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The regulatory reform of credit unions in Northern Ireland:

a summary of consultation responses

October 2011



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1

Introduction

1.1 In March 2010 HM Treasury, jointly with the Department of Enterprise, Trade and Investment (DETI) in Northern Ireland (NI), published a consultation: *Proposals for regulatory reform of credit unions in Northern Ireland*.

1.2 The consultation sought the views of all stakeholders in Great Britain (GB) and NI on proposals to reform the regulatory framework applying to credit unions (CUs) in NI. Central to the reforms would be the transfer of regulation of NI CUs from DETI to the Financial Services Authority (FSA). This would place NI CUs within the same regulatory, complaints and compensation framework as those in GB.

1.3 This document summarises the responses received and reflects how Government intends to move forward in the light of those comments.

2

The Consultation

Background

2.1 Under current regulations, CUs in GB and the Republic of Ireland (RoI) are allowed to provide a wider range of services to their members than those in NI can currently offer. Savings held with GB CUs are also protected by the Financial Services Compensation Scheme (FSCS) and members have recourse to the Financial Ombudsman Service (FOS), neither of which currently apply to NI CUs. Separate reviews by the NI Committee for Enterprise, Trade and Investment (ETI Committee) and HM Treasury recommended a number of measures designed to allow NI CUs to develop their role and bring certainty in compensation arrangements for their members.

The consultation questions

2.2 In *Proposals for regulatory reform of credit unions in Northern Ireland*, respondents were asked for their views on the following 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?

2.3 The consultation document was widely distributed to interested parties in the credit union sector and stakeholders in the financial services sector more widely. It was also posted on the websites of HM Treasury and DETI.

3

Consultation responses

3.1 20 responses to the consultation were received from individuals, credit unions, representative bodies, financial institutions and advice organisations.

3.2 The majority of respondents welcomed the proposal to enable transfer the regulation of NI CUs to the FSA to enable FSCS coverage.

3.3 Of the remainder, three respondents expressed a preference for retaining the current regulatory arrangements, while another favoured a “power sharing arrangement” between DETI and the FSA, in which amendments to Northern Ireland legislation would provide for any additional services credit unions might wish to offer, and an all-island compensation scheme would be explored. One credit union expressed concern that *“while there may be a need for increased regulatory control if we are to expand our services there are concerns about whether the FSA regulation will fully consider the unique provisions of the Credit Union movement within NI”*.

3.4 Six respondents offered no further comments on any of the questions asked.

3.5 A summary of the responses follows together with the Government’s response.

Question 1:

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

3.6 Responses generally recognised the need for changes in the regulatory arrangements for NI CUs to allow them to provide their members with a level of service equal to that on offer in Great Britain and the Republic of Ireland.

3.7 Those in favour of the proposal to transfer regulation to the FSA also expressed concerns about the challenges that credit unions would face to become fully prepared to cope with the changes. Five responses specifically referred to the need for training for staff and volunteers to ensure that they are aware of all the implications of a new system and the controls that would need to be put in place to comply with it.

3.8 Three respondents favoured a ‘grandfathering’ arrangement *“similar to that provided for GB credit unions in 2002”* to assist with the transition from DETI to FSA regulation.

3.9 There was some support for the ETI Committee’s recommendation that an FSA office should be established in Northern Ireland to assist credit unions to adapt to the new regulatory arrangements. One respondent said *“As a minimum, we believe that an FSA office in Northern Ireland and the secondment of appropriate and relevant personnel from DETI to the FSA, to support the transition to FSA regulation, should be implemented during the transition period and for a period of time thereafter”*. Another commented *“A local office would be an advantage to the FSA but it would be a necessity for the credit unions in Northern Ireland”*.

The Government's response

3.10 The Government notes the responses and proposes to make provision, similar to that put in place for the transfer to FSA of GB credit unions in 2002. This will ensure that NI CUs experience a smooth transition from the transfer date.

3.11 Full details of the issues relating to the transfer of regulatory responsibility are addressed in the FSA consultation document, *FSA Regulation of NI Credit Unions*, issued on 31 August.

3.12 This consultation, which closes for comment on 31 October, contains drafts of required legislation, including a number of amendments to the Credit Unions (NI) Order 1985.

Question 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?

3.13 Of the 11 responses to the question, there was a range of opinions presented. Some were in favour of either or both the legislative and registration functions remaining within Northern Ireland. Four of these expressed a preference that responsibility for regulation should also remain with DETI with the FSA possibly acting as an independent watchdog/adviser. Whilst favouring the retention of legislation and registration, two respondents stressed the need for clear definition of the regulatory role of FSA and the registration function of DETI.

3.14 A number of those who considered that NI should retain legislative control were concerned that, by transferring responsibility to GB, the influence of the NI CUs would be less effective. One respondent commented *"If the legislative function is transferred to Great Britain, credit unions risk being marginalised despite the fact that they represent a more significant portion of the local population in Northern Ireland as opposed to the credit union movement in Great Britain"*.

3.15 Two respondents favoured full integration into the GB regulatory and legislative provisions thus ensuring *"that all UK credit unions become subject to the same legal framework under the control of one body"*. One commented that *"A fragmented registration and regulatory system for UK credit unions is not in the interests of either credit unions or effective regulation and depositor protection"*.

The Government's response

3.16 The Government is grateful for the comments received. Having taken due account of respondents views, and further consultation with the sector, it has been determined that, in addition to regulation, the registration function will also transfer to the FSA (or its successor) following the introduction of the necessary legislation. The Government believes that the transfer of both regulation and registration is a positive and practical step. Question 2 c) is for consideration at a later date as the integration would require Primary legislation in both NI and GB.

Question 3:

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

3.17 Five responses were in agreement with mirroring GB legislation although, in one case, only if full integration was not an option.

3.18 One respondent commented that regardless of who retains the legislative function there needs to be consistency between the two frameworks.

3.19 Others commented that *"it would be important that we ensure that the local requirements of NI credit unions are reflected within any GB reforms"* and *"to enable the expansion of services it is imperative that the credit union legislation in NI is amended to match GB reforms"*.

The Government's response

3.20 The Government notes the responses. DETI has historically mirrored changes to GB legislation in relation to credit unions and has given notice of its commitment to bring forward primary legislation during the current mandate of the NI Assembly.

Question 4:

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

3.21 Two of the nine responses were not in favour of the proposal to enable credit unions to re-invest surplus assets into community enterprises, believing that *"there is considerable risk in the application of such policies"*. One respondent commented that an appropriate mechanism for community investment already exists in the ability to invest up to 10% of surplus assets.

3.22 Those who supported the proposal were aware of the risks involved in such initiatives and the need to ensure that those making investment decisions had the specialised knowledge and skills required. One commented: *"It is acknowledged that controls would need to be put in place to ensure that there is no significant risk to the credit union by becoming involved in such initiatives"*; *"there is a need for caution when re-investing assets into community development and enterprises"*; and another noted that *"Credit unions should be enabled to undertake such investments by making available expert specialist advice in assessing the risks in community-orientated investments and by the provision of training in such areas"*.

3.23 Three respondents agreed that credit unions should be permitted to have corporate members, including groups and societies to whom loans could be made. They felt that this would partially achieve the objective and ensure that the new system would be well bedded down before granting new powers for community investment. Another proposed that credit unions should be permitted to "pool" funds which could then be used to provide loans to or invest in community groups or enterprises. This would allow investment in larger projects. Again, they stressed the need for *"expertise in social finance to ensure there is no risk to credit union funds"*.

The Government's response

3.24 The Government acknowledges the particular concerns with regard to credit union stability should the proposal to facilitate the re-investment of assets for community enterprises be taken forward. In view of the complexities surrounding this issue, it is likely that it will be subject to further consultation prior to any final decision.

Question 5:

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

3.25 Only a few responses directly addressed this question but comments were generally aimed at supporting credit unions to expand their range of services and ensure their continued growth. Three respondents were in favour of removing the prohibition on the business of banking with one suggesting that in the longer term, those credit unions large enough might progress to co-operative bank status.

3.26 Against this, others commented that *"Credit unions are not banks"*; *"We believe it is imperative that credit unions in Northern Ireland don't begin to replicate mainstream lenders and that a balance must be maintained"*; and

"The purpose of credit unions was never intended to be expansive to elevate them to the level of banks".

Other issues raised were that:

- credit unions should be able to offer classes of shares, which would be beneficial in terms of forward planning;
- taxation issues should be reviewed, reflecting the special status of credit union savings as an investment in the community;
- change should be complemented by the development of a NI-specific, Executive led, Financial Inclusion Strategy;
- current rigid controls of the common bond should be relaxed to improve choice and access for consumers; and
- credit unions should be able to be more flexible regarding interest on loans for members in financial difficulties.

The Government's response

3.27 The Government is grateful for and notes the various responses from the sector. Some comments touch on issues dealt with previously while others may be subject to further consideration in advance of any future legislative action.

4

Next Steps

4.1 The Government will now implement legislation to transfer the regulation of NI CUs to the FSA and to enable the transfer of registration at the appropriate time.

4.2 The next steps are:

September 2011	FSMA 2000 (Exemption) (Amendment) Order laid in Parliament
November 2011	Exemption Order made Permissions Order made Money Laundering Regulations amended Terrorist Asset Freezing Act Order made Consequential Order made
December 2011	Pre-commencement period starts
January 2012	FSA makes rules
31 March 2012	Commencement

A Respondents

There were 20 responses to the consultation. The following representative bodies and credit unions submitted responses, with the remainder being received from individuals, public bodies and advisory organisations:

Advice NI

Association of British Credit Unions Limited

Bank of England

Citizens Advice

Consumer Council

Derry Credit Union Limited

Disability Action

Financial Services Consumer Panel

Housing Rights Service

Ian Snaith, MA, Solicitor

Irish League of Credit Unions

Limavady Borough Council

Newington Credit Union Limited

Northern Ireland Judicial Appointments Commission

Northern Ireland Ombudsman

Portadown Diamond Credit Union Ltd

Training for Women Network

Benburb and Killyman Districts Credit Union Ltd
(on behalf of the Tyrone Federation of Credit Unions)

UK Credit Unions Limited

Ulster Federation of Credit Unions

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This document can be found in full on our website: <http://www.hm-treasury.gov.uk>

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