

Commercial and Common Law Team (Coops),
Law Commission
1st Floor,
Tower
52 Queen Street Anne's Gate,
London,
SW1H 9AG

9th December 2024

Response to the Law Commission's consultation on the Review of the Co-operative and Community Benefit Societies Act 2014

To whom it may concern,

We welcome the opportunity to respond to this consultation. The Association of British Credit Unions Limited (ABCUL) is the primary trade association representing credit unions in England, Scotland and Wales, with around two thirds of credit unions in Great Britain affiliated to the Association.

Credit unions are co-operative societies who provide financial services – primarily savings and loans facilities – to their member-owners. They are registered as Co-operative Societies under the Co-operatives and Community Benefit Societies Act 2014 and the Credit Unions Act 1979. As deposit-takers they are dual-regulated by the Prudential Regulation Authority and the Financial Conduct Authority.

Credit unions have since their inception in Britain in 1964 been closely associated with anti-poverty and financial inclusion. They tend to provide savings and loans facilities to those with limited or no access to financial services from mainstream providers, generally due to their low income and / or lack of a developed credit profile. They have been a central element of numerous government and philanthropic initiatives to extend financial inclusion and address the lack of adequate provision of affordable credit and secure savings facilities for large sections of the population. They are capped in the interest that they can charge at 42.6% APR under the Credit Union Act 1979 and provide credit in competition with high-cost lenders.

They are numerous, with over 230 credit unions active in Great Britain today with more than 1.5 million members and £2.7 billion in assets

under management. They range from mid-sized businesses of up to 50 staff to small voluntary organisations.

Response to Consultation

The credit union sector welcomes the opportunity to respond to the Law Commissions consultation on the review of the Co-operative and Community Benefit Societies Act 2014 (CCBS Act).

Consultation Question 31 – We provisionally propose that a society’s register of members and officers is available for inspection, should include their name and a contact address. Do you agree?

ABCUL strongly oppose this proposal from without the relevant safeguard being put in place. We strongly believe that protections would need to be put in place to prevent vexatious attempts by members to find addresses of officers or other members of the society, which could result in harassment, blackmail or bribery. We would support putting a process in place whereby a request is made in writing to the society for a copy of the register of members and officers which includes the reason for the request. The society should then have the right to decline this request if the reason is found to be unreasonable or not for a proper purpose.

Consultation Question 32 – We provisionally propose that the contact address for members and officers might be an electronic address. Do you agree?

We support this proposal and believe that an electronic address would be suitable and also provide more safeguarding measures to the officers and members than publishing their physical address.

Consultation Question 32 – We provisionally propose that the contact address for members and officers which is a postal address need not be the residential address. Do you agree?

We support this proposal if a physical address is required, however, our preference would be no address physical or electronic should be provided unless there is a sufficient reason for the request in order to protect members and officers from those who wish to use the information for vexatious reasons.

Consultation Question 34. We provisionally propose that the residential address of an officer should be notified to the FCA. This would be confidential, but the FCA may use it to make contact with the officer. Do you agree?

We support the proposal that the residential address of an officer should be notified to the FCA for their own use when the need to directly reach out to that officer in order to carry out their duties as the registrar.

Powers of the registrar

Consultation Question 60 – Do you think that the CCBS Act should empower the registrar to require electronic only filing of documents?

We are not fully supportive of this proposal but can understand the rationale to help make processes more efficient. We would propose that some firms are still given the ability to submit their filing by post under exceptional circumstances and by prior arrangement with the registrar.

Consultation Question 62 – Do you think that the registrar should have the power to impose a civil penalty in the form of a fine on a society which is late in filing their annual return (in line with equivalent penalties under company law)?

We do support this proposal as societies are required to file their annual returns on time. A civil fine would be more proportionate prior to any criminal prosecution as a way of encouraging compliance with this requirement. We again would ask for flexibility and proportionality to be applied where there have been genuine unforeseen reasons given for the late submission.

Consultation Question 66 - We provisionally propose that the registrar should be able to use their available powers of intervention where the registrar believes that intervention is appropriate in the circumstances (rather than “only to the extent necessary to maintain confidence” in societies). Do you agree?

We partially support this proposal subject to refinement. While misconduct is rare within societies, we do believe that ensuring the risk of abuse is minimised by having further clarification on the FCA’s powers

of intervention. ABCUL is concerned at the lack of definition as to when a registrar can exercise its powers we feel “only to the extent necessary to maintain confidence” is very open-ended. We would support that the registrar should be able to use their powers of intervention where the registrar believes intervention is appropriate to protect the rights of members or creditors, where the registrar believes it is appropriate to ensure the society complied with its rules, and where the registrar believes intervention is appropriate to ensure a society complied with the conditions of registration. We would also propose that societies should be able to appeal against interventions made by the registrar which should be reviewed by an independent body if required.

Credit Unions

Consultation Question 79 - Do you think that there is a need to reform the law relating to credit unions? If so, what reforms do you think are needed? Do any of the proposed changes to the CCBS Act have particular consequences for credit unions that we need to consider?

We would strongly support the reform of the law relating to credit unions. ABCUL do support the prospect of having credit union legislation entirely separate from the CCBS Act. This would however need to come with the reassurance that credit unions would not lose any of their current exemptions.

We acknowledge the current Call for Evidence on reform of the credit union common bond published by HM Treasury, and we will be submitting a response on behalf of our members so will exclude these points from this response.

We have detailed below some other of areas we would support if reforms to the Credit Union Act we to take place.

- Subsidiaries & CUSO's – We would support that the Credit Union Act is amended to clarify that a credit union may hold subsidiaries which could be wholly owned when the subsidiary is not providing regulated financial services. If it was a subsidiary providing regulated financial services, then we propose it must be subject to one credit union not being able to hold more than 50% of the CUSO. The Government wants to achieve a doubling of the co-

operatives and mutuals sector by allowing these changes it will enable credit unions to grow sustainably and contribute to the overall plan.

- **Central Finance Facility (CFF)** – We have previously discussed with HM Treasury the benefit of a central finance function to enable credit unions with a greater reserve to lend to other credit unions with a need for further capital. The CFF would only provide its services to credit unions, in effect acting as the “credit unions’ credit union”. The CFF would be established to serve the credit union industry by providing opportunities for investments through pooling of resources to enable higher rates of return. The CFF would provide liquidity support to credit unions that are experiencing unusual or unexpected liquidity shortfalls.
- **Clarification on Investments** – Previous to the amendment made to the Credit Union Act (CUA) in 2001 as part of the Financial Services and Markets Act 2000 (Mutuals Societies) Order 2001, section 13(1) of the CUA clarified the types of investment permissible with surplus funds to credit unions. This function was then transferred to HM Treasury. ABCUL feel it would be beneficial for the act to detail the permissible investment opportunities for credit unions within the Act, including the clarification on the permission for credit unions to invest their resources in ventures which seek to advance their objects as a credit union. The current legislation and regulation do not address the credit unions who may wish to invest in a CUSO or third-party entities (suppliers) in order to address business needs. This is a barrier for possible investment opportunities.

Consultation Question 80 - As regards the topics set out in Chapter 8, we have provisionally concluded against reform. Do you think that any of those topics needs revisiting, and if so why?

Identity of the Registrar – We would support for the identity of the registrar to be reviewed. We understand the FCA currently provides this service well, however with the increasing demands being placed on the FCA the registrar role may be better placed within another department like Companies House.

Please get in touch at advocacy@abcuk.org should you wish to discuss our response.

Yours faithfully,



Natalie McQuade

Head of Advocacy and Regulatory Affairs, ABCUL