



ISSUE: CREDIT UNION ISSUANCE OF CUSTOMS BONDS

Last Reviewed: October 29, 2008

SUMMARY: In August, Credit Union Central of Canada learned that the Canada Border Services Agency (CBSA) was not accepting customs bonds issued by credit unions. The CBSA stated that they refused credit union issued customs bonds because credit unions were not considered to be approved financial institutions by the Treasury Board of Canada and because acceptable issuers must be members of the Canadian Payments Association. It is of competitive importance that credit unions be able to offer such a service to their members as it is readily available to customers of the chartered banks. It is also important that the Government of Canada ensure that government policy maintains a level playing field between financial institutions and does not inadvertently favour particular institutions.

CURRENT STATUS:

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The CBSA has reviewed the issue and, in particular, the CBSA Memorandum D1-7-1 on *Posting Security for Transacting Bonded Operations* governing such matters and **agreed with CUCC's position that the prohibition on credit unions issuing customs bonds were the result of a misinterpretation of the Memorandum by operational personnel. The CBSA has revised the Memorandum to make it clear that credit unions can issue customs bonds if the credit union is a member of a central organization with Canadian Payments Association membership.** The revised CBSA Memorandum D1-7-1 on *Posting Security for Transacting Bonded Operations* can be obtained at <http://www.cbsa-asfc.gc.ca/publications/dm-md/d1/d1-7-1-eng.pdf>.

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Canadian Central has reviewed the issue and, in particular, the CBSA Memorandum D1-7-1 on *Posting Security for Transacting Bonded Operations* governing such matters and determined that the current prohibition is likely the result of a misinterpretation of the Memorandum by operational personnel at the CBSA. This opinion has been relayed to the CBSA through discussions with officials and the CBSA is now reconsidering their position.

DESCRIPTION OF ISSUE:

Canada Customs bonds are required by individuals, organizations or businesses that arrange importing, exporting or moving of commercial goods through Canada, and need to provide security to the CBSA or the Canada Revenue Agency. Canadian customs bonds help ensure that the requirements of the Act or Regulations governing the particular customs activity are met. Currently, customs bonds can be obtained from financial institutions that are approved by Treasury Board policy as set out in the CBSA Memorandum D1-7-1 on *Posting Security for Transacting Bonded Operations*.

At the present time, the CBSA is refusing Customs Bonds issued by credit unions. The CBSA has indicated that this is because Memorandum D1-7-1 dictates that the CBSA can only accept bonds issued by financial institutions that are members of the Canadian Payments Association as referred to in Section 4 of the *Canadian Payments Act*.

However, a review of the CBSA Memorandum D1-7-1 clearly indicates that Treasury Board policy does, in fact, allow the CBSA to accept customs bonds issued by credit unions. On page 4 of the Memorandum D1-7-1 it states that in general the Department accepts "...a bond issued by... a member of the CPA referred to in Section 4 of the CPA Act... [and]... a credit union as defined in paragraph 137(6)(b) of the *Income Tax Act*." Furthermore, on the same page, the memorandum notes that "[I]n the case of credit unions, [CPA] membership is through the medium of a central cooperative credit association to which they belong".

In all likelihood the current prohibition is the result of a misinterpretation of the Memorandum on behalf of operational personnel at the CBSA. In particular, it is probable that CBSA personnel rely on Appendix C of Memorandum D1-7-1 when making their determinations. Appendix C lists "Approved Financial Institutions" and includes:

- ◆ a list of banks chartered under Schedule A of the *Bank Act*,
- ◆ a list of banks chartered under Schedule B of the *Bank Act*,
- ◆ a list of central co-operative credit societies that are members of the Canadian Payments Association; and
- ◆ a list of miscellaneous financial institutions that are also members of the Canadian Payments Association including some credit unions that are direct members of the CPA.

However, Appendix C does not list, or make mention of, the "local credit unions" that are members of the CPA "...through the medium of a central cooperative credit association to which they belong". This oversight is likely the source of the current prohibition.

SIGNIFICANCE FOR CREDIT UNIONS:

It is of competitive importance that credit unions be able to offer services to their members that are readily available to customers of the chartered banks. Credit unions are very significant lenders to the small and medium sized enterprise market and should be able to offer businesses that arrange importing, exporting or moving of commercial goods through Canada the financial services they require to do so. It is also important that the Government of Canada ensure that government policy maintains a strict level playing field between financial institutions and does not inadvertently favour particular institutions when there is no justifiable policy rationale to do so.

CANADIAN CENTRAL POSITION AND OBJECTIVES:

Credit Union Central of Canada considers the prohibition on the acceptance of credit union issued customs bonds to be based on an erroneous interpretation of Treasury Board policy and is seeking to have the CBSA change its practices so that credit union issued bonds will be deemed acceptable to the CBSA.

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