ILCU SUBMISSION TO CP 113

Consultation on Potential Amendments to the Fitness and Probity Regime for Credit Unions

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1. Introduction

The Irish League of Credit Unions (“ILCU”) is the largest credit union representative body on the island of Ireland with 274 registered Republic of Ireland credit unions affiliated to the ILCU, 44 of which have total assets in excess of €100 million.

The ILCU was founded to provide representation, leadership, co-operation, support and development for credit unions in both the Republic of Ireland and Northern Ireland. The ILCU responds directly to the needs of the affiliated credit unions. As an advocate of the credit union ethos of mutuality, volunteerism, self-help and not for profit philosophy the ILCU has a vision to influence and inspire the credit union movement to achieve all its goals – social, economic and cultural – while always respecting the individual’s rights and dignity. One of the objects for which the ILCU was formed is to contribute to the development of higher standards of credit union management, operation and supervision by providing advice and direction in the interests of affiliated credit unions and their members. To this end, the League is very supportive of measures to which enhance such standards and we recognise that an appropriate Fitness and Probity Regime for credit unions ties in with this objective.

Since the inception of the Fitness and Probity Regime to credit unions (beginning August 2013), it is our view that credit unions must be commended for the manner in which they have implemented the Fitness and Probity regime, particularly at a time where the burden of new legislative and regulatory requirements was at its height. While we have no outright objections to the proposals contained in CP113 we would wish to ensure that the proposals are not a first step towards disbanding the differentiated approach applied to credit unions with respect to Fitness and Probity.

The ILCU welcomes the opportunity to respond to the Consultation on Potential Amendments to the Fitness and Probity Regime for Credit Unions (“CP 113”) and we have set out our position on the specific questions raised in the Consultation Paper in the sections below.

2. Tailored Fitness and Probity Regime

Question 1: Do you agree that a tailored Fitness and Probity regime for credit unions remains appropriate at this time?

Yes we believe that a tailored Fitness and Probity regime for credit unions is appropriate taking into account the unique structure, ethos and nature of credit unions.

Question 2: Do you feel that the Fitness and Probity regime for credit unions should be aligned to the Fitness and Probity regime applying to all other RFSPs at a later stage? If so, please indicate what timeline you feel is appropriate for this to occur.

We do not believe that it would be appropriate to align the fitness and probity regime for credit unions to the regime applied to other RFSPs. As the Central Bank is aware, credit unions have a distinctive business model, ethos and structure to other RFSPs. It is vital that more prudent and straightforward financial service entities such as credit unions receive adequately differentiated and appropriate treatment.

The Central Bank's risk based model of supervision would require regulation to be balanced and proportionate depending on the risk of the sector rather than a one-size-fits-all approach. Credit unions are inherently lower risk and therefore the fitness and probity regime for other RFSPs is not appropriate to the credit union sector.

3. Controlled Functions

Question 3: Are there any additional roles within credit unions which you consider should be prescribed CFs under the Fitness and Probity regime for credit unions? If so, please specify them along with a supporting rationale.

No, we believe the current control functions are appropriate and sufficient.

4. Pre-Approval Controlled Functions

Question 4: Do you have any comment on these proposed PCF roles?

We note that the proposed PCF roles are Risk Management Officer, Head of Finance and Head of Internal Audit. We have no objection to the designation of the proposed roles as PCFs.

The Central Bank, however, should make clear the criteria which it shall apply in assessing approval of these roles so that credit unions are in an informed position when recruiting individuals to perform these roles which require the Central Bank's pre approval. This would eliminate the risk where a credit union has in good faith approved officers, through a process of due diligence, as having met the standards. The Central Bank subsequently either when reviewing an IQ for a PCF or through an inspection of the credit union's due diligence process, deem these officers as having not met the standard. This probable issue will arise due to the lack of clarity around the standards. The ILCU recommends that guidance on these minimum standards be made available to credit unions for the following:

- Prior experience
- Prior training / qualifications
- Capacity to perform the role

In addition, we note that where a credit union does not currently have a designated Head of Finance, the person who carries out tasks associated with the head of finance will be required to be pre-approved for the head of finance role. It would be useful if the Central Bank were to provide a clearer definition of the head of finance role in order for credit unions to ascertain the appropriate person to designate the PCF (where there is no specified Head of Finance within the credit union). We would also seek confirmation that such an in-situ individual would not require pre-approval similarly to the other prescribed roles. Also please confirm that where the individual who carries out the head of finance is already a

PCF (i.e. the manager) that additional pre-approval will not be required for this individual as head of finance.

Question 5: Have you any comment on the application of these proposed PCF roles on a tiered basis to credit unions with total assets of at least €100 million only at this time?

We believe that the application of the proposed PCF roles to credit unions over €100 million only is reasonable.

Question 6: Do you have any comment on the proposed commencement date for these roles being designated PCF roles?

The commencement date is reasonable if the Central Bank provide clear guidelines on the criteria and standards that would be applied in considering the pre-approval.

Question 7: Are there any other roles which you feel would benefit from being designated PCF roles at this time?

We believe that the proposed roles are sufficient and that it is not necessary to designate other roles as PCFs.

5. Transitional Arrangements:

Question 8: Do you have any comment on the proposed transitional arrangements for the designation of the proposed PCF roles?

We support the proposed transitional arrangements in particular the proposal that in situ individuals in these roles will not require Central Bank approval.

The ILCU, however, would like confirmation that an in-situ individual in the proposed PCF roles who is currently on a fixed-term contract e.g. 3 year contract, would not be required to seek approval from the Central Bank if the credit union opts to extend their contract, or make the individual permanent.

7. Practical Considerations re Outsourcing

Question 9: Do you have any comment on the requirements and obligations on the credit union where PCF roles are outsourced?

We would have some concerns that outsourced PCFs' would use this as an opportunity to increase the fees they charge credit unions which we believe would be inappropriate. In principle, however, we have no objection to the proposals and believe it will assist in raising the standards for outsource providers.

We also welcome the Central Bank's proposal that guidance will be provided in relation to the Fitness and Probity requirements for outsourced roles in credit unions.