



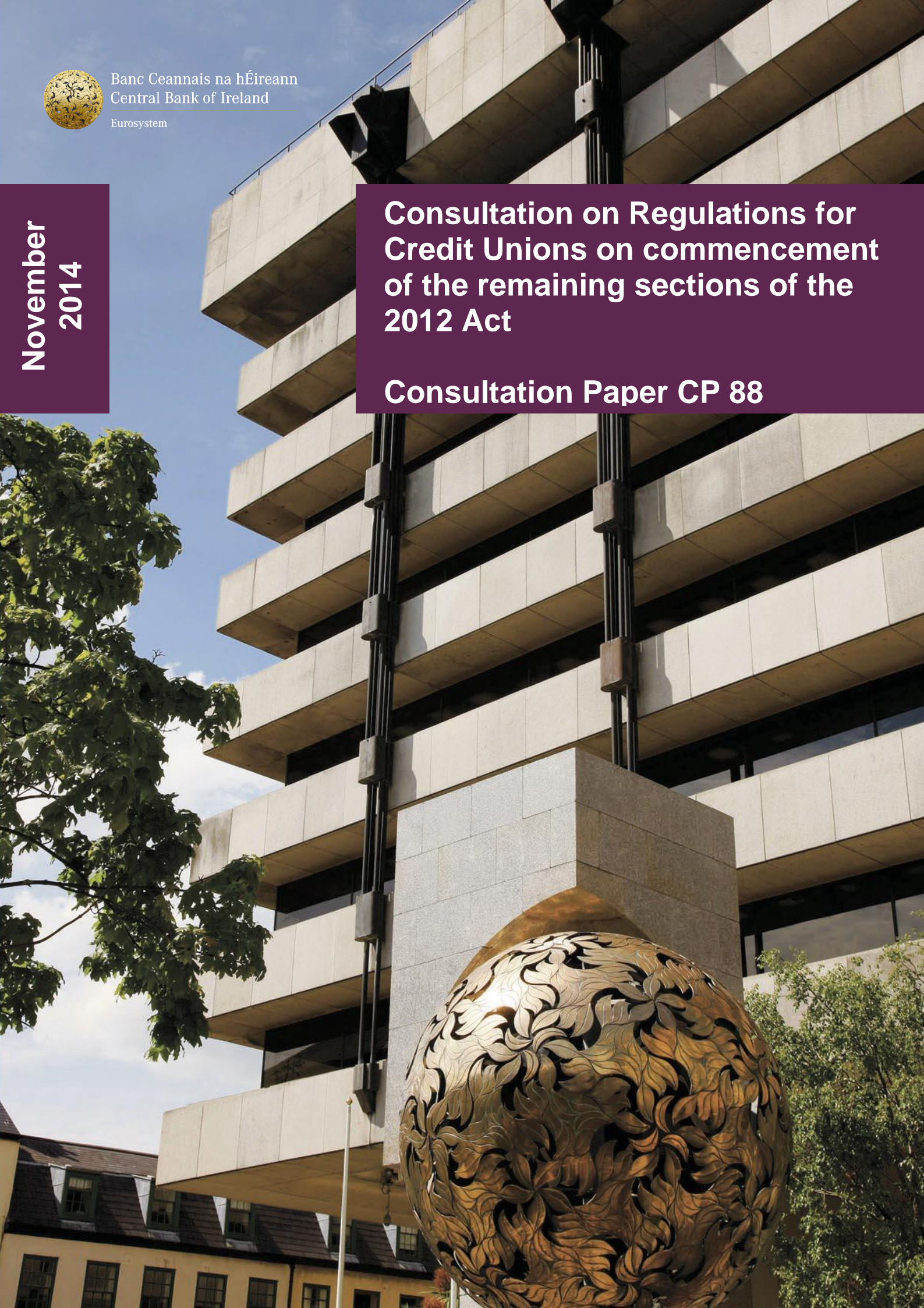
Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

November  
2014

# Consultation on Regulations for Credit Unions on commencement of the remaining sections of the 2012 Act

## Consultation Paper CP 88



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## Section 1: Introduction

The Central Bank of Ireland (“the Central Bank”) is publishing this consultation paper to consult on draft regulations that it is proposing to introduce for credit unions when the remaining sections<sup>1</sup> of the Credit Union and Co-operation with Overseas Regulators Act 2012 (“the 2012 Act”) are commenced.

The Report of the Commission on Credit Unions made a number of recommendations regarding the strengthening of the regulatory framework for credit unions. The Commission on Credit Unions also recommended that regulation making powers be delegated to the Central Bank<sup>2</sup>. Many of these recommendations were reflected in the 2012 Act, which was enacted on 19 December 2012. The introduction of the strengthened regulatory framework began on 1 August 2013 and since then the majority of the sections of the 2012 Act have been commenced.

The Central Bank is now consulting on the draft regulations that it is proposing to introduce at the same time as the remaining sections of the 2012 Act are commenced.

The regulations the Central Bank is introducing contain requirements<sup>3</sup> that will apply to all credit unions in the following areas:

- Reserves;
- Liquidity;
- Lending;
- Investments;
- Savings;
- Borrowing;
- Systems, Controls and Reporting Arrangements; and
- Services Exempt from Additional Services Requirements.

The draft regulations contain many requirements that are the same as existing requirements or guidance, some requirements that have been amended and a number of additional requirements.

The Central Bank is of the view that the draft regulations, combined with the commencement of the remaining sections of the 2012 Act and the prudential and governance requirements already in place, provide an appropriate regulatory framework for the credit union sector at this time. The draft regulations take account of feedback received on CP76 Consultation on the Introduction of a Tiered Regulatory

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<sup>1</sup> Also includes a number of Items in Schedule 1 of the 2012 Act.

<sup>2</sup> Section 10.3.2 of the Report of the Commission on Credit Unions.

<sup>3</sup> The regulatory framework for credit unions is not limited to the requirements referred to in this consultation paper. The Credit Union Act, 1997 and other financial services legislation sets out the regulatory framework for credit unions. Further information on requirements that apply to credit unions is available in the Credit Union Handbook on the Central Bank website available at the following [link](#).

Approach for Credit Unions ("CP76") and ensure that appropriate limits and requirements are put in place for credit unions.

This consultation paper sets out the draft regulations, along with a Regulatory Impact Analysis ("RIA"), and seeks views from credit unions and other sector stakeholders on:

- the draft regulations; and
- the timelines, including transition period, proposed for the introduction of the draft regulations.

The consultation paper is structured as follows:

- section 2 looks at the background to the development of the draft regulations;
- section 3 sets out the purpose of the consultation;
- section 4 provides an overview of existing requirements and guidance and the requirements in the draft regulations;
- sections 5-12 set out the draft regulations in each area along with related legislation<sup>4</sup> and explanatory notes;
- section 13 sets out the proposed next steps and timelines, including transition period, for the introduction of the draft regulations;
- section 14 provides an overview of the RIA;
- section 15 summarises the areas where the Central Bank is seeking views;
- section 16 sets out how to make submissions to the Central Bank;
- Appendix A describes how the Credit Union Handbook will be updated following the introduction of the new regulations;
- Appendix B sets out the full draft Statutory Instrument (S.I.) containing the draft regulations; and
- Appendix C contains the full RIA.

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<sup>4</sup> The legislation set out in sections 5 – 12 are the sections of legislation substituted or inserted into the Credit Union Act, 1997 by the 2012 Act.

## Section 2: Background

### 2. 1 The strengthened regulatory framework for credit unions

The Report of the Commission on Credit Unions made a number of recommendations regarding the strengthening of the regulatory framework for credit unions including more effective governance and regulatory requirements and the introduction of a fitness and probity regime for credit unions. The 2012 Act was developed following this work, building on the existing regulatory framework for credit unions contained in the Credit Union Act, 1997 ("the 1997 Act").

The Report of the Commission on Credit Unions also recommended that regulation making powers be delegated to the Central Bank<sup>5</sup>.

#### **Implementation of the strengthened regulatory framework**

The implementation of the strengthened regulatory framework began in the second half of 2013 with the introduction of the Fitness and Probity regime for credit unions and the commencement of sections of the 2012 Act that related to governance and prudential requirements.

#### **Fitness and Probity regime for credit unions**

The Fitness and Probity regime for credit unions came into effect on 1 August 2013 for credit unions with assets greater than €10m. The regime is being introduced on a phased basis and will apply to all credit unions from 1 August 2015.

#### **The Credit Union and Co-operation with Overseas Regulators Act 2012**

The 2012 Act, which reflects many of the Commission on Credit Unions' recommendations including recommendations on governance, prudential requirements and Central Bank regulation making powers, was enacted on 19 December 2012.

On 11 October 2013, the Minister for Finance signed a commencement order which brought the majority of the new governance and prudential requirements in the 2012 Act into effect on 11 October 2013.

On 3 March 2014, a small number of additional provisions relating to governance requirements were commenced arising from a further commencement order signed by the Minister for Finance.

#### **Central Bank regulation making powers**

The following sections of the 2012 Act have not yet been commenced:

- Section 8 Savings;
- Section 10 Borrowing;

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<sup>5</sup> Section 10.3.2 of the Report of the Commission on Credit Unions.

- Section 11 Lending;
- Section 12 Investments;
- Section 13 Reserves; and
- Section 30 Liquidity<sup>6</sup>.

These remaining sections of the 2012 Act, when commenced, will replace, amend or supplement existing sections of the 1997 Act relating to these areas. The introduction of the new sections into the 1997 Act by the 2012 Act will, in effect, remove some of the requirements (including limits) that currently exist in these sections and will provide regulation making powers to the Central Bank. The new sections will also contain a number of new requirements.

As some of the key prudential requirements (e.g. lending and savings limits) will be removed from the 1997 Act when the remaining sections of the 2012 Act are commenced, the Central Bank proposes to introduce regulations at the same time as these sections of the 2012 Act are commenced to ensure key prudential requirements for credit unions remain in place and to also continue the introduction of the strengthened regulatory framework for credit unions.

The Central Bank has discussed this proposed commencement approach with the Department of Finance and the Department of Finance has confirmed that it is agreeable to this.

The provision of regulation making powers to the Central Bank on commencement of the remaining sections of the 2012 Act means that in the future, the Central Bank will be in a position to review and amend the regulations as appropriate on a timely basis following consultation with the credit union sector. Where credit unions set out a clear path on how they wish to develop, the Central Bank will also consider any amendments to the regulations that may be appropriate.

## **2.2 Consultation and feedback on a tiered regulatory approach for credit unions**

On the 23 December 2013, the Central Bank published CP76. CP76 included proposals on the introduction of requirements for credit unions in key prudential areas on a tiered basis arising from the recommendations of the Commission on Credit Unions.

Feedback received on CP76, in relation to the timing of the introduction of a tiered regulatory approach for credit unions, indicated that the majority of respondents are of

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<sup>6</sup> Section 38 of the 2012 Act also remains to be commenced. This section revokes S.I. No. 476 of 2001 and S.I. No. 453 of 2006 which relate to savings limits that are currently contained in section 27 of the 1997 Act. In addition, a number of Items from Schedule 1 of the 2012 Act also remain to be commenced. These Items largely relate to amendments that are consequential on the insertion of the remaining sections into the 1997 Act.



the view that a tiered regulatory approach should not be introduced at this time given the amount of change the credit union sector is currently undergoing.

In light of the feedback received on CP76 and as indicated in the Feedback Statement on CP76, the Central Bank is not proposing to introduce a tiered regulatory approach for credit unions at this time. The Central Bank is also of the view that, arising from the wide range of views received on tiering, a process of further communication and clarification is required prior to taking a decision to introduce a tiered regulatory approach for credit unions.

The next steps proposed in the Feedback Statement on CP76 included the development of regulations for all credit unions under the regulation making powers contained in the 2012 Act (to complete the introduction of the strengthened regulatory framework for credit unions as recommended by the Commission on Credit Unions).

### **2.3 Draft regulations**

The regulations the Central Bank is proposing to introduce contain requirements that will apply to all credit unions in the following areas:

- Reserves;
- Liquidity;
- Lending;
- Investments;
- Savings;
- Borrowing;
- Systems, Controls and Reporting Arrangements; and
- Services Exempt from Additional Services Requirements.

The regulations will replace and, where appropriate, amend a number of requirements that currently exist in legislation and guidance. Additional requirements have also been included in the regulations where necessary to strengthen the regulatory framework.

The regulations have been developed to take account of the Central Bank's statutory mandate to regulate and supervise credit unions with a view to ensuring the protection of members' savings and the financial stability and well-being of credit unions generally and have been informed by the following:

- the business model currently being undertaken by credit unions;
- supervisory information and feedback arising from on and off-site engagement with credit unions;
- the Guiding Principles for Effective Prudential Supervision of Cooperative Financial Institutions issued by the [International Credit Union Regulators' Network](#) (ICURN)
- the existing regulatory framework that applies to credit unions;
- the requirements that will be removed from the 1997 Act on commencement of the remaining sections of the 2012 Act;

- the new requirements that will be inserted into the 1997 Act on commencement of the remaining sections of the 2012 Act;
- additional regulations required to strengthen the regulatory framework; and
- feedback received on CP76.

Following this consultation, and in advance of the commencement of the remaining sections of the 2012 Act, the relevant chapters of the Credit Union Handbook will be updated to reflect the regulatory framework for credit unions that is contained in the new sections of the 1997 Act, the Central Bank's regulations and any related guidance. The updated Credit Union Handbook will provide clarity for credit unions on the legal and regulatory requirements and guidance that apply across the regulatory framework (see Appendix A for further information on the Credit Union Handbook).

The regulatory returns that credit unions submit to the Central Bank (e.g. Quarterly Prudential Return, Year-end Return) will also be updated to take account of the changes in the new sections of the 1997 Act and the regulations<sup>7</sup>. Further engagement will be undertaken with credit unions and other sector stakeholders in advance of the implementation of these changes in regulatory reporting.

## 2.4 Summary

To date, two key elements of the strengthened regulatory framework have been implemented: the Fitness and Probity regime for credit unions and new governance and prudential requirements.

A number of sections of the 2012 Act have not yet been commenced. On commencement of these sections, regulations will be required to ensure that key prudential limits for credit unions remain in place and to continue the introduction of the strengthened regulatory framework, as recommended by the Commission on Credit Unions.

The introduction of regulations and the updated Credit Union Handbook will provide clarity for credit unions on legal and regulatory requirements across the regulatory framework for credit unions.

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<sup>7</sup> The Guidance Notes on the completion and submission of the regulatory returns will also be updated.

## Section 3: Purpose of this consultation

Following the commencement of the remaining sections of the 2012 Act, the Central Bank is proposing to introduce regulations in the following areas to continue the introduction of the strengthened regulatory framework as recommended by the Commission on Credit Unions:

- Reserves;
- Liquidity;
- Lending;
- Investments;
- Savings;
- Borrowing;
- Systems, Controls and Reporting Arrangements; and
- Services Exempt from Additional Services Requirements.

Views are sought in this consultation paper on the following areas:

- the draft regulations – sections 5-12 of this consultation paper set out draft regulations in each of the areas set out above and ask for views on the proposed regulations. The draft regulations are set out in full in Appendix B; and
- the timelines, including transition period, for the introduction of the draft regulations proposed in section 13.

The specific questions credit unions are asked to respond to are set out at the end of each relevant section – sections 5-13. These questions are summarised in section 15.

A summary of the RIA, that assesses the impact of the draft regulations on credit unions, is set out in section 14. The full RIA is contained in Appendix C. Credit unions and other sector stakeholders may also wish to provide additional information or analysis they may have on the potential impact of the draft regulations.

## Section 4: Comparison of existing regulatory framework and new requirements in draft regulations

The draft regulations contain many requirements that are the same as existing requirements or guidance, some requirements that have been amended and a number of additional requirements.

The new sections that will be introduced into the 1997 Act following the commencement of the remaining sections of the 2012 Act also contain some new requirements for credit unions (for example the requirement for credit unions to hold reserves that they have assessed are required for operational risk purposes). As these requirements will be contained in legislation rather than regulations they are not part of this consultation. However, in order to provide a comprehensive overview of the legal and regulatory requirements that will apply in each area, sections 5-12 of the consultation paper, which set out the draft regulations for each area, also include the new sections that will be introduced into the 1997 Act<sup>8</sup>.

The table below provides a high level comparison, in each area, of key prudential requirements and guidance that currently exist in the regulatory framework for credit unions and the requirements that are contained in the draft regulations. New requirements are highlighted in blue in the table and amended requirements are highlighted in green.

Area	Existing requirements and guidance	Requirements in draft regulations
<b>Reserves</b>	<ul style="list-style-type: none"> <li>Minimum Regulatory Reserve - 10% of total assets</li> <li>Notifications to Central Bank</li> </ul>	<ul style="list-style-type: none"> <li>Minimum Regulatory Reserve - 10% of total assets</li> <li>Notifications to Central Bank</li> <li>Initial reserve requirement for newly registered credit unions</li> </ul>
<b>Liquidity</b>	<ul style="list-style-type: none"> <li>Minimum liquidity ratio of 20%</li> <li>Notification to Central Bank where fail to meet liquidity requirements</li> </ul>	<ul style="list-style-type: none"> <li>Minimum liquidity ratio of 20%</li> <li>Short term liquidity ratio of 10%</li> <li>Definition of liquid assets expanded</li> <li>Notification to Central Bank where fail to meet liquidity requirements</li> </ul>

<sup>8</sup> The consultation paper should be read in conjunction with the 1997 Act and other financial services legislation ("the Legislation") and any Regulation, Code or other legal instrument as the Central Bank may issue from time to time. The information contained in the consultation paper is derived from but does not replicate in full or replace the relevant legal and regulatory requirements of the Legislation. This Consultation Paper is for information purposes only and does not constitute legal advice.

Area	Existing requirements and guidance	Requirements in draft regulations
<b>Lending</b>	<ul style="list-style-type: none"> <li>• Large exposure limit– greater of €39,000 or 1.5% of total assets</li> <li>• Limit on lending over 5 years – 30% of loan book</li> <li>• Limit on lending over 10 years – 10% of loan book</li> <li>• Central Bank approval for additional longer term lending</li> </ul>	<ul style="list-style-type: none"> <li>• Large exposure limit– greater of €39,000 or 10% of Regulatory Reserve</li> <li>• Limit on lending over 5 years – 30% of loan book</li> <li>• Limit on lending over 10 years – 10% of loan book</li> <li>• Maximum maturity limit - 25 years</li> <li>• Central Bank approval for additional longer term lending</li> <li>• Categories of loans                             <ul style="list-style-type: none"> <li>○ Personal loans</li> <li>○ Commercial loans</li> <li>○ Community loans</li> <li>○ House loans</li> <li>○ Loans to other credit unions</li> </ul> </li> <li>• Concentration limits                             <ul style="list-style-type: none"> <li>○ Commercial lending – 50% of Regulatory Reserve</li> <li>○ Community lending – 25% of Regulatory Reserve</li> <li>○ Lending to other credit unions - 12.5% of Regulatory Reserve</li> </ul> </li> <li>• Related party lending requirements - management and monitoring</li> </ul>
<b>Investments</b>	<ul style="list-style-type: none"> <li>• Classes of investments                             <ul style="list-style-type: none"> <li>○ Irish and EMU State Securities</li> <li>○ Accounts in Authorised Credit Institutions (AACIs)</li> <li>○ Bank bonds</li> <li>○ Equities</li> <li>○ Collective investment schemes</li> <li>○ Other credit unions</li> <li>○ Industrial and Provident Societies</li> </ul> </li> <li>• Counterparty limit – investments in single institution - 25% of investment portfolio</li> <li>• Concentration limits                             <ul style="list-style-type: none"> <li>○ Investments in Irish and EMU State Securities - 70% of investment portfolio</li> <li>○ Investments in bank bonds - 70% of investment portfolio</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Classes of investments                             <ul style="list-style-type: none"> <li>○ Irish and EEA State Securities</li> <li>○ Accounts in Authorised Credit Institutions (AACIs)</li> <li>○ Bank bonds</li> <li>○ Collective investment schemes</li> <li>○ Other credit unions</li> <li>○ Industrial and Provident Societies</li> </ul> </li> <li>• Counterparty limit – investments in single institution - 25% of investment portfolio</li> <li>• Concentration limits                             <ul style="list-style-type: none"> <li>○ Investments in Irish and EEA State Securities - 70% of investment portfolio</li> <li>○ Investments in bank bonds - 70% of investment portfolio</li> <li>○ Investments in other credit unions - 12.5% of Regulatory Reserve</li> <li>○ Investments in societies – 12.5% of Regulatory Reserve</li> </ul> </li> </ul>

Area	Existing requirements and guidance	Requirements in draft regulations
<b>Investments</b>	<ul style="list-style-type: none"> <li>• Maturity limits                             <ul style="list-style-type: none"> <li>◦ Maximum maturity 10 years</li> <li>◦ AACIs maturing after 5 years – 50% of this class of investment</li> <li>◦ AACIs maturing after 7 years – 20% of this class of investment</li> <li>◦ Irish and EMU State Securities maturing after 7 years – 30% of this class of investment</li> <li>◦ Bank bonds maturing after 7 years – 30% of this class of investment</li> </ul> </li> <li>• Currency limits – all investments denominated in Euro</li> </ul>	<ul style="list-style-type: none"> <li>• Maturity limits                             <ul style="list-style-type: none"> <li>◦ Maximum maturity 10 years</li> <li>◦ Investment maturing after 5 years – 50% of investment portfolio</li> <li>◦ Investments maturing after 7 years – 30% of investment portfolio</li> </ul> </li> <li>• Currency limits - all investments denominated in Euro</li> </ul>
<b>Savings</b>	<ul style="list-style-type: none"> <li>• Maximum member savings (shares and deposits)– greater of €200,000 or 1% of total assets</li> <li>• Limit on total deposits as percentage of total shares – 100%</li> <li>• Maximum member deposit - €100,000</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum member savings (shares and deposits) – €100,000</li> <li>• Limit on total deposits as percentage of total shares – 100%</li> <li>• See Maximum member savings requirement above</li> </ul>
<b>Borrowing</b>	<ul style="list-style-type: none"> <li>• Maximum borrowing – 50% of aggregate savings</li> <li>• Notification to Central Bank</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum borrowing – 25% of aggregate savings</li> <li>• Notification to Central Bank</li> </ul>
<b>Systems, Controls and Reporting Arrangements</b>	<ul style="list-style-type: none"> <li>• Requirement to maintain, approve and review a risk register and other documentation referred to in the 1997 Act</li> <li>• Communication of certain policies to all officers of the credit union</li> </ul>	<ul style="list-style-type: none"> <li>• Requirement to maintain, approve and review a risk register and other documentation referred to in the 1997 Act</li> <li>• Communication of certain policies to all officers of the credit union</li> <li>• Certain disclosure requirements in relation to the annual accounts</li> </ul>
<b>Additional services</b>	<ul style="list-style-type: none"> <li>• Exemption from Additional Services Requirements Regulations (S.I. No. 223 of 2004 and S.I. No. 107 of 2007)</li> </ul>	<ul style="list-style-type: none"> <li>• Exemptions in S.I. No. 223 of 2004 and S.I. No. 107 of 2007 now provided for under Central Bank regulation making powers</li> </ul>

### Additional lending requirements

The draft regulations contain additional requirements in certain areas. In particular, a number of additional requirements relate to the lending framework. These requirements are informed by regulatory actions taken by the Central Bank arising from lending practices in individual credit unions<sup>9</sup>. It is considered that the introduction of these additional requirements, along with the governance and risk management

<sup>9</sup> There are currently lending restrictions in place in c. 58% of credit unions. These have been imposed on individual credit unions on a case by case basis arising from specific supervisory concerns.

framework introduced in October 2013, will provide a strengthened regulatory framework for credit unions in the area of lending. Where credit unions can demonstrate improvements in their credit risk management practices in line with the strengthened regulatory framework, it is anticipated that the use of credit union specific lending restrictions as a regulatory tool will reduce over time.

### **Other requirements**

A small number of other requirements have been included in relation to investment and lending practices. These are, in the main, based on guidance issued previously by the Central Bank and contained in the Credit Union Handbook.

### **Transitional arrangements**

In addition to the six month transition period proposed in Section 13, transitional arrangements have been included in the draft regulations in certain areas where new or amended limits are contained in the draft regulations. This includes transitional arrangements for any investments, loans and borrowings made, or savings accepted prior to the commencement of the regulations where such investments, loans, borrowing and savings were in compliance with the legal and regulatory framework that was in place before the introduction of the regulations.

Further details on the regulations contained in each Part of the draft regulations are set out in the following sections.

## Section 5: Reserves

### 5.1 Explanatory comments

Section 13 of the 2012 Act substitutes a new section 45, which relates to reserves, into the 1997 Act. On commencement of section 13 of the 2012 Act, the new section 45 of the 1997 Act will require that:

- a credit union must maintain adequate reserves having regard to the nature, scale, complexity and risk profile of the credit union;
- in addition to the regulatory reserve requirement, a credit union must maintain an additional reserve that it has assessed is required for operational risk having regard to the nature, scale and complexity of the credit union; and
- where a credit union fails to meet any reserve requirement, it must secure written approval from the Central Bank before paying a dividend or a loan interest rebate.

Any references to statutory reserve, including the requirement to transfer 10% of the surplus to the statutory reserve, will be removed from the 1997 Act.

Under the new section 45, the Central Bank will be able to make regulations in relation to reserves, including:

- prescribing a regulatory reserve requirement that a credit union must maintain at a minimum; and
- prescribing the initial reserves that a newly registered credit union must hold.

The Central Bank has developed draft reserves regulations which, together with the new section 45 of the 1997 Act, will provide the legal and regulatory framework for credit unions in the area of reserves (see section 5.3 below for further details).

### 5.2 Overview of draft reserves regulations

Credit unions are currently required to maintain a minimum Regulatory Reserve Ratio of at least 10% continually. The [Regulatory Reserve Ratio for Credit Unions \(August 2009\)](#) refers to notification to the Central Bank in certain circumstances. These requirements are **retained** in the draft reserves regulations.

The draft reserves regulations **also require** newly registered credit unions to maintain initial reserves sufficient to support the credit union's anticipated growth and take account of expected operating losses and contain requirements on reserve management practices that were previously contained in guidance on the reserve management policy.



## 5.3 Legal and regulatory framework

### 5.3.1 Legislation

#### Section 45 (to be substituted on commencement of section 13 of the 2012 Act)

(1) In this section —

‘assets’ means such assets as the Bank may from time to time specify for the purposes of this section;

‘regulatory reserve’ means a reserve that is a realised financial reserve which is—

- (a) unrestricted and non-distributable,
- (b) identified separately in a credit union’s accounts, and
- (c) to be maintained by a credit union pursuant to this section;

‘regulatory reserve requirement’ means the amount required to be held in the regulatory reserve of a credit union, expressed as a percentage of the assets of a credit union and prescribed by the Bank.

(2) A credit union shall maintain reserves that are adequate having regard to the nature, scale, complexity and risk profile of its business.

(3) The Bank may prescribe the regulatory reserve requirement that a credit union shall maintain at a minimum and, in so prescribing, may include conditions on the application of the regulatory reserve requirement. For that purpose the Bank may also prescribe in respect of other matters related to the regulatory reserve requirement, including any of the following:

- (a) the application of risk weightings to assets for the purposes of calculating the regulatory reserve requirement;
- (b) the types and attributes of the assets or liabilities included in the calculation of the regulatory reserve requirement;
- (c) the requirement for initial reserves to be held by a newly-registered credit union under section 6.

(4) Where requirements to which subsection (3)(c) relate have been prescribed, they shall not apply to a credit union established as a result of amalgamations of 2 or more existing credit unions.

(5) A credit union shall maintain reserves, in addition to the regulatory reserve requirement prescribed under subsection (3) that—

- (a) it has assessed are required in respect of operational risk having regard to the nature, scale, complexity and risk profile of its business, and
- (b) which shall not be less than those required under any additional reserve requirement applicable to it in respect of operational risk by virtue of subsection (6).

- (6) Either or both the level of additional reserves to be maintained by a credit union and the basis for calculating the additional reserves to be maintained by a credit union under this section in respect of operational risk may be prescribed by the Bank. For that purpose the Bank may also prescribe in respect of ancillary matters related to the additional reserves held in respect of operational risks.
- (7) A credit union that fails to meet any reserve requirement under this section—
- (a) may be required by the Bank to transfer all or part of its surplus to reserves, and
  - (b) shall secure the written approval of the Bank before paying a dividend or loan interest rebate.
- (8) In prescribing matters for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements imposed by the regulations made by it are effective and proportionate having regard to the nature, scale and complexity of credit unions, or of the category or categories of credit unions, to which the regulations will apply.
- (9) (a) Pending the prescribing by the Bank of reserve requirements for the purposes of this section in respect of credit unions generally or a category of credit unions, the reserve requirements applicable to credit unions under section 85 shall continue to apply generally or to such category of credit unions, as the case may be.
- (b) Where reserve requirements have been prescribed by the Bank for the purposes of this section in respect of credit unions generally or a category of credit unions, then section 85 shall cease to apply generally to that category of credit unions, as the case may be, in respect of the matters so prescribed.

### 5.3.2 Draft regulations

#### RESERVES

##### **Reserves perpetual in nature and available to absorb losses**

3. A credit union shall ensure that all reserves held in accordance with this Part and section 45 of the Act are perpetual in nature and freely available to absorb losses.

##### **Regulatory Reserve Requirement**

4. A credit union shall establish and maintain a minimum regulatory reserve requirement of at least 10 per cent of the assets of the credit union.

##### **Initial Reserve Requirement**

5. In addition to the reserve requirements in these Regulations and the Act, a newly registered credit union shall have adequate initial reserves that:

- (a) are sufficient to meet the credit union's anticipated growth,
- (b) take account of operating losses that can be expected to occur until the credit union reaches an operationally viable performance level, and
- (c) are realised financial reserves which are:
  - (i) unrestricted, and
  - (ii) non-distributable.

### **Reporting Requirements**

- 6. (1) A credit union shall monitor its reserves on a continuous basis to ensure compliance with this Part and section 45 of the Act.
- (2) Where a credit union fails, or is likely to fail, to comply with its reserve requirement in this Part and section 45 of the Act, the credit union shall notify the Bank in writing no later than close of business of the next business day.

### **Dividends**

- 7. Where a credit union has complied with the requirements in this Part and section 45 of the Act, but has recorded a deficit in its annual accounts and is proposing to pay a dividend and/or a loan interest rebate, the credit union shall inform the Bank in writing at least 3 weeks before it gives notice of its Annual General Meeting, as required under section 80(3) of the Act.

## **5.4 The Central Bank is seeking views on the following:**

- (i) Do you have any comments on the draft reserves regulations? If you have suggestions please provide them along with the supporting rationale.

## Section 6: Liquidity

### 6.1 Explanatory comments

Section 30 of the 2012 Act inserts new sections 85A and 85B, which relate to liquidity, into the 1997 Act after section 85. These sections will provide additional regulation making powers to the Central Bank in relation to liquidity and will provide the Central Bank with the power to require credit unions to undertake stress tests to determine the consequences for their liquidity if certain scenarios were to arise.

The Central Bank has developed draft liquidity regulations which, together with section 85 and the new sections 85A and 85B, will set out the legal and regulatory framework for credit unions in the area of liquidity (see Section 6.3 below for further details).

### 6.2 Overview of draft liquidity regulations

#### 6.2.1 Existing liquidity ratios

Credit unions are currently required to maintain at all times a liquidity ratio of at least 20% of unattached savings and this requirement is **retained** in the draft liquidity regulations.

The draft liquidity regulations **expand** the assets that qualify for the definition of liquid assets in the minimum liquidity ratio. This expanded definition includes the amount of any investment with more than three months to maturity where the credit union has an explicit written guarantee that the funds can be accessed by the credit union in less than three months, excluding penalties on interest or income.

The additional liquidity ratios for longer term lending contained in the [Section 35 Regulatory Requirements for Credit Unions](#), issued in October 2013, will **remain** in place and do not form part of this consultation.

#### 6.2.2 Short term liquidity ratio

The Central Bank considers it prudent that credit unions should ensure that their liquid assets contain a mix of maturities, including a portion on call, to ensure that the credit union can meet its obligations as they arise on an on-going basis as required under the 1997 Act. In particular, the on-demand nature of credit union savings is a consideration for credit unions in ensuring they maintain appropriate short term liquidity.

Therefore, the draft liquidity regulations **also contain** a short term liquidity ratio of at least 10% of unattached savings where short term liquidity is defined as cash and investments with maturity of less than eight days. The expanded definition of liquid assets in the minimum liquidity ratio also applies for the short term liquidity ratio. It should be noted that assets that fall within the definition of short term liquid assets for the short term liquidity ratio will also qualify as liquid assets for the purposes of calculating the minimum liquidity ratio (20%).

### 6.2.3 Liquidity reporting requirements

In line with existing requirements, credit unions will also be required to notify the Central Bank where they are failing or are likely to fail to meet liquidity requirements.

### 6.2.4 Transitional arrangements

The draft liquidity regulations contain transitional arrangements that allow credit unions a period of one year following the commencement of the regulations to comply with the new short term liquidity ratio.

## 6.3 Legal and regulatory framework

### 6.3.1 Legislation

#### Section 85 (existing in the 1997 Act)

- (1) A credit union shall at all times keep a proportion of its total assets in liquid form (hereinafter referred to as "liquid assets"), being such a proportion and having such a composition as to enable the credit union to meet its liabilities as they arise.
- (2) For the purpose of complying with *subsection (1)*, a credit union shall have regard to the range and scale of its business and the composition of its assets and liabilities; but nothing in this Act shall be taken to prevent a credit union keeping liquid assets in addition to those required for complying with *subsection (1)*.
- (3) The Bank may from time to time by notice in writing require a credit union to maintain, between its assets and its liabilities—
  - (a) a ratio specified in the requirement,
  - (b) a ratio which does not exceed a ratio so specified, or
  - (c) a ratio which is not less than a ratio so specified,
 and a ratio may be so specified as a percentage of the assets or liabilities concerned.
- (4) A requirement of the Bank under *subsection (3)* may be expressed to apply in one or more of the following ways—
  - (a) in relation to all credit unions or to credit unions of a category or categories specified in the requirement;
  - (b) in relation to the total assets or total liabilities of the credit unions concerned or in relation to such assets or kinds of assets or such liabilities or kinds of liabilities as may be specified in the requirement;
  - (c) in relation to such time or times or during such period or periods as may be so specified.
- (5) The Bank may, from time to time, by notice in writing specify, as respects a credit union, requirements as to the composition of its assets or, subject to *subsections (2) and (3) of section 27*, the composition of its liabilities.
- (6) In this section—

(a) "liabilities" include such contingent liabilities as the Bank may from time to time specify by notice in writing for the purposes of this section; and

(b) "liquid assets" mean such assets as the Bank may from time to time specify by notice in writing for the purposes of this section;

and, until the Bank specifies assets as mentioned in *paragraph (b)*, "liquid assets" include assets held in a form provided for by *section 43*.

(7) Where, under the preceding provisions of this section, the Bank by notice in writing imposes a requirement or specifies any matter, and the requirement is to apply or the matter is specified otherwise than in relation to a particular credit union, the power to give the notice shall be exercisable by rules.

**Section 85A (to be inserted on commencement of section 30 of the 2012 Act)**

(1) In this section—

'liquid assets' means the assets held by a credit union to enable it to meet its obligations as they arise;

'maturity mismatch' means the ongoing or possible future divergence between a credit union's assets and liabilities because non liquid assets of the credit union have not or, at the appropriate time, will not have matured;

'total assets' means all the assets of a credit union having due regard to the accounting principles in section 110 after deducting provisions for bad and doubtful debts.

(2) A credit union shall at all times keep a proportion of its total assets in liquid form (in this section referred to as 'liquid assets') so as to enable the credit union to meet its obligations as they arise. The proportion of assets kept in liquid form shall take into account the nature, scale and complexity of the credit union, and the composition and maturity of its assets and liabilities.

(3) The Bank may prescribe the liquidity requirements that a credit union is required to maintain at a minimum as well as conditions on the application of the liquidity requirements. Regulations made by the Bank for the purpose of this section may deal with other matters related to minimum liquidity requirements, including—

(a) the proportion and nature of assets to be held in liquid form,

(b) the holding of liquid assets based on the duration of loans,

(c) in relation to maturity mismatches, and

(d) the liquid assets to be held as a safeguard on the basis of stressed conditions that may arise.

(4) In prescribing matters for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements imposed by the regulations made by it are effective and proportionate having regard to the nature, scale and complexity of credit unions, or the category or categories of credit unions, to which the

regulations will apply.

**Section 85B (to be inserted on commencement of section 30 of the 2012 Act)**

(1) In this section—

‘liquid assets’ has the meaning given by section 85 or 85A, as appropriate in the circumstances;

‘maturity mismatch’ has the meaning given by section 85A(1);

‘stress test’, in relation to a credit union, means the analysis of its cash flows under various headings and the placing of such cash flows in pre-determined time periods subject to specified conditions, including monetary limits where appropriate, to estimate the extent to which a credit union may have a maturity mismatch in respect of its assets and liabilities.

(2) (a) Pending the prescribing by the Bank of minimum liquidity requirements for the purposes of section 85A in respect of a category of credit unions, the liquidity requirements applicable to credit unions under section 85 shall continue to apply to such category of credit unions in respect of matters so prescribed.

(b) Where minimum liquidity requirements have been prescribed by the Bank for the purposes of section 85A in respect of a category of credit unions, then section 85 shall cease to apply to that category of credit unions in respect of the matters so prescribed.

(3) The Bank may, from time to time, require any credit union or credit unions (either generally or a particular category of credit union) to undertake stress tests into what would be the consequences for its liquidity if one or more scenarios were to arise. The terms of the stress test shall be laid down by the Bank including without limitation requirements on the frequency of stress tests, reporting arrangements for stress test results and requirements to develop contingency plans.

(4) In requiring a credit union to undertake any matter for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements are effective and proportionate having regard to the nature, scale and complexity of the credit union.

### 6.3.2 Draft regulations

#### LIQUIDITY

##### Interpretation – Part 3

8. (1) In this Part “liquid assets” means the following unencumbered assets only:-
- (a) cash;

- (b) investments with a maturity of less than 3 months, excluding the minimum reserve deposit account and the deposit protection account;
  - (c) investments with a maturity of greater than 3 months, excluding the minimum reserve deposit and the deposit protection account, where a written guarantee exists to the effect that funds are available to the credit union in less than 3 months. Where a guarantee exists, the investments may be considered liquid assets to the value of the investments guaranteed, excluding penalties on interest or income.
- (2) In this Part "short term liquid assets" means the following unencumbered assets only:-
- (a) cash;
  - (b) investments with a maturity of less than 8 days, excluding the minimum reserve deposit account and the deposit protection account;
  - (c) investments with a maturity of greater than 8 days, excluding the minimum reserve deposit and the deposit protection account, where a written guarantee exists to the effect that funds are available to the credit union in less than 8 days. Where a guarantee exists, the investments may be considered short term liquid assets to the value of the investments guaranteed, excluding penalties on interest or income.

### **Liquidity Requirements**

9. (1) A credit union shall establish and maintain a minimum liquidity ratio of liquid assets of at least 20 per cent of its unattached savings.
- (2) A credit union shall establish and maintain a minimum short term liquidity ratio of short term liquid assets of at least 10 per cent of its unattached savings.

### **Reporting Requirements**

10. (1) A credit union shall monitor its liquidity ratios on a continuous basis to ensure compliance with the liquidity requirements in this Part and in the Act.
- (2) Where a credit union is failing, or likely to fail to comply, with the liquidity requirements in this Part or in the Act, it shall notify the Bank in writing no later than close of business of the next business day.

### **Transitional Arrangements**

11. Where, at the commencement of these Regulations, a credit union is failing to comply with the requirement in Regulation 9(2) of these Regulations, the credit



union shall increase its holdings in short term liquid assets in order to bring the credit union's short term liquidity ratio to at least 10 per cent not later than the first anniversary of the commencement of these Regulations or such later date as the Bank may permit.

#### **6.4 The Central Bank is seeking views on the following:**

- (i) Do you have any comments on the draft liquidity regulations? If you have suggestions please provide them along with the supporting rationale.

## Section 7: Lending

### 7.1 Explanatory comments

Section 11 of the 2012 Act substitutes a new section 35, which relates to lending, into the 1997 Act. On commencement of section 11 of the 2012 Act, the current large exposure and maturity limits contained in the existing section 35 of the 1997 Act will be removed and the Central Bank will be provided with regulation making powers, including powers to set large exposure and maturity limits for lending. The new section 35 will also contain two new requirements for credit unions whereby:

- credit unions must manage and control lending to ensure the making of loans does not involve undue risk to members' savings taking into account the nature, scale, complexity and risk profile of the credit union; and
- the ability of the loan applicant to repay must be the primary consideration in the underwriting process of the credit union.

The Central Bank has developed draft lending regulations which, together with the new section 35, set out the legal and regulatory framework for credit unions in the area of lending. The new section 35 of the 1997 Act and the draft lending regulations are set out in section 7.3 below.

Under section 11(2)(d) of the 2012 Act, any requirements in place for the purposes of section 35 continue to have effect on commencement of section 11 of the 2012 Act. Therefore, the [Section 35 Regulatory Requirements for Credit Unions \(October 2013\)](#) will remain in place and new regulations are not required to replace these requirements.

### 7.2 Overview of draft lending regulations

Section 35 of the 1997 Act currently contains lending limits, including a limit on the maximum outstanding liability to an individual member (large exposure limit) and limits on the percentage of the loan book that can be outstanding for periods exceeding both five and ten years (maturity limits).

As set out in the Feedback Statement on CP76, the draft lending regulations **define** the categories of lending a credit union can undertake and include lending limits in the following areas:

- concentration limits;
- a large exposure limit; and
- maturity limits.

The draft lending regulations **also contain** certain requirements in relation to lending practices and specific requirements for certain types of lending (house loans, commercial loans, community loans, loans to other credit unions and related party loans).

The sections below set out the key elements of the draft lending regulations.

### **7.2.1. Categories of lending**

As set out in the Feedback Statement on CP76 and in line with its new regulation making powers, the Central Bank is defining categories of lending for credit unions. Currently the majority of credit union lending is personal lending<sup>10</sup>. Under the draft lending regulations a credit union may make loans in the following categories<sup>11</sup>:

- personal loans;
- commercial loans;
- community loans;
- house loans; and
- loans to other credit unions.

#### **Personal loans**

A personal loan is a loan provided to an individual for personal, family or household use, once that use is for purposes unrelated to the person's trade, business or profession, or the purchase of property.

#### **Commercial loans**

A commercial loan is defined as a loan, the primary objective of which is to fund an activity whose purpose is to generate a profit. Arising from feedback received on CP76, the draft regulations provide that where the total amount of commercial lending granted to a borrower, or group of borrowers that are connected, is less than €25,000, such commercial loans are not included when calculating the credit union's concentration limit for commercial lending and are not subject to other commercial lending requirements.

#### **Community loans**

A community loan is defined as a loan provided to a community or voluntary organisation which is established for the express purpose of furthering the social, economic or environmental well-being of individuals within the common bond of the credit union in the following areas:

- a) sport and recreation;
- b) culture and heritage;
- c) the arts (within the meaning of the Arts Act 2003);
- d) health of the community;
- e) youth, welfare and amenities; and
- f) natural environment.

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<sup>10</sup> Based on reported information and the information provided by the representative sample of credit unions for the RIA.

<sup>11</sup> The term 'category' is used instead of 'class' to make a distinction between the type of loans a credit union make and the requirement in section 38(1) of the 1997 Act whereby the rate of interest charged on any class of loans granted at a particular time must be the same for all loans of the class. Each category of lending may have a number of classes. For example, personal lending may include car loans, education loans and holiday loans.

### House loans

A house loan is defined as a loan made to a member secured by property for the purpose of enabling the member to:

- (a) have a house constructed on the property as their principal residence;
- (b) improve or renovate a house on the property that is already used as their principal residence;
- (c) buy a house that is already constructed on the property for use as their principal residence; or
- (d) refinance a loan previously provided for one of the purposes specified in (a), (b) or (c) for the same purpose.

Under the draft lending regulations, credit unions must hold the first legal charge secured on the property for any house loans made following commencement of the regulations.

The Central Bank has published a consultation paper 'CP87 Macro prudential policy for residential mortgage lending' ('CP87') which includes proposals on the introduction of loan to value and loan to income requirements for lenders, including credit unions, that provide housing loans to borrowers. The closing date for this consultation is 8 December 2014. The decisions made on CP87 will be taken into account when finalising the lending regulations for credit unions, including consideration of loan to value requirements for house loans.

### 7.2.2 Concentration limits and requirements for certain types of lending

The Central Bank is also **introducing** concentration limits and requirements for certain categories of lending to reflect the specific risks associated with these categories. The draft lending regulations include concentration limits and requirements for commercial lending, community lending and lending to other credit unions.

#### Concentration limits

Under the draft lending regulations, a credit union may make commercial loans up to a maximum of 50% of its regulatory reserve. As referred to in Section 7.2.1, any commercial loan granted to a borrower, or group of borrowers that are connected, that is less than €25,000 would not be included in the calculation of this limit.

Under the draft lending regulations, a credit union may make community loans up to a maximum of 25% of its regulatory reserve and may also make loans to other credit unions up to a maximum of 12.5% of its regulatory reserve.

#### Requirements

The draft lending regulations include requirements for credit unions to ensure that:

- any commercial loans, community loans and loans to other credit unions are supported by a business plan and financial projections; and

- a monthly report to the board of directors on the performance of loans includes details on the performance of any commercial loans, community loans and loans to other credit unions.

As referred to in section 7.2.1, any commercial loan granted to a borrower, or group of borrowers that are connected, that is less than €25,000 would not be subject to these requirements.

### **7.2.3 Large exposure limit**

The large exposure limit that is currently contained in section 35 of the 1997 Act is the greater of €39,000 or 1.5% of total assets. This limit will be removed from the 1997 Act on commencement of the remaining sections of the 2012 Act. In line with proposals contained in the Feedback Statement on CP76 and the new regulation making powers, the Central Bank is introducing regulations whereby the maximum exposure a credit union may have to a borrower, or a group of borrowers who are connected, can be up to the greater of €39,000 or 10% of the credit union's regulatory reserve. The large exposure limit will now be calculated based on a credit union's reserves rather than assets so that lending takes account of the credit union's ability to absorb any losses that may arise from credit risk.

If, in an exceptional case, an exposure exceeds the large exposure limit set out in the lending regulations for credit unions, the credit union must hold the amount of the exposure that is in excess of the limit in a realised reserve until such time as the exposure no longer exceeds the limit. These additional reserves are required to be held to mitigate the additional risk arising from the increased exposure. Based on information reported by credit unions, a small number of credit unions may not comply with the new large exposure limit on commencement of the regulations. Transitional arrangements have been included which allow a period of two years before a credit union will be required to hold such excess amounts in a realised reserve for any exposure that exceeded the limit on the introduction of the regulations.

### **Total large exposures limit**

The draft lending regulations do not define a large exposure or include a total large exposures limit as provided for in the regulation making powers contained in section 35. However, the Central Bank intends to issue guidance defining a large exposure as any exposure greater than 5% of the regulatory reserve and indicating that the total large exposures (including contingent liabilities) of a credit union should not be greater than 500% of the regulatory reserve of the credit union. Following commencement of the regulations, credit unions will be required to report on the number and amount of large exposures held by the credit union, which will facilitate analysis to inform a regulatory limit on total large exposures in the future.

#### 7.2.4 Maturity of lending

On commencement of the remaining sections of the 2012 Act, the maturity limits contained in section 35 of the 1997 Act will be removed. In line with the Feedback Statement on CP76, the existing maturity limits that are currently contained in section 35 of the 1997 Act are included in the draft lending regulations. A maximum maturity limit of 25 years is also introduced in the draft regulations.

Therefore, under the draft regulations credit unions will continue to be allowed to lend up to 30% of their loan book over five years and up to 10% of their loan book over 10 years, subject to a maximum maturity of 25 years. In addition, credit unions will be able to apply to the Central Bank for an extension to their longer term lending limits (up to 40% of their loan book over 5 years and up to 15% of their loan book over 10 years) under the draft lending regulations. Approval will be subject to conditions set by the Central Bank<sup>12</sup>.

#### 7.2.5 Related party lending

The 1997 Act contains requirements on the process for the approval of loans to officers. As set out in the Feedback Statement on CP76, the Central Bank is introducing requirements on the governance of related party lending<sup>13</sup> to supplement these requirements but is not proposing to introduce limits on related party lending at this time in recognition of the community based nature of the sector and the potential impact this may have on the implementation of such limits.

The draft lending regulations define a related party as:

- a member of the board of directors or the management team of a credit union;
- a member of the family of a member of the board of directors or the management team of a credit union; or
- a business in which a member of the board of directors or the management team of a credit union has a significant shareholding;

and require that loans to related parties are not provided on more favourable terms than loans to non-related parties.

The definition of “member of the family” in the draft regulations is not as wide as the definition that was proposed in CP76 which was based on the definition contained in the 1997 Act.

The draft lending regulations also contain a number of requirements on the approval of, management of and reporting on loans to related parties and include a threshold (€2,000) below which loans to related parties are subject to reduced requirements.

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<sup>12</sup> The Central Bank is reviewing the conditions that currently apply for credit unions to be approved to extend their longer term lending limits.

<sup>13</sup> CP76 and the Feedback Statement on CP76 referred to “restricted persons”. However, the term “related party” is used in the draft regulations as this is a more commonly used term.

### 7.2.6 Lending practices and policies

The draft lending regulations also contain a small number of requirements on lending practices and policies, including requirements that are currently contained in legislation and guidance, for example the requirement for the credit union to permit a member to repay the loan on any day that the credit union is open for business and to ensure the credit union's lending policies include a credit policy, credit control policy and provisioning policy.

### 7.2.7 Transitional arrangements

The draft lending regulations contain transitional arrangements for loans made prior to the commencement of the regulations that were in compliance with the legal and regulatory framework that was in place before the commencement of the regulations. On commencement of the regulations, such loans will not be considered unlawful. However, following commencement of the regulations a credit union cannot make a loan if the making of the loan would cause the credit union to exacerbate non-compliance with the draft lending regulations.

## 7.3 Legal and regulatory framework

### 7.3.1 Legislation

#### Section 35 (to be substituted on commencement of section 11 of the 2012 Act)

(1)

(a) In this section 'large exposure', in relation to loans of a credit union to a borrower or a group of borrowers who are connected, means the total exposure (including contingent liabilities) of the credit union where the total exposure to such borrower or group of borrowers would be greater than an amount (whether expressed as a monetary amount or as a percentage of some monetary amount or determinable monetary amount) prescribed by the Bank.

(b) For the purposes of this subsection—

'control' has the meaning assigned to it by section 432 of the Taxes Consolidation Act 1997 and the other relevant provisions of Part 13 of that Act;

'group of borrowers who are connected' means 2 or more persons—

(i) who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other person or persons (not being individuals); or

(ii) between whom there is no relationship of control as set out in subparagraph (i), but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, the other person or some or all of the other persons would be likely to encounter repayment difficulties.

(2) A credit union may make a loan to a member for such purpose as the credit union

considers appropriate, upon such security (or without security) and terms as the rules of the credit union may provide. The ability of the loan applicant to repay shall be the primary consideration in the underwriting process of the credit union.

- (3) A credit union shall manage and control lending to ensure the making of loans does not involve undue risk to members' savings taking into account the nature, scale, complexity and risk profile of the credit union.
- (4) Every application to a credit union for a loan shall be in writing and shall state the purpose for which the loan is required and the security (if any) offered for it.
- (5) A credit union shall not accept from an officer of the credit union a guarantee for a loan to another member unless that other member is the officer's spouse or civil partner, child or parent.
- (6) Where the rules of a credit union so provide, the credit union may determine in accordance with those rules the total, including percentage, amount of loans (if any) that it may grant to non-qualifying members.
- (7) In relation to loans to which this section relates and for the adequate protection of the savings of members of credit unions, the Bank may prescribe one or more of the following:
  - (a) the classes of lending a credit union may engage in whether by reference to any common characteristic of the credit unions or loans concerned, or otherwise;
  - (b) the limits on the total, including percentage, amount of loans generally, or unsecured loans or class or classes of loans, that may be lent by credit unions, having regard to period or periods of time for which loans concerned are made;
  - (c) the matters relating to large exposures of credit unions and limits relating to such exposures;
  - (d) the limits on the concentration of lending, including concentration limits on loan classes, including concentration limits on loans to a member of a credit union;
  - (e) any other limit that the Bank considers appropriate.
- (8) For the adequate protection of the savings of members of credit unions the Bank may prescribe such other requirements as it considers necessary in relation to any one or more of the following matters:
  - (a) the lending practices of credit unions, including—
    - (i) loan application assessments,
    - (ii) the making of provision for specified matters,
    - (iii) reviews to assess the adequacy of provisions,
    - (iv) maintaining policies for the holding of provisions, for credit and for credit



control,

(v) the types of security that may be accepted;

(b) reporting loans to the Bank;

(c) the holding by credit unions of provisions, reserves or capital against loans or specified classes or types of loans.

(9) In prescribing matters for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements imposed by the regulations made by it are effective and proportionate having regard to the nature, scale and complexity of credit unions, or the category or categories of credit unions, to which the regulations will apply.

(10) A credit union shall ensure that it has appropriate processes, procedures, systems, controls and reporting arrangements to monitor compliance with the requirements of this section and any requirement imposed under this section.

(11) Subject to its rules, in respect of a loan, a credit union may accept, in addition to other forms of security—

(a) a guarantee by a member, or

(b) a pledge by a member of shares in or deposits with the credit union,

and, where such a guarantee or pledge is accepted, it shall be deemed to be a security for the loan.

### 7.3.2 Draft regulations

#### LENDING

***Relevant definitions for lending regulations are included in Appendix B: Regulation 2 (Interpretation)***

#### **Categories of Lending**

12. (1) A credit union shall only make loans that fall within the following categories:-

(a) Personal loans;

(b) Commercial loans;

(c) Community loans;

(d) House loans;

(e) Loans to other credit unions.

- (2) A commercial loan granted by a credit union, where the total amount of commercial lending granted to a borrower, or group of borrowers who are connected, is less than €25,000, is not subject to Regulations 13(a) or 17. A commercial loan is included in the calculation of granted commercial loans until the commercial loan has been repaid in full.

### **Concentration Limits**

13. A credit union shall not make:

- (a) a commercial loan, where such a loan would cause the total amount of outstanding commercial loans of the credit union to exceed 50 per cent of the credit union's regulatory reserve,
- (b) a community loan, where such a loan would cause the total amount of outstanding community loans to exceed 25 per cent of the credit union's regulatory reserve, or
- (c) a loan to another credit union, where such a loan would cause the total amount of outstanding loans to other credit unions to exceed 12.5 per cent of the credit union's regulatory reserve.

### **Large Exposure Limit**

14. (1) A credit union shall not make a loan to a borrower or a group of borrowers who are connected which would cause the credit union to have a total exposure to the borrower or group of borrowers who are connected of greater than €39,000 or 10 per cent of the regulatory reserve of the credit union.
- (2) Where an exposure to a borrower or group of borrowers who are connected exceeds the limit set out in paragraph (1), the credit union must hold the amount of the exposure that is in excess of the limit in a realised reserve, separate from the regulatory reserve of the credit union.
- (3) The requirement specified in paragraph (2) for exposures existing at the time of commencement of these Regulations shall not apply for a period of 2 years from the commencement of these Regulations.

### **Maturity Limits**

15. (1) A credit union shall not make a loan to a member:-

- (a) for a period exceeding 5 years if, were the loan to be made, the total gross amount outstanding in relation to all loans with greater than 5 years to the final repayment date would exceed -

- (i) 30 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or
  - (ii) if the Bank so approves in writing, 40 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or
- (b) for a period exceeding 10 years if, were the loan to be made, the total gross amount outstanding in relation to all loans with greater than 10 years to the final repayment date would exceed –
  - (i) 10 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or
  - (ii) if the Bank so approves in writing, 15 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union.
- (2) The Bank may impose on approval, for the purposes of subparagraph (a)(ii) or (b)(ii) of this Regulation any condition that the Bank considers appropriate.
- (3) A credit union shall not make a loan to a member for a period exceeding 25 years.

#### **Requirement for House Loans**

16. Where a credit union grants a house loan, it shall ensure that the credit union holds the first legal charge on the property for each house loan issued after the commencement of these Regulations.

#### **Requirements for Specific Categories of Lending**

17. (1) A credit union shall ensure that a comprehensive business plan and detailed financial projections (supported by evidence based assumptions), appropriate for the scale and complexity of the loan, are in place before granting a commercial loan, community loan or a loan to another credit union.
- (2) A credit union shall report, in writing, on the performance of loans to the board of directors of the credit union on a monthly basis. Such a report shall include details on the performance of commercial loans, community loans and loans to other credit unions.

#### **Lending Practices**

18. (1) A credit union shall permit a member to repay a loan on any day that the

credit union is open for business.

- (2) A credit union shall establish and maintain the matters specified below in writing:
  - (a) limits in respect of credit concentration and loan portfolio diversification including the maximum amount of commercial lending, community lending and lending to other credit unions as a percentage of the total loan book; and
  - (b) processes which the credit union will follow in relation to arrears management and rescheduling.
- (3) A credit union shall ensure that its credit assessment process is based on coherent and clearly defined criteria and that the process of approving loans and amending loans is clearly established and documented in its credit policy.

#### **Related Parties**

19. A credit union shall not make a loan to a related party on more favourable terms (including, without limitation, terms as to credit assessment, duration, interest rates, amortisation schedules, collateral requirements) than a loan by the credit union to non-related parties.
20.
  - (1) Subject to Regulation 19, a credit union shall ensure that the following are subject to individual prior approval in writing by the board of directors of the credit union or a subcommittee of the board of directors established specifically to deal with related party lending where that subcommittee reports directly to the board of directors of the credit union:
    - (a) a loan to a related party, or any variation of the terms of a loan to a related party; and
    - (b) actions in respect of the management of a loan to a related party (including, without limitation, permitting rescheduling, interest roll-up, granting a grace period for payment, loan write-off in whole or in part, provisioning against a loan, decisions to take or not to take enforcement action).
  - (2) In relation to matters specified in subparagraph (1)(a) and (b), a credit union shall exclude individuals on the board of directors of the credit union or a subcommittee of the board of directors referred to in paragraph (1) with conflicts of interest from the approval process.
  - (3) A credit union shall report, in writing, to the board of directors on related

party loans on a monthly basis. Such a report shall include details of loans advanced to related parties during the month, total loans outstanding to related parties, the performance of loans to related parties and actions in respect of the management of loans to related parties.

21. (1) Where the total credit union exposure to the related party is not greater than €2,000, a credit union is exempt from complying with the requirements in Regulation 20 (in this Regulation referred to as "exempt exposures").
- (2) In relation to exempt exposures referred to in paragraph (1), a credit union shall ensure that:-
- (a) the credit union monitors these loans to ensure that the limit imposed is not exceeded;
  - (b) a register of these loans recording how it has complied with this requirement is maintained by the credit union; and
  - (c) a report on these loans are reviewed and approved by the board of directors of the credit union on a quarterly basis.
22. A credit union shall include the process in relation to lending to a related party in its Credit Policy.

### **Lending Policies**

23. A credit union shall, at a minimum, establish and maintain the following written lending policies:-
- (a) Credit Policy;
  - (b) Credit Control Policy; and
  - (c) Provisioning Policy.

### **Transitional Arrangements**

24. (1) Nothing in these Regulations shall render unlawful any loan made in accordance with or under the Act to a member before the commencement of these Regulations.
- (2) Where, at the commencement of these Regulations, a credit union is failing to comply with the requirements in this Part, that credit union shall only make a loan where the making of such a loan would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.

**7.4 The Central Bank is seeking views on the following:**

- (vii) Do you have any comments on the draft lending regulations? If you have suggestions please provide them along with the supporting rationale.

## Section 8: Investments

### 8.1 Explanatory comments

Section 12 of the 2012 Act substitutes a new section 43, which relates to investments, into the 1997 Act. On commencement of section 12 of the 2012 Act, section 43 of the 1997 Act will no longer refer to the Trustee Act, 1893 (as amended by the Trustee (Authorised Investments) Order 1998). The investments that credit unions are authorised to invest in and associated limits will be set out in the draft investment regulations made by the Central Bank.

The new section 43 will also contain new requirements for credit unions whereby credit unions must:

- manage their investments to ensure that those investments do not (taking account of the nature, scale, complexity and risk profile of the credit union) involve undue risk to members' savings; and
- assess the potential impact on the credit union, including the impact on the liquidity and financial position of the credit union, before making an investment.

The Central Bank has developed draft investments regulations which, together with the new section 43, set out the legal and regulatory framework for credit unions in the area of investments. The new section 43 of the 1997 Act and the draft investment regulations are set out in Section 8.3 below.

### 8.2 Overview of draft investment regulations

Currently section 43 of the 1997 Act contains requirements for credit unions in the area of investments. In addition the [2006 Guidance Note on Investments by Credit Unions](#) ("the 2006 Guidance Note") sets out authorised investments and associated limits for credit unions.

As outlined in the Feedback Statement on CP76, the framework set out in the draft investments regulations is largely based on the existing framework as set out in the 2006 Guidance Note. The main amendments are the:

- removal of equities as an investment class;
- introduction of concentration limits for investments in credit union and investments in shares in Industrial and Provident Societies; and
- application of maturity limits to the investment portfolio as a whole rather than to individual investment classes.

The sections below set out the key elements of the draft investment regulations.

### 8.2.1 Classes of investments

Credit unions may invest in euro denominated investments in the following classes of investments:

- Irish and EEA State Securities;
- Accounts in Authorised Credit Institutions;
- Bank Bonds;
- Collective Investment Schemes;
- Shares of and deposits with other credit unions; and
- Shares of societies registered under the Industrial and Provident Societies Acts 1893 to 1978.

These classes of investments are in line with the classes set out in the 2006 Guidance Note, with the following exceptions:

- equities have been removed; and
- Irish and EMU State Securities has been expanded to Irish and EEA State Securities to ensure a consistent approach across investment classes.

### 8.2.2 Counterparty limits

The draft investment regulations require that investments with a single counterparty must not exceed 25% of the total value of the credit union's investment portfolio and this limit remains **unchanged** from the counterparty limit in the 2006 Guidance Note.

### 8.2.3 Concentration limits

The concentration limits for Investment in Irish and EEA State Securities and Bank Bonds, set out below, remain **unchanged** from the 2006 Guidance Note:

- Investments in Irish and EEA State Securities must not exceed 70% of the total value of the credit union's portfolio; and
- Investments in bank bonds must not exceed 70% of the total value of the credit union's portfolio.

The following concentration limits have been **introduced** for investments in other credit unions and Industrial and Provident societies:

- Investments in the shares in or deposits with other credit unions must not exceed 12.5% of regulatory reserves; and
- Investments in the shares of societies registered under the Industrial and Provident Societies Acts 1893 to 1978 must not exceed of 12.5% of regulatory reserves.

Based on the Central Bank's analysis, less than 1% of credit unions have exposure to either of these investment types.

### 8.2.4 Maturity limits

The maturity limits contained in the draft regulations and set out below are consistent with those in the 2006 Guidance Note. However, in order to provide increased flexibility



for credit unions in managing their investment portfolio the maturity limits have been amended to apply to a credit union's full investment portfolio rather than individual investment classes as was previously the case. Credit unions were also previously restricted to holding not more than 20% of deposits in deposits maturing after 7 years.

The proposed maturity limits are as follows:

- Maturity of any investment shall not exceed 10 years;
- Not more than 30% of a credit union's portfolio may be invested in investments maturing after 7 years; and
- Not more than 50% of a credit union's portfolio may be invested in investments maturing after 5 years.

### 8.2.5 Investment practices

The draft investment regulations also contain requirements that were previously set out in guidance relating to the credit union's investment policy and the transfer and distribution of investment income and investment gains.

### 8.2.6 Transitional arrangements

The draft investment regulations contain transitional arrangements for investments made prior to the commencement of the regulations that were in compliance with the legal and regulatory framework that was in place before the commencement of the regulations. On commencement of the regulations, credit unions will be permitted to hold any investments that are not in compliance with the regulations for a period of two years. Where such investments have a fixed maturity date, credit unions will be permitted to hold these investments until maturity.

## 8.3 Legal and regulatory framework

### 8.3.1 Legislation

#### **Section 43 (to be substituted on commencement of section 12 of the 2012 Act)**

- (1) A credit union shall manage its investments to ensure that those investments do not (taking account of the nature, scale, complexity and risk profile of the credit union) involve undue risk to members' savings and, for that purpose, before making an investment a credit union shall assess the potential impact on the credit union, including the impact on the liquidity and financial position of the credit union.
- (2) A credit union may invest any of its funds, which are surplus to its operating requirements and are not immediately required for the purposes of the credit union, in any one or more of the following:
  - (a) the shares of, or deposits with (other than deposits to which subsection (6) relates) or loans to, another credit union as the Bank may prescribe;

- (b) the shares of a society registered under the Industrial and Provident Societies Acts 1893 to 1978 as the Bank may prescribe;
  - (c) such other investments as may be prescribed for that purpose by the Bank under subsection (3).
- (3) For the purposes of subsection (2)(c) the Bank may prescribe investments in which a credit union may invest its funds. In prescribing matters for the purposes of subsection (2) and having regard to the need to avoid undue risk to members' savings, the Bank may also prescribe other matters in relation to prescribed investments, including any of the following:
  - (a) the classes of investments, including, where appropriate, any investment project of a public nature the credit union may invest in;
  - (b) the quality of investments and quality of counterparties that the credit union may invest in;
  - (c) the maximum, including percentage, amount (by reference to a credit union's surplus funds to which subsection (2) relates or otherwise) of a class of investments that may be invested in;
  - (d) the term to maturity of a class of investments;
  - (e) the currency of a class of investments;
  - (f) limits for investment, whether by reference to maturity, currency, counterparty, sector, instrument or otherwise;
  - (g) any other matters that the Bank may consider necessary in the circumstances.
- (4) The Bank may prescribe matters for the purposes of any distribution policy to be applied by a credit union in respect of investment income.
- (5) In prescribing matters for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements imposed by the regulations made by it are effective and proportionate having regard to the nature, scale and complexity of credit unions, or the category or categories of credit unions, to which the regulations will apply.
- (6) In so far as any funds of a credit union that are surplus to its operating requirements—
  - (a) are not immediately required for the purposes of the credit union,
  - (b) are not invested in accordance with subsection (2), or
  - (c) are not kept in cash in the custody of officers of the credit union,those funds shall be kept by the credit union on current account with a credit institution.
- (7) Where any funds of a credit union are on current account with, or on loan to, an

institution which ceases to be a credit institution, the credit union shall take all practicable steps to call in and realise the loan within the period of 3 months from the time when the institution so ceased or, if that is not possible, as soon after the end of that period as possible.

### 8.3.2 Draft regulations

#### INVESTMENTS

***Relevant definitions for investment regulations are included in Appendix B: Regulation 2 (Interpretation)***

##### **Classes of Investments**

25. A credit union may only invest in euro denominated investments in the following:

- (a) Irish and EEA State Securities;
- (b) accounts in Authorised Credit Institutions;
- (c) bank bonds;
- (d) Collective Investment Schemes;
- (e) shares of and deposits with other credit unions;
- (f) shares of a society registered under the Industrial and Provident Societies Act 1893 to 1978.

##### **Counterparty Limits**

26. A credit union shall not make an investment with a counterparty which, were that investment to be made, would cause the investments with that counterparty to exceed 25 per cent of the credit union's total value of investments.

##### **Concentration Limits**

27. (1) A credit union shall not make an investment in Irish and EEA State securities which would cause the investments in Irish and EEA State securities to exceed 70 per cent of the total value of the credit union's investments.
- (2) A credit union shall not make an investment in bank bonds which would cause the investments in bank bonds to exceed 70 per cent of the total value of the credit union's investments.
- (3) A credit union shall not make an investment in another credit union which would cause the investments in other credit unions to exceed 12.5 per cent of its regulatory reserve.

- (4) A credit union shall not make an investment in the shares of a society registered under the Industrial and Provident Societies Acts 1893 to 1978 which would cause the investments in shares in societies registered under the Industrial and Provident Societies Acts 1893 to 1978 to exceed 12.5 per cent of the credit union's regulatory reserve.

### **Maturity Limits**

28. (1) A credit union shall not make an investment which has a maturity date which exceeds 10 years from the date of the investment.
- (2) A credit union shall not make an investment which would cause the credit union to have more than 30 per cent of its investments maturing after 7 years.
- (3) A credit union shall not make an investment which would cause the credit union to have more than 50 per cent of its investments maturing after 5 years.

### **Collective Investment Schemes**

29. A credit union may invest in collective investment schemes only where the underlying investments of the scheme are: –
- (a) composed entirely of instruments specified in Regulation 25(a), (b) or (c); and
- (b) the making of such an investment would not cause a credit union to fail to comply with this Part, including in particular Regulations 26 and 28.

### **Holding of Investments**

30. A credit union shall ensure that any investments made remain in compliance with the investment requirements in this Part.

### **Investment Practice - Investment Income/ Investment Gain**

31. A credit union shall not distribute investment income or an investment gain to members or transfer investment income or an investment gain to a reserve set aside to provide for dividends, unless the investment income or investment gain falls within the following:
- (a) Investment income or an investment gain received by the credit union at the balance sheet date;
- (b) Investment income that will be received by the credit union within 12

months of the balance sheet date.

### **Investment Practices – Concentration Risk**

32. A credit union shall establish and maintain a written strategy having regard to section 43 of the Act to manage concentration risk which can result from dealing with a single counterparty or holding investments with similar characteristics like maturities and to ensure investments remain within the limits contained in these Regulations.

### **Transitional Arrangements**

33. (1) Where, at the commencement of these Regulations, a credit union has investments made in accordance with or under the Act which exceed the requirements in this Part, the credit union shall (subject to paragraph (2)):
- (a) reduce those investments in order to ensure compliance with this Part;
    - (i) as soon as possible without incurring a loss; and
    - (ii) in any event not later than the second anniversary of the commencement of these Regulations or such later date as the Bank may permit, and
  - (b) shall only make an investment where the making of such an investment would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.
- (2) A credit union may hold to maturity all fixed term investments held by that credit union on the commencement of these Regulations.

## **8.4 The Central Bank is seeking views on the following:**

- (i) Do you have any comments on the draft investments regulations? If you have suggestions please provide them along with the supporting rationale.

## Section 9: Savings

### 9.1 Explanatory comments

Section 8 of the 2012 Act substitutes a new section 27 into the 1997 Act. On commencement of section 8 of the 2012 Act the current savings limits set out in the existing section 27 of the 1997 Act will no longer be reflected in the new section 27 of the 1997 Act.

The Central Bank has developed savings regulations which, together with the new section 27, set out the legal and regulatory framework for credit unions in the area of savings. The new section 27 of the 1997 Act and the draft savings regulations are set out in Section 9.3 below.

### 9.2 Overview of draft savings regulations

#### 9.2.1 Deposit to shares

Section 27(2) of the 1997 Act currently requires that a credit union's total deposits from members must not exceed 100% of the total members' shares. This limit is **retained** in the draft savings regulations.

#### 9.2.2 Maximum savings

Currently under section 27(4) of the 1997 Act the maximum claim a member can have on a credit union in terms of savings (shares and deposits) cannot exceed €200,000 or 1% of the total assets of the credit union, whichever is the greater. Additionally a member of a credit union cannot hold a deposit with the credit union of more than €100,000.

CP76 proposed a maximum savings limit for category 1 credit unions of the lower of €100,000 or 1% of assets and a maximum savings limit for category 2 credit unions of €100,000. Further to the feedback received in submissions from credit unions and other sector stakeholders, the Feedback Statement on CP76 indicated that the Central Bank would give further consideration to this limit.

The draft savings regulations now propose that all credit unions can have individual member's savings of up to €100,000.

This requirement seeks to ensure credit unions' funding is sufficiently diversified while also protecting members' savings. As referred to in the RIA, while c. 55% of credit unions would be impacted by the new requirement less than 0.11% of members and 1.18% of members' savings would exceed the new maximum savings limit.

It is not proposed to retain a separate limit on the maximum deposit a member may hold with a credit union as there is an overall deposit to share limit (see section 9.2.1).

### 9.2.3 Transitional arrangements

The draft savings regulations contain transitional arrangements for savings made prior to the commencement of the regulations that were in compliance with the legal and regulatory framework that was in place before the commencement of the regulations. On commencement of the regulations credit unions will be provided with a period of six months to bring any savings that do not comply with the draft regulations into compliance with the new requirements.

## 9.3 Legal and regulatory framework

### 9.3.1 Legislation

#### Section 27 (to be substituted on commencement of section 8 of the 2012 Act)

- (1) A credit union may raise funds to be used for its objects—
- (a) by the issue to its members of shares in the credit union (which may be withdrawable or non-withdrawable), and
  - (b) by the acceptance of money on deposit from a member,
- and the cumulative amount of such shares in, and money on deposit (if any) with, the credit union is referred to in this Act as 'savings'.
- (2) For the adequate protection of the savings of members of credit unions the Bank may prescribe requirements and limits for savings, including—
- (a) the maximum amount of savings (expressed as a monetary amount or as a percentage of some monetary amount or determinable monetary amount) or category of savings a credit union member may hold,
  - (b) the ratio of total deposits from members that may be held by a credit union to total shares issued to members, and
  - (c) any other requirement or limit which the Bank considers necessary to prescribe.
- (3) In prescribing matters for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements imposed by the regulations made by it are effective and proportionate having regard to the nature, scale and complexity of credit unions, or the category or categories of credit unions, to which the regulations will apply.

### 9.3.2 Draft regulations

#### SAVINGS

##### Savings Requirements

34. The aggregate liabilities of a credit union in respect of deposits shall not at any time exceed 100 per cent of aggregate liabilities in respect of shares issued to

members.

35. A credit union shall ensure that no member shall have savings which exceed €100,000.

#### **Transitional Arrangements**

36. Where, at the commencement of these Regulations, a credit union has member savings made in accordance with or under the Act which exceed the requirements in this Part, the credit union shall reduce those savings in order to ensure compliance with this Part as soon as possible and in any event no later than six months after the commencement of these Regulations, or such later date as the Bank may permit.

#### **9.4 The Central Bank is seeking views on the following:**

- (i) Do you have any comments on the draft savings regulations? If you have suggestions please provide them along with the supporting rationale.



## Section 10: Borrowing

### 10.1 Explanatory comments

Section 10 of the 2012 Act substitutes a new section 33 into the 1997 Act. On commencement of section 10 of the 2012 Act, the current borrowing limits set out in the existing section 33 of the 1997 Act will no longer be reflected in the new section 33 of the 1997 Act.

The Central Bank has developed draft borrowing regulations which, together with the new section 33, set out the legal and regulatory framework for credit unions in the area of borrowing. The new section 33 of the 1997 Act and the draft borrowing regulations are set out in Section 10.3 below.

### 10.2 Overview of draft borrowing regulations

Currently under section 33 of the 1997 Act, a credit union can borrow up to 50% of the aggregate savings in the credit union.

CP76 contained a proposal to **reduce** this limit to up to 25% of aggregate savings for all credit unions. Feedback on CP76 included a small number of comments on this proposal with most of these acknowledging that credit unions do not generally use borrowing as a source of funding. As set out in the RIA, less than 4% of credit unions have borrowings and the maximum amount borrowed represents less than 6% of aggregate savings.

The draft borrowing regulations provide that credit unions can borrow up to 25% of the aggregate savings in the credit union as set out in the Feedback Statement on CP76. Credit unions will be required to notify the Central Bank where they intend to borrow under the draft regulations. The draft borrowing regulations also require credit unions to have a written policy in relation to borrowing. Credit unions can include this policy as part of the asset and liability management policy that is required under the 1997 Act or the policy may be documented separately.

#### 10.2.1 Transitional arrangements

The proposed borrowing regulations include transitional arrangements which provide two years for credit unions to bring any existing borrowing in line with the new limit.

## 10.3 Legal and regulatory framework

### 10.3.1 Legislation

#### **Section 33 (to be substituted on commencement of section 10 of the 2012 Act)**

- (1) For the purpose of its objects as referred to in section 6 a credit union may borrow money, on security or otherwise, and may issue debentures accordingly.
- (2) For the adequate protection of the savings of members of credit unions, the Bank may prescribe—
  - (a) the maximum amount of money a credit union may borrow at any one time which may be expressed as a percentage of the aggregate of shares balance and the deposits balance of the credit union, and
  - (b) the notice to be given to the Bank by a credit union in specified circumstances where the credit union proposes to borrow certain amounts of money (expressed as a monetary amount or as a percentage of some monetary amount or determinable monetary amount) in respect of those circumstances.
- (3) Where the Bank considers it is necessary in the interests of the proper regulation of a credit union or credit unions generally, or the protection of members' savings, it may do either or both of the following:
  - (a) permit a credit union to borrow moneys in excess of the amount prescribed in accordance with subsection (2);
  - (b) waive any notice requirement prescribed in accordance with subsection (2).
- (4) A person dealing with a credit union shall not be obliged to be satisfied or to enquire into whether the limit imposed on the credit union by virtue of subsection (2) (or such limit as may be duly affected under subsection (3)) has been or is being observed; but if a person who lends money to a credit union or takes security in connection with such a loan has, at the time the loan is made or the security is taken, actual notice of the fact that that limit has been or is thereby exceeded, the credit union's debt or, as the case may be, the security shall be unenforceable.
- (5) Subject to subsection (4), a transaction with a credit union shall not be invalid or ineffectual by reason of the fact that the limit on borrowing prescribed by the Bank under subsection (2) (or such limit as may be duly affected under subsection (3)) has been or is by the transaction exceeded.
- (6) In prescribing matters for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements imposed by the regulations made by it are effective and proportionate having regard to the nature, scale and complexity of credit unions, or the category or categories of credit unions, to which the regulations will apply.

### 10.3.2 Draft regulations

#### **BORROWING**

##### **Interpretation – Part 7**

37. In this Part the word “borrow” or any word which is a variant, derivative or translation of, or is analogous to that word shall not include the issue of shares, or the acceptance of deposits from members of the credit union in accordance with the Act.

##### **Borrowing Requirements**

38. A credit union may borrow money, on security or otherwise, so long as the total amount outstanding in respect of monies so borrowed does not at any time exceed 25 per cent of the savings of the credit union.

39. Where a credit union proposes to borrow in accordance with Regulation 38, the credit union shall at least provide 28 days’ notice in writing to the Bank of its intention to undertake the proposed borrowing.

40. For the purposes of Regulation 38, when calculating the total amount outstanding in respect of moneys borrowed by a credit union at any time, an overdraft received from its banker shall be disregarded.

##### **Borrowing Policy**

41. A credit union shall establish and maintain a written policy in relation to borrowing. The board of directors of the credit union shall, at least annually, review, update and approve this policy.

##### **Transitional Arrangements**

42. Where, at the commencement of these Regulations, a credit union has borrowings made in accordance with or under the Act which exceed the requirements in this Part, the credit union shall:

- (a) reduce those borrowings in order to ensure compliance with this Part;
  - (i) as soon as possible without incurring a loss; and
  - (ii) in any event not later than the second anniversary of the commencement of these Regulations or such later date as the Bank

may permit, and

- (b) shall only borrow where the such borrowing would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.

#### **10.4 The Central Bank is seeking views on the following:**

- (i) Do you have any comments on the draft borrowing regulations? If you have suggestions please provide them along with the supporting rationale.

## Section 11: Systems, Controls and Reporting Arrangements

### 11.1 Explanatory comments

The draft regulations for credit unions on systems, controls and reporting arrangements include a number of general requirements to maintain, review, approve, communicate and update plans, policies and procedures. These requirements also contain a number of reporting and disclosure requirements in relation to the annual accounts. These requirements **largely reflect guidance that is currently in place** for credit unions.

### 11.2 Overview of draft systems, controls and reporting arrangements regulations

The draft regulations provide clarity on the documentation a credit union is required to maintain, including the requirement to maintain a risk register. The draft regulations also identify certain documentation that is required to be circulated to all officers in the credit union. As set out above, these requirements reflect guidance currently in place for credit unions.

The draft regulations also contain a number of reporting and disclosure requirements in relation to reserves, lending and investments which will provide increased transparency to credit union members in credit unions' annual accounts.

### 11.3 Legal and regulatory framework

#### 11.3.1 Draft regulations

#### **SYSTEMS, CONTROLS AND REPORTING ARRANGEMENTS**

##### **Risk Register**

43. (1) A credit union shall establish and maintain a written risk register maintained by a risk management officer that documents the risks that the credit union is, or may be, exposed to and the systems and controls that the credit union has established to manage and mitigate those risks.
- (2) A credit union shall ensure that the board of directors of the credit union review and approve the risk register, at least annually, to ensure that all risks that the credit union is, or may be, exposed to are contained on the risk register and that the systems and controls are appropriate to manage and mitigate these risks.

**Plans, Policies and Procedures**

44. (1) A credit union shall establish and maintain, in writing, all policies specified in section 55(1)(o) of the Act.
- (2) A credit union shall ensure that the matters specified below shall be communicated to all officers in the credit union following any updates made, including the review, approval and update by the board of directors required at least annually:
- (a) the risk management policy;
  - (b) the business continuity plan;
  - (c) the conflicts of interest policy; and
  - (d) the standards of conduct and ethical behaviour of officers.
- (3) A credit union shall document, approve and update, at least annually, the matters specified in Schedule 1 to these Regulations.
- (4) A credit union shall, at a minimum, establish and maintain information systems and management information policies which include:
- (a) a management information policy;
  - (b) an information security policy;
  - (c) an information systems change management policy; and
  - (d) an information systems asset management policy.

**Reporting and Disclosure in the Annual Accounts**

45. (1) A credit union shall disclose the following in its annual accounts:
- (a) the regulatory reserve requirement, the credit union's regulatory reserve expressed as a percentage of total assets, the additional reserves that the credit union holds in respect of operational risk expressed as a percentage of total assets, together with the credit union's dividend and loan interest rebate policy;
  - (b) the performance of its loan book;

- (c) the total amount of loans outstanding to related parties and the loans to such persons as a percentage of the total loans outstanding;
  - (d) accounting policies for the valuation of investments; and
  - (e) accounting policy for income recognition on investments.
- (2) A credit union shall separately analyse investment income and investment gains in the income and expenditure account (or notes) of the annual accounts of the credit union, as follows:-
- (a) investment income and investment gains received by the credit union at the balance sheet date;
  - (b) investment income that will be received within 12 months of the balance sheet; and
  - (c) other investment income.

#### **SCHEDULE 1**

1. The systems of control of its business and records required under section 108(1)(b) of the Act,
2. A succession plan for the board of directors and the management team which shall detail the key skills and competencies required for members of the board of directors and management team,
3. The annual performance review carried out by the board of directors,
4. The annual compliance statement, together with supporting documentation used in the preparation of the compliance statement.

#### **11.4 The Central Bank is seeking views on the following:**

- (i) Do you have any comments on the draft regulations on systems, controls and reporting arrangements? If you have suggestions please provide them along with the supporting rationale.

## Section 12: Services Exempt from Additional Services Requirements

### 12.1 Explanatory comments

The Minister for Finance (“the Minister”) has made the following regulations under section 182(1)(h) of the 1997 Act providing credit unions with exemptions from the additional services requirements of sections 48-52 of the 1997 Act when providing certain services, subject to conditions:

- Credit Union Act 1997 (Exemption From Additional Services Requirements) Regulations 2004 (S.I. No. 223 of 2004);
- Credit Union Act 1997 (Exemption From Additional Services Requirements) Regulations 2007 (S.I. No. 107 of 2007); and
- Credit Union Act 1997 (Exemption from Additional Services Requirements) (Amendment) Regulations 2007 (S.I. No. 838 of 2007)<sup>14</sup>.

The services contained in these regulations include the following services that many credit unions currently provide: certain insurance services on an agency basis; standing orders; direct debits; and third party payments (including EFT).

When the remaining sections of the 2012 Act are commenced, Item 135 of Schedule 1 of the 2012 Act will delete the Minister’s regulation making power in section 182(1)(h) of the 1997 Act and there is no provision in the 2012 Act that retains the regulations previously made by the Minister.

The Central Bank has developed draft regulations to ensure that credit unions can continue to provide the services that the Minister previously exempted from the additional services requirements and the provision of these services will remain subject to any conditions set by the Minister (see section 12.2 for further detail).

As set out in the Feedback Statement on CP76 the Central Bank is, in principle, supportive of credit unions developing additional services. The Central Bank will consider proposals from credit unions on new additional services they wish to provide to members where the credit union can demonstrate that:

- the proposed additional service is supported by a robust business case;
- the proposed additional service is not contrary to financial services legislation;
- the board of directors has a sound appreciation of the nature of the additional service proposed and is fully informed of the strategic, governance, risk management, operational, financial and legal implications involved; and
- systems and controls are in place to ensure any risks involved in the provision of the additional service are managed and mitigated.

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<sup>14</sup> S.I. 838 of 2007 amends S.I. 224 of 2004.



Credit unions can apply to the Central Bank for approval to provide such additional services in line with sections 48-52 of the 1997 Act.

Where credit unions wish to provide additional services to members that are not complex and do not involve undue risk to members' savings, the financial stability of the credit union or the operational capability of the credit union, the Central Bank may consider including such services in regulations, subject to appropriate conditions. Such services would be exempt from the additional services requirements in sections 48-52 of the 1997 Act.

Alternatively, some of the services that are currently exempt from the additional services requirements may be services that are no longer relevant or no longer provided by credit unions to their members.

## 12.2 Draft regulations

### **SERVICES EXEMPT FROM ADDITIONAL SERVICES REQUIREMENTS**

#### **Performing Services**

46. (1) The services set out in Schedule 2 to these Regulations are services prescribed by the Bank for the purposes of section 48(2)(b) of the Act.
- (2) A credit union shall not perform the services specified in Schedule 2 to these Regulations unless the appropriate conditions specified in that Schedule are fulfilled.

### **SCHEDULE 2**

#### **Telephone, internet and fax access to the credit union by the member.**

1. (1) **Access by telephone,**
- (a) that is to say any service by which the credit union member may by telephone using a unique number or password allocated by the credit union to the member,
- (i) obtain information on his or her credit union accounts, including the balance of the member's share, deposit and loan accounts with that credit union,
- (ii) transfer funds between accounts,
- (iii) request a withdrawal from share and deposit accounts,
- (iv) apply for a loan and calculate loan repayments,

(b) conditions to be fulfilled -

- (i) the relevant registration form in relation to such access must be completed by the parties concerned prior to the commencement of such a service,
- (ii) loan approval is subject to the relevant loan application forms and other necessary documentation in relation to such transactions being completed by the parties concerned.

(2) **Access by internet,**

(a) that is to say any service by which a credit union member may by internet using a unique number or password allocated by the credit union to the member,

- (i) obtain information on his or her credit union accounts, including the balance of the member's share, deposit and loan accounts with that credit union,
- (ii) transfer funds between accounts,
- (iii) request a withdrawal from share and deposit accounts,
- (iv) apply for loans and calculate loan repayments,

(b) conditions to be fulfilled -

- (i) the relevant registration form in relation to such access must be completed by the parties concerned prior to the commencement of such a service,
- (ii) loan approval is subject to the relevant loan application forms and other necessary documentation in relation to such transactions being completed by the parties concerned.

(3) **Loan applications by fax,**

(a) that is to say any service by which credit union members may submit details necessary for loan applications in the form of a fax,

(b) condition to be fulfilled -

loan approval is subject to the relevant loan application forms and other necessary documentation in relation to such transactions being completed by the parties concerned.

**2. Third Party Payments,**

that is to say any service whereby a credit union member may arrange to have transferred to or from his or her account third party payments by way of electronic funds transfer or otherwise.

**3. Automated teller machine services (ATMs),**

(a) that is to say a service which enables a credit union member to withdraw funds from his or her credit union account by means of a credit union branded ATM card,

(b) conditions to be fulfilled -

(i) terms and conditions of use of such a card must be agreed by the credit union and the member,

(ii) the member must complete the relevant registration form prior to the issue of the card.

**4. Insurance services,**

(a) that is to say any service the credit union may provide to its members in respect of each of the following categories:

(i) loan protection and life savings insurance (including related riders);

(ii) travel insurance;

(iii) home insurance;

(iv) motor insurance;

(v) repayment protection insurance.

(b) condition to be fulfilled -

these services must be provided on an agency basis and the insurer must be authorised by the Bank.

**5. Group health insurance schemes,**

that is to say a service by which a credit union may provide to its members a discount scheme with an undertaking which is registered in the Register of Health Benefits Undertakings within the meaning of the Health Insurance Acts 1994-2013. The subscription to such a scheme may, at the credit union member's request, be discharged from his or her account.

6. **Discount for goods and services,**

(a) that is to say a service by which the credit union may negotiate, on behalf of its members, discounts for the supply of goods and services to be purchased by those members,

(b) condition to be fulfilled -

any such contract must be between the supplier of the goods and services and the credit union member and the credit union must not be a party to such contracts.

7. **Budget account scheme,**

(a) that is to say a service by which the credit union may agree to provide members with a budget account, on which a credit facility may be offered, and charges (including a participation fee) may be made, into which members pay agreed regular sums and from which the credit union will discharge, on the members' behalf, a list of bills agreed with each member as and when they fall due.

(b) condition to be fulfilled -

the credit union must account separately in its books for all such transactions.

8. **Bill payment services,**

that is to say a service by which a credit union member may have a utility or other household bill paid by the credit union, either by debiting the member's account or by using cash supplied by the credit union member.

9. **Euro drafts and bureau de change**

(a) that is to say a service the credit union may provide to its members whereby a credit union member may-

(i) purchase euro drafts,

(ii) purchase foreign currency drafts, travellers cheques and travel money cards,

(iii) purchase or sell foreign currency,

(b) conditions to be fulfilled -

(i) these services must be provided on an agency basis and the principal must be licensed to provide such services,

- (ii) the credit union must be indemnified for the provision of these services under an insurance policy in accordance with section 47 of the Act,
- (iii) the credit union must charge the members any expenses incurred for the provision of these services and may in addition retain its own commission,
- (iv) the credit union must account in its books for all such transactions.

10. **Money transfers,**

- (a) that is to say a money transmission service the credit union may provide to its members,
- (b) conditions to be fulfilled -
  - (i) this service must be provided on an agency basis,
  - (ii) the credit union must be indemnified for the provision of these services under an insurance policy in accordance with section 47 of the Act,
  - (iii) the credit union must charge the members any expenses incurred for the provision of these services and may in addition retain its own commission,
  - (iv) the credit union must account in its books for all such transactions.

11. **Money Advice and Budgeting Service,**

that is to say any service provided by a credit union to its members under the Money Advice and Budgeting Service of the Department of Social Protection which is funded and supported by the Citizens Information Board.

12. **Service centres,**

- (a) that is to say a service a credit union may provide its members for photocopying, fax and computer facilities to be made available on the credit union premises,
- (b) condition to be fulfilled -
  - the credit union may charge a fee for this service.

13. **Draws,**

(a) the credit union may carry out regular draws for which members are eligible to enter on payment of a regular subscription,

(b) condition to be fulfilled –

such draws must be conducted on a break-even basis.

14. **Standing orders,**

that is to say a service which may be provided by a credit union whereby a member may instruct his or her credit union to debit his or her accounts, and pay a fixed sum at regular intervals to a specified payee. Credit unions may charge members for the provision of this service.

15. **Direct debits,**

that is to say a service whereby the credit union may make payments to a payee designated by the credit union member on specified dates. Such payments may vary and the account of the member shall be debited accordingly on each occasion. Credit unions may charge members for the provision of this service.

16. **Financial Counselling,**

(a) that is to say a service by which a credit union member may receive, free of charge, advice on the use and management of his or her funds in the credit union,

(b) condition to be fulfilled –

the credit union must be indemnified for the provision of this service under an insurance policy in accordance with section 47 of the Act.

17. **Will making,**

(a) that is to say a service arranged by the credit union by which a solicitor is available in the credit union from time to time, to take instructions and draw up wills and other testamentary documents for credit union members,

(b) conditions to be fulfilled –

(i) the solicitor concerned must be a practising solicitor within the meaning of the Solicitors Acts 1954 to 2008,

(ii) the solicitor concerned must be one in respect of whom a policy of professional indemnity insurance under the Solicitors Acts 1954 to 2008 is in force in relation to that solicitor as respects the service

referred to in paragraph (a).

18. **Gift cheques,**

that is to say a service by which a credit union member may purchase a cheque made payable to a third party in return for payment of that amount. Credit unions may charge members for the provision of this service.

19. **Electricity budget meter cards or tokens,**

that is to say a service by which a credit union member may purchase electricity budget meter cards or tokens from his or her credit union to facilitate payment of his or her electricity expenses.

20. **Savings Stamps,**

(a) that is to say a service by which a credit union member may purchase savings stamps issued by the credit union,

(b) condition to be fulfilled -

the credit union must account in its books for all such transactions.

21. **PRSA,**

(1) Any service ("service") whereby -

(a) a credit union member may be introduced to a PRSA Provider by his or her credit union for advice on the provision of a PRSA, or

(b) when such an introduction takes place, a credit union may make facilities available to a PRSA Provider to enable it provide such advice.

(2) Conditions to be fulfilled where a credit union wishes the service to be offered or provided to its members

(a) the service shall be on an introduction basis only, where the credit union introduces the member to a PRSA Provider, and the credit union may not provide any advice to a member in relation to a PRSA;

(b) a credit union which intends to enter into an arrangement with a PRSA Provider is required to notify the Registrar of Credit Unions in writing of such intention not less than 7 days before entering into such an arrangement;

(c) the credit union may only have such an arrangement with one PRSA Provider at any one time in relation to the service;

- (d) the credit union holds any authorisation required under the Investment Intermediaries Act 1995 and/or the European Communities (Insurance Mediation) Regulations 2005 in respect of the service;
- (e) the credit union is required to enter into a written agreement with the PRSA Provider referred to in subparagraph (c) ("contracting PRSA Provider") under which the contracting PRSA Provider is responsible for any act or omission of the credit union concerned in respect of any matter pertaining to a PRSA offered or provided by the contracting PRSA Provider;
- (f) any contract arising from the service is required to be between the contracting PRSA Provider and a credit union member and the credit union concerned may not be a party to any such contract;
- (g) the credit union may not permit any premises which the credit union uses to be used for the purposes of arranging or offering to arrange the provision of a PRSA to a member of the credit union by a PRSA Provider other than the contracting PRSA Provider;
- (h) a clear distinction shall be drawn between the business of the credit union and that of the contracting PRSA Provider and this shall extend to all signage, stationary or other branding of whatever kind;
- (i) the credit union is required to state on letter headings and business forms which are used for the purposes of the service referred to in paragraph 1(a) that the credit union acts as an introducer solely for the contracting PRSA Provider;
- (j) an officer or staff member of the credit union may not receive remuneration directly or indirectly from the PRSA Provider in respect of the service;
- (k) the credit union shall account separately in its books for any fees or commissions received in relation to the provision of the service.

### **12.3 The Central Bank is seeking views on the following:**

- (i) Do you have any suggestions on additions, amendments or deletions to the services and related conditions that are included in the draft regulations? If you have suggestions please provide them along with the supporting rationale. It should be noted that any further services proposed to be included in the regulations must not involve undue risk to members' savings, the financial stability of the credit union or the operational capability of the credit union.



## Section 13: Proposed next steps and timelines for the introduction of the draft regulations

The table below sets out proposed next steps and timelines for the introduction of the draft regulations set out in this consultation paper.

Date	Step
<b>27 November / 10 December 2014</b>	Conduct Information Seminars
<b>27 February 2015</b>	Consultation period closes
<b>June 2015</b>	Publish feedback statement and final regulations
<b>July - December 2015</b>	Transition period before final regulations are commenced
<b>31 December 2015</b>	Commencement of remaining sections of 2012 Act and final regulations
<b>On-going</b>	On-going engagement and consultation with the credit union sector on the development of the regulatory framework

The final regulations will be informed by feedback received on this consultation paper.

As set out above, a transition period of six months is proposed between publication and commencement of the regulations to facilitate credit unions in making any changes to systems, controls, policies and procedures that may be required for any new or amended requirements. The draft regulations also contain transitional arrangements in relation to new or amended liquidity, lending, investments, savings and borrowing requirements. These transitional arrangements will apply, after the six month transition period, when the regulations come into effect.

### 13.1 The Central Bank is seeking views on the following:

- (i) Do you agree with the proposed timelines for the introduction of the draft regulations set out in this consultation paper, in particular the transition period proposed between the publication and commencement of the regulations? If you have other suggestions please provide them, along with the supporting rationale.

## Section 14: Regulatory impact analysis

In accordance with the Consultation Protocol for Credit Unions, issued on 27 November 2012, the Central Bank has conducted a RIA on the draft regulations set out in this consultation paper. The purpose of the RIA is to examine the impact of different policy options on commencement of the remaining sections of the 2012 Act and to identify the most appropriate option. The RIA also examines the costs, benefits and impacts associated with each option.

The three policy options examined were:

- Option 1: Do not introduce regulations under the regulation making powers contained in the 2012 Act;
- Option 2: Introduce regulations on a tiered basis under the regulation making powers contained in the 2012 Act; or
- Option 3: Introduce regulations for all credit unions under the regulation making powers contained in the 2012 Act.

Having considered the costs, benefits and impacts of each option, 'Option 3 - Introduce regulations for all credit unions under the regulation making powers contained in the 2012 Act' has been identified as the most appropriate option for credit unions. This option takes account of the Central Bank's analysis and feedback received on CP76.

Option 3 will ensure the continuity of key prudential requirements and continue the introduction of the strengthened regulatory framework recommended by the Commission on Credit Unions on commencement of the remaining sections of the 2012 Act while minimising the cost and impact on credit unions. This will provide members with confidence that their credit unions are appropriately managed and governed and will support the protection of members' savings.

This option also provides a proportionate and pragmatic implementation approach that takes account of the potential cost implications for credit unions.

The full RIA is set out in Appendix C. Credit unions and other sector stakeholders may also wish to provide additional information or analysis they may have on the potential impact of the draft regulations.

## Section 15: Summary of areas where the Central Bank is seeking views

The Central Bank is seeking views on the following:

- (i) Do you have any comments on the draft reserves regulations? If you have suggestions please provide them along with the supporting rationale.
- (ii) Do you have any comments on the draft liquidity regulations? If you have suggestions please provide them along with the supporting rationale.
- (iii) Do you have any comments on the draft lending regulations? If you have suggestions please provide them along with the supporting rationale.
- (iv) Do you have any comments on the draft investments regulations? If you have suggestions please provide them along with the supporting rationale.
- (v) Do you have any comments with the draft savings regulations? If you have suggestions please provide them along with the supporting rationale.
- (vi) Do you have any comments on the draft borrowing regulations? If you have suggestions please provide them along with the supporting rationale.
- (vii) Do you have any comments on the draft regulations on systems, controls and reporting arrangements? If you have suggestions please provide them along with the supporting rationale.
- (viii) Do you have any suggestions on additions, amendments or deletions to the services and related conditions that are included in the draft regulations? If you have suggestions please provide them along with the supporting rationale. It should be noted that any further services proposed to be included in the regulations must not involve undue risk to members' savings, the financial stability of the credit union or the operational capability of the credit union.
- (ix) Do you agree with the proposed timelines for the introduction of the draft regulations set out in this consultation paper, in particular the transition period proposed between the publication and commencement of the regulations? If you have other suggestions please provide them, along with the supporting rationale.

## Section 16: Making submissions

Please make your submissions in writing, if possible electronically as a word document or a .pdf document by email, on or before Friday 27 February 2015.

When addressing the questions raised in this Consultation Paper, please use the relevant section heading to identify the section you are referring to and clearly set out the basis for your views.

The Central Bank intends to make all submissions available on the Central Bank website. Information deemed to be potentially libellous or defamatory will not be published. The Central Bank will accept no liability in respect of any information provided which is subsequently released, or in respect of any consequential damage suffered as a result.

Submissions should be marked "Consultation on Regulations for Credit Unions on the commencement of the remaining sections of the 2012 Act" and sent by email to [rcuconsultation@centralbank.ie](mailto:rcuconsultation@centralbank.ie).

In the event that you are unable to send your response electronically, please forward it by post before Friday 27 February 2015 to:

Registry of Credit Unions  
Central Bank of Ireland  
PO Box 559  
Dame Street  
Dublin 2

**Registry of Credit Unions**

## Appendix A: Credit Union Handbook

In order to assist credit unions with the implementation of the new regulatory framework, the Central Bank developed a Credit Union Handbook. The purpose of the Credit Union Handbook is to bring together in one place a number of legal and regulatory requirements and guidance that apply to credit unions.

Following this consultation process, the relevant chapters of the Credit Union Handbook will be updated to reflect the new sections of the 1997 Act (substituted and introduced by the commencement of the remaining sections of the 2012 Act), the new regulations and guidance where appropriate. This will include the chapters on:

- Reserves;
- Liquidity;
- Lending;
- Investments;
- Savings;
- Borrowing; and
- Additional Services.

The updated Credit Union Handbook will provide clarity for credit unions and other sector stakeholders on the legal and regulatory requirements and guidance across the regulatory framework for credit unions. Previously the regulatory framework was set out in legislation, regulations imposed by the Minister for Finance and the Registrar for Credit Unions and guidance contained in guidance notes and circulars issued by the Central Bank. In the future, the strengthened regulatory framework will be reflected in legislation, regulations and guidance. In relation to guidance, on commencement of the regulations guidance previously contained in Guidance Notes and circulars will be replaced by guidance set out in the relevant chapter of the Credit Union Handbook.

## Appendix B: Draft regulations

**S.I. No.                      of 201[ ]**

**CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS) REGULATIONS 201[ ]**

**S.I. No.                      of 201[ ]**

**CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS) REGULATIONS  
201[ ]**

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### INVESTMENTS

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34-35. Savings Requirements

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43. Risk Register

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PART 9

SERVICES EXEMPT FROM ADDITIONAL SERVICES REQUIREMENTS

46. Performing Services

PART 10

MISCELLANEOUS

47. Revocations

**S.I. No.            of 201[ ]**

**CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS) REGULATIONS 201[ ]**

In exercise of the powers conferred on the Central Bank of Ireland (the "Bank") by section 182A of the Credit Union Act, 1997 ("the Act"), the Bank, having consulted with the Minister for Finance, the Credit Union Advisory Committee and other bodies that appear to the Bank to have expertise or knowledge of credit unions generally and that the Bank considers appropriate to consult in the circumstances, hereby makes the following Regulations.

PART 1

PRELIMINARY AND GENERAL

**Citation and Commencement**

1. (1) These Regulations may be cited as the Credit Union Act 1997 (Regulatory Requirements) Regulations 201[ ].
- (2) These Regulations come into operation on [ ].

**Interpretation**

2. (1) In these Regulations, unless the context otherwise requires: -

"accounts in Authorised Credit Institutions" means interest bearing deposit accounts (or instruments with similar characteristics) in credit institutions authorised pursuant to Directive 2013/36/EU;

"assets" means all of the assets referred to in section 85A of the Act;

"bank bonds" means senior bonds issued by a credit institution authorised pursuant to Directive 2013/36/EU and traded on a regulated market where the capital amount invested is guaranteed by the issuer;

"the Bank" means the Central Bank of Ireland;

“business day” means a day upon which a credit union is open to conduct all or part of its activities;

“Collective Investment Schemes” means units, interests or shares in open-ended retail collective investment schemes, other than property schemes, authorised by the Bank or by a competent authority of another EEA State;

“commercial loan” means a loan, the primary objective of which is to fund an activity whose purpose is to make a profit;

“community loan” means a loan provided to a community or voluntary organisation which is established for the express purpose of furthering the social, economic or environmental well-being of individuals within the common bond of the credit union in the following areas -

- (a) sport and recreation;
- (b) culture and heritage;
- (c) the arts (within the meaning of the Arts Act 2003);
- (d) health of the community;
- (e) youth, welfare and amenities; and
- (f) natural environment.

“counterparty” means any person that a credit union has made investments with. Where a counterparty is a company, the definition also includes a related company;

“deposit protection account” means the amount a credit union must maintain under the Deposit Guarantee Scheme;

“EEA” means the European Economic Area;

“final repayment date” means the date on which the loan is due to expire, as indicated on the relevant credit agreement in accordance with section 37C(1)(j) of the Act or any subsequent date agreed between the credit union and the member to whom the loan has been made;

“house” means any building or part of a building used or suitable for use as a dwelling and any outhouse, yard, garden or other land appurtenant thereto or usually enjoyed therewith.

“house loan” means a loan made to a member secured by property for the purpose of enabling the member to:

- (a) have a house constructed on the property as their principal residence;
- (b) improve or renovate a house on the property that is already used as their principal residence,
- (c) buy a house that is already constructed on the property for use as their principal residence, or

refinance a loan previously provided for one of the purposes specified in (a), (b) or (c) for the same purpose.

“investment gain” means an increase in the value of an investment, made as provided for under section 43 of the Act, on the balance sheet of a credit union, other than income receivable;

“investment income” means income received or receivable from an investment made as provided for under section 43 of the Act;

“Irish and EEA State Securities” means transferable securities issued by the Irish State and other EEA States and traded on a regulated market;

“member of the family” means in relation to any person, that person’s father, mother, spouse or civil partner, cohabitant, son, daughter, brother, or sister;

“minimum reserve deposit account” means the account that the credit union must hold with the Bank in accordance with Regulation (EC) No. 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves, as that framework may be applied and amended from time to time;

“personal loan” means a loan provided to an individual for personal, family or household use, once that use is for purposes unrelated to the person’s trade, business or profession or the purchase of property;

“Personal Retirement Savings Account”, “PRSA” and “PRSA Provider” each have the same meaning as in Part X of the Pensions Act 1990;

“regulated market” means a multilateral system as defined in Article 4 of Directive 2004/39/EC;

“related company” means companies related within the meaning of section 140(5) of the Companies Act 1990;

“related party” means -

- (a) a member of the board of directors or the management team of a credit union;

- (b) a member of the family of a member of the board of directors or the management team of a credit union; or
- (c) a business in which a member of the board of directors or the management team of a credit union has a significant shareholding;

“significant shareholding” means 10 per cent or more of the shares or voting rights in the business;

“the Act” means the Credit Union Act, 1997;

“unattached savings” means those savings which are not attached to loans or otherwise pledged as security and are withdrawable by members. Unattached savings include budget accounts with a positive balance.

- (2) A word or expression used in these Regulations and also used in the Act has, unless the contrary intention appears, the same meaning in these Regulations that it has in the Act.

## PART 2

### RESERVES

#### **Reserves available to absorb losses**

- 3. A credit union shall ensure that all reserves held in accordance with this Part and section 45 of the Act are perpetual in nature and freely available to absorb losses.

#### **Regulatory Reserve Requirement**

- 4. A credit union shall establish and maintain a minimum regulatory reserve requirement of at least 10 per cent of the assets of the credit union.

#### **Initial Reserve Requirement**

- 5. In addition to the reserve requirements in these Regulations and the Act, a newly registered credit union shall have adequate initial reserves that:
  - (a) are sufficient to meet the credit union’s anticipated growth,
  - (b) take account of operating losses that can be expected to occur until the credit union reaches an operationally viable performance level, and

- (c) are realised financial reserves which are:
  - (i) unrestricted, and
  - (ii) non-distributable.

### **Reporting Requirements**

6. (1) A credit union shall monitor its reserves on a continuous basis to ensure compliance with this Part and section 45 of the Act.
- (2) Where a credit union fails, or is likely to fail, to comply with its reserve requirement in this Part and section 45 of the Act, the credit union shall notify the Bank in writing no later than close of business of the next business day.

### **Dividends**

7. Where a credit union has complied with the requirements in this Part and section 45 of the Act, but has recorded a deficit in its annual accounts and is proposing to pay a dividend and/or a loan interest rebate, the credit union shall inform the Bank in writing at least 3 weeks before it gives notice of its Annual General Meeting, as required under section 80(3) of the Act.

## PART 3

### LIQUIDITY

#### **Interpretation – Part 3**

8. (1) In this Part “liquid assets” means the following unencumbered assets only:-
  - (a) cash;
  - (b) investments with a maturity of less than 3 months, excluding the minimum reserve deposit account and the deposit protection account;
  - (c) investments with a maturity of greater than 3 months, excluding the minimum reserve deposit and the deposit protection account, where a written guarantee exists to the effect that funds are available to the credit union in less than 3 months. Where a guarantee exists, the investments may be considered liquid assets to the value of the investments guaranteed, excluding penalties on interest or income.

- (2) In this Part "short term liquid assets" means the following unencumbered assets only:-
- (a) cash;
  - (b) investments with a maturity of less than 8 days, excluding the minimum reserve deposit account and the deposit protection account;
  - (c) investments with a maturity of greater than 8 days, excluding the minimum reserve deposit and the deposit protection account, where a written guarantee exists to the effect that funds are available to the credit union in less than 8 days. Where a guarantee exists, the investments may be considered short term liquid assets to the value of the investments guaranteed, excluding penalties on interest or income.

### **Liquidity Requirements**

9. (1) A credit union shall establish and maintain a minimum liquidity ratio of liquid assets of at least 20 per cent of its unattached savings.
- (2) A credit union shall establish and maintain a minimum short term liquidity ratio of short term liquid assets of at least 10 per cent of its unattached savings.

### **Reporting Requirements**

10. (1) A credit union shall monitor its liquidity ratios on a continuous basis to ensure compliance with the liquidity requirements in this Part and in the Act.
- (2) Where a credit union is failing, or likely to fail to comply, with the liquidity requirements in this Part or in the Act, it shall notify the Bank in writing no later than close of business of the next business day.

### **Transitional Arrangements**

11. Where, at the commencement of these Regulations, a credit union is failing to comply with the requirement in Regulation 9(2) of these Regulations, the credit union shall increase its holdings in short term liquid assets in order to bring the credit union's short term liquidity ratio to at least 10 per cent not later than the first anniversary of the commencement of these Regulations or such later date as the Bank may permit.

## PART 4

## LENDING

**Categories of Lending**

12. (1) A credit union shall only make loans that fall within the following categories:-

- (a) Personal loans;
- (b) Commercial loans;
- (c) Community loans;
- (d) House loans;
- (e) Loans to other credit unions.

(2) A commercial loan granted by a credit union, where the total amount of commercial lending granted to a borrower, or group of borrowers who are connected, is less than €25,000, is not subject to Regulations 13(a) or 17. A commercial loan is included in the calculation of granted commercial loans until the commercial loan has been repaid in full.

**Concentration Limits**

13. A credit union shall not make:

- (a) a commercial loan, where such a loan would cause the total amount of outstanding commercial loans of the credit union to exceed 50 per cent of the credit union's regulatory reserve,
- (b) a community loan, where such a loan would cause the total amount of outstanding community loans to exceed 25 per cent of the credit union's regulatory reserve, or
- (c) a loan to another credit union, where such a loan would cause the total amount of outstanding loans to other credit unions to exceed 12.5 per cent of the credit union's regulatory reserve.

**Large Exposure Limit**

14. (1) A credit union shall not make a loan to a borrower or a group of borrowers who are connected which would cause the credit union to have a total



exposure to the borrower or group of borrowers who are connected of greater than €39,000 or 10 per cent of the regulatory reserve of the credit union.

- (2) Where an exposure to a borrower or group of borrowers who are connected exceeds the limit set out in paragraph (1), the credit union must hold the amount of the exposure that is in excess of the limit in a realised reserve, separate from the regulatory reserve of the credit union.
- (3) The requirement specified in paragraph (2) for exposures existing at the time of commencement of these Regulations shall not apply for a period of 2 years from the commencement of these Regulations.

### **Maturity Limits**

15. (1) A credit union shall not make a loan to a member: –
  - (a) for a period exceeding 5 years if, were the loan to be made, the total gross amount outstanding in relation to all loans with greater than 5 years to the final repayment date would exceed –
    - (i) 30 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or
    - (ii) if the Bank so approves in writing, 40 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or
  - (b) for a period exceeding 10 years if, were the loan to be made, the total gross amount outstanding in relation to all loans with greater than 10 years to the final repayment date would exceed –
    - (i) 10 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or
    - (ii) if the Bank so approves in writing, 15 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union.
- (2) The Bank may impose on approval, for the purposes of subparagraph (a)(ii) or (b)(ii) of this Regulation any condition that the Bank considers appropriate.

- (3) A credit union shall not make a loan to a member for a period exceeding 25 years.

### **Requirement for House Loans**

16. Where a credit union grants a house loan, it shall ensure that the credit union holds the first legal charge on the property for each house loan issued after the commencement of these Regulations.

### **Requirements for Specific Categories of Lending**

17. (1) A credit union shall ensure that a comprehensive business plan and detailed financial projections (supported by evidence based assumptions), appropriate for the scale and complexity of the loan, are in place before granting a commercial loan, community loan or a loan to another credit union.
- (2) A credit union shall report, in writing, on the performance of loans to the board of directors of the credit union on a monthly basis. Such a report shall include details on the performance of commercial loans, community loans and loans to other credit unions.

### **Lending Practices**

18. (1) A credit union shall permit a member to repay a loan on any day that the credit union is open for business.
- (2) A credit union shall establish and maintain the matters specified below in writing:
  - (a) limits in respect of credit concentration and loan portfolio diversification including the maximum amount of commercial lending, community lending and lending to other credit unions as a percentage of the total loan book; and
  - (b) processes which the credit union will follow in relation to arrears management and rescheduling.
- (3) A credit union shall ensure that its credit assessment process is based on coherent and clearly defined criteria and that the process of approving loans and amending loans is clearly established and documented in its credit policy.

## Related Parties

19. A credit union shall not make a loan to a related party on more favourable terms (including, without limitation, terms as to credit assessment, duration, interest rates, amortisation schedules, collateral requirements) than a loan by the credit union to non-related parties.
20.
  - (1) Subject to Regulation 19, a credit union shall ensure that the following are subject to individual prior approval in writing by the board of directors of the credit union or a subcommittee of the board of directors established specifically to deal with related party lending where that subcommittee reports directly to the board of directors of the credit union:
    - (a) a loan to a related party, or any variation of the terms of a loan to a related party; and
    - (b) actions in respect of the management of a loan to a related party (including, without limitation, permitting rescheduling, interest roll-up, granting a grace period for payment, loan write-off in whole or in part, provisioning against a loan, decisions to take or not to take enforcement action).
  - (2) In relation to matters specified in subparagraph (1)(a) and (b), a credit union shall exclude individuals on the board of directors of the credit union or a subcommittee of the board of directors referred to in paragraph (1) with conflicts of interest from the approval process.
  - (3) A credit union shall report, in writing, to the board of directors on related party loans on a monthly basis. Such a report shall include details of loans advanced to related parties during the month, total loans outstanding to related parties, the performance of loans to related parties and actions in respect of the management of loans to related parties.
21.
  - (1) Where the total credit union exposure to the related party is not greater than €2,000, a credit union is exempt from complying with the requirements in Regulation 20 (in this Regulation referred to as "exempt exposures").
  - (2) In relation to exempt exposures referred to in paragraph (1), a credit union shall ensure that:-
    - (a) the credit union monitors these loans to ensure that the limit imposed is not exceeded;
    - (b) a register of these loans recording how it has complied with this requirement is maintained by the credit union; and

(c) a report on these loans are reviewed and approved by the board of directors of the credit union on a quarterly basis.

22. A credit union shall include the process in relation to lending to a related party in its Credit Policy.

### **Lending Policies**

23. A credit union shall, at a minimum, establish and maintain the following written lending policies:-

- (a) Credit Policy;
- (b) Credit Control Policy; and
- (c) Provisioning Policy.

### **Transitional Arrangements**

24. (1) Nothing in these Regulations shall render unlawful any loan made in accordance with or under the Act to a member before the commencement of these Regulations.
- (2) Where, at the commencement of these Regulations, a credit union is failing to comply with the requirements in this Part, that credit union shall only make a loan where the making of such a loan would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.

## **PART 5**

### **INVESTMENTS**

#### **Classes of Investments**

25. A credit union may only invest in euro denominated investments in the following:

- (a) Irish and EEA State Securities;
- (b) accounts in Authorised Credit Institutions;
- (c) bank bonds;
- (d) Collective Investment Schemes;

- (e) shares of and deposits with other credit unions;
- (f) shares of a society registered under the Industrial and Provident Societies Act 1893 to 1978.

### **Counterparty Limits**

26. A credit union shall not make an investment with a counterparty which, were that investment to be made, would cause the investments with that counterparty to exceed 25 per cent of the credit union's total value of investments.

### **Concentration Limits**

27. (1) A credit union shall not make an investment in Irish and EEA State securities which would cause the investments in Irish and EEA State securities to exceed 70 per cent of the total value of the credit union's investments.
- (2) A credit union shall not make an investment in bank bonds which would cause the investments in bank bonds to exceed 70 per cent of the total value of the credit union's investments.
- (3) A credit union shall not make an investment in another credit union which would cause the investments in other credit unions to exceed 12.5 per cent of its regulatory reserve.
- (4) A credit union shall not make an investment in the shares of a society registered under the Industrial and Provident Societies Acts 1893 to 1978 which would cause the investments in shares in societies registered under the Industrial and Provident Societies Acts 1893 to 1978 to exceed 12.5 per cent of the credit union's regulatory reserve.

### **Maturity Limits**

28. (1) A credit union shall not make an investment which has a maturity date which exceeds 10 years from the date of the investment.
- (2) A credit union shall not make an investment which would cause the credit union to have more than 30 per cent of its investments maturing after 7 years.
- (3) A credit union shall not make an investment which would cause the credit union to have more than 50 per cent of its investments maturing after 5 years.

### **Collective Investment Schemes**

29. A credit union may invest in collective investment schemes only where the underlying investments of the scheme are: –

(a) composed entirely of instruments specified in Regulation 25(a), (b) or (c); and

(b) the making of such an investment would not cause a credit union to fail to comply with this Part, including in particular Regulations 26 and 28.

### **Holding of Investments**

30. A credit union shall ensure that any investments made remain in compliance with the investment requirements in this Part.

### **Investment Practice - Investment Income/ Investment Gain**

31. A credit union shall not distribute investment income or an investment gain to members or transfer investment income or an investment gain to a reserve set aside to provide for dividends, unless the investment income or investment gain falls within the following:

(a) Investment income or an investment gain received by the credit union at the balance sheet date;

(b) Investment income that will be received by the credit union within 12 months of the balance sheet date.

### **Investment Practices – Concentration Risk**

32. A credit union shall establish and maintain a written strategy having regard to section 43 of the Act to manage concentration risk which can result from dealing with a single counterparty or holding investments with similar characteristics like maturities and to ensure investments remain within the limits contained in these Regulations.

### **Transitional Arrangements**

33. (1) Where, at the commencement of these Regulations, a credit union has investments made in accordance with or under the Act which exceed the requirements in this Part, the credit union shall (subject to paragraph (2)):

(a) reduce those investments in order to ensure compliance with this Part;

- (i) as soon as possible without incurring a loss; and
  - (ii) in any event not later than the second anniversary of the commencement of these Regulations or such later date as the Bank may permit, and
- (b) shall only make an investment where the making of such an investment would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.
- (2) A credit union may hold to maturity all fixed term investments held by that credit union on the commencement of these Regulation.

## PART 6

### SAVINGS

#### **Savings Requirements**

34. The aggregate liabilities of a credit union in respect of deposits shall not at any time exceed 100 per cent of aggregate liabilities in respect of shares issued to members.
35. A credit union shall ensure that no member shall have savings which exceed €100,000.

#### **Transitional Arrangements**

36. Where, at the commencement of these Regulations, a credit union has member savings made in accordance with or under the Act which exceed the requirements in this Part, the credit union shall reduce those savings in order to ensure compliance with this Part as soon as possible and in any event no later than six months after the commencement of these Regulations, or such later date as the Bank may permit.

## PART 7

### BORROWING

#### **Interpretation – Part 7**

37. In this Part the word “borrow” or any word which is a variant, derivative or translation of, or is analogous to that word shall not include the issue of shares,

or the acceptance of deposits from members of the credit union in accordance with the Act.

### **Borrowing Requirements**

38. A credit union may borrow money, on security or otherwise, so long as the total amount outstanding in respect of monies so borrowed does not at any time exceed 25 per cent of the savings of the credit union.
39. Where a credit union proposes to borrow in accordance with Regulation 38, the credit union shall at least provide 28 days' notice in writing to the Bank of its intention to undertake the proposed borrowing.
40. For the purposes of Regulation 38, when calculating the total amount outstanding in respect of moneys borrowed by a credit union at any time, an overdraft received from its banker shall be disregarded.

### **Borrowing Policy**

41. A credit union shall establish and maintain a written policy in relation to borrowing. The board of directors of the credit union shall, at least annually, review, update and approve this policy.

### **Transitional Arrangements**

42. Where, at the commencement of these Regulations, a credit union has borrowings made in accordance with or under the Act which exceed the requirements in this Part, the credit union shall:
  - (a) reduce those borrowings in order to ensure compliance with this Part;
    - (i) as soon as possible without incurring a loss; and
    - (ii) in any event not later than the second anniversary of the commencement of these Regulations or such later date as the Bank may permit, and
  - (b) shall only borrow where the such borrowing would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.



## PART 8

## SYSTEMS, CONTROLS AND REPORTING ARRANGEMENTS

**Risk Register**

43. (1) A credit union shall establish and maintain a written risk register maintained by a risk management officer that documents the risks that the credit union is, or may be, exposed to and the systems and controls that the credit union has established to manage and mitigate those risks.
- (2) A credit union shall ensure that the board of directors of the credit union review and approve the risk register, at least annually, to ensure that all risks that the credit union is, or may be, exposed to are contained on the risk register and that the systems and controls are appropriate to manage and mitigate these risks.

**Plans, Policies and Procedures**

44. (1) A credit union shall establish and maintain, in writing, all policies specified in section 55(1)(o) of the Act.
- (2) A credit union shall ensure that the matters specified below shall be communicated to all officers in the credit union following any updates made, including the review, approval and update by the board of directors required at least annually:
- (a) the risk management policy;
  - (b) the business continuity plan;
  - (c) the conflicts of interest policy; and
  - (d) the standards of conduct and ethical behaviour of officers.
- (3) A credit union shall document, approve and update, at least annually, the matters specified in Schedule 1 to these Regulations.
- (4) A credit union shall, at a minimum, establish and maintain information systems and management information policies which include:
- (a) a management information policy;
  - (b) an information security policy;

- (c) an information systems change management policy; and
- (d) an information systems asset management policy.

### **Reporting and Disclosure in the Annual Accounts**

45. (1) A credit union shall disclose the following in its annual accounts:
- (a) the regulatory reserve requirement, the credit union's regulatory reserve expressed as a percentage of total assets, the additional reserves that the credit union holds in respect of operational risk expressed as a percentage of total assets, together with the credit union's dividend and loan interest rebate policy;
  - (b) the performance of its loan book;
  - (c) the total amount of loans outstanding to related parties and the loans to such persons as a percentage of the total loans outstanding;
  - (d) accounting policies for the valuation of investments; and
  - (e) accounting policy for income recognition on investments.
- (2) A credit union shall separately analyse investment income and investment gains in the income and expenditure account (or notes) of the annual accounts of the credit union, as follows:-
- (a) investment income and investment gains received by the credit union at the balance sheet date;
  - (b) investment income that will be received within 12 months of the balance sheet; and
  - (c) other investment income.

## **PART 9**

### **SERVICES EXEMPT FROM ADDITIONAL SERVICES REQUIREMENTS**

#### **Performing Services**

46. (1) The services set out in Schedule 2 to these Regulations are services prescribed by the Bank for the purposes of section 48(2)(b) of the Act.

- (2) A credit union shall not perform the services specified in Schedule 2 to these Regulations unless the appropriate conditions specified in that Schedule are fulfilled.

## PART 10

### MISCELLANEOUS

#### **Revocations**

47. The following are revoked:

- (a) The Credit Union Act 1997 (Section 85) Rules 2009 (S.I. No. 344 of 2009); and
- (b) The Credit Union Act 1997 (Section 85) Rules 2010 (S.I. No. 515 of 2010).

Signed for and on behalf of the

CENTRAL BANK OF IRELAND

on this the [ ] day of [ ] [ ]

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[ ]

### SCHEDULE 1

1. The systems of control of its business and records required under section 108(1)(b) of the Act,
2. A succession plan for the board of directors and the management team which shall detail the key skills and competencies required for members of the board of directors and management team,
3. The annual performance review carried out by the board of directors,
4. The annual compliance statement, together with supporting documentation used in the preparation of the compliance statement.

## SCHEDULE 2

**Telephone, internet and fax access to the credit union by the member.**1. (1) **Access by telephone,**

- (a) that is to say any service by which the credit union member may by telephone using a unique number or password allocated by the credit union to the member,
  - (i) obtain information on his or her credit union accounts, including the balance of the member's share, deposit and loan accounts with that credit union,
  - (ii) transfer funds between accounts,
  - (iii) request a withdrawal from share and deposit accounts,
  - (iv) apply for a loan and calculate loan repayments,
- (b) conditions to be fulfilled -
  - (i) the relevant registration form in relation to such access must be completed by the parties concerned prior to the commencement of such a service,
  - (ii) loan approval is subject to the relevant loan application forms and other necessary documentation in relation to such transactions being completed by the parties concerned.

(2) **Access by internet,**

- (a) that is to say any service by which a credit union member may by internet using a unique number or password allocated by the credit union to the member,
  - (i) obtain information on his or her credit union accounts, including the balance of the member's share, deposit and loan accounts with that credit union,
  - (ii) transfer funds between accounts,
  - (iii) request a withdrawal from share and deposit accounts,
  - (iv) apply for loans and calculate loan repayments,
- (b) conditions to be fulfilled -

- (i) the relevant registration form in relation to such access must be completed by the parties concerned prior to the commencement of such a service,
- (ii) loan approval is subject to the relevant loan application forms and other necessary documentation in relation to such transactions being completed by the parties concerned.

(3) **Loan applications by fax,**

- (a) that is to say any service by which credit union members may submit details necessary for loan applications in the form of a fax,
- (b) condition to be fulfilled -

loan approval is subject to the relevant loan application forms and other necessary documentation in relation to such transactions being completed by the parties concerned.

2. **Third Party Payments,**

that is to say any service whereby a credit union member may arrange to have transferred to or from his or her account third party payments by way of electronic funds transfer or otherwise.

3. **Automated teller machine services (ATMs),**

- (a) that is to say a service which enables a credit union member to withdraw funds from his or her credit union account by means of a credit union branded ATM card,
- (b) conditions to be fulfilled -
  - (i) terms and conditions of use of such a card must be agreed by the credit union and the member,
  - (ii) the member must complete the relevant registration form prior to the issue of the card.

4. **Insurance services,**

- (a) that is to say any service the credit union may provide to its members in respect of each of the following categories:
  - (i) loan protection and life savings insurance (including related riders);
  - (ii) travel insurance;

- (iii) home insurance;
- (iv) motor insurance;
- (v) repayment protection insurance.

- (b) condition to be fulfilled -

these services must be provided on an agency basis and the insurer must be authorised by the Bank.

5. **Group health insurance schemes,**

that is to say a service by which a credit union may provide to its members a discount scheme with an undertaking which is registered in the Register of Health Benefits Undertakings within the meaning of the Health Insurance Acts 1994-2013. The subscription to such a scheme may, at the credit union member's request, be discharged from his or her account.

6. **Discount for goods and services,**

- (a) that is to say a service by which the credit union may negotiate, on behalf of its members, discounts for the supply of goods and services to be purchased by those members,

- (b) condition to be fulfilled -

any such contract must be between the supplier of the goods and services and the credit union member and the credit union must not be a party to such contracts.

7. **Budget account scheme,**

- (a) that is to say a service by which the credit union may agree to provide members with a budget account, on which a credit facility may be offered, and charges (including a participation fee) may be made, into which members pay agreed regular sums and from which the credit union will discharge, on the members' behalf, a list of bills agreed with each member as and when they fall due.

- (b) condition to be fulfilled -

the credit union must account separately in its books for all such transactions.

8. **Bill payment services,**

that is to say a service by which a credit union member may have a utility or other household bill paid by the credit union, either by debiting the member's account or by using cash supplied by the credit union member.

9. **Euro drafts and bureau de change**

(a) that is to say a service the credit union may provide to its members whereby a credit union member may-

- (i) purchase euro drafts,
- (ii) purchase foreign currency drafts, travellers cheques and travel money cards,
- (iii) purchase or sell foreign currency,

(b) conditions to be fulfilled -

- (i) these services must be provided on an agency basis and the principal must be licensed to provide such services,
- (ii) the credit union must be indemnified for the provision of these services under an insurance policy in accordance with section 47 of the Act,
- (iii) the credit union must charge the members any expenses incurred for the provision of these services and may in addition retain its own commission,
- (iv) the credit union must account in its books for all such transactions.

10. **Money transfers,**

(a) that is to say a money transmission service the credit union may provide to its members,

(b) conditions to be fulfilled -

- (i) this service must be provided on an agency basis,
- (ii) the credit union must be indemnified for the provision of these services under an insurance policy in accordance with section 47 of the Act,
- (iii) the credit union must charge the members any expenses incurred for the provision of these services and may in addition retain its own commission,

(iv) the credit union must account in its books for all such transactions.

11. **Money Advice and Budgeting Service,**

that is to say any service provided by a credit union to its members under the Money Advice and Budgeting Service of the Department of Social Protection which is funded and supported by the Citizens Information Board.

12. **Service centres,**

(a) that is to say a service a credit union may provide its members for photocopying, fax and computer facilities to be made available on the credit union premises,

(b) condition to be fulfilled –

the credit union may charge a fee for this service.

13. **Draws,**

(a) the credit union may carry out regular draws for which members are eligible to enter on payment of a regular subscription,

(b) condition to be fulfilled –

such draws must be conducted on a break-even basis.

14. **Standing orders,**

that is to say a service which may be provided by a credit union whereby a member may instruct his or her credit union to debit his or her accounts, and pay a fixed sum at regular intervals to a specified payee. Credit unions may charge members for the provision of this service.

15. **Direct debits,**

that is to say a service whereby the credit union may make payments to a payee designated by the credit union member on specified dates. Such payments may vary and the account of the member shall be debited accordingly on each occasion. Credit unions may charge members for the provision of this service.

16. **Financial Counselling,**

(a) that is to say a service by which a credit union member may receive, free of charge, advice on the use and management of his or her funds in the credit union,

(b) condition to be fulfilled -



the credit union must be indemnified for the provision of this service under an insurance policy in accordance with section 47 of the Act.

17. **Will making,**

- (a) that is to say a service arranged by the credit union by which a solicitor is available in the credit union from time to time, to take instructions and draw up wills and other testamentary documents for credit union members,
- (b) conditions to be fulfilled -
  - (i) the solicitor concerned must be a practising solicitor within the meaning of the Solicitors Acts 1954 to 2008,
  - (ii) the solicitor concerned must be one in respect of whom a policy of professional indemnity insurance under the Solicitors Acts 1954 to 2008 is in force in relation to that solicitor as respects the service referred to in paragraph (a).

18. **Gift cheques,**

that is to say a service by which a credit union member may purchase a cheque made payable to a third party in return for payment of that amount. Credit unions may charge members for the provision of this service.

19. **Electricity budget meter cards or tokens,**

that is to say a service by which a credit union member may purchase electricity budget meter cards or tokens from his or her credit union to facilitate payment of his or her electricity expenses.

20. **Savings Stamps,**

- (a) that is to say a service by which a credit union member may purchase savings stamps issued by the credit union,
- (b) condition to be fulfilled -

the credit union must account in its books for all such transactions.

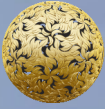
21. **PRSA,**

- (1) Any service ("service") whereby -
  - (a) a credit union member may be introduced to a PRSA Provider by his or her credit union for advice on the provision of a PRSA, or

- (b) when such an introduction takes place, a credit union may make facilities available to a PRSA Provider to enable it provide such advice.
- (2) conditions to be fulfilled where a credit union wishes the service to be offered or provided to its members
- (a) the service shall be on an introduction basis only, where the credit union introduces the member to a PRSA Provider, and the credit union may not provide any advice to a member in relation to a PRSA;
  - (b) a credit union which intends to enter into an arrangement with a PRSA Provider is required to notify the Registrar of Credit Unions in writing of such intention not less than 7 days before entering into such an arrangement;
  - (c) the credit union may only have such an arrangement with one PRSA Provider at any one time in relation to the service;
  - (d) the credit union holds any authorisation required under the Investment Intermediaries Act 1995 and/or the European Communities (Insurance Mediation) Regulations 2005 in respect of the service;
  - (e) the credit union is required to enter into a written agreement with the PRSA Provider referred to in subparagraph (c) ("contracting PRSA Provider") under which the contracting PRSA Provider is responsible for any act or omission of the credit union concerned in respect of any matter pertaining to a PRSA offered or provided by the contracting PRSA Provider;
  - (f) any contract arising from the service is required to be between the contracting PRSA Provider and a credit union member and the credit union concerned may not be a party to any such contract;
  - (g) the credit union may not permit any premises which the credit union uses to be used for the purposes of arranging or offering to arrange the provision of a PRSA to a member of the credit union by a PRSA Provider other than the contracting PRSA Provider;
  - (h) a clear distinction shall be drawn between the business of the credit union and that of the contracting PRSA Provider and this shall extend to all signage, stationary or other branding of whatever kind;
  - (i) the credit union is required to state on letter headings and business forms which are used for the purposes of the service referred to in paragraph 1(a) that the credit union acts as an introducer solely for the contracting PRSA Provider;

- (j) an officer or staff member of the credit union may not receive remuneration directly or indirectly from the PRSA Provider in respect of the service;
- (k) the credit union shall account separately in its books for any fees or commissions received in relation to the provision of the service.

## **Appendix C: Regulatory Impact Analysis**



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

# Regulatory Impact Analysis on Regulations for Credit Unions on commencement of the remaining sections of the 2012 Act



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## 1. Introduction

The Report of the Commission on Credit Unions made a number of recommendations regarding the strengthening of the regulatory framework for credit unions. The Commission on Credit Unions also recommended that regulation making powers be delegated to the Central Bank<sup>1</sup>. A large number of these recommendations were reflected in the Credit Union and Co-operation with Overseas Regulators Act 2012 ("the 2012 Act") which was enacted on 19 December 2012.

Since August 2013 credit unions and other sector stakeholders have been engaged in the implementation of the strengthened regulatory framework. The majority of sections in the 2012 Act have been commenced. The Central Bank is now consulting on regulations that will be introduced when the remaining sections<sup>2</sup> of the 2012 Act are commenced.

The Central Bank has developed draft regulations for credit unions in the following areas:

- Reserves;
- Liquidity;
- Lending;
- Investments;
- Savings;
- Borrowing;
- Systems, Controls and Reporting Arrangements; and
- Services Exempt from Additional Services Requirements.

As part of this process the Central Bank is carrying out a consultation on the draft regulations, 'Consultation Paper 88 – Consultation on Regulations for Credit Unions on commencement of the remaining sections of the 2012 Act' ("CP88").

The 'Consultation Protocol for Credit Unions', issued on 27 November 2012, states that a regulatory impact analysis ("RIA"), which will contain an examination of the impacts of new regulations and consideration of alternative options, will be carried out by the Central Bank, where practicable, when consulting on new regulations.

As part of the development of the draft regulations for credit unions, the Central Bank undertook a RIA, set out below, to examine the impact of the different policy options when the remaining sections of the 2012 Act are commenced to identify the most appropriate option.

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<sup>1</sup> Section 10.3.2 of the Report of the Commission on Credit Unions.

<sup>2</sup> Also includes a number of Items in Schedule 1 of the 2012 Act.

## 2. Policy context and objective

There are currently 385 credit unions registered in the Republic of Ireland with total members reported to be in the region of 3.1 million. Total assets in the credit union sector amount to €14.1 billion, of which €9.9 billion relates to investments and €4.1 billion represents loans to members. Total members' savings amount to €11.8 billion and total realised reserves amount to €1.8 billion<sup>3</sup>.

### Strengthened regulatory framework

The Report of the Commission on Credit Unions made a number of recommendations regarding the strengthening of the regulatory framework for credit unions including the introduction of more effective governance and regulatory requirements and the introduction of a Fitness and Probity regime for credit unions.

The Report of the Commission on Credit Unions also recommended that regulation making powers be delegated to the Central Bank<sup>4</sup>.

### Implementation of the strengthened regulatory framework

The implementation of the strengthened regulatory framework began in the second half of 2013 with the introduction of a Fitness and Probity regime for credit unions and the commencement of certain provisions of the 2012 Act in relation to governance and certain prudential requirements.

### Fitness and Probity regime for credit unions

A new Fitness and Probity regime for credit unions came into effect on 1 August 2013 for credit unions with assets greater than €10m. The regime is being introduced on a phased basis and will be fully implemented for all credit unions by 1 August 2016.

### The Credit Union and Co-operation with Overseas Regulators Act 2012

The 2012 Act, which reflects many of the Commission on Credit Unions' recommendations on governance and prudential requirements, was enacted on 19 December 2012.

On 11 October 2013, the Minister for Finance ("the Minister") signed a commencement order which brought the majority of the new governance and prudential requirements in the 2012 Act into effect on 11 October 2013.

On 3 March 2014, a small number of additional sections relating to governance requirements were commenced arising from a further commencement order signed by the Minister.

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<sup>3</sup> As reported by credit unions on the Prudential Return for 30 June 2014.

<sup>4</sup> Section 10.3.2 of the Report of the Commission on Credit Unions.



The following sections of the 2012 Act have yet to be commenced:

- Section 8 Savings;
- Section 10 Borrowing;
- Section 11 Lending;
- Section 12 Investments;
- Section 13 Reserves; and
- Section 30 Liquidity<sup>5</sup>.

These remaining sections of the 2012 Act, when commenced, will replace, amend or supplement<sup>6</sup> existing sections of the Credit Union Act, 1997 ("the 1997 Act") covering these areas. The introduction of these new sections will, in effect, remove some of the requirements, including limits, that currently exist in these sections and will provide regulation making powers to the Central Bank. These new sections will also contain a number of new requirements.

As some of the key prudential requirements (e.g. lending and savings limits) will be removed from the 1997 Act when the remaining sections of the 2012 Act are commenced, the Central Bank is proposing to introduce regulations at the same time as these sections of the 2012 Act are commenced to ensure that key prudential requirements remain in place and to also continue the introduction of the strengthened regulatory framework for credit unions. The Central Bank has discussed the proposed commencement approach with the Department of Finance and the Department of Finance has confirmed that it is agreeable to this.

### 3. Identification of alternative policy options

A number of alternative policy options, set out in the table below, have been considered for when the remaining sections of the 2012 Act are commenced:

<b>Policy Options on commencement of the remaining sections of the 2012 Act</b>	
<b>Option 1</b>	Do not introduce regulations under the regulation making powers contained in the 2012 Act
<b>Option 2</b>	Introduce regulations on a tiered basis under the regulation making powers contained in the 2012 Act
<b>Option 3</b>	Introduce regulations for all credit unions under the regulation making powers contained in the 2012 Act

<sup>5</sup> Section 38 of the 2012 Act also remains to be commenced. This section revokes S.I. No. 476 of 2001 and S.I. No. 453 of 2006 which relate to savings limits that are currently contained in section 27 of the 1997 Act. In addition, a number of Items from Schedule 1 of the 2012 Act also remain to be commenced. These Items largely relate to amendments that are consequential on the insertion of the remaining sections into the 1997 Act.

<sup>6</sup> Section 30 of the 2012 Act inserts sections 85A and 85B after section 85 in the 1997 Act.

#### **4. Analysis of costs, benefits and impacts for each option**

The costs, benefits and impacts for credit unions, their members, the credit union sector and the Central Bank were considered in the analysis of the three options.

##### **4.1 Information sources**

Data provided to the Central Bank through the quarterly Prudential Return and the final financial statements of the Year End Return informed the analysis of the three policy options. Where relevant data was not available in a limited number of areas, the Central Bank sought to address these gaps by requesting a representative sample of 31 credit unions to provide, on a voluntary basis, certain information required to conduct the RIA.

The sample of credit unions was selected to reflect the profile of the sector as a whole based on the following characteristics:

- PRISM impact category;
- credit union location – rural or urban;
- type of common bond e.g. community or industrial; and
- whether or not there is a lending restriction in place.

Feedback received on CP76 - Consultation on the Introduction of a Tiered Regulatory Approach for Credit Unions ("CP76") was also considered in evaluating the policy options.

We are grateful to the 30 credit unions that responded on a voluntary basis to this information request. The responses received have been taken into account in the preparation of the RIA.

Credit unions may wish to provide additional information or analysis they may have on the potential impact of the regulations.

##### **4.2 Option 1 - Do not introduce regulations under the regulation making powers contained in the 2012 Act**

As set out above, the remaining sections of the 2012 Act, when commenced, will replace, amend or supplement existing sections of the 1997 Act. The introduction of these new sections into the 1997 Act by the 2012 Act will, in effect, remove some of the requirements (including limits) that currently exist in these sections and provide regulation making powers to the Central Bank. These new sections will also contain a number of new requirements. Under option 1, on commencement of the remaining sections of the 2012 Act, the Central Bank would not introduce regulations.

##### **Assessment of option 1**

The Central Bank has considered the costs, benefits and impacts of option 1. Failure to introduce regulations under the regulation making powers contained in the 2012 Act

would result in key prudential requirements, including limits on lending and savings, falling away and not being replaced.

Existing key prudential requirements are an important foundation of the strengthened regulatory framework. A failure to retain these key prudential requirements in the regulatory framework would weaken the regulatory framework and significantly impact on the implementation of a strengthened regulatory framework, as recommended by the Commission on Credit Unions. This would have potential impacts on credit unions and credit union members, including impacts on the protection of members' funds and confidence in the credit union sector.

Failure to introduce regulations under the regulation making powers contained in the 2012 Act would also result in significant limitations on the investments that credit unions could undertake as, following commencement of the remaining sections of the 2012 Act, section 43 of the 1997 Act will no longer refer to the Trustee Act 1893 (as amended by the Trustee (Authorised Investments) Order 1998). As a result credit unions would only be able to invest surplus funds in current accounts, other credit unions, and societies registered under the Industrial and Provident Societies Acts. This would have significant impact on credit unions and their members.

The Minister has made a number of regulations under section 182(1)(h) of the 1997 Act providing credit unions with exemptions from the additional services requirements of sections 48-52 of the 1997 Act when providing certain services to members, subject to conditions. When the remaining sections of the 2012 Act are commenced, Item 135 of Schedule 1 of the 2012 Act will remove the Minister's regulation making power in section 182(1)(h) of the 1997 Act and there is no provision in the 2012 Act that retains these regulations. Therefore, failure to introduce regulations would result in credit unions no longer being able to provide the services that the Minister previously exempted from the additional services requirements without obtaining the approval of the Central Bank. This includes the following services that many credit unions currently provide: certain insurance services on an agency basis; standing orders; direct debits; and third party payments (including EFT). This would also have significant impact on credit unions and their members.

#### **4.3 Option 2 - Introduce regulations on a tiered basis under the regulation making powers contained in the 2012 Act**

The Report of the Commission on Credit Unions noted that it is important to ensure that the regulatory requirements in place for credit unions are proportionate to the nature, scale and complexity of the credit union and for this reason the Report recommended a tiered regulatory approach.<sup>7</sup>

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<sup>7</sup> Section 7.6.1 of the Report of the Commission on Credit Unions.

On 23 December 2013 the Central Bank published CP76. The purpose of this consultation paper was to seek views from credit unions and other sector stakeholders on:

- the proposed approach to tiering;
- the high level operation of the tiers, including the activities and services proposed for credit unions in each tier; and
- the appropriate timing for the introduction of a tiered regulatory approach for credit unions.

As set out in the Feedback Statement on CP76, feedback received on CP76 indicated that the majority of respondents were of the view that a tiered regulatory approach should not be introduced at this time given the amount of change the sector is currently undergoing. The Feedback Statement on CP76 also indicated that, arising from the wide range of views received on tiering, a process of further communication and clarification was required prior to taking a decision to introduce a tiered regulatory approach for credit unions.

### **Assessment of option 2**

The Central Bank considered the costs, benefits and impacts of option 2. Option 2 would involve significant additional operational costs for credit unions as changes would be required to systems, controls, policies and procedures to reflect the application of tiered regulatory requirements. Further costs would be incurred by credit unions who wished to change tier.

In assessing option 2, the Central Bank also took into account the feedback received on CP76 and as set out in the Feedback Statement on CP76, the Central Bank does not propose to introduce a tiered regulatory framework for credit unions at this time. The Central Bank is of the view that it is appropriate to undertake a process of further communication, engagement, clarification and consultation with the credit union sector prior to taking a decision to introduce a tiered regulatory approach for credit unions.

### **4.4 Option 3 - Introduce regulations for all credit unions under the regulation making powers contained in the 2012 Act**

The sections of the 2012 Act that remain to be commenced provide the Central Bank with regulation making powers in a number of areas.

On commencement of these sections, regulations will be required to ensure:

- key prudential requirements remain in place - as the regulation making powers replace a number of requirements (including limits) that currently exist in the 1997 Act;
- some additional requirements are introduced to support a strengthened regulatory framework; and

- requirements in the regulatory framework are imposed in a manner that is consistent with the regulation making powers contained in the 2012 Act.

In light of this, policy option 3 is to introduce regulations for all credit unions under the regulation making powers contained in the 2012 Act.

Regulations would be introduced in the following areas:

- Reserves;
- Liquidity;
- Lending;
- Investments;
- Savings;
- Borrowing;
- Systems, Controls and Reporting Arrangements; and
- Services Exempt from Additional Services Requirements.

#### **4.4.1 Benefits**

This option ensures that key prudential requirements remain in place on commencement of the remaining sections of the 2012 Act. Existing key prudential requirements are an important foundation of the strengthened regulatory framework and it is important to ensure that these elements of the regulatory framework are retained.

This option ensures that credit unions can continue to invest their surplus funds in an appropriate range of investment products and to provide the services to their members that are currently contained in regulations made by the Minister for Finance, including certain insurance services on an agency basis, standing orders, direct debits and third party payments.

This option also ensures that the new regulation making powers are used to address areas of risk appropriately within the strengthened regulatory framework with limits and requirements introduced for specific areas of risk, such as commercial lending.

The setting of limits and requirements in regulations also provides a degree of flexibility for the strengthened regulatory framework to develop as may be appropriate in the future without requiring changes to primary legislation.

While a number of additional requirements would be introduced under option 3, these are not likely to result in significant further costs for credit unions as most of these are based on guidance the Central Bank has already provided for credit unions.

Option 3 continues the introduction of a strengthened regulatory framework as recommended by the Commission on Credit Unions and ensures a comprehensive regulatory framework is in place for credit unions. This will promote the protection of members' funds and confidence in the credit union sector and provide a regulatory

framework that can facilitate the prudent development of the credit union sector within a strengthened regulatory framework.

#### **4.4.2 Impacts**

The sections below set out analysis of the potential impacts of the draft regulations in each area on credit unions and credit union members.

##### **4.4.2.1 Reserves**

###### ***Regulatory reserve requirement***

Under the draft reserves regulations for credit unions, a credit union must maintain at all times a minimum regulatory reserve requirement of at least 10% of the assets of the credit union. This requirement is in line with the Regulatory Reserve Ratio currently in place for credit unions and therefore should not impact credit unions or their members.

###### ***Initial reserve requirement***

Under the draft reserve regulations for credit unions, a newly registered credit union must have, in addition to other reserve requirements, an adequate initial regulatory reserve that is sufficient to meet the credit union's anticipated growth and takes account of operating losses that can be expected to occur until the credit union reaches an operationally viable performance level.

This requirement will only impact on newly registered credit unions and will help ensure that such credit unions have sufficient reserves to support them during their initial period of operation. Under the new section 45(4) of the 1997 Act this requirement will not apply under an amalgamation of two or more credit unions.

###### ***Reporting requirements and dividends***

The draft reserves regulations also contain reporting requirements, including the requirement for a credit union to inform the Central Bank if it is failing or likely to fail to meet regulatory reserve requirements and to notify the Central Bank where they have recorded a deficit and propose to pay a dividend, that were previously contained in the [Regulatory Reserve Ratio for Credit Unions \(August 2009\)](#).

The impact of the reserve requirements on credit unions should be minimal, as credit unions would be expected, in the normal course of their business, to be complying with these requirements as they are in line with the [Regulatory Reserve Ratio for Credit Unions \(August 2009\)](#).

##### **4.4.2.2 Liquidity**

###### ***Liquidity requirements***

Under the draft liquidity regulations for credit unions, a credit union must hold a minimum liquidity ratio of 20% of unattached savings in liquid assets.

This requirement is in line with the existing minimum liquidity requirement. The definition of liquid assets has been extended to include investments with more than three months to maturity that have an explicit written guarantee that the funds can be accessed by the credit union in less than three months, excluding penalties on interest or income. As a result this regulation will provide greater flexibility to credit unions in calculating their liquidity ratio and will have a positive impact on credit unions.

### ***Short term liquidity requirement***

Under the draft liquidity regulations for credit unions, a credit union must maintain at all times a short term liquidity ratio of at least 10% of unattached savings, where short term liquid assets are cash and investments with maturity of less than eight days. Short term liquid assets are also included as liquid assets for the purposes of calculating the minimum liquidity ratio.

Data provided by credit unions in the June 2014 Prudential Return indicates that currently 20% of total sector investments have a maturity of less than eight days, while 17% are held on demand. In addition less than 10% of credit unions would not currently meet the short term liquidity ratio.

Transitional arrangements, set out in the draft liquidity regulations for credit unions, provide credit unions with a year following commencement of the regulations to meet the short term liquidity requirement.

This analysis suggests that the introduction of the short term liquidity ratio will have a minimal impact on credit unions or their members. Additionally the amendment to the definition of liquid assets will increase the proportion of credit union investments that can be counted for the purposes of calculating liquid assets.

### ***Reporting requirements***

The draft liquidity regulations contain some reporting requirements that are currently set out in existing requirements.

The impact of these requirements on credit unions should be minimal as credit unions would be expected, in the normal course of their business, to be complying with these requirements as they are currently in place for credit unions.

#### **4.4.2.3 Lending**

##### ***Categories of lending***

Under the draft lending regulations, a credit union may make the following categories of loans:

- personal loans;
- commercial loans;
- community loans;

- house loans; and
- loans to other credit unions.

While the existing framework does not specify the categories of loans a credit union may undertake, the data on loan books provided by a representative sample of credit unions indicates the vast majority of existing lending is personal lending and that credit unions only undertake a small amount of lending in the other categories. Therefore, based on information received from a representative sample of credit unions, the introduction of categories of lending would not appear to impact on the type of lending credit unions undertake.

Transitional arrangements, set out in the draft lending regulations for credit unions, provide that loans held prior to the commencement of the regulations that would not fall within the categories of lending set out in the draft lending regulations can continue to be held by credit unions.

### ***Concentration limits***

The draft lending regulations contain a number of lending concentration limits under which a credit union may make:

- commercial loans up to a maximum of 50% of its regulatory reserve;
- community loans up to a maximum of 25% of its regulatory reserve; and
- loans to other credit unions up to a maximum of 12.5% of its regulatory reserve.

The draft regulations define a commercial loan as a loan, the primary objective of which is to fund an activity whose purpose is to make a profit. For the purposes of applying the concentration limit in relation to commercial lending, commercial loans where the total amount of commercial lending granted to the borrower, or group of connected borrowers, is less than €25,000 will not be included in the calculation of total commercial loans.

Analysis of data from the loan books of the representative sample of credit unions indicates that commercial lending (excluding commercial loans of less than €25,000) represents approximately 1% of total lending across the sample. None of the credit unions in the sample have commercial loans of close to 50% of their regulatory reserve. It should be noted that there is no significant difference in the level of commercial lending in credit unions with lending restrictions and those without lending restrictions.

In relation to community lending, this type of lending represents less than 0.50% of total lending across the representative sample. No credit union in the sample has community loans close to 25% of its regulatory reserve.



In relation to lending to other credit unions, data provided by credit unions in the June 2014 Prudential Return indicates that no credit union has reported lending to other credit unions.

Transitional arrangements will apply to existing loans whereby credit unions can continue to hold loans, made before the commencement of the regulations, that would fall outside these limits. Such loans must be taken into account in the calculation and application of concentration limits. For example, where a credit union has commercial loans in excess of 50% of its regulatory reserve on commencement of the lending regulations, it can continue to hold these loans. However, the concentration limit on commercial loans will apply to any commercial loans issued following the commencement of the lending regulations.

The above analysis indicates that, based on information provided by a sample of credit unions and data provided by credit unions in the Prudential Return, the introduction of the concentration limits set out in the draft lending regulations for credit unions will not have significant impact on credit unions or credit union members. While these concentration limits may have some impact on future lending to be undertaken by certain credit unions, the setting of limits and requirements in regulations is considered prudent and appropriate at this stage and provides a degree of flexibility for the regulatory framework to develop as may be appropriate in the future, without requiring changes to primary legislation.

### ***Large exposure limit***

Under the draft lending regulations the total exposure of a credit union to a borrower or a group of borrowers who are connected can be the greater of €39,000 or 10% of its regulatory reserve.

If, in an exceptional case, a large exposure exceeds the limit set out in the lending regulations for credit unions, the credit union must hold the amount of the large exposure that is in excess of the limit in a realised reserve.

Data on the top 5 borrowers provided by credit unions in the June 2014 Prudential Return indicates that less than 5% of credit unions currently have exposures to a borrower or group of borrowers who are connected that are greater than €39,000 or 10% of regulatory reserves.

For any credit union that would be in breach of this limit, transitional arrangements, set out in the draft lending regulations, provide that credit unions can continue to hold such loans and also allow a period of two years before a credit union will be required to hold any additional amounts in a realised reserve.

Based on the above analysis and transitional arrangements, the impact of the large exposure limit and the requirement to hold the amount that is in excess of the limit in a realised reserve is not anticipated to be significant for credit unions.

### ***Maturity limits***

Under the draft lending regulations for credit unions up to 30% of a credit union's loan book can be outstanding for more than five years and up to 10% of a credit union's loan book can be outstanding for more than 10 years, subject to a maximum maturity of 25 years.

Subject to approval by the Central Bank, up to 40% of a credit union's loan book can be outstanding for more than five years and up to 15% of a credit union's loan book can be outstanding for more than 10 years.

These maturity limits reflect the maturity limits currently set out in the 1997 Act with the addition of the maximum maturity limit of 25 years. Data provided to us by a representative sample of credit unions indicates that the maximum amount that any of these credit unions have in loans outstanding over 25 years is 0.60% of their total loan book. In addition, lending over 25 years represents less than 0.06% of total lending by these credit unions. Data from June 2014 Prudential Return also indicates that, average lending over 10 years in credit unions is less than 2% of gross loans. Therefore, it is anticipated that, while there may be an impact on certain types of lending in a number of credit unions, these requirements will not have a significant impact on credit unions and the requirements are prudent and appropriate given the on-demand nature of credit union funding. In addition, transitional arrangements have been provided whereby credit unions can continue to hold loans made prior to the commencement of the regulations that were in compliance with the Act when the loans were made.

### ***Requirement for house loans***

Under the draft lending regulations credit unions must hold the first legal charge secured on the property for any house loans made following commencement of the regulations.

Data provided by the representative sample of credit unions indicates that house loans represent less than 2% of total lending across the sample. As the condition outlined above will only apply to house loans made following commencement of the regulations they will not impact on existing house loans. This condition may have some impact in the future on lending planned to be undertaken by certain credit unions in relation to house loans. However this requirement is considered prudent and appropriate for credit unions when making house loans.

***Requirements for specific categories of lending***

Under the draft lending regulations, credit unions must meet some requirements in relation to commercial loans, community loans and loans to other credit unions including a requirement to ensure a business plan and financial projections are in place before the granting of a commercial loan, community loan or a loan to another credit union and to report to the board of directors on the performance of these categories of loans. These requirements will not apply to commercial loans where the total amount of commercial lending granted to the borrower, or group of connected borrowers, is less than €25,000.

These requirements are largely based on guidance currently in place for credit unions and credit unions would be expected to already be ensuring that such practices are implemented thereby minimising potential impacts associated with implementing these requirements.

***Related party lending***

The draft lending regulations for credit unions provide a definition for related parties and set out a number of requirements in relation to the process for lending to related parties. These include a requirement not to provide loans to related parties on more favourable terms than a loan to non-related parties and requirements relating to the process for making, managing, monitoring and reporting on loans to related parties. These requirements do not apply where the total exposure to the related party is not greater than €2,000. The draft lending regulations do not include a limit on lending to related parties.

The definition of member of the family in the draft regulations is not as wide as the definition that was proposed in CP76 which was based on the definition contained in the 1997 Act. The provision of a definition of related parties in the lending regulations will provide clarity to credit unions and their members. Credit unions are already required to have processes in place in relation to lending to officers. These existing processes will have to be amended to reflect the requirements set out in the lending regulations. However, as referred to above there will be reduced requirements for small loans to related parties.

***Lending practices and policies***

Under the draft lending regulations, credit unions are required to maintain a written credit policy, credit control policy and provisioning policy. The draft regulations also contain a requirement for credit unions to ensure that its credit assessment process is based on sound and well defined criteria with the process of approving loans and amending loans clearly established and documented in its credit policy. Additionally, credit unions are required to document certain limits and processes for arrears management.

The impact of these requirements on credit unions should be minimal, as credit unions would be expected, in the normal course of their business, to be complying with these requirements as most of them are in line with existing guidance.

### ***New lending framework and lending restrictions***

As set out above, the draft lending regulations contain a number of additional requirements. These requirements are informed by regulatory actions taken by the Central Bank arising from lending practices in individual credit unions.<sup>8</sup> It is considered that the introduction of these additional requirements, along with the governance and risk management framework introduced in October 2013, will provide a strengthened regulatory framework for credit unions in the area of lending. Where credit unions can demonstrate improvements in their credit risk management practices in line with the strengthened regulatory framework, a potential impact of the new lending regulations for credit unions is the reduction, over time, in the use of credit union specific lending restrictions as a regulatory tool.

#### **4.4.2.4 Investments**

##### ***Classes of investments***

Under the draft investment regulations for credit unions, credit unions may invest in euro denominated investments in the following classes of investments:

- Irish and EEA State Securities;
- Accounts in Authorised Credit Institutions;
- Bank Bonds;
- Collective Investment Schemes (where the underlying investments of the scheme are composed entirely of instruments falling within the definitions and limits set out in regulations);
- Shares of and deposits with other credit unions; and
- Shares of a society registered under the Industrial and Provident Societies Act 1893 to 1978.

The requirement to invest in euro denominated investments and these classes of investments are in line with the classes of authorised investments set out in the 2006 Guidance Note on Investments by Credit Unions and section 43 of the 1997 Act. Investment in equities, which was included in the 2006 Guidance Note on Investments by Credit Unions, is not included in the draft investment regulations.

Data provided by credit unions in the June 2014 Prudential Return indicates that less than 0.01% of the sector's investments are held in equities. Less than 5% of credit unions hold investments in equities and the largest exposure to equities in a credit union represents less than 0.20% of that credit union's total investments. Transitional arrangements are provided in the draft investment regulations for credit unions that

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<sup>8</sup> There are currently lending restrictions in place in c. 58% of credit unions. These have been imposed on individual credit unions on a case by case basis arising from specific supervisory concerns.

currently hold equities which provide them with up to two years to reduce their exposure to equities.

In light of this, the impact of the removal of equities as an investment class on credit unions will be minimal.

### ***Counterparty limits***

Under the draft investment regulations investments in a single institution shall not exceed 25% of the total value of the credit union's investment portfolio.

This limit is in line with the limit set out in the 2006 Guidance Note on Investments by Credit Unions and therefore should not impact on credit unions or their members.

### ***Concentration limits***

Under the draft investment regulations, a number of investment class limits will apply to credit union investments:

- investments in Irish and EEA State Securities shall not exceed 70% of the total value of the credit union's investment portfolio;
- investments in bank bonds shall not exceed 70% of the total value of the credit union's portfolio;
- investments in other credit unions shall not exceed 12.5% of regulatory reserve; and
- investments in the shares of societies registered under the Industrial and Provident Societies Acts 1893 to 1978 shall not exceed of 12.5% of regulatory reserve.

The concentration limits on investments in Irish and EEA State Securities and bank bonds are in line with the limits set out in the 2006 Guidance Note on Investments for Credit Unions. Data provided by credit unions in the June 2014 Prudential Return indicates that less than 1% of credit unions hold investments in other credit unions. Based on reports submitted by credit unions, the Central Bank is not aware of any credit unions with investments in shares of societies registered under the Industrial and Provident Societies Acts 1893 to 1978.

In light of the above, the impact of the introduction of concentration limits in regulations should not be significant for credit unions or their members.

Under the draft investment regulations, credit unions are required to maintain a written strategy to manage concentration risk. The impact of this requirement on credit unions should be minimal, as credit unions would be expected in the normal course of their business to be complying with this requirement as it is in line with current guidance in the Credit Union Handbook.

### ***Maturity limits***

Under the draft investment regulations the following maturity limits will apply to credit union investments:

- maturity of any investment shall not exceed 10 years;
- not more than 50% of a credit unions portfolio can be invested in investments maturing after 5 years; and
- not more than 30% of a credit union portfolio can be invested in investments maturing after 7 years.

These maturity limits are in line with the maturity limits set out in the 2006 Guidance Note on Investments for Credit Unions. However, maturity limits currently apply to investment classes while the draft investment regulations have broadened the maturity limits to apply to the investment portfolio as a whole. This will assist credit unions by avoiding the scenario whereby a credit union breaches maturity limits by reason of a single holding in a specific investment class irrespective of the maturity profile of the portfolio as a whole.

Data provided by credit unions in the June 2014 Prudential Return indicates that 56% of credit union investments have maturities of less than 1 year while only 6% of investments have maturities of more than 5 years. Based on the June 2014 Prudential Return no credit unions currently hold more than 50% of their investment portfolio in investments maturing after 5 years.

Based on this analysis, the introduction of the maturity limits in the draft investment regulations will not have any significant impact on credit unions.

### ***Investment practices***

The draft investment regulations contain requirements that were previously set out in guidance relating to accounting for investments, the investment policy and the distribution of investment income and investment gains.

The impact of these requirements on credit unions should be minimal, as credit unions would be expected in the normal course of their business to be complying with these requirements as they are in line with guidance currently set out in the Guidance Note for Credit Unions on Matters Relating to Accounting for Investments and Distribution Policy.

#### **4.4.2.5 Savings**

##### ***Savings requirements***

Currently the maximum claim a member can have on a credit union in terms of savings (shares and deposits) cannot exceed €200,000 or 1% of the total assets of the credit union, whichever is the greater.

CP76 proposed a maximum member savings limit for category 1 credit unions of the lower of €100,000 or 1% of assets and a maximum savings limit for category 2 credit unions of €100,000. The draft savings regulations propose that all credit unions can have individual member savings up to €100,000.

Based on data provided by credit unions in the June 2014 Prudential Return, while c. 55% credit unions would not comply with these requirements, less than 0.11% of credit union members currently have savings that would not comply with these requirements. In addition, less than 1.2% of members' savings would not comply with the new limit. The draft savings regulations will impact on credit unions that do not comply with the requirements, as these credit unions will be required to return savings to members who currently hold savings in excess of €100,000 to bring their savings into line with the requirements.

While the impact on credit unions and their members is acknowledged, this limit is considered appropriate to ensure a diversification of members' funds and to protect members' savings. In addition, transitional arrangements have been included in the draft savings regulations which will provide credit unions with a period of six months following commencement of the regulations to bring any savings held prior to the commencement of the regulations into compliance with the new requirements.

Currently the maximum amount a member of a credit union can hold as a deposit is €100,000. A separate limit on member deposits has not been included in the draft regulations in light of the overall maximum member savings limit (which includes shares and deposits)

#### **4.4.2.6 Borrowing**

##### ***Borrowing requirements***

Under the draft borrowing regulations for credit unions, a credit union may borrow up to 25% of the aggregate savings in the credit union. Credit unions can currently borrow up to 50% of the aggregate savings in the credit union. Data provided by credit unions in the June 2014 Prudential Return indicates that less than 4% of credit unions have borrowings. Of these the largest amount borrowed represents 5.6% of the aggregate savings in the credit union.

Based on this analysis this regulation will not have a significant impact on credit unions and their members.

Under the draft borrowing regulations, credit unions are required to have a written borrowing policy. The Central Bank has previously indicated in guidance that credit unions should have a policy in relation to borrowing, which would be contained in the asset and liability management policy. Credit unions will continue to be required to notify the Central Bank when they undertake borrowing under the draft regulations. Credit unions should already be adhering to these requirements and guidance limiting any potential impact arising from the introduction of the regulations.

#### **4.4.2.7 Systems, Controls and Reporting Arrangements**

The draft regulations for credit unions include a number of requirements relating to systems and controls such as the requirement to have certain policies in writing,

communicate certain policies to all officers of the credit union and to maintain, review and update a risk register. The draft regulations also contain a number of reporting and disclosure requirements relating to the regulatory reserve, the performance of the loan book, related party lending and accounting policies for the valuation of investments and recognition of income on investments. These requirements will ensure transparency for credit union members.

These requirements largely reflect guidance that is currently in place for credit unions and therefore the introduction of these requirements in regulations will not impact on credit unions or credit union members to any significant extent.

#### **4.4.2.8 Services Exempt from Additional Services Requirements**

The Minister has made regulations<sup>9</sup> under section 182(1)(h) of the 1997 Act providing credit unions with exemptions from the additional services requirements of section 48-52 of the 1997 Act when providing certain services, subject to conditions. When the remaining sections of the 2012 Act are commenced, Item 135 of Schedule 1 of the 2012 Act will remove the Minister's regulation making power in section 182(1)(h) of the 1997 Act and there is no provision in the 2012 Act that retains these regulations. The Central Bank has developed draft regulations to ensure that credit unions can continue to provide the services that the Minister previously exempted from the additional services requirements, subject to the conditions set by the Minister. As this does not represent a change to the current regulations the draft regulations will not have any impact on credit unions.

#### **4.4.3 Costs**

A large number of the draft regulations reflect requirements and limits contained in existing legislation, regulations, requirements or guidance and accordingly should not give rise to additional costs for credit unions. In the case of new and amended requirements, such as the introduction of categories of lending, concentration limits for certain types of lending and the change to the large exposure limit, credit unions will be required to update and amend their systems, controls, policies and procedures to reflect the new and amended requirements. Training will also be required to ensure credit union officers are aware of changes arising from the introduction of any new or amended requirements.

The draft regulations contain additional requirements in relation to lending practices for specific categories of lending such as commercial lending. However, we would expect that credit unions would, in the normal course of business, be ensuring that such practices are implemented. Therefore any incremental costs should not be significant.

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<sup>9</sup> S.I. No. 223 of 2004; S.I. No. 107 of 2007 and S.I. 838 of 2007.



## **5. Preferred option**

Having assessed the costs, benefit and impacts of each option, option 3 – “introduce regulations for all credit unions under the regulation making powers contained in the 2012 Act” has been identified as the most appropriate option.

This option will ensure the continuity of key prudential requirements and continue the introduction of the strengthened regulatory framework recommended by the Commission on Credit Unions on commencement of the remaining sections of the 2012 Act while minimising the cost and impact on credit unions. This will provide members with confidence that their credit unions are appropriately managed and governed and will support the protection of members’ savings.

This option also provides a proportionate and pragmatic implementation approach that takes account of the potential cost implications for credit unions.

The setting of limits and requirements in regulations also provides a degree of flexibility for the strengthened regulatory framework to develop as may be appropriate in the future. In the future, the Central Bank will be in a position to review and amend the regulations as appropriate on a timely basis following consultation with the credit union sector. Where credit unions set out a clear path on how they wish to develop, the Central Bank will be in a position to consider any amendments to the regulations that may be appropriate.

## **6. Consultation**

As outlined in the Consultation Protocol for Credit Unions issued on 27 November 2012, the Central Bank has committed to consult on proposed new regulations which, in the Central Bank’s view, will have a significant impact on the business of credit unions.

Consultation on the draft regulations for credit unions is contained within CP88. This RIA is included as an Appendix within CP88.

## **7. Enforcement and Compliance**

The responsibility for enforcing and ensuring compliance with the regulations for credit unions will rest with the Central Bank.

## **8. Review**

As set out in the Feedback Statement on CP76, the Central Bank is of the view that it is appropriate to undertake a process of further communication, engagement, clarification and consultation with the credit union sector on the prudent development of the credit union sector and the regulatory framework for credit unions. As part of this on-going communication and engagement the Central Bank will keep the new regulations under review and, taking account of feedback received, determine if further changes are required.

## 9. Publication

The RIA will be published as part of CP88 which is available at [www.centralbank.ie](http://www.centralbank.ie).

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