority, for purposes related to the following matters:
 - (i) Administering section 147 of the Act in accordance with this Rule, including:
 - (a) Collecting from a credit union all personal information necessary to establish the identity of the depositor(s) entitled to the unclaimed deposit for which the credit union is required to make payment to the Authority;
 - (b) Collecting from a credit union all personal information necessary to maintain a searchable database of transferred unclaimed amounts under subsection 147(10) of the Act; and
 - (c) Collecting from a person claiming entitlement to a transferred unclaimed amount all personal information necessary to establish that person's entitlement to the transferred unclaimed amount

under subsection 147(4) of the Act and in accordance with this Rule.

- (ii) Authenticating the personal information obtained from a person claiming entitlement to a transferred unclaimed amount in respect of the material information provided by a credit union under subsection 3(1) of this Rule.
 - (iii) Reuniting depositors of credit unions with the transferred unclaimed amounts to which they are entitled.
- 4(2) The Authority may require any of the following persons or entities to disclose to the Authority such personal information as is reasonably necessary for the purposes described in subsection 4(1) of this Rule:
- (i) Credit unions; and
 - (ii) Persons claiming entitlement to transferred unclaimed amounts held by the Authority.
- 4(3) Without limiting the ability to give notice in other ways, the notice required by subsection 39(2) of the *Freedom of Information and Protection of Privacy Act* may be given by a public notice posted on a searchable database of transferred unclaimed amounts accessible through the Authority's website.
- 4(4) The database described in subsection 4(3) may display the information listed in Appendix B to members of the public who search the database.

5 Transferred Unclaimed Amounts – Person(s) claiming entitlement

- 5(1) A person claiming entitlement to a transferred unclaimed amount shall submit a written application to the Authority's electronic portal that includes satisfactory evidence to demonstrate entitlement to a transferred unclaimed amount including, to the extent the person possesses it, the information listed in Appendix C.
- 5(2) Where the person is unable to provide information listed in Appendix C, the Authority may request and accept alternative information that demonstrates the person's entitlement to a transferred unclaimed amount.
- 5(3) The Authority shall determine whether a person claiming entitlement to a transferred unclaimed amount has furnished sufficient satisfactory

evidence to demonstrate entitlement to the transferred unclaimed amount under subsection 147(4) of the Act.

- 5(4) The Authority shall respond in writing to an application made under subsection 5(1) of this Rule within 120 calendar days of the date the Authority issues a receipt confirming that it has received a complete application under subsection 5(1) of this Rule.
- 5(5) The response by the Authority under subsection 5(3) of this Rule may approve, deny or require additional information from the claimant.

6 Request for reconsideration regarding entitlement to transferred unclaimed amounts

- 6(1) If the Authority rejects a person's claim to a transferred unclaimed amount, then the person claiming entitlement to a transferred unclaimed amount may submit a written request for reconsideration through the Authority's electronic portal.
- 6(2) Requests for reconsideration under subsection 6(1) of this Rule shall include a reasonable basis for the Authority to reconsider its original decision.
- 6(3) If a request for reconsideration under subsection 6(1) of this Rule is made because material information or satisfactory evidence was not considered during an initial claim of entitlement, then all material information or satisfactory evidence must be included in the request for reconsideration.
- 6(4) The Authority shall respond in writing to a request made under subsection 6(1) of this Rule within 120 calendar days of the date the Authority issues a receipt confirming that it has received a complete request under subsection 6(1) of this Rule.
- 6(5) The response by the Authority under subsection 6(4) of this Rule may:
 - (i) confirm the Authority's original decision;
 - (ii) reverse the Authority's original decision; or
 - (iii) request further documentation from the person claiming entitlement to a transferred unclaimed amount.

7 Interest on transferred unclaimed amounts

- 7(1) No interest is payable by the Authority to a person claiming entitlement on transferred unclaimed amounts held by the Authority.
- 7(2) The Authority may invest transferred unclaimed amounts in a manner the Authority considers appropriate to offset the costs related to the administration of this Rule.
- 7(3) With respect to investments made by the Authority under subsection 7(2) of this Rule:
- (i) If earnings from any investments exceed the costs of administering this Rule, the excess amount will be used to offset costs to the credit union sector in the assessment outlined in the section 3.1 of the Fee Rule; and
 - (ii) If earnings from any investments are insufficient to cover the costs of administering this Rule, the difference will be recovered from the credit union sector in the assessment outlined in the section 3.1 of the Fee Rule.

8 Transitional Matters

- 8(1) Credit Unions will be subject to the requirements in subsection 2(2) and subsection 2(3) of this Rule immediately after the coming into force date specified in subsection 9(1).
- 8(2) Credit Unions will have 24 months following the coming into force date specified in subsection 9(1) to notify depositors who hold unclaimed deposits during these 24 months that the credit union intends to make payment of these deposits to the Authority.
- 8(3) Credit Unions are not required to make payments during the 24 month period following the coming into force date specified in subsection 9(1).

9 Coming into Force

- 9(1) This Rule will come into force on the later of the date that section 147 and clause 45 of subsection 285(1) of the Act comes into force and 15 days after the Rule is approved by the minister.

Appendix A: Material Information Fields Credit Unions to Provide FSRA

1. Personal information of any account holders relating to the unclaimed deposit:
 - a. Legal or given name;
 - b. Primary address;
 - c. Date of birth;
 - d. Secondary mailing address, if applicable;
 - e. Social insurance number;
 - f. Email address on file.

2. Account information related to the unclaimed deposit:
 - a. Account number
 - b. Type of account;
 - c. Date of last transaction performed by depositor; and
 - d. Balance amount.

3. Credit union information associated with the unclaimed deposit:
 - a. Name and institution number of the credit union;
 - b. Transit and branch number of the credit union;
 - c. Internal Institution Cross Reference Data code; and
 - d. Branch address.

4. If the account is a business account, the following information:
 - a. Full name of the business;
 - b. Personal contact information relating to any principal holders of the business;
and
 - c. Business registration number.

5. If the account is a trust account or owned by an estate, the following information:
 - a. The account type;
 - b. Information listed in section 1, above, about the person(s) the account is in trust for; and
 - c. Information listed in section 1, above, about the trustees associated with the account.

6. If the account is owned by an estate, the following information:
 - a. The account type;
 - b. Information listed in section 1, above, about the person(s) who represent(s) the estate;
 - c. Evidence that this person is (or these persons are) entitled to represent the estate;
 - d. Information listed in section 1, above, about the beneficiaries who are entitled to all or part of the unclaimed deposit under the estate; and
 - e. Evidence that the person described in 6(d) is (or these persons are) entitled to all or part of the unclaimed deposit under the estate.

Appendix B: Information Fields Available on Searchable Database

1. Depositor's full name
2. City of the depositor's primary address
3. Province of the depositor's primary address

Appendix C: Information FSRA May Request of Claimants

1. Information listed in Appendix A, where applicable
2. Proof of the claimant's identity such as government issued photo identification
3. Where the claimant is not the depositor, proof the claimant is entitled to the transferred unclaimed deposit, such as proof of the depositor's death and proof the claimant is a beneficiary who is entitled to the transferred unclaimed deposit under the depositor's will or under applicable law with respect to intestacy.