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Bill Digest

Credit Union (Amendment) Bill 2022

Bill No. 112 of 2022

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Abstract

The *Credit Union (Amendment) Bill 2022* gives effect to the outcome of the Review of Policy Framework of Credit Unions. This includes providing the legislative basis for the establishment of corporate credit unions, enhancement of members' services (by allowing credit unions to refer members to other credit unions and to participate in loans of other credit unions), and an increase in the maximum monthly interest rate on credit union loans from 1% to 2%. The Bill also aims to support enhanced governance through certain amendments.

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Contents

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Glossary and abbreviations

Table 1: Glossary & Abbreviations

Glossary & Abbreviations	
CUAC	Credit Union Advisory Committee
CUDA	Credit Union Development Association
CUMA	Credit Union Managers Association
ILCU	Irish League of Credit Unions
NSF	National Supervisors' Forum
ReBo	Credit Union Restructuring Board
RCU	Registry of Credit Unions
WOCCU	World Council of Credit Unions

Summary

- The *Credit Union (Amendment) Bill 2022* was published on 30 November 2022, together with an Explanatory Memorandum.
- The Bill comprises of 56 sections.
- The primary purpose of the legislation is to give effect to the outcome of the *Review of Policy Framework of Credit Unions* (the "Review") committed to in the current Programme for Government (2020).
- The policy proposals contained in the Review address five key objectives:
    1. Recognition of the role of credit unions.
    2. Supporting investment in collaboration.
    3. Supporting enhanced governance.
    4. Improving member services.
    5. Transparency of regulatory engagement (non-legislative policy action).[1]
- Key proposals in the Bill include:
    - Providing for the establishment of corporate credit unions, which should enable credit unions to share resources and opportunities.
    - Allowing credit unions to refer lending business to each other and to participate in loans of other credit unions.
    - Providing the legislative basis to increase the maximum monthly interest rate on credit union loans from 1% to 2%.
    - Making amendments in relation to credit unions' common bonds (which are typically used to determine membership).[2]
    - Providing for the provision of services by credit unions to members of other credit unions.
    - Altering the scope of permitted investments by credit unions.
    - Supporting enhanced governance through amendments to facilitate a greater focus on strategic planning and intended to redress the balance of responsibility on the board between directors and management. These provisions include:

[1] The Department of Finance explains that there are three elements of the policy review which resulted in non-legislative policy action to support transparency in regulatory engagement. This Bill Digest focuses solely on legislative measures arising from the Review.

[2] This can be based on the area the members live in, the occupation they work in, or the employer they work for.

    - The option of making the manager a member of the board;
    - Reduce the minimum number of board meetings to six per annum;
    - Reduce the frequency of review of policies; and
    - Reduce the number of administrative issues to be mandatorily approved by the board.

- No Regulatory Impact Assessment (RIA) has been made publicly available in respect of the Bill. The Explanatory Memorandum, however, notes that there are no financial implications for the Exchequer arising from this Bill.
- The Bill was not subject to Pre-Legislative Scrutiny. As part of the Review process, however, Minister of State with responsibility for Financial Services, Credit Unions and Insurance, Sean Fleming TD held approximately over 50 stakeholder engagements and met with more than 60 credit unions either individually or in groups, and considered over 100 proposals.
- The L&RS has also published a Bill Briefing page on this Bill [internal access only].

Introduction

The *Credit Union (Amendment) Bill 2022* (the "Bill") was published on 30 November 2022, together with an Explanatory Memorandum. The Bill contains 56 sections and seeks to give effect to the outcome of the *Review of Policy Framework of Credit Unions*. Reviewing the policy framework within which credit unions operate was itself a commitment in the current Programme for Government (2020).

Announcing the publication of the Bill on 30 November 2022, the Minister of State with responsibility for Financial Services, Credit Unions and Insurance, Sean Fleming TD commented that:

> "The local credit union and the role it plays in the economy and in the community is more important now than ever before.
>
> The Government wants credit unions to develop a wider range of products, with greater accessibility. This legislation will enable greater collaboration through the ability to establish corporate credit unions. It will enable wider availability of products across the movement through changes to the common bond. It will give credit union boards a greater focus on strategic issues, through practical governance changes.
>
> A strong, resilient and collaborative credit union movement can take advantage of the opportunity afforded by banks withdrawing from Ireland and from branch closures. This legislation will help the credit union movement to grow as a key provider of community banking in the country".[3]

The Explanatory Memorandum for the Bill notes that the purpose of the Bill is to give legislative underpinning to a series of reforms in the Irish credit union sector as agreed by Government. These include amendments to the Credit Union Act, 1997:

- Providing for the establishment of corporate credit unions.
- Amending the requirements and qualifications for membership of credit unions.
- Altering the scope of permitted investments by credit unions.
- Providing for changes to the governance of credit unions.
- Providing for the setting of maximum interest rates on loans by credit unions.
- Providing for the provision of services by credit unions to members of other credit unions.
- Providing for the participation by credit unions in loans to members of other credit unions.

Given the short timeframe between publication and Second Stage debate, this Digest provides background, policy context and, where possible, a brief analysis of selected key provisions of the Bill. A Bill Briefing page is available here [internal access only].

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[3] Department of Finance press release, *Minister of State Fleming publishes the Credit Union (Amendment) Bill 2022* (1 December 2022). Available at https://www.gov.ie/en/press-release/a2cac-minister-of-state-fleming-publishes-the-credit-union-amendment-bill-2022/

Cost implications

No Regulatory Impact Assessment (RIA) has been made publicly available in respect of the Bill. The Explanatory Memorandum, however, notes that there are no financial implications for the Exchequer arising from this Bill.

Pre-legislative scrutiny (PLS)

The *Credit Union (Amendment) Bill 2022* was not subject to Pre-Legislative Scrutiny.

There was, however, consultation with the credit union sector in advance of publication of the Bill. Specifically, and as part of the Review process, Minister of State with responsibility for Financial Services, Credit Unions and Insurance, Sean Fleming TD held over 50 stakeholder engagements and met with more than 60 credit unions either individually or in groups, and considered over 100 proposals, including all proposals submitted by sector representatives, for legislative and regulatory change.[4] Minister Fleming held a consultative roundtable to discuss the Government's proposals with the Irish League of Credit Unions, Credit Union Development Agency, Credit Union Managers Association and the National Supervisors Forum on 10 March 2002, with the proposals described as receiving "the support of all the representative bodies at this meeting".

[4] Department of Finance press release, *Minister of State Fleming publishes the Credit Union (Amendment) Bill 2022* (1 December 2022).

Existing legislative and regulatory framework

This section looks at the existing legislative and regulatory framework for credit unions in Ireland.

Legislative framework

The existing legislative framework for credit unions in Ireland comprises a body of legislation and regulations. The principal legislation governing credit unions is the Credit Union Act, 1997 (as amended) and the Credit Union and Co-operation with Overseas Regulators Act, 2012. These are known collectively as the Credit Union Acts 1997 – 2012.

Overview of key legislation

Credit unions are subject to various aspects of the Central Bank Acts (see below). A number of Statutory Instruments are also applicable to credit unions.[5] In Ireland, the supervisory and regulatory framework in place for the credit union sector includes:

- Central Bank Act, 1942
- Credit Union Act, 1997
- Central Bank Reform Act, 2010
- Central Bank and Credit Institutions (Resolution) Act, 2011
- Credit Union and Co-operation with Overseas Regulators Act 2012
- Central Bank (Supervision and Enforcement) Act, 2013
- Credit Union Act 1997 (Regulatory Requirements) Regulations 2016

In addition, the Credit Union Handbook has been developed over recent years to assist credit unions by compiling the legal and regulatory requirements and guidance that apply to credit unions, arising from their authorisation as credit unions.[6] The Credit Union Handbook was originally published in 2013, with revisions made to individual chapters periodically to update legislative/regulatory requirements and/or to provide additional guidance.

Credit Union Act, 1997

The Credit Union Act, 1997 sets out the statutory framework within which credit unions are regulated, in addition to outlining the characteristics of and restrictions on a credit union. Provisions of the Act also address the supervisory structure for credit unions, their management and the operation of credit unions (including loans).

[5] The list of legislation relevant to credit unions is available at https://www.centralbank.ie/regulation/industry-market-sectors/credit-unions

[6] Central Bank of Ireland webpage, *Credit Unions*. Available at https://www.centralbank.ie/regulation/industry-market-sectors/credit-unions

The Credit Union Act, 1997 includes a relaxation of common bond definitions, an increase in the duration and amount of savings and loans allowed and also permitted credit unions to provide additional services.[7] Section 180 of the 1997 Act establishes the Credit Union Advisory Committee (CUAC) to advise the Minister of Finance about the improvement of the management of credit unions and the protection of the interests of their members and creditors.

Under the 1997 Act, a credit union's core products and services are largely limited to consumer savings and loans. It allows credit unions to take deposits from, and make loans to, their members – the main reason why credit unions were originally established. The commencement of new provisions of the Credit Union Act, 1997 in 2001 allowed credit unions to further develop the range of services which they offer to their members, i.e. ATM cards.[8] In January 2022, the Central Bank published its Consultation on Credit Union Exempt Services, which explains the regulatory framework for the provision of services, and the distinction between core services and exempt services in comparison to additional services:

> "The 1997 Act and the 2016 Regulations set out the services that credit unions may provide to their members. We generally refer to these as core services and exempt services respectively. Under the 1997 Act and the 2016 Regulations, credit unions do not require any approval from the Registry of Credit Unions within the Central Bank to provide these services. Where an individual credit union wishes to provide services to its members in addition to those referred to above, that are of mutual benefit to its members and do not impose undue risk to members' savings, an application may be made to the Central Bank for approval to provide such services in accordance with the provisions set out in sections 48-52 of the 1997 Act. These services, for which an approval from the Central Bank is required under the 1997 Act, are referred to as additional services".[9]

There have been some significant amendments to the 1997 Act over time as policy on credit unions has evolved. For example, the Credit Union Act, 1997 was amended in 2007 by the Markets in Financial Instruments and Miscellaneous Provisions Act, 2007 in relation to longer term lending limits. The Act was amended in 2010 by the Central Bank Reform Act, 2010 which also dealt with longer term lending.

Credit Union and Co-operation with Overseas Regulators Act, 2012

The government established the Commission on Credit Unions in 2011 to review the future of the credit union sector.[10] This body presented its final report to the Minister for Finance in March 2012, with the purpose of its work described as being to inform the preparation of credit union

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[7] Department of Finance policy information, *Credit Unions*. Available at https://www.gov.ie/en/policy-information/ee4af0-credit-unions/

[8] S.I. No. 378/2001 - Credit Union Act, 1997 (Commencement) Order, 2001.

[9] Central Bank of Ireland, *Consultation on Credit Union Exempt Services*. Consultation Paper 148 (January 2022). Available at https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp148/cp148-consultation-credit-union-exempt-services.pdf?sfvrsn=f215931d_5

[10] See press release, *Government establishes a Commission on Credit Unions*. 16 June 2011. Available at https://merrionstreet.ie/en/category-index/government-establishes-a-commission-on-credit-unions.39533.shortcut.html

legislation (to be published by end-June 2012).[11] Its report includes recommendations aimed at strengthening the credit union regulatory framework and providing more effective governance and regulation.

Following publication of the Report of the Commission on Credit Unions, the Credit Union and Co-operation with Overseas Regulators Act, 2012 was enacted to implement over 60 of its recommendations across a range of areas, including:

- Prudential regulation – including reserves, liquidity, lending, savings and investments.
- Governance – including the role of the Board, Chair and the Manager.
- Restructuring – providing for a process of amalgamations and transfers to be undertaken on a voluntary, incentivised and time-bound basis and overseen by the Credit Union Restructuring Board (ReBo).
- Stabilisation – providing financial support to viable but undercapitalised credit unions.[12]

Regulation and supervision of credit unions

The Credit Union Act, 1997 established a Registrar of Credit Unions – the regulatory authority with responsibility for credit unions. The regulation of credit unions was previously overseen by the Registrar of Friendly Societies. The Registrar of Credit Unions is responsible for the registration, regulation and supervision of credit unions in Ireland. The Central Bank has a specific division dealing with the credit union sector, with respective roles described as follows:

> "The Registry of Credit Unions (RCU) is the Division within the Central Bank which is responsible for the registration, regulation and supervision of credit unions. In recognition of the unique nature of credit unions, a statutory position of Registrar of Credit Unions was explicitly created within the Central Bank of Ireland with responsibility for the regulation and supervision of credit unions.
>
> Under Section 84 of the Credit Union Act, 1997, ("the 1997 Act") the functions of the Central Bank are to administer the system of regulation and supervision of credit unions with a view to the:
>
> - Protection by each credit union of the funds of its members; and
> - Maintenance of the financial stability and well-being of credit unions generally.
>
> RCU`s aim is to promote a financially stable credit union sector that operates in a transparent and fair manner and safeguards its members` funds. RCU's vision for "Strong Credit Unions in Safe Hands" is supported by four key strategic priorities which are aligned to the Central

[11] Department of Finance webpage, *Report of the Commission on Credit Unions*. Available at https://www.gov.ie/en/publication/84c15e-report-of-the-commission-on-credit-unions/

[12] Department of Finance policy information, *Credit Unions*. Available at https://www.gov.ie/en/policy-information/ee4af0-credit-unions/

> Bank's Strategic Themes 2022-2026, delivery of which will be supported by our People, Processes and Capabilities."[13]

The Registry of Credit Unions can issue guidance to credit unions to ensure their compliance with their legal and regulatory obligations. These can take the form of requirements, circulars and guidance notes.[14] Under the terms of the Credit Union Act, 1997 (as amended), the Registrar's requirements are legally binding on the credit union to which they are addressed.

In addition, the Credit Union Advisory Committee (CUAC) has a statutory role as defined in Section 180 of the 1997 Act. It contributes to the regulation of credit unions by advising the Minister for Finance on issues relating to credit unions. Work of the CUAC includes production of reports such as its Report on Research into Credit Union Directors (which provided insights into the role of credit union directors and contains data which can be used to benchmark the sector) and its Review of the Credit Union Sector (which is described as being "an important input into the Review of Policy Framework being undertaken as part of the Programme for Government").[15]

Reporting requirements

Credit unions are required to make certain specified reports available to the RCU which can assist with identifying areas of risk within the sector. Details of these reporting requirements applicable to credit unions are outlined on the Central Bank's website here, where it explains that:

> "It is essential that all credit unions comply with their statutory reporting obligations by filing returns promptly.
>
> Non-submission or late submission of returns is one of the key indicators for the Registry of Credit Unions (RCU) in the assessment of the risk profile of individual credit unions and in deciding which credit unions need to be inspected".[16]

Reporting requirements outlined by the Central Bank relate to:

1. Prudential Returns
2. Year End Requirements
3. Fitness and Probity Reporting Requirements
4. Outsourcing Notifications to the Central Bank

[13] Central Bank of Ireland webpage, *Credit Unions*. Available at https://www.centralbank.ie/regulation/industry-market-sectors/credit-unions

[14] Such communications issued to credit unions by the Registry of Credit Unions are available at https://www.centralbank.ie/regulation/industry-market-sectors/credit-unions/communications

[15] Department of Finance press release, *Minister Donohoe appoints two new members to the Credit Union Advisory Committee.* 10 December 2020. Available at https://www.gov.ie/en/press-release/cb5de-minister-donohoe-appoints-two-new-members-to-the-credit-union-advisory-committee/

[16] Central Bank of Ireland webpage, *Reporting Requirements for Credit Unions*. Available at https://www.centralbank.ie/regulation/industry-market-sectors/credit-unions/reporting-requirements

Reporting obligations may also arise in relation to the Central Credit Register.[17]

Lending policies

The Credit Union Handbook states (on page 18) that "a credit union's lending policies should be aligned to its risk appetite statement and its strategic goals, as set out in its Strategic Plan". Credit unions are required to maintain written lending policies including the following:

- a credit policy
- a credit control policy; and
- a provisioning policy.[18]

The credit policy should cover, at a minimum, certain specified items including the interest rate applicable to each class of loan, if applicable. Credit unions may charge interest on loans made to its members under section 35 subject to certain conditions. For example, credit unions are currently restricted, under section 38 of the 1997 Act, to interest on a loan not exceeding 1% per month on the amount of the loan outstanding.

[17] This is described as "a secure system for collecting personal and credit information on loans of €500 or more", operated by the Central Bank of Ireland under the Credit Reporting Act 2013. The Act obliges all lenders in scope to submit personal and credit information on those loans to the Central Credit Register.

[18] Credit Union Handbook, page 18.

Background and policy context

This section looks at the background and policy context to the Bill. It outlines key features of credit unions and provides an overview of the credit union sector in Ireland.

Defining credit unions

Broadly speaking, a credit union is a volunteer run, member-owned organisation where people save and lend to each other at affordable rates of interest. They typically have a not-for-profit status and a strong community-based ethos. A common bond, based on factors like living or working within a particular area, determines who can join each credit union. All members have an equal input into the running of their credit union regardless of the level of savings they hold. This form of co-operative financial organisation has unique features that distinguish them from banks (see table 2).

Table 2: Differences between credit unions and banks

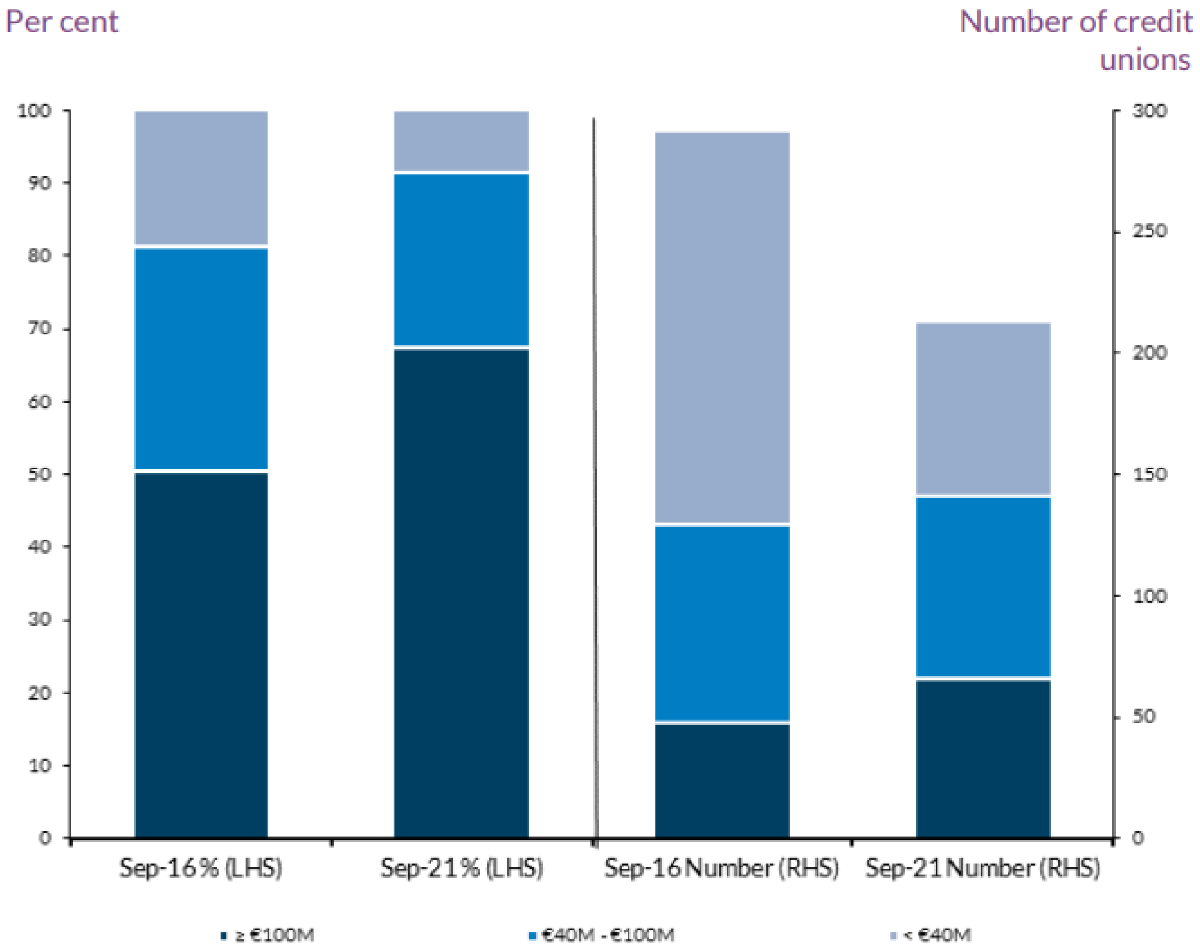
Credit unions	Banks
Not-for-profit, member-owned financial co-operatives funded primarily by voluntary member deposits.	For-profit institutions owned by shareholders
Conduct business solely with their members, and their members are in turn the owners of the credit union, there is a coincidence of ownership and consumption.	Conflict between depositors and borrowers (the customers) and shareholders (the owners).
Members share a common bond, such as where they live or work.	Typically serve middle-to-high income clients. No restrictions on clientele.
Credit union members elect a volunteer board of directors from their membership. Members each have one vote in board elections, regardless of their amount of shares in the credit union.	Shareholders vote for a paid board of directors who may not be from the community or use the bank's services. Votes are weighted based on the amount of stock owned.
Surplus monies generated from business activities belong to the members, distribution method decided by members.	Shareholders receive a pro-rata share of profits.
Financial services provided are primarily basic savings and loan products with some insurance offerings.	A wide range of financial services are on offer.
Local offices, limited use of ATMs, internet and phone technology for the provision of services.	Branch network, sophisticated technology based provision and delivery of services.
Exist to attain the economic and social goals of members.	Exist to maximise profit and shareholder wealth.

Source: Report of the Commission on Credit Unions, page 10.

Overview of credit unions in Ireland

Credit unions have a relatively long history in Ireland, dating back to 1958 when the country's first was founded. The profile of the sector (number of credit unions and asset size) has evolved over recent years, including due to voluntary restructuring. It was recently estimated that there are 204 credit unions in Ireland (as at 20 October 2022), as illustrated in map 1 overleaf. This marks a slight decline on the previous year but is in line with the trend of falling numbers of credit unions over recent years. For example, there were 214 trading credit unions at 30 September 2021, compared to 229 at 30 September 2020 and 292 at 30 September 2016 (see figure 1). The number of credit unions in Ireland had previously stood as high as 406 (at 30 September 2011).[19]

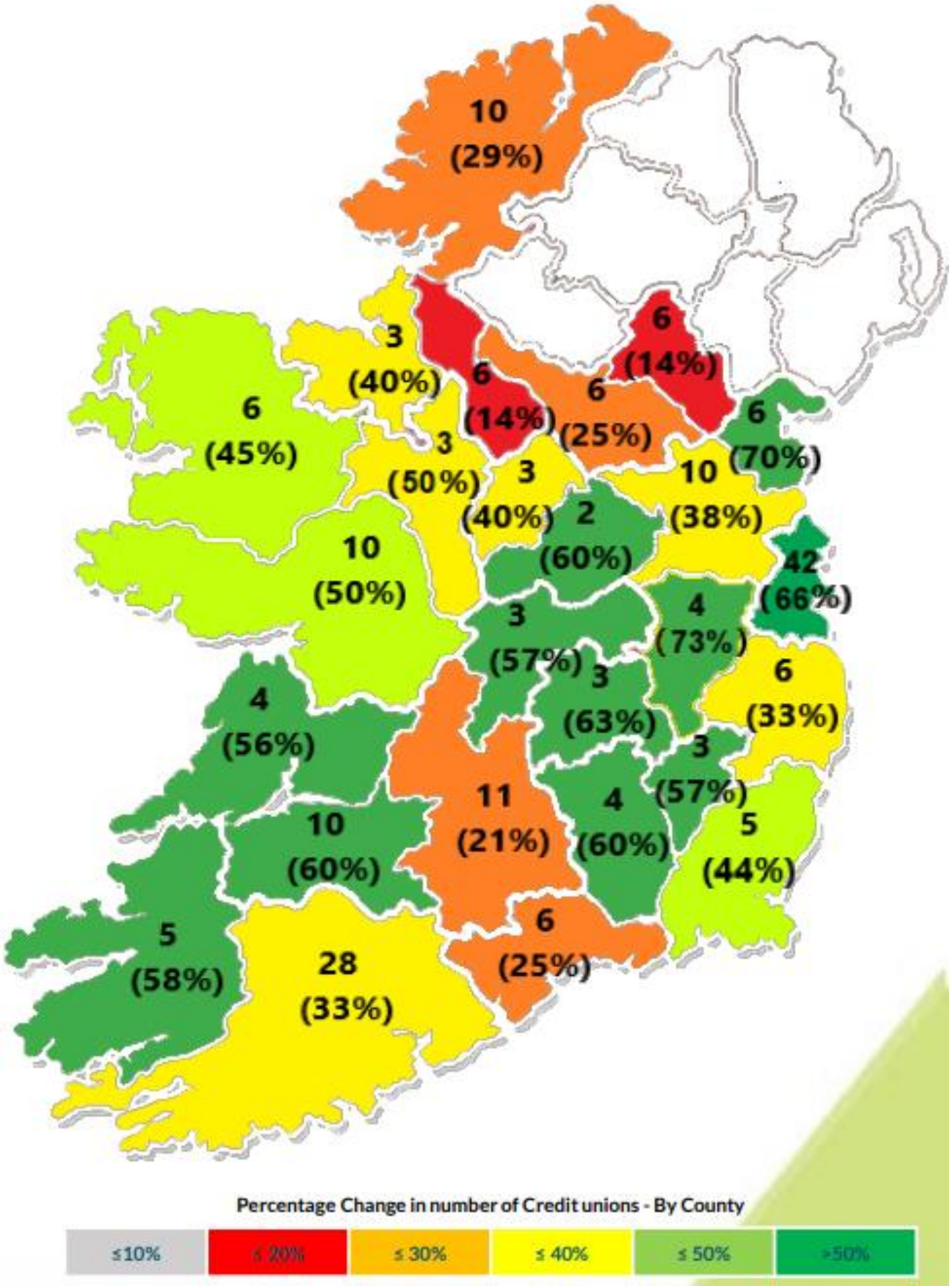
Figure 1: Number of credit unions by asset size, Sept 2016 – Sept 2021



Source: Central Bank of Ireland (2021) *Financial Conditions of Credit Unions, 2021: I, Issue 8*, December 2021.
Notes: Based on central data submitted by credit unions to RCU.

[19] Central Bank of Ireland (2019) *Financial Conditions of Credit Unions, 2019: II, Issue 6*, December 2019. Available at https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/credit-unions/communications/financial-conditions-of-credit-unions/financial-conditions-of-credit-unions-2019-ii.pdf

Map 1: Number of credit unions by county, as at 20 October 2022 (204 credit unions in total)



Source: Central Bank of Ireland (2022) *Restructuring Update*. Presentation at Credit Union Information Seminar – Webinar. 20 October 2022. Available at https://www.centralbank.ie/docs/default-source/regulation/credit-unions/2022-information-seminar/restructuring-update.pdf?sfvrsn=2131951d_2

The sector's profile has also evolved in terms of credit union size, with more large size credit unions (assets of at least €100 million) and fewer small size credit unions (assets less than €40 million). The number of credit unions with assets of at least €100 million increased from 48 credit unions (representing 50% of total sector assets) at 30 September 2016 to 66 credit unions (representing 67% of total sector assets) at 30 September 2021.[20] Over the period 30 September 2016 to 30 September 2021, the number of credit unions with assets of less than €40 million fell from 163 (representing 19% of total sector assets) to 73 (representing 9% of total sector assets).[21]

Whilst the number of credit unions decreased by 78 between September 2016 and September 2021 given ongoing restructuring, the sector continues to retain a strong national presence in terms of reported membership. Credit unions affiliated to the Irish League of Credit Unions (ILCU) have 3.6 million members throughout the island of Ireland.[22] The Credit Union Development Association (CUDA), which was founded in 2003, also has a number of member credit unions, whose membership in turn would boost the total number of credit union members in Ireland.[23]

Table 4 overleaf presents some key financial data for the Irish credit union sector for the year to 30 September 2021 (based on Central Bank data itself derived from data routinely submitted by credit unions to the Registry of Credit Unions). It shows that total credit union assets reached a record high of €19.98 billion at 30 September 2021, increasing from €15.96 billion at 30 September 2016 and from €19.42 billion at 30 September 2020 (an increase of €0.57 billion in the financial year).

Deposits and investments remain the largest component of credit union assets, accounting for 75% of assets at 30 September 2016 and 74% at 30 September 2021. At 30 September 2021, deposits and investments stood at €14.70 billion.

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[20] Central Bank of Ireland (2021) *Financial Conditions of Credit Unions, 2021: I, Issue 8*, December 2021. Available at https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/credit-unions/communications/financial-conditions-of-credit-unions/financial-conditions-of-credit-unions-2021-i.pdf

[21] Central Bank of Ireland (2021) *Financial Conditions of Credit Unions, 2021: I, Issue 8*, December 2021.

[22] Irish League of Credit Unions (ILCU) webpage, *Key Statistics*. Available at https://www.creditunion.ie/about-credit-unions/key-statistics/

[23] There are two representative bodies for credit unions in Ireland – the Irish League of Credit Unions (ILCU) and the Credit Union Development Association (CUDA). There is also a representative organisation for professional senior management teams of credit unions in Ireland - the Credit Union Managers' Association (CUMA). The National Supervisors Forum (NSF) was formed in March of 2002 to support the Credit Union Supervisory Committees and Board Oversight Committees of the island of Ireland in carrying out their legal functions and to provide appropriate specialist training.
In addition, representative bodies also operate at European and international levels. The World Council of Credit Unions (WOCCU) is the global trade association and development agency for credit unions. The European Network of Credit Unions, comprised of nine European associations (including the ILCU) and the WOCCU, aims to serve as a platform to exchange information and speak with one voice on European matters.

Table 4: Credit union sector data table (September 2021)

Sep-21				
	Asset Bucket			Total Sector
	< €40M	€40M - €100M	≥ €100M	
No. Credit Unions that have Submitted Returns	**72**	**75**	**66**	**213**
Average Surplus / Deficit	€0.14M	€0.45M	€1.18M	€0.57M
Total Surplus / Deficit	€10.43M	€34.10M	€77.63M	€122.16M
Average Assets	€23.81M	€63.94M	€204.10M	€93.81M
Total Assets	€1.71BN	€4.80BN	€13.47BN	€19.98BN
Total Loans	€0.48BN	€1.30BN	€3.46BN	€5.25BN
Total Investments	€1.07BN	€3.09BN	€8.80BN	€12.96BN
Total Savings	€1.43BN	€3.99BN	€11.37BN	€16.79BN
Total Reserves	€0.28BN	€0.78BN	€2.04BN	€3.11BN
Average ROA	0.60%	0.72%	0.55%	0.63%
Average Liquidity	38.62%	35.89%	33.90%	36.20%
Average Arrears > 9 weeks	3.86%	3.17%	3.09%	3.38%
Average Realised Reserves	16.32%	16.32%	15.36%	16.02%
Lending > 5 Years	22.72%	27.04%	28.48%	26.03%
Lending > 10 Years	1.21%	2.92%	5.87%	3.26%
Average Loan	€7,825	€8,228	€8,756	€8,527
Average New Loan	€5,546	€5,613	€5,902	€5,789
Average Savings per Member	€3,946	€4,354	€5,178	€4,832

Source: Central Bank of Ireland (2021) *Financial Conditions of Credit Unions, 2021: I, Issue 8*, December 2021.

Overview of policy development in Ireland

One analysis of Irish credit unions notes that "since 2008, the Irish government has put in place measures aimed at strengthening CUs and the framework available to the regulatory authority, the Central Bank of Ireland (CBI)".[24] In addition, there have been a number of policy developments in relation to the Irish credit union sector over recent years. Some of these include:

1. The Government established the Commission on Credit Unions on 31 May 2011 to "review the future of the credit union movement and make recommendations in relation to the most effective regulatory structure for credit unions, taking into account their not-for-profit mandate, their volunteer ethos and community focus, while paying due regard to the need to fully protect depositors savings and financial stability".[25]
2. The Credit Union and Co-operation with Overseas Regulators Act, 2012 was enacted to implement over 60 of the recommendations in the report of the Commission on Credit Unions.
3. The Credit Union Restructuring Board (ReBo) was established in 2013 to oversee and facilitate a restructuring programme. The ReBo completed its restructuring operations in March 2017, having supported a total of 117 merger projects involving 212 credit unions.[26]

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[24] Financial Stability Institute (2019) *Regulation and supervision of financial cooperatives*. Available at https://www.bis.org/fsi/publ/insights15.pdf

[25] Report of the Commission on Credit Unions (March 2012). Available at https://assets.gov.ie/6252/060219170706-1c5116c9c54d49ad9dfed3de66d32f0c.pdf

[26] Department of Finance (2019) *Credit Union Restructuring Board (ReBo)*. Available at https://www.gov.ie/en/publication/289988-credit-union-restructuring-board-rebo/

4. The CUAC Report Implementation Group was established to oversee the implementation of CUAC's recommendations of 2016.[27] The Implementation Group met 18 times between February 2017 and December 2018 and worked through the CUAC recommendations.[28]
5. Work on the Review of the Policy Framework, as committed to the Programme for Government (see below for more information), has been completed following an engagement session with credit union representative bodies.
6. Introduction of legislation (the Finance (Miscellaneous Provisions Act) 2020) that gives credit unions discretion for the first time ever to convene wholly or partly virtual Annual General Meetings (AGMs).
7. The entry into force in 2019 of the Credit Union Stabilisation Levy. This stabilisation levy is an annual levy that will be used to build up a Stabilisation Fund for credit unions. The introduction of the Stabilisation scheme was one of the recommendations of the Commission on Credit Unions which also recommended that the scheme be funded by mandatory contributions from credit unions.[29] Both the Credit Institution Resolution Fund Levy and the Credit Union Stabilisation Levy have since been reviewed by the Minister of State with responsibility for Financial Services, Credit Unions and Insurance Seán Fleming.[30]

The current Programme for Government (2020) contains specific commitments related to credit unions. These include:

1. Under the heading "National Economic Plan – Business Financing" (page 22)
   - Enable the Credit Union movement to grow as a key provider of community banking in the country
2. Under the heading "Credit Unions and Community-based Financial Services" (page 25)
   - Review the policy framework within which Credit Unions operate.
   - Enable and support the Credit Union movement to grow.
   - Support Credit Unions in the expansion of services, to encourage community development.[31]

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[27] The Final Report of the CUAC Report Implementation Group (December 2018) is available here.

[28] Department of Finance (2019) *Minister Donohoe welcomes final report of the CUAC Report Implementation Group*. Press release. 7 January 2019. Available at https://www.gov.ie/en/press-release/b4fa49-c/

[29] Department of Finance (2019) Credit Union Stabilisation Levy comes into force – Donohoe. Press release, 19 November 2019. Available at https://www.gov.ie/en/press-release/d3e5d5-credit-union-stabilisation-levy-comes-into-force-donohoe/

[30] Department of Finance (2022) *Credit Union Sector Levy Regulations 2021*. Press release, published on 27 September 2021, last updated on 1 December 2021. Available at https://www.gov.ie/en/press-release/25bc3-credit-union-sector-levy-regulations-2021/

[31] Department of the Taoiseach (2020) Programme for Government: Our Shared Future. Available at https://assets.gov.ie/130911/fe93e24e-dfe0-40ff-9934-def2b44b7b52.pdf

With regard to fulfilling the commitments in the Programme for Government for credit unions, the Review of the Policy Framework has been completed and this Bill seeks to give legislative effect to the outcome of same. In July 2022, the Government approved the drafting of legislation to implement the relevant proposals[32], i.e. those included in this Bill. The policy proposals contained in the Review address five key objectives:

1. Recognition of the role of credit unions.
2. Supporting investment in collaboration.
3. Supporting enhanced governance.
4. Improving member services.
5. Transparency of regulatory engagement (non-legislative policy action).[33]

Cumulatively, the desired outcome of these objectives is to strengthen the role of credit unions as a provider of community banking and to further enable credit unions to focus on priorities that will better position the sector to face the challenges and opportunities of the future.[34] In total as part of the Review process, Minister Fleming held several stakeholder meetings with the credit union sector and considered over 100 proposals, with this engagement welcomed by the Irish League of Credit Unions.[35] The Minister for Finance has noted the following regarding the Programme for Government review of the policy framework:

> "The proposals arising from the Review received broad support from the representative bodies and will go to Cabinet shortly for approval to draft legislation. The proposals being considered aim to better position credit unions to grow as a key provider of community banking."[36]

An important backdrop to this, is Ireland's shrinking banking sector, with imminent exits of KBC and Ulster Banks, as well as the closure of many bank branches throughout the country. This has been acknowledged by Minister Fleming.[37]

Welcoming the inclusion of the Bill on the list of priority legislation for drafting and publication during the autumn 2022 session (as per the Legislation Programme Autumn 2022), the Credit Union Development Association (CUDA) stated:

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[32] "Written answers – Credit Unions", Dáil Éireann debate. 22 September 2022. Available at https://www.oireachtas.ie/en/debates/question/2022-09-22/144/#pq_144

[33] The Department of Finance explains that there are three elements of the policy review which resulted in non-legislative policy action to support transparency in regulatory engagement. This Bill Digest focuses solely on legislative measures arising from the Review.

[34] "Written answers – Credit Unions", Dáil Éireann debate. 22 September 2022.

[35] Irish League of Credit Unions (ILCU) Credit Union bodies welcome engagement with Minister Fleming. 10 March 2022. Available at https://www.creditunion.ie/news/latest-news/credit-union-bodies-welcome-engagement-with-minist/

[36] "Written answers - Credit Unions". Dáil Éireann Debate, 26 April 2022. Available at https://www.oireachtas.ie/en/debates/question/2022-04-26/478/#pq_478

[37] See, for example, Department of Finance press release, Minister Seán Fleming speaks at the Credit Union National Supervisors Forum's AGM 2022. 13 June 2022. Available at https://www.gov.ie/en/press-release/cf968-minister-sean-fleming-speaks-at-the-credit-union-national-supervisors-forums-agm-2022/

> "Credit unions have the funds and the market reach – our unique ownership model means benefits flow back to Members and Communities. The new proposals will facilitate real collaboration occur between credit unions. Each credit union is a separate legal entity with its own board and management team, and up to now they are not permitted share business. These changes will permit credit unions to collaborate to introduce loans to each other and collectively share loans. They will be able to establish a credit union for credit unions and have greater opportunity to invest in credit union owned service organisations. These changes will help Credit unions make a greater financial, social and environmental contribution as their legislation framework is modernised.
>
> Allowing credit unions to do more business through these changes, this could effectively see their lending double increasing from €5.5bn to over €10bn".[38]

The Credit Union Development Association also welcomed publication of the Bill, particularly "the changes that recognise the great work of volunteer directors, who provide a professional service pro bono".[39]

[38] Credit Union Development Association (CUDA) Credit Union (Amendment) Bill a priority in Government Legislation Programme (25 September 2022).

[39] Credit Union Development Association (CUDA) Credit Union Development Association (CUDA) delighted to see publication of the Credit Union (Amendment) Bill 2022 (30 November 2022).

Principal provisions of the Bill

This section of the Digest examines some of the main provisions of the Bill. The Bill comprises of 56 sections in total. Given the limited time between publication and Second Stage debate, it is not possible to provide comprehensive analysis of each section of the Bill individually.[40] Rather, a thematic approach is taken in this section of the Digest to consider a number of key legislative proposals in terms of their policy background and relevant provisions in the Bill.

Establishment of corporate credit unions

This section discusses both policy background to proposals to provide for the establishment of corporate credit unions and related provisions of the Bill.

Policy background to establishing corporate credit unions

At present, each credit union is a separate legal entity with its own board and management team, and up to now, they have not been permitted to share business.[41] The structure and restructuring models for the credit union sector has, however, long been a feature of the policy debate. For example, the Report of the Commission on Credit Unions (March 2012) notes that the Commission discussed a number of models for a restructured sector during the course of its deliberations, whilst acknowledging that restructuring will not apply to all credit unions.

This restructuring would involve moving from a situation where the over 400 credit unions (at the time) operate and act independently to one where there is some consolidation through amalgamations and the development of close networks and shared services. Models assessed include Atomised model, Strategic Groupings, Regional Credit Unions, and Federated Model. In discussing the "Strategic Groupings" model, the Report of the Commission on Credit Unions states:

> "This would involve the planned voluntary merger of two or more credit unions to form one single legal entity which would operate local offices. This proposal would allow for the provision of a full range of member services through shared services, the establishment of Credit Union Service Organisations (CUSOs) and movement owned entities".

Corporate credit unions are a feature of the credit union sector in other countries. The Report of the Commission on Credit Unions (March 2012) describes how corporate credit unions may be formed in Atomised Systems[42] (US, Canada and UK):

> "The atomised model of co-operatives consists of relatively weak integration of member credit unions, generally limited to representation, lobbying and public relations. In some

[40] The Explanatory Memorandum provides a description of all 56 sections of the Bill.

[41] Credit Union Development Association (CUDA) Credit Union (Amendment) Bill a priority in Government Legislation Programme (25 September 2022). Available at https://www.cuda.ie/blog/2022/09/25/credit-union-amendment-bill-a-priority-in-government-legislation-programme/

[42] The Report of the Commission on Credit Unions explains that in such systems, credit unions are autonomous with a well-developed local presence and while maintaining individual and independent credit unions increased integration can be achieved through shared services.

jurisdictions, credit unions form Credit Union Services Organisations (CUSOs) which are limited liability companies to facilitate shared services. CUSOs allow credit unions to achieve economies of scale and/or engage in activities that credit unions are restricted from carrying out themselves. Corporate credit unions may also be established. They act as a 'credit union for credit unions' and provide a range of services primarily centred on treasury".

Collaboration has been identified as being necessary for the growth of the credit union sector in Ireland, on the basis that even the largest credit unions do not have the scale to develop opportunities on their own.[43] A number of examples of ways in which credit unions are developing their business models have been identified to date, including:[44]

- 69 credit unions are now providing current accounts through collaborative vehicles, an increase of 18 in the past year.
- 3 collaborative vehicles have been approved to support lending of up to €900 million to Approved Housing Bodies (AHBs). Every credit union now has the opportunity to invest in funding AHBs.
- 40 credit unions are collaborating with Cultivate to provide agri-lending.
- 24 credit unions have partnered with PeopL to provide general insurance products to members and many more provide assurance products.

In addition, Minister Fleming has noted that "Credit Unions will not be able to take advantage of the opportunity of bank branch closures without collaboration and increasing lending.[45]

It is in this context that the Bill provides for the establishment of corporate credit unions in Ireland.

Relevant provisions in the Bill

One of the primary purposes of the Bill is that it seeks to amend the Credit Union Act, 1997 to provide for the establishment of corporate credit unions. Doing so requires certain legislative changes. Accordingly, the Bill contains several provisions related to the establishment of corporate credit unions. These include:

- **Section 3** amends the 1997 Act by inserting additional definitions including one for "corporate credit union".

- **Section 5** amends the 1997 Act by inserting a new subsection (1A), which sets out how an application for the registration of a society as a corporate credit union shall be made, with consequential amendments to other subsections.

[43] Department of Finance speech, *Irish League of Credit Unions AGM Speech by Minister Fleming* (23 April 2022). Available at https://www.gov.ie/en/speech/d96f2-irish-league-of-credit-unions-agm-speech-by-minister-fleming-23rd-april-2022/

[44] Department of Finance speech, *Irish League of Credit Unions AGM Speech by Minister Fleming* (23 April 2022). Available at https://www.gov.ie/en/speech/d96f2-irish-league-of-credit-unions-agm-speech-by-minister-fleming-23rd-april-2022/

[45] Department of Finance press release, Minister Seán Fleming speaks at the Credit Union National Supervisors Forum's AGM 2022 (13 June 2022). Available at https://www.gov.ie/en/press-release/cf968-minister-sean-fleming-speaks-at-the-credit-union-national-supervisors-forums-agm-2022/

- **Section 6 (b)** amends the 1997 Act by inserting a new subsection (1A), which sets out how the Central Bank may determine the rules of a corporate credit union, with a consequential amendment to another subsection:

  > "The rules of a corporate credit union shall be in such form and contain such provisions as the [Central] Bank may determine after consultation with the Advisory Committee and such other bodies as appear to the Bank to be expert or knowledgeable in matters relating to credit unions."

- **Section 7** amends the 1997 Act by substituting subsection (2) for a new subsection which provides for the signing of amended rules by a credit union and a corporate credit union. It states that in the case of a corporate credit union, a copy of the amendment shall be signed on behalf of not less than 2 members by the secretary of each of those members and sent to the Central Bank in order to be valid.
- **Section 44** amends section 80 of the 1997 Act in relation to the procedures for sending a notice of a general meeting, including consequential amendments arising from the introduction of corporate credit unions.
- **Section 56** provides a list of section provisions of the 1997 Act to be disapplied in respect of corporate credit unions.

Changes to the loan interest rate cap

This section discusses both policy background to changes to the loan interest rate cap and related provisions of the Bill.

Policy background to the loan interest rate cap

The *Credit Union (Amendment) Bill 2022* provides the legislative basis to increase the maximum monthly interest rate on credit union loans from 1% to 2%. The interest rate ceiling on credit union loans was examined by the Credit Union Advisory Committee (CUAC), following a recommendation in a 2016 CUAC report that the interest rate ceiling be reviewed.

Specifically, the CUAC recommended that the interest rate ceiling on loans be considered further by CUAC in consultation with stakeholders and taking account of international experiences, together with the common bond and alternative means of voting by members. The CUAC published three policy papers in December 2017 dealing with the issues - the Common Bond; Alternative Means of Voting by Members and Loan Interest Rate Cap.

The Loan Interest Rate Cap paper considers the interest rate ceiling on credit union loans. That paper follows the earlier CUAC recommendation and takes account of international experience and of CUAC's Credit Union Survey 2017 (which provides views from individual credit unions).[46] In addition, the paper presents reasons for and against the interest rate ceiling, before concluding with summary comments and a recommendation for change to the interest rate ceiling.

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[46] Credit Union Advisory Committee (2017) Policy Paper: *Loan Interest Rate Cap*. Available at https://assets.gov.ie/6121/290119154954-4588df26475a4759b42ce86f34c68613.pdf

The rationale for and against the Loan Interest Rate Ceiling is summarised in the paper as follows (on page 2):

> "Interest rate ceilings can be justified as protecting borrowers by offering access to credit at fair and reasonable interest rates. Access to credit at fair and reasonable rates is one of the primary objectives of a credit union. Those against the use of interest rate ceilings (or ceilings set at relatively low levels) believe they reduce product diversification and competition between institutions. In addition, interest rate ceilings may result in institutions choosing not to lend to some higher risk borrowers, many of whom will have limited access to alternative sources of credit".[47]

The paper highlights the results of a survey of Irish credit unions undertaken by CUAC between April and May 2017. It shows that 40% of respondents indicated that the interest rate ceiling should be changed, 54% indicated that it should not be changed and 6% did not have an opinion. However, there was a dichotomy in responses between credit unions in the three smaller asset categories (< €20m; €20m - €40m; and €40m - €60m) relative to those in the two larger asset categories (€60m - €100m; and > €100m). The paper explains that a majority of credit unions in each of the three smaller asset categories did not believe the interest rate ceiling should be changed. In contrast, a majority of credit unions in the two larger asset categories suggested that the interest rate ceiling should be changed.

The report concluded in favour of a change in the interest rate ceiling from 1% to 2%, with the following rationale provided:

> "CUAC's view is that credit unions should be permitted to charge an interest rate on loans greater than the present ceiling of 1 percent per month. CUAC believes that the loan interest rate ceiling should be raised to 2 percent per month. This change will provide credit unions with greater flexibility to risk price loan products and in so doing may create an opportunity for new product offerings. This recommendation to increase the loan interest rate ceiling does not mean that credit unions are required to raise their loan interest rates. Rather they can apply their own interest rate(s) within the parameters that are allowed".[48]

The Loan Interest Rate Cap paper highlighted legislative change to Section 38 1(a) of the Credit Union Act would be required in order to increase the interest rate ceiling on loans.

At the time of publication of the Loan Interest Rate Cap paper in December 2017, it noted that a 1% per month interest rate ceiling on interest rates applied for credit unions in Northern Ireland despite the fact that it is 3% per month in the rest of the UK.

Relevant provisions in the Bill

The *Credit Union (Amendment) Bill 2022* provides the legislative basis to increase the maximum monthly interest rate on credit union loans in **section 19** of the Bill. This section provides for the substitution of section 38(1)(a) of the 1997 Act and the insertion of new subsections (3), (4) and (5)

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[47] Credit Union Advisory Committee (2017) Policy Paper: *Loan Interest Rate Cap*. Available at https://assets.gov.ie/6121/290119154954-4588df26475a4759b42ce86f34c68613.pdf

[48] Credit Union Advisory Committee (2017) Policy Paper: *Loan Interest Rate Cap*. Available at https://assets.gov.ie/6121/290119154954-4588df26475a4759b42ce86f34c68613.pdf

in order to provide for the setting, by the Minister, of the maximum interest rate that may be charged on loans made by a credit union to its members.

Under **section 19** of the Bill, the Minister may, after consultation with the Advisory Committee and such other body as the Minister considers appropriate in the circumstances, by order specify a rate of interest, having regard to:

(a) the interest rates charged in respect of loans by credit institutions and other providers of credit;

(b) the interest rates payable by credit unions on deposit accounts and in respect of other sources of funding for loans;

(c) the need to avoid distortions in competition between credit unions, credit institutions and other providers of credit;

(d) the financial stability and well-being of credit unions generally.

It also outlines, in **section 19(b)**, that an order made under subsection (3) shall apply to a credit agreement entered into, or, where there is no credit agreement, a loan made—

(a) after the date on which the order comes into operation, and

(b) before the date, if any, on which the order next made under subsection (3) comes into operation.

Credit unions' common bond

This section discusses both policy background to changes to credit unions' common bond and related provisions of the Bill.

Policy background to changes to credit unions' common bonds

One of the key characteristics of credit unions is that they are member-owned organisations. Credit unions distinguish themselves as having members, rather than customers (see table 2 for differences between Credit Unions and Banks). Membership is open to people who have a unique 'common bond' with other members of the credit union or as the Report of the Commission on Credit Unions (March 2012) puts it, "The common bond is based on a pre-existing social connection (such as belonging to a particular community, industrial or geographic group). This common bond typically determines who can join each credit union and become a member:

> "Firstly, in order to join a credit union, you need to hold what is known as the 'common bond'. For most credit unions, the 'common bond' is the area where members live - potential members will need to live or work within a local area. This is known as a community based credit union. For other credit unions, the 'common bond' might be the occupation members work in, the employer they work for or perhaps, members are drawn from a society or association. The 'common bond' is what enables members to know and trust one another".[49]

[49] ILCU webpage, *How do I Join?* Available at https://www.creditunion.ie/about-credit-unions/joining-a-credit-union/

While the common bond is very much a part of the distinctive nature of credit unions, the CUAC noted in its 2012 report, that the common bond as then defined may place limits on the potential for credit union product and service growth:

> "In the past, this helped in the absence of more formal systems of credit bureaux to assist with assessment of loan applications. However, the common bond also limits commercial diversification, and in many jurisdictions has become less important as the movement has matured".[50]

In December 2017, the CUAC published a policy paper on credit unions' Common Bond as recommended in the 2016 CUAC report. The paper considers the value of the common bond and whether or not it still remains relevant to all credit unions in meeting the needs of their members. It noted that changes had been made over recent years to the common bond in other jurisdictions considered in its paper. The final section of the paper presents the following options for consideration:

> "The outcome of the survey suggests that it would be timely to now consider some change to the current common bond arrangements. Based on responses from credit unions and taking account of recent developments in the sector, including developments in other jurisdictions, a number of options have emerged for consideration. These options should be considered in tandem with options identified in relation to CUAC policy papers on e-voting and the credit union interest rate.
>
> Options
>
> Based on the responses received to the CUAC survey and the view of the majority of respondents that the common bond should not be fully removed, the following options should be considered:
>
> 1. The opening up of the Common Bond to assist credit unions in developing their business models and growth potential.
>
> 2. The removal of the anomaly whereby credit unions are prohibited from introducing business to each other but can introduce business to other financial institutions.
>
> 3. Any changes to the common bond should occur within a 5 year time period.
>
> 4. The rules regarding the common bond should be made clearer with better communication as to the meaning/nature of the common bond
>
> 5. Updating what the boundaries of the common bond are as in most cases these arrangements have been in place for a significant period of time.
>
> Finally, this paper should be submitted to the CUAC Report Implementation Group for further consideration/research."[51]

The CUAC Report Implementation Group Final Report considered this issue and came out in favour of progressing option 2 above (on page 11):

> "IG reviewed the recommendation and options proposed. While Credit union representatives were cautious regarding changes to the Common Bond and the majority felt it wasn't a priority issue, others believed it is unintentionally preventing some members, or potential

[50] Report of the Commission on Credit Unions (March 2012), page 9.

[51] CUAC (2017) Policy paper Common Bond

> members, access to credit union services. It was also felt that proper consideration of the common bond (Option 5) would be costly given the range of expertise required in land law, geography and mapping. However the IG agreed that in principle Option 2, to allow credit unions to introduce business to other credit unions, should be addressed in some way. Further consideration is necessary however to ensure that any proposed changes respected the integrity of the current common bond. The IG also agreed that further research was required given the limited information available on current common bonds and the material changes arising from mergers”.[52]

It has been noted that the common bond definition is the subject of legal regulation and confers on credit unions a key defining characteristic.[53] Common bond requirements are currently set out in legislation (in section 6 of the 1997 Act). The 1997 Act itself included a relaxation of common bond definitions.[54] Further changes to the common bond are now proposed in this Bill.

Relevant provisions in the Bill

The *Credit Union (Amendment) Bill 2022* provides the legislative basis to make changes to credit unions’ common bond.

Section 4 of the Bill amends section 6 of the 1997 Act by inserting two new subsections, (7) and (8), which require that credit unions publish a digital map or provide a description of their common bond on their website or in their annual accounts

In addition, **Section 9** amends section 17 of the 1997 Act which deals with requirements of, and qualifications for, membership. The substitution of section (7) and the insertion of a new subsection (7A) are intended to widen the range of bodies that can be considered for credit union membership.

Fostering greater cooperation (regarding referrals and sharing loans)

This section discusses both policy background to proposals to fostering greater cooperation regarding referrals and sharing loans and related provisions of the Bill.

Policy background to fostering greater cooperation

The situation in relation to lending by credit unions is an important part of the policy background to how they might foster greater cooperation. Data on lending by credit unions is available from the Central Bank of Ireland publication, *Financial Conditions of Credit Unions, 2021: I, Issue 8* (December 2021). This source shows that outstanding loans increased in 2021, reflecting what the report describes as “the recovery in credit demand, as COVID restrictions were eased”. However, it also highlights that the overall loan to asset ratio at 27.1% per cent remains close to historically low levels. It further states that:

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[52] Credit Union Advisory Committee (2018) CUAC Report Implementation Group Final Report. December 2018. Available at https://assets.gov.ie/6237/060219144819-f8885dae0b9745358ef0bfe859c7e800.pdf

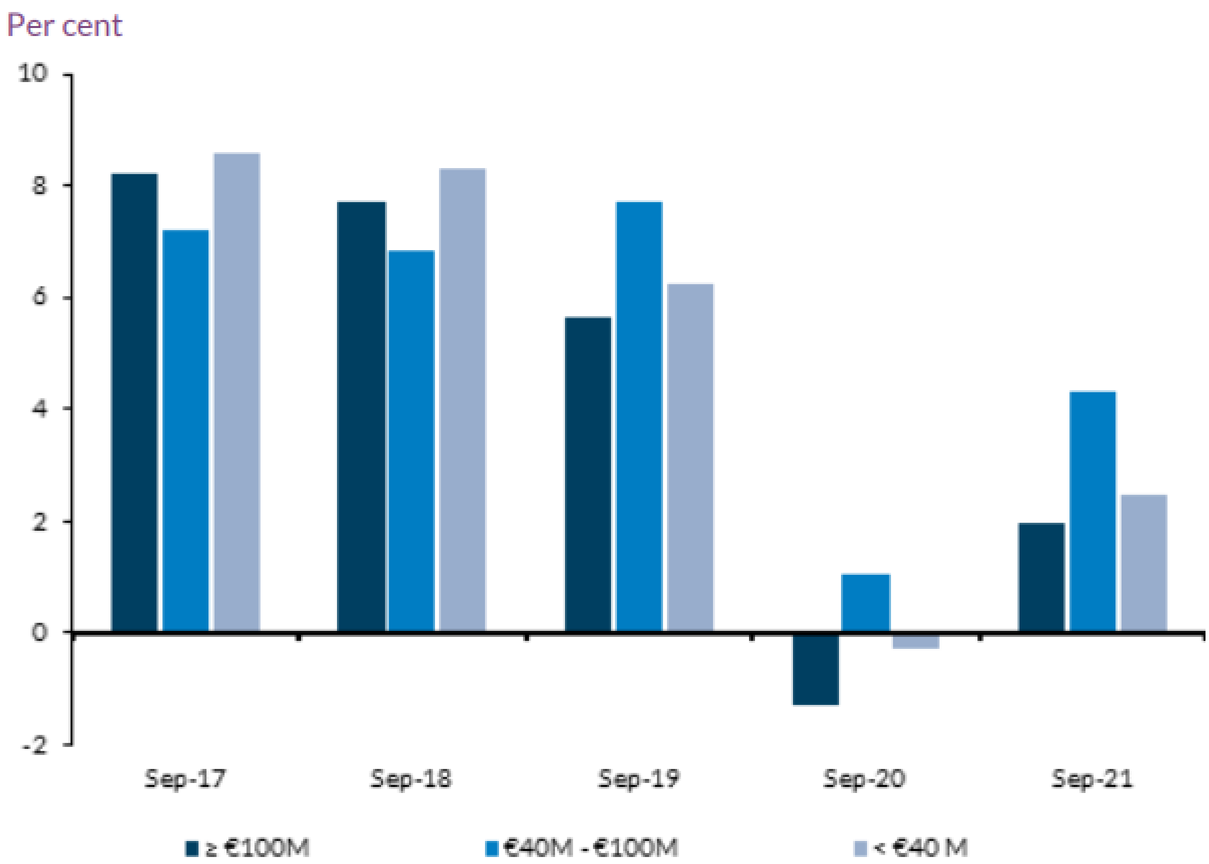
[53] Report of the Commission on Credit Unions (March 2012).

[54] Report of the Commission on Credit Unions (March 2012).

> "Notably, approaching two years post our provision through the regulatory framework of additional capacity for house and business lending, activity remains predominantly focused on unsecured personal lending".[55]

Following a decrease in the total sector loans outstanding, from €5.11 billion at 30 September 2019 to €5.09 billion at 30 September 2020, there has been an increase of €0.16 billion in the year to 30 September 2021 with total sector loans standing at €5.25 billion.[56]

Figure 2: Growth in gross loans outstanding year-on-year by asset bucket



Source: Central Bank of Ireland (2021) *Financial Conditions of Credit Unions, 2021: I, Issue 8*, December 2021.
Notes: Based on central data submitted by credit unions to RCU. This graph is based on the 213 credit unions that reported for 30 September 2021 with the loans of all transferor credit unions between September 2016 and September 2021 included in the loans of their transferee credit unions for the purpose of calculating more accurate growth.

Lending activity in the sector remains predominantly focused on unsecured personal lending. For the year to 30 September 2021, 92% of total loans outstanding were reported as personal loans.

Minister Fleming has highlighted the fact that loan to asset ratios (as discussed above) are at levels that he considers "unsustainably low" and the impact of this:

[55] Central Bank of Ireland (2021) *Financial Conditions of Credit Unions, 2021: I, Issue 8*, December 2021.
[56] Central Bank of Ireland (2021) *Financial Conditions of Credit Unions, 2021: I, Issue 8*, December 2021.

> "The current Loan to Asset ratio of 27% must be increased significantly if the sector is to grow sustainably.
>
> Without collaboration and growth in lending credit unions will not be well placed to take advantage of the opportunity of bank branch closures without collaboration and increasing lending. My message to the credit union sector today is to lend more and keep building on the good work you have been doing".[57]

Relevant provisions in the Bill

The *Credit Union (Amendment) Bill 2022* provides for the participation by credit unions in loans to members of other credit unions.

Section 16 amends the 1997 Act by the substitution of section 35(2) and insertion of a new subsection (2A) allowing for credit unions to participate in a loan to a member of another credit union.

Scope of permitted investments

This section discusses both policy background to proposals to provide for the establishment of corporate credit unions and related provisions of the Bill.

Policy background to supporting investment in collaboration

The 2018 final report of the CUAC Report Implementation Group notes that since July 2016 there have been several important regulatory and supervisory developments. One of these relates to investment regulations:

> "Investment Regulations: following a consultation process which commenced in May 2017 the Central Bank announced changes to the investment regulations for credit unions which came into force on 1 March 2018. Three new investment classes were introduced, accompanied by the introduction of specified credit quality, maturity and concentration limits. The new classes are (1) Bonds issued by Supranational Entities; (2) Corporate Bonds; and (3) Investments in Tier 3 Approved Housing Bodies (AHBs). The Central Bank also restricted credit unions from investing in subordinated bank bonds, though allowed current holdings to remain until maturity. They also introduced changes to the liquidity framework, allowing certain bonds to qualify as liquid. While the credit union members of the Implementation Group were unhappy with the changes in relation to bank bonds, they considered other changes broadly positive and that the consultation process itself had improved since CP76 and CP88".[58]

Relevant provisions in the Bill

The *Credit Union (Amendment) Bill 2022* also provides for changes in relation to investment by credit unions in section 21 of the Bill.

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[57] Department of Finance speech, *Irish League of Credit Unions AGM Speech by Minister Fleming (23 April 2022)*.

[58] Credit Union Advisory Committee (2018) CUAC Report Implementation Group Final Report. December 2018. Available at https://assets.gov.ie/6237/060219144819-f8885dae0b9745358ef0bfe859c7e800.pdf

The Explanatory Memorandum explains that **section 21** amends section 43 of the 1997 Act, with section 43(2)(b) substituted in order to clarify that credit unions can invest in entities providing services relating to the objects and purposes of credit unions or in relation to the operation of credit unions.

Supporting governance (Board of Directors and Board of Oversight Committees)

This section discusses both policy background to proposals to support governance in the credit union sector and related provisions of the Bill.

Policy background to supporting investment in collaboration

There has also been research undertaken by the Credit Union Advisory Committee aimed at understanding the issues and challenges facing Directors and exploring their role in the context of the current governance structure. This resulted in the publication of A Report on Research into Credit Union Directors in February 2020 and an Addendum to Report on Research into Credit Union Directors in July 2022.[59]

In the course of this research, the CUAC made recommendations, intended to support the role of credit union directors, which were addressed to the Department of Finance, the Central Bank and the credit union sector for their consideration. These recommendations cover three core areas: (1) legislation, regulation, supervision (2) structure and workings of the Board and (3) supports. The CUAC noted the following in relation to responsibilities of Directors:

> "Some 64% of Directors agreed or strongly agreed that the level of responsibility was one of the biggest challenges facing Directors. Sections 53-55 of Part IV of the 1997 Act set out the responsibilities of Directors. CUAC recommends that the Department of Finance carry out a review of the requirements for Directors under these sections to ensure that the current obligations are commensurate with the nature, size and complexity of credit unions and are appropriate for the nature of a Director's role. In addition, CUAC notes most credit unions now employ professional managers who have specific statutory responsibilities. CUAC believes the Central Bank should consider the balance in accountability between voluntary Directors and these professional managers during its interactions with both management and Directors".[60]

In this context, it recommended a review by the Department of the requirements for Directors under Sections 53-55 of Part IV of the 1997 Act to ensure that the current obligations are commensurate with the nature, size and complexity of credit unions and appropriate for the volunteer nature of a Director's role. In addition, consideration to be given by the Central Bank to

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[59] Credit Union Advisory Committee, A Report on Research into Credit Union Directors (February 2020), Addendum to Report on Research into Credit Union Directors (July 2022) and Department of Finance press release accompanying publication of 2020 report – Research provides valuable insight into issues and challenges facing Credit Union Directors – Donohoe (27 February 2020)

[60] Credit Union Advisory Committee (2020) *A Report on Research into Credit Union Directors* . Available at https://assets.gov.ie/70428/a18b2c32b1a843ccb4be7a9d3bbd2697.pdf

the balance in accountability between voluntary Directors and professional managers in interaction with both management and Directors.

Relevant provisions in the Bill

The *Credit Union (Amendment) Bill 2022* provides the certain changes in relation to governance. These include the following proposed legislative changes.

Section 24 amends section 53 subsections (6), (10) and (14) of the 1997 Act to clarify the procedures for appointing the manager of a credit union to the board. The Explanatory Memorandum explains that these amendments remove the requirement for a manager of a credit union to be elected as a director of that credit union and removes the criteria that would deem a manager of a credit union ineligible to be a director of that credit union. A consequential amendment, as a result of the introduction of corporate credit unions, is made to section 53(17).

Section 25 amends section 54 of the 1997 Act in relation to directors: procedural divisions. Section 54(1)(a) and (b) are amended to enable the board to meet a minimum of 6 times a year (from 10 at present) and for meetings to occur at least every 10 weeks (from 6 at present).

Section 28 amends section 56B(2) of the 1997 Act to ensure the nomination committee has an odd number of members (either 3 or 5). An amendment is made to section 56B(3) for the purposes of allowing the credit union to appoint a manager to the board.

Section 31 is related to the latter point and amends section 63A of the 1997 Act in relation to the manager of the credit union. A new subsection 63A(6) gives the board the power to appoint the manager of a credit union as a director of that credit union for such time as they determine.

Section 32 substitutes section 66(2) of the 1997 Act to amend the board oversight committee process where a director has been suspended by that committee.

Section 41 amends section 76O of the 1997 Act. The Explanatory Memorandum explains that an amendment is made to section 76O(1) to align the timing of meetings with amendments made to sections 54 (directors; procedural divisions) and 55 (functions of the board) of this Act.

Section 49 amends section 111(4) of the 1997 Act to remove the requirement for the annual accounts to be signed by the board oversight committee.

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