



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

Lught-Reill Shirveishyn Argidoil Ellan Vannin

CREDIT UNIONS

THE NEW REGULATORY REGIME

AND

AMENDMENT TO LOAN INTEREST RATE

CONSULTATION PAPER

Issue Date: 5 November 2018

Closing Date: 14 December 2018

CP18-06/T03

CONSULTATION PAPER – CP18-06/T03

This consultation paper is issued by the Isle of Man Financial Services Authority, which is the regulatory body for the financial sector in the Isle of Man.

The purpose of this consultation is:

1. to obtain views about the proposed credit unions' regulatory regime that will be enacted in secondary legislation made under the Financial Services Act 2008; and
2. to seek views on a proposed increase to the maximum interest rate payable by borrowers on loans made by credit unions under the Credit Unions Act 1993 (as amended in 2018).

Please supply evidence to support your views on these matters, where relevant.

The closing date for comments is **14 December 2018**.

Please send comments in writing and preferably by email (but not scanned documents) to:

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All information in responses, including personal data, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2015 and the Data Protection Act 2018). If you want your response to remain confidential, you should explain why confidentiality is necessary. Your request will be acceded to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding.

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If you have a query in relation to how this consultation has been carried out, please contact the Authority's Policy and Authorisations Division by email at IOMFSAPOLAUTH@gov.im or by telephone on +44 (0) 1624 646000.

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GLOSSARY OF TERMS

Term	Meaning in this document
Act	Credit Unions Act 1993 as amended by the Credit Unions (Amendment) Act 2018 ¹ (amendments are not yet operational)
Amendment Act	Credit Unions (Amendment) Act 2018 ² (see 'Act' above)
Authority	Isle of Man Financial Services Authority
Bill	Credit Unions (Amendment) Bill (which became the 'Amendment Act')
DfE	Department for Enterprise (of the IoM Government)
Exemptions Regs	Financial Services (Exemptions) Regulations 2011 ³
Fees Order	Financial Services (Fees) Order 2018 ⁴
FSA08	Financial Services Act 2008 ⁵
IoM	Isle of Man
Prior Consultations	2015 consultation ⁶ and 2017 consultation ⁷
RAO	Regulated Activities Order 2011 ⁸
Rule Book	Financial Services Rule Book 2016 ⁹ (or future versions of it)

¹ Credit Unions Act: <https://www.iomfsa.im/media/2463/creditunionsact1993-keelingschedule.pdf>

² Credit Unions (Amendment) Act 2018: https://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2018/2018-0009/CreditUnionsAmendmentAct2018_1.pdf

³ Financial Services (Exemptions) Regulations 2011: <https://www.iomfsa.im/media/1466/financialservicesexemptionsregs2011.pdf>

⁴ Financial Services (Fees) Order 2018: <https://www.iomfsa.im/media/1467/financialservicesfeesorder.pdf>

⁵ Financial Services Act 2008: https://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2008/2008-0008/FinancialServicesAct2008_15.pdf

⁶ 2015 consultation: <https://www.iomfsa.im/media/2008/consultationoncreditunionshighleveli.pdf> and summary of responses: <https://www.iomfsa.im/media/2009/summaryofresponsestohighlevelc.pdf>

⁷ 2017 consultation: <https://consult.gov.im/financial-services-authority/credit-unions-amendment-bill-2017/consult-view/> (including summary of responses)

⁸ Regulated Activities Order 2011: <https://www.iomfsa.im/media/1427/regulatedactivitiesorder2011.pdf>

⁹ Financial Services Rule Book 2016: <https://www.iomfsa.im/media/1470/financialservicesrulebook20131.pdf>

1 EXECUTIVE SUMMARY

1.1 Overview

In early 2015 a High Level Consultation document issued by the Financial Supervision Commission outlined proposals to address perceived deficiencies in the Credit Unions Act 1993 ('the **Act**') and to develop a framework for regulating credit unions. Responses to the consultation evidenced considerable support for changes to the Act that would facilitate the operation of credit unions in the IoM and so research began for a Credit Unions (Amendment) Bill ('**Bill**').

The Isle of Man Financial Services Authority ('**Authority**') consulted on the draft Bill in March-April 2017¹⁰ and the Amendment Act was approved in Tynwald in May 2018. It is now proposed to bring into operation the new regulatory regime that is provided for by the Amendment Act. In a separate change, an increase to the maximum loan interest rate is also proposed.

The first credit union in the Isle of Man ('**IoM**') was incorporated in August 2016.

1.2 What is the purpose of this Consultation Paper?

This consultation paper invites interested or affected parties and their advisers to consider the proposals and draft legislation and to submit comments to the Authority before the closing date for the consultation. All views are welcome, especially those that include constructive comments or evidence to support views.

1.3 Who may be affected by this Consultation Paper?

The proposals in this paper will affect the existing credit union in the IoM and its members, as well as any parties that may be interested in setting up, or offering services to, a credit union.

¹⁰ March 2017 consultation: https://consult.gov.im/financial-services-authority/credit-unions-amendment-bill-2017/consult_view/

2 CONSULTATION PROCESS

2.1 The Authority's regulatory objectives

The Authority's regulatory objectives are set out in section 2(2) of the Financial Services Act 2008 ('FSA08') as —

- (a) securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity;
- (b) the reduction of financial crime; and
- (c) the maintenance of confidence in the Island's financial services, insurance and pensions industries through effective regulation, thereby supporting the Island's economy and its development as an international financial centre.

Proposals in this consultation are related to objectives (a) and (c).

The Authority is required to give consideration to certain factors when undertaking its role in accordance with paragraph 3 of Schedule 1 to the FSA08. In line with the Authority's previous consultation on proposals for credit unions, the most relevant factors are:

Factor	Information
The need for the regulatory, supervisory and registration regimes to be effective, responsive to commercial developments and proportionate to the benefits which are expected to result from the imposition of any regulatory burden	<p>The proposed regime brings the regulation of credit unions under existing provisions in financial services legislation. The proposals reflect modern international standards and enhanced levels of consumer protection, with an impact on credit unions that is proportionate to the risks.</p> <p>The proposed increase to the maximum interest rate chargeable to borrowers by credit unions aims to permit credit unions to cover their costs on average lending and is in line with levels in other relevant jurisdictions.</p>
The impact of its decision on the stability of the financial system of the Island	<p>Due to the size of their operations, credit unions are not expected to affect the Island's financial stability. However, the modernised regime aims to facilitate the credit union ethos in the Island and may increase financial responsibility amongst sectors of the population.</p>

2.2 Responding to the Consultation Paper

The Authority considers open dialogue with stakeholders as essential in developing its proposals and welcomes comments on the proposals in this document. The purpose of this consultation is to gather views and evidence, from which an informed decision may be made on the draft legislation and standard licence conditions. However, please note that your comments may not result in a change to the proposals.

The Authority wishes to encourage submission of views but requests that comments are not submitted anonymously as they will not be considered or included in the Consultation Response.

Professional bodies, trade associations and other representative groups are asked to provide a summary of the people and organisations that they represent when responding, as well as the methodology used to gain members' input.

A list of representative groups to which this Consultation Paper has been sent is shown at Appendix A.

3 PROPOSALS

3.1 Background

In early 2015 a high level consultation process sought views on proposals to amend the Act and to develop a framework for regulating credit unions. 114 consultation responses were received, which evidenced the strong support for credit unions in the Island.

In 2016, the IoM's first credit union was authorised and [registered](#) by the Authority. No other credit unions have sought registration to date.

Also in 2016, drafting work began on a Credit Unions (Amendment) Bill, which is now awaiting implementation by Appointed Day Order. The amendments to the Act address the problems of the Act being outdated and offering insufficient consumer protection.

The Authority now needs to implement a suitable regulatory regime for credit unions in the IoM and the proposals for such a regime form the major part of this consultation.

In addition, the Authority is consulting on a proposal to increase in the interest rate at which credit unions can lend to their members, which will necessitate a change to the Act.

This consultation document therefore seeks views on —

1. draft legislation and draft standard licence conditions that is necessary to establish the new regulatory regime provided for by the amended Act; and
2. a proposal to raise the maximum interest rate that may be charged by credit unions on loans to their members.

Subject to Tynwald approval, the Amendment Act and the new regulatory regime will be brought into operation simultaneously, alongside the transfer of the existing credit union to the new regulatory regime. In addition, if approved, the maximum loan interest rate will be raised.

3.2 Regulatory regime

3.2.1 Introduction

In determining a suitable regulatory regime for credit unions in the IoM the Authority has considered the regimes in the UK¹¹ and Republic of Ireland. The IoM does not intend to copy regimes elsewhere, because the Island's needs are different, but other jurisdictions' requirements have been considered nonetheless.

The regulatory provisions for credit unions will be implemented via amendments to the following existing secondary legislation:

- [Regulated Activities Order 2011](#) ('RAO')
- [Financial Services \(Exemptions\) Regulations 2011](#) ('Exemption Regs')
- [Financial Services \(Fees\) Order 2018](#) ('Fees Order')
- [Financial Services Rule Book 2016](#) ('Rule Book')

In addition, there will be associated changes to the [Licensing Policy for Regulated Activities under the Financial Services Act 2008](#) ('Licensing Policy').

At present the Authority does not intend to subject credit unions to *administrative* civil penalties (see [Financial Services \(Civil Penalties\) Regulations 2015](#)). However, the *discretionary* civil penalties in that legislation will be applicable to credit unions in relevant circumstances.

¹¹ <http://www.prarulebook.co.uk/rulebook/Content/Part/320139>

The draft amendments to the regulatory legislation are shown in Appendix B. When the new regulatory regime has been finalised, links to the legislation and guidance for credit unions will be shown on a webpage in the 'Regulated Sectors' area of the Authority's website.

In summary, the new provisions will:

- oblige credit unions to obtain a financial services licence under the FSA08. This will be a new class of regulated activity known as 'operation of a credit union', for which there will be an annual fee; and
- specify requirements for various matters including:
 - financial resources and reporting
 - audit
 - conduct of business
 - administrative matters
 - risk management and internal control.

The Authority is aware that credit unions are typically run by volunteers and without substantial financial backing or resources. Credit unions are non-profit organisations whose objects are —

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

Therefore, the proposed new provisions are designed to provide adequate protection to customers (i.e. members) of credit unions without imposing too onerous a burden on credit unions themselves.

3.2.2 Regulated Activities Order

A new class of regulated activity ('Class 9') will be added to the RAO that will oblige credit unions to obtain a financial services licence under the FSA08. The new Class 9 will establish the regulated activity of 'Operation of a credit union' and will encompass all the basic activities of a credit union.

This means that, if in the future a credit union sought to provide any other class of regulated activity, such as the provision of investment advice or operating a bureau de change, these new activities would not be covered by the Class 9 permission under the financial services licence and separate permissions would need to be applied for to cover the additional

activities. This is consistent approach which also applies to all other regulated entities. However, please see the note at 3.2.3 regarding payment services activities.

Transitional provisions in the legislative document that will bring the Amendment Act into effect (the Appointed Day Order) will enable the existing credit union to seek a licence to conduct Class 9 regulated activity that will directly replace its current authorisation.

Please see Appendix B for the draft amendment to the RAO.

3.2.3 Financial Services (Exemptions) Regulations

Credit unions may occasionally be called upon to make third-party payments on behalf of their members, in the same way that banks / deposit takers sometimes provide this service. Therefore, to enable credit unions to provide this service without being in breach of section 4 of the FSA08 for undertaking *payment services* activities without the appropriate licence permissions, it is proposed to exempt credit unions from the need to hold Class 8(2) permissions. The exemption will be restricted to *payment services* activities (and not other Class 8 regulated activities). In addition, the *payment services* activities would be expected to be wholly incidental to credit unions' main activities and not become a core business activity.

Please see Appendix B for the draft amendment to the Exemptions Regulations.

3.2.4 Financial Services (Fees) Order

Credit unions currently pay a fee upon application for incorporation but are not subject to regulatory fees. The Credit Union (Fees) Regulations 1994 prescribe one fee (at two levels) for a body wishing to be incorporated as a credit union, however that fee equates to a company's incorporation fee, rather than a regulatory licence application or annual fee.

As mentioned, the Authority does not wish to impose a large burden on credit unions but it needs to consider the amount of time it must devote to authorising and supervising credit unions and that its costs in this regard should not be subsidised by other regulated entities or the Treasury without due consideration of such cost-sharing. Small licenceholders often require proportionately more supervisory resources (per £ of turnover or number of staff) than larger entities and an appropriate balance must be struck between costs of the Authority and its income.

Fees payable by the Authority's other licenceholders are shown in the [Financial Services \(Fees\) Order 2018](#) and include:

<i>Category of licenceholder</i>	<i>Licence application fee</i>	<i>Annual licence fee</i>
Deposit taker/ bank	£10,279	£19,824 - £26,084
Financial adviser	£2,036	£1,622 - £5,899
Payment services provider (turnover below £5 million)	£1,044 - £2,304	£1,044 - £6,322

By comparison, the following fees are charged to credit unions in the UK¹² and Republic of Ireland¹³:

<i>Country</i>	<i>Licence application fee</i>	<i>Annual licence fee</i>
UK	£100 - £950 (depending primarily on the size of the credit union)	£60 - £460 (licence fee) plus £80 - £270 (compensation levy) (figures for a small credit union)
Republic of Ireland ¹⁴	nil	Approx. £500 (for a small credit union)
IoM (proposed)	£500	£500

Taking the fee data for the UK and Republic of Ireland into consideration, a licence application fee of £500 and an annual licence fee of £500 are proposed for IoM credit unions.

Both fees would be payable to the Authority (although all fee income is paid into the General Revenue of the IoM) and would cover initial assessment of a licence applicant and then a credit union's ongoing monitoring and supervision.

Please see Appendix B for the draft amendment to the Financial Services (Fees) Order.

¹² UK: 466 credit unions, over 2 million members, savings over £3.2 billion:
<https://www.bankofengland.co.uk/statistics/credit-union/2018/2018-q1>

¹³ Republic of Ireland: 268 credit unions, 3.1 million members, savings approx. €11.9 billion, 3,500 employees, 9,200 active volunteers: <https://www.finance.gov.ie/what-we-do/shareholding-financial-advisory/credit-union-policy/>.

¹⁴ <https://www.finance.gov.ie/wp-content/uploads/2018/06/Information-Note-on-Levies-for-website-FINAL.pdf>: In the Republic of Ireland various levies are calculated on total assets including a Resolution levy of 0.0511% and ILCU trade body Savings Protection Scheme of 10% per €1,000 of assets. The total for a small credit union is approx. 0.16% total assets (Sept 2017).

3.2.5 Financial Services Rule Book and Standard Licence Conditions

Initially, the Rule Book will not be the method by which regulatory requirements are applied to credit unions. Instead, requirements specific to credit unions will be applied by standard licence conditions, which will allow those requirements to be ‘tested’ in practice before they ultimately become secondary legislation within the Rule Book. This is a method that the Authority has used for other new regulatory sectors recently (e.g. Class 6).

Licence conditions may vary between entities, but all the conditions applicable to any particular credit union will be shown on its licence. Some licence conditions (the ‘**standard licence conditions**’) will apply to *all* credit unions and are based on requirements adapted from certain rules of the [Rule Book¹⁵](#). In due course, the *standard licence conditions* will become rules of the Rule Book applicable to all credit unions, i.e. Class 9 licenceholders. The Authority intends that these rules will eventually form a new part - Part 10 - of the Rule Book and so the *standard licence conditions* are set out in the same form as the rules on which they are based.

The *standard licence conditions* that are proposed to apply to Class 9 licenceholders are shown in Appendix C. The *standard licence conditions* are designed for established credit unions and may be varied for *new* Class 9 licenceholders as the case requires.

Please see Appendix B for a draft amendment to the Rule Book – this ensures that the Rule Book’s provisions will not apply to credit unions for the time being.

Please see Appendix C for the draft Standard Licence Conditions – these will apply to credit unions instead of the Rule Book’s provisions.

QUESTION 1 – REGULATORY LEGISLATION

Do you have any comments on the draft regulatory legislation? If so, when making your comments, please indicate whether they relate to:

- *Regulated Activities (Credit Unions) (Amendment) Order;*
- *Financial Services (Credit Unions) (Amendment) Exemptions Regulations;*
- *Financial Services (Credit Unions) (Amendment) (Fees) Order; or*
- *Financial Services (Credit Unions) (Amendment) Rule Book.*

Please include reasons for the views expressed and any suggestions.

¹⁵ The power to modify rules is in section 7(3)(b) of FSA08.

QUESTION 2 – STANDARD LICENCE CONDITIONS

Do you have any comments on the draft Standard Licence Conditions for credit unions?

If so, please provide your comments, including reasons for the views expressed and any suggestions.

3.2.6 Licensing Policy for Regulated Activities under the Financial Services Act 2008

The [Licensing Policy for regulated activities under the Financial Services Act 2008](#) ('**Licensing Policy**') will apply to credit unions, with minor modifications and additions to reflect the individual characteristics of the sector. These proposed changes are summarised below for information only.

Summary of proposed changes – for information only:

- a) Credit Unions Act 1993 to be added to the list of enactments under which a regulated body may be incorporated;
- b) A paragraph to be added to 'Introduction (v)' to address the separate guidance and Standard Licence Conditions for credit unions;
- c) Credit unions' Standard Licence Conditions to be reflected (as necessary) wherever the Licensing Policy refers to (rules in) the Rule Book;
- d) References to directors to include 'members of the committee of management' where appropriate (including in Part III – Persons responsible for management and control);
- e) Paragraph 2.1, which addresses the expectation of a track record in the relevant sector, to reflect the circumstances of credit unions;
- f) Paragraph 2.7, which addresses branches of entities that are incorporated in other jurisdictions, to reflect that credit unions elsewhere may seek to establish an IoM operation; and
- g) Part VI – Financial Standing to be amended to accommodate the specific circumstances of credit unions (especially capital).

Changes would also be made to the associated Training and Competency Framework¹⁶ where appropriate.

3.3 Interest rate change (to increase maximum interest rate for borrowings from credit unions)

3.3.1 Introduction

Maximum interest rates at which credit unions can lend to their members are prescribed in legislation both in the Isle of Man and in other countries, unlike lending by other finance providers. The current maximum interest rate for loans from credit unions in the IoM is specified in section 11(4) of the Act as 1 % per month. This rate has remained the same since the Act came into effect in 1993 and equates to 12½ % per annum.

In common with some other countries, the Act also requires that loans are made “*for a provident or productive purpose*” and imposes limits on the size of loans and their duration.

Even though credit unions typically have low staff costs, the accounting and administration costs for small loans can easily exceed the interest income received¹⁷, which means that such loans result in a financial loss to the lender. Unlike other lenders, credit unions are prohibited from charging arrangement or administration fees for setting up loans – any such costs must be taken from the interest income received. The Authority considers that it is not in the public interest for credit unions in the IoM habitually to incur financial losses when making small loans and so it is considering what maximum interest rate it is appropriate to prescribe in the Act in future.

As it was important not to detract from modernisation and consumer protection matters when the Act was being amended recently, and in order that sufficient research could be undertaken, provisions were made in the Act for any change to the interest rate to be made by Order (secondary legislation) subject to Tynwald approval.

Therefore, this consultation covers a proposal to raise the interest rate. It is possible that an Order to specify a new maximum rate could be progressed at the same time as the proposed regulatory legislative changes.

¹⁶ Training and Competency Framework: <https://www.iomfsa.im/regulated-sectors/regulated-sectors-general/applications/training-and-competence/>

¹⁷ For example, a loan of £5,000 for 1 year would produce income to a credit union of £625, whereas a loan of £500 for 3 months would produce income of £15, but administration costs for the two loans would be similar.

3.3.2 Proposal and evidence

The sole existing IoM credit union has submitted to the Authority a summary of information on loans it has made since it commenced business. The Authority has compared this information to maximum interest rates prescribed in other jurisdictions, together with rates charged by commercial providers in the IoM, and illustrates this below.

Statutory maximum lending rates for credit unions in:

Country ¹⁸	% per month	APR% per year
England, Scotland and Wales ('GB')	3%	42.5%
Northern Ireland	1%	12.5%
Republic of Ireland	1%	12.5%
Isle of Man (current)	1%	12.5%

Republic of Ireland - A December 2017 report by the Credit Union Advisory Committee of the Department of Finance concluded that the interest rate should be raised to 2% per month¹⁹. No change has yet taken place.

Sample data collected recently²⁰ on lending by other local providers (for amounts and periods similar to those made by the existing credit union) shows:

Entity type	Comparable product	Interest rate(s)
Bank A	Personal loan (unsecured): £1,000 to £4,999	15% APR (rates are lower for higher amounts) (no admin or arrangement fees)
Bank B	Personal loan (unsecured): £500+ for 12 months+	17.5% p.a fixed rate (£500 for 12 months) 12.5% p.a fixed rate (£1,000 for 12 months) 9% p.a fixed rate (£3,000 for 12 months, or 8.33% p.a if for 2 years)

¹⁸ <https://www.finance.gov.ie/wp-content/uploads/2018/01/180119-Interest-rate-cap-website.pdf>: GB's rate was raised from 1% pcm to 2% pcm in 2005 and to 3% pcm in 2014. USA's rate: 15%/18%/28% pa.

¹⁹ "The survey of ROI credit unions revealed that a majority did not want a change to the interest rate ceiling. The survey did however identify a dichotomy in the opinion of credit unions based on asset size. A majority of credit unions with assets of €60 million and above were supportive of a change to the interest rate ceiling": <https://www.finance.gov.ie/wp-content/uploads/2018/01/180119-Interest-rate-cap-website.pdf>.

²⁰ Data collated before August 2018 Bank Rate rise.

		<i>(no fees)</i>
Bank C	Personal loan (unsecured): £1,000+ for 12 months+	25% to 30% APR (£1,000 over 12 months, or £3,000 over 12 / 24 months) 7% to 23% APR (£5,000 over 12 / 24 months)
Short term lender	Unsecured loan £100 to £500 - repaid next salary date or can be rolled 3 times subject to commission fee	No 'APR' stated but circa 15%/ month on this example: borrow £200, pay £30 commission, receive payment of £170 and repay the loan of £200 on your next salary payment day or roll over the loan for another month by paying a further £30 commission

The Authority considers an increase to the prescribed maximum interest rate for lending by IoM credit unions is reasonable, but it is seeking views on the most appropriate maximum rate to prescribe.

As small loans for shorter periods typically cost more to administer, it may be reasonable to charge borrowers more for such loans than for larger loans or loans for longer periods. Therefore, the Authority may impose constraints on use of a higher rate to ensure credit unions only charge higher rates where they have higher costs.

The following table shows five some possible options for maximum interest rates. Your views are sought on which of the following are preferable and why. You are also invited to suggest alternative proposals. Please include reasons with your suggestions.

Options for IoM	% per month	APR % per year	Comments
Option A	1%	12.5%	No change
Option B	2%	26.8%	
Option C	3%	42.5%	UK's maximum rate
Option D	1% to 3%	variable depending on amount and duration	Sliding scale of 1% pcm for larger loans, rising to 3% pcm for smaller/ short term loans ²¹

Please see Appendix D for the draft interest rate amendment to the Credit Unions Act.

²¹ For example: £250 borrowed for 3 months at 3% per month (pcm) pays interest of £22.50; £2,500 borrowed for one year at 1% per month (pcm) pays interest of £300.

QUESTION 3 – LOAN INTEREST RATE

Which interest rate option (A, B, C, D, or another) do you support and why?

Please provide any other suggestions that you have regarding loan interest rates.

4 IMPACT ASSESSMENT

The Authority is aware of and has taken into consideration —

- the cost of regulation - the Authority seeks to meet its regulatory objectives with minimum negative impact;
- the non-commercial nature of credit unions – the Authority aims to minimise the regulatory cost to the sector whilst maintaining appropriate protection for stakeholders;
- that credit unions sometimes fail²² - this would place a financial burden on the IoM if it were to happen here; and
- that other regulated sectors and/or the Treasury should not be required to shoulder the costs of supervising credit unions without due consideration of whether this is appropriate.

5 QUESTIONS - SUMMARY

Questions

1. Regulatory legislation

Do you have any comments on the draft regulatory legislation?

If so, when making your comments, please indicate whether they relate to:

- Regulated Activities (Credit Unions) (Amendment) Order;
- Financial Services (Credit Unions) (Amendment) Exemptions Regulations;
- Financial Services (Credit Unions) (Amendment) (Fees) Order; or
- Financial Services (Credit Unions) (Amendment) Rule Book.

Please include reasons for the views expressed and any suggestions.

²² In the Republic of Ireland 6 credit unions have been resolved from 2011-2017, at a cost of €31.3 million.

Questions

2. Standard Licence Conditions

Do you have any comments on the draft Standard Licence Conditions for credit unions?

If so, please provide your comments, including reasons for the views expressed and any suggestions.

3. Loan interest rate

Which interest rate option (A, B, C, D, or another) do you support and why?

Please provide any other suggestions that you have regarding loan interest rates.

6 NEXT STEPS

Following the closure of the consultation period the Authority will publish a summary of the comments received.

Subject to views expressed in response to the consultation, the Authority will seek to progress all items of legislation through Tynwald together, alongside the Appointed Day Order²³, and bring them into operation as soon as possible thereafter.

7 POSSIBLE FUTURE CHANGES

Although no further changes to credit unions legislation are planned now, in due course —

- consideration may be given to permitting the issue of deferred shares;
- consideration may be given by Government to establishing a compensation scheme for savings in credit unions; and
- other changes to limits in the Act may be considered.

²³ The Appointed Day Order will bring the Amendment Act into effect

APPENDIX A – LIST OF REPRESENTATIVE GROUPS TO WHICH THIS CONSULTATION PAPER HAS BEEN SENT

- Alliance of Isle of Man Compliance Professionals
- Association of British Credit Unions Limited
- Association of Corporate Service Providers
- Chartered Institute for Securities and Investment
- Financial Planners & Insurance Brokers Association
- Institute of Directors
- Irish League of Credit Unions
- Isle of Man Association of Chartered Certified Accountants
- Isle of Man Association of Pension Scheme Providers
- Isle of Man Bankers Association
- Isle of Man Captives Association
- Isle of Man Chamber of Commerce
- Isle of Man Insurance Institute
- Isle of Man Law Society
- Isle of Man Wealth & Fund Services Association
- Isle of Man Society of Chartered Accountants
- London Institute of Banking & Finance
- Manx Insurance Association
- Scottish League of Credit Unions
- Society of Trust and Estate Practitioners
- UKCreditUnions Ltd (UKCU)

APPENDIX B – DRAFT REGULATORY LEGISLATION



REGULATED ACTIVITIES (CREDIT UNIONS) (AMENDMENT) ORDER 2019

Approved by Tynwald:

Coming into Operation:

xxx 2019

The Treasury, after carrying out the consultations required by section 44(7) of the Financial Services Act 2008, makes the following Order under section 3 of the Financial Services Act 2008.

1 Title

This Order is the Regulated Activities (Credit Unions) (Amendment) Order 2019.

2 Commencement

If approved by Tynwald, this Order comes into operation on xxx 2019.

3 Amendment to Schedule 1

At the end of Schedule 1 insert —

CLASS 9 – CREDIT UNIONS

Regulated activity

Operation of a credit union. **22**.

4 Amendment to Schedule 2

In Part 1 of Schedule 2, after the definition of “connected individuals”, insert the following definition of “credit union” —

23 is a body described in and incorporated under the Credit Unions Act 1993; **24**.

[end of legislative provisions]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Regulated Activities Order 2011 by adding an additional class of regulated activity to cover the operation of a credit union.



FINANCIAL SERVICES (CREDIT UNIONS) (AMENDMENT) (EXEMPTIONS) REGULATIONS 2019

Approved by Tynwald:

Coming into Operation:

xxx 2019

The Isle of Man Financial Services Authority makes the following Regulations under section 44(2) and (3) of the Financial Services Act 2008, after carrying out the consultations required by section 44(5) of that Act.

1 Title

These Regulations are the Financial Services (Credit Unions) (Amendment) (Exemptions) Regulations 2019.

2 Commencement

If approved by Tynwald, these Regulations come into operation on xxx 2019.

3 Amendment of Schedule 1 to the Financial Services (Exemptions) Regulations 2011

- (1) Schedule 1 to the Financial Services (Exemptions) Regulations 2011 is amended as follows.
- (2) At the end of paragraph 8.3 —
 - (a) delete “.” and insert **33**; or **32**; and
 - (b) insert **33**(f) licensed to carry on a regulated activity falling within Class 9 and is carrying on activity falling within paragraph (2) of Class 8. **32**.

[end of legislative provisions]

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Financial Services (Exemptions) Regulations 2011 by exempting Class 9 licenceholders from the requirement to hold Class 8(2) (payment services) permissions.



FINANCIAL SERVICES (CREDIT UNIONS) (AMENDMENT) FEES ORDER 2019

Approved by Tynwald:

Coming into Operation:

xxx 2019

The Isle of Man Financial Services Authority makes the following Order under section 46 of the Financial Services Act 2008, after carrying out the consultations required by section 44(5) of that Act.

1 Title

This Order is the Financial Services (Credit Unions) (Amendment) Fees Order 2019.

2 Commencement

If approved by Tynwald, this Order comes into operation on xxx 2019.

3 Amendment of the Schedule to the Financial Services (Fees) Order 2018

(1) Table 1 of the Schedule to the Financial Services (Fees) Order 2018 is amended as follows.

(2) At the end of Table 1 insert an additional row —

66

31	Class 9 (operation of a credit union)	£500	£500
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67

[end of legislative provisions]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Financial Services (Fees) Order 2018 by adding fees for Class 9, which is a new class of regulated activity. The fees for Class 9 are an Application Fee of £500 and an Annual Fee of £500.



FINANCIAL SERVICES (CREDIT UNIONS) (AMENDMENT) RULE BOOK 2019

Approved by Tynwald:

Coming into Operation:

xxx 2019

The Isle of Man Financial Services Authority makes the following Rule Book under section 18 of, and Schedule 3 to, the Financial Services Act 2008. after carrying out the consultations required by section 44(5) of that Act.

1 Title

This Rule Book is the Financial Services (Credit Unions) (Amendment) Rule Book 2019.

2 Commencement

If approved by Tynwald, this Rule Book comes into operation on xxx 2019.

3 Amendment to the Financial Services Rule Book 2016

(1) The Financial Services Rule Book 2016 is amended as follows.

(2) For Rule 3(1) substitute —

☐☐ This Rule Book applies to every licenceholder except those licensed to carry on regulated activities of Class 1(3), Class 6 or Class 9. Parts 1 to 8 apply to all licenceholders except professional officers, as indicated by the application column in the Schedule. Part 9 applies only to professional officers. ☐☐.

[end of legislative provisions]

EXPLANATORY NOTE

(This note is not part of the Rulebook)

This Rule Book amends the Financial Services Rule Book 2016 to disapply that Rule Book's requirements from Class 9 licenceholders, following the creation of Class 9.

APPENDIX C – DRAFT STANDARD LICENCE CONDITIONS

Note: For the purposes of this consultation, the following draft Standard Licence Conditions (**‘Conditions’**) are set out in a similar format to the Rule Book, in order to facilitate comparison with the Rule Book.

As mentioned in 3.2.5, it is the Authority’s intention that the conditions will eventually form a new Part 10 of the Rule Book.

Condition	Description
PART A. INTRODUCTORY	
A1 Interpretation	<p>(1) In these Standard Licence Conditions —</p> <p>“Committee” means the Committee of Management of the credit union;</p> <p>“conditions” means these Standard Licence Conditions which are imposed under section 7 of the Financial Services Act 2008;</p> <p>“credit union” means the holder of a licence under the Act permitting Class 9 regulated activity; and</p> <p>“the regulatory requirements” means the requirements of —</p> <p>(a) the conditions of the credit union’s financial services licence;</p> <p>(b) any direction issued under section 14 of the Financial Services Act 2008; and</p> <p>(c) the following, so far as applicable —</p> <p>(i) any provision of the Act;</p> <p>(ii) the Financial Services Rule Book 2016 ;</p> <p>(iii) any other Rule Book under section 18 of the Act;</p> <p>(iv) the Anti-Money Laundering and Countering the Financing of Terrorism Code 2015, or any successor;</p> <p>(v) any other relevant code of practice under section 157(1) of the Proceeds of Crime Act 2008 or section 68 of the Terrorism and Other Crime (Financial Restrictions) Act 2014;</p> <p>(vi) any other provision having effect under or by virtue of the Act;</p> <p>(vii) any statutory provision referred to in section 43 of the Act; and</p> <p>(viii) the Credit Unions Act 1993.</p> <p>(2) Other expressions in these conditions have the meanings given by Appendix 1 to the conditions.</p>
A2 Confirmation of oral notification	<p>Where a credit union —</p> <p>(a) is required by these conditions to notify the Authority of any matter; and</p> <p>(b) notifies the Authority orally of that matter,</p> <p>that requirement shall not be taken to have been complied with unless the oral notification is confirmed in writing by the credit union within 24 hours of the oral notification.</p>
A3 Commencement of regulated activities	<p>Where a credit union has not commenced regulated activities within 4 months of the date of grant of its licence, it must notify the Authority of this fact within 10 business days after the end of the 4 month period.</p>

A4 Returns to be submitted in English	Where a credit union is required to submit returns or supply information to the Authority, such returns or information must be submitted in English.
PART B. FINANCIAL RESOURCES AND REPORTING	
B1 Annual reporting date	A credit union must notify the Authority of its annual reporting date.
B2 Notification of inability to comply	A credit union must notify the Authority immediately where it has reason to believe that — (a) it will be unable to make a financial return; or (b) it will be unable to comply, or to demonstrate compliance, with any condition in Part B as a result of a failure in accounting systems.
B3 Operating and reporting currency	(1) A credit union's business must only be conducted and reported in sterling. (2) Any financial return made by a credit union must be expressed in sterling.
B4 Responsibility for returns	The Committee, and any person who is member of the Committee, is responsible for the completeness and accuracy of any financial return made to the Authority by or in respect of the credit union.
B5 Misleading financial returns	A credit union must notify the Authority as soon as it has reason to believe that any financial return previously made by it to the Authority was or has become misleading in any material respect.
B6 Electronic reporting	(1) A financial return must be made to the Authority — (a) by such method of electronic communication as the Authority may reasonably require; or (b) such other method of communication as the Authority may approve. (2) Paragraph (1) does not apply to a credit union's annual financial return. (3) In paragraph (1) "electronic communication" has the same meaning as in the Electronic Transactions Act 2000.
B7 Annual financial statements	(1) Subject to paragraph (2), the annual financial statements of a credit union comprise one or more statements in monetary terms of the results of the transactions of the credit union over a year ending on its annual reporting date. (2) Those statements — (a) must include — (i) a Statement of Financial Position as at that date; and (ii) a Statement of Profit and Loss or income statement for that year, (b) may relate to a period other than a year where permitted by condition B8(3); and (c) must be prepared according to the standards referred to in condition B9.
B8 Annual financial return and annual regulatory return	(1) A credit union must provide to the Authority an annual financial return as soon as it is available, and in any case, within 4 months of the credit union's annual reporting date. (2) The annual financial return must comprise, in respect of the period to which the return relates —

	<p>(a) the credit union's audited annual financial statements, which must be originals verified by the auditor or a copy of such originals;</p> <p>(b) a detailed Statement of Profit and Loss (if not included in the audited annual financial statements); and</p> <p>(c) a statement providing a reconciliation of all material differences between —</p> <p>(i) the set of credit union returns as at its annual reporting date; and</p> <p>(ii) the Statement of Financial Position and Statement of Profit and Loss.</p> <p>(3) The period to which the annual financial return relates must be the year ending on the credit union's annual reporting date, unless—</p> <p>(a) the credit union's annual reporting date has changed since the previous annual financial return, in which case the period shall be such period (not being more than 18 months) beginning on a previous annual reporting date and ending on the new annual reporting date; or</p> <p>(b) such other date as the Authority agrees with the credit union in writing in advance.</p> <p>(4) A credit union must provide a return (an "annual regulatory return") to the Authority within 4 months of the credit union's annual reporting date.</p> <p>(5) The return must state the position as at the annual reporting date and must contain the information specified by the Authority.</p>
B9 Accounting standards	<p>Except where otherwise provided, any financial return which is required by these conditions to be submitted to the Authority must be prepared in accordance with either —</p> <p>(a) any applicable Financial Reporting Standards issued or adopted from time to time by the Accounting Standards Board in the United Kingdom; or</p> <p>(b) the Statement of Recommended Practice; or</p> <p>(c) any International Financial Reporting Standards published from time to time by the International Accounting Standards Board.</p>
B10 Change of annual reporting date	A credit union may not change its annual reporting date without the prior written consent of the Authority.
B11 Accounting records	<p>(1) A credit union must keep such accounting records in the Island as are necessary to show accurately at any time —</p> <p>(a) the financial position of the credit union's business; and</p> <p>(b) whether the credit union complies with any condition in Part B relating to its financial resources.</p> <p>(2) A credit union must preserve its accounting records for at least 6 years beginning with the date on which they are made.</p> <p>(3) Where a licence is surrendered or revoked, the credit union must preserve its accounting records for at least 6 years beginning with the date of surrender or revocation.</p>

	<p>(4) A credit union must notify the Authority of the method of storage and location of any records required by this condition to be preserved at least 20 business days prior to the surrender of its licence.</p> <p>(5) The requirements of this condition are without prejudice to the requirements of any other statutory provision.</p>
B12 Capital	<p>(1) A credit union must have adequate capital taking into account the nature, scale and complexity of its business.</p> <p>(2) For the purpose of these conditions capital comprises the following items —</p> <ul style="list-style-type: none"> (a) audited reserves; (b) interim net profits; (c) deferred shares; (d) subordinated debt that meets the requirements specified in condition B12(B) and subject to the limits in paragraph (3) below; and (e) revaluation reserves, arising from the differences between book values and current market values of property fixed assets that meet the requirements in condition B12(C) and are subject to the limits in paragraph (4) below. <p>(3) The amount of any subordinated loan that qualifies as capital must, over its final four years to maturity or, where the subordinated loan requires repayment in tranches, over the final four years to maturity of each tranche, be written down by a credit union by 20% of the amount of the loan or tranche per year.</p> <p>(4) The amount of revaluation reserve that a credit union is permitted to include in the calculation of its capital must not exceed 25% of the credit union's capital.</p>
B12(A) Capital: audited reserves and interim net profits	<p>(1) For the purpose of these conditions audited reserves are audited accumulated profits or losses, or both, retained by a credit union after payment of tax and dividends, and include other realised gains and gifts of capital.</p> <p>(2) Deferred shares are included in the definition of capital, but must not be counted twice in the calculation of capital. Where a credit union's audited reserves include sums equal to the amount paid on deferred shares subscribed for in full and transferred to reserves in accordance with section 7 of the Credit Unions Act 1993, that amount must also not be counted separately under condition B12 paragraph 2(c).</p> <p>(3) Profits means the profits resulting from the operation of a credit union in the year of account in question after deduction of all operating expenses, including payment of any interest, and after making provision for depreciation of assets, tax liabilities and bad debt, but before the payment of any dividend.</p>

	(4) Interim net profits are interim profits net of tax and anticipated dividends (any interim losses must be deducted from capital).
B12(B) Capital: subordinated debt	<p>In order to be included in the calculation of capital, subordinated debt must meet the following requirements —</p> <p>(a) the maturity of the loan must be more than five years from the date on which the loan is made;</p> <p>(b) the subordination provisions must provide that the claims of the subordinated creditors rank behind those of all unsubordinated creditors including the credit union's shareholders;</p> <p>(c) to the fullest extent possible, creditors must waive their rights to set off amounts they owe the credit union against subordinated amounts owed to them by the credit union;</p> <p>(d) the only events of default permitted are non-payment of any interest or principal under the debt agreement or the winding-up of the credit union;</p> <p>(e) the remedies available to the subordinated creditor in the event of default in respect of the subordinated debt must be limited to petitioning for the winding-up of the credit union or proving for and claiming in the liquidation of the credit union;</p> <p>(f) the subordinated debt must not become due and payable before its stated final maturity date except on an event of default complying with (d) above;</p> <p>(g) the terms of the subordinated debt must be set out in a written agreement or instrument that contains terms that provide for the above conditions; and</p> <p>(h) the debt must be unsecured and fully paid up.</p>
B12(C) Capital: revaluation reserves	<p>(1) To be included in the calculation of capital, revaluation reserves must meet the following requirements —</p> <p>(a) the credit union must apply the revaluation method to all of its property fixed assets and not selectively;</p> <p>(b) the values must result from professional valuations of each property;</p> <p>(c) no professional valuation of property can be more than five years old and, in the intervening year or years in which a property is not professionally valued, the Committee must have undertaken an interpolation of value which takes into account any decline in property values disclosed by valuations of other properties in that year or those years; and</p> <p>(d) any increase of revaluation reserve must be supported by a professional valuation.</p> <p>(2) Subject to paragraph (1) above, and the limit in condition B12, the amount of revaluation reserve used for the calculation of capital must be the lesser of —</p> <p>(a) the amount standing to the credit of any reserve in the balance sheet in the most recent annual financial return to have been sent to the Authority; and</p> <p>(b) the amount of any such reserve in the accounting records of the credit union.</p>
B13 Charges	<p>(1) A credit union must notify the Authority before —</p> <p>(a) creating any charge on any of its assets; or</p>

	<p>(b) entering into an agreement by virtue of which such a charge may be created.</p> <p>(2) A notification under paragraph (1) must be made —</p> <p>(a) if practicable, not less than 20 business days before the charge is intended to be created or the agreement is intended to be entered into, as the case may be; or</p> <p>(b) otherwise, as soon as practicable.</p>
B14 Capital resources and dividends	<p>(1) A credit union must have—</p> <p>(a) capital of at least 3% of total assets where a credit union has total assets of less than or equal to £5 million or members totalling fewer than or equal to 5,000; or</p> <p>(b) subject to (c), capital of at least 5% of total assets, where a credit union has total assets of more than £5 million or more than 5,000 members; or</p> <p>(c) capital of at least 8% of total assets, where a credit union has total assets of more than £10 million or 10,000 members.</p> <p>(2) A credit union must immediately notify the Authority if at any time it has reason to believe its capital —</p> <p>(a) is below the relevant minimum threshold set out in paragraph (1); or</p> <p>(b) is within 1% of the relevant minimum threshold set out in paragraph (1). For example, where a credit union has a minimum threshold of 3%, it must notify the Authority if its threshold is below 4%.</p> <p>(3) A credit union must have an appropriate policy regarding the payment of dividends to members and the maintenance of its general reserves, taking into account the limits in paragraph (1) and the requirements in paragraphs (4) and (5).</p> <p>(4) A credit union must not pay dividends unless it has a capital of at least 5% of total assets and the payment of any of those dividends does not reduce the capital to below 5% of total assets.</p> <p>(5) A credit union must pay dividends out of interim profits no more than once a year unless it has capital of at least 8% of total assets.</p> <p>(6) A credit union must—</p> <p>(a) maintain appropriate procedures and controls for the purpose of monitoring its compliance with the requirements of this condition ; and</p> <p>(b) review those procedures annually and evidence that review.</p>
B15 Credit union returns	<p>(1) A credit union must prepare returns (“set of credit union returns”) as at each quarter end.</p> <p>(2) The credit union must prepare an additional set of credit union returns as at its annual accounting date if this does not fall on a quarter end.</p>

	<p>(3) The credit union must submit every set of credit union returns prepared under paragraphs (1) or (2) to the Authority within one month of the date to which it relates.</p> <p>(4) A set of credit union returns must be in the format specified by the Authority, containing the information required by, and calculated in accordance with, the specifications.</p>
B16 Publication of annual financial statements	<p>(1) Within 4 months of its annual reporting date, a credit union must —</p> <p>(a) make its audited annual financial statements available for public inspection in the Island;</p> <p>(b) display a notice in its registered office and all other offices in the Island stating that —</p> <p>(i) a copy of its latest audited Statement of Financial Position together with the last auditor's report (as it appears in the audited annual financial statements) may be inspected by any person on demand; and</p> <p>(ii) copies are available to be taken away; and</p> <p>(c) make its annual financial statements available for public inspection on its website.</p>
PART C. AUDIT	
C1 Appointment of auditor	<p>(1) A credit union must have at all times an auditor that is qualified, and is not ineligible, to act as such.</p> <p>(2) The auditor must —</p> <p>(a) have a permanent place of business on the Island; and</p> <p>(b) be covered by an appropriate level of professional indemnity insurance suitable to the work carried on in relation to the credit union.</p> <p>(3) For the purposes of this condition, a person is qualified if it is a member of, and holds a current practising certificate issued by, one or more of the following bodies —</p> <p>(a) the Institute of Chartered Accountants in England and Wales;</p> <p>(b) the Institute of Chartered Accountants of Scotland;</p> <p>(c) the Institute of Chartered Accountants in Ireland; or</p> <p>(d) the Association of Chartered Certified Accountants.</p> <p>(4) For the purpose of this condition, a person is ineligible to act as an auditor of a credit union if —</p> <p>(a) in the case of an individual, he is —</p> <p>(i) a member of the credit union;</p> <p>(ii) a partner of, or in the employment of, any person falling within (i) above;</p> <p>(iii) a close relative of any person falling within (i) above;</p> <p>(iv) not treated as independent of the credit union under any code of ethics issued from time to time by the body of accountants of which he is a member; or</p> <p>(v) declared by the Authority to be ineligible to act as an auditor of the credit union, or of any description of credit unions which includes the credit union or of credit unions generally;</p>

	<p>(b) in the case of a firm —</p> <p>(i) it is declared by the Authority to be ineligible to act as an auditor of the credit union or, of any description of credit unions which includes the credit union or of credit unions generally; or</p> <p>(ii) the principal directly responsible in the firm for the audit of the credit union would be ineligible under (a).</p> <p>(5) For the purpose of paragraph (4)— “close relative”, in relation to an individual, means a spouse, parent, step-parent, brother, sister, half-brother, half-sister, child or step-child, or a person, whether or not of the opposite sex, living with the individual in a relationship similar to that of husband and wife.</p>
C2 Suitability of auditor	<p>(1) Before appointing a person as its auditor, a credit union must ensure that that person is qualified, and is not ineligible, to act as such.</p> <p>(2) A credit union must on request provide the Authority with evidence of the resources, knowledge, experience and competence of —</p> <p>(a) its auditor; or</p> <p>(b) any person whom it intends to appoint as its auditor.</p> <p>(3) If the Authority reasonably believes that a person —</p> <p>(a) does not have sufficient resources, knowledge, experience or competence to perform the duties of the auditor of the credit union under Part C of these conditions;</p> <p>(b) is otherwise incapable of performing those duties; or</p> <p>(c) is otherwise unsuitable to be the auditor of the credit union, the Authority may declare that that person is ineligible to act as auditor of the credit union.</p>
C3 Engagement letter	<p>(1) Before the commencement of the appointment of an auditor, a credit union must obtain from the auditor an engagement letter —</p> <p>(a) containing an undertaking by the auditor to provide the credit union and the Authority with the reports and letters required by these conditions;</p> <p>(b) defining clearly the extent of the rights and duties of the auditor; and</p> <p>(c) signed and accepted in writing by or on behalf of both the credit union and the auditor.</p> <p>(2) For the purpose of Part C of these conditions a credit union is not to be treated as having an auditor unless an engagement letter complying with paragraph (1) has been obtained and is still in force.</p> <p>(3) A credit union must provide a copy of the engagement letter to the Authority on request.</p>
C4 Audit of annual financial statements	<p>(1) A credit union must require that its annual financial statements are audited by its auditor in accordance with —</p> <p>(a) the International Standards on Auditing issued from time to time by the International Auditing Practices Committee; or</p>

	<p>(b) the International Standards on Auditing (UK and Ireland) issued from time to time by the Auditing Standards Board in the United Kingdom.</p> <p>(2) The credit union must submit its audited annual financial statements to the Authority not later than 4 months after its annual reporting date.</p>
C5 Notification	<p>(1) A credit union must notify the Authority immediately on —</p> <p>(a) the appointment of an auditor; and</p> <p>(b) the removal or resignation of an auditor, and the reasons for it.</p> <p>(2) Where an auditor resigns or is removed by the credit union or is not reappointed at the end of its term in office, the credit union must provide to the Authority or arrange for the provision of a statement signed by the auditor stating either —</p> <p>(a) that there are no circumstances connected with its ceasing to hold office which the auditor considers should be brought to the attention of the Authority; or</p> <p>(b) the circumstances connected with its ceasing to hold office.</p> <p>(3) A credit union must notify the Authority immediately where —</p> <p>(a) its auditor has qualified its report or has included an emphasis of matter paragraph in relation to the annual financial statements of the credit union; or</p> <p>(b) it has reason to believe that its auditor is likely to qualify or include an emphasis of matter paragraph in relation to that report.</p>
C6 Management letter	<p>(1) A credit union must —</p> <p>(a) provide the Authority with a copy of any management letter (or equivalent) which —</p> <p>(i) the credit union receives from its auditor in respect of the audit of its annual financial statement; and</p> <p>(ii) contains any recommendations to the credit union to remedy any weakness in its systems and internal controls; and</p> <p>(b) inform the Authority whether the credit union has implemented or is implementing those recommendations, and if not, its reasons for not doing so.</p> <p>(2) Where the credit union receives no management letter (or equivalent) from its auditor, it must provide the Authority with a copy of an auditor's letter confirming that no such management letter (or equivalent) has been or will be issued.</p> <p>(3) The credit union must comply with the requirements of paragraphs (1) and (2) not later than 4 months after its annual reporting date.</p>
C7 Rights of auditor	<p>(1) A credit union must afford its auditor —</p> <p>(a) the right of access at all times to its accounting and any other records relevant to the auditor's duties; and</p> <p>(b) the right to obtain from any officer or employee of the credit union such information and explanations as the auditor may consider necessary in the performance of its duties.</p>

	(2) A credit union must permit and require its auditor to provide to the Authority such information and opinions as the Authority requests, being information or opinions relevant to the functions of the Authority.
C8 Contents of audit reports	The auditor's report on the annual financial statements of a credit union must report by exception on any failure to keep proper accounting records during the financial year to which the statements relate.
PART D. CONDUCT OF BUSINESS	
D1 Skill, care and diligence	A credit union must act with due skill, care and diligence in carrying on regulated activities.
D2 Responsible behaviour in dealings	A credit union must have procedures for ensuring that any regulated activity is carried on— (a) openly and fairly; (b) in compliance with any applicable legislation relating to that activity in the country or territory in which it is carried on; (c) so far as possible, in a way that avoids any conflict of interest; and (d) with disclosure of any unavoidable conflict of interest to any member concerned. This applies whether any such conflict relates to the credit union, its officers or employees.
D3 Ensuring fair and reasonable behaviour	<p>(1) A credit union must have procedures requiring those seeking to obtain business on its behalf — (a) to do so in a way which is clear, fair and not misleading; (b) to avoid any undue pressure; (c) to make clear the purpose or purposes of the contact at the initial point of communication; and (d) to identify themselves and the credit union that they represent to members and potential members by providing contact information in writing.</p> <p>(2) The credit union must — (a) not communicate with a person at an unsocial hour other than by e-mail or social media; and (b) have controls requiring those seeking to obtain business on its behalf not to communicate with a person at an unsocial hour other than by e-mail or social media, unless the person has previously agreed to such a communication.</p> <p>(3) For the purpose of paragraph (2), “unsocial hour” means — (a) any time on a Sunday, Good Friday or Christmas Day; (b) before 9.00 am or after 9.00 pm on any other day; (c) any other day or any other time — (i) where the credit union, or those seeking to obtain business on its behalf, knows that the person concerned does not wish to be communicated with on that day or at that time; or (ii) where the credit union, or those seeking to obtain business on its behalf, has reason to believe that the person concerned would not wish to be communicated with on that day or at that time (for example, because of religious observance or working patterns).</p>

D4 Action likely to bring Island into disrepute	<p>(1) A credit union must not carry on business of such a kind or in such a way as may be likely to bring the Island into disrepute or damage its standing as a financial centre.</p> <p>(2) A credit union must not maintain anonymous or fictitious accounts or business relationships.</p> <p>(3) If a credit union maintains a numbered account it must —</p> <p>(a) identify, and verify the identity of, the member; and</p> <p>(b) maintain the account in such a way as to comply fully with the requirements of the Anti-Money Laundering and Countering the Financing of Terrorism Code 2015 or any successor.</p>
D5 Integrity and fair dealing	<p>(1) A credit union must —</p> <p>(a) observe high standards of integrity and fair dealing in carrying on regulated activities; and</p> <p>(b) comply with any applicable code or standard where such code or standard has been specified in writing by the Authority to the credit union for the purpose of this condition.</p> <p>(2) Conditions D6 to D10 are without prejudice to the generality of paragraph (1).</p>
D6 Informed decisions	<p>A credit union must —</p> <p>(a) take all reasonable steps to enable its members to take informed decisions relating to their business with the credit union; and</p> <p>(b) avoid misleading or deceptive representations or practices.</p>
D7 Independence	<p>(1) A credit union —</p> <p>(a) must not claim that it is independent or impartial if it is not; and</p> <p>(b) must ensure that any claim it makes as to its independence or impartiality adequately includes any limitation which there may be on either.</p> <p>(2) Without prejudice to paragraph (1), a credit union must not represent itself as acting independently if it has any relationship or arrangement with any other person which —</p> <p>(a) brings any distortion into the way in which it conducts its business with a member; or</p> <p>(b) results in an advantage to the credit union, or a disadvantage to the member, in any business done with that person.</p>
D8 Gifts and other benefits	<p>A credit union must not —</p> <p>(a) offer or receive; or</p> <p>(b) permit any officer or employee to offer or receive, any gift or other direct or indirect benefit, if to do so might adversely influence the giving of advice by, or the exercise of discretion on the part of, the credit union, officer or employee.</p>
D9 Remuneration	<p>A credit union's remuneration must be related to —</p> <p>(a) the disclosed relationship between the credit union and the member; and</p> <p>(b) the services provided by the credit union to the member.</p>
D10 Conflicts of interest — general	<p>(1) Where a conflict of interest arises —</p> <p>(a) between the credit union or any officer, employee and its members; or</p>

	<p>(b) between one member and another, in the course of carrying on any regulated activities, the credit union must promptly notify each of the members concerned of that fact.</p> <p>(2) This condition is without prejudice to conditions F6 and F7.</p>
D11 Advertisements — general	<p>(1) A credit union must not publish or cause or permit to be published —</p> <ul style="list-style-type: none"> (a) any advertisement for a product or service which contains unfair, inaccurate or misleading indications of the product or service; (b) any advertisement which hides, diminishes or obscures information about risk, important statements or warnings; (c) any advertisement which might damage the reputation of the Island; or (d) any advertisement which makes a prediction or forecast of future income which — <ul style="list-style-type: none"> (i) is not based on and consistent with present conditions; or (ii) in the case of dividends to members, does not include a warning that past performance is not an indicator of future performance. <p>(2) A credit union, which is not a participant in a scheme established by regulations under section 16 of the Credit Unions Act 1993, must not publish or cause or permit to be published any advertisement which refers to its regulated activities unless the advertisement states in a prominent position that such activities are not protected by a compensation scheme.</p>
D12 Reference to licensing	<p>(1) A credit union must make clear to those with whom it has communications in the course of its business, or prospective business, the name of the credit union and the person by whom it is regulated.</p> <p>(2) This condition does not apply to —</p> <ul style="list-style-type: none"> (a) cheques, cheque books or paying in books; (b) member statements / confirmations; (c) cheque guarantee, charge, debit or credit cards or cards of a similar nature; (d) radio advertisements; or (e) references solely to the name of the credit union.
D13 Credit union's permitted activities	If requested by any person, a credit union must provide information regarding the conditions attached to its licence.
D14 Reference to protection arrangements other than a compensation scheme in advertisements	<p>A credit union must not publish or cause or permit to be published any advertisement which states or implies that any members' shares will be guaranteed, secured, insured or the subject of any form of protection unless it states —</p> <ul style="list-style-type: none"> (a) the form of the protection; and (b) the extent of the protection.
D15 Provision of statistical information	A credit union must provide to the Authority such statistical information relating to its activities by such date and in such form as the Authority may reasonably require.
PART E. ADMINISTRATION	
E1 Change of name or address	A credit union must notify the Authority, not less than 20 business days in advance, of a change in —

	<p>(a) its name;</p> <p>(b) any business name;</p> <p>(c) its principal place of business;</p> <p>(d) any permanent place of its business, normally open to the public, in the Island; or</p> <p>(e) its registered office.</p>
E2 Registration of business name	A credit union must notify the Authority, not less than 20 business days in advance of the registration of any business name, including the rationale for such registration.
E3 New appointments and departures from office	<p>(1) In relation to a credit union, this condition applies to the following offices and positions —</p> <p>(a) MLRO;</p> <p>(b) DMLRO; and</p> <p>(c) member of the committee of management.</p> <p>(2) Subject to (3) and condition E4, a credit union must notify the Authority at least 20 business days in advance of —</p> <p>(a) an appointment or intended appointment to any office or position to which this condition applies; and</p> <p>(b) the title and responsibilities of the office or position.</p> <p>(3) Despite the notification period at (2), if the appointment is to an office or position which is a “notified only” appointment a credit union must notify the Authority within 10 business days following the date of the appointment.</p> <p>(4) A credit union must notify the Authority of any departure or intended departure from an office or position to which this condition applies, giving reason for departure, within 10 business days of the giving of notice or other event giving rise to the departure.</p> <p>(5) For the avoidance of doubt, references in this condition to —</p> <p>(a) “an appointment” include an appointment of an existing officer or employee of a credit union; and</p> <p>(b) a “notified only” appointment, means any one or more of the appointments specified by the Authority as notified only (set out in the second column of the table at Appendix 2 of the Regulatory Guidance – Fitness and Propriety).</p>
E4 Appointments in exceptional circumstances	<p>A credit union may appoint an individual (“the appointee”) to carry out the office and position of a person fulfilling the roles identified in condition E3(1) (“the officer”) without the notification required by condition E3 subject to the following—</p> <p>(a) the absence of the officer is due to exceptional circumstances;</p> <p>(b) the role is not fulfilled by any one or more appointees for longer than 12 weeks in any rolling consecutive 12 month period;</p> <p>(c) the credit union notifies the Authority within 5 business days of the appointment of —</p> <p>(i) the name of the appointee undertaking the role;</p> <p>(ii) the title and responsibilities of the vacant office or position;</p> <p>(iii) the exceptional circumstances giving rise to the appointment;</p>

	<p>(d) the credit union has assessed that the appointee has the relevant skills and experience to carry out the function. This assessment must be documented in writing and made available to the Authority on request;</p> <p>(e) the credit union's Committee must provide adequate oversight of the appointee and the function while the appointee undertakes the role; and</p> <p>(f) the credit union notifies the Authority within 5 business days of the appointee ceasing to undertake the role.</p>
E5 Fitness and propriety	<p>(1) A credit union must take reasonable steps to ensure that all individuals (whether or not employed by the credit union) who perform any regulated activity for the credit union are fit and proper for the tasks they perform.</p> <p>(2) A credit union must notify the Authority promptly if it becomes aware of any significant matters that may affect an assessment of the fitness or propriety of any of the members of its Committee, the MLRO, DMLRO or other officers or employees.</p>
E6 Disqualification as a director etc.	<p>A credit union must notify the Authority as soon as it becomes aware of any disqualification or any application for disqualification relating to the credit union or any of its officers or employees, including members of the Committee, the MLRO or DMLRO under —</p> <p>(a) sections 4, 5 or 9 of the Company Officers (Disqualification) Act 2009; or</p> <p>(b) any equivalent provision having effect in a country or territory outside the Island.</p>
E7 Service of notice etc.	<p>(1) A credit union must notify the Authority as soon as it becomes aware of any action specified in paragraph (2) against the credit union.</p> <p>(2) The actions referred to in paragraph (1) are the service by a constable or member of HM Attorney General's Chambers of any notice, summons, order or warrant (a "request") made under any criminal statute in the Isle of Man for the purposes of obtaining evidence for a criminal investigation or criminal proceedings, including a confiscation investigation or confiscation proceedings either in the Island or elsewhere.</p> <p>(3) Any notification given under this condition must specify —</p> <p>(a) the name of the body serving the request; and</p> <p>(b) the person to whom the request relates.</p>
E8 Criminal proceedings and convictions	<p>(1) A credit union must notify the Authority as soon as it becomes aware of the bringing of any criminal proceedings against, or the conviction of —</p> <p>(a) the credit union; or</p> <p>(b) any officer or employee of the credit union, for an offence to which this condition applies.</p> <p>(2) This condition applies to —</p> <p>(a) an offence which is or, if committed in the Island, would be triable on information;</p>

	<p>(b) an offence relating to a regulated activity or an activity which, if carried on in the Island, would be a regulated activity;</p> <p>(c) an offence under the Credit Unions Act 1993, Companies Acts 1931 to 2004 or the Companies Act 2006, or any legislation having similar effect in any country or territory outside the Island;</p> <p>(d) an offence relating to insolvency; or (e) an offence involving fraud or dishonesty.</p> <p>(3) Nothing in this condition requires a credit union to disclose any matter subject to legal professional privilege.</p>
E9 Surrender of licence	<p>(1) Where a credit union intends voluntarily to surrender its licence, it must notify the Authority of —</p> <p>(a) its intention to do so; and</p> <p>(b) the arrangements it proposes to make to dispose of its business.</p> <p>(2) A notification under paragraph (1) must be given not less than 30 business days before the surrender of the licence.</p> <p>(3) If the requisite amount of notice under paragraph (2) is not given, the surrender will not take effect until 30 business days after the notice was received by the Authority, unless the Authority determines otherwise.</p>
E10 Cessation of regulated activities	<p>(1) Where a credit union intends voluntarily to cease carrying on a regulated activity of any description, it must notify the Authority of —</p> <p>(a) its intention to do so; and</p> <p>(b) the arrangements it proposes to make to for the safeguarding of its members savings or other assets.</p> <p>(2) A notification under paragraph (1) must be given —</p> <p>(a) if practicable, not less than 20 business days before the event; or</p> <p>(b) otherwise, as soon as practicable.</p>
E11 Bankruptcy, winding up, etc.	<p>A credit union must notify the Authority as soon as it becomes aware of any of the following (whether occurring in the Island or elsewhere) —</p> <p>(a) the commencement of proceedings for the winding up or dissolution of the credit union;</p> <p>(b) the appointment of a receiver, liquidator, provisional liquidator, administrator or trustee in bankruptcy of the credit union;</p> <p>(c) the making of any composition or arrangement with creditors of the credit union;</p> <p>(d) the appointment of an inspector by a statutory or other regulatory authority to investigate the affairs of the credit union.</p>
E12 Legal proceedings	<p>(1) A credit union must notify the Authority as soon as it becomes aware of any actual or intended legal proceedings, of whatever nature and regardless of whether in relation to any type of regulated activity or another matter, taken, or to be taken, by or against it, where the amount claimed or disputed is likely to exceed 10% of the credit union's capital.</p>

	(2) Nothing in this condition requires a credit union to disclose any matter subject to legal professional privilege.
PART F. RISK MANAGEMENT AND INTERNAL CONTROLS	
F1 Corporate governance	<p>(1) The Committee of a credit union must ensure the good governance of the credit union and compliance with the regulatory requirements.</p> <p>(2) The Committee of a credit union must be comprised of at least 3 members.</p> <p>(3) A credit union must have in place arrangements for effective corporate governance which are appropriate to its size and the nature of its business.</p>
F2 Management controls	<p>(1) A credit union must —</p> <p>(a) organise and control its internal affairs in a responsible manner; and</p> <p>(b) promote high ethical standards in the conduct of its regulated activities.</p> <p>(2) The Committee of a credit union must establish and maintain appropriate internal and operational controls, systems, policies and procedures relating to all aspects of its business to ensure —</p> <p>(a) effective communication between the credit union and its members;</p> <p>(b) appropriate segregation of key duties and functions;</p> <p>(c) the fair treatment of members;</p> <p>(d) the safeguarding of assets belonging to members for which the credit union is responsible;</p> <p>(e) effective maintenance of accounting and other records and the reliability of this information;</p> <p>(f) appropriate safeguards to prevent and detect any abuse of the credit union's services for money laundering, financial crime, the financing of terrorism, or the proliferation of weapons of mass destruction; and</p> <p>(g) appropriate safeguards to protect data from loss or misuse.</p> <p>(3) A credit union must review the controls required by this condition annually, or more frequently if appropriate. These reviews should be documented.</p> <p>(4) Where the credit union employs staff or is responsible for regulated activities conducted by others it must —</p> <p>(a) make adequate arrangements to ensure that those persons are suitable, adequately trained, properly supervised and do not exceed the credit union's licence permissions or any limitations placed on those persons;</p> <p>(b) document the roles and responsibilities of, or limitations placed on, such persons; and</p> <p>(c) not permit an individual to provide financial advice.</p>

	<p>(5) A credit union must ensure that the persons to whom this condition applies carry out their duties in a diligent and proper manner in accordance with the systems, controls, policies and procedures referred to in paragraph (2).</p> <p>(6) The persons referred to in paragraph (5) are —</p> <p>(a) the credit union's officers; and</p> <p>(b) any other individual, whether or not employed by the credit union, who performs any regulated activity on behalf of the credit union.</p> <p>(7) Without prejudice to conditions D2, D10 and F6, a credit union must put in place arrangements for copies of all material correspondence from the credit union to the Authority, and all material correspondence and reports on a credit union from the Authority to be promptly supplied to its Committee.</p>
F3 Compliance with obligations	<p>A credit union must comply with the regulatory requirements and have regard to any code or set of standards promulgated by any authority or body other than the Authority for the purposes of setting standards for credit unions' activities in the public interest, except to the extent that it is inconsistent with the regulatory requirements.</p>
F4 Risk management	<p>(1) A credit union must by its Committee —</p> <p>(a) establish and maintain comprehensive policies, appropriate to the nature and scale of its business, for managing the risks specified in paragraph (2); and</p> <p>(b) review those policies annually and evidence that review.</p> <p>(2) The risks referred to in paragraph (1)(a) are —</p> <p>(a) all material risks associated with the credit union, including financial, legal, and regulatory;</p> <p>(b) all operational risks associated with the credit union's activities; and</p> <p>(c) any other risks which the Authority has, by notice in writing to the credit union, specified as additional risks for the purpose of this condition.</p> <p>(3) A notice under paragraph (2)(c) —</p> <p>(a) shall remain in force until it is withdrawn by the Authority by a further notice in writing to the credit union; and</p> <p>(b) may specify actions to be taken for the purpose of measuring, monitoring and controlling the additional risks, and the credit union must take such action as is specified under subparagraph (b).</p> <p>(4) The policies referred to in paragraph (1)(a) must include —</p> <p>(a) clear arrangements for —</p> <p>(i) delegating (where delegation is appropriate) and separating functions which involve committing the credit union, paying away its funds, and accounting for its assets and liabilities;</p> <p>(ii) reconciliation of those processes;</p> <p>(iii) safeguarding its assets; and</p>

	<p>(iv) appropriate independent checks and compliance procedures to test adherence to the regulatory requirements (for example through the use of internal audit as set out in condition F22);</p> <p>(b) appropriate procedures and controls for the purpose of identifying, measuring, monitoring and controlling the risks specified in paragraph (2); and</p> <p>(c) regular consideration of those risks by the Committee.</p> <p>(5) The credit union must —</p> <p>(a) ensure that the policies referred to in paragraph (1)(a) are complied with;</p> <p>(b) maintain appropriate procedures and controls for the purpose of monitoring its compliance with those policies; and</p> <p>(c) monitor the risks specified in paragraph (2) on a frequent and timely basis.</p>
F5 Whistleblowing policy	<p>(1) A credit union must establish, implement and maintain an effective whistleblowing policy to encourage the reporting of any improper or unlawful behaviour. The policy must be —</p> <p>(a) in writing; and</p> <p>(b) appropriate to the credit union's size and organisation and the nature, scale and complexity of its business.</p> <p>(2) The whistleblowing policy must —</p> <p>(a) define the scope of improper or unlawful behaviour covered by it, including but not limited to —</p> <p>(i) failure to comply with the credit union's legal or regulatory requirements;</p> <p>(ii) financial malpractice or fraud;</p> <p>(iii) criminal activity;</p> <p>(iv) improper conduct or unethical behaviour; and</p> <p>(v) attempts to conceal any financial malpractice or fraud;</p> <p>(b) set out an internal reporting structure to enable all the credit union's officers and employees to raise concerns internally but outside of the normal management reporting structure; and include provisions requiring persons to whom it applies to raise their concerns directly with the Authority if they feel that they have not been adequately addressed internally;</p> <p>(c) state how, and ensure that, matters so reported are considered objectively and that appropriate and timely actions are taken;</p> <p>(d) adequately and appropriately protect the whistleblower from any negative repercussions arising from reporting in good faith their concerns, including, but not limited to ensuring confidentiality; and</p> <p>(e) be communicated effectively to all persons to whom it applies.</p> <p>(3) A credit union must —</p> <p>(a) ensure that the policy is complied with; and</p> <p>(b) maintain appropriate procedures and controls for the purpose of monitoring its compliance with the policy.</p>
F6 Conflicts of interest policy	<p>(1) A credit union must establish, implement and maintain an effective conflicts of interest policy which must be —</p> <p>(a) in writing; and</p>

	<p>(b) appropriate to its size and organisation and the nature, scale and complexity of its business.</p> <p>(2) Where the credit union's functions have been delegated the policy must also take into account any circumstances of which it is or should be aware and which may give rise to a conflict of interest arising as a result of the delegation.</p> <p>(3) The policy must —</p> <p>(a) identify, with reference to the specific activities of the credit union, the circumstances which constitute or may give rise to a conflict of interest entailing a material risk of damage to the interests of one or more of its members; and</p> <p>(b) specify procedures to be followed and measures to be adopted in order to manage such conflicts.</p> <p>(4) The procedures and measures referred to in paragraph (3)(b) must —</p> <p>(a) ensure that any officers or employees engaged in activities involving a conflict of interest of the kind specified in paragraph (3)(a) carry on those activities at a level of independence appropriate to —</p> <p>(i) the size and activities of the credit union; and</p> <p>(ii) the materiality of the risk of damage to the interests of members; and</p> <p>(b) include such of the following as are necessary and appropriate for the credit union to ensure the requisite degree of independence —</p> <p>(i) effective procedures to prevent or control the exchange of information between officers or employees who are engaged in activities involving a risk of a conflict of interest, where the exchange of that information may harm the interests of one or more members;</p> <p>(ii) the separate supervision of officers or employees whose principal functions involve carrying out activities on behalf of, or providing services to, members whose interests may conflict, or who otherwise represent different interests that may conflict, including those of the credit union;</p> <p>(iii) measures to prevent or limit any person from exercising inappropriate influence over the way in which an officer or employee carries on regulated activities;</p> <p>(iv) measures to prevent or control the simultaneous or sequential involvement of an officer or employee in separate activities where such involvement may impair the proper management of conflicts of interest.</p>
F7 Conflicts of interest register	<p>(1) A credit union must maintain a register of conflicts of interest.</p> <p>(2) The register referred to in paragraph (1) —</p> <p>(a) may be in summary form, provided that a full record of each conflict of interest and the measures adopted to manage it is also held;</p> <p>(b) must contain the following information relating to each conflict of interest —</p>

	<p>(i) a description of the regulated activity in relation to which the conflict arises;</p> <p>(ii) the name of the member, or the description of members, whose interests are at a material risk of damage by reason of the conflict;</p> <p>(iii) the nature of the conflict;</p> <p>(iv) if the conflict arises by reason of the involvement of an officer or employee of the credit union;</p> <p>(v) the measures adopted to manage the conflict;</p> <p>(vi) the date when the conflict was first identified; and</p> <p>(vii) if the conflict has ceased, the date when it ceased and the grounds for considering that it has ceased.</p> <p>(3) The information relating to a conflict of interest must be kept on the register until at least 6 years after the date mentioned in paragraph (2)(b)(vii).</p>
F8 Business plan	A credit union must establish, implement and maintain an up to date business plan, approved by the Committee; and a copy of the business plan should be provided to the Authority upon any material change thereto.
F9 Changes to activities, services or products	<p>A credit union must notify the Authority, not less than 20 business days in advance —</p> <p>(a) of any cessation of or change to any regulated activities which it carries on;</p> <p>(b) of any material cessation of, or material addition or change to, the services or products which it offers (whether or not their provision constitutes a regulated activity);</p> <p>and</p> <p>(c) of any activities other than activities regulated by the Authority that it commences, materially changes or ceases undertaking.</p>
F10 Business resumption and contingency arrangements	<p>(1) A credit union must</p> <p>(a) establish and maintain business resumption and contingency arrangements which are appropriate to the nature and scale of its business; and</p> <p>(b) test the business resumption arrangements at appropriate intervals.</p> <p>(2) Without prejudice to (1), the arrangements must address disruption or interruption such as a complete failure of information technology systems or a destruction of premises by fire, which would otherwise prevent the normal operation of the credit union.</p>
F11 Delegation of function including outsourcing	<p>(1) A credit union may not, without the consent in writing of the Authority —</p> <p>(a) delegate any material management or business function to another person;</p> <p>(b) make any material change to any such delegation.</p> <p>(2) Any such delegation shall not affect the ultimate responsibility of the credit union for the delegated functions.</p> <p>(3) The credit union must ensure that —</p>

	<p>(a) any material delegation or outsourcing arrangement is notified to the Authority at least 20 business days before it becomes operational;</p> <p>(b) it maintains records relating to all delegated or outsourced functions (whether or not material) and that the Authority has access to all such records;</p> <p>(c) in the event of a breakdown of a delegation or outsourcing arrangement, the credit union is able to carry out or assume control of the relevant functions.</p> <p>(4) Any delegation or outsourcing arrangement must be evidenced by a written agreement between the parties setting out clearly —</p> <p>(a) their respective responsibilities and duties, including the monitoring of the delegated or outsourced function by the credit union; and</p> <p>(b) the provisions for terminating the delegation or outsourcing arrangement.</p>
F12 Breaches of regulatory requirements	<p>(1) A credit union must notify the Authority as soon as it becomes aware of a material breach by the credit union of any of the regulatory requirements.</p> <p>(2) Where a credit union gives a notification under paragraph (1), it must also inform the Authority of the steps which it proposes to take to remedy the situation.</p> <p>(3) A credit union must maintain a register of all breaches.</p>
F13 Fraud or dishonesty	<p>(1) A credit union must notify the Authority as soon as —</p> <p>(a) it has reason to believe that an officer or employee of the credit union has been engaged in activities involving fraud or other dishonesty; or</p> <p>(b) it becomes aware of any circumstances which may amount to fraud or serious mismanagement in the conduct of its business; or</p> <p>(c) it becomes aware of any fraud by a member or third party that could be material to the credit union's safety and soundness or reputation.</p> <p>(2) A notification under (1)(a) or (b), must —</p> <p>(a) specify the event;</p> <p>(b) specify the name of any officer or employee who is a member of the Committee ; and</p> <p>(c) following an investigation which results in the credit union concluding that an officer or employee who is not member of the Committee has been engaged in activities involving fraud or other dishonesty, the credit union must disclose the name of that employee to the Authority.</p>
F14 Investigation of individual's conduct by professional body	<p>A credit union must notify the Authority as soon as it becomes aware of any action of the following kinds taken against a member of the Committee by a professional body of which that individual is a member —</p> <p>(a) an inquiry into that individual's professional conduct;</p> <p>(b) the termination of that individual's membership;</p>

	<p>(c) any disciplinary action against him; or</p> <p>(d) any censure of his conduct.</p>
F15 Matters to be notified – general	<p>(1) Without prejudice to the specific requirements of any other condition, a credit union must notify the Authority of any relevant material change affecting its business, systems, and members of the Committee.</p> <p>(2) A credit union must notify the Authority as soon as it becomes aware that any of the following has occurred, whether within or outside the Island –</p> <p>(a) the breakdown of administrative or control procedures relevant to any of the credit union's business (including breakdowns of computer systems or other accounting problems resulting, or likely to result in, failure to maintain proper records) or other material failures or weaknesses in systems and procedures;</p> <p>(b) any event which makes it impracticable for a credit union to comply with any of the regulatory requirements;</p> <p>(c) the appointment of inspectors by a statutory or other regulatory authority to investigate the affairs of the credit union;</p> <p>(d) the imposition of disciplinary measures or sanctions on the credit union, in relation to its business, by any statutory or other regulatory authority;</p> <p>(e) the material loss of consumer or other data; or</p> <p>(f) an appeal made by the credit union to a tribunal against any decision or action taken by the Authority.</p> <p>(3) Where a credit union gives a notification under paragraph (2)(a) or (b), it must also inform the Authority of the steps which it proposes to take to remedy the situation.</p>
F16 MLRO and DMLRO	<p>(1) A credit union must appoint the following officers –</p> <p>(a) a MLRO; and</p> <p>(b) a DMLRO to cover for any absence of the MLRO.</p> <p>(2) The MLRO and DMLRO may also be members of the Committee .</p> <p>(3) A MLRO, or the DMLRO when deputising for the MLRO, must have –</p> <p>(a) unfettered access to all business lines and support departments; and</p> <p>(b) sufficient time and resources to discharge properly the responsibilities of the position.</p>
F17 Systems and controls for record keeping	<p>(1) A credit union must establish and maintain procedures to ensure that sufficient information is recorded and retained about the conduct of its business and its compliance with the regulatory requirements.</p> <p>(2) A credit union must establish and maintain adequate systems and controls over its general records, having regard to its size and the nature and complexity of its activities.</p> <p>(3) The systems and controls referred to in paragraph (2) must be –</p>

	<p>(a) such as to enable the credit union to comply with the regulatory requirements; and</p> <p>(b) adequately and correctly documented.</p> <p>(4) A credit union must —</p> <p>(a) maintain records relating to its business transactions, financial position, internal organisation and risk management systems such as to demonstrate to the Authority that it complies with the regulatory requirements; and</p> <p>(b) keep those records for at least 6 years after it ceases to hold a licence.</p>
F18 Members' records	<p>(1) A credit union must keep and maintain proper records to show and explain transactions effected by it on behalf of its members.</p> <p>(2) Those records must be —</p> <p>(a) kept in English;</p> <p>(b) kept up-to-date;</p> <p>(c) in such a form as to demonstrate compliance with the regulatory requirements; and</p> <p>(d) kept for at least 6 years after the transaction.</p>
F19 Records kept by third parties	<p>For the purpose of conditions F17 and F18 a credit union may accept and rely on records supplied by a third party so long as those records —</p> <p>(a) are capable of being supplied in a timely manner and for at least 6 years after the transaction; and</p> <p>(b) are capable of being, and are, reconciled with records created by the credit union.</p>
F20 Relations with regulators	<p>A credit union must —</p> <p>(a) co-operate in an open and honest manner with the Authority and any other regulatory body to which it is accountable; and</p> <p>(b) keep them promptly informed of anything relevant to the exercise of their regulatory functions.</p>
F21 Complaints	<p>(1) If a credit union receives a complaint about its regulated activities, either by telephone, in writing or face to face, it must ensure, that —</p> <p>(a) the complaint is recorded in a complaints register;</p> <p>(b) an acknowledgment of the complaint is provided to the complainant within 7 days of receipt. The acknowledgement may be in writing, or in another form of communication agreed with the complainant, but must be evidenced. If the complaint is not resolved at that time to the satisfaction of the customer, the acknowledgment must include —</p> <p>(i) a summary of the complaint;</p> <p>(ii) details of the credit union's complaints-handling procedures;</p> <p>(iii) details of the Financial Services Ombudsman Scheme whenever applicable; and</p> <p>(iv) whenever appropriate, a request for further details in writing, with supporting evidence;</p> <p>(c) the complaint is brought to the attention of an officer or employee of the credit union who is not conflicted and has appropriate authority to deal with the complaint;</p> <p>(d) the complaint is investigated promptly and thoroughly;</p>

	<p>(e) appropriate action is taken and recorded; and</p> <p>(f) within 8 weeks of receipt of the complaint, the complainant is notified in writing of the outcome of the investigation and of any action taken. Where the investigation has not been completed, the credit union must notify the Authority of the reason.</p> <p>(2) A credit union must —</p> <p>(a) have documented procedures that comply with paragraph (1) for dealing with complaints;</p> <p>(b) make those procedures readily accessible on request; and</p> <p>(c) ensure that any remedial action needed is taken promptly (including, whenever appropriate, correcting any failures or weaknesses in its systems and procedures and carrying out training of its staff).</p> <p>(3) The register referred to in paragraph (1)(a) —</p> <p>(a) must contain the information detailed in (3)(b) but may be in summary form, provided that a full record of the complaint and action taken in relation to the complaint is also held;</p> <p>(b) must contain the following information relating to each complaint —</p> <p>(i) the name of the complainant;</p> <p>(ii) the date when the complaint was received;</p> <p>(iii) the date when the complaint was reported to the person with authority to deal with complaints;</p> <p>(iv) the nature of the complaint;</p> <p>(v) whether the complaint involves a breach of the regulatory requirements;</p> <p>(vi) how and when the complaint was investigated;</p> <p>(vii) the action taken to resolve the complaint; and</p> <p>(viii) the date the complaint is considered closed.</p>
F22 Internal audit	<p>(1) A credit union must establish and maintain an internal audit function (or equivalent), which may, subject to any applicable requirement in these conditions relating to outsourcing / delegation of functions, outsourced to a third party.</p> <p>(2) The internal audit function (or equivalent) must —</p> <p>(a) have appropriate independence and direct access to the credit union's Committee;</p> <p>(b) have unfettered access to all business lines and support departments;</p> <p>(c) have appropriate status within the credit union to ensure that the Committee reacts appropriately to recommendations; and</p> <p>(d) have sufficient time and resources to discharge properly the responsibilities of the position.</p>
F23 Credit risk policy	<p>(1) A credit union must, by its Committee —</p> <p>(a) establish and maintain a credit risk (lending) policy which is appropriate to the nature and scale of its business; and</p> <p>(b) review that policy annually and evidence that review.</p>

	<p>(2) A credit union must provide the Authority with a copy of the policy, and any substantial amendment of that policy, within 20 business days of the approval by its Committee of the policy or amendment.</p> <p>(3) A credit union must —</p> <p>(a) ensure that the policy is complied with; and</p> <p>(b) maintain appropriate procedures and controls for the purpose of monitoring its compliance with the policy.</p>
F24 Large exposures policy and management	<p>(1) A credit union must, by its Committee —</p> <p>(a) establish and maintain a large exposures policy which is appropriate to the nature and scale of its business; and</p> <p>(b) review that policy annually and evidence that review.</p> <p>(2) A credit union must provide the Authority with a copy of the policy, and any substantial amendment of that policy, within 20 business days of the approval by its Committee of the policy or amendment. This policy can form part of the credit union's credit risk policy.</p> <p>(3) A credit union must —</p> <p>(a) ensure that the policy is complied with; and</p> <p>(b) maintain appropriate procedures and controls for the purpose of monitoring its compliance with the policy.</p> <p>(4) For the purposes of this condition, a "large exposure" is the net liability of a member to a credit union that meets both of the following criteria —</p> <p>(a) it is at least £5,000; and</p> <p>(b) it is at least 10% of the value of the credit union's capital.</p> <p>(5) A large exposure must not exceed 25% of a credit union's capital.</p> <p>(6) The aggregate of all large exposures must not exceed 500% of the credit union's capital.</p>
F25 Provisions and bad debts	<p>(1) A credit union must, by its Committee, make adequate provision for bad debts.</p> <p>(2) A credit union must make specific provision in its accounts for bad debts of at least —</p> <p>(a) 35% of the net liability to the credit union of members where the amount outstanding is more than three months in arrears;</p> <p>(b) 60% of the net liability to the credit union of members where the amount outstanding is more than six months in arrears;</p> <p>(c) 80% of the net liability to the credit union of members where the amount outstanding is more than nine months in arrears; and</p> <p>(d) 100% of the net liability to the credit union of members where the amount outstanding is more than twelve months in arrears.</p> <p>(3) Where a delinquent loan is rescheduled or the arrears capitalised, the provision a credit union is required to make immediately prior to</p>

	the rescheduling or recapitalisation must be maintained until the loan has performed for six months.
F26 Credit risk, large exposures and bad debts: management and reporting	<p>(1) A credit union must monitor its credit risk exposures on an on-going basis, and report to its Committee regularly on this topic.</p> <p>(2) A credit union's Committee must evidence its regular consideration of large exposures and bad debts.</p>
F27 Liquidity policy and management	<p>(1) A credit union must, by its Committee —</p> <p>(a) establish and maintain a liquidity policy which is appropriate to the nature and scale of its business, having regard to material risks including the risk of sudden adverse cash flow; and</p> <p>(b) review that policy annually and evidence that review.</p> <p>(2) A credit union must provide the Authority with a copy of the policy, and any substantial amendment of that policy, within 20 business days of the approval by its Committee of the policy or amendment.</p> <p>(3) A credit union must —</p> <p>(a) ensure that the policy is complied with; and</p> <p>(b) maintain appropriate procedures and controls for the purpose of monitoring its compliance with the policy.</p> <p>(4) A credit union must hold liquid assets equal to at least 10% of its total relevant liabilities.</p> <p>(5) A credit union must notify the Authority immediately if its liquid assets are below 10% of its total relevant liabilities for more than two consecutive business days.</p> <p>(6) For the purpose of this condition a credit union must not count an asset as a liquid asset unless it is cash or can be realised for cash within eight business days.</p> <p>(7) An asset maturing on a day that is not a business day must be treated by a credit union as maturing on the next business day.</p>
F28 Financial risk management policy: additional activity	<p>(1) This condition is only applicable if a credit union invests surplus funds as set out in condition F29 paragraphs (3)(e) to (h), or has borrowings as set out in condition F30.</p> <p>(2) A credit union must, by its Committee —</p> <p>(a) establish and maintain a financial risk management policy which is appropriate to the nature and scale of its business, and which —</p> <p>(i) addresses both interest rate and funding risk;</p> <p>(ii) covers aggregate limits on holding of investments and borrowings from sources other than members;</p> <p>(iii) deals with avoidance of excessive funding concentrations;</p> <p>(iv) details the organisational arrangements, systems and controls in respect of these matters; and</p> <p>(b) review that policy annually and evidence that review.</p>

	<p>(3) A credit union must provide the Authority with a copy of the policy, and any substantial amendment of that policy, within 20 business days of the approval by its Committee of the policy or amendment.</p> <p>(4) A credit union must —</p> <p>(a) ensure that the policy is complied with; and</p> <p>(b) maintain appropriate procedures and controls for the purpose of monitoring its compliance with the policy.</p>
F29 Investing of money by a credit union	<p>(1) Surplus funds must be invested in capital-protected products of up to twelve months maturity in accordance with paragraphs (3)(a) to (d), or held as cash in the custody of officers of a credit union; unless a credit union also complies with condition F28, in which case surplus funds may also be invested in capital-protected products of up to five years maturity that meet the definitions in paragraphs (3)(e) to (h).</p> <p>(2) For the purpose of this condition, “surplus funds” means funds not immediately required for a credit union’s lending and ancillary purposes.</p> <p>(3) For the purpose of paragraph (1) “capital-protected products” are restricted to—</p> <p>(a) a deposit placed with a credit institution which is authorised in the Isle of Man, Jersey, Guernsey or the United Kingdom to accept deposits on terms that the deposit shall be repayable within a period no longer than twelve months from the date on which that deposit is made;</p> <p>(b) a loan, other than a subordinated loan qualifying as capital within the meaning of condition B12(B), to a credit institution which is authorised in the Isle of Man, Jersey, Guernsey or the United Kingdom to accept deposits, with a maturity of up to twelve months from the date on which that loan is made;</p> <p>(c) a sterling denominated security issued by the Government of the United Kingdom, with a maturity of up to twelve months from the date on which that investment is made;</p> <p>(d) a fixed-interest sterling denominated security guaranteed by the Government of the United Kingdom, with a maturity of up to twelve months from the date that investment is made, provided that such guarantee is unconditional in respect of the payment of both principal and interest on the security;</p> <p>(e) a loan, other than a subordinated loan qualifying as capital within the meaning of condition B12(B), to a credit institution which is authorised in the Isle of Man, Jersey, Guernsey or the United Kingdom to accept deposits, with a maturity of up to five years from the date on which that loan is made;</p> <p>(f) a sterling denominated security issued by the Government of the United Kingdom, with a maturity of up to five years from the date on which that investment is made;</p> <p>(g) a fixed-interest sterling denominated security guaranteed by the Government of the United Kingdom, with a maturity of up to five</p>

	<p>years from the date that investment is made, provided that such guarantee is unconditional in respect of the payment of both principal and interest on the security; or</p> <p>(h) any other product provided by a credit institution authorised in the Isle of Man, Jersey, Guernsey or the United Kingdom to accept deposits, with a maturity of up to five years from the date on which that investment is made, provided that the credit institution guarantees the payment of the principal amount invested.</p> <p>(4) Prior to making a decision to invest surplus funds beyond a maturity of three months, a credit union must carry out an assessment to satisfy itself that:</p> <p>(a) it has sufficient liquidity to tie up the relevant funds for the life of the product;</p> <p>(b) it can afford to sacrifice any haircut on early redemption;</p> <p>(c) by comparison with other possible uses of the funds in question, the potential return merits the risk of investment for the period to maturity, including the risk of no positive return; and</p> <p>(d) the investment would not create excessive source or time band concentrations.</p>
F30 Borrowing by a credit union	<p>(1) A credit union must not borrow from an individual other than by subordinated loan qualifying as capital within the meaning given in condition B12(B).</p> <p>(2) A credit union's borrowings must not exceed 20% of the total non-deferred shares in the credit union at the end of more than two consecutive regulatory reporting quarters.</p> <p>(3) A credit union must not count subordinated debt obtained by that credit union and forming part of its capital within the meaning given in condition B12(B) towards the borrowing limit in paragraph (2).</p> <p>(4) For the purpose of this condition, "borrowing" means the total closing balances of loans received by a credit union (excluding any subordinated loans) and overdrafts and committed lines of credit available to a credit union.</p>
F31 Fraud insurance	<p>(1) A credit union must at all times maintain in force a policy of insurance that, subject to the exception in paragraph (2) —</p> <p>(a) insures the credit union in respect of every description of loss suffered or liability incurred by reason of the fraud or dishonesty of any of its officers or employees;</p> <p>(b) insures the credit union up to the minimum level of cover specified in the Table in respect of any one claim, except that the liability of the insurer may be restricted to the amounts set out in the Table in respect of the total of the claims made in any one year; and</p> <p>(c) does not, in relation to claims, provide for an amount greater than 1% of the limits on any one claim specified in the Table, to be met by the credit union.</p> <p>(2) From the losses and liabilities against which a policy that complies with the requirements of paragraph (1) must insure, there must be</p>

excepted all loss suffered or liability incurred by a credit union other than direct pecuniary loss discovered during the currency of the policy of insurance or within 18 months of the date on which either the policy if insurance lapses, or the duties of the officer or employee concerned are terminated, whichever occurs first.

(3) A credit union must notify the Authority as soon as practicable of any claim on its policy of insurance that it is required to hold under paragraph (1).

Table

Column 1 Aggregate value of shares (for the purpose of this Table, "aggregate value")	Column 2 Cover required in respect of any one claim	Column 3 Cover required in respect of total claims made in any one year
Less than £10,000	The higher of £500 or 50% of the aggregate value	The higher of £1,000 or 100% of the aggregate value
£10,000 to £100,000	The higher of £5,000 or 20% of the aggregate value	100% of the aggregate value
£100,001 to £1,000,000	The higher of £20,000 or 15% of the aggregate value	The higher of £100,000 or 75% of the aggregate value
More than £1,000,000	£150,000 plus 5% of the amount by which the aggregate value exceeds £1,000,000, subject to a maximum cover of £2,000,000	£750,000 plus 5% of the amount by which the aggregate value exceeds £1,000,000, subject to a maximum cover of £4,000,000

Appendix 1 – Interpretation

“accounting records”	means the records kept in accordance with condition B11;
“the Act”	means the Financial Services Act 2008;
“annual financial return”	means a return made in accordance with condition B8;
“annual financial statements”	has the meaning given by condition B7;
“annual regulatory return”	means a return made in accordance with condition B8;
“annual reporting date”	in relation to a credit union, means the end of that credit union’s financial year;
“attached shares”	means shares in the credit union, other than deferred shares, the withdrawal of which is not permitted by the terms of a loan made to a member, or the withdrawal of which is not permitted without seeking and obtaining the permission of the Committee of the credit union;
“audited reserves”	has the meaning given in condition B12(A);
“auditor”	Is a person meeting the requirements set out in condition C1;
“the Authority”	means the Isle of Man Financial Services Authority;
“bad debt”	means a loan by a credit union to a member of that credit union that is more than 3 months in arrears;
“borrowing”	means the total closing balances of loans received by a credit union (excluding any subordinated loans) and overdrafts and committed lines of credit available to a credit union;
“business day”	means a day other than — (a) a Saturday or Sunday, or (b) a day which is a bank holiday under the Bank Holidays Act 1989;
“business plan”	means a statement in writing provided by a credit union to the Authority setting out details of the credit union’s current or proposed business for a future period of not less than 2 years, including financial projections for that period and anything else that the Authority may reasonably require;
“capital”	has the meaning given in Condition B12;
“charge”	includes — (a) a charge referred to in section 79 of the Companies Act 1931 or section 138 of the Companies Act 2006; (b) charges required to be registered under any equivalent provision to (a) having effect in another country or territory; and (c) charges over land held by the credit union under section 12 of the Credit Unions Act 1993;
“Class 9 regulated activity”	has the same meaning as in the Order;
“credit institution”	means a bank or building society authorised to take deposits;
“credit union return”	means a return required by condition B15;
“deferred share(s)”	has the same meaning as in the Credit Unions Act 1993;
“deposit”	has the same meaning as in the Order;
“DMLRO”	is an abbreviation for Deputy Money Laundering Reporting Officer, as described in the Anti-Money Laundering and Countering the Financing of Terrorism Code 2015;
“electronic communication”	has the meaning given in condition B6;
“exposure”	means the aggregate net liability of a person to a credit union;
“financial return”	means any return, statement or account required to be made, provided or submitted to the Authority under these conditions;
“Financial Services Ombudsman Scheme”	means the Scheme contained in Schedule 4 to the Act;
“interim net profit”	has the meaning given in condition B12(A)
“items subject to legal privilege”	has the meaning given by section 13 of the Police Powers and Procedures Act 1998;
“large exposure”	Has the meaning given in condition F24 ;
“liquidity”	means the risk of non-availability of liquid assets;

“management letter”	means a letter from a credit union’s auditor highlighting possible weaknesses in the credit union’s systems and internal controls, and making recommendations to remedy the weaknesses;
“maturity”	means, in relation to a security or loan, the last or only date on which it will be repayable by or under its terms;
“MLRO”	is an abbreviation of Money Laundering Reporting Officer as defined in the Anti-Money Laundering and Countering the Financing of Terrorism Code 2015;
“net liability”	means the outstanding balance of any loan made to a member and any interest or charges on that loan that are due but unpaid, less any attached shares held by the member;
“the Order”	means the Regulated Activities Order 2011;
“person”	includes individuals and any body of persons, corporate or unincorporate;
“quarter”	means a period ending on a quarter-end;
“quarter-end”	means 31 March, 30 June, 30 September or 31 December;
“regulated activity”	has the same meaning as in the Order;
“regulatory authority”	has the same meaning as in the Order;
“regulatory requirements”	has the meaning given in condition A1;
“set of credit union returns”	means a set of returns required by condition B15;
“share(s)”	has the same meaning as in the Credit Unions Act 1993;
“surplus funds”	means funds not immediately required for a credit union’s lending and ancillary purposes;
“total assets”	means the sum of all assets that appear on the balance sheet of the relevant quarter-end credit union return;
“total relevant liabilities”	means the sum of: (i) unattached shares, and (ii) liabilities, other than liabilities for shares, with an original or remaining maturity of less than three months;
“unattached share(s)”	means shares that are not attached shares or deferred shares.

APPENDIX D

CREDIT UNIONS ACT 1993 (LOAN INTEREST RATE) (AMENDMENT) ORDER 2019

Approved by Tynwald:

Coming into Operation:

xxx 2019

The Isle of Man Financial Services Authority makes the following Order under section 7(5) of the Credit Unions Act 1993, after carrying out the consultations required by section 7(8) of that Act.

1 Title

This Order is the Credit Unions Act 1993 (Loan Interest Rate) (Amendment) Order 2019.

2 Commencement

If approved by Tynwald, this Order comes into operation on xxx 2019.

3 Amendment to section 7

(1) Section 7 of the Credit Unions Act 1993 is amended as follows.

(2) For sub-section (4) substitute —

“A credit union may charge interest on loans made by it but such interest shall be at a rate not exceeding xxx per cent. per month, on the amount of the loan outstanding and such interest shall be inclusive of all administrative and other expenses incurred in connection with the making of the loan.”

[end of legislative provisions]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends section 7 of the Credit Unions Act 1993 to increase the maximum interest rate that may be charged on loans made by a credit union from 1% (one per cent) per month to x% (x per cent) per month.

The interest is chargeable on the amount of the loan outstanding and is inclusive of all administrative and other expenses incurred in connection with the making of the loan.
