

# PS 11/18

Financial Services Authority

## FSA regulation of credit unions in Northern Ireland





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# Contents

	Abbreviations used in this paper	3
1	Overview	5
2	General issues	10
3	Legislative measures to transfer responsibility to the FSA	16
4	FSA prudential and reporting requirements	20
5	Redress requirements	45
6	Other parts of the FSA Handbook	53
	<b>Annex 1:</b> List of non-confidential respondents	
	<b>Annex 2:</b> Table of policy changes since consultation	
	<b>Annex 3:</b> Invitation to roadshows	
	<b>Appendix 1:</b> ‘Near-final’ rules (legal instrument)	
	<b>Appendix 2:</b> Credit Unions New sourcebook (CREDS)	

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This Policy Statement reports on the main issues arising from Consultation Paper 11/17 (*FSA Regulation of credit unions in Northern Ireland*) and publishes near-final rules.

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# Abbreviations used in this paper

<b>Amendment Regulations</b>	Money Laundering (Amendment) Regulations 2011
<b>APER</b>	Statements of Principle and Code of Practice for Approved Persons
<b>Article 28C certificate</b>	a certificate that may be held by a credit union in Northern Ireland under Article 28C of the Credit Unions (Northern Ireland) Order 1985
<b>BCOBS</b>	Banking: Conduct of Business sourcebook
<b>CBA</b>	Cost benefit analysis
<b>Commencement Order</b>	Terrorist Asset-Freezing etc Act 2010 (Commencement) Order 2011
<b>COMP</b>	Compensation sourcebook
<b>COND</b>	Threshold conditions
<b>Consequential Order</b>	Financial Services and Markets Act 2000 (Consequential Amendments and Transitional Provisions) (Northern Ireland Credit Unions) Order 2011
<b>CF</b>	Controlled function
<b>CQ</b>	Credit union quarterly return
<b>CREDS</b>	Credit Unions New sourcebook
<b>CY</b>	Credit union annual regulatory return
<b>DEPP</b>	Decision Procedure and Penalties manual
<b>DETI</b>	Department of Enterprise, Trade and Investment

<b>DISP</b>	Dispute Resolution: the complaints sourcebook
<b>DPA</b>	Data Protection Act 1998
<b>EG</b>	Enforcement Guide
<b>FEES</b>	Fees manual
<b>FC</b>	Financial crime: a guide for firms
<b>FIT</b>	Fit and Proper test for Approved Persons
<b>FSA</b>	Financial Services Authority
<b>FSCS</b>	Financial Services Compensation Scheme
<b>GEN</b>	General Provisions
<b>ILCU</b>	Irish League of Credit Unions
<b>LRO</b>	Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010
<b>MLRO</b>	Money laundering reporting officer
<b>the ombudsman service</b>	Financial Ombudsman Service
<b>Part IV permission</b>	Permission given by the FSA under Part IV of the Financial Services and Markets Act 2000 to carry on regulated activities
<b>Permissions Order</b>	Financial Services and Markets Act 2000 (Permission and Applications (Northern Ireland Credit Unions) Order 2011
<b>PRIN</b>	Principles for Businesses
<b>SCV</b>	Single customer view
<b>SUP</b>	Supervision manual
<b>SYSC</b>	Senior Management Arrangements, Systems and Controls
<b>UFCU</b>	Ulster Federation of Credit Unions
<b>Version 1 credit union</b>	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
<b>Version 2 credit union</b>	A credit union that is not a version 1 credit union
<b>1985 Order</b>	Credit Unions (Northern Ireland) Order 1985

# 1

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## Overview

### Introduction

- 1.1** Northern Ireland and HM Treasury Ministers have decided to transfer responsibility for regulating credit unions in Northern Ireland (Northern Ireland credit unions) from the Department of Enterprise, Trade and Investment (DETI) to the Financial Services Authority (FSA). In Consultation Paper *CP11/17 FSA Regulation of credit unions in Northern Ireland* (CP11/17), the Treasury confirmed that, subject to Parliamentary approval, the transfer would take place on 31 March 2012. The Treasury and the FSA also outlined and sought feedback on the proposed legislative and regulatory regime to apply to Northern Ireland credit unions from transfer. The consultation closed on 31 October 2011.
- 1.2** During the consultation period, the FSA discussed the proposed regime with a range of stakeholders. In particular, it:
- held five roadshows across Northern Ireland, which were very well attended by credit unions;
  - met with the two largest trade associations, the Irish League of Credit Unions (ILCU) and the Ulster Federation of Credit Unions (UFCU), who together represent 153 of the 177 Northern Ireland credit unions; and
  - discussed the changes with the IT system and software providers for the sector.
- 1.3** By the time of drafting this Policy Statement, 99 formal responses had been received. Some were endorsements of the responses submitted by the ILCU and UFCU. The Treasury and the FSA are very grateful for the high level of engagement from the Northern Ireland credit union sector.
- 1.4** There was broad support for the enhanced consumer protection for members of Northern Ireland credit unions that will come with transfer. However, respondents also raised concerns about a number of the proposals. The Treasury and the FSA have considered this

feedback very carefully in finalising the regulatory regime to apply from transfer. The Treasury and the FSA have revised some of the proposed policies and rules as follows:

- **Grandfathering/version 2 applications:** There was concern about the proposal to grandfather most Northern Ireland credit unions as version 1<sup>1</sup> credit unions and to apply the Credit Unions New sourcebook (CREDS) rules for version 1 credit unions to them. The Treasury has subsequently clarified the legislative amendments relating to grandfathering. Northern Ireland credit unions will still be grandfathered as version 1, but the FSA will be able to accept pre-transfer applications from 31 December 2011 from Northern Ireland credit unions wanting to become version 2 credit unions. Applications submitted during the pre-transfer period are unlikely to be processed in time for transfer.
- **Investment rules:** There was concern about the proposed one-year limit on investment maturity periods for version 1 credit unions. Northern Ireland credit unions are currently allowed to invest surplus funds for up to five years and, as most will be grandfathered as version 1, they will need to apply to become a version 2 credit union to continue doing so following transfer. To minimise disruption while version 2 applications are being processed, the FSA will provide a one-year transitional period during which all version 1 Northern Ireland credit unions will be able to invest surplus funds in CREDS-compliant product types for a maximum period of three years. This transitional arrangement will apply regardless of whether a version 1 Northern Ireland credit union has a version 2 application pending, and is in addition to the initial proposal to allow Northern Ireland credit unions to unwind longer-term investments in the normal course of business.
- **Shares and deposit rules:** The FSA will retain the Northern Ireland shareholding limit of the greater of £15,000 or 1.5% of total shares (rather than the initial proposal of applying the limit of the greater of £10,000 or 1.5% of total shares). The FSA will consult on raising the limit for credit unions in Great Britain to achieve consistency as soon as possible.
- **Joint accounts:** The FSA will retain the Northern Ireland approach of no limit on the number of joint members (rather than the initial proposal of applying the limit of two joint members). The FSA will consult on removing the limit for credit unions in Great Britain as soon as possible.
- **Documentation of operational policies:** The FSA will allow a nine-month transitional period to allow Northern Ireland credit unions time to comply with the CREDS requirements to document a range of operational policies (rather than the initial proposal of six months). However, any Northern Ireland credit union that wants to make an early application to become a version 2 credit union will need to have their documentation ready in time to accompany their application.

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<sup>1</sup> A version 1 credit union is one whose permission includes a requirement that it must not lend more than £15,000 in excess of a member's shareholding. A version 1 credit union is also subject to tighter restrictions on its lending, borrowing and investment activities than a version 2 credit union. Further detail is provided in Chapter 4.



- **Single Customer View (SCV) rules:** The FSA will extend the transitional period to just over nine months from the publication of ‘near-final’ rules, which are published with this Policy Statement in Appendix 1, (rather than the initial proposal of six months from the publication of ‘near-final’ rules).
- **Disclosure rules:** The FSA will allow an 18-month transitional period from date of transfer (compared to the initial proposal of six months from the publication of ‘near-final’ rules).
- **Complaints reporting:** The FSA will allow a transitional period so that the first complaints return will not be due until 30 April 2013 for the period 1 October 2012 - 31 March 2013 (compared to the initial proposal that no transitional period be provided).

1.5 Further detail on these amendments is set out in this Policy Statement and summarised in Annex 2.

## Structure of the Policy Statement

1.6 Each chapter summarises the responses received during consultation. A response from either the Treasury or the FSA follows, depending on responsibility for the issue raised. Any significant changes to the policies consulted on in CP11/17 are explained. Where respondents opposed a particular policy but there has been no change, we have explained the reasons for this.

1.7 Issues are largely addressed in the same order as they were presented in CP11/17, as follows:

- Chapter 2 summarises feedback and provides a response on general issues that were not specifically raised in CP11/17;
- Chapter 3 summarises feedback and the Treasury response on the new legislative regime;
- Chapter 4 summarises feedback and the FSA response on the proposed application of prudential and reporting requirements;
- Chapter 5 summarises feedback and the FSA response on the proposed application of redress requirements; and
- Chapter 6 summarises feedback and the FSA response on the proposed application of other parts of the FSA Handbook.

## Timing

1.8 Having achieved Parliamentary approval, the transfer of regulatory responsibility for Northern Ireland credit unions will take place on 31 March 2012. Further detail on timing, including a summary of responses on this issue, is set out in Chapter 2 at paragraph 2.2.

- 1.9** Legislative measures necessary to transfer regulatory responsibility have been made and, for the most part, will commence on 31 March 2012. Some provisions will begin earlier on 31 December 2011 to give the FSA necessary pre-commencement powers.
- 1.10** As the FSA does not yet have regulatory responsibility for Northern Ireland credit unions, it is publishing ‘near-final’ regulatory rules as part of this Policy Statement. These have been considered by the FSA Board and are attached in Appendix 1. The Board will finalise these rules closer to the transfer date.
- 1.11** The FSA will continue to work with Northern Ireland credit unions and will encourage them to begin preparing for the transfer of regulatory responsibility and the start of the new regime on 31 March 2012. The FSA will shortly write to all Northern Ireland credit unions to ask them to provide information necessary for grandfathering. In January and February 2012, the FSA will hold the second in a series of roadshows to further explain and help Northern Ireland credit unions prepare for transfer. Further detail and a booking form for these roadshows is in Annex 3.

### **Who should read this Policy Statement?**

- 1.12** This Policy Statement will be of interest to Northern Ireland credit unions, their members, their officers and volunteers, their trade associations, their IT systems and software providers, their auditors and those planning to set up new credit unions in Northern Ireland.
- 1.13** Stakeholders with an interest in credit unions in Great Britain may also be interested in this Policy Statement, particularly as it includes commitments to consult on parts of the regulatory regime that apply to these credit unions.

### **Equality and diversity considerations**

- 1.14** One respondent asked the FSA to complete an equality impact assessment. No other respondents made any comment on the equality and diversity impacts of the proposals.
- 1.15** An assessment has been completed and reflects the revisions to the proposals on which we consulted. The assessment did not give rise to concerns about equality and diversity impacts.

## CONSUMERS

A number of consumer representative bodies responded to the consultation. A significant number of individual responses also addressed consumer issues.

Respondents indicated broad support for the added consumer protection that will come with the transfer of regulatory responsibility to the FSA. Members of Northern Ireland credit unions will benefit from Financial Services Compensation Scheme (FSCS) protection if their credit union fails, and access to the Financial Ombudsman Service (ombudsman service) if they are dissatisfied about how the credit union has dealt with their complaint.

Some respondents noted the important role played by Northern Ireland credit unions in supporting consumers, including by promoting financial inclusion and capability and widening financial choice. They stressed the need to support Northern Ireland credit unions during the transition to the new regulatory regime. One respondent noted the need to balance the protection of Northern Ireland credit union members and the sustainability of credit unions and the sector as a whole.

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# 2

## General issues

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- 2.1 This chapter outlines some of the general issues raised during consultation that were not specifically included in CP11/17. The chapter also provides the Treasury or FSA response, depending on responsibility for each issue.

### Timing – consultation and transfer

- 2.2 Many respondents requested that the consultation period be extended. Some requested that the timetable for transfer be extended to give Northern Ireland credit unions more time to become compliant with the new regulatory regime. Others said that they did not want transfer delayed and would prefer more generous transitional arrangements.

#### HM Treasury response

Any extension of the consultation period would have delayed transfer of regulatory responsibility for Northern Ireland credit unions to the FSA. This would not have been in the interest of members and so the government has not extended the consultation period or the transfer date. However, to relieve pressure on Northern Ireland credit unions, the FSA has extended some of the transitional arrangements to allow Northern Ireland credit unions additional time to adjust to, and comply with, the new regulatory regime. Further detail on extended transitional arrangements is provided in Chapters 4, 5, and 6.

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### Terminology

- 2.3 A significant number of respondents objected to the use of terminology in CP11/17, arguing that it indicated a poor understanding of the nature of a credit union and the concept of mutuality. They said Northern Ireland credit unions are not firms, they accept shares rather than deposits and they have members rather than customers.

### FSA response

CREDS, which is detailed further in Chapter 4, is part of the FSA Handbook of rules. It is a dedicated sourcebook for credit unions and has been drafted using terminology that is consistent with the concept of mutuality.

We acknowledge that the Financial Services and Markets Act 2000 (FSMA) and other parts of the Handbook that will apply to Northern Ireland credit unions apply to a wider range of firms, including credit unions, and so the language is less specifically targeted to credit unions. However, we consider that FSMA and the other parts of the Handbook are appropriate for credit unions, including Northern Ireland credit unions.

For example, we acknowledge that where Northern Ireland credit unions accept shares from their members, the shares have an ownership element. But under the Credit Unions (Northern Ireland) Order 1985 (the 1985 Order) these shares are withdrawable and non-transferable. So they also have the characteristic of being a deposit, as defined under Article 5(2) of the FSMA (Regulated Activities) Order 2001<sup>2</sup> (i.e. they are a sum of money that 'will be repaid with or without interest or premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it'). Indeed, it is because shares have the characteristics of being a deposit that they will come within the protection of the Financial Services Compensation Scheme. For this reason, where FSMA applies to 'deposit-taking' and other parts of the Handbook offer protection to those 'customers' putting money on 'deposit' with 'firms', it is appropriate that these provisions and rules extend to credit unions that accept shares from members. The FSA will apply FSMA and the other parts of the Handbook to Northern Ireland credit unions as appropriate, noting that where terminology such as 'deposit', 'customer' and 'firm' is used, these terms have the respective meaning of 'share', 'member' and 'credit union' in a credit union context.

## Cost benefit analysis

- 2.4 A few respondents commented on, and cited, the cost benefit analysis (CBA), which was published at Annex 3 of CP11/17. The responses are summarised, and an FSA response provided, at paragraphs 2.6, 4.10 and 4.13 below.

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2 Statutory Instrument 2001/544

**FSA response**

We are satisfied that the CBA does not require any change in response to the comments at paragraphs 2.5, 4.10 and 4.13.

This Policy Statement outlines several changes made to the proposed rules and transitional periods, summarised in Annex 2. These changes are expected to reduce costs to firms, but we do not expect the impacts to be material enough to require making changes to the CBA.

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**Financial assistance**

- 2.5 Some respondents asked whether the government could give financial help to Northern Ireland credit unions to aid the transition to the new regime.

**HM Treasury response**

The government does not consider it appropriate to provide financial assistance to Northern Ireland credit unions to cover the transition costs. However, for one year following transfer, the FSA will waive the £250 fee for Northern Ireland credit unions applying to become a version 2 credit union.

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- 2.6 One respondent noted that the CBA referred to possible indirect impacts from transfer, including the potential for Northern Ireland credit unions to close or merge. This respondent argued that the FSA should provide financial assistance to cover the associated costs of closure and merger, minimise the loss of service and ensure continued access to Northern Ireland credit unions.

**FSA response**

The FSA is an independent regulatory body and cannot provide funds to regulated firms. While the CBA noted the potential for closures and mergers as a result of the transfer, it also stated that the likelihood was low. As we have amended a number of its proposed rules and transitional periods, outlined in the rest of this Policy Statement, the likelihood is now even lower.

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## Access to government funding programmes for credit unions

- 2.7 Some of the respondents asked whether Northern Ireland credit unions would become eligible for government funding programmes for credit unions, such as the Modernisation Fund administered for credit unions in Great Britain.

### HM Treasury response

Northern Ireland credit unions will not become eligible for funding programmes such as the Modernisation Fund. The allocation of funds within Northern Ireland is a matter for the Devolved Administration.

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## Cross-jurisdiction business

- 2.8 One respondent asked whether it will be possible for credit unions in Great Britain and Northern Ireland to have members and carry out business in the other jurisdiction.

### HM Treasury response

The location of a credit union's head office determines where it must be registered. Credit unions with their head office in Great Britain must be registered with the FSA. Credit unions with their head office in Northern Ireland must be registered with DETI. Credit unions in Great Britain and Northern Ireland are currently prohibited from representing themselves as credit unions in the other jurisdiction.

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## Provision of other products and services

- 2.9 Respondents acknowledged that Northern Ireland credit union legislation remains a transferred matter and, therefore, outside the scope of consultation. However, they were disappointed that the 1985 Order will not provide for Northern Ireland credit unions offering a similar range of products and services that will soon be available to members of credit unions in Great Britain. Once the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011<sup>3</sup> (the LRO) begins in January 2012, credit unions in Great Britain will be able to offer interest-bearing and deferred shares, and accept corporate members, including unincorporated associations.
- 2.10 One respondent asked how the FSA will view the provision of mortgages by Northern Ireland credit unions.

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3 Statutory Instrument 2011/2687

### HM Treasury and FSA response

As above, Northern Ireland credit union legislation remains a transferred matter. Any change to this legislation is a matter for the Northern Ireland Assembly.

We understand that DETI intends to bring forward draft primary legislation, which will address recent amendments to credit union legislation in Great Britain, including those introduced in the LRO. This is planned during the mandate of the current Assembly.

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### FSA response

We confirm that Northern Ireland credit unions will not be able to undertake activities related to mortgages (including arranging, advising on, or entering into mortgage contracts) unless they have successfully applied for Part IV permission<sup>4</sup> to do so. Similarly, with the exception of deposit-taking<sup>5</sup>, Northern Ireland credit unions will not be able to undertake any other activities under the FSMA (Regulated Activities) Order 2001 without applying for Part IV permission. These other activities include:

- effecting and carrying out contracts of insurance;
- numerous activities related to investment, including dealing in investments as principal or agent, arranging deals in investments, managing investments, and advising on investments; and
- providing funeral plan contracts.

Before they consider applying to do any additional business outlined above, Northern Ireland credit unions should discuss the issue with the FSA supervision team. Any Northern Ireland credit union already carrying on any additional business should contact the FSA supervision team immediately.

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## Supervisory resources

- 2.11 One respondent asked whether the FSA's supervisory resources would increase to reflect the extra workload that will come with regulatory responsibility for Northern Ireland credit unions. A number asked whether the FSA would establish an office in Belfast or consider staff secondments from DETI.

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<sup>4</sup> Part IV permission is permission given by the FSA under Part IV of the Financial Services and Markets Act 2000 to carry on regulated activities.

<sup>5</sup> As explained after paragraph 2.3, deposit-taking in a credit union context refers to accepting shares from members.



**FSA response**

We confirm that our credit union supervision work will continue to be resourced adequately and that this will be monitored on an ongoing basis. We note that upon transfer, the size of the credit union sector for which the FSA is responsible will increase significantly – by close to a third in terms of the number of credit unions and by around double in terms of asset size.

We confirm that there are no plans to establish an FSA office in Belfast. It would not be cost effective to do so. However, we do plan to meet regularly with Northern Ireland credit unions during the transfer process. We have already held one series of roadshows in Northern Ireland and plan to hold the second series in January and February 2012 (details of which are in Annex 3). We also intend to invite all Northern Ireland credit unions to surgery events in 2012 after transfer. This will give credit unions an opportunity to meet FSA supervisors, ask questions, and discuss any issues or concerns with the transition to the new regime. Following this, we will continue to visit Northern Ireland as part of our normal supervisory activities.

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# 3

## Legislative measures to transfer responsibility to the FSA

### Introduction

- 3.1** This chapter summarises respondents' feedback on the proposed legislative changes outlined in Chapter 3 of CP11/17, and provides the Treasury response.
- 3.2** In Chapter 3, the Treasury outlined and sought views on the following draft statutory instruments that were attached at Annex 7:
- the Financial Services and Markets Act (FSMA) 2000 (Permission and Applications) (Northern Ireland Credit Unions) Order 2011 (the Permissions 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** Respondents raised some concerns about the legislative drafting and the subsequent impact on Northern Ireland credit unions. In response, the Treasury has revised some of the drafting and the orders have now been made. As the first two orders were made under the same powers, they have been combined in the interest of costs. The single order is called the FSMA 2000 (Permissions, Transitional Provisions and Consequential Amendments (Northern Ireland Credit Unions) Order 2011.

## Comments received on the specific question and the HM Treasury response

*Q1: Do you agree with the proposed legislative measures outlined in Chapter 3 of the Consultation Paper?*

### Permissions Order

- 3.4 Part 1, articles 2 to 10 of the FSMA 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 contains the material that was in the Permissions Order. This sets out the approach to grandfathering Northern Ireland credit unions and individuals performing controlled functions.<sup>6</sup>

### Responses

- 3.5 There was some confusion regarding articles 2 and 3 of the Permissions Order, on the grandfathering of Northern Ireland credit unions as either version 1 or 2 credit unions. Specifically, respondents asked whether those Northern Ireland credit unions that do not have a section 28C certificate and which will be grandfathered as version 1 credit unions may apply to the FSA to become version 2 credit unions. Respondents also asked for clarification regarding when applications to become a version 2 credit union could be made and, if successful, when the applications would come into effect.
- 3.6 Respondents suggested that amendments be made to the Permissions Order to limit the circumstances under which the FSA could direct a Northern Ireland credit union to reapply for authorisation, or for approved person status for an individual performing controlled functions. Respondents said the FSA should use this power only in exceptional, defined circumstances.

### HM Treasury response

Articles 2 and 3 of the Permissions Order have been amended to clarify that Northern Ireland credit unions that do not have a section 28C certificate will be grandfathered as version 1 credit unions but, from 31 December 2011 they will be able to apply to the FSA to become version 2 credit unions. However, as processing time can be up to six months for a complete application and 12 months for an incomplete application, it is unlikely that applications will be approved in time for transfer on 31 March 2012. Further detail on the application process is provided by the FSA in Chapter 4.

The government does not consider it necessary to limit the circumstances under which the FSA can direct Northern Ireland credit unions to reapply for

<sup>6</sup> Controlled functions are those which have a particular regulatory significance and include governance functions, such as being a member of the board of directors, and required functions, such as being responsible for compliance with money laundering requirements.

authorisation, or for approved person status for individuals performing controlled functions. These provisions mirror those that were implemented in 2002 for credit unions in Great Britain.

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## Consequential Order

- 3.7 Part 2 and article 11 of the FSMA 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 contains the material that was in the Consequential Order. This sets out a number of amendments, mainly to the 1985 Order, to bring about transfer and facilitate the application of FSMA and FSA Handbook rules to Northern Ireland credit unions.

## Responses

- 3.8 Many respondents said they would prefer to continue holding juvenile accounts (i.e. deposits from persons too young to be members) separately from other funds. They argued that the proposal to remove the ring-fencing requirements would not be prudent. In contrast, other respondents supported the proposal, noting that the accounting treatment would be easier if juvenile accounts did not have to be kept separately. Concerns about the proposed FSA treatment of juvenile accounts are detailed further in Chapter 4 at paragraphs 4.24 - 4.29.
- 3.9 One respondent opposed the removal of the requirement for Northern Ireland credit unions to display their balance sheets on their walls.
- 3.10 There was concern about removing the shareholding limit.

### HM Treasury response

With the exception of being combined in a single order with the Permissions Order, no amendments have been made to the Consequential Order since consultation.

The obligation to ring-fence juvenile accounts has been removed, as proposed in CP11/17. From transfer, juvenile accounts will come under the protection of the FSCS so there is a decreased need for ring-fencing. However, Northern Ireland credit unions will be free to ring-fence these funds if they wish.

The requirement to display balance sheets on credit unions' walls has been removed, as proposed in CP11/17. Northern Ireland credit unions will be free to display their balance sheets on their walls if they wish. The manner in which credit unions display their accounts is a matter for FSA regulation rather than primary legislation.

In future the shareholding limit will be found in the FSA Handbook rules. Concerns about the proposed shareholding limit are a matter for the FSA and are detailed further in Chapter 4 at paragraphs 4.20 - 4.23.

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## Money laundering and terrorist asset-freezing

- 3.11 The Money Laundering (Amendment No. 2) Regulations 2011 transfers supervisory responsibility under the Money Laundering Regulations 2007 from DETI to the FSA. Similarly, the Terrorist Asset-Freezing etc Act 2010 (Commencement) Order 2011 brings into force amendments to Schedule 7 to the Counter-Terrorism Act 2008 to transfer supervisory responsibility under that Act from DETI to the FSA. CP11/17 explained that these supervisory roles are ancillary to DETI's regulatory function so should be transferred to the FSA with the rest of the regulatory function. The FSA currently performs the supervisory role for credit unions in Great Britain.

### Responses

- 3.12 Respondents did not comment on these proposals.

#### HM Treasury response

No amendments have been made since consultation.

# 4

## FSA prudential and reporting requirements

### Introduction

- 4.1 This chapter is the FSA's response to feedback on Chapter 4 of CP11/17.
- 4.2 In Chapter 4, the FSA outlined a proposed prudential and reporting regime for Northern Ireland credit unions. This involved applying, as far as possible, CREDS to Northern Ireland credit unions with the objective of achieving a single credit union regulatory regime in the United Kingdom. It also involved:
- disapplying and tailoring some of CREDS to Northern Ireland credit unions to reflect remaining differences between the credit union legislation in Northern Ireland and Great Britain; and
  - making transitional arrangements to minimise one-off impacts and allow Northern Ireland credit unions to gradually unwind existing activities that would not otherwise comply with CREDS.
- 4.3 All respondents commented on these proposals, either generally or directly in response to the specific questions asked. The FSA sets out below the questions asked, the key issues raised by respondents, and the policy decisions.

### General comments

#### Application of CREDS

- 4.4 A significant majority of respondents expressed the general concern that, taken as a whole, the prudential proposals do not sufficiently recognise the unique nature of Northern Ireland

credit unions. They argued that a single regime across the United Kingdom (whereby most Northern Ireland credit unions would be grandfathered as version 1 credit unions and the relevant CREDS rules applied as far as possible) would not take sufficient account of the Northern Ireland sector being more mature and a more significant part of the financial services landscape than in Great Britain. Some respondents noted that the Northern Ireland credit union sector has always been entirely self-sufficient, needing neither public grants nor bailouts.

- 4.5 In particular, respondents argued that applying the CREDS rules would restrict the activities (such as investment, borrowing and shareholding size) which Northern Ireland credit unions can currently carry out under their existing regulatory regime. (More detailed summaries of responses relating to the CREDS limits are set out in the rest of this Chapter.) Some respondents noted that they have always managed such activities prudently and described the proposals as ‘harmonising to the lowest common denominator’. Respondents argued that a differentiated approach should be taken to accommodate Northern Ireland credit unions.
- 4.6 In contrast, one respondent noted the importance of achieving, as far as possible, a single regime between Northern Ireland and Great Britain. This respondent argued that to do otherwise would create complexity and place strain on the FSA’s resources, potentially undermining the effective supervision of credit unions.

### **FSA response**

We believe that the application of the CREDS regime can take appropriate account of the nature of Northern Ireland credit unions.

The CREDS requirements are already differentiated and contain two sets of rules, the appropriate application of which depends on the types of activities that a credit union wishes to carry out. Version 1 rules are generally for those credit unions that prefer to undertake a more restricted, less risky range of activities (e.g. investing in shorter maturities, borrowing smaller amounts, and making smaller and shorter loans) and version 2 rules are for those credit unions that prefer to undertake less restricted, slightly riskier activities (e.g. investing in longer maturities, borrowing larger amounts, and making longer and larger loans). As a result, the minimum prudential requirements and expected governance standards for version 2 credit unions are higher.

Based on the responses received, it may be that, after due consideration, a significant proportion of Northern Ireland credit unions would prefer to carry on business as a version 2 credit union.

Under normal circumstances, a credit union must apply to the FSA if it wishes to become version 2. We ask a credit union to demonstrate to us that it meets the higher prudential requirement of 8% capital to risk-weighted assets and that it has adequate risk management arrangements in place to undertake safely the version 2

activities. We consider whether the credit union has an appropriate business plan, governance arrangements, policies and procedures, and risk-management controls. Some Northern Ireland credit unions have already been through a similar process with DETI and have been granted a section 28C certificate under the Credit Unions Order 1985. So they will be grandfathered as version 2 credit unions on 31 March 2012. As set out in Chapter 3 following paragraph 3.6, the remaining Northern Ireland credit unions will be grandfathered as version 1 but they will be able to apply to become version 2 credit unions.

We intend to help those Northern Ireland credit unions that may wish to apply to become version 2. As also set out after paragraph 3.6, the Treasury has clarified that we can start considering applications pre-transfer from 31 December 2011. We have published on our Northern Ireland credit union website<sup>7</sup> an application form specifically for this purpose and an accompanying factsheet. The factsheet sets out more detail about the process including the factors that we will take into account in assessing an application. It also details some of the implications of becoming a version 2 credit union.

We recommend that any Northern Ireland credit union that is considering applying to become a version 2 credit union take time to consider the implications and decide whether it is the most appropriate route. While we can start considering applications pre-transfer, we stress that there is no rush to apply and that you can do so at any time after transfer. As we can take up to six months to assess a complete application and 12 months to assess an incomplete application, it may be worth taking the time to discuss your application at Board-level to ensure that it is well-prepared and complete.

We will also help Northern Ireland credit unions that may wish to apply to become version 2 by waiving, during the first year following transfer, the £250 application fee that would normally apply.

Finally, we will provide transitional arrangements in the first year following transfer, during which period a significant number of Northern Ireland credit unions may have version 2 applications outstanding. Rather than disrupting their income-earning capacity and business models during this period, we confirm that all version 1 Northern Ireland credit unions will be allowed to invest in CREDS-compliant product types with a maturity period of up to three years during that first year. This transitional arrangement will apply regardless of whether a version 1 credit union has a version 2 application pending and should temporarily address one of the main areas of concern regarding the application of the version 1 CREDS rules, and avoid the need for Northern Ireland credit unions to rush their version 2 applications. (As detailed further below at paragraphs 4.10 - 4.12, this area of concern relates to the proposed limit on the investment maturity period for version 1 credit unions. A detailed summary of responses and the FSA's policy decision follows.)

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<sup>7</sup> [www.fsa.gov.uk/smallfirms/your\\_firm\\_type/credit/nicu.shtml](http://www.fsa.gov.uk/smallfirms/your_firm_type/credit/nicu.shtml)



## Tailoring CREDS

- 4.7 As outlined in Chapter 2 at paragraph 2.9, respondents noted their disappointment that the 1985 Order will not make provision for Northern Ireland credit unions to offer a range of products and services. However, given that this is the current legislative position, respondents did not raise concerns around the tailoring of CREDS to reflect this.

### FSA response

We confirm that we will tailor Chapters 5 and 7 of CREDS to reflect remaining legislative differences between Great Britain and Northern Ireland, clarifying that the 1985 Order does not make provision for Northern Ireland credit unions to issue interest-bearing or deferred shares or accept corporate members. We also confirm that we will add references in CREDS to the 1985 Order as appropriate.

## CREDS (Chapter 3) – Investment and borrowing

- 4.8 The FSA proposed applying to Northern Ireland credit unions the investment and borrowing rules in CREDS (Chapter 3), which sets out:
- the types of investments credit unions can make;
  - the maturity periods at which credit unions can invest, differentiated between version 1 and 2 credit unions;
  - the amount credit unions can borrow, differentiated between version 1 and 2 credit unions; and
  - the requirement that version 2 credit unions establish, maintain and implement a financial risk management policy statement.
- 4.9 The FSA also proposed transitional arrangements to allow Northern Ireland credit unions:
- one year in which to unwind any investments of a type that would otherwise be in breach of the CREDS rules;
  - to hold to maturity any existing investments that would otherwise be in breach of the CREDS limits on maturity periods; and
  - six months before having to comply with the requirement to have a financial risk management policy statement.

## Comments received on the specific questions and the FSA response

*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?*

### Investment maturity periods

- 4.10** Almost all respondents were very concerned about the proposed one-year limit on investment maturity periods for version 1 credit unions. Most argued that Northern Ireland credit unions rely heavily on investment income. This is especially the case in the current economic climate as members are relatively reluctant to borrow and so it is difficult to earn an income from lending. Respondents felt that limiting investment terms to one year would reduce investment income. A few stated that costs will not just be one-off as future investments will be affected. Some stated that an investment maturity period of at least three years was needed in order to minimise any impact on their income-earning capacity and business model.
- 4.11** Others stated that Northern Ireland credit union surplus funds are currently invested short-term so as not to tie up surplus funds given the continuing economic uncertainty. They reasoned that when economic conditions improve, Northern Ireland credit unions will want to invest longer-term again in order to maximise income.
- 4.12** No respondents raised concerns about the CREDS limits on investment maturity periods for version 2 credit unions.

### Types of investments

- 4.13** A number of respondents asked the FSA to clarify what types of investments would be allowed under the CREDS rules, focusing particularly on the types of products that would be allowed under the term 'deposits'. These respondents noted that some Northern Ireland credit unions currently invest some surplus funds in structured products. These respondents were concerned that, if prevented from doing so under CREDS, they would not only lose

a source of income but would also face upfront costs in divesting themselves of these products within the first year of transfer. The respondents said that Northern Ireland credit unions have prudently managed such investments for many years and that they carry minimal risk of loss. One respondent said there was an inconsistency between the body of CP11/17 and the CBA, arguing that if transitional arrangements allow Northern Ireland credit unions to hold existing investments until maturity, there should be no costs from withdrawing investments.

- 4.14 No respondents indicated that Northern Ireland credit unions invest in withdrawable shares in European authorised institutions or deposits with European authorised institutions that are not deposit-takers.

### **Borrowing**

- 4.15 A significant number of respondents asked the FSA to clarify the meaning of the CREDS borrowing limits. They expressed concern that the limits are too restrictive, would impede growth and would prevent credit unions from borrowing to purchase property or build their own premises.

### **Financial risk management policy statement**

- 4.16 Almost all respondents claimed that, while six months might seem a reasonable period in which to produce a financial risk management policy statement, it is not enough time given all the other changes for which Northern Ireland credit unions will need to prepare.
- 4.17 One respondent questioned why there is a CREDS requirement to diversify investments, particularly as the credit union has access to 100% depositor protection for some investments.

#### **FSA response**

We acknowledge that Northern Ireland credit unions currently have excess liquidity and, therefore, it is important that they be able to earn income on their surplus funds. However, investment safety and liquidity should be primary concerns. We confirm that Northern Ireland credit unions will be required to comply with the investment and borrowing rules in CREDS (Chapter 3) with some transitional arrangements.

#### *Investment maturity periods*

We confirm that Northern Ireland credit unions will be required to meet the CREDS investment maturity periods.

We acknowledge that many of the Northern Ireland credit unions that will be grandfathered as version 1 are currently permitted to invest for longer than one year and wish to continue doing so to maximise income. In CP 11/17,

we proposed transitional provisions to minimise the one-off costs to income of restricting investment maturity periods to one year. In the CBA in CP11/17, we estimated the ongoing costs.

We have no objection to Northern Ireland credit unions investing for up to five years but, as set out above after paragraph 4.6, we think it appropriate that they first apply to become version 2 and demonstrate that they have the minimum prudential requirements and necessary risk management arrangements in place. For example, in order to become version 2, credit unions should be able to demonstrate that they can manage liquidity pressures while tying up funds longer-term. Those Northern Ireland credit unions that successfully apply to be version 2 will be able to invest in CREDS-compliant product-types with a maturity period of up to five years.

We want to minimise any disruption to the income-earning capacity and business models of Northern Ireland credit unions while version 2 applications are being processed. Processing time can be up to six months for a complete application or 12 months for an incomplete application. So we confirm an additional transitional provision, under which version 1 Northern Ireland credit unions may invest in CREDS-compliant product types with a maturity period of up to three years during the first year following transfer. A number of respondents indicated that a three year investment period was the minimum necessary to avoid a disruption to business.

Version 1 Northern Ireland credit unions should not try to circumvent the intent of this transitional provision by investing an excessive amount of surplus funds for three years during the first year following transfer. These credit unions will still need to manage liquidity so that they can meet shareholders' demands for funds on an ongoing basis. So it would be unwise of them to invest, for up to three years, excessive amounts in order to maximise income. A more prudent approach might be to invest, for up to three years, only those funds that are maturing during that first year or that we are asking Northern Ireland credit unions to divest as they do not meet the CREDS rules on investment types. The FSA Supervision team will be monitoring the behaviour of Northern Ireland credit unions in this area.

We also confirm the transitional arrangements for investment maturity periods, as set out in the CP11/17. 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 expires.

#### *Types of investment*

We confirm that Northern Ireland credit unions will be required to meet the CREDS rules on investment types, with a one year transitional provision allowing time for the divestment of any non-compliant products. The purpose of the

CREDS rules on investment types is to prevent credit unions taking on excessive risk of loss by investing in complex products which put at risk the initial sum or principal invested.

We would like to clarify that Northern Ireland credit unions will not always be able to take advantage of the transitional arrangements that will allow existing investments to remain until maturity. Those transitional arrangements only apply to existing investments that would comply with the CREDS rules on investment types. Where existing investments do not comply with the CREDS rules on investment types, Northern Ireland credit unions must divest themselves of the investments within one year of transfer. So, in the CBA, we noted that there will be a cost of that divestment.

CREDS allows credit unions to invest surplus funds in a defined range of deposits and securities. A 'deposit' is defined under Article 5(2) of the FSMA Regulated Activities Order 2001 as a sum of money that 'will be repaid with or without interest or premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it.' So whether a product is a deposit is a question of fact in each case and will depend on whether there is absolute certainty of the principal or sum invested i.e. the sum invested must be accepted on contractual terms that oblige the person accepting it to repay it in full. A product may be a deposit even if any interest or premium is linked to a variable such as an index.

Northern Ireland credit unions should assess very carefully whether, under the terms of their existing investments, the person accepting the sum invested is providing capital certainty. If so, these products would seem to comply with CREDS. If not, Northern Ireland credit unions should divest themselves of such products during the first year following transfer.

#### *Borrowing*

We confirm that Northern Ireland credit unions will have to comply with the CREDS borrowing rules. The effect of the borrowing rules is that version 1 credit unions may borrow an amount equivalent to 20% of the shares in the credit union and version 2 credit unions may borrow an amount equivalent to 50% of the shares in the credit union. In addition, credit unions may exceed these borrowing size limits on a short-term basis which, under CREDS, would normally tend to be for a period of up to two consecutive quarters.

The CREDS borrowing rules aim to prevent credit unions from becoming over-indebted. Credit unions should not take out large loans to purchase property and build premises unless they can afford to service such debt. We think it appropriate that if a Northern Ireland credit union wants to borrow more than 20% of total shares, it should first apply to become version 2 and demonstrate that it has financial risk management in place and can afford

such a loan. A Northern Ireland credit union that makes a successful version 2 application will be able to borrow an amount equivalent to 50% of the shares in the credit union.

*Financial risk management policy statement*

We confirm that version 2 Northern Ireland credit unions will need to comply with the CREDS requirement to establish, maintain and produce a financial risk management policy statement. However, we also confirm that we will amend our proposed transitional arrangement, extending it from six to nine months so that Northern Ireland credit unions will not have to comply until 1 January 2013.

We do not expect the requirement to produce a financial risk management policy statement to be particularly onerous as, in most cases, it should be a matter of reviewing and documenting policies and practices already in place. As Northern Ireland credit unions are long-established and seem to have been well-managed and prudently-run over a significant period, it would be surprising if such policies and practices are not already in place. However, we are aware that Northern Ireland credit unions are largely managed by volunteers and that they will need time to familiarise themselves with, and adjust to, the new regulatory requirements. We do not wish the transfer of regulatory responsibility to be overly burdensome for these volunteers so we are extending the transitional arrangement, as indicated in the paragraph above.

However, a version 1 credit union that wants to become version 2 must submit a financial risk management policy statement with its application. So any Northern Ireland credit union that wants to make an early application to become version 2 will not benefit from this transitional arrangement.

There is no specific mandatory CREDS requirement to diversify investments. However, this is generally considered good practice in order to spread risk. This is a matter for the credit union's judgement, and the FSA Supervision team may on occasion require a credit union to explain why its investment management strategy is appropriate.

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## **CREDS (Chapter 4) – Shares and deposits**

**4.18** The FSA proposed applying to Northern Ireland credit unions the shares and deposits rules in CREDS (Chapter 4), which sets out:

- the maximum individual shareholding size;
- the maximum size of deposits that can be held by juveniles or minors (i.e. those too young to be members);
- the maximum number of members of a joint account;

- limits around the payment of a different dividend on different accounts; and
- requirements to have insurance cover.

**4.19** The FSA also proposed transitional arrangements to allow Northern Ireland credit unions:

- to maintain higher individual shareholdings where the existing shareholding balance at transfer would otherwise be in breach of the CREDS limit (however, if the shareholding balance were to fall below the CREDS limit, that limit would begin to apply); and
- one year before having to comply with the insurance requirements.

### Comments received on the specific questions and the FSA response

*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 our proposed transitional arrangements for CREDS (Chapter 4) give Northern Ireland credit unions enough time to adjust?*

### Limits on shares

**4.20** Almost all respondents opposed the application of the CREDS individual shareholding size limit of the greater of £10,000 or 1.5% of total shares in the credit union (down from the current limit in Northern Ireland of the greater of £15,000 or 1.5% of total shares). They said this was a retrograde step that would affect many Northern Ireland credit unions and reverse an increase in the limit which the sector had previously lobbied for and secured.

**4.21** Respondents claimed that by restricting savings, the CREDS limit would be contrary to the legislative objective of Northern Ireland credit unions to encourage thrift. Others claimed that the proposal would also limit the size of individual loans (which are dependent on the size of individual savings) and so would have a negative impact on the income and growth of Northern Ireland credit unions. The proposal would also reduce the benefit available from the ILCU's Life Savings insurance.

- 4.22 Respondents queried the rationale for the lower CREDS limit. They noted that credit union members will have FSCS savings protection of £85,000 and so will not be at risk of losing savings if the limit is raised. Some respondents also argued that the limit should increase over time given the impact of inflation.
- 4.23 Finally, respondents argued that the lower CREDS limit does not take adequate account of the unique nature of Northern Ireland credit unions. They claimed that as the sector is older and more mature than in Great Britain, share balances have had longer to grow and that there is a case for a differentiated limit between credit unions in Northern Ireland and Great Britain.

### **Limits on deposits/juvenile accounts**

- 4.24 As outlined in Chapter 2, many respondents expressed concern about the terminology used throughout CP11/17, including the use of the term 'deposit'. They stressed that credit unions accept shares from members, rather than deposits from depositors or customers. Juveniles are those individuals that are too young to be members of a credit union and, therefore, under the 1985 Order, funds that they place with a credit union are referred to as deposits. However, to avoid causing concern, juvenile depositors will be referred to as juvenile account-holders in this Policy Statement.
- 4.25 One respondent asked the FSA to clarify the meaning of a juvenile account. Another asked about the process for converting a juvenile account to an adult share once a juvenile account-holder reaches membership age.
- 4.26 Respondents did not express any concern about the application of the CREDS juvenile account size limit of the greater of £10,000 or 1.5% of total shares in the credit union.
- 4.27 As outlined in Chapter 3, a large majority of respondents indicated a preference for the current legislative position whereby Northern Ireland credit unions must hold juvenile accounts separately from other funds. They argued that the current position, which also provides that Northern Ireland credit unions must invest rather than lend the juvenile accounts received and return all earnings to juvenile account-holders, is more prudent than the arrangements under CREDS.
- 4.28 Some respondents were also concerned about the likely impact of changing the arrangements for treating juvenile accounts. They asked whether the proposed application of the CREDS rules would:
- allow Northern Ireland credit unions to continue paying a higher rate of return on juvenile accounts relative to the dividend on adult members' shares;
  - require Northern Ireland credit unions to transfer to reserves any of the return on juvenile accounts; and
  - require Northern Ireland credit unions to include in assets the investments and loans made with juvenile account funds, and hold capital against these assets.



- 4.29 In contrast, some respondents noted that the accounting treatment of juvenile accounts would be easier if the funds didn't have to be kept separately.

### **Joint accounts**

- 4.30 A number of respondents were concerned about the CREDS limit of two joint account members, noting that some Northern Ireland credit unions already allow more than two joint account members. These respondents queried the rationale for the lower CREDS limit and argued that, at the very least, transitional arrangements would be required to allow the joint accounts to remain. One respondent argued that a higher number of joint account members may help to prevent collusion and fraud.

### **Payment of different dividends**

- 4.31 Respondents did not express any concerns about the application of the CREDS requirements relating to the payment of different dividends.

### **Insurance cover**

- 4.32 Respondents did not express any concerns about the application of the CREDS requirements to maintain insurance cover, nor the transitional arrangements.

## **FSA response**

### *Limits on shares*

We confirm that we will amend our proposed individual shareholding limit for Northern Ireland credit unions. Rather than having to comply with the existing lower CREDS limit, Northern Ireland credit unions will be able to maintain individual shareholdings of the greater of £15,000 or 1.5% of total shares.

While we have amended the shareholding limit for Northern Ireland credit unions, we would like to outline that the rationale for a lower limit is to help prevent small credit unions from taking on concentration risk by accepting individual shareholdings that are relatively large compared to total shareholding. In accepting relatively large shareholdings, credit unions may become dependent on, and potentially influenced by a small number of individuals, and may be vulnerable to the withdrawal of their shareholdings. We encourage smaller Northern Ireland credit unions to remain aware of, and manage, this risk.

We will review as soon as possible the individual shareholding limit for credit unions in Great Britain with a view to achieving consistency with the rule for Northern Ireland credit unions.

*Limits on juvenile accounts*

Under the 1985 Order a person is too young to be a member of a credit union if he or she is under the age of 16 years or the rules of the credit union provide otherwise. Neither the 1985 Order or CREDS stipulate how such a juvenile account might be converted into an adult shareholding when a juvenile account-holder reaches the age of membership. It is up to each credit union to determine the procedures it will have in place to bring about this change.

We confirm that Northern Ireland credit unions will be required to comply with the CREDS juvenile account size limit.

We note that, in Chapter 2 of this Policy Statement, the Treasury confirmed that the requirement to hold juvenile accounts separately will be removed from the 1985 Order. We confirm that Northern Ireland credit unions that choose to treat juvenile accounts together with all other funds will still be able to pay a higher return on juvenile accounts compared to the dividend on shares. We also confirm that Northern Ireland credit unions will not necessarily have to transfer to reserves any of the return on juvenile accounts although they might decide it is good practice to do so. Finally, where a Northern Ireland credit union chooses to treat juvenile accounts separately, we will encourage the credit union to treat as part of total assets the investments and loans made with the juvenile account funds. We understand that a significant majority of Northern Ireland credit unions already do so even under the existing requirements in the 1985 Order. It would be prudent to hold capital against these assets to act as a buffer against unexpected losses.

*Joint accounts*

We confirm that we will amend our proposed limit, for Northern Ireland credit unions, on the number of members of a joint account. Rather than having to comply with the existing CREDS limit of no more than two joint account members, Northern Ireland credit unions will be able to continue offering joint accounts with no limit on the number of joint members. In order to calculate the interest of a member in a joint account, it is assumed that members all have an equal interest. For example, where there are five joint account members, each member is treated as having a 20% shareholding in that account.

We will review as soon as possible the joint membership limit for credit unions in Great Britain with a view to achieving consistency with the rule for Northern Ireland credit unions.

*Payment of different dividends*

We confirm that Northern Ireland credit unions will be required to meet the CREDS requirements on the payment of different dividends.

*Insurance cover*

We confirm that Northern Ireland credit unions will be required to meet the CREDS rules on insurance cover. We also confirm transitional arrangements, which will allow them a year in which to comply.

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**CREDS (Chapter 5) – Capital**

- 4.33** The FSA proposed applying to Northern Ireland credit unions the capital rules in CREDS (Chapter 5), which sets out:
- the components of capital;
  - minimum ongoing capital requirements, differentiated between version 1 and 2 credit unions and credit unions of different sizes;
  - minimum initial capital requirements for new credit unions that start up, differentiated between version 1 and 2 credit unions; and
  - a requirement that, even where a credit union meets its minimum capital requirements, it should continue building reserves out of profits.
- 4.34** The FSA also proposed transitional arrangements to provide that:
- on transfer date, existing Northern Ireland credit unions will not have to comply with the minimum initial capital requirements; and
  - Northern Ireland credit unions may breach the reserving requirements in order to meet the additional provisioning requirements under CREDS.

**Comments received on the specific questions and the FSA response**

**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 our proposed transitional arrangements for CREDS (Chapter 5) give Northern Ireland credit unions enough time to adjust?*

## Components of capital

- 4.35 Two credit unions asked us to clarify the meaning of capital, including the difference between capital and reserves and whether share capital is a source of capital.

## Minimum ongoing capital

- 4.36 A significant majority of respondents confirmed that applying the CREDS minimum ongoing capital requirements would present no difficulties for their credit union. No respondents indicated that compliance would be a problem. One credit union said that it already exceeds the minimum capital requirements and stated that it would continue to do so.

## Minimum initial capital

- 4.37 Respondents did not comment on the CREDS minimum initial capital requirements or transitional arrangements.

## Building reserves

- 4.38 Respondents did not raise any concerns with the CREDS requirement to build reserves. However, respondents did express some opposition to the transitional provision for building reserves, a summary of which is provided further below in the section on provisioning in paragraph 4.53.

## FSA response

### *Components of capital*

As the purpose of capital is to provide a buffer which can absorb unexpected losses, it should be loss-absorbing. Retained earnings, (i.e. reserves accumulated by a credit union out of profits, rather than distributed as dividends, rebates, or to social, cultural or charitable purposes) have this characteristic and are the main source of capital for credit unions. Under CREDS, and as described in CP11/17, other sources of loss-absorbing capital include interim net profits, subordinated debt, initial capital and revaluation reserves. However, members' shareholding is not a source of capital as it cannot absorb losses. If a credit union goes into default, members' shareholding will be compensated by the FSCS.

### *Minimum ongoing capital requirements*

We confirm that all Northern Ireland credit unions will be required to meet the CREDS minimum ongoing capital requirements. These are the minimum requirements with which a credit union must comply. We note that a significant majority of Northern Ireland credit unions already exceed these requirements. The FSA's Principles for Business, described in Chapter 5 of the CP11/17, requires

a credit union to 'maintain adequate financial resources'. In deciding an adequate level of capital, a credit union should consider the scale of its operations and its risk profile and, as a result, may decide to hold capital over and above the minimum requirements.

*Minimum initial capital*

We confirm that new Northern Ireland credit unions that start up after transfer will be required to comply with the CREDS minimum initial capital requirements. Existing Northern Ireland credit unions at transfer will not be required to comply.

*Building reserves*

We confirm that Northern Ireland credit unions will be required to comply with the CREDS requirements to build reserves. Our response to consultation responses on the transitional provision related to provisioning is provided further below in the section on provisioning, after paragraph 4.53.

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## **CREDS (Chapter 6) – Liquidity**

**4.39** The FSA proposed applying to Northern Ireland credit unions the liquidity rules in CREDS (Chapter 6), which sets out:

- minimum liquidity requirements; and
- a requirement to establish, maintain and implement a liquidity management policy statement.

**4.40** The FSA also proposed transitional arrangements to allow Northern Ireland credit unions six months before having to comply with the requirement to have a liquidity management policy statement.

### **Comments received on the specific questions and the FSA response**

*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 our proposed transitional arrangements for CREDS (Chapter 6) give Northern Ireland credit unions enough time to adjust?*

## Minimum liquidity

- 4.41 Most respondents confirmed that applying the CREDS minimum liquidity rules would present no problem for Northern Ireland credit unions. One respondent noted that the rules would require it to hold more liquid assets, with a negative impact on investment returns. A small number of credit unions asked for clarification of the meaning of liquid assets.

## Liquidity management policy statement

- 4.42 Almost all respondents claimed that, while six months might seem a reasonable period in which to produce a liquidity management policy statement, it is not enough time given all the other changes for which Northern Ireland credit unions will need to prepare.

### FSA response

#### *Minimum liquidity*

We confirm that Northern Ireland credit unions will be required to meet the minimum liquidity rules in CREDS (Chapter 6).

We noted in CP11/17 that liquid assets are those that can be realised for cash at short notice and within no more than eight days. Surplus funds that are invested in compliance with CREDS 3.2 can be counted as liquid assets, including funds invested for up to 12 months by version 1 credit unions and for up to five years by version 2 credit unions, so long as they can be realised for cash within eight days, including, if credit unions wish, those assets whose realisation would incur a penalty. In calculating liquidity, a credit union must value assets at the amount for which they could be realised within eight days. Credit unions may have enough information to do this accurately. Otherwise, CREDS 6.3.6 is an evidential provision that allows credit unions to calculate the eight-day value as market value where an investment has a maturity of less than one year or 95% of market value where an investment has a maturity of between one and five years. We hope that this clarification of the meaning of liquid assets reduces any concern about the CREDS liquidity rules having a significant impact on investment income.

#### *Liquidity management policy statement*

We confirm that all Northern Ireland credit unions will need to comply with the CREDS requirement to establish, maintain and produce a liquidity management policy statement. However, we also confirm that we will amend our proposed transitional arrangement, extending it from six to nine months so that Northern Ireland credit unions will not have to comply until 1 January 2013.

We do not expect the requirement to produce a liquidity management policy statement to be particularly onerous as, in most cases, it should be a matter of

reviewing and documenting policies and practices already in place. However, we are aware that Northern Ireland credit unions are largely managed by volunteers and that they will need time to familiarise themselves with, and adjust to, the new regulatory requirements. We do not want the transfer of regulatory responsibility to be overly burdensome for these volunteers so we are extending the transitional arrangement, as indicated in the paragraph above.

However, a version 1 credit union that wants to become version 2 must submit its liquidity management policy statement with its application. So, any Northern Ireland credit unions that wants to make an early application to become version 2 will not benefit from this transitional arrangement.

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## **CREDS (Chapter 7) – Lending to members**

**4.43** The FSA proposed applying to Northern Ireland credit unions the lending rules CREDS (Chapter 7), which sets out:

- the requirement to establish, maintain and implement a lending policy statement;
- maximum loan size limits, differentiated between version 1 and 2 credit unions;
- maximum lending periods, differentiated between version 1 and 2 credit unions and secured and unsecured loans;
- large exposure requirements; and
- provisioning for bad and doubtful debt requirements.

**4.44** The FSA also proposed transitional arrangements to:

- allow Northern Ireland credit unions six months before having to comply with the requirement to have a lending policy statement;
- to allow existing loans that would otherwise be in breach of the limits on lending periods to remain outstanding but to be repaid in accordance with the loan agreements;
- allow Northern Ireland credit unions two years before having to comply with the large exposure requirements; and
- allow Northern Ireland credit unions to transfer from general reserve, during the first year following transfer, an amount equal to the additional provisioning requirements. Northern Ireland credit unions should notify the FSA when submitting its first annual return to the FSA.

## Comments received on the specific questions and the FSA response

*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 our proposed transitional arrangements for CREDS (Chapter 7) give Northern Ireland credit unions enough time to adjust?*

### Lending policy statement

- 4.45 Almost all respondents claimed that, while six months might seem a reasonable period in which to produce a lending policy statement, it is not enough time given all the other changes for which Northern Ireland credit unions will need to prepare.

### Loan size limits

- 4.46 Respondents did not raise concerns about the application of the CREDS loan size limits. Some respondents supported the CREDS loan size limits on condition that the limit on shares, outlined at paragraphs 4.20 - 4.23 above, remains unchanged at £15,000 or 1.5% of total shares. This is because the loan size limits depend on shareholding size.

### Lending periods

- 4.47 A number of respondents noted that the lending period limits differ depending on whether a loan is secured and so asked us to clarify the meaning of a secured loan.
- 4.48 Most respondents opposed the application of the CREDS lending period limits where a loan is secured (ten years for loans made by version 1 credit unions and 25 years for version 2 credit unions). They noted that there is no time limit for repayment under the 1985 Order. Respondents argued that there is no risk associated with a secured loan, so there is no need to impose a time limit for repayment. They argued that the proposed application of the CREDS lending periods will discourage savings as members may withdraw shares rather than taking out a loan which they cannot repay within the time period. This may also reduce the benefit from the ILCU's Life Savings insurance, referred to above at paragraph 4.21.



- 4.49 One respondent argued that the CREDS limits on lending periods for unsecured loans made by version 1 credit unions should be future proofed, rising from five to seven years.

### Large exposures

- 4.50 Respondents did not raise concerns about the application of the CREDS large exposure rules.

### Provisioning

- 4.51 A significant number of respondents opposed the application of the CREDS provisioning levels, noting that they are higher than the existing minimum provisioning requirements in Northern Ireland. In particular, respondents opposed the evidential provision that 2% provision should be made on all loans that are up to 3 months in arrears. They argued that there is no risk on loans that are not in arrears or that are pre-paid. Some respondents asked for clarity around the CREDS provisioning requirements for rescheduled loans.
- 4.52 A majority of respondents also indicated a preference to continue using the ILCU's *Resolution No. 49* provisioning requirements. They noted that these requirements are more prudent than the FSA requirements and would involve minimum change for ILCU-affiliated credit unions.
- 4.53 Many respondents expressed concern about the proposed transitional arrangements whereby, during the first year following transfer, Northern Ireland credit unions may meet the additional provisioning requirements by making a transfer from reserves even where this would reduce the reserves-to-total asset ratio to below 10%. They stated that it would be imprudent to reduce reserves, which have been built over a period of time. Respondents argued that a longer transitional period in which to meet the provisioning requirements should instead be allowed.

## FSA response

### *Lending policy statement*

We confirm that all Northern Ireland credit unions will need to comply with the CREDS requirement to establish, maintain and produce a lending policy statement. However, we also confirm that we will amend our proposed transitional arrangement, extending it from six to nine months so that Northern Ireland credit unions will not have to comply until 1 January 2013.

We do not expect the requirement to produce a lending policy statement to be particularly onerous as, in most cases, it should be a matter of reviewing and documenting policies and practices already in place. However, we are aware that Northern Ireland credit unions are largely managed by volunteers and that they will need time to familiarise themselves with, and adjust to, the new regulatory

requirements. We do not want the transfer of regulatory responsibility to be overly burdensome for these volunteers so we are extending the transitional arrangement, as indicated in the paragraph above.

However, a version 1 credit union that wants to become version 2 must submit a lending policy statement with its application. So, any Northern Ireland credit union that wants to make an early application to become version 2 will not benefit from this transitional arrangement.

#### *Loan size limits*

We confirm that Northern Ireland credit unions will need to comply with the CREDS loan size limits.

#### *Lending periods*

We confirm that Northern Ireland credit unions will need to comply with the CREDS lending periods.

Article 28A of the 1985 Order states that a loan is secured if, at the time it is made, the member's paid-up shareholding in the credit union is equal to or greater than his total liability to the credit union and the member makes an application to have the loan treated as a secured loan. A loan may also be secured against property other than shares, although if it is secured against land the credit union will first need to consider whether it requires a Part IV permission to undertake activities related to mortgages.

There is risk attached to loans that are secured against property other than shares and so the CREDS limits on lending periods are warranted. We acknowledge that there may be little credit risk attached to a loan that is fully secured against shares. However, there is liquidity risk. In offering loans, whether or not secured, credit unions engage in maturity transformation – they borrow short to lend long. To manage this risk, credit unions need to be able to monitor and manage their cash flow, including loan repayments by members. So we think it prudent that Northern Ireland credit unions encourage and require the repayment of loans within a set period rather than allowing them to remain outstanding for an indeterminate period. We consider that the CREDS limits on lending periods for secured loans (10 years for version 1 credit unions and 25 years for version 2 credit unions) are generous. We understand that Northern Ireland credit unions do not tend to lend for longer than these periods allow.

For the same reasons related to liquidity risk, we confirm that we do not plan to increase from 5 years the CREDS lending period limit for unsecured loans made by version 1 credit unions. If a version 1 Northern Ireland credit union wishes to make longer unsecured loans, it might consider whether it would be appropriate for it to apply for version 2 status, as outlined above after paragraph 4.6. As part of the version 2 application process, the Northern Ireland credit union would need to demonstrate that it could manage the liquidity risk that comes from making longer-term loans.

### *Large exposures*

We confirm that Northern Ireland credit unions will be required to meet the CREDS large exposure rules. We also confirm the transitional provision which will allow Northern Ireland credit unions two years before having to comply with the large exposure rules.

### *Provisioning*

We confirm that Northern Ireland credit unions will need to comply with the CREDS provisioning requirements.

We acknowledge that for some Northern Ireland credit unions this will involve an increase in current provisioning. Given that loans generally represent the largest risk on a credit unions' balance sheet, we consider that a conservative approach to provisioning is prudent. It is our judgement that the higher CREDS provisioning requirements help to give credit unions a realistic view of the value of their assets and to better prepare for expected or likely losses on those assets. We note that the CREDS provisioning requirements are not quite as high as those recommended by the World Council of Credit Unions (WOCCU).

We acknowledge that there is less risk of loss on loans that are not overdue or that are prepaid. However, these loans could go into arrears over their lifetime and there remains some risk of loss. We consider it prudent that credit unions make adequate provision for this risk, which we generally consider to be 2% of the net liability to the credit union for all loans that are up to three months in arrears.

CREDS makes clear that in making provision for bad and doubtful debt, a credit union should make it its business to know its members and exercise judgement in order to assess the risk of non-payment on a loan. Where a delinquent loan is rescheduled, a credit union should similarly exercise its judgement about the risk of non-payment. It should at least wait for sufficient evidence that the loan is being repaid in line with the rescheduled terms before judging that the risk of non-payment has fallen. Only then should the credit union judge that the loan is no longer in arrears and release the provisions.

In our response to the issues raised in relation to minimum ongoing capital requirements, after paragraph 4.38, we stated that generally, credit unions may choose to exceed the minimum CREDS requirements. Similarly, this applies to the CREDS provisioning requirements. Therefore, if the ILCU is able to demonstrate that the provisioning approach outlined in *'Resolution No. 49'* is more prudent than the CREDS provisioning approach and that Northern Ireland credit unions that adopt such an approach would at a minimum meet the CREDS provisioning requirements, we would not object to the continued use of that approach. We are discussing *Resolution No 49* with the ILCU to determine if this is the case and will advise Northern Ireland credit unions as soon as possible. Regardless, Northern Ireland credit unions will be required to report loans in arrears and provision for doubtful debt in the FSA quarterly (CQ) and annual (CY) reports.

We confirm the transitional arrangements for provisioning on which we consulted. We will not provide a longer transitional period and we do not consider it imprudent to allow Northern Ireland credit unions to transfer from reserves to meet the higher provisioning requirements. We note that Northern Ireland credit unions will not be able to distribute the amount transferred from reserves. Rather, the transfer from reserves will be used to increase provisions and write down the value of assets. This restructure of the balance sheet will give a more conservative picture of the value of assets and help Northern Ireland credit unions prepare for expected losses (related to provision for bad and doubtful debt) and unexpected losses (related to reserves). In addition, it is reasonable to expect that any reduction in the reserves-to-total assets ratio for most Northern Ireland credit unions will be small. This is because making a transfer from reserves to meet the increased provisioning requirements will reduce the value of reserves but also the value of total assets (as provisions are subtracted from total assets). In any case, making transfers from reserves is not the only option open to Northern Ireland credit unions. They may choose to meet the higher provisioning requirements through a reduction in dividend, for example, which would also be a very prudent approach.

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## **CREDS 8.2 and SUP 16 – Reporting requirements**

- 4.54** The FSA proposed applying to Northern Ireland credit unions the credit union reporting requirements in CREDS (Chapter 8.2) and SUP 16, which sets out:
- the requirement to submit the FSA quarterly return (CQ) within one month of the quarter end; and
  - the requirement to submit the FSA annual return (CY) within six months of the year end. Northern Ireland credit unions must attach to the CY their audited accounts (i.e. revenue account and balance sheet) which must also be sent to DETI as registrar.
- 4.55** The FSA also proposed transitional arrangements to allow Northern Ireland credit unions six months before the start of the first quarter for which a quarterly return (CQ) is due.

## **Comments received on the specific questions and the FSA response**

*Q16: Do you agree with the proposal to apply to Northern Ireland credit unions the reporting requirements in CREDS 8.2 and SUP 16.3 and SUP 16.12?*

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

- 4.56** Many respondents asked the FSA to adopt the ILCU quarterly return, with any necessary amendments, rather than requiring Northern Ireland credit unions to complete the FSA CQ. Some respondents requested that the FSA adopt the existing DETI annual return (AR25) rather than requiring Northern Ireland credit unions to complete the FSA CY.
- 4.57** Respondents noted that both of these options would minimise change for Northern Ireland credit unions. Some expressed concern about the impact, especially on small Northern Ireland credit unions, of having to update software and systems in order to complete the FSA returns.
- 4.58** A majority of respondents asked if Northern Ireland credit unions could submit a single annual return to the FSA and DETI.
- 4.59** One respondent asked for a longer submission period for the final CQ of the year, to allow it to be audited with the CY.
- 4.60** A number of respondents asked for electronic reporting to be introduced.
- 4.61** One respondent welcomed the possibility of changing the financial year-end date.
- 4.62** A significant number of respondents requested that, given the amount of change Northern Ireland credit unions will need to prepare for, the FSA make more generous transitional arrangements for the reporting requirements.

### **FSA response**

We confirm that Northern Ireland credit unions will be required to comply with the credit union reporting requirements in CREDS 8.2 and SUP 16. While we acknowledge that adopting the ILCU quarterly return and the DETI AR25 return would minimise change for Northern Ireland credit unions, we regret that this is not possible. FSA supervisors rely on the CQ and CY returns in order to carry out effective supervision of credit unions. We do not consider the differences between the ILCU quarterly return and the CQ return, and those between the AR25 and the CY return, to be significant. However, as the FSA will be supervising the whole credit union sector in the United Kingdom, it would be impracticable to process and analyse returns in different formats.

We met with IT providers, who advised that updating systems and software so that Northern Ireland credit unions can produce FSA returns should not be too onerous or costly a task.

We confirm that when submitting their CY to the FSA, Northern Ireland credit unions will be required to attach their annual accounts (i.e. a revenue account and a balance sheet). These are the same annual accounts that Northern Ireland credit unions will now be required to submit to DETI under the amended Credit Unions Order 1985. The annual accounts are not the same as the AR25 return, which Northern Ireland credit unions will no longer be required to submit to DETI after 31 March 2012. (The last AR25 will be due to DETI on 31 March 2012 for the period 1 October 2010 – 30 September 2011.) The requirement to submit the annual accounts to both DETI and the FSA is a necessary consequence of the split of the regulation and registration functions.

We would like to clarify that there is no requirement to audit the CQ, including at year-end. The CQ is intended to provide the FSA with early notice of any issues at a credit union prior to its submission of the audited CY. So we confirm that the CQ, including at year end, will remain due one month after the end of the quarter.

We confirm the transitional arrangements for the reporting requirements, as set out in the CP11/17, which we consider sufficient. Northern Ireland credit unions will have ten months following transfer before having to submit their first CQ. They will not have to submit their first CY until a year after transfer. This will allow Northern Ireland credit unions time to prepare for the changes. Providing longer transitional arrangements would result in FSA supervisors having to rely on out-of-date information for too long.

We welcome feedback on the readiness of Northern Ireland credit unions to submit electronic returns and may consider this option in future. However, given that there may be FSA systems changes resulting from the split of the FSA into the Prudential Regulatory Authority (PRA) and the Financial Conduct Authority (FCA), the work involved in allowing electronic reporting for credit unions cannot currently be treated as a priority.

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# 5

## Redress requirements

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### Introduction

- 5.1 This chapter is the FSA's response to feedback received on Chapter 5 of CP11/17.
- 5.2 In Chapter 5, the FSA outlined proposals on compensation in the event that a credit union fails and complaints handling. The objective of these proposals is to improve member protection by requiring Northern Ireland credit unions to participate in the Financial Services Compensation Scheme (FSCS) and the Financial Ombudsman Service (the ombudsman service).
- 5.3 Of the 99 responses to CP11/17, 97 either responded directly to the redress specific questions or made related comments.

### Faster payout: implementation of the single customer view (SCV)

- 5.4 CP11/17 explained that all FSA-authorized credit unions and other deposit-takers that are FSCS participants are subject to information and systems requirements to support fast payout by the FSCS if they fail. The FSA proposed 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). SCV is essential to the fast payout target of seven days from date of default for most members if a credit union fails.
- 5.5 The FSA also explained that to ensure that the requirements are implemented appropriately, there would be a verification programme, including the requirement to submit a pre-implementation report, SCV report, implementation report and sample data testing by the FSCS. Credit unions with fewer than 5,000 eligible accounts can choose not to comply with the electronic requirements by notifying the FSA in the pre-implementation report. They are still required to submit all three reports but need not send sample data.

## Comments received on the specific questions and our response

*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.*

- 5.6 Most respondents answering this felt that a six-month transitional period was unrealistically short. They felt that as the SCV requirements are in addition to other necessary changes to Northern Ireland credit union operations as a result of FSA regulation, more time is required to ensure SCV compliance. Some observed that credit unions in Great Britain were given over 12 months to implement SCV requirements. Others said that a number of Northern Ireland credit unions use the services of small independent software suppliers because they cannot afford to use the larger, more prominent suppliers who may already be providing SCV support in Great Britain. They suggested that these suppliers would need more time to help implement SCV.

### FSA response

In light of the responses received, we have revised our proposal. Northern Ireland credit unions will have just over nine months to become fully compliant with SCV rules, from publication of this Policy Statement and 'near-final' rules in December 2011. This means that they are expected to be fully compliant by 30 September 2012 instead of June 2012 as proposed in CP11/17.

In response to the observation that credit unions in Great Britain were allowed longer to implement SCV, this is because SCV requirements were introduced to all deposit-takers in Great Britain at the same time. The deposit-taking population ranged from large banks with over 22m accounts to smaller credit unions with fewer than 30 accounts. It would have been impractical to introduce different implementation periods for different sizes of deposit-takers; the period was set to allow all deposit-takers a practical amount of time to implement the rules.

We recognise that some smaller Northern Ireland credit unions may not have electronic systems in place. The proposals are not intended to require smaller credit unions to implement IT systems; that choice is left to the board of each credit union. Credit unions with fewer than 5,000 accounts held by eligible depositors are able to opt out of the electronic SCV requirements but must still be able to produce the information required under the SCV rules if requested.

For the Northern Ireland credit unions subject to electronic requirements, the FSCS is currently actively engaging with IT system providers in Northern Ireland



and is willing to work with all IT providers regardless of size.

For those not subject to the electronic requirements, the minimum information requirements as detailed in paragraph 5.11 of CP11/17 relate to: Customer details; Contact details; Details of accounts; and Aggregate balance. A well-run credit union (not subject to the electronic requirements) should already be able to meet these minimum requirements.

Northern Ireland credit unions become FSCS participant firms on 31 March 2012 when they become FSA authorised. However, without a SCV in place, the FSCS is unable to commit to a fast payout to members if a credit union defaults.

So we encourage Northern Ireland credit unions to submit their SCV sample data to the FSCS as soon as they can. This will benefit credit unions by increasing the period in which the FSCS is able to help by providing feedback on their sample data and will contribute to greater assurance and certainty that faster payout could be achieved.

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

- 5.7 Most respondents that answered this question felt that proposals are proportionate and reasonable. Despite the widespread support, a number of respondents sought assurance on various issues. One respondent requested confirmation on how to treat dormant accounts and asked specifically if they could close inactive accounts after ten years and donate the money to charity.
- 5.8 Some respondents expressed concern that SCV sample data submission may potentially cause credit unions to be in breach of the Data Protection Act 1998 (DPA). Other respondents observed that postcodes are not always available in some parts of Northern Ireland or the Republic of Ireland where some members are based. One respondent asked if the FSA could relax the submission of SCV sample data requirement in favour of a statement of compliance i.e. self certification.

### **FSA response**

We confirm that the SCV verification and assurance proposals detailed in CP11/17 would apply to Northern Ireland credit unions, though the dates applicable have moved in line with the longer implementation period for SCV. Therefore, Northern Ireland credit unions will need to submit<sup>8</sup>:

- a pre-implementation report by 30 June 2012;
- an implementation report by 30 September 2012;

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<sup>8</sup> Report templates are available on the FSCS website: [www.fscs.org.uk/industry/single-customer-view-for-faster-payout/](http://www.fscs.org.uk/industry/single-customer-view-for-faster-payout/)

- a SCV report by 30 September 2012; and
- sample data (where applicable) to the FSCS by 30 September 2012.

An account is only legally dormant if it has been open for a period of at least 15 years, during which no transactions have been carried out in relation to the account by, or on the instructions of, the holder of the account. This is based on the definition in the Dormant Bank and Building Society Accounts Act 2008 and we apply this definition for SCV purposes to banks, building societies and credit unions.

The Information Commissioner's Office has confirmed to the FSCS that submitting SCV sample data via the prescribed channels does not breach the DPA.

Where a member has an address which does not officially have a postcode, the postcode field can be left blank, but the country field must be completed. This does not apply where there is an official postcode, but the credit union has failed to obtain it from the member. As part of the data cleansing stage of SCV implementation, we would expect Northern Ireland credit unions to make every effort to ensure that member records are complete.

SCV is necessary for the FSCS to meet the objective of faster payout. Given the importance we place on fast payout, we do not consider that self certification, for those subject to the electronic SCV requirements, provides enough assurance. Nor would it allow the FSCS to determine whether the credit unions systems are compatible with its own. We received positive feedback from several credit unions in Great Britain who reported that they had found the SCV requirement to update and verify their member records beneficial.

The SCV requirements are laid out in Chapter 17 of COMP.<sup>9</sup> The FSCS has also produced detailed SCV guidance on its website<sup>10</sup>, including its publication *Faster Payout Questions and Answers* which Northern Ireland credit unions would find useful.

## Consumer awareness: implementation of disclosure requirements

- 5.9 The FSA proposed that the disclosure requirements about the existence and protection of the FSCS, which apply to all FSA-authorised deposit-takers should also apply to Northern Ireland credit unions. This would include credit unions providing mandated wording once every six months (or annually if members do not normally receive regular communications from their credit unions). The FSA rules also prescribe inclusion on statements where appropriate.

**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?

<sup>9</sup> [www.fsahandbook.info/FSA/html/handbook/COMP/17](http://www.fsahandbook.info/FSA/html/handbook/COMP/17)

<sup>10</sup> [www.fscs.org.uk/industry/single-customer-view-for-faster-payout/](http://www.fscs.org.uk/industry/single-customer-view-for-faster-payout/)

- 5.10 Respondents were split on this issue, and of the trade bodies which responded, one supported it with conditions but the others opposed it.
- 5.11 Those in support noted that they had no objection to the proposed notification method for Northern Ireland credit unions that issue paper statements or offer internet banking but were concerned about the proposal for passbook issuers. They suggested that rather than expect Northern Ireland credit unions to send the first notification out by June 2012, it was more reasonable to expect the leaflets to be sent out with the notice of AGM (held yearly within four months of 30 September). This would mean that the first post transfer notification should be around this time (between 30 September 2012 and 31 January 2013) then yearly after that.
- 5.12 Those in opposition said that disclosure requirements are another cost of FSA regulation. They suggested that Northern Ireland credit unions should only be required to supply information when a new member joins with the information displayed in the credit union office for other members.
- 5.13 Others sought clarification about disclosure methods and frequency and suggested that the set disclosure text is confusing.

### **FSA response**

We confirm that we have revised this proposal. Credit unions will now be given a period of 18 months from when they become FSA regulated i.e. until 30 September 2013 to become fully compliant with FSA disclosure rules.

Disclosure rules for all FSA-authorized deposit-takers are currently under review, including due to expected revisions to the Deposit Guarantee Scheme Directive (DGSD). The long transition period is to allow for completion of the review, communication of its outcome and adequate transition time for implementation. We will communicate our position on disclosure rules as they affect Northern Ireland credit unions as soon as we can.

We do not regard the request to send leaflets out with the AGM notice as unreasonable, but due to the wider review we will confirm our position at a later date.

### **FSCS legacy costs**

- 5.14 The FSA proposed that Northern Ireland credit unions should be ring-fenced from default costs incurred prior to the date of transfer (31 March 2012). This would include the costs from the 2008 bank failures.

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

- 5.15** All respondents that answered this question agreed that Northern Ireland credit unions should be ring-fenced from default costs incurred before 31 March 2012.
- 5.16** Some said that the ring-fencing should not cease on 31 March 2012, but should continue indefinitely. Other respondents called for a separation of the credit union sector from the banking sector for the purposes of FSCS fees and levies. Some respondents asked for a reduction in FSCS levies to reflect the existence of trade association-operated stabilisation schemes and the fact that no Northern Ireland credit union has failed since the 1985 Order was made. One respondent noted that as the FSCS funding arrangements are currently under review, they would like to be asked the same question at the end of the review.

### **FSA response**

We confirm that Northern Ireland credit unions will be ring-fenced from default costs incurred before 31 March 2012. However, we do not agree that ring-fencing should continue post transfer. So Northern Ireland credit unions will become subject to FSCS levies from 1 April 2012 – both FSCS management expenses and any future compensation costs.

When a firm becomes an FSCS participant firm then it benefits from the protection offered to its members by the FSCS: each eligible depositor is protected to up to £85,000 per deposit-taker. As a result a firm becomes liable to pay for its share of levies allocated to a particular sub-class in the FSCS funding model. As such, we do not believe ring-fencing is justified and do not propose to ring-fence new participant firms.

This means that when Northern Ireland credit unions become FSA-regulated, they will be required to contribute towards the compensation payouts made by the FSCS in the event that a bank, building society or credit union in Great Britain defaults after 31 March 2012. It is also important to note that banks and building societies will support the compensation to members of Northern Ireland credit unions should one be declared in default after 31 March 2012.

As noted by a respondent, the funding arrangements of the FSCS are under review as part of our ongoing FSCS Funding Model Review, and we hope to publish a Consultation Paper in the first half of 2012. This will consider the ongoing class structure, cross-subsidy arrangements and tariff base for the model.

Northern Ireland credit unions, alongside all other FSA-authorized deposit-takers, will have a further opportunity to contribute their views on how the FSCS is funded as part of this exercise.

Some respondents requested a reduction in FSCS levies to reflect the existence of the stabilisation schemes. However, no such reduction will be applied. In paragraph 100 of the CBA of CP11/17, we explained that the 2010/11 FSCS levy (without legacy costs) for a small credit union ranged from £15 to £60 and for a large credit union from £150 to £1000. The size of these fees reflects the support from banks and building societies.

Stabilisation schemes are a membership benefit provided independently by trade associations, and entered into voluntarily by their members. The FSA has no objection to the schemes, but cannot approve or endorse them. We also note that stabilisation support has not been tested in Northern Ireland.

## Complaint-handling rules and the Financial Ombudsman Service

- 5.17 The FSA proposed that Northern Ireland credit unions would come under the compulsory jurisdiction of the ombudsman service and become subject to FSA complaint-handling rules designed to ensure that they have appropriate and effective procedures for dealing with complaints from members.

*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?*

- 5.18 Most respondents agreed that Northern Ireland credit unions should become subject to the ombudsman service and complaint-handling rules from date of transfer. Some commented that becoming subject to the ombudsman's compulsory jurisdiction and the FSA's complaint-handling rules is a positive step in helping credit unions to manage their affairs.
- 5.19 Although there was widespread support, some respondents sought assurance on various issues.
- 5.20 Some asked that the exemption from ombudsman case fees should continue for the foreseeable future. Others stated that while Northern Ireland credit unions have an excellent relationship with members, not all would have documented procedures which adhere to the new FSA requirements and asked for training ahead of transfer to help them comply.
- 5.21 Some explained that while they had no objection to the complaint-handling rules as they relate to member complaints they object to having to consider complaints from non-members and/or outside organisations.
- 5.22 Some also asked for clarification about what disputes would be dealt with by the ombudsman service and what would be dealt with by DETI.

### FSA response

We confirm that Northern Ireland credit unions will be subject to the ombudsman service compulsory jurisdiction and FSA complaint-handling rules from when they become authorised on 31 March 2012. However, in order to ease the burden on credit unions, they have six months before they have to comply with our reporting requirements. So the first complaints report will be due at the end of April 2013 but for the shorter period of 1 October 2012 - 31 March 2013.

Parties to a dispute will only be able to refer it to DETI to hear and determine if the complaint is not eligible to be dealt with by the ombudsman service. As explained in paragraph 5.34 of CP11/17, the ombudsman will deal with all disputes in relation to the activities specified in DISP 2.3.1R.<sup>11</sup> These include not only regulated activities but also other lending activities and ancillary activities (including advice) in relation to them.

The ombudsman has confirmed that the exemption from case fees will continue to apply for credit unions. It has also promised to consider respondents' comments in any future funding reviews carried out.

FSA complaint-handling rules require credit unions to deal with complaints from their members fairly. The description of who is eligible to complain is set out in DISP 2.7<sup>12</sup>, and includes potential members. We recognise that, in some instances, a member may prefer to ask a friend or a third party to handle a complaint on their behalf. The position on third-party complaints was addressed in the recent joint statement on Claims Management Companies (CMCs) by the FSA, FSCS, MoJ and the ombudsman service.

[www.fsa.gov.uk/pubs/other/joint\\_note\\_about\\_CMCs.pdf](http://www.fsa.gov.uk/pubs/other/joint_note_about_CMCs.pdf)

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<sup>11</sup> <http://fsahandbook.info/FSA/html/handbook/DISP/2/3>

<sup>12</sup> <http://fsahandbook.info/FSA/html/handbook/DISP/2/7>

# 6

## Other parts of the FSA Handbook

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### Introduction

- 6.1** This chapter gives the FSA's response to feedback on Chapter 6 of CP11/17.
- 6.2** In Chapter 6, the FSA outlined the other parts of the FSA Handbook that will apply to Northern Ireland credit unions from transfer, including:
- 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);
  - General Provisions (GEN);
  - Banking: Conduct of Business sourcebook (BCOBS);
  - Supervision manual (SUP);
  - Decision Procedure and Penalties manual (DEPP); and
  - the Fees manual (FEES).
- 6.3** The FSA also noted that the Enforcement Guide (EG) and *Financial crime: a guide for firms* (FC) will be relevant for Northern Ireland credit unions.

- 6.4 The FSA also proposed transitional arrangements to give Northern Ireland credit unions six months before they have to comply with the requirements in CREDS (Chapter 2) to have a business plan, policies and procedures manual and a documented system of control.

### Comments received on the specific question and the FSA response

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

- 6.5 A significant number of respondents requested that, given the amount of changes Northern Ireland credit unions will need to prepare for, the FSA should provide more generous transitional arrangements for the documentation requirements in CREDS (Chapter 2) (i.e. business plan, policies and procedures manual, documented system of control).
- 6.6 A few respondents argued that transitional arrangements should be provided for the application of all other parts of the FSA Handbook. At least one opposed the application of other parts of the Handbook, such as Principles for Businesses, stating that they are not appropriate given the nature of credit unions.
- 6.7 Many respondents expressed concern about the impact of applying the approved persons regime, including:
- the impact of a burdensome application process (including a 17-page application form) and ongoing requirements on the ability of credit unions to attract volunteers;
  - the intersection between the process of electing directors and the application for approved person status;
  - whether the unique historical and political context in Northern Ireland will be considered in applying the approved person regime; and
  - the use and storage of personal data submitted as part of the application process, including for intelligence checks.
- 6.8 A number of respondents asked whether the non-executive CF2s on the supervisory/audit committees are permitted to vote at Board meetings. Other respondents asked whether the Treasurer is prohibited from being the CF11 Money Laundering Reporting Officer and in what circumstance that might it be acceptable.



## **FSA response**

We confirm that Northern Ireland credit unions will be required to comply with all other parts of the FSA Handbook

### *CREDS (Chapter 2) documentation*

We confirm that Northern Ireland credit unions will need to comply with the CREDS (Chapter 2) requirement to establish, maintain and produce a business plan, a policies and procedures manual, and a documented system of control. However, we also confirm that we will amend our proposed transitional arrangement, extending it from six to nine months so that Northern Ireland credit unions will not have to comply until 1 January 2013.

We do not expect the requirement to produce these documents to be particularly onerous as, in most cases, it should be a matter of reviewing and documenting policies and practices already in place. However, we are aware that Northern Ireland credit unions are largely managed by volunteers and that they will need time to familiarise themselves with, and adjust to, the new regulatory requirements. We do not wish the transfer of regulatory responsibility to be overly burdensome for these volunteers so we are extending the transitional arrangement, as indicated in the paragraph above.

However, a version 1 Northern Ireland credit union that wants to become version 2 must submit its business plan, policies and procedures manual, and documented system of control, with its application. So, any Northern Ireland credit union that wants to make an early application to become version 2 will not benefit from this transitional arrangement.

### *Other transitional arrangements*

We confirm that we will not provide transitional arrangements for the application of the other parts of the Handbook. Some other parts of the Handbook (including GEN, SUP and DEPP) largely address the role, powers and approach of the FSA and so their application should not be burdensome for Northern Ireland credit unions. Others, such as BCOBS, set minimum standards of conduct with which we expect Northern Ireland credit unions already comply. Where they do not, it should not take too much time to adjust behaviour to, for example, provide members with appropriate information and provide a prompt, efficient and fair post-sale service. PRIN and SYSC both set out high-level standards of governance and, rather than asking Northern Ireland credit unions to complete a tick-a-box compliance exercise by a certain date, we will encourage them to consider their structure, management and organisational arrangements, culture, and systems and controls on an ongoing basis, where necessary making improvements over time.

*Approved persons*

We confirm that the approved person regime will be applied to Northern Ireland credit unions. The application of the approved person regime is beneficial as it provides some assurance that the individuals holding positions of responsibility and involved in handling the financial affairs of a credit union are fit and proper to do so.

In considering whether an individual is fit and proper to perform a controlled function, the FSA's assessment is always proportionate to the importance of the position held and the degree of risk arising in the firm in which the individual proposes to work. In the case of credit unions, we take a proportionate approach to be able to provide some assurance around the individuals running credit unions. We do not think this approach should make it difficult for credit unions to attract volunteers.

While the application form may be 17 pages long, credit unions, as with all firms, are only required to complete the relevant sections. We have no objection if this can be completed in half a page rather than five pages, for example, provided all the relevant information is provided.

We confirm that, like all firms, Northern Ireland credit unions should apply for approved person status for an individual after he or she has been elected to a controlled function position. The elected individual should not start performing the controlled function until approved by the FSA.

We assess the fitness and propriety of an individual on a case-by-case basis and considering the facts and circumstances. Northern Ireland credit unions, like all firms, must disclose all relevant information in an application for an individual. For example, if an individual has an outstanding County Court Judgement or has been convicted of an offence in the past, we are more likely to take a positive view of the individual if this has been disclosed upfront, as this is indicative of honesty and integrity. We will also take into account the passage of time and the actions of the individual since.

The FSA undertakes routine checks on individuals for whom an approved person application has been submitted. We also conduct external searches, which are no different from a normal credit check that may be made when an individual applies for credit. Other checks may be conducted on an ad hoc basis and we may request additional information. We ask credit unions to provide enough information (e.g. date of birth and national insurance number) to be able to identify an individual against whom to run these checks. Without this information, approval may be delayed. We store information on individuals for our own internal use for 25 years. We do not share any of this information with outside bodies.

*Clarification of controlled functions*

We confirm that because the role of the supervisory committee/internal audit function is to challenge the Board, we consider it best practice if CF2s performing this function remain independent and do not vote at Board meetings. However, we acknowledge that credit unions may find it difficult to attract enough individuals to fill the two separate governance roles. In these cases, credit unions may put arrangements in place whereby the CF2s performing the supervisory committee/internal audit role are drawn from the Board and can vote at Board meetings. We note that Northern Ireland credit unions' own rules may also contain further requirements in this area.

We confirm that the Money Laundering Reporting Officer (MLRO) must have independence within the credit union. While ideally the MLRO is not also the Treasurer, we appreciate that in many credit unions this is not practically possible. Combining the two roles is therefore acceptable, although credit unions should have systems and controls in place to identify and manage any risks and potential conflicts of interest.

*Fees manual (FEES)*

In Chapter 5, we confirmed the FSCS costs to which Northern Ireland credit unions will be subject. We would like to remind Northern Ireland credit unions that in October 2011, we published Consultation Paper CP11/21, which clarified how the Fees manual (FEES) will apply to Northern Ireland credit unions and the fees for which they will be liable. In particular, CP11/21 described the FSA fees that will apply. CP11/21 also put forward for consultation more general policy proposals which may be of interest to Northern Ireland credit unions once they are FSA-authorised.

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## Annex 1

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# List of non-confidential respondents

Abbey Credit Union Ltd.  
Association of British Credit Unions Limited  
Advice NI  
Annahoe Credit Union Ltd.  
Antrim Credit Union Limited  
Ardboe Credit Union Limited  
Avila Credit Union Limited  
Ballinderry Bridge Credit Union Limited  
Ballycastle Credit Union Limited  
Ballyhackamore Credit Union Limited  
Ballymacash Credit Union  
Ballymena Credit Union Ltd.  
Ballynafeigh Credit Union Ltd.  
Banbridge Credit Union Ltd.  
BBA  
BDS Credit Union Ltd.  
Beechview Antigonish Credit Union Ltd.  
Belvoir Credit Union Ltd.  
Benburb and Killyman Districts Credit Union Ltd.  
Beragh Credit Union Limited

Braniel Credit Union Ltd.  
Bright Credit Union Ltd.  
Britannia Credit Union Ltd.  
Brownlow (Lurgan) Credit Union Limited  
Belfast Teachers' Credit Union Limited  
Camlin Credit Union Limited  
Carrickfergus Credit Union Ltd.  
Castleberg & District No 12 Credit Union Ltd.  
Charity Bank  
Coagh and District Credit Union Ltd.  
Coalisland Credit Union Ltd.  
Comber Community Credit Union Ltd.  
Cookstown Credit Union Ltd.  
Crossmaglen Credit Union  
Dalriada Credit Union Ltd.  
Derry Credit Union Limited  
Dromara and Drumgooland Credit Union Ltd.  
Dungannon Credit Union Limited  
Dunmurry Credit Union Ltd.  
Enniskillen Credit Union Limited  
Northern Ireland Assembly Committee for Enterprise, Trade and Investment  
Fairhill & District Credit Union Ltd.  
Financial Services Consumer Panel  
Fintona Credit Union Ltd.  
Frontier Credit Union Ltd.  
Gerry Murphy Ltd.  
Glenelly Credit Union Limited  
Greencastle Credit Union  
Housing Rights Service  
Irish League of Credit Unions  
Irish League of Credit Unions Chapter 4

Keady Credit Union Ltd.  
Kilkeel Credit Union Limited  
Kingdom of Mourne Credit Union Limited  
Lecale Credit Union Ltd.  
Lisbellaw Credit Union Ltd.  
Lisburn Credit Union Ltd  
Lisnaskea Credit Union Ltd  
Lagan Valley Credit Union Ltd  
Lurgan Credit Union Limited  
Maghera Credit Union Ltd.  
Maine Credit Union Ltd.  
Mid Tyrone Credit Union Limited  
Moneymore Credit Union Ltd.  
Moyala & Toome Credit Union Limited  
Muckamore Credit Union Limited  
New Horizons Credit Union Ltd.  
Newington Credit Union Limited  
Newmount Credit Union Limited  
Newry Credit Union Limited  
Newtownhamilton Credit Union Limited  
Northern Ireland Co-operative Forum  
North Belfast Credit Union Ltd.  
Oldpark Credit Union Ltd.  
Omagh Credit Union Limited  
Owenillew Credit Union Ltd.  
Pennyburn Credit Union Limited  
Pomeroy Credit Union  
Portadown Credit Union Limited  
Riada Credit Union Limited  
SAG Credit Union Limited  
Shaftesbury Credit Union Ltd.

Slemish n tha Braid Credit Union Ltd.  
South Fermanagh Credit Union Ltd.  
Star Credit Union Ltd.  
Strabane Credit Union Limited  
Termonmaguirk Credit Union Ltd.  
The Consumer Council  
The Ulster Federation of Credit Unions  
Third Tree Branch Credit Union Ltd.  
TPM Credit Union Limited  
Tullycarnet Credit Union Ltd.  
UK Credit Unions Limited  
Waterside Credit Union Limited  
W.B.R Credit Union  
Willowfield Credit Union



## Annex 2

# Table of policy changes since consultation

	Proposal put forward in CP11/17	Policy as stated in PS 11/18
<b>Grandfathering and version 2 applications</b>	All Northern Ireland credit unions that do not hold a section 28C certificate will be grandfathered as version 1 credit unions. Only those that hold a section 28C certificate will be grandfathered as version 2.	The policy has been clarified. Northern Ireland credit unions that do not hold a section 28C certificate will still be grandfathered as version 1 credit unions. However, the FSA will be able to accept pre-transfer applications from 31 December 2011 from those Northern Ireland credit unions wanting to become version 2 credit unions. It unlikely that applications submitted during the pre-transfer period will be processed in time for transfer.
<b>Investment maturity periods – transitional arrangements</b>	Where existing investments are in breach of the CREDS maturity periods (1 year for version 1 credit unions and 5 years for version 2 credit unions) at transfer date, Northern Ireland credit unions can continue holding such investments until the maturity period of the investment expires. No transitional arrangements are made for existing investments that comply at transfer date or new investments from transfer date.	During a one-year transitional period, all version 1 Northern Ireland credit unions will be able to invest surplus funds in CREDS-compliant investment types for a maximum period of three years.  This transitional arrangement is in addition to the transitional arrangement outlined in CP11/17.
<b>Shareholding limit</b>	A Northern Ireland credit union must not allow a member to have shares exceeding the greater of £10,000 or 1.5% of total shares in the credit union. Transitional arrangements will apply.	A Northern Ireland credit unions must not allow a member to have shares exceeding the greater of £15,000 or 1.5% of total shares in the credit union. The FSA will consult on raising the limit for credit unions in Great Britain to achieve consistency as soon as possible.

<b>Joint accounts</b>	Shares in Northern Ireland credit unions must be held in the joint names of no more than two members. The interest of a member in a joint account must be treated as 50% of the shareholding in that account.	Shares in Northern Ireland credit unions may be held in the joint names of members, without limit on the number of joint members. Members in a joint account must be treated as all having an equal interest in the shareholding in that account.
<b>Documentation of operational policies</b>	Northern Ireland credit unions must establish, maintain and implement operational policies (business plan, policies and procedures manual, documented system of control, financial risk management policy statement, liquidity management policy statement and lending policy statement) within six months of transfer, from 1 October 2012.	Northern Ireland credit unions must establish, maintain and implement operational policies (business plan, policies and procedures manual, documented system of control, financial risk management policy statement, liquidity management policy statement and a lending policy statement) within nine months of transfer, from 1 January 2013.
<b>Faster payout: implementation of the single customer view (SCV)</b>	Northern Ireland credit unions must comply with the information and electronic SCV rules within six months from publication of the Policy Statement and 'near-final' rules in December 2011 i.e. by 30 June 2012.	Northern Ireland credit unions must comply with the information and electronic SCV rules within nine months from publication of the Policy Statement and 'near-final' rules in December 2011 i.e. by 30 September 2012.
<b>Consumer awareness: implementation of disclosure requirements</b>	Northern Ireland credit unions must comply with the disclosure rules within six months from publication of the Policy Statement and 'near-final' rules in December 2011 i.e. by 30 June 2012.	Northern Ireland credit unions must comply with the disclosure rules within 18 months from when they become FSA-authorised on 31 March 2012 i.e. by 30 September 2013.
<b>Complaint handling rules</b>	Northern Ireland credit unions will become subject to the complaint handling rules from when they become FSA-authorised on 31 March 2012. Complaint reports are due at the end of April each year for the period 1 April – 31 March.	Credit unions will become subject to the complaint handling rules from when they become FSA-authorised on 31 March 2012. However, the first complaint report would not be due until the end of April 2013 for the shorter period of 1 October 2012 – 31 March 2013.

## Annex 3

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# Invitation to roadshows

# Northern Ireland credit union roadshows

January – February 2012

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## Outline

This is the second series of roadshows in Northern Ireland, which will provide another opportunity to meet with the Financial Services Authority and further explain, and help, credit unions in Northern Ireland prepare for the transfer of regulatory responsibility, and the commencement of the new regime on 31 March 2012.

## 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, interactive sessions and networking

## Dates & Locations

**Tuesday 24 January** – Hilton Templepatrick, Castle Upton Estate, Templepatrick, BT39 0DD

**Wednesday 25 January** – Westville Hotel, 14-20 Tempo Rd, Enniskillen, BT74 6HR

**Thursday 26 January** – Waterfoot Hotel, Caw Roundabout, Waterside, Londonderry, BT47 6TB

**Tuesday 31 January** – Canal Court Hotel, Merchants Quay, Newry, BT35 8HF

**Wednesday 1 February** – Glenavon Hotel, 56 Drum Rd, Cookstown, BT80 8JQ

**Thursday 2 February** – Hilton Templepatrick, Castle Upton Estate, Templepatrick, BT39 0DD

## Fee

There is no charge for this event.

\*Please submit your booking form by 12 January 2012.

# 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

January – February 2012

## 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:

Ben Cassidy  
Event Organiser  
Financial Services Authority  
25 The North Colonnade  
Canary Wharf  
London E14 5HS

Tel: 020 7066 1616

- Please fax this form to 020 7066 3225; or email to [eventsbooking@fsa.gov.uk](mailto:eventsbooking@fsa.gov.uk)

**Please submit your booking form by 12 January 2012**

## Ask a question

If you wish to pre-submit a question or have any queries regarding these events, please email them to [events@fsa.gov.uk](mailto:events@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.

## 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 .....

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

**Tuesday 24 January**  
Hilton Templepatrick – Templepatrick

**Wednesday 25 January**  
Westville Hotel – Enniskillen

**Thursday 26 January**  
Waterfoot Hotel – Londonderry

**Tuesday 31 January**  
Canal Court Hotel – Newry

**Wednesday 1 February**  
Glenavon Hotel – Cookstown

**Thursday 2 February**  
Hilton Templepatrick – Templepatrick



## Appendix 1

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# ‘Near-final’ rules (legal instrument)

**CREDIT UNIONS (NORTHERN IRELAND) 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); and
    - (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

**Notes**

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



**Citation**

- F. This instrument may be cited as the Credit Unions (Northern Ireland) 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.

#### Part 1

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

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

Amend the following definitions as shown.

<i>consumer</i>	<p>...</p> <p>(4) ...</p> <p>(5) <u>(with respect to <i>Northern Ireland credit unions</i> 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).</u></p> <p>(6) <u>(with respect to <i>Northern Ireland credit unions</i> and in relation to the establishment of the <i>Consumer Panel</i>) a person within (5) other than an <i>authorised person</i>.</u></p>
<i>credit union</i>	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 <i>authorised person</i> , <u>or a body corporate registered under the Credit Unions (Northern Ireland) Order 1985 which is an <i>authorised person</i> or a body corporate registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 as a credit union which is an <i>authorised person</i>.</u>
<i>credit unions day</i>	<u>(in relation to a <i>Great Britain credit union</i>) 1 July 2002 or (in relation to a <i>Northern Ireland credit union</i>) [31 March 2012].</u>

*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).

## Part 2

[*Editor's Note:* In this Part the amendments shown are made against the text of the Credit Unions New Sourcebook (Consequential Amendments) Instrument 2011 (FSA 2011/xx) which was made by the Board on 8 December 2011.]

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*.

~~Paragraph~~ 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 2011 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 Transitional Provisions

(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
...					
7	...				
<u>8</u>	<u>FEES 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 <i>levy</i> relates to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before <i>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.

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

#### 16 Annex 15(1)G      **Notes on completing the Quarterly Return (CQ) for credit unions**

...

#### **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.

...

#### 16 Annex 15(2)G      **Notes on completing the Annual Return (CY) for credit unions**

...

#### **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 <del>this should not exceed 12.68% per year.</del>
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...

## Part 2

[*Editor's Note:* In this Part the amendments shown are made against the text of the Credit Unions New Sourcebook (Consequential Amendments) Instrument 2011 (FSA 2011/xx) which was made by the Board on 8 December 2011.]

Amend the following 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 <i>SUP</i> 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> <i>CREDS</i> 8.2.6R(2)(a) states that the audited accounts referred to in <i>SUP</i> 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.
...	

### 16 Annex 15(1)G Notes on completing the Quarterly Return (CQ) for credit unions

#### 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* ~~under the credit union's rules,~~ 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, ~~in respect of a Great Britain credit union, can save up to £10,000 or 1.5 per cent of the assets of total non-deferred shares in the Great Britain credit union, whichever is the greater, or who, in respect of a Northern Ireland credit union, can save up to £15,000 or 1.5 per cent of the total shares in the Northern Ireland credit union, whichever is the greater.~~ in respect of a Great Britain credit union, can save up to £10,000 or 1.5 per cent of the total non-deferred shares in the Great Britain credit union, whichever is the greater, or who, in respect of a Northern Ireland credit union, can save up to £15,000 or 1.5 per cent of the total shares in the Northern Ireland credit union, whichever is the greater. [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 2011 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.

...

## 16 Annex 15(2)G Notes on completing the Annual Return (CY) for credit unions

...

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 for a Great Britain credit union should be within 7 months of the financial year ending on or before 31 July 2012 and within 6 months of any subsequent financial year end and for a Northern Ireland credit union should be within 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

...

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 2011 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.

Where a *credit union* issues interest bearing shares, its auditor should submit a report to the FSA stating whether, in their opinion, the *credit union* has satisfied the conditions specified by the FSA for the purpose of section 7A of the Credit Unions Act 1979.

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)

[*Editor's Note:* In this Annex the amendments shown are made against the text of the Credit Unions New Sourcebook (Consequential Amendments) Instrument 2011 (FSA 2011/xx) which was made by the Board on 8 December 2011]

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>	<u>where the <i>FSA</i> is proposing to consent to the Registrar of Credit Unions for Northern Ireland cancelling or suspending the registration of a <i>Northern Ireland credit union</i>, or 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
...					
<u>28</u>	<u>COMP 16.3</u>	<u>R</u>	<u>A Northern Ireland credit union need not comply with COMP 16.3 until 30 September 2013</u>	<u>From 31 March 2012 until 30 September 2013</u>	<u>For Northern Ireland credit unions 31 March 2012</u>
<u>29</u>	<u>COMP 17</u>	<u>R</u>	<u>COMP 17 does not apply to a Northern Ireland credit union until 30 September 2012</u>	<u>From 31 March 2012 until 30 September 2012</u>	<u>For Northern Ireland credit unions 31 March 2012</u>
<u>30</u>	<u>COMP 17.3 and COMP 17.2.7R</u>	<u>R</u>	<p><u>(1) This transitional provision applies to Northern Ireland credit unions.</u></p> <p><u>(2) 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></p> <p><u>(3) A Northern Ireland credit union that has made a valid election under (2) must provide the FSA with an SCV pre-implementation report by 30 June 2012 based on the Northern</u></p>	<u>From 31 March 2012 until 30 September 2012</u>	<u>For Northern Ireland credit unions 31 March 2012</u>

		<p><u>Ireland credit union's progress as at 30 June 2012 which must:</u></p> <p><u>(a) state the number of accounts held by eligible claimants as at 30 June 2012;</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 30 September 2012 and if not why not.</u></p> <p><u>(4) A Northern Ireland credit union that has not made a valid election under (2) must provide the FSA with an SCV pre-implementation report by 30 June 2012 based on the Northern Ireland credit union's progress as at 30 June 2012 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</u></p>		
--	--	--	--	--

			<p><u>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 30 September 2012 and if not why not; and</u></p> <p><u>(e) any issues that may impact on the Northern Ireland credit union's ability to implement by 30 September 2012.</u></p>		
<u>31</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 30 September 2012.</u></p>	<u>From 31 March 2012 until 30 September 2012</u>	<u>For Northern Ireland credit unions 31 March 2012</u>
<u>32</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 30 September 2012.</u></p> <p><u>(2) The FSCS must advise the FSA whether the information provided by a Northern Ireland</u></p>	<u>From 31 March 2012 until 30 September 2012</u>	<u>For Northern Ireland credit unions 31 March 2012</u>

			<u>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

<b>Handbook Reference</b>	<b>Matter to be notified</b>	<b>Contents of notification</b>	<b>Trigger event</b>	<b>Time allowed</b>
...				
<i>COMP</i> 17.3.4R	...			
<u>COMP TP 29R(2)</u> and <u>COMP 17.2.7R</u>	<u>Election or revocation of election that the electronic SCV rules 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)

[*Editor's Note:* In this Annex the amendments shown are made against the text of the Credit Unions New Sourcebook (Consequential Amendments) Instrument 2011 (FSA 2011/xx) which was made by the Board on 8 December 2011.]

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. [deleted]~~
- ...
- 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*.
- [Note: a transitional provision applies to this rule: see *CREDS* TP 1.6.]
- ...
- 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*.
- [Note: a transitional provision applies to this rule: see *CREDS* TP 1.6.]
- ...
- 2.2.8 R A *credit union* must establish, maintain and implement a fully documented system of control.
- [Note: a transitional provision applies to this rule: see *CREDS* TP 1.6.]
- ...
- 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*:

...

[Note: a transitional provision applies to this rule: see *CREDS* TP 1.7.]

...

- 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.

[Note: transitional provisions apply to this rule: see *CREDS* TPs 1.8 and 1.9.]

- 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.

[Note: a transitional provision applies to this rule: see *CREDS* TP 1.10.]

...

- 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)).

...

...

- 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.

[Note: a transitional provision applies to this rule: see *CREDS* TP 1.6.]

...

- 4.2.1 R (1) A *Great Britain credit union* must not permit a member to have or claim any interest in the shares of the *Great Britain credit union*, other than *deferred shares*, exceeding the greater of:

(1) £ 10,000; or

(a)

- ~~(2)~~ 1.5 per cent of the *total non-deferred shares* in the Great Britain credit union.

(2) A Northern Ireland credit union must not permit a member to have or claim any interest in the shares of the Northern Ireland credit union exceeding the greater of:

- (a) £ 15,000; or
- (b) 1.5 per cent of the total shares in the Northern Ireland credit union.

...

4.2.4 R Shares in a Great Britain credit union must not be held in the joint names of more than two members.

4.2.4A G There is no restriction on the number of members who may jointly hold shares in a Northern Ireland credit union.

4.2.5 R (1) For the purpose only of the limit in CREDS 4.2.1R(1), the interest of a member in a joint account must be treated as 50 per cent of the shareholding in that account.

(2) For the purpose only of the limit in CREDS 4.2.1R(2), the interest of a member in a joint account must be treated as the percentage represented by that individual member as a percentage of the total number of members holding an interest in the joint account.

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

...

(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 (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*.

...

- 4.4.1 R A *credit union* must at all times maintain in force a policy of insurance complying with *CREDS* 4.4.2R.
- [Note: a transitional provision applies to this rule: see *CREDS* TP 1.11.]
- ...
- 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 The Credit Unions (Northern Ireland) Order 1985 does not provide for a Northern Ireland credit union to issue interest-bearing shares or deferred shares.
- ...
- 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).
- [Note: a transitional provision applies to this rule: see *CREDS* TP 1.12.]
- ...
- 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.
- [Note: a transitional provision applies to this rule: see *CREDS* TP 1.12.]
- ...
- 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.
- [Note: a transitional provision applies to this rule: see *CREDS* TP 1.6.]
- 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*;

...

...

7.2.1 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.

[Note: a transitional provision applies to this rule: see *CREDS* TP 1.6.]

...

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;*

- (c) (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.

...

- 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.

[Note: a transitional provision applies to this rule: see *CREDS* TP 1.13.]

...

- 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.

[Note: a transitional provision applies to this rule: see *CREDS* TP 1.14.]

...

- 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.

[Note: a transitional provision applies to this rule: see *CREDS* TP 1.15.]

...

- 8.2.1 G *SUP* 16.12.5R states that a *credit union* must submit a quarterly return. The content, reporting frequency and due date in relation to that report are shown in *CREDS* 8.2.2G. The form can be found at *SUP* 16 Annex 14(1)G.

[Note: a transitional provision applies to *SUP* 16.2.5R: see *CREDS* TP 1.17.]

...

- 8.2.3 R *SUP* 16.12.5R states that a *credit union* must submit an annual return. The content, reporting frequency and due date in relation to that report are shown in *CREDS* 8.2.4G. The form can be found at *SUP* 16 Annex 14(2)G.

[Note: a transitional provision applies to SUP 16.2.5R: see CREDS TP 1.17.]

...

- 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.

...

...

- 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:

...

[Note: a transitional provision applies to this rule: see CREDS TP 1.16.]

...

- 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.

[Note: a transitional provision applies to this rule: see CREDS TP 1.16.]

...

## 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*.

Paragraph 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 2011 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 Provisions

(1)	(2)	(3)	(4)	(5)	(6)
	<b>Material to which the transitional provision applies</b>		<b>Transitional Provision</b>	<b>Transitional provisions: dates in force</b>	<b>Handbook provisions: coming into force</b>
...					
<u>5</u>	<u><i>CREDS</i> TPs 1, 2, 3 and 4</u>	<u>R</u>	<u><i>CREDS</i> TPs 1, 2, 3 and 4 do not apply to <i>Northern Ireland credit unions</i>.</u>	<u>From 31 March 2012 for as long as the relevant TPs remain in force</u>	<u>For <i>Northern Ireland credit unions</i> 31 March 2012</u>
<u>6</u>	<u><i>CREDS</i> 2.2.4R, <i>CREDS</i> 2.2.6R, <i>CREDS</i> 2.2.8R, <i>CREDS</i> 3.3.7R, <i>CREDS</i> 6.2.4R and <i>CREDS</i> 7.2.1R</u>	<u>R</u>	<u>A <i>Northern Ireland credit union</i> need not comply with <i>CREDS</i> 2.2.4R, <i>CREDS</i> 2.2.6R, <i>CREDS</i> 2.2.8R, <i>CREDS</i> 3.3.7R, <i>CREDS</i> 6.2.4R and <i>CREDS</i> 7.2.1R.</u>	<u>From 31 March 2012 until 31 December 2012</u>	<u>For <i>Northern Ireland credit unions</i> 31 March 2012</u>
<u>7</u>	<u><i>CREDS</i> 3.2.1R</u>	<u>R</u>	<u>A <i>Northern Ireland credit union</i> need not comply with <i>CREDS</i> 3.2.1R provided it</u>	<u>From 31 March 2012 until 30</u>	<u>For <i>Northern Ireland</i></u>

			only invests in the types of <u>investment</u> that prior to <u>credit unions day</u> were permitted under the <u>Credit Unions (Northern Ireland) Order 1985</u> and the <u>Credit Unions (Authorised Investments) Regulations (Northern Ireland) 1995</u> .	<u>March 2013</u>	<u>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 with CREDS 3.2.2R with respect to any securities invested in, or loans made, in accordance with CREDS 3.2.1R prior to credit unions day provided those securities or loans mature in accordance with the terms of the relevant agreement as at credit unions day. This transitional provision does not apply to any securities invested in, or loans made, in accordance with CREDS 3.2.1R prior to credit unions day that satisfy the requirements in CREDS 3.2.2R.</u>	<u>From 31 March 2012 until the maturity date of the securities invested in or loans made</u>	<u>For Northern Ireland credit unions 31 March 2012</u>
<u>9</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 with CREDS 3.2.2R with respect to any securities invested in, or loans made, in accordance with CREDS 3.2.1R using surplus funds within one year from credit unions day and which in accordance with the terms of the relevant agreement have a maturity of up to three years.</u>	<u>From 31 March 2012 until 30 March 2013</u>	<u>For Northern Ireland credit unions 31 March 2012</u>
<u>10</u>	<u>CREDS 3.2.3R</u>	<u>R</u>	<u>A Northern Ireland credit union that is a version 2 credit union need not comply</u>	<u>From 31 March 2012 until the</u>	<u>For Northern Ireland</u>



			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> .	maturity date of the <u>securities</u> invested in or loans made	<u>credit unions 31 March 2012</u>
<u>11</u>	<u>CREDS 4.4.1R</u>	<u>R</u>	<u>A Northern Ireland credit union</u> need not comply with <u>CREDS 4.4.1R</u> .	From <u>31 March 2012</u> until <u>30 March 2013</u>	For <u>Northern Ireland credit unions 31 March 2012</u>
<u>12</u>	<u>CREDS 5.3.3R</u> and <u>CREDS 5.3.5R</u>	<u>R</u>	Where the requirements of <u>CREDS 7.5.1R</u> , <u>CREDS 7.5.2R</u> and <u>CREDS 7.5.4E</u> would result in a <u>Northern Ireland credit union</u> having to make higher provision than would have been required prior to <u>credit unions day</u> , that <u>Northern Ireland credit union</u> need not comply with <u>CREDS 5.3.3R</u> and <u>CREDS 5.3.5R</u> to the extent that that <u>Northern Ireland credit union</u> may transfer out of its general reserve the amount of provision that is additional to the amount that would have been required prior to <u>credit unions day</u> . If a <u>Northern Ireland credit union</u> takes advantage of this transitional provision it must advise the <u>FSA</u> of the amount transferred by the due date of	From <u>31 March 2012</u> until the due date for submission by that <u>Northern Ireland credit union</u> of its next annual return	For <u>Northern Ireland credit unions 31 March 2012</u>

			<p><u>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></p>		
<u>13</u>	<u>CREDS 7.3.1R</u>	<u>R</u>	<p><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 repaid in accordance with the terms as at credit unions day of the relevant loan agreement. This transitional provision does not apply to any loan outstanding on credit unions day that satisfies the requirements in CREDS 7.3.1R.</u></p>	<p><u>From 31 March 2012 until the day the loan is repaid</u></p>	<p><u>For Northern Ireland credit unions 31 March 2012</u></p>
<u>14</u>	<u>CREDS 7.3.4R</u>	<u>R</u>	<p><u>A Northern Ireland credit union that is a version 2 credit union need not comply with CREDS 7.3.4R with respect to any loan outstanding on credit unions day. That loan must be repaid in accordance with the terms as at credit unions day of the relevant loan agreement. This transitional provision does not apply to any loans outstanding on credit unions day that satisfies the requirements in CREDS 7.3.4R.</u></p>	<p><u>From 31 March 2012 until the day the loan is repaid</u></p>	<p><u>For Northern Ireland credit unions 31 March 2012</u></p>
<u>15</u>	<u>CREDS 7.4.2R</u>	<u>R</u>	<p><u>A Northern Ireland credit union need not comply with CREDS 7.4.2R with respect to any individual large exposure in existence on credit unions day or the</u></p>	<p><u>From 31 March 2012 until 30 March 2014 or the day the individual</u></p>	<p><u>For Northern Ireland credit unions 31 March 2012</u></p>

			<p><u>aggregate total of all large exposures in existence on credit unions day. Those large exposures must be repaid in accordance with the terms of the agreement relating to the relevant large exposure as at credit unions day. This transitional provision does not apply to any individual large exposure in existence on credit unions day or the aggregate total of all large exposures in existence on credit unions day that comply with CREDS 7.4.2R.</u></p>	<p><u>large exposure or the aggregate total of all large exposures satisfies the requirements in CREDS 7.4.2R if earlier.</u></p>	
<u>16</u>	<u>CREDS 9.2.1R and CREDS 9.2.7R</u>	<u>R</u>	<p><u>A Northern Ireland credit union need not comply with the requirement to submit a return under CREDS 9.2.1R until 30 April 2013, and the relevant reporting period under CREDS 9.2.7R for this return is from 1 October 2012 to 31 March 2013.</u></p>	<p><u>From 31 March 2012 until 30 April 2013</u></p>	<p><u>For Northern Ireland credit unions 31 March 2012</u></p>
<u>17</u>	<u>SUP 16.2.5R</u>	<u>R</u>	<p><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></p>	<p><u>From 31 March 2012 until 31 January 2013</u></p>	<p><u>For Northern Ireland credit unions 31 March 2012</u></p>



## Appendix 2

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# Credit Unions New sourcebook (CREDS)

## CREDIT UNIONS NEW SOURCEBOOK INSTRUMENT 2011

### 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
    - (h) paragraph 13 (Compulsory jurisdiction) of Schedule 17 (The Ombudsman Scheme); 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 8 January 2012.

### 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 included 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 Instrument 2011.

- 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  
8 December 2011

## 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 the Mortgages and Home Finance: Conduct of Business sourcebook (*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 the Insurance: Conduct of Business sourcebook (*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://www.fsa.gov.uk/pages/Handbook/readers\\_guide.pdf](http://www.fsa.gov.uk/pages/Handbook/readers_guide.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 have robust governance arrangements, which include 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 for information processing systems.
- 2.2.2 G For *credit unions*, the arrangements, processes and mechanisms referred to in SYSC 4.1.1R should be comprehensive and proportionate to the nature, scale and complexity of the *credit union's* activities. That is the effect of SYSC 4.1.2R and SYSC 4.1.2AG.
- 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 (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 should 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 should satisfy itself 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 timeframe (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

will 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* 6.3.4R(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 *CREDS* 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 3.3.2G.
- (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 3.3.2G) 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 R 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).
- 4.4.5 G 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:
- (1) is needed for its own particular circumstances; and
  - (2) 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)

	<b>Column (1)</b> Aggregate value of share subscriptions and other deposits received and not repaid (the “aggregate value”)	<b>Column (2)</b> Cover required in respect of any one claim	<b>Column (3)</b> Cover required in respect of total claims made in any one year

<b>Row (A)</b>	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
<b>Row (B)</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
<b>Row (C)</b>	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
<b>Row (D)</b>	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 This chapter 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%.

[**Note:** a transitional provision applies to this *rule*: see *CREDS* TP 1.1.]

#### 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 to 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*.
- [**Note:** a transitional provision applies to this *rule*: see *CREDS* TP 1.2.]
- 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 will 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 must 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 (1) 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.
- (2) 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, reporting frequency and due date in relation to that report are shown in *CREDS* 8.2.2G. The form can be found at *SUP* 16 Annex 14(1)R.

[**Note:** a transitional provision applies in respect of the form to be used at *SUP* 16 Annex 14(1)G (see *CREDS* TP 1.4).]

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, reporting frequency and due date in relation to that report are shown in *CREDS* 8.2.4G. The form can be found at *SUP* 16 Annex 14(2)R.

[**Note:** transitional provisions apply to the requirement in *SUP* 16.12.5R (see *CREDS* TP 1.3) and in respect of the form to be used at *SUP* 16 Annex 14(2)G (see *CREDS* TP 1.4).]

8.2.4 G This table belongs to *CREDS* 8.2.3G

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Content of report	Form	Frequency	Due date
Extended financial data	CY	Annually	Six months 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; or
  - (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 must be given to or addressed for the attention of the Central Analysis and Reporting department of the *FSA*.
- 9.2.11 G *SUP* 16.3.14R applies to the *credit unions'* complaints returns.
- 9.2.12 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.
- 9.2.13 G The contact point in *CREDS* 9.2.1R and *CREDS* 9.2.12R can be by name or job title and may include, for example, a telephone number.

9 Annex 1R Credit union complaints return

(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

<b>Firm details and reporting period</b>	<b>Section 1</b>
--	------------------

<b>1.01</b>	FSA firm reference number																			
<b>1.02</b>	Name of <i>credit union</i>																			
<b>1.03</b>	Reporting period	From	mm	yyyy	To	mm	yyyy													

<b>Nil return declaration</b>	<b>Section 2</b>
-------------------------------	------------------

**SECTIONS 1 AND 6 MUST STILL BE COMPLETED.**

<b>2.01</b>	We wish to declare a Nil Return <i>(Tick the box if applicable)</i>	<b>Nil return</b>	<input type="checkbox"/>
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<b>Complaints outstanding</b>	<b>Section 3</b>
-------------------------------	------------------

<b>3.01</b>	Number of complaints outstanding as at reporting period start date	
-------------	--	--

<b>Complaints opened during reporting period</b>	<b>Section 4</b>
--	------------------

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 R 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 and of Regulatory Guides 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 <i>Principles</i> 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 <i>Principles</i> 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</i> 3, conduct which tends to show compliance within that statement.
The Fit and Proper test for Approved	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

Persons ( <i>FIT</i> )	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 purely by post, telephone, fax or the Internet, the provisions will not be relevant.
Supervision manual ( <i>SUP</i> )	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



	<p>permission), <i>SUP 7</i> (Individual requirements), <i>SUP 8</i> (Waiver and modification of rules), <i>SUP 9</i> (Individual guidance), <i>SUP 10</i> (Approved persons), <i>SUP 11</i> (Controllers and Close links), <i>SUP 15</i> (Notifications to the FSA) and <i>SUP 16</i> (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 11</i> 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 16</i>, <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</i>'s 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 1.2</i> to <i>DEPP 5</i>); and</p> <p>(2) the <i>FSA</i>'s policy with respect to the imposition and amount of penalties under the <i>Act</i> (see <i>DEPP 6</i>).</p>
Dispute Resolution: Complaints ( <i>DISP</i> )	<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> .
Compensation ( <i>COMP</i> )	<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.
Complaints against the FSA ( <i>COAF</i> )	This relates to complaints against the <i>FSA</i> .
The Enforcement Guide ( <i>EG</i> )	The Enforcement Guide ( <i>EG</i> ) describes the <i>FSA</i> 's 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> .
Financial crime: a guide for firms ( <i>FC</i> )	<i>FC</i> provides <i>guidance</i> on steps that a <i>firm</i> can take to reduce the risk that it might be used to further <i>financial crime</i> .

## 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"> <li>(a) the withdrawal of which is not permitted by section 7 (5) of the Credit Unions Act 1979; or</li> <li>(b) the withdrawal of which is not permitted by the terms of a loan made to a member; or</li> <li>(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>.</li> </ul> <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 2011 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"> <li>(a) alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; and</li> <li>(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>.</li> </ul>
<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>(in <i>CREDS</i> 9) a written response from a <i>respondent</i> which:</p> <ul style="list-style-type: none"> <li>(a) accepts the <i>complaint</i>, and, where appropriate, offers redress or remedial action; or</li> <li>(b) offers redress or remedial action without accepting the <i>complaint</i>; or</li> </ul>

(c) rejects the *complaint* and gives reasons for doing so;

and which informs the complainant that, if he remains dissatisfied with the *firm'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 Provisions

(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 2014. CRED 8.3.1R, as it was in force on 31 December 2011, will apply from the beginning of this transitional period until midnight on 30 September 2012. From midnight on that day until 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 1%. From midnight on 30 September 2013 until the end of this transitional period at midnight on 30 September 2014, the <i>version 1 credit union</i> must at all times maintain a capital-to-total assets ratio of at least 2%.</p>	From midnight on 30 September 2012 to midnight on 30 September 2014	8 January 2012
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 2014. From midnight on 30 September 2012 until 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 6% of its <i>total relevant liabilities</i>. From midnight on 30 September 2013, until the end of this transitional period at midnight on 30 September</p>	From midnight on 30 September 2012 to midnight on 30 September 2014	8 January 2012

			2014, 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	SUP 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 SUP 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 2012.	31 July 2012	8 January 2012
4	SUP 16 Annex 14R	R	SUP 16 Annex 14R, as it was in force on 31 December 2011, continues to apply to: <ul style="list-style-type: none"> <li>(i) quarterly returns for <i>credit unions</i> in respect of the quarter ending on or before 31 December 2011, and</li> <li>(ii) annual returns in respect of the financial year ending on or before 7 January 2012</li> </ul>	8 January 2012	8 January 2012

**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

<b>Handbook reference</b>	<b>Matter to be notified</b>	<b>Contents of notification</b>	<b>Trigger event</b>	<b>Time allowed</b>
<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 <i>month</i> 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 <i>month</i> 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 *CREDS*.

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</i> fees	<i>FEES</i> 3
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 4</i>
Schedule of periodic fees payable	<i>FEES 4 Annex 2R Part 1</i>
<i>FOS funding rules</i>	<i>FEES 5</i>
<i>FSCS funding rules</i>	<i>FEES 6</i>

#### 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)
	Paragraph 13 (Compulsory jurisdiction) of Schedule 17 (The Ombudsman Scheme)

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).
--	----------------------------

#### 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*.

**PUB REF: 004306**

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