

Central Bank of Ireland  
New Wapping Street  
North Wall Quay  
Dublin 1

Date: 21<sup>st</sup> April 2022

**Re: Consultation on Credit Union Exempt Services CP148**

Dear Registry of Credit Unions,

Thank you for the opportunity to respond to CP148. CUDA is supportive of the review of Regulation 48 and Schedule 2. It is timely in light of the ongoing amendments to the Credit Union Act 1997 – which will broaden core services and modernise existing provisions and requirements. Overall, the proposed approach for Regulation 48 and Schedule 2 going forward is welcomed and CP148 is comprehensive.

We have responded to the Questions posed in CP148 below. In many incidents we are in agreement with the proposals and have captured this in our response to the Question.

**Technical drafting changes to the Exempt Services Schedule**

1. Do you (generally) agree with the proposed technical changes to the Exempt Services Schedule? If you disagree with any of the proposals, please identify these in your response and outline your reasons why. If you are suggesting further technical drafting changes to the Schedule, please outline the change and rationale for the change.

As you have noted, the review is an opportune time to tidy up Schedule 2, including removing services that are now outdated by time and/or advances in technology, or conflicting with other more recent primary legislation. We are also encouraged by the broadening of intermediation services (in particular with respect to savings/investments services).

2. Do you agree with the proposal to change the name of the “Money transfers” service to “Money remittance service” and the revised description of this service? In your comments, please outline your view on whether the proposed technical changes would result in credit unions being unable to provide any services which they can currently provide under the existing “Money transfers” service.

[[3. For credit union respondents, does your credit union currently provide money remittance services and, if not, is it likely or unlikely that the credit union would commence providing such services within the next five years?]]

We do not see any difficulty with the change of name or revised description. We are unable to determine any negative impact on credit unions, but we would ask the Central Bank to ensure through their legal department that this is the position and that they do not foresee any negative impact going forward.

4. Do you agree that certain of the services currently included in the Exempt Services Schedule, as outlined above, do not need to be included in the Exempt Services Schedule?

Yes. Services that are incidental to core services are correctly removed. A revised version of services such as those in the *old* Paragraph 1 would continue to become outdated with credit unions providing a considerable number of incidental services to support core services.

Perhaps some additional clarity in the Feedback Statement on:

1. Services that are *incidental to the provision of other services (ie core services)*
2. Services that are *benefits of members* which are incidental to the objects for which, in accordance with section 6 of the 1997 Act, a credit union is formed, and,
3. Services that are documented in the (new) Schedule 2.
4. Services that require Section 48 approval.

A query was received from a credit union on clarification that the ability to “pay loans or lodge funds via credit/debit card, whether that be over the phone or online” will no longer be included as an exempt service but can be performed simply as a service incidental to the provision of a core service ie consumer credit. Our understanding is that services that fall within categories 1 and 2 above will not require that the service is listed in Schedule 2 as an exempt service or be subject to Section 48.

#### **Technical changes to regulations 2 and 48 of the 2016 Regulations**

5. Do you (generally) agree with the proposed technical changes to regulations 2 and 48 of the 2016 Regulations? If you disagree with any of the proposals, please identify these in your response and outline your reason/s why. If you are suggesting further technical drafting changes to regulations 2 and/or 48, please outline the change and rationale for the change

Yes. The proposed introduction of the definitions at Regulation 2 is helpful, as are the clarification at Regulation 48 especially re fees from the outset. And, it is beneficial to provide the clarity with regard to authorisation/licenses whether relating to the credit union itself or a third party, again from the outset. It also future proofs against changes to other primary legislation where authorisation/license requirements change.

6. Do you agree with the proposed changes to the conditions that will apply to the Budget account scheme, Draws, Savings Stamps and Gift cheques services? Please explain the reasons for your answer.

#### **Budget Accounts**

The introduction of Term and Conditions as regulatory requirements are new. We trust the regulatory requirements will apply to budget accounts open from the commencement of the new Regulations.

##### Proposed Condition in *new* Paragraph 3(ii):

*(iii) where a credit facility is offered as part of this service, the credit facility is paid off in full at least once in every 12 month period;*

We are uncertain how this can be a condition on the credit union, as it is somewhat outside of their control. We have no difficulty of this requirement being added to the Terms and Conditions as entered into by the credit union and the member (ie *new* Paragraph 3(1)) going forward. This allows the credit union to take action for breach of contract, as opposed to the credit union being non-compliant where breach of contract occurs.

But either way, it cannot be a requirement for existing Contracts. Obviously, any clearance of the credit facility will have to be undertaken with consent of the member.

### **Member Prize Draws**

We note the new conditions set out in the *new* Paragraph 10 and some credit unions are currently aiming to address these requirements in light of the 2018 Thematic Review of Prize Draws in Credit Unions report.

#### Proposed Condition in *new* Paragraph 10(vii)

*(vii) the credit union documents clear terms and conditions, to be provided to participating members in advance of their participation in such draws;*

We would propose that this should read *(vii) the credit union documents clear terms and conditions, to be ~~provided~~ made available to participating members in advance of their participation in such draws;*

### **Saving Stamps/Gift cheque**

We have no difficulty with the amendments here. We trust the addition of new Terms and Conditions will have no negative impact for the credit union on existing services.

### **MABS, *new* Paragraph 9**

We have no issue with the inclusion of this service or with the revised wording or that of its predecessor. We do however find the service curious - that it refers to a referral to MABS as opposed to any other agencies eg ISI. Is it that MABS only works on a referral basis? It is also arguable that the service is incidental to the provision of other services (ie lending) or indeed the objects set out in Section 6 (eg prudent credit management).

## **Investment and insurance intermediation**

7. Do you agree with the proposed expansion of the intermediation services that credit unions may provide under the Exempt Services Schedule? Please explain the reasons for your answer.

### **Other intermediation services, *new* Paragraph 15**

Yes. We agree with the proposed expansion of the intermediation services and in particular the clarity with regard to the expansion that *new* Paragraph 15 will provide. The expansion is welcomed. At a time when credit unions are not in a position to provide dividends, have an excess of funds, and there are larger societal pension concerns it is appropriate that credit unions can offer broader financial advice in the area of savings/investments/pensions.

It is also appropriate that the provision of financial review and advice' service to members can be offered by the credit union as a fee payable by the member or on a fee/commission structure payable by the product provider. Our preference is also to ensure that Paragraph 15 is sufficiently broad to permit credit unions act as a distributor for state savings should the Minister for Finance put in place the appropriate structures.

We had considered a broadening of the *old* Paragraph 16 (**Financial Counselling**) as an exempt service to include products outside the credit union, however from our reading, the *new* Regulation 15 is introduced to allow this option. As a result, we are in agreement with the removal of **Financial Counselling** as an exempt service in its own right.

### **Personal Retirement Savings Account (PRSA), *new* Paragraph 17**

We note the technical changes to this service. Whilst we do not see any difficulty with the existing wording of this paragraph it is important that the drafting is sufficiently flexible to include the Automatic Enrolment Retirement Savings System for Ireland as proposed by the Department of Social Protection, or other forms of State backed schemes.

8. Bearing in mind the focus of the current review (i.e. required technical changes), do you have any other comments on this review and/or the Central Bank's proposed changes?

We appreciate the limitation of the review. We would ask that the Central Bank consider the evolving position with regard to the proposed amendments to the Credit Union Act 1997 (as brought forward by Minister Fleming). In particular we are referring to the expansion of core services, and the ability to potentially lend to CUSOs and Corporate Credit Unions. Whilst the most likely place for particulars on this form of lending will be the legislation or, perhaps, overarching regulations, however a collective approach by the policy makers with regard to amendments to Regulation 48 and Schedule 2, overarching changes to regulation and the proposed wording to legislation would be welcomed. It is also worth considering the position with regard to lending to CUSOs should the legislative proposals not come to fruition.

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Thank you for an opportunity to respond to CP148. Please do not hesitate to contact us if you have any questions in relation to CUDA's responses.

Yours sincerely,

Elaine Larke  
Head of Legal and Compliance  
CUDA