

# Market Conduct Code

For Atlantic Canada Credit Unions



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# Our Market Code Principles:

Credit unions are unique institutions. Operating in Canada for over 100 years, credit unions are financial cooperatives that are governed and financed differently than banks. At credit unions, members are shareholders. Being a member means sharing in the credit union's success.

Our primary motivation is providing quality products and services to our members. We are committed to ensuring that our members are completely satisfied with the level of services they receive.

## ***This is our Market Conduct Code.***

The Code recognizes the best practice principles we pledge to follow for soliciting, promoting, advertising, marketing, selling, or distributing our products or services. The Code demonstrates our commitment to the fair treatment of all those who use our services. We believe in fair sales practices, comprehensive access to banking services, transparency and openness, and a reasonable approach to settling complaints. Individuals are entitled to the best possible care of their financial interests. We respect all our provincial regulatory obligations, and continually practice absolute excellence in consumer protection. Our best practices can be summarized in five key principles:

### **1. Business Practices:**

We are committed to providing fair treatment to all our members and customers using our products and services. It is a core component of our governance and corporate culture.

### **2. Fair Treatment and Fair Sales Practices:**

Treating members and customers fairly and demonstrating fair sales practices at all times are integral parts of our business practices.

### **3. Access to Banking Services:**

We ensure that all credit union members and customers are granted access to fundamental financial services.

### **4. Transparency and Disclosure:**

The credit union uses plain-language descriptions of products and services in its communications to ensure people make informed decisions.

### **5. Complaint Handling:**

We examine complaints and work to settle them fairly, and we track complaints to help ensure our practices continue to improve.



## Preamble:

Credit unions are independent financial cooperatives meaning they are governed and financed differently than banks. Credit union Members are owners that have a say in the credit union's actions. Members elect a Board of Directors to provide leadership and ensure that members' views are represented. Credit unions have always been motivated to provide service to their Members, Account Holders, Consumers and communities, not just to grow profits.

Being a Member owner also means sharing in the credit union's success. Some credit unions offer lower interest rates and service fees, others distribute patronage dividends, and many contribute to community initiatives. As a community-owned financial institution, the credit union is sensitive to its Member's, Account Holder's, and Consumer's satisfaction with the level of service they receive.

Credit unions repeatedly demonstrate excellence in consumer protection, as evidenced by independent measures.<sup>1</sup>

## Applicability:

To promote the fair treatment of Members, Account Holders, and Consumers, this Market Conduct Code ("this Code") applies to credit unions in the Atlantic Provinces.

## Proportionality:

At a minimum, each credit union will implement the **requirements**<sup>2</sup> set out in this Code. The credit union will make all reasonable efforts to ensure the minimum proposed standards are met, in a manner that is best suited for the credit union.<sup>3</sup>

The credit union will determine whether to implement the **recommendations**<sup>4</sup> set out in this Code. Where the credit union chooses to implement a recommendation, it will do so in a manner that is best suited for the credit union.<sup>5</sup>

## Implementation:

The credit union will implement the **requirements** set out in this Code into its operations by March 31, 2021. The credit union will also respect all regulatory obligations and codes of conduct/ethics that apply to it.

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<sup>1</sup> As evidenced by receipt of Ipsos' *Customer Service Excellence Award*, for the sixteenth consecutive year in 2020: <https://www.ipsos.com/en-ca/news-polls/Ipsos-Awards-Top-Honours-for-Financial-Services-Excellence-in-Canada>

<sup>2</sup> A **requirement** exists where the word "will" is used throughout this Code.

<sup>3</sup> Make a risk-based decision, based on size, risk profile, and the nature and complexity of its operations, products, and services, and its regulatory obligations.

<sup>4</sup> A **recommendation** exists where the word "should" is used throughout this Code.

<sup>5</sup> Supra, note 14.



## Monitoring & Enforcement:

The credit union will demonstrate its commitment to this Code by implementing a self-regulatory model, meaning the credit union will:

- Complete an annual self-assessment, assessing its adherence to the Code and;

The credit union will report the results of the annual assessment, if applicable, to the Board of Directors in accordance with section 1.3.

## Code Reviews:

CCUA, with Centrals and Credit Unions, will review the Code, and update if needed<sup>6</sup>, at least once every two (2) years.

## Language in this Code:

Reference to the word “**will**” in sections throughout this Code means the credit union is *required* to adhere to that section.

Reference to the word “**should**” in sections throughout this Code means it is *an industry standard* and *recommended* that the credit union adhere to that section.

Reference to the word “**may**” in sections throughout this Code means it is *at the discretion of the credit union* to decide whether to adhere to that section.

Reference to the word “**inform**” in sections throughout this Code means it is *at the discretion of the credit union* to decide how to inform<sup>7</sup>. It is recommended that when the credit union refuses a Product or Service to a Member, Account Holder, or Consumer, they do so in writing, subject to any requirements to the contrary<sup>8</sup>.

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<sup>6</sup> If issues or circumstances arise.

<sup>7</sup> For example, digitally, orally, in paper format.

<sup>8</sup> For example, Suspicious Transaction Reporting – Tipping off



## Definitions:

For the purposes of this Code:

**“Accounts”** includes Deposit Accounts, or Credit Accounts, or Products, or Services, as defined in this Code.

**“Account Holder”** is an individual that holds an Account with the credit union but does not hold a credit union membership or credit union member share.

**“Agreement”** is a legally binding arrangement between the credit union and a Member or Account Holder<sup>9</sup> and may include, financial services agreements, account operating agreements, and Terms and Conditions.

**“Consumer”** includes a potential credit union Member or Account Holder.

**“Credit Account”** includes all credit facilities, such as, loans, mortgages, credit cards, lines of credit, and overdrafts.

**“Debit Transactions”** includes, but is not limited to, in branch transactions, electronic transfers, and Automated Teller Machine (ATM) withdrawals.

**“Deposit Account”** includes an account held by a Member or Account Holder<sup>10</sup> and allows money to be deposited and withdrawn. This includes accounts such as savings and chequing accounts.

**“Forms”** includes forms that are provided by the credit union to Members, Account Holders, or Consumers and are related to credit union Products or Services.

**“Member”** is an individual or entity that holds a credit union membership or credit union member share.

**“Personal Information”** is defined as in the [Personal Information Protection and Electronic Documents Act](#) (PIPEDA)

**“Products”** includes all products offered by the credit union, including registered products.

**“Services”** includes any activities involved in accepting and safeguarding money owned by individuals or entities, and the lending out of this money.

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<sup>9</sup> Consumers are not included in this definition because individuals that have Agreements with the credit union fit the Code’s definition of a Member or Account Holder.

<sup>10</sup> Consumers are not included in this definition because individuals that have a Deposit Account with the credit union fit the Code’s definition of a Member or Account Holder.



**“Terms and Conditions”** refers to the set of rules the credit union and a Member, Account Holder, or Consumer agree to abide by in order to acquire and/or use a credit union Product or Service.



# 1. Business Practices:

***We are committed to providing fair treatment to all our members and customers using our products and services. It is a core component of our governance and corporate culture.***

## 1.1 Business Culture

The credit union will promote a “fair treatment” corporate culture by making strategic decisions, demonstrating in their daily conduct, and communicating with credit union employees, the expectation that fair treatment applies to all Members, Account Holders, and Consumers.<sup>11</sup>

## 1.2 Governance and Accountability

The credit union’s Board of Directors (“Board”), as elected by the credit union membership, is responsible for ensuring the overall fair treatment of Members, Account Holders, and Consumers. The credit union will implement a policy and/or procedure that sets out:

- The credit union’s requirement to promote a “fair treatment” corporate culture, as per section 1.1;
- Who, at the Management level<sup>12</sup> will be responsible for ensuring adherence to the Code; and
- That the Board will review the report set out in section 1.3 and take necessary action to remedy deficiencies noted in the report, in a manner that is best suited to the credit union.

## 1.3 Reporting to the Board

At least annually, Senior Management will be responsible for reporting to the Board on the credit union’s adherence to the principles in this Code, including the results of the credit union’s annual self-assessment.

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<sup>11</sup> *Conduct of Insurance Business and Fair Treatment to Customers*, Canadian Council of Insurance Regulators, Canadian Insurance Services Regulatory Organizations (2018 Sept), p. 9, online: <https://www.ccir-ccra.org/Documents/View/3450>

<sup>12</sup> For example, Management as a whole, or a member of Management.



## 1.4 Protection of Personal Information

The credit union will **safeguard, collect, use, and disclose** Personal Information in accordance with the [Personal Information Protection and Electronic Documents Act](#) (PIPEDA)

**NOTE:** Extra-territorial data protection requirements may also apply to the credit union where it has Members or Account Holders<sup>13</sup> that are residents of the European Union (EU). For more information see the *General Data Protection Regulation 2016/679* here: <https://gdpr-info.eu/>

## 1.5 Financial Well-being and Financial Literacy

The credit union values and supports the financial well-being and financial literacy of consumers in their communities. In this regard, the credit union should make strategic decisions that outline initiatives the credit union intends to undertake and how those initiatives will be delivered.

Initiatives that supports these values may include offering awareness and/or education on **improving credit bureau scores, safely using internet and mobile banking**, and improving financial well-being through appropriate **financial planning**.

## 1.6 Whistleblowing

It is the credit union's intent to provide a channel through which whistleblowers can report suspected unethical conduct in anonymity while respecting the rights of those about whom concerns are raised, to address or answer those concerns.

The credit union should have a policy and/or procedure in place for employees to report incidents of actual or potentially improper or unethical conduct, without fear of reprisal or unwarranted negative consequences. Employees who report suspected unethical conduct ("whistleblowers") will be protected, to the extent possible under the circumstances, as described in the credit union's procedures.

The credit union's board of directors is responsible for periodically reviewing, approving, and maintain the Whistleblowing policy and/or procedure. Management of the credit union is responsible for managing, monitoring and controlling credit union operations, in accordance with the Whistleblowing policy and/or procedure.

## 1.7 Lobbying Activities

The credit union, like any other business, association, or individual, may occasionally interact with government and comment on policy, legislation, regulation, or other actions of government. This activity is both legitimate and in the best interests of the credit union and its Members and Account Holders.

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<sup>13</sup> Consumers are not referenced in this section as anyone with a Product or Service at the credit union fits the Code's definition of a Member or Account Holder.



In conducting these activities, a credit union may employ a lobbyist, either on staff or as a consultant, and when doing so will ensure that each lobbyist will:

- Identify that he or she is acting on behalf of the credit union;
- Disclose any conflicts of interest in accordance with subsection 2.1.3; and
- Act in accordance with any laws and regulations that apply to them, including be registered with the appropriate lobbyist registries.



## 2. Fair Treatment and Fair Sales Practices:

*Treating members and customers fairly and demonstrating fair sales practices at all times are integral parts of our business practices.*

### 2.1 Fair Treatment

Credit unions regularly treat Members, Account Holders, and Consumers fairly during their dealings with the credit union.<sup>14</sup> This section 2.1 (including subsections), sets out what fair treatment means and is meant as a minimum standard for fair treatment.

#### 2.1.1 Discrimination

Unless the distinction is required or justified by any law<sup>15</sup>, or is a special Product or Service offering that is designed for Members, Account Holders, or Consumers of a particular target market group, the credit union will not discriminate against individuals for any reason set out in each of the provincial *Human Rights Act*.

#### 2.1.2 Take Advantage

The credit union will not knowingly take advantage of anyone through manipulation, concealment, misrepresentation of facts, unfair dealings, or unethical activity, or knowingly take advantage of anyone who is unable to protect their own interests.

#### 2.1.3 Conflicts of Interest

Where conflicting interests compete with the credit union's duty of care owed to Members, Account Holders, and Consumers, risks may be created. The credit union will take all reasonable steps to identify, and avoid or manage, conflicts of interest.

In this regard, the credit union will ensure conflicts of interest are appropriately dealt with, by having a policy and/or procedure in place for addressing them. The credit union will decline to act where conflicts of interest cannot be avoided or managed satisfactorily.<sup>16</sup>

#### 2.1.4 Debt Collection

The credit union will not use threatening, intimidating or abusive language, or apply excessive or unreasonable pressure to repay against any borrower of the credit union, including the use of any false statement, any unfair practice, or harassment.

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<sup>14</sup> *Sound Commercial Practices Guideline*, AMF, (2013 Jun), p. 7, online: [https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/ligne-directrice-saines-pratiques-commerciales\\_an.pdf](https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/ligne-directrice-saines-pratiques-commerciales_an.pdf)

<sup>15</sup> Such as for closed bond of association credit unions.

<sup>16</sup> *Conduct of Insurance Business and Fair Treatment to Customers*, Canadian Council of Insurance Regulators, Canadian Insurance Services Regulatory Organizations (2018 Sept), p. 13, online: <https://www.ccir-ccra.org/Documents/View/3450>



## 2.2 Fair Sales

The credit union provides accurate Product and Service information to assist Members, Account Holders, and Consumers in making appropriate Product and Service choices.<sup>17</sup> This section 2.2 (including subsections) sets out what fair sales means and is meant as a minimum standard for fair sales.

### 2.2.1 Product and Service Advertising and Promotion

The credit union will ensure its advertising, marketing materials, and communications are fair, accurate, clear, not deceptive or misleading, and in accordance with advertising standards that may apply to it. An example of such standards is the *Canadian Code of Advertising Standards*.<sup>18</sup>

The credit union will also ensure that where it uses the terms “bank”, “banking”, or “banker” in any Product or Service advertising or marketing materials, it will adhere to the “Banking Terminology” requirements set out in section 4.7.

### 2.2.2 Appropriate Products and Services

The credit union will give Members, Account Holders, and Consumers sufficient information on the Products or Services it offers to enable that person to select the most suitable, affordable, and appropriate Product or Service for them.

### 2.2.3 Professional Standards

The credit union will exercise reasonable and prudent judgement in the provision of Products and Services. The credit union is committed to the professional development of its employees, as needed.

Knowledgeable employees will be accessible in-person through the branch or through toll-free call centers or branch telephone numbers for Members, Account Holders, and Consumers to contact if they have questions about a Product or Service. This information should be available on the credit union’s website.

### 2.2.4 Tied Selling and Undue Pressure

The credit union will not impose undue pressure<sup>19</sup> or coercion on Members, Account Holders, or Consumers to obtain Products or Services – this is considered coercive tied selling. This includes **not** imposing undue pressure or coercion on a person to buy or obtain a Product or Service that they do not want, in order to obtain another desired Product or Service.

### 2.2.5 Preferential Pricing

Preferential pricing means offering a person a better price or rate on all or part of their business. The credit union may offer preferential pricing. For example, the credit union may

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<sup>17</sup> *Sound Commercial Practices*, AMF (2013 Jun), p. 10, online: [https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/liqne-directrice-saines-pratiques-commerciales\\_an.pdf](https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/liqne-directrice-saines-pratiques-commerciales_an.pdf)

<sup>18</sup> *The Canadian Code of Advertising Standards*, Online: <https://adstandards.ca/code/>

<sup>19</sup> “Undue Pressure” means any pressure, imposed by a practice or communication, that could be reasonably considered to be excessive or persistent in the circumstances.



offer a better price or rate on a Product or Service if the Member, Account Holder, or Consumer has or acquires several of the credit union's Products or Services. The credit union will be transparent about such preferential price or rate.

### 2.2.6 Negative Option Billing

Negative option billing is a business practice with which unsolicited goods and services are provided *automatically* and where a person must either pay for the service or specifically decline it in advance of billing. The credit union will not practice negative option billing.

For example, the credit union cannot provide a free or introductory trial offer for a Product or Service, and then at the end of the offer, automatically enroll the individual for the Product or Service and charge them for it.

### 2.2.7 Obtaining Consent

The credit union will obtain the Members', Account Holders', or Consumers' express consent<sup>20</sup> for new and optional Products or Services, and for changes made to Agreements, where the change is not contemplated in the Agreement and will affect the individual's rights and obligations.

### 2.2.8 Risk Management

The credit union may apply, to the extent necessary, reasonable requirements<sup>21</sup> on Members, Account Holders, or Consumers as a condition of acquiring a Product or Service in order to manage risk, costs, or to comply with any laws that apply to the credit union.

### 2.2.9 Providing Products and Services Digitally and Onboarding Digitally

Where Products and Services are offered digitally, the same level of fair treatment, transparency, and disclosure should be applied as with traditional means, in a manner appropriate to the medium, including, where necessary, access to a knowledgeable credit union employee.<sup>22</sup>

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<sup>20</sup> The individual must clearly agree to a product or service in writing or verbally **before**. FCAC, online: <https://www.canada.ca/en/financial-consumer-agency/services/rights-responsibilities/rights-negative-option-billing.html>.

<sup>21</sup> For example, require an individual to increase their credit score before providing them with a credit card.

<sup>22</sup> *Treating Financial Consumers Fairly Guideline*, FSCO, online:

[https://www.fSCO.gov.on.ca/en/about/superintendent\\_guidelines/Pages/fair-treatment-guidelines.aspx](https://www.fSCO.gov.on.ca/en/about/superintendent_guidelines/Pages/fair-treatment-guidelines.aspx)



## 3. Access to Banking Services:

***We ensure that all credit union members and customers are granted access to fundamental financial services.***

### 3.1 Opening of Deposit Accounts

The credit union will open a Deposit Account for any individual whose identity it can verify. Identity will be verified in accordance with the credit union's Deposit Account Opening process. At a minimum, the identification requirements in the [Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act](#), will be used to verify identity.

The credit union may refuse to open a deposit account if it has a sound business reason for doing so, including if the applicant represents an unacceptable risk<sup>23</sup> to the credit union (as set out in section 3.2).

The credit union cannot refuse to open a Deposit Account if the refusal is based on a reason that is prohibited grounds of discrimination, or if the applicant does not have a job or has been bankrupt, or if reasonable restrictions can be imposed to manage risk to the credit union (as set out in sections 3.2 and 3.3, including subsections).

### 3.2 Refusal to Open a Deposit Account

The credit union may refuse to open a Deposit Account, if it has a sound business reason to do so. A sound business reason can include the following:

- The credit union has reasonable grounds to believe<sup>24</sup>:
- That the account will be used to break the law or commit fraud,
- That the applicant intentionally provided false information when the account was opened,
- The opening of the account will expose the credit union Members or Account Holders, or employees to physical harm, harassment, or abuse; or
- The applicant has a history of illegal or fraudulent activity with the credit union or any provider of financial services;

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<sup>23</sup> "Unacceptable risk" is to be determined by the credit union. The credit union must ensure that it does not refuse to open an account for reasons set out in section 3.2.3.

<sup>24</sup> Reasonable grounds to believe is more than a reasonable suspicion.



- The applicant cannot or will not provide acceptable identification, in accordance with the credit union’s Deposit Account opening process;
- The applicant will not allow the credit union to verify identification or information provided;
- The credit union has a sound business reason to place restrictions on the Deposit Account and the applicant will not accept the restrictions;
- The applicant represents an unacceptable risk<sup>25</sup> to the credit union; or
- The credit union is a closed bond of association credit union and the applicant does not meet the credit union’s membership requirements.

### 3.2.1 Refusal to Open a Deposit Account – write-offs and poor credit bureau score

The credit union may also refuse to open a Deposit Account, if the applicant has previous write-offs and losses or a poor credit bureau score. However, the credit union will assess whether imposing restrictions on the account would sufficiently mitigate the risk, before refusing to open a Deposit Account for either of these reasons (see section 3.3 for Restrictions).

#### Write-offs and Losses

For applicants with previous write-offs or losses, the credit union will assess whether imposing restrictions will sufficiently mitigate the risk to the credit union, by considering the amount of the loss, the length of time since the loss, and any extenuating circumstances that may have caused the loss or write-off (such as job loss or injury).

For example, if the credit union has suffered a significant loss because of an applicant, it may consider the risk too great to sufficiently mitigate it with restrictions and may refuse to open the Deposit Account.

#### Poor Credit Bureau Score

Not every poor credit bureau score may justify refusal to open a Deposit Account. Some weak credit bureau scores may suggest the credit union need only place restrictions on the Deposit Account (such as those listed in section 3.3).<sup>26</sup>

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<sup>25</sup> “Unacceptable risk” is to be determined by the credit union, [subject to subsection 3.2.3.](#)

<sup>26</sup> If the credit union denies a benefit in whole or in part to a member, or increases the cost of the benefit to the member, as a result of information contained in the member’s credit report, the credit union may have to provide written notice to the member of the denial or increase. For example, PE’s [Consumer Reporting Act](#) (s.10(3)), NB’s [Credit Reporting Services Act](#) (s.14). This may also be a requirement in other provinces.



### 3.2.2 When the Credit Union Refuses to Open a Deposit Account

When the credit union refuses to open a Deposit Account, it will inform the applicant that it will not be opening the Account.

### 3.2.3 When the Credit Union Cannot Refuse to Open a Deposit Account

The credit union will not refuse to, open a Deposit Account, **solely** if:

- The refusal is based on a reason that is prohibited grounds of discrimination as set out in the each of the provincial *Human Rights Act*<sup>27</sup>; or
- The applicant does not have a job or has been bankrupt.

**NOTE:** *The fact that an applicant is or has been bankrupt, does not, without evidence of fraud or any other illegal activity in relation to the bankruptcy, constitute reasonable grounds to believe an account will be used for illegal or fraudulent purposes. Therefore, the credit union cannot refuse to open an account for an applicant just because they are or have been bankrupt. However, if the bankruptcy has resulted in write-offs or losses to the credit union, see **Write-offs and Losses** in subsection 3.2.1.*

### 3.2.4 When the Credit Union Should Not Refuse to Open a Deposit Account

Subject to sections 3.2 and 3.3 (including subsections), the credit union should not refuse to open a Deposit Account, **if**, other than for the cost of the credit union's minimum share requirement, the applicant is not making an immediate initial deposit.

### 3.2.5 Closing a Deposit Account

Where the credit union closes a Deposit Account, it will do so in accordance with the Agreement that governs the relationship between the Member or Account Holder<sup>28</sup>, and the credit union.

**NOTE:** *There is a difference between closing a Deposit Account and terminating a membership. Where the credit union terminates a membership, it must do so in accordance with its provincial legislation and Bylaws.*<sup>29</sup>

## 3.3 Restrictions on Deposit Accounts

The credit union may choose to impose reasonable restrictions on certain Deposit Accounts for risk management purposes. Restrictions may include:

- Placing temporary holds on cheques deposited to allow reasonable time for such items to clear;
- Limiting the amount of cash provided back on cheque deposits;

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<sup>27</sup> Except for closed bond of association credit unions.

<sup>28</sup> Consumers are not included in this section as individual's that have a Deposit Account with the credit union fit the Code's definition of a Member or Account Holder.

<sup>29</sup> *Credit Union Act*, or an equivalent.



- Limiting or revoking:
  - Overdraft or chequing privileges,
  - Online privileges, or
  - Debit card privileges, including Automated Teller Machine (ATM) withdrawal limits; or
  - Placing restrictions mandated by law or legal judgement that applies to the credit union; or
  - Placing any other reasonable restrictions necessary for risk management purposes.

### 3.4 Low-Fee and No-Fee Deposit Accounts

The credit union should offer Low-Fee and/or No-Fee Deposit Accounts to provide access to fundamental banking services to Members, Account Holders, and Consumers who would not otherwise be able to open and operate other types of accounts because of higher costs.

#### 3.4.1 Individuals Eligible for Low-Fee and/or No-Fee Deposit Accounts

Where the credit union offers Low-Fee and/or No-Fee Deposit Accounts, the credit union will decide the eligibility criteria for each account. The criteria should be appropriate to meet the purpose stated in section 3.4.

#### 3.4.2 Low-Fee Deposit Account – Monthly Fees

Where the credit union offers a Low-Fee Deposit Account, it will determine the monthly fee to charge for the account. The fee should be appropriate to meet the purpose stated in section 3.4 and should align with the *Financial Consumer Agency of Canada's* guidelines governing federal financial intuitions.<sup>30</sup>

**NOTE:** *The credit union may apply charges for transactions that occur which are over the monthly limit.*

#### 3.4.3 Features of Low-Fee and/or No-Fee Deposit Accounts

Where the credit union offers a Low-Fee and/or No-Fee Deposit Account, the credit union will determine the features for each account. Features for each account may include:

- No charge for deposits or credits;
- A debit card, for qualifying Members or Account Holders<sup>31</sup>;

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<sup>30</sup> See FCAC's *Low-cost account guidelines*: <https://www.canada.ca/en/financial-consumer-agency/services/industry/laws-regulations/low-cost-account-guidelines.html>

<sup>31</sup> Consumers are not included in this section because individuals that hold a Deposit Account with the credit union and fit the Code's definition of a Member or Account Holder.



- Free pre-authorization forms;
- Free cheque image return or online cheque image viewing;
- Free monthly account statements<sup>32</sup>;
- Mobile and online banking access; and/or
- At least eight (8) Debit Transactions per month.

### 3.5 Access to Funds

The *Access to Funds Regulations*<sup>33</sup> for federally regulated financial institutions say that individuals should have immediate access to the first \$100 of all funds deposited by cheque<sup>34</sup> (on any one day) into a deposit account, or on the next business day, if the cheque is deposited through an Automated Teller Machine (ATM).

While the *Access to Funds Regulations*<sup>35</sup> do not apply to credit unions, the credit union should grant Members and Account Holders<sup>36</sup> with the same access to funds as set out in the *Regulations*<sup>37</sup>.

#### 3.5.1 Restricting Access to Funds

For risk management purposes, the credit union may limit the amount of funds accessed or extend the hold-period for cheques deposited into Deposit Accounts. These may be changed, from time to time, as deemed appropriate by the credit union. The credit union should have a sound business reason for limiting access or changing hold periods.

Where the credit union reduces a funds access limit amount or increases a cheque hold-period, the credit union will inform the affected Member or Account Holder of that change.

#### 3.5.2 Refusal of Access to Funds

The credit union does not have to grant Members or Account Holders<sup>38</sup> with access to funds deposited by cheque, into a Deposit Account, if:

- The account has been opened for less than 90 days;

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<sup>32</sup> Method of statement should be in the manner preferred by the Member or Account Holder (e.g., electronic or paper).

<sup>33</sup> *Access to Funds Regulations*, s. 4, online: <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2012-24/page-1.html#h-4>

<sup>34</sup> The *Access to Funds Regulations* (s. 2) say that Access to the first \$100 applies “only with respect to paper-based cheques... deposited in Canada that are encoded with magnetic ink to allow for character recognition, are not damaged or mutilated such that they are unreadable by cheque clearing systems, are drawn on an institution’s branch located in Canada and are issued in Canadian dollars”.

<sup>35</sup> *Supra*, note 42.

<sup>36</sup> Consumers are not included in this section because individuals requesting access to funds would hold a Deposit Account with the credit union and fit the Code’s definition of a Member or Account Holder.

<sup>37</sup> *Supra*, note 42.

<sup>38</sup> *Supra*, note. 45.



- The cheque has been endorsed more than once;
- The cheque is being deposited more than six months after the date of the cheque;
- The cheque is not issued in Canadian dollars;
- The cheque is issued from a branch outside of Canada; or
- The credit union has reasonable grounds to believe<sup>39</sup> that the deposit is being made for illegal or fraudulent reasons.<sup>40</sup>

### 3.5.3 When the Credit Union Refuses Access to Funds

Where the credit union refuses a Member's or Account Holder's<sup>41</sup> request to access the first \$100 deposited by cheque (on any one day) into a Deposit Account, the credit union should inform the individual that it will not be making the funds available.

## 3.6 Cashing of Government of Canada Cheques

The *Access to Basic Banking Services Regulations*<sup>42</sup> for federally regulated financial institutions require that any branch that dispenses cash through a teller must cash a Government of Canada cheque if the cheque is for \$1,500 or less and the individual cashing the cheque shows acceptable identification<sup>43</sup>. The federal government provides an indemnity of up to \$1,500, per occurrence, to all financial institutions, including credit unions that provide this service and are members of the *Canadian Payments Association*.<sup>44</sup>

Canada's *Financial Administration Act* provides that financial institutions, including the credit union, shall **not** charge a fee for cashing a Government of Canada cheque.<sup>45</sup>

### 3.6.1 Refusal to Cash Government of Canada Cheques

The credit union may refuse to cash a Government of Canada cheque if one or more of the following apply:

- The cheque is for more than \$1,500;

<sup>39</sup> Reasonable grounds to believe is more than a reasonable suspicion.

<sup>40</sup> FCAC, *Cheque hold periods and access to funds: rights and responsibilities*, "Exceptions", online: <https://www.canada.ca/en/financial-consumer-agency/services/rights-responsibilities/rights-banking/cheque-hold-access-funds.html#toc2>

<sup>41</sup> Consumers are not included in this section because individuals requesting access to funds would hold a Deposit Account with the credit union and fit the Code's definition of a Member or Account Holder.

<sup>42</sup> *Access to Basic Banking Services Regulations*, s. 6, online: <https://laws-lois.justice.gc.ca/eng/regulations/sor-2003-184/page-1.html#h-3>

<sup>43</sup> In accordance with the credit union's identification policy, procedure, or process.

<sup>44</sup> *Canadian Payments Association*, Rule G8: online: <https://www.payments.ca/sites/default/files/19-Sep-18/g8eng.pdf>

<sup>45</sup> Section 159(2)(a), online: <https://laws-lois.justice.gc.ca/eng/acts/F-11/page-28.html?txthl=cashing#s-159>



- The individual requesting to cash the cheque cannot produce acceptable identification<sup>46</sup>;
- The cheque has been endorsed or signed by a third-party;
- There is evidence that the cheque has been altered in any way or is counterfeit;
- The credit union has reasonable grounds to believe<sup>47</sup> that there has been illegal or fraudulent activity in relation to the cheque; or
- The credit union cannot verify that the cheque is legitimate, after contacting the federal government's Cheque Redemption and Control Directorate.<sup>48</sup>

### 3.6.2 Refusal to Cash Government of Canada Cheques for Individuals that are not Members or Account Holders

There is no legal requirement that a credit union cash a Government of Canada cheque for anyone who is not a Member or an Account Holder. However, in light of the federal regulations for banks<sup>49</sup> and the indemnity provided to all financial institutions, including credit unions that are members of the *Canadian Payments Association*<sup>50</sup>, this is an expected industry standard.

### 3.6.3 Direct Deposit of Government of Canada Cheques

The credit union may assist its Members and Account Holders<sup>51</sup> in signing up for direct deposit of their payments. The credit union should communicate the advantages of direct deposit such as: reliability, security, confidentiality and being environmentally friendly.

Enrolment of direct deposit is available through MemberDirect or forms can be obtained on the Government of Canada website here: <https://www.tpsgc-pwgsc.gc.ca/recgen/txt/depot-deposit-eng.html>

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<sup>46</sup> In accordance with the credit union's identification policy, procedure, or process.

<sup>47</sup> Reasonable grounds to believe is more than a reasonable suspicion.

<sup>48</sup> <https://www.canada.ca/en/financial-consumer-agency/services/rights-responsibilities/rights-banking/cashing-government-cheque.html>

<sup>49</sup> *Access to Basic Banking Services Regulations*, s. 6, online: <https://laws-lois.justice.gc.ca/eng/regulations/sor-2003-184/page-1.html#h-3>

<sup>50</sup> *Canadian Payments Association, Rule G8*: online: <https://www.payments.ca/sites/default/files/19-Sep-18/g8eng.pdf>

<sup>51</sup> Consumers are not included in this section because individuals that hold a Deposit Account with the credit union and fit the Code's definition of a Member or Account Holder.



## 4. Transparency and Disclosure:

*The credit union uses plain-language descriptions of products and services in its communications to ensure people make informed decisions.*

### 4.1 Properly Informed Decisions

The credit union will facilitate Members', Account Holders', or Consumers' ability to make properly informed decisions about a Product or Service, by:

- Providing information that is:
  - Easy to understand and drafted in plain language<sup>52</sup> (wherever possible),
  - Clear about any risks, exclusions or limitations,
  - Up to date,
  - Does not hide, diminish, or obscure important statements or warnings, but rather makes sure important information is prominently displayed, and
  - Is based on disclosed personal circumstances and financial needs of the Member, Account Holder, or Consumer; and
- Answering any questions asked about a Product or Service;
- Having employees identify the types of Products or Services they are licensed or registered to sell or offer (if applicable); and
- Disclosing any conflicts of interest<sup>53</sup>, in accordance with section 2.1.3 (if applicable).

### 4.2 Reviewing Product and Service Information for Plain Language

The credit union should, periodically, and as needed, review Product and Service information

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<sup>52</sup> Language for which "it is reasonable to conclude that an ordinary consumer of the class of persons for whom the document is intended, with average literacy skills and minimal credit experience, could be expected to understand the content, significance, and importance of the document without undue effort, World Bank Group, *Good Practices for Financial Consumer Protection (2017)*, p. 23

<sup>53</sup> *Sound Commercial Practices*, AMF (2013 Jun), p. 14, online: [https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/ligne-directrice-saines-pratiques-commerciales\\_an.pdf](https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/ligne-directrice-saines-pratiques-commerciales_an.pdf)



to ensure it is written in plain language. Where necessary, the credit union will amend Product or Service information to be in plain language.<sup>54</sup>

### 4.3 Legally Required Disclosure

As a minimum standard, the credit union will disclose all legally required information. For example, as set out in the credit union's provincial legislation<sup>55</sup> or as set out in Agreements between the Member, or Account Holder<sup>56</sup>, and the credit union.

### 4.4 Disclosure before or at the time a Product or Service is acquired

The credit union will facilitate the Members', Account Holders', or Consumers' ability to make informed decisions about a Product or Service, by informing of the following:

- The key features;
- Any associated risks, exclusions, or limitations;
- Any financial implications of a transaction;
- All costs, including fees and charges;
- Terms and Conditions that apply;
- The person's rights and obligations (e.g. their right to file a complaint or to cancel a Product or Service)<sup>57</sup>; and
- The level of guarantee associated with the Product or Service (if applicable).

#### 4.4.1 Product Information

The credit union should have Product or Service information available to provide to Members, Account Holders, and Consumers. This information can be in paper or digital format, will be written in plain language, and, at a minimum, will list the features set out in section 4.4.<sup>58</sup>

#### 4.4.2 Disclosure at Deposit Account Opening

When a person opens a Deposit Account in-person, the credit union will, at a high level, draw the person's attention to the key areas in the **Terms and Conditions Agreement** that relate to the Deposit Account. For example, areas that speak to:

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<sup>54</sup> Plain language requirements can be assessed through policy review processes.

<sup>55</sup> For example, Cost of Credit Disclosure Acts (or equivalents).

<sup>56</sup> This section does not refer to Consumers because after a person has acquired a Product or Service, they fit the Code's definition of either a Member or Account Holder.

<sup>57</sup> *Sound Commercial Practices*, AMF (2013 Jun), p. 14, online:

[https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/liqne-directrice-saines-pratiques-commerciales\\_an.pdf](https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/liqne-directrice-saines-pratiques-commerciales_an.pdf)

<sup>58</sup> FCAC, *Report on Best Practices in Financial Consumer Protection*, p. 24, "Disclosure and Transparency", online: <https://www.canada.ca/content/dam/fcac-acfc/documents/programs/research-surveys-studies-reports/best-practices-financial-consumer-protection.pdf>



- Fair Dealings;
- Account Statements;
- Closing the Account;
- Fees and Service Charges, including notices of changes;
- Privacy information, including safeguarding, collection, use and disclosure;
- Changes to the Terms and Conditions Agreement; and
- Where applicable:
  - Restrictions associated with the Deposit Account,
  - Overdraft Protection,
  - Online, mobile banking, and electronic transfer privileges,
  - Cheque privileges,
  - Stop payments,
  - Electronic communication,
  - Cancellation terms,
  - Relationships and third-party transactions,
  - Deposit insurance coverage,
  - The steps the Deposit Account holder should take in the case of unauthorized transactions, including stolen cards,
  - Liability of the Credit Union (e.g., unauthorized transactions), and
  - The credit union's complaint handling procedure, as referred to in section 5.

#### **4.5 Disclosure After a Product or Service is Acquired, including Deposit Account**

The credit union will help Members and Account Holders<sup>59</sup> use their Products and Services and keep them informed by providing regular statements (where appropriate) and by providing notice of changes to interest rate and service charges and advise members when Terms and Conditions change. This will be done in accordance with the "Notice" section in this Code (subsection 4.6.1)

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<sup>59</sup> This section does not refer to Consumers because after a person has acquired a Product or Service, they fit the Code's definition of either a Member or Account Holder.



#### 4.5.1 Providing Product or Service-Related Documentation

When a Member or Account Holder<sup>60</sup> acquires a Product or Service, the credit union will make available to that person, a copy of the documentation associated with that Product or Service.

#### 4.5.2 Providing Product or Service-Related Statements

After a Member or Account Holder<sup>61</sup> acquires a Product or Service, the credit union will provide statements as legislated, and when requested by the Member or Account Holder.

Where statements have already been provided to the Member or Account Holder, the credit union may charge a reasonable fee for providing duplicate copies.

#### 4.5.3 Providing Mortgage Information

Upon request, the credit union will provide general mortgage information to Members and Account Holders<sup>62</sup> that have mortgages. The general information should include, how the prepayment penalty is calculated, applicable prepayment privileges, and a contact number the Member or Account Holder can call to obtain specific information about his or her mortgage from the credit union.

### 4.6 Notices

#### 4.6.1 Changes to Terms and Conditions, Service Fee or Account Structures, and Interest Rates

The credit union will notify Members and Account Holders of changes to Terms and Conditions, Service Fees or Account Structures, and Interest Rates in accordance with applicable disclosure legislation, or as set out in the respective Product or Service Agreement.

Where notice is not set out in legislation or the respective Agreement, the credit union will provide notice, as follows:

##### **Change to Terms and Conditions**

Notice will be provided and maintained for, at a minimum, **30 days after** the change(s) take effect. The credit union can make changes to the Terms and Conditions to correct clerical errors without notice to Members or Account Holders.

Notice will be provided and maintained through the credit union's website (if applicable), and either by mail, statement message, or electronically.

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<sup>60</sup> Supra, note 71.

<sup>61</sup> Supra, note 71.

<sup>62</sup> This section does not refer to Consumers because if person has a Mortgage with the credit union, they fit the Code's definition of either a Member or Account Holder.



The use of the Member or Account Holder's Accounts after the effective date of change is the Member or Account Holder's acceptance of the changes.

### **Changes to Service Fees or Account Structures**

The credit union will notify Members and Account Holders<sup>63</sup>, at a minimum, **30 days before** any change(s) take effect.

Notice will be posted in branch and provided through the credit union's website (if applicable), or by mail, or statement message, or electronically.

#### **4.6.2 Branch Closures**

##### **Permanent or Temporary Branch Closures**

The credit union will notify Members, Account Holders, and Consumers that a branch will be closing, as legally required (referred to in section 4.3).

Where the credit union is not legally required to provide notice of permanent or temporary branch closures, notice will be provided in the following manner:

##### **Permanent Branch Closures**

For permanent branch closures, the credit union will provide notice, in accordance with the Notice requirements set out in subsection 4.6.4 of the Code, in the following manner:

- Where the branch is located in an urban area or in a rural area where there is another retail deposit-taking branch within a travelling distance of 10km from the branch:
  - With **at least four months' notice before** the branch will be closing;
  - **As soon as possible**, if the branch will be closing in less than four months; or
  - **As soon as possible**, if the branch closes permanently due to unforeseen circumstances.
- Where the branch **is not** located in an urban area or in a rural area where there is another retail deposit-taking branch within a travelling distance of 10km from the branch:
  - With **at least six months' notice before** the branch will be closing;

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<sup>63</sup> This section does not refer to Consumers because after a person has acquired a Product or Service, they fit the Code's definition of either a Member or Account Holder.



- **As soon as possible**, if the branch will be closing in less than six months; or
- **As soon as possible**, if the branch closes permanently due to unforeseen circumstances.

### Temporary Branch Closures

For temporary branch closures, regardless of the branch's location, the credit union will provide notice in accordance with the Notice requirements set out in subsection 4.6.4 of the Code, in the following manner:

- **Within a reasonable period of time<sup>64</sup> before** the temporary branch closure; or
- Within **as soon as possible after** the branch is closed, if the branch closes temporarily due to unforeseen circumstances.

#### 4.6.3 Automated Teller Machines (ATM) Closures

The credit union should notify Members, Account Holders, and Consumers that an ATM will be closing, as legally required (referred to in section 4.3).

Where the credit union is not legally required to provide notice of permanent or temporary ATM closures, the credit union will provide notice when:

An ATM will be closing Permanently, Temporarily, or is closed due to unforeseen circumstances.

#### Permanent ATM Closures

For permanent ATM closures, the credit union should provide notice in accordance with the Notice requirements set out in subsection 4.6.4 of the Code, in the following manner:

- With **at least two months' notice before** the ATM will be permanently closing;
- If the ATM will be closing in less than two months, the credit union will provide notice **as soon as possible**; or
- If the ATM goes out of service due to unforeseen circumstances and will be closed permanently, **as soon as possible after** the ATM is out of service.

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<sup>64</sup> Credit union will determine what a reasonable period of time is given the circumstances, e.g.: the length of time the credit union is aware of the temporary closure in advance – the credit union knows 12 months in advance that the branch will be closing temporarily for renovations, then the credit union may want to follow the permanent branch closure notice requirements.



## Temporary ATM Closures

For temporary ATM closures, the credit union should provide notice in accordance with the Notice requirements set out in subsection 4.6.4 of the Code, in the following manner

- If the ATM will be temporarily out of service, **within a reasonable period of time<sup>65</sup> before** the ATM will be out of service; or
- If the ATM temporarily goes out of service due to unforeseen circumstances, **as soon as possible after** the ATM is out of service.

### 4.6.4 Notice Content for Permanent and Temporary Branch or ATM Closures

For all Permanent or Temporary Branch or ATM Closures, notice should be posted in branch and provided through the credit union's website (if applicable), or by mail, or statement message, or electronically.

Notice for permanent and temporary branch or ATM closures, **not due to** unforeseen circumstances should include:

- The location of the branch or ATM and the date proposed for its closure,
- Alternative sites where, after that date, Members, Account Holders, or Consumers may obtain services similar to the credit union's, or a telephone number that Members, Account Holders, or Consumers may call to be informed of those sites,
- How the credit union may be contacted in respect of the permanent or temporary branch or ATM closure, and
- Where the branch or ATM closure is **temporary**, an estimated date, if known, when the branch will be re-opened, or the ATM will be available for use.

Notice for permanent or temporary branch or ATM closures **due to unforeseen circumstances** should include:

- The location of the branch or ATM closure,
- Alternative sites where Members, Account Holders, or Consumers may obtain services similar to the credit union's, or a telephone number that Members, Account Holders, or Consumers may call to be informed of those sites, and
- How the credit union may be contacted in respect of the branch or ATM closure.

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<sup>65</sup> Credit union will determine what a reasonable period of time is given the circumstances, e.g.: the length of time the credit union is aware of the temporary closure in advance – the credit union knows 12 months in advance that the ATM will be closing temporarily for replacement, then the credit union may want to follow the permanent ATM closure notice requirements.



## 4.7 Banking Terminology Disclosure Requirements

### 4.7.1 Application

Section 4.7 applies when the credit union uses any of the words “bank”, and/or “banking”, and/or “banker” in **Advertisements** or **Marketing Materials**.

When the credit union uses the words “bank”, and/or “banking”, and/or “banker” in **Advertisements** or **Marketing Materials**, the credit union will adhere to the requirements set out in subsection 4.7.4.

### 4.7.2 Non-application

Section 4.7 does not apply to the common use and understanding of the words “bank”, and/or “banking”, and/or “banker”, when used in any manner.

For example, the use of the following words in the above manner, are exempt from section 4.7:

- *Bank account*
- *Banking*
- *Banking access*
- *Banking information*
- *Banking services*
- *Banking system*
- *Banking transaction*
- *Electronic banking*
- *Internet banking*
- *Mobile banking*
- *Online banking*

### 4.7.3 Definitions – Advertisements, Marketing Materials, and Onboarding

For the purposes of section 4.7, Advertisements, Marketing Materials, and Onboarding mean the following:

#### **Advertisements**

An advertisement includes any promotion of any credit union Products or Services, made in any manner, including in-branch<sup>66</sup>, in print, on the radio, on the television, and in electronic media.

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<sup>66</sup> Regardless of whether in digital or paper form.



## Marketing Materials

Marketing Materials includes any materials that the credit union makes available to any individual for the purpose of making that individual aware of any credit union Products or Services, including materials in print and electronic form.<sup>67</sup>

## Onboarding

Onboarding means the opening of any Account for any individual who has **no** other Accounts with the credit union.

### 4.7.4 Disclosure at Onboarding

Subject to 4.7.2, where the credit union uses any of the words “bank”, and/or “banking”, and/or “banker” in **Advertisements** or **Marketing Materials**, the credit union will, when **Onboarding**<sup>68</sup>, provide the applicant with information that identifies:

- That the Account being opened is a credit union Account,
- That the credit union is not a Bank,
- The province the credit union is authorized to operate in, and
- The credit union’s deposit insurance system, in accordance with subsection 4.7.5.

### 4.7.5 Identifying Deposit Insurance System

The credit union will follow the display and/or advertising standards, restrictions, guidance, or requirements that have been established by their provincial deposit guarantee or insurance corporation.

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<sup>67</sup> For example, materials available for download online.

<sup>68</sup> Both in-person and digitally (e.g. online Account opening).



## 5. Complaint Handling:

*We examine complaints and work to settle them fairly, and we track complaints to help ensure our practices continue to improve.*

### 5.1 Complaint Handling Procedures and Processes

**A complaint is** an expression of dissatisfaction about a Product or Service provided by the credit union.

The credit union will establish a policy and/or procedure for fairly and transparently resolving complaints, internally, that are made by Members, Account Holders, and Consumers. The credit union will designate a compliance officer or a senior employee to be responsible for handling complaints.

The credit union should also establish a process for handling complaints that cannot be resolved satisfactorily, internally. For example, an individual should have the option to escalate an unresolved complaint to a complaint handling system that is independent of the credit union.<sup>69</sup>

### 5.2 Making Complaint Handling Information Available

The credit union will make available to Members, Account Holders, and Consumers, the credit union's complaint handling policy and/or procedure and the contact information for accessing the service. This information will be made available on the credit union's website (if applicable), in branch, and upon request.

### 5.3 Handling Complaints

The credit union will handle complaints in a fair<sup>70</sup> and transparent<sup>71</sup> manner and responses will be timely.

### 5.4 Record Keeping

The credit union will maintain records of complaints received and the action taken to deal with them, for reporting purposes (in accordance with section 5.5), and if needed for future

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<sup>69</sup> Such as a provincial Ombudsman service, or Ombudsman for Banking Services and Investments (OBBI): <https://www.obsi.ca/en/index.aspx>, or ADR Chambers Banking Ombuds Office (ADR): <https://bankingombuds.ca/>

<sup>70</sup> "Fair" means unbiased, impartial, equitable, timely, and without trying to achieve an unjust advantage against the complainant.

<sup>71</sup> Transparent means the credit union will inform the complainant of the credit union's complaint handling process and keep the complainant apprised of their complaint status, upon request.



reference by the credit union or regulator (if applicable). The types of complaints that require record keeping will be set out in the credit union's complaint handling policy and procedure.

## **5.5 Reporting Complaints**

The credit union will report to the Board of Directors, at least annually, on the number of complaints received, the general nature of those complaints, and how those complaints were dealt with. The types of complaints that require reporting to the Board will be set out in the credit union's complaint handling policy and procedure.

