



TITHE AN OIREACHTAIS

**An Comhchoiste um Airgeadas, Caiteachas Poiblí
agus Athchóiriú**

**Tuarascáil maidir le héisteachtaí i
ndáil leis an mBille um Chomhar
Creidmheasa, 2012**

Samhain 2012

HOUSES OF THE OIREACHTAS

**JOINT COMMITTEE ON FINANCE PUBLIC
EXPENDITURE AND REFORM**

**Report on hearings in relation to
the Credit Union Bill, 2012**

November 2012

31/FPER/012

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1. Submissions to the Joint Committee can be accessed on the Oireachtas web site:-
http://www.oireachtas.ie/parliament/oireachtasbusiness/committees_list/fper-committee/creditunionreports/submissions/
2. Transcripts of the public hearing can be accessed at Oireachtas web site:-
http://oireachtasdebates.oireachtas.ie/debates%20authoring/Debate_sWebPack.nsf/committeetakes/FIJ2012091900001?opendocument
and
http://oireachtasdebates.oireachtas.ie/debates%20authoring/Debate_sWebPack.nsf/committeetakes/FIJ2012092000001?opendocument
3. The General Scheme of the Credit Union Bill, 2012 is available on the Department of Finance web site:-
<http://www.finance.gov.ie/viewdoc.asp?DocID=7294>
4. The report of the Commission on Credit Unions is available on the Department of Finance web site:-
<http://www.finance.gov.ie/documents/publications/reports/2012/creditunionrepmar2012.pdf>
5. The Credit Union Bill 2012 is available on the Department of Finance web site:-
<http://www.finance.gov.ie/documents/publications/reports/2012/Creditunionbill.pdf>
6. The Explanatory Memorandum to the Credit Union Bill 2012 is available on the Department of Finance web site:-
<http://www.finance.gov.ie/documents/publications/reports/2012/creditunionexp.pdf>

Chairman's Preface

The Heads of the General Scheme of the Credit Union Bill 2012 were published by the Minister for Finance, Mr. Michael Noonan T.D. on 28 June 2012. The Department of Finance had commenced a public consultation process where submissions would be accepted before 10 August 2012. The Joint Committee on Finance, Public Expenditure and Reform, at its meeting of 18 July, agreed that the Committee would review the submissions received by the Department, and in this context, arrange public meetings in September to which the Committee would invite those who had made submissions which, in the view of the Committee, would benefit from further examination.

Public hearings were held on the 19 and 20 September to discuss issues of concern.

The hearings and submissions made by those attending raised some very important and interesting matters. The Joint Committee acknowledges that the Bill seeks to address the recommendations included in the recent report of the Commission on Credit Unions.

Following the public hearings the then Chairman, Deputy Alex White, wrote to Minister Noonan. In his letter the Chairman advised that *"Given the time constraints, and the fact that members have not had an opportunity to consider a draft report, I am taking this opportunity to forward to you the transcripts. Further, I am attaching a list that details (under the 5 parts of the Draft General Scheme) the particular 'Heads' that raised the most concern with those who gave evidence to the Committee. I trust this will be of assistance and that consideration can be given to the issues which arose in the context of the imminent publication of the Credit Union Bill 2012."*

The Credit Union Bill was published on 28 September 2012.

I would like to express thanks to everyone who took part in this consultative process and look forward to further engagement with the Minister as the Bill progresses through the Houses.

I would like to express my appreciation to the Members of the Joint Committee, the Clerk, Mr. Ronan Lenihan and the Committee Secretariat Staff, Mr. Eoin Hartnett and Ms. Lorraine West for their commitment and dedication. I hope this work will help to inform the legislative process and make a valuable contribution to the forthcoming legislation.



Ciaran Lynch T.D.
Chairman
November 2012

Introduction

This Report forms part of the initial stages of a wider legislative process. It is representative of the submissions made to the Department of Finance under the Department's public consultation process. This Report does not purport to be, and should not be construed as being, a definitive statement of all the issues pertaining to the subject matter of the Bill/Act in question.

The General Scheme of the Credit Union, together with the Report of the Commission on Credit Unions are available on the Department of Finance web site - <http://www.finance.gov.ie/>

The Joint Committee, following at its meeting of 18 July, agreed that the Committee would review the submissions received by the Department, and in this context, arrange public meetings in September. Public hearings were held on the 19 and 20 September to discuss, with those the Committee invited, the issues raised in the submissions.

These submissions can accessed at the Oireachtas web site – <http://www.oireachtas.ie/parliament/oireachtasbusiness/committees>

The Joint Committee, in publishing this report is not making a series of recommendations. Rather, in recognition of how pre-scrutiny can add value to the legislative process the Joint Committee considers that the best approach is to publish, in this report, the issues which the Joint Committee and those invited to address the Joint Committee consider should be addressed in the legislation.

The Joint Committee wishes to express its thanks to all those who participated in this process and valued the opportunity to engage with interested parties.

Observations

General

It was acknowledged by those who participated that this legislation is most welcome and that, generally, it addressed the challenge facing the Credit Unions movement.

The Joint Committee reviewed the submissions received to identify the issues that were of most concern. The submissions received were summarised and the Committee agreed that for the purposes of this report its observations should be the summary of the submissions received.

Submission 1:

Ms. Carmel Motherway. Motherway Consulting Ltd. Smithstown, Tullogher, Co. Kilkenny

Part IV: Restructuring

Asking what view the Commission had taken with regard to the funding structure of credit unions, specifically (1) whether the dangers of merging CUs with weak balance sheet structures had been considered and (2) whether the Commission had considered that the best way to strengthen a credit union might be to shrink it. To this question Professor McKillop replied that the issue had not been considered and went on to say that data on the structure of credit union funding had not been put before the Commission.

This issue is important in advance of the ReBo "getting going". To put it in context, Ms. Motherway offered the example taken at random from each of the three "tiers" of credit union envisaged by the Commission's report, i.e. +€100m asset-size, €10m to €100m, and <€10m, whereby:

- in the small CU, 3% of members accounted for 36% of shares
- in the medium size one 3% held 40% of shares
- in the large CU, 3% held 34% of shares

Between the three CUs this equated to 2,153 members with €111m in savings between them. None of the €111m in the example is "attached" to loans. This is fairly typical but setting the bar at 3% of members understates the issue, if anything. Accordingly, if around 36% of the money in credit unions belongs to 3% of their members and is not pledged to loans it could walk out the door at any time, it follows that there may be more to "stability" than the Commission's strong focus on capital adequacy would imply.

It would be prudent to reconsider the wisdom of aiming for a smaller number of bigger credit unions unless also intending to address the present funding imbalance as well as take steps to avoid future concentration. There are also clear implications for liquidity management and asset-liability management in general, and the whole question of investments needs to be viewed in light of the structure of funding. In this context I welcome the content of Head 3 (2) viz., "the proportion of

assets kept in liquid form shall take into account the ...composition and maturity of (its) assets and liabilities” and further note the “regulations prescribing minimum liquidity requirements (including) maturity mismatch” and would hope the mentioned stress testing might address concentration issues.

Part V: Amendments to the Credit Union Act 1997

Referring to the proposal to substitute for subsection (3) of section 32(3) of CUA 1997: that “(3) *If a member of a credit union seeks to withdraw a share in or deposit with the credit union at a time when he has an outstanding liability (including a contingent liability) to the credit union, whether as borrower, guarantor or otherwise, that withdrawal shall be permitted unless (a) the share or deposit sought to be withdrawn by the member is attached to a loan issued to the member or guaranteed by the member*”. I understand the idea behind this proposal and I appreciate the apparent logic of the way it is framed. However, it will have far-reaching and potentially very negative effects within many credit unions, notably in respect of their ability to mitigate exposure risk by encouraging savings while repaying. I’m not even going to address the implications for ethos here, but simply from the ‘mechanical’ perspective, this will impact severely and there are other, quite straightforward ways to achieve the objective without constraining credit unions from doing one of their main jobs, namely to increase their members’ financial autonomy.

Submission 2:

The Consultative Committee of Accountancy Bodies in Ireland (CCAB-I)

Part V: Amendments to the Credit Union Act 1997 - [Item 32].

This amendment seeks to introduce the requirement for the auditor/audit firm to a credit union to ‘rotate’ off the audit of that entity after serving a term of six years, with a further ‘cooling off’ period of four years. CCAB-I note the issue of audit firm rotation has been receiving close attention at European Union level where current EU proposals relating to the audits of ‘public interest entities’ (‘PIEs’) are being considered. Audit firm rotation is just one of a menu of possible alternatives whose aim is to underpin audit quality, auditor independence and introduce further pan European measures on the regulation of auditors. These include ‘mandatory audit firm tendering’ and greater transparency from audit committees of PIEs justifying how auditor independence is maintained. In addition, further measures are to be introduced in the near future which will require independent supervision of auditors of public interest entities as well as external scrutiny of the quality of their audit work. At present, ‘public interest entity’ as defined by current EU legislative proposals will include credit unions within its scope. In the wider context, CCAB-I recognises that there are different views on the subject of audit firm rotation.

Arguments in favour of such a measure include;

- it underpins and strengthens auditor independence;
- it provides a ‘fresh pair of eyes’ that will ensure the continuance of a rigorous and challenging audit process;
- it contributes to enhanced auditor scepticism, particularly as it avoids over familiarity;

- it has the potential to foster increased competition in the audit market for PIEs.

Arguments advanced against the proposals include;

- auditor independence requirements are embodied in the IESBA Code of Ethics and the APB's Ethical Standards for Auditors;
- the 'fresh pair of eyes' argument ignores current rotation requirements for audit engagement partners and staff and the role of the independent audit review partner;
- it restricts the ability of companies and audit committees to exercise their own judgement and make their own choices with regard to selection of statutory auditor and audit firm replacement;
- it has the potential to cause unnecessary disruption and therefore increase cost and risk, and on audit quality. While such risk is capable of being managed, this argument is supported by academic research, showing that while costs are incurred in respect of implementation of this policy, the policy itself has a detrimental impact on audit quality.

The EU proposals are currently in the form of a draft Regulation¹ and as such, once finalised will have direct application on EU Member States. The intention behind this is to achieve 'maximum harmonisation'. In the context of the Draft Scheme, CCAB-I have concerns that imposing a local requirement on rotation via domestic legislation at this time when the matter has yet to be concluded at EU level. This could potentially result in two different legislative requirements trying to achieve the same objective, and yet cause significant implementation difficulties. Indeed, the EU proposals in totality are likely to satisfy the needs of the Registrar of Credit Unions ('RCU') 'in ensuring appropriate standards of auditing' as argued in the explanatory text on this measure contained in the Draft Scheme. CCAB-I does recognise, however, the legitimate concern on the part of the RCU with regard to audit quality and auditor independence in respect of specific individual credit unions. A more practical solution on this issue, therefore, would be to grant powers to the Registrar to require rotation of auditors on a case by case basis, if such a power does not already exist.

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Submission 3

Credit Union Development Association (CUDA)

Part II: Governance - Head 20(14)

CUDA would encourage further enhancement to the Commission's recommendations and to Head 20(14) with regard to the "9/15 year rule". CUDA is of the view that the nine year term of office is inconsistent with

the Central Bank's own rules for other credit institutions and insurance undertakings.

In 2010 the Central Bank published its Corporate Governance Code for Credit Institutions and Insurance Undertakings. The Code states;

"Institutions shall review board membership at least once every three years.

Institutions shall formally review the membership of the board of any person who is a member for nine years or more and it shall document its rationale for any continuance and so advise the Central Bank in writing.

The frequency with which board membership is renewed shall be documented. The renewal frequency shall consider the balance of experience and independence sought". (Pg17, 7.13)

In 2011 a similar requirement appeared in its Corporate Governance Code for Captive Insurance and Captive Reinsurance Undertakings. This Code states;

"Captives shall review board membership at least once every three years.

Captives shall formally review the membership of the board of any person who is a member for nine years or more and it shall document its rationale for any continuance and so advise the Central Bank in writing. The frequency with which board membership is renewed shall be documented". (Pg17, 7.11)

CUDA are of the view that Head 20(14) of the Bill should be amended to align the requirements for Credit Unions in this context with that of other institutions. This enhancement will also help alleviate concerns held by many Directors since the publication of the Commission's Report. They are also concerned in relation to the ability of some credit unions to generate a level of interest and to engage participation from suitable candidates to replace members of the Board. In this regard, the ability to foster and encourage members to become actively involved in the Credit Unions' work is seen as one of the biggest governance challenges.

It is certainly apparent from dialogue with Boards of Directors that the challenges surrounding the structural changes to the Boards, including the 9 year rotation and the reduction in Board numbers, is a worrying prospect as it is coming at a time when Credit Unions are also facing immense changes in the areas of restructuring and the additional layers of regulatory governance and supervision.

The CUDA recommendation above, as taken from the existing Corporate Governance Codes, will help to minimise these concerns as they do not directly impose a mandatory requirement to introduce a 9 year rotation for Directors yet they do provide for an oversight system in place. This, combined with transitional periods will afford Boards of Directors the opportunity to adapt over a realistic period of time. Undoubtedly

transitional periods to adapt and conform to the legislative provisions including limitations to Board numbers will also be a crucial factor during times of restructuring such as amalgamations and mergers.

Part IV: Restructuring - Resolution Fund Levy

CUDA proposed the postponement of contributions to the resolution fund until there is more clarity as to what extent ReBo will be permitted to resolve a failed or failing Credit Union. As ReBo materialises, and voluntary restructuring proposals as well as resolution and transfer proposals, come within its remit, CUDA questioned the need for two funds.

In order to achieve this desired outcome the Draft General Scheme provides for the establishment of a Restructuring Fund. The purpose of the Fund is to provide a source of funding for the restructuring of Credit Unions. Credit Unions will be required to contribute a levy to the Fund in accordance with the regulations drawn up by the Minister. It is the CUDA view that a decision for the payment to a Resolution Fund by Credit Unions should be set aside until:

- *a clear strategy and direction for ReBo is established, and,*
- *a decision is made with regard to the rate of contribution to the Restructuring Fund*

The CUDA reasoning behind postponing the contribution is primarily based on the lack of clarity as to what extent ReBo will be permitted to "solve" a failed or failing Credit Union? CUDA would envisage a situation whereby voluntary restructuring proposals as well as resolution and transfer proposals will come within the remit of ReBo, working in close association with the Central Bank of Ireland; however, to what extent this will be the case requires confirmation. In CUDA's opinion when ReBo materialises, and the Restructuring Fund is established, there may be no requirement for a separate resolution fund for Credit Unions. Whilst there is no current statutory or approved mechanism to inject capital into Credit Unions outside of the context of resolution going forward CUDA would favour allowing for the development of the restructuring process to determine the need for the resolution fund, if any, and to determine to what extent a contribution will be required by the Minister.

Excerpt – Appendix 1, summary of submission to the Commission on Credit Unions

The establishment of ReBo and the affordability of contributions are understandably interrelated. CUDA welcome further developments in this regard under Head 31 and 52 of the draft Bill and are anxious to review and consider an Regulatory Impact Analysis (RIA) in order that CUDA can comment further on the level or rate of contributory requirements of impending funds.

CUDA welcome a wide remit for ReBo insofar as it is allowed to consider proposals for resolving a failed or failing Credit Union. The draft Bill leaves the powers and functions open to policy making. It is helpful for ReBo to have timeframes and categories, which it should adopt within its framework. However, if such categories are based on the measure of

capital it would be very helpful to address the subjectivity that underpins this capital measure. Failure to make adequate provisions and to maintain the reserve ratio could have serious consequences for a Credit Union. Developing good guidelines and benchmarks for Credit Unions in calculating loan loss provisions will ensure consistency and accuracy. CUDA have worked with a commercial entity to establish such a standard, and, following successful piloting of this methodology, demonstrated the process to the Central Bank. We would welcome guidance from the Central Bank in due course.

Part IV: Restructuring - Tiered approach

CUDA believe the tiered approach the bands should be revisited. CUDA suggest that the band for Type 2 Credit Unions (>€10m and ≤€100 million) has too wide a remit. CUDA propose re-examining the bands and supplementing a fourth band to reduce the wide disparity within the bands. CUDA note that, in the current financial climate, a real opportunity exists for Credit Unions to fulfil the role of a third pillar banking service and that, where there is a demonstrable feasible business case, there should be no barrier created to prevent Credit Unions encroaching and developing into new areas.

CUDA would welcome a definitive evolvment statement on the way Credit Unions will be considered, in order for progressive Credit Unions to develop and explore new avenues of business. For example, Credit Unions with the correct business and operating model could deliver lending to the business sector, in particular SMEs. To illustrate this point, CUDA requested a provision in the Credit Guarantee Bill 2012 allowing the designation of a Credit Union as a participating lender under the legislation, should that Credit Union meet the criteria applicable to all participating lenders. CUDA are aware of the complexities of introducing a level of guarantee to credit institutions against losses on qualifying loans, however, CUDA received no satisfactory response as to why the area could not be explored for solvent and viable Credit Unions. In addition to this issue, a RIA conducted on the Microfinance Loan Fund Bill 2012 reported that Credit Unions lending to business start-ups is only sanctioned on an exceptional basis and it was regarded as not generally appropriate for the Credit Union sector overall (para 4 pg 3 Microenterprise Loan Fund Bill 2012 Regulatory Impact Analysis, April 2012).

CUDA trust that with the restructuring of the sector and the introduction of the tiered approach will change the perception, and assist the ability of broadening services offered by Credit Unions; CUDA would welcome a commitment given to remove State imposed obstacles, unintentional or otherwise, to Credit Union development.

Part V: Amendments to the Credit Union Act 1997

CUDA already expressed to the Department in June of this year the need for, and the benefits of, a stand-alone single point of reference for Credit Unions. This would include repealing the existing Credit Union legislation, replicating the relevant provisions of the Central Bank (Supervision and Enforcement) Bill and other primary legislation, as appropriate and creating one applicable Credit Union Act.

General Comment - Sector Impact Analysis

CUDA note that, as outlined by the Commission on Credit Unions, the starting point in considering the impact of a resolution levy on Credit Unions is an impact analysis of the sector as a whole. The resolution fund, as proposed, cannot be measured in isolation of the many changes facing Credit Unions and the financial contributions required by them as a result. When evaluating the issues set out in the consultation document the absence of a statistical and analytical assessment poses an immediate barrier to formulating a balanced view on the introduction of this or other levies imposed on the sector. As rightly set out in the consultation document, the Commission on Credit Unions recommended an assessment of the affordability of sector-wide contributions taking in to account the cost of existing and impending levies on the Credit Union sector for regulation, resolution and stabilisation. Whilst the document acknowledges the Credit Unions will be impacted by impending levies it does not explore the financial implications of the varying levies in a holistic manner.

CUDA requested, in previous correspondence with the Department, confirmation as to when this assessment will be complete. Without an assessment and without clarification of the contribution required to remaining levies it is not possible for CUDA to comment on the level and rate of contributory requirements to this fund.

Furthermore, the document suggests that not all Credit Unions may be required to pay in to the fund. CUDA appreciate, as acknowledged by the Department, that individual credit institutions within each sector will differ in terms of nature, scale, complexity of institutions, levels of capital and liquidity. CUDA had sought further clarity in previous correspondence with the Department on this issue. What measures does the Department propose putting in place to determine if an individual Credit Union is a contributory institution or not? CUDA have concerns for Credit Unions that maintained solvency may have to compensate for those that did not. Clarity would be of benefit on this issue.

Submission 4

Credit Union Managers' Association (CUMA)

The Credit Union Managers Association (CUMA) is the professional representative association for Professional Managers of Credit Unions in Ireland. CUMA provides professional development training and assistance to its members, and engages with a wide range of stakeholders and industry bodies in its pursuit of excellence in professional standards in Credit Union management.

CUMA fully supports the Final Report of the Commission on Credit Unions, 2012 (The Final Report). CUMA participated actively in the work of the Commission. It was represented on the Commission by Mr. Tim Molan, who actively participated in its work. CUMA, as a body, participated in the public consultation process of the Commission, and made a public submission. At the end of a long and comprehensive process, the Final Report of the Commission was agreed unanimously by all of the members of the Commission, including the independent expert members of the Commission and the key stake-holder groups represented on the Commission:-

- the Central Bank of Ireland,
- the Department of Finance,
- the Credit Union Development Association,
- the Credit Union Managers Association and
- the Irish League of Credit Unions.

The Final Report is a carefully balanced, integrated report. It combines necessary proposed legislative reform with key controls and balances. It brings forward best governance practices and methodology towards ultimately delivering sustainability and protecting members' savings.

CUMA believe that the General Scheme of the Credit Union Bill 2012 is faithful to and reflective of the Final Report of the Commission on Credit Unions. Some small few aspects of the Report, and ultimately of the Bill, might be unpalatable in the short-term to a number of individuals directly impacted, but ultimately, the long-term best principles and practices advanced in the Bill should be adopted in full.

CUMA recommend that the Bill be adopted.

Submission 5

Mr. Des Gunning (Credit Union member 1984 – to date, Member of the Dormant Accounts Board 2008).

Part II: Governance

Mr. Gunning noted Credit Unions suffered like any other financial institutions from a 'light touch' approach to regulation that was characteristic of the period (1997 – 2007 approximately). The perils of this 'light touch' can be seen in the Trustee Order amendment of 1998¹, whereby the Minister for Finance facilitated Credit Unions in committing to previously prohibited investment instruments, including what came to be known as 'exotic instruments'. To date, there have been a large number of cases dealt by the Financial Services Ombudsman in relation to some of the products sold to Credit Unions. Mr. Gunning suggests that it could be argued, albeit with very broad strokes, that regulation has not yet been devised to appropriately fit the Credit Union movement in Ireland.

General Comment - Amend the Dormant Accounts Acts to include the Credit Unions.

¹ S.I No. 28/1998.

Mr. Gunning suggests amending the Dormant Accounts Acts to include the Credit Unions, allowing for transfers to Section 44 (Special Funds) to fulfil Dormant Accounts obligations. The transfer of dormant account balances to the State with a guaranteed right of return to the accountholder, their heirs, executors or assignees should a legitimate claim emerge. On the disbursement side, the Dormant Accounts Fund is targeted on tackling disadvantage in three areas: lack of access to education; disadvantage related to disability and disadvantage related to socio-economic circumstances. In August 2011 the Dormant Accounts Board made a submission to the Commission on Credit Unions, in which it stated a case for the Commission to support the Board in its efforts to have the Credit Unions brought within the aegis of the Dormant Accounts Acts. As an inherent part of this initiative, the Dormant Accounts Board recommended that Credit Unions simultaneously be afforded an 'opt-out' which would allow Credit Unions use their own "Section 44 Special Funds", as an alternative to submitting dormant account balances to be 'banked' in the NTMA along with remittances to the Dormant Accounts Fund from all other sources. Specifically, the Board recommended as follows: "Bring Credit Unions under the remit of the Dormant Accounts Acts but with the proviso that no Credit Union need transfer dormant account balances from their own General Reserve to the Dormant Accounts Fund where that Credit Union has a "special fund" in place, as per Section 44 of the Credit Union Act 1997 and where the sum in question is transferred to that fund."

General Comment - Keep the Tax expenditures in favour of Credit Unions.

It is Irish public policy to direct tax expenditures, that is, to forego revenue in a number of ways in order to support the Credit Union movement. Tax-free status for Credit Union income is not a worldwide norm. In the Republic, the argument in favour of granting tax-free status to the income is because Credit Unions fulfil a societal purpose, including the role they play in providing savings and credit to 'the un-banked', particularly those on low income. In 2011, the new government's Comprehensive Review of Expenditure recommended a review of the overlap between tax expenditures and other State supports. It is submitted that Comprehensive Review of Expenditure recommendation, if implemented might go a long way towards clearing the filters that give a still-significant Credit Union like Newbridge and the Revenue Commissioners such different views on the value of tax expenditures to the Credit Union movement.

Submission 6

Mr. Gerard McConville, Manager, Dundrum Credit Union

General Comment - Flexi Loan Account

Credit unions are subject to a wide range of legal, regulatory requirements, including the need to provide credit agreements and pre contract information for loans they issue. This imposes a serious expense on credit unions, as many of the loans issued by credit unions are of small value. During the period 01/10/11 to 30/06/12 Dundrum Credit Union issued 4,250 loans. Over 40% (1,750) of loans issued were for a value of less than €1,000.

Dundrum Credit Union believes the solution is to allow credit unions to give their members the ability to avail of a line of credit – Flexi Loan Accounts. A Flexi-Loan account is a loan account that provides for pre-approved credit up to a specified limit which can be drawn down in stages by a member as required while minimising credit union administration through a single loan application and agreement.

The features of a Flexi Loan Account include the following:

- Suitable for short term borrowings. Typical loan purposes would be holidays, annual expenses (insurance, motor expenses), white goods, small home improvement items, medical expenses, etc.
- One Credit Agreement (or equivalent) issued at start of term.
- Credit limit related to member's ability to repay, e.g. % of income.
- Increase in credit limit would require a full assessment of ability to repay and a new Credit Agreement.
- Short term facility, reviewed annually

Benefits of a Flexi Loan Account:

- Money Management – promotes a culture in members of budgeting for regular, short term expenditure and of repaying over a short term; member is less likely to over-borrow.
- Flexible draw-down options – the member can draw down funds as he or she needs them and will pay interest on the outstanding balance only.
- Credit Management – easier for the credit union to control and manage; any increase in limit would require a structured analysis of the borrower's ability to repay.
- Ease of operation – less credit agreements; easier to understand; less routine small lending, giving more time to devote to assessing more complex loans and arrears management.

In these difficult times, a Flexi Loan Account would be a very useful budgeting tool for consumers and would help people to manage their finances within their means.

Dundrum Credit Union ask for support in ensuring that credit unions are permitted to offer lines of credit to members in the new Credit Union Act.

Submission 7:

Mr. Eoin O'Sullivan, Enterprise IT Ltd. Mount Merrion, Dublin.

Part V: Amendments to the Credit Union Act 1997

Mr. O'Sullivan raises a particular point in regard to Section 20 of SI 223/2004: This relates to Saving Stamps. Mr. O'Sullivan suggests the following amendments;

- the credit union must provide a full audit trail for all such transactions, pertaining to each stamp sold and redeemed.
- the credit union must obtain adequate information to identify stamps sold and redeemed to both members and non-members, for each stamp transaction.

- the credit union must put in place a procedure to prevent copying of stamps and a transparent method to identify copies from originals.
- the credit union must make provision to cover stamps either lost or stolen.
- the credit union must put in place adequate controls and procedures to protect against money laundering and fraud.

In Mr. O’Sullivan view the current savings stamps service is open to the following operational risks:

(1) Money Laundering:

There is currently no way of tracking each stamp issued and redeemed to credit union members. The situation is further complicated by the relaxed policies and procedures in relation to providing the service to non-members, as well the self-service stamp machine, which separates the staff from the member, making operational control impossible. With no way of linking a stamp transaction to a specific member, or a method of monitoring how many stamps are being purchased and redeemed by a member, the system can easily be exploited to launder money. Amending the current Statutory Instrument under which savings stamps are defined would also bring this in line with Sections 42 (1) and (10) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

(2) Fraud and Operational Risk

Savings stamps currently have no inbuilt security features, making them very easy to copy and thus susceptible to fraud. Even in cases where codes are printed on stamps, together with the absence of an audit trail, it is impossible to identify a fraudulent stamp from the original. Mr. O’Sullivan suggests, under Head 11 of the draft General Scheme that amending the current Statutory Instrument under which savings stamps are defined would address this operational risk.

(3) Loss and Theft

Losing savings stamps, or having them stolen is equivalent to losing that amount in cash. The credit union member has no recourse to the credit union in the case of loss or theft. Inadequate controls and procedures, exposes the credit union and its members to a financial loss. Mr. O’Sullivan suggests, under Head 9 of the draft General Scheme that amending the current Statutory Instrument under which savings stamps are defined would address this risk management issue.

(4) Audit Trail and Reporting Issues

Savings stamps currently have no audit trail. There is no information available to track each individual transaction, nor is there any method to link each transaction to any individual member. With no information detailing stamp transactions available to credit union staff, reports cannot be generated on a daily basis or retrospectively, should a query arise. Mr. O’Sullivan suggests, under Head 17 of the draft General Scheme that amending the current Statutory Instrument under which savings stamps are defined would address this internal audit issue.

Submission 8

Ms. Miriam Connolly, Secretary Finglas Credit Union.

On behalf of the Supervisory Committee of Finglas Credit Union Ms. Connolly wished to support the submission made of 25 July by Liam Kelly, Secretary of the National Supervisors' Forum in relation to the Draft General Scheme of the Credit Union Bill. Supervisory Committee of Finglas Credit Union believes that the recommendations therein will greatly enhance the forthcoming Credit Union Bill.

Submission 9

John Maguire, Chairperson, the Four Corners Credit Union Ltd

The Supervisors of The Four Corners Credit Union Ltd. endorse the NSF's submission and urge a positive response from all concerned.

Submission 10

Mr. Kevin Morris, Audit Partner, FMB Chartered Accountants

General Comment - Barnier Report

Mr. Morris notes that the proposals included in the Barnier Report have encountered considerable opposition in Europe. Legislation should only be enacted here if harmony with European laws is to be maintained.

General Comment - Public Interest Entity

Mr. Morris notes that there already exists in Irish Law a definition of "Public Interest Entity" contained in Section 3 ("Interpretation section") of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (SI 220/2010) which includes (1) Companies and other bodies whose securities are listed on a regulated market (2) Credit Institutions as defined by Article 1 of EU Directive 2000/12/EC and (3) Certain Insurance undertakings. Credit Unions are excluded from the above definition of a "Public Interest Entity" by virtue of Article 2 (2) of Council Directive 77/780/EEC. Section 2 of the Credit Unions Act 1997 currently excludes a Credit Union in its definition of a "credit institution".

Part V: Amendments to the Credit Union Act 1997 - [Item 32]

Section 77 of the Statutory Audit Directive as enacted already provides for a scheme of auditor rotation for the *key audit partner(s)* in cases of such "public interest entity". This section already complies with EU law as it applies to such entities and other credit institutions. The proposed amendment goes far beyond what already exists in both EU and Irish legislation and if enacted in its current form would place Credit Unions at a disadvantage compared to other credit institutions. Mr. Morris suggests it would be better to apply the existing audit rotation provisions (contained in the current Statutory Audit Directive to Credit Unions) thereby creating parity in the legal treatment that would be applied to all credit institutions and Credit Unions. Mr. Morris cannot see why it makes any sense to go beyond what already clearly complies with existing EU and Irish legislation. This would create greater certainty in the law and would extend the current audit rotation provided for the Statutory Audit Directive to Credit Unions also. This would also result in general

compliance with the current guidance notes from the Financial Regulator whereby the audit engagement partner is required to be rotated every five years and which works very well from both a regulatory and practical perspective at present.

The cost factor of appointing a new audit firm may be significant for credit unions at a time where cost reductions and increased capital reserves are being strongly advised by the Financial Regulator.

The Majority of credit unions are run by volunteer boards of directors who depend on the impartial practical advice offered by the partners within their audit firm with whom they have developed a strong and trustworthy relationship over a long number of years. While in no way infringing on the independence vital to the audit reporting role, this advice is critical to many credit unions and this trust can only be built over a long period.

Audit firms who have specialised in reporting on credit union clients have developed an extremely in-depth knowledge of their clients, their systems and most importantly the strengths and weaknesses in their organisation. Bespoke audit programmes have been developed by many of these firms. The proposal to legislate for the introduction of mandatory audit firm rotation will mitigate against the benefits of this knowledge, result in far higher costs and most likely result in a decline in the value of the audit process.

An improvement in the standard of audit management letter, retention of the current key partner rotation every 5 years, more regular auditor communications with the Financial Regulator will serve the credit union sector far better than the current proposals.

Submission 11

Gurranabraher Credit Union Ltd (GCU)

General Comment

On an overall basis, Gurranabraher Credit Union Ltd (GCU) support both the findings of the Commission on Credit Unions and the subsequent direction and principals of the Draft General Scheme of the Credit Union Bill 2012. In reviewing the Draft General Scheme of the Credit Union Bill 2012, GCU do not see any item or items that it would consider to cause a major difficulty for the operation and governance of GCU, and are on an overall basis in support of and in favour of the changes and developments being proposed through the enacting of the Bill

Part I: Prudential Requirements – Heads 2, 6, 7, 10 & 16

Head 2 - Reserves

Given this is such a critical area, GCU are of the view that there should be further detail legislated for in this area, in particular in relation to the risk weighting of assets, and the types of assets and liabilities requiring reserves. In addition, GCU felt that a specific tier of additional reserve levels should be defined in legislation for operational risk reserves.

Head 6 - Lending

Section 3d specifies that the Bank may impose specific lending limits on the concentration of lending. While the principal of any such limit is worthy, consideration needs to be given to how this would be implemented in practice in small localised areas in which Credit Unions operate.

Head 7 – Investments

Section 4 of this Head specifies that the Bank may make regulations in relation to the distribution policy of investment income. GCU would note in this area that there are clear and accepted accounting rules governing the distribution of income, and consideration needs to be given to possible conflict between any new provision imposed here by the Bank and the accounting rules already in place.

Head 10 - Risk Management Officer and Compliance Officer

GCU note here that under this Section a Credit Union will have to appoint a Risk Management Officer and a Compliance Officer. The Head further specifies that the holder of either of these roles cannot be a Director. However, in relation to a Risk Management Officer GCU also note that part of the proposed role of the Risk Management Officer is to assist the Manager with managing and mitigating risks, which would imply, but not explicitly state, that the Manager should not be the Risk Management Officer. Consideration needs to be given to whom can potentially carry out these additional roles in practice, given the size and resources of many Credit Unions. In addition, for Credit Unions who set up and operate a Risk Committee or an Audit Committee, the Bill does not deal with the relationship, crossover or potential interaction between the Officers and the Committees, particularly between the Risk Committee and the Risk Management Officer and between the Compliance Officer and internal audit.

Head 16 – Outsourcing

Section 7 refers to a 'material' business activity. This should be further defined as it leaves the definition of what is material open to interpretation.

Part II: Governance – Head 27

Head 27 - Nomination Committee

Section 4d refers to the nominating committee getting approval from the Bank for candidates prior to nomination being accepted. This has significant implications for the time frames around the nomination process, but does not specify what these time frames are or should be. Section 6 appears to imply that the nominating committee will set the time frames themselves for nominations. Consideration should be given to specifying time frames around the nominating process in order to avoid confusion.

Section 4c suggests that the nominating committee will propose candidates, and by implication that it is not open to the membership to nominate a member to run for the Board or Oversight committee. This area should be clarified.

Section 10 suggests that the nominating committee will have the authority to block a nomination if they feel possible conflicts may emerge. This scenario could be applied to any nomination as what 'may emerge' is an unknown quantity. The authority of the nomination committee in this area should be clarified.

Section 12 seems to suggest that if a Director is in breach of Section 14 in Head 20 the nomination committee can allow that Director to continue to hold office as long as they document the rationale for their continuance. This area should be clarified further.

Part III: Stabilisation – Head 30

GCU note the definition of viability in the Explanatory note. Consideration should be given to putting this definition into the body of the Bill.

Part IV: Restructuring – Funds/Levies

One significant point that does stand out to GCU is that it is proposed to levy Credit Unions in quite a number of areas; contribution to the stabilisation fund, ReBo levy and re-structuring levy. These three levies are in addition to the contributions to the Deposit Guarantee Scheme.

The amount of these levies/contributions is not specified within the Bill, and therefore is firstly an un-known quantity and secondly could impose significant cost on Credit Unions, at a time when viability and creation of reserves are of paramount importance. GCU would suggest that levy caps be legislated for in these areas so that there is not a potential for significant future levying of Credit Unions.

Submission 12:

Sean Hosford, Manager, Health services staff credit union (HSSCU)

General Comment

The Board of Directors and management of Health services staff credit union broadly welcome the recommendations of the credit union commission and the proposed new legislation. However there are a number of concerns that we have outlined below,

Part I: Prudential Requirements – Heads 3, 10 & 17

Head 3 – Liquidity

The HSSCU view is that there needs to be some clarification around what is classed as liquid assets. In the past there have been some inconsistencies around the likes of Government bonds and structured products which our advisors insist as liquid but the RCU will not allow in our calculations

Head 10 – Risk Management Officer & Compliance Officer

This requires the appointment of a risk management officer and a compliance officer. The early indication from the RCU is that they feel that these should be full time employees of the credit union. HSSCU would feel that there is not sufficient work to justify the cost of such appointments and feel these responsibilities could be undertaken by existing staff of the credit union.

Head 17 - Internal Audit

Again the indications are that a large credit union such as HSSCU will be required to have a full time resource in this area. This credit union is audited by our statutory auditors twice in a financial year and have three supervisory inspections carried out each financial year. We would be concerned that a statutory obligation will be placed on the credit union to employ an internal auditor when we believe that is not sufficient work in this area to justify a full time position.

Part II: Governance – Heads 20, 27 & 29

Head 20 - Number of Directors

As a credit union that has successfully operated with 15 directors since our foundation HSSCU are at pains to understand why a statutory restriction is being placed on the number of directors. HSSCU would also have major difficulty with the intelligibility of family members and employees of other credit unions. HSSCU would be of that view that a member has the right to stand for election. HSSCU would also have some concerns that the treasurer post has been dispensed with and in affect there is no one director responsible for finance. HSSCU would strongly recommend that there be a director of finance appointed by the board of directors.

Head 27 - Nominations Committee

HSSCU believe that this whole section needs to be reviewed. In affect five sitting directors will be gatekeepers to membership of the board of directors. Surely this could be held up as a conflict and could lead to abuses of power. HSSCU also feel that clarity is required around how this committee is going to assess possible candidates under fitness and probity, particularly in the financial standing of any potential candidate. Whereas HSSCU accept that the right to nominate from the floor of AGM has been removed this section removes completely the right of members to nominate a member for election.

Head 29 - Board oversight Committee

For the same reasons outlined under head 20, HSSCU would have reservations around the ineligibility of persons based on their employment status or involvement in another credit union.

Submission 13:

Ms. Eimer O'Rourke, Director Retail, Irish Banking Federation (IBF)

General Comment

The IBF set in their submission to the Commission on Credit Unions that there should be equivalence in terms of regulation, supervision and corporate governance rules between credit unions and other regulated financial institutions. In particular the IBF set out that credit unions should be required to adhere to prudential risk and corporate governance regulations, as is required for the banking sector. IBF referred specifically to such regulation as the Corporate Governance Code; Related Party Lending Code; and Fir and Proper regime for senior management and risk takers. IBF again reiterate that prudential regulation of the credit union sector should take account of systemic needs, as well as the particular risk

characteristics of credit unions. IBF acknowledge the recommendations of the Commission on Credit Unions in its final report, and IBF recognise the efforts being made to implement those recommendations in the draft Bill.

Part V: Amendments to the Credit Union Act 1997 [Item 43]

With regard to conduct-of-business regulation, IBF reiterate its view that the current exclusion of credit unions from the scope of much consumer protection legislation and regulation be reviewed and a determination of its continued appropriateness is made, having regard to ensuring and equivalence of protection for consumers whether availing of the services of financial institution or credit unions. Specifically, IBF note the recommendation of the Commission and the subsequent amendment proposed in the draft Bill to review S.184 of the Credit Unions Act 1997, which specifies a number of enactments which do not apply to credit unions, including the Consumer Credit Act, 1995. However, it is not clear in the draft Bill the extent to which credit unions will be subject to the various Codes promulgated by the Central Bank under Sections 117 of the Central Bank Act, 1989 and IBF would welcome confirmation that such a change has been introduced.

Submission 14:

Irish League of Credit Unions (ILCU)

General Comment - background

The ILCU welcome this opportunity to comment on the *Draft General Scheme of the Credit Union Bill*. The ILCU believe that the work of the Commission was vital to the continued success of the movement in the Republic of Ireland. External and internal pressures had brought some credit unions to a pivotal moment in their development which necessitated significant pause for discussion, debate and decision making around how best to bring the movement forward. The Commission provided a much needed forum this crucial exchange.

Notwithstanding the above, the task at hand is to craft a legislative framework which, while sufficiently stringent to address any difficulties in credit unions which may arise, is appropriately balanced within an environment where credit unions can continue to develop and succeed.

Within a fortnight of the publication of the Commission's Final Report, 376 credit unions were represented at the 2012 League AGM (c. 750 delegates) and four hours were spent debating the Commission's Report. In the weeks following that AGM, the League held 6 roadshows throughout the country for the specific purpose of listening to the views of attendees on the Commission Report. 761 credit union officers (representing 238 credit unions) attended these meetings. As a further means of assessing the position of its member credit unions, the League has canvassed its 387 member credit unions in the Republic of Ireland on a number of occasions in order to obtain views on both the Final Report and the General Scheme and will continue to do so.

Further, the constant communications between the officers of member the individual credit unions and the 13 elected members of the board of

directors of the ILCU ('the League Board') informs the ILCU Board's debate. While the ILCU and its member credit unions appreciate the significant task completed by the Commission, as you might expect, those credit unions we have engaged with to date i.e. the vast majority, do not agree with/support all of the Commission recommendations. That said, many credit unions can also recognise the many positive aspects of the Commission Report and, in turn, the draft General Scheme. The purpose of this submission is to focus on areas where concern continues to exist among ILCU member credit unions and Chapter representatives and to provide suggested solutions to same.

1. Feedback from League Annual General Meeting 2012 (on the Final Report of the Commission): extracts from the verbatim minutes of the meeting

Tiering by Asset Size Alone

- *The span from 10 to 100 million for Type 2 credit unions is too broad, there's a vast difference between the type of entity at either end of the scale. Should categorisation by membership size be considered? It was a mistake to just have three tiers - four may have been more manageable.*
- *I don't believe that credit unions in the smaller sector, say 15 to 20 million in asset size, can meet the requirements of the second tier regulation when you consider their board size. You won't get the type of volunteers that are needed to populate all these committees and where board turnover is being forced onto a small membership base e.g. 3,000/4,000. You'd need a membership base of maybe 6,000/8,000 for that kind of turnover in volunteers especially when you consider the skills now being required of them.*
- *I feel you're going to need income and expenditure leaving you with a decent surplus of close to €1million before you can meet the extra costs around governance and fitness & probity. You're going to need increased wages for the skilled staff required to run the executive function, you're going to need professional fees, you're going to need extra trading costs, you're going to have extra levies and extra reserves and then you have to look at giving your members a decent dividend and a return. What size of income are you going to have to generate to be viable at the end of all that?*
- *So to say that restructuring is voluntary is not right. It's not voluntary. It's a question around the size of the credit union – both membership and assets – and whether or not they can meet second tier regulation.*
- *The tiered regulatory approach as outlined and based on asset size provides a platform to fast track the enforced restructuring of some credit union. A sub €10million credit union won't be able to provide certain services to members unless they amalgamate.*

Term Limits

- *Many long serving directors are the anchors of credit unions. The cost of training new people is huge. The clock starting on the 9 years once the legislation comes in means there'll be a mass exodus from boards in 9 years' time. It will be devastating for both boards and for the movement to lose that longstanding experience. We have three people*

on our board with over 20 years' experience but we also have people who started just last year and others who started three years ago or five years ago – all mixed in together as a group. We have renewal – maybe the Commission thought we had the same 11 people there for 20 years but we don't – we have new thinking and new blood coming in all the time.

- *How did the Commission come up with a 9 year service maximum for a volunteer director? The fact of the matter is that we want people who are educated, qualified, who fit all the requirements to serve on a board and then after 9 years we are to tell them they have to go? If you look around this movement, most of the people who are long term are the backbone of their credit unions and we all just wonder how you came up with 9 years and whether there's any other financial institution in the country where the directors have to resign every 9 years?*

Board of Directors

- *We have an audit committee, a risk committee, a nomination committee and a remuneration committee all populated by board members. We're going to have busy board members, particularly if we only have 7 or 9. We're all aware of difficulties getting volunteers and it seems to me that the workload for board members, who are all volunteers giving their free time, is becoming excessive and I don't know what the future will bring if we load our board with the sort of work that is being proposed by the Commission.*
- *What is the rationale behind voluntary assistants being excluded from boards because in some credit unions, voluntary assistants man sub-offices? This could lead to the closure of sub offices leaving communities with even more services being taken away from them.*
- *Where is the evidence to support such absolute hard and fast separation between executive and non-executive functions in Irish credit unions so that there can be no flexibility?*
- *Regarding small credit unions that are viable but have no staff – do they now have to employ some to perform the executive function?*
- *The 11 person limit on the board may reduce the member representational aspect of the board of the credit union which causes concern.*
- *The maximum number of directors needs to be looked at again. With all the committees that need to be populated, 15 may be more appropriate. The size of the workloads and whether anyone has a conflict of interest in sitting on some the committees needs to be considered. There should be a degree of flexibility in the legislation for credit unions to decide the right board size for their credit union within statutory limits but the maximum needs to be increased from the Commission's recommendation.*
- *Will a director appointed by the Central Bank be paid and if so, are volunteers going to continue to do voluntary work while someone else on the board is being paid?*
- *One person (Chair) conducting performance evaluations of a whole board is not practical. It would be better to have it done by the Board Oversight Committee.*

Other

- *Disappointment that no credit union liquidity mechanism was recommended.*
- *Economies of scale could be achieved by CUSOs or other shared services models.*

2. Feedback from League Roadshows held in May/June 2012 (on the Final Report of the Commission): The League convened six roadshows during which some recurring issues of concern emerged among the 761 attendees

Tiering by Asset Size Alone

- *Much concern was expressed around the width of the illustrative asset band for type 2 credit unions. There was widely held belief that this band was too wide and that the difference between a credit union with assets of €10 and a credit union with assets of €99 million is vast and so, the same regulation would not be appropriate. It was suggested that the band for Type 1 credit unions could be widened to €25 million or perhaps even €35 million.*

Term Limits

- *There was widespread criticism of the recommendation to place a term limit on the number of years a Director or Board Oversight Committee member can serve.*
- *If this recommendation is contained in the new legislation, the Irish movement would become the only movement in the world where such a term limit would apply. It is also worth noting that no other financial institution in Ireland has such hard and fast limits on the term of directors.*
- *Finally, the cost of training and updating board members is significant and frequent turnover of board members will only add to this cost. This will be a particular problem for smaller credit unions.*

Application of Governance Arrangements to Small Credit Unions

- *Many of the proposed governance requirements will impact unduly on small credit unions in dramatic ways. For example, our members advise that the exclusion of voluntary assistants from boards and board oversight committees would mean that small credit unions would require a higher number of volunteers than that which is currently available.*
- *The Commission made two points regarding restructuring. Firstly, financially sound credit unions would be facilitated to continue on a standalone basis and secondly, restructuring would be voluntary. Many of our small member credit unions advise that excluding voluntary assistants from boards and board oversight committees run contrary to these principles and may force small credit unions to amalgamate.*

Other Prohibitions on Board/Board Oversight Committee Membership

- *With regard to the other prohibitions on membership of boards and board oversight committees, it was widely felt that the list was overly exhaustive and the legality and constitutionality of these prohibitions*

should be comprehensively assessed before being written into legislation.

- *It was felt that these prohibitions would be particularly problematic for smaller credit unions and would make it more difficult for them to operate, or even exist. There was also widespread concern that the democratic right to serve a credit union, and indeed that of members to elect individuals to office, was being unduly restricted. This aspect of the legislation should be revisited.*

Removal of the Office of Treasurer

- *Credit unions were critical of the recommendation to remove the role of Treasurer however, it was accepted that the Treasurer should not be the managing director. It was considered vital that the Treasurer be retained albeit in a purely non executive capacity.*

3. Responses from Member Credit Unions to Requests for Views

i. On the Final Report

General comments/queries (under various headings) received from member credit unions and Chapters on the Final Report follow:

General

- *Concern around the negative impact some of the proposals in the Final Report may have on the movement in general and smaller credit unions in particular.*
- *Fear that some proposals will make closures inevitable leading to the removal of another vital service from rural Ireland.*
- *Some of what is proposed represents an unprecedented assault on the ethics and principles of credit union which are at the core of our democratically based and community owned movement.*
- *Changes to the appointment and selection of directors will, in yet another way, mitigate against real member/community ownership of credit unions.*
- *Term limits for directors would remove a wealth of knowledge/experience from the movement.*
- *The shift in emphasis from board to management running credit unions diminishes board (i.e. volunteer) influence in the running of every credit union and the movement as a whole.*
- *Credit union leaders countrywide feel extremely let down by a misguided stampede to embrace previously failed and discredited models and operational standards which are totally inappropriate for a co-operative, volunteer-led organisation.*
- *Credit unions are open to change and would welcome positive changes to legislation and regulation once based on conserving the credit union difference and character.*

Tiering on Asset Size Alone

- *It is not appropriate that a credit union with assets of €10m would invite the same level of regulation as a credit union with assets of €99m. The band is too wide for proper analysis and comparison of risk.*
- *There should be at least five tiers - €0 to 10m, €10+ to 30m, €30+ to 60m, €60+ to 100m, Over €100m.*

- *Credit unions should be regulated according to the level of risk they pose, not asset size.*

Proposed Restrictions on Type 1 Credit Unions

- *The Report recommends restricting Investments to bank deposits with a maximum term of one year (was 50% > 5yrs, 20% 7-10yrs) and restricting lending to a maximum term of five years.*
- *We believe that these restrictions are too severe, will have a serious impact on the income of Type 1 credit unions and threaten their viability going forward. We can find no justification for the severity of these restrictions other than to fast-track the amalgamation of smaller credit unions, which is contrary to the stated objective of the Commission Report i.e. that all amalgamations should be voluntary. We would suggest instead that Type 1 Credit Unions would be restricted to Bank Deposits with a maximum maturity term of five years and that lending would be restricted to a maximum term of ten years.*

Proposed Restrictions on Type 2 Credit Unions

- *The Report recommends restricting Investments to bank deposits and government bonds with a maximum term of five years (was 50% > 5yrs, 20% 7-10yrs).*
- *We believe that this restriction is too severe and will have a detrimental effect on the income of Type 2 credit unions.*
- *We would suggest that Type 2 Credit Unions would instead be restricted to bank deposits and government bonds with a maximum maturity term of ten years with the existing limits of 50% > 5yrs and 20% between 7-10yrs being maintained.*
- *Removal of the position of Treasurer would deprive the board & members of an important connection between the finances of the credit union, the board and the members at AGM. The Final Report suggests that the chairperson should take over some of that role, with the manager being given an increased role. This will lead to conflict between the board & the manager.*

ii. On the draft General Scheme

General comments/queries (under various headings) received from member credit unions and Chapters on the draft General Scheme follow:

a. General

- *While many of the proposals are positive and welcome there is a view that some of the provisions, if implemented, will:*
 - *lead to the diminution of local democracy and accountability;*
 - *run counter to the fundamental ethos of Credit Union;*
 - *impose obstacles to the recruitment of volunteers;*
 - *drive up the operation costs of credit unions;*
 - *overly restrict the ability of credit unions to provide financial services;*
 - *reduce the level of oversight of the Board of Directors; and*
 - *create mistrust and acrimony within the Board.*
- *The Bill makes no attempt to preserve what is good about Credit Unions or to enshrine their ethos in legislation, rather it will introduce*

legislation that will force Credit Unions to abandon their ethos and operate in the manner that will relegate the member to merely a method of raising funds to cover the fees and levies being imposed on Credit Unions.

- *The draft General Scheme fails to recognise the community focus and volunteerism which has been part of the movement since its foundation and which has served it well for over 50 years.*
- *It is our belief that there are much more straightforward solutions to legislating for and regulating Credit Unions than what is contained in this Bill. We believe firstly that a transparent regulatory system is required, where regulatory targets are set out for the various areas of operation and Credit Unions are monitored to ensure they achieve these targets. There should be clarity of the steps that the Regulator will take if these targets are not met and there must be a facility for Credit Unions to appeal orders/decisions of the Regulator.*
- *To enable Credit Unions to achieve these regulatory targets and to allow them to operate in accordance with their ethos, there should be governance standards which are appropriate to Credit Unions, not simply the same standards that apply to multinational financial institutions.*
- *The ultimate body with responsibility for the Credit Union is the membership and this needs to be recognised in any legislation. To effectively remove the members right of choice over who will be their directors is unacceptable and so a better way of vetting potential directors whilst at the same time allowing members the opportunity to select the directors they want, needs to be found.*
- *A number of the sections of the Draft Bill refer to levies on Credit Unions - others will impose costs on Credit Unions. Prior to any of these sections being enacted an impact analysis should be carried out on the impact these additional costs will have for Credit Unions, bearing in mind that it will ultimately be the membership of Credit Unions who will have to pay these costs. Where possible, the source of these costs and levies should be removed, as for example in not setting up ReBo but finding an alternative way to deal with any necessary Credit Union amalgamations. Otherwise a mechanism should be considered to allow such costs/levies to be deferred for a period of time and paid over a longer time span than just the year in which they are incurred.*
- *The Board of Directors has, for the last 60 years, comprised volunteers. For the majority of Credit Unions, this has been the springboard to their success. To bring in legislation and regulation that will ultimately result in the demise of the volunteer director is not the solution to any problems caused at present. Volunteer directors in Credit Unions have shown their willingness to obtain qualifications, get training and give the time commitment needed. There is no reason to doubt that this will be the case in the future. This should be encouraged and directors who wish to make a long term commitment to a credit union should be allowed to do so.*
- *Concern exists around the wide reaching powers which are now proposed to be granted to the Central Bank.*
- *Failure to develop a Prudential Rulebook for release alongside the draft General Scheme was criticised.*

- *Substantial fear exists around the costs involved for the movement in relation to ReBo, the stabilisation fund, the resolution fund etc.*
- *Any successful community activity or co-operative depends very much on volunteerism. It will now become much more difficult to encourage and get members to take on the role of Directors / Officers and volunteers will be more likely to walk away.*
- *The erosion of the volunteerism, social and community roles of credit unions is a grave and negative feature which, once discouraged or lost, cannot be restored.*
- *There must be a definite and vital role for the ILCU as the representative body for credit unions.*
- *The unique and very important role which credit unions as community based financial co operatives have held and continue to hold in Irish society is hugely significant. It is absolutely vital that this is recognised by legislators who must ensure that this unique role is maintained into the future.*
- *Currently a huge vacuum exists for financial services in many communities throughout Ireland and Credit Unions are best placed and wanted by members to service those financial needs. The currently enforced rationalisation of high street banking and growth of money lending is more than ample evidence of the clear need for credit unions in our society.*
- *The credit union movement, and indeed legislators, need to carefully consider the implications of throwing out the current working model. It is a model that only requires tweaking and updating. It's too late having regrets in five years time.*
- *It is generally accepted that some restructuring of credit unions is desirable and perhaps necessary going forward but our members' concerns and opinions strongly suggests that there are too many and severe restrictions in addition to the unnecessary and excessive over haul of the credit union model recommended in the report which must be resisted for the good of the movement.*

b. Opposition to Attempts to Mirror Banking Models

- *The legislation should acknowledge the difference between Credit Unions and other financial institutions having regard to its not-for-profit ethos, volunteerism, and community focus. The credit union, as we know it, as a community based financial co operative with it's not for profit but for service ethos, will now become another bank. This is not in line with the wishes of credit union members.*
- *The proposed composition and structure of credit union boards is now to resemble that of banks. Another "Bank" model is not wanted by credit union members in the Republic of Ireland. Members want their local credit unions – ask them.*
- *The overall effect of the draft General Scheme will be to place an unacceptable and intolerable burden on volunteers – whether Directors or BOC Members. No one should – or could – be reasonably expected to do this on an unpaid/voluntary basis but where have paid Directors brought us to in Banks and Corporate Ireland in general?*
- *We do accept that there is a need for change in the Credit Union movement and that legislation and regulation to support this is required. However this legislation and regulation should have the*

starting point of that which is good about Credit Unions and which has meant that the majority of Credit unions are still operating within all acceptable guidelines. This means that the basis for legislation should be the existing Credit Union model, not the standard banking model. The banking model in various countries throughout the world, and none more so than in our own country, has been shown to be seriously flawed and seemingly, immune to regulation.

c. Calls for further work to be completed prior to the enactment of legislation

The following was submitted by a number of Chapters of member credit unions:

*Below is a list of **Nine Issues** which we feel must be rectified before new legislation is enacted so that the Commissions proposals can be refined and improved.*

- 1. The "9 yrs out of 15" max term for Directors and Board Oversight Committee*
- 2. The maximum of 11 Directors allowed on a Board.*
- 3. The Central Bank Pre Approval for Directors and Officers.*
- 4. The strict separation of functions between the Executive and Governance areas*
- 5. The role carried out by the Treasurer of the Credit Union*
- 6. The Tiered Regulation – amend to create a fourth tier and/or adopt risk based approach*
- 7. Include a definitive Role for the ILCU as a single Representative Body.*
- 8. Include developmental Initiatives to support existing Credit Unions*
- 9. Maintain the ILCU SPS as a central plank of credit union stabilisation.*

Another credit union submitted:

We would respectfully suggest that the enactment of legislation for Credit Unions be postponed for a period of 12 months as we find the present Draft bill to be seriously flawed and we believe this stems from the fact that the whole process of reviewing the Credit Union movement has been rushed. We further believe that the Report of the Commission on Credit Unions was not related to Credit Union operations in Ireland and appears to have used as the basis for its findings the incorrect assumption that Credit Unions in Ireland have failed because we are not like banks whereas it is, in our opinion and belief, the reverse of this that should have formed the basis of their findings – Credit Unions in Ireland have succeeded because they are not banks.

It is our strongly held view that an opportunity is being missed by basing this Draft Bill on the flawed findings of the Report of the Commission on Credit Unions. This Government have the chance to secure the future of the Credit Union movement for the continued benefits of the Irish people, to facilitate its ongoing support of the less well off and financially marginalised of our society and to enshrine the ethos of Credit Union in legislation. This Draft Bill fails to do this and we therefore repeat our request that it should not be proceeded with in its present form but that it be substantially rewritten over the next 12 months with a focus on the

structures that have allowed the Credit Union model to succeed while the banking model has failed.

Part 1 – Prudential Requirements

Head 1

It is vital that the classes of Credit Unions are properly considered and established within the Bill itself as opposed to being left to the Regulator per Head 1 Subhead (1).

The Report of the Commission on Credit Unions suggested three classes of Credit Unions. We believe that this suggestion will result in disproportionate regulation for some Credit Unions and we would therefore suggest that there should be five classes as follows:

Class 1 - Assets less than €10m

Class 2 - Assets between €10m to €30m

Class 3 - Assets between €30m to €60m

Class 4 - Assets between €60m to €100m

Class 5 - Assets over €100m.

Head 6 Lending

- *Our main wish is to ensure that Credit Unions are treated equitably in comparison to the other financial institutions.*
- *We are particularly anxious to ensure that credit unions are enabled to offer lines of credit to our members in the same way that other financial bodies can.*

Head 7

- *It is a source of concern that the range of investment categories in which credit unions are allowed to place surplus funds is not addressed more directly in the current draft of the Bill. This is an extremely important issue, as most credit unions generate a significant (and sometimes greater) portion of their overall income from investments and, in our opinion, the range of permitted investments should be explicitly stated as part of the primary legislation rather than contained in a secondary regulatory document.*
- *Under this draft, the responsibility to make regulations regarding the categories in which a credit union may invest its funds remains, as before, with the Central Bank. In our opinion the range of permitted investments should be explicitly stated as part of the primary legislation rather than being published separately by the Central Bank.*
- *With regard to the nature of the permitted investments, we are of the view that the Guidance Note of 2006 contained a significant flaw and that the proposed legislation is an opportunity to directly address the future regulatory environment in this area. While the 2006 Guidance Note correctly emphasised the need for prudence in relation to members' funds, and required the overwhelming majority of members' funds to be placed in fixed income investments, it permitted investment in bank bonds but not in bonds issued by large companies in other sectors. As the unfortunate events of recent years have shown, this limitation, far from protecting credit union funds from risk, actually*

multiplied that risk. This restriction failed to take any account of the basic principles of portfolio theory which encourages those placing funds in investments to distribute them between different classes of investment **and also different sectors of industry**, so that adverse trends in any single industry has a less pronounced effect on the value of the overall investment portfolio. It could also be argued that the Guidance Note of 2006 was effectively a State subsidy to the capital base of the banking sector, by placing this industry in a more favourable position than others in relation to the securing of funds available for investment by credit unions.

- For various reasons, including the complexity of present-day financial markets, and the tendency towards ethical failings by senior banking figures in many countries, it is likely that financial crises will continue to emerge. Therefore, it is highly unwise for credit unions to be limited or encouraged to place funds in bank bonds to the exclusion of other industrial sectors.
- We are of the view that there should be a specific reference in the legislation to the need for credit unions to place their surplus funds in a range of investments in different sectors of the economy, in order to minimise the risk to members' funds. We are of the opinion that, in addition to bank bonds, credit unions should be allowed to invest in Euro-denominated bonds issued by large industrial companies, operating in sectors that are less cyclical than banks (e.g. food, personal and household goods, certain utilities). There should also be a provision for credit unions to invest in bonds issued by suitable bodies for infrastructural development within Ireland. Any such provision in the legislation should, of course, include restrictions as to the credit rating of qualifying companies or bodies and the ranking of the securities concerned.

Shortcomings in the Tiered Approach in relation to investments by credit unions

- Head 7 states that the requirements in the area of investments may vary depending on the type of credit union under the tiered regulatory approach outlined in the Final Report.
- In the Report, for Type 2 credit unions (Assets of greater than €10m and less than €100m), the allowable categories of investments are restricted to bank deposits and government bonds. While it is reasonable that credit unions would invest in bank deposits, the restriction to government bonds is again in disregard of the principles of portfolio theory, and increases risk of future losses.
- Government bonds can no longer be seen as inherently lower risk than other classes of fixed income instruments. To consider otherwise is extremely naive in light of recent and current developments in the Eurozone.

Heads 9 and 10

- While the appointment of a Risk Management Officer and Compliance Officer is desirable and the importance of the duties recognised, it should not be set out in the prescriptive model detailed here which will create additional costs for credit unions.

- *Wish to see more proportionality in these requirements for credit unions. A one size fits all approach will unfairly burden the smaller and medium sized credit unions.*
- *Is it necessary to create new positions of Risk Management Officer and Compliance Officer when these functions could be carried out by the Board Oversight Committee?*
- *The creation of these two posts and the manner of their appointment will add to the running costs of credit unions. While both are important functions, there is no reason why they cannot be carried out by existing credit union personnel following training and with supervision.*
- *The need for a Risk Management Officer and Compliance Officer is dubious. Whether these new posts are paid or unpaid, the need is unclear and unconvincing. Didn't these posts exist in failed Irish institutions?*

Head 16

The issue of outsourcing needs much clarification.

- 4 (j) *What happens where the service provider is not in the jurisdiction?*
- (7) *What constitutes a material business activity?*
- (10) *Appears to give the Central Bank power to restrict, prevent or control the process for selecting a service provider. Concern exists around whether this could lead to anti competitive practices thereby creating a reduced market for credit union outsourcing which would ultimately result in a more costly option for credit unions.*

Head 17

- *The internal audit function should report to the Board Oversight Committee. The Board Oversight Committee reports to the members at AGM and it is their responsibility to report if the Board of Directors has carried out its affairs correctly.*

Part II Governance

General

- *Significant concern exists around the reduction in the number of directors, the limitations on terms of office, the consequent diminution of the operating principle of democratic control and particularly, the impact of all of this on the expertise available to credit unions.*
- *The proposal to place a limit on the term a director or BOC member can serve is not in the best interests of the movement.*
- *Many of the governance proposals regarding the role of volunteers will adversely impact on operations (particularly of small credit unions).*
- *Prohibitions on eligibility for board membership restrict the members' democratic rights.*
- *What business can afford to replace key, well qualified personnel after three (Chair) and nine years (board and board oversight). If a proposal doesn't make sense, it won't work.*

Head 18

- *The sentence on remuneration policies and practices is not clear.*
- *What does "remuneration policies and practices must be consistent with and promote sound and effective risk management" mean?*

Head 20

General - *Many aspects cause concern and the many risks and implications associated with this Head must be teased out in full before enacting legislation.*

Term Limits

- *With regard to the draft Credit Union Bill, we believe that the outcome of the Credit Union Commission Report is a package to be implemented together however, we believe that sections of Part 2: Governance are overly restrictive and, in particular, we believe that Head 20, subhead 14 is unnecessarily restrictive. We are of the view that the nine year term of office is inconsistent with the Central Bank's own rules for other Institutions. In 2010, the Central Bank published its **Corporate Governance Code for Credit Institutions and Insurance Undertakings** which states at 7.13: 'Institutions shall review board membership at least once every three years. Institutions shall formally review the membership of the board of any person who is a member for nine years or more and it shall document its rationale for any continuance and so advise the Central Bank in writing. The frequency with which board membership is renewed shall be documented. The renewal frequency shall consider the balance of experience and independence sought'.*
- *We are unaware of any evidence, in Ireland or elsewhere, which demonstrates clearly that such tough conditions on Volunteer Directors (and Boards) have impacted positively on Co-Ops, Community Groups.*
- *The requirements of Head 20, Subhead (14), (15) and (16) will present serious issues in maintaining a constant supply of suitable candidates for the Board of Directors from the membership who would be prepared to undertake the necessary training. They will also mean that experienced, committed, talented directors will be discarded when they will still have a valuable contribution to make at a stage in their credit union development to best make it. The constant turnover of Directors could have a destabilising effect and will mitigate against long term planning. For these reasons, we believe that there should be no limit on the term of office of directors, other than that they have to be elected every three years by the membership.*
- *The time limits on Directors will result in the loss of a large cohort of good quality and experienced people, which in many credit unions will mean changing a winning team. It will also mean additional cost for credit unions in training new Directors. It would better serve credit unions if such limits were performance related and not just based on time. It would give Directors the incentive & choice to continue making a positive contribution to their credit union.*
- *The limit will adversely affect credit unions as members will have to leave when they are best qualified to contribute to the running of the CU. The manager will be the only constant at board meetings as there is no limit to the time he/she can work for the CU. This means the manager will have a dominant position at the board table. To counteract this CU boards will have to consider 3-5 year fixed term contracts for managers in future.*
- *We feel that no organisation or company should be forced to dispense with the services of directors who still have the ability to contribute in a*

positive manner to that organisation and would seriously question why this should be the case for credit unions.

- *The limit is draconian. It will reduce – and in time erode – our ability to recruit new Volunteer Directors. In what other walk of Irish life does such a stringent rule apply and with what result?*
- *It would appear that the thrust of these new measures will bring about the demise of the Volunteer – at the expense of the Credit Union and the Community it serves – in favour of “the professional” Director and (paid) Board.*
- *Opposition to limitations being imposed on the term of Chairperson (and other principal officers).*

Prohibition on Board/BOC Membership

- *Eligibility requirements for the board and board oversight committee need to be revised as they are unduly and unwisely restrictive*
- *The restrictions set out are disproportionate. They will result in the voluntary ethos and input of credit union members being diminished and eroded. Members may shy away from participating in various roles with potential negative consequences for individual credit unions within communities everywhere.*

Board Qualifications

- *It is somewhat ironic that directors must show that they comprehend the Operating Principles when those same Principles have not received due recognition in the Final Report or the draft General Scheme.*
- *The prescriptive yet undefined language used around financial services expertise, qualifications and background which directors must possess is a concern.*
- *Restrictions on recruitment and qualifications for service are overly onerous and will seriously hamper a credit union's ability to recruit directors in the future. The maximum number of directors will reduce the resources available to the Board in the face of greater demands.*
- *Staff who are not involved in operations e.g. cleaner, porter and whose partner is a director, should not be precluded from working in the credit union*
- *Why state that “Each Director and the Board collectively must have relevant Financial Services expertise, qualifications and background or be required to undertake relevant and timely training” when surely it is (necessary and) sufficient that the Board has a balance of skills and experience to perform its’ duties which would include Human Resources, Information Technology, Communication, Public Relations, Health & Safety, etc.*

Maximum Number of Directors

- *The recommendation to reduce the number of members on a board is surprising at a time when new committees are to be set up. The Credit Union Act allows for the members at AGM to reduce or increase the number of board members if they so wish. The members are the owners of the credit union. This impinges on their democratic rights. The report states “Each CU is governed by its members” but is taking that right from them.*

- *In view of the Nominations, Audit, Remuneration and Risk Committees having to be populated entirely from the board, the reduction in the maximum number of directors should be reviewed.*
- *The restriction to eleven members will result in a work overload for the chosen few.*

Interference with the Credit Union Operating Principle of Democratic Control

- *Opposition to the idea that the Central Bank would have power to pre-approve directors and officers along with the removal of the democratic right of the members to nominate from the floor of AGM.*
- *Seeking pre approval before Directors can sit on boards is an impediment which will be off putting for prospective volunteers*
- *Remove the Central Bank pre approval for Directors as this breaches the democratic right of members to be nominated from the floor at AGM.*

Removal of the Role of Treasurer

- *The role of Treasurer is a vital link between the finances of the Credit Union, the Board and the members. The Manager is not an elected official. This would be similar to suggesting that the Minister for Finance should hand over financial responsibility for the country to the Secretary of the Department.*
- *Stringent opposition to the removal of the role of Treasurer which provides an invaluable link between the board and the management as well as providing input into the preparation of the monthly accounts for approval by the board.*
- *Agree with some of the proposals regarding the role of the Treasurer but we do not agree that the role should be removed entirely assigning all responsibility to the Manager.*
- *The abolition of the role of Treasurer largely removes the oversight role of the Board from the preparation of, and inquiry into, the management accounts.*
- *We do however believe that the role of Treasurer as presently defined is outdated and that the Treasurer should only be the General Manager if there is no Manager appointed in the Credit Union. We believe that the Treasurer's role, apart from his responsibility as a director, should be confined to responsibility to the Board and members for the financial accounting of the Credit Union.*

Head 21

- *Much more clarification required. Is it necessary / advisable that such a director would have equal rights to existing elected directors?*
- *It is not appropriate to assign the same rights, duties and responsibilities as the other directors to someone appointed by the Central Bank. Surely the critical element here is that the appointee is present at meetings to give advice and direction? Indeed, giving such a person a vote may prove counterproductive.*

Head 24

- *Additional responsibilities being imposed on the Chairperson are onerous and will make it increasingly difficult to source volunteers for this position.*
- *The functions of the Chair, as proposed, could create strained relationships and tensions within the boardroom ultimately leading to a dysfunctional Board. Some of these functions would be more correctly assigned to the Board Oversight Committee.*

Head 25

- *Confusion/concern exists around the division of responsibilities between the Manager and the Board of Directors.*
- *The wording of Head 25, Subhead (1) and (3) precludes the Manager from being a director. In this case, consideration needs to be given to those Credit Unions which have no staff. We would suggest that Type 1 Credit Unions be specifically excluded from this requirement.*

Head 26

While fully subscribing to the necessity that directors act, at all times, free from conflicts of interest, the wide ranging prescriptive nature of this Head could paralyse a board.

Head 27

- *It is our opinion that the requirements for the nomination committee set down in Head 27 are unworkable if members are to be allowed to continue to have democratic control of their Credit Union. A better way of vetting potential directors whilst at the same time allow members the opportunity to select the directors they want needs to be found.*
- *Concern exists around the role and function of the Nomination Committee particularly in relation to exercising its responsibilities where it will be required to make (what could be seen as) arbitrary decisions in relation to the suitability of candidates for appointment to the board.*
- *The process seems to require that the board chooses the Chair for the incoming board (with potentially a significantly altered membership). What happens if that person fails to be elected? Should the post AGM meeting provisions be altered to take account of this?*
- *Consider specifying timeframes around paragraph (6).*
- *The procedure for nomination of candidates is overly restrictive. The ban on nominations being made directly from the general membership is not necessary and is anti-democratic.*
- *The inquisitorial nature of the proposed functions of the Nomination Committee appear to us to be much too onerous and restrictive and will serve only to reduce further the already dwindling pool of willing volunteers from which candidates are chosen.*

Head 28

- *What would be the remit of a Remuneration Committee? Its function/nature is not defined or even outlined.*
- *No detail is provided on the Remuneration Committee. Its functions should either be clearly defined or reference to it should be removed. Is it intended as a means to end the role of voluntary directors?*

Head 29

Qualifications for membership appear much too restrictive.

Part III Stabilisation

General

- *In respect of stabilisation, a way be found to incorporate the League's SPS into a recognised SPS for all Credit Unions, controlled by Credit Unions with the aim of assisting Credit Unions to trade out of difficulty and if this does not seem possible, to assist Credit Unions in merging.*
- *The section should be amended to take account of the SPS.*
- *The new Stabilisation Fund takes no account of the long existence of the ILCU SPS Fund, yet the Central Bank "shall not provide any funds" to it "from its own resources". Credit Unions must contribute to it as the Central Bank decrees; and the "Bank shall manage and administer the Stabilisation Fund" at the expense of Credit Union members.*
- *Contains wide ranging powers to be exercised in a discretionary manner based on (what could be described as) an arbitrary opinion of the Central Bank.*
- *It provides for a scenario where the costs of stabilisation which the Central Bank will incur will be recouped from the credit unions without those credit unions having any input into the determination of those costs. Will exorbitant costs arise?*
- *It has not yet been defined how contributions to the Stabilisation Fund would be calculated. Credit Unions would not have any input in administering the fund as this would be administered and managed by the Central Bank.*
- *Further specifics on this section are most definitely required before legislation is drafted.*

Head 32

The funding mechanism has not been indicated. It is essential that this is decided without further delay. In the event of shortfalls, how will the Fund be recapitalised?

Part IV Restructuring

General

- *The forthcoming legislation and the manner in which ReBo will carry out its work will impact on, and have consequences for, the movement for generations to come. It is incumbent on us all to ensure that the final outcomes will result in all members and potential members being able to benefit from strong and secure credit unions of the future which will continue to put people first.*
- *With regard to restructuring it is our belief that the cost this Bill proposes to put on Credit Unions is unnecessary. We believe that if the Regulator has identified Credit Unions which are not meeting the targets then he should be given a fund to enable him have these Credit Unions transferred into another Credit Union.*
- *The wholesale merger of Credit Unions is not necessary and will not generally be to members, or Credit Unions, benefit. It may well assist the Regulator by reducing the number of entities he has to deal with but this is not a sufficient basis for such drastic action. The funds and*

levies required for ReBo would achieve far more benefit for the Credit Union movement by being retained within Credit Unions.

- *Indications from the Final Report and the draft General Scheme are that the restructuring process will not be voluntary given the combined impact of governance, stabilisation, legislation and prudential requirements.*
- *Concern that amalgamations would be forced on viable Credit Unions with the Bank having the power to define "viable" without any consultation. The forced mergers of Credit Unions, resulting in fewer Credit Unions nationwide would have a negative impact on local communities.*
- *The funding of ReBo is a cost which will have to be borne by Credit Unions. This is very open ended as the Board (ReBo) may engage the services of expert advisers or other service providers where it considers it necessary or expedient to do so.*
- *The proposed restructuring, while plausible in theory, will have the effect in reality of creating fewer credit unions in our communities, with the strong possibility of coerced mergers / amalgamations.*
- *We have to pay into a new "Restructuring Fund" – and we cannot conduct our business unless we do so yet the Minister can be reimbursed for all contributions made. Such costs are excessive and disproportionate on Credit Unions.*
- *Credit unions will be asked to contribute to a Stabilisation Fund, a Restructuring Fund and the cost of the ReBo Board, as of now we do not know how these costs will be calculated.*

Head 51

- *Is this levy in addition to the proposed levy to fund the operational costs & capitalisation costs of ReBo?*
- *If it is in addition to the ReBo levy, how much will the levy for ReBo cost credit unions?*
- *Credit Unions will require information on such costs and indeed on the cost of the proposed State Stabilisation Scheme if we are to accurately project our operating costs for our 3-Year Strategic Plans required by the proposed new legislation*
- *Why is funding to be collected in advance? Surely, those credit unions that will avail of this Resolution Fund should pay a proportionally larger percentage of the Levy than other credit unions and this can only be calculated retrospectively?*
- *Why not spread the levy over a longer period of time thus reducing the impact on credit unions in these challenging times?*

Part V Amendments to the Credit Union Act, 1997

Item 32

It would be more beneficial for credit unions if the time limits on Auditing firms were based on the quality of their work. Some credit unions will be reluctant to change their current Auditing firm principally due to the quality and scope of their audit and the professional manner in which they approach their work. The proposed time limit on Auditing firms will also increase costs for credit unions particularly in the first year of the new Auditor. It is proposed instead that an individual Auditor (not the Auditing

firm) be rotated every 6 years, but that the continuance of the Auditing firm would be performance related.

5. League comments on various of the draft Heads

The League would comment on various draft Heads as follows:

Part I Prudential Requirements

Head 1

(5) *"the financial services legislation"* means little in a credit union context and any intended legislation should be specifically mentioned here

Head 6

General We would want to see section 35 (8) of the CUA 1997 retained

(1) We feel the last sentence is already well catered for in the CCD obligations

(7) Ensure no conflict where a credit union decides not to have NQMs

Head 16

General A definition of an outsourced activity would be useful

(2) Earlier point about "financial services legislation" applies

Part II Governance

**** Part II needs a specific enabling provision to allow the Central Bank to vary governance regimes between the various tiers of credit unions****

Head 18

(1) Given the volunteer nature of credit unions, the Part should not commence with mention of remuneration policies etc

Head 20

General Further work may be needed around which aspects of the CUA 1997 to repeal

Head 21

General The issue of any appointee to the board needing to be a member of the credit union is not catered for here but needs further consideration

Head 22

(1)(l) *"financial services legislation"* earlier point arises and also – is this wide enough? What about data protection, health & safety etc.?

(1)(n)(o) The sub head reference here should be to 11 and 12
Also, the Report envisaged a scenario whereby the board of directors could remove one of their own in certain circumstances. If that's to be the case, a specific power is needed

(8) Clarity should be provided around what does/does not constitute a reserved matter

Head 23

(5) Last sentence – while lifted from (and presumably more suited to) the Corporate Governance Code of others, it could prove massively time consuming in a credit union context. Is it necessary?

Head 24

(5)(h) Consider deleting “all requested” and substituting “all reasonable assistance”

Head 26

(6) Can this text be clarified? For example – we feel that bringing “proposed” before “made” in the second last line would assist somewhat.

(10) Does the wording go far enough so as to cover a situation where although a person is not a member, director, employee, shareholder or otherwise, their spouse/sibling is? Clearly its intended that “indirectly” would cover this but, in our experience, it is precisely that small bit of scope for differing interpretations that causes difficulty

Head 27

General

It strikes us that the reinvigorated Nomination Committee will be hugely powerful and wonder therefore whether it would be wise to provide for an appeal against certain of its decision e.g. if it is intended that its the Nomination Committee which has to conduct its own due diligence in order to decide whether to submit a prospective board member to the fitness & probity process.

(9) We are concerned that this may open a credit union up to accusations of defamation – even if we prepare a template for Nomination Committees to make such a report, it is in the discussions around same that, we fear, problems could arise. Surely it’s enough that the Nom Com satisfies itself (under (8) and(10)) and gives sufficient consideration to potential conflicts such that (9) is unnecessary?

Head 28

(1) If all that’s being referenced here is audit, risk and remuneration then it should say so. If not (e.g. investment, youth development) then that should be stated.

(11) We note that while the sub head refers to committee membership, the explanatory note is more concerned with behaviour – needs further consideration/clarity. What is the intention? Is it to eliminate a person holding multiple chairmanships or to prevent persons holding multiple committee memberships or both?

Part III Stabilisation**Head 30**

General

“Stabilisation support” should be defined?

- (3)(e)(III) MRR wording
(7) Precisely what costs are proposed to be covered here?

Head 31

- (4) The wording may suggest that only a volunteer from a representative body may participate.

Head 32

We would query whether the text is sufficient to allow for bulk payments to be made.

Part IV Restructuring

General

It is unfortunate that the explanatory notes make repeated reference to NAMA

Head 37

- (3) The "purposes of this Act" are not stated anywhere – as such, this reference should be revised/removed

Head 38

- (7)(b) "Stated misbehaviour" needs to be explained

Head 49

- (3) "Central Fund" needs to be defined.

6. Views of the League Board

Having canvassed, considered and discussed the views of its member credit unions on these issues, the position of the League Board on those of particular note can be summarised as follows:

1. Undue Interference with the Credit Union Operating Principle of Democratic Control

Credit union thinking, planning and operations worldwide are based on ten fundamental Credit Union Operating Principles. These principles provide a common foundation between all credit unions. Operating Principle No. 2 provides that:

DEMOCRATIC CONTROL

Credit union members enjoy equal rights to vote (one member, one vote) and participate in decisions affecting the credit union, without regard to the amount of savings or deposits or the volume of business. The credit union is autonomous, within the framework of law and regulation, recognising the credit union as a co-operative enterprise serving and controlled by its members. Credit union elected officers are voluntary in nature and incumbents should not receive a salary for fulfilling the duties for which they were elected. However, credit unions may reimburse legitimate expenses incurred by elected officials.

It is a matter of great concern to the League Board that various provisions of the draft General Scheme unduly interfere with this Operating Principle and that the recognition which is specifically called for is simply not evident.

League Board Request

That, in revisiting the draft General Scheme, full consideration be given to this vital matter.

2. Restricting Volunteerism (Heads 20 (14) and 29 (8) of the draft General Scheme)

The League Board believes that it would be inequitable, unnecessary and potentially detrimental to some (particularly small) credit unions to impose a legal restriction on the number of years an individual can serve as a director or member of the board oversight committee. Were this proposal to be implemented, the Republic of Ireland movement would be the only credit union movement worldwide where such limitation would exist.

What is the justification for this unfavourable treatment of Irish credit unions as against all other credit unions worldwide?

That no other financial institution in the Republic of Ireland is subject to this restriction was found to be highly objectionable particularly in light of recent events in the wider financial services industry in this country.

What is the justification for this unfavourable treatment of credit unions as against all other financial service providers in the Republic of Ireland?

League Board Request

That, preferable to providing hard restrictions in primary legislation, credit unions be invited to amend their registered rules to insert a provision around term limits for the board of directors, board oversight committee and principal officers, where such a proposal is considered to be:

- a. workable in the circumstances of that particular credit union (and the pool of volunteers available to it); and
- b. in the best interests of its members.

3. Prohibitions on Membership of the Boards of Directors or Board Oversight Committee (Heads 20 (10) and 29 (7) of the draft General Scheme)

The League Board has repeatedly questioned the legality and constitutionality of these exclusions which the members of the League Board view as representing both an undue interference with democracy and the constitutional rights of individuals.

While understanding the necessity to implement some such prohibitions, the League Board believes that these recommendations go so far as to almost ensure a negative impact on credit unions as a result.

League Board Request

That further and full consideration be given to this issue.

In the event that the Department decides to proceed, we would ask that

the attention of the Office of the Attorney General be drawn to our concerns at an early stage during the legislative process.

4. Tiering on Asset Size Alone

The League Board does not support the creation of classes/types/tiers of credit unions on the basis of asset size alone and believes that a model based on risk and complexity of business model would be considerably more appropriate.

League Board Request

That the model which is already operated successfully by the Financial Services Authority (in GB and, more recently, for credit unions in Northern Ireland including the League's 104 member credit unions there) whereby credit unions are categorised into *Versions* on the basis of risk and complexity of business model, be adopted in the Republic of Ireland.

5. Removal of Treasurer

While the League Board fully accepts that the definition in law of Treasurer as Managing Director is incorrect and that a number of the current statutory functions are purely operational issues which should properly be conducted by the executive; it does not believe that the office, in its entirety, should be abolished.

League Board Request

That the office of Treasurer be retained in law for the purpose ensuring the timely preparation of the accounts of the credit union and the onward presentation of same to general meetings of its members.

6. Memorandum of Understanding

At a time when credit unions are moving to a new and markedly different regulatory environment, the League Board believes that it is now absolutely critical that a *Memo of Understanding* be agreed between credit unions and the Central Bank of Ireland as a matter of urgency. The document should cover areas such as how each party will interact with the other and how communications are properly conducted – specifically, when written instructions or confirmations are required of either party. The Department's support in this initiative will be appreciated by the League Board.

7. Issues not addressed in the draft General Scheme

The League Board is of the view that a number of areas of significant importance to the continued successful development of the credit union movement in the Republic of Ireland have not been addressed in the draft General Scheme. The League Board would encourage the Department to consider their inclusion while this opportunity to have new credit union legislation enacted exists. Specifically, they are:

i. Enabling Provision at Part II (Governance)

The League Board believes that a specific power should exist at Part II which clearly enables the Central Bank to vary the application of the governance regime between various tiers of credit unions.

The clear authority in law to do so is crucial to the successful implementation of the new governance arrangements.

ii. Alternative/Additional Means of Raising Capital

The draft General Scheme makes no provision for alternative/additional means by which credit unions could raise capital. Clearly, this is a matter of particular importance where credit union incomes continue to fall.

Many examples exist of successful methods employed by credit unions in other jurisdictions to raise capital by various methods which include issuing deferred shares/member paid in capital, non member paid in capital. We believe it important to now fully consider this issue and, with that in mind, provided some further information at Appendix II.

iii. Liquidity Fund

While noting the Commission's findings around current liquidity levels within the movement as a whole, the League Board believes that this opportunity should not be lost to provide, in law, for a credit union liquidity mechanism which could be triggered at a future date in the event that such need arises.

iv. Electronically Enabled Payments Account

Given their ethos and philosophy, credit unions should be leaders in assisting Government to implement its financial inclusion agenda.

The League Board believes that the new Bill should encourage credit unions in this regard by permitting them to offer electronically enabled payment accounts.

v. Social Finance

The League Board believes that the Bill should amend the *Credit Union Act, 1997* so that credit unions can lend to Government backed/guaranteed schemes/projects which have a social benefit.

vi. Shared Services

The League Board believes that the Bill should support the establishment of CUSOs and other means of sharing services between credit unions.

vii. Regulatory Impact Assessment

The League Board believes that a legislative provision around RIAs being conducted by the Central Bank as part of its system of regulation of credit unions is both desirable and necessary.

8. Conclusion

We believe that the concerns which have been described in this document can be overcome prior to publication of the Credit Union Bill and that an early discussion around the additional items listed at section 6 would be beneficial.

With this in mind, a League delegation will be available to meet for this purpose at any time that is convenient to do so.

Finally, we want to thank the Department for its ongoing and significant efforts on behalf of credit unions both during and since the completion of the Commission process.

Submission 15:

Mr. Cian Kinsella IS Options, 31 Mespil Rd. Ballsbridge, Dublin 4.

General Comment

Mr. Kinsella made this submission on behalf of *IS Options*, which is a consultancy firm focused on Information Technology and Software for banks and financial institutions. Over the last number of years *IS Options* have undertaken quite a number of engagements on behalf of credit unions (mainly the bigger credit unions) in Ireland and the UK, and our submission is informed directly by these experiences.

IS Options has serious concerns about the IT software systems generally in use in the credit union sector. In *IS Options'* experience, they have come across serious deficiencies in some of these systems. These deficiencies include security holes, incomplete or undependable audit trails, misleading or incomplete management information, and incorrect reporting for compliance and provisioning purposes. The potential consequences of this are serious, in the opportunity for fraud or poor decision-making leading to losses or financial instability.

The problems *IS Options* have encountered are symptomatic of a generally low level of expertise and expectation within the credit unions, matched by a fragmented vendor sector that is largely driven by commercial necessities and does not understand what true quality standards need to be applied. *IS Options* have not of course examined every system but *IS Options* have examined enough of them to say the impact of this problem is widespread in the credit union sector. Of course like any generalization, there are exceptions to this rule, and in most cases that we have directly encountered such problems steps have been taken to address them. The Central Bank is aware of these problems both from direct contact by the credit unions and from our more general submissions. It is clear that there is an awareness of the gravity and extent of this problem.

IS Options are pleased to note that the General Scheme document specifically addresses this area and makes it clear that the Central Bank will regulate in the areas of Records Management, Information Systems, Management Information, and Business Continuity.

IS Options concern is about viability. To maintain a best-practice IT operation in a financial institution is not easy, and it is expensive. The recent issues with Ulster Bank and AIB illustrate the difficulties even with massive annual budgets. *IS Options* believe that no single credit union, nor even an amalgamation of many credit unions, has the resources and wherewithal to do this. Also none of the software vendors who currently supply credit unions in Ireland even approaches the size they would need to be to build and maintain systems of the required reliability, functionality, security, and auditability.

The proposed legislation rightly recognizes the role that Shared Services can play in ICT as well as other areas, and lays down some sensible ideas about how out-sourcing arrangements should be governed to facilitate

such shared services. It makes eminent sense that an organization of sufficient scale can both afford the best software solutions and supply high quality services to individual credit unions (if there are enough of them).

The basic problem is again – viability. There are no proven shared service organizations in Ireland today. Shared service organisations need to be commercially viable, and they require an up-front capital investment and ongoing costs, and *IS Options* have estimated that to make such an operation commercially attractive to investors would require a minimum market share of over 30%; the uncertainty of achieving this would be a major disincentive to investment. In the UK, a fund of £38m has been set aside by the government to help credit unions to modernize and expand (<http://www.dwp.gov.uk/other-specialists/the-growth-fund/latest-news/> see “Credit Union Expansion”.

IS Options submits that a smaller amount than this could be used to prime the pump of a viable environment to meet the needs of credit unions. If funds were set aside to significantly grant-aid the creation of one or more Software-as-a-Service organizations, professionally managed, commercially-based, with the quality of its software and services being regulated and certified by the Central Bank. To ensure the commerciality of such ventures, Enterprise Ireland could play its part in assessing the proposals or tenders that come forward. The oversight by the Central Bank would be enough to convince individual credit unions to sign-up for these services, it would be a “no-brainer”, thus ensuring the commercial success of the venture(s).

The *IS Options* experience is that the credit union movement passionately wants to meet the highest professional standards, but is hamstrung by lack of funds in employing senior management, implementing good systems, and engaging the best outside help. While *IS Options* heartily welcome the proposed legislation in its generality, it has the potential to kill rather than cure the patient if it is not accompanied by practical help.

Another small step that could be taken would be to allow expenditure by credit unions on best-of-breed technology and technology-related professional services to be classified as VAT-exempt, as training is today.

As Mr. Kinsella wrote this submission he noted that earlier the same day Bank of Ireland announced half-year losses of €1.25bn. In his view, one way or the other the taxpayer has paid or will pay for this. A small fund of say €30m would fade into insignificance beside the overall amount that has been pumped into banks and would really go a long way towards creating a functional, vibrant, and viable alternative to the injured banking sector.

Submission 16:

MABS National Development Limited (MABS – NDL)

The Money Advice and Budgeting Service (MABS) was established in 1992 to help people on a low income to cope with debts and take control of their own finances. It is a free, confidential and independent service. It

currently comprises 53 MABS Services, located in over 60 offices nationwide. MABS is funded and supported by the Citizens Information Board. MABS National Development Limited was established in 2004 to further develop the MABS Service in Ireland. It provides training and technical support to MABS staff nationally. MABSndI also assists the MABS service in providing educational and informational supports as well as assisting in highlighting policy issues that arise in the course of the money advice work on behalf of clients. MABSndI has responsibility for the ongoing development of the MABS website www.mabs.ie and for providing the MABS national helpline service.

General Comment

MABS' view of the credit union movement has grown from its experience of, and interaction with, credit unions all over Ireland for almost two decades. While we clearly recognise the vast changes that have taken place in the market place, the increased need for proper prudential management and liquidity as well as the provision of modern services to its members, we are concerned that these demands and requirements have diminished the credit unions' commitment to the social dividend which is part of its *raison d'être*. We recognise the tension there can be between fulfilling the regulatory and other requirements outlined above and the commitment to supporting local communities. In our view any new regulation/restructuring of the credit union movement must not lose sight of, and must positively facilitate, its democratic structures, its service to all its members and its social goals. Social objectives must form an explicit component of any re-organisation.

The credit union movement, given its position in Irish society, (reaching almost three quarters of the population), is in a potentially very strong position to become an even greater force in financial service provision while maintaining its fundamental principles² and its traditional focus on the needs of individuals and families with a particular care for those on low incomes and the marginalised. The challenge in our view, given the changing environment in which the credit union movement operates, is in fulfilling increased regulatory requirements and meeting the needs of its present day membership, while remaining faithful to the credit union ethos.

While credit unions must respond appropriately to what is happening in the regulatory regime and the financial marketplace, their ethos demands that the response must be informed by the needs of both members and the community in which it operates.

"Credit unions offer an important opportunity for people to work closely together for their own mutual benefit. There is no evidence that the profit-maximising and investor-owned banking sector has either the interest or capability to respond to the needs of financially excluded and low-income groups within society. In certain circumstances, co-operative enterprise may offer the best approach to meeting the social and economic needs of particular communities".

While recognising the need for the reorganisation of the credit union movement on a strong financial footing in order to offer modern products and services to its members, we also believe that the movement must be facilitated and supported to refocus on the needs of the community in which it operates with particular emphasis on those on low income and/or marginalised. In this context its service provision will have to be redesigned and modernised to meet the needs of the majority of its members as well as refocusing on the social needs of the community in which it operates. A renewed focus on local community development, financial education and information, the design and promotion of financial inclusion products together with the expansion of its overall suite of products and services is necessary.

Part 1 – Prudential Requirements: Heads 3, 6 & 8

Head 3

While MABSndI acknowledge the rationale behind ensuring that each credit union implements robust liquidity provisions, we have concerns about the lack of contingency for those borrowers who, due to circumstances, are unable to make their credit union loan repayments as they fall due and who, therefore, require some forbearance or capacity to restructure their loans which may take them outside the liquidity timeframes.

Head 6

MABSndI would suggest supplementing the requirement to verify the credit union member's ability to repay a loan with reference to a stress test (c.2-3%) to safeguard the payment of the loan into the future.

Head 8

MABS has concerns that the increasing regulatory requirements outlined in this consultation document, while necessary, must be proportional and framed in a fashion that gives proper recognition to the social ethos of the credit union movement. In MABS experience the Credit Union movement has faced a significant challenge in retaining its commitment to its founding ethos and principles over recent years. This is due to many factors, not least the changed demographic composition of its membership; the new regulatory demands have also had an appreciable impact.

Is the credit union a 'bank' or has it a different purpose? If it is to remain a fundamentally different type of institution, (which we believe it is), then the regulatory requirements must be different from those applying to the commercial banking sector in giving adequate weight to the social dividend. This consultation document has made no reference to ethos of the credit union, its not-for-profit mandate, its volunteer ethos and community focus⁴.

The requirement to devise and adopt a strategic plan is to be welcomed. However such strategic plans must be based on the basic principles of credit unions as self-help co-operative financial organisations geared to attaining the economic and social goals of members and wider local

communities.⁵ A 'social audit' of the common bond area in which the credit union operates should be a requirement to inform any strategic plan so that each plan will be evaluated on social as well as fiscal criteria.

Ancillary Issues

In addition to the concerns raised in relation to the potential diminution of the social ethos, we would raise the following by way of ancillary issues:

Part V: Amendments to the Credit Union Act 1997

Section 32

We refer to the wording of section 2 of the ILCU standard credit agreement⁶ which provides for a pledge over "*all paid shares, all payments on account of shares and all deposits, which I have now or hereafter may have in the Credit Union*" and submit that the proposed revision to section 32(3) of the Credit Union Act, 1997 would, in fact, restrict the member further in accessing their shares / deposits contrary to the intention expressed by the Explanatory Note accompanying the proposed revision.

Section 37C

We refer to the proposed "cooling off" period and submit that same should, save in exceptional and emergency circumstances, be compulsory in line with the analogous provision relating to financial institutions coming within the scope of the EU Consumer Credit Directive⁷.

Section 46

It would appear, based on the Explanatory Note accompanying the proposed deletion of this section, that the proposed deletion is on the basis that the savings of members of *viable* credit unions will be secured. We would, therefore, be concerned that the savings of members of *non-viable* credit unions would not be adequately secured.

Conclusion

MABS has a long-held respect for the credit union movement due, in no small part, to its historic position as a social and community lender. We would wish to strengthen our relationship for the future and to be able to work together to support members to repay their debts based on affordable sustainable repayment plans. It would also be desirable to continue joint-working in order to revitalise the community-based ethos. We would welcome the implementation of legislation/regulation which aimed to achieve a balance between the fiscal requirements and the needs of the member.

Submission 17:

National Supervisors Forum (NSF)

We are recognised by the Department of Finance for the purpose of consultation in relation to changes affecting the Credit Union Movement. We welcome the changes; however, we have concerns on how changes affecting the functions of the proposed Oversight Committee will prevent it operating to the best of its ability.

Currently, the greatest asset of the Credit Unions is the trust of the members in the oversight of the Credit Union by the Supervisory Committee. The Supervisory Committee being directly elected by them and reporting to them gives them this sense of trust. We are the third force and the counter balance to the board and the manager. In order to maintain this trust we feel our concerns should be taken on board.

These requested changes are based on our everyday interaction with supervisory committees and the associated problems of dealing with dominant managers and/or board members. In nearly all case where Credit Unions have gotten into difficulty there was a combined effort of both the manager and dominant director (or both) in keeping information away from the supervisory committee.

We therefore suggest the following:

Part 1: Prudential Requirements: Head 17

General Comment

We would like the title of the Oversight Committee to be changed to Oversight Board to indicate total separation of functions and equality before members of the credit union.

Risk:

That the Oversight Committee(Oversight Board) would be viewed as just another committee within the structure of the Credit Union and as such would lose its status as the last line of defence of the members best interests within their respective credit unions.

Head 17

Include (6) The internal audit function shall report the results of its evaluations and recommendations to the Audit Committee and to the Oversight Committee (Oversight Board), where one exists, or otherwise to the board of directors, on a quarterly basis.

Risk:

We feel that the internal Audit Committee should be answerable to the Supervisory/Oversight Committee (Oversight Board), as well as the Board of Directors. These changes are to ensure no dominant individual or individuals can collude to undermine the governance of the credit union.

Part II: Governance - Head 22

Head 18

(1) Remuneration policies and practices must be consistent with and promote sound and effective risk management.

Include (2) A credit union shall not pay any remuneration, directly or indirectly, to—

- (a) a director of the credit union,
- (b) a member of the Oversight Committee (Oversight Board) or a principal Committee of the credit union

Risk:

We feel that statement (1) without clarification will terminate the voluntary nature applying to appointments to boards in the Credit Union movement. We will see paid professional taking over the Board of Credit Unions and destroying one of the core principles of the credit union movement - Volunteerism.

We also note that there is no procedure for removal of a Director or Board of Directors.

We refer to the Credit Union Act 1997

Rule 56 - removal of director from office

Rule 61 - removal of a member of supervisory committee

Rule 66 - removal of a director by the supervisory committee and associated procedures.

Risk:

The Board of Directors or individual director who feels that the absence of a defined removal procedure may give rise to long legal procedure may prevaricate and obstruct the work of the oversight committee. The legal absence of a legally defined removal protocol leaves the bill open to legal challenge. Therefore the inclusion of methodology or procedure for removal given in conjunction with the Central Bank and Registrar of credit Unions is essential.

Under the draft bill the Oversight Committee/ (Oversight Board) are required to provide risk assessment and performance appraisals on the Board. We are also required to notify the Central Bank on issues relating to governance. We note that there is no protection from defamation or whistle blowing for supervisor members of the Oversight Committee (Oversight Board).

Risk:

There will be a reluctance to submit complaint/divergence reports to the Central Bank/Registrar on fear of legal action on defamation. Indeed several supervisors in the past have had threat of legal action initiate against them based on their reports to the Registrar.

Head 22

Include (11) The Board of Directors shall facilitate the Supervisory /Oversight Committee (Oversight Board), to have continued access to all books documents and reports. The Board of Directors must within 1 month respond in writing to the Oversight Committee (Oversight Board), on all matters raised at quarterly meetings with the Board.

Risk:

We would like this written into legislation to prevent dominant directors from thwarting the work of the oversight committee and to ensure proper governance of the credit union.

Head 25

(4) Without prejudice to the generality of sub-head (3), the role of the manager shall include at a inimum:

include (g) facilitating the work of the board oversight committee (Oversight Board), through providing this committee with all requested assistance to enable them to carry out their functions;

Risk:

This request for change is to define the role of Oversight Committee (Oversight Board), in relation to the executive manager. The failures of a dominant manager have contributed to the near collapse of at least one credit union. In order to maintain balance in the circle of trust, trust and to preserve good corporate governance, the Oversight Committee must be able in its appraisal review to the board – be able to have sight of the actions of the executive manager in order to have a complete picture of the actual condition of the credit union at that point of time.

Head 27

(a) A credit union shall establish a nomination committee.

Include (b) An oversight Committee (Oversight Board) shall establish a nomination committee

Risk:

One of the main complaints the NSF receive each year is from supervisors is the threat that unless they abide by determination of the board they will not be re-nominated at the next AGM. Again we feel that this measure will maintain our members trust in that they know the oversight committee (Oversight Board) is truly independent. One main risk is dominant manager /director manipulation of board selection by influencing the nominating committee and remuneration committee

Head 29

(13) Members of the Oversight committee (Oversight Board) retain the title of supervisor.

All over the world the oversight committee (Oversight Board) /supervisory committee members are known as supervisors.

The NSF represents supervisory committees in Northern Ireland as well as the republic. Retaining the name supervisors allows for continuity of title no matter what part of the world or at world congress the person is present and representing his/her credit union. Indeed throughout the USA and Europe, the title of Supervisor and Supervisory Committee has been retained. Even the EU and IMF when referring to financial institutes on a regular basis refer to the Supervisors in the context of financial oversight .

The Credit Union Commission also set out to defend core principles of the Credit Union Movement.

Submission 18:

Mr. Bobby O'Halloran Chairperson, The Board of Directors St. Mary's Parish Credit Union

General Comment

It is the considered opinion of the Board of Directors of St. Mary's Parish Credit Union that the Draft Bill, as presented, will not provide enabling legislation for Credit Unions but will in fact strangle the life out of them. The Bill makes no attempt to preserve that which is good about Credit Unions or to enshrine their ethos in legislation, rather it will introduce legislation that will force Credit Unions to abandon their ethos and operate in the manner that will relegate the member to being merely a method of raising funds to cover the fees and levies being imposed on Credit Unions. Instead of having Credit Unions which put service to members first we will end up with Credit Unions which have no choice but to put legislators and regulators first.

We do accept that there is the need for change in the Credit Union movement and that legislation and regulation to support this are required. However this legislation and regulation should have the starting point of that which is good about Credit Unions and which has meant that the majority of Credit unions are still operating within all acceptable guidelines. This means that the basis for legislation should be the existing Credit Union model, not the standard banking model. The banking model in various countries throughout the world, and none more so than in our own country, has been shown to be seriously flawed and, seemingly, immune to regulation.

It is our belief that there are much more straightforward solutions to legislating for and regulating Credit Unions than what is contained in this Bill. We believe firstly that a transparent regulatory system is required, where regulatory targets are set out for the various areas of operation and Credit Unions are monitored to ensure they achieve these targets. There should be clarity of the steps that the regulator will take if these targets are not met and there must be facility for Credit Unions to appeal orders/decisions of the Regulator.

To enable Credit Unions to achieve these regulatory targets and to allow them to operate in accordance with their ethos, there should be governance standards which are appropriate to Credit Unions, not simply the same standards that apply to multinational financial institutions. The ultimate body with responsibility for the Credit Union is the membership and this needs to be recognised in any legislation. To effectively remove the members right to choice over who will be their directors is unacceptable and so a better way of vetting potential directors whilst at the same time allowing members the opportunity to select the directors they want, needs to be found. The Board of Directors of a Credit Union have always been volunteers and for the last 60 years this has, for the majority of Credit Unions, been the springboard to their success. To bring in legislation and regulation that will ultimately result in the demise of the volunteer director is not the solution to any problems caused by the present structure. Volunteer directors in Credit Unions have shown their

willingness to obtain qualifications, get training and give the time commitment needed and there is no reason to doubt that this will be the case in the future. This should be encouraged and directors who wish to make a long term commitment to a credit union should be allowed to do so. With regard to restructuring it is our belief that the costs this Bill proposes putting on Credit Unions is unnecessary. We believe that if the Regulator has identified Credit Unions who are not meeting the targets then he should be given a fund to enable him have these Credit Unions transferred into another Credit Union. The wholesale merger of Credit Unions is not necessary and will not generally be to members or Credit Unions benefit. It may well assist the Regulator by reducing the number of entities he has to deal with but this is not a sufficient basis for such drastic action. The funds and levies required for ReBo would achieve far more benefit for the Credit Union movement by being retained within Credit Unions.

In respect of stabilisation we would suggest that rather than discard the Irish League of Credit Unions SPS, a way be found to incorporate it into a recognised SPS for all Credit Unions, controlled by Credit Unions with the aim of assisting Credit Unions to trade out of difficulty and if this does not seem possible to assist Credit Unions in merging.

In light of the foregoing we would respectfully suggest that the enactment of legislation for Credit Unions be postponed for a period of 12 months as we find the present Draft Bill to be seriously flawed and we believe this stems from the fact that the whole process of reviewing the Credit Union movement has been rushed. We further believe that the Report of the Commission on Credit Unions was not related to Credit Union operations in Ireland and appears to have used as the basis for its findings the incorrect assumption that Credit Unions in Ireland have failed because we are not like banks whereas it is, in our opinion and belief, the reverse of this that should have formed the basis of their findings – Credit Unions in Ireland have succeeded because they are not banks.

Specific Comments:

Classes of Credit Unions:

It is vital that these classes of Credit Unions are properly considered and established within the Bill as opposed to being left up to the Regulator as per Head 1 Subhead (1).

The Report of the Commission on Credit Unions suggested three classes of Credit Unions:

Class 1 - Assets less than €10m

Class 2 - Assets between €10m to €100m

Class 3 - Assets over €100m

We believe that this suggestion will result in disproportionate regulation for some Credit Unions and we would therefore suggest that there should be five classes of Credit Unions as follows:

Class 1 - Assets less than €10m

Class 2 - Assets between €10m to €30m

Class 3 - Assets between €30m to €60m

Class 4 - Assets between €60m to €100m

Class 5 - Assets over €100m

Treasurer:

The role of Treasurer is a vital link between the finances of the Credit Union, the Board and the members. The Manager is not an elected official. The proposal in the Draft Bill to completely remove the role of Treasurer and assign the responsibilities of the position to the Manager would be similar to suggesting that the Minister for Finance should hand over financial responsibility for the country to the Secretary of the Department of Finance.

We do however believe that the role of Treasurer as presently defined is outdated and that the Treasurer should only be the General Manager if there is no Manager appointed in the Credit Union. We believe that the Treasurer's role, apart from his responsibility as a director, should be confined to responsibility to the Board and members for the financial accounting of the Credit Union.

Manager:

The wording of Head 25, Subhead (1) and (3) seems to preclude the Manager being a director and in this case consideration needs to be given to those Credit Unions who do not presently have staff. We would suggest that Class 1 Credit Unions be specifically excluded from this requirement.

Board of Directors:

The requirements of Head 20, Subhead (14), (15) and (16) will present serious issues with regard to maintaining a constant supply of suitable candidates for the Board of Directors from the Credit Union membership who would be prepared to undertake the necessary training. They will also mean that experienced, committed directors will be discarded when they will still have a valuable contribution to make and are at the stage in their Credit Union development to best make it. The constant turnover of Directors could have a destabilising effect on a credit union and will militate against long term planning. For these reasons we believe that there should be no limit on the term of office of directors, other than that they have to be elected every three years by the members.

Nomination Committee:

It is our opinion that the requirements for the nomination committee as set down in Head 27 are unworkable if members are to be allowed to continue to have democratic control of their Credit Union. As we have stated in our General Comments, a better way of vetting potential directors whilst at the same time allowing members the opportunity to select the directors they want needs to be found.

Levies/Costs:

A number of the sections of the Draft Bill refer to levies on Credit Unions and others will impose costs on Credit Unions. Prior to any of these sections being enacted an impact analysis should be carried out on the impact these additional costs will have for Credit Unions, bearing in mind that it will ultimately be the membership of Credit Unions who will have to pay these costs. Where possible, the source of these costs and levies

should be removed, as, for example, in not setting up ReBo but finding an alternative way to deal with any necessary Credit Union amalgamations. Otherwise a mechanism should be considered to allow such costs/levies to be deferred for a period of time and paid over a longer time span than just the year in which they are incurred.

Conclusion:

It is our strongly held view that an opportunity is being missed by basing this Draft Bill on the flawed findings of the Report of the Commission on Credit Unions. This Government have the chance to secure the future of the Credit Union movement for the continued benefit of the Irish people, to facilitate its ongoing support of the less well off and financially marginalised of our society and to enshrine the ethos of Credit Union in legislation. This Draft Bill fails to do this and we therefore repeat our request that it should not be proceeded with in its present form but that it be substantially rewritten over the next 12 months with a focus on the structures that have allowed the Credit Union model to succeed while the banking model has failed.

Submission 19:

Centre for Co-operative Studies, UCC.

Part 1: Prudential Requirements - Head 6 - Lending.

General Comment

“A credit union may make a loan to a member for such purposes as the credit union considers appropriate.”

We believe that “provident or productive” should remain in the Act. These words are well understood and form part of the identity of the credit union. Their removal could undermine that identity and send a message to credit union activists and members that the credit union is now a different entity. These words also present a language for credit union boards and members to evaluate loan practices in their credit union. They also act as a good reminder for loan officers, managers and members themselves that loans should be for provident and productive purposes. Their removal would create an unnecessary vacuum.

Part II: Governance -Head 20: Board of Directors -Sub Head 7 section (b)

The term of office of a director- shall not extend beyond the third subsequent annual general meeting. The White Paper on Corporate Governance in the UK (2009) recommend that there should not be ‘black and white rules’ around term limits for directors and they recommend that the issue of whether directors continue to add ‘value’ should be addressed in director and board evaluations of performance. Cameron (2005) writing about this topic of term limits believes that ‘*by encouraging premature exit, strengthens the power of management, and does “not improve the lot of shareholders”*’. This sentiment is strongly expressed by credit union activists. They are of the view that it only increases the level of risk in a credit union, as its sets the context for managerial dominance (as manager can always out sit the board) and removes directors before their

prime. These activists believe a term of 12 years is more appropriate. Cameron in his article on term limits concludes that *"tenure limits, like the now discredited age limits, are often simply an excuse for less than particularly rigorous assessment of performance"* and recommends that the focus should be on *"succession planning, to ensure accountability and fresh strategic inputs"* Apparently, in Ghana which had reduced director term to 9 years have now again increased it to 12. The experience was directors were still in their prime for that 4th term and were leaving the credit union and becoming directors on boards in other bodies and companies. The credit union found that it was becoming a training ground for directors for other companies. We are of the view that unless there is a clear rationale for 9 years, the term of office of a director should be 12.

Part III: Stabilisation - Head 30, Sub head 3, Viability

In forming an opinion under subhead 2 (c) the bank shall have regard to the following in respect of the credit union concerned:

- Compliance with, or failure to comply with a regulatory requirement including requirements regarding systems and controls
- Any plans, prepared by the credit union to protect or improve its reserve levels
- The ability to maintain the minimum reserve requirement and fund the business of the credit union after the provision of stabilisation support
- The availability of up-to-date and accurate financial information and accounts including full and fair financial disclosure
- Previous financial performance prior to applying for stabilisation support
- Any other matters the bank considers relevant, in the particular circumstances, having regard to the Bank's duties and obligations.

Explanatory note: includes the following from the Commission Report. ..Subhead (3) sets out a range of matters that the Central Bank must have regard to when forming an opinion about the viability of the credit union concerned. The range of issues reflecting the multi-criteria approach to assessments of credit union viability as set out in para 9.2.2. of the Commission on Credit Union Report:

Clearly, other factors (apart from reserve levels) are important also: loan impairment and delinquency, investment impairment, high and rigid cost base, liquidity and the structure of liquidity, loan-to-asset ratio and governance capacity, and inability to present a feasible plan to restore capital reserves.

Does this criteria for viability fall under VI above? Viability depends on a number of variables and it would be difficult to be prescriptive in the legislation in this regard, but perhaps requirements for Bank transparency re 'viability decisions and categorisations' could be prescriptive. The Central Bank will decide on the criteria of viability in each case, there will be a need for transparency around this decision making. Everything hinges on the definition of viability and the credit unions understanding of viability. It will be difficult if not impossible to confidently manage the credit union if the definition of viability lacks transparency.

Part IV: Restructuring - Head 47 Sub-Head 5

"A restructuring plan submitted under this section shall include plans for:

- a. An amalgamation
- b. A transfer of engagement

Under Part IX of the Credit Union Act 1997

Restructuring as outlined above only includes amalgamation and transfer of engagement and of course resolution. However, the Report of the Commission on Credit Unions defines restructuring as;

"in simple terms, restructuring, would involve moving from a situation where over 400 credit unions operate and act independently, to one where there is some consolidation through amalgamations and the development of close networks and shared services". Pg. 103, section 9.1.1).

The definition as appears to be outlined in the Head of Bill is not in line with that of the Commission Report. We would agree with the Commission Report's broader definition which includes amalgamations and networks and shared services structures. In addition, it would seem like a missed opportunity if good restructuring plans which incorporate a collaborative CUSO model between credit unions receives no funding or technical support from REBO, especially since credit unions are contributing to the REBO fund.

Part V: Amendments to the Credit Union Act 1997

Item 1. Definition of Special Resolution

As explained in the explanatory note: At present Section 2 (1) Credit Union Act 1997 (the 1997 Act) provides for a two-step process for passing special resolutions. Firstly, the special resolution must be passed by three quarters of members present and voting at a general meeting for which adequate notice has been given. Secondly, the resolution must be confirmed at a subsequent meeting by a majority of members present and voting for which notice has been given....This amendment would mean that an amalgamation and transfer by special resolution would only require one meeting under Part IX and windings-up under Part X of the 1997 Act.

While we understand that this increases the efficiency of the process, it does further reduce the rights of members as owners. However, in practice it may have little relevance, in particular in relation to transfers of engagements, as almost all the transfers to date have been by board resolution without any input from the members. However, the law itself should protect the rights of members as owners.

Item 19

"Credit unions must adopt a decision to provide additional services of that description by a resolution of the board of directors"

Explanatory note: Removes the requirement on credit unions...to seek approval from the members of the credit union at the AGM before providing additional services. These amendments allow the credit unions

to provide additional services/apply to the Bank to provide additional services simply by passing a Board resolution rather than waiting for an AGM. We recognise why this may make the process new service development more efficient, it does however further dilute members ownership rights. Does it have to be an AGM, could it be a special general meeting. We are not sure this type of erosion of member rights will be beneficial in the long run. Also, the inclusion of members in such decisions, may slow the process, but does reduce risk.

Item 28

The only appeals process appears to be IFSAT. This seems to be a very under resourced body and in 2010, according to their website, only dealt with one appeal during the entire year. The board composition of this body would also need to be considered, to reflect an understanding of credit unions. Consideration would need to be given to the resourcing and manning of this body, otherwise this appeals mechanism could appear to be a 'token' gesture. How can an effective and transparent appeals process be developed? We are not convinced that IFSAT as it currently stands will be able to meet that criteria.

Definitions

As it is not clear at this stage if a definition on 'the member' will be included in the final Act. However, it is interesting to note that the Member is not defined under the *interpretations* at the beginning of the Credit Union Act 1997 (as amended). Everybody else seems to be defined, but not the member. As the member is owner and primary user of the credit union – its raison d'être as such, this would appear unusual.

Submission 20:

Mr. Pdraig O'Cearbhaill Chairman Credit Union Advisory Committee.

Part 1: Prudential Requirements

CUAC welcomes the requirement that the Central Bank must consult it before making any regulations under the Scheme. This provides the appropriate balance to the regulation making powers which are being given to the Bank under the Scheme. The explanatory notes to the provisions in Part I make reference to the regulation making power being given to the Central Bank under the Bank (Supervision and Enforcement) Bill 2011. If this regulation making power is to apply to credit unions, we strongly believe that there is a similar requirement on the Central Bank to consult with CUAC.

CUDA noted the intention that there will be a tiered approach to the regulation of credit unions by the Bank, which is to be welcomed. However we believe that the tiers should be clearly set out in the primary legislation and that the lower tier credit unions should not be subject to overly complex requirements.

Under Head 4 (1) a reference is made to 'non-withdrawable shares.' CUAC is not aware of the use of non-withdrawable shares in the credit union sector. This concept appears to have carried over from previous legislation and should not be included.

In relation to the granting of loans by credit unions under Head 6, CUAC notes that the reference to 'provident and productive purposes' is not being retained under current proposals. CUAC believes that this represents a move away from the ethos of the credit union movement and should be retained. CUAC suggests that this head should be reworded to read:

"A credit union may make a loan for provident and productive purposes or such other purpose as the credit union may deem appropriate."

CUAC welcomes the requirement to appoint a risk management officer and a compliance officer under Head 10. CUAC recommends that there should be flexibility within these requirements to allow these functions to be carried out by the manager or a director in smaller less complex credit unions.

Part II: Governance

CUAC notes the increase governance requirement being placed on credit unions under the Scheme. Given the requirements on credit unions to ensure that members of the board of directors have the necessary skills, experience, expertise, personal qualities etc. under Head 20 (12) of the Scheme, CUAC feels that some smaller credit unions may face difficulties in fulfilling these requirements where only a small pool of volunteers within the common bond of the credit union. In light of this, CUAC recommends that the credit union should be able to appoint a non-member to the board where the nominating committee is unable to nominate a person with sufficient expertise and experience from within the membership.

Under Head 20 (10) of the Scheme, a person may not become a director where that person is a "member of the credit union who is in arrears for more than 90 days under a debt obligation to the credit union." The current wording of this may have unintended consequences. This provision could mean that a member with €0.01 arrears for a period of 90 days is not eligible to sit on the board. CUAC therefore recommends that this be amended to read:

"A member of the credit union who has arrears of more than 90 days under a debt obligation to the credit union..."

Under Head 20 (11), if a person who is a member of the board of directors becomes one of the persons who are prevented from being a director under Head 20 (10), they shall resign from the board. However, this does not provide for the possibility that that person fails to resign from the Board. Therefore CUAC suggest that this be amended to read that *"that person shall be deemed to have resigned."*

In order to encourage attendance by all board members at board meetings, CUAC recommends that a register of attendance be included in the annual report of the credit union.

Under Head 26 there does not appear to be a reference to a conflict of interest arising out of a family relationship. This should be amended to refer to such conflicts of interest. Additionally, in order to avoid a situation where the person is not immediately aware of a conflict of interest, CUAC also recommends that Head 26 (6) should be amended to read:

“An officer of a credit union who is or becomes aware he is interested...”

CUAC notes that Head 28 fails to provide for the credit union to have a committee which does not contain a majority of directors. CUAC believes that provision should be made in the Bill for committees comprised of at least one director.

Part III: Stabilisation

Head 30 (2) of the Scheme provides that a credit union may not receive stabilisation support if that credit union has received stabilisation support in the previous 10 years. It would seem that receipt of support from the ILCU SPS Fund would be considered as support under this provision. Therefore the Bank may not provide stabilisation for a credit union that is currently in receipt of support from the ILCU SPS Fund. CUAC believes that this should not be the case and that 2 (b) should be removed as the main issue to be considered by the Bank is whether or not the credit union is viable.

Head 30 (7) of the Scheme provides that costs, including the costs incurred by the Central Bank, should be met from the Stabilisation Fund. In the opinion of CUAC, this is too vague and should be defined more clearly. CUAC suggests that only the 'direct' costs incurred by the Bank should be provided for.

CUAC welcomes the proposal to have a stabilisation committee and in particular that this is to be representative in nature. CUAC also welcomes the proposals in relation to the Stabilisation Fund under Head 32 of the Scheme. This is in line with CUAC's previous recommendation on stabilisation which stated that the stabilisation fund should be financed by credit unions and that each credit union should pay a contribution commensurate with its risk profile.

Head 31 (I) of the Scheme provides that a body known as the Stabilisation Committee shall examine the implementation by the Central Bank of its own requirements and procedures in relation to its powers under Part III, CUAC believes that the legislation should ensure that the stabilisation committee is given sufficient powers to carry out its duties in regard to being able to liaise directly with Credit Unions and other interested parties.

Part III: Restructuring

CUAC notes that under this Part no provision has been made of Credit Unions that wish to share services with other Credit Unions on a voluntary basis. CUAC believes that the Credit Union Restructuring Board should

have the necessary powers to provide technical and administrative support to Credit Unions who wish to share services. CUAC believes that this reflects the position of the Commission.

Part IV: Amendments to the Credit Act 1997

AS currently drafted the proposed amendments to section 32 (3) of the Credit Union Act 1997 (the 1997 Act) makes it more difficult to make a withdrawal from savings than the current section 32 (3)

Paragraph 10.4.6. of the Commission's Report recommended that the provision be amended so that shares which had been pledged at the time of taking out a loan are recognised as attached to the loan amount (deposits are not included in the Commission's recommendations). There was no mention in the Commission's Report of deleting the 25% option. The removal of the 25% option under Section 32 (3)(b) of the 1997 Act could cause hardship to members (particularly in the current economic climate). An example of where the amended section would not be beneficial would be where a member with a two year fixed term account took out a five year loan during the two year fixed term. When the fixed term account matures the member may not have access to the maturing funds. Another example would be a member saving for Christmas who took out a loan for holidays in July. The member would have no access to the savings balance in the Christmas savings account at the time the loan was taken out when Christmas time arrives. CUAC suggests that the section could be worded as follows;

"(3) If a member of a credit union seeks to withdraw a share in the credit union at a time when he has an outstanding liability (including a contingent liability) to the credit union, whether as borrower, guarantor or otherwise, that withdrawal shall be permitted –

- (a) if the shares sought are not attached to a loan issued to the member or guaranteed by the member; or*
- (b) if the withdrawal is approved by the members of the board of directors voting at a meeting of the board;*

But no approval may be given under paragraph (b) if, were the withdrawal to be approved, the value of the member's shares immediately after the withdrawal would be less than 25 per cent of his outstanding liability."

This would mean that members could operate other savings accounts without having access to the funds restricted if they were to take out a loan.

Further proposed amendments

CUAC notes that there is currently no definition of "member" in the 1997 Act. This position is not in keeping with the centrality and importance of the members within the sector. CUAC therefore recommends that 'member' be defined under the proposed legislation.

CUAC has also discussed the issue of dormant accounts within the credit union sector. At present, credit unions are excluded from the Dormant Accounts Act 2001 (the 2001 Act). Credit unions may remain in a credit union in perpetuity. CUAC therefore recommends that the 2001 Act be

applied to credit unions as it provides a clear way in dealing with dormant accounts.

At the hearings particular attention was given to the following Heads were discussed in detail

Part 1 - Prudential Requirements

Head 6 – Lending

Head 7- Investments

Head 10- Risk Management Officer & Compliance Officer

Head 17-Internal Audit

Part 2 - Governance

1. Head 20-Number of Directors
2. Head 27-Nomination Committee
3. Head 29-Board Oversight Committee

Part 3 - Stabilisation

1. Head 30-Provision for Stabilisation Funding
2. Head 32-Stabilisation Fund
3. Head 31-Stabilisation Committee

Part 4 - Restructuring

1. Head 37-Guidelines and Restructuring
2. Head 38-Membership of the Rebo and related matters
3. Head 39-Non-Disclosure of Information
4. Head 51-Restructuring Levy

Part 5 - Amendments to the Credit Union Act 1997

1. Item 32

List of Members of the Joint Oireachtas Committee on Finance, Public Expenditure and Reform

Chairman: Ciarán Lynch (LAB)*****

Deputies: Richard Boyd-Barrett (IND)
 Michael Creed (FG)
 Jim Daly (FG)
 Pearse Doherty (SF)
 Stephen Donnelly (IND)
 Timmy Dooley (FF)*
 Sean Fleming (FF)
 Joe Higgins (IND)
 Heather Humphreys (FG)
 Kevin Humphreys (LAB)
 Peter Mathews (FG)
 Mary Lou McDonald (SF)
 Michael McGrath (FF)
 Michael McNamara (LAB)**
 Dara Murphy (FG)*****
 Kieran O'Donnell (FG)
 Arthur Spring (LAB)
 Brian Stanley (SF)*****
 Billy Timmins (FG)
 Liam Twomey (FG) (Vice-Chair)

Senators: Sean D. Barrett (IND)
 Thomas Byrne (FF)
 Paul Coghlan (FG)*****
 Michael D'Arcy (FG)
 Aideen Hayden (LAB)
 Tom Sheahan (FG)

Notes:

1. Deputies appointed to the Committee by order of the Dáil on 9 June 2011
2. Senators appointed to the Committee by order of the Seanad on 16 June 2011
3. *Deputy Timmy Dooley appointed on 21 June 2011 in place of Deputy Seán O' Feargháil
4. Deputy Alex White elected as Chairman on 23 June 2011
5. Deputy Liam Twomey elected as Vice Chairperson on 23 June 2011
6. **Deputy Michael McNamara appointed on 8 December 2011 in place of Deputy Thomas P. Broughan
7. ***Deputy Pádraig Mac Lochlainn appointed on 14 December 2011 in place of Deputy Jonathan O'Brien
8. ****Senator Denis O'Donovan appointed on 10 May 2012 in place of Senator Katherine Zappone
9. *****Senator Paul Coghlan appointed on 14 June 2012 in place of Senator Denis O'Donovan
10. *****Deputy Dara Murphy appointed on 19 July 2012 in place of Deputy Olivia Mitchell
11. *****Deputy Brian Stanley appointed on 25 September 2012 in place of Deputy Pádraig Mac Lochlainn
12. *****Deputy Alex White promoted Minister of State 2 October 2012, Deputy Ciarán Lynch replaced Deputy White by order of the Dáil on 10 October 2012 and was elected Chairman 10 October 2012

Orders of Reference of the Joint Committee on Finance, Public Expenditure and Reform

a. Functions of the Committee – derived from Standing Orders [DSO 82A; SSO 70A]

- (1) The Select Committee shall consider and report to the Dáil on—
 - (a) such aspects of the expenditure, administration and policy of the relevant Government Department or Departments and associated public bodies as the Committee may select, and
 - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee may be joined with a Select Committee appointed by Seanad Éireann to form a Joint Committee for the purposes of the functions set out below, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee shall consider, in respect of the relevant Department or Departments, such—
 - (a) Bills,
 - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 164,
 - (c) Estimates for Public Services, and
 - (d) other mattersas shall be referred to the Select Committee by the Dáil, and
 - (e) Annual Output Statements, and
 - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies, and report thereon to both Houses of the Oireachtas:
 - (a) matters of policy for which the Minister is officially responsible,
 - (b) public affairs administered by the Department,
 - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,

- (d) Government policy in respect of bodies under the aegis of the Department,
 - (e) policy issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
 - (f) the general scheme or draft heads of any Bill published by the Minister,
 - (g) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
 - (h) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
 - (i) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in paragraph (4)(d) and (e) and the overall operational results, statements of strategy and corporate plans of such bodies, and
 - (j) such other matters as may be referred to it by the Dáil and/or Seanad from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 105, including the compliance of such acts with the principle of subsidiarity,
 - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
 - (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
 - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) A sub-Committee stands established in respect of each Department within the remit of the Select Committee to consider the matters outlined in paragraph (3), and the following arrangements apply to such sub-Committees:
- (a) the matters outlined in paragraph (3) which require referral to the Select Committee by the Dáil may be referred directly to such sub-Committees, and
 - (b) each such sub-Committee has the powers defined in Standing Order 83(1) and (2) and may report directly to the Dáil, including by way of Message under Standing Order 87.

- (7) The Chairman of the Joint Committee, who shall be a member of Dáil Éireann, shall also be the Chairman of the Select Committee and of any sub-Committee or Committees standing established in respect of the Select Committee.
- (8) The following may attend meetings of the Select or Joint Committee, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
 - (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
 - (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
 - (c) at the invitation of the Committee, other Members of the European Parliament.

b. Scope and Context of Activities of Committees (as derived from Standing Orders [DSO 82; SSO 70])

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders.
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 26. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.
- (4) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Dáil Standing Order 163 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
 - (a) a member of the Government or a Minister of State, or
 - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

List of Witnesses - Public Consultation on the Draft General Scheme of the Credit Union Bill 2012 - Stakeholder engagement

Irish League of Credit Unions (ILCU):

Mr. Kieron Brennan, CEO

Mr. Jimmy Johnson, President

Ms. Fiona Cullen, Head of Legal Department

Mr. Michael Edwards, Vice-President, Advocacy, World Council of Credit Unions (WOCCU) (based in U.S.A.)

Mr. John Knox, Research Department

Financial, Professional and Accountancy Bodies

MABS ndl:

Ms. Annmarie O'Connor

Ms. Eileen Fitzgerald

Irish Banking Federation:

Ms. Eimer O'Rourke, Director - Retail

Mr. Felix O'Regan, Director of Public Affairs

FMB Chartered Accountants:

Mr. Kevin Morris

Mr. Tom Fitzpatrick

Credit Unions who made submissions

Dundrum CU:

Mr. Gerard McConville

Ms. Michele Brady

Ms. Pauline Hayden

Ms. Gretta Fletcher

Mr. Frank Nolan

Gurrabraher CU:

Mr. Philip Hosford

St Mary's Parish CU:

Mr. Pat Owens, Manager

Mr. Bobby O'Halloran, Chairperson

Mr. John Hennessy, Treasurer

Consultants and experts external to the credit union movement

Motherway Consulting:

Ms. Carmel Motherway, Consultant

Mr. Donal Motherway

Enterprise IT:

Mr. Eoin O'Sullivan

Des Gunning:

Mr. Des Gunning

UCC Centre for Co-operative Studies:

Ms. Noreen Byrne

Mr. Ted O'Sullivan

Credit Unions Representative bodies

National Supervisors Forum (NSF):

Mr. Joe Mulvey

Mr. Frank Nolan

Mr. Donal Murphy

Credit Union Development Association (CUDA):

Mr. Kevin Johnson, Chief Executive Officer

Ms. Elaine Larke, Head of Legal and Compliance

Credit Union Managers' Association (CUMA):

Ms. Selina Gilleece

Ms. Lisa Stapleton

Mr. John Hickey

Mr. Paul Ryan

Credit Union Advisory Committee:

Mr. Pádraig Ó'Ceirbhail, Chairman