



**SUBMISSION FROM**

**C.U.M.A.**

**THE CREDIT UNION MANAGERS  
ASSOCIATION**

**IN RESPONSE TO**

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

**CP 65**

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

CUMA welcomes the opportunity to respond to the Consultation Paper “*Inquiry Guidelines to Section 33BD of the Central Bank Act 1942 (as amended)*” (CP 65).

Credit unions are financial co-operatives owned and managed by their members. The governance structure in credit unions is focussed on member representation at voluntary board level. Credit union boards receive no remuneration for their service and credit unions while recognised legally as credit institutions are also not-for-profit institutions. It is in this context that we make this submission.

### **Section 3 – Inquiry Guidelines**

#### **S 3.2**

Unlike other credit institutions credit unions have hitherto been excluded from the “*Administrative Sanctions Procedure*” and are therefore understandably not au fait with the detail of the processes, procedures and impacts including the imposition of sanctions. CUMA strongly recommends that the Registry of Credit Unions makes detailed information available to credit unions on the procedures and the guidelines to section 33BD of the Central Bank Act 1942 (as amended) when finalised.

#### **S 3.4**

CUMA seeks clarity on circumstances that would require the bank to amend or revoke the guidelines. We also recommend that the Bank specify how and where such amendments will be published.

### **Section 1 – Introduction**

#### **S 1.1**

CUMA notes that “*such inquiries will be conducted... with as much expedition, as a proper consideration of the matters before the Inquiry will allow*”

CUMA contends that it would be more appropriate for the guidelines to set out a specific timeframe for the conduct of such inquiries.

## **S 1.1**

CUMA notes that “*such inquiries will be conducted with as little formality and technicality...as a proper consideration of the matters before the inquiry will allow*”

While purporting to be informal and non-technical we believe the process, procedures and the subsequent possible imposition of sanctions to be onerous, legalistic, costly and resource consuming.

CUMA reiterates that the Registry of Credit Unions should communicate effectively with credit unions on the guidelines and the impacts of non-co-operation.

CUMA would fear that “subjectivity” might substitute for “informality”.

We again point out that this is a new area of legislation for credit unions. Furthermore credit unions are small organisations when compared to other regulated entities (banks) and have limited legal and human resources.

## **Section 2 – Referral**

### **S 2.2**

CUMA recommends that the Enforcement Directorate (*ENF*) be required to inform the Regulatory Decisions Unit (*RDU*) of a decision to hold an inquiry within a specified time frame. This recommendation is to ensure that there are no long time lapses between the Central Bank suspecting that a prescribed contravention is being, or has been committed and effective action being taken.

### **S 2.4**

CUMA notes that the regulated entity has ten days to return the “*questionnaire*”.

We recommend in the interests of fairness that the “*Appointment of Inquiry Members*” is also time-bound.

CUMA queries the appropriateness of the appointment of a sole member to the inquiry and that in such a case the “*sole member*” is also “*Chairperson*”.

CUMA recommends that there should be a minimum of three persons appointed to the inquiry.

## **S 2.6**

Again, CUMA queries the appropriateness of the appointment of a sole member to the inquiry and that in such a case the “*sole member*” is also “*Chairperson*”.

CUMA recommends that there should be a minimum of three persons appointed to the inquiry.

## **S 2.7**

CUMA recommends that the inquiry members will not meet with supervisory or ENF staff without the regulated entity being offered the opportunity to be present and that the regulated entity be given seven days’ notice of such a meeting.

## **S 2.13**

CUMA recommends that the regulated entity should be able to choose to be represented by a legal practitioner or any other person(s).

## **Section 3 – Preliminary Inquiry Procedures**

### **S 3.2**

CUMA recommends that greater clarification is provided as to who can attend “*Inquiry Management Meetings*”.

CUMA contends that inquiry management meetings should not be held in public.

CUMA contends that a person who believes that his or her reputation could be unfairly damaged by a public inquiry where it is decided that the inquiry is not to be held in private should have a right of appeal and redress.

## **Section 4 – The Inquiry Hearing**

### **S 4.19**

CUMA recommends that clarification is provided on who pays costs, in the case of a referral by the inquiry on a point of law, to the High Court.

### **S 4.23**

CUMA notes that if a regulated entity wishes to settle during the course of the inquiry they must contact the ENF and that details of any settlement will not be disclosed to

the Inquiry Members. CUMA believes that this approach is not transparent and will detract from belief in the system.

## **Section 5 – The Findings of the Inquiry Members**

### **S 5.3**

CUMA recommends that the Inquiry Members be required to set out their findings within a specified time frame and that the regulated entity be notified of the said written findings by registered post within ten days.

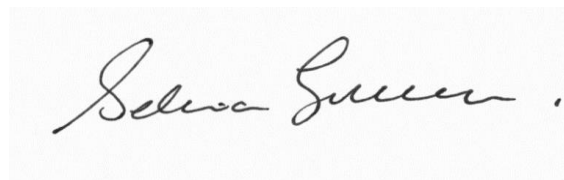
### **S 5.8**

CUMA recommends that the guidelines should clearly state exposure for the regulated entity, in regard to the costs attached to the inquiry & high court costs (on a point of law), if any, specifically in the following case:

- Where a caution or reprimand is issued.



**John Hickey**  
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