

# LEGISLATIVE CONSENT MEMORANDUM

## FINANCIAL SERVICES BILL

### Draft Legislative Consent Motion

1. The draft motion, which will be tabled by the Minister of Enterprise, Trade and Investment is:

*“That this Assembly agrees that the provisions in Part 3 of the Financial Services Bill, as introduced in the House of Commons on 10 May 2012, dealing with the transfer of functions in relation to Mutual Societies should be considered by the UK Parliament.”*

### Background

2. This memorandum has been laid before the Assembly by the Minister of Enterprise, Trade and Investment under Standing Order 42A. The Financial Services Bill was introduced in the House of Commons on 10 May 2012. The latest version of the Bill can be found at

<http://services.parliament.uk/bills/2010-12/financialservices.html>

### Summary of the Bill and its policy objectives

3. The aims of the Financial Services Bill are to implement the UK Government’s commitment to strengthen the financial regulatory structure in the UK, and fundamentally reform the current regulatory system, which divides responsibility for financial stability between HM Treasury, the Bank of England and the Financial Services Authority (FSA).
4. Clause 47 permits HM Treasury, by Order, to amend the Credit Unions (Northern Ireland) Order 1985 to permit the transfer of any function of a Northern Ireland Department or the Registrar of Credit Unions for NI to be transferred to one or more of the successor bodies to the Financial Services Authority. The clause is reproduced in the Annex.

### Provisions which deal with a Devolution Matter

5. The NI-specific clauses: will facilitate the transfer of registration of NI credit unions to the appropriate GB authority from the Department of Enterprise, Trade and Investment (DETI); deal with a transferred matter;

and change the function of that Department. This will bring NI in line with the position in the other devolved administrations, where registration is currently carried out by the FSA.

### **Reasons for making the Provisions**

6. If the inclusion of the relevant provisions is agreed by the Assembly, it will enable the registration of NI credit unions to pass to the appropriate GB authority, subject to a subsequent Order made by Whitehall.

### **Reasons for utilizing the Bill rather than an Act of the Assembly**

7. The Assembly has no powers to legislate in relation to the UK operation of the FSA or its successors. Therefore, the Financial Services Bill is the only current legislative vehicle which can facilitate the transfer.

### **Consultation**

8. In March 2010 HM Treasury, jointly with DETI in Northern Ireland, published a consultation: Proposals for regulatory reform of credit unions in Northern Ireland.
9. The consultation sought the views of all stakeholders in GB and NI on proposals to reform the regulatory framework applying to credit unions in NI and included a question on whether registration of credit unions should remain with DETI or transfer to the FSA. A range of opinions were presented on whether the registration function should remain within NI. The Irish League of Credit Unions felt registration should remain in NI with the Ulster Federation of Credit Unions suggesting that DETI should retain registration in the absence of a local FSA office.
10. In the October 2011 Government response to the March 2010 consultation, it was stated that having taken due account of respondents views, and further consultation with the sector, it had been determined that it was a positive and practical step for NI credit union registration to transfer to the FSA (or its successor) following the introduction of the necessary legislation.
11. Following the conclusion of the consultation, the Minister of Enterprise, Trade and Investment wrote to the Chair of the ETI Committee to advise that it would be in the best interests of the NI credit union movement as a whole that responsibility for both registration and regulation were transferred to the FSA (or its successor).

## **Human Rights and Equality**

12. There are not considered to be any human rights or any differential equality implications from the provisions in the Bill.

## **Financial Implications**

13. There are not considered to any public expenditure implications for the NI Executive.

## **Summary of Regulatory Impact**

14. It is considered that the regulatory impact of the change on business will be negligible.

## **Engagement to date with the Committee for Enterprise, Trade and Investment**

15. In March 2008, the Committee for Enterprise, Trade and Investment (ETI Committee) commissioned an extensive Inquiry into the Role and Potential of Credit Unions in Northern Ireland. Its Report, published in February 2009, contained eight recommendations, both legislative and non-legislative, to be taken forward by the Department in conjunction with HM Treasury and the FSA.
16. The ETI Committee Inquiry was set up in response to concerns raised by the two main representative bodies, the Irish League of Credit Unions and the Ulster Federation of Credit Unions. The representative bodies' main concern centred on their inability to offer their members a similar range of services as those enjoyed by credit union members in the rest of Great Britain as well as the Republic of Ireland.
17. One of the recommendations of the 2009 ETI Committee Report was that registration of NI credit unions should remain within DETI. However, as discussions between DETI and HM Treasury/FSA on credit union reform progressed it became increasingly evident that no tangible benefits would result from registration remaining with DETI, and that a possible move of GB registration from the FSA could lead to further division of responsibilities.
18. The March 2010 joint HM Treasury/DETI consultation considered the transfer of both regulation and registration from Northern Ireland. A briefing note on the responses to the consultation issued to the ETI Committee on 4 July 2011. Following the consultation, the Minister of

Enterprise, Trade and Investment wrote to the Chair of the ETI Committee, by letter dated 27 September 2010, to advise that it would be in the best interests of the NI credit union movement as a whole that responsibility for both registration and regulation were transferred to the FSA (or its successor).

19. This position was reiterated in the October 2011 Government response to the March 2010 consultation, in which it was stated that registration will transfer to the FSA (or its successor) following the introduction of the necessary legislation.

### **Conclusion**

20. The view of the Minister of Enterprise, Trade and Investment is that, in the interests of good government and progressing reform of NI credit unions, that so far as the provisions of the Bill deal with a devolution matter they should be considered by the UK Parliament.

Department of Enterprise, Trade and Investment

22 May 2012

#### 47 Mutual societies: power to transfer functions

- (1) The Treasury may by order amend the legislation relating to mutual societies for any of the relevant purposes.
- (2) “The legislation relating to mutual societies” means—
  - (a) the Industrial and Provident Societies Act 1965;
  - (b) the Industrial and Provident Societies 1967;
  - (c) the Friendly and Industrial and Provident Societies Act 1968;
  - (d) the Industrial and Provident Societies Act (Northern Ireland) 1969;
  - (e) the Friendly Societies Act 1974;
  - (f) the Credit Unions Act 1979;
  - (g) the Credit Unions (Northern Ireland) Order 1985;
  - (h) the Building Societies Act 1986;
  - (i) the Friendly Societies Act 1992.
- (3) The relevant purposes are—
  - (a) providing for any function of the FSA to be exercisable by that body corporate as the FCA;
  - (b) providing for any function of the FSA to be transferred to the PRA;
  - (c) providing for any function of the FSA to be exercisable by that body corporate as the FCA and also to be exercisable concurrently by the PRA;
  - (d) providing for any function which is exercisable by the FCA or the PRA (whether by virtue of a previous order under this section or otherwise) to be transferred to, or to be exercisable concurrently by, the other regulator;
  - (e) providing for any function which is exercisable by the FCA and the PRA (whether by virtue of a previous order under this section or otherwise) to be exercisable only by one of them;
  - (f) making provision that appears to the Treasury to be necessary or expedient in consequence of the provisions of this Act.
- (4) In relation to the Industrial and Provident Societies Act (Northern Ireland) 1969 and the Credit Unions (Northern Ireland) Order 1985, the relevant purposes also include—
  - (a) providing for any function of a Northern Ireland department or the Registrar of Credit Unions for Northern Ireland to be transferred to the FCA or the PRA, or to both the FCA and PRA to be exercised concurrently;
  - (b) providing for any function of a Northern Ireland department or the Registrar of Credit Unions for Northern Ireland which relates to the determination of disputes to be exercisable instead by a court.