

Financial Services Consumer  
Panel response to: CP77  
Regulation of Credit Unions

## Regulation of Credit Unions

### Financial Services Consumer Panel response to: FSA Consultation Paper 77: Regulation of Credit Unions

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## Executive Summary

1. The Panel supports the efforts of the FSA to introduce regulation to Credit Unions. We recognise that this is an important area of regulation for consumers, particularly those with limited access to financial services. We feel that the emphasis for regulation should be placed on the need to nurture Credit Unions and ensure that the smaller Credit Unions receive all the guidance and support that is necessary to enable them to build to capacity. As far as possible, the FSA should use the standard regulatory framework as for other authorised bodies, but must attempt to interpret the framework flexibly and work with other organisations, such as the Central Services Organisation (CSO), ABCUL, local authorities and money advice agencies in assisting credit unions to meet their responsibilities.

## Introduction

2. The Panel welcome the opportunity for consultation on what is an important and sensitive area of regulation for consumers. We appreciate the efforts that the FSA has made to make the document clear and accessible, including the timetable for introduction of a regulatory regime.
3. The FSA faces an extremely challenging task in devising a regulatory structure which is able to protect Credit Unions and their members whilst enabling Credit Unions of all sizes to function unhindered. It is important that the FSA does not impose a regime that the smaller Credit Unions find restrictive and that may ultimately lead to the death of small, but often crucially important, Credit Unions.
4. The Panel believe that the FSA should consider whether there is a minimum size which a Credit Union needs to attain before it is sustainable, and if so, whether small Credit Unions should be encouraged to achieve a sustainable size through merger and/or expansion. If a differentiated regime for larger and smaller credit unions is established,

FSA will need to ensure that the regulatory requirements for larger organisations do not in themselves inhibit growth.

## High Level Standards

5. We support the FSA's decision to apply the Principles for Business to Credit Unions. We would though recommend that the FSA and Central Services Organisation (CSO) work together to look at how these Principles can most effectively be put into practice in the Credit Union field and, where necessary, provide tailored guidance in order to simplify the process of compliance. For example, the Training and Competence Sourcebook makes it clear that Principle 3 (management and control) includes 'making proper arrangements for any person associated with a regulated activity to achieve, maintain and enhance competence'. How will credit unions be made aware of this, and what will be regarded as 'proper arrangements'?

## Regulatory Process

6. **Authorisation** –The Panel support FSA's proposal to adopt a flexible approach to the issues of Registration and Authorisation. In light of the fact that a credit union that is registered but not authorised will not be able to accept savings from members, we do not see that it is necessary to have two separate applications except in cases where this is useful for other purposes.
7. The Panel hopes that FSA will be able to streamline the application process as far as possible and suggests that it is market tested with Credit Unions before implementation. If the two processes are to remain separate then it is imperative that the FSA communicates clearly which process allows for what, and the consequences of taking action outside of current permissions.

8. **Supervision** – As Credit Unions are often small and locally based, the Panel believe that FSA should develop links with ABCUL and local agencies, such as trading standards bodies and money advice agencies, in order to ensure that the maximum market intelligence is available. In addition, in order for the Credit Unions to develop effective means by which to comply with the FSA's requirement for financial and other reporting procedures there should be proactive FSA liaison with the CSO and local agencies to nurture and develop user-friendly toolkits and software packages.
9. In order to address what, for some, will be quite a radical culture shift, the FSA needs to supply strong support to the Credit Unions in order that they can meet the supervisory obligations of supplying information and records. This is not to suggest that there should be a relaxation of the rules, rather that all necessary support is given to the Credit Unions so that compliance can be achieved without the need for disciplinary action.
10. The Panel supports the proposals for strict adherence to routine reporting but are concerned to ensure that Credit Unions have adequate access, at reasonable cost, to suitable auditors with relevant experience and training.
11. **Enforcement** – The Panel are concerned that in applying the rules for enforcement the FSA should consider the unique nature of individuals in the credit union field. It must make some allowance for the fact that they are likely to be volunteers and as such may not possess the level of expertise and experience associated with those in other areas that Enforcement are used to dealing with.

### Approved Persons Regime

12. The Panel believe that with sufficient support there should be no need for special provisions within the Approved Person's regime for Credit Unions. If user-friendly mechanisms and sufficient resources are applied to the process volunteers may actually welcome their approved status. In particular, the conditions for and responsibilities of approval should be set

out in a clear and concise manner which relate only to the business of the Credit Unions, so as to avoid volunteers having to trawl through large sourcebooks in search of relevant information.

13. The Panel feels that as Credit Unions are based on a common bond the individuals involved in running the operations should be collectively responsible for their actions. We do not think that principal responsibility should rest with only one person and therefore do not support the 'small friendly societies' proposal.
14. If the Approved Persons Regime is not to be applied to the smaller Credit Unions then checks must be made on individuals to ensure that credit references are satisfactory. The Consumer Panel starts from the viewpoint that individuals should not be entitled to responsibility for the administration of a Credit Union if they are subject to outstanding County Court judgements. However, the Panel looks forward to discussions with the FSA on how the Approved Person's Regime will be applied in practice.

## **Money Laundering**

15. Although the Panel recognise the FSA's obligation to maintain safeguards against money laundering, the emphasis placed on the topic within the consultation paper appears to be disproportionate to the threat posed. The Panel would be interested to learn how much of a real or potential threat money laundering may pose. In addition to deterring new members, the Panel is concerned that a disproportionate emphasis on money laundering may also threaten the viability of small credit unions as it imposes another drain on resources and training.
16. The consultation paper proposes regular training on the detection of money laundering. The cost of such training on a repeated basis may prove to be unnecessarily costly unless there is a real benefit to be gained. If the requirements are too onerous, it may prove difficult to find a volunteer prepared to take on the role of Money Laundering Reporting Officer.

## Prudential requirements

17. The consultation proposes either a straightforward cap on lending limits or a graduated approach. It is difficult to respond without more information on the demand for such loans, but the FSA will need to take into account the potential extra cost and complexity of a graduated approach, for example the possible need to reprint documentation as the lending limit varies.
18. Prudent lending is important in any lending institution, but in the context of credit unions the Panel believes that it is necessary to look beyond the normal definition of 'good practice' to develop an explicit anti-poverty strategy in Credit Union lending decisions. For example, this should include better up-front education (rather than just debt advice after the event) and a range of affordable products. We hope that FSA will work together with the CSO and other organisations to develop such a strategy. This would be in the best interests of both Credit Unions and their members.

## Fee Raising

19. The Panel is concerned that the FSA proposes to apply the normal scale for application fees, while treating Credit Unions as the most straightforward category. This will still result in an application fee of £2,000. This seems prohibitively high, particularly by contrast to the minimum initial capital requirement of £1,000 and could be a disincentive to new Credit Unions.

## CBA

20. The Panel are aware that the costs of training can be particularly prohibitive to small organisations. It is therefore imperative that training is targeted to those areas where the benefits will be felt most keenly.
21. We agree that the participation of Credit Unions in the Financial Services Compensation Scheme (FSCS) is a particular benefit to Credit Union members. When weighing up the costs and benefits of regulation the FSA

should note that Credit Union members are usually lower-income and likely to have low savings. The benefits of FSCS coverage are therefore particularly high to this group of consumers and if the FSA is able to play an active role in facilitating the release of resources from other localised agencies to assist Credit Unions this strengthens the case for full inclusion in the FSCS.

## **Capital Requirements**

22. The Panel do not believe that the capital proposals represent a significant barrier to the establishment of new credit unions, particularly in comparison to the £2,000 application fee which is far more likely to hinder the expansion of the sector unless subsidies are available to meet it.

## About the Financial Services Consumer Panel

The Financial Services Consumer Panel was established by the Financial Services Authority (FSA) in December 1998 to ensure that consumers' interests are represented in the development of the regulation of financial services. The Panel is independent of the FSA so that it can: advise the FSA on policy as it evolves, monitor the FSA's effectiveness in meeting its statutory objectives towards consumers, review developments in financial services where they impact on consumers, and publicly report its findings and recommendations. It can raise its own concerns and has resources to carry out its own research.

### Who is on the Panel?

#### Colin Brown (Chairman)

Colin is an independent consultant specialising in consumer affairs. Previously Deputy Director of Research at Consumers' Association and Senior Fellow at the Policy Studies Institute, he has over 20 years' experience of social and consumer research.

#### Ann Foster (Vice-Chairman)

Ann is a former Director of the Scottish Consumer Council and has over twenty years' experience in the consumer movement. She is also a member of the Consumer Council for Postal Services. She was formerly Director of Government Affairs with Monsanto.

#### Jean Gaffin

Jean chaired OFTEL's Advisory Committee on Telecommunications for Disabled and Elderly People until 31 December 1999 and is currently a Non-Executive Director of Harrow & Hillingdon Healthcare NHS Trust. She has extensive experience of working on behalf of vulnerable consumers. Previous posts include: the Executive Director of the National Council for Hospice and Palliative Care Services and Chief Executive of Arthritis Care.

#### Yvonne Gallacher

Yvonne is Chief Executive of Money Advice Scotland, set up in 1989 by Scottish Consumer Council. She has over thirteen years' experience of consumer credit/money advice issues and of working with vulnerable consumers in a variety of roles, including debt counsellor, trainer and manager. She has also lectured and co-authored a Guide to Money Advice in Scotland. Yvonne is presently a member of the FSA Consumer Education Forum and Credit Union Consultation Panel. Yvonne is a member of the Scottish Consumer Council.

## **John Howard**

John is a solicitor with extensive experience of consumer issues as a former presenter of the daily consumer programme on Radio 4 'You and Yours'. He is currently a freelance broadcaster and his work includes presenting personal finance television programmes. He is a member of the Mortgage Code Compliance Board.

## **Vinod Kumar**

Vinod is a social scientist with market research skills and extensive voluntary and public sector experience of policy analysis and research. Now retired, Vinod has previously worked for the Commission for Racial Equality and was Head of Policy and Research at the Royal National Institute for Deaf People. He is currently Non-Executive Director of Barnet Health Authority, board member of the South Barnet Primary Care Group and member of the Consumer Liaison Group of the Medical Research Council.

## **Nick Pearson**

Nick is the National Money Advice Co-ordinator for the Federation of Information and Advice Centres. A career spent in advice organisations including the National Association of Citizens Advice Bureaux where he was manager of the Money Advice Support Unit, he has particular experience of credit, debt and personal finance issues and of working with vulnerable consumers.

## **Paul Salvidge**

Paul is a former senior civil servant with experience of regulatory work, employment law, competition, consumer protection, telecommunications, financial services and company law. He was previously Competition Policy and Consumer Affairs Director at the Department of Trade and Industry.

## **Richard Smethurst**

Richard is Provost of Worcester College, Oxford University; he chairs the Training Standards Panel of IMRO, of which he is a non-executive Director. He has served as an economic adviser in Whitehall, and on the Monopolies and Mergers Commission, where he was Deputy Chairman. Richard lectures widely on financial and economic topics to businessmen and adult education groups. He is President of the National Institute of Adult Continuing Education.

## **Jane Vass**

Jane is an independent consumer researcher specialising in financial services. She was previously Head of the Financial and Economic Research Group at Consumers' Association and is still author and editor of a number of Consumers' Association publications. Other research has included work for the National Consumer Council. Her current committee memberships include: Council of the Ombudsman for Estate Agents, the Inland Revenue Tax Law Rewrite Project Consultative Committee and the FSA Training Advisory Panel.

## **Dave Watts**

Dave is a partner in a media business which is involved in publishing, editing and journalism - personal finance plays a large part in this. He is a former editor of Which? and Money Which? and former Assistant Director of Consumers' Association. He was also a policyholder representative on the Insurance Brokers Registration Council for nine years.

## **Harriet Hall**

Harriet is a solicitor with considerable experience of consumer policy and retail financial services. She is a former legal officer with the National Consumer Council, where she worked on the needs of low income consumers, banking, credit, mortgages, regulation of equity release and long-term care insurance, the Financial Services and Markets Bill and the proposed EU directive on distance selling of financial services.

## **Dianne Hayter**

Dianne is the Chief Executive of a new cancer charity, the Pelican Centre. She is the former Director of Corporate Affairs for the Wellcome Trust and was previously the Chief Executive of the European Parliamentary Labour Party and, prior to that, Director of Alcohol Concern. She has substantial voluntary sector and trade union experience.

## **How to contact the Panel**

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