

Credit Unions sourcebook

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Chapter 1

Introduction

1.1 Application and purpose

Application

- 1.1.1 G
 - (1) The Credit Unions sourcebook, *CREDS* for short, is the specialist sourcebook for *credit unions*.
 - (2) [deleted]

- 1.1.2 G
 - (1) *CREDS* covers only the requirements associated with a *Part 4A permission to accept deposits*. The Conduct of Business sourcebook (*COBS*) sets out additional requirements for *credit unions* that are *CTF providers* in relation to *cash deposit CTFs*.
 - (2) Other *permissions* are covered elsewhere in the *Handbook*. So, for example, a *credit union* seeking a *permission* to undertake a *regulated mortgage activity* would need to comply with the requirements in the Mortgages and Home Finance: Conduct of Business sourcebook (*MCOB*), and a *credit union* seeking a *permission* to undertake *insurance distribution activity* in relation to *non-investment insurance contracts* would need to comply with the requirements in the Insurance: Conduct of Business sourcebook (*ICOB5*).
 - (3) The provisions of the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (*MIPRU*) may also be relevant to a *credit union* whose *Part 4A permission* includes *insurance distribution activity* or *home finance mediation activity*.

- 1.1.2A G A *credit union* seeking a *permission* to undertake a *credit-related regulated activity* would need to comply with the requirements in the Consumer Credit sourcebook (*CONC*).

- 1.1.3 G [deleted]

Purpose

1.1.4

G

CREDS sets out rules and guidance that are specific to credit unions. CREDS 10 refers to other more generally applicable provisions of the Handbook that are likely to be relevant to credit unions with Part 4A permission to accept deposits. For details of these provisions, we would expect credit unions to access the full text in the Handbook.

1.1.5

G

The status of the provisions in CREDS is indicated by icons containing the letters R, G or E. Please refer to the Reader's Guide for further explanation about the significance of these icons. The Reader's Guide can be found at <http://www.fca.org.uk/your-fca/documents/handbook/handbook-readers-guide>

Chapter 2

Senior management arrangements, systems and controls

2.1 Application and purpose

Application

2.1.1 **R** This chapter applies to all *credit unions*.

2.1.1A **G** With the exception of ■ CREDS 2.2.14G to ■ CREDS 2.2.17G and ■ CREDS 2.2.65G to ■ CREDS 2.2.70G, this chapter is not relevant to a *credit union* in relation to its *benchmark activities*.

Purpose

2.1.2 **G** The purpose of this chapter is to provide *rules* and *guidance* relating to senior management arrangements, systems and controls that are specific to *credit unions*.

2.1.3 **G**

(1) This chapter is also intended to remind *credit unions* that the Senior Management Arrangements, Systems and Controls sourcebook (SYSC) also contains a number of high level *rules* and *guidance* relating to senior management arrangements, systems and controls designed to have general application to all *firms*, including *credit unions*. Subject to the exceptions in (2) and (3) below, ■ SYSC 1, ■ SYSC 4 to ■ SYSC 10 and ■ SYSC 21 apply to all *credit unions* in respect of the carrying on of their *regulated activities* and unregulated activities in a *prudential context*. ■ SYSC 18 applies to all *credit unions* in respect of both their *regulated activities* and unregulated activities.

(2) ■ SYSC 4 to ■ SYSC 10 and ■ SYSC 14 do not apply to a *firm* (including a *credit union*) in relation to its carrying on *benchmark activities* (see ■ SYSC 1 Annex 1 for the detailed *rules* on the application of ■ SYSC 4 to ■ SYSC 10).

(3) [deleted]

2.1.4 **G** The purposes of SYSC, which applies to all *credit unions*, are:

(1) to encourage *directors* and senior managers to take appropriate practical responsibility for the arrangements that all *firms* must put in

place on matters likely to be of interest to the *FCA* because they impinge on the *FCA's* functions function under the *Act*;

- (2) to reinforce *Principle 3*, under which all *firms* must take reasonable care to organise and control their affairs responsibly and effectively with adequate risk management systems;
- (3) to encourage all *firms* to vest responsibility for effective and responsible organisation in specific *directors* and *senior managers*.

2.2 General provisions

Appropriate systems and controls

- 2.2.1 **G** ■ SYSC 4.1.1 R requires every *firm*, including a *credit union*, to have robust governance arrangements, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems.
- 2.2.2 **G** For *credit unions*, the arrangements, processes and mechanisms referred to in ■ SYSC 4.1.1 R should be comprehensive and proportionate to the nature, scale, and complexity of the risks inherent in the business model and of the *credit union's* activities. That is the effect of ■ SYSC 4.1.2 R and ■ SYSC 4.1.2A G.
- 2.2.3 **G** A *credit union's* systems and controls should be proportionate to the nature, scale and complexity of the activities it undertakes. For instance, a small *credit union* will not usually be expected to have the same systems and controls as a large one, and a *credit union* offering only basic savings accounts and loans will not be expected to have the same systems and controls as one offering a wider range of services or more complicated products.

Business plan

- 2.2.4 **R** A *credit union* must establish, maintain and implement an up-to-date business plan approved by its *governing body*.
- 2.2.5 **G** Guidance on business planning is given in ■ CREDS 2.2.51 G to ■ CREDS 2.2.58 G.

Policies and procedures manual

- 2.2.6 **R** A *credit union* must establish, maintain, and implement an up-to-date and fully documented policies and procedures manual.
- 2.2.7 **G** Guidance on documentation of policies and procedures is given in ■ CREDS 2.2.59 G to ■ CREDS 2.2.61 G.

System of control

2.2.8 **R** A *credit union* must establish, maintain and implement a fully documented system of control.

2.2.9 **G** *Guidance* on the documentation of systems of control is given in ■ CREDS 2.2.20 G to ■ CREDS 2.2.23 G.

Internal audit function

2.2.10 **E** [deleted]

2.2.10A **E** If a *credit union* does not have an internal audit function, this may be relied on as tending to establish contravention of ■ SYSC 4.1.1R (see ■ CREDS 2.2.1G).

2.2.11 **G** (1) The term 'internal audit function' in ■ CREDS 2.2.10 E refers to the generally understood concept of internal audit within a *firm*, in other words the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies.

(2) *Guidance* on internal audit is given in ■ CREDS 2.2.40 G to ■ CREDS 2.2.50 G.

Segregation of duties

2.2.12 **G** A *credit union* should ensure appropriate segregation of duties in order to minimise the risk of *financial crime* or contravention of requirements and standards under the *regulatory system*.

2.2.13 **G** *Guidance* on segregation of duties is given in ■ CREDS 2.2.18 G and ■ CREDS 2.2.19 G.

Governing body

2.2.14 **G** Under section 4(1) of, and Schedule 1 to, the Credit Unions Act 1979 or article 8(1) of, and Schedule 1 to, the Credit Unions (Northern Ireland) Order 1985, as appropriate, a *credit union* is required to have a committee of management, managers or other officers, or a board of directors (a *governing body*). This body should be competent to control the affairs of a *credit union*, and have an appropriate range of skills and experience relevant to the activities carried on by the *credit union*.

2.2.15 **G** In accordance with *rule SC 2* in ■ COCON 2.2.1R, it is the responsibility of each individual member of the *governing body* who is a *senior conduct rules staff member* to understand, and ensure that the *credit union* complies with, the requirements of all the relevant Acts, secondary legislation and *rules*.

2.2.16 **G** (1) The *credit union's governing body* has responsibility for ensuring that the *credit union* complies with the requirements of ■ SYSC 4.1.1 R (see ■ CREDS 2.2.1 G and ■ CREDS 2.2.2 G). So, the *governing body* has overall responsibility for:

- (a) establishing objectives and formulating a business plan;
- (b) monitoring the financial position of the *credit union*;
- (c) determining and documenting policies and procedures;
- (d) directing and coordinating the work of all *employees* and *volunteers*, and ensuring that they are capable and properly trained;
- (e) maintaining adequate reserves;
- (f) making provision for bad and doubtful debts;
- (g) recommending a dividend on shares to members subject to the *credit union's* financial position;
- (h) ensuring that the *credit union* complies with all statutory and regulatory requirements; and
- (i) ensuring that the *credit union* complies with the requirements of its registered rules.

(2) [deleted]

2.2.17 **G** The *governing body* should meet at least monthly.

Organisation

2.2.18 **G** ■ CREDS 2.2.12 G states that all *credit unions* should ensure appropriate segregation of duties. Duties should be segregated to prevent one individual from initiating, controlling, and processing a transaction (for example, both the approval and the payment of an invoice).

2.2.19 **G** Responsibilities of connected *persons* (for example, relatives and other close relationships) should be kept entirely separate. They should not hold key posts at the same time as each other. Where this is unavoidable, a *credit union* should have a written policy for ensuring complete segregation of duties and responsibilities.

Documentation of systems of control

2.2.20 **G** ■ CREDS 2.2.8 R requires a *credit union's* system of control to be fully documented. The documentation helps the *governing body* to assess if systems are maintained and controls are operating effectively. It also helps those reviewing the systems to verify that the controls in place are those that have been authorised, and that they are adequate for their purpose.

2.2.21 **G**

- (1) The *governing body* should decide what form this documentation should take, but the *governing body* should have in mind the following points.
 - (a) Documents should be comprehensive: they should cover all material aspects of the operations of the *credit union*.
 - (b) Documents should be integrated: separate elements of the system should be cross-referred so that the system can be viewed as a whole.

- (c) Documents should identify risks and the controls established to manage those risks. The controls should be identified and their purpose defined so that their effectiveness can be evaluated.
 - (d) There should be named *persons* or posts for each control function and alternatives in case of absence.
 - (e) Documents should state how the operation of the control is evidenced. Evidence might include signatures, records and registers. Documents should also state for how long that evidence is to be retained, taking account of ■ SYSC 9.1.
 - (f) Documents should be unambiguous. Instructions should be clear and precise, avoiding expressions such as "normally" and "if possible".
 - (g) Documents should be practical and easy to consult and use when operating and reviewing systems.
 - (h) Documents should be up to date. There should be an accurate description of the function that the control is to address. When changes are made to the function, the appropriate systems of control need to be updated and documented at the same time.
- (2) The *governing body* should, from time to time, seek confirmation that the systems of control are being complied with.

2.2.22 **G** Documentation should not be restricted to "lower level" controls applied in processing transactions, but should also cover "high level" controls including:

- (1) identifying those powers to be exercised only by the *governing body*, and the powers delegated to others;
- (2) the purpose, composition and reporting lines of sub-committees, and *senior managers* to whom responsibilities are delegated;
- (3) the specific roles and responsibilities of individual *officers*;
- (4) the timing, form and purpose of meetings of the *governing body* and sub-committees, and the way in which policies and decisions are recorded and their implementation monitored.

2.2.23 **G** The documentation of IT controls should be integrated within the overall documentation of a *credit union's* system of control.

Accounting records and systems

2.2.24 **G** ■ SYSC 9.1.1 R requires that a *credit union* takes reasonable care to make and retain adequate records of all matters governed by the *Act* or the *CCA*, secondary legislation under the *Act* or the *CCA*, or *rules* (including accounting records). These records should be capable of being reproduced in the English language and on paper.

2.2.25 **G** A *credit union* should have appropriate systems in place to fulfil its obligations with respect to adequacy, access, periods of retention, and security of records.

2.2.26 **G** The main reasons why a *credit union* should maintain adequate accounting and other records are:

- (1) to provide the *governing body* with adequate financial and other information to enable it to conduct its business in a prudent manner on a day-to-day basis;
- (2) to safeguard the assets of the *credit union* and the interests of members and *persons* too young to be members;
- (3) to assist *officers* of the *credit union* to fulfil their regulatory and statutory duties in relation to the preparation of annual accounts;
- (4) to provide the *governing body* with sufficient timely and accurate information to assist them to submit the information required or requested by the FCA.

2.2.27 **G** [deleted]

2.2.28 **G** [deleted]

2.2.28A **R** The *governing body* must satisfy itself that the accounting and other records are maintained in a complete, integrated and orderly manner in order to disclose, with reasonable accuracy and promptness, the state of the business at any time.

The compliance function

2.2.29 **G**

- (1) Depending on the nature, scale and complexity of its business, it may be appropriate for a *credit union* to have a separate compliance function.
- (2) The organisation and responsibilities of a compliance function should be documented.
- (3) A compliance function should be staffed by an appropriate number of competent staff who are sufficiently independent to perform their duties objectively. It should be adequately resourced and should have unrestricted access to the *credit union's* relevant records as well as ultimate recourse to its *governing body*.

2.2.30 **G** *Guidance* on compliance is located in ■ SYSC 6.1.3 R.
[Note: As explained in ■ SYSC 1 Annex 1.3.3G, ■ SYSC 6.1.3 R is to be read as *guidance* rather than as a *rule*, and as if "should" appeared in that provision instead of "must".]

2.2.31 **G** Some important compliance issues include:

- (1) insurance against fraud and dishonesty;
- (2) arrangements for the prevention, detection and reporting of *money laundering*;

- (3) establishing and maintaining a satisfactory system of control;
- (4) keeping proper books of account;
- (5) computation and application of profits;
- (6) investment of surplus funds;
- (7) capital requirements;
- (8) liquidity requirements;
- (9) limits on shares and loans;
- (10) maintenance of membership records;
- (11) submission of financial reports to the regulator;
- (12) [deleted]
- (13) payment of regulatory fees.

Management information

- 2.2.32 **G** *Guidance* on management information is located in **SYSC 7.1.4 R**.
 [Note: As explained in **SYSC 1 Annex 1.3.3G**, **SYSC 7.1.4 R** is to be read as *guidance* rather than as a *rule*, and as if "should" appeared in that provision instead of "must".]
- 2.2.33 **G** [deleted]
- 2.2.33A **R** A *credit union* must maintain information systems to enable the *governing body* to direct and control the *credit union's* business effectively, and to provide the information required by the *FCA*.
- 2.2.34 **G** [deleted]
- 2.2.34A **R** The *governing body* must be satisfied that:
 - (1) the information available is sufficiently comprehensive for the proper assessment of the potential risks for the *credit union*, and in order to determine its need for capital and liquidity;
 - (2) the information available is sufficiently comprehensive to provide a clear statement of the performance and financial position of the *credit union*;
 - (3) management information reports are prepared with sufficient frequency;
 - (4) sufficient attention is focused on key factors affecting income and expenditure and that appropriate performance indicators are employed; and

(5) actual performance is compared with planned and previous performance.

2.2.35 **G** In forming a view on whether the management information system is sufficiently comprehensive, the *governing body* should consider whether, where relevant, the substance of reports provides a clear statement of loans, arrears and provisions. These matters should be compared against limits, ratios and other parameters set by the *governing body*, as well as regulatory requirements.

2.2.36 **G** [deleted]

2.2.37 **G** [deleted]

Personnel

2.2.38 **G** *Guidance on employees and agents* is located in ■ SYSC 5.1.2 G.

2.2.39 **G** A *credit union* should identify present and future staffing requirements (including volunteers and paid staff) and make appropriate plans for their recruitment and training.

Internal Audit

2.2.40 **G** ■ CREDS 2.2.10AE states that if a *credit union* does not have an audit function, this may be relied on as tending to establish contravention of ■ SYSC 4.1.1R.

2.2.41 **G** *Guidance on internal audit and audit committees* (otherwise known as the supervisory committee) is located in ■ SYSC 6 and ■ SYSC 4.1.11 G.

2.2.42 **G** Depending upon the scale and nature of the *credit union's* activities, it may be appropriate for the audit committee to delegate the task of monitoring the effectiveness and appropriateness of its systems and controls to an *employee* or other third party.

2.2.43 **G** The purposes of an internal audit are:

- (1) to ensure that the policies and procedures of the *credit union* are followed;
- (2) to provide the *governing body* with a continuous appraisal of the overall effectiveness of the control systems, including proposed changes;
- (3) to recommend improvements where desirable or necessary;
- (4) to determine whether the *internal controls* established by the *governing body* are being maintained properly and operated as laid down in the policy, and comply with relevant Acts, secondary legislation, *rules*, policies and procedures;

- (5) to ensure that accounting records are prepared promptly and accurately, and that they are in order;
- (6) to assess whether financial and operating information supplied to the *governing body* is accurate, pertinent, timely, and complete.

2.2.44 **G** The internal audit function (see ■ CREDS 2.2.11G) should develop an audit plan, covering all aspects of the *credit union's* business. The audit plan should identify the scope and frequency of work to be carried out in each area. Areas identified as higher risk should be covered more frequently. However, over a set timeframe (likely to be one year) all areas should be covered. Care should be taken to avoid obvious patterns in assessing the different areas of the *credit union's* business, so that the audit plan produces a representative snapshot of the operation and effectiveness of the credit union's internal systems and controls, procedures and policies.

2.2.45 **G** The internal audit work programme should include items such as:

- (1) verification of cash (counting and reconciliation) without prior notification;
- (2) *bank* reconciliation (checking records against *bank* statements);
- (3) verification of passbooks or account statements;
- (4) checking for compliance with policies and procedures;
- (5) checking for compliance with relevant Acts, secondary legislation and *rules*;
- (6) checking minutes and reports of the *governing body* and other sub-committees for compliance, and assessing regularity and completeness;
- (7) checking loan applications;
- (8) verification of the *credit union's* assets and *investments*.

2.2.46 **G** The key elements of a satisfactory system of internal audit include the following:

- (1) Terms of reference. These should be specified with precision and include, amongst other things, scope and objectives of the audit committee and the internal audit function (see ■ CREDS 2.2.11G), access to records, powers to obtain information and explanations for *officers*, and reporting requirements. These should be approved by the *governing body*.
- (2) Risk analysis. Key risks in each area of the *credit union's* business should be identified. The adequacy of the specific controls put in place to address those risks should be assessed.
- (3) Internal audit plan. This should be developed on the basis of the risk analysis.

- (4) Detailed programmes. These should be based on the internal audit plan, together with the controls and their objectives specified in the control documentation. Each programme should be comprehensive, specifying the frequency with which the various parts of the programme are to be carried out and how the work is to be performed.
- (5) Working papers. These should be maintained to evidence who performed the work, how it was controlled and supervised, and to record the conclusions reached. They should be cross referenced to reports made and action taken.
- (6) System of reporting. Formal reports should be submitted at the completion of each aspect of programmed work, stating the areas covered together with any recommendations and conclusions reached.

2.2.47 **G** The internal audit function (see **■ CREDS 2.2.11 G**) should be independent of all of the functions it inspects.

2.2.48 **G** The *governing body* should be satisfied that the status and reporting relationship of the chairman of the audit committee is sufficient to maintain the independence and objectivity of the function.

2.2.49 **G** The qualifications, experience and training of individuals performing the internal audit function (see **■ CREDS 2.2.11 G**) should be adequate in relation to its objectives.

2.2.50 **G** The *governing body* should be satisfied that the internal audit function (see **■ CREDS 2.2.11 G**) is being properly carried out. In order to review the overall effectiveness of the internal audit function it should consider the following:

- (1) the adequacy and scope of planning;
- (2) the adequacy and scope of work performed in relation to the plans and programmes;
- (3) the regularity and level of reporting on matters arising from the inspections;
- (4) the disposal of points and recommendations raised, and reasons for the rejection of any major points;
- (5) a review of the overall effectiveness of the internal audit function.

Business planning

2.2.51 **G** **■ CREDS 2.2.4 R** requires that a *credit union* maintains a current business plan.

2.2.52 **G** [deleted]

2.2.53 **G** Guidance on business strategy is located in ■ SYSC 6.1.2 R and ■ SYSC 7.1.2 R.
[Note: As explained in ■ SYSC 1 Annex 1.3.3G, ■ SYSC 6.1.2 R and ■ SYSC 7.1.2 R are to be read as *guidance* rather than as *rules*, and as if "should" appeared in those provisions instead of "must".]

2.2.54 **G** The *governing body* should have a satisfactory planning system to provide a framework for growth and development of the *credit union*, and to enable it to identify, measure, manage and control risks of regulatory concern.

2.2.55 **G** The business plan should cover a period of three years from the current financial year, in other words the remainder of the current financial year and the two following financial years.

2.2.56 **G** The planning system should be defined clearly, documented appropriately, and planning related tasks and decision-making responsibilities allocated clearly within the *credit union*.

2.2.57 **G** The conclusions, recommendations, projections and assumptions set out in the business plan should be supported by analysis, based on adequate data, and properly documented for comparison with actuals.

2.2.58 **G** The *governing body* should consider the range of possible outcomes in relation to various risks. These risks are increased when a *credit union* provides ancillary services such as issuing and administering means of payment and money transmission, which result, in particular, in higher liquidity and operational risks.

Documentation of policies and procedures

2.2.59 **G** ■ CREDS 2.2.6 R requires that a *credit union* maintains a manual of its policies and procedures.

2.2.60 **G** [deleted]

2.2.61 **G** The policy and procedures manual should cover all aspects of the *credit union's* operations, including matters such as:

- (1) cash handling and disbursements;
- (2) collection procedures;
- (3) lending, (see ■ CREDS 7.1 to ■ CREDS 7.2);
- (4) arrears management (see ■ CREDS 7.2.9 G to ■ CREDS 7.2.10 G);
- (5) provisioning;
- (6) liquidity management;
- (7) financial risk management;

- (8) *money laundering* prevention (see ■ SYSC 6.3);
- (9) internal audit (see ■ CREDS 2.2.40 G to ■ CREDS 2.2.50 G);
- (10) information technology (see ■ CREDS 2.2.23 G);
- (11) business continuity, otherwise known as disaster recovery (see ■ CREDS 2.2.62 G to ■ CREDS 2.2.64 G);
- (12) marketing;
- (13) training;
- (14) connected *persons* and managing conflicts of interest (see ■ CREDS 2.2.19 G);
- (15) *complaints* handling (see ■ DISP 1).

Business continuity

2.2.62 **G** Guidance on business continuity is located in ■ SYSC 4.1.6R to ■ SYSC 4.1.8 G.
 [Note: As explained in ■ SYSC 1 Annex 1.3.3G, ■ SYSC 4.1.6R is to be read as *guidance* rather than as a *rule*, and as if "should" appeared in that provision instead of "must".]

2.2.63 **G** A *credit union* should put in place contingency arrangements to ensure that it could continue to operate and meet its regulatory requirements in the event of an unforeseen interruption that may otherwise prevent the *credit union* from operating normally (for example, if there was a complete failure of IT systems or if the premises were destroyed by fire).

2.2.64 **G** Business continuity arrangements should be reviewed and tested regularly in order to ensure their effectiveness.

Governance and senior management arrangements: general

- 2.2.65 **G**
- (1) ■ SYSC 23 to ■ SYSC 27 have a number of requirements about the governance and senior management arrangements of *SMCR firms*.
 - (2) A *credit union* is a type of *SMCR firm*.
 - (3) ■ SYSC 23 to ■ SYSC 27 are summarised in ■ CREDS 2.2.66G to ■ CREDS 2.2.70G.
 - (4) The *PRA's* requirements about the subjects dealt with in ■ SYSC 23 to ■ SYSC 27 are set out in its Rulebook. *CREDS* does not summarise them.

Governance and senior management arrangements: responsibilities map

- 2.2.66 **G**
- (1) ■ SYSC 25 says that certain *SMCR firms*, including a *credit union*, should, at all times, have a comprehensive and up-to-date

document that describes their management and governance arrangements. This is called the *management responsibilities map*.

- (2) ■ SYSC 25.4.14G has *guidance on management responsibilities maps* for small *firms*, which is likely to be of particular relevance to *credit unions*.

Governance and senior management arrangements: allocation of senior management responsibilities

- 2.2.67 **G** (1) ■ SYSC 24 says that certain *SMCR firms*, including a *credit union*, should allocate a number of specified management responsibilities (called *FCA-prescribed senior management responsibilities*) to one or more of their *SMF managers*.
- (2) ■ SYSC 26 says that certain *SMCR firms*, including a *credit union*, should ensure that, at all times, one or more of their *SMF managers* have overall responsibility for each of the activities, business areas and management functions of the *firm*.

2.2.68 **G** ■ CREDS 8.3 explains what an *SMF manager* is.

- 2.2.69 **G** (1) The list of *FCA-prescribed senior management responsibilities* that a *credit union* should allocate is simpler than for most other *SMCR firms* who are *PRA-authorized persons*.
- (2) ■ SYSC 24.2.6R sets out a list of *FCA-prescribed senior management responsibilities*, including the ones that apply to *credit unions*.

Governance and senior management arrangements: handover procedures

2.2.70 **G** ■ SYSC 4.9 contains material about handover arrangements when an *SMF manager* (or their supervisor) takes up or leaves their job.

Certification regime

2.2.71 **G** Under section 63E(1) of the *Act*, an *SMCR firm* (including a *credit union*) should take reasonable care to ensure that no employee of the *firm* performs an *FCA certification function* under an arrangement entered into by the *firm* in relation to the carrying on by that *firm* of a *regulated activity*, unless the employee has a valid certificate issued by that *firm* to perform the function to which the certificate relates. The definition of employee for these purposes goes beyond a conventional employee and is explained in more detail in ■ SYSC 27.4.1G. It includes volunteers or unpaid staff.

2.2.72 **G** ■ SYSC 5.2 gives details about the certification requirement described in ■ CREDS 2.2.71G and sets out *rules* and *guidance* about it, including a list of *FCA certification function*.

2.2.73 **G** (1) Section 63E(1) of the *Act* also applies to functions specified by the *PRA*.

- (2) The *PRA's* certification regime (including the functions referred to in (1)) is described in its Rulebook. It is not summarised in *CREDS*.

Chapter 3A

Shares, deposits and borrowing



3A.1 Application and purpose

Application

3A.1.1 **R** This chapter applies to all *credit unions*

Purpose

3A.1.2 **G** The purpose of this chapter is to provide conduct rules and guidance on *credit unions'* holding of shares and deposits, joint accounts, borrowings and insurance cover.



3A.2 Shares and deposits

Joint accounts

3A.2.1 **G** There is no restriction on the number of members who may jointly hold shares in a *credit union*.

Deposits including child trust funds

3A.2.2 **R** A *credit union* must not accept deposits except:

- (1) by way of subscription for its shares from *persons* who may lawfully be admitted to membership of the *credit union* under the Credit Unions Act 1979 or the Credit Union (Northern Ireland) Order 1985 (as appropriate) and the rules of the *credit union*; or
- (2) from *persons* too young to be members under any provision of the *credit union's* rules or (for Northern Ireland *credit unions*) under article 15 of the Credit Unions (Northern Ireland) Order 1985; or
- (3) as loans from *persons* under ■ CREDS 3A.3.1R.

3A.2.3 **G** *Credit unions* that provide CTFs should ensure that under their rules depositors under the age of 18 whose *deposits* are held within a CTF continue to be treated as juvenile depositors until the age of 18. This will provide for the fact that CTF account holders may not withdraw any money from the CTF until they reach the age of 18, in contrast with the position in relation to other *deposits* which become shares and may be withdrawn earlier.

3A.2.4 **G** ■ CREDS 3A.2.2R and ■ CREDS 3A.3.1R are intended to ensure that the liberalisation of *credit union* borrowing (■ CREDS 3A.3.2G) does not have the unintended effect of undermining the common bond concept by allowing *credit unions* to operate deposit accounts for natural *persons* who do not qualify for membership.

Sale of deferred shares

3A.2.5 **R** A *credit union* must not require any of its members to purchase *deferred shares* or purport to do so.



3A.3 Borrowing

- 3A.3.1 **R** A *credit union* must not borrow from a natural person, except by way of a subordinated loan qualifying as capital under *PRA* rules.
- 3A.3.2 **G** ■ CREDS 3A.3.1R does not apply to borrowing from a *body corporate*. A loan made to a *credit union* by a *body corporate* can either be a subordinated loan (providing regulatory capital within *PRA* rules) or a senior loan (providing ordinary funding, but not constituting regulatory capital).
- 3A.3.3 **R** A *credit union* must not require any of its members to make a subordinated loan to the *credit union* or purport to do so.



3A.4 Insurance against fraud or other dishonesty

- 3A.4.1** **R** A *credit union* must at all times maintain in force a policy of insurance that complies with the requirements in part 2.10 of the Credit Unions Rulebook Part of the PRA Rulebook.
- 3A.4.2** **G** The policy of insurance required by **■** CREDS 3A.4.1R is intended to protect the *credit union* from loss suffered or liability incurred by reason of the fraud or other dishonesty of any of its *officers* or employees.
- 3A.4.3** **R** A *credit union* must ensure that the *governing body* reports to the *members* at the annual general meeting of the *credit union* on whether the *credit union* has maintained at all times the policy of insurance required by **■** CREDS 3A.4.1R.



3A.5 Requirements on the retail distribution and financial promotion of capital instruments

Application

- 3A.5.1** **R** (1) The requirements in this section apply:
- (a) (excluding the requirements in ■ CREDS 3A.5.6R and ■ CREDS 3A.5.7R) to a *firm* when *dealing* in or *arranging* a deal in a *deferred share* with or for a *relevant credit union client* where the *relevant credit union client* is to enter into the *deal* as buyer; and
 - (b) (excluding the requirements in ■ CREDS 3A.5.3R to ■ CREDS 3A.5.5R) to a *firm* when:
 - (i) *communicating a direct offer financial promotion* relating to *credit union subordinated debt* to a *relevant credit union client*; or
 - (ii) *approving a direct offer financial promotion* relating to *credit union subordinated debt* for *communication* to a *relevant credit union client*.
- (2) The requirements in this section do not apply if the *deal* relates to the trading of a *deferred share* or *credit union subordinated debt* in the secondary market.
- (3) The requirements in this section, other than ■ CREDS 3A.5.8R, ■ CREDS 3A.5.9R and ■ CREDS 3A.5.10R, do not apply if the *firm* has taken reasonable steps to ensure that the *relevant credit union client* is a *certified high net worth investor*, a *certified sophisticated investor* or a *self-certified sophisticated investor* in accordance with ■ COBS 22.2.4R, as adapted by ■ CREDS 3A.5.8R for the purposes of this section.

3A.5.2 **G** The effect of ■ CREDS 3A.5.1R(1)(a) is that the requirements of this section apply to a *credit union* where it is *dealing* in its own *deferred shares*.

Statements requirement relating to the retail distribution of deferred shares

- 3A.5.3** **R** (1) The *firm* must:
- (a) give the *relevant credit union client* a risk warning in the form in (2) on paper or another *durable medium*; and

(b) obtain confirmation in writing from the *relevant credit union client* that the *relevant credit union client* has read it, in good time before the *relevant credit union client* has committed to buy the *deferred share*.

- (2) "The investment to which this communication relates is a deferred share. Direct investment in deferred shares can be high risk and is very different to investment in deposit accounts or other savings products. In particular, you should note that:
- (a) the entire amount you pay for the deferred share is at risk;
 - (b) the sum you pay is only repayable to you in limited circumstances, specifically if:
 - (i) the credit union has obtained specific regulatory permission to make the repayment; or
 - (ii) the credit union is wound up, and there are funds remaining after all creditors, including savers and holders of subordinated debt, have been repaid;
 - (c) the sum you pay for deferred shares is not covered by the Financial Services Compensation Scheme;
 - (d) a deferred share may only be sold to a member of the same credit union and may be difficult to sell on; and
 - (e) investing more than 10% of your savings or net investment portfolio in deferred shares issued by a credit union, credit union subordinated debt and mutual society shares is unlikely to be in your best interests."

3A.5.4

R

- (1) The *firm* must:
- (a) give the *relevant credit union client* a statement in the form in (2) on paper or another *durable medium*; and
 - (b) obtain confirmation in writing from the *relevant credit union client* that the *relevant credit union client* has signed it, in good time before the *relevant credit union client* has committed to buy the *deferred share*.
- (2) "I make this statement in connection with my proposed investment in deferred shares issued by a credit union. I have been made aware that investing more than 10% of my net assets in deferred shares issued by a credit union, credit union subordinated debt and mutual society shares is unlikely to be in my best interests. I declare that the proposed investment would not result in more than 10% of my net assets being invested in deferred shares issued by a credit union, credit union subordinated debt and mutual society shares. Net assets for these purposes mean my financial assets after deduction of any debts I have. My debts for these purposes do not include the outstanding balance of any mortgage I have on my home, unless this is more than the current value of my home, in which case the debts include the amount above the current value. My financial assets for these purposes do not include:
- (a) the property which is my primary residence or any money raised through a loan secured on that property;

3A

- (b) any rights of mine under a contract of insurance; or
- (c) any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are) or may be entitled.

I accept that the investment to which this statement relates will expose me to a significant risk of losing all the money invested.

Signature:

Date: "

- (3) The requirement in (1) to give a *relevant credit union client* the statement, and to obtain written confirmation that the statement has been signed, applies only where the *relevant credit union client*:
 - (a) is an individual; and
 - (b) is not receiving advice that constitutes a *regulated activity* on the *deferred share*.

Assessing the appropriateness of an investment in deferred shares

3A.5.5

R

If the *relevant credit union client* is not receiving advice that constitutes a *regulated activity* on the *deferred share*, the *firm* must assess whether investment in the *deferred share* is appropriate for the *relevant credit union client*, complying with the requirements in ■ COBS 10 as if the *firm* were providing non-advised *investment services* in the course of *MiFID* or *equivalent third country business*.

Statements requirement in the case of a direct offer financial promotion relating to subordinated debt

3A.5.6

R

- (1) The *firm* must:
 - (a) include a risk warning in the form in (2) for any *direct offer financial promotion* to a *relevant credit union client* relating to *credit union subordinated debt*; and
 - (b) obtain confirmation in writing from the *relevant credit union client* that the *relevant credit union client* has read the risk warning,

in good time before the *relevant credit union client* makes the subordinated loan to the *credit union*.
- (2) "The investment to which this financial promotion relates is credit union subordinated debt. Making a subordinated loan to a credit union can be high risk and is very different to investment in deposit accounts or other savings products. In particular you should note that:
 - (a) the entire amount you lend is at risk;
 - (b) the loan will not be repaid to you until at least five years from the date on which you lend the amount to the credit union;
 - (c) if the credit union is wound up the sum you lend is only repayable to you if there are funds remaining after all creditors (excluding holders of deferred shares) have been repaid;

- (d) the entire amount you lend is not covered by the Financial Services Compensation Scheme;
- (e) to the fullest extent possible, you will be required to waive any right to set off any amount you owe to the credit union against any amount the credit union owes to you under the subordinated loan; and
- (f) investing more than 10% of your savings or net investment portfolio in credit union subordinated debt, deferred shares issued by a credit union and mutual society shares is unlikely to be in your best interests."

3A.5.7

R

- (1) The *firm* must:
 - (a) include a statement in the form in (2) in any *direct offer financial promotion* to a *relevant credit union client* relating to *credit union subordinated debt*; and
 - (b) obtain confirmation in writing from the *relevant credit union client* that the *relevant credit union client* has signed the statement,

in good time before the *relevant credit union client* makes the subordinated loan to the *credit union*.

- (2) "I make this statement in connection with my proposed making of a subordinated loan to a credit union. I have been made aware that investing more than 10% of my net assets in credit union subordinated debt, deferred shares issued by a credit union and mutual society shares is unlikely to be in my best interests. I declare that the proposed investment would not result in more than 10% of my net assets being invested in credit union subordinated debt, deferred shares issued by a credit union and mutual society shares. Net assets for these purposes mean my financial assets after deduction of any debts I have. My debts for these purposes do not include the outstanding balance of any mortgage I have on my home, unless this is more than the current value of my home, in which case the debts include the amount above the current value. My financial assets for these purposes do not include:
 - (a) the property which is my primary residence or any money raised through a loan secured on that property;
 - (b) any rights of mine under a contract of insurance; or
 - (c) any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are) or may be entitled.

I accept that the investment to which this statement relates will expose me to a significant risk of losing all the money invested.

Signature:

Date: "

- (3) The requirement in (1) to include the statement in a *direct offer financial promotion*, and to obtain written confirmation that the statement has been signed, applies only where the *relevant credit union client*:

- (a) is an individual; and
- (b) is not receiving advice that constitutes a *regulated activity* on the *credit union subordinated debt*.

Application of exemptions in COBS 22.2.4R

3A.5.8

R

- (1) Where a *firm* applies any exemption set out in ■ COBS 22.2.4R under ■ CREDS 3A.5.1R(3), any reference in ■ COBS 22.2.4R to *mutual society share* must be read as though it includes a *deferred share* or *credit union subordinated debt*, as applicable.
- (2) For the purposes of any assessments or certifications required by the exemptions in ■ COBS 22.2.4R, as applied for the purposes of this section under ■ CREDS 3A.5.1R(3), any reference in ■ COBS 4.12B provisions to *non-mass market investments* must be read as though it is a reference to *deferred shares* or *credit union subordinated debt*, as applicable.
- (3) [deleted]
- (4) The *firm* must give the *relevant credit union client* a written copy of any risk warning or statement that the *relevant credit union client* has been asked to sign for the purposes of compliance with this section.

3A.5.9

G

■ COBS 22.2.4R contains the requirements that must be met before an individual can be exempted from the requirements of this section as a *certified high net worth investor*, a *certificated sophisticated investor*, or a *self-certified sophisticated investor*.

Record keeping

3A.5.10

R

A *firm* which carries on an activity which is subject to this section must comply with the following record-keeping and disclosure requirements:

- (1) the *firm* must make a record at or near the time of the activity certifying it complies with the requirements set out in this section;
- (2) the record in (1) must include information and evidence demonstrating compliance with each of the requirements in this section, as applicable;
- (3) if the requirements of this section did not apply because the *firm* relied on one of the exemptions, the record in (1) must include which exemption was relied on, together with the reason why the *firm* is satisfied that exemption applies;
- (4) where the *firm* relies on the *certified high net worth investor*, the *certificated sophisticated investor* or the *self-certified sophisticated investor* exemption, the record required in (1) must include a copy of

the certificate or investor statement (as signed by the investor) and of the warnings or indications required by the exemption; and

(5) the *firm* must retain the record required in (1) for three years.

Electronic documents

3A.5.11 **G**

In this section:

- (1) any requirement that a document is signed may be satisfied by an electronic signature or electronic evidence of assent; and
- (2) any references to writing should be construed in accordance with **■ GEN 2.2.14R** and its related *guidance* provisions.

Responsibility of the credit union

3A.5.12 **R**

Where the requirements of this section apply to a *firm* other than the *credit union* that issues the *deferred shares* or receives the *credit union subordinated debt*, the *credit union* must ensure that the *firm* complies with the requirements of this section.

Chapter 6

Liquidity



6.1 Application and purpose

Application

6.1.1 **R**

Purpose

6.1.2 **G**

6.1.3 **G**



6.2 General requirements

Liquid assets

6.2.1 **R**

6.2.2 **G**

6.2.3 **G**

Liquid management policy statement

6.2.5 **R**

6.2.6 **G**

6.2.7 **G**

6.2.8 **G**

6.2.9 **G**

6.2.10 **G**



6.3 Minimum liquidity requirements

6.3.1 **R**

6.3.3 **G**

6.3.4 **R**

6.3.5 **R**

6.3.6 **E**

6.3.7 **G**

6.3.8 **G**

6.3.9 **G**

Chapter 7

Lending to members



7.1 Application, purpose and interpretation

Application

7.1.1 **R** This chapter applies to all *credit unions*.

Purpose

7.1.2 **G** (1) This chapter seeks to protect the interests of *credit unions'* members in respect of loans to members under section 11 of the Credit Unions Act 1979 or article 28 of the Credit Unions (Northern Ireland) Order 1985. *Principle 4* requires *credit unions* to maintain adequate financial resources.

(2) [deleted]

Interpretation

7.1.3 **G** The *rules* and *guidance* in this chapter are in addition to the provisions of (in relation to *Great Britain credit unions*) section 11 of the Credit Unions Act 1979 and (in relation to *Northern Ireland credit unions*) article 28 of the Credit Unions (Northern Ireland) Order 1985 in relation to loans made by *credit unions*. Under these provisions

(1) a *Great Britain credit union* may make a loan only to:

- (a) a member of the *credit union* who is an individual; and
- (b) a corporate member of the *credit union*, if the *credit union's* rules provide that it may make loans to corporate members and making the loan would not result in the aggregate of the outstanding balances on loans made by the *credit union* to corporate members exceeding the percentage of the aggregate of the outstanding balances on all loans made by the *credit union* to members specified by or under section 11 of the Credit Unions Act 1979;
- (c) other *credit unions*;

(1A) a *Northern Ireland credit union* may make a loan only to:

- (a) a member of the *credit union* who is an individual;
- (b) other *credit unions*; and
- (c) a corporate member of the *credit union* if the *credit union's* rules provide that it may make loans to corporate members and making the loan would not result in the total amount of the

outstanding balances on loans made by the *credit union* to corporate members exceeding the percentage of the total amount of the outstanding balances on all loans made by the *credit union* to members specified by or under article 28 of the Credit Unions (Northern Ireland) Order 1985;

(2) a *credit union* may not make a loan to a member of the *credit union* holding only *deferred shares*.

7.1.4

G

"Corporate member" has the same meaning as in section 5A of the Credit Unions Act 1979 or article 14A of the Credit Unions (Northern Ireland) Order 1985 as appropriate.



7.2 General requirements concerning lending policy

- 7.2.1 **R** [deleted]
- 7.2.1A **R** A *credit union* must establish, maintain and implement an up-to-date lending policy statement approved by the *governing body* that is prudent and appropriate to the scale and nature of its business.
- 7.2.1B **R** [deleted]
- 7.2.2 **R** [deleted]
- 7.2.3 **G** [deleted]
- 7.2.4 **G** ■ CREDS 2.2.6 R requires a *credit union* to maintain a manual of its policies and procedures. This should include the policy and procedure for making loans.
- 7.2.5 **G** [deleted]
- 7.2.5A **R** The *credit union's governing body* must review and approve its lending policy whenever there is a material change in the circumstances of the *credit union* or its membership or, in the absence of any such change, on an annual basis.
- 7.2.6 **G** The lending policy should consider the conditions for and amounts of loans to members, individual mandates, and the handling of loan applications.

- 7.2.7** **R** (1) A *credit union* must not make a loan to:
- (a) one of its *officers, certification employees or approved persons* on terms more favourable than those available to other members of the *credit union* unless:
 - (i) that person is a paid employee (other than a *director*) of the *credit union*; and
 - (ii) the registered rules of the *credit union* provide explicitly for the making of loans to paid employees on such terms;
 - (b) (in the case of a *Great Britain credit union*) a relative of, or any person otherwise connected with, an *officer, certification employee, approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*;
 - (c) (in the case of a *Northern Ireland credit union*) a member of the family of, or any person otherwise connected with, an *officer, certification employee, approved person* or paid employee of the *credit union* on terms more favourable than those available to other members of the *credit union*.
- (2) "Relative" has the same meaning as in section 31 of the Credit Unions Act 1979.
- (3) "Member of the family" has the same meaning as in article 2 of the Credit Unions (Northern Ireland) Order 1985.
- 7.2.8** **G** (1) To prevent conflicts of interest, a *credit union* should have clear arrangements for dealing with loans to the persons specified in ■ CREDS 7.2.7 R.
- (2) In relation to staff, the prohibition in ■ CREDS 7.2.7 R applies only to those who are *officers, certification employees or approved persons*.
- (3) "Connected" in ■ CREDS 7.2.7 R includes any close business or personal relationship.
- 7.2.9** **G** A *credit union* should have a documented arrears management policy, setting out the procedures and process for dealing with borrowers who fall into arrears. This should be reviewed regularly and promptly in the light of experience.
- 7.2.10** **G** A *credit union* should have a clear, robust and effective approach to handling arrears and be able to satisfy the *FCA* on a continuing basis that it has adequate management and control systems in place to monitor arrears.
- 7.2.11** **G** [deleted]
- 7.2.12** **G** (1) A *credit union* may make a loan to a member for a business purpose. However, this does not mean that a *credit union* may make a loan to a member who merely intends to transmit that loan to another body that will actually carry out the purpose.

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- (2) A *credit union* should not make loans to members who are acting together to achieve an aggregate loan that exceeds the limits in the lending policy.

Chapter 8

Supervision



8.1 Application and purpose

Application

8.1.1 **G** This section applies to all *credit unions*.

Purpose

8.1.2 **G** The purpose of this section is to provide additional *rules and guidance* relating to reporting requirements that are specific to *credit unions*. *Credit unions* also need to comply with the relevant provisions of *SUP* relating to reporting, including ■ SUP 16.3 and ■ SUP 16.12.



8.2 Reporting requirements

8.2.1 **G** [deleted]

8.2.2 **G** [deleted]

8.2.3 **G** [deleted]

8.2.4 **G** [deleted]

8.2.5 **G** [deleted]

Accounts and audit

8.2.6 **R** (1) Every *credit union* (except a *Northern Ireland credit union*) must send to the *FCA* a copy of its audited accounts published in accordance with section 82 of the Co-operative and Community Benefit Societies Act 2014.

- (2) The accounts must:
- (a) be made up for the period beginning with the date of the *credit union's* registration or with the date to which the *credit union's* last annual accounts were made up, whichever is the later, and ending on the *credit union's* most recent financial year end; and
 - (b) be delivered to the *FCA* by one of the methods listed in **■ CREDS 8.2.6AR** no later than six months after the *credit union's* financial year end.

8.2.6A **R** The methods referred to in **■ CREDS 8.2.6R(2)(b)** are:

- (1) by e-mail to mutual.societies@fca.org.uk; or
- (2) by post to Mutuels Team, Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN.

8.2.7 **R** Every *credit union* must make available, free of charge, to every member or person interested in the funds of the *credit union* who applies for it, a copy of the latest audited accounts of the *credit union* sent to the *FCA* under **■ CREDS 8.2.6 R**.

Financial penalties for late submission of reports

8.2.8

G

[deleted]



8.3 Approved persons

Purpose

- 8.3.1 **G** The purpose of this section is to set out *guidance* relating to the *FCA's* requirements about *approved persons* that apply to *credit unions*. The full details can be found in Chapter 10C of the Supervision manual (*SUP*).
- 8.3.2 **G** The *PRA* also has a regime about *approved persons* in *credit unions*, which can be found in its Rulebook. *CREDS* does not summarise the *PRA's* regime.

Summary of the FCA's requirements about approved persons in credit unions

- 8.3.3 **G**
 - (1) The effect of section 59 of the Act is that if a *person* is to perform certain functions (which are known as *controlled functions*) for a *credit union*, the *credit union* should first apply for approval to:
 - (a) the *FCA* (if the *controlled function* is specified by the *FCA* in its *rules*); or
 - (b) the *PRA* (if the *controlled function* is specified by the *PRA* in its *rules*).
 - (2) The *firm* should not allow the person to perform that function until the *firm* receives the approval.
 - (3) A person for whom the *firm* has received that approval is called an *approved person*.
- 8.3.4 **G**
 - (1) The regime for *approved persons* applies to *SMCR firms*.
 - (2) A *credit union* is a type of *SMCR firms*.
 - (3) ■ *SUP 10C* deals with the *approved persons* requirements for *credit unions* and other *SMCR firms*.
- 8.3.5 **G**
 - (1) The *controlled functions* specified by the *FCA* for *credit unions* and other *SMCR firms* can be found in the table in ■ *SUP 10C.4.3R*. The table in ■ *SUP 10C Annex 1 3.2R* sets out which of them apply to *credit unions*.
 - (2) The *controlled functions* specified by the *PRA* for *credit unions* and other *SMCR firms* can be found in the *PRA's* Rulebook. They are not summarised in the *Handbook*.

- 8.3.6** G (1) The *FCA* and the *PRA* have specified different functions.
- (2) Sometimes a *person's* job description means that they are performing an *FCA controlled function* and a *PRA controlled function* at the same time for the same *firm*. ■ SUP 10C.9 has arrangements that reduce the need for the same *person* to be approved by both the *FCA* and the *PRA*.
- 8.3.7** G There are two types of *controlled function* under the *Act*:
- (1) a *designated senior management function*; and
- (2) any other *controlled function*.
- 8.3.8** G (1) The *designated senior management functions* cover the top management roles in a *firm*.
- (2) An *approved person* approved to perform a *designated senior management function* is called an *SMF manager*.
- (3) [deleted]
- (4) All *controlled functions* in a *credit union* are *designated senior management functions* and every *approved person* in a *credit union* is also an *SMF manager*.
- 8.3.9** G As well as listing the *FCA's designated senior management functions* for *credit unions* and other *SMCR firms*, ■ SUP 10C has other requirements about *SMF managers*:
- (1) ■ SUP 10C sets out the procedures for applying for, granting, removing and varying approval as an *SMF manager*.
- (2) ■ SUP 10C requires firms to give various types of reports to the *FCA* about their *SMF managers*.
- (3) ■ SUP 10C explains that each *firm* must prepare a *statement of responsibilities* for each of its *SMF managers*. A *statement of responsibilities* is a description of the *SMF manager's* responsibilities in connection with the *designated senior management functions* for which they are approved.

Chapter 9

Complaints reporting rules for credit unions



9.1 Application and purpose

Application

9.1.1 **R** This chapter applies to all *credit unions*.

Purpose

9.1.2 **G** This chapter sets out *rules and guidance for credit unions* on completing reports concerning *complaints* received from *eligible complainants*. It replaces **DISP 1.10** (Complaints reporting rules) and **DISP 1.10A** (Complaints data publication rules), which do not apply to *credit unions* (**DISP 1.1.5A R**).

9.1.3 **G** The other elements of **DISP 1** (**DISP 1.2** (Consumer awareness rules), **DISP 1.3** (Complaints handling rules), **DISP 1.4** to **DISP 1.8** (Complaints resolution rules etc.) and **DISP 1.9** (Complaints record rule)) apply to *credit unions*.

9.1.4 **G** **DISP 2** to **DISP 4** (which cover jurisdiction and procedures of the *Financial Ombudsman Service*) and **FEES 5** (which covers funding of the *Financial Ombudsman Service*) apply to *credit unions*.

9.2 Reporting

9.2.1 **R** A *credit union* must provide the *FCA*, once a year, with a report in the format set out in **■ CREDS 9 Annex 1 R** (Credit Union complaints return) which contains (for the relevant reporting period) information about:

- (1) the total number of *complaints* received by the *credit union*;
- (2) (for the product/service groupings within section 5) the number of *complaints* closed by the *credit union*:
 - (a) within eight weeks of receipt; and
 - (b) more than eight weeks after receipt;
- (2A) (for other lending or credit-related activity within section 5A) the number of *complaints* closed by the *credit union*;
- (3) the total number of *complaints*:
 - (a) upheld by the *credit union* in the reporting period;
 - (b) outstanding at the start of the reporting period; and
- (4) the total amount of redress paid in respect of *complaints* during the reporting period.

[**Note:** transitional provisions apply to this *rule*: see **■ CREDS TP 1.16**, **■ CREDS TP 1** and **■ CONC 12.1.4 R**.]

9.2.2 **R** A *credit union* must not include in the report a *complaint* that has been forwarded in its entirety to another *respondent* under **■ DISP 1.7** (the complaints forwarding rules).

9.2.3 **G** Where a *credit union* has forwarded to another *respondent* only part of a *complaint* or where two *respondents* may be jointly responsible for a *complaint*, then the *complaint* should be reported by both *firms*.

9.2.4 **R** **■ CREDS 9.2.1 R** does not apply to a *complaint* that is resolved by close of business on the *business day* following its receipt.

9.2.5

G

For the purposes of ■ CREDS 9.2.4 R:

- (1) a *complaint* received on any day other than a *business day*, or after close of business on a *business day*, may be treated as received on the next *business day*; and
- (2) a *complaint* is resolved where the complainant has indicated acceptance of a response from the *credit union*, with neither the response nor acceptance having to be in writing.

9.2.6

G

For the purpose of ■ CREDS 9.2.1 R, and upon completing the return, the *credit union* should note that:

- (1) where a *complaint* could fall into more than one category, the *complaint* should be recorded against the category that the *credit union* considers to form the main part of the *complaint*;
- (2) where a *complaint* has been upheld under ■ CREDS 9.2.1R (3)(a), a *credit union* should report any *complaints* to which it has given a *final response* which accepts the *complaint* and, where appropriate, offers redress, even if the redress offered is disputed by the complainant. Where a *complaint* is upheld in part, or where the *credit union* does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, the *credit union* should treat the *complaint* as upheld for reporting purposes. Where a *credit union* rejects a *complaint*, yet chooses to make an ex-gratia payment to the complainant, the *complaint* should be recorded as rejected;
- (3) where a *credit union* reports on the amount of redress paid under ■ CREDS 9.2.1R (4), redress should be interpreted to include any amount paid, or cost borne, by the *credit union*, where a cash value can be readily identified, and should include:
 - (a) amounts paid for distress and inconvenience;
 - (b) a free transfer out to another provider which transfer would normally be paid for;
 - (c) ex-gratia payments and goodwill gestures;
 - (d) interest on delayed settlements
 - (e) waiver of an excess on an insurance policy; and
 - (f) payments to put the consumer back into the position the consumer should have been in had the act or omission not occurred;
- (4) where a *credit union* reports on the amount of redress paid under ■ CREDS 9.2.1R (4), such redress should not, however, include repayments or refunds of premiums which had been taken in error (for example where a *credit union* had been taking, by direct debit, twice the actual premium amount due under a policy). The refund of the overcharge would not count as redress.

- 9.2.7 **R** For the purposes of **■ CREDS 9.2.1 R**:

 - (1) the relevant reporting period is from 1 April to 31 March each year; and
 - (2) reports are to be submitted to the *FCA* within one *month* of the end of the relevant reporting period.

[**Note**: a transitional provision applies to this *rule*: see **■ CREDS TP 1.16**.]
- 9.2.8 **G** Financial penalties may be imposed for the late submission of the complaints report required by **■ CREDS 9.2.1 R**.
- 9.2.9 **R** For the purposes of making reports under **■ CREDS 9.2.1 R**, a closed *complaint* is a *complaint*:

 - (1) where the *credit union* has sent a *final response*; or
 - (2) where the complainant has positively indicated acceptance of the *credit union's* earlier response; or
 - (3) where the complainant has failed to revert to the *credit union* within eight weeks of the *credit union's* most recent letter.
- 9.2.10 **R** A report under this section must be given or addressed, and delivered, in the way set out in **■ SUP 16.3.6 R** to **■ SUP 16.3.16 G** (General provisions on reporting), except that, instead of the *credit union's* usual supervisory contact, the report must be given to or addressed for the attention of the Central Reporting team at the *FCA*.
- 9.2.11 **G** **■ SUP 16.3.14 R** applies to the *credit unions'* complaints returns.
- 9.2.12 **R** [deleted]
- 9.2.12A **R** **■ SUP 16.10.4R** requires *credit unions* to check the accuracy of *standing data* and to report changes, including any change to the complaints contact or complaints officer, to the *FCA*.
- 9.2.13 **G** The contact point in **■ CREDS 9.2.1 R** can be by name or job title and may include, for example, a telephone number.

Credit union complaints return

This annex consists only of one or more forms.

Credit union complaints return

Chapter 10

Application of other parts of the Handbook to credit unions



10.1 Application and purpose

Application

10.1.1 **R** This chapter applies to all *credit unions*.

Purpose

10.1.2 **G** This chapter is intended to draw *credit unions*' attention to the application of other key parts of the Handbook to *credit unions* as set out in the table at ■ CREDS 10.1.3 G.

Application of other parts of the Handbook and of Regulatory Guides to Credit Unions

Module	Relevance to Credit Unions
The Principles for Businesses (<i>PRIN</i>)	The Principles for Businesses (<i>PRIN</i>) set out high-level requirements imposed by the <i>FCA</i> . They provide a general statement of regulatory requirements. The <i>Principles</i> apply to all <i>credit unions</i> . In applying the <i>Principles</i> to <i>credit unions</i> , the <i>FCA</i> will be mindful of proportionality. In practice, the implications are likely to vary according to the size and complexity of the <i>credit union</i> .
Senior Management Arrangements, Systems and Controls (<i>SYSC</i>)	<i>SYSC 1, SYSC 4 to 10</i> and <i>SYSC 21</i> apply to all <i>credit unions</i> in respect of the carrying on of their <i>regulated activities</i> and unregulated activities in a <i>prudential context</i> . <i>SYSC 23</i> (Senior managers and certification regime: Introduction and classification), <i>SYSC 24</i> (Senior managers and certification regime: Allocation of prescribed responsibilities), <i>SYSC 25</i> (Senior managers and certification regime: Management responsibilities maps and handover procedures and material), <i>SYSC 26</i> (Senior managers and certification regime: Overall and local responsibility), <i>SYSC 27</i> (Senior managers and certification regime: Certification regime) and <i>SYSC 18</i> apply to all <i>credit unions</i> in respect of both their <i>regulated activities</i> and their unregulated activities.
Code of Conduct (<i>COCON</i>)	This contains <i>rules</i> and <i>guidance</i> that are directly applicable to a <i>credit union's SMF managers, certification employees</i> and (from 2017) other <i>conduct rules staff</i> . There is also <i>guidance</i> for <i>credit unions</i> on giving their staff training about <i>COCON</i> .

Module	Relevance to Credit Unions
Threshold Conditions (COND)	In order to become <i>authorised</i> under the <i>Act</i> all <i>firms</i> must meet the <i>threshold conditions</i> . The <i>threshold conditions</i> must be met on a continuing basis by <i>credit unions</i> . Failure to meet one of the conditions is sufficient grounds for the exercise by the <i>FCA</i> of its powers.
The Fit and Proper test for Employees and Senior Personnel (FIT)	The purpose of <i>FIT</i> is to set out and describe the criteria that a <i>firm</i> should consider when assessing the fitness and propriety of a person (1) in respect of whom an application is being made for approval to undertake a <i>controlled function</i> under the senior managers regime, (2) who has already been approved, (3) who is a <i>certification employee</i> or (4) whom a <i>firm</i> is considering appointing to be a <i>certification employee</i> . It also sets out and describes criteria that the <i>FCA</i> will consider when assessing the fitness and propriety of a <i>candidate</i> for a <i>controlled function</i> position and that it may consider when assessing the continuing fitness and propriety of <i>approved persons</i> .
General Provisions (GEN)	<i>GEN</i> contains <i>rules</i> and <i>guidance</i> on general matters, including interpreting the <i>Handbook</i> , statutory status disclosure, the <i>FCA's</i> logo and insurance against financial penalties.
Fees manual (FEES)	This manual sets out the fees applying to <i>credit unions</i> .
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	<i>MIPRU</i> applies to any <i>credit union</i> carrying out <i>insurance distribution activity</i> or <i>home finance mediation activity</i> , or using these services. In particular, it sets out requirements for allocation of responsibility for the <i>credit union's insurance distribution activity</i> (<i>MIPRU 2</i>), for the use of <i>home finance intermediaries</i> (<i>MIPRU 5</i>) and for professional indemnity insurance (<i>MIPRU 3</i>).
Conduct of Business sourcebook (COBS)	A <i>credit union</i> which acts as a <i>CTF provider</i> or provides a <i>cash-deposit ISA</i> will need to be aware of the relevant requirements in <i>COBS</i> . <i>COBS 4.6</i> (Past, simulated past and future performance), <i>COBS 4.7.1 R</i> (Direct offer financial promotions), <i>COBS 4.10</i> (Approving and confirming compliance of financial promotions), <i>COBS 13</i> (Preparing product information) and <i>COBS 14</i> (Providing product information to clients) apply with respect to <i>accepting deposits</i> as set out in those provisions, <i>COBS 4.1</i> and <i>BCOBS</i> . A <i>credit union</i> that communicates with clients, including in a <i>financial promotion</i> , in relation to the promotion of <i>deferred shares</i> and <i>credit union subordinated debt</i> will need to be aware of the requirements of <i>COBS 4.2</i> (Fair, clear and not misleading communications) and <i>COBS 4.5</i> (Communicating with retail clients).
Insurance: Conduct of Business sourcebook (ICOBS)	<i>ICOBS</i> applies to any <i>credit union</i> carrying on non-investment insurance distribution activities, such as arranging or advising on general insurance contracts to be taken out by members. But <i>ICOBS</i> does not apply to a <i>credit union</i> taking out an insurance <i>policy</i> for itself, such as a <i>policy</i> against default by members on their loans where the credit union is the beneficiary of the <i>policy</i> , since in this circumstance the

Module	Relevance to Credit Unions
	<p><i>credit union</i> would not be acting as an insurance intermediary, but would itself be the customer. <i>Credit unions</i> are reminded that they are subject to the requirements of the appropriate legislation, including the Credit Unions Act 1979, relating to activities a <i>credit union</i> may carry on.</p>
<p>Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)</p>	<p>MCOB applies to any <i>credit union</i> that engages in any <i>home finance activity</i>. MCOB rules cover advising and selling standards, responsible lending (including affordability assessment), charges, and the fair treatment of <i>customers</i> in payment difficulties.</p>
<p>Banking: Conduct of Business sourcebook (BCOBS)</p>	<p>BCOBS sets out <i>rules and guidance for credit unions</i> on how they should conduct their business with their <i>customers</i>. In particular there are <i>rules and guidance</i> relating to communications with <i>banking customers</i> and <i>financial promotions</i> (BCOBS 2), <i>distance communications</i> (BCOBS 3), <i>information to be communicated to banking customers</i> (BCOBS 4), <i>post sale requirements</i> (BCOBS 5), and <i>cancellation</i> (BCOBS 6). The <i>rules</i> in BCOBS 3.1 that relate to <i>distance contracts</i> may apply to a <i>credit union</i>. This is because BCOBS 3 contains requirements which implemented the <i>Distance Marketing Directive</i> where there is "an organised distance sales or service-provision scheme run by the supplier" (Article 2(a)) of the <i>Distance Marketing Directive</i>, i.e. if the <i>credit union</i> routinely sells any of its services by post, telephone, fax or the internet.</p>
<p>Supervision manual (SUP)</p>	<p>The following provisions of <i>SUP</i> are relevant to <i>credit unions</i>: SUP 1A (The FCA's approach to supervision), SUP 2 (Information gathering by the FCA or PRA on its own initiative), SUP 3.1 to SUP 3.8 (Auditors), SUP 5 (Skilled persons), SUP 6 (Applications to vary or cancel Part 4A permission), SUP 7 (Individual requirements), SUP 8 (Waiver and modification of rules), SUP 9 (Individual guidance), SUP 10C (FCA senior managers regime for approved persons in SMCR firms), SUP 11 (Controllers and Close links), SUP 15 (Notifications to the FCA or PRA) and SUP 16 (Reporting Requirements).</p> <p><i>Credit unions</i> are reminded that they are subject to the requirements of the <i>Act</i> and SUP 11 on <i>close links</i>, and are bound to notify the FCA of changes. It may be unlikely, in practice, that <i>credit unions</i> will develop such relationships. It is possible, however, that a <i>person</i> may acquire <i>close links</i> with a <i>credit union</i> within the meaning of the <i>Act</i> by reason of holding the prescribed proportion of <i>deferred shares</i> in the <i>credit union</i>.</p>
<p>Consumer Credit sourcebook (CONC)</p>	<p>In relation to SUP 16, <i>credit unions</i> are exempted from the requirement to submit annual reports of <i>close links</i>.</p> <p>CONC contains rules that apply to <i>firms</i> carrying on <i>credit-related regulated activities</i>. PERG 2.7.19IG provides guidance on relevant exemptions. Most <i>credit union</i> lending is therefore outside the scope of</p>

Module	Relevance to Credit Unions
	<i>CONC</i> . However, subject to the constraints in the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985 (as relevant), <i>credit unions</i> may undertake <i>credit-related regulated activities</i> to which <i>CONC</i> does apply if the activity is carried out by way of business. This could include lending under a <i>borrower-lender-supplier agreement</i> , or <i>debt adjusting</i> or <i>debt counselling</i> where the <i>credit union</i> is not the lender. A <i>credit union</i> carrying on such activities should consider whether it requires <i>permission</i> to do so. Further information can be found on the <i>FCA's</i> website.
Decision, Procedure and Penalties manual (<i>DEPP</i>)	<i>DEPP</i> is relevant to <i>credit unions</i> because it sets out: (1) the <i>FCA's</i> decision-making procedure for giving <i>statutory notices</i> . These are <i>warning notices</i> , <i>decision notices</i> and <i>supervisory notices</i> (<i>DEPP</i> 1.2 to <i>DEPP</i> 5); and (2) the <i>FCA's</i> policy with respect to the imposition and amount of penalties under the <i>Act</i> (see <i>DEPP</i> 6).
Dispute Resolution: Complaints (<i>DISP</i>)	<i>DISP</i> sets out <i>rules</i> and <i>guidance</i> in relation to treating complainants fairly and the <i>Financial Ombudsman Service</i> .
Compensation (<i>COMP</i>)	<i>COMP</i> sets out <i>rules</i> relating to the scheme for compensating consumers when authorised <i>firms</i> are unable, or likely to be unable, to satisfy claims against them.
General guidance on Benchmark Administration, Contribution and Use (<i>BENCH</i>)	<i>BENCH</i> provides <i>guidance</i> about which parts of the <i>Handbook</i> are relevant to a <i>firm</i> when carrying out <i>benchmark activities</i> and when using a <i>benchmark</i> . It also provides <i>guidance</i> about the <i>benchmarks regulation</i> .
The Enforcement Guide (<i>EG</i>)	The Enforcement Guide (<i>EG</i>) describes the <i>FCA's</i> approach to exercising the main enforcement powers given to it by the <i>Act</i> and by other legislation.
Financial Crime Guide: A firm's guide to countering financial crime risks (<i>FCG</i>) and Financial Crime Thematic Reviews (<i>FCTR</i>)	<i>FCG</i> and <i>FCTR</i> provide <i>guidance</i> on steps that a <i>firm</i> can take to reduce the risk that it might be used to further <i>financial crime</i> .

Appendix 1

Key Definitions

1.1 Key Definitions

Note: The following key definitions relevant to CREDS are extracted from the *Glossary*.

<i>complaint</i>	any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service, which: <ul style="list-style-type: none"> (a) alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; and (b) relates to an activity of that <i>respondent</i>, or of any other <i>respondent</i> with whom that <i>respondent</i> has some connection in marketing or providing financial services or products, which comes under the jurisdiction of the <i>Financial Ombudsman Service</i>.
<i>CREDS</i>	the Credit Unions sourcebook.
<i>deferred shares</i>	in relation to a <i>Great Britain credit union</i> , means any shares of a class defined as deferred shares by section 31A of the Credit Unions Act 1979.
<i>final response</i>	(in CREDS 9) a written response from a <i>respondent</i> which: <ul style="list-style-type: none"> (a) accepts the <i>complaint</i>, and, where appropriate, offers redress or remedial action; or (b) offers redress or remedial action without accepting the <i>complaint</i>; or (c) rejects the <i>complaint</i> and gives reasons for doing so; and which informs the complainant that, if he remains dissatisfied with the <i>firm's</i> response, he may now refer his complaint

*governing
body*

to the *Financial Ombudsman Service* and must do so within six months.

the board of *directors*, committee of management or other governing body of a *firm* or *recognised body*, including, in relation to a *sole trader*, the *sole trader*.

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CREDS TP 1 Transitional Provision

(1)	(2) Materials to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional provisions: dates in force	(6) Handbook provisions: coming into force
1 [FCA] [PRA]	CREDS 5.3.1 R		[expired]		
2 [FCA] [PRA]	CREDS 6.3.2 R		[expired]		
3 [FCA] [PRA]	SUP 16.12.7 R		[expired]		
4 [FCA] [PRA]	SUP 16 Annex 14 R		[expired]		
5 [FCA] [PRA]	CREDS TPs 1, 2, 3 and 4		[expired]		
6 [FCA] [PRA]	CREDS 2.2.4 R, CREDS 2.2.6 R, CREDS 2.2.8 R, CREDS 3.3.7 R, CREDS 6.2.4 R and		[expired]		

(1)	(2) Materials to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional provisions: dates in force	(6) Handbook provisions: coming into force
7	CREDS 7.2.1 R		[expired]		
[FCA] [PRA]	CREDS 3.2.1 R		[expired]		
8	CREDS 3.2.2 R		[expired]		
[FCA] [PRA]	CREDS 3.2.2 R		[expired]		
9	CREDS 3.2.2 R		[expired]		
[FCA] [PRA]	CREDS 3.2.2 R		[expired]		
10	CREDS 3.2.3 R		[expired]		
[FCA] [PRA]	CREDS 3.2.3 R		[expired]		
11	CREDS 4.4.1 R		[expired]		
[FCA] [PRA]	CREDS 4.4.1 R		[expired]		
12	CREDS 5.3.3 R and CREDS 5.3.5 R		[expired]		
[PRA]	CREDS 5.3.3 R and CREDS 5.3.5 R		[expired]		
13	CREDS 7.3.1 R		[expired]		
[FCA] [PRA]	CREDS 7.3.1 R		[expired]		
14	CREDS 7.3.4 R		[expired]		
[FCA] [PRA]	CREDS 7.3.4 R		[expired]		
15	CREDS 7.4.2 R		[expired]		
[PRA]	CREDS 7.4.2 R		[expired]		
16	CREDS 9.2.1 R and CREDS 9.2.7 R		[expired]		
[FCA]	CREDS 9.2.1 R and CREDS 9.2.7 R		[expired]		
17	The changes to CREDS 9.2.1 R and CREDS 9 Annex 1 R set out in Annex L of the Consumer		[expired]		
[FCA]	The changes to CREDS 9.2.1 R and CREDS 9 Annex 1 R set out in Annex L of the Consumer		[expired]		

(1)	(2) Materials to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional provisions: dates in force	(6) Handbook provisions: coming into force
18 [FCA]	Credit (Consequential and Supplementary Amendments) Instrument 2014 The changes to CREDS 9.2.1 R and CREDS 9 Annex 1 R set out in Annex L of the Consumer Credit (Consequential and Supplementary Amendments) Instrument 2014		[expired]		
19	CREDS 9 Annex 1	R	The figures for complaints relating to alleged <i>authorised push payment fraud</i> in Section 5B should only include such complaints from 1 July 2019.	1 July 2019 to 31 March 2020	1 July 2019

Credit Unions sourcebook

Schedule 1 Record keeping requirements

Sch 1.1 G

■ CREDS 3A.5.10R contains record keeping requirements relating to the retail distribution and *financial promotion of capital instruments*.

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Schedule 2 Notification requirements

Sch 2.1 G

The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant notification requirements.

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 2.2 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
CREDS 8.2.6 R	Audited accounts	Revenue account and balance sheet	Financial year end	Until <i>6 months</i> after financial year end
CREDS 9.2.1 R	Complaints report	Analysis of complaints	31 March each year	<i>1 month</i> after period end

Credit Unions sourcebook

Schedule 3 Fees and other required payments

Sch 3.1 G

There are no requirements for fees or other payments in *CREDS*.

The table below summarises the fee requirements for *credit unions* detailed elsewhere.

Sch 3.2 G

Description of fee	Reference
<i>Appropriate regulator rules</i> relating to <i>authorisation fees</i>	FEES 3
Schedule of <i>authorisation fees</i> payable	FEES 3 Annex 1 R
<i>Appropriate regulator fees rules</i> relating to the periodic fee	FEES 4
Schedule of periodic fees payable	FEES 4 Annex 2A R Part 1 and FEES 4 Annex 2B R Part 1
<i>FOS funding rules</i>	FEES 5
<i>FSCS funding rules</i>	FEES 6
<i>SFGB levy</i>	FEES 7A
<i>DA levy</i>	FEES 7B
<i>TPR SFGB levy</i>	FEES 7C
<i>TPR DA levy</i>	FEES 7D

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Schedule 4 Powers exercised

Sch 4.1 G
[deleted]

Sch 4.2 G
[deleted]

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Schedule 5 Rights of actions for damages

Sch 5.1 G

The table below sets out the *rules* in *CREDS* contravention of which by an *authorised person* may be actionable under Section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a "*private person*" under section 138D (or, in certain circumstances, his fiduciary or representative). A "Yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under Section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

The column headed "For other person?" indicates whether the *rule* is actionable by a *person* other than a *private person* (or his fiduciary or representative). If so, an indication of the type of *person* by whom the *rule* is actionable is given.

Sch 5.2 G

Chapter / Appendix	Section / Annex	Paragraph	Right of action under section 138D		
			For private person?	Removed?	For other person?
All <i>rules</i> in <i>CREDS</i> with the status letter 'E'.			No	No	No
All <i>rules</i> in <i>CREDS</i> .			Yes	No	No

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Schedule 6 Rules that can be waived

Sch 6.1 G

The *rules* made in *CREDS* can be waived by the *appropriate regulator* under sections 138A and 138B (Modification or waiver of rules) of the *Act*. As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has the power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules) section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the *Act*.

CREDS includes *guidance* on *rules* made in other parts of the *Handbook*. Reference should be made to those parts of the *Handbook* concerning *waiver* of those *rules*.

