17

CONSULTATION QUESTIONNAIRE (Page One)
Credit Union Debts in Protected Trust Deeds

The deadline for responses is **25 June 2007**

Your details

Name	**Joseph Russo**
Job title (if applicable)	**General Manager**
Organisation (if applicable)	**Cumnock & Doon Valley Credit Union**
Address	11 The Square Cumnock Ayrshire
Postcode	KA18 1BG
e-mail address	[redacted]

For the purpose of analysing responses, it would be helpful if you would also indicate the capacity in which you are completing this questionnaire, please tick as appropriate.

Advice Sector	☐	Legal Body	☐
Business	☒	Professional Body	☐
Individual	☐	Statutory Body	☐
Insolvency Practitioner	☐	Other (Please Specify) _____	☐

Questions for Consultation

1a Do you think that cancelling debt in a Protected Trust Deed has a particularly harsh impact on Credit Unions?

Yes ☒ No ☐

1b If yes, what evidence do you have to support your comments?

In discussions with other credit unions this subject has been raised an almost every credit union we have been in discussions with has suffered a loss due to a trust deed.

1c Do you think that Protected Trust Deeds should give special protection to Credit Unions?

Yes ☒ No ☐

CONSULTATION QUESTIONNAIRE (Page Two)
Credit Union Debts in Protected Trust Deeds

2a Do you think that cancelling debt in a Protected Trust Deed has a particularly harsh impact on any other creditor?

Yes ☐ No ☒

2b If yes, what other creditors are affected?

—

2c Do you think that Protected Trust Deeds should give special protection to any other type of creditor and which ones?

Charitable bodies that may have leant money for provident purposes, such as business start-up or educational development should, along with credit unions be offered a degree of protection.

3a Do you think that introducing special protection for credit unions (or another type of creditor) would unduly harm the interests of the rest of the creditors?

Yes ☐ No ☒

3b If yes, what evidence do you have to support your comments?

—

4a Which of the following options do you think would be the most appropriate?

☐ Option 1 (Do Nothing) –The intended reform of Protected Trust Deeds will be sufficient to protect the interests of all creditors, including Credit Unions.

☒ Option 2 (Debts not Cancelled) - Debts due to Credit Unions should not be cancelled by Protected Trust Deeds.

4b Why do you think this option is most appropriate?

The credit union movement is small and barely sustainable. Credit Unions differ from other lenders because they lend for provident purposes and not for profit. The expectation is that any loan granted will aid the borrower rather than cause hardship and credit unions have processes in place to ensure they are lending responsibly. If a credit union member seeks a trust deed it is likely that the member lied to the credit union in order to secure additional funds, as no credit union will lend to a heavily indebted person. In order to provide services to the financially excluded credit unions have traditionally shunned credit referencing leaving them more able to help the disadvantaged but also more open to abuse.

Therefore, as the purpose and ethos of the credit union movement is unique and in its' present form should be afforded some protection.

4c Do you have any other comments on these options that we should consider?

In light of the comments made within the consultation document about the UK government's reduction in the number of exceptions to such legislation it seems that the Scottish Executive have two options with regard to the credit unions.

There is no doubt that the Executive recognises the role that credit unions play in reducing inequality and giving access to mainstream financial services, however we seriously doubt that as the movement grows and develops that it can successfully continue to argue that credit unions are a special case. Since the Credit Union Act 1979 and more recently the Financial Services & Markets Act, the credit union movement has successfully managed to gain opt outs or exemptions from a number of legislative measures, most notably funding regulations.

Currently credit unions are seeking further concessions from legislation on trust deeds. This culture of dependency and exemption cannot continue. Size is the key factor in this debate. The majority of community credit unions, who provide services that aid poverty reduction and facilitate access to mainstream financial services, are far too small to survive in the real world. They are barely able to cope with FSA regulation and would be unable to cope with Trust deeds. This does not however constitute an argument for exemptions or for special cases to be made. Rather credit unions are in a state of near market failure and should be either forced or strongly encouraged to merge with one-another. Only through increased scale of operations can credit unions hope to survive in the 21st Century with escalating costs and regulatory burdens.

Government has tried to help improve the situation of credit unions by allowing increases in the interest rate that can be charged and by easing some of the restrictions on the products and services which can be offered as well as some relaxation of common bond restrictions. Very few credit unions have taken advantage of these changes due the chronically poor standard of management that they have and by misguided notions of social justice. Too many management committees see their organisations as charities or ménages, rather than fully fledged financial services businesses. A not for profit co-operative is still a business and many fail to realise this.

Only through mergers and acquisitions within the industry can community credit unions hope to be self sustainable and meet new challenges such as protected trust deeds. Too often planned mergers fail for reasons of personality conflict or petty vindictiveness between potential partners. In East Ayrshire for example, there are two credit unions covering exactly the same area. Both are funded separately to meet the same objectives. Surely these objectives would be better met with one organisation covering the local authority area or even the entire former county of Ayrshire? Such a body would have the necessary asset and customer base to be far more secure and viable than the 6 small credit unions currently operating in Ayrshire. The FSA must have, within CRED a presumption that a common bond exists for mergers of community credit unions or better still should simply acquiesce to mergers if the new organisation is a stronger one.

Protected trust deeds are a major threat to community credit unions. Most credit unions fail because bad debt overwhelms them. Trust deeds will make this easier and more likely to happen. The solution however is to have credit unions which are large enough to cope with financial losses rather than to make exceptions for credit unions who fear that they will be unable to cope with potential losses.