



MEMORANDUM OF UNDERSTANDING

between

THE FINANCIAL CONDUCT AUTHORITY

and the

DEPARTMENT FOR THE ECONOMY

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INTRODUCTION

1. The Memorandum of Understanding

- 1.1. This Memorandum of Understanding ('MoU') establishes a framework for co-operation between the *Financial Conduct Authority* ('FCA') and the *Department for the Economy in Northern Ireland* ('DfE').
- 1.2. An MoU has been in place with DfE (previously *the Department of Enterprise, Trade and Investment in Northern Ireland* ('DETI')) since 31 March 2012 (updated 28 March 2013) in relation to the transfer of regulatory responsibility for Northern Irish credit unions ('NICUs') to the *Financial Services Authority* ('FSA') on 31 March 2012. The FSA's regulatory responsibility for NICUs was later split between the FCA and the *Prudential Regulation Authority* ('PRA'), upon the dissolution of the FSA on 1 April 2013.
- 1.3. The need for this new MoU arises as a direct consequence of the transfer of the function of the *Registrar of Credit Unions and Industrial and Provident Societies for Northern Ireland* ('Registrar') from DfE to the FCA on 6 April 2018.
- 1.4. This MoU replaces all previous cooperation agreements relating to Northern Ireland *credit unions and industrial and provident societies (co-operatives and community benefit societies)* ('mutual societies') between the FCA and DfE.
- 1.5. This MoU in many respects sits alongside a separate MoU that supports joint working arrangements between the DfE and the PRA.

2. Period of the MoU

- 2.1. This agreement takes effect from the date signed by both parties and shall remain in force until it is dissolved or replaced.

3. Changes to the MoU

- 3.1. This MoU may be amended at any time with the consent of both parties. Changes will normally be reflected by an updated Schedule A.

4. Vires

- 4.1. The statutory registration functions are assigned to the Registrar under the *Credit Unions (Northern Ireland) Order 1985* ('1985 Order') and *Co-operative and Community Benefit Societies Acts (Northern Ireland) 1969 and 1976* ('1969 and 1976 Acts').

- 4.2. This legislation remains a transferred matter under the *Northern Ireland Act 1998*, with DfE retaining policy and legislative responsibility for the 1985 Order and the 1969 and 1976 Acts.

- 4.3. The *Financial Services Act 2012 (Mutual Societies) Order 2018* legislated for the functions of the Registrar to be transferred from DfE to the FCA on 6 April 2018¹.

- 4.4. From 6 April 2018, the FCA will perform the statutory functions of the Registrar under the 1985 Order and the 1969 and 1976 Acts.

¹ With the exception of functions which relate to the determination of disputes which have been transferred to the county court in Northern Ireland.

5. Scope

5.1. This MoU aims to support joint working arrangements between the FCA and DfE which satisfy the statutory responsibilities of each body in relation to NI mutual societies.

5.2. Schedule A sets out the role of each body and how they will work together.

5.3. While it is anticipated that the arrangements in this MoU should apply generally, it is recognised that some circumstances will require special handling. Nothing in this MoU prevents the making of arrangements to meet specific exceptional needs.

5.4. If any unintended inconsistencies come to be found between the wording of this MoU and legislation, then the legislative provisions will prevail.

6. Costs

6.1. There is no direct cost related to the operation of this MoU, over and above regular 'business as usual' costs.

7. Liaison Arrangements

7.1. There will be close liaison between the FCA and DfE to ensure that legislation and policy are interpreted and applied in a coherent manner to achieve consistency of decision-making and so help to underpin an effective registration and regulation (in relation to NICUs) regime for NI mutual societies. Each organisation will designate one or more persons to act as the primary point of contact. The role of the designated persons will be to ensure that:

7.1.1. information is exchanged with the appropriate degree of speed and security;

7.1.2. the flow of information is in accordance with the restrictions on information exchange;

7.1.3. the information exchanged is not trivial and does not create an undue burden on either DfE or the FCA.

7.2. Where they consider it appropriate, designated points of contact may delegate ongoing liaison to colleagues, or to other appropriate members of their own organisation, and if such is done will advise the other organisation accordingly.

7.3. Any disagreements will be dealt with as a matter of urgency, documented and processes put in place to ensure that the disagreement does not create issues in the future.

7.4. Contact between FCA and DfE should normally be directed to:

FCA

Ian Adderley
Mutuals Team
Financial Conduct Authority
12 Endeavour Square
London
E20 1JN

0207 066 1920
mutual.societies@fca.org.uk

DfE

Ann Scott
Better Business
Department for the Economy
Adelaide House
39-49 Adelaide Street
Belfast
BT2 8FD

028 9025 7951
Ann.Scott@economy-ni.gov.uk

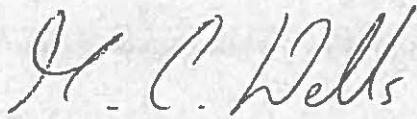
8. Monitoring Arrangements

8.1. The FCA and DfE should monitor and internally review Schedule A on an annual basis. If both parties are content, the MoU will remain unchanged.

8.2. The FCA and DfE will carry out a formal joint review of this arrangement in April 2021.

9. Signatories to the MoU

Financial Conduct Authority

Handwritten signature of Mike Wells in black ink.

Mike Wells CBE
Head of Department,
Approved Persons, Passporting
and Mutuals

12 November 2019

Department for the Economy

Handwritten signature of Colin Jack in black ink.

Colin Jack
Director, Business and
Employment Regulation
Division

18 November 2019

Schedule A

I. Roles

- a. DfE has control of the policy and legislative function for the sector as per 4.2 above.
- b. The FCA will perform the statutory functions assigned to the Registrar as per 4.4 above.

II. Registry Support

- a. DfE will be available to provide background information and advice on its previous Registry role to the FCA regarding NI mutual societies. Efforts will be made to be flexible and responsive to requests, with a minimum level of support provided by the former Registrar / Assistant Registrar as:
 - i. From 6 April 2018 – 30 September 2018 – 4 hours per week.
 - ii. From 1 October 2018 – 31 March 2019 – 2 hours per week.
 - iii. From 1 April 2019 – 31 March 2020 – 1 hour per week.
- b. DfE will share correspondence not on loan (see III below) to the FCA if it is available.

III. Records & Information Sharing

- a. All records created up until 6 April 2018 are NI public records and DfE retains ownership. These records are sorted into files for each society.
 - i. These files will be loaned by DfE to the FCA to allow it to discharge its duties. The files are in two formats – paper (hard copy) files until 2004, and digital (electronic) files from 2004-2018.

- ii. All documents (hard copy or electronic) created by the FCA to be added to current NI mutual society files will be classified as a continuation of these records and therefore will be classified as NI public records.
 - iii. All files created for societies registered on, or after 6 April 2018, will not be classified as NI public records and will be owned by the FCA, and subject to the appropriate GB legislation.
 - iv. All NI public records and how they are to be curated will be subject to a separate data sharing agreement.
 - v. Designated officials will be identified in the data sharing agreement to oversee records management.
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- b. DfE will cooperate with the FCA and to share information with it as may reasonably be required for the performance of any of its functions. This may include information such as details of local stakeholders and/or future government policy and legislative initiatives for the sector.
 - c. The FCA will cooperate with DfE and share information with it as may reasonably be required for the performance of any of its functions, where legally permissible. This may include information such as statistical data and/or society contact details.
 - d. Confidential information received by the FCA is subject to statutory safeguards under the Financial Services and Markets Act 2000 (FSMA). The FCA may be subject to restrictions regarding disclosure of certain confidential information.
 - e. Where the FCA or DfE shares information with the other party that is not yet publicly available, that information may not be disclosed to any other body without prior consent from the other party to this MoU, in accordance with statutory obligations, or until such time as it becomes publicly available.

- f. DfE will quickly pass to the FCA any indications of malpractice or professional misconduct committed by any FCA supervised firm or registered society, which it becomes aware of.
- g. Notwithstanding subsection e) above, the FCA may consult with the PRA as it considers appropriate in respect of any matter it receives from DfE without seeking DfE's prior permission to do so. Any consultation between the FCA and PRA would take into account the provisions generally of the MoU between the PRA and FCA.
- h. The FCA and DfE will review, as per section 8 above, the processes in place to facilitate information exchange.

IV. NI policy & legislation

- a. DfE shall consult with the FCA on proposed changes to NI mutual society legislation. The FCA can at any time suggest changes that will make the operation of the registration function more efficient.
- b. The FCA will notify DfE of any guidance it issues, or rules it makes, relating specifically to NI mutual societies.

V. Freedom of Information and Data Protection Information Access requests

- a. The FCA and DfE will seek to co-operate with each other when Freedom of Information requests or Data Protection Information Access requests are received by one of the parties that included information received by, or which might affect the interests of, the other party to this MoU.
- b. Such requests may be received electronically or in writing. If considered appropriate to transfer the query to the other party, an appropriate method of transfer should occur within 24 hours. The party initially receiving the

request should send an acknowledgement advising to whom it has been transferred. The party then in receipt of the query should respond within the requisite timeframe to the person making the request and, as appropriate, copy the other party in to the response as sent.

- c. Discussions between the FCA and DfE on policy development, operational matters and information exchanges may be exempt from disclosure, and will be tested on a case by case basis.

VI. Websites

- a. The FCA and DfE will keep under review the relevant parts of their own websites to ensure they are fit for purpose and will respectively do as follows:
 - i. The DfE website will include a suitable link to the FCA website. DfE shall ensure its own website contains no regulatory or registry content, so that between them the FCA and the PRA websites shall be the sole custodian and publisher of regulatory or registry data.
 - ii. The FCA will publish on its Mutuals Public Register the relevant details of all registered Northern Ireland societies.

VII. Presbyterian Mutual Society

- a. The Presbyterian Mutual Society (PMS) is currently registered as a 'pre-2016 Act society²'. It is in a Scheme of Arrangement and is making repayments to DfE. There is a public interest in these repayments being made.

² See s1A of the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016.

- b. As with all societies, the decision as to whether to exercise the legislative power to suspend or cancel the registration of PMS rests with the FCA. The FCA will consider any representations DfE make on the exercise of these powers in relation to PMS, save where it is not reasonably practicable to do so.