

Financial Services Regulatory Authority of Ontario
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February 10th, 2025

RE: Libro Credit Union (Libro) Responds to FSRA's Second Consultation on Unclaimed Deposits Rule and Guidance (Consultation 2025-001)

To the Reader(s),

Libro Credit Union (Libro) appreciates the opportunity to provide feedback on FSRA's second consultation on the Proposed Unclaimed Deposits Rule (the Rule) and accompanying Guidance. We believe this Rule will bring consistency and clarity for credit unions while enhancing service and protection standards for credit union members and their deposits. Libro is pleased to see that FSRA has revised the proposed Rule and Guidance to be significantly reflective of feedback provided by Libro and the sector during the initial consultation in spring 2024.

While we appreciate this effort, Libro continues to seek clarity and provide recommendations on multiple elements of the Rule and Guidance. Additionally, we have significant concerns regarding the estimated costs associated with implementing the Rule and the potential impact on credit unions and their members. We request FSRA take a closer look at the financial and operational implications to ensure a balanced and effective approach.

We look forward to continuing our dialogue with FSRA on this important Rule to ensure that Libro and its Owners are supported through a straightforward and clearly defined Unclaimed Deposits Rule, Guidance, and overall transition process.

Revised Proposed Rule Feedback

1. Interpretation and Application

Libro appreciates FSRA's inclusion of a \$50 minimum threshold in the revised proposed Rule. To enhance clarity, it may be beneficial to use phrasing such as "greater than" when defining the threshold. This adjustment could help reduce the administrative burden associated with small-dollar unclaimed deposits.

Auto Renewing Products

Libro reiterates its comments from the initial consultation that auto-renewal products should be recognized as an acknowledgment of a product or transaction, given that they are based on the

member's signed agreement. These products, often GICs, are typically held by long-tenured members. Excluding auto-renewing products from acknowledgment could lead to increased confusion among members and reduce program efficiency. Since members receive ongoing information about their auto-renewing products, we do not believe this approach harms consumers. We encourage FSRA to reconsider its position to support a more efficient and streamlined process within the Rule.

Accounts for Minors

In the initial consultation Libro recommended the Rule and Guidance provide exception for members who are minors (under the age of 18) so that the period of inactivity commences at age 18. FSRA has proposed no changes, citing *"Transferring these deposits to FSRA will allow depositors to access their deposits later in life and protect deposits from being eroded by fees."*

FSRA has not made any changes to the Rule regarding for minors. While FSRA's response highlights the goal of protecting future claims from fee erosion, it does not fully consider the practical realities of these accounts. We urge FSRA to reconsider the inclusion of accounts of minors within the Rule.

Many inactive accounts belong to minors, as they are often opened by parents or guardians. Young children typically do not have email addresses, online banking access, or frequent financial transactions, naturally leading to extended periods of inactivity. Requiring the transfer of these accounts to FSRA may not be the most practical or beneficial approach for young account holders and could hinder credit unions' ability to engage with future members. Additionally, there is little rationale for many minors to actively check their account statements or download PDFs, and outreach efforts directed at minors may instead cause frustration among parents and raise unnecessary concerns.

It is also important to recognize that some credit unions offer youth accounts that allow minors to hold accounts in their own name before reaching the age of majority. Unlike trust accounts for minors or reserved youth accounts for teenagers, these accounts result in less direct interaction with the account holder. Furthermore, many credit unions, like Libro, provide free or reduced-fee banking for youth members, further minimizing the risk of financial harm.

To improve efficiency and reduce confusion for both younger members and their parents or guardians, **we recommend that the activity date for the Rule begin at 18 years of age.** If FSRA is concerned about fee erosion that could be separately addressed by restricting fees on inactive accounts of minors.

2. Unclaimed Deposits – General - Credit Unions

Change of Terminology to Depositor from Member

This change is logical, as the Rule continues to apply to non-members. However, there may be some initial confusion as we adapt to this terminology. FSRA should be mindful of this distinction, as it may lead to questions and clarification needs between members and non-members.

Statement of Account and Online Activity as Acknowledgement

Today, many Libro Owners rely on their online banking transactional records as their primary bank statements. The ability to quickly export, copy, paste, or email transaction details offers greater flexibility and efficiency than navigating traditional PDF statements. Classifying online or mobile banking users who do not access traditional statements as inactive does not align with modern digital banking practices or consumer expectations. Additionally, this approach may create unnecessary confusion and administrative burdens, leading to avoidable concerns between members, credit unions, and regulators.

We urge FSRA to revisit its definition and recognize online and mobile banking sign-ins as valid acknowledgments or requests for account statements as forms of activity. This adjustment would not harm consumers and would be consistent with the principles of the Rule.

3. Unclaimed Deposits – Material Information

Copies of Physical Materials and Information Being Sent to FSRA

Libro appreciates FSRA's decision to remove the requirement to share physical materials and copies of depositor information, addressing a significant concern we raised in the initial consultation. However, further clarity on the level of detail required and the process for sharing search attempts with FSRA would be beneficial. The Rule only specifies that credit unions must provide evidence of an attempt, but it is unclear what format FSRA expects for electronic submissions. A standardized approach could help streamline this process and improve efficiency across the sector.

Retention Period Changes

Libro appreciates FSRA's adjustment of retention requirements from 40 and 100 years to 10 years, which is a more practical and efficient approach. However, we believe the retention period should align with internal record management schedules, which typically follow a seven-year standard to comply with CRA requirements.

Once material information is sent to FSRA, it is unlikely that additional relevant details will become available to the credit union. A seven-year retention period would help prevent unnecessary duplication of records between institutions and ensure information is not retained longer than necessary. We encourage FSRA to consider this further adjustment for greater alignment with broader industry practices.

4. Material Information – Personal Information

Overall, Libro is pleased to see a reduction in the data points required within Appendix A. Libro seeks clarification on the rationale for including the definition of “material information” within the Rule rather than in the Guidance. Retaining this definition in the Guidance would provide FSRA with greater flexibility to update and refine the criteria as needed, ensuring it remains responsive to industry developments and evolving regulatory considerations. We recommend that FSRA consider maintaining the details of what constitutes material information within the Guidance rather than embedding it within the Rule. This approach would allow for timely updates without necessitating formal Rule amendments.

Appendix A – Legal or Given Name

Libro seeks clarification on whether we should provide both the legal *and* given names of account holders, as applicable, when reporting unclaimed deposits. Libro’s systems currently capture both pieces of information and would like clarification that specifies whether FSRA requires one or both, ensuring consistency in reporting.

Appendix A – Email Address on File; *if applicable*

Not all Libro Owners have an email address, so to ensure consistency, we urge FSRA to consider that the requirement for an email address include “if applicable,” just as it does for a secondary mailing address. This adjustment would provide clarity and accommodate Owners who may not have or use email communication.

8. Transitional Matters

Libro appreciates FSRA’s decision to extend the transitional timeline to 24 months, with implementation set for Fall 2027. This adjustment aligns with our feedback in the initial consultation and is a welcomed update.

Revised Proposed Accompanying Guidance Note

Clarity on Non-Negotiated Items Under “Depositor”

We seek clarification on how FSRA intends to handle situations where unclaimed funds are transferred to FSRA, but the original instrument (e.g., a cheque) is subsequently negotiated by the depositor. Currently, some credit unions issue cheques to members prior to closing their accounts. In some cases, these cheques remain uncashed. If these unclaimed funds are transferred to FSRA, it is unclear what process should be followed if the original depositor later negotiates the cheque. Specifically, Libro requests guidance on how we would reclaim these funds from FSRA in such scenarios. Clarification on this process will help ensure the sector can adjust our procedures accordingly while maintaining compliance with FSRA’s requirements.

Alternative Contact Information

Libro continues to have **serious concerns** about the requirement to communicate with next of kin, family, and emergency contacts. This approach increases the risk of fraud and poses potential privacy violations for credit unions and members. We urge FSRA to reconsider these options and remove them from the accompanying Guidance or provide clarity how taking these actions is not a violation of federal privacy legislation.

“4. Reasonable Steps to Locate and Notify Depositors”

We would also like to highlight a practical limitation regarding the expectation to contact depositors through alternative contact information. Libro does not currently collect emergency contact or next-of-kin details for regular, non-registered accounts, meaning this information would not be readily available in most cases. Additionally, another depositor would need to be a joint account holder for privacy reasons, and any credit reports obtained would be soft hits unless a formal credit check was conducted. Given these constraints, we recommend FSRA reconsider the feasibility of these requirements in the context of privacy legislation and provide further guidance on reasonable and practical alternatives for contacting depositors.

Program Costs

Estimated Costs of Administering the Unclaimed Deposits Program

This second consultation introduces new details regarding the estimated cost of administering the unclaimed deposits program, which were not included in the initial consultations. We want to emphasize our belief that an unclaimed deposit program is fundamentally beneficial for consumers.

However, Libro has **significant concerns** regarding the cost estimates associated with the implementation and administration of the Unclaimed Deposits Rule. The projected financial shortfalls, ranging from \$304,000 in FY 2025-26 to \$1.3 million in FY 2027-28, are significant. These additional costs, combined with the internal resources credit unions will need to allocate for compliance, create an undue financial burden on the sector at times already marked by various economic challenges.

We strongly urge FSRA to explore alternative solutions that could reduce implementation costs and improve efficiency. This includes considering cost-effective technological solutions and leveraging existing infrastructure where possible in other institutions and branches of the Provincial Government.

Furthermore, we request increased transparency in FSRA’s vendor selection process to allow the sector to better understand the projections provided. Clear disclosure of how vendors are chosen, the criteria used in the selection process, and a breakdown of cost estimates would improve

clarity and accountability. Additionally, we seek further explanation of FSRA's cost assumptions, including how investment income from unclaimed deposits is projected to offset costs and what measures are being considered to mitigate financial shortfalls.

Clarity Needed on Fee Structure

The Proposed Rule does not outline the fee structure or the formula for how fees will be distributed among individual credit unions. Transparency and clarity on this matter are essential for Libro and the sector to plan accordingly.

We understand that the fee structure will follow the existing FSRA Fee Rule calculation. This means credit unions would contribute their share of total program costs based on their proportion of total risk-weighted sector assets. Given the significance of this approach, it should be explicitly stated in the notice to ensure credit unions fully understand how fees will be assessed and invoiced.

Enhanced Transparency and Reporting on Unclaimed Deposits Program Costs and Investment Gains

Libro expects FSRA to provide annual reporting on both the costs associated with administering the Unclaimed Deposits program and the investment gains from the pooled unclaimed deposit funds. Transparency in these financial aspects is critical to ensuring accountability and sector-wide understanding of the program's financial impact.

We do not believe that FSRA's current proposed approach of reporting annually to the Stakeholder Advisory Committee (SAC) provides sufficient visibility or transparency for the broader credit union sector. To enhance accountability, we strongly recommend that FSRA establish a more comprehensive and accessible reporting framework that allows all credit unions to clearly understand how program costs are incurred, how investment returns are allocated, and how financial shortfalls are being addressed. Greater sector-wide transparency will help credit unions plan for potential cost implications and ensure that the administration of unclaimed deposits remains efficient, fair, and aligned with industry needs.

Breakdown of Cost Estimates – Operational Costs

The estimated costs in Table 1 include hiring new FSRA staff to administer the program, but there is no breakdown of the number of positions or the rationale behind these figures. A platform of this scale should drive efficiency through automation, reducing manual input and operational expenses. However, the projected costs suggest otherwise. Clarification on how automation will streamline operations, and lower costs would be helpful. If data input remains manual, alternative approaches should be considered to reduce the burden on the sector.

While we understand FSRA is building this framework from the ground up, further exploration of cost-saving measures and alternative solutions is necessary before accepting the proposed expenses.

Conclusion

Libro appreciates FSRA's efforts in refining this Rule and incorporating feedback from us and the sector raised following the initial consultation. While we recognize the progress made, concerns remain about the Rule's efficiency and the potential administrative burden it may create.

The newly introduced cost estimates are also significant and concerning, particularly as the sector faces economic uncertainty. Before implementation, further review and cost reductions should be explored to ensure a practical and sustainable approach. Libro is committed to working collaboratively with FSRA and the government to find a solution that supports all stakeholders.

We always welcome the opportunity to connect with FSRA about any concerns and recommendations included in this response. We look forward to engaging in proactive discussions in the near term as Libro, FSRA, and the sector collaborate on the delivery of this important program.

Sincerely,



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