HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

7th March 2024

Response to HM Treasury's "Enhancing the Special Resolution Regime Consultation"

To whom it may concern,

We welcome the opportunity to respond to this consultation. The Association of British Credit Unions Limited (ABCUL) is the primary trade association representing credit unions in England, Scotland and Wales, with around two thirds of credit unions in Great Britain affiliated to the Association.

Credit unions are co-operative societies who provide financial services – primarily savings and loans facilities – to their member-owners. They are registered as Co-operative Societies under the Co-operatives and Community Benefit Societies Act 2014 and the Credit Unions Act 1979. As deposit-takers they are dual-regulated by the Prudential Regulation Authority and the Financial Conduct Authority.

Credit unions have since their inception in Britain in 1964 been closely associated with anti-poverty and financial inclusion. They tend to provide savings and loans facilities to those with limited or no access to financial services from mainstream providers, generally due to their low income and / or lack of a developed credit profile. They have been a central element of numerous government and philanthropic initiatives to extend financial inclusion and address the lack of adequate provision of affordable credit and secure savings facilities for large sections of the population. They are capped in the interest that they can charge at 42.6% APR under the Credit Union Act 1979 and provide credit in competition with high-cost lenders.

They are numerous, with nearly 240 credit unions active in Great Britain today with more than 1.5 million members and £2.6 billion in assets under management. They range from mid-sized businesses of up to 50 staff to small voluntary organisations.

Response to Consultation

The credit union sector welcomes the progression of this reform and this step towards regulating the Buy-Now Pay-Later market. Credit unions closely support their members with their financial resilience and wellbeing. As a result, they have seen the harm caused to many individuals from overuse of BNPL products, and the growing need for appropriate regulation of this market.

We broadly agree with the Government's proposed approach and drafting of new legislation in this consultation. We support the Government's proposal to target regulation specifically at third party BNPL providers, who can play the largest role in preventing harm to consumers in the BNPL market. We also believe that the proposed legislation will allow the future regulatory regime for BNPL to be appropriately tailored and proportionate to the risks posed by different uses of short-term, no-interest credit.

Question 1: Do you agree with, or have any comments on, the proposal for the Financial Services Compensation Scheme to provide funding to recapitalise failing small banks, where these firms are placed into resolution rather than insolvency?

ABCUL does not agree with the Proposal for the Financial Service Compensation Scheme to provide funding to recapitalise failing small banks. As ABCUL represents credit unions working under a non-for-profit framework, the inclusion of credit unions in this scheme could have a disproportionate effect on credit unions. Furthermore, the inclusion of credit unions in this proposal would see credit unions' operational costs increasing without a benefit to them, as they would not be included in the recapitalisation process if they were to go insolvent. The consultation paper also refers to there being no immediate cost, which, as an organisation, raises concerns as to when credit unions would start to see any increase if the proposal comes into effect. ABCUL also feel that the benefits to credit unions would only be externalities, and credit unions would receive no direct benefit from contributions to recouping funds. We acknowledge that the failure of banks which are not deemed to be systematically important can create risks to the economy in particular when individuals and businesses do not have continuity for deposits, which then impacts on the public's confidence of the whole financial services sector. Furthermore, contribution does not provide credit unions with greater financial security. We recognise the new mechanism would not necessarily be used in all cases of small bank failure and that they Bank Insolvency Procedure may continue to be used, where appropriate to do so.

Question 2: Do you agree with the proposal to recoup the funds from the whole deposit-taking class?

We strongly oppose the proposal to recoup the funds from the whole deposit-taking class. The current interim profit of credit unions is 1.87m, which is significantly less than the total assets of banks. HSBC alone has over 2.3 billion in total assets. Although we appreciate that the levy imposed on credit unions would be proportional to our income, ABCUL feels that the effect of increasing costs for credit unions would still have a disproportionate impact on their finances compared to other financial sector organisations, which are for-profit companies that have greater profit margins. Often, struggling credit unions are either forced to wind down or undertake the process of merging, which would be similar to a bridge bank in this case. HMT have stated in the consultation they do not envisage upfront costs as a result of the proposals. However, the proposal of having a prefund, financed by the whole deposit taking class would be disproportionate given that credit unions are not eligible to access the SRR but would have to contribute under these proposals. We acknowledge that currently the whole deposit taking class contributes to fund for predicted credit union closures, but the cost of these in comparison to a failing small bank are significantly different, yet credit unions will be impacted with increased levies. We agree that the "banking sector" should fund the prefund but with the exclusion of credit unions and urge HM Treasury to consider only increasing additional payment from those who will be eligible to utilise the SRR. It is imperative to recognise how proportionality must be introduced due to the differing range of profits being accumulated across the deposit taking class. We understand that any remaining funds if over provisioned for or through the sale of Bridge Bank was completed would be sent to FSCS to offset future levies or repay industry, however we would like clarification on how FSCS decides what to do with those remaining funds.

Question 3: Do you agree with the proposed scope of application for the proposed mechanism?

We agree with the proposed scope of application for the proposed mechanism. We appreciate the high-level detail provided in this consultation which is appropriate for an overall legal framework. However, we encourage HM Treasury to conduct subsequent consultations of the proposed legal text to enable the review of more detailed requirements, to allow further discussions and feedback.

Question 4: Do you have any other comments on the proposals set out in this consultation?

ABCUL would like to know the rate and level at which they forecast smaller bank closures and/ or how many banks they estimate will require this proposal in the next five years. The current climate for smaller bank closures is increasing. If there is an increased requirement for credit unions to contribute to the recapitalisation of smaller banks continually, this could be to the detriment of credit unions, which are not always asset-heavy and often function with tight capital margins.

Additionally, the consultation quotes how one of the objectives of this proposal is to protect and enhance public confidence in the UK's financial system's stability. ABCUL believe that this proposal is unlikely to achieve this objective. However, the closure of small banks made people lack confidence in traditional banking, turning to alternatives such as credit unions. This has been illustrated by Morag turning to one of our credit unions, 1st Alliance Credit Union, when her local RBS branch closed, although this example does not show a failure of a small bank it does shine a light on the reliance for credit unions within local communities. Therefore, we propose that greater promotion and support to the credit union sector would instil better confidence in the UK's financial sector. Although we recognise that this would not help prevent smaller banks from going into insolvency, it would provide customers/ members with an ethical alternative to banking whereby confidence can be restored.

(article from the Daily Express in May 2023 - Bank branch closures lead 'upset' woman, 64, to join credit union | Personal Finance | Finance | Express.co.uk)

Please get in touch at policy@abcul.org should you wish to discuss our response.

Yours faithfully,

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