

Citation:

June 1, 2023

DECISION DOCUMENT

In the Matter of
the Securities Legislation of
Saskatchewan and Ontario
(the **Jurisdictions**)

and

In the Matter of
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of
Innovation Credit Union
(the **Filer**)

Decision

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that grants the Filer an exemption from (a) the prospectus requirement for the continuing distribution of the Filer's membership shares (**Membership Shares**) to members of the Filer; and (b) the dealer registration requirement under the Legislation, except in Ontario, with respect to its continuing trades in Membership Shares to members of the Filer following the Filer's continuation as a federal credit union under the *Bank Act* (Canada) as described herein (collectively, the **Exemption Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the Financial and Consumer Affairs Authority of Saskatchewan is the principal regulator for this application;
- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of British Columbia, Alberta, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward

Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut; and

- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is a credit union incorporated under *The Credit Union Act, 1998* (Saskatchewan) and its head office is in Swift Current, Saskatchewan.
2. The Filer is subject to *The Credit Union Act, 1998* (Saskatchewan) and *The Credit Union Regulations 1999* (Saskatchewan), and is regulated by The Credit Union Deposit Guarantee Corporation of Saskatchewan (**CUDGC**). The Filer must also comply with *The Standards of Sound Business Practice* and other applicable provincial and federal laws. The Filer provides regular reporting to CUDGC and is subject to periodic risk-based examinations.
3. The Filer is a member-owned financial co-operative with a business focused on day-to-day banking, investments, and personal and business lending in the Province of Saskatchewan.
4. The Filer is one of the largest credit unions in Saskatchewan with over 400 employees and more than \$4.047 billion in managed assets.
5. As of April 30, 2023, there are 59,761 members of the Filer (**ICU Members**). This includes both individuals and legal entities.
6. The majority of ICU Members reside in Saskatchewan, although membership is not restricted to Saskatchewan residents. Currently 4,311 ICU Members reside outside of Saskatchewan across all Canadian provinces and territories. Of those ICU Members currently residing outside of Saskatchewan, 1,813 became members of the Filer when they resided in Saskatchewan.
7. ICU intends to continue as a federal credit union under the *Bank Act* (Canada) (the **Bank Act**) and the rights and obligation of the Membership Shares will remain the same post-continuance.

8. ICU Members receive documentation regarding the rights and obligations associated with being a member of the Filer, including:
 - (a) general information about the rights and obligations that arise out of the member's relationship with the Filer in relation to the banking services the Filer provides;
 - (b) disclosure of product and service information at the time of inquiry and/or at the time of acquisition;
 - (c) deposit insurance information;
 - (d) regular account statements showing account activity;
 - (e) notice of service fee changes and/ or account structure changes;
 - (f) notice of branch closure; and
 - (g) notice of changes to terms and conditions.
9. In addition, the Filer has information available for ICU Members on its website and in print, including:
 - (a) member notices;
 - (b) annual reports;
 - (c) audited financial statements;
 - (d) bylaws;
 - (e) codes of conduct; and
 - (f) a privacy code.
10. When the Filer continues as a federal credit union, its authorized share capital will consist of three classes of shares, as follows:
 - (a) an unlimited number of Membership Shares without par value;
 - (b) an unlimited number of non-voting Class A preferred shares without par value; and
 - (c) an unlimited number of non-voting Class B preferred shares without par value.
11. Persons seeking to become a member of the Filer may subscribe for one Membership Share. Currently, it is the Filer's practice that each ICU Member shall hold only one Membership Share.
12. Membership Shares are issued at a price equal to the aggregate book value of the total number of issued and outstanding membership shares as of the date of issuance, divided by

the total number of issued and outstanding membership shares as of the date of issuance (currently \$5.00 per Membership Share).

13. Certificates denoting Membership Shares need not be issued to ICU Members.
14. Membership Shares may only be assigned or transferred with the approval of the board of directors of the Issuer.
15. Each holder of a Membership Share is entitled to one vote on a resolution at an annual meeting of ICU Members. When the Filer continues as a federal credit union under the Bank Act, subject to the prior rights of Class A preferred shares and Class B preferred shares, each holder of a Membership Share will be entitled to receive dividends, as declared at the discretion of the Board, and to receive the remaining property of ICU upon a liquidation, dissolution or winding up of ICU.
16. Each holder of a Membership Share is required to open a member rewards account (**Member Rewards Account**) and deposit the subscription price for the Membership Share (currently \$5.00) into their Member Rewards Account. The Member Rewards Account enables ICU Members to receive membership allocations, cash dividends and equity payments.
17. An ICU Member retains membership in the Filer so long as the membership of that holder is not withdrawn or terminated.
18. An ICU Member may withdraw from membership in ICU at any time by giving ICU such notice as may be prescribed by the Board from time to time.
19. When an ICU Member's membership is withdrawn or terminated, their Member Rewards Account is closed and the subscription price for their Membership Share (currently \$5.00) is returned to the ICU Member not later than one year after the effective date of withdrawal or termination.
20. ICU Members also have the option to "opt out" of being an ICU Member at any time. If an ICU Member chooses to "opt out" of being an ICU Member, the subscription price for their Membership Share (currently \$5.00) is returned to them.
21. Any closed or terminated Member Rewards Account will not qualify for any dividend or patronage returns declared by the board of directors of the Filer at a subsequent date.
22. Except as described in paragraph 33, the Filer is not in default under applicable securities legislation in any jurisdiction of Canada.
23. Historically, credit unions in Canada have been incorporated and regulated provincially with their operations limited to the territory of the incorporating province.
24. Currently, the Filer relies on the exemption from the prospectus and registration requirements set out in General Ruling/Order 45-912 *Exemption for Co-operatives and Credit Unions*,

issued by the Financial and Consumer Affairs Authority of Saskatchewan (the **Saskatchewan Exemption**) in order to distribute its Membership Shares.

25. Securities legislation in Saskatchewan, Ontario and other jurisdictions of Canada contain local exemptions from the prospectus requirement that are only available to credit unions organized and regulated under the legislation of that jurisdiction.
26. The Government of Canada enacted legislation under the Bank Act allowing credit unions to continue federally and operate nationally.
27. The federal credit union provisions of the Bank Act enable a provincially organized credit union, such as the Filer, to continue as a federal credit union under the Bank Act and operate nationally under the supervision and oversight of the Office of the Superintendent of Financial Institutions, the federal financial institutions regulator.
28. Under the Bank Act, a federal credit union, like provincial credit unions, must be organized and carry on business on a co-operative basis and provide financial services primarily to its members. Ownership of Membership Shares is a requirement for membership in a federal credit union.
29. The Filer wishes to continue as a federal credit union under the Bank Act to conduct its operations throughout Canada.
30. Upon continuance, the Filer will change its name to “Innovation Federal Credit Union”.
31. Upon continuance, the Filer will be a Schedule I bank under the Bank Act.
32. The Filer's capital structure includes Membership Shares. A holder of Membership Shares may become a member of the Filer. Each member is entitled to one vote on a resolution at a general meeting of the Filer. When the Filer continues as a federal credit union under the Bank Act, subject to the prior rights of Class A preferred shares and Class B preferred shares, each holder of a Membership Share will be entitled to receive dividends, as declared at the discretion of the Board, and to receive the remaining property of the Filer upon a liquidation, dissolution or winding up of the Filer.
33. The Filer is currently in default of securities law requirements outside Saskatchewan in relation to prospectus and dealer registration requirements as it is not a credit union organized and regulated under the legislation of those jurisdictions outside Saskatchewan.
34. After continuance as a federal credit union under the Bank Act, the Filer will be able to rely on the dealer registration exemption in subsection 35.1(1) of the *Securities Act* (Ontario).
35. After continuance as a federal credit union under the Bank Act:

- (a) the Filer will no longer be able to rely on the dealer registration and prospectus exemption in the Saskatchewan Exemption; and
 - (b) absent the Exemption Sought, the Filer would be required to comply with: (a) the prospectus requirements under the applicable securities legislation in each jurisdiction of Canada, and (b) with the dealer registration requirements under the applicable securities legislation in each jurisdiction of Canada except Ontario.
36. The Filer, upon its continuance, will carry on a similar business to other credit unions in the Jurisdictions, is subject to similar controls (including capital, liquidity and investor protection measures) as credit unions in the Jurisdictions, and as such, should be afforded the same treatment as other credit unions in the Jurisdictions in relation to its issuance of Membership Shares.

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that the Filer continues as a federal credit union under the Bank Act and remains regulated as a federal credit union by the Office of the Superintendent of Financial Institutions.

“Dean Murrison”

Dean Murrison
Executive Director, Securities Division
Financial and Consumer Affairs
Authority of Saskatchewan