



CUDA Submission on Financial Regulator's Savings & Loans -- Our Voluntary Standards

Introduction

CUDA appreciates your request to once again comment on the Financial Regulator's latest Credit Union Members code, titled 'Savings and Loans--Our Voluntary Standards' as circulated in December 2008. We kindly acknowledge your facilitation of meetings and roadshows during recent months with regard to discussing the "code" and the wider issues facing Credit Unions and their members. We also welcome your acknowledgement that the timing of introduction of any code will be by mutual agreement to allow sufficient time for procedures and appropriate training prior to actual implementation in Credit Unions.

The financial services environment is a radically changed landscape from the time of our previous submission to Financial Regulator last June on the then "Voluntary Consumer Protection Code". What has befallen national and international financial markets was not predicted and the adverse affect, and ongoing fallout, is currently immeasurable in terms of direct and indirect impact on Credit Union Members. What is certain is that the financial needs of our members will continue to change, and it is essential that they continue to have a clear understanding of the solutions available from their Credit Union.

Credit Union Boards of Directors, management and staff need the ongoing support of the Financial Regulator's office to see us through this unprecedented period of financial turmoil.

Since its foundation CUDA has campaigned for a statutory savings protection scheme that would afford all Credit Union members the same degree of protection as bank depositors. At the start of 2008 a satisfactory resolution of this matter was CUDA's number one representative priority. Following on from the production of a number of detailed position papers on savings protection by CUDA early in the year, a focused campaign of engagement involving meetings with the Minister for Finance, Financial Regulator, Registrar of Credit Unions, Department of Finance officials and CUAC took place. This interaction intensified in September as the dislocation of consumer confidence in the banking sector was beginning to spill over into the Credit Unions. As we now know a most satisfactory outcome was achieved for all Credit Unions with the introduction of a State guarantee of up to €100,000 per Credit Union member. We would like to reiterate our gratitude to the Minister for Finance, Department of Finance, Financial Regulator and Registrar of Credit Unions for including Credit Unions in the revised Deposit Protection Scheme [DPS], thereby granting peace of mind to all Credit Unions and their members and ensuring their confidence is maintained, and we would like to acknowledge this great achievement despite the efforts of others to resist, at all times, the introduction of a statutory guarantee of Credit Union member savings.

As stated in our previous submission, the primary objective now should be a complete review of the Credit Union Act '97 [as amended] to enable Credit Unions grow to meet the evolving needs of their members, and their communities, and provide the necessary competitiveness and accessibility to credit for our members in these financially challenging times. It was

clearly indicated at the “Voluntary Consumer Protection Code” roadshows, and at subsequent meetings, that this “code” would form part of any new legislation in the future, therefore, from the CUDA perspective, we will appreciate your support as our Financial Regulator in pursuing a complete revision of the Credit Union legislative framework. Not alone would this allow opportunity to include the “code” in a legislative framework, but it would also eliminate the confusing aspect to the implementation of a “voluntary code” that not alone would require buy in from Credit Unions but would have no legal basis to ensure its sustainability.

It must be remembered and noted that the reason these consumer protection codes were first introduced here was due to much maligned behaviours of some providers of financial services in our State, giving rise to the need to protect consumers from such practices. Credit Unions are ever conscious of their responsibility to protect and nurture the unique fundamental ethos and philosophy of Credit Unions. Their organic member-friendly structures have built the movement and delivered a unique level of trust and a consistent high level of service to members over many years, and any code should serve to underpin, ensure continued stability, preserve and build on the well founded trust members have in their Credit Union.

This irreplaceable fundamental must be protected while Credit Union representative bodies work cohesively with the Financial Regulator to establish the 'points of difference' that demonstrate an independent and differentiated approach to the established banking sector's Consumer Protection Code. In this regard, and as you are aware, CUDA drafted what we consider to be a workable and sustainable “Credit Union Members’ Charter” solution. In drafting our charter, CUDA recognises that your latest document, “Savings and Loans – Our Voluntary Standards” has indeed addressed many of the issues that had caused concern in the previous 'Voluntary Consumer Protection Code'. Our charter is constructed in a member facing way, which we believe will create easier passage in seeking buy in not only from CUDA member Credit Unions but also from the wider Credit Union movement. It was the considered view of CUDA members that the title “Our Credit Union Members’ Charter” would more aptly befit such a Credit Union orientated document, while also acknowledging the member focused ethos and behaviours practiced for over fifty years in this State. We would welcome an early opportunity to discuss “Our Credit Union Members’ Charter” document with you.

Detailed High Level Observations/Comments

In our previous June submission, we made known to you a number of higher level observations and concerns on various aspects of the then “Voluntary Consumer Protection Code”. We now wish to revisit each element and assess how the revised “Savings & Loans – Our Voluntary Standards” has addressed some of those concerns.

1 The Code is not consistent with Legislative and Regulatory commitments to have a differentiated approach to the Regulation of Credit Unions

While the nature and tone of the revised “Savings & Loans – Our Voluntary Standards” has indeed come a long way and aligns more with the inclusive and democratic structure that exists between Credit Unions and its members, it would also be important to identify that there is already an extensive legislative framework governing Credit Unions here in Ireland. It is also somewhat unfortunate that much effort is being injected into a code document which would have no legal basis when a wider legislative framework is by far a more urgent requirement to ensure the continued growth and development of Credit Unions in Ireland.

2 A “one size fits all” approach to Consumer Protection is detrimental to the competitiveness of Credit Unions and can serve to dilute Member Benefits

In conducting their business over the years, Credit Unions set out to meet the Members’ needs on the basis of knowing the member and individually assessing and making judgements in the circumstances the member was experiencing at a particular point in time. Such a decision making process is central to Credit Union operations and underpins the trust which members have in their Credit Union today, as they know and experience that their Credit Union is on their side. This considerate, member friendly approach to conducting business has set Credit Unions apart from other financial institutions. Any attempt to apply a one size fits all approach would totally undermine what has been carefully nurtured and built up over decades by Credit Unions. It is extremely important that the Financial Regulator understands and acknowledges that which has been built up over the years is not undermined by applying a one for all set of rules that risks undermining the very foundation on which Credit Unions conduct business.

3 Members/Consumers already enjoy a high degree of “protection” via the existing Credit Union Structure/approach

The latest “Savings & Loans – Our Voluntary Standards” document unfortunately does not reflect in a meaningful way the nature and structure of the Credit Union model. In “Our Credit Union Members’ Charter” document we have incorporated the World Council of Credit Unions (WOCCU) principles which set out a backdrop to the democratic and co-operative nature of Credit Unions, and which forms the cornerstone by which they conduct their business today. This set of principles formulates and enshrines member protection within Credit Unions that eclipses consumer protection provisions in any other modern day financial institution. CUDA obtained Gold Supporter Status from the World Council of Credit Unions (WOCCU) during 2008.

The community and not-for-profit ethos further reinforces this member protection in a way that is alien to our modern day banking sector. The Credit Union Act 1997 (as amended) and the incorporation of the statutory powers of the Registrar of Credit Unions in 2003 further reinforce widespread protection of Credit Union Members. It is noteworthy that, despite all the current legislative and regulatory constraints, in these unprecedented times the Credit Union model is proving to be robust and will likely emerge even stronger, unlike others in the financial services sector who may have to resort to state aid to ensure continued viability. This reality, which was recently acknowledged by the Registrar for Credit Unions [CUDA conference Jan ‘09], is testament to the fact that Credit Unions have a proven track record that has been cultivated and nurtured, through good times and bad, over the decades.

Indeed acting in the interests of members, during these most challenging times, more and more Credit Unions are finding themselves in a dilemma. They are on one hand wishing to comply with existing regulatory and legislative constraints, and on the other hand driven by the foundational raison d’être of meeting the credit needs of members who are trying to address their worsening current financial difficulties on a daily basis. Never was there a time when current and future Credit Union members so badly needed understanding and protection as they face further financial uncertainty on a daily basis.

4 Competitive Dynamics of the Marketplace

The strength of the Credit Union model is based on mutual support, and interdependence continues to be a most important feature for Credit Unions. Credit Unions will, prudently, endeavour to assist and meet their members' needs in a caring and dignified way. With this in mind, we wish to address "Debt Consolidation" as set out in Chapter 3, Section 3 of "Savings and Loans – Our Voluntary Standards".

A portion of Credit Union lending relates to the consolidation of other loans, e.g. costly credit card debt and repayment of costly overdraft facilities in other banking institutions. In Financial Regulator's "Savings and Loans -- Our Voluntary Standards" document, there is a requirement for the Credit Union to give an indicative comparison of the total cost of continuing with an existing loan facility or taking a consolidation facility on offer from the Credit Union. Calculation of the cost of the existing facility with other institutions would be impossible to assess as this would be contingent on the repayment strategy already in place for that credit facility, for example a credit card holder may vary from paying the minimum amount some months to an increased amount as funds were available. Likewise, this may also apply to an overdraft facility, so determination of such costs could be mere guesswork and very misleading. The methods of loan interest calculations in other financial institutions would likely be at variance with the cost effective method used to calculate Credit Union loan interest and may also vary from one institution to another, which could easily result in misinformation for our members.

We respectfully suggest that Chapter 3 might more aptly titled "Meeting Our Members' Lending Needs". We consider that this would be more reflective of the lending facilities that are provided for Credit Union members.

5 The Credit Union Legislative and Regulatory Framework needs to be overhauled in an integrated and not piecemeal fashion

As stated in our June '08 submission, a complete overhaul of the Credit Union Act '97 [as amended] is a vital ingredient not only to ensure the continued growth and development of Credit Unions but also to enable considered and effective management of ever changing member needs and circumstances.

6 The Better Regulation Perspective

CUDA Credit Unions have consistently supported the ending of self regulation and that proper statutory regulation and legislation is the only way to underpin the critical role played by Credit Unions and to allow them evolve, be progressive and offer a genuine alternative to the citizens of this State at a time in which more and more ordinary people are seeing Credit Unions as the only genuinely ethical and trustworthy alternative in the demanding environment in which we operate.

We believe there is an opportunity to enhance the sustainability and stability of Credit Unions into the future through a properly evaluated review of Credit Union legislation, rather than the piecemeal approach that would do little to strengthen an already outdated statutory regulatory framework.

Other Matters

We also draw your attention to a number of other matters that have been raised in recent months by CUDA members as follows:

In Chapter 2, (vii) Provision of Information

It is unnecessary to include “share” for the purpose of terms and conditions when Credit Unions are offering products to members. On joining a Credit Union, the member is provided with information that informs on what it means to be a share holder in a Credit Union. This is part of the process of becoming a member of a Credit Union. More relevant information for the member will be the inclusion of operating principles of Credit Unions in “Our Credit Union Members’ Charter”.

Coldcalling

Generally Credit Unions do not engage in the practice of coldcalling and as such would not necessitate inclusion in this member document. This section most likely stemmed from the banking sector’s “Consumer Protection Code” and may be more akin to the manner in which the banking sector choose to conduct business and as such bears little relevance within Credit Union operations.

Handling Complaints

In the nature of the member friendly ethos of Credit Unions, it would be the general view that if a verbal complaint has not been resolved satisfactorily within 5 working days, the member should be given the opportunity to have it treated as a written complaint. There would be a general expectation from Credit Union members that complaints would be resolved in a prompt and efficient manner and would rarely necessitate advancing to the stage of a written procedure. Early attention to a complaint is key to early resolution and results in a better outcome for both member and Credit Union. It is also important to note that information provided by your office would clearly indicate that very few Credit Union member complaints get to the Financial Service Ombudsman’s desk. This is further testament to the manner in which Credit Unions treat their members and engage in an early resolution process dispensing with the sometimes less effective formalised approach. It is also the experience of Credit Unions that engaging in the more formalised written process may lead to further unnecessary delays.

Advertising

As already discussed at our most recent meeting with you in December ‘08, it will be appropriate to have a general paragraph giving a broad outline of the necessary advertising standards.

Concluding Remarks

We appreciate that the Financial Regulator is attempting to frame a proposed code in a way which takes into account the special structure and ethos of Credit Unions, nonetheless as previously stated CUDA Credit Unions have serious philosophical and operational difficulties with the current proposed code, seeing it remaining predominantly an undifferentiated and unacceptable “one size fits all” approach to regulation.

We do not feel that the proposed code meaningfully acknowledges and supports the unique relationship that exists between a Credit Union and its members and will only serve to constrain and dilute, in particular, the potential of Credit Unions to meet the borrowing needs of their members – a potential already seriously limited by outdated legislation. As a precedent for the deployment of future consumer protection initiatives we regard the approach as having serious implications for the competitiveness and development of Credit Unions in the longer term. From a regulatory best practice perspective we regard the introduction of a “voluntary code” as being problematic in itself in terms of its potential for confusion both from a Credit Union / member and Regulator perspective, exacerbated by the absence of a reference to Credit Unions in the title.

Based on the detailed rationale set out above CUDA would respectfully suggest that the proposed code not be introduced in its current format and that its underlying objectives be dealt with as part of the forthcoming review of the Credit Union legislative framework. While this long awaited and much needed review is taking place we respectfully recommend that the long standing behaviours that have so successfully provided protection to members of Credit Unions be preserved in a simple charter. We will welcome the opportunity to further discuss our submission, our solution, its impact and timeframe with you at your convenience.

CUDA
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