Northern Ireland Assembly

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FSA Regulation of Northern Ireland Credit Unions

1 Introduction

This paper compares the recommendations made in the Committee for Enterprise, Trade and Investment's *Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland* (First Report) Session 2008/09 with the final proposals concerning Financial Services Authority (FSA) regulation of Northern Ireland credit unions. The transfer of regulation took place on the 31 March 2012.

The focus of this paper is upon the Committee's recommendations only, rather than the broader implications of FSA regulation. The paper presents the eight recommendations emanating from the Committee's inquiry, their reasoning and the FSA's (or where appropriate HM Treasury) response to the those recommendations.

The term option four when used in this paper denotes the Committee's preferred option post-inquiry, that is: *'transfer of regulation of credit unions entirely to the FSA'.*

2 Recommendation one

The Committee recommends that credit unions are permitted to expand their range of services to include, at the very least, those services which credit unions in GB can currently offer

2.1 What was the Committee's position?

Under current regulations credit unions in Northern Ireland cannot offer services which fall under Financial Services and Markets Act 2000 (FSMA). This is not the case for their counter parts in GB, who were brought under the FSMA in 2002. As such, GB credit unions can offer the following additional services:

- Deposit taking
- Insurance services;
- Transfer of securities;
- Participation in government saving initiatives; and
- The *'Business of Banking'.*[i]

2.2 What is the FSA's position?

In addition to the services referred to by the Committee, the FSA notes that (in addition to the services identified by the Committee above) the introduction of the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011 (LRO) (effective from January 2012) will enable credit unions in Great Britain to offer interest bearing accounts and deferred shares, and accept corporate members, including unincorporated associations.

Referring to Northern Ireland, the FSA states:

> *Northern Ireland credit union legislation remains a transferred matter. Any change to this legislation is a matter for the Northern Ireland Assembly. We understand that DETI intends to bring forward draft primary legislation, which will address recent amendments to credit union legislation in Great Britain, including those introduced in the LRO. This is planned during the mandate of the current Assembly.*[ii]

3 Recommendation two

It is recommended that registration of Northern Ireland credit unions remains within DETI Companies Registry but that regulation of credit unions in Northern Ireland should move from the DETI Companies Registry to the FSA to enable credit unions to deliver a wider range of services. This should be part of a package of interdependent measures to enable credit unions in Northern Ireland to offer a wider range of services to members. As credit Unions will require additional support to introduce change and to operate under the new regime, the package of measures should include recommendations 3 to 6 of this Report.

3.1 What was the Committee's position?

With regard to the split of registration and regulation contained in Recommendation two, the Committee adopted the position on the basis that it would allow for FSA regulation of credit unions in Northern Ireland and, at the same time, enable the registration of credit unions to remain a devolved matter.[iii]

Recommendations three to six are dealt with in specific sections below.

3.2 What is the FSA's position?

In their initial policy consultation document the FSA stated:

> *Northern Ireland and HM Treasury Ministers have decided to transfer responsibility for the regulation of credit unions in Northern Ireland (Northern Ireland credit unions) from DETI to the FSA.*
>
> *The transfer of regulation will occur on 31 March 2012. Ministers have also decided to transfer the registration function from DETI to the FSA, but for a period following the regulatory transfer on 31 March 2012 the registration function will remain with DETI. It is likely that responsibility for registering Northern Ireland credit unions will not be transferred until details of the regulatory reform programme (which will replace the FSA with two bodies – the Prudential Regulation Authority and the Financial Conduct Authority) are finalised and it is known which body will be responsible for registering credit unions in future.*[iv]

The most recent news on the reform of the FSA is as follows:

> *From 2 April this year the FSA will move to a 'twin peaks' operating model. This model will largely reflect the way the two new organisations will*

operate in the future. It will mean changes to the way we work with firms in preparation for the 'legal cutover' to the PRA and FCA.

'Legal cutover' is when the PRA and FCA will officially come into existence, and is expected to happen in early 2013. This is dependent on the Financial Services Bill being approved by Parliament.[v]

Conversation with the FSA confirms that registration of Northern Ireland credit union is likely to remain with DETI until after this split in 2013.[vi]

4 Recommendation three

In order to fully assist the Northern Ireland credit union movement to embrace the considerable change brought about by both a change in regulatory arrangements and the expansion of services and to assist in the maintenance of those services, it is recommended that the FSA open an office in Northern Ireland. This office should be staffed by people with an understanding of the credit union in Northern Ireland and the regulatory arrangements in place for credit unions. In order to ensure that FSA staff in Northern Ireland have a full understanding of the credit union in movement in Northern Ireland it may be helpful to the FSA to apply to second staff from DETI Companies Registry in order to utilize their experience during the transition period. This would assist in the implementation of changes in the embedding the new regulatory arrangements and expanded range of services.

4.1 What was the Committee's position?

On the issue of locating an FSA Office in Northern Ireland the Committee stated:

In the course of this Inquiry, the Committee has been impressed by reports from the credit union movement commending the relationship between credit unions and DETI Companies Register. If Option 4 is to be successfully introduced, it will require similar, or even greater, level of support from the FSA to that provided by DETI Companies Registry. The FSA is unfamiliar with the credit union movement in Northern Ireland and the environment in which it operates. The Committee sees it as essential that the FSA develop an in-depth understanding of the Northern Ireland credit union movement and also working relationships with credit unions and with their representative bodies. This would mean that, for an initial period at least, the FSA must maintain a fill-time presence on the ground un Northern Ireland.[vii]

Commenting on staffing this office with people familiar with the local credit union movement, they added:

DETI registry staff already have the level of understanding of the credit union movement in Northern Ireland which the FSA should seek to achieve. It would benefit both the FSA and Northern Ireland unions if the FSA were to successfully request staff from DETI Companies Registry to be seconded to the FSA in Northern Ireland for an initial period. These members of staff, who would have a full understanding of current regulatory arrangements, could be full trained to in the FSA's regulatory regime for both Version 1 and Version 2, and would be invaluable in assisting credit unions in the change-over. [viii]

4.2 What is the FSA's position?

The FSA's response to this recommendation was:

…there are no plans to establish an FSA office in Belfast. It would not be cost effective to do so. However, we do plan to meet regularly within Northern Ireland credit unions during the transfer process… We have already held one series of roadshows in Northern Ireland and plan to hold the second series in January and February 2012. We also intend to invite all credit unions to surgery events in 2012 after transfer. This will give credit unions an opportunity to meet FSA supervisors, ask questions, and discuss any issues or concerns with the transition to the new regime. Following this we will continue to visit Northern Ireland as part of our normal supervisory activities. [ix]

5 Recommendation four

It is recommended that both DETI and the FSA work with the credit union movement to develop and implement training programmes to provide credit union staff with the knowledge and skills to operate the new regulatory arrangements and to operate additional services which credit unions are permitted to provide.

5.1 What was the Committee's position?

The Committee were of the opinion that:

Changing from the current regulatory regime to the FSA regime will require credit unions to undertake training in the operation of the new procedures. Credit union staff and management will also require training and develop in the provision of additional services where they decide to provide such services the successful analysis of requirements, planning, organising and delivery of training will require cooperation between the credit union movement and the FSA, supported by DETI in the initial stages. [x]

5.2 What is the FSA's position?

As above the FSA has made commitments to meet with Northern Ireland credit unions with during the transitional period and post-changeover period with a view to easing transition to the new regime.[xi]

6 Recommendation five

The changeover to the new regulatory regime and the expansion of credit union services will bring additional costs for credit unions relating both to the transition to the new regulatory regime and to the development of new services. It is recommended that DETI and the FSA work with the credit union movement to fully identify staffing, training and technology & equipment costs and to agree with HM Treasury a package financial support to assist credit unions in implementing changes.

6.1 What was the Committee's position?

The Committee concluded, due to the *'level of change to both the regulation of credit unions and the number of services they can offer',* it was *'important that a package of financial support is available to credit unions in Northern Ireland to assist with the transitional and development requirements associated with change'.* Such support would, in the view of the Committee, fund training and development of management and staff, and the purchase of new technology and equipment (required to expand services).[xii]

6.2 What is the Treasury position?

HM Treasury responded to this point in the post-consultation document, stating:

> *The government does not consider it appropriate to provide financial assistance to the Northern Ireland credit unions to cover the transition costs. However, for one year following transfer, the FSA will waive the £250 fee for Northern Ireland credit unions applying to become a version 2 credit union.*[xiii]

More generally, regarding funding the Treasury state:

> *Northern Ireland credit unions will not become eligible for funding programmes such as the Modernisation Fund. The allocation of funds within Northern Ireland is a matter for the Devolved Administration.*[xiv]

7 Recommendation six

In order to bring Northern Ireland into line with funding already available to credit unions in GB, it is recommended that the Growth Fund, and any future such funding, be extended to include credit unions here.

7.1 What was the Committee's position?

Recommendation six specifically refers to the Growth Fund which is available to credit unions regulated by the FSA in Great Britain. The Committee noted that *'it would seem reasonable that the Treasury, in taking on responsibility for regulating credit unions in Northern Ireland under the authority of the FA, extend the Growth Fund to include Northern Ireland'.* They added *'as the credit union movement in Northern Ireland is so much bigger in per capita terms than in GB it would not be appropriate to apply the Barnett Formula as this would have a disproportionately low impact on credit unions here* [NI]'. The Committee estimated that inclusion of Northern Ireland credit unions in the growth fund would increase the overall number of credit unions participating in the fund from 560 to over 740.[xv]

7.2 What is the Treasury position?

As above:

> *Northern Ireland credit unions will not become eligible for funding programmes such as the Modernisation Fund. The allocation of funds within Northern Ireland is a matter for the Devolved Administration.*[xvi]

8 Recommendation seven

It is recommended that membership of credit unions be extended to include joint accounts and group membership. The Committee understands that these facilities are not yet available to credit unions in GB, but believes that the should be introduced as quickly as possible after the new regulatory arrangements are put into place. The Committee cautions that care should be taken in developing legislation procedures for such arrangements so as to ensure that organisations such as commercial or speculative enterprises, which are not wholly compatible with the ethos and values of credit unions, are excluded. Such a move would be of benefit to GB credit unions as well as those in Northern Ireland.

8.1 What was the Committee's position?

On the issue of group membership the Committee stated that they:

> *…can see no reason why membership of credit unions should not be extended to allow couples, community and voluntary groups and societies and social enterprises to open accounts. There is obvious desire from the credit union movement to move in this direction. The demand for group membership is confirmed by the ILCU and no opposition has been expressed by any stakeholders. The BBA has stated that it sees no objections, challenges or difficulties.*[xvii]

At the time of the Report's publication the Treasury were conducting an inquiry into group membership. On this the Committee stated:

> *The Committee understands that these facilities are not yet available to credit unions in GB, but believes that they should be introduced as quickly as possible after the new regulatory arrangements are put into place. The Committee cautions that care should be taken as to ensure that organisations such as commercial or speculative enterprises, which are not wholly compatible with the ethos and values of credit unions, are excluded.*[xviii]

8.2 What is the FSA's position?

The transfer to FSA regulation does not enable group membership as defined by the Committee. Conversations with the FSA have confirmed that legislative changes, at a Northern Ireland level, would be required to secure this.[xix]

There are some differences in credit union membership rules between Northern Ireland and GB following the transfer. The rules concerning joint accounts in Northern Ireland now allow:

> *Shares in Northern Ireland credit unions may be held in the joint names of members, without limit on the number of joint members. Members in a joint account must be treated as all having an equal interest in shareholding in that account.* [xx]

This represents a post-consultation change of position. The FSA original proposals limited joint account membership to no more than two members. The two member limit on joint accounts will be retained for credit unions in Great Britain.[xxi]

9 Recommendation eight

> *The committee believes that the appropriate reinvestment of assets by credit unions into community development and community enterprises can bring significant benefits to communities. It is therefore recommended that the FSA work with the credit union movement to identify the knowledge and skills required to successfully undertake such a task and to develop the appropriate training and structures to implement, monitor and evaluate the reinvestment of a proportion of assets by credit unions in the communities thev serve.*

9.1 What was the Committee's position?

The Committee concluded that the reinvestment of assets into community development and enterprises had the potential to deliver considerable benefits to communities. They recognised that enabling this reinvestment would require *'different, more sophisticated skills to undertake successfully'*, necessitating *'appropriate training'.*

The Committee added, in the context of the difficulties experienced by the Presbyterian Mutual Society, *'caution should be exercised in relation to the reinvestment of assets, and agreement should be sought from the credit union movement on what investments credit unions may and may not make'.*

9.2 What is the FSA's position?

Conversation with the FSA has confirmed that the changes introduced do not impact Northern Ireland credit union ability to invest in community projects. To enable such a change would require legislative intervention from at Northern Ireland level.[xxii]

The types of investments that a credit union can take part in are restricted to:

- Deposits or loans to a UK domestic firm with Part IV permission to accept deposits;
- Deposits or loans to an institution which is authorised in any other EEA State to accept deposits;
- Sterling-denominated securities issued by the government of any EEA State; and,
- Fixed-interest sterling-denominated securities guaranteed by the government of any EEA State, provided that any guarantee is unconditional in respect of the payment of both principal and interest on those securities.

Version 1 credit union investments are limited to 12 months, whereas Version 2 credit unions may invest for up to five years.[xxiii]

FSA regulation does not impact NI credit unions to apply a percentage of surplus funds (once dividends and other expenses have been paid) for social, cultural or charitable purposes as set out in the Credit Unions (Northern Ireland) Order 1985.[xxiv]

10 Summary

They key points arising from the above are as follows:

- The extension of the range of services that credit unions may offer is a devolved matter and will require legislative changes to pass through the Assembly.
- Although the transfer of Northern Ireland credit unions to FSA regulation took place on 31 March 2012, the registry of Northern Ireland credit unions will remain with DETI for the time being but will defer to the FSA's replacement body when reform of the organisation is complete in 2013.
- There are no plans in place to establish an FSA presence in Northern Ireland. The FSA has offered a range of assistance to NI credit unions during the transfer of regulation with further assistance promised.
- The UK government does not consider it appropriate to provide financial assistance to the Northern Ireland credit unions to cover the transition costs.
- Northern Ireland credit unions will not become eligible for funding programmes such as the Modernisation Fund. The allocation of funds within Northern Ireland is a matter for the Devolved Administration.
- The enabling of group membership will require legislative changes at Northern Ireland level.
- The enabling of investment in community projects will require legislative changes at Northern Ireland level.
- Northern Ireland credit unions legislation is expected during the current Northern Ireland Assembly mandate.

[i] Northern Ireland Assembly, Committee for Enterprise, Trade and Investment *Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland* (First Report) Session 2008/09 http://archive.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm

[ii] Financial Services Authority *PPS11/18 FSA regulation of credit unions in Northern Ireland* (December 2011) http://www.fsa.gov.uk/static/pubs/policy/ps11_18.pdf

[iii] Northern Ireland Assembly, Committee for Enterprise, Trade and Investment *Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland* (First Report) Session 2008/09 http://archive.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm

[iv] The Financial Service Authority& HM Treasury *Consultation paper CP11/17 FSA regulation of credit unions in Northern Ireland* (August 2011) http://www.fsa.gov.uk/static/pubs/cp/cp11_17.pdf

[v] The Financial Service Authority *What does regulatory reform mean for your business?* (24/02/2012) http://www.fsa.gov.uk/about/what/reg_reform

[vi] Correspondence with the FSA 19 April 2012

[vii] Northern Ireland Assembly, Committee for Enterprise, Trade and Investment *Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland* (First Report) Session 2008/09 http://archive.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm

[viii] *Ibid*

[ix] Financial Services Authority *PPS11/18 FSA regulation of credit unions in Northern Ireland* (December 2011) http://www.fsa.gov.uk/static/pubs/policy/ps11_18.pdf

[x] Northern Ireland Assembly, Committee for Enterprise, Trade and Investment *Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland* (First Report) Session 2008/09 http://archive.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm

[xi] Financial Services Authority *PPS11/18 FSA regulation of credit unions in Northern Ireland* (December 2011) http://www.fsa.gov.uk/static/pubs/policy/ps11_18.pdf

[xii] Northern Ireland Assembly, Committee for Enterprise, Trade and Investment *Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland* (First Report) Session 2008/09 http://archive.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm

[xiii] Financial Services Authority *PPS11/18 FSA regulation of credit unions in Northern Ireland* (December 2011) http://www.fsa.gov.uk/static/pubs/policy/ps11_18.pdf

[xiv] *Ibid*

[xv] Northern Ireland Assembly, Committee for Enterprise, Trade and Investment *Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland* (First Report) Session 2008/09 http://archive.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm

[xvi] Financial Services Authority *PPS11/18 FSA regulation of credit unions in Northern Ireland* (December 2011) http://www.fsa.gov.uk/static/pubs/policy/ps11_18.pdf

[xvii] Northern Ireland Assembly, Committee for Enterprise, Trade and Investment *Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland* (First Report) Session 2008/09 http://archive.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm

[xviii] Northern Ireland Assembly, Committee for Enterprise, Trade and Investment *Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland* (First Report) Session 2008/09 http://archive.niassembly.gov.uk/enterprise/2007mandate/reports/report05_08_09r.htm

[xix] Conversation with FSA 04 April 2012

[xx] Financial Services Authority *PPS11/18 FSA regulation of credit unions in Northern Ireland* (December 2011) http://www.fsa.gov.uk/static/pubs/policy/ps11_18.pdf

[xxi] Financial Services Authority CREDS 4.2 Shares http://fsahandbook.info/FSA/html/handbook/CREDS/4/2

[xxii] Conversation with FSA 04 April 2012

[xxiii] Financial Services Authority CREDS 3.2 Investment http://fsahandbook.info/FSA/html/handbook/CREDS/3/2

[xxiv] The Credit Unions (Northern Ireland) Order 1985 http://www.legislation.gov.uk/nisi/1985/1205