



SUBMISSION FROM

THE CREDIT UNION DEVELOPMENT ASSOCIATION

IN RESPONSE TO

**The Central Bank of Ireland's Consultation on  
Inquiry Guidelines to be prescribed pursuant to  
section 33BD of the Central Bank Act 1942 (as  
amended)  
CP65**

**24<sup>th</sup> June 2013**

## **Introduction**

CUDA (Credit Union Development Association) is a progressive representative & development association that was formed in 2003 by Ireland's most progressive and leading Credit Unions, in recognition of the real need for progressive credit union leadership and development in an increasingly complex financial environment.

CUDA is the only legally incorporated representative association for Credit Unions in the Republic of Ireland. Its membership has over 250,000 members.

We would be happy to elaborate further on any points made in this submission, if required. Please direct any queries on the comments that follow to Kevin Johnson, CEO, at the contact details at the end of this note.

We have corresponded with our member Credit Unions. General commentary is provided in Part 1. In Part 2 we have addressed some of the questions, in particular those pertinent to the Credit Union sector.

## Comments

Credit Unions have been in Ireland since 1958. They are financial co-operatives that operate on a not-for-profit basis and are managed by voluntary boards of directors elected from among their members. Credit Unions offer a unique range of core product and services, some at no direct cost to members. They have operated successfully in Ireland for 50 years; their services are accessible across all socio-economic groups in local communities. Their services are commendable as are the volunteers that make the credit union sector one of the most popular and wide-spread in developed countries.

CUDA welcomes the opportunity to put forward these few comments on CP65.

### APPENDIX – DRAFT INQUIRY GUIDELINES

2.11(iii) The Central Bank of Ireland's interpretation of the law will be that, and while that will no doubt carry weight that is not to say that alternative interpretations cannot be argued. We suggest that wording be amended to reflect this.

3.1(a) While the suspected facts would be outlined coupled with the basis on which, if substantiated, constitute a regulatory breach, we suggest that whatever argument is required to match the facts to the law be provided at the outset, rather than left to the conduct of the Inquiry.

3.2 – In addition to the provisions stated, include that an enquiry may start as public and move to private depending on what emerges along the way. We would also recommend the potential for damage to the regulated entity should be a reason too.

4.1 We recognise that the strict rules that would apply in a Court room seem to be waived in favour of a more free flowing process guided by general principles of fairness. While this appears well intended the standard of proof for establishing what are arguably criminal sanctions carrying very significant penalties appears to be the civil standard of the balance of probability (4.4) rather than the criminal standard of beyond reasonable doubt.

4.13 The regulated entity should be able to call rebuttal witnesses.

5.10 We are concerned of the potential erosion of the unique nature of the Credit Union model, and its associated governance model, that this approach will have. A model which will purportedly be strengthened by the enacted CUCOR 2012 and the fitness and probity regime commencing in August 201. Recognition of the volunteer nature of the Board of Directors should be acknowledged by setting a lower ceiling for the accountability of volunteers, furthermore their status ought to be something to be taken into account in 5.9.

On the matter of costs, we accept that so long as the Inquiry is proceeding on the basis of a prima facie case being set out for the Regulated Entity to answer, that the entity will be responsible for any costs incurred, however where there is some blatant flaw in the Central Bank's case, there should at least be some discretion afforded the Inquiry as to how best to deal with costs.

We again thank the Central Bank for the opportunity to part-take in the consultation process and are happy to elaborate on any matters raised in our response. As always, we are happy to meet with the Central Bank and/or the Registry of Credit Unions to communicate further on any issues, in particular those affecting credit unions.

Yours sincerely,



Kevin Johnson  
CEO



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