

## Financial Services Regulatory Authority of Ontario (“FSRA”)

### Publication of the Board Approved Rule on FSRA’s Website (the “Publication”)

#### Rule 2025 – 002 Eligible Financial Contracts (the “Board Approved Rule”)

#### Introduction

This Publication contains material to satisfy paragraphs (1)-(5) of s. 23(2) of the *Financial Services Regulatory Authority of Ontario Act, 2016* (the “**FSRA Act**”).

FSRA has created this Publication after a public consultation on Rule 2025 – 002 Eligible Financial Contracts (the “**Proposed Rule**”), which began on October 20, 2025, and ended on December 19, 2025.

After considering the submissions received during the public consultation, FSRA has made no changes to the Proposed Rule. As FSRA has not made any further changes, FSRA is not required to conduct a second public consultation.

FSRA’s Board of Directors approved the Proposed Rule (the “**Board Approved Rule**”) on March 3, 2026.

Please refer to Appendix A for the Board Approved Rule.

#### Background

In October 2024, the Government of Ontario (the “**Government**”) tabled *Building Ontario For You Act (Budget Measures), 2024*, S.O. 2024, c. 20 – Bill 216 (the “**Bill**”). As part of the Bill, the Government introduced a resolution order regime into the *Credit Unions and Caisses Populaires Act, 2020* (the “**CUCPA 2020**”). If brought into force this regime would:

- help maintain and promote the stability of the credit unions and caisses populaires (“**CU**”) sector by enhancing FSRA’s Chief Executive Officer’s (“**CEO**”) resolution toolkit while mitigating any potential chilling effect on the ability of CUs to engage with derivative counterparties to hedge their exposures, and
- promote credible recovery and resolution frameworks for CUs, which are key eligibility criteria for gaining access to the Bank of Canada’s Emergency Lending Assistance program.

In addition, if brought into force, these amendments would provide the CEO with the discretion to make resolution orders if certain conditions are met.

One type of resolution order is an order with respect to contractual and membership matters. Broadly speaking, when this type of order is made, a CU’s counterparties

cannot terminate or amend their agreements with CUs for a number of reasons. These reasons are set out under the CUCPA 2020, and they include a CU's deteriorated financial position or the making of a resolution order itself.

In comparison to other agreements, the CUCPA 2020 treats eligible financial contracts (“**EFCs**”) differently in the context of a resolution order.<sup>1</sup> Generally, EFC counterparties are, when a resolution order is made, allowed to continue to take certain actions, such as terminate or amend an EFC, unless these actions are stayed for express reasons under the CUCPA 2020. This treatment of EFCs strikes a balance between establishing robust resolution order powers to prevent the mass termination of EFCs during a resolution and adequately protecting the rights of EFC counterparties to manage their risks.

Under paragraph 57.1 of ss. 285(1) of the CUCPA 2020, FSRA is granted the authority to define EFC in a Rule. FSRA used this rulemaking authority to publish the Proposed Rule for consultation, which defined EFC for the purposes of s. 234.1 of the CUCPA 2020.

FSRA closely harmonized the Proposed Rule with the Canada Deposit Insurance Corporation's *Eligible Financial Contracts Regulation*, which aims to reduce inconsistencies for counterparties operating across jurisdictions.

Stakeholder feedback was supportive of and did not raise any concerns with the Proposed Rule. As a result, FSRA has not made any further changes to the Proposed Rule.

FSRA has proceeded to submit the Board Approved Rule to the Minister of Finance (the “**Minister**”) for approval.

### **Delivery to the Minister of Finance (the “Minister”)**

FSRA delivered the Board Approved Rule and the material required by s. 23(1) of the FSRA Act to the Minister on March 16, 2026.

### **No Action Taken by the Minister**

If the Minister does not approve, reject or return the Board Approved Rule to FSRA for further consideration within 60 days after it is delivered to the Minister, then the Board Approved Rule will take effect on the later of:

- 75 days after the Board Approved Rule is delivered to the Minister, or
- the date that sections 11 and 13 of the Bill are brought into force.

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<sup>1</sup> Please refer to ss. 234.1(10), 234.1(11), 234.1(12), 234.1(13), 234.1(14), 234.1(16) and 234.1(18) of the CUCPA 2020.

## **Statement of Substance and Purpose**

### *i. Purpose*

The purpose of the Proposed Rule is to define EFC for the purposes of s. 234.1 of the CUCPA 2020. This will provide the CU sector with certainty regarding the types of financial agreements which constitute an EFC in a resolution order context.

### *ii. Substance*

The substance of the Proposed Rule is to define the types of agreements which constitute an EFC.

## **Written Comments Received and FSRA's Responses**

FSRA must publish a summary of written comments received and FSRA's responses to significant issues and concerns brought to FSRA's attention during the consultation period.

Please refer to Appendix B for a summary of comments and FSRA's responses to significant issues and concerns.

**Appendix A – the Board Approved Rule**

## Rule 2025 – 002 – Eligible Financial Contracts

### 1 Interpretation

1(1) In this Rule,

(i) “Act” means the *Credit Unions and Caisses Populaires Act, 2020*, S.O. 2020, c. 36, Sched. 7, as amended,

(ii) “derivative instrument” means a financial agreement whose obligations are derived from, referenced to, or based on, one or more underlying reference items such as interest rates, indices, currencies, commodities, securities or other ownership interests, credit or guarantee obligations, debt securities, climatic variables, bandwidth, freight rates, emission rights, real property indices and inflation or other macroeconomic data and includes

(a) a contract for differences or a swap, including a total return swap, price return swap, default swap or basis swap,

(b) a futures agreement,

(c) a cap, collar, floor or spread,

(d) an option, and

(e) a spot or forward.

1(2) In addition to s. 1(1), if a term or phrase used in this Rule is defined in the Act, that definition shall apply for the purpose of this Rule.

### 2 Eligible Financial Contracts

2(1) For the purposes of s. 234.1 of the Act, “eligible financial contract” means,

(i) a derivative instrument, whether settled by payment or delivery, that

(a) trades on a futures or options exchange or board, or other regulated market,  
or

(b) is the subject of recurrent dealings in the derivatives market or in the over-the-counter securities or commodities markets,

(ii) an agreement to

(a) borrow or lend securities or commodities, including an agreement to transfer securities or commodities under which the borrower may repay the loan with other securities or commodities, cash or cash equivalents,

- (b) clear or settle securities, futures, options or derivatives transactions, or
- (c) act as a depository for securities,
- (iii) a repurchase, reverse purchase or buy-sellback agreement with respect to securities or commodities,
- (iv) a margin loan in so far as it is in respect of a securities account or futures account maintained by a
  - (a) clearing agent, or
  - (b) person, including a broker, bank or a trust company, that in the ordinary course of business maintains securities accounts or futures accounts for others,
- (v) any combination of agreements referred to in any of clauses (i) to (iv),
- (vi) a master agreement in so far as it is in respect of an agreement referred to in any of clauses (i) to (v),
- (vii) a master agreement in so far as it is in respect of a master agreement referred to in clause (vi),
- (viii) a guarantee of, or an indemnity or reimbursement obligation with respect to, the liabilities under an agreement referred to in any of clauses (i) to (vii), and
- (ix) an agreement relating to financial collateral, including any form of security or security interest in collateral and a title transfer credit support agreement, with respect to an agreement referred to in any of clauses (i) to (viii).

### **3 Coming into Force**

- 3(1) This Rule comes into force on the later of the date that sections 11 and 13 of Schedule 5 of *Building Ontario For You Act (Budget Measures), 2024* comes into force and 15 days after the Rule is approved by the Minister.

## **Appendix B – Written Comments Received and FSRA’s Responses**

**Summary of Stakeholder Comments  
Eligible Financial Contracts Rule**

| <b>Background</b>  |   |
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| <b>Comments</b>  |   |
| FSRA published a consultation version of <b>Rule 2025 – 002 – Eligible Financial Contracts</b> (the “ <b>Proposed Rule</b> ”) for public comment for a 60-day period, from October 20 to December 19, 2025. FSRA received one submission from the Canadian Credit Union Association (“CCUA”) during the public consultation. |   |
| <b>Response</b>  |   |
| The CCUA noted that they supported the Proposed Rule for providing clarity and consistency for the credit union sector and endorsed FSRA’s approach of harmonizing it with the federal regime. The CCUA also confirmed that members identified no areas in the Proposed Rule which required amendments.                      | FSRA appreciates the time and effort that the stakeholder has taken to review and provide input on the Proposed Rule. FSRA has not made any further changes to the Proposed Rule. |