

PRA RULEBOOK: NON-CRR FIRMS: CREDIT UNIONS INSTRUMENT 2016

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137G (The PRA’s general rules); and
 - (2) section 137T (General supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: Non-CRR Firms: Credit Unions Instrument 2016

- D. The PRA makes the rules in Annexes A to D to this instrument.

Commencement

- E. This instrument comes into force on 3 February 2016, except in respect of the rules in:
- (1) Chapter 12 of Annex A which come into force on 7 September 2016; and
 - (2) Annex D which are substituted for the rules in Chapter 12 of Annex A for the period from 7 March 2016 to 6 September 2016.

Citation

- F. This instrument may be cited as the PRA Rulebook: Non-CRR Firms: Credit Unions Instrument 2016.

By order of the Board of the Prudential Regulation Authority

26 January 2016

Annex A

In this Annex, all the text is new and is not underlined.

Part

CREDIT UNIONS

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1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to a *credit union*.

1.2 In this Part, the following definitions shall apply:

additional activity

means an additional activity carried out or additional service provided by a *credit union* as described in 3.5, Chapter 4, 6.4 or Chapter 7.

authorisation

means authorisation as an *authorised person* for the purposes of *FSMA*.

attached shares

means *shares* in the *credit union*, other than *deferred shares*:

- (a) in relation to a *Great Britain credit union*, the withdrawal of which is not permitted by section 7(5) of the Credit Unions Act 1979; or
- (b) in relation to a *Great Britain credit union*, the withdrawal of which is not permitted by the terms of a loan made to a *member*; or
- (c) in relation to a *Northern Ireland credit union* the withdrawal of which is not permitted by article 23(4) of the Credit Unions (Northern Ireland) Order 1985; or
- (d) the withdrawal of which is not permitted without seeking and obtaining the permission of the *governing body* of the *credit union*.

In relation to a *Great Britain credit union*, paragraph (d) of this definition is relevant only where the *credit union* made a loan to the holder of the shares before the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011 came into force.

bad debt

refers to a loan by a *credit union* to a *member* of that *credit union* that is more than three months in arrears.

borrowings

means the total closing balances of all loans received by a *credit union* (excluding any subordinated loans) and overdrafts and committed lines of credit available to a *credit union*.

capital

has the meaning given in Chapter 8.

Chief Executive function

means the function of having responsibility, under the immediate authority of the *governing body*, alone or jointly with others, for carrying out the management of the conduct of the whole of the business of a *credit union*.

CTF

means a child trust fund as defined in section 1(2) of the Child Trust Funds Act 2004.

deferred share

has the meaning given by section 31A of the Credit Unions Act 1979.

deposit

has the meaning given by section 5(2) of the *Regulated Activities Order*.

depositor

means the holder or, in the case of a *joint account*, each of the holders, of a *deposit*.

excluded credit union

means a *credit union* which has average total gross assets of £250 million or less, determined on the basis of the annual average amount of gross assets calculated across a rolling period of five years or, if it has been in existence for less than five years, across the period during which it has existed (in each case, calculated with reference to the *credit union's* annual accounting reference date).

exposure

means the aggregate *net liability* of a *person* to a *credit union*.

FSCS compensation sum

means the maximum amount of compensation payable by the FSCS in relation to an *eligible deposit* as set out in Depositor Protection 4, excluding any compensation sum payable for a *temporary high balance*.

Great Britain credit union

means a *credit union* within the scope of the Co-operative and Community Benefit Societies Act 2014.

juvenile deposit

a *deposit* received by a *credit union* from an individual under the age at which an individual may lawfully become a *member* of that *credit union*.

large exposure

means an aggregate *net liability* of a *person* to a *credit union* that meets both the following criteria:

- (1) it is at least £7,500; and
- (2) it is at least 10% of the value of the *credit union's capital*.

maturity

means, in relation to a security or loan, the last or only date on which it will be repayable by or under its terms.

member

means a *person* that is a member within the scope of section 5(2) of the Credit Unions Act 1979 and article 14(2) Credit Unions (Northern Ireland) Order 1985.

net liability

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

non-deferred shares

means *shares* that are not *deferred shares*.

Northern Ireland credit union

means a *credit union* registered under the Credit Unions (Northern Ireland) Order 1985.

protected disclosure

a qualifying disclosure, as defined in section 43B of the Employment Rights Act 1996, made by a *worker* in accordance with any of sections 43C to 43H of the Employment Rights Act 1996.

regulated mortgage contract

has the meaning given in article 61(3)(a) of the *Regulated Activities Order*, but excludes a re-mortgage contract with no change to the principal sum outstanding by the same *credit union* that was a party to the original mortgage contract.

relevant staff

means any of the following:

- (1) a *director* or manager of the *credit union*;
- (2) personnel (whether *remunerated* or not) of the *credit union*; as well as any other natural person whose services are placed at the disposal and under the control of the *credit union* and who is involved in the provision by the *credit union* of *regulated activities*; or
- (3) a natural person who is directly involved in the provision of services to the *credit union* under an *outsourcing* arrangement, for the purpose of the provision by the *credit union* of *regulated activities*.

reportable concern

means a concern held by any *person* in relation to the activities of a *firm*, including:

- (1) anything that would be the subject of a *protected disclosure*, including a breach of any *rule*;
- (2) a failure to comply with the *firm's* policy and procedures; and
- (3) behaviour that has or is likely to have an adverse effect on the *firm's* reputation or financial well-being.

secured loan

means a loan that is secured by a readily-realizable asset whose market value is ascertainable and verifiable.

share

means any amount received and not repaid by a *credit union* by way of subscription, including partial subscription, for a share in a *credit union*.

single customer view

has the meaning given in Depositor Protection 1.4.

surplus funds

means funds not immediately required for a *credit union's* acceptance of *deposits*, lending and ancillary purposes.

total assets

means the sum of all assets that appear on the balance sheet of the relevant monthly financial statement.

total non-deferred shares

means the balance of a *credit union's non-deferred shares* that appears in the most recent annual return to have been reported to the *PRA* under 7.1 Regulatory Reporting.

total relevant liabilities

means the sum of:

- (a) *unattached shares* and *deposits* by natural persons too young to be *members*; and
- (b) liabilities, other than liabilities for *shares*, with an original or remaining *maturity* of less than three months.

transactional account

means an account at a *credit union* that is regularly used by a *member* of that *credit union* for the receipt of funds from, and disbursement of funds to, third parties.

unattached shares

means *shares* that are not *attached shares* or *deferred shares*.

unsecured loan

means a loan that is not a *secured loan*.

worker

has the meaning as defined by section 230(3) of the Employment Rights Act 1996 and as extended under section 43K of the Employment Rights Act 1996.

- 1.3 A reference in this Part to a provision of the Employment Rights Act 1996 includes a reference to the corresponding provision of the Employment Rights (Northern Ireland) Order 1996.

2 SHARES AND DEPOSITS

- 2.1 For the purposes of this Chapter, in relation to a *joint account*:
- (1) the *shares* attributable to a *member* must be treated by a *credit union* as the amount arrived at by dividing the balance in the *joint account* by the number of *members* with an interest in that account; and
 - (2) the *juvenile deposits* attributable to an individual must be treated by a *credit union* as the amount arrived at by dividing the balance in the *joint account* by the number of *juvenile depositors* with an interest in that account.
- 2.2 Subject to 2.3 and 2.4, a *credit union* must ensure that a *member* does not have *non-deferred shares* in the *credit union* which in aggregate exceed the greater of:
- (1) £15,000; and
 - (2) 1.5% of *total non-deferred shares* in the *credit union*.
- 2.3 In the event that 1.5% of *total non-deferred shares* in the *credit union* exceeds the *FSCS compensation sum*, a *credit union* must notify the PRA in writing at least five *business days* prior to issuing *non-deferred shares* that exceed the *FSCS compensation sum*.
- 2.4 In the event of an increase in the percentage of *non-deferred shares* held by a *member* as a result of a reduction in the total *non-deferred shares* occurring after the time at which that *member* last acquired *non-deferred shares* in the *credit union* that would, but for this rule, result in a breach of the limits in 2.2:
- (1) the increase in the percentage of the *non-deferred shares* held by that *member* is disregarded for the purposes of the limits in 2.2; and
 - (2) the *credit union* must not accept subscriptions from that *member*.
- 2.5 A *credit union* must not:
- (1) pay different dividends on different accounts unless:
 - (a) at the time of the payment of any dividends it has a *capital-to-total assets* ratio of at least 5%; and
 - (b) the payment of any of those dividends does not reduce the *capital-to-total assets* ratio to below 5%; or
 - (2) pay dividends out of interim profits more than once a year unless it has *capital* of at least 8% of *total assets* and, other than in a stress scenario in which case such buffer may be employed to absorb losses, a capital buffer at least equal to a further 2% of *total assets*.
- 2.6 Subject to 2.7 and 2.8, a *credit union* must ensure that an individual does not have *juvenile deposits* which in aggregate exceed the greater of:
- (1) £10,000; and

- (2) 1.5% of the *total non-deferred shares* in the *credit union*.
- 2.7 In the event that 1.5% of *total non-deferred shares* in a *credit union* exceeds the *FSCS compensation sum*, the *credit union* must notify the *PRA* in writing at least five *business days* prior to accepting *juvenile deposits* that exceed the *FSCS compensation sum*.
- 2.8 In the event of an increase in an individual's *juvenile deposits* expressed as a percentage of *total non-deferred shares* as a result of a reduction in the *total non-deferred shares* in the *credit union* occurring after the time at which that individual last made a *deposit* in the *credit union* that would, but for this rule, result in a breach of the requirement in 2.6:
- (1) the increase in *juvenile deposits* expressed as a percentage of the *total non-deferred shares* held by that individual is disregarded for the purposes of the requirement in 2.6; and
- (2) the *credit union* must not accept *deposits* from that individual.
- 2.9 A *credit union* must at all times maintain in force a policy of insurance that complies with the requirements in 2.10.
- 2.10 A policy of insurance must, subject to the exception in 2.11:
- (1) insure the *credit union* in respect of every description of loss suffered or liability incurred by reason of the fraud or other dishonesty of any of its *officers* or *employees*;
- (2) insure the *credit union* up to the limits set out in 2.12 in respect of any one claim, except that the liability of the insurer may be restricted to the amounts set out in 2.12 in respect of the total of the claims made in any one year; and
- (3) not, in relation to a claim, provide for an amount greater than 1% of the limits on any one claim set out in 2.12, to be met by the *credit union*.
- 2.11 From the losses and liabilities against which a policy that complies with the requirements of 2.10 must insure, there must be excepted all loss suffered or liability incurred by a *credit union* other than direct pecuniary loss discovered during the currency of the policy of insurance or within 18 months of the date on which either the policy of insurance lapses, or the duties of the *officer* or *employee* concerned are terminated, whichever occurs first.

2.12	Column (1)	Column (2)	Column (3)
	Aggregate value of <i>shares</i> and <i>juvenile deposits</i> , including those held in a <i>CTF</i> (for the purposes of this table, "aggregate value")	Cover required in respect of any one claim	Cover required in respect of total claims made in any one year
Row (A)	Less than £10,000	The higher of £500 or 50% of the aggregate value	The higher of £1,000 or 100% of the aggregate value
Row (B)	£10,000 to £100,000	The higher of £5,000 or 20% of the aggregate value	100% of the aggregate value
Row (C)	£100,000 to £1,000,000	The higher of £20,000 or 15% of the aggregate value	The higher of £100,000 or 75% of the aggregate value

2.12	Column (1) Aggregate value of <i>shares</i> and <i>juvenile deposits</i> , including those held in a <i>CTF</i> (for the purposes of this table, "aggregate value")	Column (2) Cover required in respect of any one claim	Column (3) Cover required in respect of total claims made in any one year
Row (D)	More than £1,000,000	£150,000 plus 5% of the amount by which the aggregate value exceeds £1,000,000, subject to a maximum cover of £2,000,000	£750,000 plus 5% of the amount by which the aggregate value exceeds £1,000,000, subject to a maximum cover of £4,000,000

Notes:

(1) In relation to a *credit union* which, at the relevant date, has accepted and not repaid share subscriptions and other *deposits* of the aggregate value stipulated in column (1) of the table in this chapter, the limit in respect of any one claim is the amount appearing in the corresponding part of column (2); and the amount in respect of the total of claims made in any one year is the amount appearing in the corresponding part of column (3).

(2) For these purposes, "the relevant date" is either the date of inception or renewal of the policy of insurance, or such other date as the *credit union* determines, provided that the relevant date in each year subsequent to the first must be not more than one year after the relevant date in the preceding year.

3 LENDING

- 3.1 For the purposes of the limits set out in this Chapter, the *attached shares* attributable to a *member* in respect of that *member's* interest in a *joint account* must be treated by a *credit union* as no more than the amount arrived at by dividing the balance in the *joint account* by the number of *members* with an interest in that account.
- 3.2 Subject to 3.3, a *credit union* must not hold an *unsecured loan* that is repayable within more than five years from its provision or a *secured loan* that is repayable within more than ten years from its provision.
- 3.3 A *credit union* must not make a loan that is repayable within more than ten years from its provision, in relation to an *unsecured loan*, and 25 years, in relation to a *secured loan*, unless the *credit union* complies with 10.3.
- 3.4 Subject to 3.5, 3.6 and 3.7 the outstanding balance of a loan:
- (1) to a *member*, must not exceed £15,000 in excess of that *member's attached shares*; and
 - (2) to another *credit union* that is not a *member*, must not exceed £15,000.
- 3.5 Subject to 3.6 and 3.7, the outstanding balance of a loan by a *credit union* that satisfies the requirements in 10.3:

- (1) to a *member*, must not exceed 1.5% of *total non deferred shares* in excess of that *member's attached shares*; and
 - (2) to another *credit union* that is not a *member*, must not exceed 1.5% of *total non deferred shares*.
- 3.6 A *large exposure* must not exceed 25% of the *credit union's capital*.
- 3.7 The aggregate of all *large exposures* must not exceed 500% of the *credit union's capital*.
- 3.8 A *credit union* must not lend to a *member* more than £7,500 in excess of the *attached shares* held by that *member*, or to another *credit union* more than £7,500, unless it has a *capital-to-assets* ratio of at least 5%.
- 3.9 A *credit union* that is owed by a *member* a total amount greater than £7,500 in excess of the *attached shares* held by that *member*, or by another *credit union* an amount greater than £7,500, must maintain a *capital-to-total-assets* ratio of at least 5%.
- 3.10 A *credit union* must make adequate provision for *bad debts*.
- 3.11 A *credit union* must make specific provision in its accounts for *bad debts* of at least the amounts set out below:
 - (1) 35% of the *net liability* to the *credit union* of borrowers where the amount is more than three months in arrears;
 - (2) 60% of the *net liability* to the *credit union* of borrowers where the amount is more than six months in arrears;
 - (3) 80% of the *net liability* to the *credit union* of borrowers where the amount is more than nine months in arrears; and
 - (4) 100% of the *net liability* to the *credit union* of borrowers where the amount is more than twelve months in arrears.
- 3.12 Where a delinquent loan is rescheduled or the arrears capitalised, the provision a *credit union* is required to make immediately prior to the rescheduling or recapitalisation must be maintained until the loan has performed for six months.
- 3.13 A *credit union* must not make a subordinated loan unless it:
 - (1) is provided to a *credit union*; and
 - (2) qualifies as *capital* within the meaning of 8.2.
- 3.14 Prior to the provision of a subordinated loan, a *credit union* must carry out an assessment of the financial implications of making the loan.
- 3.15 A *credit union* must retain, for a period of five years following the date of a subordinated loan, a written record of the assessment in 3.14.

4 MORTGAGES

- 4.1 A *credit union* must not enter into a *regulated mortgage* for a term of more than 25 years.
- 4.2 A *credit union* must not be a party to a *regulated mortgage contract* unless it complies with 10.3 at all times while it remains a party to that contract.

5 BORROWING

- 5.1 A *credit union* must not borrow from a natural person other than by subordinated loan qualifying as *capital* within the meaning given in 8.2.
- 5.2 A *credit union's borrowings* must not exceed 20% of the total *non-deferred shares* in the *credit union* at the end of more than two consecutive regulatory reporting quarters.
- 5.3 A *credit union* must not count subordinated debt obtained by that *credit union* and forming part of its *capital* within the meaning given in 8.2 towards the borrowing limit in 5.2.

6 INVESTMENT

- 6.1 For the purposes of this Chapter, a loan is not an investment if it is provided by a *credit union* on subordinated terms.
- 6.2 *Surplus funds* must be invested in capital-protected products in accordance with this Chapter or held as cash in the custody of *officers* of a *credit union*.
- 6.3 Subject to 6.4, a *credit union* must not hold *investments*, save that it may hold an *investment* that is:
- (1) a *deposit* placed with a *credit institution* which is authorised in an *EEA State* to accept *deposits* on terms that the *deposit* shall be repayable within at most twelve months from the date on which that *investment* is made;
 - (2) a loan, other than a subordinated loan qualifying as *capital* within the meaning given in 8.2, to a *credit institution* which is authorised in an *EEA State* to accept *deposits*, with a *maturity* of up to twelve months from the date on which that *investment* is made;
 - (3) a sterling-denominated security issued by the government of an *EEA State*, with a *maturity* of up to twelve months from the date on which that *investment* is made; or
 - (4) a fixed-interest sterling-denominated security guaranteed by the government of an *EEA State*, with a *maturity* of up to twelve months from the date on which that *investment* is made, provided that such guarantee is unconditional in respect of the payment of both principal and interest on the security.
- 6.4 A *credit union* that holds an *investment* set out below must at all times while holding such *investment* comply with 10.3:
- (1) a *deposit* placed with a *credit institution* which is authorised in an *EEA State* to accept *deposits* on terms that the *deposit* shall be repayable within at most twelve months from the date on which that *investment* is made;

- (2) a loan, other than a subordinated loan qualifying as *capital* within the meaning given in 8.2, to a *credit institution* which is authorised in an *EEA State* to *accept deposits* with a *maturity* of up to five years from the date on which that *investment* is made;
 - (3) a sterling-denominated security issued by the government of an *EEA State*, with a *maturity* of up to five years from the date on which that *investment* is made;
 - (4) a fixed-interest sterling-denominated security guaranteed by the government of an *EEA State*, with a *maturity* of up to five years from the date on which that *investment* is made, provided that such guarantee is unconditional in respect of the payment of both principal and interest on the security; or
 - (5) any other product provided by a *credit institution* authorised in an *EEA State* to *accept deposits*, with a *maturity* of up to five years from the date on which that *investment* is made, provided it satisfies the requirement in 6.2.
- 6.5 Prior to making an investment decision, a *credit union* must carry out an assessment to satisfy itself that:
- (1) it has sufficient liquidity to tie-up the relevant funds for the life of the product;
 - (2) it can afford to sacrifice any haircut on early redemption;
 - (3) by comparison with other possible uses of the funds in question, the potential return merits the risk of investment for the period to *maturity* of the *investment*, including the risk of no positive return; and
 - (4) the investment would not create excessive source or time band concentrations.
- 6.6 A *credit union* must retain, for a period of five years following the date of the investment, a written record of the assessment in 6.5.

7 TRANSACTIONAL ACCOUNTS

- 7.1 A *credit union* that provides *transactional account* services must at all times while providing such services comply with 10.3.

8 CAPITAL

- 8.1 A *credit union* must have adequate capital taking into account the nature, scale and complexity of its business.
- 8.2 For the purposes of this Chapter,
- (1) capital comprises the following items:
 - (a) audited reserves;
 - (b) interim net profits;
 - (c) *deferred shares*;
 - (d) subordinated debt that meets the requirements set out at (5); and

- (e) revaluation reserves, arising from the differences between book values and the current market values of property fixed assets that meet the requirements in (6) and (7) and are subject to the limit in 8.3.

(2) audited reserves are audited accumulated profits or losses, or both, retained by a *credit union* after payment of tax, dividends and interest on *deposits* and include other realised gains and gifts of capital. *Deferred shares* are included in the definition, but must not be counted twice in the calculation, of 'capital'. Where a *credit union's* audited reserves include sums equal to the amount paid on *deferred shares* subscribed for in full and transferred to reserves in accordance with section 7(6) of the Credit Unions Act 1979, that amount must not also be counted separately under (1)(c).

(3) profits means the profits resulting from the operations of a *credit union* in the year of account in question after deduction of all operating expenses, including payment of interest, and after making provision for the depreciation of assets, tax liabilities and *bad debt*, but before the payment of any dividend.

(4) interim net profits are interim profits net of tax and anticipated dividends (any interim losses must be deducted from capital).

(5) to be included in the calculation of capital, subordinated debt must meet the following conditions:

- (a) the *maturity* of the loan must be more than five years from the date on which the loan is made;
- (b) the subordination provisions provide that the claims of the subordinated creditors rank behind those of all unsubordinated creditors including the *credit union's* shareholders;
- (c) to the fullest extent possible, creditors waive their rights to set off amounts they owe the *credit union* against subordinated amounts owed to them by the *credit union*;
- (d) the only events of default are non-payment of any interest or principal under the debt agreement or the winding-up of the *credit union*;
- (e) the remedies available to the subordinated creditor in the event of default in respect of the subordinated debt are limited to petitioning for the winding up of the *credit union* or proving for and claiming in the liquidation of the *credit union*;
- (f) the subordinated debt must not become due and payable before its stated final *maturity* date except on an event of default complying with (d);
- (g) the terms of the subordinated debt must be set out in a written agreement or instrument that contains terms that provide for the above conditions; and
- (h) the debt must be unsecured and fully paid up.

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

- (a) the *credit union* must apply the revaluation method to all of its property fixed assets and not selectively;

- (b) the values must result from professional valuations of each property;
- (c) no professional valuation of a property can be more than five years old and, in the intervening year or years in which a property is not professionally valued, the *governing body* must have undertaken an interpolation of value which takes into account any decline in property values disclosed by valuations of other properties in that year or those years; and
- (d) any increase of revaluation reserve must be supported by a professional valuation.

(7) subject to the conditions in (6), and the limit in 8.3, the amount of revaluation reserve used for the calculation of capital must be the lesser of:

- (a) the amount standing to the credit of any such reserve in the balance sheet in the most recent annual return to have been sent to the *PRA* as may be required by the *PRA* under *rules*; and
- (b) the amount of any such reserve in the accounting records of the *credit union*.

8.3 The amount of revaluation reserve that a *credit union* is permitted to include in the calculation of its capital must not exceed 25% of the *credit union's* capital.

8.4 The amount of any subordinated loan that qualifies as capital must, over its final four years to *maturity* or, where the subordinated loan requires repayment in tranches, over the final four years to *maturity* of each tranche, be written down by a *credit union* by 20% of the amount of the loan or tranche per year.

8.5 A *credit union* must have:

- (1) subject to (2), *capital* of at least 3% of *total assets*;
- (2) subject to (3), *capital* of at least 5% of *total assets*, if that *credit union* has *total assets* of more than £5 million or more than 5,000 *members*;
- (3) *capital* of at least 8% of *total assets* and a *capital* buffer at least equal to a further 2% of *total assets*, save in the event of a stress scenario in which case such buffer may be employed to absorb losses, if that *credit union* has *total assets* of more than £10 million, more than 15,000 *members* or undertakes an *additional activity* other than the *additional activity* of providing *transactional accounts*.

8.6 A *credit union* must notify the *PRA* immediately if its *capital* is below the relevant minimum threshold stipulated in 8.5.

8.7 In the event that a *credit union* employs its *capital* buffer in a stress scenario it must plan for the restoration of its *capital* buffer to the level stipulated in 8.5 within a reasonable period.

8.8 If, at the end of any year of account, the amount of its *capital* is less than 10% of its *total assets*, a *credit union* must transfer to its general reserve at least 20% of its profits for that year (or such lesser sum as is required to bring the amount in its capital up to 10% of its *total assets*).

8.9 A *credit union* must not make a transfer from its general reserve if its *capital* is equal to an amount that is less than 10% of *total assets* or if as a result of such a transfer its *capital* would be reduced to an amount that is less than 10% of *total assets*.

9 LIQUIDITY

- 9.1 For the purposes of this Part, and subject to 9.2, a *credit union* must not count an asset as a liquid asset unless it is cash or can be realised for cash within eight *business days*.
- 9.2 A *credit union* must hold liquid assets equal to at least 10% of its *total relevant liabilities*.
- 9.3 A *credit union* must not count as a liquid asset:
- (1) an amount loaned to another *credit union*; or
 - (2) a property purchased, or held by it, as premises from which to conduct its business.
- 9.4 The amount and composition of liquid assets held by a *credit union* must be prudent and appropriate to the nature, scale and complexity of its business, having regard to material risks, including the risk of a sudden adverse cash flow.
- 9.5 A *credit union* must notify the *PRA* immediately if its liquid assets are below 10% of its *total relevant liabilities* for more than two consecutive *business days*.
- 9.6 When calculating the ratio of its liquid assets to its *total relevant liabilities*, a *credit union* must value a security with a maturity of one to five years on the basis that it could be realised at market value minus a discount of 5%.
- 9.7 An asset maturing on a day that is not a *business day* must be treated by a *credit union* as maturing on the next *business day*.

10 GOVERNANCE

- 10.1 A *credit union* must ensure that the *governing body* reports to the *members* at the annual general meeting of the *credit union* on the following matters:
- (1) the *credit union's* compliance, or otherwise, with Depositor Protection 11 and:
 - (a) Depositor Protection 12, 14 and those requirements of Depositor Protection 15 that relate to Depositor Protection 11; or
 - (b) Depositor Protection 49 to 51,
as applicable;
 - (2) whether the *credit union* has maintained at all times a policy of insurance complying with 2.10; and
 - (3) any *additional activities* the *credit union* is carrying out and whether or not it is in compliance with any requirement in this Part applicable to those *additional activities*.
- 10.2 A *credit union* must:
- (1) establish, implement and maintain an up-to-date lending policy statement approved by the *governing body* that is designed to protect the viability and sustainability of the *credit union*;
 - (2) ensure that its lending policy statement is prudent and appropriate to the scale and nature of the its business; and

- (3) review and approve its lending policy whenever there is a change in circumstances of the *credit union* and, in the absence of any such change, on an annual basis.

10.3 A *credit union* carrying out any *additional activity* must:

- (1) establish, implement and maintain an up-to-date financial risk management policy statement approved by the *governing body*;
- (2) ensure that the financial risk management policy:
 - (a) addresses both interest rate and funding risk;
 - (b) covers aggregate limits on holdings of investments and borrowings from sources other than *members*;
 - (c) deals with avoidance of excessive funding concentrations (both source and time-band concentrations);
 - (d) details the organisational arrangements, systems and controls in respect of these matters; and
- (3) ensure that its *governing body* monitors and assesses the risks associated with the carrying on of such activities on at least a monthly basis.

10.4 A *credit union* referred to in 10.3 must ensure that the *governing body* reviews and approves its financial risk management policy whenever there is a change in circumstances of the *credit union* and, in the absence of any such change, on an annual basis.

10.5 A *credit union* must:

- (1) establish, implement and maintain an up-to-date liquidity management policy statement approved by the *governing body*; and
- (2) ensure that the *governing body* reviews and approves its liquidity management policy statement whenever there is a change in circumstances of the *credit union* and, in the absence of any such change, on an annual basis.

10.6 A *credit union* must ensure that:

- (1) it sets and documents large *exposure* limits in a large *exposure* limits policy to avoid concentration of risk;
- (2) the *governing body's* responsibilities include the monitoring of large *exposures* and the review of the *credit union's* compliance with the large *exposures* policy; and
- (3) the *governing body* reviews the large *exposures* limits policy whenever there is a change in circumstances of the *credit union* and, in the absence of any such change, on an annual basis.

10.7 (1) A *credit union* must send to the PRA a copy of its audited accounts published in accordance with section 82 of the Co-operative and Community Benefit Societies Act 2014 or provided in accordance with article 49 of the Credit Unions (Northern Ireland) Order 1985.

(2) The accounts referred to in (1) must:

- (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) accompany the annual return submitted to the *PRA* as may be required by the *PRA* under *rules*, unless they have been submitted already.

11 GENERAL ORGANISATIONAL REQUIREMENTS

11.1 A *credit union* must establish, implement and maintain:

- (1) robust governance arrangements, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility;
- (2) effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and
- (3) adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the *credit union*, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems.

11.2 A *credit union* must ensure that the arrangements, processes and mechanisms referred to in 11.1 are comprehensive and proportionate to the nature, scale and complexity of the risks inherent in its business model and activities.

11.3 A *credit union* must establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question.

11.4 A *credit union* must establish, implement and maintain a fully documented system of control, including documenting the system of control it is required to establish and maintain under section 75 of the Co-operative and Community Benefit Societies Act 2014 or under article 40 of the Credit Unions (Northern Ireland) Order 1985.

11.5 A *credit union* must ensure that the *governing body* defines, oversees and is accountable for the implementation of governance arrangements that ensure effective and prudent management of the *credit union*, including the segregation of duties in the organisation and the prevention of conflicts of interest. The *credit union* must ensure that the *governing body*:

- (1) has overall responsibility for the *credit union*;
- (2) approves and oversees implementation of the *credit union's* strategic objectives, risk strategy and internal governance;
- (3) ensures the integrity of the *credit union's* accounting and financial reporting systems, including financial and operational controls and compliance with the *regulatory system*;
- (4) oversees the process of disclosure and communications;
- (5) has responsibility for providing effective oversight of individuals who effectively direct the business of the *credit union*; and
- (6) monitors and periodically assesses the effectiveness of the *credit union's* governance arrangements and takes appropriate steps to address any deficiencies.

- 11.6 A *credit union* must ensure that the chairman of the *governing body* does not exercise simultaneously the *Chief Executive function* within the *credit union*, where there is such a function within the *credit union*.
- 11.7 A *credit union* must establish, implement and maintain an up-to-date business plan approved by the *governing body*.
- 11.8 A *credit union* must establish, implement and maintain an up-to-date and fully documented policies and procedures manual.

12 WHISTLEBLOWING

- 12.1 A *credit union* other than an *excluded credit union* must establish, implement and maintain appropriate and effective arrangements for the disclosure of *reportable concerns* by a *person*, including a *firm's employee*, internally through a specific, independent and autonomous channel.
- 12.2 The channel in 12.1 may be provided through arrangements with third parties, including social partners, subject to any applicable requirement under Chapter 14.
- 12.3 A *credit union* other than an *excluded credit union* must inform all *workers* of the channel referred to in 12.1.
- 12.4 A *credit union* other than an *excluded credit union* must inform all *workers*:
- (1) that they may disclose directly to the *PRA* or to *the FCA* anything that would be the subject-matter of a *protected disclosure*;
 - (2) of what would constitute a *protected disclosure*;
 - (3) that the *PRA* or *the FCA* are prescribed *persons* under the Employment Rights Act 1996 and the effect of making a *protected disclosure* to the *PRA* or to *the FCA*; and
 - (4) of the means available to make a *protected disclosure* to the *PRA* or *the FCA*.
- 12.5 A *credit union* other than an *excluded credit union* must ensure that nothing in its arrangements prevents or discourages any *worker* from making any disclosure to the *PRA* or *the FCA* before making the disclosure through the channel referred to in 12.1.
- 12.6 A *credit union* other than an *excluded credit union* must ensure that nothing in any employment contract or settlement agreement, including any other related or ancillary documentation, between the *credit union* and a *worker* in relation to the *worker's* employment, entered into after the date on which these *rules* come into force, prevents or discourages the *worker* from:
- (1) making a *protected disclosure*, including to the *PRA*; and
 - (2) making a further *protected disclosure* connected to a *protected disclosure* already made under (1).

13 EMPLOYEES, AGENTS AND OTHER RELEVANT STAFF

- 13.1 A *credit union* must ensure that the *governing body*:
- (1) is competent to control the affairs of a *credit union*; and

- (2) has an appropriate range of skills and experience relevant to the activities carried on by the *credit union*.
- 13.2 A *credit union* must employ personnel (whether or not they are *remunerated*) with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.
- 13.3 A *credit union* must ensure that:
- (1) the performance of multiple functions by its *relevant staff* does not and is not likely to prevent those staff from discharging any particular functions soundly, honestly and professionally; and
- (2) its *senior personnel* define arrangements concerning the segregation of duties within the *credit union* and the prevention of conflicts of interests.
- 13.4 A *credit union* must ensure appropriate segregation of duties in order to minimise the risk of contravention of requirements and standards under the *regulatory system*.

14 OUTSOURCING

- 14.1 For the purposes of this Chapter, an operational function is regarded as critical or important if a defect or failure in its performance would materially impair the continuing compliance of a *credit union* with the conditions and obligations of its *authorisation* or its other obligations under the *regulatory system*, or its financial performance, or the soundness or the continuity of its *regulated activities*.
- 14.2 Without prejudice to the status of any other function, the following functions will not be considered critical or important for the purposes of this Chapter:
- (1) the provision to the *credit union* of advisory services, and other services which do not form part of the *regulated activities* of the *credit union*, including the provision of legal advice to the *credit union*, the training of personnel of the *credit union*, billing services and the security of the *credit union's* premises and personnel; and
- (2) the purchase of standardised services, including market information services and the provision of price feeds.
- 14.3 If a *credit union outsources* critical or important operational functions or any *regulated activities*, it remains fully responsible for discharging all of its obligations under the *regulatory system* and must comply, in particular, with the following conditions:
- (1) the *outsourcing* must not result in the delegation by *senior personnel* of their responsibility;
- (2) the relationship and obligations of the *credit union* towards its *members* under the *regulatory system* must not be affected;
- (3) the conditions with which the *credit union* must comply in order to be *authorised*, and to remain so, must not be undermined; and
- (4) none of the other conditions subject to which the *credit union's authorisation* was granted must be removed or modified.
- 14.4 A *credit union* must exercise due skill and care and diligence when entering into, managing or terminating any arrangement for the *outsourcing* to a service provider of critical or important

operational functions or of any *regulated activities*, including considering any risk arising from the arrangement in the context of other risks.

14.5 A *credit union* must in particular take the necessary steps to ensure that the following conditions are satisfied:

- (1) the service provider must have the ability, capacity, and any *authorisation* required by law to perform the *outsourced* functions, services or activities reliably and professionally;
- (2) the service provider must carry out the *outsourced* services effectively, and to this end the *credit union* must establish methods for assessing the standard of performance of the service provider;
- (3) the service provider must properly supervise the carrying out of the *outsourced* functions, and adequately manage the risks associated with the *outsourcing*;
- (4) appropriate action must be taken if it appears that the service provider may not be carrying out the functions effectively and in compliance with applicable laws and regulatory requirements;
- (5) the *credit union* must retain the necessary expertise to supervise the *outsourced* functions effectively and to manage the risks associated with the *outsourcing*, and must supervise those functions and manage those risks;
- (6) the service provider must disclose to the *credit union* any development that may have a material impact on its ability to carry out the *outsourced* functions effectively and in compliance with applicable laws and regulatory requirements;
- (7) the *credit union* must be able to terminate the arrangement for the *outsourcing* where necessary without detriment to the continuity and quality of its provision of services to *members*;
- (8) the service provider must co-operate with the *PRA* in connection with the *outsourced* activities;
- (9) the *credit union*, its auditors and the *PRA* must have effective access to data related to the *outsourced* activities, and the *PRA* must be able to exercise this right of access;
- (10) the service provider must protect any confidential information relating to the *credit union* and its *members*; and
- (11) the *credit union* and the service provider must establish, implement and maintain a contingency plan for disaster recovery and periodic testing of backup facilities where that is necessary having regard to the function, service or activity that has been *outsourced*.

14.6 A *credit union* must ensure that the respective rights and obligations of the *credit union* and of the service provider are clearly allocated and set out in a written agreement.

15 INTERNAL AUDIT

15.1 A *credit union* must establish and maintain an internal audit function.

15.2 The internal audit function referred to in 15.1 may either be:

- (1) in-house; or
- (2) subject to any applicable requirement in this Part relating to *outsourcing*, *outsourced* to a third party.

16 RECORD-KEEPING AND INFORMATION MANAGEMENT

- 16.1 A *credit union* must arrange for orderly records to be kept of its business and internal organisation, including all services and transactions undertaken by it, which must be sufficient to enable the *PRA* to monitor the *credit union's* compliance with the requirements under the *regulatory system*, and in particular to ascertain that the *credit union* has complied with all obligations with respect to *members*.
- 16.2 A *credit union* must maintain information systems to:
- (1) enable the *governing body* to direct and control the *credit union's* business effectively; and
 - (2) enable the *credit union* to provide the information required by the *PRA*.
- 16.3 A *credit union* must ensure that the *governing body* satisfies itself that:
- (1) the information 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 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.
- 16.4 A *credit union* must ensure that any quarterly and annual returns that may be required by the *PRA* under *rules* are reviewed at a sufficiently senior level before they are submitted to the *PRA*. The review must check for consistency between:
- (1) different returns;
 - (2) various tables on the same return; and
 - (3) the returns and information prepared for the *governing body*.

17 BUSINESS CONTINUITY

- 17.1 A *credit union* must put in place contingency arrangements to ensure it could continue to operate and comply with its regulatory obligations in the event of an unforeseen interruption, such as a complete failure of information technology systems or a destruction of premises by fire, which would otherwise prevent the normal operation of the *credit union*.
- 17.2 A *credit union* must regularly review and test business continuity arrangements in order to ensure their effectiveness.

18 TRANSITIONALS

- 18.1 For the period from 3 February 2016 to 30 September 2018, the reference to “2%” in 8.5(3) and 2.5(2) is replaced by “0%”.
- 18.2 A *Northern Ireland credit union* need not comply with Chapter 6 with respect to any security invested in, or loan made, prior to 31 March 2012 provided that the security or loan matures in accordance with the terms of the relevant agreement in effect on 31 March 2012.
- 18.3 A *Northern Ireland credit union* need not comply with 3.2 to 3.9 with respect to any loan outstanding on 31 March 2012 provided that the loan remains repayable in accordance with the terms of the relevant loan agreement in effect on 31 March 2012.

Annex B

Amendments to the Glossary

In the Glossary Part of the PRA Rulebook, insert the following new definitions:

...

eligible deposit

has the meaning given in Depositor Protection 2.

...

joint account

means an account opened in the name of two or more *persons* over which two or more *persons* have rights that are exercised by means of the signature of one or more of those *persons*.

...

temporary high balance

means, in relation to a *depositor* who is an individual, that part of an *eligible deposit* in excess of the coverage level set out in Depositor Protection 4.2 which meets the additional criteria set out in Depositor Protection 10.2.

[Note: Art. 2(1)(6) of the DGSD]

...

Annex C

Amendments to the Depositor Protection Part

In this Annex deleted text is struck through.

1 APPLICATION AND DEFINITIONS

...

1.4

...

~~*eligible deposit*~~

~~has the meaning given in Depositor Protection Chapter 2.~~

...

~~*joint account*~~

~~means an account opened in the name of two or more *persons* over which two or more *persons* have rights that are exercised by means of the signature of one or more of those *persons*.~~

~~*temporary high balance*~~

~~means, in relation to a *depositor* who is an individual, that part of an *eligible deposit* in excess of the coverage level set out in 4.2 which meets the additional criteria set out in 10.2.~~

~~[Note: Art. 2(1)(6) of the DGSD]~~

...

Annex D

Chapter 12 of the rules in Annex A for the period from 7 March 2016 to 6 September 2016

In this Annex, all text is new.

12. WHISTLEBLOWING

- 12.1 A *credit union* must have in place appropriate procedures for its employees to report breaches internally through a specific, independent and autonomous channel.
- 12.2 The channel referred to in 12.1 may be provided through arrangements with social partners.