



Review of the GB cooperative and credit union legislation: a consultation

Response from the Association of British
Credit Unions Ltd (ABCUL)

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Executive Summary

The Association of British Credit Unions welcomes the opportunity to respond to this consultation. We have given our views on what legislative changes are needed for the credit union movement to scale up its expansion and increase the availability of ethical and inclusive financial services across Britain.

Over the past ten years credit unions in Britain have embraced change; they have developed new ways of operating and developed new products to meet new needs. As credit unions develop more professional ways of working we are seeing more credit unions in visible, high street premises with paid staff and more convenient accessible services.

Credit unions have been at the forefront of the Government's fight against financial inclusion in recent years. In communities around Britain, credit unions are increasing the availability of affordable credit, safe savings, budgeting and advice services and banking.

Credit unions still only provide services to 1.4% of the adult population yet the need for affordable credit, safe savings facilities and other inclusive financial services is evident in communities around the country.

To scale up and be able to achieve their potential, credit unions need legislation which will enable them to react flexibly to the changing financial needs of their communities. Barriers to stop credit unions developing innovative services, expanding into areas without access to credit union services and mobilising savings through convenient methods are presently enshrined in legislation.

Our response outlines a number of changes which will enable the credit union movement to deliver a range of sustainable, inclusive financial services to anyone in Britain. This will also enable credit unions to have a far larger involvement in Government policy agendas including financial inclusion and financial capability.

To enable this, credit unions need to be able to: -

- Choose to whom they provide services within a restricted membership;
- Develop new products to meet the changing needs of members and attract new members;
- Attract inward investment and raise credibility through provision of services to social housing providers, employers and other corporate members.

We have consulted widely with our member credit unions and drawn on best practice information from the World Council of Credit Unions to develop our response. We believe there is a compelling case for legislative change.

Introduction

ABCUL and our consultation with members

As the principal trade association for credit unions in England, Scotland and Wales, the Association of British Credit Unions Ltd welcomes the opportunity to respond to this review. ABCUL represents 360 of the 520 credit unions currently operating in England, Scotland and Wales. These credit unions provide services to around 85% of the credit union members in Great Britain and hold around 85% of the assets contained in British credit unions.

We have consulted widely with our membership to gather information and evidence for this response. We have held 8 meetings at which 175 people from 100 credit unions discussed the proposals. We have taken opportunities at other meetings to discuss these issues with our members and we have also raised discussions on our members' website and conducted single-issue polls on the site. Finally, we carried out a comprehensive online survey, which was also sent out as a hard copy, to which 101 people from 97 credit unions and 2 credit union study groups responded. Details of the meetings and survey are contained in Appendices 1 and 2.

This consultation period has fallen at a very busy time for the credit union movement. Many organisations have been surveying credit unions over the last three months and asking them to be involved in consultations for a variety of reasons. Despite these numerous demands being placed upon credit unions and the confusion that naturally occurs when a number of consultations are taking place at the same time, we have found that the level of enthusiasm for this consultation amongst our members has been high. We have also encouraged our members to let HMT know whether they endorse our final submission in this consultation.

Changing credit unions – the policy context

The past few years have seen many changes to how British credit unions operate and credit union membership has grown as a result of this. This is the right time to be reviewing the legislation for the sector. Much of the credit union movement has embraced change that would have been hard to foresee ten years ago. It has adopted new ways of working and developed new products to meet the needs of members. Credit unions are now visible in many high streets around Britain and members can receive wages and benefits into their accounts. In a new and exciting development some credit union members can use ATM machines and electronic transactions to manage their money. The credit union movement wants to do more to meet the needs of people in communities and workplaces around Britain; to do this it needs to scale up both in terms of coverage and capacity. The movement has identified what it needs to be able to achieve this and at the top of the list is legislative reform. Successful credit union systems all over the world are built upon a strong foundation of enabling legislation. Legislation needs to enable credit unions to continue evolving to meet the diverse and changing needs of many more people.

Over the past decade, ABCUL has been at the forefront of moves to encourage credit unions to adopt a professional and inclusive approach to financial services. In this period there has been a significant shift in the thinking of the credit union sector. This started in 1999 with the publication of *Towards Sustainable Credit Union Development*¹. In this publication, author Paul Jones asserted;

"[Credit unions] growth and development has been held back in Britain due to restrictive legislation and inappropriate models of development, despite the expenditure of millions of public money. Their future is very positive in Britain but work needs to be refocused, growing credit unions in communities which are more business-like and which face their futures more realistically."

In the years since the publication of *Towards Sustainable Credit Union Development*, ABCUL has worked with its members to promote development models which promote safe and sustainable credit unions which are able to provide a range of services to the communities they serve.

Initiatives led by ABCUL have to a great extent eventually been embraced by the whole of the credit union movement and key external stakeholders. They include for example guidelines for credit union study groups which focus on;

- The need to prove the need and demand for credit union services in the community they wish to serve;
- The need to develop products which meet the needs and demands of members and potential members;
- The need for funding to be directed at the credit union, not third party development agencies, which enables the credit union to launch with attractive high street premises, paid operational staff and professional marketing materials;
- The importance of sustainability and safety in the operation of credit unions.

The legislation that we currently operate under was developed with a vision of credit unions as largely voluntary institutions. This is no longer appropriate for the sector today.

These new approaches to development have made it possible for quality credit unions to build membership to thousands of members within a few years. Credit unions operating in this way are building sustainable businesses which have a major impact upon financial exclusion in the communities they serve. ABCUL has assisted credit unions to achieve this through: -

- The development of a range of generic promotional materials for credit unions, including financial literacy materials and partnerships with a range of organisations to enable credit unions to provide new and valued products to their members including Benefit Direct Accounts, improved insurance products and a range of affinity schemes.

¹ *Towards Sustainable Credit Union Development*, Jones, P. ABCUL 1999

- The introduction of the PEARLS financial monitoring system², which helps credit unions to improve both financial soundness and social effectiveness. Learning from PEARLS was responsible for a major change in the attitudes of credit unions. This led to a large number of credit unions moving towards capacity based lending and away from insisting that credit union members save for a protracted period of time before they can apply for a loan.
- A range of training and development opportunities for credit union staff and volunteers provided in-house, at regional events and at national conferences, which draw on best practice from within the credit union movement and from the wider financial services sector.
- The introduction of the Credit Union Current Account, which provides full ATM access and direct debit facilities for credit union members.
- A major governance project, working with the Financial Services Authority and Co-operativesUK to develop a code of governance for the sector.

These and other developments from within the credit union sector have made a significant contribution to the increased growth and credibility of the credit union movement. The product offering which exists in the current environment goes way beyond the simple savings and loans service envisaged in the current legislation.

Another considerable factor in the growth of credit unions in Britain has been the transformation of the regulatory regime, which came with the transfer of credit union regulation to the Financial Services Authority in July 2002. As well as the increased credibility that this has given the sector, the inclusion of credit union savings in the Financial Services Compensation Scheme provided a major boost to the sector. The current law was conceived without reference to a modern regulatory body like the FSA having oversight of the sector.

A number of Government departments and other stakeholders recognise the achievements and potential of credit unions and the impact they have had upon a number of public policy areas. They are at the forefront of the Government's fight against financial exclusion, providing a significant contribution in terms of increasing the supply of affordable credit, access to safe savings and insurance and in a major development for the movement, in the supply of banking services. In partnership with Citizens Advice we are working to build partnerships between credit unions and citizens advice bureaux and, around the country, credit unions are building partnerships with a wide range of organisations to help them reach out to more people.

In the past year, money from the Financial Inclusion Fund has provided over £30 million of funding to credit unions, enabling them to increase the availability of affordable credit to their communities. Further investment has been announced which will help credit unions in receipt of Growth Fund money to improve their capacity and capability to make best use of the money. Credit unions are also the focus of an investigation by a sub-group of the Financial Inclusion Taskforce, which is working with representatives from the banking sector to investigate how the credit union

² World Council of Credit Unions PEARLS Financial monitoring system.

movement can 'scale up'. ABCUL believes that a significant scaling up of the sector can only be achieved with modern legislation appropriate to the role that the sector is currently undertaking.

During the time that these changes have been taking place in the British credit union movement, growth in the sector has been significant. Credit union membership has grown from 255,596 members in 1998 to 590,674 in March 2007. Although this growth means that credit unions now serve 1.4% of the adult population in Britain this is still short of successful systems elsewhere in the world and some way short of what would be needed to fully meet public policy expectations in terms of financial inclusion, financial capability and low income savings initiatives. In Ireland over half of the population belong to a credit union and over a quarter of people in the US, Canada and Australia use their local credit union for financial services.

A legislative framework for the future

The vision of credit unions that led to the current legislation has been outgrown by the development of the sector. We now require a legislative framework which will allow a further significant growth and that is appropriate for the new vision of credit unions. Credit unions exist to provide inclusive financial services for a wide range of people not just the most disadvantaged. This will ultimately include the provision of transaction banking services, mortgages, insurances and not simply a simple savings and loans service. Within that overall remit credit unions are in a unique position to serve those who are financially excluded, on low income and not particularly well served by the mainstream institutions. Datamonitor suggest that there are 9 million people using non standard finance outside of the mainstream. There is of course also some cross over in customers with mainstream institutions but this is a necessary ingredient of running a sustainable deposit taking business with an attractive image.

The last few years has seen considerable growth in the numbers of people eligible to join a credit union, largely through the merger and expansion of existing credit unions, as well as with the establishment of new credit unions with large geographical common bonds. However, there are still many people who cannot join a credit union or who cannot easily access its services. This lack of coverage and capacity puts major barriers in the way of the credit union movement developing services and taking part in national initiatives to which they are ideally placed to make a significant contribution. Reform of common bond legislation is the key to removing some of these barriers.

The potential for credit unions to play a much greater role in Government plans for financial inclusion is significant. HM Treasury is interested in how credit unions, as trusted savings institutions in many communities, can help with a potential roll-out of the Saving Gateway; we have also been working with the Office of Fair Trading to assist them to promote credit unions as a safe way to save for Christmas, in the wake of the collapse of Farepak. There is potential too for credit unions to partner with the Post Office in their product offering after the Post Office Card Account is renewed. Similarly credit unions could play a role in any reform of the Social Fund budgeting loans. Many of these initiatives with which the credit union movement has a natural synergy will only be possible if the coverage and capacity of credit unions are greatly

enhanced, and the main barrier preventing that from taking place is restrictions enshrined in legislation.

As there exists a solid and successful international credit union movement from which to draw knowledge and best practice information, the idea that credit unions have much more to contribute to society is not based upon supposition or over-confident assumptions. We know from the experience of other countries that, given the right legislative framework, a credit union movement can play a major role in ensuring everyone in society has access to a range of quality financial services.

The British credit union movement has shown its ability to innovate, change and grow as a result. We now need the UK Government to step forward and supply the missing piece of the jigsaw in terms of a modern legislative framework. We are conscious that legislative change requires significant resources and therefore cannot be revisited often. We are keen to continue working with the Government and the FSA to devise legislation flexible enough to enable the movement to carry on changing to meet people's needs, while protecting the unique credit union structure that has been shown around the world to be one which meets the changing financial needs of communities, whatever they may be. We are assisted in this process by our own apex body; the World Council of Credit Unions (WOCCU). WOCCU represents credit unions in over 90 countries providing services to 172 million people. Their Model Law documents international good practice. We have included extracts from this document in our response to illustrate how other countries and the world's leading advocate and development organisation for credit unions approach credit union legislation.

Changes to the legislation need to concentrate on enabling the credit union movement to increase its coverage across Britain, improving the capacity of credit unions to provide affordable credit and other financial services people want and need, increasing the credibility of the movement and ensuring its future safety and sustainability.

A new legislative framework must be able to not just relieve current burdens but also enable the credit union sector to respond to the changing needs and aspirations of its members and communities in years to come. Historically credit unions across the world were formed, as were all co-operatives, to meet the needs of members as the services they needed were unavailable in the commercial or state sector, or the members were excluded from these services for reasons of discrimination or lack of economic power. What we cannot do is predict what the needs of credit union members will be in the future, but we can work together to build a framework which will ensure that as needs change, credit unions can easily adapt to meet these needs. These needs now and in the future are certainly not the same as when the Credit Unions Act was passed in 1979.

ABCUL Response to consultation questions

The HMT consultation paper asks thirty one questions, the last fifteen of which relate to credit unions. ABCUL has responded only to those latter questions. Our response below follows the HMT numbering. ABCUL has worked closely with Co-operativesUK on their response to the consultation. We support their response to the first sixteen questions.

Future direction of the sector

17. Should credit unions aim to extend their membership to embrace the more affluent sections of the community?

The consultation paper states that credit unions have tended to focus their activities on low-income communities. We asked our members whether and how credit unions should aim to extend their membership to more affluent sections of the community and indeed to what extent they currently focused their activities on low-income communities.

ABCUL Member Survey Results – Current focus of credit unions

We asked respondents to our survey if they thought their credit union had focused its activities on low-income communities. 50% said that it was true, with 50% saying that it wasn't true about their credit union.

Analysing the results by common bond type showed that 100% of credit unions with an employment or associational common bond said that the statement was not true about their credit union. In comparison 62% of credit unions with respondents from a live or work common bond type said that the statement was true.

This still leaves a large number of credit unions serving people in a geographical area which don't believe that they focus their activities solely on low income communities.

ABCUL Member Comments – Current focus of credit unions

When this issue was raised in meetings with our members, attendees told us that that they recognised the importance of providing products which meet the different needs of a wide range of consumers and the need to attract savers as well as borrowers.

Some participants and survey respondents also noted that since credit unions had gained money from the Growth Fund to increase the availability of affordable credit in their communities, their credit unions' attention has necessarily been focused upon

this. There was a recognition that this needed to be balanced in terms of building a larger pool of savings from members.

One respondent to our survey stated: -

"We have tried to get a balance of members and succeeded initially, but once we started doing instant loans for small amounts all our resources got sucked into this sector of the community. We'd love to have more payroll /standing order savers."

ABCUL View – Current focus of credit unions

Research carried out by researchers from the Personal Finance Research Centre at Bristol University in 2005/6³ showed that credit unions reach people from different parts of the community. 32% of respondents to the survey reported a household income of less than £199 per week, 33% an income of between £200 and £399 a week and 30% reported a household income of more than £400 a week. 39% of respondents owned their own home, rising to 50% of respondents from an employee credit union.

Credit unions do provide services to people from a reasonably large range of income brackets but their focus on inclusive financial services means that they provide services to more people from lower income groups than most other financial institutions.

Credit unions would not wish to change this inclusive approach; they exist to serve members from all income groups and geographically based credit unions especially are committed to tackling financial exclusion in their communities. However, credit unions do recognise that they need to achieve a balance within their membership and make sure that they attract enough net-savers to enable them to meet demand for affordable credit.

It is essential that this continues and credit unions' focus isn't skewed towards solely providing small, short term loans to people on low incomes. This will not be sustainable economically nor reputationally. It is not attractive to anyone, however poor, to belong to an institution that they perceive to be just for the most disadvantaged in society.

We also asked our members what their views were on the question of whether and how credit unions should aim to attract members from more affluent sections of society.

ABCUL Member Survey and Comments – Whether and how to attract members from more affluent sections of society

All the respondents who answered this question agreed that credit unions needed to attract more affluent members.

³ Membership Counts – Who uses credit unions? – Collard, S and Smith, N. ABCUL 2006

Responses included: -

"It is essential that Credit Unions make themselves attractive to all sections of society - otherwise sustainability is impossible. Credit unions that restrict themselves to low income communities will be easily labelled poor man's banks and will never grow or cease to be reliant on grant funding. To be able attract members from across the social and financial spectrum credit unions need to show that they are professional, well run organisations that provide the services that people want - as well as being mutual/ ethical etc. Given the competition in the financial services sector, these attributes on their own are not enough to attract more affluent members."

"Absolutely. Only through service to the whole of the community encompassed by our live/work common bond will we be fulfilling our duty to offer co-operative financial services for all. And moreover through attracting more affluent members of our local community we make our services to those who are less well off more sustainable, and help to bring the city together in a way unachievable by other financial institutions."

"If we wish to truly serve our communities we must embrace all sectors of it. We will only attract more affluent savers if we can convince them of the benefits that their contribution makes to the whole community, provide ready access to their funds (current account) and if not competitive, at least a realistic return on their funds."

"Credit Unions are open to everyone in the common bond area so membership should reflect this. We need members who can afford to save and borrow larger amounts, so that we can provide services for lower income members"

"By providing a more attractive range of services; in particular interest rather than dividend."

"Yes by offering a savings product mix such as ISAs and Term Deposits paying market rates."

"With a national employee credit union we promote it across the different companies we operate in from a Cleaner to the CEO."

"Government to introduce a Credit Union Savings Bond. This will offer tax free savings allowing communities to invest into their local credit union"

ABCUL View – Whether and how to attract members from more affluent sections of society

The range of comments above shows that credit unions support the need to attract members from a broad range of income groups and recognise that this is essential if they are to provide affordable credit to members.

The importance of offering products which are attractive to more affluent members of society is also widely recognised. We believe that the abilities to choose to offer interest instead of a dividend and to innovate in product development are key to being able to achieve this. Our answers to questions 21 and 22 explain why and how this should happen.

We also believe that enhanced credibility for the credit union movement will be instrumental in encouraging people from more affluent sections of society to make use of credit union services. One way in which the credibility of credit unions can be

improved is by allowing organisations to become credit union members. We expand on this in our answer to question 20.

18. Should the use of the term “credit union” continue to be compulsory, and be protected from use by other institutions?

ABCUL Member Survey

Our member survey showed that 58% of respondents were in favour of retaining the compulsory use of the name credit union, with 32% of respondents not in favour of compulsory use of the name. Older credit unions and those which had managed to recruit more members were more likely to be in favour of retaining the compulsory use of the name.

There was far more consensus on the question of whether the term “credit union” should be protected from use by others institutions. Only 2% of respondents believed that the term should no longer be protected.

ABCUL View

As the profile and coverage of credit unions grows it will become even more important that the public can be confident that when they approach an organisation which says it is a credit union that they know they are dealing with a bona fide financial co-operative which is authorized and regulated by the FSA and that their money is protected by the Financial Services Compensation Scheme. For this reason we believe that the name credit union should remain protected and used with consistency. Our answer to question 19 expands upon these issues.

19. What are your views on a suggested name change from credit unions to community banks?

ABCUL Member Survey

In our member survey around 28% of respondents were in favour of being able to use this term in some form, but many of these were happy to see this as an option for use as a trading name and many were wary of the implications that this might have in attracting banking regulation particularly from Europe.

Most people (59%) thought that this would be a retrograde step, either because they did not want credit unions to be more closely associated with banks, or felt that their members were wary of banks and used the credit union for this reason. Many people were also very protective of the term and of its long history and international links.

ABCUL Member Comments

Some representative quotes on both sides are reprinted below in an attempt to show the strength of feeling over the matter.

"No - absolutely not.. We have worked long and hard to get the name recognised and it does not appear to be a problem elsewhere in the world. I would hate to be branded a "bank" of any sort as we most definitely are not one"

"The term 'Credit Union' is well known internationally and we need to continue to be seen to be part of this movement. By law, we need to continue to be credit unions - however at the end of the day, we need trading names that people can relate to and understand. This can only be achieved by either - allowing CU's to use other titles for trading purposes or by undertaking a massive awareness campaign about what credit unions actually are."

"I think the word bank can have negative feelings towards it and as we are aiming at a specific market where bank accounts are difficult to get hold of this could be especially true and could cause difficulty in attracting new members."

"Having thought long and hard about this I do not feel that the word bank does not reflect the ethos of the movement and credit unions are being accepted a lot more now."

"It has taken the credit union movement too long to get people to understand what the name stands for without now changing it. The movement should be proud of what it has achieved considering the drawbacks it has received over the years."

"Don't agree with this as a re-branding - the term 'Credit union' has a long history and is in international use, so it should be kept. But I wouldn't object to 'community bank' being used as a descriptive term if people wanted to do so."

"Rebranding as community banks would vastly improve the image and make the concept more attractive to the public, who have very low awareness of credit unions. We constantly use the term to explain to potential members what a credit union is. The response is invariably "Why not just call it a community bank - so it says what it does on the tin?"

"This could be a good suggestion as many people associate credit union as a union(GMB etc)"

"I think it would be better if the formal name retains Credit Union, but more frequent use of a trading name, such as "community bank" would be more appropriate."

ABCUL View

It is already possible for a credit union to adopt the trading name 'community bank', while retaining the official name 'credit union'. We don't believe the registered name of credit unions should be changed.

This is an area which has raised strong feelings on both sides, with some respondents to our survey and participants in meetings and discussion forums strongly in favour of abandoning the name credit union as they perceive it to be a

barrier to growth. On the other hand, many people are vociferous in the view that the name credit union connects us to a worldwide movement of 172 million people and that the name credit union does not seem to be a barrier when the organisation concerned is providing the services that people need. Witness for example the penetration of Glasgow Council Credit Union Limited (now Glasgow Credit Union Limited) which had 60% of all council employees as members. This penetration is not shared by any single bank. It is our belief that if credit unions have a sufficiently attractive offer then the name does not present a significant barrier.

Caution should also be shown as the widespread use of the word bank could possibly leave the sector open to the introduction of banking regulation within Europe. ABCUL has worked hard with the World Council of Credit Unions and other European credit union movements to help politicians and civil servants in the EU understand the credit union difference and regulate appropriately. For example the long debated Consumer Credit Directive now contains a light touch regime for credit unions. If credit unions were to be categorised as banks the vastly increased burden of regulatory compliance would be disastrous for the British credit union movement.

We are unaware of financial co-operatives in any other market using the term community bank. When financial co-operatives have included the term bank in their names the words “co-op” or “co-operative” are usually included. In Europe, Co-operative Banks are large financial institutions providing a full range of banking services and subject to full banking regulation.

In summary we believe that retaining the name credit union is important to retain the distinction of the movement and its place in the international movement. It is also imperative that credit unions do not start to be viewed as banks in Europe and become subject to much stricter regulation. Credit unions which wish to use a name such as community bank as a trading name can do so already. We do not believe there is any need for legislative change in this area.

Membership

20. What are your views on the following issues relating to membership of credit unions?

a) Common bond;

We are aware of two main burdens which the current legislation surrounding common bonds imposes upon credit unions;

- Restrictions on establishing partnerships with other organisations, especially employers and Housing Associations (Registered Social Landlords) and
- Reduction in the abilities of stronger credit unions to take over the business of weak credit unions at risk of closure.

ABCUL Member Survey – Common Bond

In our member survey 79% of respondents thought that common bond legislation should be made more flexible. Only 14% thought that it should not be relaxed.

23% of respondents reported that they had had to turn down opportunities for partnerships (usually payroll agreements) with employers because of common bond restrictions. 11% of respondents reported that they had had to turn down opportunities for partnerships with housing associations for the same reasons.

50% of members responding to our survey said that if common bond legislation was to be made more flexible then they would be more likely to take on another geographical area. A further 28% said that they may be more likely to do this. This in itself would have major implications for the coverage the credit union movement would be able to provide, and enable smaller pockets of financial exclusion to be brought into financial inclusion.

ABCUL Member Comments – Common Bond

Our members have told us about a number of large employers, some of which are listed in the table over the page, which have valued the service that the credit union could provide to their employees – sometimes because they have seen the benefits it can provide through experience in the United States or other countries - but are often unwilling to make these benefits available to some staff and not others.

Name of company/organisation	Number of employees	Number of locations
Woolworths	30,000 +	800+
Wilkinsons Stores	20,000+	280+
Cadburys	6,000	14
Kingston Communications	2,000+	16
Welsh Ambulance Service	2,500	90+

Figure 1. Companies which have expressed an interest in providing credit union services to all their employees.

Another credit union told us about successful negotiations which they were holding with their local Primary Care Trust (PCT) to enable all employees to benefit from payroll deduction. When they were on the verge of setting up the systems to enable this to happen, the PCT merged with others to form a county-wide PCT. As most of the employees would live and/or work outside the common bond of the credit union and increased staff mobility across the county would complicate matters the agreement fell through.

ABCUL View – Common Bond

The current legislation surrounding common bonds causes problems for a large number of credit unions and is responsible for stopping large number of people having access to credit union services.

Even with the present interpretation of what constitutes a common bond by the FSA, many credit unions come across obstacles when trying to open access to the credit union to more people.

Credit unions have entered into many successful and innovative partnerships with employers, housing associations and other organisations. However, many more potential partnerships are being stopped because the credit union cannot provide services to all the people who the potential partner wants to benefit from credit union services.

Payroll deduction is a valuable way of increasing membership and building savings for a credit union. For the individual member it offers a painless way of saving, as money is taken from the wage or salary before the member sees it. Many employers value this benefit for their members but we have heard of a number of instances where negotiations over providing payroll deduction have broken down because the credit union is unable to provide services to all employees.

In many of these instances credit unions would be willing and able operationally to provide services to workers in multiple locations based outside their geographical common bond. The only barrier to this happening is the current legislation.

The reality is that most credit union systems around the world have grown to scale as a result of strong employer relationships. This would be an important tool to help live or work credit unions reach scale and sustainability more quickly. This would reduce Government subsidy required for many.

A common bond system which would allow credit unions to have mixed membership qualifications would allow staff at many large companies to benefit from payroll deduction and credit union services and would provide a boost to the credit union movement with the increased membership that would result from this.

Housing associations and credit unions have worked together in a number of areas to help tenants access credit union services. Credit unions have been able to benefit from assistance with marketing and premises and the housing association's tenants benefit from the services the credit union can offer. But the potential work that could be carried out has been stifled by legislation for very similar reasons to the obstacles put in place for employees to benefit from credit union services. Housing associations with a wide geographical spread want all their tenants to benefit and may not want to set up agreements with multiple credit unions.

David Dyer, Community Investment Manager with the Guinness Trust, told us: -

"As a national RSL that serves over 100,000 residents across 100 + local authorities the Guinness Partnership would welcome a relaxation in the rules pertaining to the Common Bond definition/limitations imposed on Credit Unions. We would like to be able to provide a consistent offer to all of our tenants and leaseholders without necessarily having to establish our own union. In short: we would either like to see either a National Union for tenants and leaseholders of social landlords, or (preferably) be able to work with a single provider with a long reach. We could contribute significantly to union administration, product development and service marketing. We are currently exploring how we could offer a flexible rent account that includes a savings and a borrowing facility.

"The natural synergy between CUs and RSLs demands that CU structures/regulations enable the CU movement to evolve in parallel with the RSL trend towards fewer, larger providers with a national remit."

If credit unions were able to provide services to members from a range of membership qualifications then many more partnerships between credit unions and housing associations would be able to flourish; bringing valuable support and members for the credit union and bringing financial inclusion to social housing tenants who are strongly represented amongst financially excluded individuals.

Another problem which the current legislation governing common bonds causes results in large numbers of people in workplaces being unable to benefit from the services their colleagues enjoy. Many companies use sub-contractors to carry out some elements of their business and for employee credit unions this has caused problems. Sub-contractors may change on a regular basis and the same individuals may find themselves employed by different firms at different times. A more flexible regime which would more easily allow credit unions to add in workers from different employers to their common bond would ensure fair and equitable access to credit union services.

Members have also pointed out the problems that some families of current credit union members face problems accessing credit union services because they are in the armed services and are not permanently residing in the area, although this is their only base in the UK and they would not be able to qualify for these services in any other way.

Despite the increase in strong and sustainable credit unions and the trend towards merger and consolidation in the credit union movement, credit unions will, like any sector, continue to have businesses that fail. These are comparatively small in number and members' deposits are protected through the Financial Services Compensation Scheme. However this still causes problems for individual members and reputational issues for the credit union movement as a whole. A relaxation in the common bond requirement would allow credit unions to far more easily to take in members from credit unions at risk of closure, even if geographical or interest similarities were not immediately obvious. Most other sectors have this ability to merge weak institutions to prevent failure. It does not seem fair that this is denied to the credit union sector.

There are also areas where there is no credit union coverage and where the demographics of the areas may not make it possible for regeneration based funding for a credit union to be raised. For all these reasons a more flexible common bond is needed.

The New Zealand Government has introduced new legislation for credit unions which we believe has achieved the balance of ensuring that the unique nature of credit unions' membership criteria is maintained whilst reducing the restrictions and relieving the burden on both credit unions and the regulator to prove common bonds⁴.

“(1) For the purposes of this Part, a credit union has a common bond if the qualification for membership is---

(a) following a particular occupation [or particular occupations];

(b) residing in a particular locality [or particular localities];

(c) being employed in a particular locality [or particular localities];

(d) being employed by a particular employer [or particular employers];

(e) being a member of a bona fide organisation [or bona fide organisations] or being otherwise associated with members of the organisation [or organisations] for a purpose other than that of forming a society to be registered as a credit union;

(f) any other qualification that can be objectively determined;

(g) a mixture of any qualifications in paragraphs (a) to (f).

(2) For the purposes of subsection (1), a qualification can be objectively determined if it--

(a) includes every person who fulfils the qualification; and

⁴ Friendly Societies and Credit Unions Amendment Act 2006

*(b) is able to be determined by a person who is not a member of the credit union; and
(c) does not depend on any person's subjective judgement.⁴*

By allowing different member qualifications to be grouped together and removing the requirement for a credit union to prove a common bond between the people it wishes to serve, the changes have, we believe, achieved the correct balance between the need to maintain credit unions' unique structure and enabling them to easily expand common bonds to meet the needs of people without access to credit union services.

This would enable, for example, a credit union to provide services to people living or working in a certain area and to people working for a certain employer, wherever their work base is. It would also enable a credit union to provide services to all tenants of a housing association as well as to people living in a certain area. Credit unions would be able to more easily accept into membership people whose original credit union was closing.

It is important to retain the common bond as this retains a unique selling point of the credit union and, crucially, is key to the differentiation of credit unions within Europe. Credit unions do not have a formal definition within Europe. Therefore the existence of the Common Bond is one of the key differences between credit unions and the much more widely developed Co-operative Bank model. For example, the current draft of the European Consumer Credit Directive gives certain credit agreements a light touch regime if they emanate from associations where 'membership of such associations is restricted'. The description does not require those members to have something in common in terms of values or principles as in our historic use of common bond but merely to have a restricted membership and not be open to the public at large. This is now the most used interpretation of a common bond around the world. Therefore specific qualifications for admission to membership would mean that membership is restricted and credit unions would be subject to the same level of regulation under the Consumer Credit Directive irrespective whether or not a traditional common bond exists.

Similarly credit unions are currently exempt from the UK Consumer Credit Act. Part of this exemption relies on the fact that credit unions do not offer services to the public at large. A restricted qualification for membership would ensure that this exemption was maintained. However, as credit unions grow, become more sophisticated and offer more services to their members, there will come a time when exemption is no longer appropriate.

The New Zealand legislation has provided an excellent solution to the problem of balancing the need for flexibility and retaining the unique nature of credit unions. It is, we believe, an ideal model to follow.

WOCCU Model Law wording

Some laws also require a credit union to define its membership criteria in its bylaws. This is widely known as a "common bond" or "field of membership". To become a member of a credit union, a person must share the

membership criteria set forth in the bylaws. The membership criteria may consist of a pre-existent common bond of association or community of interest among the persons who belong to it.

WOCCU Comment

An assessment of the criteria of membership and the extent of commonality between the potential members of the credit union should not be the sole focus of the Superintendent.

A traditional requirement for organizing a credit union under the laws of many countries has been a requirement for it to be formed by a group having a community of interest or common bond of association. As ordinarily interpreted, this means the founding members of the credit union, and those subsequently joining, must be a part of some pre-existing entity, or residents in the same community. With the introduction of electronic transfer and shared branching, the issue of geographic proximity is becoming less relevant and could result in the term "community" having a very broad definition.

b) Non qualifying member rules;

ABCUL Member Survey – Non qualifying member rules

86% of members responding to our survey believed that non-qualifying member legislation should be replaced with the concept of 'once a member, always a member'. Only 5% of respondents believed that the restrictions should remain.

Many larger and older credit unions, especially those with restricted common bonds are finding it increasingly difficult to maintain the 10% limit on non-qualifying members.

14% of respondents in our legislative survey had asked members to leave or had to change their common bond because of changes with the non-qualifying membership legislation and a further 32% told us that they could see this becoming a problem in the future.

ABCUL View – Non-qualifying member rules

Changing employment patterns mean that people are increasingly working for a larger number of employers throughout their career. The 10% limit can therefore cause problems for employee credit unions that do not wish to ask members to leave but have no option under the current legislation.

Local authorities are increasingly outsourcing their services to private suppliers, which may not be within the common bond of the credit union. These suppliers can change on a regular basis as contracts are reviewed on a regular basis. At least one credit union has changed its common bond from employment to live or work so that it can meet the needs of its non-qualifying members, and others are looking to follow in this direction. A change to 'once a member always a member' would avoid credit unions having to close the accounts of genuine savers and borrowers because their employer changes, even though they are doing the same job, with the same colleagues.

This rule can also prove to be a problem for live or work credit unions in areas of high mobility in employment and/or housing. Credit unions serving individual London boroughs may find many members becoming non-qualifying because they move house or job only 2 or 3 miles down the road. Having to leave the credit union may leave them without financial services when they still have a strong relationship with the community that they originally lived or worked in.

An analysis of 366 Annual Returns obtained from our members shows 6 credit unions operating with more than 10% non-qualifying members, 19 credit unions with between 8 and 10% non-qualifying members and a further 36 credit unions with between 4 and 7% non-qualifying members.

Many credit unions are now providing a wide range of financial services, including the Credit Union Current Account and Benefit Direct accounts. These accounts are fundamental to those individuals management of money. Having to move those accounts would involve considerable disruption despite the efforts of the credit union to assist.

ABCUL believes that the present non-qualifying member restriction is a significant barrier to credit union growth, is unnecessary and ultimately an unfair trading restriction on the ability of credit unions to compete in a highly competitive financial services marketplace.

WOCCU Model Law wording

The concept "once a member, always a member" is traditional in the credit union movements of many lands. Modern-day technology and shared branching arrangements make it even more feasible for a credit union to continue to serve members in remote locations.

c) Minimum age;

ABCUL Member Survey – Minimum age

Nearly half of survey respondents saw advantages to removing the lower age limit for credit union membership. These included: -

"It would stop the confusion when talking to anyone outside credit unions about members and having to add plus juniors and then explain why. We pay the same dividend to all so it would make sense"

"It would enable young people to join of right and enables parity with the banks and building societies."

"Encouraging young people at an early age as possible to become involved in a democratic organisation can also have a positive effect on their involvement in society as a whole."

"With financial literacy and budgeting becoming more important in school curriculums, the movement needs to get more involved with primary and secondary schools and make pupils proud to be a full member of their local Credit Union."

A smaller amount of respondents also saw disadvantages to removing the lower membership age including confusion over voting rights, the ability to gain credit and the possibility that affiliation fees would rise.

ABCUL View – Minimum age

The majority of credit unions accept deposits from children and young people who would, if they were aged 16 or over, be able to benefit from credit union membership. Many credit unions set up collection points in schools and are often key partners in a school's financial capability work. Credit unions already make the legal distinction between members below the age of 18 when determining eligibility for loans. The abolition of the lower age for membership would therefore not pose problems in this regard.

The ability to join a credit union before the age of 16 may encourage more young people to become part of the organisation and make use of its education facilities. Young members may also be encouraged to learn about the democracy of the organisation, giving potential capacity building opportunities for the young person and potentially helping the credit union with succession planning. The young member would be able to vote and/or hold office when they reach the age of 16/18.

This change would also allow young people to operate joint accounts with their parents or guardians. This would stop the confusion which often arises about who controls the money in a junior saver's account.

Credit union rules would determine who was allowed to vote and legislation prevents minors from gaining credit. The issue of affiliation fees would be down to negotiation between credit unions and their trade associations which, as democratic organisations, have rules set (within the limits of the law) by their members. They would be highly unlikely to be set at a level which would dissuade credit unions from encouraging young people to get on the savings ladders. From ABCUL's perspective it is likely that our members would choose to have no membership fee for members under 16 or perhaps to reduce the membership fee accordingly.

Suggestions of removing the lower age limit for membership of other co-operatives is receiving support from the wider co-operative movement so the ability for credit unions to determine their own minimum age for membership would ensure parity across the whole sector.

WOCCU Model Law Wording

WOCCU Model Law does not make a distinction between adult and junior members of the credit union.

d) Restriction on number of members;

The maximum number of members which a credit union can serve was removed from the Credit Unions Act when the Financial Services and Markets Act transferred the regulation of credit unions to the FSA. This burden has therefore already been removed and, as no problems have been caused by its removal from the Credit Unions Act, we do not see a reason for it to be reintroduced to credit union legislation.

We do not believe that credit union legislation and regulation should be justified by imposing a maximum membership size. This would be a barrier to growth and competition. We believe that the regulation of credit unions should increase proportionately as the sector increases in the scale and complexity of its business.

e) Prohibition of corporate membership.

ABCUL Member Survey – prohibition of corporate membership

Our member survey revealed that over 50% of credit unions had had to turn away potential members because of the inability to serve corporate members. An even wider number are aware of the limitations which this restriction brings with it. 83% of members taking part in our survey believed that credit unions should be able to provide services to organisations if they choose to. Only 2% were definitely against the idea with a further 14% unsure.

Organisations wishing to join credit unions reported to us by our members include: -

- Local sports clubs
- Tenants associations
- Local groups with grant funding (many of whom have had difficulties opening bank accounts because of poor credit ratings of trustees and committee members). The quotes below refer to this;

"We are regularly approached by local groups who are putting a funding bid together and need an account to place the money in but because members of their board or group have had a bad credit history in the past they cannot obtain a bank account"

"A local tenants association wanted to open an account...they had grant cheques of £2k but couldn't persuade any high street bank to give them an account."

- New Deal for Communities projects
- Playgroups and crèches
- Local churches wishing to deposit their reserves to improve the availability of affordable credit to people in their parishes
- Local businesses

- A Town Centre Management Organisation
- Local social groups for mental health service users
- Local business which wanted to transfer its thrift club to the credit union
- Refugees wishing to set up community organisations
- Local social enterprises and co-operatives
- Local Scout, Guide, Boys' Brigade etc
- Holiday savings clubs
- Citizens Advice Bureaux
- Societies of Friends (Quakers)
- Local charities and foundations (including one local philanthropist making grants to local people who wished to deposit £19,000)
- Housing associations wishing to deposit a significant amount to greatly improve the ability of the credit union to make affordable credit available in the community.

ABCUL View – prohibition of corporate membership

The inability of credit unions to offer services to corporate entities has led to a large number of missed opportunities for credit unions and severe disadvantage for organisations operating in communities they serve.

Results from our member survey raise a number of issues and demonstrate the burdens that both communities and credit unions face because of the restrictions on legislation.

- Local groups in receipt of funding to make improvements to their communities are unable to access the financial services they need to manage their finances;
- Groups in areas where banking facilities are not easily accessible are unable to access the financial services that are in the community;
- Money being generated in the local community by businesses and social enterprise is leaving the community because they are unable to deposit it in the credit union which is keeping money within the community;
- Credit unions' ability to make affordable credit available to their communities is being impeded because they are unable to accept significant deposits from organisations wishing to make their money work in this way;
- The path to sustainability through increasing scale is being impeded due to the denial of easily captured deposits.

In many credit union movements around the world, credit unions are able to provide services to corporate members. As well as providing a valuable service to local voluntary groups, religious organisations, municipal governments and entrepreneurs; this is a valuable source of start-up and expansion funding for credit unions. (Many credit unions already provide a valuable service to sole traders within their common bond and are often willing to assist an entrepreneur when banks have been reluctant to help).

The credibility that would come from seeing trusted local organisations deposit money in a credit union would also assist in building awareness and trust in credit union services, attract more savers and encourage more people to benefit from its affordable loans and other services.

It is common in other developed credit union systems for credit unions to have a percentage of their loan portfolio dedicated to business lending. In Britain as credit unions grow and develop their capacity to provide business lending is likely to become an important offering here too. However in the foreseeable future most credit unions would benefit much more from the increased deposit pool than the possibility of lending to organisations.

The ability of credit unions to accept organisations into membership could also enable the creation of a 'credit union for credit unions'. This is a common feature of other credit union systems. A credit union central as it is called in many systems would allow credit unions to benefit from for example the pooling of deposits and liquidity management. It is anticipated that such an entity or entities would be of a significant scale. It would be important to recognise that regulation for such entities should be proportionate and not threaten the present treatment of credit unions in the UK and Europe. It is recognised that some of these back office functions although not all, could be achieved through other organisational structures while retaining the important co-operative ownership of the entity by the credit unions. This needs further exploration with HM Treasury and the FSA.

WOCCU Model Law Wording

Societies, associations, partnerships and companies composed primarily of individuals eligible for membership under Section ... may be admitted to membership in a credit union.

In the notes to this section, the WOCCU Model Law states:-

Under Subsection 2, persons other than natural persons may belong to a credit union provided that the organization is composed essentially of the same people who make up the credit union's membership. For example, with an occupational credit union there often are organized groups at the company the credit union serves, such as a trade union, an employee social club or the parent company itself, that may want to place funds in the credit union. Such funds can be a valuable resource, particularly for a newly formed membership.

Savings

21. What are the advantages and disadvantages of allowing credit unions to pay interest on members' savings?

ABCUL Member Survey

In our member survey, 58% of respondents believed that the ability to offer interest on savings would enable them to attract more savings.

65% of respondents said that credit unions should be able to choose to offer interest on savings if they wish to do so and only 20% were opposed to the idea.

ABCUL View

The inability of credit unions to pay interest on savings, rather than a dividend, can place them at a significant disadvantage when competing for the savings of more affluent and demanding consumers within their common bond. The savings market is a very competitive one and more sophisticated savers, who would be a valuable source of savings for credit unions, are likely to choose to put their money into an account which guarantees to provide a certain return on deposits rather than one which may offer a dividend. Interest is also a far more widely understood concept by consumers in general. Credit unions are now able to offer ISA's and Child Trust Funds. This is a very competitive market but a valuable source to help them attract the savings they need to be able to lend out enough money to make their businesses sustainable. Their inability to advertise a definite interest rate for these products places them at a disadvantage in the market and precludes them from inclusion in best-buy tables.

Credit unions main and often only source of money to lend on affordably is the deposits it attracts from members, so the more savings a credit union can attract, the more affordable loans it can make available and the more interest it can generate.

Many larger credit unions already operate an accruals based accounting system, enabling them to confidently predict and manage, on a month by month basis, the dividend they will be able to pay to members. There is little difference between this and the guarantee of an interest payment and the choice should be available for credit unions to pay interest on accounts if they wish to do so. If a more flexible regime allowed credit unions to choose what method they used to reward savers then smaller credit unions without the financial management skills to confidently provide for the payment of interest would still be able to choose to pay a dividend to their members instead.

This change will also allow credit unions to more easily develop different savings products to meet the needs of members and potential members and therefore attract more savings. These could include products designed to encourage small-scale

savers saving, for example, towards the costs of Christmas, to save safely in a credit union, rather than in unregulated schemes.

Savings Limits

Another savings related area concerning members is the limit on savings for each individual credit union member. As credit unions now offer ISA's and premium savings products designed to attract longer term savings the limit on what each individual member can save as a proportion of the overall shareholding of the credit union is causing problems. We understand that this is not a matter for credit union legislation and the power to determine these limits sits with the FSA but it seems sensible to raise this issue and point out that we intend to discuss this with the FSA on our members' behalf in the near future.

Dividend Rates

The limit on dividends contained within the Credit Unions Act places a restriction upon credit unions which does not apply to other financial services providers. If other providers raise their interest rates significantly, either because of a rise in base rate or, as is happening now, a shortage of credit in the market, this would place credit unions at a great disadvantage in attracting savers. While we are urging reform to allow credit unions to choose to pay an interest rate instead of a dividend on savings, we are fully aware that, at least in the short to medium term, not all credit unions will wish to pay interest or have the technical ability and financial strength to be able to do this. As long as credit unions make the necessary transfers to reserves and meet appropriate capital requirements we assert that there is no reason why credit unions should have these limits imposed on them. This is not common practice in credit union movements around the world and the WOCCU Model Law does not recommend placing a limit on the dividend which may be paid to members.

WOCCU Model Law Wording

6.30 Interest on Deposits

Purpose:

To provide for a periodic interest return to members on their deposits.

Content:

At periodic intervals, management with the approval of the board of directors sets the rate of interest to be paid on deposit accounts, taking into consideration any minimum balance, notice and term requirements, as well as prevailing market rates of interest and the credit union's ability to pay.

Comment:

This section permits the board of directors on management's recommendation to set and pay variable rates of return on deposits, according to the conditions or classes established. The rate of return on a deposit might be predetermined at the time the deposit was made, taking into account contractual conditions. The frequency of payment is not specified. A credit union could pay interest on deposits according to local custom - annually, semi-annually, quarterly or even daily, if desired.

6.20 Dividends

Purpose:

To provide for a monetary return to members on their ownership shares based on available earnings.

Content:

- 1. At the close of a fiscal year [or at another periodic interval], the board of directors may declare dividends to be paid on ownership shares from available earnings. Dividends may be authorized only after making the required reserve transfers of Part IX.*
- 2. Dividends may be paid at various rates, taking into consideration the conditions pertaining to each type of share account.*

Provision of auxiliary services

22. What are the costs and benefits of credit unions providing auxiliary services to their members, including for example complementary financial services, hire purchase and holding of land?

A new legislative framework for credit unions needs to allow the movement to change and develop in response to the needs of the communities and interest groups to which they provide services. This question is best approached with reference to two requirements for change for credit union legislation; the ability to determine the charges which they apply for auxiliary services and more flexible legal objects for credit unions.

a) Charges for Auxiliary Services

ABCUL Member Survey – charges for auxiliary services

In our member survey, 5% of respondents reported that their credit union had not provided a service to members because of the difficulty in calculating the cost of the service and 23% because they were prohibited from making a profit from the provision of a service.

Services to members which credit unions have decided against providing for these reasons included: -

- Bill payment services
- Doorstep collection services
- Cheque cashing facility
- Home insurance
- Child Trust Funds

ABCUL View – charges for auxiliary services

At present, credit unions can only charge for auxiliary services to cover the cost of providing that service. This causes problems for two main reasons:

- Credit unions are prevented from generating a fair and reasonable income from the provision of services. This prevents them using that income to build the reserves and capital of the credit union. This income could be used to cross subsidise other, less income generating, parts of the business. If credit unions are to strengthen themselves they have to generate income to build reserves and capital and pay dividends.

- It is unclear what costs can be charged for in practice and how this is to be calculated. Costs such as heat and light could be factored in, but how this would relate to an individual's use of a service is difficult to calculate. A percentage charge for, e.g., a home collection service, could not be used as this is not directly related to the cost of collection. The true cost of providing a service is very difficult to objectively calculate and verify. Credit unions may be put off providing a useful service to members because they find it difficult to calculate the costs and because they cannot generate any income from the service.

b) Credit Union Objects

ABCUL Member Survey and comments– credit union objects

Because of the limited objects contained in the present Act, 22% of respondents had experienced problems in providing members with the services they want or need or with accessing funding.

One respondent commented:

"It has got better but we have had difficulty in being recognised as an organisation with charitable aims sometimes, particularly applicable to our financial education/capability work & schools projects.

"Also because of uncertainty in objects there could be constraints in service offering - cheque cashing is arguably educating members in wise use of money, creating sources of credit for members etc, but not explicitly. Are we open to legal challenge if we were carrying it out and something went wrong? Lack of certainty can lead to a highly risk averse Board!"

As the issue of hire purchase was raised specifically in the consultation document, we also asked our members about this issue. 7% of respondents had already had requests from members for this service, but a much larger 39% said that this is something that they would consider doing, were it to be allowed in law. This demonstrates the willingness of credit unions to develop financial services to meet their members needs – should it be legal to do so.

ABCUL View – credit union objects

The current objects of credit unions do cause uncertainty for credit unions and for potential providers of external capital. The development of some products which credit union members want and need, but which cannot be easily matched to objects is likely to be abandoned.

All these services mentioned above are examples of credit unions trying to meet the changing needs of members and/or developing products which will improve the financial situation of members or bring the credit union services to more members. Unfortunately, the current legislative regime is preventing this from happening.

In our survey of members, we asked if the WOCCU clause in its Model Law objects "to provide any other financial service required by members" should be added to the objects in the Credit Unions Act. 82% of respondents said that it should, with only 3%

saying that it shouldn't. A clause such as this would allow credit unions of all types to develop services which meet the needs of the individuals they provide services to and react to changes in needs and market forces.

There have already been attempts to tackle the other issue of credit unions inability to access funding because of funding bodies perceptions of their lack of charitable aims. Credit unions can, by resolution of its board of directors, choose to adopt one or both of the following additional social goals within its policies:

- a To contribute towards the alleviation of poverty within the community.
- b. To contribute towards the economic regeneration of the community.

It appears from reports from our members that there are still problems with the ability to gain funding from some organisations. It may be that the ability to adopt these objects needs to be enshrined in legislation (and not just within the FSA CRED sourcebook), although from previous consultations we are aware that not all credit unions would want these objects enshrined in their rules (some employment credit unions do not see themselves as alleviating poverty.)

In summary, credit unions need to be able to respond to the changing needs of their members and need the ability to innovate and develop services without the restrictions of objects or the inconvenience of having to calculate the exact cost of providing the service. In this way credit unions will be able to develop and innovate in response to their members needs and provide services that meet the needs of the communities and workplaces which they serve. This can be achieved by abolishing the restrictions on charging for auxiliary services and ensuring objects are wide enough to enable innovation to take place.

WOCCU Model Law Wording

To provide additional powers a credit union may exercise that are more specific to its purposes.

4 - collect, receive and disburse monies in connection with the provision of negotiable checks, money orders, money transfers, foreign exchange, travellers cheques and other money instruments and the provision of services through automated devices for the benefit or convenience of its members, and charge fees for such services;

WOCCU Model Law Wording

The objects of a credit union shall be:

- a. to accept savings deposits from members;*
- b. to provide a source of credit for members at a fair rate of interest; and*
- c. to provide any other financial service required by members.*

Governance, accountability and reporting

23. What are your views on electronic communications between credit unions and their members?

ABCUL Member Survey

In our member survey, 97% of respondents said that they would welcome the ability to communicate electronically with their members.

ABCUL View

This would appear to be a sensible move, especially given the wider geographical areas covered by credit unions and the larger number in membership in credit unions. It will ensure parity with other legal structures.

24. Should credit union members be given a statutory right to vote by proxy?

ABCUL Member Survey

This question raised a mixed response from our members, both in the survey and in discussions held at meetings. 64% of members responding to our survey said that members should be given the right to vote by proxy.

In discussions, some members felt that there were better ways of encouraging democracy in credit unions such as electronic communications and postal voting. Some members felt that if a statutory right to vote by proxy was given then this could lead to pressure being put upon members to vote a certain way. For instance, an employer could put pressure on employees to vote a certain way.

ABCUL View

This is certainly a matter on which more discussion would be useful and a better understanding of the issues amongst credit unions may be able to secure more of a consensus on this issue.

25. Should there be restrictions on transactions with directors and connected persons and if so what should they be?

ABCUL View

Board members, senior management and staff should be able to voluntarily use the services of the credit union at terms that are no more and no less favourable than those of any other member of a similar profile/standing (i.e., credit history).

Issues relating to conflicts of interest are currently dealt with in credit unions' rules, policy documents and through FSA regulation. There is no reason why this should not be dealt with in legislation as it can only raise standards in governance and improve transparency. WOCCU Model Law carries the following clause on conflicts of interest.

WOCCU Model Law Wording

5.35 Conflicts of Interest

Purpose:

To prohibit officials from using their credit union positions for personal advantage, and to discourage nepotism.

Content:

No officer, director, committee member, agent or employee of the credit union shall in any manner participate in the deliberation upon or the determination of any question affecting that person's pecuniary interest or the pecuniary interest of any member of the immediate family

of that person or of any company or organization (other than the credit union) in which that person is directly or indirectly interested. Such person must also disclose any conflict of interest to the board of directors and/or the Superintendent or Supervisory Body. Violations of this section shall be subject to the penalties provided in Section 13.20.

Comment:

It is an ethical norm for officers and directors to abstain from participation within the credit union on any business matter that affects their personal or family financial interest. This provision makes it a matter of law. Officials who have other business interests thus avoid the temptation to subordinate credit union interest to their own financial advantage. The goal must always be to assure that any credit union transaction involving directors or officers is completed under normal, and not preferred, conditions. The issue is best dealt with by the supervision process. The bylaws should discourage nepotism.

26. Should the application of Company Directors Disqualification Act be extended to credit unions?

ABCUL Member Survey

Only 6% of respondents to our survey were opposed to this, with 81% of respondents in favour.

Some people in discussions were a little concerned that another layer of legislation would lead to further burdens for small credit unions and were a little confused about the difference between this and the FSA's Approved Persons regime.

ABCUL View

It appears though that overall there is an appetite for the inclusion of credit unions within this legislation as an extra safeguard to ensure that unfit persons are prevented from becoming involved in credit unions and ensure parity with companies. We are therefore in favour of the extension of this legislation to credit unions.

27. Should there be a power in the new legislation to assimilate the law for building societies and companies to the law for credit unions?

ABCUL Member Survey

In our member survey we asked if there should be a power to assimilate the law for building societies, companies or both to the law for credit unions.

11% of respondents said that this should be for company law only, 16% for building society law only and 32% for both company law and building society law. 41% said that this should not happen at all.

Some members have expressed the concern that this would weaken the differences between credit unions and building societies and/or companies; they would prefer to retain differentiation and avoid excessive EU legislation. Others have said that they would welcome this if there would be full consultation on each change proposed before implementation.

ABCUL View

We understand that no wholesale changes would be brought in and individual changes, which would ensure credit unions did not suffer disadvantage as company and/or building society law moved on, would be put out to consultation before any changes were implemented.

We understand that this power would have allowed, for example, credit unions to benefit from changes in the ability to communicate electronically with members, at an earlier date. This would only have advantages for credit unions and would ensure that credit union legislation could continue to modernise in years to come.

We would welcome further consultation on this issue as there is not a consensus within the movement on this issue and we believe it is important that credit unions understand more about the implications of this proposal.

28. How should charges for a copy of a credit union's rules be determined?

ABCUL Member Survey

50% of members responding to our survey were of the opinion that this amount should be raised.

ABCUL View

It seems unnecessary and inappropriate to determine an amount in the legislation; a reference to a 'reasonable' administrative fee would be a more suitable way for this to be determined.

Accounting & audit including insolvency

29. Should all credit unions still be required to produce annual accounts audited by a registered auditor or should there be exceptions for smaller credit unions?

ABCUL Member Survey

86% of credit unions responding to our consultation believed that all credit unions should be required to produce annual accounts audited by a registered auditor. Only 7% believed that there should be exemptions for smaller credit unions.

ABCUL View

The fact that credit unions accounts are audited and the transparency that comes with this are both essential to ensuring that credit unions are viewed as safe places in which people can deposit money. We are working in conjunction with the FSA to enhance standards of governance in credit unions. We believe that the annual audits are valuable tools in ensuring financial standards are maintained.

Smaller credit unions are still holding people's valuable savings and we believe that it would give the wrong message if auditing requirements were to change. We do not believe that the hiring of a qualified external auditor is a hurdle to running a successful credit union.

30. What are your views on auditors being required to report to the Registrar any issues of concern about a credit union's financial practices and procedures?

ABCUL Member Survey

Again, a large majority (87%) of members responding to our survey were in favour of this, believing it can only enhance the safety and therefore the overall reputation of the credit union movement. Only 5% of respondents were against this proposal. One respondent suggested that this should only be used if the credit union has been made aware of any concerns by the auditor and subsequently taken no action to improve their practices and/or procedures.

ABCUL View

This move may help problems to be identified at an earlier stage and therefore prevent credit union collapses which have a detrimental effect on the whole sector as well as on the individual credit union members.

Implementation

31. Please list in order of priority the policy changes which would have most impact on improving the ability of credit unions to compete with proprietary firm.

What is needed to scale-up?

With reference to what we have set in the introduction regarding the vision for the sector ABCUL believes that the four main issues which are acting as a barrier to achieving this are: -

- The common bond including non-qualifying members
- Organisational membership
- The ability to pay interest on deposits
- Wider objects

These were the top four issues for members responding to our online survey and have also been the main topics for conversation in the various discussions we have held around the country with members and in meetings we have held to discuss how the capacity and coverage of credit unions can be scaled up.

The Common Bond

Relaxing the common bond legislation will greatly enhance the ability of credit unions to reach out to areas of financial exclusion and those without access to credit union services. It will also greatly reduce the administrative burdens of both the FSA and credit unions themselves and remove the need for protracted negotiations which now take place as credit unions attempt to put in place common bonds which will not exclude certain groups from the benefits of credit union services. We believe that the present concept of the common bond being defined as people having some common values, principles or commitments is not capable of consistent interpretation. We are looking for a definition of a common bond which restricts who can join a credit union but is in line with best practice around the world.

This move will also greatly enhance the safety and reputation of the credit union movement as members in credit unions at risk of closure will be able to more easily transfer their membership to an existing, stronger credit union.

Removing the concept of non-qualifying members will prevent people losing access to credit union services because they move house or employment when the credit union is perfectly able to carry on providing the services they need.

Organisational Membership

Organisational membership will benefit local groups working for the benefit of their communities and colleagues and local businesses wishing to access local financial services and keep their money working in the community. The ability to accept deposits from organisations large and small will enable organisations such as faith groups and Registered Social Landlords to place some of their money on deposit at the credit union so that they can make a contribution to the supply of affordable credit in the community and help the credit union towards sustainability. The knowledge that local and trusted organisations are depositing money in the credit union will enhance the reputation of the credit union and encourage more people to deposit their money in the credit union and make use of its affordable loans and other services.

Paying Interest on Savings

The ability to choose to offer interest on savings instead of only having the ability to pay a dividend will enhance credit unions' ability to attract savings from more sophisticated savers. It will also assist credit unions to develop savings products which are attractive to smaller scale savers who may have previously held savings in less safe institutions. The additional savings can be used to increase the supply of affordable credit and therefore increase income to the credit union, helping to increase strength and sustainability.

Wider Objects

Wider objects will ensure that credit unions have the legal ability to carry on developing financial products to meet their members' needs. One example of this which was highlighted in the consultation document was the ability to provide hire purchase services to members. This is just one example of the sort of service which credit unions could develop to fill a gap in the market or meet a particular need of the people within their common bond. Objects which allow credit unions to innovate and change whilst retaining their ethos are essential if the credit union movement is to be enabled to meet the changing needs of society.

Relaxing the requirements on charges for auxiliary services will also assist credit unions to develop a wider range of services to meet the diverse needs of individuals they serve in their communities. Credit unions' local and/or interest group expertise puts them in a unique position to be able to develop niche products for groups of individuals who may not be served well by mainstream financial services providers and legislation should not prevent them from maximising their ability to assist individuals in this way.

We believe that the changes above are essential if credit unions are to be enabled to scale up and for the movement to continue to expand. This is necessary to increase coverage and in terms of the products they will be able to develop to meet the needs of the communities and interest groups which they serve.

Other issues raised in the consultation

Issues of governance and democratic organisation may not have the potential policy impact of the requirements we outline above but they are also needed to ensure credit unions can operate safely and transparently as democratic, member-led organisations.

Credit unions vary widely in their size and many are still volunteer-led organisations. Proportionality should therefore also be borne in mind when policy relating to the governance of credit unions is being designed, but measures designed to ensure safety and transparency are essential for any organisation which is entrusted to look after the money of others.

Audit

We believe that it is important that credit unions are required to produce annual accounts which are audited by a registered auditor to ensure that financial standards are maintained and problems can be identified. We would also welcome the move to require concerns about financial practices and procedures to be raised with the regulator as this can only assist to raise standards and prevent further problems arising.

Communication and democracy

Allowing credit unions to communicate electronically with their members and other moves to modernise will ensure parity with companies and encourage democratic participation.

Governance

Bringing credit unions into line with companies on issues such as the Company Directors Disqualification Act and on transactions with directors will provide an extra safeguard against mismanagement or fraud in credit unions and would be welcomed by the movement.

Rulebooks

We do not believe that issues such as the cost of rulebooks have a place in legislation, a reference to a 'reasonable fee' would suffice in this regard; as member led, democratic organisations, credit unions have the structures in place for members to object if they feel that small issues such as this are placing them at a disadvantage in dealing with the officers of a credit union.

Rebranding

At the bottom of our list in terms of priority would be the issue of the name 'credit union'. Where credit unions provide the products that people need and are able to meet the needs of members, the name does not appear to be a hurdle to growth. The movement needs to increase its coverage, capacity and credibility and a simple

wholesale name change which could also have the potential to increase regulatory burden is not helpful.

We believe that changing the name of credit unions to 'community banks' will not in itself do more to attract more affluent members of society to use credit unions. The answer to this lies much more in the realm of providing the products and services that those different segments of society need.

Credit unions recognise the need to attract a balance of savers and borrowers but without the changes we assert are needed to increase the credibility and capacity of credit unions, they will be stifled in their attempts to do this. The sustainability of credit unions and their capacity to assist more financially excluded members of society will be impeded by this. Changing the name would be no substitute for legislation which will allow credit unions the flexibility to develop products to meet the needs of the different people within their common bonds.

As awareness of credit unions grows, we believe that it will become even more important that the name 'credit union' is protected from use by other organisations; a wider awareness of credit unions could potentially attract unscrupulous lenders or other organisations to trade on the good reputation of credit unions for their own gain.

Other issues

During our widespread consultation with members and discussions with other stakeholders during the consultation period, a number of other issues were raised which are not mentioned in this review. We have contained them in our response to show a complete range of our members' views on issues of legislation affecting credit unions.

1. A credit union for credit unions

Most credit union movements around the world which provide a wide range of services to significant proportions of the population have some sort of central finance facility. These organisations owned and controlled by the credit unions which use them, provide a range of services including liquidity management, treasury management and payment services. They also assist credit unions to provide other products where economies of scale and back office expertise make the difference between a small credit union being able to offer a full range of services to its members or only being able to provide basic savings and loan products.

Coupled with our stated priorities of changes to the common bond, organisational membership and relaxations on the products credit unions can provide, we believe that some sort of central services facility is an essential element in enabling the British credit union movement to scale up and reach out to more people. With this facility even the smallest credit unions would be able to offer a full range of services including the Credit Union Current Account. Their ability to have an even more significant impact upon financial exclusion would be greatly enhanced.

We mentioned in our response to the section on corporate membership that this could be one way of allowing such a facility to be set up. This is not, however, the only corporate structure which would allow such a facility to be set up and this needs to be considered in the overall reform of credit union legislation.

The WOCCU Model Law describes such a facility in this way: -

10.20 Central Finance Facility

Purpose:

To authorize formation of a central finance facility for credit unions by establishing it as either an independent organization or as part of a second-tier organization.

Content:

1. A central finance facility may be organized under this Act with credit unions as its members. It shall be subject to all provisions of this Act not inconsistent with this section.

2. The purposes of a central finance facility are:

- a. to accumulate and manage prudently the liquidity of its member credit unions through investment services and inter-lending when appropriate;*
- b. to act as an intermediary for credit union funds between members and other central finance facilities;*

- c. to obtain liquid funds from other credit union organizations, financial intermediaries and other sources in serious liquidity shortage situations;*

- d. to participate in regional or national central financial systems designed to foster the economic security and development of member credit unions;*

- e. to provide payment systems and correspondent services for its members; and*

- f. to perform such other services of benefit to its members which may be authorized by the Superintendent or Supervisory Body.*

Comment:

The key purposes of a central finance facility are set forth, namely: providing wholesale liquidity management, investment vehicles, financial intermediation and participation in a regional or national central financial systems, payment clearing and settlement and as the lender of last resort for credit unions.

Subsection f also permits the Superintendent or Supervisory body to authorize additional services as changes in the financial marketplace may dictate.

A central finance facility would draw its membership primarily from other credit unions, but could also include credit union organizations and other groups serving credit unions. These might be a credit union service organization, a credit union insurance company, a bank or other financial institution primarily serving credit unions. How the central finance facility is structured, i.e., as a stand-alone organization or as part of the association of credit unions, depends on local conditions. However, caution should be taken to ensure that what is a financial endeavour is separate from political pressures.

2. Savings limits

In our answer to the question on the ability to pay interest on savings, we mention the limits on savings held by individual members. As credit unions now offer ISA's and premium savings products designed to attract longer term savings the limit on what each individual member can save as a proportion of the overall shareholding of the credit union is causing problems for some credit unions and individual members. This is a matter for the FSA which we will be taking up on behalf of our members.

3. Non-Executive Directors

This is an issue which has been mentioned by some members during our consultation and has also been an issue raised during the work we have carried out on governance over the last two years. The ability of credit union boards to appoint a limited number of non-executive directors, with voting rights, would allow some credit unions more scope to equip their boards with the necessary mix of skills to run a successful and sustainable credit union. Non-executive directors may be recruited when the board needs a particular set of skills from an individual which is not available from directors elected from the membership of the credit union. This should not be seen as a substitute to seeking similarly qualified individuals within the common bond.

4. Community Investment Tax Relief

A number of banks have indicated that were Community Investment Tax Relief to be made available for organisations lending to credit unions then they would be willing to lend to credit unions significant sums at a low rate of interest. This would provide an excellent opportunity for credit unions to increase the availability of affordable credit in their communities and, especially for new credit unions, help them to reach sustainability at a much quicker rate. We believe this should be one of the ways that banks are asked to support the scaling up of third sector lenders.

We are also aware that this is a prerequisite for the proposed Social Investment Bank. We support this approach to bringing private capital into the sector.

5. Rate Relief

As part of their efforts to become more accessible and attractive to new members, credit unions are increasingly occupying their own shop-front premises. Guidance to local authorities, issued by the ODPM in 2002⁵ on whether credit unions should be eligible for discretionary rate relief is interpreted in different ways by different local authorities. Some local authorities recognise that, while credit unions do benefit their members by providing services and a dividend to these members, the services are available to the whole community and the payment of a dividend is necessary to attract the savings needed to provide affordable credit; these credit unions qualify for some rate relief. Other local authorities do not recognise this resulting in some credit unions paying full business rates while providing a valuable service to their community; something that would not happen if they were charities.

We would like to see the inclusion of credit unions in the range of organisations which qualify for mandatory rate relief and updated guidance to local authorities which reflects credit unions' benefit to communities. This would relieve a burden on credit unions and help them to continue operating from accessible and visible premises, which is necessary to be a credible provider of financial services.

5. Payroll Deduction

Some credit unions have had difficulties securing payroll agreements with employers. This has led them to raise the issue of whether, to encourage safe savings, and build support for credit unions, there should be a legal obligation upon employers to set up payroll agreements if their employees wish to save in this way.

⁵ Non-domestic rates: Guidance on rate reliefs for charities and other non-profit making organisations ODPM, 2002

Conclusion

Over the last ten years many credit unions have developed their product offering, changed their business model, become more professional, visible and convenient. As a result many credit unions have grown significantly.

The lessons learnt have allowed many credit unions to take on the pivotal role in the UK and devolved Government's financial inclusion agenda.

But credit unions have the potential and drive to achieve much more; there are many people around the country with financial needs which credit unions are keen to meet. They are willing to provide services to more people and have a greater impact upon financial inclusion but they are unable to do this because of restrictions entrenched in outdated legislation.

This consultation has been warmly welcomed by the British credit union sector. Credit unions and our regulators have struggled for some time with legislation designed to suit small voluntary run financial co-operatives serving a few hundred people. The time has come to move forward and design a legislative framework suited to the needs of the sector for the next twenty years.

ABCUL believes that a number of these proposals can be achieved without the burden of primary legislation. We believe that many of these proposals are fundamental to credit unions ability to scale up their impact upon financial exclusion. We recognise that some of the proposals contained in the wider consultation on co-operative legislation will require primary legislation and that will always be difficult to obtain. While being wholly supportive of these wider changes we urge the Government to look for opportunities to introduce the priority changes for credit unions as and when they can.

Appendix 1 – ABCUL Member Survey

The online survey was launched on 6 July 2007 and closed on 23 August 2007 and was open to all ABCUL credit unions. ABCUL members were also given the opportunity to fill in a hard copy of the survey which was sent out in a member mailing.

Responses were received from 102 individuals from 98 credit unions and 2 credit union study groups. 72 of the respondents filled in the survey as an individual from a credit union and 30 on the basis of board discussion. The statistics below demonstrate the wide range of credit unions which responded to our consultation.

Common Bond

Common bond	Number of credit unions	Percentage
Live or work	73	71
Residential	7	7
Employment	15	14
Associational	7	7

Approximate Membership

Size	Number of credit unions	Percentage
Less than 500	29	28
501-1500	35	34
1500-5000	28	27
5000-10,000	6	7
10,000 +	4	4

Age of Credit Union

Age	Number of credit unions	Percentage
Less than 2 years	10	10
2-5 years	14	14
5-10 years	35	34
10-20 years	37	36
20+ years	6	6

Staff employed

Number of Staff	Number of credit unions	Percentage
No staff	23	23
Up to 2	34	34
Up to 10	34	34
More than 10	8	8

Appendix 2 – ABCUL Member Meetings

To give credit union members the opportunity to learn about and discuss the options for legislative change, we held a number of meetings around the country. This was complemented with discussions on the ABCUL member website and articles in our member communications. The issue was also a major theme at our 2007 Annual Conference and AGM and a workshop was held at the ABCUL Scotland Summer School.

Date	Location	Event	Number of attendees	Number of credit unions represented
2 June 2007	Manchester	ABCUL Chapter Officers Meeting	18	18
4 June 2007	Manchester	ABCUL Greater Manchester Chapter Meeting	14	10
5 June 2007	Manchester	Joint event with Co-operatives UK	30 from credit unions	20
16 June 2007	Nottingham	ABCUL East Midlands Chapter Meeting	30	11
23 June 2007	Leeds	ABCUL Yorkshire Chapter Meeting	22	10
12 July 2007	London	ABCUL London and South East Chapter Meeting	20	10
14 July 2007	Durham	ABCUL North East Chapter Meeting	22	9
29 August 2007	Glasgow	ABCUL Scottish Chapter Meeting	19	12
Total			175	100

Meetings were also held at 4 events held to feed into the Financial Inclusion Taskforce's investigation into Scaling up the Sector; over 200 people from around 100 credit unions attended these events in Glasgow, Cardiff, London and Manchester and around a third of these individuals took the opportunity to join ABCUL staff for a meeting to discuss the legislative review after the event.