

FSCS DETERMINATION INSTRUMENT 2016 Spa Credit Union Limited

Default determination

1. Using its powers in the Financial Services and Markets Act 2000 ("FSMA"), the Prudential Regulation Authority ("PRA") made compensation rules in the Depositor Protection part of the PRA Rulebook (the "**Depositor Protection rules**") providing the Financial Services Compensation Scheme Limited ("FSCS") with the power to determine credit unions to be in default in certain circumstances.
2. FSCS hereby determines that Spa Credit Union Limited (the "**Credit Union**") has unavailable deposits and is therefore in default for the purposes of the Depositor Protection rules as of 18 February 2016.
3. FSCS is making this determination because FSCS considers that:
 - (i) a deposit that is due and payable but has not been paid by the Credit Union under the applicable legal or contractual conditions; and
 - (ii) the Credit Union appears to be unable for the time being, for reasons which are directly related to its financial circumstances, to repay the deposit and has no current prospect of being able to do so.
4. As required under Regulation 6(2) of the Deposit Guarantee Scheme Regulations 2015, this determination will be notified in writing to—
 - (a) the compensation scheme member; and
 - (b) the PRAas soon as reasonably practicable and in any event before the end of the period of five working days.

Subrogation determination

5. FSCS is further making a subrogation determination under Rules 28.1 to 28.5 of the Depositor Protection rules.
6. This subrogation instrument takes effect on 18 February 2016 and is in respect of the Credit Union and all eligible depositors with the Credit Union as at 18 February 2016.
7. FSCS hereby determines that payment of compensation by it shall have the following effects:
 - i. Pursuant to Rule 28.2(1) of the Depositor Protection rules, the FSCS shall immediately and automatically be subrogated to all of the rights and claims in the UK and elsewhere of the compensation recipient against the Credit Union and/or any third party (whether such rights are legal, equitable or of any other nature whatsoever and in whatever

- capacity the Credit Union or third party is acting) in respect of or arising out of the compensation recipient's deposits being unavailable;
- ii. Pursuant to Rule 28.2(2) of the Depositor Protection rules, the FSCS may claim and take legal or any other proceedings or steps in the United Kingdom or elsewhere to enforce such rights in its own name or in the name of, and on behalf of, the compensation recipient or in both names against the Credit Union and/or any third party; and
 - iii. Pursuant to Rule 28.2(3) of the Depositor Protection rules, the subrogated rights and claims conferred on the FSCS shall be rights of recovery and claims against the Credit Union and/or any third party which are equivalent (including as to amount and priority and whether or not the relevant DGS member is insolvent) to and not exceed the rights and claims that the compensation recipient would have had.
8. The payment of compensation by FSCS will be subject the FSCS's Deposit Payment Terms, which are available online at <http://www.fscs.org.uk/deposit-payment-terms> and on request from the FSCS.
 9. FSCS reserves the right to amend, remake, or revoke these subrogation determinations at any time as permitted by Rule 28.4(5) of the Depositor Protection rules.
 10. Unless defined in this determination, all expressions used which are also defined terms in the PRA Rulebook Glossary shall have the same meaning as given to them in that glossary.

In accordance with the delegations set out in GEN/28, this default and subrogation determination is made by:

W C 18 February 2016 08.05.

Executive Director

Signature, Date & Time