

## RESPONSE TO CONSULTATION PAPER 106

We have limited our response to the possible effects of the revised code on our credit union and the credit union sector more generally.

We set out some general observations as well as our responses as they correspond to the relevant paragraphs and questions within the consultation paper.

### General Overview

Whilst we broadly welcome the intention to enhance protection for credit union members through the extension of enhanced standards we believe that the framework set out in the consultation paper goes beyond an appropriate level of regulation for credit unions for a number of reasons which we set out in this response. In general, it is our view that the revised code:

- Does not make an allowance for the complexity and value of a retail financial product in determining the competence and qualification requirements;
- Does not provide for equal and fair treatment of credit unions in the terms of time lines and transitional arrangements for the application of the revised code, especially when considered in light of the transitional arrangements available to other financial service firms on the introduction of the MCC in 2006 and 2011;
- May inhibit business model development within the credit union sector through the need to meet particular experience requirements in relation to retail products not yet widely offered by credit unions;
- Does not provide for grandfathering arrangements appropriate to the history and experience of the sector

### 3.1. Amendments to the MCC on foot of EU requirements

#### 3.1.1 Competencies

We broadly support that staff involved in the provision of certain retail products should meet the minimum requirements for qualifications and competencies. However, we believe that there should be a more tailored approach based on the complexity and value of products. We also argue for the fair and equal treatment of providers under the MCC – in particular that credit unions are afforded the same time lines and transitional arrangements as provided to other providers on the initial implementation of the MCC.

#### 3.1.4 Qualifications and Experience Requirements

Whilst we do not have a general objection to the application of MCC requirements on mortgage creditors, we do have difficulty with the transitional arrangement suggested. The majority of credit unions are, or will be, new to this market and the proposed regulations pre-suppose prior knowledge and experience in the marketplace, effectively placing a barrier to new entrants through the blanket requirement of six months' prior experience. It does not appear that the proposals listed allow for an orderly transition for credit unions currently offering housing type loans, or for the many credit unions that may be interested in entering this market in the short term.

Consideration needs to be given to how the substantial experience and competencies, already built up with the current credit union staff in a wide range of personal lending, can be modified, or added to, quickly and effectively to develop mortgage competency as defined under the MCC. Consideration should also be given to acknowledging previous experience obtained in the provision of mortgage credit in a credit union context prior to the introduction of the Mortgage Credit Directive.

### **3.1.5 Annual Review**

We understand the need for firms to take responsibility for the qualifications and experience of its officers. However, any additional mandates in this area need to be cognisant of the many other records to be kept around training and development (e.g. Fitness & Probity, CPD). Such reviews should be streamlined and ensure that the benefits outweigh the administration and time costs involved.

## **3.1. Additional Proposals**

### **3.2.1 Qualifications & Experience Requirements**

We have a number of issues with the current consultation paper insofar as qualifications, transition periods and grandfathering arrangements are concerned.

We appreciate the aim to improve standards. As a credit union we have expended considerable resources in the past number of years, both in terms of time and money, in developing our staff qualifications. However, while we welcome the overall aim to improve standards and advocate the undertaking of qualifications by all credit union personnel, we believe that the application of grandfathering in the original MCC was an important and sensible transitional arrangement to allow firms to continue operating while MCC standards were rolled out across industry. We believe it places significant burden on many credit unions to now impose an MCC on credit union core business without grandfathering arrangements being put in place.

We believe that the original grandfathering element provided important recognition to the extensive knowledge and experience which had been built up over time by personnel. A large majority of credit union personnel, by virtue of their long and loyal service, would have been able to avail of this grandfathering option were it required of them in 2006 or in 2011.

A recent survey of credit unions conducted by our representative body, the Irish League of Credit Unions, indicates that approximately 25% of current credit union staff do not currently hold any MCC recognised qualification in consumer lending and would, effectively require a qualification within a very short timeframe.

We suggest that the Central Bank of Ireland replicate the arrangement offered to other sectors and allow the granting of accredited status to those officers who have 4 years' experience in consumer lending (in the previous eight years), from a suggested application date of January 2018.

### **QUESTION 1**

***Do you agree that persons carrying out a relevant function in respect of any retail financial product that falls within the scope of the MCC should obtain a minimum level of experience prior to working without supervision? Please outline the reasons for your view.***

We believe that the proposed experience requirement, applied to simple low value, low risk products as typically offered by credit unions, adds levels of administration and bureaucracy with little real benefit for consumers. In relation to the consumer credit products we offer to our

members we have not received a formal complaint about any loan issued since the introduction of the revised Consumer Protection Code in 2011 despite the fact that it does not apply to core credit union lending. This reality is replicated across credit unions with most credit unions demonstrating a strong track record of protecting their members' interests.

The current system of new entrants who are pursuing a qualification, working under supervision, seems to us to capture the requirements of experience adequately as is, and we are of the view that for simple products this is more than sufficient.

As outlined previously in relation to the proposed experience requirements for the provision of house loans, we would argue that any requirement of six months prior experience should not effectively prevent a credit union from diversifying or expanding its current product offering in an effort to grow its business into complimentary areas, i.e. in expanding from personal loans to mortgage lending, particularly at this juncture in time where a housing crisis in the state requires more, not less, options in the market place.

#### **QUESTION 2**

***If you agree with 1) above, do you consider a minimum six-month period to be sufficient? Or should the length of experience depend on the role(s) being carried out, the complexity of the product or a qualification already held by a person? Please outline the reasons for your view.***

We would argue that no additional experience requirement be implemented.

#### **QUESTION 3**

***Do you agree with the proposal on how the experience requirement should be evidenced, i.e., that a regulated firm should sign a 'certificate of experience' and retain supporting documentation to support the certificate? Please outline your views.***

The burden of bureaucracy and administration with all the associated costs, both direct, indirect and, lost opportunity costs for credit unions must be considered. The benefit to our members of such additional costs, particularly in the credit union low risk environment, is questionable.

### **3.2.2 Devising & Creating Products**

#### **QUESTION 4:**

***Do you agree with the proposal set out above? Please set out the reasons for your view.***

The suggestion to have someone with an MCC qualification on product development seems to have merit, particularly where that product may be complex or of a high value. We would be concerned that these onerous requirements do not translate to the boards of credit unions – whose role is purely as non-executive directors, both volunteer and non-remunerated. It is our view that the activities of devising, creating or designing of such products are operational in nature and, thus, would be performed by the executive staff function within a credit union or outsourced to suitable personnel as necessary.

#### **QUESTION 5:**

***What alternative ways could persons demonstrate meeting the competencies and standards set out in the Mortgage Credit Regulations and the requirements of the ESA Guidelines and MiFID II Delegated Directive?***

Normal good practice in financial firms requires a member of the management team being involved in new product development and therefore we would like to see this requirement reflected in the approach taken by the Central Bank of Ireland to product design in credit unions. In practice a member of the management team in the credit union could meet this requirement on behalf of the board once a suitable sign-off process has been agreed. An alternative way to demonstrate meeting these competencies and standards would be through completion of relevant training programmes or membership of a CPD Scheme.

### **3.2.3 Credit unions**

The consultation paper includes comments that the framework remains *proportionate to the nature, scale and complexity of the credit union sector* but we believe that the suggestions proposed are, in fact, more onerous on the sector than they were on other sectors. In particular, the suggestion to transition credit unions to a full MCC for their core products without adequate grandfathering arrangements as was provided to other sectors, is, we believe, unreasonable.

The suggested approach of the consultation paper leaps from the existing differentiated proportionate MCC regime, directly to a full MCC regime applicable to all credit union staff. We would argue that further consideration be given to phasing these changes into credit unions. There have been seismic changes to the regulatory framework for credit unions in the past number of years. It would be our view that the energies of boards, management and staff of credit unions would be currently better spent focussing on business model development and securing long-term viability. The current regulatory framework, once fully embedded, is in our view sufficiently robust in terms of ensuring the protection of the membership of credit unions.

We welcome that the Central Bank of Ireland is *cognisant of the timing of these suggestions* and trust that this will be reflected in the final regulations.

We also seek clarification on the view of the Central Bank of Ireland about the possible or intended application of the Consumer Protection Code to core credit union products as a result, (or subsequent consequence), of the proposals within the consultation paper. We are concerned that this will have very substantial implications on the entire movement in addition to those changes being suggested in this consultation paper. We strongly argue that adequate time is given to the extension of further regulatory burden on a movement that has so recently absorbed extensive regulatory change and is currently dealing with the consequences of wide scale restructuring.

### **QUESTION 6:**

***Do you agree that the MCC should apply to credit unions in respect of any retail financial product offered by credit unions that falls within the scope of MCC? Please set out the reasons for your views.***

Whilst we accept the need to apply the code to non-core lending such as mortgage lending, it is our considered view that the extension of the Code to core lending activity is not appropriate or indeed necessary at this time. The priority for credit unions has always been to focus on service to members via a not for profit, member-centred business model that is based on high ethical standards and conduct of business.

We would expect to see adequate consideration as to how the application of the MCC to a retail financial product will apply to credit unions whose core business is being affected for the first time. Furthermore, we would expect that an equitable and reasonable approach be taken as per the

transitional arrangements previously offered to all other sectors. This would see some recognition for experience in consumer lending already obtained.

In relation to the recognised qualifications set out in the revised code it is our view that the Central Bank should be minded to recognise the engagement of the credit union movement with professional qualifications in the past number of years. The *Pathways Diploma in Credit Union Operations* was approved by the Central Bank as a recognised qualification as meeting the MCC requirement for credit unions in 2012. In its development, as with the *ACCUP qualification* which preceded it, the content of the compulsory Lending & Loan Recovery module was designed to specifically meet the consumer lending competencies as outlined in the MCR 2006, and as updated in 2011. As these lending requirements were not applicable to credit unions at the time, no formal process for recognition of these qualifications has existed to date. We propose that any transitional arrangement allows for recognition for those credit union officers who already hold these qualifications; namely the *Advanced Certificate in Credit Union Practice* and the *Pathways Diploma in Credit Union Operations*, as being qualified in credit union core business. Failing this, we would expect that the Central Bank works with the sector in recognising “add-on” modules in the areas of consumer credit and mortgage lending so that there will be minimum disruption to the staff of credit unions in upskilling to meet the requirements under the Code.

#### **QUESTION 7:**

***If you agree, what do you consider to be an appropriate timeline for its application? Please set out the reasons for your views.***

If the opportunity to recognise prior, relevant experience via the process of grandfathering is denied to credit unions, the timeline to achieve compliance with the proposed requirements must reflect this. Bearing in mind that, in 2007 firms were permitted 4 years’ experience over a prior 8-year period to meet original grandfathering arrangements, we would assert that an equitable period to transition is between four and eight years.

#### **Request for Regulatory Impact Analysis**

Finally, it is our view that the failure of the Central Bank to carry out a Regulatory Impact Analysis in relation to the specific effects of the extension of the MCC to all core credit union activities is disappointing. Due to the possibly wide-ranging implications of the application of the Code to credit unions we believe that there is a responsibility on the Central Bank to exercise its discretion to conduct a Regulatory Impact Assessment in accordance with the *Consultation Protocol for Credit Unions*. A failure to do so may result in heightened environmental, strategic and governance risk for the sector at a time when it is tackling business model transformation.