



The Credit Union Restructuring Board
An Bord Athchóiriú Comhar Creidmheasa

Credit Union Restructuring Board

Submission to

Central Bank of Ireland

Consultation on the Introduction of a Tiered Regulatory Approach for

Credit Unions

Consultation Paper CP 76

Introduction:

The Credit Union Restructuring Board "ReBo" is a body corporate established by the Minister for Finance on 1 January 2013 to facilitate the voluntary restructuring of the Credit Union sector in accordance with the provisions of the Credit Union and Co-Operation with Overseas Regulators Act 2012. ReBo is an independent body with its own Board of Directors and appreciates the opportunity to respond to this consultation process.

A core recommendation of the Report of the Commission on Credit Unions ("CCU") was that credit unions should be restructured on a voluntary, incentivised and time-bound basis with the guiding aims of protecting members' savings, securing the stability and viability of the sector at large and preserving the credit union identity and ethos.

Another recommendation of the CCU was that "*credit unions should not be regulated on a one-size-fits-all basis; rather a tiered regulatory approach should be adopted*", and stressed the importance that regulatory requirements are proportionate to a credit unions nature, scale, complexity and risk profile.

Once the strengthened regulatory framework stemming from the Credit Union and Co-Operation with Overseas Regulators Act 2012 ("the 2012 Act") is embedded within the credit union movement, the Central Bank intends to introduce a model of tiered regulation in line with the recommendations of the CCU. In order to consider the approach to, and implementation of a tiered regulatory approach the Central Bank has issued an initial consultation paper to sector stakeholders, seeking their views. That initial consultation paper forms the basis of this response.

As an independent body with a specific mandate, ReBo is cognisant of the Central Bank's own independence and does not wish to cut across its role as regulator. Accordingly, this reply focuses on tiered regulation insofar as it interacts with restructuring as envisaged by the CCU, in providing an "*incentive for credit unions to consider restructuring where to do so would bring them into the upper tiers where the scope for additional services, lending and investments is wider*", while also recognising that some credit unions will continue to operate successfully on a stand-alone basis.

1. Do you agree with the proposed tiered regulatory approach for credit unions?

In proposing a model of tiered regulation, the CCU identified three 'types' (categories) of credit union reflecting each of the distinct business models operated today by Irish credit unions.

Section 7.6.3 of the CCU describes a type 1 credit union as having less than €10m in assets, with a savings limit and lending requirements more restrictive than those currently applied to credit unions. The CCU recognises that "*this type of credit union would operate a simple business model. Regulatory requirements would be applied proportionate to the level of risk.*"

Type 2 describes the most familiar business model operating in Ireland, having a "*similar range of services as provided for under the existing regulatory framework*".

Type 3 credit union is described as having greater than €100m in assets and “*would be permitted to undertake a wider range of investment and lending activities ... [and] would be subject to additional prudential requirements*”.

A tiered regulatory approach as envisaged by the CCU would provide a sophisticated and dynamic regulatory framework, offering credit unions the flexibility to adopt a business model appropriate for their member’s needs, and the liberty to move between models in the future.

The exclusion of “type 1” from this proposal is significant and should be justified. Credit unions with assets of less than €10m should be given the opportunity to adopt a simple savings and loan model in return for regulatory requirements proportionate to the scale and complexity of their operations, as advocated for by the CCU. Many small credit unions will struggle to meet the costs of the new prudential requirements, requirements which are arguably disproportionate to their nature, scale and complexity. A tiered regulatory approach should facilitate these credit unions in remaining independent should they so wish and apply regulatory requirements proportionate to their level of risk.

2. Do you agree with the proposals for the operation of the two category approach for credit unions set out in section 5.1 – 5.11?

Risk weighting assets as part of regulatory reserve calculation should form part of the proposal. It is a fundamental component in any sophisticated regulatory regime, represents international best-practice and encourages prudence. Moreover, specific reference to the risk profile of a credit union is made in both the CCU and the 2012 Act. The Central Bank has also previously advocated for a risk based approach to be introduced in its publication; “Regulatory Reserve Ratio for Credit Unions” (August 2009). The current proposal however is that a risk weighted approach may be considered following restructuring. Risk weighting should be introduced without delay as part of a strengthened regulatory framework. It should not be dependent on restructuring as restructuring will not apply to all credit unions as noted in the CCU. Moreover, risk weighting should apply to all credit unions and not just to those in the highest category as is being proposed.

The basis of selecting the asset bands for categories should be justified and explained by the financial and regulatory data which the Central Bank currently has at its disposal. Credit unions should not have to initially apply for the higher regulatory category. To expect all credit unions to apply for a higher category seems a cumbersome and unnecessary step when the Central Bank should have ample knowledge of the sector and should be in a position to initially assign credit unions across all categories.

The selection of other figures contained in the proposal, such as the €100k limit on savings must also be justified using the data available to the Central Bank. The new savings cap being more restrictive than the limit currently in force and makes no distinction between the categories, while the 5% of regulatory reserves limit on lending to “restricted persons” risks creating different classes of members leading to the possibility of discrimination against volunteers. Careful consideration should be given in choosing the appropriate level of operational risk reserve. Choosing an additional specified percentage of assets of 2% as mentioned in the proposal would result in a higher reserve than applies for other financial institutions under the Basel Accords.

3. Are there any areas where credit unions could provide new additional products or services to their members?

Suggestions as to specific products or services that may be provided by the movement in the future are best left to credit unions and their representative bodies. However, it is important that any regulatory framework - tiered or not, is flexible enough to allow for credit unions to adopt new products and services. This will allow credit unions expand their current member base, compete with other financial institutions and generate ancillary income streams which will assist toward the protection by each credit union of the funds of its members and the maintenance of the financial stability and well-being of credit unions generally.

At present, a decision by the Central Bank in accordance with Section 49 of the Credit Union Act 1997, refusing to grant an application by a credit union seeking to provide an additional service is appealable to the Irish Financial Services Appeals Tribunal under Part VIIA of the Central Bank Act 1942. However, as observed by the CCU, the ability to move between categories may encourage restructuring and so clarification is needed as to whether a decision refusing a credit union admission to a different category in a tiered regulatory regime would be a decision appealable to IFSAT.

4. Do you agree that a provisioning framework should be developed for credit unions as proposed in section 6.2?

An appropriate provisioning framework should be developed in conjunction with the movement that takes recognition of the particular nature of credit union lending including top-up and rescheduled lending. Any provisioning framework should also ensure net loan valuations give a true and fair view of the condition of the loan books of credit unions engaging in the restructuring process.

5. Do you agree that the tiered regulatory approach should be introduced at this time?

The ability of credit unions to meet operational requirements and associated costs should be a primary consideration in the design and implementation of a tiered regulatory framework. As per the CCU, a tiered regulatory approach “*must be flexible enough to accommodate different types of credit union with a calibrated approach for smaller, product restricted, credit unions.*” A comprehensive, independent regulatory impact analysis should be undertaken and the findings published before determining how best to proceed with this proposal.

A tiered regulatory approach should provide an incentive for credit unions to consider restructuring as per chapter 9.1.7 of the CCU. It is not evident how the proposal in its current form will succeed in this regard.

While the CCU acknowledges that asset size should be the primary basis for the development of a tiered regulatory approach, it would be arbitrary if this were the sole consideration. It should be clearly stated that there is flexibility for credit unions falling outside the proposed asset bands to apply to move to a different category where they can demonstrate an ability to comply with the additional prudential requirements.

6. Do you agree with the proposed timelines set out in section 7.1, in particular the transitional period proposed between the publication and commencement of the regulations?

Final agreement on the proposed timelines should be decided after a comprehensive, independent regulatory impact analysis is undertaken and the findings published. The ability of the sector to incur further regulatory requirements and their associated costs should be given careful consideration. The regulatory impact analysis should also inform the decision as to the length of time required for transitional periods.