EXPLANATORY MEMORANDUM TO

THE CREDIT UNIONS ACT 1979 (LOCALITY COMMON BOND CONDITIONS) ORDER 2017

2017 No. 1144

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order makes a change to section 1B(3)(a) of the Credit Unions Act 1979 to increase the number of potential members of a credit union for the locality common bond from 2 million to 3 million.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise.

4. Legislative Context

4.1 Section 1B(3)(a) (further requirements where common bond relates to locality) was inserted by the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011 (SI 2011/2687). The locality common bond was aimed at striking an appropriate balance between giving access to credit unions while ensuring that there would be genuine connection between the members of an individual union based on a geographic area.

4.2 By this Order the Treasury increases the maximum number of potential members of a credit union for the locality common bond from 2 million to 3 million.

4.3 This Order comes into force on 6th April 2018.

5. Extent and Territorial Application

5.1 The territorial extent of this instrument is England, Wales and Scotland.

5.2 The territorial application of this instrument is England, Wales and Scotland.

6. European Convention on Human Rights

6.1 The Economic Secretary to Her Majesty's Treasury has made the following statement regarding Human Rights:

"In my view the provisions of the Credit Unions Act 1979 (Locality Common Bond Conditions) Order 2017 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 Credit unions are member-owned, democratically-controlled financial organisations constituted as co-operatives. They take deposits from and make loans to their members. Credit unions have certain limitations on their membership based on connections between the members – the ‘common bond’. A common bond can be based on, for example, association, occupation or geographic area. The current geographic common bond is limited to 2 million potential members. This means that a credit union can only market itself to a geographic area where the number of potential members of the society does not exceed 2 million people.

7.2 As the population of the largest cities has grown, this limit has acted as a constraint on the growth of credit unions, with some even having to restrict their marketing to within the city they operate in. This acts as a constraint on the penetration of credit unions and prevents useful consolidation in certain areas.

7.3 Expanding the common bond limit to 3 million potential members will help the sector grow and expand, whilst ensuring the characteristics of the mutual model are maintained.

Consolidation

7.4 Her Majesty’s Treasury does not propose to consolidate any legislation as a result of the change made by this Order.

8. Consultation outcome

8.1 The Government ran a call for evidence in 2014, consulting on areas where government intervention can support and help the sector grow. One of the questions was on whether the current rules around the common bond were appropriate.

8.2 Many of the responses argued for a broadening of the common bond. Some responses from trade associations, larger credit unions and smaller credit unions suggested that limiting the potential number of members a credit union with a locality based common bond at 2 million is problematic. They suggest that the limitation prevents useful consolidation across larger geographical areas and restricts the potential penetration of credit unions.

8.3 One trade association, however, suggested that the 2 million cap is not an issue as no credit union is near to reaching that level of membership with the larger credit unions serving around 30,000 consumers, so the focus should be on achieving greater penetration within the existing common bond.

8.4 The Government committed to consider potential changes to the legislation on credit unions in the next parliament, subject to the availability of an appropriate legislative vehicle. Upon reviewing the evidence, the Government has decided to increase the common bond, in order to help the sector grow and expand.

8.5 The Government has also consulted with the Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA) in developing these proposals.

9. Guidance

9.1 The FCA and PRA will be updating existing guidance once this change has been enacted.

10. Impact

10.1 The impact on business, charities or voluntary bodies will be positive. This change will provide those credit unions that have a geographic common bond with freedom to expand their marketing across a larger area and potentially attract more members, which could lead to increased profitability. This would also provide smaller credit unions with the opportunity to merge and encourage useful consolidation across the sector. There may be small transition costs for societies as they will have to make a decision as to whether to take advantage of this change and register a rule change with the FCA.

10.2 The impact on the public sector is minimal. The FCA and PRA will update their guidance and rulebook as a result of this change.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses. However, it is expected that only the largest credit unions will want to take advantage of these changes. Therefore, we do not expect this to impact on any small businesses.

12. Monitoring & review

12.1 This instrument does not provide for a review of the change that it makes.

12.2 While no specific review is planned for this instrument, the change will be reviewed as part of any future policy review regarding co-operatives and community benefit societies.

12.3 Pursuant to section 28(2)(b) of the Small Business, Enterprise and Employment Act 2015, the Economic Secretary to Her Majesty's Treasury has made the following statement regarding the appropriateness of a legislative provision for review of this instrument:

"It is not appropriate to make legislative provision for review of the Credit Unions Act 1979 (Locality Common Bond Conditions) Order 2017. This Order increases the number of potential members of a society for the locality common bond from 2 million to 3 million. Conducting a statutory review of this Order would be disproportionate to the economic impact of this change."

13. Contact

13.1 Katharine Lyness at HM Treasury Telephone: 020 7270 2467 or email: retailbankingandmutuals@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.