

REQUEST TO DETI FROM THE ETI COMMITTEE

At its meeting on 8th September 2015 the Committee for Enterprise, Trade & Investment considered correspondence from the Department in relation to Clause 1 of the Credit Unions and Co-operative and Community Benefit Societies Bill dated 3rd September 2015, which was issued in response to Committee queries relating to Clause 1 of the Bill.

Members asked for the Department's views on two aspects of the response:

- a. Firstly, in relation to the response to point (a) the Department states that it has been advised that, should it legislate to enable unincorporated bodies to become members of credit unions, the Financial Services Compensation Scheme would not issue a payment to an unincorporated body if a credit unions failed but will to a named entity as provided for in the current draft Bill. The Committee would like the Department to clarify if this means that, under such circumstances, where an unincorporated body was a member of a credit union that failed, the individuals named as signatories would not be issued with the compensation payment by the FSCS.
- b. Secondly, the Committee considered the response to point (b) concerning the Department's commitment to the ILCU and the UFCU to work with them to discuss further changes with HM Treasury, the PRA and the FSCS after the Bill comes into force. In order to strengthen this commitment the Committee agreed to explore with the Department the possibility of the Department including a review clause in the Bill to the effect that the Minister shall, within one year of the Bill receiving royal assent, report to the Committee on the introduction of an amendment to the legislation to make provisions to permit unincorporated bodies to become members of credit unions in their own right.

DRAFT DEPARTMENTAL RESPONSE

- a. As the Department advised in its response to the ETI Committee of 8 April 2015, the FSCS would send out a cheque in the name of the individual representing an unincorporated association, rather than in the name of the association itself. Membership must be on the part of a named individual acting on behalf of the unincorporated body, and cannot be in the name of the organisation, as an unincorporated body has no legal status.

In the event of a credit union failure, where membership is on the basis of a named individual acting on behalf of an unincorporated body, the FSCS will issue a compensation payment to that named individual. The FSCS has confirmed that it has no plans to alter its existing practice of sending out compensation cheques in the name of a natural person rather than in the name of unincorporated associations which, the FSCS has emphasised, have no legal status.

- b. The Department has given a commitment to the ILCU and the UFCU to work with them to address their concerns about how unincorporated association membership will operate after the Bill comes into force, in conjunction with HM Treasury, the PRA, the FCA and the FSCS. However, the Department does not consider that one

year is a sufficient period of time to enable a meaningful analysis of the operation of the new legislation in practice, particularly given the significant prudential risks surrounding the admission of an unincorporated body in its own right and without a named individual.

The Department does not, therefore, consider that the inclusion in the Bill of a review clause, to the effect that the Department shall, within one year of the Bill receiving royal assent, report to the Committee on the introduction of an amendment to the legislation to make provisions to permit unincorporated bodies to become members of credit unions in their own right, is required.

Reply prepared by: Business Regulation Division

Date: 1 October 2015