

30<sup>th</sup> June, 2008

Credit Union Code  
Consumer Protection Codes Department  
Financial Regulator  
P.O. Box 9138  
College Green  
Dublin 2

**Re: Voluntary Consumer Protection Code for Credit Unions**

This is the response of Comhar Linn, Dubco and Lucan Credit Unions to the request for submissions in respect of Consultation Paper CP32 issued in March 2008.

CP10 published in February 2005 promised “The Code for Credit Unions will take into consideration the special structure and voluntary ethos of the credit union movement”. The Consumer Protection Code applying to regulated entities was subsequently published in August 2006. This Code applies to Credit Unions for non-core services. On publication, the Financial Regulator promised an appropriate Code for the core savings and loans services provided by Credit Unions. CP32 claims to be the end product of widespread discussions with the Credit Union Movement. This conflicts with a communication to credit unions in March 2008 from a representative organisation.

CP32 bears no relationship to CP10. Far from being a consultation paper that asks questions and provides options, it is a draft Code that is based completely on the relevant chapters of the final Consumer Protection Code published in August 2006. The draft Code is a carbon copy with ‘member’ inserted in place of ‘consumer’ and ‘customer’. It doesn’t take account of how most credit unions are structured and run or the resources in terms of staff and expenditure that will be required to implement the Code. The burden of compliance to provide protection where it has never been needed and is unlikely to be required will be significant. At the very least, a Regulatory Impact Assessment of the draft Code is required.

There are no references in CP32 to reflect “the special structure and voluntary ethos of the credit union movement”. The only thing ‘voluntary’ about the Code is compliance and it is stated that the Financial Regulator will be seeking to have the Code written into legislation as soon as possible, making it ‘mandatory’. All Credit Unions are run by volunteer directors and committee members. Credit Unions are independent autonomous entities and do not have head office functions handling marketing, systems, complaints, advertising and member communications. Further clarification on implementing a Code for Credit Unions needs to be outlined and recognition should be given to the divergence of the scale/size of Credit Unions.

We would seek clarification from the Financial Regulator to outline how Chapters 1 to 5 of CP32 differ in any major respect from the corresponding provisions in the

Consumer Protection Code applying to other regulated entities in light of Financial Regulator's comment in response to CP10 submissions (Page 10) and also seek details of the "adjustments that take into account the nature of the credit union business" mentioned on page 1 of this consultation document.

If anything, additional obligations are placed on Credit Unions such as the requirement that "a credit union must advise members who have defaulted on their repayments of relevant counselling services and the contact details for such a service, e.g. name and address of a local Money Advice & Budgeting Service (MABS)" While most credit unions have a good working relationship with their local MABS office, it is a different matter to make it a potential statutory relationship by forcing credit unions to make referrals. Quite correctly, this obligation is not imposed on any other regulated entity and is unacceptable to our Credit Unions.

Credit Unions accept "consumers are entitled to the same levels of protection regardless of which provider they are dealing with". This is not the same as saying that consumers of different providers' products / services need the same levels of protection. This will depend on the risk profile of the entity, including past failures to protect consumers and its products / services. In the context of the Government's White Paper on 'Regulating Better' the Code as drafted fails the tests of Necessity, Effectiveness and Proportionality.

Further consultation is required before drafting a Code appropriate for Credit Unions.

Some questions and views on the main areas of CP32 are listed below:-

### **General Principles & Common Rules**

- The general principles and common rules for all credit unions seem reasonable. Clarity about what they mean in practical terms is required.

### **Terms of business**

- What is considered to be the first service to a member? Is it when they open a share account to become a member or when they avail of any new service for the first time (e.g. first loan)?
- Is a statement that the credit union seeks to avoid conflicts of interest sufficient as a policy summary?
- Is the ILCU Savings Protection Scheme, a compensation scheme for the purpose of the Code?

### **Provision of information to the member**

- What is meant by "alter the range of services" for the purpose of giving one month's notice to members? Would this include the withdrawal of a special loan offer, a change in opening hours? Would notification and approval of a new service at AGM be considered adequate notice?

- What electronic media is envisaged and what is considered secure transmission?
- It should be recognised that significant additional costs may be incurred in this area because of the unique independence of credit unions and the services they offer unlike other institutions which have central divisions

### **Knowing the member**

- What are considered to be “material changes to a member’s circumstances”?
- Apart from money laundering requirements and proof of income / outgoings, what other information must the member certify as accurate?

### **Suitability**

- A written statement of suitability should not be required where
  - the basic loan product(s) is offered by a credit union
  - the member has purchased the same products previously
  - a top-up/refinanced loan is being provided

Note: This is the Credit Union’s basic product(s) which are similar to those exempted in the 2006 Code for other financial institutions

### **Member records**

- Unless they are held electronically, the new requirements will result in bulky or fragmented paper files. Must copies of all correspondence and promotional material provided to a member be kept as part of the member records?
- Will electronic copies suffice

### **Compliance with the Code**

- The Financial Regulator should specify reporting requirements for compliance with the Code rather than “any reasonable period of time or format” which appears ad hoc.

### **Statements**

- Will sending of electronic statements suffice sent at least bi-annually subject to member request/confirmation?
- Need to also clarify the “dividend and interest rates that applied” reference as dividend may not have been set at time of statement creation and again compliance will involve cost as statement may cover periods of different “applied” rates. (Suggest that reference be made to Dividend paid should it be the case during the statement period and deposit interest rate applicable at date of statement for deposit accounts)

### **Changes in interest rates**

- Is advance notification of rate changes required? If yes, how long?
- Are individual notifications to each deposit account holder required?

### **Accounts**

- In some cases, where transactions are completely remotely or offline it may not be possible to credit the account on the day. It could be the next business day. This paragraph should state on the day or the next business day.
- Clear definition of “lodged” required as member understanding of payroll deduction or direct debit instruction could be included

### **Joint Accounts**

- Is a written warning required and what are the warning(s) required as application declaration should be signed by all parties?
- Can credit unions set the “limitations” at one signature or joint signatures to operate the account?

### **Arrears and guarantees**

- The mandatory requirement that a credit union must refer members to relevant credit counselling services is unreasonable.

### **Consolidation**

- Members get top-up loans that consolidate their existing debts to the credit union. Does this paragraph apply to top-up loans?
- Further clarification on the consolidation terms and conditions that may apply in the code need to be provided as the cost of implementation of such needs to be established.

### **Advertising**

- The definition of advertisement for credit unions should exclude sponsorship as for other regulated entities.

### **Lending**

- Where credit unions display the APR and the term of a loan in tabular format they usually include the repayment amount. The total cost of credit can easily be calculated by multiplying the repayment amount by the number of weeks or months. In this case is it necessary to also include the total cost of credit? Members know

the APR and are most concerned about the affordability of the weekly or monthly repayment.

### **Conclusion**

Further consultation is required to address the questions posed in our and most likely other submissions. The Final Code has to take account of the structure and ethos of credit unions and before it is introduced a Regulatory Impact Assessment should be undertaken.

Submitted on behalf of the Board of Directors of  
Comhar Linn Credit Union Limited  
Dubco Credit Union Limited  
Lucan Credit Union Limited