**Suspended Withdrawable Shares**

**Note to accompany draft letter to applicant, application form, terms and conditions, and rule amendments (Suspended Withdrawable Shares)**

The attached documents provide a basis for societies wishing to adopt a scheme for suspended withdrawable shares.

In this scheme, the right to withdraw is suspended during the relevant period (i.e. the member has no ability to withdraw) [[1]](#footnote-1), in consideration of which the member receives a higher rate of interest than that applying to WSC generally. However at the end of the term, the shares become withdrawable, but the interest rate is reduced to that applicable to the society’s withdrawable share capital.

Interest is paid at the end of the term (societies may wish to choose otherwise). For longer terms, it may be appropriate to make interim payments.

As with fixed term share schemes, societies may wish to establish suspended withdrawable share schemes for different lengths of term, at different interest rates. In dialogue with the FCA about Fixed Term Withdrawable Shares,[[2]](#footnote-2) there was apparently no upper limit on the length of period[[3]](#footnote-3) for which withdrawal is deferred, and periods up to 10 years were discussed. It is assumed that the FCA will take the same view about length of period for Suspended Withdrawable Shares.

In determining interest rates, societies should bear in mind the FCA’s Guidance on its registration function under the Co-operative and Community Benefit Societies Act 2014, and in particular paragraphs 6.22 – 6.28.[[4]](#footnote-4)

Provision is again included for a minimum level of subscription for suspended withdrawable shares.

It is recommended that societies considering using these template documents should (a) refer to the Members’ Money report (A Legal Guide to Withdrawable Share Capital) by Anthony Collins Solicitors available on the Co-operatives UK website; and (b) seek legal advice before finalising the documentation they intend to use.

**Draft letter to applicant for Suspended Withdrawable Shares**

Dear [ ]

**Your Application for Suspended Withdrawable Shares**

Thank you for your enquiry regarding Suspended Withdrawable Shares. Please find enclosed an application form along with terms and conditions.

Suspended Withdrawable Shares, where the power to withdraw is suspended for a fixed period, are available for periods of [ ] years. The rates of interest are set out below\*:

|  |  |  |
| --- | --- | --- |
|  | Gross annual Interest\* | A.E.R equivalent |
| 1 year |  |  |
| [ ] years |  |  |
| [ ] years |  |  |

Note that the minimum you can hold in Suspended Withdrawable Shares is £[ ] and the maximum, when added to any other withdrawable shares you hold in the Society, must not exceed £100,000.

When you return your completed application we will need some proof of your identity. This will allow us to confirm your name and address and help stop anyone else from using your details fraudulently.

Accordingly, would you please provide **two original** documents from the lists shown on the attached sheet (Appendix A). This should be ticked with the two documents you are providing and returned with your application form.

Documents provided will be returned to you by "Signed For” mail. Please return your completed application and identity documentation to: [ ]

Should you have any questions about your application, please contact [ ]

Once again, thank you for your interest in holding Suspended Withdrawable Shares. We look forward to receiving your application.

**Yours sincerely**

\* Rates effective from [ ]. Interest rates are reviewed regularly and are subject to change for new Suspended Withdrawable Shares. Changes in interest rates do not affect existing Suspended Withdrawable Shares.

**Appendix A**

**Documentation required**

We will need you to provide 2 **original** documents from the lists shown below, one from each list. Once we have checked them your documents will be returned to you by recorded delivery.

**\*\*Please note that you cannot use the same document to confirm both your name and address.**

**To confirm your name**

* Current passport
* Current UK or European Photo Card driving licence (full or provisional)
* Current UK (old paper style) full driving licence (old style provisional is not acceptable)
* Current revenue tax notifications eg tax assessment, statement and notice of coding (P45s and P60s are **not** acceptable)
* Current benefits book or original notification letter confirming your right to benefits or state pension
* Construction Industry sub-contractor's photo registration card or certificate: CIS(P), CIS(T), CIS5 or CIS6 (issued by HM Revenue & Customs)

**To confirm your address**

* Recent systems generated or signed documentation from a regulated financial services sector firm indicating that the account/investment/insurance relationship exists and which contains your current address
* Current local authority tax bill
* Current UK or European Photo Card driving licence (full or provisional)
* Current UK (old paper style) full driving licence (old style provisional is not acceptable)
* A recent (not more than 3 months old) utility bill (Excludes all mobile telephone bills)
* Current local council rent card or tenancy agreement
* Current benefit book or original notification letter confirming your right to benefits or state pension
* Revenue correspondence addressed to the applicant at the applicants stated address (provided that Revenue Tax Notifications have not been used as evidence of proof of name)

**Draft Suspended Withdrawable Shares application form**

**Suspended Withdrawable Shares are only available to members of [ ] Co-operative Society. Please complete in BLOCK CAPITALS**

1. Mr/Mrs/Miss/Ms/other – specify: Membership No:

Surname

First Names

Address

Post Code Telephone No.

1. I wish to place £ [ ] (£[ ] minimum, see note 5 for maximum) in Suspended Withdrawable Shares for a Term of year(s) [ ] years.

 EITHER: I enclose a cheque for £ ,made payable to [ ] Society

 OR: I have made a Bank transfer for the Sum of £ [ ] to [ ] Society account

**(Sort Code xx-yy-zz and Account Number xxxxxxxx)**

OR: Please transfer £ from funds already held in my Share Account indicated above.

**(please enclose YOUR share account passbook WITH your application form IN THIS CASE).**

1. I acknowledge that the Term for the Suspended Withdrawable Shares will commence on the date on which [a cheque is received or funds transferred to the Society’s bank account] and will end on the relevant anniversary.
2. Suspended Withdrawable Shares are held subject to Terms and Conditions set out below and the rules of [ ] Society Limited and are part of the Society's withdrawable share capital. The balance on a member's share account (including Suspended Withdrawable Shares) may not exceed £100,000.
3. The Society abides by a Code of Best Practice for Withdrawable Share Capital (WSC) that requires it (amongst other things) (a) to ensure that members are fully informed as to the nature of WSC and the risks attached to it, and (b) to provide a statement to members of the nature of their holding of WSC (including Suspended Withdrawable Shares) and any change affecting it.
4. As a member of the Society you are the owner of one or more shares in the Society. If the Society is unable to meet its debts and other liabilities, you risk losing the amount you hold in shares in the Society. Hence the Society’s shares are known as risk capital. This may make it inappropriate for you as a place to keep your savings.
5. Owning WSC is not the same as investing in the shares of a company. It is primarily for the purpose of supporting the Society in furthering its purpose and objects. There are various important differences between WSC and company shares and these are set out below in the Explanation of Withdrawable Share Capital in a Consumer Retail Co-operative Society.
6. The Financial Services Compensation Scheme, which covers bank, building society and credit union accounts, does not apply to your Share Account with the Society, so you cannot claim compensation under the Scheme in the event of the Society not being able to meet requests for withdrawal of shares. This is because the Society does not require authorisation under the Financial Services and Markets Act 2000 to operate WSC. Societies are therefore not subject to supervision either by the Prudential Regulation Authority or by the Financial Conduct Authority in relation to WSC.
7. Signed: \_ Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Explanation of Withdrawable Share Capital in a Consumer Retail Co-operative Society**

Withdrawable share capital (WSC) in a consumer retail co-operative society is fundamentally different from shares in a company. The following are the key differences, which are explained below:

* WSC is turned into cash by withdrawing the funds, not selling the shares
* WSC does not increase in value
* WSC does not give the member a share in the underlying value of their society
* Co-operative shares do not form the basis for the distribution of surplus
* Co-operative shares do not carry votes in proportion to the shares

**Withdrawal not sale**

There needs to be a mechanism for a member to realise (turn into cash) the value of their shares in a society. In companies, this is done by selling the shares to somebody else. In co-operative retail societies this is different, because the shares are not transferable. Instead, shares are withdrawable, and a member can realise the value of their shares by withdrawing the money held in shares from the society, subject to any restrictions contained in the society’s rules.

**No increase in value**

Co-operative shares remain at the same (par) value. In other words a member is entitled to their money back, but no more. This is different from a company, where the value of shares can increase or decrease. The reason for this difference is explained in the next point below (Underlying Value).

**Underlying value**

WSC does not give the member a share in the underlying value of their society, which is why WSC remains at the same value. By contrast, shares in a company do give shareholders a share in the underlying value of the company, which means that if the company was wound up whilst solvent, shareholders would receive a proportionate share of that underlying value (which might be more or less than what was paid for the shares). The Model Rules of UK consumer retail co-operative societies provide that on a solvent winding up, members are entitled to repayment of their WSC, but any remaining surplus after that is transferred to another co-operative society or Co-operatives UK.

**Distribution of surplus**

The primary mechanism for a co-operative to distribute surplus or profits is via a dividend to members in proportion to their trade with the society. Although a society can pay interest on share capital as compensation to the members for the use of their funds, such interest is not a mechanism to share profits. By contrast, in a company the payment of a dividend to shareholders is the primary mechanism for a company to distribute surplus or profits.

**Democratic control**

Co-operative societies operate on the basis of one member, one vote, not like companies where there is one vote per share. This means that greater power and influence cannot be achieved in a co-operative by owning more shares.

**PLEASE RETURN COMPLETED FORM TO: [ ]**

**Terms and Conditions**

* 1. The Society agrees to pay gross interest on the Principal Amount at the Interest Rate for the Term, subject to the Society’s rules and the availability of distributable reserves, in consideration for the suspension of the right to withdraw the shares during the Term.
	2. Interest is paid on the Suspended Withdrawable Shares at the end of the Term and [is][is not] compounded. Interest is paid gross and is liable to tax.
	3. At the end of the Term, unless the Member instructs otherwise, the shares shall cease to be Suspended Withdrawable Shares and shall be treated as part of the ordinary withdrawable share capital of the Society with interest payable at the rate applicable to such withdrawable share capital.
	4. During the Term, there is no right to withdraw Suspended Withdrawable Shares.
	5. The minimum amount a Member can hold in a Suspended Withdrawable Shares is £[ ]. The maximum interest which a Member may have in a Share Accounts which includes Suspended Withdrawable Shares is limited by law to £100,000.
	6. The Member will be regarded as exclusively entitled to the benefit of the Suspended Withdrawable Shares. No notice of any trust shall be entered into the register against the title of the Member, and the Society shall not be affected by notice of any right, title or claim of any person to these Suspended Withdrawable Shares other than the Member.
	7. Suspended Withdrawable Shares form part of the share capital of the Society.
	8. Suspended Withdrawable Shares are not transferable.
	9. On the death of the Member their personal representative(s) shall be the only person(s) recognised by the Society as having title to their Suspended Withdrawable Shares. The Principal Amount will be paid to the personal representative(s) together with interest calculated at the AER at the Date of Issue up to the date of such payment.
	10. Any person entitled to these Suspended Withdrawable Shares by operation of law may be registered as its holder upon such evidence being produced as the Society may reasonably require and in accordance with the Rules of the Society.
	11. The Society shall be entitled to terminate some or all of these Suspended Withdrawable Shares at any time on the expiry of 30 days’ notice given in writing to the Member. On such early termination the Principal Amount together with interest calculated at the AER at the Date of Issue up to the date of such early termination, will be treated as part of the ordinary withdrawable share capital of the Society.
	12. A notice sent by post to the Member at their last known address shall be deemed to have been duly served upon the Member at the expiration of 48 hours from the time of posting. Notices shall be served upon the Society at its registered office.
	13. Changes to these Terms and Conditions can only be made on 30 days’ notice provided by the Society. Changes will be publicised by notice displayed in the Society's registered office and all other places of business of the Society to which members have access and by such other means as the Board shall determine from time to time.
	14. The Society reserves the right to decline an application for Suspended Withdrawable Shares at its sole discretion and without further explanation.
	15. The Suspended Withdrawable Shares you hold are part of the withdrawable share capital (WSC) of the Society. If the Society is unable to meet its debts and other liabilities, you risk losing the amount you hold in shares in the Society. Hence the Society’s shares are known as risk capital. This may make it inappropriate for you as a place to keep your savings.
	16. Owning WSC is not the same as investing in the shares of a company. It is primarily for the purpose of supporting the Society in furthering its purpose and objects. There are various important differences between WSC and company shares and these are set out in the Explanation of Withdrawable Share Capital in a Consumer Retail Society on the Application Form above. For example, WSC held in your Share Account may receive interest but will not increase in value.
	17. The Financial Services Compensation Scheme, which covers bank, building society and credit union accounts, does not apply to your Share Account with the Society, so you cannot claim compensation under the Scheme in the event of the Society not being able to meet requests for withdrawal of shares. This is because the Society does not require authorisation under the Financial Services and Markets Act 2000 to operate WSC. Societies are therefore not subject to supervision either by the Prudential Regulation Authority or by the Financial Conduct Authority in relation to WSC.
	18. The [ ] Society follows a Code of Best Practice on Withdrawable Share Capital. A copy of the Code and further information regarding Suspended Withdrawable Shares may be obtained from: [ ]
1. Provision has been included for the ability to withdraw in the event of the death of the member, but this is optional. [↑](#footnote-ref-1)
2. The discussions with the FCA referred to in this note were in the FCA’s capacity as registering authority under the Co-operative and Community Benefit Societies Act 2014, in relation to matters covered by that Act. [↑](#footnote-ref-2)
3. There is no definition of the word “withdrawable” in the legislation. So whilst the FCA appear not to impose any limit to the term, at some point (100 years, 50 years?) it might be argued that a share was not in practice withdrawable. So there is some risk in using a long period, as it may be regarded as “gaming” the system. [↑](#footnote-ref-3)
4. <https://www.fca.org.uk/publication/finalised-guidance/fg15-12.pdf> [↑](#footnote-ref-4)