

**CREDIT UNIONS SOURCEBOOK (COMMON GROUND PROVISIONS)  
INSTRUMENT 2005**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Market Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
  - (2) section 156 (General supplementary powers); and
  - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 January 2006.

**Amendments to the Glossary**

- D. The Glossary of definitions 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 Credit Unions sourcebook**

- F. The Credit Unions sourcebook is amended in accordance with Annex C to this instrument.

**Citation**

- G. This instrument may be cited as the Credit Unions Sourcebook (Common Ground Provisions) Instrument 2005.

By order of the Board  
17 November 2005

## Annex A

### Amendments to the Glossary

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

*version 1 credit union* a *credit union* whose *Part IV permission* includes a *requirement* (whether for all or for particular purposes) that it must not lend more than ~~£10,000~~ £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* ~~within limits set by~~ in accordance with sections 5 and 7 of the Credit Unions Act 1979.

## Annex B

### Amendments to the Supervision manual

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

SUP 16 Annex 15G  
Reporting requirements

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

#### FIXED ASSETS

|     |   |   |
|-----|---|---|
| 17A | Opening <del>net book value</del> <u>cost</u>                                 | The <del>value</del> <u>cost</u> of fixed assets the <i>credit union</i> had at the end of the previous financial year.   |
| 17B | Additions <del>during the year</del> at cost                                  | The <del>value</del> <u>cost</u> of fixed assets purchased during the financial year.   |
| 17C | <del>Value</del> <u>Original cost</u> of disposals <del>during the year</del> | The <del>value</del> <u>original cost</u> of fixed assets sold during the financial year, included within 17A. It is shown as a negative, as it reduces the total amount of fixed assets held by the <i>credit union</i> .          |
| ... |   |   |
| 17F | Depreciation eliminated on disposals  | Total value of depreciation associated with <del>assets disposed of during the</del> <u>disposals this year,</u> <u>included in 17D.</u>  |
| 17G | Closing net book value  | The value of fixed assets held by the <i>credit union</i> at the end of the financial year. This figure is the sum total of boxes <b>17A+17B-17C-17D-17E-+17F</b> and <u>matches</u> that shown in the balance sheet at <b>1A</b> . |

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## Annex C

### Amendments to the Credit Unions sourcebook

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

- 4.3.65 G The business plan should cover a period of three years from the current financial year, that is to say, the remainder of the current financial year and the two following financial years.

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#### Land holding Section 12 of the Credit Unions Act 1979

- 7.2.8 G ~~A credit union may only hold land (and buildings) for the purpose of conducting its business on that land, and where it needs to do so as security for loans to members (section 12 of the Credit Unions Act 1979). This means that a credit union must not acquire as an investment land (and buildings) greatly in excess of its operating requirements, with the real purpose of letting out the excess.~~

Section 12 of the Credit Unions Act 1979 permits a credit union to hold, purchase or take on lease any land for the purpose of conducting its business, but for no other purpose, except where it holds an interest in land as security for loans to members.

- 7.2.9 G (1) A credit union may buy or hold property as premises from which to conduct its business, but not as an investment.
- (2) A credit union may acquire premises that reasonably anticipate its future accommodation needs, or a unit (for example, the whole building, or a floor of a building) of which it requires most, but not all, and lease out the surplus area. But it may not acquire as an investment property greatly in excess of its operating requirements, with the real purpose of letting out the excess.
- (3) A credit union may purchase premises out of surplus funds, or by borrowing, or by a combination of the two, whichever is most prudent.
- (4) A credit union's premises will not count as liquid for the purposes of CRED 9.3.7R.

#### 7.2A Joint ventures

##### Section 26 of the Credit Unions Act 1979

- 7.2A.1 G Section 26 of the Credit Unions Act 1979 prohibits a credit union from having a subsidiary within the meaning of section 15 of the Friendly and

Industrial and Provident Societies Act 1968. To have a subsidiary in that sense, a *credit union* has to be a member of the company and control the composition of its board of directors, or hold more than half in nominal value of the company's equity share capital.

7.2A.2 G *Credit unions* may set up (and hold shares or other membership rights in) associated *bodies corporate* to establish shared service facilities and other joint ventures, so long as they demonstrably further the *credit union's* statutory objects and do not breach section 26 of the Credit Unions Act 1979.

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7.3.2A G Although section 10 of the Credit Unions Act 1979 now permits a credit union to borrow money without restriction, *CRED 7.3.1AR* imposes a limitation. A *credit union* may borrow from a *body corporate*, even though it may not admit a *body corporate* to membership or issue it with shares. Such loans can either be subordinated loans (providing regulatory capital within *CRED 8.2.1R(1)(c)*) or senior loans (providing ordinary funding, but not constituting regulatory capital). Further explanation is given at *CRED 7A.1A.1G* and *CRED 7A.3.2G*.

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7A Shareholding Shares and deposits

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7A.1A Members and juvenile depositors

Sections 1 and 5 of the Credit Unions Act 1979

7A.1A.1 G In relation to membership of *credit unions*, the Credit Unions Act 1979 provides that:

(1) a common bond has to exist among the members (section 1(2)(b) – see *CRED 13 Ann 1AG*, *CRED 13 Ann 1BD*, *CRED 13 Ann 1CD* and *CRED 13 Ann 2G*);

(2) only individuals may be members (section 5(1)); and

(3) a member has to hold at least one share (section 5(2)).

7A.1A.2 G Membership of a *credit union* is open only to individuals acting in a private capacity and in their own right. It is not open to:

(1) a *body corporate*; or

(2) an individual acting as a representative of a *body corporate* or unincorporated association.

Section 9(1) of the Credit Unions Act 1979

7A.1A.3 G Section 9(1) of the Credit Unions Act 1979 provides that a *credit union* may take deposits from a person who is under the age at which he may become a member.

7A.1A.4 G (1) An explanation of section 9(1) of the Credit Unions Act 1979 is given at paragraph 3 of *CRED 13 Ann 2G*.

(2) The deposits referred to in *CRED 7A.1A.2G(1)* are not shares and the persons who make those deposits are not members.

7A.2 ~~Members' shares~~Shares

Maximum shareholdings

7A.2.1 R A *credit union* must not permit a member to have or claim any interest in the shares of the *credit union* exceeding the greater of ~~£5,000~~ £10,000 ~~and or~~ 1.5 per cent of the total shareholdings in the *credit union*.

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7A.3.1 R (1) A *credit union* must not accept *deposits* except:...

(2) A *credit union* must not accept *deposits* exceeding the greater of ~~£5,000 and~~ £10,000 or 1.5 per cent of the total shareholdings in the *credit union* from a person who is under the age at which, under section 20 of the Industrial and Provident Societies Act 1965, he may become a member of the *credit union* unless the *deposits* are held in a *CTF*, in which case the *credit union* may accept a larger *deposit*.

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7A.4.4 G (1) The "aggregate value" in *CRED 7A Ann 1R* comprises the shares and *deposits* (including those held in a *CTF*) referred to in *CRED 7A.3.1R(1)(a)* and (b).

(2) The tables in *CRED 7A Ann 1R* set out the minimum levels of insurance cover required by a *credit union*. It is prudent for a *credit union* to consider whether additional cover:

(a) is needed for its own particular circumstances; and

(b) should be obtained to cater for actual or projected growth in the "aggregate value" (see paragraph 1 of *CRED 7A Ann 1R*) between "relevant dates" (see paragraph 3 of *CRED 7A Ann 1R*).

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8 Capital requirements

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8.2.1 R (1) The following ...

- (d) initial capital; and
- (e) revaluation reserves, arising from the differences between book values and the current market values of property fixed assets:
  - (i) meeting the requirements in CRED 8.2.1R(6) to (7); and
  - (ii) subject to the limit in CRED 8.2.1R(8).

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(6) To be included in the calculation of capital, revaluation reserves must meet the following conditions:

- (a) the credit union must apply the revaluation method to all of its property fixed assets and not selectively;
- (b) the values must result from regular professional valuations of each property;
- (c) if professional valuations are not carried out annually, there must be:
  - (i) a rolling programme such that no professional valuation of a property is more than five years old;
  - (ii) in the intervening year(s) in which a property is not professionally valued, an interpolation of value by the Board which takes into account any decline in property values disclosed by valuations of other properties in that year;
- (d) any increase of revaluation reserve must be supported by a professional valuation.

(7) Subject to the conditions in CRED 8.2.1R(6), and the limit in CRED 8.2.1R(8), the amount of revaluation reserve used for the calculation of capital must be:

- (a) the amount standing to the credit of any such reserve in the balance sheet in the most recent annual return to have been sent to the FSA under SUP 16.7.62R (see CRED 14.10.7.G);  
or

(b) the amount of any such reserve in the accounting records of the credit union, for the time being;

whichever is the lesser amount.

(8) The amount of revaluation reserve included in the calculation of capital must not represent more than 25 per cent of the total of capital resources in CRED 8.2.1R(1)(a) to (e).

8.2.1B    G    Subordinated debt is due and payable only in accordance with CRED 8.2.1R(4). However, this rule does not prevent the debt from being issued on terms which permit the credit union, in accordance with a board resolution, to repay the debt. The decision to repay the debt should be genuinely at the instance of the credit union's board. The credit union should satisfy itself that the remaining capital would be adequate for the credit union's present, and future foreseeable needs. The credit union should notify the FSA at least one month in advance of its intention to repay the debt (as indicated in CRED 14.9.5G(3)), thereby giving the FSA the opportunity to raise objections to the proposed repayment. If repayment is proposed within the first five years, the FSA is likely to consider exercising its own-initiative powers to ensure that the credit union continues to satisfy the threshold conditions.

8.2.1C    G    The effect of CRED 8.2.1R(8) is that no more than 25 per cent of a credit union's regulatory capital may consist of amounts deriving from the revaluation of property, however large the amount standing to the credit of the credit union's revaluation reserve.

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8.3.12    R    (1)    A version 1 credit union must not make a loan of an amount greater than ~~£5,000~~ £7,500 in excess of the borrowing member's shareholding unless it has a capital to total assets ratio of at least 5%.

(2)    A credit union which is owed by a member a total amount greater than ~~£5,000~~ £7,500 in excess of that member's shareholding must maintain at all times, while such an amount is outstanding, a capital to total assets ratio of at least 5%.

8.3.12A    G    CRED 8.3.12R(2) does not have the effect of invalidating existing loans if the capital to assets ratio falls below 5%.

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9.1.5    R    "Unattached shareholding" means ~~the amount by which the member's savings with the credit union exceeds the amount which, under the terms of section 7 of the Credit Unions Act 1979, he cannot withdraw at all or he cannot withdraw without first of all obtaining the permission of the committee of management of the credit union.~~ any shares in the credit union that are treated as freely withdrawable. This includes shares held by members in a class of share account, intended for use as a current account,



or otherwise in connection with ancillary services (as defined in section 9 of the Credit Unions Act 1979), even if (through the existence of a related loan) the free withdrawability of the shares may be terminated by the committee at any time in accordance with section 7 of the Credit Unions Act 1979.

- 9.1.6 G (1) Under section 7 of the Credit Unions Act 1979 ...
- (2) ~~'Unattached shareholding' is intended to refer to that portion of a member's savings the withdrawal of which is not restricted by section 7.~~
- (a) The most reliable interpretation of section 7 is that the committee may exercise this discretion on a case-by-case basis, but may not treat all such shares as freely withdrawable. This does not mean that every individual case has to be put before the committee. A case can be decided by an official of the credit union, applying a comprehensive policy laid down by the committee. This policy should be fully documented and set out all the factors that might lead to permitting the withdrawal. (Permitting the withdrawal should be the exception, not the norm.) If a decision is not clearly dictated by the committee's policy, then it should be referred to the committee itself.
- (b) The policy may extend to designating as freely withdrawable for the time being the shares in a class of share account, intended for use as a current account, or otherwise in connection with ancillary services (as defined in section 9 of the Credit Unions Act 1979). Where such shares are subject to the committee's discretion in section 7 (through the existence of a related loan) the *credit union* should not purport to give a contractual commitment to the free withdrawability of the shares, because that section means that the committee is capable of terminating the designation at any time.

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- 10.2.6A R (1) A *credit union* must not make a loan to:
- (a) ~~an officer, or other approved person; and one of its officers or approved persons on terms more favourable than those available to other members of the *credit union* unless:~~
- (i) that person is a paid employee (other than a *director*) of the *credit union*; and
- (ii) the registered rules of the *credit union* provide explicitly for the making of loans to paid employees

on such terms;

- (b) ~~a relative of, or any person otherwise connected with, anyone included in (1) above; a relative of, or any person otherwise connected with, an officer, *approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*.~~

~~on terms more favourable than those available to other members of the *credit union*.~~

...

- 10.3.1 R Subject to *CRED* 10.3.6R, a *version 1 credit union* must not lend for a period of more than ~~three~~ five years where unsecured and ~~seven~~ ten years where secured.
- 10.3.2 R A *version 1 credit union* must not lend more than ~~£10,000~~ £15,000 in excess of the borrowing member's shareholding, ~~but this rule is subject to the additional requirement in *CRED* 8.3.12R(1). A *credit union* must maintain a capital to total assets ratio of at least 5% when making a loan to any member of an amount greater than £5,000 in excess of that member's shareholding.~~
- 10.3.2A G The effect of *CRED* 8.3.12R(1) is to prevent a *version 1 credit union* from lending more than £7,500 in excess of the borrowing member's shareholding unless it has a capital to total assets ratio of at least 5%.
- 10.3.3 R Subject to *CRED* 10.3.6R, a *version 2 credit union* must not lend for a period of more than ~~five~~ ten years where unsecured and ~~fifteen~~ 25 years where secured.
- 10.3.3A G A *credit union* should not attempt to evade the limits in *CRED* 10.3.1R and *CRED* 10.3.3R by making loans in the expectation that they will not be fully repaid by the end of the period, but will be automatically extended or rescheduled.
- 10.3.4 R The maximum amount that a *version 2 credit union* may lend is ~~£10,000~~ £15,000 in excess of the borrowing member's shareholding or 1.5% of total shares in the *credit union* in excess of the borrowing member's shareholding, whichever is the greater.
- 10.3.4A G For the purpose of calculating the maximum loan in *CRED* 10.3.4R, the *credit union* may use the amount of total shares as shown in the most recent annual return to have been sent to the *FSA* under *SUP* 16.7.62R (see *CRED* 14.10.7G) if that is the latest reliable figure available.
- ...
- 10.5.5A G Where a delinquent loan is rescheduled and the arrears capitalised, the loan should be regarded as remaining impaired until there is sufficient evidence that it is performing on the rescheduled terms. In the meantime, any

provision made in relation to that loan should be maintained, not released.

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CRED 13 Annex 2G

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3A Section 9 of the Credit Unions Act 1979 does not require a juvenile depositor to cease to hold an account in a *credit union* if his parents become non-qualifying members.

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CRED Schedule 2

Notification requirements

| Handbook reference                   | Matter to be notified                 | Contents of notification   | Trigger event   | Time allowed                       |
|--------------------------------------|---------------------------------------|--|---|------------------------------------|
| ...<br><u>CRED</u><br><u>8.2.1BG</u> | <u>General</u><br><u>notification</u> | <u>Any proposed</u><br><u>repayment of</u><br><u>subordinated debt</u> | <u>As soon as</u><br><u><i>credit union</i></u><br><u>aware</u> | <u>At an early</u><br><u>stage</u> |
| ...                                  |                                       |  |   |                                    |