



MARKET CODE Handbook



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Market Code is Important to Your Credit Union

Credit union Market Practices Code (Market Code) was the result of legislation that was written into *The Credit Union Act, 1998* but not proclaimed. It identified a requirement for credit unions to adopt a Market Code and it defined "market practices" as any activity related to soliciting, promoting, advertising, marketing, selling, or distributing a credit union's products and services, either directly or indirectly.

Saskatchewan credit unions and their employees have always committed to delivering a high quality of service to members and customers. The Market Code information that follows builds on this commitment. This Market Code identifies the market practice standards and how the credit union subscribes to those standards. It speaks to the way credit unions and their employees conduct themselves and how they treat their existing and potential members and customers to maintain their trust, while living out their co-operative values.

For further information on market code practices that credit unions can provide to their members by website or as a hand-out, see Appendix B.

Market Code is a Requirement for Credit Unions

Regulatory direction at the provincial level has been consistent with trends in the financial services industry. Nationally, federal financial institutions, including banks, have adopted market practice codes, as an alternative to having it mandated by the Financial Consumer Agency of Canada (FCAC). In 2006 credit unions were given the same choice and were also given the option of either adopting a market code developed by the provincial credit union system or developing their own Market Code. If a credit union wants to adopt its own Market Code, it must be approved by Financial and Consumer Affairs Authority (FCAA).

SaskCentral Supporting Credit Unions with Market Code

SaskCentral initially drafted the Market Code in consultation with FCAA, Credit Union Deposit Guarantee Corporation (CUDCG) and a Credit Union Market Practices Committee. The Market Code was approved and released to the Saskatchewan credit union system in 2006. In 2013, an extensive revision was undertaken to update the original.

The Market Code addresses six themes that clarify objectives for market practice and consumer protection, some of which are consistent with federal legislative requirements:

- **Fair Sales** (consistent with ongoing trends of promoting more rigorous ethical standards including information regarding tied selling and pricing);
- **Transparency and Disclosure** (a focus on account opening requirements such as the Financial Services Agreement, Terms and Conditions and posting of changes to the terms and conditions, notice of service charge changes and branch closures);
- **Professional Standards** (employee training and licensing/accreditation where applicable);
- **Complaint Handling** (problem resolution);

- **Protection of Vulnerable Members;** and
- **Access to Banking Services / Low Fee Accounts** (account opening, forms and basic or low fee accounts). The Market Code indicates "Credit unions will take reasonable measures to ensure access to a basic banking account." The features of this account continue to be similar as the basic banking account offered by chartered banks.

According to the Standards of Sound Business Practice, credit unions must have policy and procedures with respect to the:

- development and maintenance of a Market Code that ensures good business practices and fairness through the above objectives; and,
- implementation and maintenance of an effective process to monitor and ensure adherence to Market Code.

Why is Market Code Important?

- Periodic updates of the Market Code provide credit union members with the transparency and disclosure needed to make informed choices and decisions about credit union products and services, as well as showing the commitment of the credit union to consumer protection.
- As credit union services become more intertwined with other industry players, the need for comprehensive consumer protection and transparency becomes greater.
- As full financial service expands and networking relationships with industry partners and affiliates are more common, consumer protection becomes more complex. This is particularly relevant in today's marketplace.
- At times, federal announcements indicate changes to consumer protection requirements. The intent of the changes is to protect and enhance the quality and volume of information available to consumers and to facilitate informed consumer choices. As in the past, while the amendments apply to federally regulated financial institutions, credit unions should be aware of these actions as federal measures are sometimes used as a template for provincial standards.
- A large proportion of credit union members are also bank customers. From a consumer perspective, if the products and services offered by a bank are more transparent compared to a credit union, credit unions may be viewed as being less transparent.

Accountability for Market Code

Federal

The federal government has exclusive jurisdiction over banks and regulates consumer protection aspects of banking, trust and insurance.

The Financial Consumer Agency of Canada (FCAC) is the federal agency that enforces customer-oriented provisions of the federal financial institutions' legislation and has the authority to impose penalties. The FCAC monitors and reports on industry self-regulatory initiatives (including voluntary codes of practice), promotes consumer awareness, and responds to inquiries and complaints. A key role includes initiatives to improve disclosure and transparency.

Provincial

The Provincial government regulates market conduct and consumer protection for provincially incorporated financial institutions including credit unions.

Consumer protection objectives and requirements exist through a market practices model policy approach. The Financial and Consumer Affairs Authority (FCAA), and the provincial credit union regulator, Credit Union Deposit Guarantee Corporation (CUDGC), require that credit unions must have policies and procedures in place with respect to Market Code, business practices and consumer protection responsibilities.

Monitoring and Enforcement

CUDGC monitors credit union compliance with Market Code through the Standards of Sound Business Practice. As part of its supervisory review, Credit Union Deposit Guarantee Corporation will seek assurance that the credit union has adopted a market practices code, policy and procedures and that appropriate control functions are in place to monitor adherence to these requirements.

Market Code Overview

For the purpose of this handbook, the word “member” refers to members, non-members and customers who maintain accounts or loans at the credit union.

The information in this handbook is intended to assist credit unions in addressing the market practices and principles of Market Code and includes the following objectives:

- **Fair Sales** information that focuses on the differences between preferential pricing and coercive tied selling, risk management and discrimination;
- **Transparency and Disclosure** information that focuses on account opening and notice requirements;
- **Professional Standards** for Employees (employee licensing, training and accreditation where applicable);
- **Complaint handling** (Problem Resolution);
- **Protection of Vulnerable Members** (identifying, communicating with, and endeavoring to mitigate harm to Vulnerable Members, and providing them with targeted financial advice, strategies and support); and
- **Access to Banking Services** (including **Low fee accounts**).

Code of Conduct

The credit union will annually remind employees, officers and directors of the importance of Market Code. The credit union has adopted a Code of Conduct that sets standards for the business and ethical conduct of employees. Annually, employees, officers and directors are required to sign a declaration stating that they have reviewed the credit union’s Code of Conduct and commit to uphold the principles in the Market Code.

Privacy

The credit union complies with the Personal Information Protection and Electronic Documents Act (PIPEDA).

Support Material for Market Code

All support materials for Market Code, including Model Policies, brochures and accompanying information can be found on the CUUniverse > Services > Compliance > Market Code.

Fair Sales

The purpose of fair sales is to make sure the credit union's actions and decisions regarding member advice, information and recommendations made by the credit union are objective and reflective of the financial needs and the roles and responsibilities of the member and the credit union. It is therefore important that credit unions deal fairly with their members and do not exert undue pressure on them to obtain products or services.

The credit union is committed to providing relevant and meaningful information about products and services to enable members to make informed decisions. The credit union should offer its members products and services that it feels will help them meet their financial goals.

The credit union may show interest in the member's business or appreciation of their loyalty by offering preferential pricing or bundling products and services with more favourable terms. However, in so doing, the credit union may not apply undue pressure to the member to buy a product or service that they do not want in order to obtain another desired product or service. This is considered coercive tied selling and is not permitted.

Coercive tied selling is imposing undue pressure on, or coercing a person to obtain a product or service from a credit union, its employees, or any of its affiliates, as a condition of obtaining another product or service from the person or entity.

Coercive Tied Selling Example

The mortgage specialist tells the member that they qualify for a home mortgage. However, they are also told that their mortgage will be approved **only if** they transfer their investments to the credit union or one of its affiliates.

This practice is not acceptable. The approval of the mortgage is conditional on the member taking another credit union product or service.

Preferential pricing means offering individual members a better price or rate on all or part of their business. Members may be offered preferential pricing – a higher interest rate on investments or a lower interest rate on loans – if they use more of the credit union's products or services.

Preferential Pricing Example

After approving an application for a home mortgage, the mortgage specialist may offer the mortgage at a lower interest rate if the member transfers their investments to the credit union or one of its affiliates.

This practice is acceptable. The approval of the mortgage is not conditional on the member taking another credit union product or service.

Negative Option Billing

Negative option billing is a business practice in which unsolicited goods and services are provided automatically and where the customer must either pay for the service or specifically decline it in advance of billing. Credit unions do not practice negative option billing. They will always obtain a customer's consent before charging for a new optional product(s) or service(s) such as optional insurance coverage on a loan, fraud alerts, or overdraft protection.

Negative Option Billing Example

A member applies for a loan and declines insurance; however the lending officer adds optional insurance to the loan and charges the member, despite the fact that the member has not applied for or requested it.

This practice is not acceptable and is an example of negative option billing.

Charging a member for a paper statement after the member has requested to only receive their statements electronically is not considered negative option billing.

Risk Management

The credit union is permitted to apply reasonable requirements on consumers as a condition for granting a loan or providing a specific service. The credit union, however, must consciously limit requirements on consumers to the extent necessary to manage risk, cost, or to comply with the law.

A credit union must not knowingly take advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of facts or any other unfair dealing or unethical activity.

Discrimination

The credit union must not discriminate against individuals on the basis of race, religion, age, pregnancy, marital status, gender, sexual orientation, ethnic or social origin, disability, color, ethics, belief, culture, language or birth, except to the extent that a distinction is required or justified by any law, that the factor has commercial implications, or if a special product or service offering is designed for all members of a particular target market group.

For further information, see the CUniverse > Services > Compliance > Market Code > Tools and Templates for a copy of the "What You Need to Know About Fair Sales" brochure. Brochures can be ordered online through Central Purchasing.

Transparency and Disclosure

The credit union must be open and honest in its dealings with existing and potential members.

Product and Service Information

General information will be provided about the rights and obligations that arise out of a relationship a member has, relative to the financial services a credit union provides.

This will be provided:

- at account opening when the account operating documentation is completed;
- when the rights and obligations contained in the account operating agreement are revised; and
- throughout the relationship when the products or services acquired from the credit union have specific rights and obligations.

The credit union will facilitate member's ability to make informed decisions about their financial services by:

- providing key features and benefits of products and services and the level of guarantee and other risks at the time of inquiry or acquisition;
- providing information to help members understand the basic financial implications of a transaction;
- revealing all costs, including the associated fees and charges, and any terms and conditions that apply;
- explaining the importance of protecting Personal Identification Numbers and online banking login information
- providing information in plain language;
- answering any questions the member may have;
- explaining, when asked, the written information that has been provided; and
- having employees identify the types of activity they are licensed or registered to sell.

Notice of Service Fee Changes and Account Structure Changes

The credit union must provide information about the change at least 30 days before the change(s) take effect for members with accounts. The credit union will post notice of changes on its website (where applicable) and either by mail, statement message or electronically (if the member prefers to bank electronically).

Notice to Members if a Branch is Closing

The credit union must give members at least four months' notice that a branch will be closing, or as soon as possible if the branch will be closing permanently due to unforeseen circumstances. Notice must be given by posting the closure information in a public area of the credit union and providing written notice to each member of the branch.

Notice of Changes to Terms and Conditions of the Financial Services Agreement

The credit union can make changes to this Agreement to correct clerical errors without notice to members. The credit union can make other changes to the Terms & Conditions if it notifies members that such changes have taken place. The credit union will post notice of changes on its website (where applicable) and either by mail, statement message or electronically (if the member prefers to bank electronically). Notice that changes have occurred must be provided for 30 days. The use of any of the member's accounts after the effective date of changes is the member's acceptance of the changes. This includes members and non-members.

Product Fact Sheets (Optional)

Fact sheets can be provided to members for any products offered. Fact sheets should be written in plain, easy to understand language and should list all the features of the products being offered, including those that could be perceived as benefits and those that could be seen as risks.

If the credit union wishes to provide fact sheets on its products and services, information should include:

- Product Features
- Rates
- Basic Transaction Charges and Fees
- Restrictions
- Risks
- Disclaimers

Third Party Service Providers

If the credit union provides a member with a product that is supplied by or acquired from a third party, it must disclose relevant relationships with that third party at the time of product inquiry or acquisition.

The credit union may receive compensation from the sale of third party products or services. It is not necessary to identify this at the time of product inquiry or acquisition. This information is provided to members in the Market Code document for members (Appendix B) and the Financial Services Agreement.

Conflict of Interest

Employees must avoid situations where there is a conflict of interest. When there is a potential or perceived conflict of interest, bring this to the member's attention and give him/her the opportunity to cancel, postpone or continue with the transaction.

Professional Standards

The credit union will conduct business in a manner that maintains its good reputation by exercising reasonable and prudent, professional judgement in the provision of products and services.

The credit union is committed to employee development, education, professional designations and/or accreditation standards where appropriate.

The purpose of this objective is to have well-trained and well-informed employees who are able to provide financial information and advice members can trust.

In this regard, the credit union will adhere to accreditation standards where appropriate and recognize the authority of accrediting bodies to oversee the competency and market conduct of employees, including financial planners and those providing securities and mutual funds. Credit union employees may inform members of licenses and registrations held as related to the product or service being offered.

Where industry accreditation is not required, the credit union employee will exercise the degree of knowledge, care, diligence and skill that a prudent employee in the financial services industry would exercise.

Credit union employees will also keep abreast of changes in products, industry standards and regulations that will affect their ability to provide high standards of knowledge and service to members. This level of proficiency will be gained through appropriate training programs and work experience, which will be reflected in job profiles.

Knowledgeable employees will be accessible in-person through the branch or through toll-free call centers or branch telephone numbers. This information will be available on a credit union's website to assist those members who want to contact the branch.

Credit unions will adhere to the principles regarding professional standards as reflected in the Market Code.

Complaint Handling (Problem Resolution)

The purpose of complaint handling is to provide a process for the resolution of complaints that arise from the provision of financial services to members.

In this regard, the credit union will have an established internal complaint handling process that provides timely and responsive service to member complaints. The information on complaint handling must be available on the credit union's website or in-branch.

The internal complaint handling process will be in accordance with the credit union's complaint handling procedures and adherence to the principles regarding complaint handling as reflected in the Market Code.

The credit union will designate a compliance officer or senior executive who will be responsible for handling member complaints. This individual will be trained and know where to access information on the complaint handling process.

The credit union will also be responsible for registering with Ombudsman for Banking Services and Investments (OBSI). Complaints that the credit union cannot resolve satisfactorily will be escalated to OBSI in a timely manner.

If a credit union member who files a complaint is not satisfied with the resolution offered by the credit union, the member may refer their complaint to OBSI. OBSI will engage with the credit union's designated complaint handling contact, request documents from the credit union, and interview as required.

Members will be provided with information on a credit union's website outlining the complaint handling process upon request.

Protecting Vulnerable Members

The credit union recognizes that vulnerable members have a greater need for targeted financial advice, strategies and support. Vulnerable members may have health, mobility or cognitive challenges impacting their ability to access or use financial products and services, which could make them susceptible to financial exploitation.

Vulnerable members include any members of the credit union who by nature of a physical, emotional or psychological condition are dependent on other persons for ongoing care and assistance. While not all older members are vulnerable or unable to protect their own interests, certain vulnerabilities may be more common among older members.

Identification of Vulnerable Members

The credit union will implement policies and procedures to identify and support Vulnerable Members including procedures and processes for employees to report and escalate concerns relating to the possible financial exploitation or abuse of vulnerable members.

Communication with Vulnerable Members

The credit union will implement measures to support effective communication with Vulnerable Members, taking into account issues relating to vision, hearing, mobility or other physical or cognitive barriers.

Training and Resources to Support Vulnerable Members

The credit union will provide appropriate training and make appropriate resources available to employees who serve Vulnerable Members, ensuring they understand issues more common to Vulnerable Members and their financial service needs.

Endeavoring to Mitigate Harm to Vulnerable Members

The credit union will implement measures to support awareness of potential financial exploitation and abuse of Vulnerable Members. Where the credit union becomes aware of the likelihood of financial exploitation or abuse of Vulnerable Members, it will endeavor to mitigate potential financial harm, while respecting members' privacy, and security and autonomy.

Taking into Account Vulnerable Member Needs

The credit union will take into account the needs of Vulnerable Members when providing notice of changes to products and services, fee structures, or the terms and conditions of the Financial Service Agreement. The credit union will ensure complaint handling procedures provide fair access and appropriate assistance to Vulnerable Members wishing to file a complaint.

Access to Banking Services

Account Opening Documentation and Process

The account opening documentation (Financial Services Agreement, Personal Account Opening and Specimen Signature Agreement and the Terms and Conditions for Financial Services) is the contractual documentation that forms the foundation of the relationship between the credit union and the member. It is the first and most important agreement that the member enters into with the credit union. It defines the relationship as a self-managed relationship where the member is provided with relevant product and service information to enable him/her to make informed decisions. The credit union's obligation is to provide information. The decisions are made by the member. This relationship is defined in the "Fair Dealings" paragraph in the Terms and Conditions for Financial Services. The Terms and Conditions for Financial Services also outlines other basic rules and agreements as to how an account will operate.

The credit union will facilitate how members make decisions about their banking services by:

- providing disclosure of product and service information at the time of inquiry or acquisition. When this is not possible, information will be provided as soon as possible afterward. Relevant information will be provided along with product information to help members understand the basic financial implications of a transaction, the fees and charges associated and any terms and conditions that apply;
- providing mortgage information on the impact of mortgage privileges and prepayments and the potential penalties that would be incurred when a member confirms they want to prepay their mortgage partially or in full;
- providing information in plain language;
- answering any questions the member may have in-person or through a toll free number, call centre or branch phone number published on a credit union's website;
- explaining to the member, when asked, the written information that has been provided by the credit union.

To establish and maintain this self-managed relationship with members, the credit union will provide information pertaining to its services:

- at account opening when the account opening documentation is completed;
- when the rights and obligations contained in the Terms and Conditions for Financial Services are revised; and
- throughout the relationship when the products or services acquired from the credit union carry specific rights and obligations.

Commitments at Account Opening

- The credit union will act fairly and reasonably in all its dealings with members.
- When members have chosen an account or service, the credit union will give clear information about how the account or service works, the terms and conditions and, the fees and charges that apply.
- The credit union will help members use their account and services and keep them informed by providing regular statements (where appropriate) and by providing notice of changes to interest rates and service charges and advise members when the terms and conditions for financial services change.
- As per the credit union's Privacy Code, all members' personal information will be treated as private and confidential and the credit union will operate secure and reliable banking and payment systems.
- The account opening documentation is very important to the relationship between the credit union and the member. The member must be provided with a complete copy of the Financial Services Agreement, Personal Account Opening and Specimen Signature Agreement (PAOSSA) and Terms and Conditions for Financial Services and ensure that he/she understands it. Members should be given time to read the Terms and Conditions for Financial Services and are encouraged to read it. Member Service Representatives must understand the Terms and Conditions for Financial Services and be able to answer any questions about the document.

When the account opening documentation is completed, the credit union must explain that the documentation is the contract between the credit union and the member which will govern the operation of the member's accounts with the credit union (this is addressed in the "These Terms and Conditions" paragraph of the Terms and Conditions for Financial Services.)

While it is not necessary to explain every paragraph in the Terms and Conditions to the member, key clauses should be referenced. For example, in the case of personal joint accounts, the applicable provisions should be reviewed with the members to ensure that the account is set up as they want and that they are aware of the deemed survivorship provisions that will apply unless designated otherwise. In the case of trust, estate or youth accounts, the applicable provisions should be reviewed and explained to the member. At a high level, staff should also explain the following paragraphs in the Terms and Conditions:

- Fair Dealings;
- Overdraft Protection (if applicable);
- Account Statement;
- Closing My Account;
- Fees;
- Stop Payment;
- Collection and Use of Information;
- Privacy;
- Changes to Agreement;
- Electronic communication;

- Relationships and Third Party Transactions;
- Protection of Personal Identification Numbers and online banking login information at all times and during Third-Party Transactions; and
- Liability of the Credit Union.

For other Account Opening considerations the following should also be referred to:

- Third Party Products;
- Conflicts of Interest;
- Discrimination; and
- Tied or Coercive Selling.

Deposit, Lending, AML Forms

It is a requirement of Market Code to provide plain language for consumer purposes. As such, forms are written to the extent possible in plain language to comply with Market Code.

A complete list of all forms are housed on the CUniverse > Services > Forms-Deposit, Lending & AML.

Low Fee Accounts

Market Code recognizes the importance of access to basic banking services. Credit unions will take reasonable measures to ensure access to a basic banking account consistent with the approach mandated by the Financial Consumer Agency of Canada (FCAC) for federally regulated financial institutions. The intent is to offer a basic banking account that will accommodate all persons. A low fee account is an option for individuals who conduct limited monthly transactions, or who would otherwise not have a bank account because of the higher costs associated with other types of accounts.

The features of low fee accounts typically include:

- no charge for deposits;
- the use of a debit card, for qualifying members;
- cheque-writing privileges, for qualifying members;
- free updated account statements;
- at least eight debit transactions per month, of which at least two can be done in-branch; and
- a maximum monthly fee of \$4.00 (as with other service packages, regular transaction charges apply for transactions over the monthly limit).

Note: if the individual is ordering cheques and the cost of the cheques will be debited to the account, the credit union may ask him/her to deposit enough money to cover the cost.

For further information, see the CUniverse > Services > Compliance > Market Code > Tools and Templates fora copy of the brochure "What You Need to Know About Low Fee Accounts." Brochures can be ordered online through Central Purchasing.

Consumer Banking Rights

FCAC has outlined consumer banking rights. Under these rules, a bank cannot refuse to open a personal bank account even if the individual:

- does not have a job;
- has been bankrupt; or
- is not making a deposit into the account immediately.

Conditions under Which You Must Open an Account

If the credit union offers personal bank accounts, it must open an account for an individual if he/she provides the minimum identification requirements in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act that will be used to verify identity.

Refusal to Open Accounts

A credit union should always have a sound business reason for refusing to open an account. If the credit union feels there is reason to believe there could be a violation of any governing law, it is not required to open an account.

Credit unions must not refuse to open an account by reason of any of the prohibited grounds of discrimination as set out in *The Saskatchewan Human Rights Code*. Also based on Privacy Commissioner rulings, a credit union cannot refuse to open an account if the applicant fails to provide personal information which is not reasonably necessary for the account opening process or account operation.

While *Access to Basic Banking Services Regulations* do not apply to credit unions, Market Code looks to these *Regulations* as being an industry standard. The Market Code provides guidance based on the principles of these *Regulations*. Although the *Regulations* do not speak specifically to previous write-offs and losses as being a possible reason to refuse opening an account, credit unions have relied on these as being valid business reasons.

Before a credit union refuses to open an account based on past losses or write-offs, each situation should be assessed in terms of amount of loss, length of time since loss, extenuating circumstances (e.g. job loss, injury) to determine whether imposing restrictions on the account would sufficiently mitigate the risk to the credit union.

Conditions under Which You Can Refuse to Open an Account

The credit union has reasonable grounds to believe:

- the account will be used to break the law or commit fraud,
- 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; the applicant has a history of illegal or fraudulent activity with the credit union or any provider of financial services;
- 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; or
- the credit union is a closed bond of association credit union and the applicant does not meet the credit union's membership requirements.

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 Restrictions).

Note: The fact that an individual 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 a personal account for a member just because they have

been bankrupt.

Restrictions Imposed on Accounts

Many financial institutions conduct credit checks to determine a customer's initial credit worthiness. Even where an overdraft limit is not applied for, it is possible for an overdraft to occur from a returned NSF item (where items on deposit in an ATM were later dishonored) or other possible situations. With Market Code in mind, the credit union may refuse to open an account where there is a poor credit bureau result or more clearly where the credit bureau indicates potential fraud or identity theft.

At the time of account opening for a new customer, the individual's attention should be drawn to the Collection and Use of Information clause in the *Terms and Conditions for Financial Services*. This clause covers the customer's consent for the credit union to conduct a credit bureau search. Once the *Personal Account Opening and Specimen Signature Agreement* is signed and a credit check conducted, if the credit check reveals possible fraud or identity theft, and the credit union decides not to open the account, the individual should be advised the credit union has decided not to open the account for that reason.

Not every poor credit bureau report may justify refusal to open an account. In managing the risk to the credit union, there will be levels of risk and different measures to manage that risk. Some weak credit bureau reports may suggest the credit union need only place restrictions on the account; while other reports, especially those indicating identity theft or fraud, likely suggest refusal to open the account is prudent.

Restrictions imposed on accounts may include:

- placing holds on cheques deposited, with possible denial of access to the first \$100;
- no overdraft privileges;
- no chequing privileges; and/or
- limiting or revoking debit card privileges.

If a credit union will only open an account on the condition that restrictions are imposed, and if the customer will not accept the restrictions, the credit union can refuse to open the account providing the credit union has a sound business reason to restrict access in the first place.

The Credit Reporting Act

Where a credit union conducts a credit check before opening a deposit account, and as a result of information in the credit report, either refuses to open the account or places certain restrictions on the account, Section 20 of *The Credit Reporting Act* will apply.

Section 20 indicates, "if a user of information contained in a credit report denies a benefit in whole or in part to a consumer, or increases the cost of the benefit to the consumer, as a result of information contained in a credit report respecting that consumer, the user shall provide written notice to the consumer of the denial or increase."

Cheque Hold Period & Access to Funds

The *Access to Funds Regulations* for federally regulated financial institutions repealed the *Cheque Holding Policy Disclosure Regulations*. The changes reduce cheque hold periods and prescribe the amount of funds to be available in-person or through an Automated Teller

Machine (ATM) immediately. This is based on paper-based cheques encoded with magnetic ink, issued in Canadian dollars, and drawn on a branch located in Canada.

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

While the *Access to Funds Regulations* do not apply to provincially-regulated credit unions, the credit union should grant Members and Account Holders with the same access to funds as set out in the *Access to Funds Regulations*.

As part of Market Code credit unions are expected to adhere to the same requirements.

Note: See the CUniverse > Services > Compliance > Market Code > Model Policies and Procedure for further detailed information on cheque holds and access to funds.

Direct Deposit of Government Cheques

The Government of Canada is increasing the use of direct deposit of payments by slowly phasing out federal government cheques. A large percent of payments issued by the Receiver General are already made by direct deposit. Existing payment recipients can enroll for direct deposit by telephone and by mail using a direct deposit enrolment form. For all new payments the first payment method offered will be direct deposit.

Credit unions need to educate members on the phase out of government cheques and assist them to sign up for direct deposit of their payments. Direct deposit of Government payments not only include Canada Pension Plan payments and Old Age Security payments, but also other Government issued payments such as: Income Tax Refunds, GST Credits, Child Tax Benefit, Veterans Affairs Pension and more. All these can be directly deposited at financial institutions.

Credit unions should communicate the advantages of direct deposit such as: reliability, security, confidentiality and being environmentally friendly.

Enrolment of direct deposit forms can be obtained on the Government of Canada [website](#).

Questions and Answers

Q: What account opening documents form the contract with the customer?

A: The Financial Services Agreement, Personal Account Opening and Specimen Signature Agreement (PAOSSA) and Terms and Conditions for Financial Services form the contract between the credit union and the customer. They govern the operation of the account. Customers should receive a copy of these documents at account opening.

Q: How many pieces of personal identification (ID) are required to open an account?

A: Although legal requirements and money laundering compliance only require one piece of identification, a best practice is to obtain at least two pieces of identification at account opening.

Q: For what purposes does the credit union collect and use member information?

A: When opening an account the credit union asks a member for personal, financial, and credit information. The purpose of obtaining this information is to: (i) verify identity; (ii) understand member needs and eligibility for products and services; (iii) open, maintain and administer the account and provide the member with financial services that meet their needs; (iv) obtain credit reports and evaluate credit rating and credit worthiness; (v) administer and manage security and risk in relation to the account and the financial services provided to the member; (vi) comply with legal and regulatory requirements; (vii) assist in dispute resolution; (viii) offer and provide the member with other products and services of the credit union and its affiliates and service suppliers.

Q: Are we required to review all the Terms and Conditions of the FSA with a member at account opening?

A: While it is not necessary to explain every paragraph in the agreement to a member, key clauses should be referenced such as:

- Terms and Conditions
- Fair Dealings
- Overdraft Protection (if applicable)
- Account Statement
- Closing My Account
- Fees
- Stop Payments
- Collection and Use of Information
- Privacy
- Changes to Agreement
- Electronic Communication
- Relationships and Third Party Transactions

- Liability of the Credit Union
- Joint Account (if applicable)
- Trust Account (if applicable)
- Estate Account (if applicable)
- Youth Account (if applicable)

Q: Can the credit union refuse to open an account?

A: 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:

- 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;
- the applicant has a history of illegal or fraudulent activity with the credit union or any provider of financial services;
- 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 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.

Note: Without evidence of fraud or any other illegal activity in relation to the bankruptcy, the fact that an individual is or has been bankrupt does not by itself constitute reasonable grounds to believe that an account for the individual is to be used for illegal or fraudulent purposes. Therefore the credit union cannot refuse to open a personal account for a customer just because they have been bankrupt.

Credit unions may also refuse to open an account:

- If they have experienced significant losses in past dealings with the individual.
- The credit union must ensure the business reason is not in violation of any law or *The Saskatchewan Human Rights Code*.
- Have other sound business reasons for refusing to open the account.

Q: How does the credit union notify members of changes to the Terms and Conditions of the Financial Services Agreement?

A: Members must be notified of changes by mail or electronically (if the member prefers to bank electronically). A paper copy must be made available upon request. If the member agrees, the amended Terms and Conditions can also be accessed through the credit union's website. Notice that changes have occurred must be provided for 30 days. The member's use of the account after the effective date of changes is his/her acceptance of the revised agreement.

Q: Can a member elect to suppress paper statements and only receive electronic statements?

A: Yes. If a member wants to cancel his/her paper statement and start receiving a statement electronically, he/she must indicate this to the credit union. Checking the 'Receipt of Statement' box on the FSA is sufficient instruction for the credit union to allow electronic statements for all accounts with the exception of loans. Suppressing paper loan statements must be authorized separately and must specifically reference loans. Loan application forms contain the authorization to suppress paper statements on specific loans. Form ELF 9.008 was developed to suppress paper statements on all loans.

Q: When does an account become inactive?

A: An account is considered inactive if no transaction, request or acknowledgement of a statement of account has been completed for two years.

Q: When can the credit union close a member's account?

A: The credit union can close an account without giving notice to the member if they do not operate their account(s) or conduct their business in a satisfactory manner. For example, if a member has an unauthorized overdraft balance due to NSF items, outstanding service charges or the account is being used for illegal purposes.

A credit union can also close an account(s) without reason by giving a member at least 30 days' notice.

Q: Does a credit union employee have to tell members what the compensation is when selling a third party product?

A: No, however the employee must disclose what the relationship is between the credit union and the third party when selling the product or service.

Q: How long do members have to report a discrepancy on their account?

A: Members are to examine their statements and report to the credit union any errors, irregularities or forgeries. Any discrepancies must be reported to the credit union in writing or by email within 30 days, otherwise the statement and balance shown are considered correct. Statements forwarded by mail are deemed received by the member on the day after mailing. Statements provided electronically are deemed received by the member on the last day of the month for which the statement applies. After the 30 day period has elapsed, members have no claim against the credit union for reimbursement even if a transaction is forged, unauthorized or fraudulent.

Q: What are the features of basic banking services as required by Market Code?

A: No charge for deposits
Use of debit card
Cheque writing privileges
Free updated account statement
At least eight debit transactions per month, of which at least two can be done in-branch
Maximum monthly fee of \$4.00

Q: How much notice does the credit union need to give members when fees and charges are changing or when there are changes to Terms & Conditions?

A: Thirty days.

Q: Does the credit union have to cash Government of Canada cheques for non-members?

A: Yes. Recent amendments to Market code recommend credit unions follow federal regulations that require that any federally regulated bank branch that dispenses cash through a teller must cash a Government of Canada cheque subject to the following conditions:

- the cheque is for \$1,500 or less
- the individual cashing the cheque shows acceptable identification

There is an indemnity of up to \$1,500 per occurrence provided by the federal government to all financial institutions which provide this service.

A federally regulated bank branch can refuse to cash a Government of Canada cheque if:

- the individual cannot produce proper identification
- there are grounds to believe that:
 - the cheque is counterfeit
 - the cheque has been altered in some way; or
 - the cheque is connected with a crime or fraud

There is no legal requirement that a credit union cash a Government of Canada cheque for anyone who is not a member. However, in light of the federal regulations for banks and the indemnity provided to all financial institutions, this is an indication of an expected industry standard.

It should be noted that *The Financial Administration Act* provides that no financial institution, including a credit union, shall charge a fee for cashing a Government of Canada cheque.

The production of federal government cheques will be phased out by 2016.

Q: Does the credit union have to cash a cheque for a non-member that is drawn on one of its member's accounts?

A: There is no legal requirement for credit unions to provide services to non-members. Where bylaws allow credit unions to provide services for non-members, they may choose to provide cheque cashing services and may have an established fee for providing those services.

Q: How does the credit union notify members if a branch is closing?

A: The credit union must give members at least four months' notice that a branch will be closing. Notice must be given by posting the closure information in a public area of the credit union and by providing written notice to each member of the branch.