

CREDIT UNIONS SOURCEBOOK INSTRUMENT 2024

Powers exercised

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

Commencement

- C. This instrument comes into force on 2 April 2024.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Credit Unions sourcebook (CREDS) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Credit Unions Sourcebook Instrument 2024.

By order of the Board
28 March 2024

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text.

Amend the following definitions as shown.

- | | |
|-----------------------------------|---|
| <i>conditional sale agreement</i> | <p>(1) <u>(except as specified in this definition)</u> in accordance with article 60L of the <i>Regulated Activities Order</i>, an agreement for the sale of <i>goods</i> or <i>land</i> under which the purchase price or part of it is payable by instalments, and the property in the <i>goods</i> or <i>land</i> is to remain with the seller (notwithstanding that the buyer is to be in possession of the <i>goods</i> or <i>land</i>) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled.</p> <p>(2) <u>(in CREDS)</u> has the meaning given in section 31(1) of the Credit Unions Act 1979.</p> |
| <i>hire-purchase agreement</i> | <p>(1) <u>(except as specified in this definition)</u> in accordance with article 60L of the <i>Regulated Activities Order</i>, an agreement:</p> <p>...</p> <p>(c) ...</p> <p>...</p> <p>(iii) ...</p> <p>(2) <u>(in CREDS)</u> has the meaning given to 'hire purchase agreement' in section 31(1) of the Credit Unions Act 1979.</p> |

Annex B

Amendments to the Credit Unions sourcebook (CREDS)

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

1 Introduction

1.1 Application and purpose

Application

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- 1.1.2 G (1) ~~CREDS covers only the requirements associated with a Part 4A permission to accept deposits. The Conduct of Business sourcebook (COBS) sets out additional requirements for credit unions that are CTF providers in relation to cash deposit CTFs.~~
- (2) ~~Other permissions are covered elsewhere in the Handbook. So, for example, a credit union seeking a permission to undertake a regulated mortgage activity would need to comply with the requirements in the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB), and a credit union seeking a permission to undertake insurance distribution activity in relation to non-investment insurance contracts would need to comply with the requirements in the Insurance: Conduct of Business sourcebook (ICOBS).~~
- (3) ~~The provisions of the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU) may also be relevant to a credit union whose Part 4A permission includes insurance distribution activity or home finance mediation activity.~~
[deleted]

- 1.1.2A G ~~A credit union seeking a permission to undertake a credit related regulated activity would need to comply with the requirements in the Consumer Credit sourcebook (CONC). [deleted]~~

Purpose

- 1.1.4 G CREDS sets out rules and guidance that are specific to credit unions. CREDS 10 refers to other more generally applicable provisions of the Handbook that are likely to be relevant to credit unions with, including those with other permissions to carry out regulated activities in addition to Part 4A permission to accept deposits. For details of these provisions, we would expect credit unions to access the full text in the Handbook.

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2 Senior management arrangements, systems and controls

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2.2 General provisions

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The compliance function

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2.2.31 G Some important compliance issues include:

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(9) limits on shares ~~and~~, loans and conditional sale agreements and hire-purchase agreements;

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Management information

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2.2.35 G In forming a view on whether the management information system is sufficiently comprehensive, the *governing body* should consider whether, where relevant, the substance of reports provides a clear statement of loans, conditional sale agreements and hire-purchase agreements, arrears and provisions. These matters should be compared against limits, ratios and other parameters set by the *governing body*, as well as regulatory requirements.

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Internal Audit

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

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(7) checking loan, conditional sale agreement and/or hire-purchase agreement applications;

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7 Lending to members

7.1 Application, purpose and interpretation

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Purpose

- 7.1.2 G (1) This chapter seeks to protect the interests of *credit unions*' members in respect of ~~loans to members under section 11 of the Credit Unions Act 1979 or article 28 of the Credit Unions (Northern Ireland) Order 1985~~ lending. *Principle 4* requires *credit unions* to maintain adequate financial resources.

Interpretation

- 7.1.2A G (1) For the purpose of this chapter, 'lending' means:
- (a) in relation to *Great Britain credit unions*, loans under section 11 of the Credit Unions Act 1979, *conditional sale agreements* and/or *hire-purchase agreements* under section 11E of the Credit Unions Act 1979; or
 - (b) in relation to *Northern Ireland credit unions*, loans under article 28 of the Credit Unions (Northern Ireland) Order 1985.
- (2) For the purpose of this chapter, the expression 'lend' should be interpreted by reference to the term 'lending'.
- 7.1.3 G The *rules and guidance* in this chapter are in addition to the provisions of (in relation to *Great Britain credit unions*) section 11 and section 11E of the Credit Unions Act 1979 and (in relation to *Northern Ireland credit unions*) article 28 of the Credit Unions (Northern Ireland) Order 1985 ~~in relation to loans made by *credit unions*. Under these provisions.~~
- (1) ~~a *Great Britain credit union* may make a loan only to:~~
 - (a) ~~a member of the *credit union* who is an individual; and~~
 - (b) ~~a corporate member of the *credit union*, if the *credit union's* rules provide that it may make loans to corporate members and making the loan would not result in the aggregate of the outstanding balances on loans made by the *credit union* to corporate members exceeding the percentage of the aggregate of the outstanding balances on all loans made by the *credit union* to members specified by or under section 11 of the Credit Unions Act 1979;~~
 - (c) ~~other *credit unions*;~~
 - (1A) ~~a *Northern Ireland credit union* may make a loan only to:~~

- (a) a member of the *credit union* who is an individual;
- (b) other *credit unions*; and
- (c) a corporate member of the *credit union* if the *credit union's* rules provide that it may make loans to corporate members and making the loan would not result in the total amount of the outstanding balances on loans made by the *credit union* to corporate members exceeding the percentage of the total amount of the outstanding balances on all loans made by the *credit union* to members specified by or under article 28 of the Credit Unions (Northern Ireland) Order 1985;

(2) a *credit union* may not make a loan to a member of the *credit union* holding only *deferred shares*.

7.1.4 G “Corporate member” has the same meaning as in section 5A of the Credit Unions Act 1979 or article 14A of the Credit Unions (Northern Ireland) Order 1985 as appropriate. [deleted]

7.2 General requirements concerning lending policy

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7.2.4 G *CREDS* 2.2.6R requires a *credit union* to maintain a manual of its policies and procedures. This should include the policy and procedure for ~~making loans~~ lending.

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7.2.6 G The lending policy should consider the conditions for and amounts of ~~loans~~ lending to members, individual mandates, and the handling of ~~loan~~ applications for lending.

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

...

- (ii) the registered rules of the *credit union* provide explicitly for the ~~making of loans~~ lending to paid employees on such terms;

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7.2.8 G (1) To prevent conflicts of interest, a *credit union* should have clear arrangements for dealing with ~~loans~~ lending to the persons specified in *CREDS 7.2.7R*.

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7.2.12 G (1) A *credit union* may ~~make a loan~~ lend to a member for a business purpose. However, this does not mean that a *credit union* may make a loan to a member who merely intends to transmit that loan to another body that will actually carry out the purpose.

(2) A *credit union* should not ~~make loans~~ lend to members who are acting together to achieve an aggregate ~~loan~~ sum of lending that exceeds the limits in the lending policy.

8 Supervision

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8.2 Reporting requirements

Accounts and audit

8.2.6 R (1) ~~Every credit union (except a Northern Ireland credit union) must send to the FCA a copy of its audited accounts published in accordance with section 82 of the Co-operative and Community Benefit Societies Act 2014. [deleted]~~

(2) ~~The accounts must: [deleted]~~

(a) ~~be made up for the period beginning with the date of the credit union's registration or with the date to which the credit union's last annual accounts were made up, whichever is the later, and ending on the credit union's most recent financial year end; and~~

(b) ~~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: [deleted]~~

(1) ~~by e-mail to mutual.societies@fca.org.uk; or~~

(2) ~~by post to Mutuals Team, Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN.~~

8.2.7 R Every *credit union* must 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~~ annual return of the *credit union* and auditor's

report for that year sent to the FCA under *CREDS 8.2.6R* section 89 of the Co-operative and Community Benefit Societies Act 2014.

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10 Application of other parts of the Handbook to credit unions

10.1 Application and purpose

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

10.1.3 G

Module	Relevance to Credit Unions
...	
Senior Management Arrangements, Systems and Controls (<i>SYSC</i>)	<i>SYSC 1, SYSC 4 to 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. <u>SYSC 22 (Regulatory references), SYSC 23 (Senior managers and certification regime: Introduction and classification), SYSC 24 (Senior managers and certification regime: Allocation of prescribed responsibilities), SYSC 25 (Senior managers and certification regime: Management responsibilities maps and handover procedures and material), SYSC 26 (Senior managers and certification regime: Overall and local responsibility), SYSC 27 (Senior managers and certification regime: Certification regime) and SYSC 18 (Whistleblowing)</u> apply to all credit unions in respect of both their regulated activities and their unregulated activities. <u>SYSC 19F.2 (IDD remuneration incentives) and SYSC 28 (Insurance distribution: specific knowledge, ability and good repute requirements) also apply to credit unions when carrying out insurance distribution activities.</u></i>
...	
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance	<i>MIPRU applies to any credit union carrying out insurance distribution activity or home finance mediation activity, or using these services. In particular, it sets out requirements for allocation of responsibility for the credit union's insurance distribution activity (MIPRU 2), for the use of home finance intermediaries or persons doing insurance distribution</i>

Intermediaries (MIPRU)	<u>activity</u> (MIPRU 5) and for professional indemnity insurance (MIPRU 3).
Conduct of Business sourcebook (COBS)	<p>A <i>credit union</i> which acts as a <i>CTF provider</i> or provides a <i>cash-deposit ISA</i> will need to be aware of the relevant requirements in <i>COBS</i>. <i>COBS</i> 4.6 (Past, simulated past and future performance), <i>COBS</i> 4.7.1R (Direct offer financial promotions), <i>COBS</i> 4.10 (Approving and confirming compliance of financial promotions), <i>COBS</i> 13 (Preparing product information) and <i>COBS</i> 14 (Providing product information to clients) apply with respect to <i>accepting deposits</i> as set out in those provisions, <i>COBS</i> 4.1 and <i>BCOBS</i>. A <i>credit union</i> that communicates with clients, including in a <i>financial promotion</i>, in relation to the promotion of <i>deferred shares</i> and <i>credit union subordinated debt</i> will need to be aware of the requirements of <i>COBS</i> 4.2 (Fair, clear and not misleading communications) and <i>COBS</i> 4.5 (Communicating with retail clients).</p> <p><u>A <i>credit union</i> carrying on insurance distribution activities in relation to life policies will also need to be aware of the relevant requirements in COBS. A firm may also elect to comply with COBS in relation to pure protection contracts that otherwise fall under ICOBS (see ICOBS 1 Annex 1 3.1R(1)).</u></p> <p><u>Credit unions are reminded that they are subject to the requirements of the appropriate legislation, including the Credit Unions Act 1979, relating to activities a credit union may carry on.</u></p>
Insurance: Conduct of Business sourcebook (ICOBS)	<p><i>ICOBS</i> applies to any <i>credit union</i> carrying on non-investment insurance distribution activities, such as arranging or advising on general insurance contracts to be taken out by members <u>or where those members gain rights under such a contract (for example, in relation to a group policy)</u>. But <i>ICOBS</i> does not apply to a <i>credit union</i> taking out an insurance <i>policy</i> for itself <u>its own purposes</u>, such as a <i>policy</i> against default by members on their loans where the <i>credit union</i> is the beneficiary of the <i>policy</i>, since in this circumstance the <i>credit union</i> would not be acting as an insurance intermediary, but would itself be 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>
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Banking: Conduct of Business sourcebook (BCOBS)	...
<u>Client Assets (CASS)</u>	<u>CASS 5 (Client money: insurance distribution activity) applies to credit unions carrying on insurance distribution activities where the credit union receives or holds money in the course of or in connection with those activities (i.e. where the application rules set out in CASS 5.1.1R are met). This may vary on a case-by-case basis depending on the firm's business model.</u>
<u>Product Intervention and Product Governance sourcebook (PROD)</u>	<u>PROD 1.4 (Product Intervention and Product Governance Sourcebook (PROD)) and PROD 4 (Product governance: IDD and pathway investments) apply to credit unions involved in the manufacture or distribution of insurance products.</u>
Supervision manual (SUP)	<p>The following provisions of SUP are relevant to credit unions: SUP 1A (The FCA's approach to supervision), SUP 2 (Information gathering by the FCA or PRA on its own initiative), SUP 3.1 to SUP 3.8 (Auditors), SUP 5 (Skilled Reports by skilled persons), SUP 6 (Applications to vary or and cancel Part 4A permission and to impose, vary or cancel requirements), SUP 7 (Individual requirements), SUP 8 (Waiver and modification of rules), SUP 9 (Individual guidance), SUP 10C (FCA senior managers regime for approved persons in SMCR firms), SUP 11 (Controllers and Close links), SUP 15 (Notifications to the FCA or PRA) and SUP 16 (Reporting Requirements). <u>Where credit unions carry on insurance distribution activities and fall within the category provided at SUP 3.1.2R(10), SUP 3.10 and SUP 3.11 (Auditors) will also be relevant.</u></p> <p><i>Credit unions</i> are reminded that they are subject to the requirements of the Act and SUP 11 on close links, and are bound to notify the FCA 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 close links with a <i>credit union</i> within the meaning of the Act by reason of holding the prescribed proportion of <i>deferred shares</i> in the <i>credit union</i>.</p> <p>In relation to SUP 16, <i>credit unions</i> are exempted from the requirement to submit annual reports of <i>close links</i>.</p>

<p>Consumer Credit sourcebook (CONC)</p>	<p>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.</p>
<p>...</p>	<p></p>
<p>Compensation (COMP)</p>	<p>...</p>
<p><u>Consumer Credit sourcebook (CONC)</u></p>	<p><u>CONC contains rules that apply to firms carrying on credit-related regulated activities. PERG 2.7.19IG provides guidance on relevant exemptions. Where an exemption applies, the credit union lending will be 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, including entering into conditional sale agreements and/or hire-purchase agreements, 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></p>
<p>...</p>	<p></p>

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Sch 2 Notification requirements

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Sch 2.2 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<i>CREDS</i> 8.2.6 R	Audited accounts	Revenue account and balance sheet	Financial year end	Until 6 months after financial year end
...				