

CP11/17**

Financial Services Authority &

HM Treasury

FSA regulation of credit unions in Northern Ireland



HM TREASURY

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HM Treasury and the Financial Services Authority (FSA) invite comments on this Consultation Paper. Comments should reach us by 31 October 2011.

Comments may be sent by electronic submission using the form on the FSA's website at: www.fsa.gov.uk/Pages/Library/Policy/CP/2011/cp11_17_response.shtml.

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It is the FSA's policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise. A standard confidentiality statement in an email message will not be regarded as a request for non-disclosure.

A confidential response may be requested from the FSA under the Freedom of Information Act 2000. The FSA may consult you if it receives such a request. Any decision the FSA makes not to disclose the response is reviewable by the Information Commissioner and the Information Tribunal.

Copies of this Consultation Paper are available to download from the website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

Abbreviations used in this paper

Amendment Regulations	Money Laundering (Amendment) Regulations 2011
AFR	FSA's annual funding requirement
APER	Statements of Principle and Code of Practice for Approved Persons (part of the FSA Handbook)
Article 28C certificate	a certificate that may be held by a credit union in Northern Ireland under Article 28C of the Credit Unions (Northern Ireland) Order 1985
BCOBS	Banking: Conduct of Business sourcebook (part of the FSA Handbook)
CBA	Cost benefit analysis
Commencement Order	Terrorist Asset-Freezing etc Act 2010 (Commencement) Order 2011
COMP	Compensation sourcebook (part of the FSA Handbook)
COND	Threshold Conditions (part of the FSA Handbook)
Consequential Order	Financial Services and Markets Act 2000 (Consequential Amendments and Transitional Provisions) (Northern Ireland Credit Unions) Order 2011
CCC	FSA's customer contact centre
CF	Controlled function
CQ	Credit union quarterly regulatory return

CRED	Credit Union sourcebook (part of the FSA Handbook dedicated to credit unions)
CREDS	Credit Union New sourcebook (updated version of CRED)
CY	Credit union annual regulatory return
DETI	Department of Enterprise, Trade and Investment in Northern Ireland
Deposit-taking activity (in this paper)	Offering shares to members or accepting deposits from juvenile depositors
Depositor	Credit union members and juvenile depositors
DEPP	Decision Procedure and Penalties manual (DEPP)
DISP	Dispute Resolution: the complaints sourcebook
EEA	European Economic area
EG	Enforcement Guide
Exemption Order	Financial Services and Markets Act 2000 (Exemption) (Amendment No. 2) Order 2011
FEES	Fees manual (part of the FSA Handbook)
FIT	Fit and Proper test for Approved Persons (part of the FSA Handbook)
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
GEN	General Provisions (part of the FSA Handbook)
ILCU	Irish League of Credit Unions
LRO	Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010
MLRO	Money laundering reporting officer
MELs	Modified Eligible Liabilities
the ombudsman service	Financial Ombudsman Service
Part IV permission	Permission given by the FSA under Part IV of the Financial Services and Markets Act 2000 to carry on regulated activities (which in the case of credit unions usually refers to deposit-taking)

Permission Order	Financial Services and Markets Act 2000 (Permission and Applications) (Northern Ireland Credit Unions) Order 2011
PRIN	Principles for Businesses (part of the FSA Handbook)
SCV	Single customer view
SDD	Specified Deposit-takers Defaults
SUP	Supervision manual (part of the FSA Handbook)
SYSC	Senior Management Arrangements, Systems and Controls (part of the FSA Handbook)
TC	Threshold conditions
Treasury/DETI consultation	<i>Proposals for regulatory reform of credit unions in Northern Ireland, March 2010</i>
UFCU	Ulster Federation of Credit Unions
Version 1 credit union	A credit union whose Part IV permission includes a requirement that it must not lend more than £15,000 in excess of a member's shareholding
Version 2 credit union	A credit union that is not a version 1 credit union
1979 Act	Credit Unions Act 1979
1985 Order	Credit Unions (Northern Ireland) Order 1985

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Foreword

- 1.1** This joint HM Treasury/FSA Consultation Paper describes important changes to the way that credit unions in Northern Ireland are regulated. On 31 March 2012, regulatory responsibility will transfer from the Department of Enterprise, Trade and Investment in Northern Ireland (DETI) to the Financial Services Authority (the FSA).
- 1.2** The transfer of regulation is intended to place credit unions in Northern Ireland on a more equal footing with those already regulated by the FSA in Great Britain. As far as possible, credit unions in the United Kingdom will become subject to a single regulatory and supervisory regime. Members of credit unions in Northern Ireland will have the same degree of protection that is available to other financial services customers, in the form of access to the Financial Services Compensation Scheme and the Financial Ombudsman Service.
- 1.3** In developing the existing regulatory framework for credit unions in Great Britain which are already FSA-regulated, the FSA has taken into account the unique characteristics of the credit union movement, particularly the fact that credit unions continue for the most part to be run by volunteers. The FSA is committed to maintaining a regulatory system which, as far as possible, is consistent with the needs of the movement and its members. The FSA has developed a Handbook of rules and guidance, parts of which apply to credit unions already regulated by the FSA and which are described in some detail in this Consultation Paper.
- 1.4** This joint Consultation Paper sets out the details of, and requests comments on, the proposed new regulatory framework that will apply to credit unions in Northern Ireland. The Treasury proposes removing regulatory material from Northern Ireland credit union legislation and the FSA proposes extending the Handbook material to credit unions in Northern Ireland. However, the FSA will not be able to apply all of the same Handbook rules and guidance because of the legislative differences that will remain between Northern Ireland and Great Britain following transfer. In addition, the FSA proposes transitional arrangements to minimise any one-off impact from the application of the new regulatory framework to credit unions in Northern Ireland.
- 1.5** It is important for the Treasury and the FSA to know what you think of our proposals. We have therefore tried to present the information in this Consultation Paper in a clear

and accessible way and have sought to keep technical language to a minimum. However, we hope that readers will appreciate that there are constraints when publishing a formal consultation document of this type.

- 1.6 It is also important that we give you as much information and assistance as possible to help you understand and respond to the proposals by 31 October 2011. The FSA will be holding a series of roadshows across Northern Ireland in September and October 2011 during which credit unions can meet the FSA and find out more about the proposals.
- 1.7 The FSA has also developed a series of factsheets to explain more concisely some of the key aspects of FSA regulation, and has created a dedicated area of the FSA website – www.fsa.gov.uk/smallfirms/your_firm_type/credit/nicu.shtml – where you will find the most up-to-date information relating to the changes. We will continue to add to this and plan to hold further roadshows early in 2012 in order to explain the final requirements and help credit unions in Northern Ireland prepare for implementation.
- 1.8 We (the FSA and the Treasury) will continue to work closely together – and with credit unions in Northern Ireland, DETI and the trade associations – to ensure that the transition is as smooth as possible. We look forward to hearing from you.

Martin Stewart

FSA's Head of Building Societies and Credit Unions

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Overview

Introduction

- 2.1** Northern Ireland and HM Treasury Ministers have decided to transfer responsibility for the regulation of credit unions in Northern Ireland (Northern Ireland credit unions) from DETI to the FSA.¹ The transfer of regulation will occur on 31 March 2012.
- 2.2** Ministers have also decided to transfer the registration function² from DETI to the FSA, but for a period following the regulatory transfer on 31 March 2012 the registration function will remain with DETI.³ It is likely that responsibility for registering Northern Ireland credit unions will not be transferred until details of the regulatory reform programme (which will replace the FSA with two bodies – the Prudential Regulation Authority and the Financial Conduct Authority)⁴ are finalised and it is known which body will be responsible for registering credit unions in future.
- 2.3** The transfer of regulation is intended to place Northern Ireland credit unions on a more equal footing with credit unions already regulated by the FSA in Great Britain. As far as possible, credit unions in the United Kingdom (UK) will become subject to a single regulatory regime, as outlined in this paper, which will bring benefits particularly for credit union members⁵ in Northern Ireland. Northern Ireland credit unions will become participant firms in the Financial Services Compensation Scheme (FSCS) and so will gain access to statutory compensation for members in the event of failure.⁶ Northern Ireland credit unions will also fall within the compulsory jurisdiction of the Financial Ombudsman

1 Treasury and DETI Ministers announced their decision to transfer regulation and consulted on some of the detail regarding the transfer in *Proposals for regulatory reform of credit unions in Northern Ireland*, March 2010 (the Treasury/DETI consultation): www.hm-treasury.gov.uk/d/consult_ni_credit_unions.pdf. A response to the consultation will be published shortly.

2 Registration effectively establishes a credit union as a corporate entity.

3 The transfer of regulatory responsibility can be achieved by secondary orders under the Financial Services and Markets Act 2000, as set out in Chapter 3 of this paper. However, the transfer of registration must happen via primary legislation and so will take longer to effect.

4 More detail on the regulatory reform programme is available in the factsheets published on the dedicated part of the FSA website: www.fsa.gov.uk/smallfirms/your_firm_type/credit/nicu.shtml.

5 Unless stated otherwise, any reference to ‘credit union members’ in this paper includes reference to ‘juvenile depositors’, i.e. depositors who are too young to be adult members of the credit union.

6 Subject to FSCS eligibility and qualifying conditions etc, which are outlined in Chapter 5.

Service (the ombudsman service) which may benefit members with a complaint about their credit union.

Scope of this Consultation Paper

- 2.4 The purpose of this consultation is to ensure that all stakeholders, both in Northern Ireland and Great Britain, have an opportunity to comment on, and influence, the regulatory regime that will apply to Northern Ireland credit unions following transfer to the FSA. So this paper is largely limited to proposed legislative amendments and proposed FSA regulatory rules and guidance material.
- 2.5 The FSA appreciates that Northern Ireland credit unions will also seek information on many other aspects of the transfer process. So, as outlined in the Foreword to this paper, it has published a series of factsheets on its website.⁷
- 2.6 Following transfer, Northern Ireland credit unions will become subject to any future changes to the credit union regulatory regime in the UK. As indicated in paragraph 2.2, this will include changes brought about by the regulatory reform programme. In addition, the parts of the FSA Handbook of rules and guidance (the Handbook) that will apply to all credit unions in the UK are likely to need amending over time. These future amendments are not within the scope of this paper and the FSA will consult on them separately.

Timing

- 2.7 To meet the transfer date of 31 March 2012, the FSA has reduced its usual consultation period from three to two months. So the consultation will close on 31 October 2011. The Treasury and the FSA will carefully consider your responses and, assuming that the draft Orders outlined in Chapter 3 have been made by Parliament, will provide a joint response in a December 2012 Policy Statement. At the same time, the FSA will publish 'near-final'⁸ regulatory rules which it proposes to both finalise and make on the transfer date of 31 March 2012. These rules will, therefore, come into force on the transfer date.
- 2.8 Further detail on timing and the processes required to effect transfer, including when information will be required from Northern Ireland credit unions, is outlined in the Timetable at Annex 4.

⁷ www.fsa.gov.uk/smallfirms/your_firm_type/credit/nicu.shtml

⁸ The FSA will not have the power to make final rules for Northern Ireland credit unions until responsibility for regulation transfers on 31 March 2012. However, in order to give credit unions as much notice as possible, the FSA will publish 'near-final' rules in December 2012, which it proposes to both finalise and make on the transfer date. These rules will come into force on the transfer date.

Structure of this Consultation Paper

- 2.9 This main body of this paper is structured as follows:
- Chapter 3 outlines proposed draft legislative material that will bring about the transfer of regulatory responsibility to the FSA;
 - Chapter 4 outlines the proposed prudential and reporting requirements to be applied to Northern Ireland credit unions on transfer;
 - Chapter 5 outlines proposed redress policy to be applied to Northern Ireland credit unions on transfer; and
 - Chapter 6 outlines other parts of the FSA Handbook to be applied to Northern Ireland credit unions on transfer, including senior management, systems and control requirements, the approved persons regime, banking conduct of business requirements, and fees.

Who should read this document?

- 2.10 This paper will be of interest to Northern Ireland credit unions, their members, their officers and volunteers, their trade associations, their IT systems and software providers, and those planning to set up new credit unions in Northern Ireland.
- 2.11 Stakeholders with an interest in credit unions in Great Britain may also be interested in this paper.

Equality and diversity considerations

- 2.12 The likely equality and diversity impacts of the proposals have been assessed and do not give rise to any concerns. However, any comments from respondents are welcome.

CONSUMERS

The transfer of regulatory responsibility for Northern Ireland credit unions to the FSA will benefit consumers, especially members of credit unions in Northern Ireland. In particular, members will benefit from enhanced consumer protection, especially through FSCS protection if a credit union fails, and access to the ombudsman service if they have a complaint.

3

Legislative measures to transfer regulatory responsibility to the FSA

Introduction

- 3.1 In order to transfer regulatory responsibility for Northern Ireland credit unions to the FSA, legislative amendments are necessary. The Treasury/DETI consultation in 2010 outlined the current legislative framework for Northern Ireland credit unions and asked respondents for views on the transitional and consequential provisions that should be made to transfer regulation. Respondents did not specifically address this question.
- 3.2 In this paper, your comments are sought on the following draft legislative material, which is considered necessary to bring about transfer:
- the Financial Services and Markets Act (FSMA) 2000 (Exemption) (Amendment No. 2) Order 2011 (the Exemption Order);
 - the FSMA 2000 (Permission and Applications) (Northern Ireland Credit Unions) Order 2011 (the Permission Order);
 - the FSMA 2000 (Consequential Amendments and Transitional Provisions) (Northern Ireland Credit Unions) Order 2011 (the Consequential Order);
 - the Money Laundering (Amendment) Regulations 2011 (the Amendment Regulations); and
 - the Terrorist Asset-Freezing etc. Act 2010 (Commencement) Order 2011 (the Commencement Order).

- 3.3 The key elements of this draft legislative material are outlined in this chapter, and more detailed summaries are provided at Annex 6. The legislative material itself is attached at Annex 7.

What is the current legislative position for Northern Ireland credit unions?

- 3.4 Normally, the activity of offering shares to credit union members would be considered deposit-taking⁹ under the Financial Services and Markets Act 2000 (FSMA) and so should not be carried on in the UK unless authorised¹⁰ and regulated by the FSA. However, Northern Ireland credit unions are currently exempt from this requirement to be authorised and regulated by the FSA under FSMA.
- 3.5 Instead, in order to offer shares to members, Northern Ireland credit unions must be registered by DETI under the Credit Unions (Northern Ireland) Order 1985 (the 1985 Order) or the Industrial and Provident Societies Act (Northern Ireland) 1969. DETI regulates Northern Ireland credit unions by monitoring and supervising compliance with the prudential requirements (that is, the financial requirements) and the limits on activities (such as investment, lending and borrowing) that are contained in the 1985 Order.
- 3.6 To transfer responsibility for regulating Northern Ireland credit unions from DETI to the FSA, the FSMA exemption for Northern Ireland credit union deposit-taking must be removed. The Treasury and DETI have already consulted on the draft Exemption Order in the 2010 Treasury/DETI consultation. The Exemption Order will remove the exemption and will effectively require Northern Ireland credit unions to become authorised and regulated by the FSA.

Will Northern Ireland credit unions have to apply to become authorised and regulated by the FSA?

- 3.7 At transfer date, all Northern Ireland credit unions will become authorised and regulated by the FSA. To become authorised, a firm must normally apply to the FSA for a 'Part IV permission' (so called because the relevant provisions are contained in Part IV of FSMA). When the FSA grants the Part IV permission, the firm becomes an 'authorised person'.
- 3.8 In order to avoid the financial and administrative burden of requiring all existing Northern Ireland credit unions to apply for authorisation, and to ensure that transfer happens as smoothly as possible, the Treasury proposes that existing Northern Ireland credit unions will automatically be 'grandfathered' to become authorised persons with Part IV permission

⁹ Any reference to deposit-taking activity in this paper should be read as a reference to offering shares to members and accepting deposits from juvenile depositors. 'Deposit-taking' is the legal terminology used in the legislative material outlined in this chapter.

¹⁰ In plain language, 'authorised' means approved by the FSA.

to accept deposits¹¹ on 31 March 2012.¹² This means that they will be deemed to be authorised and won't have to go through the normal application process. New Northern Ireland credit unions that set up after transfer date will have to apply as normal.

- 3.9** The key elements of the proposed grandfathering process are set out in the draft Permission Order. The Permission Order largely mirrors the legislative approach that was taken in 2002 when the FSA assumed responsibility for the regulation of credit unions in Great Britain.
- 3.10** Under the Permission Order, Northern Ireland credit unions will automatically be grandfathered as one of two types of credit union – version 1 or version 2. The vast majority will be grandfathered as version 1 credit unions, which are credit unions whose permission includes a requirement that they must not lend more than £15,000 in excess of a member's shareholding.¹³ Northern Ireland credit unions that currently hold a certificate under Article 28C of the 1985 Order will be grandfathered as version 2 credit unions. The implications of being a version 1 or 2 Northern Ireland credit union are further outlined in Chapter 4.
- 3.11** As all Northern Ireland credit unions will automatically be grandfathered on transfer date, questions regarding the authorised person status of some Northern Ireland credit unions may arise at a later point, perhaps when more information is available. Under the draft Permission Order, the Treasury proposes that the FSA be given a power to direct named Northern Ireland credit unions to apply for Part IV permission following transfer. A change has been made to the 2002 procedure (when credit unions in Great Britain were grandfathered into FSA regulation) to ensure that a Northern Ireland credit union will not automatically lose its permission where it fails to apply as directed. Instead, the FSA is likely to use its power to vary the permission of the credit union. Similarly, where a Northern Ireland credit union submits an application but is rejected, the credit union will not automatically lose its permission. Rather, the permission will cease on a date specified by the FSA or when the matter is no longer open to review. In both scenarios, the ultimate objective of the FSA in exercising its powers is likely to be to close the credit union in an orderly manner.¹⁴
- 3.12** Under the Permission Order, grandfathering will also extend to individuals who would normally require FSA approval to perform their role within the credit union. Under FSMA, 'approved persons' are individuals that require FSA approval in order to perform what are known as 'controlled functions'. Controlled functions are those that have a particular regulatory significance and include governing functions (such as being a member of the

11 For the vast majority of Northern Ireland credit unions, the only permission they will need is the deposit-taking permission. However, if a credit union seeks to provide mortgages it will need to apply for permission. Similarly, a credit union would need to apply for an insurance intermediary permission.

12 Please note that the FSA has undertaken a solvency test of Northern Ireland credit unions. As outlined in the cost benefit analysis (CBA) at Annex 3, an analysis of the 2009 and 2010 annual regulatory returns submitted to DETI suggests that Northern Ireland credit unions are generally well-capitalised and prudentially sound. The analysis assumes that the annual returns reflect a true and accurate picture of the financial position of Northern Ireland credit unions.

13 Please note that where a version 1 credit union makes a loan to a member and the amount outstanding is more than £7,500 in excess of a member's shareholding, it must maintain 5% capital-to-total assets.

14 This will ensure that FSCS protection exists until the credit union discharges all of its obligations to potentially eligible claimants (i.e. the members of the credit union).

committee of management/board of directors) and required functions (such as being responsible for compliance with money laundering requirements). The approved persons regime is outlined further in Chapter 6.

- 3.13** Rather than requiring all Northern Ireland credit unions to apply for FSA approval of all persons that are performing controlled functions at transfer date, the Treasury proposes that all such individuals (except for any that are undischarged bankrupts or that have been convicted for fraud or other dishonesty) will automatically be grandfathered as approved persons on 31 March 2012. The FSA will have the power to direct named Northern Ireland credit unions to apply for approval for certain individuals that have been grandfathered as approved persons. If the credit union fails to apply, the FSA will consider withdrawing the individual's approved person status. If the credit union submits an application but it is rejected, the approved person status will cease on a date specified by the FSA.
- 3.14** As was the case when the FSA assumed the regulation of credit unions in Great Britain in 2002, the Treasury proposes a 'pre commencement period' of three months to apply from 31 December 2011 to 30 March 2012. During this time, the FSA will have the power to ask Northern Ireland credit unions and their officers to submit information in preparation for FSA regulation. For the avoidance of doubt, a specific information sharing power has been given to DETI to share information with the FSA.
- 3.15** Further information on the grandfathering process is provided in Annex 6 and in the factsheets on the dedicated FSA website.¹⁵

What changes will be made to the Credit Union (Northern Ireland) Order 1985?

- 3.16** Proposed amendments contained in the Consequential Order are intended to achieve a number of outcomes, all of which aim to help to bring about transfer. Firstly, as FSMA will apply upon transfer, the Treasury proposes removing or amending the following provisions in the 1985 Order which are inconsistent with, or duplicate, provisions in FSMA:
- the registration provisions in Article 3 (DETI to work with, and share information with the FSA, including during the registration and authorisation processes);
 - the prohibitions on carrying on banking and deposit-taking in Articles 24 and 25 respectively;
 - provisions which relate to deposit guarantee insurance in Article 38 (removal of the requirement for the registrar to formally approve compensation schemes);
 - provisions that relate to disputes in Article 72 (removal of the jurisdictional overlap between the ombudsman service and DETI, as registrar);

¹⁵ www.fsa.gov.uk/smallfirms/your_firm_type/credit/nicu.shtml

- provisions which allow the registrar to suspend the operations of a credit union in Article 59; and
- provisions which relate to certificates of approval in Articles 28B to 28D.

3.17 Secondly, consistent with the approach that was taken in 2002, the Treasury proposes to remove or amend provisions in the 1985 Order to the extent that they duplicate or are inconsistent with regulatory requirements that have been made by the FSA under FSMA and that are contained in the FSA Handbook. As outlined further in Chapters 4 to 6 of this paper, a single FSA regime is proposed and, as far as possible, those parts of the FSA Handbook that currently apply to credit unions in Great Britain will apply to Northern Ireland credit unions, effectively replacing the material in the 1985 Order. This will give the FSA and the Northern Ireland credit union sector greater flexibility, as rules made under FSMA are quicker to amend than requirements contained in primary or secondary legislation.

3.18 On the other hand, provisions in the 1985 Order which relate wholly or mainly to DETI's functions as the registrar of Northern Ireland credit unions will remain largely unchanged, at least until a date has been set for the transfer of registration. Provisions that relate wholly or mainly to constitutional matters (relating to the objects and powers of a credit union) will also be largely unchanged. Only minor amendments have been made to these provisions to accommodate the role and functions of the FSA. Examples include amendments to Article 49, which relates to annual accounts, and changes to Articles 60 and 61, which deal with the suspension and cancellation of registration.

3.19 Thirdly, where possible, the Consequential Order contains amendments that attempt to align the 1985 Order to legislation that applies to credit unions in Great Britain, that is to the Credit Unions Act 1979 (the 1979 Act). Examples include amendments to:

- remove the cap on the maximum number of credit union members in Article 13; and
- remove the statutory requirement for minors' deposits to be kept separate and accounted for separately in Article 26.

3.20 In some cases, the effect of these amendments in the Consequential Order will be deregulatory, although the extent of such an impact will depend on the content of the equivalent replacement Handbook rules in each case.

3.21 As amendments contained in the Consequential Order are limited to those that are consequential upon the transfer of regulation to the FSA, it will not be possible to completely align the 1985 Order with the 1979 Act at this stage of the transfer process. This is because the subject matter of the 1985 Order is devolved to the NI Assembly under the Northern Ireland Act 1998. As above, amendments cannot be made, as part of the current process, to provisions that relate to registration and constitutional matters. Similarly, amendments to the 1979 Act which will be brought about by the draft Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011 (the LRO) that is currently before Parliament, cannot be extended to the 1985 Order. Such matters,

including whether Northern Ireland credit unions should be able to accept corporate members, issue deferred shares and issue interest bearing shares, are matters for the Northern Ireland Assembly.

- 3.22** Finally, the Consequential Order maintains those provisions in the 1985 Order that are special or unique to Northern Ireland credit unions. For example, their ability to apply a percentage of their surplus to social, cultural or charitable purposes, the equivalent of which does not expressly exist in the 1979 Act, is preserved in Article 36.

What other changes are necessary?

- 3.23** The Amendment Regulations will make amendments to transfer supervisory responsibility under the Money Laundering Regulations 2007 from DETI to the FSA. Similarly, the Commencement Order will make amendments to Schedule 7 to the Counter-Terrorism Act 2008 to transfer supervisory responsibility under that Act from DETI to the FSA. These supervisory roles are ancillary to DETI's regulatory function and so should be transferred with the rest of the regulatory function. The FSA currently performs this supervisory role for credit unions in Great Britain.

Q1: Do you agree with the proposed legislative measures outlined in Chapter 3?

4

Proposed application of FSA prudential and reporting requirements

Introduction

- 4.1 Chapter 3 explained the proposal to remove regulatory material from the 1985 Order, so that relevant parts of the FSA Handbook could be applied to Northern Ireland credit unions instead. This would go some way towards achieving a single regulatory regime for credit unions in the UK.
- 4.2 This chapter outlines the proposed application to Northern Ireland credit unions of an updated version of the Credit Union sourcebook (CRED). CRED is that part of the Handbook that deals with the prudential and reporting requirements for credit unions already regulated by the FSA in Great Britain. It is available on the FSA website.¹⁶
- 4.3 It is anticipated that the updated version of CRED, called the Credit Union New sourcebook (CREDS) will apply to credit unions in Great Britain by the time of transfer on 31 March 2012. CREDS was consulted on in CP 09/27 and near-final rules were published in PS10/11.¹⁷ For ease of reference, CREDS is attached at Appendix 2. It is not part of the current consultation. The FSA recommends that Northern Ireland credit unions familiarise themselves with CREDS rather than CRED.
- 4.4 The FSA proposes that CREDS should be applied to Northern Ireland credit unions as closely as possible. However, it will not be possible to apply CREDS in its entirety, as outlined in the remainder of this chapter. The draft Handbook text at Appendix 1 shows the proposed amendments to CREDS to make it applicable to Northern Ireland credit unions.

¹⁶ <http://fsahandbook.info/FSA/html/handbook/CRED>.

¹⁷ www.fsa.gov.uk/pages/Library/Policy/Policy/2010/10_11.shtml.

Minor tailoring for legislative differences

- 4.5 Some minor CREDS amendments are proposed to reflect that, as outlined in Chapter 3, Northern Ireland credit unions and credit unions in Great Britain will remain registered under separate pieces of legislation. Firstly, where there are references in CREDS to the credit union powers under the 1979 Act, it is proposed that similar references to the 1985 Order be added.
- 4.6 In addition, it is proposed that some parts of CREDS be carved out or disapplied to Northern Ireland credit unions as they will not be relevant because some legislative differences will remain between Northern Ireland and Great Britain. In particular, the draft LRO, referred to in Chapter 3, will amend the 1979 Act to allow credit unions in Great Britain (among other things) to accept corporate members, issue interest bearing shares, and issue deferred shares. However, as explained in Chapter 3, the LRO will not apply to Northern Ireland credit unions. So where CREDS refers to these activities, the FSA proposes carving out such references for Northern Ireland credit unions.

Transitional arrangements

- 4.7 Proposed transitional arrangements for the Handbook rules outlined in this chapter are summarised in Table 1 below and outlined further in this chapter. The transitional provisions are proposed to minimise the one-off impact of applying CREDS rules to Northern Ireland credit unions, including in the areas of provisioning, reporting and operational policies.
- 4.8 In addition, transitional provisions are proposed to address inconsistencies between current limits in CREDS and under the 1985 Order in areas such as investments, shares and loans. The transitional provisions are designed to address any differences in a proportionate manner in the short term, allowing existing activities that would not comply with CREDS on transfer date to continue for a stated period or until such positions are unwound in the normal course of business.

Table 1: Transitional arrangements

Handbook reference	Area	Consultation Paper reference	Transitional provision
CREDS 3.2.1	Types of investment	4.21	Rule will apply from 31 March 2013 and until then Northern Ireland (NI) credit unions may continue to hold investments that would have been permitted prior to transfer.

Handbook reference	Area	Consultation Paper reference	Transitional provision
CREDS 3.2.2 CREDS 3.2.3	Investment maturity periods	4.22	NI credit unions may continue to hold existing investments in breach of maturity periods at transfer date until the maturity period expires.
CREDS 3.3.7	Financial risk management policy statement	4.24	Rule will apply from 1 October 2012.
CREDS 4.2.1	Limits on share size	4.28	NI credit unions may keep those share accounts that exceed the share limit at transfer date but if the share account falls below the share limit after transfer the limit will apply from that point.
CREDS 4.4.1	Insurance cover	4.31	Rule will apply from 31 March 2013.
CREDS 5.3.6	Minimum initial capital	4.36	Rule will not apply to grandfathered NI credit unions.
CREDS 6.2.4	Liquidity management policy statement	4.42	Rule will apply from 1 October 2012.
CREDS 7.2.1	Lending policy statement	4.49	Rule will apply from 1 October 2012.
CREDS 7.3.1 CREDS 7.3.4	Lending periods	4.51-4.52	Existing loans by NI credit unions that are in breach of lending periods at transfer date may remain outstanding but should continue to be repaid in accordance with the loan agreement.
CREDS 7.4.2	Large exposures	4.53	Existing loans by NI credit unions that are in breach of the large exposure limits at transfer date may remain outstanding but should continue to be repaid in accordance with the loan agreement. If a loan remains on 31 March 2014, the large exposure limits will start to apply.

Handbook reference	Area	Consultation Paper reference	Transitional provision
CREDS 5.3.3 CREDS 5.3.5	Provisioning	4.54-4.56	Reserving rules will not apply to the extent that NI credit unions have to make higher provision for bad and doubtful debt than would have been required prior to transfer, allowing the additional amount to be transferred out of general reserve in breach of the reserving rules. This transitional provision will apply up until the due date for submission of the first annual regulatory return following transfer and a NI Credit union must advise the FSA of the amount transferred under the transitional provision by the due date for submission of that return.
SUP 16.2.5	Reporting requirements	4.60	The first quarterly return will not be due until 31 January 2013 for the period October 2011 – December 2012.

- 4.9 It would be too costly and disproportionate to expect Northern Ireland credit unions immediately to divest themselves of any existing investments, pay back shares, and call in loans that would be in breach of the limits in CREDS but not the limits under the 1985 Order. However, the objective in the longer term is a single regime and it is proposed that the CREDS limits will apply to compliant activities on transfer date and to new activities after transfer date.

Detailed proposals

- 4.10 Further detail on the application of the individual sections of CREDS to Northern Ireland credit unions is set out below, following the order of CREDS.
- 4.11 The requirements in CREDS are intended to be proportionate to the different levels of risk attached to the different types of activity that credit unions may undertake. For example, under CREDS, every credit union is either a version 1 or version 2 credit union and the requirements vary due to the different level of risk attached to each type. It is proposed that CREDS rules that are specific to version 1 or 2 credit unions should apply to Northern Ireland credit unions as appropriate, depending on whether they will be version 1 or 2.¹⁸

¹⁸ As outlined in Chapter 2, Northern Ireland credit unions will be grandfathered as either version 1 or version 2 credit unions depending on whether they currently hold a section 28C certificate under the 1985 Order.

CREDS (Chapter 3) – Investment and borrowing

- 4.12 The FSA proposes applying to Northern Ireland credit unions, as closely as possible, the rules related to investment and borrowing set out in CREDS (Chapter 3).
- 4.13 These rules are intended to ensure that credit unions continue to exercise proper control over the risks that may arise from the structure of their balance sheets, including the risks that income is not large enough to cover funding, operational and other costs, and that a credit union might be unable to access the funds it needs.

Key elements of CREDS (Chapter 3)

- 4.14 The main investment and borrowing rules, to which Northern Ireland credit unions would be subject, are outlined below:

Types of investment

- 4.15 Credit unions may invest surplus funds¹⁹ and liquid funds in the following types of investment:
- deposits in, or loans to, authorised deposit-taking institutions in the UK or any other State in the European Economic Area (EEA);
 - sterling-denominated securities issued by the government of any EEA State; and
 - fixed interest, sterling-denominated securities guaranteed by the government of any EEA State.

Maturity of investments

- 4.16 Version 1 credit unions may invest funds with a maturity period of up to 12 months. Version 2 credit unions may invest funds with a maturity period of up to five years.

Borrowing

- 4.17 The borrowing of a version 1 credit union must not exceed, except on a short-term basis, 20% of shares in the credit union. Evidential provisions²⁰ provide that borrowing exceeding 20% of shares in the credit union at the end of more than two consecutive quarters indicates contravention of this requirement.
- 4.18 The borrowing of a version 2 credit union must not exceed, except on a short-term basis, 50% of the shares in the credit union.

19 Surplus funds are those funds that are not immediately required for the credit union's purposes, whether repaying deposits, lending or ancillary purposes.

20 Evidential provisions usually indicate a practice which, if observed, will tend to establish either compliance with, or contravention of, the rule to which the evidential provision relates.

Financial risk management policy statement

- 4.19 A version 2 credit union must establish, maintain and implement an up-to-date financial risk management policy statement, approved by the committee of management/board of directors and submitted to the FSA at least annually. The statement should address interest rate and funding risk, cover aggregate limits of holdings of investments and borrowings from sources other than members, deal with the avoidance of funding concentrations and detail organisational arrangements, systems and controls in respect of these matters.

Tailored rules

- 4.20 The FSA proposes tailoring the rules in CREDS (Chapter 3) to add references to the 1985 Order as appropriate.

Transitional arrangements

Types of investment

- 4.21 As outlined in the cost benefit analysis (CBA) at Annex 3, to the extent that Northern Ireland credit unions currently hold investment types not permitted under CREDS, they may face penalty and administration costs in withdrawing these investments and coming into compliance with CREDS. The FSA proposes a transitional period of one year from transfer date. Until 30 March 2013, Northern Ireland credit unions may continue to hold investments that would have been permitted prior to transfer. This should allow Northern Ireland credit unions sufficient time to absorb penalty and administration costs and find suitable replacement investments that comply with CREDS.

Investment maturity periods

- 4.22 As outlined in the CBA, applying the CREDS rules on investment maturity periods is likely to impose costs on Northern Ireland credit unions in terms of income foregone. In order to minimise the one-off impact of these costs, the FSA proposes transitional arrangements. Where existing investments are in breach of the CREDS maturity periods at transfer date, Northern Ireland credit unions can continue holding such investments until the maturity period of the investment expires. The FSA does not propose transitional arrangements for existing investments that comply at transfer date or new investments from transfer date.

Borrowing

- 4.23 As outlined in the CBA, Northern Ireland credit unions appear to comply with the CREDS borrowing limits. Therefore, the FSA does not propose transitional arrangements and suggests that the CREDS borrowing limits should apply from transfer date.

Financial risk management policy statement

4.24 The FSA proposes that the requirement that version 2 credit unions must establish, maintain and implement a financial risk management policy statement should only begin to apply from 1 October 2012. This would allow Northern Ireland credit unions six months in which to make the necessary arrangements and develop the policy statement.

Q2: Do you agree with the proposal to apply to Northern Ireland credit unions the investment and borrowing rules in CREDS (Chapter 3)?

Q3: Do you consider that the proposed tailoring of the rules in CREDS (Chapter 3) takes appropriate account of the legislative differences that will remain between Northern Ireland and Great Britain?

Q4: Do you think that our proposed transitional arrangements for CREDS (Chapter 3) give Northern Ireland credit unions enough time to adjust?

CREDS (Chapter 4) – Shares and deposits

4.25 The FSA proposes applying to Northern Ireland credit unions, as closely as possible, the rules related to shares and deposits set out in CREDS (Chapter 4). These rules are intended to provide limits on holdings of shares and deposits, joint accounts and dividends, and to require insurance cover.

Key elements of CREDS (Chapter 4)

4.26 The main share and deposit rules, to which Northern Ireland credit unions would be subject, are as follows:

Limits on shares and deposits

- A credit union must not allow a member²¹ to have shares exceeding the greater of:
 - £10,000; or
 - 1.5% of the total shares in the credit union.

²¹ In this context, reference to 'members' includes reference to adult members only.

- A credit union must not allow juvenile depositors to have deposits exceeding the greater of:
 - £10,000; or
 - 1.5% of the total shares in the credit union.

Joint accounts

- Shares in the credit union must not be held in the joint names of more than two members. For the purposes only of the limit on shareholdings, the interest of a member in a joint account must be treated as 50% of the shareholding in that account.

Payment of different dividends

- A version 1 credit union must not pay different dividends on different accounts unless it has a capital-to-total assets ratio of at least 5% and the payment of those dividends does not reduce the ratio to below 5%. A version 1 credit union must not pay dividends out of interim profits more than once a year.

Insurance cover

- A credit union must maintain a policy of insurance against loss from the fraud or other dishonesty of any of its officers or employees. The amount of insurance cover required is set out in Table 2 below, and increases as the aggregate value of shares and other deposits increases, to reflect the risk of higher losses.

Table 2: Insurance against fraud or other dishonesty

Aggregate value of share subscriptions and other deposits received and not repaid (the 'aggregate value')	Cover required in respect of any one claim	Cover required in respect of total claims made in any one year
Less than £10,000	The higher of £500 or 50% of the aggregate value	The higher of £1,000 or 100% of the aggregate value
£10,000 to £100,000	The higher of £5,000 or 20% of the aggregate value	100% of the aggregate value
More than £100,000	The higher of £20,000 or 15% of the aggregate value	The higher of £100,000 or 75% of the aggregate value
More than £1,000,000	£150,000 plus 5% of the aggregate value over £1,000,000, subject to a maximum of £2,000,000	£750,000 plus 5% of the aggregate value over £1,000,000, subject to a maximum of £4,000,000

Tailored rules

- 4.27 The FSA proposes tailoring the rules in CREDS (Chapter 4) to add references to the 1985 Order as appropriate.

Transitional arrangements

Limits on shares and deposits

- 4.28 As outlined in the CBA, applying the CREDS limits on shareholding may have some impact on the growth of smaller Northern Ireland credit unions but the FSA does not expect this to be material. To minimise any one-off impact, the FSA proposes transitional arrangements to allow Northern Ireland credit unions to keep those share accounts that exceed the CREDS share limits (£10,000 or 1.5% of total shares) at transfer date. However, if the amount falls below the CREDS limit after the transfer, the CREDS limit will apply from that point. The FSA does not propose transitional arrangements for existing compliant share accounts or new share accounts from transfer date – the CREDS limits should apply to these accounts from transfer date.
- 4.29 As outlined in the CBA, the CREDS limits on the size of deposit accounts for juvenile depositors are more liberal than the equivalent limits for Northern Ireland credit unions under the 1985 Order. The FSA does not propose to make transitional arrangements and the CREDS limit will apply from transfer date.

Joint accounts and the payment of different dividends

- 4.30 As outlined in the CBA, current practice in Northern Ireland appears to comply with the CREDS rules on joint accounts and the payment of different dividends. Therefore, the FSA does not propose to make transitional arrangements and these CREDS rules will apply from transfer date.

Insurance cover

- 4.31 As outlined in the CBA, the CREDS rules on insurance cover may involve increased premiums for some Northern Ireland credit unions. To allow Northern Ireland credit unions enough time to identify and source cost-effective insurance that complies with the CREDS requirements, the FSA proposes providing a one year transitional period. The CREDS requirements will not commence until 31 March 2013.

Q5: Do you agree with the proposal to apply to Northern Ireland credit unions the shares and deposits rules in CREDS (Chapter 4)?

Q6: Do you consider that the proposed tailoring of the rules in CREDS (Chapter 4) takes appropriate account of the legislative differences that will remain between Northern Ireland and Great Britain?

Q7: Do you think that the proposed transitional arrangements for CREDS (Chapter 4) give Northern Ireland credit unions enough time to adjust?

CREDS (Chapter 5) – Capital

4.32 The FSA proposes applying to Northern Ireland credit unions, as closely as possible, the rules related to capital set out in CREDS (Chapter 5).

4.33 The capital rules are intended to ensure that credit unions have in place and maintain adequate capital against which to absorb unexpected losses. The aim is to contribute to the safety and ongoing viability of credit unions by allowing them time in which to address underlying difficulties which can otherwise lead to failure.

Key elements of CREDS (Chapter 5)

4.34 The main capital rules, to which Northern Ireland credit unions would be subject, are as follows:

- It is the responsibility of a credit union to ensure that it has sufficient capital to support its activities, and it may need to hold capital over and above the minimum requirements set out in CREDS.
- In addition, the FSA may impose individual capital requirements over and above the minimum requirements set out in CREDS. For example, where the FSA considers that there are additional risks particular to a credit union, the FSA may impose an individual capital ratio for that particular credit union.

Components of capital

- For the most part, capital consists of funds that belong to the credit union rather than being available for distribution, and the traditional form of credit union capital is retained earnings, i.e. reserves accumulated out of profits. However, under CREDS, capital can also include:
 - interim net profits;

- subordinated debt (which must meet certain conditions, including that on wind-up repayment is postponed until all other debts have been repaid, and that the initial maturity of the debt is more than five years);
- initial capital; and
- revaluation reserves (which must meet certain conditions, including that the amount included as capital must not exceed 25% of the total capital).

Minimum initial capital

- In order to ensure sufficient funds to pay costs that necessarily fall during the first year or so of operation, new credit unions are required to have adequate initial capital at start-up, taking into account the nature, scale and complexity of the business and expected early expenses. This initial capital requirement is largely expended during the course of a credit union's first year of operation and is distinct from the requirement to maintain a minimum ongoing capital ratio, below.
- Evidential provisions state that contravention of this high-level rule would tend to be established where a version 1 credit union does not hold £10,000 initial capital, or where a version 2 credit union does not hold £50,000 initial capital. This leaves it open to small credit unions to demonstrate to the FSA during the authorisation process that a lower level of initial capital would be appropriate in their particular circumstances.

Building reserves

- In order to build reserves, version 1 credit unions are required to transfer 20% of profits for the year to general reserve, until the amount in general reserve reaches 10% of total assets.
- Version 1 credit unions may not transfer from general reserve where general reserve is less than 10% of total assets.

Minimum ongoing capital

- The minimum ongoing capital-to-asset requirements are targeted to the size and activities of credit unions as follows:
 - version 1 credit unions must maintain a capital-to-assets ratio of at least 3%;
 - where a version 1 credit union makes a loan to a member and the amount outstanding to the credit union is more than £7,500 in excess of the attached shares held by the member, the credit union must maintain a 5% capital-to-total assets ratio;
 - version 1 credit unions with more than £5m in total assets or more than 5,000 members or both must maintain a capital-to-total assets ratio of 5%;

- version 1 credit unions with more than £10m in total assets or more than 10,000 members or both must maintain a risk-adjusted capital-to-total assets ratio of 8%; and
- version 2 credit unions must maintain a risk-adjusted capital-to-total assets ratio of 8%.
 - In order to calculate the risk-adjusted ratio, credit unions may adjust the amount of capital by adding the amount of provision made for loans in arrears over and above the provisioning amount required by CREDS rules, up to a cap of 1% of total assets.

Tailored rules

- 4.35 The FSA proposes tailoring the rules in CREDS 5.1 to clarify that Northern Ireland credit unions cannot issue deferred shares or interest-bearing shares. As outlined in Chapter 3, this is because the LRO, which will allow credit unions in Great Britain to issue these shares, will not apply to Northern Ireland credit unions.

Transitional arrangements

Minimum initial capital

- 4.36 It is proposed that because existing Northern Ireland credit unions are already established and are being grandfathered as regulated firms, the initial capital requirements will not apply to them at transfer date. The minimum initial capital requirements will apply to new Northern Ireland credit unions that start up after transfer date.

Building reserves

- 4.37 As outlined in the CBA, the CREDS requirements to build reserves are the same as current requirements under the 1985 Order. With the exception of transitional arrangements related to provisioning, outlined at paragraphs 4.54 – 4.56, the FSA does not propose to make transitional arrangements and the CREDS requirements will apply from transfer date.

Minimum ongoing capital

- 4.38 Northern Ireland credit unions are not currently subject to minimum statutory requirements in relation to ongoing capital.²² However, as outlined in the CBA, the available data suggests that the vast majority of Northern Ireland credit unions would already comply with the applicable CREDS minimum ongoing capital ratios. Therefore, the

²² This is with the exception that Northern Ireland credit unions with certificates under 28C of the 1985 Order must have a 10% reserves-to-assets ratio.

FSA considers that transitional arrangements are unnecessary and proposes that the CREDS ratios should apply from transfer date.

- Q8:** Do you agree with the proposal to apply to Northern Ireland credit unions the capital rules in CREDS (Chapter 5)?
- Q9:** Do you consider that the proposed tailoring of the rules in CREDS (Chapter 5) takes appropriate account of the legislative differences that will remain between Northern Ireland and Great Britain?
- Q10:** Do you think that the proposed transitional arrangements For CREDS (Chapter 5) give Northern Ireland credit unions enough time to adjust?

CREDS (Chapter 6) – Liquidity

- 4.39** The FSA proposes applying to Northern Ireland credit unions, as closely as possible, the liquidity rules set out in CREDS (Chapter 6).
- 4.40** These rules are intended to help credit unions continue to meet their liabilities as they fall due. Credit unions engage in maturity transformation, taking on short-term deposits from members (in the form of shares), and making comparatively long-term loans. So, credit unions must manage liquidity to ensure that members are confident that they can access their savings within expected timeframes.

Key elements of CREDS (Chapter 6)

- 4.41** The main liquidity rules, to which Northern Ireland credit unions would be subject, are as follows:
- All credit unions must maintain adequate financial resources, including adequate liquidity. Liquid assets should be sufficient to meet the day-to-day business needs of the credit union and provide an appropriate cushion to cope with unexpected events.

Liquidity management policy statement

- All credit unions must establish, maintain and implement an up-to-date liquidity management policy statement, approved by the committee of management/board of directors at least annually and designed to ensure that the credit union maintains prudent liquidity, appropriate to the scale and nature of its business and having regard

to risks, including the risk of sudden adverse cash flow. Version 2 credit unions must send a copy to the FSA as soon as is reasonably practicable after it has been approved.

Minimum liquidity

- All credit unions must maintain a minimum ratio of liquid assets to total relevant liabilities of at least 5%. In addition, the ratio must not fall below 10% on two consecutive quarters.
 - Liquid assets are those that can be realised for cash at short notice and within no more than eight days.
 - Total relevant liabilities are the potential calls on the credit union and include unattached shares, juvenile deposits, and liabilities with less than three months to maturity.

Transitional arrangements

Liquidity management policy statement

- 4.42 The FSA proposes that the requirement to establish, maintain and implement a liquidity management policy statement should only begin to apply to Northern Ireland credit unions from 1 October 2012. This would allow credit unions six months to make the necessary arrangements and develop the policy statement.

Minimum liquidity

- 4.43 Northern Ireland credit unions are not currently subject to statutory minimum liquidity requirements. However, as outlined in the CBA, the analysis of the available data suggests that they have strong liquidity positions and already comply with the minimum CREDS requirements. Therefore, the FSA does not consider that transitional arrangements are necessary and proposes that the CREDS minimum liquidity requirements should apply from transfer date.

Q11: Do you agree with the proposal to apply to Northern Ireland credit unions the liquidity rules in CREDS (Chapter 6)?

Q12: Do you think that the proposed transitional arrangements for CREDS (Chapter 6) give Northern Ireland credit unions enough time to adjust?

CREDS (Chapter 7) – Lending to members

- 4.44 The FSA proposes applying to Northern Ireland credit unions, as closely as possible, the lending rules set out in CREDS (Chapter 7).
- 4.45 These rules are intended to help minimise the risks arising from a credit union's lending activities, avoid large exposures which can create concentration risk on the balance sheet, manage arrears and reduce vulnerability to bad debt, all of which can otherwise be a potential strain on capital and the solvency of a credit union. These rules are especially important given that one of the main objectives of credit unions is to accumulate members' savings in order to provide a fund out of which loans can be provided for the benefit of members.

Key elements of CREDS (Chapter 7)

- 4.46 The main lending rules, to which Northern Ireland credit unions would be subject, are as follows:

Lending policy statement

- All credit unions must establish, maintain and implement an up-to-date lending policy statement, which is prudent and appropriate to the scale and nature of the business and which has regard to CREDS (Chapter 7) lending limits. The statement must be approved by the committee of management/board of directors at least annually and should include the policies and procedures for making loans and for the management of arrears, a provisioning policy to ensure that loan assets are valued correctly, and large exposure limits. Version 2 credit unions must send a copy to the FSA as soon as is reasonably practicable after it has been approved.
- Credit unions are restricted in making loans to officers, approved persons, staff and connected persons, unless certain conditions are met.

Lending limits and periods.

- The following lending limits are maxima and all credit unions should have adequate systems for managing potential exposures. Credit unions should not attempt to evade the limits by making loans in the expectation that they will not be repaid but will be automatically extended or rescheduled.
- The outstanding balance of a loan by a version 1 credit union to a member must not be more than £15,000 in excess of the attached shares held by the member. However, where a version 1 credit union lends more than £7,500 in excess of the attached shares held by a member, it must have a capital-to-total assets ratio of 5%.
- The outstanding balance of a loan by a version 2 credit union to a member must not be more than the greater of:

- £15,000 in excess of the attached shares held by the member; or
- 1.5% of total shares in the credit union in excess of attached shares held by the member.
- Version 1 credit unions must not lend for a period of more than five years where unsecured and ten years where secured.
- Version 2 credit unions must not lend for a period of more than ten years where unsecured and 25 years where secured.

Large exposures

- The committee of management/board of directors is responsible for monitoring large exposures and reviewing the large exposure policy annually.
- A large exposure is an individual liability that is at least £7,500 and at least 10% of the value of the credit union's total capital.
- An individual liability is the outstanding balance on a loan made to a borrower plus any interest or charges on that loan that are due but unpaid, less any attached shares held by the borrower.
- An individual large exposure must not exceed 25% of the credit union's capital.
- The total of all large exposures must not exceed 500% of the credit union's capital. A credit union must not allow the total of all large exposures to exceed 300% of capital unless it first notifies the FSA.

Provisioning

- Credit unions must comply with an overarching requirement to make adequate provision for bad and doubtful debt.
- To comply with the overarching requirement, credit unions must assess the risk of non-payment of loans in arrears and judge the level of provision required. At a minimum, credit unions must make specific provision where it is highly probable that losses will occur, as follows:
 - 35% of the member's net liability where a loan is more than three months in arrears; and
 - 100% of the member's net liability where a loan is more than 12 months in arrears.
 - Net liability is the outstanding balance of a loan made to a borrower plus any interest or charges on that loan that are due but unpaid, less any attached shares held by the borrower.

- An evidential provision also provides that maintaining a general provision of 2% of the net liability for all other loans indicates compliance with the requirement to make adequate provision for bad and doubtful debt.
- In addition, guidance recommends that credit unions should also make the following provisions:
 - 60% of the net liability where a loan is more than six months in arrears; and
 - 80% of the net liability where a loan is more than nine months in arrears.
- Where a delinquent loan is rescheduled, the loan should be regarded as remaining impaired until there is sufficient evidence that it is performing on the rescheduled terms. In the meantime, any provision should be maintained and not released.

Tailored rules

- 4.47** The FSA proposes tailoring the rules in CREDS (Chapter 7) to add references to the 1985 Order as appropriate.
- 4.48** The FSA also proposes tailoring the rules in CREDS (Chapter 7) to clarify that Northern Ireland credit unions cannot make a loan to a corporate member because they are unable to accept corporate members. As outlined in Chapter 3, the LRO, which will allow credit unions in Great Britain to accept corporate members, will not apply to Northern Ireland credit unions.

Transitional arrangements

Lending policy statement

- 4.49** The FSA proposes that the requirement to establish, maintain and implement a lending policy statement should only begin to apply to Northern Ireland credit unions from 1 October 2012. This would give credit unions six months to make the necessary arrangements and develop the policy statement.

Lending limits

- 4.50** As outlined in the CBA, lending limits are effectively the same under CREDS and the 1985 Order and, therefore, the application of the CREDS rules would not impose one-off or ongoing costs on Northern Ireland credit unions. The FSA does not propose any transitional arrangements and suggests that the CREDS lending limits should apply from transfer date.

Lending periods

- 4.51 As outlined in the CBA, the application of the CREDS lending periods will result in Northern Ireland credit unions incurring incremental compliance costs in terms of income foregone. Therefore, the FSA proposes transitional arrangements to minimise any one-off impact of the CREDS rules.
- 4.52 The proposed transitional provisions would apply to existing loans by Northern Ireland credit unions that would be in breach of the CREDS lending periods at transfer date, with the effect that such loans could remain outstanding to the credit union but must continue to be repaid in accordance with the loan agreement. This transitional provision would not apply to existing loans by Northern Ireland credit unions that comply with the CREDS lending periods at transfer date or to new loans from transfer date.

Large exposures

- 4.53 As outlined in the CBA, analysis of the available survey data suggest that it is likely that Northern Ireland credit unions already comply with the applicable CREDS large exposure rules. However, to ensure that there is minimal one-off impact from applying the rules, the FSA proposes making transitional arrangements. Where existing loans would be in breach of the large exposure limits at transfer date, they may remain but should continue to be repaid in accordance with the loan agreement. However, if the loan remains after two years, the large exposure rules will start to apply from 31 March 2014. The FSA considers that this allows Northern Ireland credit unions enough time to raise capital to address any concentration risks on the loan book. The FSA does not propose transitional arrangements for loans that comply with the large exposure rules at transfer date or for new loans.

Provisioning

- 4.54 As outlined in the CBA, the application to Northern Ireland credit unions of the CREDS provisioning requirements may result in a provisioning shortfall for some credit unions. In order to help Northern Ireland credit unions build provisions in the first year following transfer while minimising any one-off impact on profit and the payment of a dividend, the FSA proposes making a transitional arrangement.
- 4.55 The FSA proposes that the transitional provision should apply where a Northern Ireland credit union could not otherwise meet the additional CREDS provisioning requirements (additional to the current provisioning requirements in Northern Ireland) from reserves without breaching the reserving provisions (which effectively require credit unions to build the general reserves-to-total assets ratio to 10%). The proposed transitional provision will provide that, for a limited period following transfer, the reserving provisions (CREDS 5.3.3 and CREDS 5.3.5) should not apply and that a Northern Ireland credit union may transfer from its general reserve an amount equal to the additional amount required by the higher CREDS provisioning requirements, even where general reserves-to-total assets is, or will be, below 10%.

4.56 Where a Northern Ireland credit union takes advantage of this one-off transitional provision, it should notify the FSA at the same time as submitting its first annual regulatory return to the FSA following transfer.

Q13: Do you agree with the proposal to apply to Northern Ireland credit unions the lending rules in CREDS (Chapter 7)?

Q14: Do you consider that the proposed tailoring of the rules in CREDS (Chapter 7) takes appropriate account of the legislative differences that will remain between Northern Ireland and Great Britain?

Q15: Do you think that the proposed transitional arrangements for CREDS (Chapter 7) give Northern Ireland credit unions enough time to adjust?

CREDS 8.2 and SUP 16 – Reporting requirements

4.57 The FSA proposes applying to Northern Ireland credit unions the reporting requirements set out in CREDS 8.2 and the relevant reporting provisions in SUP 16.3 and 16.12. (SUP is the Supervision sourcebook and is part of the FSA's Handbook. It includes reporting requirements for all firms, including credit unions already regulated by the FSA in Great Britain. The other non-reporting parts of SUP that will apply to Northern Ireland credit unions are outlined in Chapter 6.)

Key elements of CREDS 8.2 and SUP 16.3 and 16.12

4.58 The main reporting rules, to which Northern Ireland credit unions would be subject, are as follows:

- Credit unions must submit quarterly (CQ) and audited annual (CY) financial regulatory returns in paper form to the FSA. The CQ and CY forms are available on the FSA website.²³ The CQ form must be submitted to the FSA within one month of the quarter end and the CY within six months of the year end. Note that under the new Article 49 of the amended 1985 Order (as referred to in Chapter 3), the year end is 30 September but a Northern Ireland credit union will be able to vary this date by giving notice to the FSA.

²³ <http://fsahandbook.info/FSA/html/handbook/SUP/16/Annex14>

- As DETI will remain registrar at least for a period following the transfer of regulation, Article 49 of the 1985 Order will require Northern Ireland credit unions to submit to DETI a short return comprising mainly audited accounts (i.e. revenue account and balance sheet) and other minimal information. FSA rules will require that, in addition to submitting audited accounts to DETI as registrar, Northern Ireland credit unions must attach the audited accounts to the CY.

Tailored rules

- 4.59** The FSA proposes tailoring the rules in CREDS (Chapter 8) to add references to the 1985 Order as appropriate.

Transitional arrangements

- 4.60** Under the CREDS and SUP rules, the first CQ return following transfer would be due at the end of July 2012 for the quarter April–June 2012. However, as the CBA has indicated that some Northern Ireland credit unions will face costs in meeting FSA reporting requirements and that some will need time to make necessary systems adjustments, the FSA proposes providing a transitional period of six months. Therefore, the FSA proposes that the first CQ return must be submitted to the FSA at the end of January 2013 for the period October–December 2012.
- 4.61** The first CY return would be due on 31 March 2013 for the period 1 October 2011 – 30 September 2012.²⁴ Given that this allows a year following transfer in which to make necessary adjustments to meet the new annual reporting requirements, the FSA does not propose making transitional arrangements.

Q16: Do you agree with the proposal to apply to Northern Ireland credit unions the reporting rules in CREDS 8.2 and SUP16.3 and 16.12?

Q17: Do you think that the proposed transitional arrangements for reporting rules give Northern Ireland credit unions enough time to adjust?

²⁴ Before this, the existing annual return AR25 will remain due to DETI as normal on 31 March 2012 for the period 1 October 2010 – 30 September 2011.

5

Proposed application of redress requirements

- 5.1 Once Northern Ireland credit unions become FSA authorised firms they will become FSCS participant firms and fall within the compulsory jurisdiction of the ombudsman service.
- 5.2 The FSCS is the UK's statutory compensation fund of last resort for customers of authorised financial institutions. It may pay compensation to eligible customers of a financial firm if that firm – including deposit-takers (banks, building societies and credit unions) – is unable, or likely to become unable, to pay claims against it. The FSCS currently pays compensation of up to £85,000 per depositor if an FSA authorised credit union defaults.²⁵ The FSCS is funded by levies on authorised firms.
- 5.3 The ombudsman service is the statutory-based scheme for the resolution of complaints that have not been settled between financial businesses and their customers. It is established under FSMA, and is operationally independent of the FSA. It is an impartial body that provides an informal alternative to the courts, resolving complaints by individual consumers and small businesses who remain dissatisfied after complaining unsuccessfully to a financial firm. The ombudsman service is free to consumers and funded by levies on authorised firms and case fees.
- 5.4 Once Northern Ireland credit unions are members of the FSCS and subject to the jurisdiction of the ombudsman service, they will become subject to rules in the Compensation sourcebook (COMP), Dispute Resolution: the complaints sourcebook (DISP) and Chapters 5 and 6 of the Fees manual (FEES). This chapter outlines the key requirements and potential associated costs.

²⁵ The compensation referred to in this chapter is in respect of a credit union's main activity of accepting deposits. If a credit union applies for and is granted permission to conduct other regulated activity e.g. insurance intermediation, then the compensation cover that applies would be in respect of that particular activity. The FSCS website gives more detail about coverage of non-deposit-taking activity: www.fscs.org.uk/what-we-cover/products/.

Protection provided by the Financial Services Compensation Scheme

- 5.5 Not all members of credit unions in Northern Ireland have access to compensation if their credit union fails. We understand that of the 177 credit unions, 148 currently belong to voluntary compensation/stabilisation schemes run by the Irish League of Credit Unions (ILCU) and the Ulster Federation of Credit Unions (UFCU). The maximum compensation available from the ILCU and UFCU is £10,000 and £12,000 respectively.
- 5.6 After the transfer of regulatory responsibility to the FSA, all Northern Ireland credit unions will automatically become members of the FSCS and their members²⁶ will benefit from protection of up to £85,000²⁷ each (subject to the normal FSCS eligibility criteria and qualifying conditions). Given the greater protection offered by the FSCS, the need for the voluntary compensation funds may be called into question.
- 5.7 Once a Northern Ireland credit union becomes a member of the FSCS, it will be subject to the redress rules relating to the FSCS, including those on fast payout and disclosure requirements, and will also pay FSCS levies (as outlined later on in this chapter and in the CBA at Annex 3). The funding arrangements of the FSCS are currently under review, and so may change in the future.

Fast payout: implementation of the single customer view (SCV)

- 5.8 Credit unions and other deposit-takers in Great Britain that are FSCS participants are subject to system and information requirements to support fast payout by the FSCS in the event that they fail. The FSA proposes that all Northern Ireland credit unions should also be subject to these requirements, which mean that they must be able to provide a single customer view (SCV).
- 5.9 SCV is essential to the fast payout target of seven days from date of default for the majority of depositors in the event of a deposit-taker's failure. Fast payout ensures that depositors have access to liquid funds quickly following the default of a deposit-taking firm and minimises hardship by enabling them to carry on with their everyday economic activities. To meet this target, the FSA requires deposit-takers to be able to provide an aggregate (SCV) view of the compensatable amount and details for each eligible depositor in respect of any accounts held within the same authorised entity in the event of a default.
- 5.10 Credit unions (like all other deposit-takers) must be able to provide this specific information to the FSCS about the accounts of each of their depositors (i.e. members and juvenile depositors) who are potentially eligible to bring a claim for compensation. They must be able to provide that information, on an ongoing basis, within 72 hours of a request by the FSCS.

26 As outlined in Chapter 2, references to 'members' include references to 'juvenile depositors' i.e. depositors who are too young to be adult members of the credit union.

27 Although the FSCS deposit compensation limit is £85,000, the FSA does not regard it as appropriate to adjust the credit union shareholding limits outlined in Chapter 4.

5.11 The SCV requirements are laid out in Chapter 17 of COMP²⁸ and include, in respect of every depositor, the information in Table 3.

Table 3: Minimum information firms must include in each single customer view

Field identifier	Field descriptor
Customer details	
Single customer view record number	Unique customer identifier
Title	Title
Customer 1st forename	1st forename
Customer 2nd forename	2nd forename
Customer 3rd forename	3rd forename
Customer surname	Surname
Previous name	Any former name of account holder
National Insurance number	National Insurance number, where held by the firm
Contact details	
Single customer view record number	Unique customer identifier
House number	House number/Premise name
Street	Street
Locality	Locality
County	County
Postcode	Postcode
Country	Country
Details of account(s)	
Single customer view record number	Unique customer identifier
Account title	Surname or company name, first name, any other account initials or middle name identifier
Account number	Unique number for this account
Product type	Type of product or service – instant access/term
Account holder indicator	This field applies to joint or multiple accounts. It must identify whether the customer is the primary account holder or secondary account holder (or other such status).
Account status code	Active accounts only to be included
Account balance	At end of business on date of request from FSCS

²⁸ <http://fsahandbook.info/FSA/html/handbook/COMP/17>

Field identifier	Field descriptor
Aggregate balance	
Single customer view record number	Unique customer identifier
Aggregate balance across all accounts	At end of business on date of request from FSCS
Compensatable amount	At end of business on date of request from FSCS which shows the amount to be compensated subject to the limit check that must be performed by the firm pursuant to COMP 17.2.5 R (this could be lower than the aggregate balance across all accounts if this exceeds the maximum payment for a <i>protected deposit</i> set out in COMP 10.2.3 R).

- 5.12 Where an eligible claimant holds more than one account, the section of the SCV which sets out ‘Details of account(s)’ must be included for each account held.
- 5.13 The FSCS has also produced detailed SCV guidance on its website²⁹, including its publication, *Faster Payout Questions and Answers*, which Northern Ireland credit unions would find useful.
- 5.14 Deposit-takers that operate 5,000 or more accounts³⁰ have to be able to provide SCV information by electronic transmission in a format that is readily transferable to, and compatible with, the FSCS’s system. Deposit-takers with fewer than 5,000 accounts held by eligible claimants can notify the FSA that they wish to be exempt from the electronic SCV requirements but they still have to meet the FSA SCV information requirements by being able to provide this information manually within the required timescale.
- 5.15 In order to meet the fast payout objective and SCV requirements, the FSA anticipates that Northern Ireland credit unions will need to undertake at least the following assurance and verification actions:
- Data cleansing: Firms must ensure that all data they hold for each depositor is available, complete and accurate. Without data cleansing, the FSCS would have to contact a large number of claimants to seek further details and to check the accuracy of information before paying out. This would undermine the objective of a fast payout.
 - Eligibility account flagging: Firms are required to ‘flag’ accounts belonging to all depositors who are eligible under the FSCS to allow fast identification of those depositors entitled to an FSCS payout. Without eligibility flags, the FSCS would have to consider whether each depositor was eligible for compensation before calculating their compensation entitlement and this would make fast payout unachievable in most cases.
 - Establishing the SCV.

²⁹ www.fscs.org.uk/industry/single-customer-view-for-faster-payout

³⁰ If a member or juvenile holds four different accounts, this will count as four accounts.

- 5.16** Credit unions (like all other deposit-takers) must be able to provide the SCV required information to the FSCS about the accounts of each of their depositors who are eligible to bring a claim for compensation. The requirement to include the accounts in the SCV does not apply to beneficiary accounts, dormant accounts as defined under the Dormant Bank and Building Society Accounts Act 2008, accounts subject to sanction or accounts subject to legal dispute. They must still be tagged as held by eligible depositors where appropriate.
- 5.17** Credit unions must be able to provide that information, on an ongoing basis, within 72 hours of a request by the FSCS.
- 5.18** In order to ensure that the SCV requirements are implemented appropriately and on time, the FSA will also implement a three-stage verification programme for Northern Ireland credit unions as summarised in Table 4 below.

Table 4: Three stage verification programme

Stage	Actions for credit unions	Date
Pre-implementation	<ul style="list-style-type: none"> • Submit pre-implementation report (which must include confirmation of electronic exemption notification) to the FSA by a deadline of four months after publication of 'near-final' rules. 	Currently expected to be 30 April 2012
At implementation	<ul style="list-style-type: none"> • Submit implementation report to the FSA by a deadline of six months after publication of 'near-final' rules. • Submit SCV report to the FSA by a deadline of six months after publication of 'near-final' rules. • Submit sample SCV data to the FSCS (only applies to Northern Ireland credit unions subject to the electronic requirements) by a deadline of six months after publication of 'near-final' rules. 	Currently expected to be 30 June 2012

Post-implementation	<ul style="list-style-type: none"> • Submit SCV report to the FSA during the ARROW review cycle³¹ (where applicable) or every four years. • Submit Implementation report to the FSA upon material change to SCV system. • May also be required to participate in the ongoing thematic review. 	Ongoing
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5.19 The FSA currently proposes that Northern Ireland credit unions should be given a period of six months from publication of the Policy Statement and ‘near-final’ rules (currently planned for December 2011) to become fully compliant with the SCV rules. Given that participation in a statutory compensation fund has been identified as one of the key benefits of transferring regulatory responsibility for Northern Ireland credit unions to the FSA, we believe it is essential that Northern Ireland credit unions implement SCV as quickly as possible. This will ensure that the FSCS has the information it requires to pay out compensation faster and more effectively in the event of a Northern Ireland credit union failure.

5.20 A factsheet on the FSA’s website gives more detail about how SCV requirements currently apply to credit unions.³² The FSCS *Faster Payout Questions and Answers* publication also contains detailed guidance.³³ The requirements will also be covered in more detail at the credit union roadshows to be held in September and October 2011. We believe that this will give Northern Ireland credit unions the tools needed to start implementing change once the countdown begins.

Q18: Is a six-month transitional period from publication of the Policy Statement and ‘near-final’ rules a reasonable period in which to require Northern Ireland credit unions to comply with the information and electronic reporting Single Customer View rules? If not, please provide evidence to support an alternative transitional period.

Q19: Do you agree that the verification and assurance proposals are proportionate and reasonable?

³¹ ARROW stands for Advanced Risk Response Operating Framework. It is an FSA process for assessing and dealing with risk. Very few credit unions are subject to ARROW reviews. All credit unions subject to ARROW Reviews will be notified.

³² www.fsa.gov.uk/smallfirms/pdf/cu_reporting.pdf

³³ www.fscs.org.uk/uploaded_files/SCV/faster_payout_qa_update_-_full.pdf

Consumer awareness: implementation of disclosure requirements

- 5.21 The FSA proposes that Northern Ireland credit unions will be subject to the same disclosure requirements as other deposit-takers, including credit unions in Great Britain. The requirements are laid out in Chapter 16 of COMP.³⁴ The disclosure requirements are intended to enhance the level of consumer awareness of the FSCS and the deposit protection it provides.
- 5.22 Credit unions in Great Britain are required to notify their members that they are covered by the FSCS, and the FSA proposes that this same requirement will apply to Northern Ireland credit unions. The notification has to be provided using the specific wording prescribed in our rules, as set out below.³⁵

Important information about compensation arrangements

'We are covered by the Financial Services Compensation Scheme (FSCS). The FSCS can pay compensation to depositors if a [bank/building society/credit union – delete as appropriate] is unable to meet its financial obligations. Most depositors – including most individuals and small businesses – are covered by the scheme.

In respect of deposits, an eligible depositor is entitled to claim up to [insert FSCS maximum payment for protected deposits]. For joint accounts each account holder is treated as having a claim in respect of their share so, for a joint account held by two eligible depositors, the maximum amount that could be claimed would be [insert FSCS maximum payment for protected deposits] each (making a total of [insert FSCS maximum payment for protected deposits x 2]). The [insert FSCS maximum payment for protected deposits] limit relates to the combined amount in all the eligible depositor's accounts with the [bank/building society/credit union – delete as appropriate], including their share of any joint account, and not to each separate account.

For further information about the scheme (including the amounts covered and eligibility to claim) please [insert as appropriate one or more of the following:] call us on [insert firm's phone number]/contact your firm representative/ask at your local branch, refer to the FSCS the website www.FSCS.org.uk or call [insert FSCS phone number].'

- 5.23 It is proposed that Northern Ireland credit unions will be required to provide the notification to their depositors through the most appropriate means:
- for those who issue paper statements to members, the FSA considers the inclusion of the information on the account statement to be an appropriate method;
 - for those who provide internet-based accounts, an appropriate method would be an email; and
 - for those who provide passbook accounts or other accounts that do not receive regular statements, the notification can be in the form of a separate leaflet sent to the customer with other annual mailings.
- 5.24 The notification will need to be sent out every six months. For passbook account holders, or other members that do not receive regular statements (i.e. less than every six months), credit unions can send out the notification annually.

³⁴ <http://fsahandbook.info/FSA/html/handbook/COMP/16>

³⁵ Please note that the disclosure requirements for all deposit-takers are under review and, therefore, subject to change.

5.25 The FSA is proposing to give Northern Ireland credit unions a period of six months from publication of the policy statement and ‘near-final’ rules to comply with the disclosure rules. A guide on the FSA website summarises our disclosure requirements as they currently apply to credit unions.³⁶ The requirements will also be covered in more detail at the credit union roadshows that will be held in September and October 2011.

Q20: Do you agree that Northern Ireland credit unions should be given six months from publication of the Policy Statement and ‘near-final’ rules to comply with the disclosure rules?

FSCS legacy costs

- 5.26** The FSA proposes that Northern Ireland credit unions will be exempt from FSCS levies relating to defaults declared before the effective date of their transfer to FSA regulation.
- 5.27** In their 2010 joint consultation, the Treasury and DETI stated that Northern Ireland credit unions should be exempt from these levies, in particular the costs relating to five banking failures in 2008³⁷, which required the FSCS to advance about £19bn in respect of insured deposits (referred to as Specified Deposit-takers Defaults (SDD)).
- 5.28** In general, the position for past defaults costs, including SDD costs, is that new entrants should pay levies in the same way as existing participants (i.e. they are not ring-fenced). However, the FSA believes that it would be inequitable to levy Northern Ireland credit unions for previous defaults as the proposed transfer of regulatory responsibility from DETI to the FSA was prompted by the recommendations contained in the Report of the Committee for Enterprise, Trade and Investment’s Inquiry³⁸; and Northern Ireland and Treasury Ministers’ subsequent joint agreement that regulatory responsibility should transfer to the FSA immediately on enactment of the required legislation. It has also been agreed that responsibility for the registration function will transfer to the FSA as soon as possible after that. So the FSA proposes to ring-fence Northern Ireland credit unions from FSCS legacy costs incurred prior to the effective date of transfer on 31 March 2012.
- 5.29** To measure the impact of this decision the FSA considered a range of factors, in particular:
- the impact on Northern Ireland credit unions if they are levied for FSCS legacy costs;
 - the distributional impacts on existing participants that would result if Northern Ireland credit unions are levied for FSCS legacy costs; and
 - the administrative costs to the FSA and FSCS of ring-fencing Northern Ireland credit unions.

³⁶ www.fsa.gov.uk/smallfirms/your_firm_type/credit/deposit_guarantee.shtml

³⁷ Bradford & Bingley plc (B&B), Heritable Bank plc (Heritable), Kaupthing Singer & Friedlander Limited (KS&F), Landsbanki ‘Icesave’ (Icesave) and London Scottish Bank plc (London Scottish).

³⁸ http://archive.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm

- 5.30 The findings are summarised in the CBA at Annex 3. The key finding is that the distributive impact on existing FSCS participants would be marginal whereas the impact on individual Northern Ireland credit unions could be material. The FSA, therefore, believes that ring-fencing Northern Ireland credit unions from defaults declared before transfer would be a proportionate response.

Q21: Do you agree that Northern Ireland credit unions should be ring-fenced from SDD costs?

FSCS fees and levies

- 5.31 The FSCS is funded by levies on authorised firms: firms are levied for the management expenses of the FSCS (both base and specific costs)³⁹ and compensation costs.
- 5.32 The FSA consults on the FSCS management expenses levy (usually in Q1 each year). Currently the SDD costs noted above are considered a specific cost and part of the management expenses levy. However, the FSA does not propose to require Northern Ireland credit unions to contribute to the SDD costs.
- 5.33 Compensation costs are not subject to consultation and the FSCS has discretion to raise levies when required. However, there is a cap on the maximum the FSCS can raise annually (as included in Chapter 6 of the FEES manual). For the deposits class (where Northern Ireland credit unions will fall), this is currently £1.84bn annually. Each firm pays in proportion to the amount of protected deposits it has and, based on the 2010 returns, Northern Ireland credit unions would face a maximum 0.1%⁴⁰ share of this levy.⁴¹ As previously noted at paragraph 5.7, the funding arrangements for the FSCS are under review. The CBA includes illustrative costs of membership in the FSCS.

Complaint handling rules and the Financial Ombudsman Service

- 5.34 Once CREDS is finalised, as explained in Chapter 4, credit unions in Great Britain will be subject to rules in DISP⁴² and credit union specific complaint reporting rules in CREDS (Chapter 9). Credit unions in Great Britain also come under the compulsory jurisdiction⁴³ of the ombudsman service for the activities specified in DISP 2.3.1R. These

39 *Base costs* (operating costs not directly related to the payment of compensation) and *specific costs* (operating costs that are directly related to the payment of compensation arising from valid claims).

40 Based on Northern Ireland credit union total deposits of £942m and total protected deposits in the UK of approximately £870bn.

41 The fees referred to in this paragraph as 'deposit class' fees are in respect of a credit union's main activity of accepting deposits. If a credit union applies for permission to conduct other regulated activity e.g. mortgage lending, then it may be subject to extra fees relating to that 'class' of regulated activity.

42 <http://fsahandbook.info/FSA/html/handbook/DISP>

43 The ombudsman service has a compulsory jurisdiction, which covers FSA-authorised credit unions for all FSA-regulated activities, and a voluntary jurisdiction, which covers other activities. The activities covered under the voluntary jurisdiction can be found in DISP 2.5.

include not only regulated activities but also other lending activities and ancillary activities (including advice) in relation to them. But the ombudsman service would not normally consider complaints about the legitimate exercise of a credit union's commercial judgement, for example a decision to refuse a loan application.

Application of the complaint handling rules and the Financial Ombudsman Service to Northern Ireland credit unions

- 5.35** The FSA proposes that Northern Ireland credit unions come under the compulsory jurisdiction of the ombudsman service and become subject to FSA complaints handling rules designed to ensure that they have appropriate and effective procedures for dealing with complaints from members.
- 5.36** These procedures must be written down. A small number of specific rules set out what the FSA sees as the minimum standards for an appropriate complaints procedure. These are set out in DISP and cover matters such as:
- **Recognising what a complaint is:** A complaint is any oral or written expression of dissatisfaction, whether justified or not, which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience. A complaint can be from, or on behalf of, an 'eligible complainant' about a credit union's provision of, or failure to provide, a financial product or service.
 - **Establishing complainant eligibility:** An 'eligible complainant' is a person eligible to have a complaint considered under the ombudsman service as defined in DISP 2.7.⁴⁴
 - **Time limits for dealing with complaints:** A credit union must respond to a complaint in writing promptly. A credit union must send a 'final response' within eight weeks of receiving the complaint. A final response is a letter telling the member the final outcome of their complaint. This should also inform the complainant that if they remain dissatisfied with the outcome of their complaint they may refer it to the ombudsman service, and it should enclose the ombudsman service's standard explanatory leaflet. If a credit union is unable to send a final response within eight weeks, it may write to explain why it is not in a position to send a final response. The written response should indicate when the credit union expects to be in a position to provide a final response, inform the complainant that they may refer the complaint to the ombudsman service and enclose the ombudsman service's standard explanatory leaflet.
 - **Record keeping and reporting requirements:** A credit union must make and keep records of complaints for at least three years and send a complaints return form to the FSA once a year.⁴⁵ The key exception is where a complaint is resolved by close of business the day after it has been received. Record keeping is not only essential for

⁴⁴ <http://fsahandbook.info/FSA/html/handbook/DISP/2/7>

⁴⁵ The credit union complaints return is at CREDS (Chapter 9) Annex 1R.

complying with FSA regulations, but can also help the credit union identify any trends in members' dissatisfaction and thus help improve member service.

- The credit union complaint year runs from 1 April to 31 March and reports are to be submitted to the FSA within one month of the end of this period. So Northern Ireland credit unions would have to submit their first return by 30 April 2013 for the period 1 April 2012 to 31 March 2013.
- The complaints handling procedures of the ombudsman service, which is relevant to firms with complaints that have been referred to it: These include providing materials relevant to the complaint to the ombudsman service and complying with ombudsmen's final decisions, which are binding to firms if accepted by consumers.

5.37 Firms must publicise 'at the point of sale' or immediately after the point of sale the availability of their complaints procedure.

5.38 There should be little difference between good business practice and what DISP requires. Therefore, the FSA proposes that Northern Ireland credit unions become subject to the ombudsman service's compulsory jurisdiction and FSA complaints handling rules from when they become authorised at transfer. The requirements will be covered in more detail at the roadshows that will be held in September and October 2011.

Q22: Do you agree that Northern Ireland credit unions should become subject to the ombudsman service compulsory jurisdiction and FSA complaint handling rules from when they become authorised at transfer?

Ombudsman service fees

5.39 The ombudsman service is funded in part by a general levy (payable by all authorised firms it covers) and in part by case fees (fees paid by firms in respect of chargeable cases handled by the ombudsman service).

5.40 Under current arrangements, credit unions pay a flat yearly fee of £50–£125 and are currently exempt from paying case fees. Other firms pay a case fee (currently £500) for any complaint that is referred to the ombudsman service (including complaints that the ombudsman service does not uphold).

5.41 It is worth noting that, even if the exemption from case fees were to be removed in the future, credit unions would not be charged for the first three cases in any financial year. Based on the FSA's experience of the low number of cases involving credit unions in Great Britain, the likelihood of more than three complaint cases involving any one credit union being referred to the ombudsman service is low. So, even if case fees were introduced, the likelihood of a Northern Ireland credit union incurring costs for case fees is low.

6

Proposed application of other parts of the FSA Handbook

- 6.1** The other parts of the FSA Handbook that apply to authorised firms, including credit unions in Great Britain, and that it is proposed will apply to Northern Ireland credit unions once transfer is complete, include:
- Principles for Businesses (PRIN);
 - Senior Management Arrangements, Systems and Controls (SYSC);
 - CREDS (Chapter 2), which reinforces the SYSC requirements specifically for credit unions;
 - Threshold Conditions (COND);
 - the Approved Persons regime, including the Fit and Proper test for Approved Persons (FIT), the Statements of Principle and Code of Practice for Approved Persons (APER), and the Supervision manual (SUP);
 - General Provisions (GEN);
 - Banking: Conduct of Business sourcebook (BCOBS);
 - Supervision manual (SUP);
 - Decision Procedure and Penalties manual (DEPP); and
 - the Fees manual (FEES).

The Enforcement Guide (EG) and *Financial crime: a guide for firms*⁴⁶ will also be relevant for Northern Ireland credit unions.

- 6.2 Northern Ireland credit unions can find more information about these other parts of the Handbook on the FSA website: <http://fsahandbook.info/FSA/index.jsp>. The key aspects that will apply to Northern Ireland credit unions are outlined below.

Principles for businesses (PRIN)

- 6.3 The FSA proposes that Northern Ireland credit unions will be required to comply with PRIN, which sets out high-level regulatory obligations, requirements and standards of conduct expected of all authorised firms. The principles are set out in Table 5:

Table 5: The Principles for Businesses

(1) Integrity	A firm must conduct its business with integrity.
(2) Skill, care and diligence	A firm must conduct its business with due skill, care and diligence.
(3) Management and control	A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
(4) Financial prudence	A firm must maintain adequate financial resources.
(5) Market conduct	A firm must observe proper standards of market conduct.
(6) Customers' interests	A firm must pay due regard to the interests of its customers and treat them fairly.
(7) Communications with clients	A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.
(8) Conflicts of interests	A firm must manage conflicts of interest fairly, both between itself and its customers and between one customer and another.
(9) Customers: relationships of trust	A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgement.
(10) Customers' assets	A firm must arrange adequate protection for customers' assets when it is responsible for them.
(11) Relations with regulators	A firm must deal with its regulators in an open and co-operative way, and must disclose to the FSA appropriately anything relating to the firm of which the FSA would reasonably expect notice.

- 6.4 Note that when the principles are applied in a credit union context, the terms 'customers' and 'clients' are taken to mean both credit union members and juvenile depositors.

⁴⁶ *Financial crime: a guide for firms* is a new regulatory guide currently the subject of consultation, which will apply to credit unions including Northern Ireland credit unions when it is in force (see paragraph 6.30 for further information).

- 6.5 The principles are expressed in general terms and are intended to be proportionate to the size of the firm and the business it undertakes. For example, Principle 3 concerning management and control requires relatively simple procedures in a small credit union compared to the more sophisticated system of control that is likely to be necessary in the case of a more complex one. Similarly, adequate resources under Principle 4 depend on the size of the credit union and the activities it carries on.

Senior Management Arrangements, Systems and Controls (SYSC)

- 6.6 The FSA proposes that Chapters 1 (application) and 4-10 (the common platform) of SYSC will apply to Northern Ireland credit unions.
- 6.7 These chapters contain a number of high level rules that have general application to authorised firms, including credit unions. The SYSC material is proportionate to the nature, scale and complexity of a firm. As for PRIN above, which SYSC reinforces, this means that Northern Ireland credit unions will be able to make arrangements and put in place systems and controls that are appropriate and effective for their particular circumstances, including the volume and size of transactions and the level of risk associated with the business. A small credit union will not be expected to make the same arrangements and have the same systems and controls as a more complex organisation.
- 6.8 The key elements of SYSC that would apply to Northern Ireland credit unions are outlined in this section. The SYSC requirements are reinforced by provisions in Chapter 2 of CREDS that are specific to credit unions. To the extent that a credit union topic mainly dealt with in Chapter 2 of CREDS rather than in SYSC, it is explained in a separate section below on CREDS (Chapter 2). Following the section on CREDS (Chapter 2) is a section on financial crime, which deals with all of the SYSC financial crime material in one place.

General organisational requirements

- 6.9 A credit union should have robust governance arrangements, including:
- a clear organisational structure with well-defined, transparent and consistent lines of responsibility;
 - effective processes to identify, manage, monitor and report the risks it is or might be exposed to; and
 - internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements.
- 6.10 The senior personnel (which in the case of a credit union would be the committee of management/board of directors, and others who may direct the affairs of the credit union) should be of sufficiently good repute and sufficiently experienced to ensure the sound and prudent management of the credit union.

- 6.11** A credit union, when allocating functions, must ensure that senior personnel and, where appropriate, the supervisory function, are responsible for ensuring that the credit union complies with its regulatory obligations. In particular, they must assess and periodically review the effectiveness of the policies, arrangements and procedures put in place to comply with regulatory obligations.

Outsourcing

- 6.12** If a credit union outsources, or relies on a third party, to perform critical or important functions or any of its services or activities, it must take reasonable steps to avoid undue operational risk and must remain responsible for its regulatory obligations. Outsourcing must not result in the senior personnel of a credit union delegating their responsibilities.

Record-keeping

- 6.13** A credit union must arrange for orderly records to be kept of its business and internal organisation, including services and transactions undertaken by it, so that the FSA can monitor the credit union's compliance with regulatory requirements. The records should be capable of being reproduced in English on paper.
- 6.14** A credit union should have appropriate systems and controls in place to ensure that it can meet its regulatory and statutory obligations with respect to the adequacy of, access to, and security of its records. Records should be retained for as long as is needed for the purposes for which they were made.

CREDS (Chapter 2)

- 6.15** The key elements of CREDS (Chapter 2), which would apply to Northern Ireland credit unions, are outlined in this section.

General provisions

- 6.16** CREDS 2 requires that credit unions establish, maintain and implement:
- an up-to-date business plan approved by the committee of management/board of directors and supplied to the FSA;
 - an up-to-date and fully documented policies and procedures manual, supplied on request to the FSA; and
 - a fully documented system of control.

Transitional arrangements

- 6.17** The FSA proposes that the requirements to produce a business plan, policies and procedures manual and a documented system of control should begin to apply from 1 October 2012,

allowing Northern Ireland credit unions six months from transfer date in which to adjust and make the necessary arrangements.

Internal audit

- 6.18** A credit union must have an internal audit function, which for many credit unions is a supervisory committee. The internal audit function is responsible for monitoring and assessing the appropriateness and effectiveness of the credit union's systems and controls. The internal audit function should be independent and separate from the day-to-day activities of the credit union. The precise governance structure is for each credit union itself to determine, based on its nature, scale and complexity.

Segregation of duties

- 6.19** A credit union should ensure the appropriate segregation of duties in order to prevent conflicts of interest, and to minimise the risk that individuals may not perform their functions soundly, honestly and professionally. This is necessary to minimise the risk of financial crime and the contravention of regulatory obligations. The segregation of duties should prevent one individual from initiating, controlling and processing a transaction (for example, both the approval and payment of an invoice).

Committee of management

- 6.20** A credit union's governing body (the committee of management/board of directors) is responsible for ensuring it complies with the SYSC requirement that it has robust governance arrangements. This SYSC requirement includes a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and internal control mechanisms.

Compliance function

- 6.21** A credit union must establish, implement and maintain adequate policies and procedures to ensure compliance with its regulatory obligations and to counter the risk of financial crime. Depending on its nature, scale and complexity, it may be appropriate for a credit union to have a separate compliance function, staffed by an appropriate number of competent staff who are sufficiently independent to perform their duties. The compliance function should be appropriately resourced and should have unrestricted access to the credit union's relevant records and recourse to its committee of management/board of directors.

Management information

- 6.22 Credit unions should have arrangements in place to ensure that the committee of management/board of directors has all the information it needs to direct and control the business of the credit union and to provide timely, complete and accurate returns to the FSA.

Personnel

- 6.23 A credit union should identify present and future staffing requirements (including requirements for volunteers and/or paid staff) and make appropriate plans for their recruitment and training. A credit union should employ staff with the skills, knowledge and expertise necessary to carry out their responsibilities. There should be appropriate systems and controls in place to satisfy the credit union as to the suitability (including the competence and honesty) of its staff.

Business continuity

- 6.24 A credit union should take reasonable steps to ensure business continuity. It should put in place contingency arrangements to ensure that it could continue to operate and meet its regulatory requirements in the event of an interruption to normal operations.

Financial crime

Anti-money laundering

- 6.25 A credit union must ensure its anti-financial crime systems and controls include policies and procedures to reduce the opportunities for money laundering. Responsibility for establishing and maintaining effective anti-money laundering systems and controls must be allocated to a director or senior manager.
- 6.26 The anti-money laundering systems and controls should include:
- appropriate training for staff in relation to money laundering;
 - appropriate provision of information to the committee of management/board of directors and senior management, including an annual report from the money laundering reporting officer (MLRO) on the operation and effectiveness of the systems and controls;
 - appropriate documentation of the credit union's risk management policies and its risk profile in relation to money laundering;
 - appropriate measures to ensure that money laundering risk is taken into account in the credit union's day-to-day operations, including when taking on new members; and

- appropriate measures to ensure that the procedures for identifying new members do not unreasonably deny access to potential members.
- 6.27** A credit union must appoint an MLRO to oversee compliance with the FSA's money laundering requirements. The MLRO may also be the director or senior manager with responsibility for the anti-money laundering systems and controls, and must be an approved person. The MLRO must have authority and independence within the credit union and access to resources and information sufficient to be able to carry out the responsibility.
- 6.28** When considering whether a breach of its money laundering requirements has occurred, the FSA will have regard to whether a credit union has followed relevant provisions in the guidance for financial firms in the UK issued by the Joint Money Laundering Steering Group.⁴⁷
- 6.29** Credit unions may have to comply with separate legal requirements under financial crime prevention legislation including the Counter-Terrorism Act 2008, the Proceeds of Crime Act 2002, the Bribery Act 2010 and the Money Laundering Regulations 2007. The SYSC requirements are intended to complement these legal obligations and to increase confidence that financial firms are constantly and effectively meeting required standards to prevent the risk of money laundering.
- 6.30** Until 21 September 2011, the FSA is consulting on a new regulatory guide called *Financial crime: a guide for firms*, which provides guidance for firms, including credit unions, on actions they can take to counter the risk that they might be used to further financial crime. The FSA expects to publish a Policy Statement including the final text of the guide in December 2011.

Threshold conditions (COND)

- 6.31** As set out in Chapter 3, existing Northern Ireland credit unions will be grandfathered as authorised firms and will not have to go through the normal application process, unless directed to do so post-transfer. The FSA proposes that any new Northern Ireland credit unions that apply for authorisation post-transfer will need to demonstrate that they satisfy the minimum threshold conditions for authorisation that are set out in Schedule 6 of FSMA and in COND. The FSA also proposes that both grandfathered and new Northern Ireland credit unions will have to meet the standards in COND on a continuing basis.
- 6.32** In this context, the threshold conditions (TC) that would be relevant to Northern Ireland credit unions are set out in Table 6:

⁴⁷ www.jmlsg.org.uk/industry-guidance/article/part-i-part-ii-part-iii-and-treasury-ministal-approval

Table 6: The threshold conditions

TC 1 – Legal status	A firm carrying on deposit-taking must be a body corporate or a partnership.
TC 2 – Location of offices	A regulated UK firm must have its head office and registered office in the UK.
TC 4 – Adequate resources	The FSA needs to be satisfied that the firm has adequate resources in relation to the regulated activity or activities for which permission is being sought.
TC 5 – Suitability	The FSA needs to be satisfied that the firm is ‘fit and proper’ to be authorised and permitted to carry on the relevant activities.

6.33 TCs 1 and 2 prescribe objective criteria to be satisfied, with no room for judgement on the part of the FSA. Neither condition should cause difficulties for Northern Ireland credit unions. TCs 4 and 5 require the FSA to determine whether a credit union meets adequate standards in light of the activities carried on by the credit union.

6.34 When determining whether a credit union satisfies TC 4, the FSA has regard to the individual circumstances of the credit union and considers material matters including in relation to:

- whether the credit union may have difficulties in complying with prudential rules;
- whether it may have difficulties in meeting debts as they fall due;
- whether its history has any implications for the adequacy of resources;
- the quality and quantity of staff; and
- whether it has taken reasonable steps to identify and measure any regulatory risk it may encounter in conducting its business, and whether it has installed appropriate systems and controls to address this risk.

6.35 When determining whether a credit union satisfies TC 5, the FSA has regard to the individual circumstances of the firm and considers significant matters relating to:

- whether the credit union conducts its business with integrity and in compliance with proper standards;
- the competence and prudence of the management; and
- whether it conducts its affairs with due skill, care and diligence.

Approved persons regime – FIT, APER and SUP

6.36 As set out in Chapter 3, individuals performing controlled functions for Northern Ireland credit unions at transfer date will all be grandfathered as approved persons, with the exception of those that are either undischarged bankrupts or convicted of fraud or other dishonesty. Northern Ireland credit unions will not have to go through the normal

approved person application process for individuals that will be grandfathered, unless directed to do so post-transfer.

- 6.37** However, it is proposed that, post-transfer, where an individual seeks to perform a controlled function for a Northern Ireland credit union, the credit union will need to apply for approved person status as normal. Under the approved persons regime, a firm must normally satisfy the FSA, as part of the application process, that an individual meets, and will maintain, the criteria for approval (the ‘fit and proper test’, which is contained in The Fit and Proper Test for Approved Persons (FIT)). Also under the regime, an approved person must perform his/her controlled function(s) in accordance with the Statement of Principle and Code of Practice for Approved Persons (APER).
- 6.38** The FSA also proposes that both grandfathered and new approved persons will need to meet the standards in FIT and APER on a continuing basis.
- 6.39** In addition to the material contained in this Consultation Paper and on the FSA Handbook website, further information on the approved persons regime and the implications for Northern Ireland credit unions is available in the factsheets published on the dedicated part of the FSA website: (www.fsa.gov.uk/smallfirms/your_firm_type/credit/nicu.shtml). The key elements of the approved persons regime, contained in FIT, APER and SUP, are outlined below.

FIT and APER

- 6.40** The fit and proper test in FIT is a benchmark that the FSA uses to assess an individual’s suitability to perform a controlled function or functions. The most important considerations are the individual’s:
- honesty, integrity and reputation;
 - competence and capability; and
 - financial soundness.
- 6.41** Under APER, the Statements of Principle contain high level statements that require certain standards of conduct in performing controlled functions, including:
- acting with integrity;
 - acting with due skill, care and diligence;
 - observing proper standards of market conduct;
 - dealing with the FSA in an open and cooperative way, disclosing information of which the FSA would reasonably expect notice; and
 - ensuring that the business for which the individual is responsible in his controlled function is organised so that it can be controlled effectively.

- 6.42 Under APER, the Code of Practice for Approved Persons sets out descriptions of conduct which, in the opinion of the FSA, do not comply with the Statements or which tend to show compliance. The Code of Practice also sets out factors which, in the opinion of the FSA, are taken into account in determining whether an individual complies with the Statements.

Controlled functions – SUP

- 6.43 Controlled functions are set out in SUP (Chapter 10) and are those functions that are likely to result in the individual exercising significant influence on the conduct of the firm's affairs. Controlled functions include governing functions (such as being a board director) and required functions (such as being responsible for compliance with money laundering requirements). The full list is at SUP 10.4.
- 6.44 Some controlled functions are required of every firm and others will depend on the nature of the business being undertaken. The controlled functions that are generally applicable to credit unions are:
- **CF1 (Director):** This function includes individuals whose decisions or actions are regularly taken into account, and includes elected members of the committee of management/board of directors and members of the credit committee;
 - **CF2 (Non-executive director):** This function applies to directors who do not have responsibility for implementing the decisions or policies of the board of directors and, in the case of a credit union, applies to members of the supervisory committee, referred to in paragraph 6.18;
 - **CF3 (Chief executive function):** This function includes any individual acting in the capacity of chief executive, whether or not they have that title, and includes the most senior person(s) responsible for the day-to-day running of the credit union;
 - **CF11 (Money laundering reporting function):** This is the function of acting as the money laundering reporting officer and is a required function. As outlined in paragraph 6.27, every credit union must appoint a money laundering reporting officer; and
 - **CF28 (Systems and control function):** This is the function of acting in the capacity of an employee of the firm with responsibility for reporting to the committee of management/board of directors on the credit union's financial affairs, on setting and controlling risk exposure, and on adherence to internal systems and controls, policies and procedures. This is not a required function and is more commonly used by larger credit unions.
- 6.45 Only those volunteers and staff that are performing controlled functions need to be approved by the FSA. In other words, not all volunteers and staff employed by a credit union need to be approved persons.

General provisions (GEN)

- 6.46 GEN applies to authorised firms and the FSA proposes that it will apply to Northern Ireland credit unions. GEN contains rules and guidance on general matters, including the interpretation of the FSA Handbook, the use of the FSA logo, and insurance against financial penalties.

Banking: Conduct of Business sourcebook (BCOBS)

- 6.47 The FSA proposes that BCOBS will apply to Northern Ireland credit unions with respect to accepting deposits from banking customers (which in the context of applying BCOBS to credit unions, means adult members and juvenile depositors) and providing services in relation to deposits.
- 6.48 BCOBS sets out high-level rules and guidance for firms conducting such business, including rules and guidance in relation to:
- communications with banking customers and financial promotions;
 - distance communications;
 - information to be communicated to banking customers;
 - post-sale requirements; and
 - cancellation.
- 6.49 The key elements of BCOBS that would apply to Northern Ireland credit unions are set out below.

Communications with banking customers and financial promotions

- 6.50 Credit unions are required to take reasonable steps to ensure a communication or financial promotion is fair, clear and not misleading. Among other things, each communication or financial promotion must be accurate, presented in a way that is likely to be understood by the average recipient it is directed at, and must not disguise, diminish or obscure important information, statements or warnings. The communication or financial promotion must not emphasise the potential benefits of a service without also giving a fair and prominent indication of any relevant risks.

Distance communications

- 6.51 Where a credit union provides distance marketing information, it must do so in good time before the consumer is bound by the distance contract.⁴⁸ BCOBS sets out further rules and guidance on the type of information to disclose where a credit union carries on distance marketing activity or electronic commerce activity.

Information to be communicated to banking customers

- 6.52 Credit unions must provide or make available to banking customers appropriate information about a retail banking service, and any deposit made in relation to that service, in good time, in an appropriate medium, in easily understandable language and in a clear and comprehensible form so that the banking customer can make decisions on an informed basis. BCOBS includes further rules and guidance on the information to be provided and some of the matters that a credit union should consider in determining when to provide information. Please note that there are certain provisions in this section of BCOBS that do not apply or are not generally relevant to credit unions including, for example, those on set-off and those on interest rate notifications.

Post-sale requirements

- 6.53 Credit unions must provide a prompt, efficient and fair service to banking customers. BCOBS includes further rules and guidance in relation to the fair treatment of customers in financial difficulties, the provision of a prompt and efficient service to enable banking customers to move a retail banking service, making appropriate arrangements to enable banking customers to trace and have access to deposits held in dormant accounts, and unauthorised or incorrectly executed payments. The provisions on set-off and on value dating do not apply to credit unions.

Cancellation

- 6.54 Banking customers have the right to cancel a contract for a retail banking service without penalty and without giving any reason, within 14 calendar days.

Supervision manual (SUP)

- 6.55 The FSA proposes that SUP will apply to credit unions in Northern Ireland and sets out the FSA's approach to supervision, including material on:
- the methods of information gathering that the FSA may use on its own initiative;

⁴⁸ In summary, a distance contract is any contract for financial services which makes exclusive use of distance communication, meaning that the supplier and consumer of the financial services are at a distance and not in the each other's physical presence during the negotiation and conclusion of the contract.

- the role that auditors play in the FSA's monitoring of compliance with regulatory requirements and standards;
- the use of the FSA's power under FSMA to require a report by a skilled person;
- how the FSA assesses applications to vary or cancel Part IV permissions;
- when and how the FSA imposes additional individual requirements on a firm, or amends or restricts the activities which the firm has Part IV permission to undertake, taking full account of the firm's individual circumstances;
- the workings of the regime for the waiver of rules;
- when and how the FSA gives individual guidance to one particular firm which relates to its own particular circumstances or plans, and when and how a firm can request such individual guidance;
- when and how the FSA may give a firm individual guidance on its own initiative;
- the controlled functions, as outlined in paragraphs 6.43 to 6.45 above;
- the requirement that firms notify the FSA to enable it to meet its responsibilities for monitoring compliance with regulatory requirements; and
- the requirement that firms report to the FSA on a regular basis, including reporting on the firm's financial condition and on its compliance with regulatory requirements, further detail of which in a credit union context is outlined in paragraphs 4.58 to 4.61 above.

Decision Procedures and Penalties manual (DEPP)

6.56 The FSA proposes that DEPP will apply to Northern Ireland credit unions. DEPP sets out:

- the FSA's decision-making procedures for giving warning notices (which give details about proposed FSA actions and the right to make representations), decision notices (which give details about actions the FSA has decided to take), and supervisory notices (which give details about actions the FSA has taken or proposes to take on such matters as varying a firm's Part IV permission);
- the FSA's policy with respect to the imposition and amount of penalties under FSMA; and
- the FSA's policy with respect to the imposition of suspensions or restrictions under FSMA relating to Part IV permissions carried on by authorised firms and controlled functions performed by approved persons.

Enforcement Guide (EG)

- 6.57** The EG relates to all authorised firms, which will include Northern Ireland credit unions. It describes the FSA's approach to exercising its main enforcement powers, which are given to it by FSMA and other legislation, and which include:
- information gathering and investigation powers;
 - powers to cancel or vary the permission of an authorised firm;
 - powers to take disciplinary action against authorised firms and approved persons, including public statements of misconduct and financial penalties;
 - powers to prohibit individuals from performing controlled functions or withdraw approval from an approved person;
 - powers to take insolvency proceedings; and
 - powers to bring court proceedings, including injunctions, obtaining restitution and prosecution of criminal offences.
- 6.58** The EG outlines that the FSA seeks to achieve its statutory objectives through the transparent, effective and proportionate use of its enforcement powers. In doing so, the FSA seeks to ensure fair treatment, to change the behaviour of those subject to enforcement action, deter future non-compliance by others, eliminate financial gain or benefit from non-compliance, and remedy any harm caused.
- 6.59** However, formal enforcement action is not always required, especially where the contravention does not pose a significant risk to the FSA's objectives. In some cases, proactive supervision and monitoring of firms, and the maintenance of open and co-operative relationships, will allow the FSA to agree prompt action which the firm must take in order to remedy a contravention of FSA rules. If the firm does not deal with the FSA's concerns, enforcement action may then be taken.

Fees manual (FEES)

- 6.60** As authorised firms, Northern Ireland credit unions will be required to pay FSA fees, FSCS fees and levies, ombudsman service fees and a levy for the Money Advice Service (MAS).
- 6.61** As set out in the timetable for transfer at Annex 4, the FSA will consult in October 2011 on the FSA fees to apply to Northern Ireland credit unions. Northern Ireland credit unions will not be charged higher fees than credit unions in Great Britain. So, as an indication of the likely cost for Northern Ireland credit unions, outlined below is the broader FSA fees structure and the FSA fees to which credit unions in Great Britain are currently subject. The FSCS fees and levies and the ombudsman service fees are dealt with in Chapter 5.

FSA fees

- 6.62** The FSA does not receive any monies from government and is entirely funded by the organisations it regulates. The FSA charges application fees, which are one-off payments towards its costs of processing applications, and annual ‘periodic’ fees to recover the ongoing cost of regulating firms.
- 6.63** The fees policy is intended to provide coherent and fair treatment for all fee payers, while allowing it to be administered as efficiently as possible. Fees are not intended to provide incentives to firms to be well-managed, nor to act as practical supervisory tools. Specifically, the annual periodic fee charged to a particular firm does not reflect the amount of work required to regulate it. Operating a system of ‘individualised’ fees on this basis across the whole regulated community would not be practicable.
- 6.64** In October/November each year, the FSA publishes policy proposals for regulatory fees and levies. This is followed in January/February with a consultation on the level of regulatory fees and levies rates for the following financial year, and in May the FSA issues a Policy Statement which sets out the finalised rates.
- 6.65** The FSA invoices fee payers from June onwards for their current year’s periodic fees. Where a regulatory fee and/or levy remains unpaid by the due date, the FSA levies a £250 administrative charge plus interest on any unpaid amounts from the due date, at 5% above the Bank of England’s base rate. Where payment is not settled in full, the FSA may take civil and/or regulatory action against the fee payer to recover the debt.
- 6.66** The FSA’s powers to charge fees are contained in FSMA and associated legislation, and are reflected in the Fees manual (FEES). You can find more information about fees at: www.fsa.gov.uk/Pages/Doing/Regulated/Fees.

FSA fees for credit unions

- 6.67** Further details about the fees to be charged to Northern Ireland credit unions will be provided when the FSA consults on fees in October 2011. In the meantime, a description of the existing structure for credit unions in Great Britain may be helpful.

Application fees

- 6.68** Existing Northern Ireland credit unions will automatically be ‘grandfathered’ into scope of the FSA, so will not be charged application fees. But, for the information of new Northern Ireland credit unions that set up after transfer, the application fees currently paid by new credit unions in Great Britain are:

Registration of common bond, payable by all applicants: £200

PLUS

Version 1 credit unions: £300

Version 2 credit unions: £1,800

Annual periodic fees

6.69 To calculate the fees levied on all authorised firms and other bodies the FSA first allocates the FSA's total Annual Funding Requirement (AFR) across a series of fee-blocks, which represent groupings of related regulated business activities that firms and other bodies are permitted to undertake. The costs are recovered through variable periodic fees based on a metric known as the tariff base, which reflects the size of the business undertaken in that fee-block. Credit unions in Great Britain are in fee-block A.1, as deposit acceptors, along with banks and building societies. The tariff base for fee-block A.1 is the value of their deposits, known as their Modified Eligible Liabilities (MELs). The MELs for credit unions are based on UK business and are calculated from the following formula:

Deposits with the credit union (share capital)

MINUS

The credit union's bank deposits (investments + cash at bank)

6.70 All authorised firms except credit unions and non-directive friendly societies pay a single minimum fee of £1,000. The minimum fee is paid only once, however many fee-blocks a firm falls into. This means that firms do not pay additional variable periodic fees unless they go above the minimum fee threshold in any particular fee-block. The minimum fee is intended to recover the costs of the following minimal regulatory functions the FSA carries out for all firms, regardless of the degree of regulatory engagement with them:

- *Regulatory reporting*: costs of collecting, validating and carrying out first line checks on regulatory returns;
- *Customer Contact Centre (CCC)*: all firms and their customers have access to the CCC, so covering its costs through the minimum fee ensures that all firms contribute towards the service;
- *Unrecovered authorisation costs*: costs of authorising firms and vetting approved persons that are not recovered through application fees; and
- *Policing the perimeter*: again, all firms benefit from the market confidence resulting from investigating people who may be carrying out regulated activities without authorisation.

6.71 The minimum fees for regulated credit unions are subsidised by the banks and building societies in fee-block A.1 in recognition of the social value of the services they provide to their members, many of whom cannot obtain basic savings and loan facilities from mainstream banks and building societies. This subsidy also covers the costs of the various services the FSA performs for credit unions in the course of the year such as registering rule changes. As a result, the minimum fees currently paid by credit unions in Great Britain are:

Credit unions with MELs up to £0.5m: £160

Credit unions with MELs between £0.5 and £2m: £540

Credit unions with MELs over £2m: £1,000

- 6.72** In addition, all authorised firms pay an additional minimum levy of £10 for the Money Advice Service.⁴⁹
- 6.73** The threshold for minimum fees in fee-block A.1 is £10m, so credit unions in Great Britain do not start paying periodic fees on top of the £1,000 minimum fee, at £33.44 per £m or part-£m in 2011/12, unless their MELs go above £10m.
- 6.74** The FSA is still considering the appropriate minimum fees for Northern Ireland credit unions but they will not be more than those charged to credit unions in Great Britain.

Q23: Do you support the proposed application of other parts of the FSA Handbook to Northern Ireland credit unions?

⁴⁹ The Money Advice Service is paid for by the financial services industry. Its aim is to provide free and independent information to help consumers needing practical money advice, whatever their financial circumstances.

Annex 1

List of questions

- Q1:** Do you agree with the proposed legislative measures outlined in Chapter 3?
- Q2:** Do you agree with the proposal to apply to Northern Ireland credit unions the investment and borrowing rules in CREDS (Chapter 3)?
- Q3:** Do you consider that the proposed tailoring of the rules in CREDS (Chapter 3) takes appropriate account of the legislative differences that will remain between Northern Ireland and Great Britain?
- Q4:** Do you think that our proposed transitional arrangements for CREDS (Chapter 3) give Northern Ireland credit unions enough time to adjust?
- Q5:** Do you agree with the proposal to apply to Northern Ireland credit unions the shares and deposits rules in CREDS (Chapter 4)?
- Q6:** Do you consider that the proposed tailoring of the rules in CREDS (Chapter 4) takes appropriate account of the legislative differences that will remain between Northern Ireland and Great Britain?

- Q7:** Do you think that the proposed transitional arrangements for CREDS (Chapter 4) give Northern Ireland credit unions enough time to adjust?
- Q8:** Do you agree with the proposal to apply to Northern Ireland credit unions the capital rules in CREDS (Chapter 5)?
- Q9:** Do you consider that the proposed tailoring of the rules in CREDS (Chapter 5) takes appropriate account of the legislative differences that will remain between Northern Ireland and Great Britain?
- Q10:** Do you think that the proposed transitional arrangements for CREDS (Chapter 5) give Northern Ireland credit unions enough time to adjust?
- Q11:** Do you agree with the proposal to apply to Northern Ireland credit unions the liquidity rules in CREDS (Chapter 6)?
- Q12:** Do you think that the proposed transitional arrangements for CREDS (Chapter 6) give Northern Ireland credit unions enough time to adjust?
- Q13:** Do you agree with the proposal to apply to Northern Ireland credit unions the lending rules in CREDS (Chapter 7)?
- Q14:** Do you consider that the proposed tailoring of the rules in CREDS (Chapter 7) takes appropriate account of the legislative differences that will remain between Northern Ireland and Great Britain?
- Q15:** Do you think that the proposed transitional arrangements for CREDS (Chapter 7) give Northern Ireland credit unions enough time to adjust?

- Q16:** Do you agree with the proposal to apply to Northern Ireland credit unions the reporting rules in CREDS 8.2 and SUP16.3 and 16.12?
- Q17:** Do you think that the proposed transitional arrangements for reporting rules give Northern Ireland credit unions enough time to adjust?
- Q18:** Is a six-month transitional period from publication of the Policy Statement and 'near-final' rules a reasonable period in which to require Northern Ireland credit unions to comply with the information and electronic reporting Single Customer View (SCV) rules? If not, please provide evidence to support an alternative transitional period.
- Q19:** Do you agree that the SCV verification and assurance proposals are proportionate and reasonable?
- Q20:** Do you agree that Northern Ireland credit unions should be given six months from publication of the Policy Statement and 'near-final' rules to comply with the disclosure rules?
- Q21:** Do you agree that Northern Ireland credit unions should be ring-fenced from Specified Deposit-takers Defaults (SDD) costs?
- Q22:** Do you agree that Northern Ireland credit unions should become subject to the ombudsman service compulsory jurisdiction and FSA complaint handling rules from when they become authorised at transfer?
- Q23:** Do you support the proposed application of other parts of the FSA Handbook to Northern Ireland credit unions?

Annex 2

Compatibility statement

1. This Annex sets out an assessment of the compatibility of the FSA's proposals with the FSA's regulatory objectives under section 2(2) of the Financial Services and Markets Act (2000) (FSMA). This Annex also sets out the compatibility of the proposals with the FSA's general functions under section 2(3) of FSMA. The FSA is required to complete a compatibility statement under section 155(2)(c) of FSMA.

Compatibility with the FSA regulatory objectives

Consumer protection

2. The proposals are aimed primarily at meeting the FSA's consumer protection objective. They will place Northern Ireland credit unions on a more equal footing with those already regulated by the FSA elsewhere in the UK. Members of Northern Ireland credit unions will have the same degree of protection that is available to other customers, in the form of access to the FSCS and the ombudsman service.

Market confidence

3. The proposals may increase market confidence through the application of a single FSA regulatory regime for all credit unions in the UK. This regime is largely set out in the Credit Union New sourcebook (CREDS).

Financial stability

4. The proposals are unlikely to have a significant impact on the objective of financial stability.

Financial crime reduction

5. The proposals are unlikely to have a significant impact on the objective of reducing financial crime.

Compatibility with the FSA's general functions

6. The proposals have been framed with regard to the FSA's general functions as follows:

The need to use resources in the most efficient and economic way

7. The transfer of regulatory responsibility has and will impose costs on the FSA both in terms of project staffing (including policy, communications and training work), IT system changes and ongoing additional supervisory staff required to cover the 177 additional firms. However, the creation of a single regulatory regime for credit unions should minimise these costs in the medium to long term.

The responsibilities of those who manage the affairs of authorised persons

8. The proposals confirm the overall requirement that the committee of management/board of directors and senior management of firms, including credit unions, have responsibility for their firm's governance arrangements and systems and controls. Northern Ireland credit unions will need to have sound, competent direction in order to ensure that new CREDS prudential standards are met. This will be reinforced by the application of the 'approved person' regime.

The principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction

9. As set out in the cost benefit analysis (CBA) at Annex 3, the proposals will likely impose costs on Northern Ireland credit unions. However, the FSA believes these costs to be proportionate to the benefit of increased consumer protection.

The desirability of facilitating innovation in connection with regulated activities

10. The proposals are unlikely to have an impact on facilitating innovation.

The international character of financial services and markets and the desirability of maintaining the competitive position of the United Kingdom

11. In the UK, credit unions are typically local institutions, so we do not expect there to be any impact on the international character of financial services or the competitive position of the UK.

The need to minimise the adverse effects on competition that may arise from anything done in the discharge of the functions

12. There may be some adverse effects on competition. For example:
- higher authorisation requirements may create barriers to entry;
 - higher one-off and/or ongoing compliance costs may result in Northern Ireland credit union mergers or exits; and
 - CREDS restrictions on share and loan limits and loan maturities (some of which differ for version 1 and version 2 credit unions) may have adverse impacts on competition between version 1 and version 2 Northern Ireland credit unions¹, as well as between Northern Ireland credit unions and other types of financial institutions (e.g. banks) that operate in the same market.
13. However, as discussed in the CBA, most of these impacts are not likely to be significant. Also, any adverse impacts on competition between Northern Ireland credit unions and other financial institutions may be outweighed by the beneficial impact of the introduction of FSCS cover.

The desirability of facilitating competition between those who are subject to any form of regulation by the FSA

14. The introduction of FSCS cover may facilitate competition between Northern Ireland credit unions that currently do not have any voluntary compensation or share protection arrangements in place and other financial institutions that are members of the FSCS or other voluntary compensation or share protection schemes.

The desirability of enhancing the understanding and knowledge of members of the public of financial matters (including the UK financial system)

15. The proposals are unlikely to have an impact on enhancing the understanding and knowledge of members of the public of financial matters (including the UK financial system).

¹ As outlined in paragraph 3.10 of the Consultation Paper, we assume that Northern Ireland credit unions that hold a section 28C certificate under the 1985 Order will be grandfathered as version 2 credit unions. We assume that all other Northern Ireland credit unions will be grandfathered as version 1 credit unions.

Annex 3

Cost benefit analysis

1. Section 155 of the Financial Services and Markets Act 2000 (FSMA) requires the FSA to publish an estimate of the costs together with an analysis of the benefits that would arise if the proposed rules are made.¹ This analysis should be quantitative where possible and qualitative where not. FSMA does not require us (the FSA) to publish an analysis if we consider that the proposals will give rise to no costs or we expect any increase in costs to be of no more than minimal significance.
2. This cost benefit analysis (CBA) is structured as follows:
 - our approach to CBA;
 - overview of the population of Northern Ireland credit unions affected;
 - incremental compliance costs to Northern Ireland credit unions;
 - direct costs to the FSA;
 - indirect impacts; and
 - benefits.

1. Our approach to CBA

1.1 The relevant baseline

3. The CBA is an estimate of the costs and an analysis of the benefits that will arise from the proposals to apply parts of the FSA Handbook (the Handbook) to credit unions in Northern Ireland (Northern Ireland credit unions). Following section 155 of FSMA, the costs are estimated and the benefits are analysed by making an appropriate comparison between the overall position if the Handbook rules are applied to Northern Ireland credit unions and the overall position if they are not applied (i.e. the baseline).

¹ This cost benefit analysis has been completed by the FSA. Therefore, in this Annex, references to 'we', 'us', 'our' etc. are references to the FSA.

4. We consider the appropriate baseline to be current and likely future practice by Northern Ireland credit unions under the current requirements set out in the Credit Unions (Northern Ireland) Order 1985 (the 1985 Order). We estimate the incremental² costs and analyse the benefits by comparing the baseline with the position that will arise if Treasury amends the 1985 Order, as described in Chapter 3 of the Consultation Paper, and we apply the Handbook rules to Northern Ireland credit unions.
5. In considering the position that will arise if we apply Handbook rules, we assume, as outlined in paragraph 3.10 of the Consultation Paper, that Northern Ireland credit unions that hold a section 28C certificate under the 1985 Order will be grandfathered as version 2 credit unions. We assume that all other Northern Ireland credit unions will be grandfathered as version 1 credit unions.

1.2 Data sources

6. Compliance cost estimates are based on the following data and information sources:
 - Northern Ireland credit unions' annual regulatory returns for 2010 and 2009³;
 - Northern Ireland credit union and trade association responses to a pre-consultation survey⁴ carried out by the FSA in May 2011;
 - responses to a pre-consultation survey received from seven IT systems and software providers supplying services to 46 Northern Ireland credit unions;
 - discussions with trade associations representing Northern Ireland credit unions and credit unions in Great Britain; and
 - discussions with policy, supervisory and other experts within the FSA and the Department of Enterprise, Trade and Investment (DETI).
7. We are grateful to Northern Ireland credit unions and other parties that have provided input to this CBA.

2. Overview of the population of Northern Ireland credit unions affected

8. At transfer date, the proposals will affect all Northern Ireland credit unions, of which there are currently 177. Some CREDS rules differ depending on whether they apply to a version

² Incremental costs are the costs incurred by Northern Ireland credit unions and the FSA in addition to those incurred under the baseline.

³ By June 2011, DETI had provided us with 171 out of 177 annual returns for 2010. Where appropriate, we also refer to our analysis of 2009 returns data, of which we had access to 177 out of 178 returns. We assume that these regulatory returns provide a true and accurate reflection of the financial position of Northern Ireland credit unions.

⁴ The pre-consultation survey was sent to a population of 76 Northern Ireland credit unions (based on availability of contact details) and three trade associations in order to collect additional data where annual returns did not give the appropriate level of detail. At the time when the analysis was done, we had received 32 responses from credit unions (42% response rate; respondents representing 18% of the total Northern Ireland credit union population).

1 or a version 2 credit union. For some CREDS rules we have analysed compliance costs for version 1 and version 2 credit unions separately. We expect all seven Northern Ireland credit unions that currently hold section 28C certificates to be grandfathered as version 2 credit unions, and the remaining 170 Northern Ireland credit unions to be grandfathered as version 1.

9. Based on the 171 annual returns for 2010, Northern Ireland credit unions serve close to 460,000 adult members and almost 90,000 juvenile depositors. The sector has £1,102m in assets, £942m in deposits (£900m in shares of adult members and £42m in juvenile deposits), and has made loans of £522m.

3. Incremental compliance costs to Northern Ireland credit unions

3.1 Cumulative incremental compliance costs to Northern Ireland credit unions

10. Incremental compliance costs arising from the proposals to apply particular parts of the Handbook to Northern Ireland credit unions are dealt with on a topic-by-topic basis in sections 3.2–3.4 below. In addition, it is important to consider costs associated with the proposed new regime as a whole – costs which do not derive from any of the proposals taken individually but from the cumulative impact of all of the proposals. The cumulative costs to Northern Ireland credit unions are likely to be of a number of types.
11. Firstly, there will be training costs to enable management and staff (both paid and volunteer) to understand and implement the proposed rules. This will include the cost of obtaining the necessary training and the cost, in terms of person hours, spent in training. The FSA plans to help minimise these costs by conducting two series of roadshows for Northern Ireland credit unions in order to explain the proposed rules. We consider that this approach will be more efficient than approaching each credit union separately.
12. Secondly, there may be incremental ongoing costs of complying with the new rules. As well as any direct financial cost of complying with each proposal, outlined in sections 3.2–3.4 below, Northern Ireland credit unions may need to dedicate additional time and effort to develop and maintain the management arrangements, systems, and controls necessary to ensure overall compliance.
13. Thirdly, there may be potential costs from increased difficulties in recruiting and retaining staff and volunteers, especially given the additional time and effort required to understand and implement the new rules. However, we think this impact unlikely given the strong volunteer culture and the importance of credit unions to local communities in Northern Ireland. Alternatively, participation in the Financial Services Compensation Scheme (the FSCS) may increase confidence in, and enhance the strength of, the Northern Ireland credit union movement, and this might make volunteer participation more attractive.

14. Finally, we also think it unlikely but acknowledge that some Northern Ireland credit unions may be unable or unwilling to continue in business as FSA-regulated firms. Some of these credit unions may simply close. Others may look for opportunities to merge with one or more credit unions.

3.2 Incremental compliance costs to Northern Ireland credit unions from application of particular parts of the Handbook

15. Sections 3.2-3.4 analyse the incremental compliance costs to firms from the application of the different relevant parts of the Handbook. Table 7 below sets out the relevant CBA and Consultation paper (CP) section references. Benefits are considered in the overall benefits section at section 6.

Table 7: Index of incremental compliance costs from application of particular parts of the FSA Handbook

Parts of the Handbook		Area	CBA section	CP chapter
<i>Credit Unions New Sourcebook (CREDS)</i>	CREDS 3	Investment and borrowing	3.2.1 and 3.2.6	4
	CREDS 4	Shares and deposits	3.2.2	4
	CREDS 5	Capital	3.2.3	4
	CREDS 6	Liquidity	3.2.4 and 3.2.6	4
	CREDS 7	Lending to members	3.2.5 and 3.2.6	4
	CREDS 8.2 and SUP 16.3 and 16.12	Reporting	3.2.7	4
	CREDS 9	Complaints reporting	3.4.1	5
<i>PRIN</i>	Principles for businesses	3.2.8	6	
<i>SYSC and CREDS 2</i>	Senior management arrangements, systems and controls	3.2.8	6	
<i>COND</i>	Threshold conditions	3.2.8	6	
<i>FIT, APER, SUP</i>	Approved persons regime	3.2.8	6	
<i>BCOBS</i>	Banking: Conduct of Business	3.2.8	6	
<i>GEN</i>	General provisions	3.2.8	6	
<i>SUP</i>	Supervision	3.2.8	6	
<i>DEPP</i>	Decision procedure and penalties	3.2.8	6	
<i>COMP</i>	Compensation	3.3	5	

<i>DISP and CREDS 9</i>	Complaints	3.4 and 3.2.6	5
<i>FEES</i>	Fees	3.3 and 3.4	5 and 6

3.2.1 CREDS 3 Investment and Borrowing

16. The investment and borrowing rules in Chapter 3 of the Credit Union New sourcebook (CREDS) are intended to ensure that FSA-regulated credit unions exercise proper control over the risks that may arise from the structure of their balance sheets, including the risk that income is not large enough to cover funding, operational and other costs, and the risk that a credit union might be unable to access the funds which it needs.

Allowed investment types

17. The types of investment that are permitted under CREDS largely mirror those that are currently permitted in Northern Ireland, and include:
- deposits in, or loans to authorised deposit-taking institutions in the UK or any other State in the European Economic Area (EEA);
 - sterling-denominated securities issued by the government of any EEA State; and
 - fixed interest, sterling-denominated securities guaranteed by the government of any EEA State.
18. However, there are some differences. Northern Ireland credit unions may currently invest in two instruments that are not permitted under CREDS:
- withdrawable shares in European authorised institutions; and
 - deposits with European authorised institutions that are not deposit-takers.
19. Also, savings provisions under the Credit Unions (Authorised Investments) Regulations (Northern Ireland) 1995 allowed Northern Ireland credit unions to retain, until maturity, existing investments in local government securities, which would not be allowed under CREDS. Northern Ireland credit unions were not allowed to make new investments in such securities from 1995. Surveyed Northern Ireland credit unions did not report holding such investments. This is consistent with our expectation that those investments would have since matured.
- One-off costs**
20. We do not have data on the extent to which Northern Ireland credit unions currently hold funds in investment types not permitted under CREDS. We expect that the withdrawal and reinvestment of any such funds, in order to comply with CREDS, may involve some penalty and administration costs. We have proposed a one-year transitional period in order to

allow Northern Ireland credit unions sufficient time in which to absorb such costs and find suitable replacement investments that comply with CREDS.

Ongoing costs

21. Ongoing costs would depend on the extent to which the returns on financial instruments currently permitted in Northern Ireland, but not under CREDS, are different from the returns on those permitted under CREDS. There is not sufficient data available to quantify this potential ongoing cost.

Investment maturity periods

22. Under CREDS, the maximum maturity period for deposits and investments is 12 months for version 1 credit unions and five years for version 2 credit unions. Currently, in Northern Ireland, the maximum maturity period for investments is five years.

One-off costs

23. Our proposed transitional arrangements provide that Northern Ireland credit unions that hold investments in breach of the CREDS maturity periods would be allowed to keep these until maturity. Therefore, there would be no one-off costs.

Ongoing costs

24. Over time, in order to comply with CREDS, investments that mature and new funds would have to be invested at shorter maturities than currently permitted under the 1985 Order. Assuming a similarly shaped yield curve, this implies that Northern Ireland credit unions would get a lower yield than currently.
25. Our analysis of the 171 annual returns available for 2010 identified that 95% of Northern Ireland credit unions hold their short term assets in deposit accounts (e.g. bank deposits) and/or investments and, therefore, may incur incremental ongoing costs. However, as the 2010 annual returns do not include information on maturities of deposits or investments, we conducted a survey to identify which maturities Northern Ireland credit unions invest in, the returns those investments offer, and the impact that applying the CREDS limits (12 months maximum maturity for version 1 credit unions and five years for version 2 credit unions) could have on potential lost income for Northern Ireland credit unions.
26. According to the survey we conducted, the CREDS limits would impose some ongoing costs. 75% of the 32 Northern Ireland credit unions that responded to the survey would be in breach of CREDS rules. There are relatively more Northern Ireland credit unions categorised as version 1 that would be in breach (82% of the version 1 sample) than those categorised as version 2 that would be in breach (25% of the version 2 sample).⁵ This is not surprising as the CREDS maturity limits are much lower for version 1 credit unions than for version 2 credit unions.

⁵ As indicated in paragraph 5 of this CBA, we have assumed that those credit unions that hold a section 28C certificate under the 1985 Order will be grandfathered as version 2 credit unions and all other credit unions will be grandfathered as version 1 credit unions.

27. The magnitude of incremental ongoing costs (income lost over time) would depend on:
- the total value of investments that a Northern Ireland credit union would have chosen to hold in maturity periods exceeding CREDS limits in absence of the CREDS limits; and
 - the difference in available yields for these different maturities.
28. The survey responses indicated a wide dispersion of both maturities and yields. Therefore, we expect the ongoing incremental cost of lost investment income to vary considerably across the Northern Ireland credit union population depending on individual investment practices.
29. Given the limited number of survey responses, the data inconsistencies and the wide range of yields indicated in the responses, the survey evidence itself is inconclusive. So we have made additional assumptions to estimate a range of expected annual incremental ongoing costs to the Northern Ireland credit union sector.
30. We used the total value of funds held in deposits and investments at the end of 2010 as a proxy for the maximum value of funds that could be reinvested in shorter maturities at the end of the transition period. Based on the 171 annual returns received, the total value for 2010 was £465m, comprising £357m in deposits and £108m in investments.
31. We then calculated the potential loss of income to the Northern Ireland credit union sector by considering various proportions of deposits and investments that may have to be reinvested in shorter maturities, i.e. 20%, 50% and 100% of the total value. We also used a range of assumptions about the differences in return on maturities that are currently allowed under the 1985 Order versus the return on maturities allowed under CREDS. Our estimates of the differences in return were:
- 0.5% – based on the difference between the average return on investments with maturities exceeding CREDS limits and those with maturities allowed under CREDS rules, as reported by the surveyed credit unions;
 - 1% – based on the maximum difference in average yields for UK gilts for up to 12 months and for 12 months to five years from June 2010 to June 2011; and
 - 1.5% – based on the difference between the maximum market rates on 12 month and five year savings accounts in July 2011.
32. As shown in Table 8, the estimated cost to the Northern Ireland credit union sector ranged between £0.46m and £6.97m. The latter implies reinvestment of 100% of the deposits and investments book at rates that would be 1.5% lower than the existing rates. Based on the available 2010 annual return data, this range of costs corresponds to a reduction in total income across the sector of between 0.6% and 9.4%.

Table 8: Range of estimated costs

Annual possible reduction in income from investments and bank deposits (£m)		% of existing investments to be re-invested in shorter maturity instruments		
		20%	50%	100%
Difference in return (APR)	0.5%	0.46	1.16	2.32
	1.0%	0.93	2.32	4.65
	1.5%	1.39	3.49	6.97

Borrowing limits

33. The 2010 annual return data indicated that all 171 Northern Ireland credit unions that had submitted returns by June 2011 would be compliant with the CREDS limits on borrowing. In 2009, the data indicated that only one credit union would have been in breach. Therefore, we would not expect significant one-off or ongoing costs from application of the CREDS borrowing limits.

3.2.2 CREDS 4 Shares and deposits

34. CREDS (Chapter 4) rules limit holdings of shares and deposits, joint accounts and dividends, and require insurance cover.

Share limits

35. Under CREDS, the limit on the size of member shareholding is the greater of £10,000 or 1.5% of total shares. Currently, under the 1985 Order, Northern Ireland credit union members must not hold shares exceeding the greater of £15,000 or 1.5% of total shareholding.
36. As set out in Table 9 below, this means that the application of the CREDS rule would only affect the shareholding limit for the smallest Northern Ireland credit unions with total shareholding of less than £1m, with a maximum difference in the allowed shareholding limit of £5,000 per member (where reduced from £15,000 to £10,000). Our analysis of the 2010 annual returns indicated that the maximum value of shares allowed from members would be reduced for 48 Northern Ireland credit unions (28% of 171 Northern Ireland credit unions for which we have returns). The reduction will amount to £5,000 for 39 of these credit unions⁶ and less than £5,000 for the remaining nine.

⁶ We do not know how many members would be in breach of the limits as we do not have individual member data.

Table 9: Impact of CREDS share limits by credit union size

	<i>Total shares</i>		
	<i>Below or equal to £666,666.67</i>	<i>Above £666,666.67 but below £1m</i>	<i>Above or equal to £1m</i>
<i>1.5% of total shares</i>	Below or equal to £10,000	Above £10,000 but below £15,000	Above or equal to £15,000
<i>Current limit in Northern Ireland (the greater of £15,000 and 1.5% of total shares)</i>	£15,000	£15,000	1.5% of total shares
<i>CREDS limit (the greater of £10,000 and 1.5% of total shares)</i>	£10,000	1.5% of total shares	1.5% of total shares
<i>Difference in limit</i>	£5,000	Greater than £0 but below £5,000 (i.e. £15,000 less 1.5% of total shares)	No difference

One-off costs

37. Our proposed transitional arrangements ensure that Northern Ireland credit unions that are in breach of the CREDS limit would not have to reduce existing shareholdings. Therefore, there would be no one-off costs.

Ongoing costs

38. The reduction in the allowed shareholding limit for existing CREDS-compliant members and new members may have an impact on the growth of the smallest Northern Ireland credit unions. Firstly, this may reduce the total value of funds available to Northern Ireland credit unions for investing and lending. However, one mitigating factor is that Northern Ireland credit unions could try to attract more members in order to achieve the same target of growth in total share value. If this were the case, Northern Ireland credit unions would possibly incur incremental costs from the additional effort put into attracting new members.
39. Under both the 1985 Order and CREDS, members are only allowed to borrow up to £15,000 in excess of attached shares. Therefore, a reduction in the shareholding limit would also reduce the maximum allowed loan sizes that Northern Ireland credit unions may offer. This may impact the total lending income.
40. However, we do not expect any of the impacts discussed above to be material. Firstly, the analysis of aggregate 2010 annual return data suggests that most Northern Ireland credit union members are far from reaching both the current 1985 Order and CREDS shareholding limits, so we would expect minimal impact on growth from the application of

the CREDS limits.⁷ As indicated in paragraph 36 above, the application of the CREDS limits would affect 48 of 171 Northern Ireland credit unions. According to 2010 data for these credit unions, the average value of shares per member per credit union is currently around £1,200. This is only about 12% of the average of the CREDS shareholding limit of £10,513 for these credit unions.

41. In addition, even if new shareholding limits led to a reduction in total shareholding, this would not have a significant impact on the lending decisions of Northern Ireland credit unions. According to the 2010 data, Northern Ireland credit unions lent only 53% of their shares, suggesting that most would have sufficient funds to increase lending in the future, even after taking into account the limited impact of the reduction in the shareholding limit.

Deposit limits

42. Under the 1985 Order, Northern Ireland credit unions may accept deposits of up to £10,000 from persons that are too young to be members. Under CREDS, the deposit limit is the greater of £10,000 or 1.5% of total shares. As the CREDS limit is more liberal than the limit under the 1985 Order, we would not expect any one-off or ongoing costs.

Joint share accounts

43. The survey we conducted indicated that five out of 32 respondent Northern Ireland credit unions offer joint accounts but only one of these would be in breach of CREDS rules by allowing more than two joint members. So we would not expect significant one off or ongoing costs.

Shares and deposits – different dividends

44. The survey responses indicated that Northern Ireland credit unions do not currently pay different dividends on different accounts. As a result, we would not expect CREDS rules to make Northern Ireland credit unions change their dividend payment practices. So we would not expect significant one-off or ongoing costs.

Insurance

45. Currently, under the 1985 Order, all Northern Ireland credit unions must maintain a policy of fidelity insurance to provide the same level of cover regardless of the size of the credit union – cover up to £20,000 in respect of any one claim and up to £100,000 in respect of total claims for the year.
46. Under CREDS, the amount of fidelity insurance required increases as the aggregate value (shares plus deposits) of a credit union increases. In summary, the overall impact of this proportional requirement is that:

⁷ As the annual returns do not contain individual shareholding data, we surveyed 76 credit unions to try to estimate the impact. Some survey responses indicated that some members have accounts that would be in breach of the CREDS limits. However, due to the limited number of survey responses received and some data inconsistencies, it was not possible to rely on the responses to provide reliable estimates for the costs to the sector.

- where the aggregate value of a credit union is below £100,000, the amount of cover required in respect of any one claim would be below £20,000 and the amount of cover in respect of total claims for the year would be below £100,000. So the CREDS requirements would be lower than the requirements under the 1985 Order.
- where the aggregate value of the credit union is above £100,000, the amount of cover required in respect of any one claim would be above £20,000 and the amount of cover in respect of total claims for the year would be above £100,000. So the CREDS requirements would exceed the requirements under the 1985 Order.

One-off and ongoing costs

47. All Northern Ireland credit unions have an aggregate value greater than £100,000. Therefore, applying CREDS would impose higher fidelity insurance requirements than currently mandated under the 1985 Order.
48. However, while mandated coverage would be higher, we cannot determine from the available data whether Northern Ireland credit unions would necessarily have to pay higher premiums than currently for two reasons:
- It may be the case that some Northern Ireland credit unions have obtained more cover than is currently mandated under the 1985 Order, and so would not have to increase the level of cover and face additional premiums.
 - It is also possible that insurance premiums currently paid by individual Northern Ireland credit unions may include individual risk premiums unrelated to the requirements in the 1985 Order or under CREDS.
49. We have proposed a one year transitional period in order to allow Northern Ireland credit unions sufficient time in which to identify and source cost-effective insurance to comply with CREDS, thus minimising the impact of higher mandated insurance requirements.

3.2.3 CREDS 5 Capital

50. The 1985 Order establishes reserving requirements to transfer funds from annual profits, and these are equivalent to the CREDS reserving requirements. Under the 1985 Order, Northern Ireland credit unions are not subject to minimum requirements for initial and ongoing capital⁸, but they would be subject to such requirements under CREDS. As outlined in paragraph 4.33 of the Consultation Paper, version 1 and version 2 credit unions are required to have minimum levels of initial and ongoing capital resources to ensure they can absorb early expenses and unexpected losses respectively.
51. Under CREDS, capital resources may consist of retained earnings, interim net profits, subordinated debt, initial capital and revaluation reserves. So reserves currently held by

⁸ In general, Northern Ireland credit unions are not subject to minimum ongoing capital requirements but in order to hold a certificate under Article 28C of the 1985 Order to extend the standard loan limits, they must have a 10% reserves-to-assets ratio.

Northern Ireland credit unions (i.e. unappropriated surplus, general reserve and revaluation reserve) would count as capital resources under CREDS.

Building reserves

52. The requirements for building reserves under CREDS are equivalent to those under the 1985 Order. Therefore, we would not expect any one-off or ongoing costs from the application of the CREDS reserving requirements.

Minimum ongoing capital

53. Analysis of the 2009 and 2010 annual returns showed that Northern Ireland credit unions already retain sufficient profits to meet CREDS minimum ongoing capital requirements. Therefore, we would not expect any significant one-off or ongoing costs.

Initial capital

54. CREDS initial capital rules would not apply to existing Northern Ireland credit unions that will be grandfathered into the FSA regime so there would be no one-off costs.
55. Given that CREDS initial capital requirements for version 1 and version 2 start-up credit unions (£10,000 and £50,000 respectively) are set out in evidential provisions⁹, it would be open to new Northern Ireland credit unions to demonstrate that a lower amount of initial capital would be appropriate in their circumstances. So we would not expect that CREDS initial capital rules would impose significant incremental costs on future start-up Northern Ireland credit unions.

3.2.4 CREDS 6 Liquidity

56. Under the 1985 Order, Northern Ireland credit unions are not subject to liquidity requirements but they would be under CREDS. CREDS liquidity rules aim to ensure that FSA-regulated credit unions manage liquidity and continue to meet their liabilities as they fall due.
57. The 2010 annual return data (using a proxy liquidity ratio calculation¹⁰) suggested that Northern Ireland credit unions would meet CREDS requirements. In fact, the liquidity ratios were well above the CREDS requirements of having a 5% minimum and not falling below 10% on two consecutive quarters. So we would not expect any significant one-off or ongoing costs.

9 Evidential provisions usually indicate a practice (in this case having £10,000 or £50,000 in initial capital) which, if observed, will tend to establish compliance with the rule to which the evidential provision relates (in this case, the requirement to have adequate initial capital taking into account the nature, scale and complexity of the business and expected early expenses).

10 Liquidity ratio (LR) = liquid assets / total relevant liabilities. The LR proxy consisted of a proxy for liquid assets (cash + bank balances + 95% of investments, which implies the CREDS 5% discount rate for calculating the liquid value of investments) and a proxy for total relevant liabilities (unattached shares + juvenile deposits + other liabilities identified in the balance sheet). According to the DETI annual regulatory return form, the other liabilities identified in the balance sheet include other loans, unpaid interest, provision for taxation, proposed dividend and other liabilities.

3.2.5 CREDS 7 Lending to members

58. CREDS lending rules are intended to minimise the risk arising from lending activities, which could have a negative impact on capital and solvency. CREDS addresses this by imposing limits on large exposures (concentration risk), establishing provisioning requirements and requiring arrears management.

Lending periods

59. Under the 1985 Order, unsecured loans made by Northern Ireland credit unions must be repaid within five years. For other loans the period of repayment is unspecified. Under CREDS, version 1 credit unions may not lend for more than five years where unsecured and ten years where secured, and version 2 credit unions must not lend for a period of more than ten years where unsecured and 25 years where secured.

One-off costs

60. Our proposed transitional arrangements would allow Northern Ireland credit unions to retain all loans whose maturities exceed the CREDS limits. Therefore, there would be no one-off costs.

Ongoing costs

61. As the annual returns do not include data on the maturity of loans, we surveyed Northern Ireland credit unions to assess the potential impact of applying the CREDS rules.
62. For Northern Ireland credit unions that would be categorised as version 2, survey responses suggested that they do not grant loans with maturities that would exceed CREDS limits for unsecured and secured loans. Therefore, we would expect minimal ongoing costs from the application of the CREDS rules to version 2 Northern Ireland credit unions.
63. For Northern Ireland credit unions that would be categorised as version 1, the limit on lending periods for unsecured loans is the same under CREDS and the 1985 Order (i.e. five years). So we would not expect any one-off or ongoing costs.
64. However, there would be some costs for secured loans for version 1 Northern Ireland credit unions. The survey responses indicated that three version 1 Northern Ireland credit unions (11% of version 1 respondents) grant secured loans with maturities above ten years and, therefore, would be in breach of the CREDS limits. These credit unions would incur incremental compliance costs (in terms of income forgone) if they were no longer allowed to grant secured loans with maturity periods above the CREDS limit of ten years. The exact costs in terms of income foregone cannot be reliably estimated due to data constraints. Any income lost could be offset by the prudential effects of limiting risk taking, which could, for example, translate into lower debt provisioning costs.

Lending – limits and large exposures

65. Under the 1985 Order, where the amount on loan to a member of a Northern Ireland credit union is greater than the amount of shares held by that member, the shares are attached

(meaning that they are non-withdrawable without the approval of the committee of management/board of directors). Survey responses indicated that attachment is applied strictly in Northern Ireland. As a result, the lending limits, which are expressed in terms of total shares under the 1985 Order and attached shares under CREDS, are effectively the same. So, we would not expect any significant one-off or ongoing costs.

66. All survey responses showed compliance with the CREDS requirements on large exposures. So we would not expect significant one-off or ongoing costs.

Provisioning

67. The CREDS provisioning requirements are higher than the minimum requirements against which Northern Ireland credit unions have to report in their annual regulatory returns to DETI. A comparison of the requirements is set out in Table 10 below. We cannot estimate the provisioning shortfall that would result from the application of the CREDS provisioning requirements due to concerns about the quality and consistency of the data reported.

Table 10: comparison of provisioning requirements

Period overdue	Minimum provision required (% of net liability or net loan balance)	
	CREDS	Northern Ireland
0 – 13 weeks	2%	0%
14 – 26 weeks	35%	10%
27 – 39 weeks	35% (but guidance recommends 60%)	20%
40 – 52 weeks	35% (but guidance recommends 80%)	40%
53 – 78 weeks	100%	60%
79 + weeks	100%	100%

68. We have proposed a transitional provision that would minimise the one-off costs of the CREDS provisioning requirements, by allowing Northern Ireland credit unions to meet any provisioning shortfall from transfers out of their capital resources (retained profits and general reserve) in the first year following transfer. This would minimise the extent to which the provisioning shortfall would have to be met out of profits and, therefore, would minimise any impact on the payment of a dividend to members.
69. Once this rearrangement is complete, Northern Ireland credit unions may incur incremental ongoing costs to the extent to which they would have provisioned less than required under CREDS. However, due to variation in provisioning practices across the Northern Ireland

credit union population and uncertainty regarding future provisioning practices, it is not possible to quantify the expected costs.

3.2.6 CREDS Operational Policies

70. Under CREDS 2, 3, 6, 7 and 9, credit unions are required to establish, maintain and implement operational policies, including a business plan, a policies and procedures manual, a documented system of control, a financial risk management policy statement, a liquidity management policy statement, a lending policy, an arrears management policy, a provisioning policy and a complaints handling policy. Similar requirements do not formally exist for Northern Ireland credit unions under the 1985 Order.

One-off and ongoing costs

71. Good management practice requires the development of operational policies. Evidence from the survey suggests that a majority of Northern Ireland credit unions already have operational policies in place that would comply with CREDS requirements. Those firms that are already compliant would not incur any one-off costs and ongoing costs would be minimal. Those firms that would not comply with CREDS requirements would need to make adjustments to their operational policies and may incur one-off and ongoing compliance costs. Incremental costs cannot be quantified as changes to operational policies will be specific to each firm.

3.2.7 CREDS 8.2 and SUP 16.3 and 16.12 Reporting

72. Under CREDS and SUP, Northern Ireland credit unions would be required to submit to the FSA two types of financial regulatory returns – a quarterly return, which must be submitted one month after the reporting period, and an annual return, which must be audited, accompanied by statutory accounts (a balance sheet and revenue account) and submitted six months after the reporting period.
73. Under the 1985 Order, Northern Ireland credit unions are currently only required to submit an annual regulatory return, which must be audited and submitted six months after the reporting period.

One-off costs

74. Most Northern Ireland credit unions would incur incremental one-off costs from establishing or modifying the necessary reporting procedures and IT systems and software to complete the annual and quarterly returns. It is also likely that Northern Ireland credit unions would incur staff training costs.
75. Our cost estimates are based on survey responses received from Northern Ireland credit unions and their IT systems and software providers.
76. The surveyed IT systems providers responded that some systems would already be able to produce the CREDS returns, whilst others would require minor to substantial

modifications. We have not been able to provide estimates for software modification and roll-out costs, as these will vary considerably across the credit union population and it is not clear how the costs incurred by providers would be passed on to Northern Ireland credit unions.

77. 31% of the surveyed credit unions responded that they would not expect any significant incremental one-off costs. Other respondents identified the types of costs they would incur (as summarised above), but not all could quantify the likely costs. For those that did, the cost estimates ranged from £150 to £3,000.
78. Survey respondents did not identify any significant incremental costs related to modifying data collection processes. This is consistent with our expectation that the information required by the CREDS returns is fundamental to the business of running a credit union, to the extent that it seems unlikely that a prudent management committee would wish to do without it. The current regulatory returns required under 1985 Order require similar data to the CREDS returns.

Ongoing costs

79. Survey responses confirmed that all annual software maintenance costs would be included in the annual maintenance fee, so we would not expect any significant incremental costs.
80. We would not expect any incremental ongoing costs from completing and submitting the CREDS annual returns, as Northern Ireland credit unions already incur these costs when submitting returns to DETI. This is based on the assumption that there would be no significant changes to auditors' fees.
81. Under CREDS, Northern Ireland credit unions would also have to produce and submit quarterly returns, and hence would incur incremental costs from the additional and more regular reporting, including accountancy and administration costs. 37% of survey respondents said that they would incur additional ongoing costs from CREDS reporting requirements. For those credit unions that identified the likely costs, these ranged between £60 and £2,500 per year. Where a credit union is run by volunteers, producing the additional quarterly returns would require both time and effort. Consistent with our previous consultations on credit union financial reporting (see CP12/7¹¹), we expect completion of the quarterly return to be a very small part of the overall work of a credit union volunteer, so we do not think that the additional work involved is likely to be a significant deterrent to volunteers.

3.2.8 Other parts of the Handbook

82. The application of the following other parts of the Handbook to Northern Ireland credit unions may give rise to incremental compliance costs:

¹¹ www.fsa.gov.uk/pubs/cp/cp127.pdf

- Principles for Businesses (PRIN);
- Senior Management Arrangements, Systems and Controls (SYSC);
- Threshold Conditions (COND);
- the Approved Persons regime (FIT, APER and SUP); and
- Banking: Conduct of Business sourcebook (BCOBS).

Principles for Businesses (PRIN)

83. We expect most well-managed Northern Ireland credit unions would already meet most PRIN requirements. The PRIN requirements are designed to be ‘context sensitive’ and proportionate to the size of the firm and the business it undertakes, so we do not believe that the application of PRIN would be overly burdensome for Northern Ireland credit unions. For these reasons, we think it unlikely that the application of PRIN would cause the Northern Ireland credit unions significant one-off or ongoing costs.

Senior management arrangements, systems and controls (SYSC)

One-off and ongoing costs

84. The SYSC requirements are also designed to be ‘context sensitive’. They create high level obligations but leave firms with a wide discretion to implement these in the most efficient way. The SYSC requirements provide flexibility and are intended to be proportionate to the nature, scale and complexity of a firm’s business. Therefore, we would not expect the application of SYSC rules to Northern Ireland credit unions to be overly burdensome. Many Northern Ireland credit unions are likely to be already run in line with the standards set out in SYSC. For these credit unions, we would not expect that incremental one-off or ongoing compliance costs would arise. Northern Ireland credit unions that currently are not run in a SYSC-compliant way may incur costs in meeting the requirements. However, we expect such costs would be minimal. We intend to mitigate some one-off cost implications by allowing Northern Ireland credit unions a six month transitional period in which to produce the documentation required under SYSC.

Threshold conditions (COND)

85. As part of the transfer, Northern Ireland credit unions will automatically become authorised firms and so would be expected to maintain, on a continuing basis, the standards set out in COND. New Northern Ireland credit unions that set up post-transfer would need to demonstrate that they meet these standards and would be expected to do so on a continuing basis. COND are high-level standards and we would expect that Northern Ireland credit unions would already meet these requirements. As a result, we would not expect any incremental compliance costs to arise from implementing COND.

Approved persons regime

One-off and ongoing costs

86. As part of the transfer, individuals performing controlled functions for Northern Ireland credit unions will automatically become approved persons and so would be expected to maintain, on an continuing basis, the standards set out in the Fit and Proper test for Approved Persons (FIT) and to perform functions in line with our Statements of Principle and a Code of Practice for approved persons (APER). Individuals that seek to perform controlled functions post-transfer would need to demonstrate that they meet these standards and would be expected to do so on a continuing basis.
87. It is difficult to assess the likely cost impact of this regime. Volunteers may be unwilling or unable to subject themselves to the new requirements and standards so Northern Ireland credit unions may have more difficulty – and face higher costs – when it comes to recruiting volunteers. However, given the strong volunteer culture and the importance of credit unions to local areas in Northern Ireland, we think such an outcome unlikely and consequently that any one-off and ongoing costs would be minimal.

Banking: Conduct of Business sourcebook (BCOBS)

One-off and ongoing costs

88. We would expect that most well-managed Northern Ireland credit unions would already meet the requirements in BCOBS and so would not need to alter existing practices and incur significant costs in complying. Where changes would be necessary, Northern Ireland credit unions may face some incremental one-off and ongoing compliance costs, including additional training so that staff and volunteers can understand and implement the new requirements, refining processes in order to comply, and communicating with members. However, we expect any incremental one-off or ongoing costs would be minimal.

Other parts of the Handbook

89. Other parts of the Handbook that would apply to Northern Ireland credit unions include General Provisions (GEN); Supervision sourcebook (SUP); Decision Procedure and Penalties manual (DEPP); and the Fees manual (FEES). As GEN, SUP and DEPP largely set out material on the role and approach of the FSA, we do not think it likely that they would give rise to significant costs for Northern Ireland credit unions. We intend to consult on fees for Northern Ireland credit unions as part of an October 2011 FSA Consultation Paper. Therefore, we have not estimated the incremental cost for Northern Ireland credit unions of paying FSA fees. The cost impacts of the FSCS and the ombudsman service fees are outlined in sections 3.3 and 3.4 respectively.

3.3 Incremental Northern Ireland credit union compliance costs of membership of the FSCS

90. Once Northern Ireland credit unions become FSA authorised firms, they will become FSCS participant firms and come under the compulsory jurisdiction of the ombudsman service.
91. The incremental costs faced by Northern Ireland credit unions in complying with individual proposals relating to the FSCS are estimated in this section. For Single Customer View (SCV) and disclosure requirements, there are two types of cost likely to be incurred by credit unions – first, the one-off costs of establishing the necessary procedures, and second, the ongoing costs of operating those procedures. Our cost estimates below are based on the survey responses from IT systems and software providers and Northern Ireland credit unions.

3.3.1 *Fast payout: implementation of Single Customer View (SCV)*

92. We propose that all Northern Ireland credit unions will be subject to the systems and information requirements for deposit-takers which facilitate payout by the FSCS in the event of a deposit-taker's failure – known as Single Customer View (SCV).

One-off costs

93. Software providers are expected to play a key role in implementing the SCV requirements. Four providers told us that their systems are already SCV-compatible, two stated that their systems could be easily adapted and one provider felt that substantial software modification would need to be made but was unable to quantify the costs involved. Software providers have estimated the average roll-out and training costs to be around £1,200 per credit union for those subject to electronic SCV requirements. Survey responses from Northern Ireland credit unions indicated significantly higher estimates, with one-off costs of up to £12,000.

Ongoing costs

94. Most Northern Ireland credit union survey respondents stated that they are unable to quantify ongoing incremental compliance costs. Those who were able to provide estimates quantified ongoing incremental compliance costs as up to £700 a year for electronic compliance and up to £5,000 a year for non-electronic compliance.

3.3.2 *Consumer awareness: implementation of disclosure requirements*

95. We propose that all Northern Ireland credit unions will be subject to the disclosure requirements for deposit-takers.

One-off costs

96. IT providers have estimated that the average roll-out and training costs may amount to £500 per credit union. Credit union survey respondents have estimated average one-off costs to be much higher, of up to £10,000.

Ongoing costs

97. Ongoing costs of disclosure requirements would vary with the size of a credit union. For larger credit unions (with over 30,000 eligible accounts), incremental ongoing compliance costs could be up to £30,000 a year for printing, stationery and postage. Most of the smaller credit unions who tend to be passbook issuers estimated annual costs of approximately £1,000 for printing and posting leaflets.

3.3.3 FSCS legacy costs

98. We propose that Northern Ireland credit unions will be exempt from FSCS levies relating to defaults declared before the effective date of their transfer to FSA regulation. We have considered the impact of ring-fencing Northern Ireland credit unions from the costs of past defaults in the deposit-taking class. We have considered a range of factors, outlined in Table 11:
- the impact on Northern Ireland credit unions if they were levied for FSCS legacy costs;
 - the distributional impacts on existing participants that would result if Northern Ireland credit unions levied for FSCS legacy costs; and
 - the administrative costs to the FSA and FSCS of ring-fencing Northern Ireland credit unions.

Table 11: Impact of ring-fencing Northern Ireland credit unions from the cost of past defaults

Impact on Northern Ireland credit unions	Of the 177 Northern Ireland credit unions, 21 have over 5,000 members (large), 31 have between 2,500 and 4,999 members (medium) and 125 have under 2,500 members (small). Based on the information in the 2010 annual returns, we estimated that legacy costs would lead to additional costs for Northern Ireland credit unions of between £85 for the smallest credit union to £22,500 for the largest, with 11 credit unions in Northern Ireland paying over £5,000.
Distributional impacts on other FSCS participants	The 2010 annual returns for Northern Ireland credit unions show total protected deposits of approximately £942m. This would be approximately 0.1% of the protected deposits in the UK. In 2010/11 the FSCS levied around £338.8m in respect of the SDD ¹² legacy costs. If Northern Ireland credit unions were to have contributed to these costs, collectively they would have paid approximately £338,800. Such an amount would not have a material impact on the distribution between current deposit-takers but may have an impact on the individual Northern Ireland credit unions as shown in more detail in Table 12 below.
Administrative costs to FSA and FSCS of ring-fencing Northern Ireland credit unions	Ring-fencing would create an additional administrative burden for us and the FSCS. Ring-fencing would need to be applied in relation to compensation costs, specific costs (interest on legacy costs) and recovery dividends.

12 Specified Deposit-takers Defaults

FSCS levy distribution

99. The illustrative costs based on the 2010/11 levy raised for the deposits class, comparing the impact with and without SDD costs, are set out in Table 12 and include:
- FSCS levies for the deposits class of £7,810,270 (without SDD costs); and
 - FSCS management expenses for the deposits class of £346,610,270 (including SDD costs).
100. It should be noted that until the 31 March 2012, the SDD costs cover only the interest payable on the loans provided to the FSCS. After this date the principal on the loans will become payable and the SDD legacy costs payments will increase.

Table 12: Illustrative FSCS levy with and without SDD costs

Type of compliance cost	One-off costs per firm	Ongoing costs per firm each year			
		FSCS levy of £7,810,270 payable without legacy costs (£)		FSCS levy of £346,610,270 including legacy costs of £338,800,000 (£)	
FSCS levies	Minimal	Small NI credit union (£48k–£1m PD ¹³)	£15–£60	Small NI credit union (£48k–£1m PD)	£100–£360
		Medium NI credit union (£1m–£3m PD)	£65–£150	Medium NI credit union (£1m–£3m PD)	£370–£1,390
		Large NI credit union (£3.1m–£70m PD)	£150–£1,000	Large NI credit union (£3.1m–£70m PD)	£1,480–£23,500

3.4 Incremental Northern Ireland credit union compliance costs from membership of the ombudsman service

101. This section estimates the incremental costs faced by Northern Ireland credit unions in complying with individual proposals relating to the ombudsman service. For complaint-handling requirements, there are two types of cost likely to be incurred by Northern Ireland credit unions – first, the one-off costs of establishing the necessary procedures, and second, the ongoing costs of operating those procedures. Our cost estimates below are based on the Northern Ireland credit union survey responses.

¹³ PD = Protected deposits

3.4.1 Complaint handling and the ombudsman service

One-off costs

102. 16 out of the 32 Northern Ireland credit unions (50%) that responded to the survey informed us that they have existing formal complaint handling procedures in place. Therefore, we would not expect Northern Ireland credit unions with existing policies to face any significant one-off costs in ensuring that their existing complaints procedures comply with FSA rules in the Dispute Resolution: the complaints sourcebook (DISP). For Northern Ireland credit unions that do not have existing complaint handling procedures, we would not expect significant one-off costs as there should be little difference between the DISP requirements and good business practice in dealing with complaints, especially given the nature of the credit union sector.

One-off costs

103. Ongoing compliance costs include the levy paid to the ombudsman service, the costs of handling complaints and the cost of paying redress if a member makes a valid complaint. Northern Ireland credit unions would be liable to pay an annual levy (recent fees ranged from £50-£125) but, under current arrangements, would be exempt from paying case fees. As outlined in the Consultation Paper at paragraphs 5.39-5.40, even if the existing exemption from case fees were to be removed in the future, the likelihood of a Northern Ireland credit union incurring costs for case fees is low due to the infrequency of complaints against credit unions.
104. A summary of costs relating to complaints and the ombudsman service for all firms (rather than credit unions) is provided at Table 13.

Table 13: Complaints and the ombudsman service (costs based on FSA experience with all firms)

Type of compliance cost	One-off costs	Ongoing costs per firm each year
Biannual Annual complaints return	Minimal	Minimal for firms that have few (or no) complaints ¹⁴
Financial Ombudsman Service	Minimal	£460 (median) ¹⁵ administration per complaint considered by the ombudsman service; £500 case fee for the fourth and any subsequent cases ¹⁶ ; and £300 (average) ¹⁷ administration per complaint considered by the ombudsman service.

14 CP07/17 noted that 14,000 out of 18,564 firms (75%) reported nil returns in the second half of 2006, and of the 4,500 firms which reported complaints, almost 3,500 reported fewer than ten a year.

15 To inform CP10/21, we surveyed 159 firms of various sizes from different sectors and 85 firms responded.

16 The current case fees as at July 2011.

17 CP11/10 *Consumer complaints: the ombudsman award limit and changes to complaints-handling rules*, May 2011.
www.fsa.gov.uk/pubs/cp/cp11_10.pdf

4. Direct costs to the FSA

105. We expect that the transfer of regulatory responsibility for Northern Ireland credit unions will result in direct costs to the FSA of £2.2 to £2.7m. Costs will include internal staff costs and changes to the FSA's internal IT systems. The internal staffing element of the project covers the costs of the policy and consultation work required, updates to supervisory processes, staffing of the road shows in Northern Ireland, and the development of a Memorandum of Understanding with DETI. The expectation is that up to five FSA IT systems will need to be modified, with some possible regression testing of downstream systems. Additional supervisory staff will be needed on an ongoing basis in order to cope with the workload that the regulation of 177 additional firms will bring. We expect that the additional workload will be highest just after transfer as Northern Ireland credit unions adapt to the new regime.

5. Indirect impacts

106. Application of some CREDS rules would have an impact on the products provided by Northern Ireland credit unions. Table 14 below identifies possible impacts on the features, quantity, quality and variety of products offered by Northern Ireland credit unions.

Table 14: direct impacts on product features

<i>Type of product or service provided</i>	<i>Changes to product features as a result of the application of CREDS</i>	<i>Type of impact</i>	<i>Magnitude of impact</i>	<i>CBA section reference</i>
Juvenile deposits	No change	N/A	N/A	3.2.2
Share accounts	Reduced maximum shareholding limit (applies only to those credit unions with total shares below £1m).	Restricts choice for members that would have wanted to save more with their credit union; also reduces the maximum value of loan available to a member.	Minimal.	3.2.2
Share accounts	Joint share accounts will only be allowed to have two members.	Restricts choice for members.	Minimal	3.2.2
Share accounts	Cannot pay different dividend on share accounts.	Arguably, credit unions could widen the types of share accounts they offer by paying different dividends on different types of accounts.	Minimal	3.2.2

Loans	<p>Reduced duration of loan (version 1 – secured 10 years; version 2 – secured 25 years).</p> <p>Increased duration of a loan (version 2 – unsecured 10 years).</p> <p>No impact (version 1 – unsecured 5 years).</p>	<p>Some restricted choice for members, depending on the type of credit union (version 1 or 2) and whether the loan is secured or unsecured.</p> <p>Similarly, some increased choice for members.</p>	Some impact (see the relevant costs section).	3.2.5
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107. Some possible indirect impacts are described in this section:

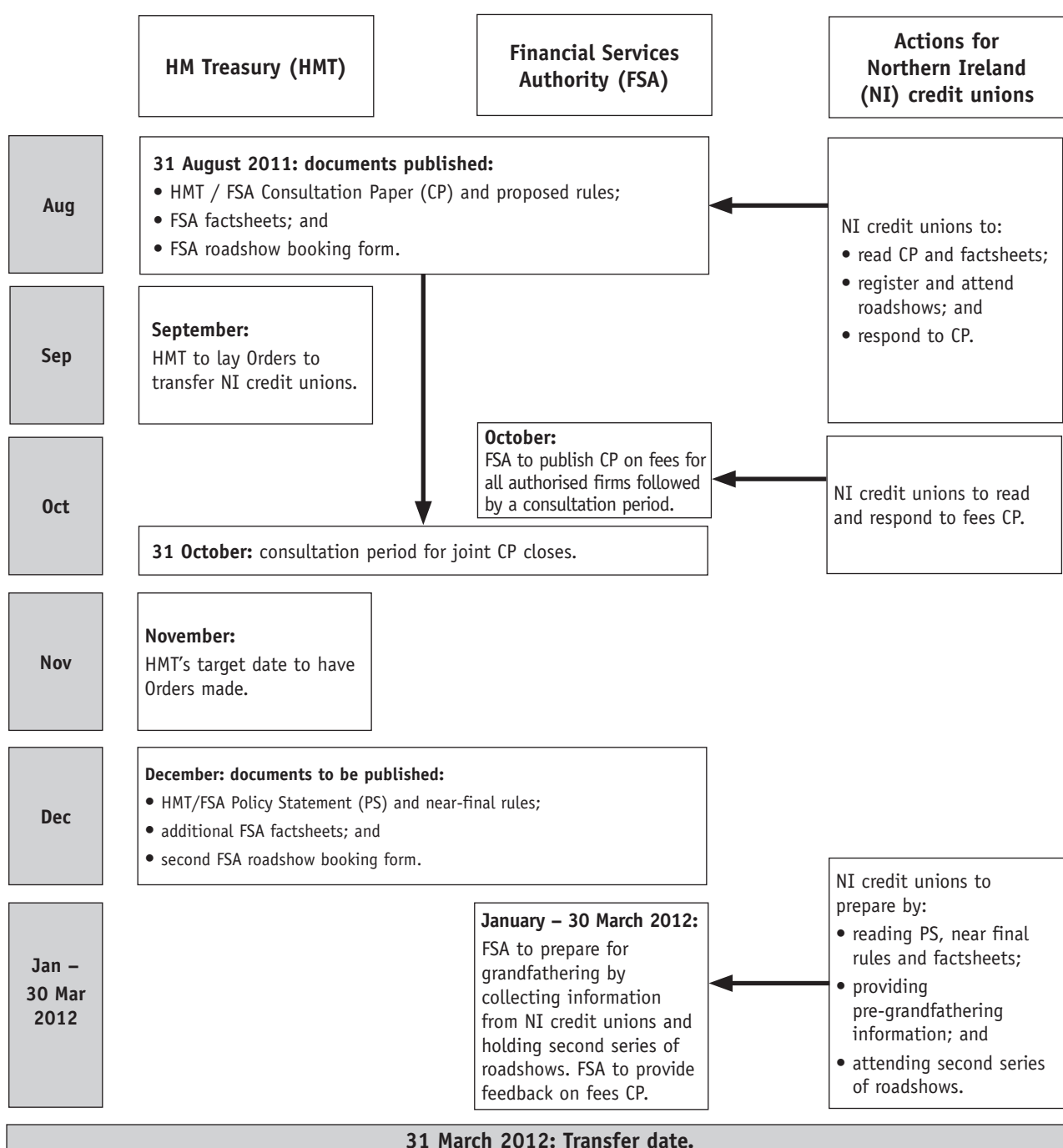
- As indicated in Table 14 and paragraphs 35-41 above, it is possible that implementing some of the CREDS rules may lead to a reduction in shareholding limits, which may decrease funds available for lending to members. However, this is unlikely to happen and if it does occur, the impact is likely to be minimal.
- The changes to product features outlined in Table 14, including the reduction in shareholding and lending limits, may affect the demand for Northern Ireland credit union products and services. These products and services may seem less attractive to members compared to products provided by other financial firms. However, as discussed above, the impact is not expected to be significant. Also, these impacts may be outweighed by the fact that Northern Ireland credit union share accounts may become more attractive because of the introduction of FSCS cover.
- A possible competition impact may arise from the fact that version 1 Northern Ireland credit unions will be more restricted than version 2 Northern Ireland credit unions in terms of products they will be allowed to provide. In particular, the maturity of loans that version 2 credit unions will be able to provide is longer. However, given that Northern Ireland credit unions largely serve local areas, it is unlikely that any impact on competition would be significant.
- While we think it unlikely, a minority of Northern Ireland credit unions may be unable or unwilling to continue in business as FSA-regulated firms. They may think that the gap between current requirements in Northern Ireland and the FSA Handbook requirements is too wide to bridge within a reasonable period, or would involve an investment of time and effort disproportionate to the benefit from the continued existence of their credit union. While some Northern Ireland credit unions may decide to close, leading to a loss of service, others are likely to look for opportunities to merge with one or more other credit unions in their area.

6. Benefits

108. The transfer of regulatory responsibility for Northern Ireland credit unions from DETI to the FSA will, as far as possible, lead to a single regime for the regulation of credit unions in the UK, bringing benefits for members of Northern Ireland credit unions. Northern Ireland credit unions will become participant firms in the FSCS and so will gain access to statutory compensation for their members in the event of failure. Northern Ireland credit unions will also fall within the compulsory jurisdiction of the ombudsman service which may be of benefit to members if they have a complaint about their credit union.

Annex 4

Timetable



Annex 5

Invitation to roadshows

Northern Ireland credit union roadshows

September – October 2011

Outline

At these free events we will discuss the changing regulatory environment, and what this means for credit unions in Northern Ireland in practical terms, when the responsibility for regulation transfers from the Department of Enterprise, Trade and Investment (DETI) to the Financial Services Authority (FSA).

We will help credit unions in Northern Ireland understand the proposals and recommendations set out in our consultation paper, enabling delegates to consider how best to respond to the consultation and to prepare for change.

Who should attend?

These events are aimed at credit unions in Northern Ireland and their trade associations.

Timings

17.00 – Registration

17.30–21.00 – Presentations, Q&A and networking

Dates & Locations

Tuesday 27 September – Stormont Hotel, 587 Upper Newtownards Road, Belfast BT4 3LP

Wednesday 28 September – Westville Hotel, 14-20 Tempo Road, Enniskillen, Co. Fermanagh BT74 6HR

Tuesday 4 October – Waterfoot Hotel, Caw Roundabout, Waterside, Londonderry BT47 6TB

Wednesday 5 October – Canal Court Hotel, Merchants Quay, Newry, Co. Down BT35 8HF

Thursday 6 October – Stormont Hotel, 587 Upper Newtownards Road, Belfast BT4 3LP

Fee

There is no charge for this event.

booking form

Delegate details

Title (Mr/Mrs/Ms etc)

First name

Last name

Role at credit union

Email

Special requirements

Credit union details

Credit union name

DETI registration number

Address

Post Code

Tel

Fee

There is no fee for this event

Northern Ireland credit union roadshows

September – October 2011

To book

1. Complete the delegate details section. Please note that due to limited places only two delegates per credit union should register to attend. Each delegate should complete a separate form.

You can make photocopies of this form.

2. Send booking form to:

Dave Octave
Event Organiser
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Tel: 020 7066 4754

- Please fax this form to 020 7066 4755; or email to eventsbooking@fsa.gov.uk

Confirmation

Once a place has been allocated to you we will write to confirm the date and receipt of your booking.

We reserve the right to alter the programme.

Please indicate your preferences from the dates below by writing 1 and 2 for your first and second choice.

Tuesday 27 September

Stormont Hotel – Belfast

Wednesday 28 September

Westville Hotel – Enniskillen

Tuesday 4 October

Waterfoot Hotel – Londonderry

Wednesday 5 October

Canal Court Hotel – Newry

Thursday 6 October

Stormont Hotel – Belfast

DATA PROTECTION

The personal information provided by you will be held on an Events database so we can send you information on future conferences, workshops, e-learning and related correspondence. The information will only be used for the purposes for which it was supplied.

If you would not like to receive information on future events, please tick here

How did you find out about this conference?

- FSA Website FSA Mailing DETI
 Trade Associations

Other – please specify

Annex 6

Summary of draft legislative material

1. As outlined in Chapter 3, the Treasury proposes legislative measures to transfer regulatory responsibility for Northern Ireland credit unions to the FSA. The proposals are summarised in this Annex.

The Permission Order

Permission

2. On 31 March 2012, Northern Ireland credit unions will automatically receive a Part IV permission to accept deposits under FSMA without having to make a new application to the FSA to obtain permission. This is the effect of Article 2 of the Permission Order. This is subject to the proviso that where a credit union has a restriction on its operations imposed on it by DETI under Article 59 of the 1985 Order before 31 March 2012, that restriction will continue to have effect. This is the effect of Article 3.

Approved persons

3. Secondly, all persons performing ‘controlled functions’ in Northern Ireland credit unions (except those that are undischarged bankrupts or have convictions for fraud or dishonesty) will automatically be considered to have been approved by the FSA for the purposes of section 59 of FSMA without new applications for approval having to be made for them. This is the effect of Article 4.

Directions to reapply

4. The FSA will be given transitional powers in Articles 5 and 6 which it may exercise at any time between 31 December 2011 and 31 March 2014.

5. Under Article 5 of the Permission Order, the FSA may direct a named (or class of) Northern Ireland credit union to apply, by a given date, to the FSA under section 40 of FSMA for a fresh permission to accept deposits under Part IV of FSMA. There are then three possible scenarios:
- If the credit union(s) does not make a fresh application, the FSA may exercise some of the powers available to it. It may, for example, vary the permission of that credit union (e.g. by preventing it from accepting new deposits).
 - If a credit union makes a fresh application and it is refused, the permission given by Article 2 ends on the date specified by the FSA, or when that decision is no longer open to review. This allows a credit union to challenge the decision in the Upper Tribunal if it wishes.
 - If a credit union makes a fresh application and it is granted, the new permission has effect in place of the permission automatically given to the credit union by Article 2.
6. Similar provisions exist in Article 6 enabling the FSA to require credit unions to apply for approved person status for individuals performing controlled functions.

Timing

7. It is important to note that even where the FSA makes a direction before the new regime begins on 31 March 2012, that direction does not have effect until that date. It follows that the earliest a direction can have effect is 31 March 2012, and the earliest a Northern Ireland credit union may be required to comply with it is 30 June 2012.

Pre-commencement

8. A pre-commencement period will run from 31 December 2011 to 30 March 2012. This period is to ensure a smooth transition. During this period, the FSA will be able to do things early under FSMA, which they otherwise would not be able to do until 31 March 2012. So, for example, the FSA will be empowered to require Northern Ireland credit unions to provide it with information or documents and appoint persons to carry out general investigations into their affairs as if they were authorised persons. These are powers that the FSA will have in any event from 31 March 2012. Article 9 simply provides for these powers to start three months earlier to allow the FSA and Northern Ireland credit unions to prepare for grandfathering.
9. Article 10 contains a transitional provision which allows DETI to share information with the FSA in the run up to the pre-commencement period until 31 March 2012, from which date Article 2A is amended to the same effect.

The Consequential Order

Amendments to banking legislation

10. These amendments are technical changes that preserve the position of Northern Ireland credit unions under the Banking Act 2009 and the Dormant Bank and Building Society Accounts Act 2008. They are necessary because Northern Ireland credit unions will cease to be exempt from the general prohibition in FSMA.

Substantive amendments to the 1985 Order

11. *Article 2A (the registrar)*. These amendments require DETI to work and share information with the FSA. This is important because DETI will be performing its registrar function for Northern Ireland credit unions while the FSA is performing its regulatory function. DETI is specifically empowered to share information with the FSA for this purpose, although we believe implied powers also exist.
12. *Article 3 (registration)*. Two new conditions are added to the existing registration conditions for new Northern Ireland credit unions which form after 31 March 2012: the new credit union must have applied for a Part IV permission to accept deposits under FSMA, and the FSA must have confirmed to DETI that the credit union will satisfy the threshold conditions in Schedule 6 to FSMA. These mirror amendments made for credit unions in Great Britain when they were brought under FSMA in 2002. DETI must not issue an acknowledgement of registration until the FSA has confirmed to DETI that it proposes to give the new credit union a Part IV permission
13. *Article 8 (rules)*. A new provision is included to the effect that the rules of a Northern Ireland credit union must not be inconsistent with FSMA or any FSA Rules or requirements imposed by the FSA.
14. *Article 13 (membership of a credit union)*. These changes remove the current limit of 10,000 on the maximum number of members a Northern Ireland credit union may have and DETI's power to change the maximum and minimum. The minimum of 21 persons remains. The Statutory Rules changing the limits will also be repealed.
15. *Article 14 (membership and voting rights)*. These changes remove the limit on the interest in the shares of a Northern Ireland credit union that a member may have (£15,000 or 1.5% of the total shareholdings in the credit union), DETI's power to alter those figures, and two related provisions. The Statutory Rules changing the limits will also be repealed. The new limit of £10,000 will be contained in FSA rules: CREDS 4.2.1 (with a transitional exemption for limits over that amount).
16. *Article 22 (restriction on business of a credit union) is removed*. This Article provides that a Northern Ireland credit union should not carry on any business or activity other than that appropriate to the objects set out in Article 3(3). In practice, its removal is not thought

likely to have a significant effect because it adds little to Article 3(3) (the objects of a credit union), which will remain. In relation to credit unions in Great Britain, the FSA tends to take the view that they are restricted to activities that further their objects.

17. *Article 24 (prohibition on carrying on banking) is removed.* It duplicates the general prohibition in section 19 of FSMA not to conduct regulated activities unless authorised.
18. *Article 25 (prohibition on deposit-taking).* The content of (2) is moved to Article 2(2A) of the 1985 Order. The criminal offence in (4) is removed. The FSA expects (1) (which is to remain) to operate in the same way as section 8(1) of the 1979 Act, in that it serves in practice to categorise undefined receipts as 'shares'. As the CREDS rules mirror section 8(1), a breach of (1) will, in future, involve a breach of CREDS 4.3.1 and the FSA could take action for breach of the rules. (5) is removed because it duplicates provision made in FSMA.
19. *Article 26 (minors' deposits).* The limit of £10,000 on deposits which a Northern Ireland credit union may take from minors is removed but the limit will in future be found in FSA rules: CREDS 4.3.1. The requirements on Northern Ireland credit unions in (2) and (3) to hold these funds in a separate fund, apart from the general funds and invested in specified investments, are removed. This change is deregulatory, as credit unions will no longer be required to keep these funds separate, although could still choose to. Minors' deposits will be covered by the FSCS in the event of a default. Consequential changes are also made to Articles 42 and 49 because Northern Ireland credit unions will no longer be required to account for these funds separately.
20. *Article 27 (power to borrow money).* The existing restrictions on how Northern Ireland credit unions may borrow money are removed and they are simply empowered to borrow money. FSA rules will set the limits on borrowing, both in terms of who a Northern Ireland credit union may borrow from, and how much. So, for example, they will be prevented from borrowing from individuals except for the purpose of raising subordinated debt as a form of capital. The Rules are at CREDS 3.3.
21. *Article 28 (loans by credit unions).* (1) is revised and simplified, and (5) (the interest rate) remains unchanged. (2), (4) and (6) are repealed but equivalent provisions will be made in FSA rules: CREDS 7.3. These changes mirror those made for credit unions in Great Britain in 2002.
22. *Articles 28B, 28C and 28D (certificates of approval).* These regulatory provisions are removed. Instead Northern Ireland credit unions will be designated version 1 or version 2 credit unions, and limits on their ability to lend included in FSA rules or their Part IV permissions. These changes mirror those made for credit unions in Great Britain in 2002.
23. *Article 31 (charges on assets).* DETI will continue to receive applications to record charges but will be required to send the instrument and acknowledgement to the FSA. In practice, very few charges are registered.

24. *Article 32 (land). (3) and (4) are repealed.* The effect of this is that Northern Ireland credit unions will not be required to sell land as soon as is practicable once they acquire some (for example by foreclosure). However, FSA rules will prohibit the holding of land as an investment: CREDS 3.2. The associated offence provision is also repealed. These changes mirror those made for credit unions in Great Britain in 2002.
25. *Article 33 (investments) is repealed.* The types of investment that a Northern Ireland credit union may invest in will be contained in FSA rules instead: CREDS 3.2. The Statutory Rules detailing these investments will also be repealed. These changes mirror those made for credit unions in Great Britain in 2002.
26. *Article 36 (computation and application of surplus).* Those parts of this Article that relate to the computation of profits are repealed and will be found in FSA Rules: CREDS 5.3. However, (3) will be retained in its substance because it concerns the application of surpluses and, in particular, the power to apply a percentage of surplus for social, cultural or charitable purposes. There is no equivalent provision in the Credit Unions Act 1979.
27. *Article 37 (insurance against fraud or other dishonesty) is repealed* as equivalent provisions are made in FSA Rules: CREDS 4.4. The Statutory Rules detailing these provisions will also be repealed. These changes mirror those made for credit unions in Great Britain in 2002.
28. *Article 38 (guarantee funds).* Because, from 31 March 2012, members of authorised credit unions in Northern Ireland will be eligible for compensation under the FSCS in the event of a default, the requirement for similar arrangements to be approved by the registrar under (3) is unnecessary. The power of Northern Ireland credit unions to enter into voluntary arrangements if they elect to do so will continue.
29. *Article 39 (prohibition on undischarged bankrupts) is repealed* because similar provisions are contained in FSMA.
30. *Article 49 (annual returns).* From 31 March 2012 there will be a new Article 49. This is similar to the current Article 49 but will provide flexibility to Northern Ireland credit unions to change their year ends from 30 September to another date by sending a notice to the FSA. Minimal returns comprising mainly audited accounts will still be required to be sent to DETI. FSA rules will require FSA regulatory returns (including the audited accounts sent to DETI) to be sent to the FSA: SUP 16.3, SUP 16.12 and CREDS 8.2. A consequential amendment is made to Article 70(5).
31. *Article 50 (display of balance sheet).* The obligation to display the balance sheet in the registered office is removed.
32. *Article 53 (duty on receiver or manager).* A receiver or manager of a Northern Ireland credit union's property will be required to notify the FSA of their appointment within one month.
33. *Article 57 (provision of information to the registrar).* DETI will no longer need the power to require Northern Ireland credit unions to furnish it with documents and information, and the

FSA has equivalent powers under FSMA. The equivalent provision – section 17(2) of the 1979 Act - was omitted for credit unions in Great Britain in 2002.

34. *Article 59 & Schedule 3 (suspension of operations)*. DETI's power to suspend the operations of a Northern Ireland credit union will not be required as the FSA has similar powers in sections 43 and 45 of FSMA to vary a credit union's permission.
35. *Articles 60, 61 and 63 (suspension and cancellation of registration, and petitions for winding up)*. In all three cases, these will now need the consent of the FSA. The FSA also has a power under FSMA to petition for a winding up.
36. *Article 62 (appeals)*. The amendments to the appeals provisions will not allow a Northern Ireland credit union to appeal against a decision of DETI to refuse to register a credit union where the credit union has not applied for permission under Part IV of FSMA or because the FSA has not confirmed that it satisfies the threshold conditions. In the latter case, the credit union will have its avenues of appeal under FSMA.
37. *Article 65 and 66 (amalgamations and transfers)*. Amalgamations of two credit unions and transfers of engagements between credit unions will now require the FSA to confirm to DETI that the amalgamation or transfer would not, in its opinion, breach FSMA or rules or requirements made under it.
38. *Article 72 (disputes)*. These amendments allow members to raise complaints to the ombudsman service. Parties to a dispute will only be able to refer it to DETI to hear and determine (under the old procedure) if the complaint is not eligible to be dealt with under the ombudsman service (unless the rules of that credit union forbid it).

The Money Laundering (Amendment) Regulations 2011

39. DETI currently has supervisory responsibility for Northern Ireland credit unions under the Money Laundering Regulations 2007. This has required DETI to supervise Northern Ireland credit unions to ensure that they are complying with the obligations that those Regulations and the Proceeds of Crimes Act 2002 impose on financial institutions. Because this function is ancillary to DETI's regulatory function, it makes sense for it also to transfer to the FSA when the FSA assumes responsibility for the regulation of Northern Ireland credit unions. The FSA is currently the anti-money laundering supervisor for credit unions in Great Britain and all other persons authorised under the FSMA.

The Terrorist Asset-Freezing etc. Act 2010 (Commencement) Order 2011

40. DETI currently is the enforcement authority for Northern Ireland credit unions under Schedule 7 to the Counter-Terrorism Act 2008 which allows the Treasury to issue directions

where, for example, the Financial Action Task Force has advised that counter-measures should be taken against a country. Schedule 7 requires DETI to ensure that Northern Ireland credit unions comply with directions made under that Schedule and take enforcement action where they do not. Because this function is ancillary to DETI's regulatory function, and is closely connected to its Anti-Money Laundering role, it makes sense for it also to transfer to the FSA when the FSA assumes responsibility for the regulation of Northern Ireland credit unions. The FSA is currently the enforcement authority for Great Britain credit unions and all other authorised persons.

Annex 7

Draft legislative material

DRAFT STATUTORY INSTRUMENTS

2011 No.

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000 (Exemption)
(Amendment No. 2) Order 2011**

Made - - - - *date*
Coming into force - - *31st March 2012*

This Order contains a provision removing an exemption provided by an earlier Order(a) made under section 38 of the Financial Services and Markets Act 2000(b);

A draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 429(3) and (5) of that Act;

The Treasury make the following Order in exercise of the powers conferred on them by sections 38 and 428(3) of that Act:

Citation and commencement

1. This Order may be cited as the Financial Services and Markets Act 2000 (Exemption) (Amendment No. 2) Order 2011 and comes into force on 31st March 2012.

Amendment of the Financial Services and Markets 2000 (Exemption) Order 2001

2.—(1) The Financial Services and Markets Act 2000 (Exemption) Order 2001(c) is amended as follows.

(2) In Part 2 of the Schedule to the Order (persons exempt in respect of accepting deposits), paragraph 24A(d) is revoked.

Review

3.—(1) Before the end of each review period, the Treasury must—

- (a) carry out a review of the effect of article 2(2),
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(a) S.I. 2001/1201, amended by S.I. 2001/3623; there are other amending instruments but none is relevant to this Order.
(b) 2000 c.8.
(c) S.I. 2001/1201, amended by S.I. 2001/3623; there are other amending instruments but none is relevant to this Order.
(d) Paragraph 24A was inserted by S.I. 2001/3623 with effect from 1 December 2001.

- (2) The report must in particular—
- (a) set out the objectives intended to be achieved by article 2(2),
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) “Review period” means—

- (a) the period of five years beginning with 31st March 2012, and
- (b) subject to paragraph (5), each successive period of five years.

(4) If a report under this article is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

Date

Name
Name
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services and Markets Act 2000 (Exemption) Order 2001 (S.I. 2001/1201) (“the Exemption Order”).

The Exemption Order exempts certain persons from the general prohibition set out in section 19 of the Financial Services and Markets Act 2000 (c. 8), which provides that no person may carry on a regulated activity within the UK unless he is an authorised person or an exempt person. Regulated activities are activities of a kind specified by the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (“the Regulated Activities Order”) which are carried on by way of business. The persons listed in Part 2 of the Schedule to the Exemption Order are exempt from the general prohibition in respect of accepting deposits within the meaning of article 5 of the Regulated Activities Order.

Article 2 revokes paragraph 24A in Part 2 of the Schedule to the Exemption Order, which created an exemption from the general prohibition in respect of accepting deposits for credit unions within the meaning of the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205), so that from 31st March 2012 Northern Irish credit unions will need to be authorised by the Financial Services Authority under Part 4 of the Financial Services and Markets Act 2000, and the regulatory system established by that Act will apply to them.

Article 3 requires the Treasury to review the effect of this Order and publish a report by 31st March 2017 and within every five years after that. Following a review it will fall to the Treasury to reconsider the regulatory status of Northern Ireland credit unions. A further instrument would be needed to amend the Exemption Order and make consequential and transitional provisions.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Mutuels Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is annexed to the Explanatory Memorandum which is available alongside the instrument on legislation.gov.uk.

2011 No. XXXX

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Permission and Applications) (Northern Ireland Credit Unions) Order 2011

<i>Made</i>	- - - -	<i>X October 2011</i>
<i>Laid before Parliament</i>		<i>X October 2011</i>
<i>Coming into force</i>		
<i>for the purposes of articles 1 and 10</i>		<i>November 2011</i>
<i>for the purposes of articles 5, 6, 7, 8 and 9</i>		<i>31st December 2011</i>
<i>for all other purposes</i>		<i>31st March 2012</i>

The Treasury, in exercise of the powers conferred by sections 426 to 428 of the Financial Services and Markets Act 2000(a), make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act (Permission and Applications) (Northern Ireland Credit Unions) Order 2011.

(2) This Order comes into force on—

- (a) [...] November 2011 for the purposes of this article and article 10;
- (b) 31st December 2011 for the purposes of articles 5 to 9; and
- (c) on 31st March 2012 for all other purposes.

(3) In this Order—

“the 1985 Order” means the Credit Unions (Northern Ireland) Order 1985(b);

“the Act” means the Financial Services and Markets Act 2000;

“the Authority” means the Financial Services Authority;

“commencement” means the beginning of 31st March 2012;

“credit union” means a society registered under the 1985 Order or a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969(c) as a credit union;

“deposit” has the meaning given by article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(d);

“Part 4 permission” has the meaning given in section 40(4) of the Act;

(a) 2000 c. 8.

(b) S.I. 1205/1985 (N.I. 12).

(c) 1969 c. 24 (N.I.).

(d) S.I. 2001/544; article 5 was amended by S.I. 2002/682, article 3(1).

“unauthorised credit union” means a credit union which immediately before commencement is not an authorised person.

Credit unions registered at commencement

2.—(1) An unauthorised credit union is to be treated as having, at commencement, a Part 4 permission to accept deposits by way of subscription for its shares or from a person who is under the age at which they may become a member of the credit union by virtue of Article 15 of the 1985 Order.

(2) The permission acquired by virtue of paragraph (1) is subject to any requirement imposed by virtue of article 3(1).

Effect of restrictions and prohibitions under the 1985 Order

3.—(1) Where immediately before commencement an unauthorised credit union was subject to a direction under Article 59 of the 1985 Order, that direction has effect after commencement as if it were a requirement imposed on that credit union under section 43 of the Act (imposition of requirements).

(2) For the purposes of rules and guidance made prior to commencement by the Authority under Part 10 of the Act (rules and guidance) that relate to credit unions(a), a credit union which, immediately before commencement—

- (a) did not hold a certificate under Article 28C of the 1985 Order(b) is to be treated from commencement as a version 1 credit union for the purposes of the Credit Union Sourcebook(c);
- (b) held a certificate under that Article is to be treated from commencement as a version 2 credit union for the purposes of the Credit Union Sourcebook.

Approved persons

4.—(1) Where, at commencement, a person (“P”) is performing a function for an unauthorised credit union under an arrangement entered into by that credit union or by a contractor of that credit union, then if P’s continued performance of that function after commencement would, but for this article, require the approval of the Authority under section 59(1) or (2) of the Act (approval), then that continued performance by P of that function after commencement is to be taken to have been approved by the Authority for the purposes of section 59 of the Act.

(2) Paragraph (1) does not apply if P performs a function by virtue of the fact that P holds or has held an office in a credit union and, immediately before commencement, P was ineligible by virtue of Article 39 of the 1985 Order to hold that office.

Requirement to reapply for Part 4 permission

5.—(1) At any time on or before 31st March 2014, the Authority may give a direction under this article to a named unauthorised credit union or a specified class of unauthorised credit unions.

(2) A direction under this article is a direction that each credit union named or falling within the specified class must, before a date so specified, apply to the Authority under section 40 of the Act for permission to carry on the regulated activities which it wishes to carry on.

(3) Section 40(2) of the Act does not apply in relation to an application made in pursuance of the direction.

(a) See the Authority’s Handbook.

(b) S.I. 1205/1985 (N.I. 12); Article 28C was inserted by S.I. 1997/2984 (N.I. 22), Article 3, Schedule 1.

(c) The Credit Unions Sourcebook, which forms part of the Authority’s Handbook, is available at <http://fsahandbook.info/FSA/html/handbook/CREDS>.

(4) If a credit union fails to comply with the direction, the Authority must consider whether to exercise the power in section 45 of the Act (variation etc. on the Authority's own initiative)(a) and, for this purpose, section 45(1) applies as if there was added after sub-paragraph (c)—

i; or

(d) the person has failed to comply with a direction given by the Authority under article 5(1) of the Financial Services and Markets Act 2000 (Permission and Applications) (Northern Ireland Credit Unions) Order 2011ⁱ.

(5) If a credit union complies with the direction but the application which it makes pursuant to it is refused, its Part 4 permission ceases to have effect on such date as the Authority may in its decision notice specify or, if no date is specified, when the matter is no longer open to review.

(6) If a credit union complies with the direction and the Authority gives it a Part 4 permission, that permission has effect on such date as may be specified in the Authority's written notice in place of the Part 4 permission which the credit union had by virtue of article 2.

(7) For the purposes of this article and article 6, whether a matter is open to review is to be determined in accordance with section 391(8) of the Act.

(8) A direction given under this article or article 6 before commencement has effect on commencement.

Requirement to reapply for approved person status

6.—(1) At any time on or before 31st March 2014, the Authority may give a direction under this article to a named unauthorised credit union or a specified class of unauthorised credit unions.

(2) A direction under this article is a direction that each credit union named or falling within the specified class must, before a date so specified, apply to the Authority under section 60 of the Act (applications for approval) for approval under section 59(1) or (2) of the Act in relation to the performance by P of the function.

(3) If a credit union fails to comply with the direction, the Authority must consider whether to exercise the power in section 63(1) of the Act (withdrawal of approval) to withdraw the approval P is taken to have by virtue of article 4(1), and for this purpose, section 63 applies as if for "given under section 59" there is substituted "taken to have been given under section 59 by virtue of article 4(1) of the Financial Services and Markets Act 2000 (Permission and Applications) (Northern Ireland Credit Unions) Order 2011".

(4) If a credit union complies with the direction but the application which it makes in pursuance of it is refused, P's performance of the function ceases to be taken to have been approved by the Authority on such date as the Authority may in its decision notice specify or, if no date is specified, when the matter is no longer open to review.

(5) If a credit union complies with the direction and in response to its application the Authority approves the performance by P of the controlled function, that approval has effect on such date as may be specified in the Authority's written notice in place of the approval which the credit union was taken to have by virtue of article 4(1).

(6) In this article "P" is the person defined as such in article 4(1).

Requirements to reapply: procedure

7.—(1) A direction given under article 5 or 6 must state the reasons why it has been given to the named credit union or specified class of credit unions.

(2) The date specified in a direction under article 5(2) or 6(2) must be such as to allow a reasonable time for compliance, and in any event must fall after the end of three months beginning with the date when the direction has effect.

(a) Section 45 was amended by the Financial Services Act 2010 (c.28), section 3(1) and (3) and S.I. 2007/126.

(3) If the Authority gives a direction under article 5 or 6, it must as soon as practicable, and in any event not later than the due date, give a copy to each named credit union and to each credit union which falls, or which it considers may on the due date, fall within the specified class of credit unions.

(4) If the Authority fails to give a copy of the direction to a credit union by the due date, the direction does not apply to it (and therefore articles 5(4) and 6(3) do not apply to it) but if the Authority gives it a copy of the direction after the due date, the direction has effect in relation to that credit union as if the date specified under article 5(2) or 6(2) were three months after the date on which the copy was given to that credit union, and the copy must indicate that fact.

(5) In this article, “due date” means the date three months before the date specified in a direction.

(6) Any failure by the Authority to comply with paragraph (3) does not invalidate the direction in relation to any credit union to which a copy is given in accordance with that paragraph.

Pre-commencement applications etc.

8.—(1) The following provisions apply until commencement.

(2) In sections 44 (variation etc at request of authorised person)(a), 45 (except subsections (1)(b), (2A) or (2B)), 46 (variation of permission on acquisition of control), 47 (exercise of power in support of overseas regulator), 48 (prohibitions and restrictions), 49(1) (persons connected with an applicant), 51 (except subsection (1)) (applications), 52 (determination of applications), 53 (exercise of own-initiative power: procedure), 54 (cancellation of Part 4 permission: procedure) and 55 (references to the Tribunal), sections 56 to 58 (prohibition orders), sections 60 to 63 and section 148 (modification or waiver of rules)(b)—

- (a) the references to an authorised person are to be read as including a reference to an unauthorised credit union;
- (b) the references to a Part 4 permission are to be read as including a reference to the Part 4 permission which an unauthorised credit union will be treated as having at commencement by virtue of article 2; and
- (c) the references to the Authority’s approval under section 59 are to be read as including a reference to the approval which a person will be taken to have by virtue of article 4.

(3) Nothing done under the Act by virtue of paragraph (2) (including the determination of any application) may come into force or have any effect before commencement.

Information gathering and investigations

9.—(1) Sections 165 (Authority’s power to require information)(c) and 167 (general investigations)(d) of the Act have effect until commencement as if—

- (a) each reference to an authorised person (except for the references in subsections 165(7)(b) and (8)) included a reference to a credit union;
- (b) the reference in section 165(4) to functions conferred on the Authority by or under the Act included a reference to functions conferred by or under the Act which the Authority has reasonable grounds to believe will be exercisable by it at commencement.

(2) In determining whether a person is connected with a credit union under section 165(11) of the Act, Part 1 of Schedule 15 to the Act has effect as if each reference to an authorised person were a reference to a credit union.

(3) At commencement—

(a) Section 44(3) was substituted by the Financial Services Act 2010, section 3(1) and (2).
(b) Section 148 was amended by S.I. 2007/1973.
(c) Section 165 was amended by the Financial Services Act 2010, section 24(1) and (2), Schedule 2, Part 1, paragraphs 1 and 15.
(d) Section 167 was amended by S.I. 2007/126.

- (a) any requirement imposed under section 165, 171(1) or (2) or 175(1) of the Act ceases to have effect if it could not be imposed under that enactment immediately after commencement;
- (b) any requirement imposed under section 175(2) or (3) of the Act ceases to have effect if the requirement pursuant to which the supplementary requirement was imposed ceases to have effect at commencement by virtue of sub-paragraph (a) (and no such supplementary requirement may be imposed thereafter); and
- (c) no action may be taken or continued under or pursuant to the Act in relation to any requirement which ceases to have effect by virtue of this paragraph.

Information sharing by the registrar

10.—(1) Until commencement Article 2A of the 1985 Order (the registrar and assistant registrar)(a) is amended as follows.

(2) After Article 2A(3) insert—

ï(4) The registrar may share with the Financial Services Authority any information held or obtained by the registrar relating to credit unions which that Authority might reasonably require for the performance by it of any function relating to credit unions which that Authority exercises or has reasonable grounds to believe will be exercisable by it [on 31st March 2012].î.

	<i>Name</i>
	<i>Name</i>
Date	Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out the transitional provisions relating to the revocation, on 31st March 2012, of the exemption for Northern Ireland credit unions from the general prohibition imposed by section 19 of the Financial Services and Markets Act 2000 (c.8) (“the Act”).

Article 2 provides that all credit unions which are not authorised persons (“unauthorised credit unions”) are to be treated, at 31st March 2012 (“commencement”), as having permission under Part 4 of the Act to accept deposits by way of subscription for their shares or from a minor. Article 3 provides that restrictions or prohibitions imposed on a credit union before commencement under Article 59 of the Credit Unions (Northern Ireland) Order 1985 have effect from commencement as if they were requirements imposed under section 43 of the Act and provides for how credit unions should be categorised under the Financial Services Authority’s Handbook. Article 4 provides that where, at commencement, a person is performing a controlled function for an unauthorised credit union, the continued performance of the function by that person after commencement is to be taken to have been approved by the Authority for the purposes of section 59.

Article 5 enables the Authority to require credit unions of a specified description to reapply for permission. The Authority may impose such a requirement before commencement but the requirement does not have effect until commencement. Article 6 enables the Authority to require credit unions of a specified description to reapply for the Authority’s approval under section 59 in respect of the performance by a person of a controlled function. Article 7 sets out procedural provisions that relate to these requirements.

Article 8 enables credit unions from 31st December 2011 (“applications day”) to apply for a variation of a requirement to which they will, by virtue of article 5, be subject from commencement. Applications may also be made for approval of persons who will, after commencement, be subject to the regime established under Part 5 of the Act (approved persons). The Authority may also initiate action under section 45 of the Act (exercise of own initiative

(a) Article 2A was inserted by the Friendly Societies Act 1992 (c.40), section 120, Sch 21, Part 2, para 29.

powers) or section 56 (prohibition orders) from applications day but nothing done under the Act by virtue of this article takes effect before commencement.

Article 9 enables the Authority, from applications day, to exercise its powers under section 165 of the Act (information gathering) in relation to those credit unions which it has reasonable grounds to believe will be authorised persons at commencement.

Article 10 amends the 1985 Order before commencement expressly to permit the registrar to share information relating to credit unions with the Financial Services Authority.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Mutuels Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is published with the Explanatory Memorandum alongside the instrument on legislation.gov.uk.

2011 No.

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000 (Consequential
Amendments and Transitional Provisions) (Northern Ireland
Credit Unions) Order 2011**

<i>Made</i>	- - - -	<i>ber 2011</i>
<i>Laid before Parliament</i>		<i>ber 2011</i>
<i>Coming into force</i>	- -	<i>ber 2011</i>

The Treasury, in exercise of the powers conferred by sections 426 to 428 of the Financial Services and Markets Act 2000(a), make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Consequential Amendments and Transitional Provisions) (Northern Ireland Credit Unions) Order 2011 and comes into force on 31st March 2012.

(2) In this Order—

“the 1985 Order” means the Credit Unions (Northern Ireland) Order 1985(b);

“the Act” means the Financial Services and Markets Act 2000;

“commencement” means the beginning of 31st March 2012;

“credit union” means a society registered under the 1985 Order or a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969(c) as a credit union.

Amendments to banking legislation

2.—(1) In section 7(5) of the Dormant Bank and Building Society Accounts Act 2008(d), for the definition of “credit union”, substitute—

“credit union” means a credit union within the meaning of section 31(1) of the Credit Unions Act 1979 or a credit union within the meaning of Article 2(2) of the Credit Unions (Northern Ireland) Order 1985;¹

(2) In section 2(2)(b) of the Banking Act 2009(e), after “Credit Unions Act 1979”, insert “or a credit union within the meaning of Article 2(2) of the Credit Unions (Northern Ireland) Order 1985”.

(a) 2000 c. 8. Section 427 was amended by the Enterprise Act 2002, section 278(1), Sch 25, para 40(1) and (18).

(b) S.I. 1985/1205 (N.I. 12).

(c) 1969 c. 24. (N.I.).

(d) 2008 c. 31.

(e) 2009 c. 1.

Amendments to the 1985 Order

3.—(1) Subject to the transitional provision made by article 5 of this Order, the 1985 Order is amended as follows.

(2) In Article 2 (interpretation) insert at the appropriate place—

i“the 2000 Act” means the Financial Services and Markets Act 2000;î

i“the Authority” means the Financial Services Authority;î

(3) In Article 2(2A)(a) for “Sub-paragraphs” substitute “In this Order, references to a deposit or accepting deposits and sub-paragraphs”.

(4) After paragraph (3) of Article 2A (the registrar and assistant registrar)(b) insert—

i(4) In the exercise of the registrar’s functions under this Order, the registrar must cooperate with the Authority in the exercise by the Authority of any of its functions in relation to credit unions.

(5) The registrar may share with the Authority any information obtained by the registrar relating to credit unions which the Authority might reasonably require for the purpose of the performance of any of its functions in relation to credit unions.î

(5) In Article 3(1) (registration)—

(a) for “Articles 13, 24(1) and 37(1)”, substitute “Article 13”;

(b) omit the word “and” immediately before sub-paragraph (c); and

(c) after sub-paragraph (c), insert—

i(d) the society has made an application to the Authority for Part IV permission under section 40 of the 2000 Act to accept deposits; and

(e) the Authority has confirmed to the registrar that the Authority is satisfied that, once registered under this Order, the society will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 to the 2000 Act in relation to the regulated activity of accepting deposits.î

(6) After Article 4(2) (supplementary provisions as to registration), insert—

i(2A) The registrar must not issue an acknowledgement of registration under paragraph (2) unless the Authority has confirmed to the registrar that it proposes to give the society permission under Part IV of the 2000 Act to accept deposits.î

(7) After Article 8(1) (rules) insert—

i(1A) The rules of a credit union must not be inconsistent with the 2000 Act or any rules made or any requirements imposed by or under that Act.î

(8) Omit paragraphs (2) to (5) of Article 13 (minimum and maximum number of members).

(9) Omit paragraphs (3) to (4A)(c) and (10) of Article 14 (membership and voting rights).

(10) Omit Article 22 (restriction on business of credit union).

(11) Omit Article 24 (prohibition on carrying on banking).

(12) In Article 25 (prohibition on deposit-taking), omit paragraphs (2)(d), (4) and (5).

(13) In Article 26 (deposits by persons too young to be members)—

(a) in paragraph (1) omit “up to a total of £10,000”; and

(b) omit paragraphs (2) to (9).

(14) In Article 27 (power to borrow money)—

(a) in paragraph (1), omit the words from “temporarily” to the end of that paragraph; and

(a) Article 2(2A) was inserted by S.I. 2002/1555. There are other amendments to Article 2 not relevant to this Order.

(b) Article 2A was inserted by the Friendly Societies Act 1992 (c.40), section 120, Sch 21, Part 2, para 29.

(c) Article 14(4A) was inserted by S.I. 1997/2984 (N.I. 22).

(d) Article 25(2) was inserted by S.I. 2002/1555.

- (b) omit paragraphs (2) to (6).
- (15) In Article 28 (loans by credit unions)—
 - (a) for paragraph (1) substitute—
 - i(1) A credit union may make to a member a loan, upon such security (or without security) and terms as the rules of the credit unions may provide.î; and
 - (b) omit paragraphs (2), (4)(a) and (6).
- (16) Omit Articles 28B (loans by approved credit unions), 28C (grant of certificates of approval) and 28D (withdrawal of certificates of approval)(b).
- (17) In Article 31(3) (charges on assets of credit unions), omit the word “and” immediately before sub-paragraph (b) and insert after that sub-paragraph—
 - and
 - (c) that copies of the instrument included in such an application, the note of any prescribed particulars so included, and the acknowledgement of the application issued are sent to the Authority;î.
- (18) Omit paragraphs (3) and (4) of Article 32 (holding of land).
- (19) Omit Article 33 (investments).
- (20) In Article 36 (computation and application of surplus) (the title to which becomes “Application of surplus”)—
 - (a) omit paragraphs (1) and (2), and (6) and (7);
 - (b) for paragraph (3) substitute—
 - i(3) Following the application of such amount of its surplus funds to its reserves as may be required by rules made by the Authority under the 2000 Act, a credit union may apply such proportion of the remaining amount available for distribution in respect of any year of account (that is to say, the surplus for that year reduced or increased by any transfer to or from general reserve) in one or more of the following ways as the credit union may in general meeting determine—
 - (a) subject to paragraph (4), in the payment to members of dividends on the amount of their paid-up shares;
 - (b) as a rebate of interest paid by or due from members who have received loans from the credit union, such rebate being proportional to the interest paid by or due from such members during that year of account; and
 - (c) subject to paragraph (5), for social, cultural or charitable purposes.î.
- (21) Omit Article 37 (insurance against fraud or other dishonesty).
- (22) In Article 38 (guarantee funds)—
 - (a) in paragraph (2), for “Subject to paragraph (3), a” substitute “A”; and
 - (b) omit paragraph (3).
- (23) Omit Article 39 (prohibition on undischarged bankrupts and other persons).
- (24) In Article 42 (accounts and balance sheets)—
 - (a) in paragraph (1) omit the words “and shall, in particular, identify the funds held in trust under Article 26”;
 - (b) in paragraph (3), omit the words “and shall, in particular, identify the funds mentioned in paragraph (1)”.
- (25) For Article 49 (annual returns) substitute—

(a) Paragraphs (2) and (4) of Article 28 were amended by S.R. 1993/429.
 (b) Articles 28B, 28C and 28D were inserted by S.I. 1997/2984 (N.I. 22).

i49.—(1) Every credit union must, by the due date, send to the registrar a return relating to its affairs for the year required by this Article to be included in the return together with—

- (a) a copy of the report of the auditors on the credit union's accounts for the year of account; and
- (b) subject to paragraph (7), a copy of each balance sheet made during that year and of any report of the auditors on that balance sheet.

(2) The return required by paragraph (1) must—

- (a) contain the revenue account of the credit union prepared in accordance with Article 42(2) in respect of the year of account to which the return relates, and a balance sheet as at the end of that year; and
- (b) not contain any accounts other than the revenue account for that year unless those other accounts have been examined by the auditors of the credit unions under Article 47.

(3) For the purposes of this Article—

- (a) the end of a credit union's year of account is 30th September; and
- (b) the due date is the date specified in rules made by the Authority under the 2000 Act or, if no date is specified, 6 months after the end of its year of account.

(4) A credit union may alter the date on which its current and subsequent years of account end by notice to the Authority.

(5) A notice under paragraph (4) must state whether it extends or shortens the current year of account.

(6) A notice extending a credit union's current year of account is not effective if it extends that year of account such that it exceeds 15 months.

(7) Paragraph (1)(b) does not apply to an interim balance sheet made up and displayed under Article 42(5).

(8) The last return under this Article by a credit union which is being terminated by an instrument of dissolution under Article 68(b) shall be made up to the date of the instrument of dissolution.

(9) Every credit union must supply free of charge to every member or person interested in the funds of the credit union who applies for it a copy of the latest return of the credit union under this Article, and must supply with every such copy a copy of the report of the auditors on the accounts and balance sheet contained in the return.ⁱ

(26) Omit Article 50 (display of latest balance sheet).

(27) In Article 53 (duties of receiver or manager of credit union's property) after "the registrar" each time it appears add "and the Authority".

(28) Omit paragraph (3) of Article 57 (production of documents and provision of information) together with "or (3)" in paragraph (4) of that Article.

(29) Omit Article 59 (suspension of credit union's operations).

(30) In Article 60(1) (cancellation of registration), after "by writing under his hand" insert "and with the consent of the Authority".

(31) In Article 61(1) (suspension of registration) after "by writing under his hand" insert "and with the consent of the Authority".

(32) In Article 62 (appeals), for paragraph (1) substitute—

i(1) A society may appeal to the High Court from the decision of the registrar to refuse registration of the society as a credit union (including a refusal by reason only of anything contained in or omitted from the society's rules) on any ground other than that—

- (a) he is not satisfied that a common bond exists between the members of the society;
- (b) the society has not made an application to the Authority for Part IV permission under section 40 of the 2000 Act to accept deposits; or

- (c) the Authority has not confirmed to the registrar that the Authority is satisfied that, once registered under this Order, the society will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 to the 2000 Act in relation to the regulated activity of accepting deposits.ġ

(33) In Article 63 (petition for winding-up), after “the registrar” insert “, having first obtained the consent of the Authority,”.

(34) After paragraph (6) of Article 65 (amalgamation of credit unions) insert—

i(7) The registrar must not register a special resolution under this Article unless the Authority has first confirmed to the registrar that the proposed amalgamation would not, in its opinion, result in a contravention of the 2000 Act, or any requirement imposed by or under that Act.ġ

(35) After paragraph (3) of Article 66 (transfer of engagements between credit unions) insert—

i(4) The registrar must not register a special resolution under this Article unless the Authority has first confirmed to the registrar that the proposed transfer would not, in its opinion, result in a contravention of the 2000 Act, or any requirement imposed by or under that Act.ġ

(36) In paragraph (5) of Article 70 (instrument of dissolution) for “Article 49(4)” substitute “Article 49(8)”.

(37) In Article 72 (decision of disputes)(a)—

(a) in paragraph (1) for “(2), (4), and (5)”, substitute “(2), (4), (5) and (7)”;

(b) for paragraph (2) substitute—

i(2) Unless—

(a) the rules of the credit union expressly forbid it, or

(b) a complainant is eligible to have the complaint dealt with under the ombudsman scheme,

the parties to a dispute in a credit union may by consent refer the dispute to the registrar who shall hear and determine it.ġ; and

(c) after paragraph (9) insert—

i(10) Nothing in this Article or in rules of a kind mentioned in paragraph (1) prevents any person from having a complaint dealt with under the ombudsman scheme.

(11) In this Article, “the ombudsman scheme” has the meaning it has in section 225(3) of the 2000 Act.ġ

(38) In Article 76(2) (prosecution of offences) omit “, other than under Article 24(2)(b), 25(4)(b), 27(6)(b), 32(4)(b), 33(6)(b) or 59(7)(b)”.

(39) In Schedule 1 (matters to be provided for in rules of credit union)—

(a) in paragraph 7, for “subject to Article 14(3)”, substitute “subject to any applicable rules made by the Authority under the 2000 Act”;

(b) in paragraph 11, after “credit union”, insert “in accordance with any applicable rules made by the Authority under section 340 of the 2000 Act”; and

(c) in paragraph 13, omit sub-paragraph (a).

(40) Omit Schedule 3 (procedure)

(41) Omit paragraph 2 of Schedule 4 (savings).

Revocations

4. The following regulations and statutory rules are revoked—

(a) Article 72 was amended by the Arbitration Act 1996 (c. 23), section 107(1), Schedule 3, para 44.

- (a) the Credit Unions (Limit on Loans) Regulations (Northern Ireland) 1986(a);
- (b) the Credit Unions (Insurance against Fraud etc.) Order (Northern Ireland) 1988(b);
- (c) the Credit Unions (Authorised Investments) Regulations (Northern Ireland) 1995(c);
- (d) the Credit Unions (Limit on Membership) Order (Northern Ireland) 2006(d);
- (e) the Credit Unions (Limit on Shares) Order (Northern Ireland) 2006(e);
- (f) the Credit Unions (Deposits and Loans) Order (Northern Ireland) 2006(f).

Application of wider definition of “consumer” to customers of credit unions

5. Section 425B of the Act(g) (consumers: regulated activities carried on by others) applies for the purposes of section 391(6) of the Act (publication) until 31st March 2014 in addition to the definition of “consumers” in section 425A of the Act (consumers: regulated activities etc. carried on by authorised persons) in relation to activities carried on by credit unions.

	<i>Name</i>
	<i>Name</i>
Date	Two of the Lords Commissioners of Her Majesty’s Treasury

(a) S.R. 1986 No. 130.
(b) S.R. 1988 No. 245.
(c) S.R. 1995 No. 31.
(d) S.R. 2006 No. 76.
(e) S.R. 2006 No. 77.
(f) S.R. 2006 No. 78.
(g) 2000 c. 8. Sections 425A and 425B were inserted by the Financial Services Act 2010 (c. 28), section 24(1), (2), Sch 2, Pt 1, paras 1, 32.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to the legislation relating to credit unions in Northern Ireland that are consequential on the revocation of the exemption for Northern Ireland credit unions from the general prohibition imposed by section 19 of the Financial Services and Markets Act 2000 (c.8) (“the Act”). The exemption, contained in paragraph 24A of the Schedule to the Financial Services and Markets Act 2001 (Exemption) Order 2001 (S.I. 2001/1201), is revoked by S.I. 2011/XXXX. This Order also makes transitional provisions in connection with the commencement of the application of the Act to Northern Ireland credit unions on 31st March 2012.

Article 2 makes technical amendments to the Dormant Bank and Building Society Accounts Act 2008 (c.31) and the Banking Act 2009 (c.1) to maintain, after commencement, the position of Northern Ireland credit unions as regards the application of those Acts.

Article 3 amends the Credit Unions (Northern Ireland) Order 1985 (“the 1985 Order”). Article 4(2) of the Order is amended so as to provide that the registrar, a function held by the Department of Enterprise, Trade and Investment, shall not issue an acknowledgement of registration unless the Financial Services Authority (“the FSA”) proposes to give that credit union permission under Part IV of the Act to accept deposits. Provisions of the 1985 Order which relate to matters which are also dealt with under the Act itself are revoked or amended. Similarly, provisions which relate to matters on which the FSA could make rules under the Act are also repealed.

Article 4 revokes certain instrument and rules which were made under the 1985 Order and in relation to which the FSA could make rules under the Act.

Article 5 modifies the definition of “consumer” in section 391 of the Act for a transitional period until 31st March 2014 to include those who used the services provided by a credit union while it was not an authorised person.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Mutuels Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is published with the Explanatory Memorandum alongside the instrument on legislation.gov.uk.

FINANCIAL SERVICES AND MARKETS

The Money Laundering (Amendment) Regulations 2011

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - - - 31st March 2012

The Treasury are designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the prevention of money laundering and terrorist financing;

The Treasury, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Money Laundering (Amendment) Regulations 2011 and come into force on 31st March 2012.

Change of supervisory authority for Northern Ireland Credit Unions

2. The Money Laundering Regulations 2007(c) are amended as follows.

- (a) In regulation 23(1)—
 - (i) after sub-paragraph (a)(iii) insert—
 - i(iv) credit unions in Northern Ireland; and
 - (ii) omit sub-paragraph (f)(i).
- (b) In the definition of “designated authority” in regulation 36—
 - (i) in sub-paragraph (b), insert “and” after “the Commissioners;”;
 - (ii) omit sub-paragraph (d), together with “and” immediately preceding it.
- (c) In the definition of “officer” in regulation 36—
 - (i) in sub-paragraph (c), insert “or” after “the OFT;”;
 - (ii) omit sub-paragraph (e), together with “or” immediately preceding it.

Date *Name*
Name
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) S.I. 2007/2133.
(b) 1972 c. 68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
(c) S.I. 2007/2157. S.I. 2007/2157 was amended by S.I. 2007/3299.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 31st March 2012, amend the Money Laundering Regulations 2007 (S.I. 2007/2157) which implement in part Directive 2005/60/EC of the European Parliament and of the Council (OJ No L 309, 25.11.2005, p. 15.) on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

Regulation 2 changes the supervisory authority for credit unions in Northern Ireland from the Department for Enterprise Trade and Industry in Northern Ireland to the Financial Services Authority.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Mutuels Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is annexed to the Explanatory Memorandum which is available alongside the instrument on legislation.gov.uk.

2011 No. XXXX (C.X)

PREVENTION AND SUPPRESSION OF TERRORISM

**The Terrorist Asset-Freezing etc. Act 2010 (Commencement)
Order 2011**

Made - - - -

Xth December 2011

The Treasury, in exercise of the power conferred by section 55(2) of the Terrorist Asset-Freezing etc. Act 2010^(a), make the following Order:

1. This Order may be cited as the Terrorist Asset-Freezing etc. Act 2010 (Commencement) Order 2011.

2. Section 51 of the Terrorist Asset-Freezing etc. Act 2010, together with paragraph 11 of Schedule 1 and Part 2 of Schedule 2 to that Act, shall come into force on 31st March 2012.

Name

Name

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings section 51 of the Terrorist Asset-Freezing etc. Act 2010 (c.38) into force on 31st March 2012 to effect the transfer of the supervisory responsibilities of the Department for Enterprise, Trade and Investment (Northern Ireland) for Northern Ireland credit unions contained in Schedule 7 to the Counter-Terrorism Act 2008 (c.28) (terrorist financing and money laundering) to the Financial Services Authority.

Appendix 1

Draft Handbook text

NORTHERN IRELAND CREDIT UNIONS INSTRUMENT 2012

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 149 (Evidential provisions);
 - (c) section 156 (General supplementary powers);
 - (d) section 157(1) (Guidance);
 - (e) section 213 (The compensation scheme);
 - (f) section 214 (General);
 - (g) section 226 (Compulsory jurisdiction); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the FSA’s Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [31 March 2012].

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Fees Manual (FEES)	Annex B
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex C
Supervision manual (SUP)	Annex D
Decision Procedure and Penalties manual (DEPP)	Annex E
Compensation sourcebook (COMP)	Annex F
Credit Unions New sourcebook (CREDS)	Annex G

Citation

- G. This instrument may be cited as the Northern Ireland Credit Unions Instrument 2012.

By order of the Board
[*date*]

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text unless otherwise indicated.

Insert the following new definitions in the appropriate alphabetical place. The new text is not underlined.

Great Britain credit union a body corporate registered under the Industrial and Provident Societies Act 1965 as a credit union in accordance with the Credit Unions Act, which is an *authorised person*.

Northern Ireland credit union a body corporate registered under the Credit Unions (Northern Ireland) Order 1985 which is an *authorised person* or a body corporate registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 as a credit union which is an *authorised person*.

Amend the following definitions as shown:

consumer ...
 (5) (with respect to Northern Ireland credit unions and in relation to the FSA's power to make general rules, the protection of consumers objective and independent inquiries) a person within 2(a), 2(b), 2(c) or 3(b).
 (6) (with respect to Northern Ireland credit unions and in relation to the establishment of the Consumer Panel) a person within (5) other than an authorised person.

credit union ...
 a body corporate registered under the Industrial and Provident Societies Act 1965 as a credit union in accordance with the Credit Unions Act, which is an *authorised person* or a body corporate registered under the Credit Unions (Northern Ireland) Order 1985 which is an authorised person or a body corporate registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 as a credit union which is an authorised person.

credit unions day (in relation to a Great Britain credit union) 1 July 2002 or (in relation to a Northern Ireland credit union) [31 March 2012].

version 1 credit union a *credit union* whose *Part IV permission* includes a *requirement* (whether for all or for particular purposes) that it must not lend more than £15,000, or such lesser amount as may be specified, in excess of a member's shareholding;

in this definition a “member's shareholding” means any shares held by a member of the *credit union* in accordance with sections 5 and 7 of the Credit Unions Act 1979 or Articles 14 and 23 of the Credit Unions (Northern Ireland) Order 1985 (as appropriate).

[Editors Note: In the section below the existing text is the text set out in the “near final” Handbook text published in Policy Statement 10/11]

Amend the following definitions as shown:

- attached shares* (in *CREDS*) means any shares in the *credit union* (other than any *deferred shares*):
- (a) (in relation to a *Great Britain credit union*) the withdrawal of which is not permitted by section 7(5) of the Credit Unions Act 1979 or (in relation to a *Northern Ireland credit union*) the withdrawal of which is not permitted by Article 23(4) of the Credit Unions (Northern Ireland) Order 1985; or
 - (b) (in relation to a *Great Britain credit union*) the withdrawal of which is not permitted by the terms of a loan made to a member; or
 - (c) the withdrawal of which is not permitted without seeking and obtaining the permission of the committee of management of the *credit union*.
- In relation to a *Great Britain credit union*, Paragraph (c) of this definition is relevant only where the *credit union* made a loan to the holder of the shares before the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 came into force.
- deferred shares* (in *CREDS* and *COMP* 5.3.1R(2)(ca)) in relation to a *Great Britain credit union*, means any shares of a class defined as deferred shares by section 31A of the Credit Unions Act 1979.

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text.

TP 1.1 Transitional Provisions table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional Provision: dates in force	Handbook provisions: coming into force
...					
<u>8</u>	<u>6.3.1R</u>	<u>R</u>	<u>The FSCS must not impose a <i>specific costs levy</i> or a <i>compensation costs levy</i> on a <i>Northern Ireland credit union</i> if that levy relates to a <i>claim</i> against a <i>relevant person that was in default before credit unions day.</i></u>	<u>From [31 March 2012] indefinitely</u>	<u>For <i>Northern Ireland credit unions</i> [31 March 2012]</u>

Annex C
Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 4.1.9 G ...
- (3) A *credit union* cannot carry on *home purchase activities* or *reversion activities* because the Credit Unions Act 1979 (in relation to *Great Britain credit unions*) and the Credit Unions (Northern Ireland) Order 1985 (in relation to *Northern Ireland credit unions*) restricts the circumstances whereby *credit unions* can hold land.

Annex D

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1

Amend SUP 16 Annex 15(1)G (Notes on completing the Quarterly Return (CQ) for credit unions) as shown:

General Information

The Quarterly Return (CQ) is to be completed by all *credit unions* in ~~Great Britain~~ the United Kingdom as at end March, end June, end September and end December. This form should be completed using the accruals-based accounting method.

...

'CUA 1979' means the Credit Unions Act 1979.

"CUO" means the Credit Unions Order (Northern Ireland) 1985.

...

Membership and complaints contact

page 2 of CQ

...

Complainants contact point

Tick "Yes or No" as appropriate

~~CRED 17.6.9R~~ CREDS 9.2.11R states that a *credit union* must inform the FSA of any changes to the single contact point within the *credit union* for complainants. If there have been any changes to your complainants contact point since your last submission to the FSA you will need to provide the new details in the boxes provided

Signature Signature

page 2 of CQ

The Quarterly Return (CQ) states that the signatory must be an *approved person*. The signatory should not be an officer on the Supervisory Committee or an officer approved for the *non-executive director function*. This means that the person signing the Quarterly Return (CQ) will hold an approved function on the committee of management or that of the *chief executive function*. The criteria for *approved persons* are set out in ~~CRED Chapter 4~~ CREDS Chapter 2 (Senior management arrangements, Systems and Controls) and Chapter ~~6~~ 8 (The Approved persons regime).

Amend SUP 16 Annex 15(2)G (Notes on completing the Annual Return (CY) for credit unions) as shown:

General Information

...

'CUA 1979' means the Credit Unions Act 1979.

"CUO" means the Credit Unions Order (Northern Ireland) 1985.

...

Notes to Accounts

...

14C Interest receivable The amount of interest charged on loans to members ~~this should not exceed 12.68% per year.~~

...

30E **Liquidity ratio** ...

Please note that your liquidity level should not fall below 5% at any time and that ~~version 1 credit unions~~ you should ensure that on no two consecutive quarter ends is the level of ~~the credit union's~~ your liquid assets below 10% of ~~its~~ your total relevant liabilities.

Part 2

[Editors Note: In Part 2 the existing text is the text set out in the "near final" Handbook text published in Policy Statement 10/11]

Amend the following provisions as shown:

16.12.6 R The applicable reporting frequencies for submission of *data items* and periods referred to in SUP 16.12.5R are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

...	
Note 2	The annual report required from a <i>credit union</i> by SUP 16.12.5R must be made up for the same period as the audited accounts published by the <i>credit union</i> in accordance with section 3A of the Friendly and Industrial and Provident Societies Act 1968 <u>or provided in accordance with Article 49 of the Credit Unions (Northern Ireland) Order 1985 (as appropriate).</u> CREDS 8.2.6R(2)(a) states that the audited accounts referred to in SUP 16.12.5R are to be made up for the period beginning with the date of the <i>credit union's</i> registration or with the date to which the <i>credit union's</i> last annual accounts were made up, and ending on the <i>credit union's</i> most recent financial year end.
...	

Amend SUP 16 Annex 15(1)G (Notes on completing the Quarterly Return (CQ) for credit unions) as shown:

**Membership and complaints
contact**

page 2 of CQ

Membership

Indicate in the appropriate boxes the number of members that the *credit union* currently has in each category of membership.

“**Member**” refers to a member (qualifying or non-qualifying) (and over the age at which he may lawfully become a member of the *credit union*, for *Great Britain credit unions* under the *credit union’s* rules or, for *Northern Ireland credit unions*, under the CUO or the *credit union’s* rules), who can save up to £10,000 or 1.5 per cent of the ~~assets of~~ total non-deferred shares in the *credit union*, which ever is the greater. [Where transitional provisions allow savings above £10,000 or 1.5 per cent with a *Northern Ireland credit union*, the saver is still a member of the *credit union*.] [A qualifying member is a person who fulfils the membership requirements: a non-qualifying member is a person who no longer fulfils the membership requirements having once done so.]

“**Juvenile depositor**” refers to a depositor who is a person too young to be a member of the *credit union* (for a *Great Britain credit union* under the *credit union’s* rules and for a *Northern Ireland credit union* under the CUO or the *credit union’s* rules), who can save up to a maximum of £10,000, or 1.5% of the total non-deferred shares in the *credit union* but cannot take out a loan from the *credit union*.

...

5B Audited reserves - other

Money that your *credit union* has set aside out of net profits (in accordance with CREDS 5.3.2R) - for example, a “revenue reserve” for unforeseen circumstances.

This will include initial capital which has not yet been spent.

Please note:

Where a revaluation reserve is included within other reserves, this should only include revaluation reserves counting towards capital under CREDS 5.2.1R(6) to CREDS 5.2.1R(8).

If money is held in a deferred share reserve by a *Great Britain credit union*, it should not be included within other reserves, but reported separately in the supplementary analysis to the quarterly return.

Please refer to Chapter 5 of CREDS. ...

...

7F Unattached shares/juvenile deposits

...

“attached shares” are shares that act as security for a

loan, or for Great Britain credit unions and shares that cannot be withdrawn under the terms of the loan, or, for Great Britain credit unions that made loans to members prior to the coming into force of the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 and Northern Ireland credit unions, shares that cannot be withdrawn without the permission of the committee of management.

...

NOTES ON COMPLETING SUPPLEMENTARY ANALYSIS OF THE QUARTERLY RETURN

General Information

The Supplementary Analysis of the Quarterly Return should be completed as part of the Quarterly Return by credit unions in Great Britain where they meet one or more of the following conditions at the end of the quarter:

- the credit union has issued interest-bearing shares under section 7A of the Credit Unions Act 1979 (the Act);
- the credit union has issued deferred shares in accordance with section 31A of the Act; or
- the credit union has admitted corporate members under section 5A of the Act.

The Supplementary Analysis of the Quarterly Return is intended to break down some of the information contained in the Quarterly Return in order to give a clearer picture of the financial position of credit unions that undertake the activities listed above.

The Credit Unions (Northern Ireland) Order 1985 does not provide for Northern Ireland credit unions to undertake the activities listed above. Therefore, Northern Ireland credit unions do not need to complete the Supplementary Analysis of the Quarterly Return.

Amend SUP 16 Annex 15(2)G Notes on completing the Annual Return (CY) for credit unions as shown:

...

The Annual Return (CY) should be completed by all *credit unions* in ~~Great Britain~~ the United Kingdom at the end of their financial year ... It should be completed using the accruals-based accounting method.

...

Send the fully completed Annual Return (CY) (including a completed auditor's statement) to the Financial Services Authority in accordance with SUP 16.3.6R – SUP 16.3.13R by the date stated in the *credit union's* rules (which should be within 4 6 months of the financial year end). Failure to do so is a breach of your regulatory requirements, as laid down in CREDS, and may result in your *credit union* being subject to FSA sanctions.

...

Front page

...

Financial year end	Insert the date of the <i>credit union's</i> financial year end (See SUP 16.7.63BR and CREDS 8.2.6R(2)(a)).
---------------------------	--

...

A1 **Membership** ...

A “juvenile depositor” is a person who is too young to be a member of the *credit union* (for *Great Britain credit unions* under the *credit union’s rules* or, for *Northern Ireland credit unions*, under the CUO or the *credit union’s rules*), who can save up to a maximum of £10,000, but cannot take out a loan from the *credit union*.

Audited accounts

Delete “Yes or No” as appropriate. Audited annual accounts are required by the Friendly and Industrial and Provident Societies Act 1968 and the CUO. Attach a copy of the accounts before returning the Annual Return (CY). See CREDS 8.2.6R.

...

2P **Other reserves** ...

If money is held in a deferred share reserve by a *Great Britain credit union*, it should not be included within other reserves, but reported separately in the supplementary analysis to the annual return.

...

13F Value of unattached shares ...

“attached shares” are shares that act as security for a loan, ~~and~~ or for *Great Britain credit unions* shares that cannot be withdrawn under the terms of the loan, or, for *Great Britain credit unions that made loans to members prior to the coming into force of the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 and Northern Ireland credit unions*, shares that cannot be withdrawn without the permission of the committee of management.

...

NOTES ON COMPLETING SUPPLEMENTARY ANALYSIS OF THE ANNUAL RETURN

General Information

The Supplementary Analysis of the Annual Return should be completed as part of the Annual Return by credit unions in Great Britain where they meet one or more of the following conditions at the end of the financial year:

- the credit union has issued interest-bearing shares under section 7A of the Credit Unions Act 1979 (the Act);
- the credit union has issued deferred shares in accordance with section 31A of the Act;
- the credit union has admitted corporate members under section 5A of the Act; or
- the rules of the credit union limit the number of non-qualifying members of the credit union, in accordance with section 5(5) of the Act.

The Supplementary Analysis of the Annual Return is intended to break down some of the information contained in the Annual Return in order to give a clearer picture of the financial position of credit unions that undertake the activities listed above.

The Credit Unions (Northern Ireland) Order 1985 does not provide for Northern Ireland credit unions to undertake the activities listed above. Therefore, Northern Ireland credit unions do not

need to complete the Supplementary Analysis of the Quarterly Return.

Annex E

Amendments to the Decision Procedure and Penalties manual (DEPP)

[Editors Note: In this Annex the existing text is the text set out in the “near final” Handbook text published in Policy Statement 10/11]

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Annex 1G Warning notices and decision notices under the Act and certain other enactments

...

Section of the Credit Unions Act 1979	Description	Handbook reference	Decision maker
20	where the <i>FSA</i> is proposing to cancel or suspend the registration of a <i>credit union</i> or to petition for the winding up of a <i>credit union</i>		<i>RDC</i>

<u>Articles of the Credit Unions (Northern Ireland) Order 1985</u>	<u>Description</u>	<u>Handbook reference</u>	<u>Decision maker</u>
<u>60(1), 61(1) and 63</u>	where the <i>FSA</i> is proposing to consent to the <u>Registrar of Credit Unions for Northern Ireland cancelling or suspending the registration of a <i>Northern Ireland credit union</i> or to the Registrar of Credit Unions for Northern Ireland petitioning for the winding up of a <i>Northern Ireland credit union</i></u>		<u><i>RDC</i></u>

Annex F

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text.

TP 1.1 Transitional Provisions table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
27	<u>COMP 16.3</u>	R	<u>A Northern Ireland credit union need not comply with COMP 16.3 until [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published]</u>	<u>From [31 March 2012] until [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published]</u>	<u>For Northern Ireland credit unions [31 March 2012]</u>
28	<u>COMP 17</u>	R	<u>COMP 17 does not apply to a Northern Ireland credit union until [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published]</u>	<u>From [31 March 2012] until [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published]</u>	<u>For Northern Ireland credit unions [31 March 2012]</u>
29	<u>COMP 17.3 and COMP 17.2.7R</u>	R	(1) <u>This transitional provision applies to Northern Ireland credit unions.</u> (2) <u>If a Northern Ireland credit union operates less than 5,000 accounts held by eligible claimants, it may make or revoke an election (under COMP 17.2.7R) that the electronic SCV rules do not apply.</u>	<u>From [31 March 2012] until [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published]</u>	<u>For Northern Ireland credit unions [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are</u>

		<p><u>(3) A Northern Ireland credit union that made a valid election under (2) must provide the FSA with an SCV pre-implementation report by [insert date – to be 4 months after near final rules relating to Northern Ireland credit unions are published] based on the Northern Ireland credit union’s progress as at [insert date – to be 4 months after near final rules relating to Northern Ireland credit unions are published] which must:</u></p> <p><u>(a) state the number of accounts held by eligible claimants as at [insert date – to be 4 months after near final rules relating to Northern Ireland credit unions are published];</u></p> <p><u>(b) confirm that the Northern Ireland credit union is making the election in (2); and</u></p> <p><u>(c) state whether the Northern Ireland credit union’s board of directors believes the Northern Ireland credit union will comply with the FSA’s SCV requirements by [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published] and if not why not.</u></p> <p><u>(4) A Northern Ireland</u></p>		<p><u>published]</u></p>
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		<p><u>credit union that has not made a valid election under (2) must provide the FSA with an SCV pre-implementation report by [insert date – to be 4 months after near final rules relating to Northern Ireland credit unions are published] based on the Northern Ireland credit union’s progress as at [insert date – to be 4 months after near final rules relating to Northern Ireland credit unions are published] which must state:</u></p> <p><u>(a) whether the Northern Ireland credit union has a plan for implementing the FSA’s SCV requirements;</u></p> <p><u>(b) how the Northern Ireland credit union proposes to transfer to the FSCS a single customer view for each eligible claimant including specifying the transfer method and format;</u></p> <p><u>(c) the dates the Northern Ireland credit union started implementation and plans to end implementation and whether implementation is on time;</u></p> <p><u>(d) whether the Northern Ireland credit union’s board of directors believes implementation will be completed by [insert date – to be 6</u></p>		
--	--	--	--	--

			<p><u>months and one day after near final rules relating to Northern Ireland credit unions are published]</u> and if not why not; and</p> <p>(e) any issues that may impact on the <u>Northern Ireland credit union's ability to implement by [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published].</u></p>		
<u>30</u>	<u>COMP 17.3</u>	<u>R</u>	<p><u>A Northern Ireland credit union to which COMP 17 applies must provide the FSA with an SCV implementation report and an SCV report by [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published].</u></p>	<p><u>From [31 March 2012] until [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published]</u></p>	<p><u>For Northern Ireland credit unions [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published]</u></p>
<u>31</u>	<u>COMP 17.3.10R and COMP 17.3.12R</u>	<u>R</u>	<p><u>(1) A Northern Ireland credit union subject to the electronic SCV rules must provide the FSCS with a representative sample of 10% of its single customer views or 10,000 of its single customer views (whichever is the smaller number) by [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published].</u></p>	<p><u>From [31 March 2012] until [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published]</u></p>	<p><u>For Northern Ireland credit unions [insert date – to be 6 months after near final rules relating to Northern Ireland credit unions are published]</u></p>

			(2) <u>The FSCS must advise the FSA whether the information provided by a Northern Ireland credit union's SCV system is capable of being submitted to the FSCS and whether it is compatible with the FSCS's systems within six months of receiving the information required by (1).</u>		
--	--	--	---	--	--

...

Schedule 2

Notification requirements

...

2.2 G

Handbook Reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
<i>COMP</i> 17.3.4R	...			
<u><i>COMP</i> TP 29R(2) and <i>COMP</i> 17.2.7R</u>	<u>Election or revocation of election that the <i>electronic SCV rules</i> do not apply.</u>	<u>See Matter to be notified</u>	<u>See Matter to be notified</u>	<u>Immediately</u>

...

Annex G
Credit Unions New sourcebook (CREDS)

[Editors Note: In this Annex the existing text is the text set out in the “near final” Handbook text published in Policy Statement 10/11]

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.1.1 G (1) The Credit Unions New Sourcebook, *CREDS* for short, is the specialist sourcebook for *credit unions*.
- (2) ~~Northern Ireland credit unions are not covered by the Handbook or by CREDS. They are exempt from the general prohibition in respect of accepting deposits. They do not, therefore, need to be authorised persons if they do not carry on any regulated activity other than accepting deposits in the United Kingdom.~~

...

- 2.2.14 G Under section 4(1) of, and Schedule 1 to, the Credit Unions Act 1979 or Article 8(1) of, and Schedule 1 to, the Credit Unions (Northern Ireland) Order 1985, as appropriate, a *credit union* is required to have a committee of management. The committee of management should be competent to control the affairs of a *credit union*, and have an appropriate range of skills and experience relevant to the activities carried on by the *credit union*.

...

- 3.2.1 R Subject to the general limitations on its powers contained in the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985 (as appropriate) and to the limitations contained in *CREDS* 3.2.2R and *CREDS* 3.2.3R, a *credit union* may invest its surplus funds and funds serving liquidity purposes only in the following types of *investment*:

...

- 3.2.6 G (1) A *credit union* may accept a loan from another *credit union* (section 10(1) of the Credit Unions Act 1979 or Article 27(1) of the Credit Unions (Northern Ireland) Order 1985 (as appropriate)).

...

- 4.3.1 R (1) A *credit union* must not accept *deposits* except:
- (a) by way of subscription for its shares from *persons* who may lawfully be admitted to membership of the credit union under the Credit Unions Act 1979 or the Credit Union (Northern Ireland) Order 1985 (as appropriate) and the rules of the credit union; or
- (b) ...

(c) ...

- A *credit union* must not accept *deposits* exceeding the greater of £10,000 or 1.5 per cent of the *total non-deferred shares* in the *credit union* from a person who is under the age at which, by virtue of (for *Great Britain credit unions*) any provision of the *credit union's* rules, (for *Northern Ireland credit unions*) under Article 15 of the Credit Unions (Northern Ireland) Order 1985 or any provision of the *credit union's* rules, or otherwise, he may lawfully become a member of the *credit union*, unless the *deposits* are held in a *CTF* in which case the *credit union* may accept a larger *deposit*.

...

- 5.1.6 G In addition to the capital requirements set out in this chapter, section 7A of the Credit Unions Act 1979 provides that a *Great Britain credit union* may issue interest-bearing shares only if, among other things, its most recent year end balance sheet shows that it holds reserves of at least £50,000 or 5% of its total assets, whichever is greater.

- 5.1.7 G A *Northern Ireland credit union* may not issue interest-bearing shares or deferred shares.

...

- 7.1.2 G (1) This chapter seeks to protect the interests of *credit unions'* members in respect of loans to members under section 11 of the Credit Unions Act 1979 or Article 28 of the Credit Unions (Northern Ireland) Order 1985. *Principle 4* requires *credit unions* to maintain adequate financial resources and *CREDS 5* sets out the *FSA's* detailed capital adequacy requirements in respect of *credit unions*.

...

- 7.1.3 G The *rules* and *guidance* in this chapter are in addition to the provisions of (in relation to *Great Britain credit unions*) section 11 of the Credit Unions Act 1979 and (in relation to *Northern Ireland credit unions*) Article 28 of the Credit Unions (Northern Ireland) Order 1985 in relation to loans made by *credit unions*. Under these provisions
- (1) a *Great Britain credit union* may make a loan only to:
- (a) a member of the *credit union* who is an individual; and
- (b) a corporate member of the *credit union*, if the *credit union's* rules provide that it may make loans to corporate members and making the loan would not result in the aggregate of the outstanding balances on loans made by the *credit union* to corporate members exceeding the percentage of the aggregate of the outstanding balances on all loans made by the *credit union* specified by or under section 11 of the Credit Unions

Act 1979;

(c) other *credit unions*;

(1A) a Northern Ireland credit union may make a loan only to:

(a) a member of the credit union who is an individual; and

(b) other credit unions;

...

7.2.7 R (1) A *credit union* must not make a loan to:

(a) ...

(b) (in the case of a *Great Britain credit union*) a relative of, or any person otherwise connected with, an officer, *approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*;

(b) (in the case of a *Northern Ireland credit union*) a member of the family of, or any person otherwise connected with, an officer, *approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*.

...

(3) “Member of the family” has the same meaning as in Article 2 of the Credit Unions (Northern Ireland) Order 1985.

...

8.2.6 R (1) Every *credit union* must send to the *FSA* a copy of its audited accounts published in accordance with section 3A of the Friendly and Industrial and Provident Societies Act 1968 or provided in accordance with Article 49 of the Credit Unions (Northern Ireland) Order 1985.

...

Appendix 1 Key Definitions

Note: The following key definitions relevant to CREDS are extracted from the *Glossary*.

App 1.1

- attached shares* means any shares in the *credit union* (other than any *deferred shares*):
- (a) (in relation to a *Great Britain credit union*) the withdrawal of which is not permitted by section 7 (5) of the Credit Unions Act 1979 or (in relation to a *Northern Ireland credit union*) the withdrawal of which is not permitted by Article 23(4) of the Credit Unions (Northern Ireland) Order 1985 ; or
 - (b) (in relation to a *Great Britain credit union*) the withdrawal of which is not permitted by the terms of a loan made to a member; or
 - (c) the withdrawal of which is not permitted without seeking and obtaining the permission of the committee of management of the *credit union*.
- In relation to a *Great Britain credit union*, Paragraph (c) of this definition is relevant only where the *credit union* made a loan to the holder of the shares before the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 came into force.
- deferred shares* in relation to a *Great Britain credit union*, means any shares of a class defined as deferred shares by section 31A of the Credit Unions Act 1979.

TP 1 Transitional Provision

(1)	(2)	(3)	(4)	(5)	(6)
	Materials to which the transitional provision applies		Transitional Provision	Transitional provisions: dates in force	Handbook provisions: coming into force
...					
<u>5</u>	<u>CREDS Transitional Provisions 1, 2, 3 and 4</u>	<u>R</u>	<u>CREDS Transitional Provisions 1, 2, 3 and 4 do not apply to Northern Ireland credit unions.</u>	<u>From [31 March 2012] for as long as the relevant Transitional Provisions remain in force</u>	<u>For Northern Ireland credit unions [31 March 2012]</u>
<u>6</u>	<u>CREDS 2.2.4R, CREDS 2.2.6R, CREDS 2.2.8R, CREDS 3.3.7R, CREDS 6.2.4R and CREDS 7.2.1R</u>	<u>R</u>	<u>A Northern Ireland credit union need not comply with CREDS 2.2.4R, CREDS 2.2.6R, CREDS 2.2.8R, CREDS 3.3.7R, CREDS 6.2.4R and CREDS 7.2.1R.</u>	<u>From [31 March 2012] until [30 September 2012]</u>	<u>For Northern Ireland credit unions [31 March 2012]</u>
<u>7</u>	<u>CREDS 3.2.1R</u>	<u>R</u>	<u>A Northern Ireland credit union need not comply with CREDS 3.2.1R provided it only invests in the types of investment that prior to credit unions day were permitted under the Credit Unions (Northern Ireland) Order 1985 and the Credit Unions (Authorised Investments) Regulations (Northern Ireland) 1995</u>	<u>From [31 March 2012] until [30 March 2013]</u>	<u>For Northern Ireland credit unions [31 March 2012]</u>
<u>8</u>	<u>CREDS 3.2.2R</u>	<u>R</u>	<u>A Northern Ireland credit union that is a version 1 credit union need not comply</u>	<u>From [31 March 2012] until the</u>	<u>For Northern Ireland</u>

			with <u>CREDS 3.2.2R</u> with respect to any <u>securities</u> invested in, or loans made, in accordance with <u>CREDS 3.2.1R</u> prior to <u>credit unions day</u> provided those <u>securities</u> or loans mature in accordance with the terms of the relevant agreement as at <u>credit unions day</u> . This transitional provision does not apply to any <u>securities</u> invested in, or loans made, in accordance with <u>CREDS 3.2.1R</u> prior to <u>credit unions day</u> that satisfy the requirements in <u>CREDS 3.2.2R</u> .	maturity date of the <u>securities</u> invested in or loans made	<u>credit unions</u> [31 March 2012]
9	<u>CREDS 3.2.3R</u>	R	A <u>Northern Ireland credit union</u> that is a <u>version 2 credit union</u> need not comply with <u>CREDS 3.2.3R</u> with respect to any <u>securities</u> invested in, or loans made, in accordance with <u>CREDS 3.2.1R</u> prior to <u>credit unions day</u> provided those <u>securities</u> or loans mature in accordance with the terms of the relevant agreement as at <u>credit unions day</u> . This transitional provision does not apply to any <u>securities</u> invested in, or loans made, in accordance with <u>CREDS 3.2.1R</u> prior to <u>credit unions day</u> that comply with <u>CREDS 3.2.3R</u> .	From [31 March 2012] until the maturity date of the <u>securities</u> invested in or loans made	For <u>Northern Ireland credit unions</u> [31 March 2012]
10	<u>CREDS 4.2.1R</u>	R	A <u>Northern Ireland credit union</u> need not comply with <u>CREDS 4.2.1R</u> with respect to any member that on <u>credit unions day</u> has or claims any interest in the shares of the <u>credit union</u> exceeding the greater of £10,000 or 1.5 per cent of the <u>total non-deferred shares</u> in the <u>credit union</u> .	From [31 March 2012] until the day the member's holding or claim satisfies the requirements in <u>CREDS 4.2.1R</u>	For <u>Northern Ireland credit unions</u> [31 March 2012]

11	<u>CREDS 4.4.1R</u>	R	<u>A Northern Ireland credit union need not comply with CREDS 4.4.1R.</u>	From [31 March 2012] until [30 March 2013]	For <u>Northern Ireland credit unions</u> [31 March 2012]
12	<u>CREDS 5.3.3R and CREDS 5.3.5R</u>	R	<u>Where the requirements of CREDS 7.5.1R, CREDS 7.5.2R and CREDS 7.5.4E would result in a Northern Ireland credit union having to make higher provision than would have been required prior to credit unions day, that Northern Ireland credit union need not comply with CREDS 5.3.3R and CREDS 5.3.5R to the extent that that Northern Ireland credit union may transfer out of its general reserve the amount of provision that is additional to the amount that would have been required prior to credit unions day. If a Northern Ireland credit union takes advantage of this transitional provision it must advise the FSA of the amount transferred by the due date of submission for submission of its next annual return. This provision applies even where the amount standing to the Northern Ireland credit union's general reserve is or as a result of the transfer would be less than 10% of total assets.</u>	From [31 March 2012] until the due date for submission by that Northern Ireland credit union of its next annual return	For <u>Northern Ireland credit unions</u> [31 March 2012]
13	<u>CREDS 7.3.1R</u>	R	<u>A Northern Ireland credit union that is a version 1 credit union need not comply with CREDS 7.3.1R with respect to any loan outstanding on credit unions day. That loan must be</u>	From [31 March 2012] until the day the loan is repaid	For <u>Northern Ireland credit unions</u> [31 March

			repaid in accordance with the terms as at <i>credit unions day</i> of the relevant loan agreement. This transitional provision does not apply to any loan outstanding on <i>credit unions day</i> that satisfies the requirements in <i>CREDS 7.3.1R</i> .		<u>2012]</u>
<u>14</u>	<u><i>CREDS 7.3.4R</i></u>	<u>R</u>	<u><i>A Northern Ireland credit union</i></u> that is a <u><i>version 2 credit union</i></u> need not comply with <u><i>CREDS 7.3.4R</i></u> with respect to any loan outstanding on <u><i>credit unions day</i></u> . That loan must be repaid in accordance with the terms as at <u><i>credit unions day</i></u> of the relevant loan agreement. This transitional provision does not apply to any loans outstanding on <u><i>credit unions day</i></u> that satisfies the requirements in <u><i>CREDS 7.3.4R</i></u> .	From <u>[31 March 2012]</u> until the day the loan is repaid	For <u><i>Northern Ireland credit unions</i></u> <u>[31 March 2012]</u>
<u>15</u>	<u><i>CREDS 7.4.2R</i></u>	<u>R</u>	<u><i>A Northern Ireland credit union</i></u> need not comply with <u><i>CREDS 7.4.2R</i></u> with respect to any individual large <u><i>exposure</i></u> in existence on <u><i>credit unions day</i></u> or the aggregate total of all large <u><i>exposures</i></u> in existence on <u><i>credit unions day</i></u> . Those large <u><i>exposures</i></u> must be repaid in accordance with the terms of the agreement relating to the relevant large <u><i>exposure</i></u> as at <u><i>credit unions day</i></u> . This transitional provision does not apply to any individual large <u><i>exposure</i></u> in existence on <u><i>credit unions day</i></u> or the aggregate total of all large <u><i>exposures</i></u> in existence on <u><i>credit unions day</i></u> that comply with <u><i>CREDS 7.4.2R</i></u> .	From <u>[31 March 2012]</u> until <u>[30 March 2014]</u> or the day the individual large <u><i>exposure</i></u> or the aggregate total of all large <u><i>exposures</i></u> satisfies the requirements in <u><i>CREDS 7.4.2R</i></u> if earlier.	For <u><i>Northern Ireland credit unions</i></u> <u>[31 March 2012]</u>

<u>16</u>	<u>SUP 16.2.5R</u>	<u>R</u>	<u>A Northern Ireland credit union need not comply with the requirement to submit quarterly returns under SUP 16.12.5R until [31 January 2013] for the period from [1 October to 31 December 2012].</u>	<u>From [31 March 2012] until [31 January 2013]</u>	<u>For Northern Ireland credit unions [31 March 2012]</u>
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Appendix 2

Near-final CREDS rules

CREDIT UNIONS NEW SOURCEBOOK INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 149 (Evidential provisions);
 - (c) section 156 (General supplementary powers);
 - (d) section 157(1) (Guidance);
 - (e) section 213 (The compensation scheme);
 - (f) section 214 (General);
 - (g) section 226 (Compulsory jurisdiction); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the FSA’s Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [*date*].

Revocation of the Credit Unions sourcebook (CRED)

- D. The provisions of the Credit Unions sourcebook (CRED) are revoked.

Making the Credit Unions New sourcebook (CREDS)

- E. The Financial Services Authority makes the rules and gives the guidance in the Annex to this instrument.

Notes

- F. In the Annex to this instrument, the “notes” (indicated by “**Note:**”) are intended for the convenience of readers but do not form part of the legislative text.

Citation

- G. This instrument may be cited as the Credit Unions New Sourcebook and Consequential Amendments Instrument 2010.

- H. The sourcebook in the Annex to this instrument may be cited as the Credit Unions New sourcebook (or CREDS).

By order of the Board
[*date*]

Annex

Credit Unions New sourcebook (CREDS)

Insert the following new sourcebook before the Electronic Money sourcebook (ELM) in the block of the Handbook titled “Specialist sourcebooks”.

In this Annex, the text is all new and is not underlined.

Credit Unions New sourcebook

1 Introduction

1.1 Application and purpose

Application

- 1.1.1 G (1) The Credit Unions New Sourcebook, *CREDS* for short, is the specialist sourcebook for *credit unions*.
- (2) Northern Ireland credit unions are not covered by the *Handbook* or by *CREDS*. They are exempt from the *general prohibition* in respect of *accepting deposits*. They do not, therefore, need to be *authorised persons* if they do not carry on any *regulated activity* other than *accepting deposits* in the United Kingdom.
- 1.1.2 G (1) *CREDS* covers only the requirements associated with a *Part IV permission* to *accept deposits*. The Conduct of Business sourcebook (*COBS*) sets out additional requirements for *credit unions* that are *CTF providers* in relation to *cash deposit CTFs*.
- (2) Other *permissions* are covered elsewhere in the *Handbook*. So, for example, a *credit union* seeking a *permission* to undertake a *regulated mortgage activity* would need to comply with the requirements in *MCOB*, and a *credit union* seeking a *permission* to undertake *insurance mediation activity* in relation to *non-investment insurance contracts* would need to comply with the requirements in *ICOBS*.
- (3) The provisions of the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU) and the Interim Prudential sourcebook for Investment Businesses (IPRU(INV)) may also be relevant to a *credit union* whose *Part IV permission* includes *insurance mediation activity* or *mortgage mediation activity* or which is a *CTF provider* with permission to carry on *designated investment business*.
- 1.1.3 G Every *credit union* is either a *version 1 credit union* or a *version 2 credit union*. The *rules* relating to, for example, borrowing, the payment of dividends on shares, capital and lending to members are different depending on whether a *credit union* is a *version 1 credit union* or a *version 2 credit union*.

Purpose

- 1.1.4 G *CREDS* sets out *rules* and *guidance* that are specific to *credit unions*. *CREDS* 10 refers to other more generally applicable provisions of the *Handbook* that are likely to be relevant to *credit unions* with *Part IV permission to accept deposits*. For details of these provisions, we would expect *credit unions* to access the full text in the *Handbook*.
- 1.1.5 G The status of the provisions in *CREDS* is indicated by icons containing the letters R, G or E. Please refer to chapter six of the Reader's Guide for further explanation about the significance of these icons. The Reader's Guide can be found at <http://fsahandbook.info/FSA/pdf/rguide.pdf>

2 Senior management arrangements, systems and controls

2.1 Application and purpose

Application

- 2.1.1 R This chapter applies to all *credit unions*.

Purpose

- 2.1.2 G The purpose of this chapter is to provide *rules* and *guidance* relating to senior management arrangements, systems and controls that are specific to *credit unions* with a *permission to accept deposits*.
- 2.1.3 G This chapter is also intended to remind *credit unions* that the Senior Management Arrangements, Systems and Controls sourcebook (*SYSC*) also contains a number of high level *rules* relating to senior management arrangements, systems and controls designed to have general application to all *firms*, including *credit unions*. *SYSC* 1 and *SYSC* 4 to 10 apply to all *credit unions* in respect of the carrying on of their *regulated activities* and unregulated activities in a *prudential context*. *SYSC* 18 applies to all *credit unions* without restriction. This chapter does not seek to repeat the requirements of *SYSC* that are relevant to *firms* more generally.
- 2.1.4 G The purposes of *SYSC*, which applies to all *credit unions*, are:
- (1) to encourage *directors* and *senior managers* to take appropriate practical responsibility for the arrangements that all *firms* must put in place on matters likely to be of interest to the *FSA* because they impinge on the *FSA's* function under the *Act*;
 - (2) to reinforce *Principle 3*, under which all *firms* must take reasonable care to organise and control their affairs responsibly and effectively with adequate risk management systems;
 - (3) to encourage all *firms* to vest responsibility for effective and responsible organisation in specific *directors* and *senior managers*.

2.2 General provisions

Appropriate systems and controls

- 2.2.1 G *SYSC 4.1.1R* requires every *firm*, including a *credit union*, to take reasonable care to establish and maintain such systems and controls as are appropriate to its business.
- 2.2.2 G *SYSC 4.1.1R* is a high level *rule* which requires *firms* to put in place the systems and controls that are appropriate and effective for their particular circumstances. What is appropriate for a particular *credit union* will depend upon such matters as the nature, scale, and complexity of its business, the volume and size of its *transactions*, and the level of risk associated with its operations.
- 2.2.3 G A small *version 1 credit union* will not be expected to have the same systems and controls as a large *version 2 credit union*.

Business plan

- 2.2.4 R A *credit union* must establish, maintain and implement an up-to-date business plan approved by the committee of management and supply a copy on request to the *FSA*.
- 2.2.5 G *Guidance* on business planning is given in *CREDS 2.2.51G* to *CREDS 2.2.58G*.

Policies and procedures manual

- 2.2.6 R A *credit union* must establish, maintain, and implement an up-to-date and fully documented policies and procedures manual, and supply a copy on request to the *FSA*.
- 2.2.7 G *Guidance* on documentation of policies and procedures is given in *CREDS 2.2.59G* to *CREDS 2.2.61G*.

System of control

- 2.2.8 R A *credit union* must establish, maintain and implement a fully documented system of control.
- 2.2.9 G *Guidance* on the documentation of systems of control is given in *CREDS 2.2.20G* to *CREDS 2.2.23G*.

Internal audit function

- 2.2.10 E (1) A *credit union* must have an internal audit function (this may be either in-house or outsourced to a third party).

- (2) Contravention of *CREDS* 2.2.10E(1) may be relied on as tending to establish contravention of *SYSC* 4.1.1R (see *CREDS* 2.2.1G).

- 2.2.11 G (1) The term 'internal audit function' in *CREDS* 2.2.10E refers to the generally understood concept of internal audit within a *firm*, in other words the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. The internal audit function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28).
- (2) *Guidance* on internal audit is given in *CREDS* 2.2.40G to *CREDS* 2.2.50G.

Segregation of duties

- 2.2.12 G A *credit union* should ensure appropriate segregation of duties in order to minimise the risk of *financial crime* or contravention of requirements and standards under the *regulatory system*.
- 2.2.13 G *Guidance* on segregation of duties is given in *CREDS* 2.2.18G and *CREDS* 2.2.19G.

Committee of management

- 2.2.14 G Under section 4(1) of, and Schedule 1 to, the Credit Unions Act 1979, a *credit union* is required to have a committee of management. The committee of management should be competent to control the affairs of a *credit union*, and have an appropriate range of skills and experience relevant to the activities carried on by the *credit union*.
- 2.2.15 G In accordance with *Statement of Principle 7* of the *Statements of Principle for Approved Persons*, it is the responsibility of each individual member of the committee of management to understand, and ensure that the *credit union* complies with, the requirements of all the relevant Acts, secondary legislation and *rules*.
- 2.2.16 G (1) As the *credit union's governing body*, the committee of management has responsibility for ensuring that the *credit union* complies with the requirements of *SYSC* 4.1.1R (see *CREDS* 2.2.1G and *CREDS* 2.2.2G). So, the committee of management has overall responsibility for:
- (a) establishing objectives and formulating a business plan;
 - (b) monitoring the financial position of the *credit union*;
 - (c) determining and documenting policies and procedures;
 - (d) directing and coordinating the work of all *employees* and volunteers, and ensuring that they are capable and properly trained;

- (e) maintaining adequate reserves;
- (f) making provision for bad and doubtful debts;
- (g) recommending a dividend on shares to members subject to the *credit union's* financial position;
- (h) ensuring that the *credit union* complies with all statutory and regulatory requirements; and
- (i) ensuring that the *credit union* complies with the requirements of its registered rules.

(2) Where a committee of management has responsibility for these matters on a day-to-day basis (that is, they are not delegated to a *chief executive* or *manager*) it seems highly likely that each member of the committee would be performing the *apportionment and oversight function*, and would therefore require individual approval.

2.2.17 G The committee of management should meet at least monthly.

Organisation

2.2.18 G *CREDS* 2.2.12G states that all *credit unions* should ensure appropriate segregation of duties. Duties should be segregated to prevent one individual from initiating, controlling, and processing a transaction (for example, both the approval and the payment of an invoice).

2.2.19 G Responsibilities of connected *persons* (for example, relatives and other close relationships) should be kept entirely separate. They should not hold key posts at the same time as each other. Where this is unavoidable, a *credit union* should have a written policy for ensuring complete segregation of duties and responsibilities.

Documentation of systems of control

2.2.20 G *CREDS* 2.2.8R requires a *credit union's* system of control to be fully documented. The documentation helps the committee of management to assess if systems are maintained and controls are operating effectively. It also helps those reviewing the systems to verify that the controls in place are those that have been authorised, and that they are adequate for their purpose.

2.2.21 G (1) The committee of management should decide what form this documentation should take, but the committee should have in mind the following points.

- (a) Documents should be comprehensive: they should cover all material aspects of the operations of the *credit union*.
- (b) Documents should be integrated: separate elements of the system should be cross-referred so that the system can be viewed as a

whole.

- (c) Documents should identify risks and the controls established to manage those risks. The controls should be identified and their purpose defined so that their effectiveness can be evaluated.
- (d) There should be named *persons* or posts for each control function and alternatives in case of absence.
- (e) Documents should state how the operation of the control is evidenced. Evidence might include signatures, records and registers. Documents should also state for how long that evidence is to be retained, taking account of SYSC 9.1.
- (f) Documents should be unambiguous. Instructions should be clear and precise, avoiding expressions such as "normally" and "if possible".
- (g) Documents should be practical and easy to consult and use when operating and reviewing systems.
- (h) Documents should be up to date. There should be an accurate description of the function that the control is to address. When changes are made to the function, the appropriate systems of control need to be updated and documented at the same time.

- (2) The committee of management should, from time to time, seek confirmation that the systems of control are being complied with.

2.2.22 G Documentation should not be restricted to "lower level" controls applied in processing transactions, but should also cover "high level" controls including:

- (1) identifying those powers to be exercised only by the committee of management, and the powers delegated to others;
- (2) the purpose, composition and reporting lines of sub-committees, and *senior managers* to whom responsibilities are delegated;
- (3) the specific roles and responsibilities of individual *officers*;
- (4) the timing, form and purpose of meetings of the committee of management and sub-committees, and the way in which policies and decisions are recorded and their implementation monitored.

2.2.23 G The documentation of IT controls should be integrated within the overall documentation of a *credit union's* system of control.

Accounting records and systems

2.2.24 G SYSC 9.1.1R requires that a *credit union* takes reasonable care to make and retain adequate records of all matters governed by the *Act*, secondary legislation under the *Act*, or *rules* (including accounting records). These

records must be capable of being reproduced in the English language and on paper.

- 2.2.25 G A *credit union* should have appropriate systems in place to fulfil its obligations with respect to adequacy, access, periods of retention, and security of records.
- 2.2.26 G The main reasons why a *credit union* should maintain adequate accounting and other records are:
- (1) to provide the committee of management with adequate financial and other information to enable it to conduct its business in a prudent manner on a day-to-day basis;
 - (2) to safeguard the assets of the *credit union* and the interests of members and *persons* too young to be members;
 - (3) to assist *officers* of the *credit union* to fulfil their regulatory and statutory duties in relation to the preparation of annual accounts;
 - (4) to provide the committee of management with sufficient timely and accurate information to assist them to submit the information required or requested by the *FSA*.
- 2.2.27 G When forming their opinion of whether the accounting and other records are adequate, the committee of management should satisfy itself that they capture and record on a timely basis, and in an orderly fashion, every transaction. The accounting and other records should provide sufficient information in respect of each transaction to explain:
- (1) its nature and purpose;
 - (2) the asset or liability, actual and contingent, which arises (or may arise) from it;
 - (3) the income or expenditure, current and deferred, which arises from it.
- 2.2.28 G The committee of management must be satisfied that the records are maintained in an integrated and orderly manner to disclose, with reasonable accuracy and promptness, the state of the business at any time.

The compliance function

- 2.2.29 G
- (1) Depending on the nature, scale and complexity of its business, it may be appropriate for a *credit union* to have a separate compliance function.
 - (2) The organisation and responsibilities of a compliance function should be documented.
 - (3) A compliance function should be staffed by an appropriate number of competent staff who are sufficiently independent to perform their

duties objectively. It should be adequately resourced and should have unrestricted access to the *credit union's* relevant records as well as ultimate recourse to its *governing body*.

2.2.30 G *Guidance* on compliance is located in SYSC 6.1.3R.
 [Note: As explained in SYSC 1 Annex 1.3.3G, SYSC 6.1.3R is to be read as *guidance* rather than as a *rule*, and as if "should" appeared in that provision instead of "must".]

2.2.31 G Some important compliance issues include:

- (1) insurance against fraud and dishonesty;
- (2) arrangements for the prevention, detection and reporting of *money laundering*;
- (3) establishing and maintaining a satisfactory system of control;
- (4) keeping proper books of account;
- (5) computation and application of profits;
- (6) investment of surplus funds;
- (7) capital requirements;
- (8) liquidity requirements;
- (9) limits on shares and loans;
- (10) maintenance of membership records;
- (11) submission of financial reports to the regulator;
- (12) *approved persons* regime;
- (13) payment of regulatory fees.

Management information

2.2.32 G *Guidance* on management information is located in SYSC 7.1.4R.
 [Note: As explained in SYSC 1 Annex 1.3.3G, SYSC 7.1.4R is to be read as *guidance* rather than as a *rule*, and as if "should" appeared in that provision instead of "must".]

2.2.33 G A *credit union* should maintain information systems to enable the committee of management to direct and control the *credit union's* business effectively, and to provide the information required by the *FSA*.

2.2.34 G The committee of management should be satisfied that:

- (1) the information available is sufficient for the proper assessment of the potential risks for the *credit union*, and in order to determine its need for capital and liquidity;
- (2) the information available is sufficiently comprehensive to provide a clear statement of the performance and financial position of the *credit union*;
- (3) management information reports are prepared with sufficient frequency;
- (4) sufficient attention is focused on key factors affecting income and expenditure and that appropriate performance indicators are employed;
- (5) actual performance is compared with planned and previous performance.

2.2.35 G In forming a view on whether the management information system is sufficiently comprehensive, the committee of management should consider whether, where relevant, the substance of reports provides a clear statement of:

- (1) the capital position;
- (2) the liquidity position;
- (3) profits and losses, assets and liabilities, and flow of funds;
- (4) loans, arrears, and provisions.

2.2.36 G The matters listed in *CREDS* 2.2.35G should be compared against limits, ratios and other parameters set by the committee of management, as well as regulatory requirements.

Information for the FSA

2.2.37 G *Credit unions* should ensure that quarterly and annual returns required by *SUP* are reviewed at a sufficiently senior level before they are submitted to the *FSA*. The review should check for consistency between different returns, between various tables on the same return, and between information prepared for the committee of management.

Personnel

2.2.38 G *Guidance on employees* and agents is located in *SYSC* 5.1.2G.

2.2.39 G A *credit union* should identify present and future staffing requirements (including volunteers and paid staff) and make appropriate plans for their recruitment and training.

Internal Audit

- 2.2.40 G *CREDS* 2.2.10E states that a *credit union* should have an internal audit function.
- 2.2.41 G *Guidance* on internal audit and audit committees (otherwise known as the supervisory committee) is located in *SYSC* 6 and *SYSC* 4.1.11G.
- 2.2.42 G Depending upon the scale and nature of the *credit union's* activities, it may be appropriate for the audit committee to delegate the task of monitoring the effectiveness and appropriateness of its systems and controls to an *employee* or other third party.
- 2.2.43 G The purposes of an internal audit are:
- (1) to ensure that the policies and procedures of the *credit union* are followed;
 - (2) to provide the committee of management with a continuous appraisal of the overall effectiveness of the control systems, including proposed changes;
 - (3) to recommend improvements where desirable or necessary;
 - (4) to determine whether the *internal controls* established by the committee of management are being maintained properly and operated as laid down in the policy, and comply with relevant Acts, secondary legislation, *rules*, policies and procedures;
 - (5) to ensure that accounting records are prepared promptly and accurately, and that they are in order;
 - (6) to assess whether financial and operating information supplied to the committee of management is accurate, pertinent, timely, and complete.
- 2.2.44 G The internal audit function (see *CREDS* 2.2.11G) should develop an audit plan, covering all aspects of the *credit union's* business. The audit plan should identify the scope and frequency of work to be carried out in each area. Areas identified as higher risk should be covered more frequently. However, over a set time frame (likely to be one year) all areas should be covered. Care should be taken to avoid obvious patterns in assessing the different areas of the *credit union's* business, so that the audit plan produces a representative snapshot of the operation and effectiveness of the credit union's internal systems and controls, procedures and policies.
- 2.2.45 G The internal audit work programme should include items such as:
- (1) verification of cash (counting and reconciliation) without prior notification;
 - (2) *bank* reconciliation (checking records against *bank* statements);
 - (3) verification of passbooks or account statements;

- (4) checking for compliance with policies and procedures;
 - (5) checking for compliance with relevant Acts, secondary legislation and *rules*;
 - (6) checking minutes and reports of the committee of management and other sub-committees for compliance, and assessing regularity and completeness;
 - (7) checking loan applications;
 - (8) verification of the *credit union's* assets and *investments*.
- 2.2.46 G The key elements of a satisfactory system of internal audit include the following:
- (1) Terms of reference. These should be specified with precision and include, amongst other things, scope and objectives of the audit committee and the internal audit function (see *CREDS 2.2.11G*), access to records, powers to obtain information and explanations for *officers*, and reporting requirements. These should be approved by the committee of management.
 - (2) Risk analysis. Key risks in each area of the *credit union's* business should be identified. The adequacy of the specific controls put in place to address those risks should be assessed.
 - (3) Internal audit plan. This should be developed on the basis of the risk analysis.
 - (4) Detailed programmes. These should be based on the internal audit plan, together with the controls and their objectives specified in the control documentation. Each programme should be comprehensive, specifying the frequency with which the various parts of the programme are to be carried out and how the work is to be performed.
 - (5) Working papers. These should be maintained to evidence who performed the work, how it was controlled and supervised, and to record the conclusions reached. They should be cross referenced to reports made and action taken.
 - (6) System of reporting. Formal reports should be submitted at the completion of each aspect of programmed work, stating the areas covered together with any recommendations and conclusions reached.
- 2.2.47 G The internal audit function (see *CREDS 2.2.11G*) should be independent of all of the functions it inspects.
- 2.2.48 G The committee of management should be satisfied that the status and reporting relationship of the chairman of the audit committee is sufficient to maintain the independence and objectivity of the function.

- 2.2.49 G The qualifications, experience and training of individuals performing the internal audit function (see *CREDS* 2.2.11G) should be adequate in relation to its objectives.
- 2.2.50 G The committee of management should be satisfied that the internal audit function (see *CREDS* 2.2.11G) is being properly carried out. In order to review the overall effectiveness of the internal audit function it should consider the following:
- (1) the adequacy and scope of planning;
 - (2) the adequacy and scope of work performed in relation to the plans and programmes;
 - (3) the regularity and level of reporting on matters arising from the inspections;
 - (4) the disposal of points and recommendations raised, and reasons for the rejection of any major points;
 - (5) a review of the overall effectiveness of the internal audit function.

Business planning

- 2.2.51 G *CREDS* 2.2.4R requires that a *credit union* maintains a current business plan.
- 2.2.52 G *Version 2 credit unions* should submit a copy of their business plan to the *FSA*. A *version 2 credit union* making any significant changes to the business plan should provide the *FSA* with a copy of the amended plan as soon as possible after it has been adopted.
- 2.2.53 G *Guidance* on business strategy is located in *SYSC* 6.1.2R and *SYSC* 7.1.2R.
- [**Note:** As explained in *SYSC* 1 Annex 1.3.3G, *SYSC* 6.1.2R and *SYSC* 7.1.2R are to be read as *guidance* rather than as *rules*, and as if "should" appeared in those provisions instead of "must".]
- 2.2.54 G The committee of management should have a satisfactory planning system to provide a framework for growth and development of the *credit union*, and to enable it to identify, measure, manage and control risks of regulatory concern.
- 2.2.55 G The business plan should cover a period of three years from the current financial year, in other words the remainder of the current financial year and the two following financial years.
- 2.2.56 G The planning system should be defined clearly, documented appropriately, and planning related tasks and decision-making responsibilities allocated clearly within the *credit union*.
- 2.2.57 G The conclusions, recommendations, projections and assumptions set out in the business plan should be supported by analysis, based on adequate data,

and properly documented for comparison with actuals.

- 2.2.58 G The committee of management should consider the range of possible outcomes in relation to various risks. These risks are increased when a *credit union* provides ancillary services such as issuing and administering means of payment and money transmission, which result, in particular, in higher liquidity and operational risks.

Documentation of policies and procedures

- 2.2.59 G *CREDS* 2.2.6R requires that a *credit union* maintains a manual of its policies and procedures.
- 2.2.60 G *Version 2 credit unions* should submit a copy of their policy and procedures manual to the *FSA*. A *version 2 credit union* making any significant changes to their policies or procedures should provide the *FSA* with a copy of the amended manual as soon as possible after it has been adopted.
- 2.2.61 G The policy and procedures manual should cover all aspects of the *credit union's* operations, including matters such as:
- (1) cash handling and disbursements;
 - (2) collection procedures;
 - (3) lending, including large *exposures* (see *CREDS* 7.1 to *CREDS* 7.5);
 - (4) arrears management (see *CREDS* 7.2.9G to *CREDS* 7.2.10G);
 - (5) provisioning (see *CREDS* 7.5);
 - (6) liquidity management (see *CREDS* 6);
 - (7) financial risk management (see *CREDS* 3);
 - (8) *money laundering* prevention (see *SYSC* 6.3);
 - (9) internal audit (see *CREDS* 2.2.40G to *CREDS* 2.2.50G);
 - (10) information technology (see *CREDS* 2.2.23G);
 - (11) business continuity, otherwise known as disaster recovery (see *CREDS* 2.2.62G to *CREDS* 2.2.64G);
 - (12) marketing;
 - (13) training;
 - (14) connected *persons* and managing conflicts of interest (see *CREDS* 2.2.19G);
 - (15) *complaints* handling (see *DISP* 1).

Business continuity

- 2.2.62 G *Guidance* on business continuity is located in SYSC 4.1.6R to SYSC 4.1.8G.
[**Note:** As explained in SYSC 1 Annex 1.3.3G, SYSC 4.1.6R is to be read as *guidance* rather than as a *rule*, and as if "should" appeared in that provision instead of "must".]
- 2.2.63 G A *credit union* should put in place contingency arrangements to ensure that it could continue to operate and meet its regulatory requirements in the event of an unforeseen interruption that may otherwise prevent the *credit union* from operating normally (for example, if there was a complete failure of IT systems or if the premises were destroyed by fire).
- 2.2.64 G Business continuity arrangements should be reviewed and tested regularly in order to ensure their effectiveness.

3 Investment and borrowing**3.1 Application, purpose and interpretation**

Application

- 3.1.1 R This chapter applies to all *credit unions*.

Purpose

- 3.1.2 G (1) The *rules* and *guidance* contained in this chapter are designed to address risks that can arise from the structure of a *credit union's* balance sheet.
- (2) These risks include the risk that a *credit union's* income is not sufficiently large to cover its funding, operational and other costs, and the risk that a *credit union* may not be able to renew or replace wholesale funding at an affordable rate.

Interpretation

- 3.1.3 R For the purposes of this chapter:
- (1) the maturity of a *security* or loan is the last or only date on which it shall be repayable by or under its terms; and
- (2) surplus funds means funds not immediately required for a *credit union's* accepting deposits, lending and ancillary purposes.

3.2 Investment

Types of investment

- 3.2.1 R Subject to the general limitations on its powers contained in the Credit Unions Act 1979 and to the limitations contained in *CREDS* 3.2.2R and *CREDS* 3.2.3R, a *credit union* may invest its surplus funds and funds serving liquidity purposes only in the following types of *investment*:
- (1) *deposits* or loans to a *UK domestic firm* with *Part IV permission to accept deposits*;
 - (2) *deposits* or loans to an institution which is authorised in any other *EEA State* to *accept deposits*;
 - (3) Sterling-denominated *securities* issued by the government of any *EEA State*;
 - (4) fixed-interest sterling-denominated *securities* guaranteed by the government of any *EEA State*, provided that any guarantee is unconditional in respect of the payment of both principal and interest on those *securities*.

Maturity of investments

- 3.2.2 R Any *securities* invested in, or loans made, in accordance with *CREDS* 3.2.1R by a *version 1 credit union* must have a maturity date of not more than 12 *months* from the date on which the *investment* is made.
- 3.2.3 R Any *securities* invested in, or loans made, in accordance with *CREDS* 3.2.1R by a *version 2 credit union* must have a maturity date of not more than five years from the date on which the *investment* is made.

Cash in custody of officers

- 3.2.4 R Surplus funds not invested by a *credit union* in accordance with *CREDS* 3.2.1R to *CREDS* 3.2.3R must be held as cash in the custody of *officers* of the *credit union*.

Investment conditions no longer satisfied

- 3.2.5 R Where under *CREDS* 3.2.1R to *CREDS* 3.2.3R above, a *firm* or another institution ceases to satisfy the conditions necessary for a *credit union* to invest with it or lend to it, and any funds of a *credit union* are with that *firm* or other institution, the *credit union* must take all practicable steps to call in and realise that investment or loan within three *months* of that cessation, or, if that is not possible, as soon after the end of that period as possible.

Transactions between credit unions

- 3.2.6 G (1) A *credit union* may accept a loan from another *credit union* (section

10(1) of the Credit Unions Act 1979).

- (2) *CREDS 3.2.2R to CREDS 3.2.3R* apply to loans between *credit unions*, except for subordinated loans qualifying as capital under *CREDS 5.2.1R(4)*. (See *CREDS 3.2.1R* and *CREDS 5.2.8R(2)*.)
- (3) *CREDS 5.2.1R to CREDS 5.2.9G* apply to subordinated loans between *credit unions* qualifying as capital under *CREDS 5.2.1R(4)*.
- (4) *CREDS 7 (Lending)* (which covers loans to members) does not apply to loans between *credit unions* (see *CREDS 7.1.1R*). However, in relation to those loans, *credit unions* should have regard to the principles outlined in *CREDS 7.4.6G* and *CREDS 7.5 (Provisioning)*.
- (5) *CREDS 6.3.4 R(2)* applies to loans between *credit unions* in relation to liquidity.

- 3.2.7 G Loans between *credit unions* should only be arranged after careful consideration by both parties. For example:
- (1) the borrower should consider the financial implications of relying on such borrowing in order to lend to members, or to finance share withdrawals; and
 - (2) the lender should assess the risk of late and non-repayment arising from the borrower's own liquidity and credit risks, and keep the aggregate of its loans to other *credit unions* to a very modest level.

3.3 Borrowing and Financial risk management

Borrowing

- 3.3.1 R A *credit union* must not borrow from a natural person, except by subordinated loan qualifying as capital under *CREDS 5.2.1R(4)*.
- 3.3.2 G *CREDS 3.3.1R* does not apply to borrowing from a *body corporate*. A loan made to a *credit union* by a *body corporate* can either be a subordinated loan (providing regulatory capital within *CREDS 5.2.1R(1)(c)*) or a senior loan (providing ordinary funding, but not constituting regulatory capital).
- 3.3.3 R The borrowing of a *version 1 credit union* must not exceed, except on a short-term basis, an amount equal to 20% of the *total non-deferred shares* in the *credit union*.
- 3.3.4 E (1) The borrowing of a *version 1 credit union* must not exceed an amount equal to 20% of the *total non-deferred shares* in the *credit union* at the end of more than two consecutive quarters.
- (2) Contravention of *CREDS 3.3.4E(1)* may be relied on as tending to indicate contravention of *CREDS 3.3.3R*.

- 3.3.5 R The borrowing of a *version 2 credit union* must not at any time exceed an amount equal to 50 per cent of the *total non-deferred shares* in the *credit union*.
- 3.3.6 R A *credit union* must not count subordinated debt obtained by the *credit union* and forming part of its capital (see *CREDS 5.2.1R*) towards the borrowing limits under *CREDS 3.3.3R* and *CREDS 3.3.5R*.

Financial risk management policy statement

- 3.3.7 R A *version 2 credit union* must establish, maintain and implement an up-to-date financial risk management policy statement approved by the committee of management.
- 3.3.8 G This policy should address both interest rate and funding risk. It should cover aggregate limits on holdings of *investments* and borrowings from sources other than members. It should deal with avoidance of funding concentrations (both source and time-band concentrations) and should detail the organisational arrangements, systems and controls in respect of these matters.
- 3.3.9 G A *credit union's* committee of management should review and approve its financial risk management policy at least once a year, and more frequently if necessary, especially in the light of significant changes in business.
- 3.3.10 R A *version 2 credit union* must send to the *FSA* a copy of its financial risk management policy statement as soon as reasonably practicable after it has been approved by the committee of management.

4 Shares and deposits

4.1 Application and purpose

Application

- 4.1.1 R This chapter applies to all *credit unions*.

Purpose

- 4.1.2 G The purpose of this chapter is to provide for limits on holdings of shares and deposits, joint accounts, dividends and insurance cover (based on the aggregate value of shares and deposits).

4.2 Shares

Maximum shareholdings

4.2.1 R A *credit union* must not permit a member to have or claim any interest in the shares of the *credit union*, other than *deferred shares*, exceeding the greater of:

- (1) £ 10,000; or
- (2) 1.5 per cent of the *total non-deferred shares* in the *credit union*.

4.2.2 R Where:

- (1) there is an increase in the percentage of the *total non-deferred shares* in the *credit union* held by a member; and
- (2) this is the result of a reduction in the *total non-deferred shares* in the *credit union* occurring after the time at which that member last acquired shares, or an interest in the shares, of the *credit union*, other than *deferred shares*;

that increase in the percentage of the *total non-deferred shares* in the *credit union* held by that member must be disregarded for the purposes of the limits in *CREDS* 4.2.1R(2) and 4.2.5R.

4.2.3 G *CREDS* 4.2.2R makes it unnecessary for a member to reduce his shareholding merely because of a reduction in the *total non-deferred shares* in the *credit union*.

Joint accounts

4.2.4 R Shares in a *credit union* must not be held in the joint names of more than two members.

4.2.5 R For the purpose only of the limit in *CREDS* 4.2.1R, the interest of a member in a joint account must be treated as 50 per cent of the shareholding in that account.

Dividends on shares

4.2.6 R A *version 1 credit union* must not:

- (1) pay different dividends on different accounts unless:
 - (a) at the time of the payment of any dividends it has a capital-to-total assets ratio of at least 5%; and
 - (b) the payment of any of those dividends does not reduce the capital-to-total assets ratio to below 5%; or

(2) pay dividends out of interim profits more than once a year.

4.2.7 G A *version 2 credit union* is permitted to:

(1) pay different dividends on different accounts; and

(2) pay dividends out of interim profits more than once a year.

4.3 Deposits

4.3.1 R (1) A *credit union* must not accept *deposits* except:

(a) by way of subscription for its shares from *persons* who may lawfully be admitted to membership of the credit union under the Credit Unions Act 1979 and the rules of the credit union; or

(b) from *persons* too young to be members under (2); or

(c) as loans from *persons* under CREDS 3.3.1R to CREDS 3.3.2R.

(2) A *credit union* must not accept *deposits* exceeding the greater of £10,000 or 1.5 per cent of the *total non-deferred shares* in the *credit union* from a person who is under the age at which, by virtue of any provision of the *credit union's* rules or otherwise, he may lawfully become a member of the *credit union*, unless the *deposits* are held in a *CTF* in which case the *credit union* may accept a larger *deposit*.

4.3.2 G *Credit unions* that provide *CTFs* should ensure that under their rules depositors under the age of 18 whose *deposits* are held within a *CTF* continue to be treated as juvenile depositors until the age of 18. This will provide for the fact that *CTF* account holders may not withdraw any money from the *CTF* until they reach the age of 18 in contrast to the position in relation to other *deposits* which become shares and may be withdrawn earlier.

4.3.3 G CREDS 3.3.1R and CREDS 4.3.1R are intended to ensure that the liberalisation of *credit union* borrowing (CREDS 3.3.2R) does not have the unintended effect of undermining the common bond concept by allowing *credit unions* to operate deposit accounts for natural *persons* who do not qualify for membership.

4.4 Insurance against fraud or other dishonesty

4.4.1 R A *credit union* must at all times maintain in force a policy of insurance complying with CREDS 4.4.2R.

4.4.2 R In order to comply with CREDS 4.4.1R, a policy of insurance (subject to the

exception in *CREDS* 4.4.3R):

- (1) must insure the *credit union* in respect of every description of loss suffered or liability incurred by reason of the fraud or other dishonesty of any of its officers or employees;
- (2) must so insure the *credit union* up to the limits set out in *CREDS* 4 Annex 1R in respect of any one claim, except that the liability of the insurer may be restricted to the amounts set out in *CREDS* 4 Annex 1R in respect of the total of the claims made in any one year; and
- (3) must not provide, in relation to any claim, for any amount greater than one per cent of the limits on any one claim set out in *CREDS* 4 Annex 1R to be met by the *credit union*.

4.4.3 R From the losses and liabilities against which a policy complying with *CREDS* 4.4.2R must insure, there must be excepted all loss suffered or liability incurred by a *credit union* other than direct pecuniary loss discovered during the currency of the policy of insurance or within 18 months of the date on which either the policy of insurance lapses, or the duties of the officer or employee concerned are terminated, whichever occurs first.

- 4.4.4 G
- (1) The “aggregate value” in *CREDS* 4 Annex 1R comprises the shares and *deposits* (including those held in a *CTF*) referred to in *CREDS* 4.3.1R(1)(a) and (b).
 - (2) The tables in *CREDS* 4 Annex 1R set out the minimum levels of insurance cover required by a *credit union*. It is prudent for a *credit union* to consider whether additional cover:
 - (a) is needed for its own particular circumstances; and
 - (b) should be obtained to cater for actual or projected growth in the “aggregate value” (see paragraph 1 of *CREDS* 4 Annex 1R) between “relevant dates” (see paragraph 3 of *CREDS* 4 Annex 1R).

4 Annex 1R Insurance against fraud or other dishonesty (see *CREDS* 4.4.1R)

	Column (1)	Column (2)	Column (3)
	Aggregate value of share subscriptions and other deposits received and not repaid (the “aggregate value”)	Cover required in respect of any one claim	Cover required in respect of total claims made in any one year

Row (A)	Less than £10,000	The higher of £500 or 50 per cent of the aggregate value	The higher of £1,000 or 100 per cent of the aggregate value
Row (B)	£10,000 to £100,000	The higher of £5,000 or 20 per cent of the aggregate value	100 per cent of the aggregate value
Row (C)	More than £100,000	The higher of £20,000 or 15 per cent of the aggregate value	The higher of £100,000 or 75 per cent of the aggregate value
Row (D)	More than £1,000,000	£150,000 plus 5 per cent of the aggregate value over £1,000,000, subject to a maximum of £2,000,000	£750,000 plus 5 per cent of the aggregate value over £1,000,000, subject to a maximum of £4,000,000
<p>Notes:</p> <p>(1) In relation to a <i>credit union</i> which, at the relevant date, has accepted and not repaid share subscriptions and other deposits of the aggregate value stipulated in column (1) of the table in this Annex, the limit in respect of any one claim is the amount appearing in the corresponding part of column (2); and the amount in respect of the total of claims made in any one year is the amount appearing in the corresponding part of column (3).</p> <p>(2) For the purposes of this Annex, “the relevant date” is either the date of inception or renewal of the policy of insurance, or such other date as the <i>credit union</i> determines, provided that the relevant date in each year subsequent to the first must be not more than one year after the relevant date in the preceding year.</p>			

5 Capital

5.1 Application and purpose

Application

- 5.1.1 R This chapter applies to all *credit unions* except for *CREDS 5.3*, which applies only to *version 1 credit unions*, and *CREDS 5.4*, which applies only to *version 2 credit unions*.

Purpose

- 5.1.2 G It amplifies *Principle 4*, under which a *firm* must maintain adequate financial resources, and the *threshold condition* that a *firm's* resources must be adequate in relation to the *regulated activities* that it carries on (see *COND 2.4*).
- 5.1.3 G The purpose of setting capital requirements is to ensure that a *credit union* has an appropriate level of capital available to absorb unexpected losses.
- 5.1.4 G The capital and net worth requirements set out in this chapter represent the minimum requirements that a *credit union* must comply with. A *credit union* should decide for itself the amount of capital that it needs to hold over and above these minimum standards proportionate to its scale of operations and its risk profile.
- 5.1.5 G The *FSA* may require a *credit union* to hold minimum amounts of capital greater than those set out in this chapter where it considers that particular circumstances make that appropriate.
- 5.1.6 G In addition to the capital requirements set out in this chapter, section 7A of the Credit Unions Act 1979 provides that a *credit union* may issue interest-bearing shares only if, among other things, its most recent year end balance sheet shows that it holds reserves of at least £50,000 or 5% of its total assets, whichever is greater.

5.2 Components of capital

- 5.2.1 R (1) The following are included in the meaning of 'capital' for the purposes of this chapter:
- (a) audited reserves;
 - (b) interim net profits;
 - (c) *deferred shares*;
 - (d) subordinated debt meeting the requirements set out at (4);
 - (e) initial capital; and
 - (f) revaluation reserves, arising from the differences between book values and the current market values of property fixed assets which:
 - (i) meet the requirements in (6) to (7); and
 - (ii) are subject to the limit in (8).

- (2) Audited reserves are audited accumulated profits or losses, or both, retained by a *credit union* after payment of tax, dividends and interest on *deposits*. Reserves also include other realised gains and gifts of capital, for example from a sponsoring organisation. *Deferred shares* are included in the meaning of 'capital' but must not be counted twice in the calculation of capital. Where a *credit union's* audited reserves include sums, equal to the amount paid on *deferred shares* subscribed for in full, and transferred to the reserves in accordance with section 7(6) of the Credit Unions Act 1979, that amount must not also be counted separately under (1)(c).
- (3) Interim net profits are interim profits net of tax and anticipated dividends.
- (4) To be included in the calculation of capital, subordinated debt must meet the following conditions:
 - (a) the maturity of the loan must be more than five years from the date on which the loan is made;
 - (b) the subordination provisions provide that the claims of the subordinated creditors rank behind those of all unsubordinated creditors including the *credit union's* shareholders;
 - (c) to the fullest extent possible, creditors waive their rights to set off amounts they owe the *credit union* against subordinated amounts owed to them by the *credit union*;
 - (d) the only events of default are non-payment of any interest or principal under the debt agreement or the winding-up of the *credit union*;
 - (e) the remedies available to the subordinated creditor in the event of default in respect of the subordinated debt are limited to petitioning for the winding up of the *credit union* or proving for and claiming in the liquidation of the *credit union*;
 - (f) the subordinated debt must not become due and payable before its stated final maturity date except on an event of default complying with (d);
 - (g) the terms of the subordinated debt must be set out in a written agreement or instrument that contains terms that provide for the above conditions;
 - (h) the debt must be unsecured and fully paid up.
- (5) Initial capital is a *credit union's* capital at the time it is given *Part*

IV permission to accept deposits, but this does not apply in cases where the *credit union* is treated as having such a *permission on credit unions day*. Initial capital consists of a *credit union's* assets less its liabilities. For this purpose, liabilities do not include the items set out in (1)(a) to (c).

- (6) To be included in the calculation of capital, revaluation reserves must meet the following conditions:
- (a) the *credit union* must apply the revaluation method to all of its property fixed assets and not selectively;
 - (b) the values must result from regular professional valuations of each property;
 - (c) if professional valuations are not carried out annually, there must be:
 - (i) a rolling programme such that no professional valuation of a property is more than five years old;
 - (ii) in the intervening year(s) in which a property is not professionally valued, an interpolation of value by the Board which takes into account any decline in property values disclosed by valuations of other properties in that year;
 - (d) any increase of revaluation reserve must be supported by a professional valuation.
- (7) Subject to the conditions in (6), and the limit in (8), the amount of revaluation reserve used for the calculation of capital must be:
- (a) the amount standing to the credit of any such reserve in the balance sheet in the most recent annual return to have been sent to the *FSA* under *SUP* 16.7.62R or *SUP* 16.12.5R (see *CREDS* 8.2.3G); or
 - (b) the amount of any such reserve in the accounting records of the *credit union*, for the time being; whichever is the lesser amount.
- (8) The amount of revaluation reserve included in the calculation of capital must not represent more than 25 per cent of the total of capital resources in (1)(a) to (e).

- 5.2.2 G The effect of *CREDS* 5.2.1R(4)(a) is that the shortest permissible period for a subordinated loan qualifying as capital under *CREDS* 5.2.1R(4)(a) is five years and one day.

- 5.2.3 G Subordinated debt is due and payable only in accordance with *CREDS* 5.2.1R(4). However, this *rule* does not prevent the debt from being issued on terms which permit the *credit union*, in accordance with a board resolution, to repay the debt. The decision to repay the debt should be genuinely at the instance of the *credit union's* board. The *credit union* should satisfy itself that the remaining capital would be adequate for the *credit union's* present, and future foreseeable needs. The *credit union* should notify the *FSA* at least one month in advance of its intention to repay the debt (thereby giving the *FSA* the opportunity to raise objections to the proposed repayment). If repayment is proposed within the first five years, and the *FSA* considers that the remaining capital may not be adequate, then the *FSA* is likely to consider exercising its *own-initiative powers* to ensure that the *credit union* continues to satisfy the *threshold conditions*.
- 5.2.4 G The effect of *CREDS* 5.2.1R(8) is that no more than 25 per cent of a *credit union's* regulatory capital may consist of amounts deriving from the revaluation of property, however large the amount standing to the credit of the *credit union's* revaluation reserve.
- 5.2.5 R Negative reserves and any interim net losses must be deducted from capital.
- 5.2.6 R The amount of any subordinated loan counting towards a *credit union's* regulatory capital must, over its final four years to maturity, be written down by 20% of the amount of the loan per year (see Table at *CREDS* 5.2.7R.)
- 5.2.7 R Writing down subordinated loans over final four years

This table belongs to *CREDS* 5.2.6R

Years to maturity	Amount of loan counting towards capital
More than 4	100%
Less than and including 4 but more than 3	80%
Less than and including 3 but more than 2	60%
Less than and including 2 but more than 1	40%
Less than and including 1	20%

- 5.2.8 R (1) When a *credit union* makes a subordinated loan to another *credit union* qualifying as capital under *CREDS* 5.2.1R(4)(a), the full amount of the loan (not the amount counting towards the borrower's capital under *CREDS* 5.2.7R) must be deducted from the lender's capital.

- (2) A subordinated loan within *CREDS* 5.2.1R(4)(a) is not an investment under *CREDS* 3.2.1R.

5.2.9 G The effect of *CREDS* 5.2.8R is that the maturity limits in *CREDS* 3.2.2R and *CREDS* 3.2.3R do not apply to subordinated loans made by a *credit union*.

5.3 Version 1 credit unions

Requirement to maintain capital assets ratio

5.3.1 R A *version 1 credit union* must at all times maintain a capital-to-total assets ratio of at least 3%.

Building reserves

5.3.2 R A *version 1 credit union* must establish and maintain a general reserve.

5.3.3 R If, at the end of any year of account, the amount in its general reserve stands at less than 10% of its total assets, a *version 1 credit union* must transfer to its general reserve at least 20% of its profits for that year (or such lesser sum as is required to bring the amount in its general reserve up to 10% of its total assets).

5.3.4 R For the purposes of *CREDS* 5.3.3R 'profits' means the profits resulting from the operations of a *credit union* in the year of account in question after deduction of all operating expenses (including payment of interest) and after making provision for the depreciation of assets, for tax liabilities and for bad and doubtful debts, but before the payment of any dividend.

5.3.5 R A *version 1 credit union* may not transfer from its general reserve where its general reserve stands at less than 10% of its total assets.

Minimum initial capital

5.3.6 R A *credit union* must have adequate initial capital taking into account the nature, scale and complexity of its business and expected early expenses.

5.3.7 E (1) A *version 1 credit union* should have initial capital of at least £10,000.

- (2) Contravention of (1) may be relied on as tending to establish contravention of *CREDS* 5.3.6R.

5.3.8 G For the meaning of 'initial capital' see *CREDS* 5.2.1R(5).

5.3.9 G It should be noted that the requirement in *CREDS* 5.3.6R does not affect a *credit union's* obligations to meet the other capital requirements that apply to it. The ability of a *credit union* to comply on a continuing basis with the other capital requirements that apply to it will be a central factor

for consideration in any application for *authorisation*.

Capital requirement for certain version 1 credit unions

- 5.3.10 R (1) A *version 1 credit union* must not lend to a member more than £7,500 in excess of the *attached shares* held by that member, unless it has a capital-to-total assets ratio of at least 5%.
- (2) A *credit union* which is owed by a member a total amount greater than £7,500 in excess of the *attached shares* held by that member must maintain at all times, while such an amount is outstanding, a capital-to-total assets ratio of at least 5%.
- 5.3.11 G *CREDS 5.3.10R(2)* does not have the effect of invalidating existing loans if the capital-to-assets ratio falls below 5%.
- 5.3.12 G *CREDS 7.5.1R* and *CREDS 7.5.2R* mean that bad and doubtful debts must be taken into account in establishing the capital-to-assets ratio.

Capital requirements for large version 1 credit unions

- 5.3.13 R A *version 1 credit union* with total assets of more than £5 million or a total number of members of more than 5,000, or both, must maintain at all times a capital-to-total assets ratio of at least 5%.
- 5.3.14 G *CREDS 7.5.1R* and *CREDS 7.5.2R* mean that bad and doubtful debts must be taken into account in establishing the capital-to-assets ratio.
- 5.3.15 R (1) A *version 1 credit union* with total assets of more than £10 million or a total number of members of more than 10,000, or both, must maintain at all times a risk-adjusted capital-to-total assets ratio of at least 8%.
- (2) 'Risk-adjusted capital' has the same meaning as in *CREDS 5.4.1R* and *CREDS 5.4.2R* (Risk-adjusted capital requirements for *version 2 credit unions*).

5.4 Version 2 credit unions

- 5.4.1 R (1) A *version 2 credit union* must maintain at all times a risk-adjusted capital-to-total assets ratio of at least 8%.
- (2) Risk-adjusted capital is calculated as follows: Capital + (provisions - balance of the *net liability* of borrowers where their loans are 12 *months* or more in arrears - 35% of the *net liability* of borrowers where their loans are 3-12 *months* in arrears).
- 5.4.2 R In calculating risk-adjusted capital:
- (1) the maximum net figure for provisions (after deduction of the

stipulated amounts for loans in arrears) that can be included is 1% of total assets;

- (2) 'provisions' includes specific provisions and general provisions; and
- (3) mortgage loans and provisions in respect of mortgage loans must not be included in calculating the loan balances to be deducted from, and the provisions to be added to, the amount of capital.

Minimum initial capital

- 5.4.3 R A *credit union* must have adequate initial capital taking into account the nature, scale and complexity of its business and expected early expenses.
- 5.4.4 E
 - (1) A *version 2 credit union* should have initial capital of at least £50,000.
 - (2) Contravention of (1) may be relied on as tending to establish contravention of *CREDS* 5.4.3R.
- 5.4.5 G For the meaning of 'initial capital' see *CREDS* 5.2.1R(5).
- 5.4.6 G It should be noted that the requirement in *CREDS* 5.4.3R does not affect a *credit union's* obligations to meet the other capital requirements that apply to it. The ability of a *credit union* to comply on a continuing basis with the other capital requirements that apply to it will be a central factor for consideration in any application for *authorisation*.

6 Liquidity

6.1 Application and purpose

Application

- 6.1.1 R This chapter applies to all *credit unions*.

Purpose

- 6.1.2 G This chapter amplifies *Principle 4*, under which a *credit union* must maintain adequate financial resources, and the *threshold condition* for *permission* that a *credit union's* resources must be adequate in relation to the *regulated activities* that it carries on (see *COND* 2.4).
- 6.1.3 G A central feature of *credit union* business is maturity transformation, in other words taking short term *deposits* (in the form of share accounts) from members and making comparatively long-term loans. It is important, in order to maintain confidence and protect members, that a *credit union*

has adequate liquid assets (liquidity) to enable it to fulfil members' withdrawal requests within expected timeframes.

6.2 General requirements

Liquid assets

- 6.2.1 R A *credit union* must hold liquid assets of an amount and composition that is prudent and appropriate to the scale and nature of its business, having regard to material risks, including the risk of a sudden adverse cash flow, with a view to enabling it to meet its objectives.
- 6.2.2 G The liquid assets held by a *credit union* should be sufficient to meet its day-to-day business needs and to provide an appropriate cushion in the event of pressure arising from unexpected events.
- 6.2.3 G The responsibility for ensuring that a *credit union* can meet its obligations as they fall due rests with the *credit union's* management.

Liquid management policy statement

- 6.2.4 R A *credit union* must establish, maintain and implement an up-to-date liquidity management policy statement approved by the committee of management and designed to ensure its compliance with CREDS 6.2.1R.
- 6.2.5 R A *version 2 credit union* must send to the *FSA* a copy of its liquidity management policy statement as soon as reasonably practicable after it has been approved by the committee of management.
- 6.2.6 G A *credit union* should be able to satisfy the *FSA* on a continuing basis that it has a prudent liquidity management policy and adequate management systems in place to ensure that the policy is adhered to.
- 6.2.7 G The liquidity management policy statement of a *credit union* should set out the *credit union's* objectives for liquidity, the limits within which liquidity should be maintained, and the types of liquid assets which the *credit union* should hold.
- 6.2.8 G A *credit union's* committee of management should review and approve its liquidity management policy statement at least once a year, and more frequently if necessary, especially in the light of significant changes in business.
- 6.2.9 G Where a *version 2 credit union* has borrowed wholesale funds, the maturity of such funds and the risk of their not being able to be refinanced should be taken into account in the formulation of the *credit union's* liquidity management policy statement.
- 6.2.10 G When a *credit union* provides ancillary services such as issuing and administering means of payment and money transmission, it should take

into account the potentially greater volatility of its funds when deciding what amount and composition of liquid assets is necessary to comply with *CREDS* 6.2.1R.

6.3 Minimum liquidity requirements

- 6.3.1 R A *credit union* must at all times hold liquid assets of a value equal to at least 5% of its *total relevant liabilities*.
- 6.3.2 R A *credit union* must further hold enough liquid assets to ensure that on no two consecutive quarter ends is the level of the *credit union's* liquid assets below 10% of its *total relevant liabilities*.
- 6.3.3 G The liquidity requirements set out in *CREDS* 6.3.1R and *CREDS* 6.3.2 R are minimum requirements and are subject to the overarching requirement of *CREDS* 6.2.1R.
- 6.3.4 R (1) For the purposes of *CREDS* 6.3.1R and *CREDS* 6.3.2R, only those assets shall count as liquid which can be realised for cash at short notice, and within at most eight *days*.
- (2) Amounts loaned by one *credit union* to another must not be counted as liquid by the lender.
- 6.3.5 R For the purposes of calculating the ratio of a *credit union's* liquid assets to its *total relevant liabilities* (in *CREDS* 6.3.1R and *CREDS* 6.3.2R), assets shall be valued at the amount for which they could be realised within eight *days*.
- 6.3.6 E (1) For the purposes of calculating the ratio of a *credit union's* liquid assets to its *total relevant liabilities* (in *CREDS* 6.3.1R and *CREDS* 6.3.2R), the *securities* referred to in *CREDS* 3.2.1R to *CREDS* 3.2.3R must be valued on the basis that they could be realised at market value minus the following discounts (whether or not this is the case in fact):
- (a) maturity less than 1 year – zero;
- (b) maturity 1 to 5 years – 5%.
- (2) Compliance with *CREDS* 6.3.6E(1) may be relied on as tending to establish compliance with *CREDS* 6.3.5R (the 8-*day* realisation-value rule).
- 6.3.7 G An asset maturing on a non-business *day* should be regarded as maturing on the succeeding *business day*.
- 6.3.8 G For the purposes of clarity, funds serving liquidity purposes may be invested in the manner set out in *CREDS* 3.2.1R provided that the

resulting assets satisfy the relevant requirements of this chapter.

- 6.3.9 G Where a *credit union* buys or holds property as premises from which to conduct its business, the *credit union* should not count those premises as liquid assets for the purposes of *CREDS* 6.3.4R.

7 Lending to members

7.1 Application, purpose and interpretation

Application

- 7.1.1 R This chapter applies to all *credit unions*.

Purpose

- 7.1.2 G (1) This chapter seeks to protect the interests of *credit unions'* members in respect of loans to members under section 11 of the Credit Unions Act 1979. *Principle 4* requires *credit unions* to maintain adequate financial resources and *CREDS* 5 sets out the *FSA's* detailed capital adequacy requirements in respect of *credit unions*.
- (2) This chapter is not relevant to loans between *credit unions*, except as indicated in *CREDS* 3.2.6G(4).

Interpretation

- 7.1.3 G The *rules* and *guidance* in this chapter are in addition to the provisions of section 11 of the Credit Unions Act 1979 in relation to loans made by *credit unions*. Under these provisions
- (1) a *credit union* may make a loan only to:
- (a) a member of the *credit union* who is an individual; and
 - (b) a corporate member of the *credit union*, if the *credit union's* rules provide that it may make loans to corporate members and making the loan would not result in the aggregate of the outstanding balances on loans made by the *credit union* to corporate members exceeding the percentage of the aggregate of the outstanding balances on all loans made by the *credit union* specified by or under section 11 of the Credit Unions Act 1979;
 - (c) other *credit unions*;

- (2) a *credit union* may not make a loan to a member of the *credit union* holding only *deferred shares*.

7.1.4 G “Corporate member” has the same meaning as in section 5A of the Credit Unions Act 1979.

7.2 General requirements concerning lending policy

7.2.1 R A *credit union* must establish, maintain, and implement an up-to-date lending policy statement approved by the committee of management that is prudent and appropriate to the scale and nature of its business, having regard to the limits outlined in *CREDS 7.3* to *CREDS 7.4*.

7.2.2 R A *version 2 credit union* must provide the *FSA* with a copy of its lending policy statement as soon as reasonably practicable after it has been approved by the committee of management.

7.2.3 G A principal purpose of *credit unions'* business is the accumulation of members' savings to provide a fund out of which loans are provided for the benefit of the members. *Credit unions* may often in practice have less scope to minimise credit risk through the exercise of discretion than some other lenders. It is therefore important that a *credit union* has a carefully considered and effective lending policy statement.

7.2.4 G *CREDS 2.2.6R* requires a *credit union* to maintain a manual of its policies and procedures. This should include the policy and procedure for making loans.

7.2.5 G The *credit union's* committee of management should review and approve its lending policy at least once a year, and more frequently if necessary (for example if there is an escalating arrears problem), especially in the light of significant changes in business.

7.2.6 G The lending policy should consider the conditions for and amounts of loans to members, individual mandates, and the handling of loan applications.

- 7.2.7 R (1) A *credit union* must not make a loan to:
- (a) one of its officers or *approved persons* on terms more favourable than those available to other members of the *credit union* unless:
 - (i) that person is a paid employee (other than a *director*) of the *credit union*; and
 - (ii) the registered rules of the *credit union* provide explicitly for the making of loans to paid employees on such terms;

- (b) a relative of, or any person otherwise connected with, an officer, *approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*.
- (2) "Relative" has the same meaning as in section 31 of the Credit Unions Act 1979.
- 7.2.8 G (1) To prevent conflicts of interest, a *credit union* should have clear arrangements for dealing with loans to the persons specified in *CREDS 7.2.7R*.
- (2) In relation to staff, the prohibition in *CREDS 7.2.7R* applies only to those who are officers or *approved persons*.
- (3) "Connected" in *CREDS 7.2.7R* includes any close business or personal relationship.
- 7.2.9 G A *credit union* should have a documented arrears management policy, setting out the procedures and process for dealing with borrowers who fall into arrears. This should be reviewed regularly and promptly in the light of experience.
- 7.2.10 G A *credit union* should have a clear, robust and effective approach to handling arrears and be able to satisfy the *FSA* on a continuing basis that it has adequate management and control systems in place to monitor arrears.
- 7.2.11 G A *credit union* should ensure that loan assets are valued correctly in their accounts. A provisioning policy relating to problem loans and arrears cases should be clearly defined and documented covering the circumstances in which provisions are to be made.
- 7.2.12 G A *credit union* may make a loan to a member for a business purpose. However, this does not mean that a *credit union* may make a loan to a member who merely intends to transmit that loan to another body that will actually carry out the purpose. A *credit union* should not make loans to members who are acting together to achieve an aggregate loan that exceeds the limits in *CREDS 7.3*.
- 7.3 Lending limits**
- 7.3.1 R Subject to *CREDS 7.3.8R*, a *version 1 credit union* must not lend for a period of more than five years where unsecured and ten years where secured.
- 7.3.2 R The outstanding balance of a loan by a *version 1 credit union* to a member must not at any time be more than £15,000 in excess of the *attached shares* held by that member, but this rule is subject to the additional

requirement in *CREDS 5.3.10R(1)*.

- 7.3.3 G The effect of *CREDS 5.3.10R(1)* is to prevent a *version 1 credit union* from lending more than £7,500 in excess of the *attached shares* held by that member unless it has a capital-to-total assets ratio of at least 5%.
- 7.3.4 R Subject to *CREDS 7.3.8R*, a *version 2 credit union* must not lend for a period of more than ten years where unsecured and 25 years where secured.
- 7.3.5 G A *credit union* should not attempt to evade the limits in *CREDS 7.3.1R* and *CREDS 7.3.4R* by making loans in the expectation that they will not be fully repaid by the end of the period, but will be automatically extended or rescheduled.
- 7.3.6 R The outstanding balance of a loan by a *version 2 credit union* to a member must not at any time be more than:
- (1) £15,000 in excess of the *attached shares* held by that member; or
 - (2) an amount equivalent to 1.5% of *total non-deferred shares* in the *credit union* in excess of the *attached shares* held by that member;
- whichever is the greater.
- 7.3.7 G The lending limit requirements set out above are maxima. A *credit union* should have adequate systems for recording and controlling all potential *exposures*. The capital requirements for *version 1 credit unions* and *version 2 credit unions* in respect of lending are set out in *CREDS 5.3* and *CREDS 5.4*, including the *FSA's* requirements in respect of calculating risk-adjusted capital.
- 7.3.8 R A *credit union* with *permission* for *entering into a regulated mortgage contract* must not enter into such a contract for a term of more than 25 years.

7.4 Large exposures

- 7.4.1 R For the purposes of this section, a large *exposure* is defined as an individual *net liability* to the *credit union* which meets both of the following criteria:
- (1) it is at least £7,500;
 - (2) it is at least 10% of the value of the *credit union's* total capital.
- 7.4.2 R An individual large *exposure* must not exceed 25% of the *credit union's* capital. In no circumstances may the aggregate total of all large *exposures* exceed 500% of the *credit union's* capital.

- 7.4.3 R A *credit union* must not permit the aggregate total of all large *exposures* to exceed 300% of capital unless the *credit union* notifies the *FSA* in advance.
- 7.4.4 G For the purposes of large *exposures* the maximum *net liability* of a *credit union* with assets of £500,000 and 8% capital would be £10,000, subject to *CREDS* 7.4.2R and *CREDS* 7.3.6R.
- 7.4.5 G For a *credit union* with assets of £1million and 10% capital the maximum *net liability* would be £25,000.
- 7.4.6 G Excessive *exposure* (large loans to an individual borrower and in aggregate) by a *credit union* can create a concentration of risk on the balance sheet and increase a *credit union's* vulnerability to bad debt. This can lead to a strain on capital and solvency. While this risk cannot be eliminated, it can be contained by limits and controlling the extent to which *credit unions* commit themselves to large *exposures*. Therefore the large *exposure* limits set the maximum sum that may be loaned to any one member as a percentage of reserves to prevent concentration. All *credit unions* should set and document their own large *exposure* policy limits to avoid concentration of risk.
- 7.4.7 G It is the committee of management's responsibility to monitor large *exposures*. The large *exposures* limits policy should be reviewed on an annual basis (or more frequently where required).

7.5 Provisioning

- 7.5.1 R A *credit union* must make adequate provision for bad and doubtful debt.
- 7.5.2 R A *credit union* must make specific provision in its accounts for bad and doubtful debts of at least the amounts set out below:
- (1) 35% of the *net liability* to the *credit union* of borrowers where the amount is more than three *months* in arrears; and
 - (2) 100% of the *net liability* to the *credit union* of borrowers where the amount is more than 12 *months* in arrears.
- 7.5.3 G In addition to the requirements of *CREDS* 7.5.2R, a *credit union* should consider making the following specific provisions in its accounts for bad and doubtful debts:
- (1) 60% of the *net liability* to the *credit union* of borrowers where the amount is more than six *months* in arrears; and
 - (2) 80% of the *net liability* to the *credit union* of borrowers where the amount is more than nine *months* in arrears.

- 7.5.4 E (1) A *credit union* should maintain a general provision for bad and doubtful debts of at least 2% of the *net liability* to the *credit union* of borrowers not covered by the specific provisions in *CREDS 7.5.2R*.
- (2) Contravention of (1) may be relied on as tending to establish contravention of *CREDS 7.5.1R*.
- 7.5.5 G In order to comply with the requirements of *CREDS 7.5.1R* to *CREDS 7.5.4E* a *credit union* should review its provisioning requirements frequently. The *FSA* recommends that this is done at least quarterly.
- 7.5.6 G A *credit union* should make it its business to know its *customers* and, in conjunction with its auditor, make a judgment on the degree of risk of non-payment attached to loans that are in arrears. Provisioning should reflect that judgment.
- 7.5.7 G Where a delinquent loan is rescheduled and the arrears capitalised, the loan should be regarded as remaining impaired until there is sufficient evidence that it is performing on the rescheduled terms. In the meantime, any provision made in relation to that loan should be maintained, not released.
- 7.5.8 G (1) *CREDS 7.5.2R* requires a *credit union* to maintain minimum levels of specific provision. However, a *credit union* that only maintains the minimum levels does not necessarily comply with *CREDS 7.5.1R*. This will depend on the assessment and judgment referred to in *CREDS 7.5.6G*.
- (2) (a) Failure to maintain a general provision of the level indicated in *CREDS 7.5.4E* creates a presumption that the *credit union* is not complying with *CREDS 7.5.1R*, though that presumption can be rebutted by the *credit union*: for example, it may be able to demonstrate that the occurrence of impaired loans that are either below the threshold for specific provision (that is, they are less than three *months* in arrears) or are unidentified at the time, is very low.
- (b) If, on the other hand, a *credit union* does maintain the indicative level in *CREDS 7.5.4E*, that does not necessarily mean that it complies with *CREDS 7.5.1R*.
- 7.5.9 G If a *credit union* needs to make higher provisions, beyond the levels in *CREDS 7.5.2R* and *CREDS 7.5.4E*, in order to meet *CREDS 7.5.1R*, then it should do so.

8 Supervision

8.1 Application and purpose

Application

8.1.1 G This section applies to all *credit unions*.

Purpose

8.1.2 G The purpose of this section is to provide additional *rules* and *guidance* relating to reporting requirements that are specific to *credit unions*. *Credit unions* also need to comply with the relevant provisions of *SUP* relating to reporting, including *SUP* 16.3 and *SUP* 16.12.

8.2 Reporting requirements

Quarterly return

8.2.1 G *SUP* 16.12.5R states that a *credit union* must submit a quarterly return. The content, form, reporting frequency and due date in relation to that report are shown in *CREDS* 8.2.2G.

8.2.2 G This table belongs to *CREDS* 8.2.1G

Content of report	Form	Frequency	Due date
Key financial data	CQ	Quarterly	One <i>month</i> after quarter end

Annual return

8.2.3 G *SUP* 16.12.5R states that a *credit union* must submit an annual return. The content, form, reporting frequency and due date in relation to that report are shown in *CREDS* 8.2.4G.

8.2.4 G This table belongs to *CREDS* 8.2.3G

Content of report	Form	Frequency	Due date
Extended financial data	CY	Annually	Six <i>months</i> after financial year end

8.2.5 G The form may be updated from time to time. *Credit unions* should use the form in force at the end of the financial year on which they are reporting.

Accounts and audit

8.2.6 R (1) Every *credit union* must send to the *FSA* a copy of its audited accounts published in accordance with section 3A of the Friendly and Industrial and Provident Societies Act 1968.

- (2) The accounts must:
- (a) be made up for the period beginning with the date of the *credit union's* registration or with the date to which the *credit union's* last annual accounts were made up, whichever is the later, and ending on the *credit union's* most recent financial year end; and
 - (b) accompany the annual return submitted to the *FSA* under *SUP* 16.12.5R (see *CREDS* 8.2.3G), unless they have been submitted already.

8.2.7 R Every *credit union* must supply free of charge, to every member or person interested in the funds of the *credit union* who applies for it, a copy of the latest audited accounts of the *credit union* sent to the *FSA* under *CREDS* 8.2.6R.

Financial penalties for late submission of reports

- 8.2.8 G (1) Financial penalties may be imposed for the late submission of:
- (a) the quarterly and annual returns referred to in *SUP* 16.12.5R; and
 - (b) the audited accounts referred to in *CREDS* 8.2.6R.
- (2) Details of the *FSA's* policy and procedures on financial penalties are given in *DEPP*.

8.3 Approved persons

8.3.1 G The purpose of this section is to set out further *guidance* relating to the *approved persons* regime that is specific to *credit unions*. *Credit unions* should also read Chapter 10 of the Supervision manual (*SUP*) concerning *approved persons*.

Introduction

- 8.3.2 G The effect of section 59 of the *Act* and *SUP* 10 is that a *credit union* must apply to the *FSA* for the approval of one or more individuals to perform the functions which are known as *controlled functions*. *Controlled functions* fall within two groups:
- (1) The *significant influence functions* describe the roles performed by the *governing body* and *senior managers* of the *firm* who exert a significant influence over the *regulated activities* of the *firm*.

- (2) The *customer functions* describe the roles of individuals who deal with *customers* or with the property of *customers*. These *customer functions* do not extend to activities in relation to accepting *deposits* or general insurance and therefore will not be relevant to *credit unions* with *permission for accepting deposits* only.

Controlled functions

- 8.3.3 G The complete list of all *controlled functions* is located in SUP 10.4.5R. *Guidance* on those *controlled functions* most likely to be relevant to *credit unions* is provided below.
- 8.3.4 G SUP 10.6 : the *governing functions*:
- (1) SUP 10.6.4R: the *director function*: This is the function of acting in the capacity of a *director* of a *credit union*.
- (2) SUP 10.6.8R: the *non-executive director function*: It is unusual for a *credit union* to appoint *non-executive directors* as such. But this function would include membership of a *credit union's* supervisory committee and any other committee which scrutinises the approach of executive management, the *credit union's* performance, and its standards of conduct.
- (3) SUP 10.6.11R: the *chief executive function*: Acting in the capacity of *chief executive*, whether or not using that title. This role includes anyone having the responsibility, alone or jointly with one or more others, under the immediate authority of the committee of management, for the conduct of the whole of the business.
- 8.3.5 G SUP 10.7: the *required functions*:
- (1) SUP 10.7.1R: the *apportionment and oversight function*: This is the function of dealing with apportionment of responsibilities under SYSC 4.4.3R, and of overseeing the establishment and maintenance of systems and controls under SYSC 4.1.1R.
- (2) SUP 10.7.13R: the *money laundering reporting function*: This is the function of acting in the capacity of the *money laundering reporting officer* of a *credit union*.
- 8.3.6 G SUP 10.8: the *systems and controls function*: This is the function of acting as an employee with responsibility for reporting to the committee of management in relation to:
- (1) the *credit union's* financial affairs;
- (2) setting and controlling its risk exposure; or
- (3) adherence to internal systems and controls, procedures and

policies.

- 8.3.7 G Where an *employee* performs the *systems and controls function* the *FSA* would expect the *credit union* to ensure that the *employee* had sufficient expertise and authority to perform that function effectively, for example by occupying the role of a *director* or *senior manager*.
- 8.3.8 G *SUP 10.9: the significant management functions*: This *controlled function* will only apply to the *credit union* if the function is not being performed by a member of the committee of management and the *credit union* has followed the *guidance* in *SUP 10.9.3G*.

9 Complaints reporting rules for credit unions

9.1 Application and purpose

Application

- 9.1.1 R This chapter applies to all *credit unions*.

Purpose

- 9.1.2 G This chapter sets out *rules* and *guidance* for *credit unions* on completing reports concerning *complaints* received from *eligible complainants*. It replaces *DISP 1.10* (Complaints reporting rules) and *DISP 1.10A* (Complaints data publication rules), which do not apply to *credit unions* (*DISP 1.1.5AR*).
- 9.1.3 G The other elements of *DISP 1* (*DISP 1.2* (Consumer awareness rules), *DISP 1.3* (Complaints handling rules), *DISP 1.4* to *1.8* (Complaints resolution rules etc.) and *DISP 1.9* (Complaints record rule)) apply to *credit unions*.
- 9.1.4 G *DISP 2* to *DISP 4* (which cover jurisdiction and procedures of the *Financial Ombudsman Service*) and *FEES 5* (which covers funding of the *Financial Ombudsman Service*) apply to *credit unions*.

9.2 Reporting

- 9.2.1 R A *credit union* must provide the *FSA*, once a year, with a report in the format set out in *CREDS 9 Annex 1R* (Credit Union complaints return) which contains (for the relevant reporting period) information about:
- (1) the total number of *complaints* received by the *credit union*;
 - (2) the number of *complaints* closed by the *credit union*:

- (a) within eight weeks of receipt; and
 - (b) more than eight weeks after receipt;
 - (3) the total number of *complaints*:
 - (a) Upheld by the *credit union* in the reporting period;
 - (b) outstanding at the start of the reporting period; and
 - (4) the total amount of redress paid in respect of *complaints* during the reporting period.
- 9.2.2 R A *credit union* must not include in the report a *complaint* that has been forwarded in its entirety to another *respondent* under *DISP* 1.7 (the *complaints forwarding rules*).
- 9.2.3 G Where a *credit union* has forwarded to another *respondent* only part of a *complaint* or where two *respondents* may be jointly responsible for a *complaint*, then the *complaint* should be reported by both *firms*.
- 9.2.4 R *CREDS* 9.2.1R does not apply to a *complaint* that is resolved by close of business on the *business day* following its receipt.
- 9.2.5 G For the purposes of *CREDS* 9.2.4R:
- (1) a *complaint* received on any day other than a *business day*, or after close of business on a *business day*, may be treated as received on the next *business day*; and
 - (2) a *complaint* is resolved where the complainant has indicated acceptance of a response from the *credit union*, with neither the response nor acceptance having to be in writing.
- 9.2.6 G For the purpose of *CREDS* 9.2.1R, and upon completing the return, the *credit union* should note that:
- (1) where a *complaint* could fall into more than one category, the *complaint* should be recorded against the category that the *credit union* considers to form the main part of the *complaint*;
 - (2) where a *complaint* has been upheld under *CREDS* 9.2.1R(3)(a), a *credit union* should report any *complaints* to which it has given a final response which accepts the *complaint* and, where appropriate, offers redress, even if the redress offered is disputed by the complainant. Where a *complaint* is upheld in part, or where the *credit union* does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, the *credit union* should treat the *complaint* as upheld for reporting purposes. Where a *credit union* rejects a *complaint*, yet chooses to make an ex-gratia payment to the complainant, the

complaint should be recorded as rejected;

- (3) where a *credit union* reports on the amount of redress paid under *CREDS* 9.2.1R(4), redress should be interpreted to include any amount paid, or cost borne, by the *credit union*, where a cash value can be readily identified, and should include:
- (a) amounts paid for distress and inconvenience;
 - (b) a free transfer out to another provider which transfer would normally be paid for;
 - (c) ex-gratia payments and goodwill gestures;
 - (d) interest on delayed settlements
 - (e) waiver of an excess on an insurance policy; and
 - (f) payments to put the consumer back into the position the consumer should have been in had the act or omission not occurred;
- (4) where a *credit union* reports on the amount of redress paid under *CREDS* 9.2.1R(4), such redress should not, however, include repayments or refunds of premiums which had been taken in error (for example where a *credit union* had been taking, by direct debit, twice the actual premium amount due under a policy). The refund of the overcharge would not count as redress.

- 9.2.7 R For the purposes of *CREDS* 9.2.1R:
- (1) the relevant reporting period is from 1 April to 31 March each year; and
 - (2) reports are to be submitted to the *FSA* within one *month* of the end of the relevant reporting period.
- 9.2.8 G Financial penalties may be imposed for the late submission of the complaints report required by *CREDS* 9.2.1R.
- 9.2.9 R For the purposes of making reports under *CREDS* 9.2.1R, a closed *complaint* is a *complaint*:
- (1) where the *credit union* has sent a *final response*; or
 - (2) where the complainant has positively indicated acceptance of the *credit union's* earlier response; or
 - (3) where the complainant has failed to revert to the *credit union* within eight weeks of the *credit union's* most recent letter.
- 9.2.10 R A report under this section must be given or addressed, and delivered, in

the way set out in *SUP* 16.3.6R to *SUP* 16.3.16G (General provisions on reporting), except that, instead of the *credit union's* usual supervisory contact, the report should be given to or addressed for the attention of the Central Analysis and Reporting department of the *FSA*.

- 9.2.11 R For the purpose of inclusion in the public record maintained by the *FSA*, a *credit union* must provide the *FSA*, at the time of its *authorisation*, with details of a single contact within the *credit union* for complainants, and in its quarterly return must notify the *FSA* of any subsequent change.
- 9.2.12 G The contact point in *CREDS* 9.2.1R and *CREDS* 9.2.11R can be by name or job title and may include, for example, a telephone number.

9 Annex 1R Credit union complaints return**CREDS 9 Annex 1R**

(for FSA use only)

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Credit union complaints return

FSA Handbook Reference: *CREDS 9 Annex 1R*
This is the report referred to in *CREDS 9.2.1R*

Please read the notes on completion before completing this return

Firm details and reporting period	Section 1
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1.01	FSA firm reference number																		
1.02	Name of <i>credit union</i>																		
1.03	Reporting period	From	mm	yyyy	To	mm	yyyy												

Nil return declaration	Section 2
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SECTIONS 1 AND 6 MUST STILL BE COMPLETED.

2.01	We wish to declare a Nil Return <i>(Tick the box if applicable)</i>	Nil return	<input type="checkbox"/>
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Complaints outstanding	Section 3
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3.01	Number of complaints outstanding as at reporting period start date	
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Complaints opened during reporting period	Section 4
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Product/service grouping	Product/service	Advising, selling and arranging	Terms and disputed sums/charges	General admin/customer service	Arrears related	Other
Banking	Current accounts					
	Credit cards					
	Unregulated loans					
	Savings (inc. Cash ISA) and other banking					
Home finance	Equity release products					
	Impaired credit mortgages					
	Other regulated home finance products					
	Other unregulated home finance products					
General insurance and pure protection	Payment protection insurance					
	Other general insurance					
	Critical illness					
	Income protection					
	Other pure protection					
Decumulation, life and pensions	Personal pensions and FSAVCs					
	Investment linked annuities					
	Income drawdown products					
	Endowments					
	Other decumulation, life and pensions					
Investments	Investment bonds					
	PEPs/ISAs (exc. cash ISAs)					
	Unit trusts/OEICs					
	Investment trusts					
	Structured products					
	Other investment products/funds					
	Investment management/services (inc. platforms)					

Complaints closed during reporting period
Section 5

Product/service grouping	Number of complaints closed within 8 weeks	Number of complaints closed after more than 8 weeks	Number of complaints upheld by the <i>credit union</i> in the period	Total amount of redress paid to consumers in the period
Banking				
Home finance				
General insurance and pure protection				
Decumulation, life and pensions				
Investments				

Declaration and signature

Section 6

Knowingly or recklessly giving the *FSA* information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000) and a breach of regulatory requirements.

In signing this form, the *credit union* acknowledges that the data supplied may be used by the *FSA* in a variety of different ways (including making it publicly available) in support of its principal functions and statutory objectives as provided for under the Financial Services and Markets Act 2000.

I confirm that I have read the notes and that the information given in this return about complaints received by the *credit union* named at Section 1.02 is accurate and complete to the best of my knowledge and belief.

6.01	Name of <i>person</i> completing on behalf of the <i>credit union</i>	
6.02	Job title	
6.03	Signature	
6.04	Date	

Notes on completion of this return

Completing this return

The return must be completed in black ink and (if in manuscript) in BLOCK LETTERS.

All dates must be provided in numeric form (for example: 29/02/2006 for 29 February 2006).

The *credit union* is responsible for the accuracy of the data and completion of the return.

Section 2 – Nil Returns

If no *complaints* have been received during the reporting period, and no complaints were outstanding at the beginning of the period, the *credit union* may submit a **NIL RETURN** by ticking the relevant box on the front of the form.

Sections 1 and 6 must still be completed.

Section 4 – Complaints opened during reporting period

Enter the number of *complaints* for each product according to the category of complaint.

Leave blanks where no *complaints* have been received.

All *credit unions* provide the products “Savings (inc Cash ISA) and other banking” (members’ shares) and “Unregulated loans” (members’ loans not secured on land), and may receive *complaints* for those products. The corresponding rows in the form have been left shaded to help *credit unions* with completion; all other rows are clear. Some categories of *complaint* (shown in the column headings) may not apply to those products.

Some *credit unions* may also provide other products (for which they may require further permission). If so they should enter the number of *complaints* received for these products in the relevant boxes, even though they are clear.

Section 5 – Complaints closed during reporting period

Credit unions will usually receive *complaints* relating to the 'Banking' product/service grouping only and this row is shaded to help with completion. As above – some credit unions may also provide other products; if so they should also fill in the appropriate row even though it is not shaded.

Section 6 – Declaration & signature

The declaration must be signed by an appropriate individual for the *credit union* submitting this return.

If you have any questions or need help with this return, please approach your usual supervisory contact at the FSA.

REPORTS SENT BY POST MUST BE ADDRESSED TO:

THE FINANCIAL SERVICES AUTHORITY
P O BOX 35747
LONDON E14 5WP
UNITED KINGDOM

Hand delivered returns should be marked for **the attention of Central Analysis and Reporting Department** and be delivered to 25 The North Colonnade, Canary Wharf, London E14 5HS.

10 Application of other parts of the Handbook to Credit unions

10.1 Application and purpose

Application

10.1.1 G This chapter applies to all *credit unions*.

Purpose

10.1.2 G This chapter is intended to draw *credit unions*' attention to the application of other key parts of the Handbook to *credit unions* as set out in the table at CREDS 10.1.3G. That table refers only to the parts of the *Handbook* that apply with respect to *Part IV permission to accept deposits*.

Application of other parts of the Handbook to Credit Unions

10.1.3 G

Module	Relevance to Credit Unions
The Principles for Businesses (<i>PRIN</i>)	The Principles for Businesses (<i>PRIN</i>) set out, in a small number of high-level requirements, the basic obligations of all regulated <i>firms</i> . They provide a general statement of regulatory requirements, and the <i>FSA</i> considers that the Principles are appropriate expressions of the standards of conduct to be expected of all financial <i>firms</i> including <i>credit unions</i> . In applying the Principles to <i>credit unions</i> , the <i>FSA</i> will be mindful of proportionality. In practice, the implications are likely to vary according to the size of the <i>credit union</i> .
Senior Management Arrangements, Systems and Controls (<i>SYSC</i>)	<i>SYSC</i> 1 and <i>SYSC</i> 4 to 10 apply to all <i>credit unions</i> in respect of the carrying on of their <i>regulated activities</i> and unregulated activities in a <i>prudential context</i> . <i>SYSC</i> 18 applies to all <i>credit unions</i> without restriction.
Threshold Conditions (<i>COND</i>)	In order to become <i>authorised</i> under the <i>Act</i> all <i>firms</i> must meet the <i>threshold conditions</i> . The <i>threshold conditions</i> must be met on a continuing basis by <i>credit unions</i> . Failure to meet one of the conditions is sufficient grounds for the exercise by the <i>FSA</i> of its powers (see <i>EG</i>).
Statements of Principle and Code of Practice for Approved Persons (<i>APER</i>)	The purpose of the <i>Statements of Principle</i> contained in <i>APER</i> 2 is to provide guidance to <i>approved persons</i> in relation to the conduct expected of them in the performance of a <i>controlled function</i> . The <i>Code of Practice for Approved Persons</i> sets out descriptions of

	conduct which, in the opinion of the <i>FSA</i> , do not comply with a <i>Statement of Principle</i> and, in the case of <i>Statement of Principle 3</i> , conduct which tends to show compliance within that statement.
The Fit and Proper test for Approved Persons (<i>FIT</i>)	The purpose of <i>FIT</i> is to set out and describe the criteria that the <i>FSA</i> will consider when assessing the fitness and propriety of a person in respect of whom an application is being made for approval to undertake a <i>controlled function</i> under the approved persons regime. The criteria are also relevant in assessing the continuing fitness and propriety of persons who have already been approved.
General Provisions (<i>GEN</i>)	<i>GEN</i> contains <i>rules</i> and <i>guidance</i> on general matters, including interpreting the <i>Handbook</i> , statutory status disclosure, the <i>FSA</i> logo and insurance against financial penalties.
Fees manual (<i>FEES</i>)	This manual sets out the fees applying to <i>credit unions</i> .
Conduct of Business sourcebook (<i>COBS</i>)	A <i>credit union</i> which acts as a <i>CTF provider</i> or provides a <i>cash-deposit ISA</i> will need to be aware of the relevant requirements in <i>COBS</i> . <i>COBS</i> 4.6 (Past, simulated past and future performance), <i>COBS</i> 4.7.1R (Direct offer financial promotions), <i>COBS</i> 4.10 (Systems and controls and approving and communicating financial promotions), <i>COBS</i> 13 (Preparing product information) and <i>COBS</i> 14 (Providing product information to clients) apply with respect to <i>accepting deposits</i> as set out in those provisions, <i>COBS</i> 4.1 and <i>BCOBS</i> .
Banking: Conduct of Business sourcebook (<i>BCOBS</i>)	<i>BCOBS</i> sets out <i>rules</i> and <i>guidance</i> for <i>credit unions</i> on how they should conduct their business with their <i>customers</i> . In particular there are <i>rules</i> and <i>guidance</i> relating to communications with banking customers and <i>financial promotions</i> (<i>BCOBS</i> 2), distance communications (<i>BCOBS</i> 3), information to be communicated to banking customers (<i>BCOBS</i> 4), post sale requirements (<i>BCOBS</i> 5), and cancellation (<i>BCOBS</i> 6). <i>BCOBS</i> 5.1.13R (Value dating) does not apply to <i>credit unions</i> . The <i>rules</i> in <i>BCOBS</i> 3.1 that relate to <i>distance contracts</i> for <i>accepting deposits</i> are likely to have limited application to a <i>credit union</i> . This is because the <i>Distance Marketing Directive</i> only applies where there is "an organised distance sales or service-provision scheme run by the supplier" (Article 2(a)). If, therefore, the <i>credit union</i> normally operates face to face and has not set up facilities to enable <i>customers</i> to deal with it at a distance, such as facilities for a <i>customer</i> to deal with it

	<p>purely by post, telephone, fax or the Internet, the provisions will not be relevant.</p>
Supervision manual (<i>SUP</i>)	<p>The following provisions of <i>SUP</i> are relevant to <i>credit unions</i>: <i>SUP</i> 1 (The FSA's approach to supervision), <i>SUP</i> 2 (Information gathering by the FSA on its own initiative), <i>SUP</i> 3.1 to <i>SUP</i> 3.8 (Auditors), <i>SUP</i> 5 (Skilled persons), <i>SUP</i> 6 (Applications to vary or cancel Part IV permission), <i>SUP</i> 7 (Individual requirements), <i>SUP</i> 8 (Waiver and modification of rules), <i>SUP</i> 9 (Individual guidance), <i>SUP</i> 10 (Approved persons), <i>SUP</i> 11 (Controllers and Close links), <i>SUP</i> 15 (Notifications to the FSA) and <i>SUP</i> 16 (Reporting Requirements).</p> <p><i>Credit unions</i> are reminded that they are subject to the requirements of the <i>Act</i> and <i>SUP</i> 11 on <i>controllers</i> and <i>close links</i>, and are bound to notify the <i>FSA</i> of changes. It may be unlikely, in practice, that <i>credit unions</i> will develop such relationships. It is possible, however, that a <i>person</i> may acquire control of a credit union within the meaning of the <i>Act</i> by reason of holding the prescribed proportion of <i>deferred shares</i> in the <i>credit union</i>.</p> <p>In relation to <i>SUP</i> 16, <i>credit unions</i> are exempted from the requirement to submit annual reports of <i>controllers</i> and <i>close links</i>.</p>
Decision, Procedure and Penalties manual (<i>DEPP</i>)	<p><i>DEPP</i> is relevant to <i>credit unions</i> because it sets out:</p> <p>(1) the <i>FSA's</i> decision-making procedure for giving <i>statutory notices</i>. These are <i>warning notices</i>, <i>decision notices</i> and <i>supervisory notices</i> (<i>DEPP</i> 1.2 to <i>DEPP</i> 5); and</p> <p>(2) the <i>FSA's</i> policy with respect to the imposition and amount of penalties under the <i>Act</i> (see <i>DEPP</i> 6).</p>
Dispute Resolution: Complaints (<i>DISP</i>)	<p><i>DISP</i> sets out <i>rules</i> and <i>guidance</i> in relation to treating complainants fairly and the <i>Financial Ombudsman Service</i>.</p>
Compensation (<i>COMP</i>)	<p><i>COMP</i> sets out <i>rules</i> relating to the scheme for compensating consumers when authorised <i>firms</i> are unable, or likely to be unable, to satisfy claims against them.</p>
Complaints against the FSA (<i>COAF</i>)	<p>This relates to complaints against the <i>FSA</i>.</p>

The Enforcement Guide (<i>EG</i>)	The Enforcement Guide (<i>EG</i>) describes the <i>FSA's</i> approach to exercising the main enforcement powers given to it by the <i>Act</i> and by regulation 12 of the <i>Unfair Terms Regulations</i> .
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Appendix 1 Key Definitions

Note: The following key definitions relevant to CREDS are extracted from the *Glossary*.

App 1.1

<i>attached shares</i>	<p>means any shares in the <i>credit union</i> (other than any <i>deferred shares</i>):</p> <ul style="list-style-type: none"> (a) the withdrawal of which is not permitted by section 7 (5) of the Credit Unions Act 1979; or (b) the withdrawal of which is not permitted by the terms of a loan made to a member; or (c) the withdrawal of which is not permitted without seeking and obtaining the permission of the committee of management of the <i>credit union</i>. <p>Paragraph (c) of this definition is relevant only where the <i>credit union</i> made a loan to the holder of the shares before the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 came into force.</p>
<i>complaint</i>	<p>any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service, which:</p> <ul style="list-style-type: none"> (a) alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; and (b) relates to an activity of that <i>respondent</i>, or of any other <i>respondent</i> with whom that <i>respondent</i> has some connection in marketing or providing financial services or products, which comes under the jurisdiction of the <i>Financial Ombudsman Service</i>.
<i>CREDS</i>	the Credit Unions New sourcebook.
<i>deferred shares</i>	in relation to a <i>credit union</i> , means any shares of a class defined as deferred shares by section 31A of the Credit Unions Act 1979.
<i>final response</i>	<p>a written response from a <i>respondent</i> which:</p> <ul style="list-style-type: none"> (a) accepts the <i>complaint</i>, and, where appropriate, offers redress or remedial action; or (b) offers redress or remedial action without accepting the <i>complaint</i>; or

(c) rejects the *complaint* and gives reasons for doing so;

and which:

(d) encloses a copy of the *Financial Ombudsman Service's* standard explanatory leaflet; and

(e) informs the complainant that, if he remains dissatisfied with the *respondent's* response, he may now refer his *complaint* to the *Financial Ombudsman Service* and must do so within six months.

net liability means the outstanding balance of any loan made to the borrower and any interest or charges on that loan that are due but unpaid, less any *attached shares* held by the borrower.

total non-deferred shares means the total of members' share balances in a *credit union* shown in the most recent annual return to have been sent to the *FSA* under *SUP* 16.12.5R (see *CREDS* 8.2.3G), excluding any *deferred shares* in the *credit union*.

total relevant liabilities means the sum of:

(a) *unattached shares* in the *credit union*, and *deposits* by persons too young to be members of the *credit union*; and

(b) liabilities (other than liabilities for shares) with an original or remaining maturity of less than three *months* (including overdrafts and instalments of loans).

unattached shares means the total shares in the *credit union* other than any *attached shares* or *deferred shares*.

TP 1 Transitional Provision

(1)	(2)	(3)	(4)	(5)	(6)
	Materials to which the transitional provision applies		Transitional Provision	Transitional provisions: dates in force	Handbook provisions: coming into force
1	CREDS 5.3.1R	R	<p>A <i>version 1 credit union</i> need not comply with CREDS 5.3.1R until midnight on 30 September 2013. CRED 8.3.1R, as it was in force on 31 July 2010, will apply from the beginning of this transitional period until midnight on 30 September 2011. From midnight on that day until midnight on 30 September 2012, the <i>version 1 credit union</i> must at all times maintain a capital-to-total assets ratio of at least 1%. From midnight on 30 September 2012 until the end of this transitional period at midnight on 30 September 2013, the <i>version 1 credit union</i> must at all times maintain a capital-to-total assets ratio of at least 2%.</p>	[date]	[date]
2	CREDS 6.3.2R	R	<p>A <i>version 2 credit union</i> need not comply with CREDS 6.3.2R until midnight on 30 September 2013. From midnight on 30 September 2011 until midnight on 30 September 2012, the <i>version 2 credit union</i> must hold enough liquid assets to ensure that on no two consecutive quarter ends is the level of the <i>credit union's</i> liquid assets below 6%</p>	[date]	[date]

			of its <i>total relevant liabilities</i> . From midnight on 30 September 2012, until the end of this transitional period at midnight on 30 September 2013, the <i>version 2 credit union</i> must hold enough liquid assets to ensure that on no two consecutive quarter ends is the level of the <i>credit union's</i> liquid assets below 8% of its <i>total relevant liabilities</i> .		
3	<i>SUP</i> 16.12.7R	R	The change in the applicable due date for the submission by a <i>credit union</i> of an annual return under <i>SUP</i> 16.12.5R from 7 months to 6 months does not apply to an annual return in respect of the financial year ending on or before 31 July 2011.	[date]	[date]
4	<i>SUP</i> 16 Annex 14R	R	<i>SUP</i> 16 Annex 14R, as it was in force on 31 July 2010, continues to apply to quarterly and annual returns for <i>credit unions</i> in respect of the financial year ending on or before 31 July 2011.	[date]	[date]

Schedule 1 Record keeping requirements

1.1 G There are no requirements relating to record keeping in *CREDS*.

Schedule 2 Notification requirements

2.1 G The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant record keeping requirements.

It is not a complete statement of those requirements and should not be relied on as if it were.

2.2 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<i>CREDS</i> 2.2.4R <i>CREDS</i> 2.2.52G	Business plan	Copy of business plan	Upon request <i>Version 2 credit unions</i> should submit after adoption and / or amendment	As soon as reasonably practical
<i>CREDS</i> 2.2.6R <i>CREDS</i> 2.2.60G	Policies and procedures manual	Copy of policies and procedures manual. Wide range of detail as specified as guidance in <i>CREDS 2</i>	Upon request <i>Version 2 credit unions</i> should submit after adoption and / or amendment	As soon as reasonably practical
<i>CREDS</i> 3.3.10R	Financial risk Management Policy	Statement of financial risk management policy	<i>Version 2 credit unions</i> must submit after adoption and / or amendment	As soon as reasonably practicable
<i>CREDS</i> 5.2.3G	General notification	Any proposed repayment of subordinated debt	As soon as <i>credit union</i> aware	At least one month in advance of proposed repayment

<i>CREDS</i> 6.2.5R	Liquidity	Liquidity Management Policy Statement	<i>Version 2 credit unions</i> must submit after adoption and/or amendment	As soon as reasonably practical
<i>CREDS</i> 7.2.1R to <i>CREDS</i> 7.2.2R	Lending policy	Current lending policy statement	<i>Version 2 credit unions</i> must submit after adoption and/or amendment	As soon as reasonably practical
<i>CREDS</i> 7.4.6G	Large <i>exposures</i>	Limits on large <i>exposures</i> to avoid concentration of risk	Upon request	As soon as reasonably practical
<i>CREDS</i> 8.2.1G	Quarterly return	Key financial data	Quarter end	1 month after quarter end
<i>CREDS</i> 8.2.3G	Annual return	Extended financial data	Financial year end	6 <i>months</i> after financial year end
<i>CREDS</i> 8.2.6R	Audited accounts	Revenue account and balance sheet	Financial year end	Until submission of annual return
<i>CREDS</i> 9.2.1R	Complaints report	Analysis of complaints	31 March each year	1 <i>month</i> after period end

Schedule 3 Fees and other required payments

3.1 G There are no requirements for fees or other payments in *CRED*.

The table below summarises the fee requirements for *credit unions* detailed elsewhere.

3.2 G

Description of fee	Reference
<i>FSA rules</i> relating to <i>authorisation fees</i>	<i>FEES 3</i>

Schedule of <i>authorisation</i> fees payable	<i>FEES</i> 3 Annex 1R
<i>FSA fees rules</i> relating to the periodic fee	<i>FEES</i> 4
Schedule of periodic fees payable	<i>FEES</i> 4 Annex 2R Part 1
<i>FOS funding rules</i>	<i>FEES</i> 5
<i>FSCS funding rules</i>	<i>FEES</i> 6

Schedule 4 Powers exercised

4.1 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the rules in *CREDS*:

	Section 138 (General rule-making power)
	Section 149 (Evidential provisions)
	Section 156 (General supplementary powers)
	Section 213 (The compensation scheme)
	Section 214 (General)
	Section 226 (Compulsory jurisdiction)

4.2 G The following powers in or under the *Act* have been exercised by the *FSA* to give the *guidance* in *CREDS*:

	Section 157(1) (Guidance).
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Schedule 5 Rights of actions for damages

5.1 G The table below sets out the *rules* in *CREDS* contravention of which by an *authorised person* may be actionable under Section 150 of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a "*private person*" under section 150 (or, in certain circumstances, his fiduciary or representative). A "Yes" in the column headed "Removed" indicates that the *FSA* has removed the right of action under Section 150(2) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

The column headed "For other person?" indicates whether the *rule* is actionable by a *person* other than a *private person* (or his fiduciary or representative). If so,

an indication of the type of *person* by whom the *rule* is actionable is given.

5.2 G

			Right of action under section 150		
Chapter / Appendix	Section / Annex	Paragraph	For private person?	Removed?	For other person?
All <i>rules</i> in <i>CREDS</i> with the status letter 'E'.			No	No	No
All <i>rules</i> in <i>CREDS</i> that require a <i>credit union</i> to have or maintain financial resources.			No	No	No
All other <i>rules</i> in <i>CREDS</i> .			Yes	No	No

Schedule 6 Rules that can be waived

6.1 G The *rules* made in *CREDS* can be waived by the *FSA* under section 148 (Modification or waiver of rules) of the *Act*.

CREDS includes *guidance* on *rules* made in other parts of the *Handbook*. Reference should be made to those parts of the *Handbook* concerning *waiver* of those *rules*.

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