Special Members’ Meetings – October 2019

**PROPOSALS SUBMITTED TO MEMBERS FOR APPROVAL**

**Why are Special Members’ Meetings being held?**

The Board is proposing two rule amendments as contained in the Society’s Rule Book (the Rules). The Society’s Rule Book (Rule 49) states that any changes must be put to the Society’s members at a Special Members’ meeting.

**Why does the Society have Rules?**

The Society has a set of Rules which are approved by the Society’s Members. The Rules serve as the Society's constitution and are mechanism that sets out how the affairs of the Society are conducted on members’ behalf.

The Rules set out the Society’s powers and purpose, the remit of the Board, who can be members, who can be directors, rules over the distribution from the Society’s trading surplus, how members’ meetings are conducted, and how other matters should be dealt with. In brief, they provide the framework under which the Society operates on a day-to-day basis, and act as the foundation for the Society.

**What Rule changes are being proposed?**

The Board is proposing to amend two Rules, as set out below:

1. **Proposed Rule amendment – eligibility to stand for election to the Board**

The proposed amendment to Rule 90 (h) would allow Members who are discharged bankrupt to stand for election to the Board of the Society.

Rule 90 (h) currently states:

*90. [A person shall only be eligible to be nominated for election as a Director if they fulfil the following criteria (and if already elected shall immediately cease to be a Director if they cease to be eligible):]*

1. *A bankruptcy order has not been made against them;*

**Why is the Rule being amended?**

During the 2019 Board Elections, it came to the Secretary’s attention that Rule 90 (h), as it is currently worded, does not distinguish between a Member who is a “discharged” or “undischarged” bankrupt. It is proposed to amend Rule 90 (h) in order for the restriction to only apply to Members who are undischarged bankrupt which was the original intention of Co-operatives UK’s Model Rules upon which the Society’s Rule Book is based.

**Proposal**

It is proposed that the Society amends Rule 90 (h) accordingly:

*THAT rule 90 (h) be deleted and replaced with the following wording:*

*“(h) They are not subject to a bankruptcy order which is not discharged”*

1. **Proposed Rule change – borrowing powers**

The Board is recommending the proposed amendment to Rule 9 (c) pertaining to the borrowing limits of Central England Co-operative Limited (CEC); in particular, regarding the use of revenue reserves of the ‘CEC group’ as a basis for calculating the Society’s borrowing limit, rather than that of the CEC parent entity in isolation.

The Society’s current has in place a revolving credit facility of £40m, which is repayable on 22 January 2021; the Society is in the process of renewing the loan arrangements ahead of this date.

Rule 9 (c) of CEC’s existing rules places a limit on the total amount the Society can borrow as follows:

*‘….provided that the Society’s total borrowings shall not at any time exceed 75% of the Society’s revenue reserve as stated in the Society’s last published accounts….’*

Revenue reserves, in lay terms, represent the accumulated profits the Society has earned in previous years including the actuarial gain or loss from the annual valuation of the Society’s defined benefit pension scheme.

Rule 9(c) ensures that the Society borrowings are commensurate with the available resources of the business and provides an important safeguard to Members.

**Reason for Rule Amendment**

The Society operates as a collective business and accounts for the Society’s affairs on a group/consolidated basis i.e. comprising CEC and its subsidiaries (the CEC Group). The Society produces group financial statements annually which are subsequently deconsolidated to produce the entity accounts for statutory reporting purposes.

Rule 9 (c) relates to the revenue reserve of the CEC entity and not the CEC Group. CEC’s revenue reserve is lower than the reserves of the entire CEC Group, a point which is compounded by the material impact that the annual valuation of the Society’s defined benefit pension scheme liability can have on the revenue reserve of the CEC entity.

The proposal would not undermine the rationale for having such a safeguard in place, but would appropriately reflect the Society’s operating model and corporate structure, and ensure a pragmatic level of borrowing can be obtained in order to meet the needs of the business.

**The concept of ‘Group’**

Group reporting is commonplace within the co-operative sector and is widely used by housing co-operatives and other organisations.

***It should be noted that all references to ‘Group’ in respect of this matter does not in any way relate to the Co-operative Group.***

**Proposal**

To add to “Definitions” section within the opening section of the Rules

“Group” means the Society and its subsidiary undertakings, where “subsidiary undertaking” means a subsidiary undertaking which falls to be treated as such in the audited accounts of the Group.

9. The Society may do all such lawful things as may further the Society’s objects and, in particular, may:

1. purchase, hold, sell, mortgage, rent or sub-lease lands of any tenure and to erect, pull down, repair, alter or otherwise deal with any building on those lands;
2. enter into block-discounting transactions;
3. borrow money, mortgage or charge any of its property and issue debentures and other securities upon such terms and conditions as the Board thinks fit; provided that the Society’s total borrowings shall not at any time exceed 75% of the **Group’s** aggregated ~~Society’s~~ revenue reserves as stated in the **Group’s** ~~Society’s~~ last published accounts, also:

**What is the process for changing the Rules?**

The proposed Rule amendments require a majority of two thirds of members present at the Special Members’ Meeting voting in favour of the change for the Rule amendments to be approved.

The amended Rules, subject to Member approval, are not effective until they have been registered and approved by the Financial Conduct Authority.

October 2019