



HM TREASURY



Department of  
**Enterprise, Trade  
and Investment**  
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# Proposals for regulatory reform of credit unions in Northern Ireland

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**March** 2010





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**Enterprise, Trade  
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# Contents

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	Page
Foreword	3
Executive summary	5
Chapter 1 Introduction	9
Chapter 2 Proposals for Reform	17
Chapter 3 Legislation timetable	25
Annex A Report by the Committee for Enterprise, Trade and Investment	29
Annex B Legal & Regulatory Framework - GB Credit Unions	33
Annex C NI Legal & Regulatory Framework	37
Annex D Community Investment	39
Annex E Transfer of NI CU regulation	41
Annex F NICU anti money laundering regulations	43
Annex G EQIA Screening Pro Forma1	45
Annex H Impact Assessment	47



# Foreword

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We recognise and value the important role played by credit unions across the United Kingdom. For many people, particularly those on low incomes, credit unions are the prime source of affordable credit. Their long established and widespread presence in Northern Ireland has helped to engender a strong culture of community self help. Credit unions are also central to the promotion of financial inclusion and are widely acknowledged as being an integral part of the broader social-economy sector in Northern Ireland.

Registration and regulatory responsibility for credit unions in Northern Ireland are a devolved matter. The current regulatory framework in Northern Ireland has enabled credit unions to acquire corporate legal status and helped create the trusted brand image that they enjoy to this day. However, if credit unions are to be permitted to expand the range of services they can offer, it will be necessary to transfer responsibility for regulation of the sector to the FSA. It may also be practical to transfer responsibility for the registration of credit unions in Northern Ireland from DETI to the FSA at the same time.

While the framework has worked well for many years, the Registrar cannot approve the use of a wide range of financial products and services similar to those available from credit unions in Great Britain. These include insurance and mortgage products, which are activities regulated by the Financial Services Authority, and Child Trust Funds.

Being regulated by DETI also prevents members in Northern Ireland from access to the Financial Ombudsman Service and the Financial Services Compensation Scheme, which provides up to £50,000 protection of savings per member in the event of a GB credit union failing.

This gap between Northern Ireland and Great Britain takes on great significance given the much higher levels of membership in Northern Ireland, at 50% of the adult population, compared to two per cent in Great Britain.

We have therefore decided to transfer responsibility for the regulation of credit unions in Northern Ireland to the FSA, with all the benefits to members that will bring.

This consultation document provides an opportunity for all interested parties across to express their views on how best to place credit unions in Northern Ireland at least on a par with those in Great Britain.

We are keen to have your views on the proposals and recommendations set out in this document and would encourage you to take this opportunity to contribute to the consultation.



Ian Pearson  
Economic Secretary to the Treasury



Arlene Foster,  
Minister of Enterprise,  
Trade and Investment





# Executive summary

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## Introduction

The aim of this UK-wide consultation, issued jointly by HMT and the Department of Enterprise, Trade and Investment (DETI) in Northern Ireland (NI) is to ensure that all stakeholders in Great Britain (GB) and NI have an equal opportunity to examine and comment on the proposals for the reform of the regulatory framework applying to credit unions (CUs) in NI. The decision has been taken that the regulation of NI CUs should transfer from DETI to the Financial Services Authority (FSA) following the proposed revocation of the exemption whereby NI credit unions were exempted from regulation under the Financial Services and Markets Act 2000. The question remains as to how this is best achieved and what other associated actions should be taken.

Responsibility for credit unions in Northern Ireland is a devolved matter and the registration and regulation of CUs in GB and NI are subject to different legislative regimes. However, under the Northern Ireland Act 1998, financial services, including banking and deposit-taking are reserved matters. Credit unions in NI, and Industrial & Provident Societies (IPs) across the UK, benefit from limited exemptions from the requirement to obtain a Part IV permission<sup>1</sup> when they accept deposits.<sup>2</sup>

The regulatory arrangements in GB and in the Republic of Ireland (RoI) allow credit unions in those jurisdictions to provide a much wider range of services to their members than credit unions in NI are permitted to offer. The Enterprise Trade and Investment Committee in the Report of its Inquiry into the Role and Potential of Credit Unions in Northern Ireland (the ETI Inquiry), which was published in February 2009, recommended that the registration of all CUs in NI should remain with DETI while their regulation should move from DETI to the FSA, thereby enabling them to have access to a universal compensation scheme and deliver an increased range of services.

## Key Proposals

**Outline Proposal 1: Registration of NI credit unions moves from DETI to the FSA. This could be done either by the NI Assembly amending its CU legislation to achieve this, or giving Westminster legislative consent to amend these laws.**

**Outline Proposal 2: Registration of NI credit unions remains with DETI**

**Outline proposal 3: The Assembly to update NI legislation in line with recent GB reforms.**

## Background

Across the world, credit unions are increasingly being integrated into mainstream financial services regulation, and are being given greater freedom in the services they can offer to their members and communities.

Compared with their counterparts in GB and the RoI, NI credit unions have limited opportunities to provide a wide range of services, notwithstanding the fact that half the adult population of NI belongs to a credit union, compared to 2 per cent in GB. Access to compensation in the

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<sup>1</sup> That is permission given by the FSA, under Part IV of the Financial Services and Markets Act 2000, to carry on a regulated financial service.

<sup>2</sup> The Financial Services and Markets Act 2000 (Exemption) Order 2001 - SI 2001/1201 as amended by SI 2001/3623. With some limited exceptions, deposits in NI credit unions are in the form of shares.

event of failure is not universal in NI, with a relatively small number of credit union members having no protection at all.

Whilst credit unions have not been as severely hit as many in the financial services sector, confidence that member deposits are protected and that credit unions can provide a range of services (such as current accounts and access to schemes such as the Child Trust Fund), particularly to those on lower incomes, has increased in importance.

Against this background, this consultation invites responses on proposals that HM Government, together with the Northern Ireland Executive, should bring NI credit unions within the scope of FSA regulation, while leaving the legislative and registration functions with the Northern Ireland Assembly and the Department of Enterprise, Trade and Investment. This would bring certainty on compensation arrangements to all NI CU members, while giving the NI Assembly continuing freedom to respond to the distinctive nature of credit unions in NI.

## **Credit unions in NI**

Credit unions in NI date back to the early 1960s. There are 180 credit unions, with over 400,000 members, serving 50 per cent of the adult population. In addition to the two main trade bodies, the Irish League of Credit Unions (ILCU) and Ulster Federation of Credit unions (UFCU), the Tyrone Federation with 13 members and several other independent CUs complete the total.

Credit unions provide basic savings and loan services within the limits set out in the Credit Unions (Northern Ireland) Order 1985. As things currently stand NI CUs can only offer new or additional regulated financial services if they obtain the necessary authorisation from, and are regulated by, the FSA. Obtaining FSA authorisation would switch off the FSMA exemption for deposit-taking, but not the requirements of NI credit union legislation.

Notwithstanding the transfer of regulation to the FSA, the NI Assembly can update NI legislation, in line with the changes being made for GB credit unions or any other amendments thought appropriate. This would require NI primary legislation.

## **Credit unions in GB**

There are currently around 500 credit unions in GB, with approximately 650,000 members and close to £500 million in assets.<sup>3</sup>

The GB legislative framework generally offers greater flexibility to credit unions than the NI equivalent. In GB, credit unions are established under the Credit Unions Act 1979 and the Industrial and Provident Societies Act 1965. The FSA acts as registrar and regulator for the sector, and all credit unions are required to obtain permission under Part IV of FSMA before taking deposits. The GB legislation has been subject to a number of reforms in recent years to enable regulation by the FSA, and subsequently to amend the requirements for the membership qualification, to clarify the circumstances under which the term credit union may be used and to allow credit unions to charge for the cost of providing ancillary services.<sup>4</sup>

The Government carried out a wide-ranging review of GB credit union and IPS legislation in 2007. The FSA is also consulting on amendments to the credit unions sourcebook (CRED) to complement the Government's reforms, and to raise prudential standards for GB credit unions.<sup>5</sup>

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<sup>3</sup> [http://www.fsa.gov.uk/smallfirms/resources/factsheets/pdfs/creditunionstats\\_06.pdf](http://www.fsa.gov.uk/smallfirms/resources/factsheets/pdfs/creditunionstats_06.pdf)

<sup>4</sup> Regulatory Reform (Credit Unions) Order 2003 – SI 2003/256

<sup>5</sup> See CP09/27 "Review of the Credit Unions sourcebook (CRED), November 2009.

## Regulation and compensation arrangements

Credit unions in GB are registered under the Industrial and Provident Societies Act 1965 as a special class of society under the Credit Unions Act 1979. The 1979 Act also lays down the objects, conditions and rules a credit union must fulfil to allow for registration<sup>6</sup>.

The regulation of credit unions in Great Britain was brought under the Financial Services and Markets Act 2000 (FSMA), and within the scope of the FSA, in July 2002. The FSA also acts as registrar of credit unions in Great Britain. Due to their nature, credit unions are exempt from a number of European Directives, and are subject to a specialist regulatory regime, which is intended to be customised and proportionate to the nature of credit unions.

The specialised regulatory regime for credit unions is largely set out in one place in the CRED, which includes requirements specific to credit unions, particularly prudential rules. CRED also provides a guide to requirements that are set out in the FSA Handbook and that apply more generally to financial firms, including credit unions.

### Financial Services Compensation Scheme (FSCS)

As authorised deposit-takers, credit unions in Great Britain are part of the Financial Services Compensation Scheme. Therefore, the deposits of credit union members are protected if a credit union is unable to pay claims against it because it has been declared in default. Membership of the FSCS imposes some obligations on credit unions.

The FSCS provides for up to £50,000 protection of savings per member in the event of a credit union failing.

The majority of NI credit unions have access to a compensation scheme for their members or a liquidity scheme, although not to the FSCS. While the NI credit union sector is very stable, there are a number of credit unions that do not have access to any form of depositor protection.

The NI credit union sector is generally robust and there have been no failures since 2001. This compares with over 40 failures amongst GB credit unions over the same period.

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<sup>6</sup> These three sections are replicated in the Credit Unions (Northern Ireland) Order 1985, which are outlined in Annex C.



# 1

# Introduction

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## Aims

**1.1** Following the decision that credit unions (CUs) in Northern Ireland (NI) should no longer be exempt from regulation under the Financial Services and Markets Act 2000 (FSMA) and that responsibility for their regulation should transfer from the Department of Enterprise, Trade and Investment (DETI) to the Financial Services Authority (FSA), the aim of this UK-wide consultation, issued jointly by HMT and DETI is to ensure that all stakeholders in both Great Britain (GB) and NI have an equal opportunity to examine and comment on the proposals for the reform of the regulatory framework applying to CUs in NI. The proposals involve amendments to legislation in GB and NI as well as amendments to legislation on a UK-wide basis. In order for the proposed arrangements to be effective it will also be necessary for the FSA to consult on amendments to its regulatory rules for CUs.

**1.2** This will be the first of two separate consultations arising from independent reviews undertaken by the Committee for Enterprise, Trade and Investment (the Committee) – see paragraph 1.3 - and HMT – see paragraph 1.5. This consultation will concentrate on issues affecting NI CUs. A further, separate, consultation exercise will be required on proposals to reform industrial and provident societies in both GB and NI. This is expected to take place later this year.

## Committee for Enterprise, Trade and Investment Inquiry<sup>1</sup>

**1.3** The regulatory arrangements in GB and in the Republic of Ireland (RoI) allow credit unions in those jurisdictions to provide a much wider range of services to their members than credit unions in NI are permitted to offer. The Committee commissioned its Inquiry into the Role and Potential of Credit Unions in Northern Ireland (the ETI Inquiry) in March 2008. The ETI Inquiry was set up to examine the role of CUs within the communities they serve, to identify the barriers preventing CUs in NI from offering a wider range of services and to consider how the potential can be unlocked to permit CUs to expand their range of services and to support them in so doing. (The terms of reference for the inquiry are set out at Annex A.)

**1.4** The Committee's recommended option was that the registration of all CUs in NI should remain with DETI and that the regulation of all CUs in NI should move from DETI to the FSA enabling them to have access to a universal compensation scheme and deliver an increased range of services. The Committee advocated this option as a key element in a 'package' of measures, which together are designed to encourage and support the CU movement in NI to embrace change, to expand their services and to operate under the new regime.<sup>2</sup>

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<sup>1</sup> The Committee, whose function is to advise the Minister on matters within her responsibility undertakes a scrutiny, policy development and consultation role with respect to DETI and plays a key role in the consideration and development of legislation.

<sup>2</sup> The Committee's Report on the Inquiry was published on 17th February 2009 and can be found at: [http://www.niassembly.gov.uk/enterprise/2007mandate/reports/report05\\_08\\_09r.htm](http://www.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm)

## HM Treasury review

**1.5** The Treasury announced in the 2008 pre-Budget Report that it would review the legislative framework for CUs and industrial and provident societies (IPs) in NI, working closely with the Northern Ireland Executive. The terms of reference for the review are set out in Annex A.

**1.6** The Review team consulted major stakeholders in NI and undertook a desk review of the legislative and regulatory framework governing IPs and CUs in both GB and NI (see Annexes B and C) as well as considering the powers and regulatory frameworks applying to credit unions in other jurisdictions.<sup>3</sup>

**1.7** The Treasury Review also drew on the Inquiry by the ETI Committee into the credit union sector in Northern Ireland, referred to above.

## Summary of proposals

**1.8** These proposals relate primarily to the Credit Unions (Northern Ireland) Order 1985 (the 1985 Order) and, to a lesser degree to the Industrial and Provident Societies (Northern Ireland) Act 1969 (the 1969 Act), and as far as it is relevant to the implementation of any amendments to NI legislation, the Northern Ireland Act 1998.<sup>4</sup> They also relate to the Financial Services and Markets Act 2000 and, specifically, exemptions for NICUs and IPs in paragraphs 24 and 24A in Part 2 of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001.

## Credit unions

- **Outline Proposal 1:** Registration of NI credit unions move from DETI to the FSA. This could be done either by the NI Assembly amending its CU legislation to achieve this, or by giving Westminster legislative consent to amend these laws.
- **Outline Proposal 2:** Registration of NI credit unions remains with DETI.
- **Outline Proposal 3:** The Assembly update NI legislation in line with recent G B reforms.

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<sup>3</sup> The Review was published on 8<sup>th</sup> July 2009 and can be found at: [http://www.hm-treasury.gov.uk/review\\_leg\\_credunion.htm](http://www.hm-treasury.gov.uk/review_leg_credunion.htm)

<sup>4</sup> The subject matter of the Credit Unions (Northern Ireland) Order 1985 and the Industrial and Provident Societies Act (Northern Ireland) is within the legislative competence of the Northern Ireland Assembly, and by convention the UK Government will not legislate without the consent of the Northern Ireland Assembly.

## Summary of questions

### Credit union questions

- 1 What provisions would be needed to ensure a smooth transfer of regulation from DETI to FSA?
- 2 (a) Should the legislative function for credit unions remain with the Northern Ireland Assembly or should the Assembly give consent for Westminster to amend NI legislation?  
  
(b) Should the registration function for credit unions remain with DETI or transfer to the FSA?  
  
(c) Should NI credit unions be integrated into the GB legal and regulatory framework?
- 3 Should the Northern Ireland Assembly amend credit union legislation in line with that in GB?
- 4 How should credit unions be supported and enabled to undertake re-investment of assets into community development and community enterprises?
- 5 What other reforms to credit union legislation, if any, should the NI Assembly seek to introduce?

## Background

### Devolution

**1.9** The registration and regulation of credit unions are subject to different legislative regimes in NI and GB. This affects the services that can be offered in each jurisdiction, as well as access to compensation for loss of deposits in the event of failure.

**1.10** The legislation applying to CUs in Northern Ireland is a transferred matter. Before 1985, credit unions were registered under the 1969 Act; since 1985 they have been registered under the 1985 Order.

**1.11** Under the Northern Ireland Act 1998, financial services, including banking and deposit-taking are reserved matters. The Financial Services and Markets Act 2000 (FSMA), prohibits the carrying on of certain activities (“regulated activities”) by way of business unless the business has permission from the FSA under Part IV of FSMA or a specific exemption has been granted

**1.12** Credit unions in NI, and IPSs across the UK, benefit from limited exemptions from the requirement to obtain a Part IV permission when they accept deposits.<sup>5</sup>

### Credit unions

**1.13** Credit unions have been important contributors to social and economic development since they first appeared in Europe in the 1830s. They play an increasing role as financial services providers, particularly to those on lower incomes. Across the world, credit unions are

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<sup>5</sup> The Financial Services and Markets Act 2000 (Exemption) Order 2001 - SI 2001/1201 as amended by SI 2001/3623. With some limited exceptions, deposits in NI credit unions are in the form of shares.

increasingly being integrated into mainstream financial services regulation, and are being given greater freedom in the services they can offer to their members and communities.

**1.14** Compared with their counterparts in GB and the RoI, NI credit unions have limited opportunities to provide a wide range of services, notwithstanding the fact that half the adult population of NI belongs to a credit union, compared to just over 1 per cent in GB. Access to compensation in the event of failure is not universal in NI, with a relatively small number of credit union members having no protection at all.

**1.15** Whilst credit unions have not been as severely hit as many in the financial services sector, confidence that member deposits are protected and that credit unions can provide a range of services (such as current accounts and access to schemes such as the Child Trust Fund), particularly to those on lower incomes, has increased in importance.

**1.16** Against this background, this consultation invites responses on proposals that HM Government together with the Northern Ireland Executive should bring NI credit unions within the scope of FSA regulation, while leaving the legislative and registration functions with the Northern Ireland Assembly and the Department of Enterprise, Trade and Investment. This would bring certainty on compensation arrangements to all NI CUs members, while giving the NI Assembly continuing freedom to respond to the distinctive nature of credit unions in NI.

**Credit unions in NI**

**1.17** Credit unions in NI date back to the early 1960s. There are 180 credit unions, with over 400,000 members, serving 50 per cent of the adult population. In 2006, total assets were £820 million. In addition to the two main trade bodies, the Irish League of Credit Unions (ILCU) and Ulster Federation of Credit unions (UFCU), the Tyrone Federation with 13 members and several other independent CUs complete the total.

**Table 1.A: Profile of the credit union movement in Northern Ireland**

Affiliation	Credit unions	Members	Shares (Savings)	Loans
ICLU	104	370,000	£695m	£475m
UFCU	50	23,000	£26m	£11m
Tyrone Federation	13	11,000	£26m	£9m
Other	13	27,000	£31m	£23m
<b>Total</b>	<b>180</b>	<b>431,000</b>	<b>£778m</b>	<b>£518m</b>

*Source: 2007-08 Annual Returns to DETI Registrar*

**1.18** Credit unions in NI are registered under the 1969 Act or the 1985 Order. The 1969 Act consolidated the provisions of previous legislation dealing with IPSs and applied those provisions with suitable modifications to credit unions, which were recognised in the Act as a special category of society. The legislative regime for credit unions in Northern Ireland is now set out in the 1985 Order.

**1.19** NI CUs are currently exempt from FSA regulation when they accept deposits. However, they are not exempt from the general prohibition in respect of any other regulated activity. So, for example, any credit union that wished to conduct insurance business or carry on regulated mortgage work, must first obtain permission under Part IV of FSMA. As a result of requirements imposed by FSMA, a credit that obtained such a permission would lose the benefit of the deposit-taking exemption and would therefore be subject to FSA regulation in respect of its deposit-taking business as well.

**1.20** Credit unions provide basic savings and loan services within the limits set out in the 1985 Order. These limits include the size of deposits for those less than 16 years of age, dividends payable, and the amount of loan advances and the percentage of loan interest rates chargeable. These amounts may be amended by Order made by DETI.



**1.21** The adoption of the proposals for regulation by the FSA (which would bring with it access to the FSCS and the FOS) will open up potential opportunities for financial education through participation in Government schemes like the Child Trust Fund<sup>6</sup>, the Saving Gateway<sup>7</sup> and the Growth Fund<sup>8</sup>.

## Credit unions in GB

**1.22** There are currently around 500 credit unions in GB, with approximately 650,000 members and close to £500 million in assets<sup>9</sup>.

**1.23** The GB legislative framework generally offers greater flexibility to credit unions than the NI equivalent. In GB, credit unions are established under the Credit Unions Act 1979 and the Industrial and Provident Societies Act 1965. The FSA acts as registrar and regulator for the sector, and all credit unions are required to obtain permission under Part IV of FSMA before taking deposits. They are subject to a tailored regulatory regime as set out in the FSA's Credit Unions' Sourcebook (CRED). The main features of this regime are set out in Annex B.

**1.24** The GB legislation has been subject to a number of reforms in recent years, first to enable regulation by the FSA, and subsequently to amend the requirements for the membership qualification; clarify the circumstances under which the term credit union may be used; and allow credit unions to charge for the cost of providing ancillary services.<sup>10</sup>

**1.25** The Government carried out a wide-ranging review of GB credit union and IPS legislation in 2007. A number of measures resulting from this consultation are being taken forward through a Legislative Reform Order (LRO) and the Co-operative and Community benefit Societies and Credit Unions Act 2010, which received Government support. These include relaxing the membership qualification for credit unions, both widening the scope and allowing corporate membership; and other measures to enable credit unions to carry out their business more flexibly.<sup>11</sup>

**1.26** The FSA is also consulting on amendments to CRED to complement the Government's reforms, and to raise prudential standards for GB credit unions.<sup>12</sup>

**Table 1.B: Comparison of the services provided by credit unions in NI, GB and ROI**

Activity	NI	GB	ROI
Deposit takings	Y (Exempt from FSA regulation for deposits only)	Y	Y
Current accounts	N (Recently one NICU has started to offer these)	Y (Indirectly under an arrangement with the Cooperative Bank)	Y
Insurance services	N	Y	Y
Transfer of securities	N	Y	Y
Access to Government funding	N	Y (Growth Fund)	N

<sup>6</sup> <http://www.childtrustfund.gov.uk/>

<sup>7</sup> [http://www.hm-treasury.gov.uk/saving\\_gateway.htm](http://www.hm-treasury.gov.uk/saving_gateway.htm)

<sup>8</sup> <http://www.dwp.gov.uk/other-specialists/the-growth-fund/>

<sup>9</sup> [http://www.fsa.gov.uk/smallfirms/resources/factsheets/pdfs/creditunionstats\\_06.pdf](http://www.fsa.gov.uk/smallfirms/resources/factsheets/pdfs/creditunionstats_06.pdf)

<sup>10</sup> Regulatory Reform (Credit Unions) Order 2003 – SI 2003/256

<sup>11</sup> See "Review of the GB cooperative and credit union legislation: a consultation" June 2007 and "Proposals for a legislative reform order for credit unions and industrial and provident societies in Great Britain" July 2008 and 14th of April 2009. [http://www.hm-treasury.gov.uk/consult\\_credit\\_union.htm](http://www.hm-treasury.gov.uk/consult_credit_union.htm)

<sup>12</sup> See CP09/27 "Review of the Credit Unions sourcebook (CRED), November 2009.

## How to respond

**1.27** This consultation document will be sent to the representative bodies of NI CUs, academics and stakeholders in the financial services sector. The consultation document will also be posted on the Treasury public website and printed copies available on request.

**1.28** This document can be found on HM Treasury's website at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk). When responding please state whether you are responding as an individual or as part of an organisation. If responding on behalf of a larger organisation please make it clear whom the organisation represents and, where applicable, how the members' views were assembled.

**1.29** In accordance with Cabinet Office best practice, this consultation will last 8 weeks, from 30 March 2010 to 24 May 2010. If responding electronically please e-mail both DETI and HM Treasury. If responding by post please send your responses to one of the following:

Nigel Tonks  
Savings & Investment  
HM Treasury, 3/18  
1 Horse Guards Road  
London, SW1A 2HQ

Or e-mail: [Nigel.tonks@hmtreasury.gsi.gov.uk](mailto:Nigel.tonks@hmtreasury.gsi.gov.uk)

Telephone queries: 020 7270 5272

Kieran Sharratt  
Business Regulation Division  
Department of Enterprise, Trade and Investment  
1<sup>st</sup> Floor, Waterfront Plaza  
8 Laganbank Road  
Belfast, BT1 3BS  
Or e-mail: [registry.info@detini.go.uk](mailto:registry.info@detini.go.uk)

## Disclosure of Responses

**1.30** When responding please state if you are doing so as an individual or representing the views of an organisation. In accordance with the code of practice on open government, comments will be made publicly available unless respondents specifically request otherwise. In the case of electronic responses, general confidentiality disclaimers that often appear at the bottom of e-mails will be disregarded for the purpose of publishing responses unless an explicit request for confidentiality is made in the body of the response. If you wish part, but not all, of your response to remain confidential please supply two versions – one for publication on the website with the confidential information deleted and another confidential version for the HMT consultation team.

## Regulatory Impact Assessment

**1.31** This consultation seeks stakeholders' views on whether NI credit unions should be registered with DETI or the FSA, and whether the Assembly should update NI legislation in line with recent GB reforms. The consultation will help to inform any proposed changes. Following on from this HMT will prepare a Regulatory Impact Assessment (RIA) of the options available including any appropriate cost/benefit analysis based on the information gathered. A copy of the RIA will be posted on the HMT public website and will be available on request from the HMT correspondence and enquiry unit.

## Confidentiality Disclosures

**1.32** Information provided in response to this consultation, including personal information, might be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act (DPA) and the Environmental Information Regulations 2004.

**1.33** If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances.

**1.34** An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. Your personal data will be processed in accordance with the DPA, and in the majority of circumstances, this will mean that your personal details will not be disclosed to third parties.

**1.35** This consultation has been conducted in accordance with the Government's consultation criteria. If you wish to access the full version of the Code you can obtain it via:  
<http://berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

## Freedom of Information contact

Any Freedom of Information Act queries should be directed to:

Correspondence and Enquiry Unit  
Freedom of Information Section  
HM Treasury  
1 Horse Guards Road  
London, SW1A 2HQ  
Tel: (+44) (0) 20 7270 4558  
Fax: (+44) (0) 20 7270 4681  
Email: [public.enquiries@hmtreasury.gsi.gov.uk](mailto:public.enquiries@hmtreasury.gsi.gov.uk)

## Cabinet code of practice

The Cabinet Office has published a Code of Practice for Written Consultations to guide Departments' activities in this area, which sets out the following criteria:

- consult widely throughout the process, allowing a minimum of 12 weeks for written consultations at least once during the development of the policy;
- be clear about what the proposals are, who may be affected, what questions are being asked, and timescale of responses;
- ensure the consultation is clear, concise and widely accessible;
- give feedback regarding the responses received and how the consultation process influenced policy;
- monitor the Department's effectiveness at consultation, including through the use of a designated consultation co-ordinator; and

- ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

If you feel this consultation does not fulfil these criteria, please contact:

Angela Carden

HM Treasury

1 Horse Guards Road

London, SW1A 2HQ

Tel: 020 7270 4867

Email: [angela.carden@hmtreasury.gsi.gov.uk](mailto:angela.carden@hmtreasury.gsi.gov.uk)

# 2

## Proposals for Reform

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**2.1** This chapter sets out the detail of each of the proposals to reform the legislative and regulatory regime applying to credit unions in Northern Ireland.

### Question 1

What provisions would be needed to ensure a smooth transfer of regulation from DETI to FSA?

### FSA Regulation and compensation arrangements

**2.2** In GB, regulation by the FSA requires credit unions to pay fees to the FSA, and contribute to the Financial Services Compensation Scheme (FSCS) and the Financial Ombudsman Service (FOS) (Worked examples of the possible costs are provided in Table 2.A at page 11). The FSCS provides for up to £50,000 protection of savings per member, in the event of a credit union failing. The decision to transfer regulation to the FSA will place NI CUs within the same regulatory, complaints and compensation framework as GB credit unions.

### NICUs Background

**2.3** Although they do not have access to the FSCS and FOS, a majority of NI credit unions belong to voluntary schemes, which protect members' deposits to some degree in the event of failure.

**2.4** A total of 104 credit unions belong to the Irish League of Credit Unions. The ILCU scheme provides stabilisation funding<sup>1</sup> to rescue failing credit unions and as a last resort would pay out directly to members of the credit union. The introduction of the separate state scheme in the Republic of Ireland<sup>2</sup> guarantees each credit union member's savings up to a maximum of €100,000, but this does not extend to ILCU members in Northern Ireland.

**2.5** The ILCU has a long history of supporting credit union development and best practice and in recent years has worked with the regulators, in both NI and the RoI, to help provide data for regulatory purposes. The outcome of the RoI government's move to assume responsibility for consumer protection for credit union members, as well as bank customers, and its impact on ILCU members in NI is not yet clear. The ILCU has indicated that there is unlikely to be any change in the short term and that the final outcome may well depend on how the issues of legislation and regulation for NI credit unions are resolved.

**2.6** Fifty credit unions are affiliated to the Ulster Federation of Credit Unions (UFCU), which has a compensation scheme that is funded by each credit union at the rate of 1% of shareholding; it maintains a reserve to pay 80 pence in the pound in the event of a credit union failing. So far this particular scheme is untested.

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<sup>1</sup> <http://www.ilcu.ie/publisher/index.jsp?re=0&&1nID=93&2nID=597&pID=3037&nID=3069>

<sup>2</sup> <http://www.finance.gov.ie/viewdoc.asp?DocID=5606>

**2.7** The remaining 26 credit unions have no cover at all.

**2.8** The NI credit union sector is generally robust and there have been no failures since 2001, which compares with over 40 failures amongst GB credit unions over the same period. The global financial crisis continues to have an adverse effect on all financial institutions, but there is no evidence to suggest that this uncertain environment has significantly impacted on the credit union sector in NI, although there are early indications of reduced surpluses and increased bad debt.

## **Options**

**2.9** Against the background above, the options for taking alternative legislative routes are limited. HMT is likely to need to use its powers under FSMA to make necessary amendments to NI legislation consequential and transitional on the transfer of regulation to the FSA.

**2.10** In anticipation of the revocation of the exemption the Assembly could update NI legislation in line with the changes being made for GB credit unions, which would require primary legislation in the Assembly, as the LRO route is not available.

**2.11** Additional changes proposed in the ETI Committee report that are not contained in the GB reforms, for example, community investment, could also be considered by the Assembly.

**2.12** Unless the NI Assembly updates the legislation there will continue to be a limit on the activities of NI credit unions. It might also continue to be a barrier to the attainment of financial inclusion and financial capability objectives, which increasingly form part of the overall strategy for credit unions across the UK and the RoI.

## **What does FSA regulation mean for credit unions?**

**2.13** The decision to move regulation of NICUs to the FSA mirrors the main recommendation of the ETI Committee (See background at Annex A) and was the principal proposal in the Treasury review. There will be a single integrated regulatory structure, including coverage by the Financial Services Compensation Scheme (FSCS), which would enable NICUs to participate in HM Government initiatives such as the Growth Fund and Child Trust Fund.

**2.14** All credit unions would need to obtain permission under Part IV of FSMA to accept deposits (and any other regulated activity they wished to undertake) Every member of the credit union board and senior executives would also be required to meet the Approved Persons requirements of FSMA.

**2.15** The transfer of regulation to the FSA would enable members to have access to the FSCS and the FOS, both of which are funded via an annual levy paid by each CU, with compensation of up to £50,000 for each member in the event of the failure of a credit union.

**2.16** Currently NI credit unions pay DETI on a transaction basis rather than paying a single annual levy.

### **FSA Fees**

**2.17** Table 2.A below gives examples of the fees that could be payable for the year 2009-10 by three notional NI credit unions of differing size, if they were regulated by the FSA, using the calculator on the FSA website. The examples below provide an order of magnitude, and have been rounded for clarity, so should not be taken as precise estimates. The FSA is proposing changes to its fees structure, but this is not expected to make any significant change to fees payable by credit unions.

**Table 2.A: Notional FSA fees applicable to a range of NI credit unions (figs. rounded)**

<b>FSA Fees</b>		
Tariff base	Modified Eligible Liabilities (MEL) (that is, deposits with the credit union LESS the credit union's bank deposits (investments + cash at bank))	
	<b>MEL £</b>	<b>Fee £ 2009/10</b>
1.	320,000	150
2.	3,200,000	1,000
3.	32,000,000	1,600

**2.18** It is difficult to compare these costs with those currently charged by DETI, as the fees depend on what transactions credit unions carry out with the Department over the year. An amendment to rules, for example, would cost £170.<sup>3</sup>

### **FSCS Levies**

**2.19** HMT's intention is that NI credit unions will be exempt from FSCS levies relating to defaults declared before the effective date of their transfer to FSA regulation, in particular the costs relating to 5 banking failures in 2008<sup>4</sup> (referred to as Specified Deposit-takers Defaults (SDD)). Bringing NI credit unions within the FSCS, while ensuring they are exempt from SDD related costs, will require amendment to existing FSA rules.<sup>5</sup> As with any amendment of FSA rules this will require the FSA to consult publicly on the proposed changes.

**2.20** The table below gives indicative examples of the FSCS fees that would have been payable by three notional NI credit unions in the levy years 2008-2009 and 2009-2010.<sup>6</sup> The information provided in the table is for illustrative purposes only and relates to three notional NI credit unions holding deposits of £430,000, £4,300,000 and £43,000,000 respectively.

**2.21** The table below shows indicative FSCS levies excluding and including SDD related costs. The illustrations provided in the table have been rounded for clarity and should not be taken as precise estimates.

**Table 2.B: FSCS Levies**

<b>FSCS Levies</b>		
Total Deposits held by notional Northern Ireland credit union	Indicative FSCS levy for 2008-2009 (Excluding SDD-related costs)	Indicative FSCS levy 2008-009 (Including SDD-related costs)
£430,000	£ 4.00	£ 160
£4,300,000	£ 67.00	£ 2462.00
£43,000,000	£209.00	£13,790

<sup>3</sup> Credit Unions (Fees) Regulations (Northern Ireland) 1994 (SI 1994/436)

<sup>4</sup> In 2008 the FSCS contributed to the cost of 5 banking failures, referred to as SDDs. This contribution to the SDDs was financed by borrowing under facilities originally provided by the Bank of England, and subsequently refinanced by HM Treasury. As at 1 February 2010 the FSCS borrowings under the loan facility totalled approximately £20 billion.

<sup>5</sup> FSA's Compensation Sourcebook : <http://fsahandbook.info/FSA/html/handbook/COMP>

<sup>6</sup> FSCS levy year runs from March 31– April 1.

## FOS Levies

**2.22** The transfer of regulation of Northern Ireland credit unions to the FSA will also enable members to have access to the Financial Ombudsman Service (FOS). The FOS is funded by firms paying case fees and an annual general levy. For credit unions, the general levy is charged on a flat fee basis (currently £50 a year). For case fees the FOS charge £500 per case, with the first three cases in any year being free of charge.

## Transfer of Regulation

**2.23** The absorption by the FSA of 180 additional credit unions will present logistical challenges, although there is a useful precedent in the way that the 620 or so GB credit unions that were transferred to FSA regulation in 2002, which could be adapted in these circumstances. NI credit unions could be subject to transitional "grandfathering"<sup>7</sup> provisions providing it was appropriate and that the FSA had power, where necessary, to qualify the application of those provisions.

**2.24** At the same time, the IPS Acts and the CU Act will be amended by secondary legislation under section 426 of FSMA to make them compatible with FSMA. A similar process will need to be carried out with the equivalent NI legislation: the 1969 Act and the 1985 Order.

**2.25** The FSA will need to review its rules for credit unions in the context of any differences between GB and NI credit union legislation and would also need to carry out "due diligence"<sup>8</sup> on the NI sector. This will involve working closely with DETI, including separating out the registration functions, if they remain with DETI, from those related to regulation. This would not be straightforward and would need to be reflected clearly in the revised legislative framework.

**2.26** Once NI CUs lose their exemption for deposit-taking and become regulated by the FSA, it would make sense from a Better Regulation perspective for supervision of NI CUs for compliance with the Money Laundering Regulations 2007 to pass to the FSA as well.

**2.27** Drafts of the Orders enabling the transfer of regulation to the FSA (if not achieved in primary legislation) and regulatory responsibility for anti-money laundering rules are set out at Annexes E and F. In due course UK primary legislation will be needed to replace the references to DETI with references to the FSA in Schedule 7 of the Counter-Terrorism Act 2008.

### Question 2

- A. Should the legislative and registration functions for credit unions remain devolved to the Northern Ireland Assembly?
- B. Should the registration function for credit unions remain devolved to the Northern Ireland Assembly?
- C. Should the NI credit unions be integrated into the GB legal and regulatory framework?

**2.28** Once the FSA takes on the regulation of credit unions then the further question arises, divided into two parts, as to whether responsibility for legislation and registration should remain with Northern Ireland or be integrated with GB. The options below identify the key issues.

<sup>7</sup> That is to say, without any immediate change to structures or operations that was not fully compliant with FSA rules.

<sup>8</sup> In this context "due diligence" refers to an investigation into the financial activities and management of the business in order to make an assessment of the key risks and to be satisfied that the board is fit and proper for the purpose of running a credit union.



## **Option 1 – Legislative and registration responsibilities remain with the NI Assembly**

**2.29** This option retains the status quo for legislative responsibility, whilst FSA undertakes regulation of NI CUs. As indicated above, this would include coverage by the FSCS, enabling access to HM Government initiatives such as the Growth Fund and Child Trust Fund. It would be up to the Assembly to match the GB reforms, should it wish to do so, freeing NI credit unions to provide a wider range of services, or to legislate for NI-specific measures such as community investment. This option would also give equality of treatment across the UK on consumer protection.

## **Option 2 – Transfer the registration function to the FSA**

**2.30** Neither the ETI Committee, nor the HMT review, considered this option and it was not included amongst the possible recommendations of either report. It would be possible to transfer the registration function to the FSA, whilst the Assembly retained responsibility for the legislation. The merits of this are that the FSA would have an integrated role; there could be significant administrative benefits as it can be difficult to differentiate regulation from registration. In the long term there may be benefits in having both registration and regulation under the control of one body. New applications for registration are rare so this function is largely confined to the receipt of annual returns, mergers of credit unions and dissolutions.

**2.31** Retention by DETI of the registration function would have a tendency to complicate regulation by the FSA as registration and regulation issues in the legislation are not always clearly differentiated. The transfer of the function to the FSA would not hinder the legislative abilities of the NI Assembly.

## **Option 3 – Integrate NI credit unions into the GB legal and regulatory framework**

**2.32** Similarly, neither the ETI Committee, nor the HMT review, considered this option and it was not included amongst the possible recommendations of either report. Registration of CUs is a transferred matter, subject to the legislative will of the Assembly. However, one possibility might be to do for credit unions in NI what was done for companies. Responsibility for making NICU legislation might be passed back to Westminster under a Legislative Consent Motion. This would have the effect of removing the unique NI legal framework and transferring all responsibility for making laws to Westminster. The likely result of this is that all UK credit unions would eventually become subject to the same legal framework covering both registration and regulation and the powers available to credit unions across the UK would be identical. There would be no need to undertake a separate updating of the NI legislation to keep it the same as that for GB credit unions. Such a course would require the consent of the NI Executive and Assembly. Nonetheless, whilst responsibility for legislation would transfer to Westminster, without amendment to the Northern Ireland Act, NICUs would remain a transferred matter and the NI Assembly could legislate for them at any time, should it so wish.

**2.33** However, full integration was not attractive to the NI credit unions sector, and implementing it would require primary legislation at Westminster and a Legislative Consent Motion (LCM) in the Assembly.<sup>9</sup> The retention of legislative responsibility within NI could be considered an essential element in maintaining a focus on the particular needs of the NI CUs.

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<sup>9</sup> The subject matter of the Credit Unions (Northern Ireland) Order 1985 and the Industrial and Provident Societies Act (Northern Ireland) 1969 is within the legislative competence of the Northern Ireland Assembly, and by convention the UK Government will not legislate without the consent of the Northern Ireland Assembly.

### Question 3

Should the Northern Ireland Assembly amend credit union legislation in line with that in GB?

**2.34** This question follows on from the premise that responsibility for legislation (and registration) remains devolved, so that development of the legislative framework for credit unions remains the responsibility of the Northern Ireland Assembly.

**2.35** The current GB legislation covering CUs and IPSs is undergoing a process of reforms using a Legislative Reform Order (LRO) and Private Members Bill [now an Act so update] to achieve its objectives. The LRO option is not available to the NI legislature.

**2.36** There are two options available to the Assembly in relation to the legislative framework for credit unions.

#### Option 1 – Do nothing

**2.37** The Assembly could choose to leave the credit union legislation as it currently stands. Whilst this would not be a bar to regulation by the FSA it would seriously limit the development potential for NI credit unions and runs counter to the recommendations of the ETI Inquiry.<sup>10</sup>

#### Option 2 – Amend credit union legislation in NI to match GB reforms

**2.38** Whilst it is for the NI Executive, in consultation with key stakeholders, including NI credit unions, to identify their own needs and the appropriate course of action to take in amending NI legislation,<sup>11</sup> aligning the GB and NI CU legislation would provide new opportunities and greater clarity for the sector and the FSA as its regulator. Particular NI issues could be taken into account.

### Question 4

Should credit unions be supported and enabled to undertake re-investment of assets into community development and community enterprises?

**2.39** The social economy sector in Northern Ireland is recognised as having the potential to make a valuable contribution to social and economic regeneration.

**2.40** The ETI Committee's Inquiry, in responding to the views of credit unions in NI, recommended that NI CUs should be able to reinvest assets into community development and community enterprises. However, it urged caution on the scope of such a power.<sup>12</sup> It would be for the credit union movement to ensure that reinvestment of assets would be of benefit to the community as well as being in the interests of members. The views of the ETI Committee are set out at Annex D.

<sup>10</sup> [http://www.niassembly.gov.uk/enterprise/2007mandate/reports/report05\\_08\\_09r.htm](http://www.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm)

<sup>11</sup> Credit union and industrial and provident society law is transferred to the Northern Ireland Assembly, and by convention the UK Government will not legislate without the consent of the Assembly.

<sup>12</sup> Para. 117 of the ETI Inquiry: "It is recommended that the FSA work with the credit union movement to identify the knowledge and skills required to successfully undertake such a task and to develop the appropriate training and structures to implement, monitor and evaluate the reinvestment of a proportion of assets by credit unions in the communities they serve."

## Option 1 – Do nothing

**2.41** In not taking forward proposals for such investment the challenges of managing what would be at the higher end of the risk spectrum for credit unions would be avoided. Implementation would require the development of appropriate skills to manage a largely unfamiliar business area. Additionally there could well be regulatory implications for CUs with such investment powers in terms of additional capital or liquidity requirements. Nonetheless an opportunity for greater involvement by CUs in their communities would be lost.

## Option 2 – Enable community investment

**2.42** Allowing CUs to undertake investment in local community enterprises goes beyond the reforms envisaged for GB CUs.

**2.43** Credit union boards will be familiar with their local areas and the issues relevant to local regeneration and development. It would be an opportunity to provide added stimulus to local economies, with appropriate regulatory safeguards in place.

### Question 5

What other reforms to credit union legislation, if any, should the NI Assembly seek to introduce?

**2.44** Taking account of the ETI Committee's inquiry into NI credit unions, any additional options for the development of the legislative framework will be considered. In looking to develop the longer-term strategy for the sector and to help identify developing needs, DETI and HMT would value the views of consultees on what other reforms might be appropriate beyond the scope of this consultation.



# 3

## Legislation timetable

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### Introduction

**3.1** For Northern Ireland credit unions to be made subject to FSA regulation amendments will have to be made to legislation covering matters devolved to Northern Ireland (the 1969 Act and the 1985 Order) and others reserved to Westminster (notably legislation relating to financial services and deposit-taking). Greater detail of the legal framework, processes and initial proposals for amendments are set out below. Annex B provides an extract from the FSA's handbook for credit union regulation (CRED), setting out the context for regulation.

### The legal and regulatory framework for NI credit unions

**3.2** Legislation covering credit unions in NI is devolved to the NI Government under the Northern Ireland Act 1998. The Credit Unions (Northern Ireland) Order 1985 was made by Order in Council and amendments to it are the responsibility of the Northern Ireland Executive. If the deposit-taking exemption for NI CUs is revoked, consequential and transitional amendments to these pieces of legislation may be made under powers in FSMA.

### The legal and regulatory framework for GB credit unions

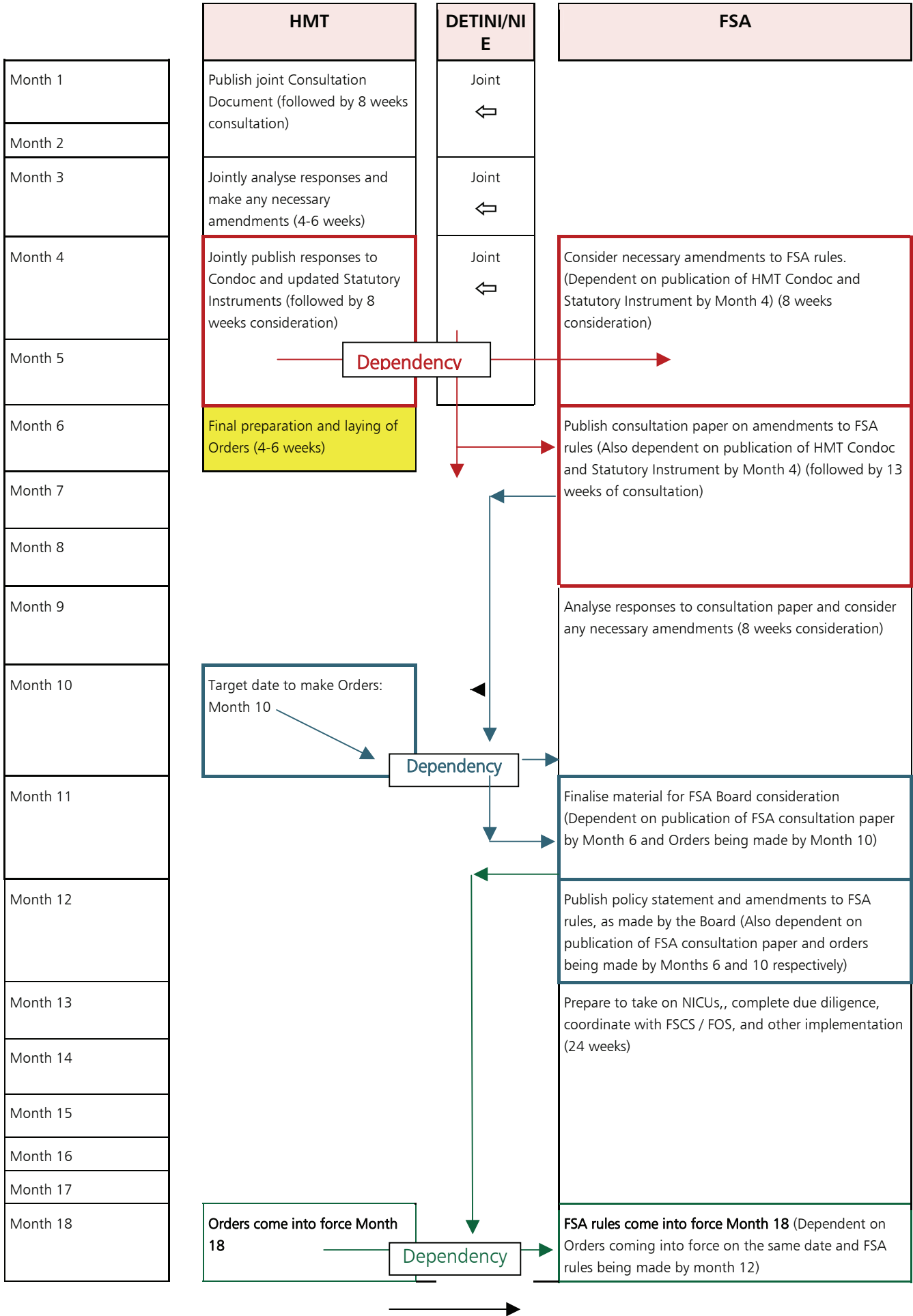
**3.3** Credit unions in GB are registered under the Industrial and Provident Societies Act 1965 as a special class of society under the Credit Unions Act 1979.

### Processes of reform of legal and regulatory framework

**3.4** Changing the legal framework of NI CUs is just one step in a multilateral process involving government departments in GB and Northern Ireland, as well as close liaison with the Financial Services Authority as the principal regulator.

### Timetable of key processes

**Table 3.A: Key Processes to Enable Transfer of Regulation from DETI to FSA**



**Table 3.B: DETI to Transfer registration functions to FSA & Update CU legislation**

HMT	DETI	FSA
If HMT to amend NI legislation will need to bid for public Bill amending Northern Ireland Act and Credit Unions Order + Industrial and Provident Societies Act (if IPS registration transferred)	Decide whether to amend legislation or delegate power to HMT, via Legislative consent Motion (LCM)	
	Agree timing with FSA  Decide timing of introduction of Bill to align NI CU legislation with GB	FSA to formally agree on accepting transfer of registration function  FSA to consider regulatory policy and operational implications





# A Report by the Committee for Enterprise, Trade and Investment

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The Treasury review drew on the report by the Committee for Enterprise, Trade and Investment (ETI), which examined the role and potential of credit unions in NI<sup>1</sup>. The terms of reference for the Committee's inquiry are set out in the box below. The inquiry did not review the position of IPSs in NI.

## **ETI committee terms of reference**

- Assess the current ethos, regulation and legislation of credit unions in Northern Ireland and compare these with provisions in Great Britain and Republic of Ireland.
- Compare the different services available to credit union members in Northern Ireland, Great Britain and the Republic of Ireland.
- Assess the role and contribution of credit unions in promoting the financial well being of their members and wider community.
- Examine the legal and regulatory barriers preventing credit unions from participating in the 'business of banking' and promoting financial inclusion.
- Compare the role and availability of public funding available to credit unions in Great Britain, Northern Ireland and the Republic of Ireland.
- Examine what policy development and practices have taken place since the Review of Credit Unions.
- Assess the Treasury Select Committee recommendations on credit unions.

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<sup>1</sup>" Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland". February 2008.

**Table A.A: ETI Committee Report: Summary of recommendations**

<b>Rec. No.</b>	<b>Legislative Recommendations</b>
1	That NI credit unions are permitted to expand their range of services to include, at the very least, those services, which credit unions in GB can currently offer
2	That registration of NI credit unions remain within [what was then] DETI Companies Registry <sup>2</sup> but that regulation of credit unions in NI should move to the FSA to enable credit unions to deliver a wider range of services
7	That membership of credit unions is extended to include joint accounts and group membership
8	That the FSA work with the credit union movement to identify the knowledge and skills required (i) to successfully undertake reinvestment of assets by credit unions into community development and community enterprises *
<b>Non-Legislative Recommendations</b>	
3	That the FSA open an office in Northern Ireland and that this office should be staffed by people with an understanding of the credit union movement and the regulatory arrangements in place for credit unions in Northern Ireland
4	That DETI and the FSA work with the credit union movement to develop and implement training programmes to provide credit union staff with the knowledge and skills to operate the new regulatory arrangements and the additional services which credit unions are permitted to provide
5	That DETI and the FSA work with the credit union movement to fully identify staffing, training and technology & equipment costs and to agree with HM Treasury a package of financial support to assist credit unions in implementing changes
6	That the Growth Fund, and any future such funding, be extended to include credit unions in NI in order to bring NI into line with funding already available to credit unions in GB #
8	... and (ii) to develop the appropriate training and structures to implement, monitor and evaluate the reinvestment of a proportion of assets by credit unions in the communities they serve

\* Recommendation 8 is split into legislative/non-legislative content  
# May require an amendment to GB legislation to implement

The ETI Committee noted the disparity between what credit unions could do in GB and NI, and considered a number of options for reducing the gap in flexibilities between them. The Committee rejected the option of maintaining the status quo, and considered the following lead options:

- Option 1 – Delegate FSA regulatory powers to DETI
- Option 2 – Share regulation between FSA and DETI
- Option 3 – Formation, by NI credit unions, of a registered company through which an expanded range of services could be provided
- Option 4 - Retention of credit union registration within DETI Registry and transfer of credit union regulation to the FSA.

Options 1 and 2 were popular with NI stakeholders, but, in the end, the Committee recommended Option 4. It considered that this would provide all NI credit union members with access to a compensation scheme on common terms, whilst retaining a distinctive NI legislative framework.

<sup>2</sup> Registrar of credit unions and industrial and provident societies (DETI Registry)

The Treasury review did not consider Options 1-3, above. Delegation or dual regulation by the FSA and DETI have been firmly rejected by the FSA. The FSA argued that there would be insufficient clarity about who regulates; that the FSA brand should be protected by requiring all institutions to meet a minimum standard; and that comparable institutions should be regulated in the same way. The Review saw no case for reopening that debate. The Treasury review has no locus in Option 3, which the NI Assembly and NI credit unions could take forward together. Moreover, Options 3 and 4 are not mutually exclusive.



# B

# Legal & Regulatory Framework - GB Credit Unions

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## Legislation

In Great Britain the Credit Unions Act 1979 (The 1979 Act) requires that credit unions in England, Scotland and Wales be registered under the Industrial and Provident Societies Act 1965. The 1979 Act also lays down the objects, conditions and rules a credit union must fulfil to allow for registration<sup>1</sup>.

### The Deregulation (Credit Unions) Order 1996

The Deregulation (Credit Unions) Order 1996 amends the terms of the 1979 Act. The changes brought in by the Order served to extend the concept of common bond, increase share holding limits, introduce secured loans, raise the borrowing limit for non-qualifying members to the same level that applies to other members, and relax the limit on a member's borrowings.

### Regulatory Reform (Credit Unions) Order 2003

This Order amended the 1979 Act, permitting credit unions to combine the qualification for admission to membership specified in section 1(4)(e) (the associational common bond) with any one of the other qualifications specified in section 1(4), so long as in consequence there exists common bond between members of the society.

The order amended the provisions under which the term “credit union” may be used, giving the FSA authority to allow its use in particular circumstances relating to foreign credit unions.

The order also inserts a new section 9A in the 1979 Act. This permits credit unions to charge their members a fee to recover the cost of providing services that are ancillary to the activity of accepting a deposit or making a loan.

## Regulation

The regulation of credit unions in Great Britain was brought under the Financial Services and Markets Act 2000 (FSMA), and within the scope of the FSA, in July 2002. The FSA also acts as registrar of credit unions in Great Britain. Due to their nature, credit unions are exempt from a number of European Directives, and are subject to a specialist regulatory regime, which is intended to be customised and proportionate to the nature of credit unions.

The specialised regulatory regime for credit unions is largely set out in one place in the credit unions sourcebook (CRED), which includes requirements specific to credit unions, particularly prudential rules. CRED also provides a guide to requirements that are set out in the FSA Handbook and that apply more generally to financial firms, including credit unions.

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<sup>1</sup> These three sections are replicated in the Credit Unions Order (Northern Ireland) 1985, which is outlined in Annex C.

## **FSA handbook requirements**

Credit unions are subject to the Principles for Businesses, which are the fundamental obligations of firms under the FSA regulatory system. The Principles include requirements that a firm must:

- conduct its business with integrity;
- conduct its business with due skill, care and diligence;
- take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems;
- maintain adequate financial resources;
- observe proper standards of market conduct;
- pay due regard to the interests of its customers and treat them fairly;
- pay due regard to the information needs of its clients, and communicate information in a way which is clear, fair and not misleading;
- manage conflicts of interest fairly, both between itself and its customers and between a customer and another client;
- take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgement;
- arrange adequate protection for clients' assets when it is responsible for them; and
- deal with its regulators in an open and cooperative way, and must disclose to the FSA appropriately anything relating to the firm of which the FSA would reasonably expect notice.

In addition to these fundamental Principles, the FSA Handbook sets out more detailed requirements for financial firms, including credit unions. The rules include the following:

- where a credit union seeks to accept deposits, it must meet minimum threshold conditions and apply for authorisation from the FSA by way of a Part IV permission under FSMA;
- a credit union must also obtain FSA approval of the persons who perform one or more controlled functions in the credit union;
- relevant rules relating to the senior management, as set out in SYSC – Senior Management Arrangements, Systems and Controls;
- relevant rules relating to conduct, as set out in BCOBS – Banking: Conduct of Business;
- rules on money laundering, including requirements for appointing a money laundering reporting officer, identification of members, training, internal and external reporting; and
- rules relating to an effective complaints scheme, with members having access to the Financial Ombudsman Service if they are not satisfied with the way their complaint has been handled.

## **CRED sourcebook requirements**

The CRED sourcebook sets out specific prudential requirements for credit unions, primarily in relation to capital, liquidity and provisioning. The FSA is reviewing CRED and is considering

responses to consultation paper (CP09/27) published in November 2009<sup>2</sup> in which it proposed to increase prudential standards for credit unions as follows:

- increase the initial capital requirements for new version 1<sup>3</sup> credit unions to £10,000 (from £1,000); and for new version 2 credit unions to £50,000 (from £5,000);
- increase ongoing capital-to-total-assets requirements for version 1 credit unions to 3 per cent (currently they have only to meet a bare solvency requirement); and
- increase liquidity requirements for both version 1 and version 2 credit unions to 10 per cent of relevant liabilities at all times (up from 5 per cent, though version 1 credit unions must also currently meet 10 per cent on two consecutive quarter-ends).

The consultation paper proposes phasing in these requirements so that credit unions have time to adjust.

It also proposes:

- reducing the submission period for annual returns from seven months to four months; and
- providing additional guidance on provisioning requirements.

The consultation paper also proposes amendments to prudential rules that are consequential on changes to credit union law that will be brought in by the LRO.

A user-friendly guide to the main features of the FSA's current regulatory regime for CUs is available on the Small Firms section of the FSA website.

## **FSA Register**

The FSA also maintains a Register, which is a public record of financial services firms, individuals and other bodies that fall under its regulatory jurisdiction as defined in the Financial Services and Markets Act 2000.

## **Financial Services Compensation Scheme (FSCS)**

As authorised deposit-takers, credit unions in Great Britain are covered by the Financial Services Compensation Scheme. Therefore, depositors with credit unions will be able to claim compensation if a credit union is unable to pay claims against it (described as "being in default").

Membership of the FSCS imposes some obligations on credit unions. For example, from January 2011, credit unions will be required to provide a single customer view (SCV), which is a single, consistent view of an eligible claimant's aggregate protected deposits with a deposit taker. This information will be required to facilitate fast payout by the FSCS, within a target of seven days following a deposit-taker default.

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<sup>2</sup> FSMA s.155 imposes a general requirement on the FSA, if it proposes to make any rules, "...to publish a draft of the proposed rules in the way appearing to it to be best calculated to bring them to the attention of the public". This includes rules applicable to third sector lenders.

<sup>3</sup> A version 1 credit union is 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 section 5 and 7 of the Credit Unions Act 1979. A version 2 credit union is a credit union, which is not a version 1 credit union.







# NI Legal & Regulatory Framework

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## **Credit Unions (Northern Ireland) Order 1985**

Credit unions register under the Credit Unions (Northern Ireland) Order 1985, which places a duty on DETI's Registrar of Credit Unions and Industrial and Provident Societies to make a report on proceedings under the legislation in respect of each year. The Order outlines the objects, conditions and rules a credit union must fulfil to allow for registration.

Article 24 of the 1985 Order (as amended) prohibits Northern Ireland's credit unions from involvement in the "business of banking", which limits the range of services they can offer to members.

## **The Deregulation (Northern Ireland) Order 1997**

The Deregulation (Northern Ireland) Order 1997 (the 1997 Order) includes provisions designed to make the growth of credit unions easier, whilst continuing to ensure the safety of their members' funds.

Article 3 of the 1997 Order amends the 1985 Order removing some of the constraints on credit union growth whilst retaining the protection they afford members.

Specifically, the 1997 Order increased the limit placed upon members' shareholdings to £10,000 or 1.5 per cent of the total shareholding of a credit union and limited loans to (a) the greater of £10,000 and 1.5 per cent of total shareholding or (b) 20% of the credit union's general reserve, whichever is the lesser amount.

## **The Credit Unions (Limit on Shares) Order (Northern Ireland) 2006**

Further alterations to the limit on shares were introduced by the Credit Unions (Limit on Shares) Order (Northern Ireland) 2006. This Order increased the limit on shares to £15,000 or 1.5 per cent of the total shareholding of a credit union, whichever is the greater. The Order amended Article 26(1) of the 1985 Order increasing the maximum deposit of a person too young to be a member from £1,000 to £10,000 and increased the maximum loan amount available to members to £15,000.

## **The Credit Unions (Limit on Membership) Order (Northern Ireland) 2006**

The Credit Unions (Limit on Membership) Order (Northern Ireland) 2006 amended the 1985 order, increasing the maximum membership of credit unions from 5,000 to 10,000.

## **Regulation**

The Registrar of Credit Unions and Industrial and Provident Societies, part of DETI, regulate credit unions in Northern Ireland. The regulatory powers of the Registrar were established by the Industrial and Provident Societies Act (Northern Ireland) 1969. The main priorities of the Registrar are:

- The effective prudential supervision of credit unions;
- The efficient administration and, where appropriate, enforcement of society law and codes;
- The provision of an effective public search facility.

# D

## Community Investment

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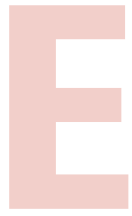
Recommendation 8 of the Committee for Enterprise, Trade and Investment's Report on its Inquiry into the Role and Potential of Credit Unions in NI is as follows:

"The Committee believes that the appropriate reinvestment of assets by credit unions into community development and community enterprises can bring significant benefits to communities. It is therefore recommended that the FSA work with the credit union movement to identify the knowledge and skills required to successfully undertake such a task and to develop the appropriate training and structures to implement, monitor and evaluate the reinvestment of a proportion of assets by credit unions in the communities they serve."

Article 36(3)(c) of the Credit Unions (NI) Order 1985 permits NI CUs to apply, with stipulations, up to 10 per cent of their surplus, as defined in the Order, for social, cultural or charitable purposes. This is not included in current GB legislation.

Regulation 4 of, and the Schedule to the Credit Unions (Authorised Investments) Regulations (Northern Ireland) 1995, S. R. 1995 No. 31, made under Article 33(1) of the 1985 Order, specifies the authorised investments available to NI CUs in respect of any part of its surplus funds. GB legislation has a similar arrangement.





# Transfer of NI CU regulation

Set out below is the draft SI revoking the exemption of NICUs from FSA regulation. **This would be necessary if paragraph 24A was not revoked in primary legislation.**

*Draft Order laid before Parliament under section 429(3) and (5) of the Financial Services and Markets Act 2000, for approval by resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2010 No. XXXX**

### **FINANCIAL SERVICES AND MARKETS**

#### **The Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2010**

*Made* - - - - **\*\*\***

*Coming into force* - - **\*\*\***

This Order contains a provision removing an exemption provided by an earlier Order<sup>(1)</sup> made under section 38 of the Financial Services and Markets Act 2000<sup>(2)</sup>;

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

The Treasury make the following Order in exercise of the powers conferred on them by sections 38 of that Act:

#### **Citation and commencement**

This Order may be cited as the Financial Services and Markets Act 2000 (Exemption) (Amendment) Order 2010 and comes into force on [date].

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

—(1) The Financial Services and Markets Act 2000 (Exemption) Order 2001<sup>(3)</sup> is amended as follows.

In Part 2 of the Schedule to the Order (persons exempt in respect of accepting deposits), paragraph 24A<sup>(4)</sup> is revoked.

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<sup>(1)</sup> S.I. 2001/1201, amended by S.I. 2001/3623; there are other amending instruments but none are relevant to this Order.

<sup>(2)</sup> 2000 c.8.

<sup>(3)</sup> S.I. 2001/1201, amended by S.I. 2001/3623; there are other amending instruments but none are relevant to this Order.

**EXPLANATORY NOTE**  
*(This note is not part of the Order)*

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

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

This Order revokes paragraph 24A in Part 2 of the Schedule to the Exemption Order, which created an exemption from the general prohibition in respect of accepting deposits for credit unions within the meaning of the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Mutuels Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website. It is also available on HM Treasury's website ([hm-treasury.gov.uk](http://hm-treasury.gov.uk)), and a copy of the document has been placed in the libraries of both Houses of Parliament.

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<sup>(4)</sup> Paragraph 24A was inserted by SI 2001/3623 with effect from 1 December 2001.



# NICU anti money laundering regulations

Set out below is the Draft SI transferring supervision of the prevention of money laundering by NICUs from DETI to FSA.

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## STATUTORY INSTRUMENTS

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**2010 No.**

### **FINANCIAL SERVICES AND MARKETS**

#### **Money Laundering (Amendment) Regulations 2010**

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

The Treasury are designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the prevention of money laundering and terrorist financing;

The Treasury, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972 and by sections 168(4)(b), 402(1)(b), 417(1)<sup>(3)</sup> and 428(3) of the Financial Services and Markets Act 2000<sup>(4)</sup>, make the following Regulations:

#### **Citation and commencement**

—(2) These Regulations may be cited as the Money Laundering (Amendment) Regulations 2010 and come into force on [...].

These Regulations amend the Money Laundering Regulations 2007<sup>(5)</sup>.

#### **Change of supervisory authority for Northern Ireland Credit Unions**

—(3) In regulation 23(1)—

after sub-paragraph (a)(iii) insert—

“(iv) credit unions in Northern Ireland;”, and

omit sub-paragraph (f)(i).

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<sup>(1)</sup> S.I. 2007/2133.

<sup>(2)</sup> 1972 c. 68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51).

<sup>(3)</sup> See the definition of “prescribed”.

<sup>(4)</sup> 2000 c. 8.

<sup>(5)</sup> S.I. 2007/2157. S.I. 2007/2157 was amended by S.I. 2007/3299.

In the definition of “designated authority” in regulation 36—  
in sub-paragraph (b), insert “and” after “the Commissioners;”; and  
omit sub-paragraph (d), together with “and” immediately preceding it.

In the definition of “office” in regulation 36—  
in sub-paragraph (c), insert “or” after “the OFT;”; and  
omit sub-paragraph (e), together with “or” immediately preceding it.

*Name*

*Name*

Two of the Lords Commissioners of Her Majesty’s Treasury

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

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

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

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.



# G

# EQIA Screening Pro Forma1

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EQIA overleaf.

# DETI POLICY & LEGISLATION SCREENING FORM

## Section 1

### **The Legal Background**

Under section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

Without prejudice to the obligations set out above, the Department is also required, in carrying out its functions relating to Northern Ireland, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

- 1.1 This form is intended to assist you in your consideration of the new policy or legislation in question to record the outcome in respect of these statutory equality considerations. We have a legal obligation to maintain an accurate audit trail of equality considerations.
- 1.2 The screening procedure should result in:
  - (a) the policy/legislation being screened does not have any or a significant impact on equality of opportunity; or
  - (b) the policy/legislation being screened has (or is likely to have) a significant impact on equality of opportunity. Policies falling into this category will need to be considered further and may need an Equality Impact Assessment.
- 1.3 **EQUALITY UNIT IS HAPPY TO ADVISE ON ANY ASPECT OF SECTION 75 AND OR THE SPECIFIC ISSUES RAISED IN THIS FORM AND ITS COMPLETION. THE FORM SHOULD BE SIGNED OFF BY YOUR GRADE 5 AS EQUALITY AND DIVERSITY STEERING GROUP MEMBER.**

## **Section 2 – Policy/Legislation to be Screened**

### **What do we mean by “policy”?**

There is no specific guidance as to how the term “policy” should be defined beyond reference to the New Oxford English Dictionary definition: *a course or principle of action adopted or proposed by a government*. A balance needs to be struck on the one hand avoiding too great a level of abstraction and, on the other, consideration of micro-level policies. Both extremes will be likely to cause difficulties.

We would certainly expect individual schemes, programmes or initiatives to be considered as elements of a policy.

Legislation can be either primary or sub-ordinate and the OFMDFM guidance procedures indicate the need to have completed equality considerations at certain stages in the procedures.

#### **2.1 Title of policy/legislation to be screened:**

Amendments to Credit Union legislation (Credit Union (Northern Ireland) Order 1985)

#### **2.2 Brief description of policy/legislation to be screened:**

Implementation of the recommendations of ETI Committee’s Inquiry into the Role and Potential of Credit Unions (CUs) in Northern Ireland, which were supported by the findings of a separate review of NI credit unions by HM Treasury. The proposals are aimed at enabling CUs to play an increasing role in the provision of financial services to individuals and communities, thereby increasing financial inclusion across Northern Ireland.

#### **2.3 Aims/objectives of policy/legislation to be screened:**

The changes to credit union legislation will enable local CUs, with the support of DETI and the Financial Services Authority (FSA), to expand the range of services they offer to their members to at least match those on offer in Great Britain; will transfer regulation of local CUs to the FSA, while leaving the registration of CUs with DETI, which will bring them within the scope of the Financial Services Compensation Scheme and the Financial Ombudsman Service; will enable local CUs to undertake reinvestment of assets into community

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development and community enterprises; and will extend membership to include joint accounts and group membership. Credit unions are widely acknowledged as an important providers of financial services to sections of society who either choose not to or who are unable to make use of the services provided by banks and other institutions so the proposals outlined above may have a disproportionate positive impact on the more disadvantaged section of the community.

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It is essential that **all** the aims/objectives of the policy be clearly and fully defined.

**2.4 On whom will the policy/legislation impact?**

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The legislation will impact equally on all local CUs, their members (over 400,000 adults in Northern Ireland) and, in view of the ETI Committee's recommendation that CUs be permitted to re-invest assets in community development and community enterprises, potentially the wider community.

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**2.5 Who is responsible for (a) devising and (b) delivering the policy eg is it DETI, DTI or another Whitehall Department or EU? What is the relationship and have they considered this issue and any equality issues?**

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The policy will be devised primarily by DETI, with input from HM Treasury and the FSA, and will be delivered principally by DETI and the FSA. Because the FSA's regulatory role will not impact on any equality issues, all matters concerning equality have been considered solely by DETI.

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**2.6 What linkages are there to other NI Departments/NDPBs in relation to this policy/legislation?**

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This legislation has the potential to impact, to varying degrees, on the policy/business areas of a range of Departments and associated NDPBs/Third Party Organisations. In particular those parties with an interest in developing the social economy and community and voluntary sectors eg Invest NI, DSD, DARD, DHSSPS, DEL.

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**2.7 What data are available to facilitate the screening of this policy/legislation?**

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The Irish League of Credit Unions (ILCU), of which 104 of the 181 Northern Ireland CUs are members, provided data from a separate research exercise undertaken on its behalf. However, the information is relevant to this exercise only to the extent that it includes a profile of CU members by gender, age and social class. A letter was also issued to representatives of the remaining 77 CUs and to all the organisations on DETI's Equality Consultation List asking for any

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relevant data. Four responses were received, including responses from Disability Action and the Women's Support Network, which has almost sixty member groups and twenty associate members. However, none of the responses included any statistical or anecdotal information.

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**See Appendix IV of Equality Commission Practical Guidance on EqIA or speak to DETI Statistics Research Branch, (Martin Monaghan ext 29421) or Equality and Diversity Unit (Irene McAllister, ext 29650, Stephen Shooter ext 29644).**

### **Section 3 – Screening Analysis**

You should not think of the “not known” column as the easy option to respond to any of the questions. In cases where there is no available evidence, you will need to take a pragmatic, common sense judgement as to whether the policy/legislation you are screening may have a particular/differential impact on any of the groups. Discussions with Equality and Diversity Unit, Statistics Research Branch and organisations representing the Section 75 Groups will be important and helpful at this stage.

**3.1** *Is there any evidence of higher or lower participation or uptake by the following characteristics?*

	<b>Yes</b>	<b>No</b>	<b>Not Known</b>
Religious belief	✓		
Political opinion			✓
Racial group		✓	
Age		✓	
Marital status		✓	
Sexual orientation		✓	
Sex		✓	
Disability		✓	
Dependency		✓	

**Please elaborate**

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Information, based on ILCU research involving interviews with 400 adults in NI, suggests that uptake of CU services by gender and age is broadly in line with key demographic variables. The mailshot referred in 2.7 above failed to turn up any other relevant statistics or data. See also comments at 4.4. Catholic credit unions and Protestant credit unions, ie, CUs with either a predominantly Catholic or Protestant membership, have tended to affiliate to either the RoI-based ILCU or the NI-headquartered UFCU respectively, reflecting the political, cultural and religious identities of the RoI and NI. However, all credit unions in NI are subject to exactly the same registration and regulatory regime and the proposed changes to CU legislation outlined in this screening document will benefit all CU members irrespective of which organisation the credit union is affiliated or federated to. Of course, as long as anyone seeking to become a member of any credit union meets the “common bond” criteria of that credit union he or she is eligible to join it.

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**3.2** **Is there evidence that any of the following groups have different needs, experiences, issues and priorities in relation to this policy issue?**

	<b>Yes</b>	<b>No</b>	<b>Not Known</b>
Religious belief		<i>√</i>	
Political opinion		<i>√</i>	
Racial group		<i>√</i>	
Age		<i>√</i>	
Marital status		<i>√</i>	
Sexual orientation		<i>√</i>	
Sex		<i>√</i>	
Disability		<i>√</i>	
Dependancy		<i>√</i>	

**Please elaborate**

The letter to all the organisations on DETI’s Equality Consultation List (see 2.7 above) did not produce any evidence to suggest that any of the above Groups have different needs, experiences, issues or or priorities in relation to this policy issue.

**3.3** *Have consultations with relevant groups, organisations or individuals indicated that policies of this type create problems specific to them?*

	<b>Yes</b>	<b>No</b>
Religious belief		/
Political opinion		/
Racial group		/
Age		/
Marital status		/
Sexual orientation		/
Sex		/
Disability		/
Dependants		/

**Please elaborate**

Although the recommendation that CUs be permitted to re-invest assets in community development and community enterprises attracted both support and concern, no problems specific to any of the above Groups were identified as a result of the mailshot to the CUs and the organisations on the DETI Equality Consultation List (see 2.7 above).

**3.4** *Is there an opportunity to better promote equality of opportunity or community relations by altering the policy, or by working with others, in Government, or in the larger community in the context of this policy?*

**No**

**Please elaborate:**

Membership of credit unions is open to all members of the community in Northern Ireland subject only to the “common bond” test, which may be based on occupation, residency or employment in a particular locality, employment by a particular employer, being a member, or being associated with a member, of a bona fide organisation or any other common bond approved by the Registrar of Credit Unions. The services of the CUs are, and will remain, accessible to all sections of the community and, with the key objectives of this policy being to allow



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**3.5 If the answer to any of questions in 1 to 4 is yes please indicate whether you consider the policy may present a significant risk to DETI's obligation to have due regard to the need to promote equality of opportunity. You will need to consider whether the policy/legislation could be changed, better to promote equality of opportunity and/or be subject to a full EqIA.**

**Yes                      No**

**Please elaborate:**

\_\_\_\_\_

No "yes" answers. See 3.1

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3.6 It may be that a policy/legislation has a differential/impact on a certain group as the policy has been developed to address an existing or historical inequality or disadvantage. If this is the case, please give details below:**

\_\_\_\_\_

No differential impact.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Section 4

### EqIA Recommendation

4.1 Full EqIA procedures should be carried out on policies considered to have significant implications for equality of opportunity. In light of the above 3 sections please fill in the following grid in relation to the policy/legislation.

	<b>Significant Impact</b>	<b>Moderate Impact</b>	<b>Low Impact</b>
Social Need.			✓
Effect on people's daily lives.			✓
Effect on economic, social and human rights.			✓

#### **Please elaborate:**

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The limited available evidence suggests that any impact, though low, will be overwhelmingly positive. Although the proposed changes set out in 2.3 above will enable CU to increase the range of services they offer it is likely that only a small number of them will take up the opportunity to do so.

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The transfer of regulation to the FSA may have some [minor] administrative implications for CUs, but it is considered that they will be able to absorb any additional costs within their existing operating budgets. At the same time, all the members of CUs will benefit from having access to an enhanced range of services and to the Financial Services Compensation Scheme (FSCS), which will provide up to £50,000 savings protection per member, and the Financial Ombudsman Service (FOS). At the moment, charges levied on CUs are transaction based, but once regulation is transferred to the FSA each CU will be required to pay a single annual levy. It is estimated that this levy will average approximately £1,650 per CU (equivalent to 73p per year per member).

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#### **4.2 What is the scale of expenditure incurred by the policy?**

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It is not anticipated that this policy will result in any significant additional costs to the NI exchequer.

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**4.3 Do you consider that this policy/legislation should be subject to a full EqIA? Please give reasons for your considerations.**

No. The impact of this policy, which has cross party support in the Assembly and is fully supported by the credit union movement in NI, will be overwhelmingly positive. CUs should be able to absorb any additional administrative costs and the transfer of regulation to the FSA and the change to a single annual levy rather than fees paid on a transaction basis will provide access to both savings protection of up to £50,000 per member and to the Financial Ombudsman Service for less than £0.80 per member per year. The policy will also allow CUs to expand the range of services they offer, thereby helping to promote financial inclusion, and will enable CUs to re-invest assets in community development and community enterprises. Also, the letter to the organisations on the DETI Equality Consultation List referred to in 2.7 above did not elicit any evidence that any of the policy proposals would have a detrimental impact on any section 75 Group.

**4.4 What data are required in the future to ensure effective monitoring?**

An ongoing breakdown of the uptake of CU services by section 75 Groups would enable effective monitoring. Credit unions do not currently record this information and, while the Department will encourage them to do so, particularly in relation to the uptake of services by disability groups and those with dependants, it should be noted that CUs are under no obligation to do so and the collecting of such information would increase their administrative burden and costs.

## **Section 5**

### **Disability Duties**

Under the Disability Discrimination Act 1995 (as amended by the Disability Discrimination (Northern Ireland) Order 2006), public authorities, when exercising their functions, are required to have due regard to the need:

- **to promote positive attitudes towards disabled people; and**
- **to encourage participation by disabled people in public life.**

**5.1 Does this policy/legislation have any potential to contribute towards promoting positive attitudes towards disabled people or towards encouraging participation by disabled people in public life? If yes, please give brief details.**

No

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**Signed:** M Bohill

***EDSG Member***

**Division:** Business Regulation

**Date:** 3 March 2010

**PLEASE FORWARD A COPY OF THIS COMPLETED FORM TO:**

**DETI EQUALITY & DIVERSITY UNIT  
NETHERLEIGH**

**MASSEY AVENUE  
BELFAST BT4 2JP**

**ANY QUERIES:** **IRENE MCALLISTER EXT 29650**  
[irene.mcallister@detini.gov.uk](mailto:irene.mcallister@detini.gov.uk)  
**STEPHEN SHOOTER EXT 29644**  
[stephen.shooter@detini.gov.uk](mailto:stephen.shooter@detini.gov.uk)



# Impact Assessment

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Impact Assessment below.

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>HM Treasury</b>	<b>Title:</b> <b>Impact Assessment of consultation proposals for Credit Unions in Northern Ireland</b>	
<b>Stage:</b> Initial consultation stage	<b>Version:</b> Final	<b>Date</b> 24 <sup>th</sup> March 2010
<b>Related Publications:</b> Related Publications: Review of the legislative framework for credit unions and industrial and provident societies in Northern Ireland		

### Available to view or download at:

[http://www.hm-treasury.gov.uk/review\\_leg\\_creditunion.htm](http://www.hm-treasury.gov.uk/review_leg_creditunion.htm)

**Contact for enquiries:** Nigel Tonks

**Telephone:** 020 7270 5272

### What is the problem under consideration? Why is government intervention necessary?

This is part of the Government's wider review of mutuals legislation. The legislation for Credit Unions and Industrial & Provident Societies (IPs) requires modernising to reflect the current commercial realities. Northern Ireland legislation is not aligned with the rest of the United Kingdom and the sector considers certain aspects require alignment. Some matters are devolved to Northern Ireland and others reserved to Westminster. Currently Northern Ireland Credit Unions are not regulated by the Financial Services Authority (FSA), and they have no recourse to the Financial Services Compensation Scheme (FSCS) or the Financial Ombudsman Service (FOS).

### What are the policy objectives and the intended effects?

#### Credit Unions

- That the FSA regulates NI credit unions.
- That NI CUs have access to FSCS and FOS.
- Allow access to HM Government initiatives, such as the Growth Fund and Child Trust Fund.
- Amend CU legislation in line with that in GB.
- Support and enable CUs to undertake re-investment of assets into community development and community enterprises.

### What policy options have been considered? Please justify any preferred option.

The policy options being considered are:

- No change – continue with the status quo; or
- Amend the legislation.

Amending legislation is the preferred option. This will provide consumers with enhanced consumer protection and legal clarity.

### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

A final impact assessment taking into account stakeholders' responses will be produced prior to implementation.

### Ministerial Sign-off

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



.....Date: 29 March 2010

## Summary: Analysis & Evidence

<b>Policy Option:</b>	<b>Description: Amend the legislation</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>		<p><b>Description and scale of key monetised costs by 'main affected groups'</b></p> <p>Mainly relate to Treasury, DETINI and FSA logistical costs in consulting, drafting and publishing documentation. Circa £250K.</p> <p>Credit Unions will have to amend their rulebooks but many review these regularly keeping costs to a minimum.</p> <p>Education costs for credit union staff who will require training regarding the changes. The credit unions' trade associations and FSA will provide this.</p> <p>Cost of upgrading credit union computer systems; Many credit unions already have the capability while a few will take the opportunity to incorporate other changes and upgrade.</p>
	<b>One-off (Transition)</b>	<b>1 Yr</b>	
	£ 0.25m		
	<b>Average Annual Cost (excluding one-off)</b>		
£ N/A		<b>Total Cost (PV)</b>	£ 0.25m
<p><b>Other key non-monetised costs by 'main affected groups'</b></p> <p>Nil.</p>			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		<p><b>Description and scale of key monetised benefits by 'main affected groups'</b></p> <p>Primary benefits arise from enhanced consumer protection and the ability to engage with Government initiatives such as Growth Fund, Child Trust Fund and ISAs.</p>
	<b>One-off</b>	<b>1 Yr</b>	
	£ Not quantifiable		
	<b>Average Annual Benefit (excluding one-off)</b>		
£ N/A		<b>Total Benefit (PV)</b>	£ Not quantifiable
<p><b>Other key non-monetised benefits by 'main affected groups'</b></p> <p>Membership of FSCS will make credit unions more attractive to new members with the assurance of FSCS protection and access to FOS</p>			

### Key Assumptions/Sensitivities/Risks

Currently members of Northern Ireland Credit Union are not covered by the FSCS if their Credit Union fails.

Price Base Year 2009	Time Period Years 1	<b>Net Benefit Range (NPV)</b> £ N/A	<b>NET BENEFIT (NPV Best estimate)</b> £ N/A
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What is the geographic coverage of the policy/option?		Northern Ireland		
On what date will the policy be implemented?		During 2010/11		
Which organisation(s) will enforce the policy?		DETINI, FSA		
What is the total annual cost of enforcement for these organisations?		£ N/A		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		No		
What is the value of the proposed offsetting measure per year?		£ N/A		
What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)	Micro N/A	Small £200	Medium £3000	Large £12000
Are any of these organisations exempt?	No	No	No	No

<b>Impact on Admin Burdens Baseline (2005 Prices)</b>				(Increase - Decrease)
Increase of	£	N/A	Decrease of	£ N/A
<b>Net Impact</b>			£	N/A

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

# Evidence Base

## 1. PROPOSAL

- 1.1 That Northern Ireland Credit Unions are regulated by the FSA
- 1.2 That Northern Ireland Credit Unions have access to FSCS and FOS.
- 1.3 Allow access to HM Government initiatives such as the Growth Fund, Child Trust Fund and ISAs
- 1.4 Amend Credit Union legislation in line with that in Great Britain
- 1.5 Support and enable Credit Unions to undertake re-investment of assets into community development and community enterprises.

## 2. OBJECTIVE

To amend the legislation relating to Credit Unions in Northern Ireland, to introduce regulation by the FSA and to allow access to FSCS and FOS for members.

## 3. BACKGROUND

- 3.1 The Treasury announced in the 2008 Pre-Budget Report that it would review the legislative framework for credit unions and IPSs in NI, working closely with the Northern Ireland Executive.
- 3.2 The Treasury published the "Review of the legislative framework for credit unions and industrial & provident societies in Northern Ireland" in July 2009.

## 4. OPTIONS APPRAISAL.

- (a) No action.
- (b) Amend the legislation.

**Option (b) is the Government's preferred option.**

Option	Costs	Benefits		
(a) No action.	None.	None.		
(b) Amend the legislation.	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><b><u>Authorities</u></b></p> <p><b><u>FSA</u></b> Will need to update its systems and processes to grandfather the addition of around 180 Credit Unions. Policy and Legal costs.</p> <p><b><u>DETINI</u></b> Will need to work closely with the FSA to ensure a smooth transition. Policy and Legal costs</p> <p><b><u>HM Treasury</u></b> Policy and Legal in consulting and drafting documentation.</p> <p>Circa £200K</p> </td> <td style="width: 50%; vertical-align: top;"> <p><b><u>Credit Unions</u></b></p> <p>Implementation costs - thought to be mainly relating to staff training and administrative matters such as revised stationary, rule books etc, some computer software changes. Some Legal costs. Circa £50k</p> <p>There will be annual fees and FSCS levies to be paid depending on the size of the credit union.</p> </td> </tr> </table>	<p><b><u>Authorities</u></b></p> <p><b><u>FSA</u></b> Will need to update its systems and processes to grandfather the addition of around 180 Credit Unions. Policy and Legal costs.</p> <p><b><u>DETINI</u></b> Will need to work closely with the FSA to ensure a smooth transition. Policy and Legal costs</p> <p><b><u>HM Treasury</u></b> Policy and Legal in consulting and drafting documentation.</p> <p>Circa £200K</p>	<p><b><u>Credit Unions</u></b></p> <p>Implementation costs - thought to be mainly relating to staff training and administrative matters such as revised stationary, rule books etc, some computer software changes. Some Legal costs. Circa £50k</p> <p>There will be annual fees and FSCS levies to be paid depending on the size of the credit union.</p>	Benefits accruing, whilst substantial, are difficult to quantify. Primary benefits arise from allowing Credit Unions to access Government initiatives such as Growth Fund, Child Trust Fund and ISAs, while providing consumer protection by way of FSCS and access to FOS. This should help to attract and retain members.
<p><b><u>Authorities</u></b></p> <p><b><u>FSA</u></b> Will need to update its systems and processes to grandfather the addition of around 180 Credit Unions. Policy and Legal costs.</p> <p><b><u>DETINI</u></b> Will need to work closely with the FSA to ensure a smooth transition. Policy and Legal costs</p> <p><b><u>HM Treasury</u></b> Policy and Legal in consulting and drafting documentation.</p> <p>Circa £200K</p>	<p><b><u>Credit Unions</u></b></p> <p>Implementation costs - thought to be mainly relating to staff training and administrative matters such as revised stationary, rule books etc, some computer software changes. Some Legal costs. Circa £50k</p> <p>There will be annual fees and FSCS levies to be paid depending on the size of the credit union.</p>			



## **5. RISKS, UNCERTAINTY AND UNINTENDED CONSEQUENCES**

There are no known areas where unintended consequences could occur.

## **6. IMPLEMENTATION**

The proposals will be implemented by primary legislation in Northern Ireland and secondary legislation in Great Britain.

## **7. WHO WILL BE AFFECTED**

All Credit Unions in Northern Ireland.

## **8. EQUITY AND FAIRNESS**

The Government considers that the changes proposed by this proposal will not bring disproportionate benefits or have disproportionate effects on particular groups.

## **9. CONSULTATION WITH SMALL BUSINESS**

The Government sought respondents' views on the Government's proposals and implementation proposals. The proposals are the result of an earlier consultation and have been drafted with the assistance of a Working Group comprising of key stakeholders.

- SMALL FIRMS IMPACT TEST

We do not expect the proposed changes to impose any extra costs on small firms.

- COMPETITION ASSESSMENT

We have carried out a simple competition assessment and are of the view that the proposals are not expected to lead to any barriers to entry.

## **10. CONSULTATION**

HMT announced in the 2008 Pre-Budget Report that it would review the legislative framework for credit unions and IPSs in NI, working closely with the Northern Ireland Executive. The Treasury has also consulted with the main trade representative bodies for IPSs and credit unions.

## **11. ENFORCEMENT AND SANCTIONS**

The FSA will be responsible for enforcing the provisions in these proposals.

## **12. SUMMARY AND RECOMMENDATIONS**

Benefits cannot be quantified but are substantial, since they offer additional ways of ensuring financial stability within the mutual sector and enhancing consumer protection. Because the benefits will far outweigh the costs we recommend that these proposals be adopted.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

<b>Type of testing undertaken</b>	<b><i>Results in Evidence Base?</i></b>	<b><i>Results annexed?</i></b>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Religious Equality	Yes	Yes
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	Yes	No
Rural Proofing	No	No



### HM Treasury contacts

This document can be found in full on our website at:  
[hm-treasury.gov.uk](http://hm-treasury.gov.uk)

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