

CREDIT UNIONS SOURCEBOOK (AMENDMENT NO 8) INSTRUMENT 2016

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in or under the following provisions of the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 138C (Evidential provisions); and
 - (4) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- C. (1) Part 1 of the Annex to this instrument comes into force on 3 February 2016.
- (2) The remainder of this instrument comes into force on 7 March 2016.

Amendments to the Handbook

- D. The Credit Unions sourcebook (CREDS) is amended in accordance with the Annex to this instrument.

Notes

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

Citation

- F. This instrument may be cited as the Credit Unions Sourcebook (Amendment No 8) Instrument 2016.

By order of the Board
28 January 2016

Annex

Amendments to the Credit Unions sourcebook (CREDS)

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

Part 1: Comes into force on 3 February 2016

1 Introduction

1.1 Application and purpose

Application

...

1.1.2 G ...

- (3) The provisions of the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (*MIPRU*) ~~and the Interim Prudential sourcebook for Investment Businesses (*IPRU(INV)*)~~ may also be relevant to a *credit union* whose *Part 4A permission* includes *insurance mediation activity* or ~~*mortgage home finance mediation activity*~~ or ~~which is a *CTF provider* with permission to carry on *designated investment business*.~~

...

- 1.1.3 G ~~Every *credit union* is either a *version 1 credit union* or a *version 2 credit union*. The *rules* relating to, for example, borrowing, the payment of dividends on shares, capital and lending to members are different depending on whether a *credit union* is a *version 1 credit union* or a *version 2 credit union*. [deleted]~~

Purpose

...

- 1.1.5 G The status of the provisions in *CREDS* is indicated by icons containing the letters R, G or E. Please refer to ~~chapter [...]~~ of the Reader's Guide for further explanation about the significance of these icons. The Reader's Guide can be found at <http://www.fca.org.uk/your-fca/documents/handbook/handbook-readers-guide>

2 Senior management arrangements, systems and controls

2.1 Application and purpose

...

Purpose

- 2.1.2 G The purpose of this chapter is to provide *rules* and *guidance* relating to senior management arrangements, systems and controls that are specific to *credit unions* ~~with a permission to accept deposits.~~
- 2.1.3 G This chapter is also intended to remind *credit unions* that the Senior Management Arrangements, Systems and Controls sourcebook (*SYSC*) also contains a number of high level *rules* and guidance relating to senior management arrangements, systems and controls designed to have general application to all *firms*, including *credit unions*. *SYSC* 1 ~~and~~ *SYSC* 4 to *SYSC* 10 and *SYSC* 21 apply to all *credit unions* in respect of the carrying on of their *regulated activities*, and unregulated activities in a *prudential context*. *SYSC* 18 applies to all *credit unions* without restriction in respect of both their *regulated activities* and unregulated activities. ~~This chapter does not seek to repeat the requirements of *SYSC* that are relevant to *firms* more generally.~~
- 2.1.4 G The purposes of *SYSC*, which applies to all *credit unions* are:
- (1) to encourage *directors* and *senior managers* to take appropriate practical responsibility for the arrangements that all *firms* must put in place on matters likely to be of interest to the ~~appropriate regulator~~ *FCA* because they impinge on the ~~appropriate regulator's function~~ *FCA*'s functions under the *Act*;

...

2.2 General provisions

Appropriate systems and controls

...

- 2.2.3 G A *credit union*'s systems and controls should be proportionate to the nature, scale and complexity of the activities it undertakes. For instance, a small ~~version 1~~ *credit union* will not usually be expected to have the same systems and controls as a large ~~version 2~~ *credit union* one, and a *credit union* offering only basic savings accounts and loans will not be expected to have the same systems and controls as one offering a wider range of services or more complicated products.

Business plan

- 2.2.4 R A *credit union* must establish, maintain and implement an up-to-date business plan approved by ~~the committee of management and supply a copy on request to the appropriate regulator~~ its governing body.

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

...

Policies and procedures manual

- 2.2.6 R A *credit union* must establish, maintain, and implement an up-to-date and fully documented policies and procedures manual, ~~and supply a copy on request to the appropriate regulator~~.

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

...

System of control

- 2.2.8 R ...

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

...

Internal audit function

- 2.2.10 E (1) ~~A *credit union* must have an internal audit function (this may be either in-house or outsourced to a third party).~~
- (2) ~~Contravention of (1) may be relied on as tending to establish contravention of SYSC 4.1.1R (see CREDS 2.2.1G). [deleted]~~

- 2.2.10A E If a *credit union* does not have an internal audit function, this may be relied on as tending to establish contravention of SYSC 4.1.1R (see CREDS 2.2.1G).

...

~~Committee of management~~ Governing body

- 2.2.14 G Under section 4(1) of, and Schedule 1 to, the Credit Unions Act 1979 or article 8(1) of, and Schedule 1 to, the Credit Unions (Northern Ireland) Order 1985, as appropriate, a *credit union* is required to have a committee of management, managers or other officers, or a board of directors (a governing body). ~~The committee of management~~ This body should be competent to control the affairs of a *credit union*, and have an appropriate range of skills and experience relevant to the activities carried on by the *credit union*.

2.2.15 G In accordance with *Statement of Principle 7* of the *Statements of Principle for Approved Persons*, it is the responsibility of each individual member of the ~~committee of management~~ governing body to understand, and ensure that the *credit union* complies with, the requirements of all the relevant Acts, secondary legislation and *rules*.

2.2.16 G (1) ~~As the~~ The credit union's governing body, ~~the committee of management~~ has responsibility for ensuring that the *credit union* complies with the requirements of SYSC 4.1.1R (see CREDS 2.2.1G and CREDS 2.2.2G). So, the ~~committee of management~~ governing body has overall responsibility for:

...

...

2.2.17 G The ~~committee of management~~ governing body should meet at least monthly.

...

Documentation of systems of control

2.2.20 G CREDS 2.2.8R requires a *credit union's* system of control to be fully documented. The documentation helps the ~~committee of management~~ governing body to assess if systems are maintained and controls are operating effectively. It also helps those reviewing the systems to verify that the controls in place are those that have been authorised, and that they are adequate for their purpose.

2.2.21 G (1) The ~~committee of management~~ governing body should decide what form this documentation should take, but the ~~committee~~ governing body should have in mind the following points.

...

(2) The ~~committee of management~~ governing body should, from time to time, seek confirmation that the systems of control are being complied with.

2.2.22 G Documentation should not be restricted to “lower level” controls applied in processing transactions, but should also cover “high level” controls including:

(1) identifying those powers to be exercised only by the ~~committee of management~~ governing body, and the powers delegated to others;

...

(4) the timing, form and purpose of meetings of the ~~committee of management~~ governing body and sub-committees, and the way in

which policies and decisions are recorded and their implementation monitored.

...

Accounting records and systems

...

- 2.2.26 G The main reasons why a *credit union* should maintain adequate accounting and other records are:
- (1) to provide the ~~committee of management~~ *governing body* with adequate financial and other information to enable it to conduct its business in a prudent manner on a day-to-day basis;
 - ...
 - (4) to provide the ~~committee of management~~ *governing body* with sufficient timely and accurate information to assist them to submit the information required or requested by the ~~appropriate regulator~~ *FCA*.
- 2.2.27 G ~~When forming their opinion of whether the accounting and other records are adequate, the committee of management should satisfy itself that they capture and record on a timely basis, and in an orderly fashion, every transaction. The accounting and other records should provide sufficient information in respect of each transaction to explain:~~
- (1) ~~its nature and purpose;~~
 - (2) ~~the asset or liability, actual and contingent, which arises (or may arise) from it;~~
 - (3) ~~the income or expenditure, current and deferred, which arises from it. [deleted]~~
- 2.2.28 G ~~The committee of management should satisfy itself that the records are maintained in an integrated and orderly manner to disclose, with reasonable accuracy and promptness, the state of the business at any time. [deleted]~~
- 2.2.28A R The *governing body* must satisfy itself that the accounting and other records are maintained in a complete, integrated and orderly manner in order to disclose, with reasonable accuracy and promptness, the state of the business at any time.

...

Management information

...

- 2.2.33 G ~~A credit union should maintain information systems to enable the committee of management to direct and control the credit union's business effectively, and to provide the information required by the appropriate regulator. [deleted]~~
- 2.2.33A R A credit union must maintain information systems to enable the governing body to direct and control the credit union's business effectively, and to provide the information required by the FCA.
- 2.2.34 G The committee of management should be satisfied that:
- (1) ~~the information available is sufficient for the proper assessment of the potential risks for the credit union, and in order to determine its need for capital and liquidity;~~
 - (2) ~~the information available is sufficiently comprehensive to provide a clear statement of the performance and financial position of the credit union;~~
 - (3) ~~management information reports are prepared with sufficient frequency;~~
 - (4) ~~sufficient attention is focused on key factors affecting income and expenditure and that appropriate performance indicators are employed;~~
 - (5) ~~actual performance is compared with planned and previous performance. [deleted]~~
- 2.2.34A R The governing body must be satisfied that:
- (1) the information available is sufficiently comprehensive for the proper assessment of the potential risks for the credit union, and in order to determine its need for capital and liquidity;
 - (2) the information available is sufficiently comprehensive to provide a clear statement of the performance and financial position of the credit union;
 - (3) management information reports are prepared with sufficient frequency;
 - (4) sufficient attention is focused on key factors affecting income and expenditure and that appropriate performance indicators are employed; and
 - (5) actual performance is compared with planned and previous performance.
- 2.2.35 G In forming a view on whether the management information system is sufficiently comprehensive, the ~~committee of management~~ governing body

should consider whether, where relevant, the substance of reports provides a clear statement of: loans, arrears and provisions. These matters should be compared against limits, ratios and other parameters set by the governing body, as well as regulatory requirements.

- (1) ~~the capital position;~~
- (2) ~~the liquidity position;~~
- (3) ~~profits and losses, assets and liabilities, and flow of funds;~~
- (4) ~~loans, arrears and provisions.~~

- 2.2.36 G ~~The matters listed in CREDS 2.2.35G should be compared against limits, ratios and other parameters set by the committee of management, as well as regulatory requirements. [deleted]~~

Information for the PRA

- 2.2.37 G ~~Credit unions should ensure that quarterly and annual returns required by SUP are reviewed at a sufficiently senior level before they are submitted to the appropriate regulator. The review should check for consistency between different returns, between various tables on the same return, and between information prepared for the committee of management. [deleted]~~

...

Internal Audit

- 2.2.40 G ~~CREDS 2.2.10E 2.2.10AE states that a credit union should have an internal audit function if a credit union does not have an audit function, this may be relied on as tending to establish contravention of SYSC 4.1.1R.~~

...

- 2.2.43 G The purposes of an internal audit are:

...

- (2) to provide the ~~committee of management~~ governing body with a continuous appraisal of the overall effectiveness of the control systems, including proposed changes;

...

- (4) to determine whether the *internal controls* established by the ~~committee of management~~ governing body are being maintained properly and operated as laid down in the policy, and comply with relevant Acts, secondary legislation, *rules*, policies and procedures;

...

- (6) to assess whether financial and operating information supplied to the ~~committee of management~~ governing body is accurate, pertinent, timely, and complete.

...

- 2.2.45 G The internal audit work programme should include items such as:

...

- (6) checking minutes and reports of the ~~committee of management~~ governing body and other sub-committees for compliance, and assessing regularity and completeness;

...

- 2.2.46 G The key elements of a satisfactory system of internal audit include the following:

- (1) Terms of reference... These should be approved by the ~~committee of management~~ governing body.

...

...

- 2.2.48 G The ~~committee of management~~ governing body should be satisfied that the status and reporting relationship of the chairman of the audit committee is sufficient to maintain the independence and objectivity of the function.

...

- 2.2.50 G The ~~committee of management~~ governing body should be satisfied that the internal audit function (see CREDS 2.2.11G) is being properly carried out. In order to review the overall effectiveness of the internal audit function it should consider the following:

...

Business planning

...

- 2.2.52 G ~~Version 2 credit unions should submit a copy of their business plan to the PRA. A version 2 credit union making any significant changes to the business plan should provide the PRA with a copy of the amended plan as soon as possible after it has been adopted. [deleted]~~

...

- 2.2.54 G The ~~committee of management~~ governing body should have a satisfactory planning system to provide a framework for growth and development of the

credit union, and to enable it to identify, measure, manage and control risks of regulatory concern.

...

- 2.2.58 G The ~~committee of management~~ *governing body* should consider the range of possible outcomes in relation to various risks. These risks are increased when a *credit union* provides ancillary services such as issuing and administering means of payment and money transmission, which result, in particular, in higher liquidity and operational risks.

Documentation of policies and procedures

...

- 2.2.60 G ~~Version 2 credit unions should submit a copy of their policy and procedures manual to the PRA. A version 2 credit union making any significant changes to their policies and procedures should provide the PRA with a copy of the amended manual as soon as possible after it has been adopted.~~
[deleted]

...

- 2.2.61 G The policy and procedures manual should cover all aspects of the *credit union's* operations, including matters such as:

...

- (3) lending, ~~including large exposures~~ (see *CREDS 7.1 to CREDS 7.5 7.2*);

...

- (5) provisioning (see ~~*CREDS 7.5*~~);

- (6) liquidity management (see ~~*CREDS 6*~~);

- (7) financial risk management (see ~~*CREDS 3*~~);

...

...

CREDS 3 (Investment and borrowing) is deleted in its entirety. The deleted text is not shown.

Insert the following new chapter after *CREDS* 3. The text is not underlined.

3A Shares, deposits and borrowing

3A.1 Application and purpose

Application

3A.1.1 R This chapter applies to all *credit unions*.

Purpose

3A.1.2 G The purpose of this chapter is to provide conduct rules and guidance on *credit unions*' holding of shares and deposits, joint accounts, borrowings and insurance cover.

3A.2 Shares and deposits

Joint accounts

3A.2.1 G There is no restriction on the number of members who may jointly hold shares in a *credit union*.

Deposits including child trust funds

3A.2.2 R A *credit union* must not accept deposits except:

- (1) by way of subscription for its shares from *persons* who may lawfully be admitted to membership of the *credit union* under the Credit Unions Act 1979 or the Credit Union (Northern Ireland) Order 1985 (as appropriate) and the rules of the *credit union*; or
- (2) from *persons* too young to be members under any provision of the *credit union*'s rules or (for *Northern Ireland credit unions*) under article 15 of the Credit Unions (Northern Ireland) Order 1985; or
- (3) as loans from *persons* under *CREDS* 3A.3.1R.

3A.2.3 G *Credit unions* that provide *CTFs* should ensure that under their rules depositors under the age of 18 whose *deposits* are held within a *CTF* continue to be treated as juvenile depositors until the age of 18. This will provide for the fact that *CTF* account holders may not withdraw any money from the *CTF* until they reach the age of 18, in contrast with the position in relation to other *deposits* which become shares and may be withdrawn earlier.

- 3A.2.4 G *CREDS* 3A.2.2R and *CREDS* 3A.3.1R are intended to ensure that the liberalisation of *credit union* borrowing (*CREDS* 3A.3.2G) does not have the unintended effect of undermining the common bond concept by allowing *credit unions* to operate deposit accounts for natural *persons* who do not qualify for membership.

3A.3 Borrowing

- 3A.3.1 R A *credit union* must not borrow from a natural person, except by way of a subordinated loan qualifying as capital under *PRA* rules.
- 3A.3.2 G *CREDS* 3A.3.1R does not apply to borrowing from a *body corporate*. A loan made to a *credit union* by a *body corporate* can either be a subordinated loan (providing regulatory capital within *PRA* rules) or a senior loan (providing ordinary funding, but not constituting regulatory capital).

3A.4 Insurance against fraud or other dishonesty

- 3A.4.1 R A *credit union* must at all times maintain in force a policy of insurance that complies with the requirements in part 2.10 of the Credit Unions Rulebook Part of the *PRA* Rulebook.
- 3A.4.2 G The policy of insurance required by *CREDS* 3A.4.1R is intended to protect the *credit union* from loss suffered or liability incurred by reason of the fraud or other dishonesty of any of its *officers* or employees.
- 3A.4.3 R A *credit union* must ensure that the *governing body* reports to the *members* at the annual general meeting of the *credit union* on whether the *credit union* has maintained at all times the policy of insurance required by *CREDS* 3A.4.1R.

CREDS 4 (Shares and deposits) and *CREDS* 5 (Capital) are deleted in their entirety. The deleted text is not shown.

Amend the following as shown.

7 Lending to members

7.1 Application, purpose and interpretation

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Purpose

- 7.1.2 (1) ...*Principle 4* requires *credit unions* to maintain adequate financial resources and ~~*CREDS 5* sets out the *PRA's* detailed capital adequacy requirements in respect of *credit unions*.~~
- (2) This chapter is not relevant to loans between *credit unions*, except as indicated in *CREDS 3.2.6G(4)*. ~~[deleted]~~

...

7.2 General requirements concerning lending policy

7.2.1A R A *credit union* must establish, maintain and implement an up-to-date lending policy statement approved by the ~~committee of management~~ *governing body* that is prudent and appropriate to the scale and nature of its business, ~~having regard to the limits outlined in *CREDS 7.3*.~~

7.2.1B R ~~[Note: a transitional provision applies to *CREDS 7.2.1AR* and *CREDS 7.2.1BR*: see *CREDS TP 1.6*.] [deleted]~~

7.2.2 R A ~~*version 2 credit union*~~ must provide the *PRA* with a copy of its lending policy statement as soon as reasonably practicable after it has been approved by the committee of management. ~~[deleted]~~

7.2.3 G A ~~principal purpose of *credit unions'* business is the accumulation of members' savings to provide a fund out of which loans are provided for the benefit of the members. *Credit unions* may often in practice have less scope to minimise credit risk through the exercise of discretion than some other lenders. It is therefore important that a *credit union* has a carefully considered and effective lending policy statement.~~ ~~[deleted]~~

...

7.2.5 G The ~~*credit union's*~~ committee of management should review and approve its lending policy at least once a year, and more frequently if necessary (for example if there is an escalating arrears problem), especially in the light of significant changes in business. ~~[deleted]~~

7.2.5A R The *credit union's governing body* must review and approve its lending policy whenever there is a material change in the circumstances of the *credit union* or its membership or, in the absence of any such change, on an annual basis.

...

7.2.7 R (1) A *credit union* must not make a loan to:

- (a) one of its ~~officers~~ 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) (in the case of a *Great Britain credit union*) a relative of, or any person otherwise connected with, an ~~officer~~ officer, *approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*;
- (c) (in the case of a *Northern Ireland credit union*) a member of the family of, or any person otherwise connected with, an ~~officer~~ officer, *approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*.
- ...
- 7.2.8 G (1) ...
- (2) In relation to staff, the prohibition in *CREDS 7.2.7R* applies only to those who are ~~officers~~ officers or *approved persons*.
- (3) ...
- ...
- 7.2.10 G *A credit union* should have a clear, robust and effective approach to handling arrears and be able to satisfy the ~~appropriate regulator~~ FCA on a continuing basis that it has adequate management and control systems in place to monitor arrears.
- 7.2.11 G ~~*A credit union* should ensure that loan assets are valued correctly in their accounts. A provisioning policy relating to problem loans and arrears cases should be clearly defined and documented covering the circumstances in which provisions are to be made. [deleted]~~
- 7.2.12 G ...
- (2) *A credit union* should not make loans to members who are acting together to achieve an aggregate loan that exceeds the limits in *CREDS 7.3* the lending policy.

CREDS 7.3 (Lending limits), CREDS 7.4 (Large exposures) and CREDS 7.5 (Provisioning) are deleted in their entirety. The deleted text is not shown.

Amend the following as shown.

8 Supervision

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8.2 Reporting requirements

~~Quarterly return~~

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

~~[Note: a transitional provision applies to SUP 16.12.5R: see CREDS TP 1.17.]~~

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

8.2.2 G ~~This table belongs to CREDS 8.2.1G [deleted]~~

Content of report	Form	Frequency	Due date
Key financial data	EQ	Quarterly	One month after quarter end

~~Annual return~~

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

~~[Note: transitional provisions apply to the requirement in SUP 16.12.5R (see) and in respect of the form to be used at SUP 16 Annex 14(2)R (see CREDS TP 1.14).]~~

~~[Note: a transitional provision applies to SUP 16.12.5R: see CREDS TP 1.18.]~~

8.2.4 G ~~This table belongs to CREDS 8.2.3G [deleted]~~

Content of report	Form	Frequency	Due date
-------------------	------	-----------	----------

Extended financial data	€Y	Annually	Six <i>months</i> after financial year end
-------------------------	----	----------	--

- 8.2.5 G ~~The form may be updated from time to time. *Credit unions* should use the form in force at the end of the financial year on which they are reporting. [deleted]~~

Accounts and audit

- 8.2.6 R (1) Every *credit union* (except a *Northern Ireland credit union*) must send to the ~~*PRA FCA*~~ a copy of its audited accounts published in accordance with section 3A of the ~~Friendly and Industrial and Provident Societies Act 1968~~ or provided in accordance with article 49 of the ~~Credit Unions (Northern Ireland) Order 1985~~ section 82 of the ~~Co-operative and Community Benefit Societies Act 2014~~.

- (2) The accounts must:

...

- (b) ~~accompany the annual return submitted to the *PRA* under *SUP 16.12.5R* (see *CREDS 8.2.3G*), unless they have been submitted already~~ be delivered to the *FCA* by one of the methods listed in *CREDS 8.2.6AR* no later than six months after the *credit union's* financial year end.

- 8.2.6A R The methods referred to in *CREDS 8.2.6R(2)(b)* are:

- (1) by e-mail to mutual.societies@fca.org.uk; or
- (2) by post to Mutuels Team, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London, E14 5HS.

- 8.2.7 R Every *credit union* must ~~supply~~ make available, free of charge, to every member or person interested in the funds of the *credit union* who applies for it, a copy of the latest audited accounts of the *credit union* sent to the ~~*PRA FCA*~~ under *CREDS 8.2.6R*.

Financial penalties for late submission of reports

- 8.2.8 G (1) ~~Financial penalties may be imposed for the late submission of:~~
- (a) ~~the quarterly and annual returns referred to in *SUP 16.12.5R*;~~
and
- (b) ~~the audited accounts referred to in *CREDS 8.2.6R*.~~
- (2) ~~Details of the policy and procedures on financial penalties are given in *DEPP*. [deleted]~~

...

9 Complaints reporting rules for credit unions

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9.2 Reporting

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- 9.2.12 R For the purpose of inclusion in the public record maintained by the *FCA*, a *credit union* must provide the *FCA*, at the time of its *authorisation*, with details of a single contact within the *credit union* for complainants, and ~~in its quarterly return~~ must ~~notify the *FCA*~~ promptly submit a notification of any subsequent change to static.data@fca.org.uk or via post or hand delivery to the *FCA* marked for the attention of the ‘Static Data team’.

...

10 Application of other parts of the Handbook to Credit unions

10.1 Application and purpose

...

- 10.1.2 G This chapter is intended to draw *credit unions'* attention to the application of other key parts of the Handbook to *credit unions* as set out in the table at *CREDS* 10.1.3G. ~~That table refers only to the parts of the *Handbook* that apply with respect to *Part 4A permission to accept deposits*.~~

Application of other parts of the Handbook and of Regulatory Guides to Credit Unions

- 10.1.3 G

Module	Relevance to Credit Unions
The Principles for Businesses (<i>PRIN</i>)	The Principles for Businesses (<i>PRIN</i>) set out, high-level requirements, some of which are imposed by the <i>FCA</i> and some by the <i>PRA</i> . They provide a general statement of regulatory requirements. The <i>Principles</i> apply to all <i>credit unions</i> . In applying the <i>Principles</i> to <i>credit unions</i> , the appropriate regulator <i>FCA</i> will be mindful of proportionality. In practice, the implications are likely to vary according to the size and complexity of the <i>credit union</i> .
Senior Management Arrangements, Systems and	<i>SYSC</i> 1 and, <i>SYSC</i> 4 to 10 and <i>SYSC</i> 21 apply to all <i>credit unions</i> in respect of the carrying on of their <i>regulated activities</i> and unregulated activities in a <i>prudential context</i> . <i>SYSC</i> 18 applies to all <i>credit unions</i> without restriction in respect of both their <i>regulated activities</i> and their

Controls (SYSC)	<u>unregulated activities.</u>
Threshold Conditions (COND)	In order to become <i>authorised</i> under the <i>Act</i> all <i>firms</i> must meet the <i>threshold conditions</i> . The <i>threshold conditions</i> must be met on a continuing basis by <i>credit unions</i> . Failure to meet one of the conditions is sufficient grounds for the exercise by the appropriate regulator <u>FCA</u> of its powers.
Statements of Principle and Code of Practice for Approved Persons (APER)	The purpose of the <i>Statements of Principle</i> contained in <i>APER 2</i> is to provide guidance to <i>approved persons</i> in relation to the conduct expected of them in the performance of a <i>controlled function</i> . The <i>Code of Practice for Approved Persons</i> sets out descriptions of conduct which, in the opinion of the appropriate regulator <u>FCA</u> , do not comply with a <i>Statement of Principle</i> and, in the case of <i>Statement of Principle 3</i> , conduct which tends to show compliance within that statement.
The Fit and Proper test for Approved Persons (FIT)	The purpose of <i>FIT</i> is to set out and describe the criteria that the appropriate regulator <u>FCA</u> will consider when assessing the fitness and propriety of a person in respect of whom an application is being made for approval to undertake a <i>controlled function</i> under the approved persons regime. The criteria are also relevant in assessing the continuing fitness and propriety of persons who have already been approved.
General Provisions (GEN)	<i>GEN</i> contains <i>rules</i> and <i>guidance</i> on general matters, including interpreting the <i>Handbook</i> , statutory status disclosure, the appropriate regulator's <u>FCA's</u> logo and insurance against financial penalties.
FEES manual (FEES)	...
<u>Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)</u>	<u><i>MIPRU</i> applies to any <i>credit union</i> carrying out <i>insurance mediation activity</i> or <i>home finance mediation activity</i>, or using these services. In particular, it sets out requirements for allocation of responsibility for the <i>credit union's insurance mediation activity (MIPRU 2)</i>, for the use of <i>home finance intermediaries (MIPRU 5)</i> and for professional indemnity insurance (<i>MIPRU 3</i>).</u>
Conduct of Business sourcebook (COBS)	...
<u>Insurance: Conduct of Business sourcebook (ICOBS)</u>	<u><i>ICOBS</i> applies to any <i>credit union</i> carrying on non-investment insurance activities, such as arranging or advising on general insurance contracts to be taken out by members. But <i>ICOBS</i> does not apply to a <i>credit union</i> taking out an insurance policy for itself, such as a policy against default by members on their loans where the <i>credit union</i> is the beneficiary of the policy, since in this circumstance the <i>credit union</i> would not be acting as an insurance intermediary, but would itself be</u>

	<p>the customer. <i>Credit unions</i> are reminded that they are subject to the requirements of the appropriate legislation, including the Credit Unions Act 1979, relating to activities a <i>credit union</i> may carry on.</p>
<p><u>Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)</u></p>	<p><u>MCOB applies to any <i>credit union</i> that engages in any home finance activity. MCOB rules cover advising and selling standards, responsible lending (including affordability assessment), charges, and the fair treatment of <i>customers</i> in payment difficulties.</u></p>
<p>Banking: Conduct of Business sourcebook (BCOBS)</p>	<p><i>BCOBS</i> sets out <i>rules</i> and <i>guidance</i> for <i>credit unions</i> on how they should conduct their business with their <i>customers</i>. In particular there are <i>rules</i> and <i>guidance</i> relating to communications with banking customers <i>banking customers</i> and <i>financial promotions</i> (<i>BCOBS</i> 2), distance communications (<i>BCOBS</i> 3), information to be communicated to banking customers <i>banking customers</i> (<i>BCOBS</i> 4), post-sale requirements (<i>BCOBS</i> 5), and cancellation (<i>BCOBS</i> 6). BCOBS 5.1.13R (Value dating) does not apply to credit unions. The rules in <i>BCOBS</i> 3.1 that relate to <i>distance contracts</i> for accepting deposits are likely to have limited application <u>may apply</u> to a <i>credit union</i>. This is because the <i>Distance Marketing Directive</i> only applies where there is "an organised distance sales or service-provision scheme run by the supplier" (Article 2(a)), i.e. if the <i>credit union</i> routinely sells any of its services by post, telephone, fax or the internet. If, therefore, the credit union normally operates face to face and has not set up facilities to enable customers to deal with it at a distance, such as facilities for a customer to deal with it purely by post, telephone, fax or the Internet, the provisions will not be relevant.</p>
<p>Supervision manual (<i>SUP</i>)</p>	<p>The following provisions of <i>SUP</i> are relevant to <i>credit unions</i>: <i>SUP</i> 1A (The appropriate regulator's <u>FCA's</u> approach to supervision), <i>SUP</i> 2 (Information gathering by the appropriate regulator <u>FCA</u> or <u>PRA</u> on its own initiative), <i>SUP</i> 3.1 to <i>SUP</i> 3.8 (Auditors), <i>SUP</i> 5 (Skilled persons), <i>SUP</i> 6 (Applications to vary or cancel Part 4A permission), <i>SUP</i> 7 (Individual requirements), <i>SUP</i> 8 (Waiver and modification of rules), <i>SUP</i> 9 (Individual guidance), <i>SUP</i> 10A and <i>SUP</i> 10B (Approved persons), <i>SUP</i> 11 (Controllers and Close links), <i>SUP</i> 15 (Notifications to the appropriate regulator <u>FCA</u> or <u>PRA</u>) and <i>SUP</i> 16 (Reporting Requirements).</p> <p><i>Credit unions</i> are reminded that they are subject to the requirements of the <i>Act</i> and <i>SUP</i> 11 on controllers and close links, and are bound to notify the appropriate regulator <u>FCA</u> of changes. It may be unlikely, in practice, that <i>credit unions</i> will develop such relationships. It is possible, however, that a <i>person</i> may acquire control of <u>close links with a credit union</u> <i>credit union</i> within the meaning of the <i>Act</i> by reason of holding the prescribed proportion of <i>deferred shares</i> in the <i>credit union</i>.</p> <p>In relation to <i>SUP</i> 16, <i>credit unions</i> are exempted from the requirement</p>

	to submit annual reports of <i>controllors</i> and <i>close links</i> .
<u>Consumer Credit sourcebook (CONC)</u>	<u>CONC contains rules that apply to firms carrying on credit-related regulated activities. PERG 2.7.19IG provides guidance on relevant exemptions. Most credit union lending is therefore outside the scope of CONC. However, subject to the constraints in the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985 (as relevant), credit unions may undertake credit-related regulated activities to which CONC does apply if the activity is carried out by way of business. This could include lending under a borrower-lender-supplier agreement, or debt adjusting or debt counselling where the credit union is not the lender. A credit union carrying on such activities should consider whether it requires permission to do so. Further information can be found on the FCA's website.</u>
...	

Appendix 1.1 Key Definitions

Note: The following key definitions relevant to CREDS are extracted from the Glossary.

<i>attached shares</i>	<p>means any shares in the <i>credit union</i> (other than <i>deferred shares</i>):</p> <p>(a) (in relation to a <i>Great Britain credit union</i>) the withdrawal of which is not permitted by section 7(5) of the Credit Unions Act 1979 or (in relation to a <i>Northern Ireland credit union</i>) the withdrawal of which is not permitted by article 23(4) of the Credit Unions (Northern Ireland) Order 1985; or</p> <p>(b) (in relation to a <i>Great Britain credit union</i>) the withdrawal of which is not permitted by the terms of a loan made to a member; or</p> <p>(c) the withdrawal of which is not permitted without seeking and obtaining the permission of the committee of management of the <i>credit union</i>.</p> <p>In relation to a <i>Great Britain credit union</i>, paragraph (c) of this definition is relevant only where the <i>credit union</i> made a loan to the holder of shares before the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011 came into force.</p>
...	
<u><i>governing body</i></u>	<u>the board of <i>directors</i>, committee of management or other governing body of a <i>firm</i> or <i>recognised body</i>, including, in relation</u>

to a sole trader, the sole trader.

net liability means the outstanding balance of any loan made to the borrower and any interest or charges on that loan that are due but unpaid, less any ~~attached shares held by the borrower.~~

total non-deferred shares means the total of members' share balances in a *credit union* shown in the most recent annual return to have been sent to the PRA under SUP 16.12.5R (see CREDS 8.2.3 G), excluding any ~~deferred shares in the credit union.~~

total relevant liabilities means the sum of:

- (a) ~~unattached shares in the credit union, and deposits by persons too young to be members of the credit union; and~~
- (b) ~~liabilities (other than liabilities for shares) with an original or remaining maturity of less than three months (including overdrafts and instalments of loans).~~

unattached shares means the total shares in the *credit union* other than any ~~attached shares or deferred shares.~~

Transitional Provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Materials to which the transitional provision applies		Transitional Provision	Transitional provisions: dates in force	Handbook provisions: coming into force
1 [FCA] [PRA]	CREDS 5.3.1R	R	A version 1 credit union need not comply with CREDS 5.3.1R until midnight on 30 September 2014. CRED 8.3.1R, as it was in force on 31 December 2011, will apply from the beginning of this transitional period until midnight on 30 September 2012. From midnight on that day until midnight on 30 September 2013, the version 1 credit union must at all times maintain a capital to total assets ratio of at least 1%. From midnight on 30 September 2013 until the end of this transitional period at midnight on 30 September 2014, the	From midnight on 30 September 2012 to midnight on 30 September 2014	8 January 2012

			<i>version 1 credit union</i> must at all times maintain a capital to total assets ratio of at least 2% [expired]		
2 [FCA] [PRA]	CREDS 6.3.2R	f	A <i>version 2 credit union</i> need not comply with CREDS 6.3.2R until midnight on 30 September 2014. From midnight on 30 September 2012 until midnight on 30 September 2013, the <i>version 2 credit union</i> must hold enough liquid assets to ensure that on no two consecutive quarter ends is the level of the <i>credit union's</i> liquid assets below 6% of its <i>total relevant liabilities</i> . From midnight on 30 September 2013, until the end of this transitional period at midnight on 30 September 2014, the <i>version 2 credit union</i> must hold enough liquid assets to ensure that on no two consecutive quarter ends is the level of the <i>credit union's</i> liquid assets below 8% of its <i>total relevant liabilities</i> . [expired]	From midnight on 30 September 2012 to midnight on 30 September 2014	8 January 2012
3 [FCA] [PRA]	SUP 16.12.7R	R	The change in the applicable due date for the submission by a <i>credit union</i> of an annual return under SUP 16.12.5R from 7 months to 6 months does not apply to an annual return in respect of the financial year ending on or before 31 July 2012. [expired]	31 July 2012	8 January 2012
4 [FCA] [PRA]	SUP 16 Annex 14R	R	SUP 16 Annex 14R, as it was in force on 31 December 2011, continues to apply to: <ul style="list-style-type: none"> quarterly returns for <i>credit unions</i> in respect of the quarter ending on or before 31 December 2011, and 	8 January 2012	8 January 2012

			<ul style="list-style-type: none"> annual financial returns in respect of the financial year ending on or before 7 January 2012 [expired] 		
5 [FCA] [PRA]	CREDS TPs 1, 2, 3 and 4	R	CREDS TPs 1, 2, 3 and 4 do not apply to Northern Ireland credit unions. [expired]	From 31 March 2012 for as long as the relevant TPs remain in force	For Northern Ireland credit unions 31 March 2012
6 [FCA] [PRA]	CREDS 2.2.4R, CREDS 2.2.6R, CREDS 2.2.8R, CREDS 3.3.7R, CREDS 6.2.4R and CREDS 7.2.1R	R	A Northern Ireland credit union need not comply with CREDS 2.2.4R, CREDS 2.2.6R, CREDS 2.2.8R, CREDS 3.3.7R, CREDS 6.2.4R and CREDS 7.2.1R. [expired]	From 31 March 2012 until 31 December 2012	For Northern Ireland credit unions 31 March 2012
7 [FCA] [PRA]	CREDS 3.2.1R	R	A Northern Ireland credit union need not comply with CREDS 3.2.1R with respect to any types of investment invested in prior to credit unions day provided those types of investment were permitted under the Credit Unions (Northern Ireland) Order 1985 and the Credit Unions (Authorised Investments) Regulations (Northern Ireland) 1995 prior to credit unions day. [expired]	From 31 March 2012 until 30 March 2013	For Northern Ireland credit unions 31 March 2012
8 [FCA] [PRA]	CREDS 3.2.2R	R	A Northern Ireland credit union that is a version 1 credit union need not comply with CREDS 3.2.2R with respect to any securities invested in, or loans made, in accordance with CREDS 3.2.1R prior to credit unions day provided those securities or loans mature in accordance with the terms of the relevant agreement as at credit unions day. This transitional provision does not apply to any securities invested in, or loans made, in accordance with CREDS 3.2.1R prior to credit unions day that satisfy the requirements in	From 31 March 2012 until the maturity date of the securities invested in or loans made	For Northern Ireland credit unions 31 March 2012

			<i>CREDS</i> 3.2.2R. [expired]		
9 [FCA] [PRA]	<i>CREDS</i> 3.2.2R	R	A Northern Ireland credit union that is a version 1 credit union need not comply with <i>CREDS</i> 3.2.2R with respect to any securities invested in, or loans made, in accordance with <i>CREDS</i> 3.2.1R using surplus funds within one year from credit unions day and which in accordance with the terms of the relevant agreement have a maturity of up to three years. [expired]	From 31 March 2012 until 30 March 2013	For Northern Ireland credit unions 31 March 2012
10 [FCA] [PRA]	<i>CREDS</i> 3.2.3R	R	A Northern Ireland credit union that is a version 2 credit union need not comply with <i>CREDS</i> 3.2.3R with respect to any securities invested in, or loans made, in accordance with <i>CREDS</i> 3.2.1R prior to credit unions day provided those securities or loans mature in accordance with the terms of the relevant agreement as at credit unions day. This transitional provision does not apply to any securities invested in, or loans made, in accordance with <i>CREDS</i> 3.2.1R prior to credit unions day that comply with <i>CREDS</i> 3.2.3R. [expired]	From 31 March 2012 until the maturity date of the securities invested in or loans made	For Northern Ireland credit unions 31 March 2012
11 [FCA] [PRA]	<i>CREDS</i> 4.4.1R	R	A Northern Ireland credit union need not comply with <i>CREDS</i> 4.4.1R. [expired]	From 31 March 2012 until 30 March 2013	For Northern Ireland credit unions 31 March 2012
12 [PRA]	<i>CREDS</i> 5.3.3R and <i>CREDS</i> 5.3.5R	R	Where the requirements of <i>CREDS</i> 7.5.1R, <i>CREDS</i> 7.5.2R and <i>CREDS</i> 7.5.4E would result in a Northern Ireland credit union having to make higher provision than would have been required prior to credit unions day, that Northern Ireland credit union need not comply with <i>CREDS</i> 5.3.3R and <i>CREDS</i> 5.3.5R to the	From 31 March 2012 until the due date for submission by that Northern Ireland credit union of its next annual return	For Northern Ireland credit unions 31 March 2012

			<p>extent that that <i>Northern Ireland credit union</i> may transfer out of its general reserve the amount of provision that is additional to the amount that would have been required prior to <i>credit unions day</i>. If a <i>Northern Ireland credit union</i> takes advantage of this transitional provision it must advise the <i>PRA</i> of the amount transferred by the due date of submission for submission of its next annual return. This provision applies even where the amount standing to the <i>Northern Ireland credit union's</i> general reserve is, or as a result of the transfer would be, less than 10% of total assets. [expired]</p>		
13 [FCA] [PRA]	CREDS 7.3.1R	R	<p>A <i>Northern Ireland credit union</i> that is a <i>version 1 credit union</i> need not comply with <i>CREDS 7.3.1R</i> with respect to any loan outstanding on <i>credit unions day</i>. That loan must be repaid in accordance with the terms as at <i>credit unions day</i> of the relevant loan agreement. This transitional provision does not apply to any loan outstanding on <i>credit unions day</i> that satisfies the requirements in <i>CREDS 7.3.1R</i> [expired]</p>	From 31 March 2012 until the day the loan is repaid	For <i>Northern Ireland credit unions</i> 31 March 2012
14 [FCA] [PRA]	CREDS 7.3.4R	R	<p>A <i>Northern Ireland credit union</i> that is a <i>version 2 credit union</i> need not comply with <i>CREDS 7.3.4R</i> with respect to any loan outstanding on <i>credit unions day</i>. That loan must be repaid in accordance with the terms as at <i>credit unions day</i> of the relevant loan agreement. This transitional provision does not apply to any loans outstanding on <i>credit unions day</i> that satisfies</p>	From 31 March 2012 until the day the loan is repaid	For <i>Northern Ireland credit unions</i> 31 March 2012

			the requirements in <i>CREDS</i> 7.3.4R. [expired]		
15 [PRA]	<i>CREDS</i> 7.4.2R	R	<i>A Northern Ireland credit union</i> need not comply with <i>CREDS</i> 7.4.2R with respect to any individual large <i>exposure</i> in existence on <i>credit unions day</i> or the aggregate total of all large <i>exposures</i> in existence on <i>credit unions day</i> . Those large <i>exposures</i> must be repaid in accordance with the terms of the agreement relating to the relevant large <i>exposure</i> as at <i>credit unions day</i> . This transitional provision does not apply to any individual large <i>exposure</i> in existence on <i>credit unions day</i> or the aggregate total of all large <i>exposures</i> in existence on <i>credit unions day</i> that comply with <i>CREDS</i> 7.4.2R [expired]	From 31 March 2012 until 30 March 2014 or the day the individual large <i>exposure</i> or the aggregate total of all large <i>exposures</i> satisfies the requirements in <i>CREDS</i> 7.4.2R if earlier	For <i>Northern Ireland credit unions</i> 31 March 2012
16 [FCA]	<i>CREDS</i> 9.2.1R and <i>CREDS</i> 9.2.7R	R	<i>A Northern Ireland credit union</i> need not comply with the requirement to submit a return under <i>CREDS</i> 9.2.1R until 30 April 2013, and the relevant reporting period under <i>CREDS</i> 9.2.7R for this return is from 1 October 2012 to 31 March 2013. [expired]	From 31 March 2012 until 30 April 2013	For <i>Northern Ireland credit unions</i> 31 March 2012
17 [FCA]	The changes to <i>CREDS</i> 9.2.1R and <i>CREDS</i> 9 Annex 1R set out in Annex L of the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014	R	The changes referred to in column (2) to <i>CREDS</i> 9.2.1R and <i>CREDS</i> 9 Annex 1R do not apply until 1 April 2015. [expired]	1 April 2014 to 31 March 2015	1 April 2014
18 [FCA]	The changes to <i>CREDS</i> 9.2.1R and <i>CREDS</i> 9 Annex 1R set out in Annex L of the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014	G	Under <i>CREDS</i> 9.2.7R, the relevant reporting period is from 1 April to 31 March each year. The effect of (17) is, therefore, that the credit union complaints return in respect of the reporting period 1 April 2014 to 31	1 April 2014 to 31 March 2015	1 April 2014

		<p>March 2015 should be in the format set out in <i>CREDS 9 Annex 1R</i> as it stood before the changes to it by the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014 were made. The first occasion on which a <i>credit union</i> has to report <i>complaints</i> in the new format required by <i>CREDS 9 Annex 1R</i>, as amended by the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014 is for the reporting period from 1 April 2015 to 31 March 2016.</p> <p>[expired]</p>		
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...

Schedule 2 Notification requirements

...

Sch 2.2G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<p><i>CREDS 2.2.4R</i> <i>CREDS 2.2.52G</i></p>	Business plan	Copy of business plan	<p>Upon request</p> <p><i>Version 2 credit unions</i> should submit after adoption and/or amendment</p>	As soon as reasonably practical
<p><i>CREDS 2.2.6R</i> <i>CREDS 2.2.60G</i></p>	Policies and procedures manual	Copy of policies and procedures manual. Wide range of detail as specified as guidance in <i>CREDS 2</i>	<p>Upon request</p> <p><i>Version 2 credit unions</i> should submit after adoption and/or amendment</p>	As soon as reasonably practical
<i>CREDS 3.3.10R</i>	Financial risk Management Policy	Statement of financial risk management	<i>Version 2 credit unions</i> must submit after	As soon as reasonably practical

		policy	adoption and/or amendment	
<i>CREDS 5.2.3G</i>	General notification	Any proposed repayment of subordinated debt	As soon as <i>credit union</i> aware	At least one <i>month</i> in advance of proposed repayment
<i>CREDS 6.2.5R</i>	Liquidity	Liquidity Management Policy Statement	<i>Version 2 credit unions</i> must submit after adoption and/or amendment	As soon as reasonably practical
<i>CREDS 7.2.1R</i> to <i>CREDS 7.2.2R</i>	Lending policy	Current lending policy statement	<i>Version 2 credit unions</i> must submit after adoption and/or amendment	As soon as reasonably practical
<i>CREDS 7.4.3R</i>	Large <i>exposures</i>	The aggregate total of all large <i>exposures</i> will exceed 300% of capital	Prior to the aggregate total of all large <i>exposures</i> exceeding 300% of capital	As soon as reasonably practical
<i>CREDS 8.2.1G</i>	Quarterly return	Key financial data	Quarter end	1 <i>month</i> after quarter end
<i>CREDS 8.2.3G</i>	Annual return	Extended financial data	Financial year end	6 <i>months</i> after financial year end
<i>CREDS 8.2.6R</i>	Audited accounts	Revenue account and balance sheet	Financial year end	Until submission of annual return <u>Until 6 <i>months</i> after financial year end</u>
...				

Schedule 3 Fees and other required payments

...

Sch 3.2G

Description of fee	Reference
...	...
<u>CFEB levy</u>	<u>FEES 7</u>
<u>Pensions guidance levy</u>	<u>FEES 10</u>

...

Schedule 5 Rights of action for damages

...

Sch 5.2G

Chapter/ Appendix	Section/Annex	Paragraph	Right of action under section 138D		
			For private person?	Removed?	For other person?
		All rules in <i>CREDS</i> with the status letter 'E'.	No	No	No
		All rules in <i>CREDS</i> that require a <i>credit union</i> to have or maintain financial resources.	No	No	No
		All other rules in <i>CREDS</i> .	Yes	No	No

Schedule 6 Rules that can be waived

Sch 6.1G The *rules* made in *CREDS* can be waived by the *appropriate regulator* under sections 138A and 138B (Modification or waiver of rules) of the *Act*. As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has the power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules) section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the *Act*. However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

...

Part 2: Comes into force on 7 March 2016

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

[*Editor's note:* The changes made by Part 1 have already been taken into account in the text of the provisions shown below.]

2.2 General provisions

...

Internal audit function

...

2.2.11 G (1) The term 'internal audit function' in *CREDS 2.2.10E* refers to the generally understood concept of internal audit within a *firm*, in other words the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. ~~The internal audit function is not a controlled function itself, but is part of the systems and controls function (CF28).~~

(2) ...

...

Governing body

2.2.14 G ...

2.2.15 G In accordance with *Statement of Principle 7 of the Statements of Principle for Approved Persons rule SC 2 in COCON 2.2.1R*, it is the responsibility of each individual member of the *governing body who is a senior conduct rules staff member* to understand, and ensure that the *credit union* complies with, the requirements of all the relevant Acts, secondary legislation and *rules*.

...

The compliance function

...

2.2.31 G Some important compliance issues include:

...

(12) ~~approved persons regime; [deleted]~~

...

2.2.64 G ...

Governance and senior management arrangements: general

2.2.65 G (1) SYSC 4.5, SYSC 4.7 and SYSC 4.9 have a number of requirements

about the governance and senior management arrangements of relevant authorised persons.

- (2) A credit union is a type of relevant authorised person.
- (3) SYSC 4.5, SYSC 4.7 and SYSC 4.9 are summarised in CREDS 2.2.66G to CREDS 2.2.70G.
- (4) The PRA's requirements about the subjects dealt with in SYSC 4.5, SYSC 4.7 and SYSC 4.9 are set out in its Rulebook. CREDS does not summarise them.

Governance and senior management arrangements: responsibilities map

- 2.2.66 G (1) SYSC 4.5 says that a relevant authorised person, including a credit union, should, at all times, have a comprehensive and up-to-date document that describes its management and governance arrangements. This is called the management responsibilities map.
- (2) SYSC 4.5.13G has guidance on management responsibilities maps for small firms, which is likely to be of particular relevance to credit unions.

Governance and senior management arrangements: allocation of senior management responsibilities

- 2.2.67 G SYSC 4.7 says that a relevant authorised person, including a credit union, should:
- (1) allocate a number of specified management responsibilities (called FCA-prescribed senior management responsibilities) to one or more of its SMF managers; and
 - (2) ensure that, at all times, one or more of its SMF managers have overall responsibility for each of the activities, business areas and management functions of the firm.
- 2.2.68 G CREDS 8.3 explains what an SMF manager is.
- 2.2.69 G (1) The list of FCA-prescribed senior management responsibilities that a credit union should allocate is simpler than for most other relevant authorised persons.
- (2) SYSC 4.7.7R sets out a list of FCA-prescribed senior management responsibilities, including the ones that apply to credit unions.

Governance and senior management arrangements: handover procedures

- 2.2.70 G SYSC 4.9 contains material about handover arrangements when an SMF manager (or their supervisor) takes up or leaves their job.

Certification regime

- 2.2.71 G Under section 63E(1) of the Act, a relevant authorised person (including a credit union) should take reasonable care to ensure that no employee of the firm performs an FCA-specified significant-harm function under an arrangement entered into by the firm in relation to the carrying on by that firm of a regulated activity, unless the employee has a valid certificate issued by that firm to perform the function to which the certificate relates. The definition of employee for these purposes goes beyond a conventional employee and is explained in more detail in SYSC 5.2.21G. It includes volunteers or unpaid staff.
- 2.2.72 G SYSC 5.2 gives details about the certification requirement described in CREDS 2.2.71G and sets out rules and guidance about it, including a list of FCA-specified significant-harm functions.
- 2.2.73 G (1) Section 63E(1) of the Act also applies to functions specified by the PRA.
- (2) The PRA's certification regime (including the functions referred to in (1)) is described in its Rulebook. It is not summarised in CREDS.

...

7.2 General requirements concerning lending policy

...

- 7.2.7 R (1) A credit union must not make a loan to:
- (a) one of its *officers, certification employees* 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) (in the case of a *Great Britain credit union*) a relative of, or any person otherwise connected with, an *officer, certification employee, approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*;
 - (c) (in the case of a *Northern Ireland credit union*) a member of the family of, or any person otherwise connected with, an *officer, certification employee, approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*.

...

- 7.2.8 G (1) ...
- (2) In relation to staff, the prohibition in *CREDS* 7.2.7R applies only to those who are *officers*, *certification employees* or *approved persons*.
- (3) ...

...

8.3 Approved persons

Purpose

- 8.3.1 G The purpose of this section is to set out ~~further guidance~~ relating to the FCA's requirements about approved persons regime that is specific that apply to credit unions. The full details can be found in Credit unions should also read Chapter 10 10C of the Supervision manual (SUP) concerning approved persons.

Introduction

- 8.3.2 G The PRA also has a regime about approved persons in credit unions, which can be found in its Rulebook. CREDS does not summarise the PRA's regime. The effect of section 59 of the Act and SUP 10 is that a credit union must apply to the appropriate regulator for the approval of one or more individuals to perform the functions which are known as controlled functions. Controlled functions fall within two groups:
- (1) The significant influence functions describe the roles performed by the governing body and senior managers of the firm who exert a significant influence over the regulated activities of the firm.
- (2) The customer functions describe the roles of individuals who deal with customers or with the property of customers. These customer functions do not extend to activities in relation to accepting deposits or general insurance and therefore will not be relevant to credit unions with permission for accepting deposits only.

Controlled functions Summary of the FCA's requirements about approved persons in credit unions

- 8.3.3 G (1) The complete list of all controlled functions is located in SUP 10.4.5R. Guidance on those controlled functions most likely to be relevant to credit unions is provided below. The effect of section 59 of the Act is that if a person is to perform certain functions (which are known as controlled functions) for a credit union, the credit union should first apply for approval to:

- (a) the FCA (if the *controlled function* is specified by the FCA in its rules); or
- (b) the PRA (if the *controlled function* is specified by the PRA in its rules).
- (2) The *firm* should not allow the person to perform that function until the *firm* receives the approval.
- (3) A person for whom the *firm* has received that approval is called an *approved person*.
- 8.3.4 G SUP 10.6: the *governing functions*:
- (1) SUP 10.6.4R: the *director function*. This is the function of acting in the capacity of a *director* of a *credit union*. The regime for *approved persons* differs between *relevant authorised persons* and other types of *firm*.
- (2) SUP 10.6.8R: the *non-executive director function*. It is unusual for a *credit union* to appoint *non-executive directors* as such. But this function would include membership of a *credit union's* supervisory committee and any other committee which scrutinises the approach of executive management, the *credit union's* performance, and its standards of conduct. A *credit union* is a type of *relevant authorised person*.
- (3) SUP 10.6.11R: the *chief executive function*. Acting in the capacity of *chief executive*, whether or not using that title. This role includes anyone having the responsibility, alone or jointly with one or more others, under the immediate authority of the committee of management, for the conduct of the whole of the business. SUP 10C deals with the *approved persons* requirements for *credit unions* and other *relevant authorised persons*.
- 8.3.5 G (1) SUP 10.7: the *required functions*: The *controlled functions* specified by the FCA for *credit unions* and other *relevant authorised persons* can be found in the table in SUP 10C.4.3R.
- (2) SUP 10.7.13R: the *money laundering reporting function*. This is the function of acting in the capacity of the *money laundering reporting officer* of a *credit union*. The *controlled functions* specified by the PRA for *credit unions* and other *relevant authorised persons* can be found in the PRA's Rulebook. They are not summarised in the *Handbook*.
- 8.3.6 G SUP 10.8: the *systems and controls function*. This is the function of acting as an employee with responsibility for reporting to the committee of management in relation to:
- (1) the *credit union's* financial affairs; or The FCA and the PRA have

specified different functions.

(2) ~~setting and controlling its risk exposure; or~~ Sometimes a *person's* job description means that they are performing an *FCA controlled function* and a *PRA controlled function* at the same time for the same *firm*. SUP 10C.9 has arrangements that reduce the need for the same *person* to be approved by both the *FCA* and the *PRA*.

(3) ~~adherence to internal systems and controls, procedures and policies.~~

8.3.7 G ~~Where an *employee* performs the *systems and controls function* the *appropriate regulator* would expect the *credit union* to ensure that the *employee* had sufficient expertise and authority to perform that function effectively, for example by occupying the role of a *director* or *senior manager*. There are two types of *controlled function* under the *Act*:~~

(1) a *designated senior management function*; and

(2) any other *controlled function*.

8.3.8 G ~~SUP 10A.9: the *significant management functions*: This *controlled function* will only apply to the *credit union* if the function is not being performed by a member of the committee of management and the *credit union* has followed the *guidance* in SUP 10A.9.4G.~~

(1) The *designated senior management functions* cover the top management roles in a *firm*.

(2) An *approved person* approved to perform a *designated senior management function* is called an *SMF manager*.

(3) *Designated senior management functions* only apply to *relevant authorised persons*, including *credit unions*.

(4) All *controlled functions* in a *credit union* are *designated senior management functions* and every *approved person* in a *credit union* is also an *SMF manager*.

8.3.9 G As well as listing the *FCA's designated senior management functions* for *credit unions* and other *relevant authorised persons*, SUP 10C has other requirements about *SMF managers*:

(1) SUP 10C sets out the procedures for *applying for, granting, removing and varying approval* as an *SMF manager*.

(2) SUP 10C requires *firms* to give various types of reports to the *FCA* about their *SMF managers*.

(3) SUP 10C explains that each *firm* must prepare a *statement of responsibilities* for each of its *SMF managers*. A *statement of responsibilities* is a description of the *SMF manager's responsibilities* in connection with the *designated senior*

management functions for which they are approved.

...

10.1 Application and purpose

...

10.1.3 G Application of other parts of the Handbook and of Regulatory Guides to Credit Unions

Module	Relevance to Credit Unions
...	
Senior Management Arrangements, Systems and Controls (SYSC)	SYSC 1, SYSC 4 to 10 and SYSC 21 apply to all <i>credit unions</i> in respect of the carrying on of their <i>regulated activities</i> , and unregulated activities in a <i>prudential context</i> . <u>SYSC 4.5 (Management responsibilities maps for relevant authorised persons)</u> , <u>SYSC 4.7 (Senior management responsibilities for relevant authorised persons: allocation of responsibilities)</u> , <u>SYSC 4.9 (Handover procedures and material)</u> , <u>SYSC 5.2 (Certification regime)</u> and <u>SYSC 18 applies apply</u> to all <i>credit unions</i> in respect of both their <i>regulated activities</i> and their unregulated activities.
<u>Code of Conduct (COCON)</u>	This contains <i>rules</i> and <i>guidance</i> that are directly applicable to a <i>credit union's SMF managers, certification employees</i> and (from 2017) <i>other conduct rules staff</i> . There is also <i>guidance</i> for <i>credit unions</i> on giving their staff training about <i>COCON</i> .
...	
Statements of Principle and Code of Practice for Approved Persons (APER)	The purpose of the <i>Statements of Principle</i> contained in <i>APER 2</i> is to provide guidance to <i>approved persons</i> in relation to the conduct expected of them in the performance of a <i>controlled function</i>. The <i>Code of Practice for Approved Persons</i> sets out descriptions of conduct which, in the opinion of the <i>FCA</i>, do not comply with a <i>Statement of Principle</i> and, in the case of <i>Statement of Principle 3</i>, conduct which tends to show compliance within that statement.
The Fit and Proper test for Approved Persons (FIT)	The purpose of <i>FIT</i> is to set out and describe the criteria that the <i>FCA</i> will <u>a firm should</u> consider when assessing the fitness and propriety of a person (1) in respect of whom an application is being made for approval to undertake a <i>controlled function</i> under the approved persons regime. The criteria are also relevant in assessing the continuing fitness and propriety of persons (2) who have <u>has</u> already been approved, (3) who is a <i>certification employee</i> or (4) whom a <i>firm</i> is considering appointing to be a <i>certification</i>

	<p><i>employee.</i></p> <p><u>It also sets out and describes criteria that the FCA will consider when assessing the fitness and propriety of a candidate for a controlled function position and that it may consider when assessing the continuing fitness and propriety of approved persons.</u></p>
...	
Supervision manual (SUP)	<p>The following provisions of SUP are relevant to <i>credit unions</i>: <i>SUP 1A</i> (The FCA's approach to supervision), <i>SUP 2</i> (Information gathering by the FCA or PRA on its own initiative), <i>SUP 3.1</i> to <i>SUP 3.8</i> (Auditors), <i>SUP 5</i> (Skilled persons), <i>SUP 6</i> (Applications to vary or cancel Part 4A permission), <i>SUP 7</i> (Individual requirements), <i>SUP 8</i> (Waiver and modification of rules), <i>SUP 9</i> (Individual guidance), <i>SUP 10A</i> and <i>SUP 10B</i> <u><i>SUP 10C</i> (FCA senior management regime for Approved approved persons in relevant authorised persons)</u>, <i>SUP 11</i> (Controllers and Close links), <i>SUP 15</i> (Notifications to the FCA or PRA) and <i>SUP 16</i> (Reporting Requirements).</p> <p>...</p>
...	