

# LENDING

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## Version History

Version	Date	Amendments
0.1	July 2013	Initial Version.
1.0	September 2013	Link to Section 35 Regulatory Requirements for Credit Unions reflects updated requirements effective from 1 October 2013.
1.1	October 2013	Inserted footnote 1 to reflect deletion of section 60 from the 1997 Act.
1.2	November 2015	<ul style="list-style-type: none"> <li>Amended section 35 to reflect the commencement of section 11 of the 2012 Act.</li> <li>Inserted regulations in Section 2.</li> </ul>
1.3	January 2016	Updated regulations in Section 2.
1.4	December 2016	Updated Section 4.11 and 4.12 to provide additional guidance.
1.5	April 2018	Removed Section 4.9 on Provisioning to reflect introduction of stand-alone Provisioning Guidelines for Credit Unions.
1.6	May 2019	Updated table of contents.
1.7	March 2020	<ul style="list-style-type: none"> <li>Updates to the Regulations reflecting changes made by the Credit Union Act 1997 (Regulatory Requirements)(Amendment) Regulations 2019.</li> <li>Removal of the Section 35 Regulatory Requirements for Credit Unions following their rescission, as of 1 January 2020.</li> <li>Updated guidance to reflect changes to the lending framework for credit unions made by the Credit Union Act 1997 (Regulatory Requirements)(Amendment) Regulations 2019.</li> </ul>
1.8	April 2023	<ul style="list-style-type: none"> <li>Guidance included on the definition of “approved housing body” under the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016.</li> </ul>
1.9	April 2024	<ul style="list-style-type: none"> <li>Amended text in section 35(8), 36(2), 36(2)(c), 37(1), and 38(1)(a) to reflect the commencement of the Credit Union (Amendment) Act 2023.</li> <li>Inserted text in section 36(2)(d), 38(3), 38(4) and 38(5) to reflect the commencement of the Credit Union (Amendment) Act 2023.</li> <li>Deleted text in section 36(3), 36(4), 36(5), 37(2), 37(3), 38(1)(b) and 38(1)(c) to reflect the commencement of the Credit Union (Amendment) Act 2023.</li> <li>Updated guidance to reflect the commencement of the Credit Union (Amendment) Act 2023.</li> <li>Updated guidance to reflect changes in the Mortgage Measures.</li> <li>Updated guidance to reflect updated method of submitting notifications and applications to the Central Bank in respect of the 10 per cent and 15 per cent combined concentration limits for house and business lending.</li> </ul>

## 1. Legislation

### Section 35- Making of loans\*

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

(b) For the purposes of this subsection—

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

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

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

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

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

(3) A credit union shall manage and control lending to ensure the making of loans does not involve undue risk to members' savings taking into account the nature, scale, complexity and risk profile of the credit union.

(4) Every application to a credit union for a loan shall be in writing and shall state the purpose for which the loan is required and the security (if any) offered for it.

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

- (iv) maintaining policies for the holding of provisions, for credit and for credit control,
  - (v) the types of security that may be accepted;
- (b) reporting loans to the Bank;
- (c) the holding by credit unions of provisions, reserves or capital against loans or specified classes or types of loans.
- (9) In prescribing matters for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements imposed by the regulations made by it are effective and proportionate having regard to the nature, scale and complexity of credit unions, or the category or categories of credit unions, to which the regulations will apply.
- (10) A credit union shall ensure that it has appropriate processes, procedures, systems, controls and reporting arrangements to monitor compliance with the requirements of this section and any requirement imposed under this section.
- (11) Subject to its rules, in respect of a loan, a credit union may accept, in addition to other forms of security—
- (a) a guarantee by a member, or
  - (b) a pledge by a member of shares in or deposits with the credit union,
- and, where such a guarantee or pledge is accepted, it shall be deemed to be a security for the loan.

### **Section 36 – Approval of loans**

- (1) A credit union shall not make a loan to a member unless it is approved in accordance with this section.
- (2) A loan must be approved according as the rules of the credit union require—
- (a) by such number of members of the board of directors voting by secret ballot at a meeting of the board at which the application for the loan is considered as

represents at least two-thirds of those present and a majority of the members of the board as a whole; or

(b) by such number of members of the credit committee present at a meeting of that committee at which the application for the loan is considered as represents at least two-thirds of those present and a majority of the committee members as a whole; or

(c) by a credit officer; or

(d) in accordance with a loan approval process which has been approved by the board of directors.

(3) [deleted]

(4) [deleted]

(5) [deleted]

### **Section 37 – Appeal against non-approval of loan**

(1) If an application for a loan which was considered—

(a) by the credit committee,

(b) by a credit officer, or

(c) in accordance with a loan approval process referred to in section 36(2)(d),

was not approved under section 36, the applicant may appeal to an appellate body which, by a decision of such members of the body present at the meeting at which the appeal is considered as represents at least two-thirds of those present and a majority of the body as a whole, may give approval to the loan, overriding the decision of the credit committee, of the credit officer or that made in accordance with the approval process, as the case may be.

(2) [deleted]

(3) [deleted]

**Section 38 – Interest on loans**

- (1) A credit union may charge interest on loans made to its members under *section 35* subject to the following conditions—
- (a) the interest on a loan shall not at any time exceed the rate, specified in the order made under subsection (3) applicable to—
    - (i) the credit agreement under which the loan is made, or
    - (ii) where there is no credit agreement, the loan; ;
  - (b) [deleted]
  - (c) [deleted]
- (2) † If a credit union knowingly charges or accepts interest on a loan at a rate greater than that permitted under this section—
- (a) all the interest agreed to be paid by the member shall be deemed to have been waived by the credit union; and
  - (b) any interest paid on the loan shall be recoverable summarily by the member (or his personal representative) as a simple contract debt.
- (3) 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 for the purpose of subsection (1)(a).
- (4) An order made under subsection (3) shall apply to 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.
- (5) The Minister shall have regard to the following when making an order under subsection (3):
- (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.

### **Section 55 – Functions of board of directors\***

*(This Chapter has not reproduced the entirety of section 55 – please consult the Credit Union Act, 1997 for the full provision).*

(1) Without prejudice to the generality of section 53(1), the functions of the board of directors of a credit union shall include the following:

...

(o) approving, reviewing, and updating, where necessary, but at least annually, all plans, policies and procedures of the credit union, including the following:

(i) lending policies including lending limits;

...

## **2. Regulations**

### **CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS) REGULATIONS 2016**

**(S.I. No. 1 of 2016)**

*(This Chapter has not reproduced the entirety of Part 1 – please consult the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016 for the full provision.)*

#### **PART 1**

#### **PRELIMINARY AND GENERAL**

#### **Interpretation**

In these Regulations, unless the context otherwise required:-



"approved housing body" means a housing body granted approval status under section 6 of the Housing (Miscellaneous Provisions) Act, 1992;

"the Bank" means the Central Bank of Ireland;

"business loan" means a loan other than a community loan, that is made to-

- (a) a member of the credit union that is an approved housing body, or
- (b) a member, or where there is more than one member, at least one of those members, that satisfies the following conditions:
  - (i) the loan is made for purposes of the person's trade, business or profession;
  - (ii) the person is a micro, small or medium-sized enterprise within the meaning of Commission Recommendation 2003/361/EC;
  - (iii) the loan is not made for the purpose of financing, in whole or in part, the purchase, construction or refinancing of buildings or the purchase or refinancing of land that the person intends to rent to a third party in order to generate income;

"Commission Recommendation 2003/361/EC" means the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises<sup>1</sup>;

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

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

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<sup>1</sup> OJ No. L124, 20.5.2003, p.36.

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

“house” means any building or part of a building that does not have a commercial use as its primary purpose and is used or suitable for use as a dwelling and any outhouse, yard, garden or other land appurtenant thereto or usually enjoyed therewith;

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

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

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

“personal loan” means a loan to a natural person, once the loan is for purposes unrelated to the person’s trade, business, profession or the purchase of property;

“related company” means companies related within the meaning of section 2(1) of the Companies Act 2014;

“related party” means -

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

“secured loan” means a loan that is secured by a mortgage, charge, assignment, pledge, lien, or other encumbrance in or over any asset or property, but shall not include unsecured guarantees by third parties;

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

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

“unattached savings” means those total savings which are not attached to loans or otherwise pledged as security and are withdrawable by members;

“unsecured loan” means a loan that is not a secured loan.

## **PART 4**

### **LENDING**

#### **Categories of Lending**

11. (1) A credit union shall only make loans that fall within the following categories:
- (a) personal loans;
  - (b) business loans;
  - (c) community loans;
  - (d) house loans;
  - (e) loans to other credit unions.

#### **Concentration Limits**

12. (1) A credit union shall not make –
- (a) a community loan, where such a loan would cause the total amount of outstanding community loans of the credit union to exceed 25 per cent of the credit union’s regulatory reserve, or
  - (b) a loan to another credit union, where such a loan would cause the total amount of outstanding loans of the credit union to other credit unions to exceed 12.5 per cent of the credit union’s regulatory reserves.

- (2) Subject to paragraph (3), a credit union shall not make a house loan or a business loan where such loan would cause the combined total gross amount outstanding in relation to house loans and business loans to exceed 7.5 per cent of the assets of the credit union.
- (3) A credit union that satisfies all of the requirements in paragraph (4) can increase its combined total gross amount outstanding in relation to house loans and business loans to 10 per cent of the assets of the credit union.
- (4) The requirements referred to in paragraph (3) are the following:
  - (a) the credit union has maintained, for 2 or more consecutive quarters immediately preceding the date on which the notification referred to in subparagraph (b) is made -
    - (i) a minimum asset size of €50,000,000, and
    - (ii) regulatory reserves of at least 12.5 per cent of the assets of the credit union;
  - (b) the credit union has provided the Bank with at least one month's prior notification in writing that the credit union -
    - (i) is satisfied that it is compliant with the criteria in paragraph (a) at the time of the notification, and
    - (ii) intends to increase lending in respect of house loans and business loans in accordance with paragraph (3).
- (5) A credit union that is subject to the limits set out in paragraph (2) or paragraph (3) shall not make a business loan where such a loan would cause the total gross amount outstanding in relation to business loans to exceed 5 per cent of the assets of the credit union.
- (6) A credit union that has made a notification to the Bank under paragraph (4)(b) but no longer complies with the criteria in paragraph (4)(a), shall -
  - (a) notify the Bank in writing without delay, and
  - (b) cease making new house loans or new business loans in breach of paragraph (2) except where the credit union has already entered into a

legally binding agreement with a member to advance a new house loan or a new business loan.”

### **Approval for increasing Combined Lending Capacity to 15 per cent**

12A. (1) A credit union may apply to the Bank for approval to increase its combined total gross amount outstanding in relation to house loans and business loans to 15 per cent of the assets of the credit union.

- (2) The Bank may grant an approval referred to in paragraph (1) where –
- (a) the credit union had assets of at least €100,000,000 for 2 or more consecutive quarters immediately preceding the date on which the application was submitted under paragraph (1), and
  - (b) the Bank is satisfied that the credit union has demonstrated that the approval would be –
    - (i) consistent with the adequate protection of the savings of the members of that credit union, and
    - (ii) effective and proportionate, having regard to the nature, scale and complexity of the credit union.
- (3) For the purpose of paragraph (2)(b), the Bank shall consider the following:
- (a) the total realised reserve position of the credit union;
  - (b) such other matters that the Bank may specify from time to time.
- (4) Where the Bank grants an approval under paragraph (2), it may, at that time or at any other time, make the approval subject to conditions with which the credit union shall comply.
- (5) A credit union that is approved by the Bank pursuant to paragraph (2) shall notify the Bank in writing without delay where it no longer complies with any of the requirements in paragraph (2) or any condition imposed on the approval under paragraph (4).
- (6) Subject to paragraph (7), a credit union that has made a notification pursuant to paragraph (5) shall –

(a) not make new house loans or new business loans that would cause the combined total gross amount outstanding in relation to house loans and business loans to exceed -

(i) 10 per cent of the assets of the credit union if the credit union complied with the requirements of Regulation 12(4)(a)(i) and (ii) for 2 or more consecutive quarters immediately prior to the date that the notification referred to in paragraph (5) is made, or

(ii) 7.5 per cent of the assets of the credit union in all other cases,

and

(b) not make new business loans that would cause the total gross amount outstanding in relation to business loans to exceed 5 per cent of the assets of the credit union.

(7) Paragraph (6) shall not apply where the credit union has already entered into a legally binding agreement with a member to advance a new house loan or a new business loan.

### **Large Exposure Limit**

13. (1) A credit union shall not make a loan to a borrower or a group of borrowers who are connected which would cause the credit union to have a total exposure to the borrower or group of borrowers who are connected of greater than €39,000 or 10 per cent of the regulatory reserve of the credit union.

(2) Where an exposure to a borrower or group of borrowers who are connected exceeds the limit set out in paragraph (1), the credit union must hold the amount of the exposure that is in excess of the limit in a realised reserve, separate from the regulatory reserve of the credit union.

(3) The requirement specified in paragraph (2) shall not apply, to exposures existing at the time of commencement of these Regulations, for a period of 2 years from the commencement of these Regulations.

### **Maximum Loan Terms**

14. (1) Subject to paragraph (2), a credit union shall not make -

- (a) an unsecured loan to a member where the period from the date on which the loan is made until the final repayment date exceeds 10 years, or
  - (b) a secured loan to a member where the period from the date on which the loan is made to the final repayment date exceeds 35 years.
- (2) With respect to a loan made to a member, a credit union may, with the consent of the member or of a person acting under the member's written authority, alter the repayment conditions to extend the term of the loan beyond the limit set down in paragraph (1) in either of the following circumstances:
  - (a) the loan is in arrears at the time the repayment conditions are altered;
  - (b) the loan would fall into arrears if the repayment conditions were not altered because the terms of the original loan agreement would no longer be met.

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

15. A credit union shall only make a house loan-

- (a) for one or more of the purposes specified in subparagraph (a) or (c) of the definition of 'house loan', or
- (b) to refinance a loan previously provided for one or more of the purposes specified in subparagraph (a) or (c) of the definition of 'house loan',

where that loan will be secured as a first legal charge on the property.

#### **Lending Practices for Specific Categories of Lending**

16. (1) A credit union shall only grant a business loan, a community loan or a loan to another credit union where a comprehensive business plan and detailed financial projections (supported by evidence-based assumptions), appropriate for the scale and complexity of the loan, have been provided to it before it grants the relevant loan.

- (2) A credit union shall report on the performance of loans, in writing, to the board of directors of the credit union on a monthly basis, and such report shall include details on the performance of business loans, community loans, house loans and loans to other credit unions.

- (3) This Regulation does not apply to a business loan granted by a credit union where the total amount of business loans granted to a borrower, or group of borrowers who are connected, is less than €25,000.

### **General Lending Practices**

17. (1) A credit union shall permit a member to repay a loan on any day that the credit union is open for business (including opening hours of branch or otherwise available for business).

- (2) A credit union shall establish and maintain the matters specified below in writing:

(a) limits in respect of credit concentration and loan portfolio diversification including the maximum amount of business lending, community lending and lending to other credit unions; and

(b) processes which the credit union will follow in relation to arrears management and rescheduling.

- (3) A credit union shall ensure that its credit assessment process is based on coherent and clearly defined criteria and that the process of approving loans and amending loans is clearly established and documented in its credit policy.

### **Related Parties-General**

18. (1) A credit union shall not make a loan to a related party which would provide that party with more favourable terms than a loan by the credit union to non-related parties (including, without limitation, terms as to credit assessment, duration, interest rates, amortisation schedules, collateral requirements).

- (2) A credit union shall not manage a loan to a related party on more favourable terms than a loan by the credit union to non-related parties (including but not limited to varying the terms of a loan, permitting rescheduling, interest roll-up, granting a grace period for payment, loan write-off in whole or in part, provisioning against a loan, decisions to take or not to take enforcement action).



**Related Parties-Specific**

19. (1) Subject to Regulation 18, a credit union shall ensure that the making of a loan to a related party is subject to individual prior approval in writing by the credit committee and that actions in relation to the management of a loan are subject to individual prior approval in writing by the credit committee or the credit control committee of the credit union as appropriate.

- (2) A credit union shall exclude individuals on the credit committee or the credit control committee with conflicts of interest in relation to matters specified in paragraph (1).

**Related Parties-Exempt Exposures**

20. (1) Regulations 19 and 21 do not apply where the total credit union exposure to the related party is not greater than €2,000.

- (2) In relation to exempt exposures referred to in paragraph (1), a credit union shall ensure that:-
- (a) the credit union monitors these loans to ensure that the limit imposed is not exceeded;
  - (b) a register of these loans recording how it has complied with this requirement is maintained by the credit union; and
  - (c) a report on these loans is reviewed and approved by the board of directors of the credit union on a quarterly basis.

**Related Parties- Recording and Monitoring Requirements**

21. (1) A credit union shall record and monitor loans made to related parties and report, in writing, to the board of directors on related party loans on a monthly basis. Such a report shall include details of loans advanced to related parties during the month, total loans outstanding to related parties, the performance of loans to related parties and actions in respect of the management of loans to related parties.

- (2) A credit union shall ensure that the internal audit function assesses, at least annually, the compliance or otherwise by a credit union with Regulation 19 and paragraph (1) of this Regulation and, after each assessment, submit a written report to the board of directors indicating their findings and conclusions and, where appropriate, making recommendations on any changes required.

**Related Parties- Credit Policy**

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

**Lending Policies**

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

(a) a credit policy;

(b) a credit control policy;

(c) a provisioning policy.

(2) A credit union shall assess the adequacy of its provisioning for bad and doubtful debts on a quarterly basis, having regard to its provisioning policy.

(3) A credit union shall, without delay, make any adjustments to its provisioning for bad or doubtful debts deemed necessary as a result of a review provided for by paragraph (2).

**Transitional Arrangements**

24. (1) Nothing in these Regulations shall render unlawful any loan that conflicts with these Regulations but was made or restructured by a credit union in accordance with the legislative requirements applicable at the time the loan was made or restructured, and the credit union may continue to hold such loan until it has been paid or discharged in full.

(2) Where, at the commencement of these Regulations, a credit union is failing to comply with the requirements in this Part, that credit union shall only make a loan where the making of such a loan would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.

## 3. Guidance

### 3.1 Lending policies

Credit unions are required to maintain written lending policies including the following:

- a credit policy;
- a credit control policy; and
- a provisioning policy.

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.

#### 3.1.1 Credit policy

The credit policy should cover the following at a minimum:

- objectives of the policy;
- organisational arrangements setting out the roles and responsibilities of officers involved in lending including credit officers and the credit committee;
- the lending authorisation limits of the credit committee and credit officers including clear limits on the total funds available for the granting of loans;
- the classes of loans that the credit union may offer;
- the maximum repayment period appropriate to different classes of loans;
- the interest rates applicable to loans;
- the maximum number of top-up loans and additional loans that the credit union may provide to a member;
- processes on lending to related persons which shall:
  - prevent members of staff of the credit union making a loan to a related party which would provide that party with more favourable terms than a loan by the credit union to non-related parties;
  - prevent persons related to the borrower from being part of the process of granting and managing a loan to such a borrower;
  - prevent members of staff of the credit union managing a loan to a related party on more favourable terms than a loan by the credit union to non-related parties;
  - arrangements for the on-going reporting and monitoring of loans to related parties and for the review of the related party policies;
  - arrangements for monthly written reports to the board of directors; and
  - arrangements for annual internal audit assessment of compliance with related party lending requirements.
- circumstances in which loans with atypical repayment arrangements, for example, single or lump sum repayment loans, will be considered and particular approval conditions, including security conditions, attaching to such loans;

- policy regarding curtailment of loans to members in arrears;
- circumstances in which security (including guarantors) for loans must be obtained and the differing type and level of security required depending on the size and/or risk profile of the loan;
- the types of security which may be accepted for loans and the valuation method for each type of security;
- approach to categorisation of loans as “secured loan” and “unsecured loan” for the purpose of the maximum loan term limits set out in the Regulations;
- internal limits in respect of credit concentration and loan portfolio diversification including the maximum amount of personal loans, business loans, community loans, house loans and loans to other credit unions;
- the application, assessment and decision-making process for the approval of loans including the lending criteria to establish capacity to repay for all types of borrowers;
- exceptions reporting;
- policy regarding the determination of income of loan applicants;
- specific procedures for evaluating house loans, business loans, community loans and loans to other credit unions;
- procedures to prevent conflicts of interest and ensure segregation of duties between the approval and payment of loans;
- systems of control to ensure a credit union does not breach any limits including concentration limits, large exposure limits, maximum loan terms and loan-to-income and loan-to-value limits;
- procedures for retention of loan documentation, including loan application forms / credit agreements, security and ability to repay documentation;
- reporting arrangements, including the frequency, form and content of reporting by the credit committee to the board of directors;
- the process for the approval, review and update of the credit policy by the board of directors; and
- the factors to be taken into account in the review of the policy including:
  - the appropriateness of the prevailing interest rates on the various classes of loans depending on current or likely future economic conditions; and
  - the effect of any interest rate increase on borrowers’ ability to meet their repayment obligations.

### **3.1.2 Credit control policy**

The credit control policy should cover the following at a minimum:

- objectives of the policy;
- organisational arrangements setting out the roles and responsibilities of officers involved in credit control including the credit control committee and credit control officers;

- procedures for the recording and monitoring of loans;
- processes in relation to arrears management and rescheduling;
- the standard time after which the credit control procedure is to be first activated in respect of loans in arrears;
- description of the various stages of the credit control procedure from first contact with members in arrears to the legal recovery process and / or enforcement of security;
- the criteria and procedure, including approval procedure and authorisation required, for rescheduling of loans and for transferring members share balances against loan arrears;
- the criteria and procedure, including approval procedure and authorisation required, for writing off bad debts;
- procedure for review and follow up of bad debts written off;
- procedures for the recording and monitoring of loans in arrears;
- procedures for communication with members in relation to loan arrears and for changing the terms of the loan agreement;
- reporting arrangements, including the frequency, form and content of reporting by the credit control committee to the board of directors; and
- the process for the approval, review and update of the credit control policy by the board of directors.

### **3.1.3 Provisioning policy**

For guidance on provisioning, please see section 3 of the Provisioning Guidelines for Credit Unions located in Chapter 13A of the Credit Union Handbook.

## **3.2 Business loans**

The Regulations prescribe business loans as a category of lending that credit unions are permitted to provide. A credit union should only engage in lending within the business loan category of lending where it is consistent with its Strategic Plan. In December 2017, the Central Bank issued ["Long Term Lending – Guidance for Credit Unions"](#). This document sets out the Central Bank's guidance, including its expectations, which credit union boards seeking to develop their business models are expected to consider and address in assessing long term lending products and services. From a credit union perspective, long term lending typically includes business and house loans, as well as some personal loans.

The Regulations set out a definition of "business loan" and specific requirements in relation to business loans, including a combined concentration limit for house loan and business loan lending, expressed as a percentage of the assets of the credit union.

Where a credit union is considering granting a business loan for €25,000 or more, a comprehensive business plan and detailed financial projections appropriate for the scale

and complexity of the loan, must have been provided to the credit union before it grants the relevant loan. The business plan and financial projections should both be supported by evidence-based assumptions. For these higher value business loans, this practice should enable the credit union to ensure that it is satisfied the borrowing business has the capacity to generate sufficient income to repay the loan.

A comprehensive business plan should include the following at a minimum:

- an executive summary;
- a description of the business;
- market analysis;
- current sector/market position;
- staffing and operations; and
- financial projections including;
  - key assumptions;
  - profit and loss accounts;
  - balance sheets; and
  - cashflow projections for 3 years.

The Central Bank's expectation is that credit unions obtain more comprehensive business plans and detailed financial projections from members for more complex and larger scale business loans. Credit unions are expected to exercise their judgement on the level of information they require from members in order to enable the credit union to adequately assess the business loan application in question.

### **3.2.1 Definition of "approved housing body"**

The definition of "business loan" specifically includes a loan other than a community loan, that is made to a member of the credit union that is an approved housing body.

The 2016 Regulations define an "*approved housing body*" as a housing body granted approval status under section 6 of the Housing (Miscellaneous Provisions) Act, 1992. However, there have been significant developments in the registration and regulation of Approved Housing Bodies (AHBs) in recent years. In February 2021, the Approved Housing Body Regulatory Authority (AHBRA) was established under the Housing (Regulation of Approved Housing Bodies) Act 2019 (the 2019 Act), with responsibility for, among other things, the registration and regulation of AHBs. AHBs no longer hold approval status under section 6 of the Housing (Miscellaneous Provisions) Act, 1992. From 1 January 2022, AHBRA is responsible for establishing and maintaining the register of AHBs and for registering organisations as AHBs. Pursuant to section 34 of the 2019 Act all organisations that had Approved Housing Body status and were listed on the register previously

maintained by the Department of Housing, Local Government and Heritage were deemed to be registered with AHBRA and have a specific timeframe to make a formal application to become registered as an Approved Housing Body with AHBRA.

As AHBs are no longer housing bodies “*granted approval status under section 6 of the Housing (Miscellaneous Provisions) Act, 1992*”, for the period until the definition of “*approved housing body*” in the 2016 Regulations is amended, the references to approved housing body in the Regulations can be read as being a reference to the AHB being registered (or deemed registered) as an approved housing body with AHBRA under the 2019 Act.

### 3.3 House loans

The Regulations also identify house loans as a category of lending that credit unions may engage in and provide a definition of “house loan” for this purpose. The Regulations set out specific requirements for house loans, including a combined concentration limit for house loan and business loan lending, expressed as a percentage of the assets of the credit union.

A credit union should only engage in lending within the house loan category of lending where it is consistent with its Strategic Plan. For some credit unions, this may mean that they offer a range of house loans, e.g. to purchase, construct or improve a principal private residence. Others may decide not to offer house loans within their product offering or decide to provide a narrower range of house loans, e.g. to improve a principal private residence (loans for home improvements are discussed further below at 3.6.5).

Holiday homes and buy to let loans do not come within any of the permitted categories of lending that credit unions may undertake under the Regulations. As set out above, the definition of “business loan” specifically includes a loan made to a member of the credit union that is an approved housing body. Lending by credit unions to approved housing bodies is therefore not impacted by the general prohibition on buy to let lending.

Where a credit union provides a house loan, this loan falls within the definition of a “housing loan” as set out in the [Central Bank \(Supervision and Enforcement\) Act 2013 \(Section 48\(1\)\) \(Housing Loan Requirements\) Regulations 2022](#) (the “Mortgage Measures”). Credit unions must also comply with the requirements set out in the Mortgage Measures. Credit unions should ensure that requirements set out in the Mortgage Measures are reflected in their credit policy, including a policy on how the credit union determines the income of loan applicants for the purpose of complying with the loan to income requirements of the Mortgage Measures.

Further information on the Mortgage Measures can be found on the Macroprudential Policy section of the Central Bank's website available at this [link](#).

### **3.4 Single or lump sum repayment loans**

Single or lump sum repayment loans are those loans for which repayment takes the form of a single payment or where the repayment schedule is less frequent than on a monthly basis. The financial impact of default associated with these loans can be significant.

Lump sum repayment loans should only be granted in line with prudent approval criteria laid down in the credit policy.

### **3.5 Interest rates on higher risk loans**

When considering the interest rates to be applied to different classes of loans, the board of directors should take account of the level of risk involved in such loans, subject to the limit on loan interest rates specified by order by the Minister for Finance under section 38 of the 1997 Act.

### **3.6 Security for loans**

#### ***3.6.1 Security for loans***

Security is an important component of lending and may protect the credit union from a loss in the event of loan default. Where security is taken, the credit union should require sufficient security to protect against the associated risk and to ensure that loans are in line with the credit union's risk appetite.

The 1997 Act provides that a credit union can make a loan to a member for such purpose as the credit union considers appropriate, upon such security and terms as the rules of the credit union may provide. The same subsection clarifies that the ability of the loan applicant to repay must be the primary consideration in the underwriting process of the credit union. While security is therefore a key consideration for a credit decision, the credit union should make credit decisions based on the ability of the loan applicant to repay.

Many credit unions typically take security over members' savings. In such cases, credit unions should take the necessary steps to clarify the legal status of any assignment of savings/shares as security against loans granted by them.

The level of security required in respect of individual loans should reflect the borrower's ability to repay, the size and risk profile of the proposed loan, the quality of the security



being pledged (including the enforceability of the security) and the credit union's obligations to protect members savings under sections 27A and 35 of the 1997 Act. Approved types of security and the circumstances in which security should be taken, should be clearly set out in the credit policy and reflect the fact that different types of security will provide different levels of protection to the credit union. In all cases, the term of a loan should reflect the loan purpose. Where security is being taken for a loan, the credit union should also consider the anticipated useful life of the secured asset/s which is determined by the type and expected use of the assets in question, e.g., there is limited protection in a credit union taking security over an asset with a relatively short useful life compared to the term of the loan.

### **3.6.2 Security for large or complex loans**

Professional legal advice should be obtained when taking security for large or complex loans, e.g. bridging loans, business loans, house loans, property-related loans coming within the categories of lending permitted under the Regulations, to ensure that legal title is properly perfected and enforceable in the event of default. Security documentation should be securely and efficiently maintained.

### **3.6.3 Secured and unsecured loans**

The Regulations prescribe a maximum loan term of 10 years for unsecured loans. For secured loans, the maximum loan term is 35 years.

For the purpose of the maximum loan term limits set out in the Regulations, the Regulations include definitions for 'secured loan' and 'unsecured loan'. A 'secured loan' includes *'a loan that is secured by a mortgage, charge, assignment, pledge, lien, or other encumbrance in or over any asset or property, but shall not include unsecured guarantees by third parties'*. An 'unsecured loan' means a loan that is not a secured loan.

In determining whether a loan should be considered a 'secured loan' or 'unsecured loan' for the purpose of the maximum loan term limits under the Regulations, in the first instance, this determination should be made in accordance with a reasoned and prudentially justified approach, as documented in the credit union's credit policy. The credit union should take into account the underlying quality and value of the security being pledged. A credit union should only consider a loan to be secured where it is secured by a readily-realizable asset for which market value is ascertainable and verifiable. In the context of credit union lending, such assets could, for example, include shares or deposits in the credit union or immovable property such as a house or business premises.

On the level of the security, in order to comply with the maximum loan term limits set out in the Regulations, a credit union will not necessarily be required to have security in place

in respect of the full amount provided under a loan in order for it to be considered a 'secured loan'. There may be circumstances where the Central Bank would expect the credit union to take a high level of security for a loan in order for it to come within the meaning of a 'secured loan', e.g. where the loan involves a higher degree of risk.

#### **3.6.4 Security for house loans**

Under the Regulations, a first legal charge is required on the property in respect of which a house loan is to be provided, except where the loan is to improve or renovate the member's principal residence (or a loan provided for the purpose of refinancing such a loan) – see 3.6.5 below for more information on home improvement loans. In line with the practice of other mortgage lenders, credit unions should require not only a first legal charge over the property, but also require the borrower to have mortgage protection insurance in place, with the policy assigned to the credit union, as well as buildings insurance for the full re-instatement value of the property with the credit union's interest noted on the policy.

#### **3.6.5 Home improvement loans**

Under the Regulations, where a credit union is providing home improvement loans these may be provided as either-

- A house loan, where the loan is secured over the property (but not necessarily by way of a first legal charge); or
- A personal loan, where the loan is not secured over the property, i.e. an unsecured personal loan or a secured personal loan where the loan is secured over other assets, e.g. the member's shares in the credit union.

As set out in 3.6.4, where a home improvement loan is provided as a house loan, the credit union is not required to hold the first legal charge on the property. In practice, where a house loan is provided for the purpose of home improvements, the credit union may accept a second or subsequent legal charge over the property. Credit unions should of course take into account the underlying quality and value of the security in accordance with their credit policy.

Where a home improvement loan is provided as a personal loan for a term of 10 years or less, there is no requirement to hold security for the loan. Where the term exceeds 10 years, the loan must be a secured loan.

#### **3.6.6 Attached shares**

While a member may have savings up to (or in excess) of the loan they have applied for, it is important to note that a member's savings are not attached to a member's loan unless the savings are attached or pledged as part of the credit agreement with the member at the time of issuing of the loan.

Under section 32(3)(a) of the 1997 Act, a member can withdraw any savings that are not attached to a loan and any attached savings, if the withdrawal of such attached savings is approved by the credit committee or a credit officer.

### **3.6.7 Guarantors**

Prior to approving a loan application, the credit committee or credit officer should take appropriate steps to satisfy themselves that potential guarantors are of sufficient standing and have the financial capacity to repay a loan in the event that the guarantee is called upon.

At the time of signing any loan guarantee documents, guarantors should be made aware of the implications of providing a guarantee for a loan. Lending limits in relation to a group of borrowers who are connected may have an impact on the guarantor's ability to apply for credit in their own name. Unless savings are pledged by the guarantor under a specific legal assignment, the normal procedures regarding access to a guarantor's own savings should apply. As set out above, the credit union should take the necessary steps to clarify the legal status of any assignment of savings/shares as security against loans granted by them.

Where a credit union is seeking a guarantee for a business loan, it should have regard to the specific requirements it must comply with in this regard under the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015 (the SME Lending Regulations). A general overview of the SME Lending Regulations is included in this [guide](#) published on the Central Bank's website.

### **3.6.8 Valuation of immovable property**

In 2012, the Central Bank issued "Valuation Processes in the Banking Crisis – Lessons Learned – Guiding the Future" in order to provide guidance to credit institutions on valuation standards for commercial property and to set out best practice in relation to the timing and frequency of valuations of immovable property collateral. Given the legal and supervisory requirements applying to banks for the valuation of immovable property collateral had been revised considerably, the Central Bank withdrew its guidance in August 2019. In the Central Bank's notification to banks of the withdrawal, it suggested that they should ensure their collateral management practices are in line with all relevant and applicable regulations but also that consideration should continue to be given to ensuring a number of "lessons learned". A copy of the Central Bank's notification is available [here](#). Credit unions should have regard to the lessons learned in drawing up their credit policies and collateral management practices.

### 3.7 Credit assessment

A credit union is required to ensure that the ability of the loan applicant to repay is the primary consideration in the underwriting process of the credit union. All applications for credit should be appropriately assessed to ensure that the applicant's financial position, including commitments to other financial institutions, is fully disclosed.

As referenced in 3.6.1 above, while security is a key consideration for a credit decision, the credit union should make credit decisions based on the ability of the loan applicant to repay. Specifically in relation to attached savings, while attached savings may be a factor in assessing the ability of a loan applicant to repay a loan, it is appropriate that a broader creditworthiness assessment is undertaken. This needs to be supported by evidence, which could include previous repayment history on loans.

An important factor in determining creditworthiness is whether a member is already in difficulty in repaying an existing debt. Therefore when assessing applications for new loans and/or for topping up existing loan facilities, the Central Bank expects that a credit union be fully satisfied as to a member's creditworthiness and ability to service all debts before advancing any new credit or top up credit facilities, especially where the borrower is in arrears on their mortgage or is in a non-permanent forbearance, i.e. forbearance other than capitalisation of arrears, split mortgage or term extension of the mortgage.

The European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No 281 of 2010) were transposed into Irish law on 11 June 2010. These regulations give effect to the provisions of Directive 2008/48/EC on Credit Agreements for Consumers (the "CCD") and the scope includes credit agreements where the loan amounts are between €200 and €75,000.

Specifically, Part 2, Regulation 11 of these regulations titled "Part 2 Information and practices preliminary to conclusion of credit agreements. Obligation to assess creditworthiness of consumers" states:

- (1) Before concluding a credit agreement with a consumer, a creditor shall assess the consumer's creditworthiness on the basis of sufficient information, where appropriate obtained from the consumer and, where necessary, on the basis of a consultation of the relevant database.
- (2) If a creditor and a consumer agree to change the total amount of credit after a credit agreement is concluded, the creditor—

- a. Shall update the financial information at the creditor's disposal concerning the consumer, and
  - b. Shall assess the consumer's creditworthiness before agreeing to any significant increase in the total amount of credit.
- (3) A creditor or credit intermediary that contravenes a provision of this Regulation commits an offence.

Credit unions must consult the Central Credit Register, in accordance with the Credit Reporting Act 2013, where the amount of the loan is €2,000 or more. More generally, in assessing a borrower's creditworthiness, the Central Bank expects credit unions to:

- (a) Apply prudent lending standards to the granting of all new loans or top-ups of existing loans;
- (b) Have systems in place to ensure that loan applications are fully assessed to confirm the borrower's ability to repay the loan. In this regard, credit unions must satisfy themselves that they are fully appraised of the borrower's financial position before granting a loan.

The borrower should be required to provide supporting documentation required to assess creditworthiness (e.g. proof of income, current account and credit card statements, as appropriate).

The Central Bank expects that all additional credit applications will be supported by adequate evidence to illustrate that appropriate credit assessment has taken place and that such evidence will be retained on file and be available to the Central Bank in the event of an inspection.

### **3.7.1 Creditworthiness assessments for business loans**

When assessing applications for business loans, credit unions are reminded that they must comply with the SME Lending Regulations.

### **3.7.2 Stress tests for house loans**

In the context of prudent lending standards and creditworthiness assessments for house loans, the Central Bank expects credit unions, prior to offering, recommending, arranging or providing a house loan, to carry out an assessment of affordability to ascertain the ability of the loan applicant to repay the loan over the duration of the agreement. Such an assessment should include consideration of the results of a stress test on a loan applicant's ability to repay the instalments, over the duration of the agreement, on the basis of a 2% interest rate increase, at a minimum, above the interest rate offered to the borrower. This test is not relevant to house loans where the interest rate is fixed for a period of five years

or more. In addition, credit unions should have regard to the maximum interest rate they may charge on loans as specified by order by the Minister for Finance under section 38 of the 1997 Act.

### 3.8 Credit committee and credit control committee

The credit and credit control committees should meet as often as necessary to carry out their functions, to comply with any instruction of the board of directors and to submit written reports on their activities to the board of directors at each meeting of the board.

The written reports submitted by each committee to the board of directors should contain sufficient financial and other information to enable the board to assess compliance with legal and regulatory requirements and guidance and the credit union's written policies so as to ensure proper oversight of the credit and credit control functions.

Those credit unions that do not currently have a credit officer and a credit control officer should actively consider making such appointments or put in place other arrangements to assist the respective committees in the proper discharge of their functions.

It is important to note that, while the board of directors can delegate authority for certain credit and credit control functions, it cannot delegate responsibility or accountability in relation to these functions.

### 3.9 Lending concentration limits

#### 3.9.1 Combined concentration limits for house and business loans

The table below sets out the 3 combined concentration limits for house and business lending, the qualifying criteria a credit union must meet in order to avail of the limits and the features of the limits.

Limit as % of assets	Available to:	Features
<b>7.5% limit</b>	All credit unions.	<p>A combined concentration limit for house and business lending available to all credit unions, calculated as a percentage of total assets.</p> <p>Entire limit may be utilised by the credit union for house lending.</p> <p>Up to a maximum of 5% of total assets may be in business loans.</p>

<b>10% limit</b>	Credit unions meeting objective asset size criteria (minimum total asset size of €50 million) and holding regulatory reserves of 12.5% or greater.	<p>A conditional combined concentration limit for house and business lending, calculated as a percentage of total assets.</p> <p>Credit union must notify the Central Bank at least one month in advance.</p> <p>Entire limit may be utilised by the credit union for house lending.</p> <p>Up to a maximum of 5% of total assets may be in business loans.</p>
<b>15% limit</b>	Credit unions with assets of at least €100 million.	<p>An increased combined concentration limit for house and business lending, calculated as a percentage of total assets.</p> <p>Subject to an application and approval process.</p> <p>The entire limit may be utilised by the credit union for either house or business lending, subject to any conditions attaching to a Central Bank approval.</p>

In calculating whether a proposed house or business loan would cause the combined total gross amount outstanding in relation to house loans and business loans of the credit union to exceed 7.5 per cent, 10 per cent or 15 per cent of the assets of the credit union, a credit union should take account of all outstanding house and business loans (gross of attached shares) and the proposed house or business loan. Similarly, for the inner 5 per cent limit for business loans that applies to the 7.5 per cent and 10 per cent limits, a credit union should take account of all outstanding business loans (gross of attached shares) and the proposed business loan.

### **3.9.2 Combined 10 per cent limit for house and business loans**

Qualifying credit unions are eligible to avail of a higher combined concentration limit for house and business loans of 10 per cent of total assets. As with the combined 7.5 per cent limit, within the 10 per cent limit, no more than 5 per cent of total assets may be in business loans.

In order to avail of the 10 per cent limit, a credit union must, for two or more consecutive quarters immediately prior to making a notification to the Central Bank, maintain minimum total assets of at least €50m and a regulatory reserve of at least 12.5 per cent. For the purpose of the 12.5 per cent regulatory reserve criterion, this does not include any operational risk reserve or other reserves held by the credit union. For the purpose of both the size and reserves criteria, the credit union may rely upon the two quarterly Prudential

Returns it submitted to the Central Bank immediately before making the notification.<sup>2</sup> It is the credit union's ongoing responsibility to satisfy itself that it continues to meet the relevant criteria.

### **3.9.3 Notification to avail of the 10 per cent limit**

On the required notification, the credit union must notify the Central Bank at least one month before availing of any additional lending capacity the 10 per cent limit would provide.

Information on submitting a notification to the Central Bank to avail of the 10 per cent limit is available in the [Frequently Asked Questions](#) document on the Implementation of the Credit Union Act 1997 (Regulatory Requirements) (Amendment) Regulations 2019 for Credit Unions on the Central Bank website.

### **3.9.4 Notification that the credit union no longer meets the qualifying criteria for the 10 per cent limit**

A credit union that no longer meets the criteria to avail of the 10 per cent limit must notify the Central Bank in writing without delay and, except for any new house or business loan in respect of which the credit union has already entered into a legally binding agreement with a member, immediately stop making any new house or business loans above the 7.5 per cent limit. For the purpose of the requirements to notify the Central Bank and stop making new house and business loans, the Central Bank will consider that a credit union no longer complies with the criteria where it does not meet the criteria for two consecutive quarters in accordance with the information submitted in its Prudential Return.<sup>3</sup>

Information on submitting a notification to the Central Bank that the credit union no longer satisfies the qualifying criteria to avail of the 10 per cent limit is available in the [Frequently Asked Questions](#) document on the Implementation of the Credit Union Act 1997 (Regulatory Requirements) (Amendment) Regulations 2019 for Credit Unions on the Central Bank website.

A credit union that has notified the Central Bank that it no longer satisfies the criteria to avail of the 10 per cent limit will be required to notify the Central Bank where it subsequently satisfies the criteria and intends to provide additional loans within the 10 per cent limit.

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<sup>2</sup> Provided that the credit union has submitted its quarterly Prudential Returns to the Central Bank and that the information submitted is correct.

<sup>3</sup> Provided that the credit union has submitted its quarterly Prudential Returns to the Central Bank and that the information is correct.



**3.9.5 Combined 15 per cent limit for house and business loans**

Credit unions with total assets of at least €100m for two or more consecutive quarters (immediately prior to making an application for approval) are eligible to apply to the Central Bank to avail of a combined concentration limit for house and business loans of 15 per cent of the credit union's total assets. In order to avail of the 15 per cent limit, a credit union must make an application to the Central Bank. The Central Bank will assess any application received and will grant approval to the credit union where it is satisfied that the credit union has demonstrated that the approval would be consistent with the adequate protection of the savings of the members of that credit union and effective and proportionate, having regard to the nature, scale and complexity of the credit union.

Information on submitting an application to the Central Bank to avail of the 15 per cent limit is available in the [Frequently Asked Questions](#) document on the Implementation of the Credit Union Act 1997 (Regulatory Requirements) (Amendment) Regulations 2019 for Credit Unions on the Central Bank website.

A credit union that no longer meets the €100m total assets criterion to apply for the increased 15 per cent limit or fails to meet the Central Bank's conditions of approval will no longer be entitled to avail of the limit. Such a credit union must notify the Central Bank in writing without delay. In addition, except for any house or business loan in respect of which the credit union has already entered into a legally binding agreement with a member, the credit union must immediately stop making any new house or business loans above the 7.5 per cent limit, or the 10 per cent limit where the credit unions meets the relevant qualifying criteria for the 10 per cent limit.

**3.9.6 Notification that the credit union no longer meets the qualifying criterion to apply for the 15 per cent limit or the conditions of its approval**

It is the credit union's ongoing responsibility to satisfy itself that it continues to meet the asset size criterion to apply for the 15 per cent limit and any conditions of approval imposed on it by the Central Bank. For the purpose of the requirements to notify the Central Bank and stop making new house and business loans, the Central Bank will consider that a credit union no longer complies with the asset size criterion to apply for the 15 per cent limit where it does not meet it for two consecutive quarters. The credit union may rely on the information it has submitted in its quarterly Prudential Returns to determine its asset size for the relevant quarter.<sup>4</sup>

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<sup>4</sup> Provided that the credit union has submitted its quarterly Prudential Returns to the Central Bank and that the information submitted is correct.

Information on submitting a notification to the Central Bank where the credit union no longer meets the criterion to avail of the increased 15% limit or where it is no longer in adherence with conditions of approval is available in the [Frequently Asked Questions](#) document on the Implementation of the Credit Union Act 1997 (Regulatory Requirements) (Amendment) Regulations 2019 for Credit Unions on the Central Bank website.

### **3.9.7 Monitoring compliance with concentration limits**

Credit unions should ensure they have the appropriate processes, procedures, systems, controls and reporting arrangements in place to monitor compliance with the lending concentration limits in place under the Regulations, including the types of loans that a credit union may provide, the concentration limits, the large exposures limit and maximum loan maturity.

## **3.10 Related party lending**

The objective of the requirements for related party lending set out in the Regulations is to ensure that related parties do not receive more favourable treatment than other credit union members and that there is appropriate oversight of such loans. The Regulations contain an explicit requirement that related parties do not receive more favourable treatment than non-related parties.

Credit unions should have processes in place to ensure that they can comply with requirements relating to related party lending. Section 3.1.1 of this guidance sets out a number of the areas that these processes should cover. Regulation 21 of the Regulations requires that each credit union record, monitor and report data on related party lending.

The Central Bank does not supervise compliance with data protection law; in Ireland, this is the role of the Data Protection Commission. A credit union is the controller of the personal data of its members, officers and staff and each credit union must ensure that all personal data is processed in accordance with data protection law. The processing of personal data on related party lending by a credit union for the purposes of compliance with the Regulations has a lawful basis for the purposes of data protection law by virtue of Article 6 of the General Data Protection Regulation (the GDPR) as it is necessary for compliance with a legal obligation to which the controller is subject, i.e. the Credit Union Act, 1997 and the Regulations. When processing personal data, credit unions must comply with (among other things) the principles relating to processing of personal data set out in Article 5 of the GDPR. This includes the obligations imposed by:

- Article 5(1)(b) which states that personal data shall be '*collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes ... ('purpose limitation')*';
- Article 5(1)(c) which states that personal data shall be '*adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation')*'; and
- Article 5(1)(f) which requires that personal data is '*processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality')*'.

These obligations may mean that a credit union has to limit internal access to certain data on related party lending. Guidance on the requirements of data protection law is available on the website of the Data Protection Commission.

### 3.11 Large exposures

The Regulations set a maximum large exposure limit in respect of the total permitted exposure to a borrower or a group of borrowers who are connected. The Regulations do not define an individual large exposure. Guidance is provided on these in Section 3.11.2 below. The Central Bank considers it important that credit unions assess their exposures and diversify their exposures appropriately. This will reduce the risk of credit unions incurring large losses as a result of the failure of an individual borrower or group of connected borrowers due to the occurrence of unforeseen events. This risk can be mitigated by avoiding the concentration of exposure to an individual borrower or a group of connected borrowers.

#### 3.11.1 Connected borrowers

The Regulations contain requirements in relation to credit unions identifying groups of borrowers who are connected. A group of borrowers who are connected refers to credit union borrowers who are connected to other credit union borrowers and not to "related parties" who are borrowers that have a relationship or connection to the credit union or its officers (see 3.10 for information on related party lending).

The purpose of identifying groups of borrowers who are connected is to identify if it is likely that the financial problems of one borrower would cause difficulties for other borrowers in terms of full and timely repayment of a loan and as such whether those borrowers present a single or common risk to the credit union. Single or common risk will generally occur where the credit union considers there is **material** financial interdependence between borrowers (such economic dependence may be mutual or one way). In practice, the Central

Bank expects that connected borrowers would be identified during the standard underwriting process for a loan. The following is a non-exhaustive list of examples of potential connected borrowers. It is a matter for each credit union to determine, taking account of all of the individual circumstances, if such borrowers are connected:

- A group of borrowers who are borrowing for a common purpose and who are dependent on a single income source to repay their individual loans;
- The borrower and his/her spouse/partner if by **contractual arrangements** both are liable and the loan is **significant for both – in terms of potential impact on the ability of the spouse/partner to repay (it should be noted all spouses/partners would not automatically be presumed to be connected borrowers)**; or
- A borrower and guarantor, where the guarantee is so substantial for the guarantor that his/her ability to service their other liabilities with the credit union will be affected if the guarantee is claimed by the credit union.

It is important that a credit union identifies groups of borrowers who are connected to enable the credit union to monitor concentration risks in its loan portfolios. Each credit union needs to determine its exposure to groups of borrowers who are connected based on all the information available to the credit union, including (but not limited to) information provided by members in support of their loan application and any information provided in response to specific questions from the credit union to the borrower to enable it to identify groups of borrowers who are connected. Whether or not borrowers constitute a group of borrowers who are connected is a matter to be determined by the credit union in each case. The assessment undertaken by the credit union to determine whether or not borrowers constitute a group of borrowers who are connected should be documented in writing.

Establishing whether borrowers are connected will involve the necessary processing of personal data in the normal course of credit union business and a credit union should ensure that there is no illegal disclosure of personal data. A credit union is the controller of the personal data of its members, officers and staff and each credit union must ensure that this data is processed in accordance with data protection law.

### **3.11.2 Limits on large exposures**

The Central Bank considers it appropriate that a credit union should consider any exposure greater than 2.5% of the regulatory reserve to be an individual large exposure.

The relationship between the large exposure limit (as defined in the Regulations) and an individual large exposure is best illustrated by way of example -

In a credit union with total assets of €50 million and regulatory reserves of €5 million (10% Regulatory Reserve Ratio):

- The maximum large exposure to a borrower or group of connected borrowers permitted under the Regulations would be €0.5 million (maximum of 10% of regulatory reserves or €39,000, whichever is the greater); and
- An individual large exposure would be defined as €0.125 million (2.5% of regulatory reserves).

In a credit union with total assets of €3 million and regulatory reserves of €300,000 (10% regulatory reserve ratio):

- The maximum large exposure to a borrower or group of connected borrowers permitted under the Regulations would be €39,000 (maximum of 10% of regulatory reserves or €39,000, whichever is the greater); and
- An individual large exposure would be defined as €7,500 (2.5% of Regulatory Reserves).

### **3.11.3 Monitoring and reporting on large exposures**

A credit union is required to report to the board on the performance of its business loans (with some exceptions), community loans, house loans and loans to other credit unions on a monthly basis. In the context of credit unions better managing and monitoring borrower concentration risk, the Central Bank expects that as a matter of good governance and risk management, credit unions would incorporate an element of reporting on large exposures to the board, bearing in mind the nature, scale, complexity and risk profile of the credit union. On reporting on large exposures to the board, it is a matter for an individual credit union to determine what reporting is appropriate for their credit union.

## **3.12 Lending practices for rescheduled loans**

Rescheduled loans are those loans where the repayment conditions have been altered by the credit union so that:

- the duration of the loan is extended; or
- the repayment amounts have been reduced for 4 or more consecutive months within the period of the loan; and
- the loan was in arrears at the time of the repayment conditions being altered, or the loan would have fallen into arrears if the repayment conditions were not altered because the terms of the original loan agreement would no longer be met.

Loans should only be rescheduled following a thorough credit assessment, supported by sufficient evidence, where the credit union has clearly established the ability of the member to repay in accordance with the revised terms of the loan.

The credit union should require a borrower to submit an application to reschedule a loan. The application should be accompanied by the member's written consent to reschedule the loan and evidence of the change in the member's circumstances.

Loans should only be rescheduled with the agreement of the member and where relevant, the guarantor. A new credit agreement<sup>5</sup> should be drawn up and the member should be made aware of any changes to the information contained in the original credit agreement, including changes to the cost of credit.

The new repayment schedule put in place for all rescheduled loans should not be less frequent than quarterly.

A credit union should not approve further agreements for additional credit where an existing loan has been rescheduled. However, where a member's ability to repay all credit owed and the proposed additional credit has been clearly established, the credit union may determine it prudent to grant additional credit to a member with a rescheduled loan where that rescheduled loan has performed in accordance with the new terms for an appropriate period.

Where additional credit is sought by a member but the member's rescheduled loan has not yet performed in accordance with the new terms for an appropriate period, any additional credit to be granted to the member should only be approved where a member's ability to repay all credit owed and the proposed additional credit has been clearly established. Any additional credit granted in these circumstances should be approved by the board and the rationale for extending such credit clearly documented.

### **3.13 Systems, controls and reporting for rescheduled loans**

Credit unions should enter full details of all rescheduled loans in a Register of Loan Amendments. Rescheduled loans should be clearly designated and identifiable in the records of the credit union and should be capable of being audited. It should be possible to generate detailed reports on all rescheduled loans from these records for inspection by the Central Bank.

Credit unions should report on rescheduled loans to the board of directors of the credit union at each monthly board meeting.

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<sup>5</sup> Which complies with all legal requirements including European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010). This includes Regulation 11 which contains obligations on creditworthiness assessment.

Credit unions should also undertake a full review of the bad debt provisions, including the provisions held against rescheduled loans, as part of the year-end annual accounts preparation and audit process.