
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional provisions and consequential amendments relating to the revocation, on 31st March 2012, of the exemption for Northern Ireland credit unions from the general prohibition imposed by section 19 of the Financial Services and Markets Act 2000 (c.8) (“the Act”). The exemption, contained in paragraph 24A of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001 (S.I. 2001/1201), is revoked by S.I. 2011/2716.

Article 2 provides that all credit unions which are not authorised persons (“unauthorised credit unions”) are to be treated, at 31st March 2012 (“commencement”), as having permission under Part 4 of the Act to accept deposits by way of subscription for their shares or from a minor. Article 3 provides that restrictions or prohibitions imposed on a credit union before commencement under Article 59 of the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)) (“the 1985 Order”) have effect from commencement as if they were requirements imposed under section 43 of the Act and provides for how credit unions should be categorised under the Financial Services Authority’s Handbook. Article 4 provides that where, at commencement, a person is performing a controlled function for an unauthorised credit union, the continued performance of the function by that person after commencement is to be taken to have been approved by the Authority for the purposes of section 59.

Article 5 enables the Authority to require credit unions of a specified description to reapply for permission. The Authority may impose such a requirement before commencement but the requirement does not have effect until commencement. Article 6 enables the Authority to require credit unions of a specified description to reapply for the Authority’s approval under section 59 in respect of the performance by a person of a controlled function. Article 7 sets out procedural provisions that relate to these requirements.

Article 8 enables credit unions from 31st December 2011 (“applications day”) to apply for a variation of a requirement to which they will, by virtue of article 5, be subject from commencement. Applications may also be made for approval of persons who will, after commencement, be subject to the regime established under Part 5 of the Act (approved persons). The Authority may also initiate action under section 45 of the Act (exercise of own initiative powers) or section 56 (prohibition orders) from applications day but nothing done under the Act by virtue of this article takes effect before commencement.

Article 9 enables the Authority, from applications day, to exercise its powers under section 165 of the Act (information gathering) in relation to those credit unions which it has reasonable grounds to believe will be authorised persons at commencement.

Article 10 amends the 1985 Order before commencement expressly to permit the registrar to share information relating to credit unions with the Financial Services Authority.

Article 11 modifies the definition of “consumer” in section 391 of the Act for a transitional period until 31st March 2014 to include those who used the services provided by a credit union while it was not an authorised person.

Article 12 makes technical amendments to the Dormant Bank and Building Society Accounts Act 2008 (c.31) and the Banking Act 2009 (c.1) to maintain, after commencement, the position of Northern Ireland credit unions as regards the application of those Acts.

Article 13 amends the 1985 Order. Article 4(2) of the Order is amended so as to provide that the registrar, a function held by the Department of Enterprise, Trade and Investment, shall not issue an

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acknowledgement of registration unless the Financial Services Authority (“the FSA”) proposes to give that credit union permission under Part 4 of the Act to accept deposits. Provisions of the 1985 Order which relate to matters which are also dealt with under the Act itself are revoked or amended. Similarly, provisions which relate to matters on which the FSA could make rules under the Act are also revoked.

Article 14 revokes certain instruments and rules which were made under the 1985 Order and in relation to which the FSA could make rules under the Act.

Article 15 requires the Treasury to review the operation and effect of articles 12 to 14 and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Treasury to consider whether the legislative amendments made by this Order should remain as they are, or be revoked or amended. A further instrument would be needed to revoke or amend them.

No separate impact assessment has been prepared for this instrument. An impact assessment of the effect that bringing Northern Ireland credit unions under the 2000 Act will have on the costs of business and the voluntary sector is available from the Mutuels Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is published with the Explanatory Memorandum alongside [S.I. 2011/2716](#) on [legislation.gov.uk](#).