

CREDIT UNIONS SOURCEBOOK (AMENDMENT NO 6) INSTRUMENT 2004

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the power in section 157(1) (Guidance) of the Financial Services and Markets Act 2000.

Commencement

- B. This instrument comes into force on 1 January 2005.

Amendments to the Credit Unions sourcebook

- C. The Credit Unions sourcebook is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Credit Unions Sourcebook (Amendment No 6) Instrument 2004.

By order of the Board
20 October 2004

Annex

Amendments to the Credit Unions sourcebook

In this annex, underlining indicates new text and striking through indicates deleted text. Where an entire new section of text is being inserted, the place where it goes is indicated and it is not underlined.

2.7.1 G ... Where a word or phrase which is shown in italics in one part of the text appears without italics in another part, it is meant to be given, where un-italicised, its ordinary natural meaning. See CRED 13 Annex 1A G 1(2) on the meaning of "credit union".

...

13.2.1 G Registration and becoming *authorised* as a *credit union* are two distinct statutory processes. The Credit Unions Act 1979 sets out the statutory requirements for registration and the *Act* sets out the statutory requirements relating to *authorisation*. Section 1 of the Credit Unions Act 1979 as amended (see CRED 13 Ann 1B G) provides that a credit union may not be registered unless it has applied to the FSA for a *Part IV permission to accept deposits*...

...

13.4.1 G (1) For registration, applicants must demonstrate to the satisfaction of the *FSA* that the statutory conditions set out in section 1 of the Credit Unions Act 1979 will be fulfilled. *CRED 13 Ann 1G* contains a table listing these statutory conditions.

(a) One of the conditions is that the objects of the credit union are those, and only those, of a credit union. The objects are set out in full in ~~the table~~ *CRED 13 Ann 1B G*. ...

(b) Another condition is that admission to membership of the credit union is restricted to persons who fulfil an appropriate membership qualification ("AMQ") and that in consequence a common bond exists among the members (see *CRED 13 Ann 1A G – CRED 13 Ann 1C G*).

...

Requirements of Registration

- 1 Table The requirements of registration under the Industrial and Provident Societies Act 1965, as set out in the Credit Unions Act 1979 and referred to in *CRED* 13.4.1G.

REQUIREMENT	SECTION OF THE RELEVANT ACTS
That the objects of the society are those, and only those of a credit union	Credit Unions Act 1979, s.1(2)(a)
The objects of a credit union are:	
<u>See <i>CRED</i> 13 Ann 1B G Section 1 of the Credit Unions Act 1979 (as amended).</u>	Credit Unions Act 1979, s.1(3)
the promotion of thrift among the members of the society by the accumulation of their savings	
the promotion of thrift among the members of the society by the accumulation of their savings	Credit Unions Act 1979, s.1(3)
the creation of sources of credit for the benefit of the members of the society at a fair and reasonable rate of interest	Credit Unions Act 1979, s.1(3)
the use and control of the members' savings for their mutual benefit	Credit Unions Act 1979, s.1(3)
the training and education of the members in the wise use of money and in the management of their financial affairs	Credit Unions Act 1979, s.1(3)
That admission to membership of the society is restricted to individuals all of whom fulfil a specific qualification which is appropriate to a credit union (and that in consequence a "common bond" exists between members).	Credit Unions Act 1979, s.1(2)(b)
The appropriate membership qualifications ("AMQs") for a credit union are:	
<u>See <i>CRED</i> 13 Ann 1B G Section 1 of the Credit Unions Act 1979 (as amended) - <i>CRED</i> 13 Ann 1C G Qualifications approved by the FSA (and the Registry of Friendly Societies).</u>	Credit Unions Act 1979, s.1(4)(a)
following a particular occupation	
residing in a particular locality	Credit Unions Act 1979, s.1(4)(b)
being employed in a particular locality	Credit Unions Act 1979, s.1(4)(c)
being employed by a particular employer	Credit Unions Act 1979, s.1(4)(d)
being a member of a bona fide organisation or being otherwise associated with other members of the society for a purpose other than that of forming a society to be	Credit Unions Act 1979, s.1(4)(e)

<p>registered as a credit union residing in or being employed in a particular locality</p>	<p>Credit Unions Act 1979, s.1(4)(f)</p>
<p>and such other qualifications as are for the time being approved by the FSA</p>	<p>Credit Unions Act 1979, s.1(4)</p>
<p>The following qualifications (in addition to those set out in section 1(4) of the Credit Unions Act 1979) have been approved by the FSA or its predecessor, the Registry of Friendly Societies:</p>	
<p>being currently in receipt of a continuing and regular contractual payment arising from employment by a particular employer</p>	<p>Credit Unions Act 1979, s.1(4)</p>
<p>being currently in receipt of a continuing and regular contractual payment arising from employment by particular employers in a particular area</p>	<p>Credit Unions Act 1979, s.1(4)</p>
<p>being currently in receipt of a continuing and regular payment arising from participation in the provision of a public service of a particular nature, or of particular services associated with such participation</p>	<p>Credit Unions Act 1979, s.1(4)</p>
<p>residing in a particular locality, or being a member of a bona fide organisation or group of organisations (or otherwise having a continuing and active association with one or more of such organisations) existing within that locality for a purpose other than that of forming a society to be registered as a credit union</p>	<p>Credit Unions Act 1979, s.1(4)</p>
<p>That the rules of the credit union are in a form as agreed by the FSA and provide for all matters required by the legislation.</p>	<p>Credit Unions Act 1979, s.4(1) and Schedule 1</p>
<p>That the registered office of the credit union is in Great Britain.</p>	<p>Credit Unions Act 1979, s.1(1)(c)</p>
<p><u>See CRED 13 Ann 1B G Section 1 of the Credit Unions Act 1979 (as amended).</u></p>	<p><u>Credit Unions Act 1979, s.1(1)(c)</u></p>

After CRED 13 Annex 1 G insert the following new annexes: CRED 13 Annex 1A G, CRED 13 Annex 1B G and CRED 13 Annex 1C G as follows:

CRED 13 Annex 1A G

Common bond

Application

1. (1) This Annex is relevant to:
 - (a) societies (typically known as “study groups”) seeking registration as credit unions (see *CRED* 13 Ann 1A G 1(2)); and
 - (b) credit unions seeking to amend their membership qualifications.
- (2) When the term “credit union” is in italics, its definition is in the *Glossary* to the *FSA Handbook*, which reads: “a body corporate registered under the Industrial and Provident Societies Act 1965 as a credit union in accordance with the Credit Unions Act, which is an *authorised person*”. When the term is not in italics, it may also refer to a credit union that does not have permission to take deposits, but is merely registered, or is a study group or other association seeking to be registered as a credit union. The term is only intended to refer to a credit union in Great Britain, not one in Northern Ireland.

Introduction

2. (1) This Annex relates to section 1 of the Credit Unions Act 1979 (see *CRED* 13 Ann 1B G). It explains how the *FSA* exercises its statutory function of satisfying itself before registration that a common bond exists among the members of a credit union.
- (2) These are the key points covered by this Annex:
 - (a) the need for a common bond is fundamental to the regulatory regime for credit unions;
 - (b) an “appropriate membership qualification” does not necessarily create a common bond;
 - (c) the *FSA* has adopted the following policy for the geographical extent of terms limiting membership qualifications:
 - (i) “locality” is comparable in extent to a principal tier of local government (for example: a single city, London borough or county); and

- (ii) “area” is comparable in extent to a single administrative region (for example: Scotland, Wales, North-East England or London);
- (d) a membership qualification based on association between members may be combined with another qualification set out in section 1(4) of the Credit Unions Act 1979 (for example, residing in or being employed in a particular locality - see *CRED* 13 Ann 1B G) but not with additional qualifications created under that subsection;
- (e) common bonds cannot be infinitely extended, so the *FSA* has adopted the policy of using the following presumptions for or against the existence of a common bond for different numbers of persons eligible for membership:
 - (i) up to 100,000 – there is a presumption for the common bond (if supported by a statutory declaration – see *CRED* 13 Ann 1A G 2(2)(g));
 - (ii) from 100,000 to 1 million – there is no presumption either way: the credit union has to make a case; and
 - (iii) over 1 million – there is a presumption against the common bond: the credit union will have to have particularly strong arguments to succeed in making a case;
- (f) the common bond is not a franchise, so:
 - (i) when deciding whether to approve a common bond, the *FSA* will not take into account whether the proposed area overlaps the area of another credit union; and
 - (ii) it is not necessary for a credit union to demonstrate an intention to service the whole of its common bond area;
- (g) (i) three members and the secretary of a credit union may make a statutory declaration that as a result of the qualification for admission to membership, a common bond exists between the members (but the *FSA* may require other evidence – see *CRED* 13 Ann1A 7(2)(b));
 - (ii) there is a special form for this purpose;
 - (iii) a statutory declaration is made under the provisions of the Statutory Declarations Act 1835 and must be signed before a solicitor or commissioner for oaths or notary public or justice of the peace;

- (iv) it is a criminal offence knowingly or wilfully to make a false statutory declaration, and an offender may be imprisoned or fined or both.

Statutory function

- 3. A credit union may be registered if the *FSA* is satisfied (among other things) that admission is restricted to persons who fulfil an “appropriate membership qualification”, in consequence of which a “common bond” exists among the members (sections 1(1)(a) and 1(2)(b) of the Credit Unions Act 1979 (*CRED* 13 Ann 1B G)).

Handbook material

- 4. *DEC* 1.2.8G – *DEC* 1.2.10G provide guidance on who within the *FSA* makes decisions under section 1 of the Credit Unions Act 1979. It is possible for such decisions to be taken to judicial review. *CRED* 13 (Registration and authorisation) is concerned with the registration and authorisation of credit unions.

What is a common bond?

- 5. (1) The Credit Unions Act 1979 provides for the registration of credit unions under the Industrial and Provident Societies Act 1965 (the Act under which bona fide co-operatives are registered).
- (2) Credit unions are only allowed to have the objects set out in section 1(3) of the Credit Unions Act 1979 (see *CRED* 13 Ann 1B G). They are thus restricted to providing services to their members, not to the public at large.
- (3) Membership of a credit union must be restricted by an “appropriate membership qualification” that creates a common bond (section 1(2)(b) of the Credit Unions Act 1979 - see *CRED* 13 Ann 1B G and *CRED* 13 Ann 1C G).
- (4) It is apparent from the Parliamentary debates on the Credit Unions Act 1979 that persons who had a common bond were envisaged as having some degree of shared identity, a sense of belonging or a collective interest. The *FSA* considers that the bond should be sufficient to encourage members to do some or all of the following:
 - (a) play an active role in the credit union (for example, by volunteering);
 - (b) save regularly; and
 - (c) repay loans promptly.

The sense of obligation to save and repay among the members of credit unions would be greater than among persons dealing with an ordinary commercial provider.

- (5) The decision whether or not a common bond exists is made under the Credit Unions Act 1979, so the basis for the *FSA*'s decision will be confined to criteria under that Act, and prudential issues will not be directly involved. However, in discharging its responsibilities under the *Act*, the *FSA* will need to satisfy itself that the credit union will meet or continue to meet the *threshold conditions* and not put its members' funds at risk. These issues will be considered in a risk-based manner when the *FSA* decides whether or not to give a credit union permission to accept deposits. Section 1 of the Credit Unions Act 1979 as amended (see *CRED* 13 Ann 1B G) provides that a credit union may not be registered unless it has applied to the *FSA* for such permission, and the *FSA* shall not register a credit union unless it proposes to give the credit union permission. The *FSA* may give the credit union an opportunity of withdrawing an application for registration if it considers that it will not be able to grant authorisation. Prudential issues will also be considered separately when a credit union seeks to amend its membership qualification.
- (6) It is important that a credit union should not admit to membership any person who does not share the common bond; that is any person who is ineligible under the credit union's membership qualification. *CRED* 13 Ann 2G provides further guidance about the consequences of admitting ineligible persons.

What is an “appropriate membership qualification”?

6. (1) “Appropriate membership qualifications” are such qualifications as “residing in a particular locality”, “being employed by a particular employer” and “being a member of a bona fide organisation”. Some of the qualifications were included when the Credit Unions Act 1979 was passed; others have been added to that Act by Deregulation and other Orders; and others have been approved by the *FSA*, or its predecessor, the Registry of Friendly Societies. A full list of “appropriate membership qualifications” is given in *CRED* 13 Ann 1B G (Section 1 of the Credit Unions Act 1979, as amended) and *CRED* 13 Ann 1C G (Qualifications approved by the *FSA* (and the Registry of Friendly Societies)). The *FSA* has power to approve further qualifications.
- (2) The membership of a credit union is made up of the following types of member:
 - (a) directly qualifying member – who fulfils the “appropriate membership qualification”;
 - (b) indirectly qualifying member (“family member”) - who lives in the same household as, and is a relative of, a directly qualifying member; and

- (c) non-qualifying member – who joined the credit union as a directly or indirectly qualifying member, but has ceased to be so.

Further guidance on eligibility for membership of a credit union is given in *CRED 13 Ann 2G*.

- (3) The two concepts of the “appropriate membership qualification” and the “common bond” are often treated in the credit union sector as though they were interchangeable, but this is not the case. The “appropriate membership qualification” exists as the basis for creating the common bond: thus, the “appropriate membership qualification” may be viewed as the cause and the “common bond” the effect. But the fact that there is an “appropriate membership qualification” does not necessarily mean that there will be a “common bond”.
- (4) For registration to be possible, both the “appropriate membership qualification” and the “common bond” have to be in place. On examining the “appropriate membership qualification”, the *FSA* could in theory infer from it the existence of a “common bond” (section 1(5)(b) of the Credit Unions Act 1979 – see *CRED 13 Ann 1B G*) without a statutory declaration or further evidence. However, the *FSA* is unlikely to be able to make this inference for any but the smallest of population pools – see *CRED 13 Ann 1A 7(2)*.
- (5) Since the Regulatory Reform (Credit Unions) Order 2003, it is possible for a credit union to adopt a membership qualification combining association and one of the other qualifications set out in section 1(4)(a), (b), (c), (d) or (f) of the Credit Unions Act 1979, as amended (without the need for the *FSA* to approve an additional qualification for each combination, under the power in the tailpiece to that subsection – see *CRED 13 Ann 1B G*). For example, a credit union may now adopt a membership qualification under which some members reside in the locality (but do not belong to a bona fide organisation there) and other members belong to a bona fide organisation in the locality (but do not reside there). However, a credit union cannot combine association and one of the qualifications approved by the *FSA* or Registry of Friendly Societies (see *CRED 13 Ann 1C G* and *CRED 13 Ann 1A G 10(2)*); nor may the qualifications in section 1(4)(a), (b), (c), (d) or (f) of the Credit Unions Act 1979, as amended, be combined with each other (see *CRED 13 Ann 1B G*).

- (6) Having chosen an “appropriate membership qualification” from the list, it has always been possible for a credit union to impose within its registered rules an additional requirement upon members. This is the effect of the words in section 1(2)(b) of the Credit Unions Act 1979 see *CRED* 13 Ann 1B G: “whether or not any other qualifications are also required by the rules”. Thus it has always been possible to adopt a requirement that each member of the credit union must both reside and belong to a bona fide organisation in the locality. Under such a qualification, neither a person who merely resides (but does not belong to the organisation), nor one who merely belongs to the organisation (but does not reside) may join the credit union.
- (7) *CRED* 13 Ann 1C G lists the qualifications approved by the *FSA* (or its predecessor, the Registry of Friendly Societies). The *FSA* has power, as previously mentioned, to approve further qualifications.

What has the FSA to decide?

- 7. (1) In relation to membership, the *FSA* has to be satisfied on two counts:
 - (a) there is an “appropriate membership qualification” ; and
 - (b) in consequence of the “appropriate membership qualification”, a common bond exists.

It is a two-stage process: the first stage is factual (a question of technical validity); the second is judgemental (and potentially subjective).

- (2) If it considers it proper in the circumstances of the case, the *FSA* may:
 - (a) infer the existence of a common bond from the appropriate membership qualification (but see *CRED* 13 Ann 1A G 6(4)); or
 - (b) rely on a statutory declaration (by 3 members and the secretary of the credit union or prospective credit union – see *CRED* 13 Ann 1A 2(2)(g)) that a common bond exists (section 1(5) of the Credit Unions Act 1979 – see *CRED* 13 Ann 1B G). Even where a statutory declaration is given, the *FSA* may require other evidence to support the credit union’s (or prospective credit union’s) contention that there is a common bond.

Meaning of “locality ” in “appropriate membership qualifications ” based on residence

- 8 (1) Although several of the “appropriate membership qualifications” (see *CRED* 13 Ann 1B G - *CRED* 13 Ann 1C G) use the term “locality”, it is not defined by the Credit Unions Act 1979. Historically, the Registry of Friendly Societies took a fairly restrictive view of its meaning, but the *FSA* is taking a broader one, drawing on case law and other statutory uses of that term.

- (2) The *FSA*'s working definition is that a "locality" is a natural geographical or administrative unit, comparable in size (but not limited to) the principal tier of local government in Great Britain, that is unitary authorities or county councils. The justification for this is that the common provision of "local" public services is currently made at this level.
- (3) So the *FSA* will generally accept that "locality" extends up to the area covered by such local authorities, and so may cover such areas as single cities, London boroughs or counties. If larger areas were proposed, the onus would lie with credit unions to demonstrate that they still constituted a "locality". Even if a geographical or administrative area satisfies the criteria for being a "locality", that does not mean that there will be a common bond (see *CRED* 13 Ann 1A G 2(2)(b) and 11(1)–(5)).

Meaning of "area " in "appropriate membership qualifications " based on employment

9. The "appropriate membership qualification" based on employment in *CRED* 13 Ann 1C G uses the term "area", but this is not defined in the Credit Unions Act 1979. The *FSA* accepts that the term "area" is potentially much larger in scope than "locality", and that it could extend up to the size of a single standard administrative region within Great Britain. So, for example, Scotland, Wales, the North-East of England or Greater London could be regarded as "areas" for the purpose of this "appropriate membership qualification". To be acceptable, it is not necessary for the boundary proposed by a credit union to coincide with an actual standard administrative region.

Regulatory Reform (Credit Unions) Order 2003 and associational "appropriate membership qualification"

10. (1) The "appropriate membership qualification" in section 1(4)(e) of the Credit Unions Act 1979 is that of "being a member of a bona fide organisation or being otherwise associated with other members of the society for a purpose other than that of forming a society to be registered as a credit union". So the members must be associated through something other than the credit union. The stronger the character of the association between the individuals, the more likely it is to form the basis for the existence of a common bond.

- (2) As a result of the Regulatory Reform (Credit Unions) Order 2003, it is now possible for a credit union to adopt a membership qualification combining association and one of the other qualifications set out in section 1(4)(a), (b), (c), (d) or (f) of the Credit Unions Act 1979, as amended (without the need for the *FSA* to approve an additional qualification for each combination, under the power in the tailpiece to that subsection - see *CRED 13 Ann 1B G* and *CRED 13 Ann 1A G 6(5)*). However, it is not possible for a credit union to combine association and one of those qualifications specifically approved by the *FSA* or its predecessor, the Registry of Friendly Societies - see *CRED 13 Ann 1C G* and *CRED 13 Ann 1A G 6(5)*, nor may the qualifications in section 1(4)(a), (b), (c), (d) or (f) of the Credit Unions Act 1979, as amended, be combined with each other. This means that a single credit union may be properly formed for persons who:
- (a) live or work in a locality; or
 - (b) associate with the residents and workers (through, for example, attending a religious centre in the locality).
- (3) However, it is still necessary to establish that the qualifications establish a common bond: this may be difficult if there is no shared identity between the members qualifying under the different qualifications (even where the population pool is below 100,000 – *CRED 13 Ann 1A G 11(3)*).

Overall size of population pool for “appropriate membership qualifications”

11. (1) It is in the nature of the common bond that the concept cannot be infinitely expanded: the larger the eligible population pool covered by an “appropriate membership qualification”, the weaker or less plausible will be the existence of a common bond.
- (2) It is not practical to expect credit unions to operate on the basis that members will be fully acquainted with each other, but there has to be some mutual identification, and some point at which this ceases to have a significant effect.
- (3) The Registry of Friendly Societies (a predecessor of the *FSA*) adopted 100,000 as an indicative maximum for the size of the residential population in a common bond area. The *FSA* has further developed that thinking through its decisions in subsequent cases. For full transparency, the indicative bands currently used by the *FSA* are set out below:
- (a) where an “appropriate membership qualification” covers a pool of up to 100,000 people eligible to be members:
 - (i) there is a presumption in favour of the existence of a common bond; and

- (ii) the *FSA* will (provided the “appropriate membership qualification” is technically valid and there are no unusual features) generally accept a simple explanation of the nature of the common bond, together with a statutory declaration (but see *CRED* 13 Ann 1A G 10(3)).
- (b) where an “appropriate membership qualification” covers a pool of between 100,000 and 1 million eligible people:
 - (i) there is no presumption in favour of the existence of a common bond; and
 - (ii) the *FSA* expects the credit union to make a positive, convincing case, marshalling all the information relevant to establishing that a common bond exists among the members.
- (c) where an “appropriate membership qualification” covers a pool of more than 1 million eligible people:
 - (i) there is a presumption that the common bond is so dilute as to be meaningless; but
 - (ii) it is open to a credit union to make a submission to convince the *FSA* that a common bond exists among the members: but its arguments would have to be particularly strong for it to succeed in making a case.
- (4) The *FSA*’s decision whether or not to accept the existence of a common bond (for a new or prospective credit union) is made on an individual basis. So decisions (whether made by the *FSA* or its predecessor, the Registry of Friendly Societies) create no binding precedent that a population pool of a given size is acceptable for a particular “appropriate membership qualification”.
- (5) Given the range of “appropriate membership qualification” and the different populations covered, it is not possible to be prescriptive about the information necessary to show that a common bond is real. In general, it has been the experience of the Registry of Friendly Societies and the *FSA* that it is fairly straightforward to make a plausible case for the existence of a common bond where the “appropriate membership qualification” is based on employment by a single employer. For residential qualifications, applicants should draw on their local knowledge to identify those elements, geographical and social that create a sense of cohesion. For a qualification based on living or working in a particular locality, the applicants might wish to identify the ways in which workers from outside the area become involved in the activities of the residential community.

- (6) The size thresholds set out above apply to the number of persons eligible for membership under any “appropriate membership qualification”, not just ones based on residence.

Overlapping common bond areas

12. A common bond area cannot be regarded legally as a franchise, giving exclusive rights of access to a particular area or pool of potential members. The *FSA* recognises the value of consolidation in providing stronger entities, but there is no justification in current legislation for refusing the registration of a new credit union in an area already served by existing credit unions, nor even for consulting them: the *FSA's* decision on registration is based only on the criteria in the Credit Unions Act 1979 (see *CRED* 13 Ann 1A G 5(5)). In the absence of express statutory support, it would be wrong for the *FSA* to act in a manner that could be construed as anti-competitive. So the *FSA* will not refuse registration on the grounds of overlap, nor will it undertake to consult credit unions whose common bond area may be overlapped by a later registration.

Servicing whole of area

13. Since the common bond is not a franchise, the *FSA* will not expect a credit union to service fully the whole of its area or population pool. But where the “appropriate membership qualification” covers a large population pool, the inference is that the bond is likely to be weaker, and there will need to be more justification. An intention to service only part of the area does not help to establish whether or not the “appropriate membership qualification” establishes a common bond for the area as a whole.

Mergers

14. (1) The Credit Unions Act 1979 allows credit unions to merge, either by amalgamation (where a new credit union is created and the constituents cease to exist) or by transfer of engagements (where the credit union transferring its engagements ceases to exist, but the enlarged credit union accepting the engagements continues).
- (2) For either of these procedures to be practicable in individual cases:
 - (a) the merged credit union will need to have an “appropriate membership qualification” that creates a “common bond”; and
 - (b) members of the constituent credit unions will need to be eligible for membership of the merged credit union.
- (3) So in individual cases:

- (a) it might not be possible for the merged credit union to adopt an “appropriate membership qualification” (for example, the new catchment area required for the merger of two residential credit unions might not qualify under the definition of “locality” – see *CRED 13 Ann 1A G 8(1)-(3)*);
- (b) even though each credit union seeking to merge has a “common bond” among its own members, this does not necessarily mean that there would be a common bond among all the members of the merged credit union (for example, too large a population pool might be produced by the merger – see *CRED 13 Ann 1A G 11(1)*).

What information does a credit union need to provide in support of a common bond application?

15 Table

Population pool	Information needed
Up to 100,000	Statutory declaration Simple explanation of common bond (subject to <i>CRED 13 Ann 1A G 10(3)</i>)
100,000 to 1 million	Convincing case that common bond exists
Over 1 million	Evidence to rebut presumption against existence of common bond (special factors generating particular interaction in this population pool, despite its large size and the dilution normally expected in such circumstances)

CRED 13 Annex 1B D

Section 1 of the Credit Unions Act 1979 (as amended)

1. Registration as a credit union
 - (1) Subject to ... sections 2(1) and 7(1) of the Industrial and Provident Societies Act 1965 (in this Act referred to as “the 1965 Act”), a society may be registered under that Act if:
 - (a) it is shown to the satisfaction of the Authority that the conditions specified in subsection (2) below are fulfilled;
 - (b) the rules of the society comply with section 4(1) [of this Act];
 - (c) the place which under those rules is to be the society’s registered office is situated in Great Britain;
 - (d) the society has made an application to the Authority for Part IV permission under section 40 of the Financial Services and Markets Act 2000 (in this Act referred to as “the 2000 Act” to accept deposits; and
 - (e) the Authority is satisfied that, once registered under the 1965 Act, the society will satisfy, and continue to satisfy, the *threshold conditions* set out in Schedule 6 to the 2000 Act in relation to the regulated activity of accepting deposits; and a society which is so registered by virtue of this section shall be registered as, and is in this Act referred to as, a “credit union”.
 - (1A) The Authority shall not issue an acknowledgement of registration under section 2(3) of the 1965 Act to a credit union unless it also proposes to give that society permission under Part IV of the 2000 Act to accept deposits.
 - (2) The conditions referred to in subsection (1)(a) above are –
 - (a) that the objects of the society are those, and only those, of a credit union; and
 - (b) that as a result of any provision of the rules, admission to membership of the society meets the requirement specified in subsection (3A) or (3B) below (whether or not any other qualifications for admission to membership are also required by the rules) and that in consequence, a common bond exists between members of the society.
 - (3) The objects of a credit union are –

- (a) the promotion of thrift among the members of the society by the accumulation of their savings;
 - (b) the creation of sources of credit for the benefit of the members of the society at a fair and reasonable rate of interest;
 - (c) the use and control of the members' savings for their mutual benefit; and
 - (d) the training and education of the members in the wise use of money and in the management of their financial affairs.
- (3A) The requirement specified in this subsection is that admission to membership of the society is restricted to persons all of whom fulfil the same specific qualification for admission to membership, being a qualification specified in, or approved under, subsection (4) below as being appropriate to a credit union.
- (3B) The requirement specified in this subsection is that admission to membership of the society is restricted to persons each of whom fulfils either –
- (a) the qualification for admission to membership specified by paragraph (e) of subsection (4) below as being appropriate to a credit union; or
 - (b) the same specific qualification for admission to membership, being a qualification which is so specified in paragraph (a), (b), (c), (d) or (f) of that subsection.
- (4) The qualifications for admission to membership which are appropriate to a credit union are –
- (a) following a particular occupation;
 - (b) residing in a particular locality;
 - (c) being employed in a particular locality;
 - (d) being employed by a particular employer;
 - (e) being a member of a bona fide organisation or being otherwise associated with other members of the society for a purpose other than that of forming a society to be registered as a credit union;
 - (f) residing in or being employed in a particular locality;
- and such other qualifications as are for the time being approved by the Authority.

- (5) In ascertaining whether a common bond exists between the members of a society, the Authority –
- (a) may, if it considers it proper in the circumstances of the case, treat as sufficient evidence of the existence of a common bond a statutory declaration which is given by three members and the secretary of the society, and is to the effect that a common bond exists
 - (b) may, if it considers it proper in the circumstances of the case, treat the fact that admission to membership is restricted as mentioned in subsection (2)(b) above as sufficient evidence of the existence of a common bond.
- (6) For the purposes of this Act, if the rules of a credit union so provide, a person shall be treated as fulfilling a qualification for admission to membership stated in those rules if he is a member of the same household as, and is a relative of, another person who is a member of the credit union and fulfils that qualification directly.

In section 1 of the Credit Unions Act 1979, the *FSA* is referred to as "the Authority".

CRED 13 Annex 1C D

Qualifications approved by the FSA (and the Registry of Friendly Societies)

1. The following qualifications (in addition to those set out in section 1(4) of the Credit Unions Act 1979) have been approved by the FSA (and the Registry of Friendly Societies ("RFS")):
 - (1) being currently in receipt of a continuing and regular contractual payment arising from employment by a particular employer;
RFS: 25 February 1994
 - (2) being currently in receipt of a continuing and regular contractual payment arising from employment by particular employers in a particular area;
RFS: 6 October 1994
 - (3) being currently in receipt of a continuing and regular payment arising from participation in the provision of a public service of a particular nature, or of particular services associated with such participation;
RFS: 22 May 1998
 - (4) residing in a particular locality, or being a member of a bona fide organisation or group of organisations (or otherwise having a continuing and active association with one or more of such organisations) existing within that locality for a purpose other than that of forming a society to be registered as a credit union;
RFS: 15 November 1999
 - (5) being employed by an undertaking in a particular group of employers (and for this purpose "group" has the same meaning as in section 421 of the Financial Services and Markets Act 2000).
FSA 1 January 2005
2. Section 421 of the *Act*:
 - (1) In this *Act* "group", in relation to a person ("A"), means A and any person who is-
 - (a) a parent undertaking of A;
 - (b) a subsidiary undertaking of A;
 - (c) a subsidiary undertaking of a parent undertaking of A;
 - (d) a parent undertaking of a subsidiary undertaking of A;
 - (e) an undertaking in which A or an undertaking mentioned in

paragraph (a), (b), (c) or (d) has a participating interest;

- (f) if A or an undertaking mentioned in paragraph (a) or (d) is a building society, an associated undertaking of the society; or
 - (g) if A or an undertaking mentioned in paragraph (a) or (d) is an incorporated friendly society, a body corporate of which the society has joint control (within the meaning of section 13(9)(c) or (cc) of the Friendly Societies Act 1992).
- (2) "Participating interest" has the same meaning as in Part VII of the Companies Act 1985 or Part VIII of the Companies (Northern Ireland) Order 1986; but also includes an interest held by an individual which would be a participating interest for the purposes of those provisions if he were taken to be an undertaking.
- (3) "Associated undertaking" has the meaning given in section 119(1) of the Building Societies Act 1986.

CRED Appendix 2

2.1 Detailed contents of CRED

2.1.1 Table

13 Registration and Authorisation

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Ann 1 Requirements of Registration [table]

Ann 1A Common bond

Ann 1B Section 1 of the Credit Unions Act 1979 (as amended)

Ann 1C Qualifications approved by the FSA (and the Registry of Friendly Societies)

Ann 2 Eligibility for membership of a credit union