Proposals for a Legislative Reform Order for Credit Unions and Industrial & Provident Societies in Great Britain

July 2008

HM TREASURY

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Foreword By the Economic Secretary to the Treasury

In December 2007 I announced the publication of the summary of responses to the Treasury consultation on the "Review of cooperative and credit union legislation in Great Britain". In that statement I expressed my hope that those initial steps, together with further work on the legislation in the coming months would enable us to develop a truly modern framework. I also signalled Government's intent to legislate to bring forward primary legislation subject to Parliamentary time.

I am delighted to present here in response to the consultation, proposals for a Legislative Reform Order (LRO) to address the priority issues that were raised. We will in addition be using the Electronic Communications Act 2000 to facilitate communication between societies, their members and statutory authorities. We will also work to align aspects of cooperatives and credit union law with company law. These changes combined with the LRO will address the vast majority of issues raised with us and will significantly update the legislation to enable the sector to grow.

Cooperatives and credit unions, together with other mutual societies make a huge contribution to the UK economy. Altogether they have a combined membership of over 30 million and total assets in excess of £400 billion. I am proud of the work they do to foster social cohesion and financial inclusion as well as providing for choice and diversity in the financial services sector.

My vision is of an expanding and vibrant mutual sector, unencumbered by outdated legislation, competing strongly with other legal forms of business, both nationally and globally, to provide high quality services to their members and helping to increase UK productivity.

LROs are capable of achieving significant changes to primary legislation and these proposals underline the Government's commitment to cooperatives, credit unions and the mutual sector in general. By using a Legislative Reform Order, we can give cooperatives and credit unions the chance to compete much more fairly and freely with companies - and we can take a huge step towards making common ownership a genuine alternative to the company form, which has been one of my main objectives over the past year.

For these reasons I welcome the proposals outlined in this LRO consultation and hope that as many of you will respond as possible so that we have views from a very wide spectrum to assist us deliver a sustainable and modern legislative framework for such a unique sector.

Kitty Ussher

Economic Secretary to the Treasury

Summary of proposals and questions

What is being consulted on?

These proposals relate to the Industrial & Provident Societies ("IPS") Acts 1965 and 1968 and the Credit Unions ("CU") Act 1979.

Industrial & Provident Societies Acts 1965 & 1968

- **Proposal A1**: Modify the provision on minimum age for membership of an IPS and minimum age for becoming an officer of an IPS.
- **Proposal A2**: Modify the rules on share capital.
- **Proposal A3**: Modify the provision on fee for copy of the society's rules.
- **Proposal A4**: Facilitate easier dissolution of registered societies.
- **Proposal A5**: Give societies the flexibility to choose their own year ends.
- **Proposal A6**: Remove the requirement on societies to have interim accounts audited.

Credit Unions Act 1979

- **Proposal B1**: Replace the "common bond" requirement for credit unions with a "field of membership" test.
- **Proposal B2**: Reform the requirements relating to membership qualifications and rename them "common bonds".
- **Proposal B3**: Reform the restrictions on non-qualifying members of credit unions.
- **Proposal B4**: Allow credit unions to admit bodies corporate, unincorporated associations or partnerships to membership.
- **Proposal B5**: Allow credit unions to offer interest on deposits, provided certain requirements are met.
- **Proposal B6**: Abolish the 8 per cent per annum limit on dividends.
- **Proposal B7**: Repeal the "attachment" requirement, which restricts withdrawal of shares.
- **Proposal B8**: Allow credit unions to charge the market rate for providing ancillary services to their members.

How will proposals be taken forward and when will they be implemented

HM Treasury intends that the proposed changes to legislation are made through a Legislative Reform Order under the Legislative and Regulatory Reform Act 2006. Subject to the outcome of the consultation and Parliamentary approval, we propose that the changes are implemented from 6th April 2009 (IPS Acts) and 1st October 2009 (CU Act). The later implementation date for credit unions will give the Financial Services Authority sufficient time to make any necessary rule changes to the FSA handbook (CRED).

Consultation

This consultation is being conducted in accordance with the requirements of the Legislative and Regulatory Reform Act 2006 and the terms of the Government's Code of Practice on Written Consultations. The consultation will run for 12 weeks from 23 July to 15 October 2008. All responses must be received by 15 October 2008.

The draft Order is not being published with this consultation document but will be published shortly afterwards. A copy of the draft Order will be sent to all recipients of this consultation document and published on the Treasury's website www.hm-treasury.gov.uk. Please contact us at the address given in Chapter 1 if you would like to be notified when the Order is published.

SUMMARY OF QUESTIONS

1. For Section 1 Orders: Do you think the proposals will remove or reduce burdens as explained in Chapter 1?

2. Do you have views regarding the expected benefits of the proposals as identified in this consultation document and addressed in the partial Impact Assessment attached at Annex A? Please provide empirical evidence of any costs or associated benefits.

3. If there is any empirical evidence that you are aware of that supports the need for these reforms, please provide details here.

4. Are there any non-legislative means that would satisfactorily remedy the difficulties which the proposals are intended to address?

5. Are the proposals put forward in this consultation document proportionate to the policy objective?

6. Do the proposals put forward in this consultation document taken as a whole strike a fair balance between the public interest and any person adversely affected by it?

7. Do the proposals put forward in this consultation document remove any necessary protection?

8. Do the proposals put forward in this consultation prevent any person from continuing to exercise any right or freedom, which they might reasonably expect to continue to exercise, as explained in Chapter 1? If so please provide details.

9. Do you consider the provisions of the proposals to be constitutionally significant?

10. In the case where the proposal will restate an enactment: do the proposals put forward in the consultation make the law more accessible and easily understood?

11. Do you agree that the proposed Parliamentary procedure as outlined in Chapter 4 should apply to the scrutiny of these proposals?

12. Do you have any other comments in relation to the proposals?

13. What are your views on the two options for reforming credit union's membership qualification? (See para. 3.38)

INTRODUCTION

1.1 This consultation paper sets out the Government's proposals for reforming the legislation for cooperatives and credit unions, specifically the Industrial & Provident Societies Acts (IPSA) 1965 & 1968 and the Credit Unions Act 1979 (CU Act 79)

Historical background

1.2 The core of the legislation goes back to the mid 19th century. It provides a legal persona and regulatory framework for the setting up and the operation of cooperative ventures. The first Industrial and Provident Societies Act was passed in 1852. Today the main statute is the Industrial and Provident Societies Act 1965; this is supplemented by further Acts passed from 1967 to 2003.

1.3 The intention of the legislation is to facilitate mutual ownership and control along commonly agreed cooperative principles. These were most recently defined by the International Cooperative Alliance in 1995. Cooperatives may however establish as other legal forms, such as companies (under the Companies Acts), partnerships, unregistered unincorporated associations and even as limited liability partnerships.

Background to the policy and legislation at issue

Industrial and Provident Societies

1.4 There are essentially three types of societies, which may be registered and incorporated under IPSA 65- cooperatives run by their members for their members, community benefit societies or "Bencoms" which are run by their members but for the benefit of the community, and credit unions. The Financial Services Authority (FSA) is the registrar for IPSs registered under IPSA 65.

1.5 The current IPS legislation is based on a consolidation of 19th century legislation in the Industrial & Provident Societies Act 1965. There are some 10 Acts[1] that form the framework for industrial and provident societies and credit unions.

1.6 The 1965 Act is the key registration vehicle for cooperatives, benefit of the community societies and credit unions as this is the legislation that sets out the requirements for registration and incorporation. Particular arrangements exist for credit unions, which are registered and incorporated under the 1965 Act as supplemented by the Credit Unions Act 1979. Accounting and audit requirements for both IPSs and credit unions are contained in the Friendly and Industrial & Provident Societies Act (FIPSA) 1968.

1.7 There are over 4,300 cooperatives in the UK, with over 11 million members and total assets of £8.5 billion. Together they create and sustain nearly 200,000 jobs and contribute some £27 billion in turnover. The most significant in terms of numbers are the consumer and worker cooperatives, cooperative consortiums, agricultural cooperatives and housing cooperatives.

Credit Unions

1.8 The constitutional framework for credit unions is set out in the Credit Unions Act 1979 (the 1979 Act). This applies to Great Britain only as Northern Ireland has separate legislation covering both credit unions and cooperatives.

1.9 The 1979 Act modifies and amends some of the provisions of the Industrial and Provident Societies Act 1965 (IPSA 65) as they apply to credit unions. The FSA acts as both the registrar and regulator for credit unions in Great Britain.

[1] The Industrial and Provident Societies Acts 1965. 1967. 1975, 1978 and 2002; the Friendly and Industrial and Provident Societies Act 1968; the Credit Unions Act 1979 and the Co-operatives and Community Benefit Societies Act 2003.

1.10 Credit unions are created by the 1979 Act and the use of the term "credit union" is restricted. They are, in effect financial cooperatives and take deposits from and lend to their members. All members of a credit union must meet a membership qualification and there are limits on the range of products that they may offer. They are regulated as deposit takers that have their own specialist regulatory regime under the Financial Services and Markets Act 2000 (FSMA 2000).

1.11 There are around 600 credit unions in the UK with approximately 500,000 members and total assets of just under £500 million.

1.12 There have been some modifications to update the legislation since 1979, principally by a Deregulation Order in 1996, the transfer to regulation by the FSA in 2002 and a Regulatory Reform Order in 2003.

Legislative Reforms

1.13 Various Acts passed in the 1960s and 1970s modified and supplemented the 1965 Act[2]. There were no further reforms until the 1990's and the introduction of the Deregulation Act[3] and its successor the Regulatory Reform Act 2001, under which changes were made to the 1965, 1968 and 1979 Acts. Private Members Bills were also used to introduce amendments to the legislation in 2002 and 2003.

1.14 Some of the recent legislative reforms for IPSs and credit unions include:

- The Credit Unions (Increase in Limits on Deposits by persons too young to be members and of Periods for the Repayment of Loans) Order 2001.
- FSMA 2000 (Mutual Societies) Order 2001
- FSMA 2000 (Permissions and Applications) (Credit Unions etc) Order 2002
- FSMA (Consequential Amendments and Transitional Provisions) (Credit Unions) Order 2002
- The Regulatory Reform (Credit Unions) Order 2003
- The Industrial and Provident Societies Act 2002
- The Cooperatives and Community Benefit Societies Act 2003
- The Civil Partnership Act (Overseas Relationships and Consequential etc Amendments) Order 2005
- The Credit Unions (Maximum Interest rate on Loans) Order 2006

1.15 Nonetheless the existing legislation remains inflexible and hampers both the credit unions' ability to serve their members and to help in the delivery of government programmes such as financial inclusion.

1.16 The Treasury consulted in June 2007 on a review of the cooperative and credit union legislation in Great Britain. A summary of responses to the consultation, and the Government's response, were published in December 2007. The proposals in this

[2] The Industrial and Provident Societies Act 1967, the Friendly and Industrial and Provident Societies Act 1968, and the Industrial and Provident Societies Acts 1975 and 1978.

[3] The Deregulation and Contracting Out Act 1994.

consultation document form part of the Government's legislative response to the review.

Why the need for change?

1.17 The main structural problem with the legislation is that it is not geared for running modern organisations. There are numerous restrictions on the operations of societies, which inhibit their operational effectiveness, provision and flexibility of services to their members, as well as their ability to deal with other corporate bodies. The proposals in this consultation document identify and address some of those restrictions.

1.18 Increasingly these bodies have become important vehicles for Government policy on issues such as financial and social inclusion but concerns over their powers and governance, constrain the efficiency of delivery. The legislative framework, rooted in the 19th century, constrains their ability to meet their members' needs and to compete fairly with proprietary companies. Credit unions in Great Britain for example face problems related to the scope and eligibility criteria of their membership qualifications. For cooperatives, the agricultural cooperatives are significantly constrained both by the artificial £20,000 cap on the level of investment that their members can invest and the statutory fixed year ends making them unable to tie in their financial year end with their agricultural cycles.

Who will it affect and how?

1.19 The proposals set out in this consultation paper will remove administrative burdens on credit unions and other industrial and provident societies. They will allow credit unions, with the consent of their members, to change their rules on issues such as who may become members of the credit union and on what terms. This is intended to allow them to open their membership to a wider range of individuals and groups, and to merge where appropriate to create larger credit unions. The changes will also allow credit unions to offer a wider range of products to members, including interest-bearing shares.

1.20 For co-operatives and benefit of the community societies, the changes relating to share capital will allow societies to benefit from individual investment of more than £20,000 per member. For all three types of industrial and provident society, the changes will remove administrative burdens relating to minimum age of members and officers, and fees for copies of the societies' rules. They will make dissolution easier and make limited changes to the accounting regime. These changes are expected to make administration of all societies smoother and more cost-effective.

1.21 The changes are also intended to benefit members and potential members of all three types of society. Credit union members will for example benefit from the wider range of products credit unions may offer. Co-operative members will benefit from the opportunity to invest more than £20,000, as it will allow co-operatives to make bigger capital investments for the benefit of their members.

1.22 The Financial Services Authority, the registrar and (for credit unions) the regulator, should also benefit from simplified dissolution and accounting procedures for societies, which will make it easier for societies to dissolve and to comply with accounting requirements. This will in turn make it easier for the Authority to keep the register up to date and manage accounting returns. The changes to membership qualifications and the common bond for credit unions are intended to make the application and registration process simpler for both credit unions and the Authority.

Geographical extent

1.23 The IPS Acts 1965 and 1968 extend to Great Britain and the Channel Islands. The Credit Unions Act 1979 only extends to Great Britain. Northern Ireland has separate legislation governing cooperatives and credit unions, which are also regulated, where appropriate, by the Northern Ireland authorities.

1.24 The LRO has been developed following extensive consultation with stakeholders and following discussions with the Working Group set up by the Treasury in response to the June 2007 consultation. It focuses on the key issues identified in the consultation and the corresponding Government responses. We propose to introduce the reforms by means of a Legislative Reform Order (LRO) under section 1 of the Legislative and Regulatory Reform Act 2006 (LRRA). This consultation is being conducted in accordance with the provisions of section 13 of the LRRA. Views are invited on all aspects of the consultation paper, and a number of specific questions are set out at the end of the document (see Annex C).

LEGISLATIVE REFORM ORDER-MAKING POWERS

What can a Legislative Reform Order deliver?

Section 1

1.25 Under section 1 of the LRRA a Minister can make an LRO for the purpose of 'removing or reducing any burden, or overall burdens, resulting directly or indirectly for any person from any legislation.

1.26 Section 1(3) of the LRRA defines a 'burden' as:

- a financial cost;
- an administrative inconvenience;
- an obstacle to efficiency, productivity or profitability; or
- a sanction, criminal or otherwise, which affects the carrying on of any lawful activity.

Preconditions

1.27 Each proposal for an LRO must satisfy the preconditions set out in section 3 of the LRRA. The questions in the rest of this document are designed to elicit the information that the Minister will need to satisfy the Parliamentary Scrutiny Committees that, among other things, the proposal satisfies these preconditions.

1.28 For this reason, we would particularly welcome your views on whether and how each aspect of the proposed changes in this consultation document meets the following preconditions:

- **Non-Legislative Solutions**- An LRO may not be made if there are non-legislative solutions which will satisfactorily remedy the difficulty which the LRO is intended to address. An example of a non-legislative solution might be issuing guidance about a particular legislative regime.
- **Proportionality**- The effect of a provision made by an LRO must be proportionate to its policy objective. A policy objective might be achieved in a number of different ways, one of which may be more onerous than others and may be considered to be a disproportionate means of securing the desired outcome. Before making an LRO the Minister must consider that this is not the case and there is an appropriate relationship between the policy aim and the means chosen to achieve it.

- **Fair balance**- before making an LRO, the Minister must be of the opinion that a fair balance is being struck between the public interest and the interests of any person adversely affected by the LRO. It is possible to make an LRO which will have an adverse effect on the interests of one or more persons only if the Minister is satisfied that there will be beneficial effects which are in the public interest.

- **Necessary protection**- A Minister may not make an LRO if he considers that the proposals would remove any necessary protection. The notion of necessary protection can extend to economic protection of civil liberties, the environment and national heritage.

- **Rights and freedoms**- An LRO cannot be made unless the Minister is satisfied that it will not prevent any person from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise. This condition recognises that there are certain rights that it would not be fair to take away from people using an LRO.

- **Constitutional Significance**- a Minister may not make an LRO if he considers that the provision made by the LRO is of constitutional significance.

1.29 It should be noted that even where the preconditions of section 3 of the LRRA are met, an LRO cannot:

- Deliver highly controversial proposals;

- Remove burdens which fall solely on Ministers or Government departments, except where the burden affects the Minister or Government department in the exercise of regulatory functions;

- Confer or transfer any function of legislating on anyone other than a Minister; persons or bodies that have statutory functions conferred on or transferred to them by an enactment; a body or office which has been created by the LRO itself;

- Impose, abolish or vary taxation;

- Create a new criminal offence that will be punishable above certain limits, or increase the penalty for an existing offence so that it will be punishable above those limits;

- Provide authorisation for forcible entry, search or seizure, or compel the giving of evidence;

- Amend or repeal any provision of Part 1 of the LRRA;

- Amend or repeal any provision of the Human Rights Act 1998;

- Remove burdens arising solely from common law.

Devolution

1.30 The LRRA can be used to amend Acts, which extend to the Channel Islands. The LRRA imposes certain restriction regarding LROs and the devolution agreements:

- Scotland- A Minister cannot make an LRO under Part 1 of the LRRA, which would be within the legislative competence of the Scottish Parliament. This

does not affect the powers to make consequential, supplementary, incidental or transitional provisions.

- Northern Ireland- A Minister cannot make an LRO under Part 1 of the LRRA that amends or repeals any Northern Ireland legislation, unless it is to make consequential, supplementary, incidental or transitional provisions.
- Wales- The agreement of the Welsh Ministers is required for any provision in an LRO, which confers a function upon the Welsh Ministers, modifies or removes a function of the Welsh Ministers, or restates a provision conferring a function upon the Welsh Ministers. The agreement of the National Assembly for Wales is required for any provision in an LRO, which is within the legislative competence of the Assembly.

1.31 As noted above the IPS Acts 1965 and 1968 extend to Great Britain and the Channel Islands, and the Credit Unions Act 1979 extends to GB only. Under the devolution settlements, matters relating to industrial and provident societies and credit unions are reserved to Westminster. Northern Ireland has its own legislation.

CONSULTATION

1.32 The LRRA requires Departments to consult widely on all LRO proposals. The list of consultees, including the devolved administrations, to which this document has been sent, is at Annex B. This consultation is also available on the Internet at:

- www.hm-treasury.gov.uk
- Comments are invited from all interested parties and not just from those to whom the document has been sent. Please respond using the form at Annex C.

1.33 A note explaining the Parliamentary process for LROs to be made under the LRRA can be found at Chapter 4. This will help consultees understand when and to whom they are able to put their views should they wish to do so.

1.34 This consultation document follows the format recommended by the Better Regulation Executive (BRE) for such proposals. The criteria are applicable to all UK public consultations under the BRE Code of Practice on Consultation.

The Six Consultation Criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for the written consultation at least once during the development of the policy.
2. Be clear about who may be affected, what questions are being asked, and the timescale for the responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.

1.35 If you feel that this consultation does not fulfil these criteria please contact the Treasury's designated Consultation Co-ordinator:

Angela Carden
HM Treasury
1 Horse Guards Road
London, SW1A 2HQ

E-mail: angela.carden@hm-treasury.gsi.gov.uk

1.36 A partial Impact Assessment (IA) for the specific provisions in this consultation document is included at Annex A. We would welcome your response to the specific questions on this IA.

DISCLOSURE

1.37 Normal practice will be for details received in response to this consultation document to be disclosed, and for respondents to be identified. While the LRRA provides for non-disclosure of representations, the Minister will include the names of all respondents in the list submitted to Parliament alongside the draft LRO. The Minister is also obliged to disclose any representations that are requested by or made to, the relevant Parliamentary Scrutiny Committees. This is a safeguard against attempts to bring improper influence to bear on the Minister. We envisage that, in the normal course of events, this provision will be used rarely and only in exceptional circumstances.

1.38 You should note that:

- If you request that your representation is not disclosed, the Minister will not be able to disclose the content of your representation without your express consent and, if the representation concerns a third party, their consent too. Alternatively, the Minister may disclose the content of your representation but only in such a way as to anonymise it.
- In all cases where your representation concerns information on a third party, the Minister is not obliged to pass it on to Parliament if he considers that disclosure could adversely affect the interests of that third party and he is unable to obtain the consent of the third party.

1.39 Please identify any information, which you or any other person involved do not wish to be disclosed. You should note that many facsimile and e-mail messages carry, as a matter of course, a statement that the contents are for the eyes of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-inclusion in the post consultation review unless accompanied by an additional specific request for confidentiality, such as indication in the tick-box provided for that purpose in the response form at Annex B.

CONFIDENTIALITY AND FREEDOM OF INFORMATION

1.40 It is possible that requests for information contained in consultation responses may be made in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you do not want your response to be disclosed in response to such requests for information, you should identify the information you wish to be withheld and explain why confidentiality is necessary. Your request will only

be acceded to if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not of itself be regarded as binding on the Department.

RESPONDING TO THE CONSULTATION DOCUMENT

1.41 A response form is attached at Annex C. Any comments on the proposals in this consultation document should be sent by 15 October 2008 at the latest to:

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Tel: +44 (0) 20 7270 5291

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E-mail: sammy.amissah@hm-treasury.x.gsi.gov.uk.

1.42 An electronic version of this consultation document and the response form can be downloaded from the HM Treasury public website at:

http://www.hm-treasury.gov.uk/

NEXT STEPS

1.43 The Treasury will consider the responses received to this consultation and publish a summary of them. If necessary we will revise the draft LRO to take account of those views. If, following the consultation, any of the proposals change, we will undertake further appropriate consultation, although this may be limited to an informal discussion of aspects of the revised LRO with key stakeholders before it is laid before Parliament.

2 Industrial and Provident Societies

2.1 This chapter sets out each of the proposals to reform IPS legislation and the Government's view on how they meet the pre-conditions of the LRRA 2006. For each of the proposals we also address the question of non-legislative solutions, proportionality; fair balance; necessary protections; and rights and freedoms. We do not consider that any of the proposals have constitutional significance or will restate an enactment

Proposal A1: Minimum age for membership of an IPS; minimum age for becoming an officer of an IPS

Why is change needed?

2.2 Firstly, the Industrial and Provident Societies Act 1965 specifies that a person under the age of 18 but above the age of 16 may become a member of an Industrial and Provident Society (IPS) unless the rules provide otherwise.

2.3 This means that explicit provision is required in a society's rules if persons under the age of 16 are to be able to join the society. This constitutes a burden as it is an administrative inconvenience for societies to have to deal with this matter in their rules. Persons under 16 should be able to become members of a society without the need for express provision in the society's rules.

2.4 The change could also widen participation of young people in I&P societies and so contribute to economic productivity. It would also bring I&P societies into line with companies: there is equivalent provision on members above the age of 16 in the Companies Acts. It should not be more difficult for a young person to join an I&P society, or for societies to attract young people, than it is for a young person to join company or for companies to attract young members.

2.5 Secondly, a person under the age of 18 may not become a member of the committee, trustee, manager or treasurer of an IPS. This is considered a burden as it prevents persons under the age of 18 from making a full contribution to the affairs of the society. By contrast, persons under 18 but above 16 may become directors of a company (s.157 Companies Act 2006). Allowing such persons to become officers of the society could make societies more efficient and effective, and so contribute to productivity. It would also ensure that young people have the same opportunity to participate in the direction of an IPS as they do in the direction of a company.

Who will be affected?

2.6 I&P societies, who at present must have explicit provision in their rules if they wish to admit members under 16, and may only appoint persons over 18 as officers. Persons under 16, whose opportunities to join I&P societies could at present be limited, and persons over 16 but under 18, who may not become officers of the society and make a full contribution to the affairs of the society.

2.7 Section 20 of the Industrial and Provident Societies Act 1965 provides that:

- (a) a person under the age of eighteen but above the age of sixteen may be a member of a registered society, unless the society's rules provide otherwise;

- (b) a person under 18 but above 16 shall not be a member of the committee, trustee, manager or treasurer of the society.

2.8 We propose to remove the identified burden by amending section 20 to provide that:

- (a) a person under the age of 16 may become a member of an IPS, unless the society's rules provide otherwise;
- (b) a person under the age of 16 may not become a member of the committee, trustee, manager or treasurer of the society.

2.9 The LRO will not impose any new burdens and societies will remain free to set a minimum age for membership in their rules. However, if they wish to admit members of any age, no special provision will be required in their rules.

2.10 In addition the LRO will set a new minimum age of 16 for being an officer of an LRO, but this reduces a burden. Societies will remain free to specify the requirements, and procedure, for appointment as an officer in their rules.

Non-legislative solutions

2.11 The burdens are contained in legislation (s.20 IPSA 1965) so it would not be possible to achieve the policy by non-legislative means.

Proportionality

2.12 In our view the effect of the proposal is proportionate to the objective. There are potentially some disadvantages to the policy. If societies wish to maintain the current position and set a minimum age of 16 and/or restrict officers to over 18s they will now have to amend their rules.

2.13 However, we consider this to be outweighed by the advantages of liberalising the Act in this area, which could widen participation in societies, as discussed above. There will also be a safeguard of a minimum age of 16 for officers, and in any event the procedures for appointing officers will still be determined by societies and not by statute.

Fair Balance

2.14 The provisions will strike a fair balance between the public interest and the interest of any person adversely affected by them. We do not think that any person will be adversely affected by the proposals. However, there are potentially significant public benefits, arising from increasing participation in I&P societies among young people.

Necessary protection

2.15 The current provision allowing membership to be open to persons over 16 might be considered a necessary protection, as societies have to make a conscious decision (by changing their rules) to admit members under 16. This might be considered to protect other members of the society, as persons under 16 might not be fully aware of their rights as members of the society or might, for example, be more susceptible to other members telling them how to vote.

2.16 However, we consider that allowing societies to set their own minimum age for membership provides sufficient protection, as it allows each society to deal with this issue as it sees fit.

2.17 Similarly the current provision requiring officers to be over 18 might be considered a "necessary protection" for members under 18 (who might not be aware of their potential liabilities if they became officers) and for other members of the society (as the society might suffer if an inexperienced or incapable person became an officer). However, in our view it is reasonable to expect a person who is 16 years old to understand the duties (and liabilities) of an officer and to perform those duties properly.

2.18 The responsibilities of officers are similar to those of company directors, and 16 year olds may become company directors, so it is difficult to justify any difference in treatment. Also, it will remain for the society itself to determine who its officers should be, how they should be elected and whether there should be a higher minimum age for officers in its rules. So we do not think this restriction constitutes a "necessary protection".

Rights and Freedoms

2.19 We are not aware of any right or freedom which would be affected by this proposal.

Proposal A2. Modify the rules on share capital

Why is change needed?

2.20 At present the maximum shareholding which any one member may have in a society, is limited to £20,000. (There are certain limited exceptions). In our view this constitutes an obstacle to productivity, as it prevents members from investing more than £20,000 in the society and so allowing the society to expand and invest. The limit is particularly onerous for agricultural co-operatives, which use their share capital for capital investment in plant and machinery; it restricts the total amount of investment such societies may make.

2.21 It also constitutes an obstacle to profitability, as increased investment from their members could increase societies' opportunities to diversify or expand their business and in turn improve their profitability.

Background

2.22 Industrial and Provident Societies may issue shares which are transferable (i.e. which can be transferred to another person, provided that person qualifies for membership of the society) and/or withdrawable (i.e. which the member can "withdraw" and receive the value of the shares from the society). Societies must specify in their rules whether shares are transferable or withdrawable (or both), and on what terms (see Schedule 1, IPS Act 1965).

2.23 In co-ownership enterprises, where investing in share capital is restricted to members who use the services of the enterprise (workers, customers, suppliers), transfer rights are usually withheld to prevent share capital falling into the hands of non-members. This means that the share capital must be refunded by the enterprise - withdrawable share capital. Because it can be withdrawn, it is more like temporary capital rather than permanent capital. Enterprises with this type of finance must make

provision for the fact that members may withdraw their capital within the terms of the share agreement.

2.24 IPS shares are usually withdrawable rather than transferable, and receive only a limited dividend. IPS share capital can be non-withdrawable and transferable, allowing members to sell their shares to a third party, as long as that person qualifies for membership. But in practice, most co-operative societies at present issue withdrawable capital.

Who will be affected?

2.25 Industrial and provident societies, whose capacity to raise funds from their members is at present limited. Members (and potential members) of societies, who can only invest a limited amount in the society and so can only benefit from the capital investment of the society to a limited extent.

2.26 Section 6 of the Industrial and Provident Societies Act 1965 provides that, with limited exceptions, no member of the society shall have any claim or interest in the shares of the society exceeding £20,000. The limit can be altered by the Treasury by order under the Industrial and Provident Societies Act 1975, s.2.

2.27 We propose to remove the burden by modifying section 6 so that the £20,000 limit only applies to shares, which are withdrawable. This will allow members to invest more than £20,000 in shares which can be transferred to another member (or potential member) but which cannot be withdrawn (or refunded) by the society. The limit will remain in place for withdrawable shares, and it will be possible for a member to own withdrawable and transferable shares.

2.28 In our view this will alleviate some of the funding difficulties societies are facing, by allowing them to raise more money from their members by issuing transferable shares. The LRO will not impose additional burdens.

2.29 Section 6 of the 1965 Act does not apply to credit unions[1], so they will not be affected by the proposal.

Non-legislative solutions

2.30 The Government does have a power to raise the limit in section 6 and following its recent policy review, is considering whether to exercise this power. It can do so by a negative resolution order under the Industrial and Provident Societies Act 1975 (s.2). This power was last exercised in 1994.

2.31 Raising the limit would help alleviate some of the funding difficulties societies are facing. However, it would only go so far in doing so. Smaller societies, which need to make substantial capital investments, such as agricultural co-operatives, would still be unduly and unnecessarily restricted.

2.32 The power to raise the limit does not distinguish between withdrawable and transferable share capital. So it could not be used to raise the limit for transferable share capital only.

2.33 The power could be used to raise the limit to a much higher figure, such as £100,000 or more. But that could increase the risk of societies being classed as "credit

[1] See section 31(3) of the Credit Unions Act 1979/

institutions" for the purposes of the EC Banking Consolidation Directive (2006/48), which would mean that European banking rules would apply to them. The Government would have to consider whether regulations on money laundering should apply to I&P societies. At present they are exempt from money laundering regulations in respect of withdrawable shares up to the £20,000 limit.

2.34 For these reasons the existing power, on its own, is considered inadequate, so we wish to legislate to remove the limit in respect of shares which are transferable only.

Proportionality

2.35 In our view the effect of the proposal is proportionate to the objective of allowing societies to raise more funds through the issue of shares.

2.36 There are some disadvantages and potential risks to the policy. For example, if members invest substantial amounts in a society's transferable shares, they could be exposing themselves to significant risks if the society becomes insolvent. However, there are some safeguards against this:

- societies are required by the 1965 Act[2] to provide copies of their annual return (which includes their accounts) free of charge to any person on request;
- co-operative societies (but not community benefit societies) are required by the Financial Services and Markets Act 2000[3] to issue a prospectus for any offer of transferable shares where the total consideration of the offer exceeds the equivalent of 2.5 million euros.

As with any other risk capital, investors will have to take a view as to whether transferable shares in societies represent a good investment.

2.37 Also, as the reform will apply to non-withdrawable shares only, the exemption from the UK Money Laundering Regulations4 should not be affected.

2.38 A further issue is what would happen to transferable shares on a member's death; they could only be transferred to another person who was eligible for membership of the society. However, we think this issue can be dealt with adequately in societies' rules. On balance we consider that the safeguards are adequate and that the risks are outweighed by the potential advantages.

Fair Balance

2.39 We do not think the proposal will have an adverse effect on any person.

Necessary protection

2.40 We do not believe that any necessary protections will be removed. The current £20,000 limit, which applies to withdrawable and non-withdrawable share capital, might be considered to be a necessary protection on members and potential members in relation to shares which are transferable but not withdrawable. However, for the reasons given above we believe that adequate safeguards are in place.

[2] Section 39.

[3] See Schedule 11A.

[4] (SI 2007/2151, article 4).

Rights and Freedoms

2.41 We are not aware of any right or freedom, which would be affected by this proposal.

Proposal A3: Amend the provision on fee for copy of the society's rules.

Why is change needed?

2.42 The 1965 Act provides that a copy of the rules of a society must be provided by the society to any person who demands it, on payment of a sum determined by the society but not exceeding 10 pence.

2.43 This constitutes a financial cost and an administrative inconvenience to societies, who may charge no more than 10 pence for provision of a copy of their rules to any person, whether or not that person is a member of the society. They are unable to recover any more of their costs of providing copies of the rules.

2.44 It also constitutes a burden on members of the society who must, if the society (or its rules) demands it, pay a nominal fee for a copy of the rules. This is an administrative inconvenience.

Who will be affected?

2.45 Industrial and Provident Societies, as they may not at present recover more than 10 pence of the cost of providing copies of their rules to non-members. Members of the society, who must at present pay a nominal fee, if the society's rules require it, for a copy of the society's rules.

2.46 Section 15(1) of the Industrial and Provident Societies Act 1965 provides that a copy of the registered rules of any society (including any amendments) must be delivered to the society by any person who demands it, subject to payment by that person of such sum not exceeding 10 pence as the society may see fit to charge.

2.47 The Treasury proposes to remove the identified burden by modifying section 15 so that societies must provide a copy of the rules free of charge to any member, and to any non-member on payment of a fee determined by the society but not exceeding £1. The Treasury will be able to vary the £1 by a negative resolution statutory instrument.

2.48 This will align I&P societies with building societies and friendly societies. The Building Societies Act 1986 and Friendly Societies Act 1992 contain similar provisions on copies of the rules.

2.49 In our view this would remove a burden on members, by giving them a right to copy rules free of charge, and remove a burden on societies, by allowing them to charge more for copy rules provided to non-members.

2.50 Societies will be able to charge non-members £1, rather than 10 pence, for a copy of the society's registered rules. But the overall result is a reduction in the burden on societies, and in our view this is an acceptable trade-off.

Non-legislative solutions

2.51 The policy cannot be achieved by non-legislative means as the maximum fee for copies of rules is specified in the Act.

Proportionality

2.52 In our view the provisions are proportionate to the policy objective. The objective is to allow societies to recover more of their cost for providing copy rules, and more generally to update the law and bring it into line with the law for other forms of mutual society. The only potential disadvantage is that non-members may have to pay more for copies of the rules (although societies could choose to charge them 10 pence or less) but in our view this can be disregarded.

Fair Balance

2.53 In our view there is a fair balance between the public interest of having modern and up to date provisions on copy rules for societies, and the interests of anyone who may be adversely affected by having to pay £1 for a copy of a society's rules.

Necessary protection

2.54 We do not think the current 10 pence limit constitutes a necessary protection.

Rights and Freedoms

2.55 We are not aware of any right or freedom which would be adversely affected by this proposal. Non-members will still have the right to a copy of a society's rules.

Proposal A4: Facilitate easier dissolution of registered societies.

Why is change needed?

2.56 An Industrial and Provident Society that wishes to dissolve voluntarily must prepare an instrument of dissolution, which must be signed by not less than three-quarters of the members of the society.

2.57 This makes it difficult for defunct or inactive societies to dissolve, particularly if they have lost touch with a significant number of their members. By contrast, a less onerous procedure applies if a society wishes to transfer its engagements to a company.

2.58 This constitutes an administrative inconvenience for those societies wishing to dissolve, as they must, if they are unable to obtain the requisite number of signatures, continue to comply with statutory requirements such as filing annual returns. It is also an administrative inconvenience, financial cost and obstacle to efficiency for the registrar (the Financial Services Authority) as inactive societies remain on the register and the FSA must continue to process annual returns and other documents for them.

Who will be affected?

2.59 Inactive societies and their officers, who must continue to comply with statutory requirements (see above). The FSA, which must continue to fulfil its function as registrar in respect of inactive societies.

2.60 Members of inactive societies, who find it difficult to obtain the requisite number of signatures to dissolve a society, and so are unable to benefit (directly or indirectly) from a distribution of assets (if any), which would occur on a dissolution. (On dissolution, assets could be distributed among the members or (if the instrument of dissolution so provides) to a society or charity with similar objects. Societies' rules often require the latter).

2.61 The burden results from legislation because Section 55(b) of the Industrial and Provident Societies Act 1965 requires not less than three-fourths of the members of the society to give their consent to an instrument of dissolution testified by their signatures to the instrument. Section 58(4) requires any alterations to the instrument of dissolution to be made in a similar way.

2.62 We propose to remove the burden by giving societies an option to approve an instrument of dissolution by a resolution passed in the same way as a resolution to transfer the engagements of the society to a company.

2.63 The requirements for converting, or transferring engagements, to a company, which are set out in s.52 of the IPS Act 1965, were amended by the Industrial and Provident Societies Act 2002. The society must pass a "special resolution" which meets the following requirements:

- (a) it is given at a general meeting of which notice, specifying the intention to propose the resolution, has been given according to the rules;
- (b) it is passed by not less than three-fourths of the members (or proxies) Voting at the meeting;
- (c) at least half of the qualifying members of the society voted (in person or by proxy) and
- (d) it is confirmed by simple majority at a subsequent general meeting of which notice is given between 14 days and one month after the first meeting.

2.64 The chairman may declare, at the meeting, that the society has taken all reasonably practicable steps to ascertain the number of qualifying members of the society, meaning members who are for the time being entitled to vote.

2.65 This would enable a society with 150 members on its register (but only 100 traceable members) to dissolve on the basis of a meeting at which only 50 members vote, with only three-quarters of those voting in favour of dissolution. Even if the society concluded that all 150 members were active and eligible to vote, dissolution could be achieved at a meeting at which only 75 members vote, with a minimum of 57 voting for dissolution.

2.66 By contrast, under the current legislation the same society would have to secure the signatures of at least 113 of its members to the instrument of dissolution. However, we intend to keep the current dissolution procedure as an option and allow societies to choose between the two. For a society with only a few members, for example, it might be easier to obtain the signature of three-quarters of the members (if say there are only 16 members) than to comply with the procedural requirements set out above.

2.67 This provision will impose a new burden as there will be a new procedure for voting on a dissolution (see above). But this reduces a burden; and the existing procedure will be maintained as an option for societies.

Non-legislative solutions

2.68 The policy could not be achieved by non-legislative means. The legislation identified above requires three-quarters of members of the society to sign the instrument of dissolution.

Proportionality

2.69 In our view the effects are proportionate. The change will result in an easier dissolution procedure for societies. However, it will still be fair for members, as they will be entitled to vote on a resolution to approve the dissolution, and there will be adequate safeguards in place, similar to those which apply to a transfer of engagements to a company.

Fair Balance

2.70 We do not think any person will be adversely affected by the proposal. The use of the same procedure as for transfers to a company ensures that the simplified dissolution procedure cannot be used as a backdoor route to demutualization.

Necessary protection

2.71 We do not believe that any necessary protections will be removed. Societies will have to notify members of the resolution to dissolve, and members will be entitled to vote. Adequate safeguards will be in place against use of this procedure for demutualization.

Rights and Freedoms

2.72 We do not believe that the proposal will have an adverse effect on rights and freedoms. Members will be entitled to vote on a resolution to dissolve the society.

Proposal A5: Give societies the flexibility to choose their own year-ends.

Why is change needed?

2.73 At present societies' flexibility to set their own accounting year-end dates is limited. The year-end must fall between 31st August and 31st January. A year-end date falling outside this period is only allowed with the approval of the Financial Services Authority, which must be satisfied that special circumstances exist.

2.74 This constitutes a burden on societies, as their trading year may not coincide with the tax year. This can result in increased audit and accounting costs, for example for agricultural coops, whose trading year may be determined by the nature of their business. It can also mean that matters to be dealt with in the annual return cannot be dealt with at the same time as tax matters. So some societies have to face the cost and administrative inconvenience of having audit and accounting matters dealt with twice a year, and this may also result in an obstacle to efficiency.

Who will be affected?

2.75 Societies, who are at present limited in their choice of year-ends unless special circumstances, exist.

2.76 The burden arises from Section 39(2), (2A) and (3) of the Industrial and Provident Societies Act 1965.

2.77 We propose to remove the burden by amending s.39 to allow societies to choose a year-end outside the 31.8 – 31.01 periods, provided they notify the Authority.

2.78 There will also be safeguards in place to ensure that:

- (a) changing the year-end cannot have the effect of extending the period to be included in the next annual return beyond 18 months, and
- (b) the period cannot be extended less than 5 years after the end of an earlier period that was so extended.

2.79 These safeguards mirror equivalent provisions in the Companies Act 20065 to ensure that societies continue to submit regular annual returns. There will be new burdens on extending the period to be covered in the next annual return (see above) but there is an overall reduction in burdens.

Non-legislative solutions

2.80 The policy could not be achieved by non-legislative means, as the restriction is contained in legislation (see above).

Proportionality

2.81 The effects are proportionate to the policy objective, which is to give societies greater flexibility in their accounting arrangements. This does not come at any cost to accountability or transparency.

Fair Balance

2.82 There is a strong public interest in allowing industrial and provident societies to have flexible, modern accounting arrangements comparable to those in place for companies. We do not think any person will be adversely affected by the proposal.

Necessary protection

2.83 We do not think the proposal will remove any necessary protections. We understand that the origin of the policy was that the Chief Registrar of Societies had to report to Parliament within a certain time limit on the transactions with and by societies so that there was a limited window in which to produce the statistics. This window is no longer relevant.

Rights and Freedoms

2.84 The provisions will not prevent a person from exercising any right or freedom, which they might reasonably expect to continue to exercise.

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[5] Section 392 (1), (3) and (5).

Proposal A6: Remove the requirement on societies to have interim accounts audited.

Why is change needed?

2.85 Societies which choose to publish interim accounts, are required to have those accounts audited (with limited exceptions). This results in a financial cost for societies of having interim accounts audited, and an administrative inconvenience of having the audit. The interim audit requirement deters some societies from publishing interim accounts, and this can act as an obstacle to productivity.

2.86 There is an exception for credit unions, which may display unaudited interim accounts at their registered offices only, provided they are displayed alongside the most recent audited accounts and are clearly marked as unaudited accounts (section 24 Credit Unions Act 1979). However, credit unions may not display or publish unaudited interim accounts in any other way.

Who will be affected?

2.87 Industrial and provident societies which choose to publish interim accounts, as they must (at present) have those accounts audited. This puts them at a competitive disadvantage with other bodies corporate such as companies, which are not required to have their interim accounts audited. Its effect is to discourage societies from producing interim accounts, which may hinder them in their external financial transactions and prevent them from keeping their members informed of the finances of the society.

2.88 Members of societies are indirectly affected, as the requirement to have interim accounts audited diverts resources of the society, which could be spent on providing services for their members. Where societies are deterred from producing interim accounts by the audit requirement, members are affected by the loss of transparency and information about their society.

2.89 The burden results from Section 3A of the Friendly and Industrial and Provident Societies Act 1968, which provides that a society shall not publish an interim revenue account or balance sheet for the current year of account unless the interim account or balance sheet has been fully audited. If the requirement to have year-end accounts audited is disapplied, the interim account or balance sheet must still incorporate an appropriate statement by an auditor.

2.90 We propose to remove the identified burden by modifying section 3A so that any society can publish interim accounts, provided they are published alongside the last published year end accounts, and are clearly identified as unaudited interim accounts.

2.91 This will apply equally to credit unions, so the current limited exception in section 24 of the Credit Unions Act will be repealed.

2.92 The provisions will impose new burdens. Any interim accounts published will have to be published alongside the latest year-end account, and will have to be clearly identified as unaudited interim accounts. However, there is an overall reduction of burdens.

Non-legislative solutions

2.93 The policy could not be achieved by non-legislative means, as section 3A of the 1968 Act requires any published interim accounts to be audited.

Proportionality

2.94 In our view the effects are proportionate. The objective is to reduce the cost and inconvenience to societies of having their interim accounts audited, and to encourage more societies to publish interim accounts. In our view this can be achieved without any loss of transparency, accountability or accuracy of accounts; and appropriate safeguards are in place.

Fair Balance

2.95 We do not think that any person will be adversely affected by the proposal. Members of a society which chooses to publish interim accounts, and others dealing with it, will have access to more financial information about the society, but it will be clear that this is unaudited information.

Necessary protection

2.96 We do not consider the requirement to audit interim accounts to be a necessary protection for members or others dealing with societies. There are no similar requirements in place for companies.

Rights and Freedoms

2.97 The provisions would not prevent the exercise of any right or freedom.

3 Credit Unions

3.1 This chapter sets out each of the proposals to reform credit union legislation and the Government's view on how they meet the pre-conditions of the LRRA 2006. For each of the proposals we also address the question of non-legislative solutions, proportionality; fair balance; necessary protections; and rights and freedoms. **We do not consider that any of the proposals has constitutional significance. Unless specified the provisions will not restate an enactment.**

Proposal B1: Replace the "common bond" requirement for credit unions with a "field of membership" test.

Why is change needed?

3.2 At present, admission to membership of a credit union must be restricted on the basis of certain qualifications. In addition, as a consequence of the membership qualifications, there must be a "common bond" between the members of the credit union.

3.3 In today's society, it is increasingly difficult to demonstrate that a "common bond" exists between people, even if (for example) they live in the same locality or are employed by the same employer. If the credit union is based on a combination of membership qualifications (see proposal 2) the "common bond" requirement becomes even more difficult to satisfy.

3.4 We consider that the "common bond" requirement is a burden for the following reasons:

(a) Financial cost. The current "common bond" requirement results in additional administration costs for the Financial Services Authority (FSA), which in response to any application to register a credit union must determine whether the current common bond test, which is unclear, is satisfied. This cost is passed on to credit unions via fees, as the FSA operates on a full cost-recovery basis. In unusual cases, such as where there are new membership qualifications or an innovative combination, persons wishing to form a credit union, or sector bodies such as the Association of British Credit Unions, may seek legal advice as to whether there is a common bond, which would be a cost to those persons.

(b) Administrative inconvenience. There is an administrative inconvenience for credit unions (and persons wishing to form credit unions, whether a group of individuals, or two or more credit unions seeking to merge). They must demonstrate to the FSA that the current common bond test is satisfied. One way of doing that is by giving a statutory declaration that there is a common bond (section 1(5)), which the FSA may treat as sufficient evidence of a common bond. But this is also an administrative inconvenience for the society or potential society, as it must go to the trouble of producing the statutory declaration and possibly obtaining appropriate legal advice, and once it has done so there is no guarantee that the FSA will treat the statutory declaration as sufficient evidence.

(c) Obstacle to efficiency. We consider that the current common bond test constitutes an obstacle to the efficiency of the FSA, as it is not clear from the Act how the FSA should apply the common bond test, or even what a "common bond" is. The FSA has produced its own guidance on how it will apply the test (see CRED 13 Annex 1A: http://fsahandbook.info/FSA/html/handbook/CRED/13).

However, the FSA must work on a case-by-case basis and there may be cases where it is unclear whether the current common bond test is satisfied. Reform of the test would improve the FSA's efficiency in registering new credit unions; there will still have to be some exercise of judgement by the FSA (see below) but it will be clearer how the FSA is to apply the new test

(d) Obstacle to productivity. Credit Unions are considered to contribute to the productivity of the UK economy. So we consider that the current common bond requirement, which restricts the situations in which a credit union may be formed, and may deter individuals or groups from forming credit unions or credit unions merging, constitutes an obstacle to productivity. Credit unions are profit making, but that is not the primary focus, which is to provide loans at reasonable rates and a return on deposits as defined in the objects (see s.1(3) of the Credit Unions Act 1979):

- 'the promotion of thrift among the members by the accumulation of savings;
- the creation of sources of credit for the benefit of the members at a fair and reasonable rate of interest;
- the use and control of the members' savings for their mutual benefit; and the training and education of the members in the wise use of money and in the management of their financial affairs.'

Credit unions make a significant contribution to local economies, where they are established, by contributing to financial inclusion and capability. There is an added benefit that the money they attract and lend are retained locally, rather than contributing to the global profits of external shareholders as in the case of banks and to a more limited extent, building societies. As a result credit unions have become a significant contributor to the Government's Financial Inclusion policy.

The obstacle to productivity could arise, for example:

- if a group of individuals are deterred from forming a credit union, because they are not sure that they will meet the current "common bond" test. This could restrict **innovation**, as it could prevent a new type of credit union forming based on a novel common bond or membership qualifications.
- two or more credit unions seek to merge, to form a single, larger credit union, but are not sure that they will meet the common bond test. This could restrict **competition** between the potential merged credit union and other institutions taking deposits or offering loans (such as banks or building societies); it could also stifle **investment** as a larger credit union might provide an appropriate vehicle for public or private sector investment in a community. It might also be an obstacle to **enterprise**, as a larger credit

union would be in a better position to make loans to its members to start new businesses or invest in existing businesses.

(e) Obstacle to profitability. The current common bond test could deter existing credit unions from merging, as discussed above. This could constitute an obstacle to profitability, as a larger, merged credit union could benefit from economies of scale to reduce its costs, and have a higher profile so be able to reach more members. This could result in an increase in turnover and profits for the merged credit union, which could be reinvested for the benefit of the members via higher dividends or lower loan rates.

Who will be affected?

3.5 Financial cost: affects credit unions indirectly (as they must pay FSA fees to cover its costs) and directly (e.g. through seeking legal advice on the common bond). May also affect groups or individuals seeking to form a credit union, e.g. cost of seeking appropriate advice. FSA is also affected, though it passes costs on to credit unions.

3.6 Administrative inconvenience: affects individuals or groups wishing to form credit unions, or existing credit unions wishing to merge (see above).

3.7 Obstacle to efficiency: affects the FSA (see above).

3.8 Obstacle to productivity: affects individuals or groups wishing to form a credit union, or persons who might benefit from membership of such a credit union. Also affects existing credit unions wishing to merge (and their members) – see above. There is also an effect on persons living in communities where there is limited access to banking or credit facilities: in the absence of a credit union they might have to rely on less secure and more expensive means of saving or borrowing.

3.9 Obstacle to profitability: affects existing credit unions and their members.

3.10 The burden arises from Section 1 of the Credit Unions Act 1979, which provides that a society may be registered as a credit union if it is shown, to the satisfaction of the FSA, that (inter alia) admission to membership is restricted to certain specified membership criteria "and that in consequence a common bond exists between members of the society" (s.1(2)(b)).

3.11 We propose to address the problem by removing the words identified above in s.1(2)(b), effectively removing the requirement for a common bond to exist in addition to membership criteria meeting the statutory requirements; and making consequential changes to other provisions in the 1979 Act.

3.12 The requirements of the Act relating to membership qualifications will also be reformed – see below (proposal B2). This will allow more combinations of membership qualifications, which could result in larger credit unions, which would be open to a larger section of the general public.

3.13 However, the size of credit unions will be kept in check by a new "field of potential members" test, under which the Authority will have to be satisfied that the field of potential members is appropriate to a credit union. For this purpose:

- the Authority must treat a statutory declaration given by three members and the secretary of the society that the field of potential members is 100,000 persons or less as sufficient evidence that the field of potential members is appropriate to a credit union;

- where the field of potential members is greater than 100,000 but less than one million, or 100,000 or less but no statutory declaration is given, the Authority must require the society to demonstrate that:
    - all members would be able to take part in the governance of the society (for example, by participating in the committee of the society or working for the society on a voluntary basis)
    - the society would be able to service the needs of all its potential members;
    - the field of potential members is less than one million.
- where the field of potential members is one million or more, the Authority must require the society to demonstrate that extraordinary circumstances exist to justify registration as a society under the 1965 Act.
- The field of potential members shall be determined by reference to the proposed qualifications for admission to membership of the society.

3.14 This is similar (but not identical) to the test the Authority currently sets out in its guidance for determining whether the "common bond" requirement is satisfied. It will effectively replace the current "common bond" requirement.

3.15 There would also be a power for the Treasury to change, by negative resolution statutory instrument, the numbers of persons setting the limits for the three "field of potential members" categories.

3.16 Although new burdens are being created, we consider that there will be an overall reduction in burdens:

(a) Financial cost: in the short term there may be additional costs for the FSA in changing to the new test. But in the long term, as the test is clearer and easier to apply, the FSA's costs should reduce. Any reduction in the FSA's costs should be passed on to societies. Costs for persons wishing to form a credit union could also reduce: in unusual cases where there are new membership qualifications or combinations, there would be no need to seek legal advice as to whether there is a common bond.

(b) Administrative inconvenience: we consider that the new field of membership test is clearer, so it should be easier for potential credit unions to satisfy and so reduce administrative inconvenience.

If the field of potential members is 100,000 or less, then provided the membership qualifications are appropriate (see proposal 2), the society only has to produce a statutory declaration to that effect: the FSA will be required to treat that as sufficient evidence that the field of potential members is appropriate.

If the field of potential members is between 100,000 and 1 million, or is less than 100,000 but the credit union chooses not to produce a statutory declaration, the society will have to show that all members could take part in its governance and that it would be able to service the needs of all its potential members. In essence, the potential society will have to explain to the Authority how it will be run, and that it will be run in a way which ensures that these requirements will be satisfied.

Where the potential membership is one million or more, the society must demonstrate extraordinary circumstances exist to justify registration as a credit

union (and not as another corporate form, for example a building society). This is similar to the test currently applied by the FSA for societies of this size (see CRED 13 Ann 1A para 2(2)(e)).

In summary the new test sets out more clearly what credit unions have to demonstrate to the FSA, rather than relying on the ambiguous "common bond" concept.

(c) Obstacle to efficiency: this will be reduced as the new test will be clearer, and so easier for the FSA to apply. For example, where the potential membership is 100,000 or less the FSA will be required to accept a statutory declaration of that fact as sufficient evidence: there will be no further test or exercise of discretion for the FSA. It should also be more straightforward for the FSA to form a judgement on the credit union's concrete proposals for participation in the credit union and for servicing the credit union's members, than to form a judgement on whether there will be a "common bond" between the members.

(d) and (e) Obstacles to productivity and profitability: these will be reduced as the clearer "field of membership" test should have less of a deterrent effect on societies merging or new societies forming.

3.17 The proposal will impose new burdens – specifically the "field of potential members" test (see above) and in particular the requirement on (potential) societies to demonstrate certain matters to the Authority if the field of potential members exceeds the figure specified. However, the overall result is that burdens will be reduced, by removing the ambiguous "common bond" test and by providing a clearer restriction on the field of membership of credit unions.

Non-legislative solutions

3.18 The policy could not be achieved by non-legislative means. The common bond requirement is set out in legislation and is a separate, additional requirement to the membership qualifications.

Proportionality

3.19 In our view the proposal is proportionate to the policy objective. The policy objective is that credit unions are permitted the flexibility to grow and deliver a wider range of financial services to members, as well as acting as a delivery vehicle for Government policy in improving financial inclusion and capability. The proposal makes it possible to offer wider scope for membership, whilst retaining a clear membership based organisation, which acts as financial cooperative.

3.20 Removing the common bond test, and replacing it with the "field of potential members" test, contributes to this objective by changing and clarifying the requirements societies must meet to incorporate as credit unions.

3.21 There may be some disadvantages: the reforms could result in larger and more diverse credit unions, which may lose some of their sense of identity and collective interest. But in our view these are outweighed by the advantages.

Fair Balance

3.22 We consider that few, if any, will be adversely affected by this proposal. However, there are potentially significant public benefits, in terms of giving more groups and individuals (and combinations) access to credit unions.

Necessary protection

3.23 We are not aware of any necessary protections, which will be removed by this proposal. While it is possible that existing credit unions could alter their terms of admission to membership to take advantage of the proposed change, two thirds of members would have to agree to this as it would be a rule change.

Rights and Freedoms

3.24 We are not aware of any right or freedom which would be affected by this proposal.

Proposal B2: Reform the requirements relating to membership qualifications and rename them "common bonds".

Why is change needed?

3.25 To register a credit union, the FSA must be satisfied that membership is restricted to persons who fill either one single qualification for membership, or a permitted combination of qualifications. (At present, the FSA must also be satisfied that, as a consequence of the membership qualifications, the "common bond" requirement is met - see proposal 1 above).

3.26 At present only certain combinations are permitted under section 1 of the Credit Unions Act 1979: they must include the qualification of "being a member of a bona fide organisation or being otherwise associated with other members of the society for a purpose other than that of forming a society to be a registered as a credit union" (s.1(4(e)) and one other qualification in s.1(4)(a) to (d) or (f). These qualifications concern following a particular occupation, residing in a particular locality, being employed in a particular locality, being employed by a particular employer or residing in or being employed in a particular locality.

3.27 However, it is not possible to combine:

- two qualifications in s.1(4)(a) to (d) or (f), without the qualification in (e);
- any qualification with an additional qualification approved by the FSA;
- more than two qualifications; or
- two specific qualifications under the same paragraph, for example residing in one of two particular localities.

3.28 This is closely linked to the burden which proposal 1 seeks to address, as without reforming the "common bond" test it would be difficult to further liberalise membership qualifications.

3.29 The current restrictions on combinations of membership qualifications constitute a burden in the form of an obstacle to productivity. Credit unions contribute to the productivity of the UK economy and allowing a wider range of combinations of membership qualifications would allow a wider range of individuals to combine to form credit unions. This in turn could encourage more people to join, and benefit from, credit union membership.

3.30 Credit unions, in some cases, have experienced difficulties in attracting financial inclusion and other funding because the inflexibility of the membership qualifications limits the ability to reach a sufficiently wide community to be effective in delivering government policy objectives.

3.31 The current restrictions could act to limit innovation, competition, enterprise and investment for similar reasons to the "common bond" test discussed in proposal B1.

3.32 Where a credit union is failing the rescue options are limited. Merger with another credit union, even if there is one available, may be blocked because of the incompatibility of the relevant membership qualifications. The current restrictions on membership qualifications could, in a situation where one credit union is failing, limit or prevent investment by one credit union in another, and if the credit union fails, have an adverse knock-on effect for competition, enterprise and investment in the local community.

3.33 The current membership qualifications rules also act as an obstacle to profitability as they prevent credit unions merging, which could have the benefits discussed in relation to proposal B1.

3.34 An additional burden results from the use of the terms "qualification for admission to membership" and "common bond" in the legislation. Many societies confuse the two, and refer to "common bonds" when they mean "membership qualifications". For example, if the membership qualification is "live or work in Manchester" that might be referred to as a "live or work common bond". However, "common bond" is at present a different concept to "membership qualification" and forms an additional test .

3.35 The form of the legislation results in an administrative inconvenience. Users of the legislation – in particular credit unions and groups which represent them – do not use the terminology provided by the legislation, either because they misunderstand it or find it inconvenient, confusing or cumbersome. The result is that the law is inaccessible to societies and their members, and so different terminology is used by different persons, which can cause confusion in communications between societies, their members and the FSA.

Who will be affected?

3.36 Individuals and groups who would like to combine with others to form credit unions, and credit unions who would like to merge, but cannot do so because of the current restrictions on permitted combinations. Credit unions, their members and the FSA are all affected by the confusion about the terms "common bond" and "membership qualification".

3.37 We propose to remove the second burden by changing references to "qualification for admission to membership" to "common bond". This will bring the

Act into line with practice and common understanding of the concept. It is possible as the term "common bond" will no longer be used in s.1(2)(b) (see proposal 1 above).

3.38 We are considering two options for reforming membership qualifications:

Option A: amend section 1 of the Credit Unions Act 1979 to allow:

- combinations of any two membership qualifications in s.1(4)(a) to (f) ;
- combinations of any membership qualification in s.1(4)(a) to (f) with any other membership qualification approved by the FSA (the FSA already has the power to approve other membership qualification: see s.1(4) ;
- combinations of any membership qualification in s.1(4) with another membership qualification under the same provision (e.g. two specific qualifications under s.1(4)(a));
- combinations of more than two membership qualifications, in the case of two or more societies which seek to amalgamate or transfer engagements, where the FSA is satisfied that, if the amalgamation or transfer did not go ahead, one or more of those societies would be in serious financial difficulties.

Option B: amend the Act to allow a combination of any number of membership qualifications from any categories, without limitation.

We would welcome respondents' views on these two options.

3.39 New restrictions will be imposed relating to the field of membership (see above under proposal 1). These will ensure that reforms to membership qualifications will not result in credit unions being able to effectively open their membership to the general public by specifying widely drawn membership qualifications. However, the overall effect is to reduce burdens, by allowing more combinations of membership qualifications.

3.40 Under option A, the limit on combinations of more than two membership qualifications to situations where one or more of the societies involved in a merger would be in serious financial difficulties also creates a burden, as the Authority must be satisfied that serious financial difficulties might otherwise arise (this restricts the availability of such combinations and creates additional administrative requirements). Limiting the availability of combinations of more than two membership qualifications in this way will ensure that they are only available in genuine cases of financial difficulty, and not as a way of credit unions combining more than two membership qualifications to expand. The overall effect is a reduction of burdens, as the approval of the Authority is only required where more than two membership qualifications are combined; it would not affect combinations of two membership qualifications.

3.41 Under option B (allowing a combination of any number of membership qualifications), the only safeguard against inappropriate expansion would be the "field of potential members" test outlined in proposal B1.

Non-legislative solutions

3.42 The policy could not be achieved by non-legislative means, as the permitted combinations of membership qualifications are set out in legislation. The FSA has the power to approve additional membership qualifications (s.1(4)) and could use this, to a

limited extent, to allow combinations which are not possible at present. However, the policy objective is to allow more combinations of membership qualifications than are possible at present.

3.43 The change in terminology from "qualification for admission to membership" to "common bond" could not be achieved without legislation. The problem is the mismatch between how the terms are used in the Act and how they are used in practice.

Proportionality

3.44 In our view the proposal is proportionate to the policy objective. The objective is to increase the flexibility of meeting the membership requirements for a credit union, without extending them so far as to become meaningless. If credit unions were to be regarded as indistinguishable from other deposit-takers then they would have to meet the minimum capital requirements applied to banks and building societies.

3.45 There is a risk that allowing more diverse combinations of membership qualifications will water down the shared identity of particular credit unions, as members who satisfy one membership qualification may have little or nothing in common with members who satisfy the other qualification(s). However, in our view this is outweighed by the advantages of allowing more diverse groups to combine to form credit unions, for example, allowing tenants of housing associations to join existing geographical credit unions.

3.46 The change in terminology is also proportionate to the policy objective. It responds to the practice and wishes of the sector which uses the legislation. In our view any risks of causing confusion are minimal.

Fair Balance

3.47 We consider that few, if any, will be adversely affected by this proposal. However, there are potentially significant public benefits, in terms of giving more combinations of groups (and so more individuals) access to credit unions, and strengthening existing credit unions by widening the potential membership. We do not think any person will be adversely affected by the change in terminology.

Necessary protection

3.48 We are not aware of any necessary protections, which will be removed by this proposal. While it is possible that existing credit unions could alter their terms of admission to membership to take advantage of the proposed change, this would require a rule change which would have to be approved by two thirds of members.

Rights and Freedoms

3.49 We are not aware of any right or freedom which would be affected by this proposal.

Restating an enactment

Changing "qualification for admission to membership" to "common bond" might be considered to restate an enactment. However, in our view it meets the requirement of s.3(4) LRRA, namely it will make the law more accessible or more easily understood.

Proposal B3: Reform restrictions on non-qualifying members of credit unions.

Why is change needed?

3.50 The Credit Unions Act 1979 restricts the number of non-qualifying members of a credit union to a maximum of ten per cent of the total membership of the credit union (section 5). A "non-qualifying member" is a member of a credit union who ceases to fulfil the qualifications for admission to membership (e.g. he no longer lives in the relevant locality or is no longer employed by the relevant employer).

3.51 In our view this constitutes an obstacle to productivity, and so a burden. It requires credit unions to terminate the membership of non-qualifying members once the 10% limit is reached, and denies those members continuing access to the credit union. It places an artificial limit on the growth of credit unions. In today's mobile society it is increasingly likely that individuals will change employers, move to different parts of the country or change in other ways which mean that they no longer qualify for membership of a particular credit union. As credit unions make an important contribution to the productivity of the UK economy (see above), it is considered that this limit on their growth constitutes a burden.

3.52 It also constitutes an obstacle to the profitability of the credit union, as a credit union which has to reduce its membership to comply with the non-qualifying member limit loses the potential revenue from individual members who have to leave. Similarly the individual members which have to leave might suffer a loss in profitability (particularly if they are businesses) as they will lose the benefits of membership.

Who will be affected?

3.53 Credit unions, who must at present terminate the membership of non-qualifying members to comply with the 10% limit , and so lose the benefit of those members (in particular the money they have deposited in the society in the form of shares). Credit unions must also make provision in their rules for terminating membership once the limit is reached. They might also suffer a decline in interest in membership if the number of non-qualifying members is already near the 10% limit, as this would signal to potential new members that they might have to terminate their membership if their circumstances change. Some credit unions have suggested that this is a potential problem.

3.54 Individuals who lose their membership, and the benefits of belonging to the credit union, are also affected. If individuals have loans from the credit union (which they may be using to develop their businesses or to contribute to economic productivity in other ways) being forced to leave the credit union is particularly burdensome as they will have to repay the loan.

3.55 We propose to remove the burden by repealing the 10% limit on non-qualifying membership in section 5(6), and making consequential changes. Instead, credit unions will be allowed to set their own limits on non-qualifying members, via their rules.

3.56 In keeping with the approach to liberalise the ability of credit unions to establish and grow the 10% limit is largely artificial. It arises from the original concept for credit unions, when the 1979 Act was passed, that they should be small, local and largely self-regulating.

3.57 Credit unions will be able to impose their own limits on non-qualifying members, which could be seen as an indirect burden on members. However, it will be up to the members, via any changes to the rules, to set any limit on non-qualifying members. So this is less burdensome than the current situation, which is that the limit is fixed in legislation.

Non-legislative solutions

3.58 The limit on non-qualifying members is imposed by legislation, so the objective of allowing more than 10% of a credit union's members to be non-qualifying members (and so allowing for wider continued participation in CUs) could not be achieved without legislation.

Proportionality

3.59 In our view the effect of this proposal is proportionate to the policy objective. The only disadvantage of this change is that the membership of credit unions could be diluted, as a greater percentage of members may no longer satisfy the membership qualifications. However, this is outweighed by the advantages of allowing membership to continue, which will encourage and maintain wider participation in credit unions, which in turn will bring economic and social benefits.

Fair Balance

3.60 We consider that few, if any, will be adversely affected by this proposal. However, there are potentially significant public benefits, in terms of encouraging participation in credit unions and allowing individuals' membership to continue.

Necessary protection

3.61 We are not aware of any necessary protections which will be removed by this proposal. The 10% limit could be construed as a "protection" as it protects the membership of the credit union from being diluted, but our view is that in today's society this restriction is no longer necessary or appropriate.

Rights and Freedoms

3.62 We are not aware of any right or freedom which would be affected by this proposal.

Proposal B4: Allow credit unions to admit bodies corporate, unincorporated associations or partnerships to membership

Why is change needed?

3.63 At present credit unions can only admit individuals to membership; bodies corporate cannot become members. Also, membership must be restricted to persons who fulfil an appropriate membership qualification or a permitted combination. This acts as a bar to unincorporated associations becoming members, as the individual who joins the credit union on behalf of the association may not fulfil the membership qualification himself even if the association itself does. The same applies to partnerships.

3.64 These restrictions constitute an obstacle to productivity, as they prevent bodies corporate, partnerships and local community groups from joining credit unions, which could bring economic and social benefits to those bodies, credit unions and existing members of credit unions.

3.65 They also constitute an obstacle to the profitability of the credit union. A credit union could benefit significantly from investment by a larger business (which might be for corporate social responsibility reasons). This could improve the stability of the credit union's balance sheet, which in turn could have benefits for its members in terms of dividends and loan rates. There is potentially an obstacle to the profitability of local businesses, which could have some business benefits from joining the credit union, whether indirectly by supporting the local community and having access to new networks and marketing opportunities, or directly as a recipient of the credit union's services.

Who will be affected?

3.66 Credit unions, who cannot admit bodies corporate, partnerships or unincorporated associations to membership. Bodies corporate, partnerships and unincorporated associations, which cannot join credit unions.

3.67 The burden arises from legislation: section 5(1) of the Credit Unions Act 1979 provides that only individuals shall be members of a credit union.

3.68 Section 1(3A) of the Credit Unions Act 1979 provides that admission to membership must be "restricted to persons all of whom fulfil the same specific qualification for membership". However, in the case of an unincorporated association, it is the association, not the individual who wishes to join on behalf of the association, who will fulfil the membership qualification. For example, an unincorporated parent-teacher association may be based in a certain city, but the person seeking to join the credit union on its behalf (e.g. its treasurer) may not live in that city. The same applies in the case of a partnership.

3.69 We propose to remove the burden by making three related changes:

- Repeal the prohibition on corporate membership in section 5(1) of the Credit Unions Act 1979 and allow bodies corporate to become members if the rules of the society so provide.
- Allow unincorporated associations and partnerships to become members of credit unions, if the rules so provide, and
- Create a new class of deferred shares: bodies corporate will only be able to subscribe for deferred shares in a credit union.

1. Allow bodies corporate to become members

3.70 The prohibition on corporate membership in s.5(1) will be repealed, and credit unions will be allowed to admit corporate members if their rules so provide.

3.71 There will be statutory limits on the number of corporate members and the amounts they can deposit with, and borrow from, a credit union. The number of corporate members may not exceed 10% of the total membership; the number of shares allotted to them may not exceed 25% of the total allotted shares; and the aggregate of loans to them may not exceed 10% of the aggregate of all loans made by the credit

union. Loans to corporate members will only be allowed if the rules so provide. The rules must also state any limit on the amount, which may be loaned to each corporate member.

3.72 The Treasury will have a power to change these figures by negative resolution statutory instrument.

3.73 Membership will be based on the ability of the body to meet, so far as it can, the membership qualification for individual members. The membership qualifications, which are set out in section 1(4) of the CUA 1979, will apply in relation to corporate members with the following modifications:

- s.1(4)(a) (following a particular occupation): this will be satisfied if the principal business of the body corporate relates to that occupation;
- s.1(4)(b), (c) and (f) (residing in or being employed in a particular locality): this will be satisfied if the principal place of business of the body corporate is in that locality;
- s.1(4)(d) (being employed by a particular employer): this will be satisfied if the body corporate is the employer concerned, or supplies services to that employer;
- s.1(4)(e) (being a member of a bona fide organisation, or being otherwise associated with other members of a society): this will apply to corporate members as it applies to individual members;
- other qualifications approved by the Authority (s.1(4)): the above modifications will apply to membership qualifications approved by the Authority before the LRO comes into force. Qualifications approved after entry into force will apply in relation to corporate members with such modifications as may be approved by the Authority.

3.74 Credit unions admitting corporate members will be required to state, in their rules, that corporate members will be admitted, and how the membership qualifications apply in relation to corporate members.

3.75 Corporate members of the society will not be treated as members for the purposes of the objects of the society (s.1 (3)), as these objects relate to individuals not bodies corporate. Section 19 of the 1965 Act (bodies corporate as members of society) will apply to credit unions, which, under their rules, admit corporate members, as it applies to other industrial and provident societies.

2. Allow unincorporated associations and partnerships to become members of credit unions

3.76 The proposed LRO will also modify the 1979 Act so that, where a person joins a credit union in his capacity as a trustee for an unincorporated association, the membership will be treated as a corporate membership and not as an individual membership, for the purposes of the membership qualification and other purposes of the Act. The same will apply in relation to a person who joins in his capacity as partner in a partnership (except a limited liability partnership, which is a body corporate so will be able to join in its own name).

3.77 Credit unions' rules will have to provide expressly that unincorporated associations and/or partnerships can be admitted to membership.

3.78 Partnerships and unincorporated associations will be treated as corporate members for the purposes of the limits on corporate membership (10% of total membership, 25% of total shares, 10% of total loans – see above).

3.79 Unincorporated associations will however be able to hold ordinary shares in the credit union; so will differ from other corporate members in this respect. As the main purpose of admitting unincorporated associations to membership is to allow them to have the same benefits as other members of the credit union, it is considered inappropriate to offer them deferred shares, which are essentially a vehicle for long-term investment.

3.80 Partnerships will be able to hold deferred shares, and/or ordinary shares, and/or deposit accounts. The credit union will have to specify which in its rules. It might, for example, be appropriate for a firm of solicitors, which wants to support the local credit union to hold deferred shares. On the other hand, a small partnership of builders might want to have the benefits of credit union membership as an ordinary shareholder. This approach will give maximum flexibility to credit unions.

3. Create a new class of deferred shares for corporate members

3.81 Deferred shares already exist for building societies, and credit union deferred shares will be based on this model. The purpose of deferred shares is to provide a mechanism for bodies corporate to invest in a society, to give it support and strengthen its finances, without allowing them excessive influence over the society by being able to withdraw their shares.

3.82 Credit union deferred shares will have the following features:

- they will only be issued to corporate members (bodies corporate or partnerships);
- they will be issued at a premium, or to be paid by periodical or other payments;
- if issued at a premium, the premium must go into the society's reserves. This will ensure it is used to strengthen the society's balance sheet;
- deferred shares will not be withdrawable, but will be transferable;
- the terms of issue of deferred shares must prohibit repayments of the principal paid on the shares to the shareholders unless either:
  - the credit union is wound up or dissolved, and all creditors and non-deferred shareholders are paid in full, or
  - the FSA has consented to repayment, so long as the consent is not applied for by virtue of any form of compulsion, sanction or incentive under any of the terms of issue.
- documents relating to the shares must bear a prominent statement that the shares are deferred shares and are not protected investments for the purposes of the Financial Services Compensation Scheme.

3.83 The additional access for corporate members, partnerships and unincorporated associations is intended to have two main effects. It will allow greater interaction

between credit unions and local communities and groups (largely unincorporated such as parent teacher association groups or scouts etc.), which often have no access to banks for their funds. It will also provide a wider source of external funding from those incorporated bodies and partnerships that may wish to invest in the credit union sector for, possibly, corporate social responsibility reasons, without giving them undue influence in the affairs of the credit union.

3.84 The LRO will impose various new burdens, but these will only affect credit unions which choose to admit corporate members.

3.85 These are considered necessary and proportionate to ensure that corporate members do not exercise more than 10% of the voting rights in a credit union; that they do not exert a disproportionate influence through holding a large proportion of the credit union's allotted shares; and that loans to corporate members are limited and only allowed if the rules so provide. Restricting bodies corporate to deferred shares ensures that they do not exert undue influence by being able to withdraw (or threaten to withdraw) their share capital.

3.86 These restrictions will protect credit unions and their non-corporate members. The overall effect of the reforms is a reduction in burdens because credit unions will be able to admit bodies corporate, unincorporated associations and partnerships to membership. Moreover, the reforms will leave the decision of whether to admit corporate members, and on what terms, to individual credit unions and their members via rule changes.

Non-legislative solutions

3.87 The objective could not be achieved without legislation, as the Credit Unions Act specifies that only individuals may become members of CUs; and that the membership qualifications must be satisfied by the person applying for membership .

Proportionality

3.88 In our view the proposal is proportionate to the policy objectives. There are significant potential benefits from allowing bodies corporate, partnerships and unincorporated associations to become members of credit unions (see above). There are some risks to credit unions and their members, but we believe that the proposed safeguards will ensure that these risks are appropriate and manageable.

Fair Balance

3.89 In our view the proposal should not adversely affect credit union members and should be a source of additional funds to credit unions and therefore for on-lending to members.

Necessary protection

3.90 In our view the proposal will not remove any necessary protections. Individual members will continue to enjoy voting and other rights (s.5(9) guarantees the "one member one vote" principle and this will remain unchanged). There are various safeguards in the proposal to ensure that credit unions and their members remain protected (see above).

Rights and Freedoms

3.91 In our view there would be no effect on the exercise of rights and freedoms. "One member one vote" will be preserved (see above).

Proposal B5: Allow credit unions to offer interest on deposits, provided certain requirements are met

Why is change needed?

3.92 At present credit unions cannot offer interest on members' deposits. They can only offer a discretionary dividend. This restricts credit unions' ability to attract new members, as depositors do not have the assurance that they will receive interest at a rate agreed with the society. Other deposit-taking institutions, such as building societies and banks, do offer interest on deposits, so credit unions have a disadvantage in the savings market.

3.93 This constitutes an obstacle to the productivity of credit unions. It prevents them innovating by offering new products to their members. It restricts competition with other deposit-takers, which can offer interest-bearing accounts.

3.94 It also constitutes an obstacle to profitability, as offering interest on deposits might attract new members to credit unions, attracting more funds which would improve the profitability of the credit union.

Who will be affected?

3.95 Credit unions, which at present are at a disadvantage in the savings market (see above). Credit unions' members, who do not have the security of an agreed rate of interest.

3.96 With limited exceptions (relating to persons too young to become members of the society), credit unions may only take deposits in the form of shares (s.8 Credit Unions Act 1979). The 1979 Act does not expressly provide that credit unions may offer interest on shares. Section 14 provides that the dividend payable on shares is limited to 8 per cent, so credit unions can by implication pay dividends. In other matters the Act provides explicitly what credit unions can do (see for example section 9A (power to charge for ancillary services), 10 (power to borrow money) and 11 (loans).

3.97 We propose to remove the burdens by inserting a provision into the 1979 Act to provide expressly that credit unions may offer interest on shares. This will be subject to the following safeguards:

- (a) the credit union will be required to hold reserves of £50,000, or 5% of its total assets, whichever is higher. This figure will be shown on the credit union's balance sheet. Credit unions are required to send an audited balance sheet to the FSA at each year end. The figures of £50,000 and 5% will be capable of being varied by a negative resolution statutory instrument made by the Treasury.
- (b) the credit union must be able to demonstrate that it has adequate systems of control in place to manage the greater risk of offering interest.

This would form part of the annual auditors' report on the society, for those credit unions wishing to offer interest.

- At present, all credit unions must establish and maintain a satisfactory system of control of their accounts, cash holdings, receipts and remittances (s.1(1)(a) Friendly and Industrial and Provident Societies Act 1968 (FIPSA)).
- Auditors must form an opinion as to whether the society has maintained a satisfactory system of control, and if their opinion is that the society has not complied with s.1(1)(a) they must state that fact in their report (s.9(4) FIPSA).
- This would be extended, in the case of societies wishing to offer interest, to require auditors to form an opinion as to whether the credit union has satisfactory systems of control, in addition to the other quantitative safeguards, to manage the payment of interest to members.
- The auditors would be required to state that opinion in their report to the society, which will have to be sent to the FSA in accordance with CRED (the FSA's rulebook for credit unions).
- Only one certification in an auditors' report would be required, unless the credit union failed to meet the £50,000 or 5% in reserves requirement, or the auditors were not satisfied that the credit union had maintained satisfactory systems of control, in which case the auditors would have to re-certify the systems of control prior to the credit union continuing to offer interest on shares.
- In the event of a credit union failing to meet the required standards: in the first year of a fall in standards, it would have to cease offering interest-paying shares, but could maintain the existing interest-bearing accounts. If the failure extended into a second year it would have to revoke all interest paying accounts and revert to dividend only payments. The FSA will monitor individual credit unions using existing powers in the Financial Services and Markets Act 2000 (FSMA).
- Subject to the credit union being able to meet the standards required of it, the offer of interest paying accounts would be subject to ratification by a general meeting and adopted in the rules. Schedule 1 to the 1979 Act would be amended to require credit unions to state that they offer interest paying accounts if they do so. The rules would also need to address the situation where the credit union could no longer offer interest on new accounts, or pay interest on existing accounts.

- (c) Individual credit unions could choose to continue to offer dividends on shares instead of interest, or they could choose to offer dividend-bearing shares and interest-bearing shares. However, it would not be possible for credit unions to offer interest-bearing shares which also carried entitlement to a dividend, as this could result in a double-payment.

3.98 These safeguards will ensure that credit unions do not expose themselves and their members to undue risks by offering interest on deposits. Such risks could arise if the credit union had insufficient capital or reserves to honour the interest commitment from one year to the next.

3.99 The provisions will impose new burdens. However, the overall effect is a reduction in burdens, and the new burdens are considered to be appropriate safeguards.

Non-legislative solutions

3.100 The policy could not be achieved by non-legislative means. Credit unions need a clear indication, given in legislation, that they can offer interest on deposits. An indication given, for example, in guidance, would be insufficient, as credit unions' powers are generally expressed in legislation (in particular the IPS Act 1965 and the Credit Unions Act 1979). In addition, appropriate safeguards need to be established, and this could not be done by non-legislative means.

Proportionality

3.101 In our view the effects are proportionate to the policy objective, which is to allow credit unions to offer more mainstream savings products and so reach a wider audience. The safeguards described above ensure that the risks associated with offering interest are mitigated. The additional work required of auditors is likely to be minimal.

Fair Balance

3.102 We are not aware of any person who will be adversely affected by the proposal. There will be adequate safeguards in place to protect members, who will have to decide, by a vote, whether their credit union should offer interest on shares. Other deposit-takers (banks and building societies) may face increased competition from credit unions at a local level, but we do not think this will have an adverse effect on them, and in any event increased competition is in the public interest.

Necessary protection

3.103 We do not think any necessary protections will be removed.

Rights and Freedoms

3.104 In our view there would be no effect on the exercise of rights and freedoms.

Proposal B6: Abolish the 8 per cent per annum limit on dividends

Why is change needed?

3.105 The Credit Unions Act 1979 prevents credit unions from paying a dividend in excess of 8 per cent per annum (or other rate specified by the Treasury).

3.106 This restricts productivity, as it limits credit unions' ability to innovate by offering a range of savings products, which could include products, which would attract a higher rate of dividend. It also constitutes an obstacle to profitability, as a wider range of savings products could result in greater income for credit unions, which could be

reinvested for the benefit of their members in the form of better savings and loan rates. For example, they could offer some shares which are subject to more restrictive withdrawal conditions (such as a longer notice period) but at the year end pay a higher dividend on those shares than on ordinary shares.

Who will be affected?

3.107 Credit unions, which are restricted in the range of savings products they can offer, members and potential members of credit unions, who cannot benefit from potentially higher dividend rates.

3.108 The burden arises from legislation: section 14(4) of the Credit Unions Act 1979 provides that the dividend payable on any shares of a credit union shall not exceed a rate of 8 per cent per annum or such other rate as may from time to time be specified by order made by the Treasury. We propose to remedy this by repealing section 14(4) of the Credit Unions Act 1979.

3.109 A number of other deposit-taking institutions (banks and building societies) are offering savings products with interest rates above 8%. Also, the proposed new interest-bearing shares for credit unions will not be subject to a cap on the interest rate. So removing the limit on dividends will put dividend-bearing shares on the same footing as interest-bearing shares, and will enable credit unions to offer similar rates to other deposit-taking institutions. The provisions will not impose any burdens.

Non-legislative solutions

3.110 The policy objective could not be achieved by non-legislative means, as the cap on dividend interest is contained in the Act.

3.111 There is a power for the Treasury to raise the limit, by negative resolution order. However, it is felt that it would be inappropriate for there to be any limit on the dividend rate, however high. The existence of any limit (even if it were say 15% or 20%) puts dividend-bearing shares in a different position to interest-bearing shares, and credit unions in a different position to other deposit-taking institutions (and other industrial and provident societies).

Proportionality

3.112 In our view the effects are proportionate. The reform will give credit unions the freedom to award the level of dividend they consider appropriate for the shares in question. The limit is a relic of the original 1979 Act, when restrictions were built into the Act. However, the self-regulatory framework, under which the only restrictions were contained in the Act, is no longer appropriate, given the regulation of credit unions as deposit-takers by the FSA.

3.113 Most other regulatory restrictions of this nature have either been repealed or are contained in FSA rules. (One exception is the limit on loan interest rates, but that is required for compliance with the Consumer Credit Directive). There are potentially large benefits to credit unions and their members, with no obvious downsides. It will remain for individual credit unions to decide what level of dividend to award, having regard to their liquidity and general financial situation.

Fair Balance

3.114 We do not think any person will be adversely affected by the proposal. As stated above it will remain for credit unions to decide what dividend to award, and in doing so they will have regard to the interest of their members.

Necessary protection

3.115 We do not think the limit on the dividend rate can be considered a necessary protection on credit unions or their members. Credit unions should be free to award an appropriate dividend. It is unlikely that a credit union would choose to award a dividend, which would put it in a difficult financial position. In any event, their liquidity and financial situation are monitored by the FSA and they are subject to liquidity requirements under FSA rules.

Rights and Freedoms

3.116 The provisions will not prevent a person from exercising any right or freedom which they might reasonably expect to continue to exercise.

Proposal B7: Repeal the "attachment" requirement, which restricts withdrawal of shares

Why is change needed?

3.117 At present a member of a credit union requires the permission of the committee of the credit union to make a withdrawal of shares which would reduce the member's shareholding to less than his total liability to the credit union. If the member has a secured loan (i.e. one which, at the time it was taken out, was less than or equal to his shareholding), he cannot make such a withdrawal.

3.118 This prevents members of credit unions with significant loans from withdrawing shares in the way that a bank or building society customer with a significant loan could withdraw savings or use a current account. It also means that some members are reliant on loans, rather than being able to withdraw their savings when they are needed. It constitutes an obstacle to profitability for the credit union, and an administrative inconvenience for credit unions and their members.

Who will be affected?

3.119 Members of credit unions with loans, who at present suffer restrictions on withdrawing their savings. The requirement often has the perverse effect of pushing members to borrow money even though they have funds on deposit. The original intention was as a safeguard to help protect against a failure of credit unions' liquidity.

3.120 Credit unions are also generally affected, as lifting these restrictions could result in members with loans subscribing for more shares in the credit union rather than putting their savings elsewhere.

3.121 The burden arises from section 7(5) of the Credit Unions Act 1979, which provides that if a withdrawal of shares would reduce a member's shareholding to less than his total liability, then in the case of a member to whom there is a secured loan, the

withdrawal shall not be permitted, and in any other case, the withdrawal shall be permitted only at the discretion of the committee.

3.122 We propose to remove the burden by amending the Credit Unions Act so that the committee's permission is not required for such withdrawals, unless the rules of the Credit Union require it.

3.123 This will allow smaller societies in particular to keep the requirement for the committee's permission if they so wish, if they consider it a necessary way of protecting the society's liquidity. However, there will no longer be an automatic requirement for the committee's permission, which will have the benefits described above for societies and their members.

3.124 Transitional provisions will ensure that the requirement for the committee's permission will continue to apply until the next general meeting of the credit union and, if the members vote at the general meeting to retain the requirement for the committee's permission, until the rule change is registered by the FSA and comes into effect. This will ensure that all credit unions have the opportunity to modify their rules, at the general meeting, to preserve the requirement for the committee's permission.

3.125 The restrictions on secured loans will not be changed, as treatment of a loan as secured is on application of the member, and secured loans can be repaid over a longer period. So this gives societies and their members more options for lending and borrowing.

3.126 The provisions will not impose any new burdens. The LRO will still require permission for a withdrawal in the circumstances described, if the credit union's rules require it. However, this reduces a burden as it gives credit unions, and their members, a choice.

Non-legislative solutions

3.127 The objective could not be achieved by non-legislative means, as the committee's permission is required by legislation.

Proportionality

3.128 In our view the effects are proportionate. There are considerable advantages in allowing members with large loans to withdraw shares. However, credit unions will retain discretion to require the committee's permission for withdrawals which would reduce a member's total paid-up shareholding to less than his total liabilities. Such a requirement would require a change to the rules, which would have to be passed by a two-thirds majority of members of the credit union. This is considered an adequate safeguard against any potential adverse consequences for the liquidity of smaller credit unions.

Fair Balance

3.129 We do not think any person will be adversely affected by the proposal, given the safeguard described above.

Necessary protection

3.130 The requirement to obtain the committee's permission might be considered to protect the credit union's liquidity. However, the option for credit unions to retain the

requirement for permission, and the transitional provisions, ensure that this protection will remain in place where individual credit unions consider it necessary.

Rights and Freedoms

3.131 The proposal will not affect any existing right or freedom.

Proposal B8: Allow credit unions to charge the market rate for providing ancillary services to their members

Why is change needed?

3.132 At present credit unions may only charge on a cost-recovery basis for services which are ancillary to accepting a deposit or making a loan, such as making or receiving payments as agent for a member, issuing and administering chequebooks and other means of payment, and money transmission services.

3.133 Other deposit-takers (banks and building societies) are not limited to charging for such services on a cost-recovery basis. So the current provision constitutes an obstacle to profitability. If credit unions were able to charge anyone requiring such services at the market rate, they would be able to put the profits back into the business for the benefit of all members (for example by paying a higher dividend, or offering loans at a lower rate).

Who will be affected?

3.134 Credit unions, which at present have a competitive disadvantage compared with other deposit-takers, and may not use ancillary services to cross-subsidise other activities. Members of credit unions, as some credit unions might not offer such services because they can only charge cost recovery. Members may also lose the potential benefits of charging market rate for ancillary services, in terms of such services being available and the cross-subsidy to other services provided by the credit union.

3.135 The burden arises from the legislation: section 9A of the Credit Unions Act 1979 (inserted by the Regulatory Reform (Credit Unions) Order 2003) provides that a credit union may charge a fee "to cover the cost of" providing an ancillary service. We intend to remove the burden by amending section 9A to allow a credit union to charge such fee as it considers appropriate for providing an ancillary service. The proposal will not impose any additional burdens.

Non-legislative solutions

3.136 The policy could not be achieved by non-legislative means as the limitation to cost recovery only is contained in the Act.

Proportionality

3.137 In our view the effects are proportionate to the policy objective, which is to enable credit unions to charge market rates for ancillary services in order to benefit their members in other ways.

3.138 There are some disadvantages, particularly to those who will have to pay more for the ancillary services. However, these services are not central to the business of the

credit union, and it is considered appropriate that credit unions should be able, if they so wish, to charge the market rate for them.

Fair Balance

3.139 In our view a fair balance will be struck. There may be an adverse effect on those who have to pay more for ancillary services. However, this is outweighed by the public interest of giving credit unions an additional source of funding. There may also be benefits in terms of encouraging credit unions to offer ancillary services where they do not do so already.

Necessary protection

3.140 We do not think the provision limiting charges for ancillary services to cost recovery is a necessary protection. It is reasonable to expect those receiving additional services from a credit union to pay the normal market rate for them. In any event, the credit union will set the rate, taking its members' interests into account.

Rights and Freedoms

3.141 The proposal will not affect any existing right or freedom.

4 Possible Parliamentary procedure and consideration

Parliamentary procedure

4.1 The Minister can recommend one of three alternative procedures for Parliamentary scrutiny depending on the size and importance of the LRO. The negative resolution procedure is the least onerous and therefore may be suitable for LROs delivering small regulatory reform. The super affirmative is the most onerous involving the most in-depth Parliamentary scrutiny. Although the Minister can make the recommendation, Parliamentary Scrutiny Committees have the final say about which procedure will apply.

Negative Resolution Procedure

4.2 This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if neither House of Parliament has resolved during that period that the LRO should not be made.

Affirmative Resolution Procedure

4.3 This allows Parliament 40 days to scrutinise a draft LRO after which the Minister can make the LRO if it is approved by a resolution of each House of Parliament.

Super-Affirmative Resolution Procedure

4.4 This is a two-stage procedure during which there is opportunity for the draft LRO to be revised by the Minister. This allows Parliament 60 days of initial scrutiny, when the Parliamentary Committees may report on the draft LRO, or either House may make a resolution with regard to the draft LRO.

4.5 If after the expiry of the 60-day period, the Minister wishes to make the LRO with no changes, he must lay a statement. After 15 days, the Minister may then make an LRO in the terms of the draft, but only if it is approved by a resolution of each House of Parliament.

4.6 If the Minister wishes to make material changes to the draft he must lay the revised draft LRO and a statement giving details of any representations made during the scrutiny period and of the revised proposal before Parliament. After 25 days, the Minister may only make the LRO if it is approved by a resolution of each House of Parliament.

4.7 Under each procedure, the Parliamentary Scrutiny Committees have the power to recommend that the Minister not make the LRO. If one of the Parliamentary Committees makes such a recommendation, a Minister may only proceed with it if the recommendation is overturned by a resolution of the relevant House.

4.8 **HM Treasury believes that the affirmative resolution procedure should apply to this LRO**. This Order is unlikely to be controversial as its primary aim is to remove restrictions on credit unions and industrial and provident societies resulting from the relevant Acts. Most of the proposals were included in the Treasury's June 2007 consultation on industrial and provident society legislation and received widespread support.

PARLIAMENTARY CONSIDERATION

Introduction

4.9 LROs are subject to preliminary consultation and to rigorous Parliamentary scrutiny by Committees in each House of Parliament. On that basis, the Minister invites comments on these reform proposals as measures that might be carried forward by a LRO.

Legislative Reform Proposals

4.10 This consultation document on proposed changes to cooperatives and credit union legislation has been produced because the starting point for the LRO process is thorough and effective consultation with interested parties. In undertaking this preliminary consultation, the Minister is expected to actively seek out the views of those concerned, including those who may be adversely affected, and then demonstrate to the Scrutiny Committees that he/she has addressed those concerns.

4.11 Following the consultation exercise, when the Minister lays proposals before Parliament under the section 14 Legislative and Regulatory Reform Act 2006, he/she must lay before Parliament an Explanatory Document, which must:

i. Explain under which power or powers in the LRRA the provisions contained in the order are being made:

ii. Introduce and give reasons for the provisions in the Order

iii. Explain why the Minister considers that:

- There are no non-legislative solutions which will satisfactorily remedy the difficulty which the provisions of the LRO are intended to address;
- The effect of the provisions are proportionate to the policy objective;
- The provisions made in the Order strikes a fair balance between the public interest and the interests of any person adversely affected by it;
- The provisions do not remove any necessary protection;
- The provisions do not prevent anyone from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise;
- The provisions in the proposal are not constitutionally significant; and
- Where the proposals will restate an enactment, it makes the law more accessible or more easily understood.

iv. Include so far as appropriate, an assessment of the extent to which the provision made by the Order would remove or reduce any burden or burdens;

v. Identify and give reasons for any functions of legislating conferred by the Order and the procedural requirements attaching to the exercise of those functions; and

vii. Give details of any consultation undertaken, any representations received as a result of the consultation and the changes (if any) made as a result of those representations.

4.12 On the day the Minister lays the proposals and explanatory document, the period for Parliamentary consideration begins. This lasts 40 days under negative and affirmative resolution procedures and 60 days under the super-affirmative resolution procedure. If you want a copy of the proposals and the Minister's explanatory

document laid before Parliament, you will be able to obtain them by visiting the Treasury's public website at:

http://hm-treasury.gov.uk/consultations

Parliamentary Scrutiny

4.13 Both Houses of Parliament scrutinise legislative reform proposals and draft LROs. This is done by the Regulatory Reform Committee in the House of Commons and by the Delegated Powers and Regulatory Reform Committee in the House of Lords.

4.14 Standing Orders for the Regulatory Reform Committee in the Commons stipulate that the Committee considers whether proposals:

(a). appear to make an inappropriate use of delegated legislation;

(b). serve the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the Act);

(c). serve the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the Act);

(d). secure a policy objective which could not be satisfactorily secured by non-legislative means;

(e). have an effect which is proportionate to the policy objective;

(f). strike a fair balance between the public interest and any person adversely affected by it;

(g). do not remove any necessary protection;

(h). do not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;

(i). are not of constitutional significance;

(j). make the law more accessible or more easily understood (in the case of provisions restating enactments);

(k) have been the subject of, and takes appropriate account of, adequate consultation;

(l) give rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No 151 Statutory Instruments (Joint Committee) as are relevant, such as defective drafting or failure of the department to provide information where it was required for elucidation;

(m). appear to be incompatible with any obligation resulting from membership of the European Union.

4.15 The Committee in the House of Lords will consider each proposal in terms of similar criteria, although these are not laid down in Standing Orders.

4.16 Each Committee might take oral or written evidence to help it decide these matters, and each Committee would then be expected to report.

4.17 Copies of Committee Reports, as Parliamentary papers, can be obtained through HMSO. They are also made available on the Parliament website at:

- Regulatory Reform Committee in the Commons; and
- Delegated Powers and Regulatory Reform Committee in the Lords.

4.18 Under negative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise an LRO, after which the Minister can make the Order if neither House of Parliament has resolved during that period that the Order should not be made or to veto the LRO.

4.19 Under the affirmative resolution procedure each of the Scrutiny Committees is given 40 days to scrutinise an LRO after which the Minister can make the Order if it is not vetoed by either or both of the Committees and it is approved by a resolution of each House of Parliament.

4.20 Under the super-affirmative resolution procedure each of the Scrutiny Committees is given 60 days to scrutinise the LRO. If after the 60-day period the Minister wishes to make the Order with no changes, he/she may do so only after he/she has laid a statement in Parliament giving details of any representations made. The LRIO is then approved by a resolution of each House of Parliament.

4.21 If the Minister wishes to make changes to the draft LRO he/she must lay the revised LRO and as well as a statement giving details of any representations made during the scrutiny period and of the proposed revisions to the Order, before Parliament. The Minister may only make the Order if it is approved by a resolution of each House of Parliament and has not been vetoed by either or both relevant Committees.

How to make your views known

4.22 Responding to this consultation is your first and main opportunity to make your views known to the Treasury as part of the consultation process. You should send your views to the person named in chapter 1. You are also welcome to put your views before either or both of the Scrutiny Committees when the Minister lays proposals before Parliament.

4.23 In the first instance this should be in writing. The Committees will normally decide on the basis of written submissions whether to take oral evidence.

4.24 Your submission should be as concise as possible and should focus on one or more of the criteria listed above.

4.25 The Scrutiny Committees appointed to scrutinise Legislative Reform Orders can be contacted at:

Delegated Powers and Regulatory Reform Committee

House of Lords
London SW1A OPW

Tel: 020 7219 3103

Fax: 020 7219 2571

mailto: DPDC@parliament.uk

Regulatory Reform Committee

House of Commons
7 Millbank
London SW1P 3JA

Tel: 020 7219 2830/2833/2837

Fax: 020 7219 2509

mailto: regrefcom@parliament.uk

Non – disclosure of responses

4.26 Section 14(3) of the LRRA provides guidance on what should happen when some one responding to the consultation exercise on a proposed LRO requests that their response should not be disclosed.

4.27 The name of the person who has made representations will always be disclosed to Parliament. If you ask for your representation not to be disclosed the Minister should not disclose the content of that representation without your express consent and if the representation relates to a third party, their consent too. Alternatively the Minister may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved.

Information about Third Parties

4.28 If you give information about a third party which the Minister believes may be damaging to the interests of that third party, the Minister does not have pass on such information to Parliament if he/she does not believe it is true or he/she is unable to obtain the consent of the third party to disclosure. This applies whether or not you ask for your representation not to be disclosed.

4.29 The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of legislative reform orders.

A PARTIAL IMPACT ASSESSMENTS

Summary: Intervention & Options		
Department /Agency: HM Treasury	**Title:** Proposals for a Legislative Reform Order to amend Industrial & Provident Society legislation	
Stage: Consultation	**Version:**	**Date:** 2 July 2008
Related Publications:		

Available to view or download at:
http://www.

Contact for enquiries: Sammy Amissah **Telephone:** 020 7270 5291

What is the problem under consideration? Why is government intervention necessary?

The legislative framework for cooperatives (Industrial & Provident Societies Act 1965) is out of date in certain respects, imposes burdens on cooperative enterprise, requires updating to reflect the commercial realities and to enable cooperatives to better serve their members.

Many of the identified burdens are contained in the legislation and it is not possible to achieve the policy by non-legislative means.

What are the policy objectives and the intended effects?

To update legislation to bring cooperative legislation in line with international comparators, enable them to compete on a level playing field with other legal forms, improve their efficiency, productivity and better serve their members.

What policy options have been considered? Please justify any preferred option.

Options considered included

Option I: No intervention

Option 2:Primary Legislation (Bill)

Option 3: Legislative Reform Order (LRO)

Under the Parliamentary timetable and attendant constraints Option 3 (LRO) is the most viable option for delivering on legislative reforms.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The actual costs and benefits will be evident after the reforms have been implemented. We propose a review in 3 years by which time reforms would have been embedded.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option:	Description: **Proposals for a Legislative Reform Order to amend Industrial & Provident Society legislation**

COSTS

ANNUAL COSTS	Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition) **Yrs**	Mainly Government staff costs and printing logistics.
£ 0.15mn	
Average Annual Cost (excluding one-off)	
£	**Total Cost** (PV) **£ 0.15mn**

Other **key non-monetised costs** by 'main affected groups'
Not quantifiable. Evidence from consultation responses.

BENEFITS

ANNUAL BENEFITS	Description and scale of **key monetised benefits** by 'main affected groups'
One-off **Yrs**	Benefits arising from increased awareness of sector provide agents and people wishing to work with sector with grater clarity.
£	Greater investor confidence.
Average Annual Benefit (excluding one-off)	
£	**Total Benefit** (PV) **£ Not quantifiable**

Other **key non-monetised benefits** by 'main affected groups'
Evidence from consultation responses.

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£**

What is the geographic coverage of the policy/option?				Great Britain
On what date will the policy be implemented?				TBC
Which organisation(s) will enforce the policy?				FSA
What is the total annual cost of enforcement for these organisations?				To be confirmed
Does enforcement comply with Hampton principles?				Yes
Will implementation go beyond minimum EU requirements?				No
What is the value of the proposed offsetting measure per year?				To be confirmed
What is the value of changes in greenhouse gas emissions?				£ N/A
Will the proposal have a significant impact on competition?				No
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large

Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £	Decrease £	**Net Impact**	**£**

1. PROPOSAL

1.1. The Treasury proposes to legislate to make certain changes to the Industrial & Provident Societies Act 1965 and 1968 using a Legislative Reform Order under the Legislative and Regulatory Reform Act 2006.

2. OBJECTIVE

2.1. The objective is to modernise the legislation for cooperatives and provide them with a legislative framework which will enable them to better compete and to deliver a better service to their members.

2.2. In order to achieve this objective the Treasury Minister is proposing changes to the membership criteria, rules on investing in a cooperative, certain rules relating to statutory accounting and certain discretionary powers in order to give greater flexibility to societies in carrying out their operational functions.

3. BACKGROUND

3.1. The Treasury held a consultation in June 2007 on the "Review of GB cooperative and credit union legislation". The consultation received over 200 responses a summary of which was published in the "Summary of consultation responses" In December 2007.

3.2. The responses indicated an overwhelming desire for reform of the legislative framework for cooperatives and the Government response signalled a corresponding desire to legislate to remove the identified burdens.

3.3. The Treasury subsequently formed a Working Group comprising of key stakeholders, representative bodies for the sector, legal experts and academicians to advise on the technicalities of the proposed changes.

3.3. These proposals under consideration which have been developed in conjunction with the Working Group include a review of the following:

- Minimum age for membership of an IPS; minimum age for becoming an officer of an IPS.
- Modifying the rules on share capital.
- Amending the provision on fee for copy of the society's rules.
- Facilitating easier dissolution of registered societies.
- Giving societies the flexibility to choose their own year-ends.
- Removing the requirement on societies to have interim accounts audited.

4. OPTIONS APPRAISAL

(a) No Intervention

Not doing anything would put cooperative societies in a disadvantageous position in relation to other business both in UK and EU.

(b) Use of primary legislation

We considered the use of primary legislation (Bill) to bring about the changes and reforms however the busy Parliamentary timetable and competing Government Bills meant that it would not be feasible within this session of Parliament.

(c) Use of a Legislative Reform Order (LRO). The use of the LRO is an appropriate and effective response to the issues raised in the consultation. LROs are capable of far reaching changes to primary legislation. An LRO is appropriate for these sorts of measures and so they can be achieved without primary legislation.

LRO's involve a process of high Parliamentary scrutiny (both in the House of Commons and the Lords) and Government is confident that the issues under review will encourage debate and ensure adequate safeguards are in place to mitigate against any known or unknown consequences.

The Government's preferred option is therefore Option C

TABLE OF OPTIONS

OPTION	COST PER ANNUM	BENEFIT PER ANNUM
(a) No Intervention	Difficult to quantify but could lead to loss of investor confidence, competitive disadvantage and opportunity costs.	No benefit to societies. Legislative inertia.
(b). Primary Legislation (Bill)	Main costs are Government staff costs (Policy, Legal and logistics). Similar to Option C however there may be a 20% cost uplift to take into account the extra time it would take to complete and extra staff resource. See below.	Fully up to date legislation. Not feasible to quantify benefits however it would increase awareness of sector and provide agents and people wishing to work with the sector greater clarity.
(c) Legislative Reform Order (LRO)	Main costs are Government staff costs (Policy, Legal and logistics). Provisional estimated based on 1-year's full time work involving policy, legal and technical consultants. Approximately £150,000	Addresses 90% of issues raised in consultation. Not feasible to quantify benefits however it would increase awareness of sector and provide agents and people wishing to work with the sector greater clarity.

5. RISK, UNCERTAINTY AND UNINTENDED CONSEQUENCES

5.1. The proposals in the LRO have been carefully examined by HMT policy and legal to ensure that they strike a fair balance between the public interest and the interests of persons who may adversely affected. We have also considered how the various provisions will provide the necessary protections and preserve the rights and freedoms of those concerned. We do not consider that any of the proposals have constitutional significance or will restate an enactment.

6. IMPLEMENTATION

LRO to be made by the Treasury in exercise of the power conferred by section 1 of the Legislative and Regulatory Reform Act 2006.

7. WHO WILL BE AFFECTED?

7.1. The provisions in this LRO will affect Industrial & Provident Societies and their members.

8. EQUITY AND FAIRNESS

8.1. The Government considers that the measures introduced by the LRO will not have a disproportionate impact on the groups identified.

9. CONSULTATION WITH SMALL BUSINESS

- SMALL FIRMS IMPACT TEST

9.1. In the run up to the consultation HMT held consultative meetings, and workshops with the wider sector as well as the main representative groups to assess the impact of the proposals on smaller societies. The Government has taken on board the issues specific to smaller societies in the provisions of the LRO and accordingly allow societies to apply a discretionary approach to issues, which could have a disproportionate impact on smaller societies. Accordingly it is Government's view that there will not be a disproportionate impact on small business.

- COMPETETION ASSESSMENT

9.2. We have carried out a competition filter test and concluded that the provisions have a potential impact on Industrial and Provident Societies Great Britain. It was considered however that the provisions would not give rise to disproportionate costs of entry or administrative costs for either small or larger societies. The proposals are not expected to restrict innovation in sectors characterised by rapid technological change and would not impair the freedom to provide services.

10. CONSULTATION

10.1. HMT has discussed the consultation requirements with BERR and the FSA. HMT has in addition informed The Office of Fair Trading, Companies House HMRC and the devolved Governments of the original consultation and will now be consulting with them further on the implementation proposals.

10.2. HMT on behalf of Government will also be discussing the provisions of the LRO with all interested parties including the Financial Reporting Council and accounting authorities after the provisions in the LRO are no longer embargoed.

11. ENFORCEMENT AND SANCTIONS

11.1. The bodies responsible for monitoring and enforcing sanctions are the Financial Services Authority and the Courts. We believe that the organisations involved together have the necessary powers to monitor and enforce the provisions of the LRO.

12. SUMMARY AND RECOMMENDATIONS

12.1 The Government signalled an intention to legislate to remove certain impediments in the legislation for cooperatives. It aims to do this in an effective and proportionate manner without imposing extra burdens on societies affected. The implementation proposals suggested in the consultation document, by the Government as well as the implementation option adopted would ensure that these objectives are achieved in a cost effective and efficient manner.

12.2. Although difficult to monetise it is self-evident that removing obstacles to the development of cooperatives and updating the legislation in line with commercial realities (including inflation) will prove beneficial. The expected benefits of the proposals will therefore far outweigh the costs and is recommended.

12.3. We also recommend a post implementation review in 3 years time to establish whether the implemented provisions are having the intended effect and to ascertain whether there are any unintended effects, which will need to be addressed.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

Summary: Intervention & Options

Department /Agency:	Title:	
HM Treasury	Proposals for a Legislative Reform Order to amend Credit Union legislation	
Stage: Consultation	**Version:**	**Date:** 2 July 2008
Related Publications:		

Available to view or download at:
http://www.hm-treasury.gsi.gov.uk

Contact for enquiries: Sammy Amissah **Telephone:** 020 7270 5291

What is the problem under consideration? Why is government intervention necessary?

The legislative framework for credit unions (Credit Unions Act 1979) is out of date in certain respects, imposes burdens on their business, requires updating to reflect the commercial realities and to enable credit unions to better serve their members and to further contribute towards Governments policy on financial inclusion.

Many of the identified burdens are contained in the legislation and it is not possible to achieve the policy by non-legislative means.

What are the policy objectives and the intended effects?

To update legislation to bring credit union legislation in line with international comparators, enable them to compete on a level playing field with other legal forms, improve their efficiency, productivity and better serve their members.

What policy options have been considered? Please justify any preferred option.

Options considered included

Option I: No intervention

Option 2:Primary Legislation (Bill)

Option 3: Legislative Reform Order (LRO)

Under the Parliamentary timetable and attendant constraints Option 3 (LRO) is the most viable option for delivering on legislative reforms.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The actual costs and benefits will be evident after the reforms have been implemented. We propose a review in 3 years by which time reforms would have been embedded.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option:	Description:

COSTS

ANNUAL COSTS	
One-off (Transition) **Yrs**	Description and scale of **key monetised costs** by 'main affected groups' Mainly Government staff costs and printing logistics.
£ 0.15mn	
Average Annual Cost (excluding one-off)	
£	**Total Cost** (PV) **£ 0.15mn**

Other **key non-monetised costs** by 'main affected groups'
Not quantifiable. Evidence from consultation responses.

BENEFITS

ANNUAL BENEFITS	
One-off **Yrs**	Description and scale of **key monetised benefits** by 'main affected groups' Benefits arising from increased awareness of sector provide agents and people wishing to work with sector with grater clarity. Greater investor confidence.
£	
Average Annual Benefit (excluding one-off)	
£	**Total Benefit** (PV) **£ Not quantifiable**

Other **key non-monetised benefits** by 'main affected groups'
Evidence from consultation responses.

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£**

What is the geographic coverage of the policy/option?				Great Britain
On what date will the policy be implemented?				TBC
Which organisation(s) will enforce the policy?				FSA
What is the total annual cost of enforcement for these organisations?				To be confirmed
Does enforcement comply with Hampton principles?				Yes
Will implementation go beyond minimum EU requirements?				No
What is the value of the proposed offsetting measure per year?				To be confirmed
What is the value of changes in greenhouse gas emissions?				£ N/A
Will the proposal have a significant impact on competition?				No
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large

Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £	Decrease £	**Net Impact**	**£**

1. PROPOSAL

1.1. The Treasury proposes to legislate to make certain changes to the Credit Unions Act 1979 using a Legislative Reform Order under the Legislative and Regulatory Reform Act 2006.

2. OBJECTIVE

2.1. The objective is to modernise the legislation for credit unions and provide them with a legislative framework which will enable them to better compete and to deliver a better service to their members.

2.2. In order to achieve this objective the Treasury Minister is proposing changes amongst other things to the membership criteria -"common bond", reform restrictions on non qualifying members, rules on contractual interest and provide flexibility for societies to charge market rate for certain services.

3. BACKGROUND

3.1. The Treasury held a consultation in June 2007 on the "Review of GB cooperative and credit union legislation". The consultation received over 200 responses a summary of which was published in the "Summary of consultation responses" In December 2007.

3.2. The responses indicated an overwhelming desire for reform of the legislative framework for credit unions and the Government response signalled a corresponding desire to legislate to remove the identified burdens.

3.3. The Treasury subsequently formed a Working Group comprising of key stakeholders, representative bodies for the sector, legal experts and academicians to advise on the technicalities of the proposed changes.

3.3. These proposals under consideration which have been developed in conjunction with the Working Group include a review of the following:

- Replacing the "common bond" requirement with a "field of membership test".
- Reforming the requirements relating to membership qualifications and renaming them "common bonds".
- Reforming the restrictions on non-qualifying members.
- Allowing credit unions to admit bodies corporate, unincorporated associations or partnerships to their membership.
- Allow credit unions to pay interest on deposits, provided certain requirements are met.
- Abolishing the 8% per annum limit on dividends.
- Repealing the "attachment" requirement, which restricts withdrawal of shares.
- Allow credit unions to charge the market rate for providing ancillary services to their members.

4. OPTIONS APPRAISAL

(a) No Intervention

Not doing anything would put credit unions in a disadvantageous position in relation to other businesses both in UK and EU.

(b) Use of primary legislation

We considered the use of primary legislation (Bill) to bring about the changes and reforms however the busy Parliamentary timetable and competing Bills meant that it would not be feasible within this session of Parliament.

(c) Use of a Legislative Reform Order (LRO). The use of the LRO is an appropriate and effective response to the issues raised in the consultation. LROs are capable of far reaching changes to primary legislation.

LRO's involve a process of high Parliamentary scrutiny (both in the House of Commons and the Lords) and Government is confident that the issues under review will encourage debate and ensure adequate safeguards are in place to mitigate against any known or unknown consequences.

The Government's preferred option is therefore Option C

TABLE OF OPTIONS

See key assumptions, facts and calculations in the Annex.

OPTION	COST PER ANNUM	BENEFIT PER ANNUM
(a) No Intervention	Difficult to quantify but could lead to loss of investor confidence, competitive disadvantage and opportunity costs.	No benefit to societies. Legislative inertia.
(b). Primary Legislation (Bill)	Main costs are Government staff costs (Policy, Legal and logistics). Similar to Option C however there may be a 20% cost uplift to take into account the extra time it would take to complete and extra staff resource. See below.	Fully up to date legislation. Not feasible to quantify benefits however it would increase awareness of sector and provide agents and people wishing to work with the sector greater clarity.
(c) Legislative Reform Order (LRO)	Main costs are Government staff costs (Policy, Legal and logistics). Provisional estimated based on 1-year's full time work involving policy, legal and technical consultants. Approximately £150,000	Addresses 90% of issues raised in consultation. Not feasible to quantify benefits however it would increase awareness of sector and provide agents and people wishing to work with the sector greater clarity.

5. RISK, UNCERTAINTY AND UNINTENDED CONSEQUENCES

5.1. The proposals in the LRO have been carefully examined by HMT policy and legal to ensure that they strike a fair balance between the public interest and the interests of persons who may adversely affected. We have also considered how the various provisions will provide the necessary protections and preserve the rights and freedoms of those concerned. We do not consider that any of the proposals have constitutional significance or will restate an enactment.

6. IMPLEMENTATION

LRO to be made by the Treasury in exercise of the power conferred by section 1 of the Legislative and Regulatory Reform Act 2006.

7. WHO WILL BE AFFECTED?

7.1. The provisions in this LRO will affect all credit unions in Great Britain and their members.

8. EQUITY AND FAIRNESS

8.1. The Government considers that the measures introduced by the LRO will not have a disproportionate impact on the groups identified.

9. CONSULTATION WITH SMALL BUSINESS

- SMALL FIRMS IMPACT TEST

9.1. In the run up to the consultation HMT held consultative meetings, and workshops with the wider sector as well as the main representative groups to assess the impact of the proposals on smaller societies. The Government has taken on board the issues specific to smaller societies in the provisions of the LRO and accordingly allow societies to apply a discretionary approach to issues, which could have a disproportionate impact on smaller societies. Accordingly it is Government's view that there will not be a disproportionate impact on small business.

- COMPETETION ASSESSMENT

9.2. We have carried out a competition filter test and concluded that the provisions have a potential impact on smaller credit unions in Great Britain. It was considered however that the provisions would not give rise to disproportionate costs of entry or administrative costs for either small or larger societies. The proposals are not expected to restrict innovation in sectors characterised by rapid technological change and would not impair the freedom to provide services.

10. CONSULTATION

10.1. HMT has discussed the consultation requirements with BERR and the FSA. HMT has in addition informed The Office of Fair Trading, Companies House HMRC and the devolved Governments of the original consultation and will now be consulting with them further on the implementation proposals.

10.2. HMT on behalf of Government will also be discussing the provisions of the LRO with all interested parties including the Financial Reporting Council and accounting authorities after the provisions in the LRO are no longer embargoed.

11. ENFORCEMENT AND SANCTIONS

11.1. The bodies responsible for monitoring and enforcing sanctions are the Financial Services Authority and the Courts. We believe that the organisations involved together have the necessary powers to monitor and enforce the provisions of the LRO.

12. SUMMARY AND RECOMMENDATIONS

12.1. The Government signalled an intention to legislate to remove certain impediments in the legislation for cooperatives. It aims to do this in an effective and proportionate manner without imposing extra burdens on societies affected. The implementation proposals suggested in the consultation document, by the Government as well as the implementation option adopted would ensure that these objectives are achieved in a cost effective and efficient manner.

12.2. Although difficult to monetise it is self-evident that removing obstacles to the development of cooperatives and updating the legislation in line with commercial realities (including inflation) will prove beneficial. The expected benefits of the proposals will therefore far outweigh the costs and is recommended.

12.3. We also recommend a post implementation review in 3 years time to establish whether the implemented provisions are having the intended effect and to ascertain whether there are any unintended effects, which will need to be addressed.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

B

Response Form

Respondent Details	Please return by 15 October 2008 to:
Name:	
Organisation:	**Sammy Amissah**
Address:	**Mutuals Policy Branch**
Town/City	**HM Treasury, 1 Horse Guards Road**
County/Postcode:	**London SW1A 2HQ**
Telephone:	**Tel: +44 (0) 20 7270 5291**
Fax:	**Fax: +44 (0) 20 7270 4694**
Email:	

Tick this box if you are requesting non-disclosure of information

1. For Section 1 Orders: Do you think the proposals will remove or reduce burdens as explained in Chapters 3 and 4?
For Section 2 Orders: Do you think the proposals will secure that regulatory activities will be exercised so that they are transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed?
Comments:

2. Do you have views regarding the expected benefits of the proposals as identified in this consultation document and addressed in the partial Impact assessment attached at Annex D? Please provide empirical evidence of any costs or associated benefits.
Comments:

3. If there is any empirical evidence that you are aware of that supports the need for these reforms, please provide details here.
Comments:

4. Are there any non-legislative means that would satisfactorily remedy the difficulties, which the proposals are intended to address?
Comments:

5. Are the proposals put forward in this consultation document proportionate to the policy objective?
Comments:

6. Do the proposals put forward in this consultation document taken as a whole strike a fair balance between the public interest and any person adversely affected by it?
Comments:

7. Do the proposals put forward in this consultation document remove any necessary protection?
Comments:

8. Do the proposals put forward in this consultation prevent any person from continuing to exercise any right or freedom, which he might reasonably expect to continue to exercise, as explained in Chapters 3 and 4? If so please provide details.
Comments:

9. Do you consider the provisions of the proposals to be constitutionally significant?
Comments:

10. In the case where the proposal will restate an enactment: Do the proposals put forward in the consultation make the law more accessible and easily understood?
Comments:

11. Do you agree that the proposed Parliamentary procedure as outlined in Annex C should apply to the scrutiny of these proposals?
Comments:

12. Do you have any other comments in relation to the proposals?
Comments:

13. What are your views on the two options for reforming credit union's membership qualification? (See para. 3.38)
Comments:

C List of consultees

Anglia Regional Co-operative Society
Brambles Housing Co-op
Canolfan Cydweithredol Cymru/ Wales Co-operative Centre
CDS (Co-operative Development Society)
Charity Law Association
Chelmsford Star Coop
Citylife
CNW (Cooperatives North West)
Community Broadband Network
Confederation of Co-operative Housing (CCH)
Co-operative & Mutuals Solutions Ltd (CMS)
Co-operative Assistance Network Ltd
Co-operatives Futures
Co-operatives North West
Co-operatives South East
COOPS UK
Cornerstone Housing Co-op
Country Markets
D&L Scott
Delta T Devices LTD
East of England CO-OP
EFFP (English Farming & Food Partnership)
Ethical Consumer Research Association
Ethos PR
Fane Valley Co-op Society Ltd
Financial Services Smaller Business Practitioner Panel (SBPP)
Footprint Worker Coop
Headingley Development Trust
Heart of England Coop
Lincolnshire Cooperative Ltd
Midcounties Co-operative Society Ltd
National Food Stores Ltd
National Housing Federation (NHF)
One Community Limited
Penrith Co-op
Phone Co-op Ltd
Plunkett Foundation
Plymouth & South West Co-operation Ltd
Radical Routes
Scottish Agricultural Organisation Society (SAOS)

Scottish Midland Co-operative Society
Shared Interest
Situ8
Southern CO-OPS
Star Holdings
Tamworth coop
The Channel Islands' Cooperative Society Ltd
The Coop Group
The Guild (Eastern Region) LLP
Triangle Wholefoods Collective Ltd/ a Suma
Tue Food Community Co-op
Upstart Services Ltd
Upstream Ltd
Rochdale Social Enterprise Forum
Rochdale Federation of Tenants and Residents Associations
CDA (Brave Ltd)
Harlow CDA
Baker Brown Associates
Tower Hamlets Co-operative Development Agency
NCVO
Ian Snaith, Law Faculty, University of Leicester
Charles Richard Wood
Charlie Cattell, Social Economy Consultant
Samuel Hope, School of Business and Social Sciences, Roehampton University
The Tool Factory LLP
Graham Mitchell, MC3 LLP
Housing Corporation
Co-operative & Community Finance
Credit Union Training and Enterprise
Co-operative Development Scotland (CDS)
Supporters Direct
Social Enterprise East Midlands
Community Development Finance Association (CDFA)
Social Enterprise People
UK Society for Co-operative Studies (UK SCS)

ABCUL (Association of British Credit Unions Ltd)
ABCUL South West Chapter
National Association of Credit Union Workers (NACUW)
UK Credit Unions Limited (UKCU)
ACE Credit Union Services
Credit Union Consultation Working Group

Graham Hickman
Watling & Grahame Park CU Ltd
Penilee CU Ltd
Ellesmere Port & Nelson CU Ltd
North Lincolnshire CU Ltd
Just CU Ltd
Leicester Caribbean CU Ltd
Bedford CU Ltd
Partners CU Ltd
Tim Presswood, Chair Manchester CU Ltd
Watford CU Ltd
Hope (Plymouth) CU Ltd
East Renfrewshire CU Ltd
Sharon Angus – Crawshaw Crewe and Nantwich CU Ltd
Rainbow Saver Anglian CU Ltd
Tamworth CU Ltd
Police CU Ltd
Northumberland CU Ltd
Firesave CU Ltd
Hull & East Yorkshire CU Ltd
Ipswich and Suffolk CU Ltd
Moneywise Newcastle CU Ltd
Scotwest CU Ltd
Neath Port Talbot CU Ltd
Mendip
Community CU Ltd
Capital CU Ltd
Llandudno & District CU Ltd
Blackburn Seafield & District CU Ltd
North London Enterprise CU Ltd
Torfaen CU Ltd
Tower Hamlets CU Ltd
Pendle Community CU Ltd
Glasgow CU Ltd
Worcestershire CU Ltd
Scottish Transport CU Ltd
Jubilee Tower CU Ltd
Kirklees CU Forum
Camden Plus CU Ltd
Exeter CU Ltd
Glasgow Taxi Trade CU Ltd
Bristol CU Ltd
StreetCred CU Ltd

Tower Hamlets Community CU Ltd
East Lancashire Finance Ltd
HHH CU Ltd
Croydon Savers CU Ltd
Halton CU Ltd
Handsworth Breakthrough CU Ltd
Hatfield CU Ltd
Inverness CU Ltd
Grampian CU Ltd
Castle & Minster CU Ltd
No 1 Police CU Ltd
Financial Inclusion Services Ltd
Sheffield CU Ltd
Moneyline Yorkshire (IPS Ltd)
Enterprise CU Ltd
Waltham Forest CU Ltd
Lincolnshire CU Ltd
Dalmuir CU Ltd
Nottingham CU Ltd
Cleator Moor and District CU Ltd
City Save CU Ltd
Enterprise the Business CU Ltd
Black Squirrel CU Ltd
Clockwise Leicester CU Ltd
Haven CU Ltd
Edmonton CU Ltd
1st Class CU Ltd
Hampshire CU Ltd
Norfolk CU Ltd
Forest of Dean CU Ltd
East Sussex CU Ltd
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Richard Wood
Terry Clay
Roger Hawkins
Bob Andrews
Dave Sternberg
Sally Chicken
Nicholas Ryder
Carol Wilson
Peter Gane
Martin Grombridge
Peter Mason

Barclays
Cooperatives UK
CDA Brave Ltd
Chartered Institute if Housing
Herefordshire Council
CUTE, Barry Epstein
Alexander Sloan, CA s
Cooperative Development Scotland
Norman Rides

Building Societies Association
European Commission
Law Commission

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