

**CREDIT UNIONS SOURCEBOOK (AMENDMENT NO 4 AND
CONSEQUENTIAL AMENDMENTS TO THE HANDBOOK) INSTRUMENT
2003**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (the “Act”):
 - (a) section 138 (General rule-making powers);
 - (b) section 149 (Evidential provisions);
 - (c) section 156 (General supplementary powers);
 - (d) section 157(1) (Guidance); and
 - (e) section 210 (Statements of Policy); and
 - (2) article 15 (Record-keeping and reporting requirements relating to relevant complaints) of the Financial Services and Markets Act 2000 (Transitional Provisions) (Ombudsman Scheme and Complaints Scheme) Order 2001 (SI 2001/2326).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

Commencement

- C. This instrument comes into force on 1 April 2003.

Amendments to the Credit unions sourcebook

- D. The Credit unions sourcebook is amended in accordance with Annex A to this instrument.

Amendments to the Supervision manual

- E. The Supervision manual is amended in accordance with Annex B to this instrument.

Amendments to the Enforcement manual

- F. The Enforcement manual is amended in accordance with Annex C to this instrument.

Citation

- G. This instrument may be cited as the Credit Unions Sourcebook (Amendment No 4 and Consequential Amendments to the Handbook) Instrument 2003.

By order of the Board
20 March 2003

Annex A

Amendments to the Credit unions sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text. Where an entire new section of text is inserted, the place that it goes is indicated and it is not underlined.

CRED Transitional provisions

G

1 Table Transitional provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
<u>4</u>	<u><i>CRED</i> 17.6.5R</u>	<u>R</u>	<u>In the year ending 31 March 2003, the relevant period is from 1 October 2002 to 31 March 2003.</u>	<u>from 1 April 2003</u>	<u><i>credit unions day</i></u>

1.1.1 G (1) ... We believe that *CRED* contains enough information on what the *FSA* requires of *credit unions* to meet most of their day-to-day operational needs.

(2) Northern Ireland credit unions are not covered by the Handbook or by CRED. They are exempt from the general prohibition on carrying on a regulated activity, and do not need to be authorised persons. Their exemption is reflected in the definition of credit union in the Handbook and CRED: "a body corporate registered under the Industrial and Provident Societies Act 1965 as a credit union in accordance with the Credit Unions Act 1979, which is an authorised person" (see CRED 2.7.1G for an explanation of defined terms). Northern Ireland credit unions are registered under their own separate legislation, not under the Industrial and Provident Societies Act 1965 and the Credit Unions Act 1979. The Credit Unions Act 1979 permits the Treasury to make reciprocal arrangements with the appropriate authority in Northern Ireland for the law applicable to credit unions registered in Great Britain to be applied to credit unions registered in Northern Ireland, when the latter operate in Great Britain (and for the law applicable to credit unions registered in Northern Ireland to be applied to credit unions registered in Great Britain, when the latter operate in Northern Ireland). No such arrangements have yet been made.

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2.9 Glossary of Definitions

2.9.1 G ~~In addition to the links between defined terms and definitions in the electronic versions of the Handbook, CRED has a Glossary of definitions. This that lists the defined terms used in CRED and gives their meaning. This is most easily accessed through the electronic version on CD-ROM or the FSA's website.~~

...

5.2.1 G (2) *Threshold condition 2: Location of offices. A credit union must have its head office and registered office in the United Kingdom. This general requirement in the Act is aimed at ensuring that firms are organised in a way that can be effectively supervised. The Credit Unions Act 1979 applies a specific requirement: the registered office of a credit union has to be in Great Britain; Northern Ireland credit unions are covered by separate legislation. (See CRED 1.1.1G(2) for the definition of the italicised term credit union).*

...

Maturity of investments

- 7.2.2 R Any *securities* invested in, or
- ...
- 7.2.6 G (1) A *credit union* may accept a loan
- (2) CRED 7.2.2R – CRED 7.2.3R apply to loans between *credit unions*, except for subordinated loans qualifying as capital under CRED 8.2.1R(4)(a). (See CRED 7.2.1R and CRED 8.2.5R(2)).
- (3) CRED 8.2.1R – CRED 8.2.6G apply to subordinated loans between *credit unions* qualifying as capital under CRED 8.2.1R(4)(a).
- (4) CRED 10 (Lending) (which covers loans to members) does not apply to loans between *credit unions* (see CRED 10.1.1R). However, in relation to such loans, *credit unions* should have regard to the principles outlined in CRED 10.4.6G and CRED 10.5 (Provisioning).
- ...
- 8.2.1 R (4) (a) the maturity of the loan must be ~~more~~not less than five years from the date on which the loan is made;
- ...
- ...
- 8.2.1A G The effect of CRED 8.2.1R(4)(a) is that the shortest permissible period for a subordinated loan qualifying as capital under CRED 8.2.1R(4)(a) is five years and one day.
- ...
- 8.2.5 R (1) When a *credit union* makes a subordinated loan to another *credit union* qualifying as capital under CRED 8.2.1R(4)(a), the full amount of the loan (not the amount counting towards the borrower's capital under CRED 8.2.4R) must be deducted from the lender's capital.
- (2) A subordinated loan within CRED 8.2.1R(4)(a) is not an investment under CRED 7.2.1R.

8.2.6 G The effect of CRED 8.2.5R is that the maturity limits in CRED 7.2.2R – CRED 7.2.3R do not apply to subordinated loans made by a credit union.

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Chapter 10 Lending to members

10.1 Application and purpose

10.1.1 R This chapter applies to all *credit unions* in relation to their lending to members under section 11 of the Credit Unions Act 1979 ~~carrying on lending activity.~~

10.1.2 G (1) This chapter seeks to protect ...

(2) This chapter is not relevant to loans between credit unions, except as indicated in CRED 7.2.6G(4).

...

10.5.2 R (1) A *credit union* must make specific provision in its accounts for bad and doubtful debts of at least the amounts set out below:

~~(+)(a)~~ 35% of the net liability to the *credit union* of borrowers where the amount is more than three *months* in arrears; and

~~(-)(b)~~ 100% of the net liability to the *credit union* of borrowers where the amount is more than 12 *months* in arrears.

(2) The net liability of a borrower is the amount of his loan and interest outstanding, less his shareholding.

10.5.3 E (1) A *credit union* should maintain a general provision for bad and doubtful debts of at least 2% of the net liability to the credit union of borrowers not covered by the specific provisions in CRED 10.5.2R ~~its other loan assets.~~

(2) Contravention of CRED 10.5.3E(1) may be relied on as tending to establish contravention of CRED 10.5.1R.

10.5.4 G In order to comply with the requirements of *CRED* 10.5.1R 5 - *CRED* 10.5.3E it follows that it will be necessary for a *credit union* to review its provisioning requirements frequently. The *FSA* recommends (that this is; done at least quarterly ~~monthly~~).

...

10.5.6 G (1) *CRED* 10.5.2R requires a *credit union* to maintain minimum levels of specific provision. However, a *credit union* that only maintains the minimum levels does not necessarily comply with *CRED* 10.5.1R. This will depend on the assessment and judgment referred to in *CRED* 10.5.5G.

(2) (a) Failure to maintain a general provision of the level indicated in *CRED* 10.5.3E creates a presumption that the *credit union* is not complying with *CRED* 10.5.1R, though that presumption can be rebutted by the *credit union*: for example, it may be able to demonstrate that the occurrence of impaired loans that are either below the threshold for specific provision (that is, they are less than three *months* in arrears) or are unidentified at the time, is very low.

(b) If, on the other hand, a *credit union* does maintain the indicative level in *CRED* 10.5.3E, that does not necessarily mean that it complies with *CRED* 10.5.1R.

10.5.7 G If a *credit union* needs to make higher provisions, beyond the levels in *CRED* 10.5.2R and *CRED* 10.5.3E, in order to meet *CRED* 10.5.1R, then it should do so.

...

14.10.3 G In order to discharge its functions under the *Act*, the *FSA* needs timely and accurate information about *credit unions* on a regular basis. The provision of this information enables the *FSA* to build up over time a picture of *credit unions'* circumstances and behaviour.

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14.10.4H G CRED 14.10.3G emphasises the importance to the FSA of timely and accurate information. The extension of a credit union's accounting period (as a result of a change of accounting reference date) to more than 15 months may hinder the timely provision of relevant and important information to the FSA, or its regularity. This is because some due dates for reporting to the FSA are linked to credit unions' accounting reference dates. If the extension of a credit union's accounting period appears likely to impair the effectiveness of the FSA's supervisory work, the FSA may take action to ensure that it continues to receive the information it requires on a timely basis. This may include the use of any of the tools of supervision set out in CRED 14.1.9G.

...

Financial penalties for late submission of reports

- 14.10.12 G (1) Financial penalties may be imposed for the late submission of:
- (a) the quarterly and annual returns referred to in CRED 14.10.5G and CRED 14.10.7G; and
 - (b) the audited accounts referred to in CRED 14.10.10R.
- (2) Details of the FSA's policy and procedures on financial penalties are given in CRED 15.5 (Financial penalties for late submission of reports) and CRED 15 Ann 3G.

...

- 17.6.3 R A credit union must provide the FSA, once a year on an annual basis, with a report in the format set out in CRED 17 Ann 1R (Credit union complaints return) which contains (for the relevant reporting period year ending 31 March) information about:
- (1) the total number of complaints received by the credit union (except those referred to in CRED 17.4.1R) broken down according to the categories and in respect of each of the generic product types described in CRED listed at DISP 17 Annex 1R (Credit union complaints return) which are relevant to the credit union; and
 - (2) the number of complaints closed by the credit union within:
 - (a) within eight weeks of receipt; and

- (b) more than eight weeks after receipt;
- (3) the total number of complaints outstanding at the end of the reporting period; and
- (4) the single contact within the *credit union* for complainants.

...

- 17.6.5 R For the purposes of *CRED 17.6.3R*:
- (1) the relevant reporting period is from 1 April to 31 March each year; and
 - (2) reports are to be submitted to the *FSA* within one *month* of the end of the relevant reporting period.

- 17.6.6 G (1) Financial penalties may be imposed for the late submission of the complaints report required by *CRED 17.6.3R*.~~[Deleted]~~
- (2) Details of the *FSA's* policy and procedures on financial penalties are given in *CRED 15.5* (Financial penalties for late submission of reports) and *CRED 15 Ann 3G*.

...

- 17.6.8 ~~The address to which reports should be sent is: The *FSA*, 25 The North Colonnade, Canary Wharf, London, E14 5HS~~ A report under this
- G section must be given or addressed, and delivered, in the way set out in *SUP 16.3.6R - SUP 16.3.16G* (General provisions on reporting) (see *CRED 14.10.4G – CRED 14.10.4FG*) , except that:
- R
- (1) instead of the *credit union's* usual supervisory contact, the report should be given to or addressed for the attention of the Notification, Reporting and Data Maintenance department of the *FSA*; and
 - (2) in addition to the methods of submission of reports in *SUP 16.3.9R*, a *credit union* may submit a report under this section through, and in the electronic format specified in, the *FSA's* Complaints Reporting System.

17.6.8A R A credit union that has started but intends to stop submitting reports in electronic format under CRED 17.6.8R(2) must first notify the Notification, Reporting and Data Maintenance department of the FSA in writing of this intention.

17.6.8B R If a credit union is unable to submit a report in electronic format because of a systems failure of any kind, the credit union must:

(1) submit its report under this section through one of the alternative methods of submission of reports in SUP 16.3.9R (see CRED 14.10.4G); and

(2) notify the FSA, in writing and without delay, of that systems failure.

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17.6.10 G The contact point in CRED 17.6.3R and CRED 17.6.9R can be by name or job title and may include, for example, a telephone number.

...



(for FSA use only)

Credit union complaints return

FSA Handbook Reference: CRED 17 Ann 1R
This is the report referred to in CRED 17.6.3R

1 April 2003

Please read the notes on pages 7 and 8 before completing this return

Firm details and reporting period Section 1

1.01 FSA firm reference number

1.02 Name of credit union

1.03 Reporting period From To

Nil return declaration Section 2

A Nil Return may only be declared where

- a) no complaints were received during the reporting period,
- AND
- b) no complaints were outstanding at the beginning of the period.

SECTIONS 1, 3, 4 AND 9 MUST STILL BE COMPLETED.

2.01 We wish to declare a Nil Return
(Tick the box if applicable)

3.01 Who should the *FSA* contact at the *credit union* in relation to this return?

a	Forename	<input type="text"/>	
b	Surname	<input type="text"/>	
c	Title	<input type="text"/>	
d	Job title	<input type="text"/>	
e	Daytime telephone	<input type="text"/>	<input type="text"/>
f	Fax	<input type="text"/>	<input type="text"/>
g	E-mail	<input type="text"/>	

This information is required under *CRED 17.6.3R*. This information will be included in the public record and may be used by consumers to contact the *credit union*. The contact point may be a named individual, or a job title (see *CRED 17.6.10G*).

4.01 Contact point for complaints

a	Forename	<input type="text"/>	
b	Surname	<input type="text"/>	
	Title	<input type="text"/>	
c	Job title	<input type="text"/>	
d	Address of <i>credit union</i>	Number	Street
		<input type="text"/>	<input type="text"/>
	Locality	<input type="text"/>	
	Town	<input type="text"/>	
	County	<input type="text"/>	
	Country	<input type="text"/>	
		Postcode	<input type="text"/>
		<input type="text"/>	<input type="text"/>
e	Daytime telephone	Area code	Number
		<input type="text"/>	<input type="text"/>
f	Fax	<input type="text"/>	<input type="text"/>
g	E-mail	<input type="text"/>	

PRODUCT TYPE	CATEGORY	Over-charging/ Incorrect charges	Delays	Other admin	Unsuitable/ Misleading advice	Failure to carry out instructions	Poor Customer Service	Misleading advertising/ product info	Disputes over sums/ amounts payable	Switching Churning	Breach of contract	Other	TOTAL
FSAVC													
Personal Pension													
Stakeholder Pension													
Mortgage Endowment													
Other Endowment													
Whole of Life													
Permanent Health													
Term Assurance													
PEP/ISA													
Unit Trust/OEIC													
Investment Bond													
Share/Derivative													
Current Account													
Deposit/Savings													
Loan Secured on Land													
Other Loans													
General Insurance	• Motor												
	• Property												
	• Other												
Other													

If no private individual complaints were received during the period, tick the box and go to Section 6

Grand Total

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PRODUCT TYPE	CATEGORY	Over-charging/ Incorrect charges	Delays	Other admin	Unsuitable/ Misleading advice	Failure to carry out instructions	Poor Customer Service	Misleading advertising/ product info	Disputes over sums/ amounts payable	Switching Churning	Breach of contract	Other	TOTAL
FSAVC													
Personal Pension													
Stakeholder Pension													
Mortgage Endowment													
Other Endowment													
Whole of Life													
Permanent Health													
Term Assurance													
PEP/ISA													
Unit Trust/OEIC													
Investment Bond													
Share/Derivative													
Current Account													
Deposit/Savings													
Loan Secured on Land													
Other Loans													
General Insurance	• Motor												
	• Property												
	• Other												
Other													

If no small business complaints were received during the period, tick the box and go to Section 7

Grand Total

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Complaints closed during reporting period

Section 7

7.01 Number of complaints closed

within 8 weeks

7.02 Number of complaints closed

after more than 8 weeks

Complaints outstanding

Section 8

8.01 Number of complaints outstanding as at reporting period **start** date

8.02 Number of complaints outstanding as at reporting period **end** date

Declaration and signature

Section 9

Knowingly or recklessly giving the *FSA* information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000) and a breach of regulatory requirements.

In signing this form, the *credit union* acknowledges that the data supplied may be used by the *FSA* in a variety of different ways (including making it publicly available) in support of its principal functions and statutory objectives as provided for under the Financial Services and Markets Act.

I confirm that I have read the notes and that the information given in this return about complaints received by the credit union named at Section 1.02 is accurate and complete to the best of my knowledge and belief.

9.01 Name of *person* signing on behalf of the *credit union*

9.02 Job title

9.03 Signature

9.04 Date

	dd	mm	yyyy
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Address for postal submission of returns:

The Financial Services Authority
P O Box 35747
London E14 5WP
United Kingdom

Website: <http://www.fsa.gov.uk>

Notes on completion of this return

This return is the report referred to in *CRED 17.6.3R* and is to be used to notify the *FSA* of the total number of complaints received by a *credit union* during the reporting period. Only complaints subject to *CRED 17.5 – CRED 17.7* should be included in this return.

Reporting period

The annual reporting period is generally from 1 April to 31 March (*CRED 17.6.5R*). However, in the year ending 31 March 2003, the relevant period is from 1 October 2002 to 31 March 2003. Returns must be submitted **within one month** of the end of the reporting period.

Completing this return

The return must be completed in black ink and (if in manuscript) in BLOCK LETTERS.

All dates must be provided in numeric form (for example: 29/02/2002 for 29 February 2002).

Expressions in italics have the meaning given in the *Glossary* to the *FSA's Handbook* (or, if no meaning is given there, the expressions are to be interpreted in accordance with the related expression defined in the *Glossary*).

The *credit union* is responsible for the accuracy of the data and completion of the return.

Section 2 – Nil Returns

If no complaints (except those referred to in *CRED 17.4.1R*) have been received during the reporting period, and no complaints were outstanding at the beginning of the period, the *credit union* may submit a **NIL RETURN** by ticking the relevant box on the front of the form. **Sections 1, 3, 4 and 9 must still be completed.**

Section 4 – Complaints contact details

Details of a contact point for complainants must be provided in accordance with *CRED 17.6.3R* for inclusion in the public record. This must include at least a name, or a job title (position held), but need not include both.

Section 5 – Private individual returns

Records of complaints as received from private individuals subject to *CRED 17.5 – CRED 17.7*. *Credit unions* should record all complaints received during the reporting period and apply the categorisation that best reflects the original complaint, even where the complaint has not been, or is unlikely to be, upheld by the *credit union*.

DISP 2.4.3R and *CRED 17.3.2G* provide further information on the definition of an *eligible complainant*.

Enter the number of complaints for each product according to the category of complaint. **Leave blanks where no complaints have been received.**

Enter a **total** for each product type for which you have received complaints and complete the **grand total** at the bottom of the page.

All *credit unions* provide the products “Deposit/Savings” (members’ shares) and “Other loans” (members’ loans not secured on land), and may receive complaints for those products. The corresponding rows in the form have been left shaded to help *credit unions* with completion; all other rows are clear. Some categories of complaint (shown in the column headings) may not apply to those products.

Some credit unions may also provide other products (for which they may require further permission). If so, they should enter the number of complaints received for these products in the relevant boxes, even though they are clear.

If no private individual complaints have been received during the period, tick the box at the foot of the page and go to the next section.

Section 6 – Small business returns

Since only private individuals may be members of a *credit union*, the circumstances in which a small business may be an *eligible complainant* under *DISP 2.4.3R* are likely to be extremely limited and rare (see *CRED 17.3.2G*). However, if any complaints subject to *CRED 17.5 – CRED 17.7* have been received from such a business, please submit the details in this section in the same format as in section 5.

If no small business complaints have been received during the period, tick the box at the foot of the page and proceed to the next section.

Section 7 – Complaints closed during reporting period

Indicate the number of complaints closed during the reporting period shown at Section 1.03 of this form. See *CRED 17.6.7R* for the rules governing when a complaint is considered to be closed.

Section 8 – Complaints outstanding

Give the numbers of complaints subject to *CRED 17.5 – CRED 17.7* outstanding at the **start** of the reporting period and the **end** of the reporting period.

Section 9 – Declaration & signature

The declaration must be signed by an appropriate individual for the *credit union*.

Submitting this return

Full details on the acceptable methods of submitting this form may be found in the *FSA Handbook* at *SUP 16.3* as modified by *CRED 17.6.8R*. Reports may be sent by post to the address below.

If you have any questions or need help with this return, please approach your usual supervisory contact at the FSA.

REPORTS SENT BY POST MUST BE ADDRESSED TO:

THE FINANCIAL SERVICES AUTHORITY
P O BOX 35747
LONDON E14 5WP
UNITED KINGDOM

Hand delivered returns should be marked **for the attention of the NRDM Department** and be delivered to 25 The North Colonnade, Canary Wharf, London E14 5HS.

CRED Appendix 2

2.1 Detailed contents of CRED

2.1.1 Table

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7 Investment and borrowing

...

7.2 Investment

...

7.2.2 Maturity of investments

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10 Lending to members

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14 Supervision

...

14.10 Reporting requirements

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14.10.12 Financial penalties for late submission of reports

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17 Complaints handling procedures for credit unions

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Ann 1 Complaints report

...

CRED Schedule 2

Credit unions

Schedule 2

Notification requirements

...

<i>CRED</i> 17.6.6R	<u>Complaints report</u>	<u>Analysis Number of complaints received</u>	<u>Year ending 31 March each year</u>	<u>1 month after period end 30 April</u>
<u><i>CRED</i> 17.6.8R</u>	<u>Complaints report</u>	<u>Intention to stop submitting report in electronic format</u>	<u>When applicable</u>	<u>Immediately</u>

Annex B

Amendments to the Supervision manual

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

16 Ann 15 G

GN/CQ Guidance note for completion of credit union quarterly return (CQ)

4B Total liabilities (including Reserves)

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Credit union capital – page 2

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Please note: "Negative reserves and any interim net losses must be deducted from capital"; (CRED 8.2.2R). "When a *credit union* makes a subordinated loan to another *credit union* qualifying as capital under CRED 8.2.1R(4)(a), the full amount of the loan (not the amount counting towards the borrower's capital under CRED 8.2.4R) must be deducted from the lender's capital" (CRED 8.2.5R(1)).

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5D Subordinated debt

Subordinated debts in 5D are loans ...

Some of the main conditions are listed below:

When the loan is issued it should have a maturity date of ~~more~~not less than five years;

The conditions attached to the loan should state that the claims of the subordinated creditors rank behind those of all unsubordinated creditors including the *credit union's* shareholders;

The subordinated debt should not become due and payable before its final maturity date agreed with the creditor (in writing) except in the event of default by non-payment of any interest or principal under the debt agreement or the winding-up of the *credit union*.

GN/CY Guidance note for completion of credit union annual return (CY)

(2Q-R) Subordinated debt

Subordinated debts in 2Q-R are loans ...

Some of the main conditions are listed below:

When the loan is issued it should have a maturity date of ~~more~~^{not less} than five years;

The conditions attached to the loan should state that the claims of the subordinated creditors should rank behind those of all unsubordinated creditors including the *credit union's* shareholders;

The subordinated debt should not become due and payable before its final maturity date except in the event of default by non-payment of any interest or principal under the debt agreement or the winding-up of the *credit union*; ~~and~~.

Annex C

Amendments to the Enforcement manual

In this Annex, underlining indicates new text.

- 13.5.1 G This section sets out the FSA's policy and procedures ...
- (8) CRED 14.10.10R (Audited accounts of credit unions) and CRED 17.6.3R to CRED 17.6.7R (Complaint handling procedures for credit unions).