

13 May 2024

Financial Services Regulatory Authority
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

Re: Feedback on Proposed Unclaimed Deposits Rule and Guidance

Kingston Community Credit Union (KCCU) is grateful for the opportunity to provide feedback on the proposed Rule and Guidance. A unified system for unclaimed balances has been pending since the promulgation of the 1994 Credit Union and Caisses Populaires Act and we deeply appreciate the thought and effort the Financial Services Regulatory Authority (the Authority) has put into the proposal. It will benefit members and consumers, mitigate the risk of unattended Personally Identifiable Information (PII), and reduce the administrative burden on the credit union system.

An Unclaimed Deposits regime serves four principal functions:

- a) It will create a strong member/consumer benefit in creating a single and transparent registry through which consumers and estates can search for lost and abandoned deposits. Surprisingly many deposits are forgotten and left in limbo, representing people of all ages and circumstances, as well as associations and even businesses. It is impractical for consumers to approach all financial institutions, and over time with mergers and branch relocations it can be impossible to trace past deposits, even when an original document is available to the consumer.
- b) It will greatly reduce the risk of fraud and identity theft for both the consumer and the financial institution. Unattended and un-monitored deposits are historically prime targets for insider fraud in financial institutions. Moreover, the existence of PII of members and consumers in legacy files and electronic media, where the financial institution has no ongoing business relationship, counteracts effective document retention management and creates a heightened risk of document loss or PII compromise. The best and safest document retention scheme is one where there is the greatest consistency between the requirements of business and all applicable legislative jurisdictions (including CUCPA (2020), PIPEDA, PCMLTFA and CRA).
- c) It will greatly reduce administrative costs and burdens on the credit union system. Preserving unclaimed deposits and protecting them against the risks identified above incurs a significant burden on internal risk management procedures with periodic review and balancing (best practices entails a monthly reconciliation process) as well as added time and expense on internal audits and external audits and examinations.

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- d) A transfer to a single registry will protect the residual balances of member and consumer deposits from further depletion by eliminating cost-recovery charges stemming from the administrative and auditing procedures mentioned above.

On behalf of the Kingston Community Credit Union I am pleased to provide the following feedback to the proposed *Rule 2024-001* and the proposed *Guidance: Credit unions – Unclaimed deposits*. These recommendations aim to reduce the complexity of administration of unclaimed deposits for both the credit unions and the Authority and are grounded in the experience of having managed and guarded our erstwhile member's unclaimed deposits to date.

Approach

An Unclaimed Deposits registry for the Ontario credit union system should align with the overall risk-based supervisory approach of the Authority. Detailed original copies of all steps taken through a ten-year period to manage, contact and identify the member are at an operational level, and their retention and upload to the Authority do not serve any material benefit beyond that provided by a simple electronic record or log of all those activities. To manage the administrative burden for both the credit union and the Authority, the data upload to a registry should be similar to the requirements of the federal Unclaimed Properties Office at the Bank of Canada, which is a data file (.xml format) with pertinent data points along with a single original document (signature card or signed account agreement). It would be reasonable for a modern Ontario registry to update the documentation requirement to include two more documents such as a copy of a government issued ID and a recent credit report, as available.

Processes for inactive, dormant and unclaimed accounts have always been subject to close scrutiny in the credit union internal audit process, as well as by the external auditors; these audit processes and reporting along with the Attestation accompanying an annual balance upload to the Authority will provide the Authority with the required assurances for the integrity and completeness of the data.

Efforts at locating and notifying members

Credit unions are in the business of building and retaining memberships. Credit Unions make every service effort to prevent member relationships from becoming inactive and deposits unclaimed. Furthermore, at many credit unions procedures are in place to identify the likelihood of inactivity and for proactively reaching out to the member long before the two year's of inactivity response is triggered. Once deposits turn inactive and subsequently unclaimed, the greatest likelihood of success in contacting the member is while the identifying information on file is relatively fresh, and over time there is a diminishing return on efforts to locate the member. Furthermore, as credit unions are strongly motivated to retain and build their membership numbers, every avenue is pursued up front. **Paragraph 4(5) in the *Guidance*** calling for evidence of an escalated effort over time is un-productive and imposes an increasingly wasteful burden in time and cost on the credit union. There would be no further legal avenues for locating the member that were not available at the onset. The credit union will at the nine-year mark repeat all the most productive avenues for reconnecting with the member, including seeking updated address information through soft credit reports; this, however, cannot be an "escalated" effort relative to earlier efforts and it would be an unreasonable and disproportionate expectation to see such "escalated" effort.

Evidence of all attempts to notify the member re. **Rule 2024-001 2(9)** and **Guidance 4(4)**

Record keeping is increasingly digital and best practice for maintaining records of PII is to ensure unity of information and consistency in format. Such centralized information is best to reduce the risk of leakage and ensure data is protected and transferred in its entirety when software systems are upgraded or converted, branches moved, and credit unions amalgamated. For example, if record keeping is generally maintained digitally, original return to sender notices are destroyed and digital records updated accordingly. It is recommended that the *Guidance* clarify that electronic records such as a consolidated spreadsheet recording all contact efforts and their outcomes (including pertinent information such as exact dates, medium and so on) accompanied by the appropriate attestation is acceptable and sufficient evidence. Requiring “full copies of all material information” (**Rule 2021-001 2(9)ii**) would saddle both the credit union and FSRA with reams of documentation and an excessive workload with no added value to a simple record log. KCCU strongly urges the Authority to align with the Bank of Canada Unclaimed Properties Office reporting guide, where a xml format record of all pertinent data points is accompanied by a **single** original document with evidence of depositor signature.

Scope of Documentation maintained re. **Guidance 4(4)**

Preserving original documents or copies of the entire effort to connect with the member over 10 years provides no added value to that of a detailed log of the same activity and vastly increase the administrative burden on both the credit union and the Authority. The attestation provided as per the **Rule 2024-001 2(8)**, backed up by scope of internal and external audits will provide the necessary assurances of the integrity of the credit union process for working the unclaimed deposits file.

Data Retention re. **Rule 2021-001 2(11)** and **2(13)**

The *Rule* and *Guidance* appropriately requires the credit union to remit all information pertinent to identifying the nature and the owner of the unclaimed deposits. Furthermore, the credit union will provide an attestation that all the material submitted is accurate, complete and up to date. Consequently, there is no further pertinent information obtainable from the credit union. Requiring the credit union to maintain all records for 40 or 100 years, in parallel to the information held by the Authority, creates an undue and unnecessary burden on the credit union, in effect doubling the administrative burden on the system. It is also contrary to credit union obligations under PIPEDA, as PII may not be retained when there is no longer a business purpose for the data. Once the responsibility for the unclaimed deposits are transferred to the Authority, the business purpose for which the credit union has consent to maintain records in relation to the deposits ceases.

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In addition, the retention of detailed records for 40 or 100 years introduces a significant risk to the credit union system. Storing PII and financial records, whether in hardcopy or digital format, for which there is no business relationship, no further business purpose, and no known contact with the record subject, creates a huge risk of data loss and data compromise and introduces an unnecessary liability on the credit union system in Ontario. Good data management requires a defined business purpose for the data, a retention and destruction process tied to the active business purpose of the data, and at all times an active accountability for and owner of, the data.

The risk of inactive data being lost and compromised when retained up to 100 years will only be compounded when branches are relocated, data systems and standards changed, and credit unions amalgamated. I would posit that legitimate users would most likely be unable to access or read the data after a couple of decades, without diminishing the risk of exposure to professional bad actors, it will in short be a burden on the system with little or no added value.

Separately credit unions do maintain an active registry of members, or an electronic process for generating such a registry, but this is a delimited record of equity share entitlement along with minimal information for identification purpose and would not contain any information additional to that remitted to the Authority at the onset.

Alternative contact information re, **Guidance 4(3)**

It is recommended that the Guidance clarify that the ability of the credit union to contact emergency contacts or next of kin is limited to the express consent of the account holder(s) to so share their financial information. Any attempt to contact third parties in the absence of express consent and in the absence of any knowledge of the current relationship between the parties, creates risk of fraud or risk of transgressing the credit union's obligations under PIPEDA.

Account details including US\$ conversion rates re. **Rule 2(13)-2(15)**

As unmonitored accounts are high risk of fraud and misappropriation, bonding insurers, internal and external auditors have always recommended, that dormant memberships be closed out and the funds held in trust in a general ledger, a practice followed at many if not all credit unions. The timing and process will differ from credit union to credit union, and from banking system to banking system. However, for many credit unions the accounts in the banking system will have been closed out to a general ledger at some point, for example at the 5 year mark of member-level inactivity, or at the first subsequent maturity of term deposit products. In such cases US funds could have been converted to CAD at that point in time. It is recommended that the Authority aligns with the Bank of Canada and collect information on only the consolidated total of the member's unclaimed deposits (initial and current balances). The Bank of Canada has for example ceased asking for separate reporting of interest-bearing and non-interest bearing deposits and collects only the total balance for each bank client. For US funds credit unions will have used the posted conversion rate at the time of conversion, and the rate specified in **Rule 2014-001 2(15)** cannot be applied. In general, detailed reporting of each separate account held by member is unwieldy and creates reporting and data complexity of little material benefit.



Completeness of Data and Transition

As the credit unions have been holding on to all unclaimed deposits to date, there may be some legacy deposits from prior banking systems and paper based systems that pre-date KYC, AML and general record and identification practices we now take for granted, and identifying and deposit data may be limited for those accounts. It would be in the interest of consumers if FSRA took a broad view of the adequacy of the available data, in order to continue to safeguard member deposits and provide the consumer service of a single portal to search for their unclaimed deposits. It should not be in doubt that the credit unions will furnish FSRA with all the pertinent data points that they have available.

KCCU will welcome the opportunity to further discuss with FSRA the proposed Rule and Guidance, and contribute to ensuring the closest possible alignment between format of unclaimed deposit records at the credit union and at the Authority. I look forward to a smooth transition and an optimal administrative process.

Sincerely Yours,

A handwritten signature in blue ink, appearing to read "Jon Dessau", is written over a light blue circular scribble.

Jon Dessau
Chief Executive Officer
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