

FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO

NOTICE OF FINAL RULE UNDER THE
CREDIT UNIONS AND CAISSES POPULAIRES ACT, 1994

RULE 2019 – 002
CREDIT UNION DEPOSIT INSURANCE ADVERTISING RULE

February 14, 2020

Introduction

The Financial Services Regulatory Authority of Ontario (**FSRA** or the **Authority**), under subsection 21(1) of the *Financial Services Regulatory Authority of Ontario Act, 2016* (the **FSRA Act**), has made a Rule 2019-002 – CREDIT UNION DEPOSIT INSURANCE ADVERTISING RULE (the **Advertising Rule**) as a rule under the *Credit Unions and Caisses Populaires Act, 1994* (the “**CUCPA**”).

The Advertising Rule was delivered to the Minister of Finance (the **Minister**) on February 14, 2020. The Minister may approve or reject the Advertising Rule, or return it for further consideration. If the Minister approves the Advertising Rule, it will come into force the 15th day following the Minister’s approval (**Effective Date**). If the Minister does not take any action with respect to the Advertising Rule, it will come into force in a manner specified in Subsection 21(2) of the FSRA Act.

Background

FSRA was established under the FSRA Act and on June 8, 2019 assumed substantially all of the regulatory functions of the Financial Services Commission of Ontario (**FSCO**) and the Deposit Insurance Corporation of Ontario (**DICO**). An existing DICO By-law #3 – Deposit Insurance Advertising (**By-Law #3**) was assumed by FSRA when it amalgamated with DICO. Upon amalgamation of DICO and FSRA, the CUCPA was amended to allow FSRA to enforce the By-Law #3 and make a rule to replace it. By-law #3 continues to refer to DICO as the deposit insurer and does not refer to FSRA. To ensure clarity for both credit unions and their members, FSRA has developed a draft rule that is intended to replace DICO By-law #3, in accordance with FSRA’s priorities of reducing regulatory burden and improving regulatory effectiveness.

By-Law #3 governs the advertising for credit unions including the requirement to display a decal for credit union deposit insurance which signifies to the members that their deposits are insured. As the newly amalgamated entity, FSRA is now responsible for administering deposit insurance and maintaining the Deposit Insurance Reserve Fund (**DIRF**) under the CUCPA.

The FSRA Act requires that a rule proposed by FSRA will be published on its website and that FSRA will invite interested persons to make written representations with respect to the proposed rule within a period of at least ninety (90) days after the publication. FSRA sought public comment on the Advertising Rule in accordance with section 22 of the FSRA Act and provided a 90-day comment period. The comment period relating to the Advertising Rule expired on January 15, 2020. There were a total of 4 comments received. A summary of the [comments and FSRA’s responses](#) are available. FSRA has considered comments received

during the consultation period, and has determined that no changes to the Advertising Rule are necessary as a result of those comments.

Substance and Purpose of the Advertising Rule

The development of the Advertising Rule was achieved following a review of the existing By-Law #3 with critical view of providing clarity and to better inform credit union members with respect to deposit insurance. The substance and purpose of the Advertising Rule is to authorize, control and require the use by credit unions of marks, signs, advertisements or other devices indicating that deposits with credit unions are insured by FSRA through the DIRF.

Summary of the Advertising Rule

Similar to DICO By-law #3, the Advertising Rule requires credit unions to follow the advertising requirements as set out in Appendix A of this Proposed Advertising Rule. The Advertising Rule consist of two categories of requirements; credit unions will be required to post decals in their branches (or on their website) indicating that deposit insurance is administered by FSRA through the DIRF. Further, the Advertising Rule sets out a set of approved messages which may be included in advertising materials for the credit union members. These requirements are currently in place for credit unions and their members.

In accordance with the requirements of the FSRA Act, FSRA is seeking public comment on the Advertising Rule in accordance with Section 21(1) of the FSRA Act. Appendix A to this Notice is the proposed Advertising Rule. Within a period of ninety (90) days from the date of publication of the Notice, interested persons are invited to make written representations to FSRA with respect to the Advertising Rule.

Authority for the Advertising Rule

Subsection 21(1) of the FSRA Act authorizes the Authority to make rules in respect of any matter over which the Act gives the Authority rule-making authority. Clause (1) of subsection 321.0.4 (1) of the CUCPA provides the Authority with the rule-making authority for the Advertising Rule.

Unpublished Materials

In making the Advertising Rule, the Authority has not relied on any significant unpublished study, report, decision or other written materials, other than internal reports prepared by FSRA staff for FSRA management.

Alternatives Considered

In preparation of the Advertising Rule, FSRA staff has considered non-prescriptive alternative. However, the primary goal of the deposit insurance advertising requirements is to create clear and consistent credit union member and consumer understanding of the deposit insurance administered through FSRA. This goal would not be achieved if each Ontario credit union was permitted to implement the advertising requirements based on their interpretation of a less

prescriptive rule. In addition, the sector and members of credit unions will be better informed regarding the insurance availability which will contribute to overall confidence in the sector.

To maintain clear and consistent communication with credit union members, it is important that all Ontario credit unions advertise deposit insurance in the same style, format and manner. These requirements are also consistent with the advertising requirements of other deposit insurers in Canada such as the Canadian Deposit Insurance Corporation (CDIC). In this case, an ambiguous rule, or maintaining By-Law #3, would be less effective and efficient in maintaining clear, accurate and consistent deposit insurance advertising for Ontario credit unions.

Anticipated Costs and Benefits

By-Law #3 governed the advertising of deposit insurance for Ontario credit unions including the requirement to display a decal for credit union deposit insurance which signifies to the members that their deposits are insured by DICO. DICO no longer exists as a separate legal entity and FSRA is now responsible for providing deposit insurance and maintaining the DIRF. The Advertising Rule requires that references in deposit insurance advertising material be changed from DICO to FSRA in order to ensure transparency for consumers.

The principal benefit of the Advertising Rule is that it supports important FSRA key objectives: to promote transparency and disclosure of information by the regulated sectors; and, to protect the rights and interests of consumers.

The principal costs of the Advertising Rule are associated with production of new decals and deposit insurance brochures. Consistent with the process in place previously at DICO, FSRA will be producing the new decals and deposit insurance brochures and providing them to Ontario credit unions, with costs being recovered by FSRA through its general credit union fee assessment under the FSRA Fee Rule which can be found at: <http://www.fsrao.ca/sites/default/files/2019-06/fee-rule-2019-001-en.pdf>. The expected cost for the production and distribution of decals and brochures is up to \$50,000 (estimated at approximately \$20,000-\$25,000).

There should be minimal costs, if any, to the credit union sector as a result of these changes and may include costs for changes to their websites and any marketing materials. FSRA's view is that the benefit of members being accurately informed about deposit insurance far outweighs the costs of implementing the Advertising Rule.

Text of Advertising Rule

The full text of the Advertising Rule is contained in Appendix A.