

To: Chief Executive Officers, General Managers, Chief Financial Officers, and Chief Risk Officers of
B.C. Authorised Credit Unions

EXPECTATIONS FOR B.C. CREDIT UNIONS' MARKET CONDUCT ANNUAL REPORT FILINGS

17 November 2023

Following a review of the Financial Institutions Act (“FIA”) in 2019, the Government of B.C. introduced a series of legislative amendments aimed at modernizing the FIA, including BCFSA’s approach to market conduct supervision and oversight. One of the new provisions is section 94.2 of the FIA, which was brought into force on June 30, 2022. Section 94.2 aims to enhance consumer protection and strengthen public trust and confidence in the credit union sector by requiring B.C. credit unions to adopt a code of market conduct (“Code”), file the Code with BCFSA, and comply with the Code’s provisions.

To facilitate credit unions’ compliance with the Code’s provisions, BCFSA Regulatory Statement #22-003 established reporting requirements under section 127 of the FIA relating to the Code. All credit unions are required to attest to compliance with the Code annually by filing a “B.C. Market Conduct Annual Report” with BCFSA.

This letter summarizes BCFSA’s observations of credit unions’ filings of the Market Conduct Annual Report 2022 and clarifies BCFSA expectations for future filings of the report.

RESULTS OF MARKET CONDUCT ANNUAL REPORT 2022 FILINGS

In 2023, BCFSA reviewed credit unions’ filings of the Code and found that all credit unions had adopted and filed their Code with BCFSA: 66 per cent of credit unions adopted the Canadian Credit Union Association (“CCUA”) technical version of the Code, 29 per cent adopted the CCUA national version of the Code, and 5 per cent adopted other Codes.

Also, all credit unions filed their [B.C. Market Conduct Annual Report](#) 2022 with BCFSA.

However, BCFSA’s review of the reports filed in 2022 identified several common gaps in the compliance processes:

- **Compliance Framework:** most credit unions demonstrated partial understanding of what it means to establish a robust compliance with the Code framework;
- **Level of details included in the self-assessment:** most credit unions included an insufficient level of detail in their self-assessments, making it challenging for BCFSA to assess the credit union’s compliance with its Code; and

- **Self-assessment template:** 50 per cent of credit unions submitted to BCFSA the CUA self-assessment template, instead of the template required by BCFSA.

To avoid the same gaps in future filings and to assist credit unions with their efforts to establish a formal approach to consumer protection supported by an effective compliance with the Code framework, BCFSA has developed several expectations.

As implementing some of these expectations will require planning and resourcing by credit unions, BCFSA has divided expectations into those that:

- a. Should be implemented in the upcoming [B.C. Market Conduct Annual Report](#) filings for year 2023; and
- b. Should be implemented in the [B.C. Market Conduct Annual Report](#) filings for year 2024 and going forward.

EXPECTATIONS FOR MARKET CONDUCT ANNUAL REPORT 2023, DUE JANUARY 31, 2024

Credit unions should establish roles and responsibilities of the Board and senior management to ensure compliance with the Code. BCFSA expects:

- The Board to be accountable for overall compliance with the Code;
- Senior management to be responsible for establishing adequate controls that support compliance with the Code, assessing the effectiveness of controls, identifying weaknesses, and strengthening controls; and
- The signing officer to be responsible for reviewing and certifying the accuracy of the [B.C. Market Conduct Annual Report](#), including self-assessment, prior to reporting to BCFSA.

BCFSA expects credit unions to follow the BCFSA [Regulatory Statement](#) when filing the Market Conduct Annual Report for 2023. The CUA self-assessment template will not be accepted by BCFSA.

BCFSA expects credit unions to dedicate a sufficient amount of time, expertise, and resources to conduct an objective and fulsome self-assessment of the implementation of the Code. BCFSA expects that for each section of the self-assessment template, credit unions will:

Additional considerations and tips:

1. BCFSA expects credit unions to comply with section 94.2 of the FIA. Full compliance with the Code, supported by a robust compliance framework, is a process that will take credit unions some time to establish.
2. BCFSA views deficiencies in the compliance with the Code as gaps that credit unions are expected to remediate.
3. To avoid administrative actions and increased scrutiny from BCFSA, credit unions should demonstrate an understanding of BCFSA expectations and continuous progress towards meeting these expectations.
4. Each credit union's operating environment, including key internal controls, is unique. These controls are determined by a credit union itself and are not prescribed by BCFSA.
5. Rating numbers in the self-assessment are unique to each credit union's circumstances and are not used by BCFSA to score a credit union's overall compliance. BCFSA relies on qualitative information included in the self-assessment to assess a credit union's degree of compliance with the expectations.

- Rate the current degree of compliance with each principle objectively using the rating scale included in the BCFSA Regulatory Statement;
 - If a credit union believes that a particular principle of the self-assessment template is not relevant to its operation, the credit union should note this and include sufficient explanation;
- Include a sufficient description of the rating rationale for each principle, including a brief description of key controls¹ and their effectiveness;
- Identify and sufficiently describe gaps in compliance with each principle; and
- Sufficiently describe an action plan and target dates for compliance.

Credit unions could consider filing with BCFSA additional information to supplement their self-assessment. This could include but is not limited to:

- Detailed description of key internal controls, including names of formal policies and procedures, that led to a “6-Fully Implemented” or “5-Largely Implemented” rating;
- Copies of key policies and procedures; and
- Additional principles that are not included in the BCFSA self-assessment template, but form part of a credit union Code of Market Conduct. This could include the control’s description and assessment of its effectiveness.

EXPECTATIONS FOR MARKET CONDUCT ANNUAL REPORT 2024 FILINGS AND BEYOND

Compliance with the Code forms part of a credit union’s compliance management system.

It is important that credit unions take steps toward building a more robust compliance with the Code processes, with the goal of implementing BCFSA expectations outlined in Table 1 below by December 31, 2024.

Credit unions committed to establishing a robust compliance with the Code framework will not only ensure compliance with the legislation, but will better position themselves to achieve the business objective of treating their members fairly.

¹ Key control is a primary measure established by a credit union to mitigate a particular risk.

Table 1: Compliance with the Code Framework, BCFSA Expectations

BCFSA Expectations	
Control Documentation and Testing	<p>Internal controls include policies, procedures, and practices at every level of a credit union. Management should possess an understanding of internal controls. BCFSA expects credit unions to:</p> <ul style="list-style-type: none"> • Have a periodic review of their Code to ensure its principles are relevant and complete; • Have adequate description of key controls that support the Code's principles; • Test key controls to validate that: <ul style="list-style-type: none"> ○ Controls have been successful in preventing non-compliance with the Code; and ○ Controls have been performed as intended throughout the entire period. <p>Testing should consider objective, scope, test procedures, sampling method, and frequency. Testing could include a combination of procedures including walkthroughs, re-performance, inquiries, observations, and other.</p>
Assessing Control Deficiencies	<p>Evaluating internal control deficiencies is a crucial activity because of its implications on compliance adherence, business operations, and reputation. Assessing and addressing internal control deficiencies is essential to building trust with credit union members and stakeholders.</p> <p>BCFSA expects credit unions to:</p> <ul style="list-style-type: none"> • Identify deficiencies in internal controls related to the Code principles; • Assess if deficiencies were a design failure of the control or an operating failure where responsibilities, process, or training require adjustment; and • Develop an action plan and remediate the root cause of deficiencies in a timely manner.
Delivering Results	<p>The end product of control testing is a report to management on compliance with the Code. The report should include the test results, internal control weaknesses, root causes, and remedial actions the credit union plans to implement to address any apparent gaps.</p> <p>BCFSA expects credit unions to provide their Board with a report of compliance with the Code.</p>



BCFSA understands that implementation of compliance with the Code framework is a new process for credit unions and is committed to working with credit unions and other stakeholders to support credit unions' efforts in establishing and implementing the framework.

To further clarify expectations about the Annual Market Conduct Annual Report, BCFSA is hosting an information session on November 23, 2023 at 9:30 a.m. To register for the information session, please see the registration details in the cover email sent with this letter, or the registration email that BCFSA sent to all credit unions on November 7, 2023. The information session will be recorded for those unable to attend.

Should you have any questions or concerns, please contact CUandTrusts@bcfsa.ca.