

“Introduction of a Tiered Regulatory Approach for Credit Unions”

Chapter 15 Submission on Tiered Regulatory Proposals CP76

Below is the agreed response of Chapter 15 (Midlands Chapter) to the CP 76. The eighteen credit unions in Chapter 15 discussed CP 76 on a number of occasions over recent months and the following is their agreed submission.

Executive Summary

From a high-level perspective the analysis of credit unions in Chapter 15 is that the CB appears to us to have overstepped or misinterpreted its remit in terms of its proposals to improve the regulation of the Irish Credit Union movement. It appears to us that rather than embrace a truly tiered approach to regulating Irish Credit Unions as discussed and agreed at the Commission on Credit Unions, the proposals within CP 76 are ironically veering towards a “one-size-fits-all” model of regulation with little or no emphasis whatsoever on the “nature scale and complexity” of credit unions as we would have expected. Furthermore, the implementation of the specific proposals within CP 76 will amount to managerial interference and will inevitably result in credit unions being micro-managed out of existence.

Regretfully, there seems to be an unmistakable thread running through these proposals which betrays an increasingly restrictive mind-set that seems intent on imposing more and more rules and regulations and irrational business restrictions on credit unions. This we fear will drive more and more poorly thought-out amalgamations and mergers. We all know the majority of Credit Unions are very well reserved and are running their businesses in a responsible and prudent way and these are credit unions that are providing critically important services to their communities in already difficult trading circumstances. Why then we ask should there be such an overt effort to over-regulate the entire credit union movement and to suffocate the community spirit out of relatively sound financial co-operatives who are providing valuable services to their own communities and who are of miniscule risk to this state?

In a nutshell Chapter 15 feels the overall approach as outlined in CP 76 is fundamentally flawed and we fear this may be yet another incremental step towards trying to limit the future options of credit unions even further. We therefore cannot but regard CP 76 as a misguided and an anti-competitive set of proposals.

In terms of addressing the specific terms of CP 76 Credit Unions in chapter 15 have also taken the time to consider the detailed implications of each of the specific proposals under each section of CP 76 and our analyses are outlined below and categorised under a number of sections / topics.

Specific Comments / Issues

1. Small Credit Unions:

Considering the overall import of the proposals in CP 76 it is our opinion that while smaller Credit Unions had some hope of appropriate regulation under the proposals contained within the Commission on Credit Unions, - this document potentially cuts off this hope completely. It was our expectation that

“tiered regulation” would lead to a positive and supportive regulatory approach, and that for example smaller simpler credit unions would have simpler less intrusive regulation. Credit unions are already very tightly regulated and the Commission agreed that most credit unions would be in the lower tier and as such they could expect the current “status quo” level of regulation, - not additional and inappropriate levels of regulation. To us CP 76 amounts to a contradiction of what was agreed at the Commission and the Credit Unions in Chapter 15 are utterly disappointed by its contents.

2. Tiering

There is minimal emphasis on tiering Credit Unions in this proposal. We see little difference between the categories as outlined and therefore credit unions are asking themselves why would they ever want to move to category 2 for example as this would force them to have dedicated Internal Audit, Risk and Compliance functions and board reviews without the advantage of being allowed offer much in the line of additional services. We believe that three tiers based not just on asset size but on “nature scale and complexity” should be agreed with the Irish League of Credit Unions as our Representative body.

3. Related Persons:

The proposals under this topic are totally unworkable and discriminatory and should be removed immediately. –No further comment necessary.

4. Large Exposures: (5.2.5)

The limits in relation to large exposures seem inappropriate and would amount to poor regulatory policy.

5. Lending Practices and policies:

- a. No category of lending should be related to regulatory reserves (5.2.2)
- b. The “Credible Business Plans” requirement for small traders is unworkable. The real problem here is that the definition of commercial loans should not encompass these types of small traders. This is a traditional CU lending area in which Credit Unions are far better placed to judge the needs and capabilities of their members without too much outside interference. (5.2.6)

6. Investments:

The limits in the existing guidelines are adequate. Any proposed limits should be related to the investment portfolio and not to the regulatory reserve. Class five of the 2006 Regulations, Collective Investments scheme (CTMF) should be permitted.

7. Investment Counterparties

The Proposals in CP 76 will increase investment counterparties unnecessarily. Linking the amount held in any counterparty to Regulatory Reserves will force credit unions to hold investments with six or more counterparties as opposed to the current four. CU’s will also be forced to invest funds internationally which is counter-intuitive and inappropriate for a community owned financial co-operative and will also have a negative impact on their investment return

8. Bank Bonds

Bank Bonds should not be restricted to Senior Bonds -unnecessarily restrictive

9. Investment Duration

We disagree with any reduction in the allowed investment durations, - Already quite restrictive.

Category 1 CU's shouldn't be restricted to 5 year terms -should be 10 yr terms

10. Limits on Savings

The proposal of a €100K maximum is unfair, unjust and we simply cannot understand where such a proposal is coming from. Such a maximum will block Credit Unions from serving the needs of their members and is hugely restrictive for Credit Unions and their loyal members. Credit Unions are already dealing with unprecedented levels of change in CUCORA 2012 and if this further change is adopted it will unfairly restrict and disadvantage credit unions. When you compare this proposal against current limits under which a Credit Union of say €100M assets can facilitate a member to save up to €1M this proposal if adopted will reduce that amount by 90% to €100K. This proposal is unacceptable, anti-competitive and it limits the ability of Credit Unions to service the genuine needs of their members, - examples of which are the investment of life-savings or redundancy payments etc

11. Limits on Deposits

We fail to see any rationale for this proposal and it seems counter-intuitive in that Credit Union deposits could be used as a valuable tool in terms of asset liability management and therefore limiting Credit Union deposits seems irrational and perhaps short-sighted.

12. Borrowing

With respect we would pose the question as to why the CB is proposing tighter regulation in an area where absolutely no issues have arisen. We believe that the limits of borrowing applied to Credit Unions should not be any more restrictive than that which applies to any other sectors of the industry.

13. Additional Services

Credit Unions should be allowed provide Current Account with overdraft facilities and also Debit Card and other such associated facilities. In general Credit Unions should expect that as new financial products become available they should not in any way be restricted by any proposals put in place under Section 6.

14. Governance

The requirement to have dedicated in-house resources is excessive and costly and we disagree in principle that an "external evaluation" is necessary when you consider the multiple and overlapping oversight roles and activities which are already in place under CUCORA 2012 such as Board Oversight, Nominating Committee, and Chair of the Board etc.

15. Fitness and Probity

No further comments

16. Operational Risk Reserve

We disagree with this proposal in principle because Credit Unions are already clearly very adequately reserved.

17. Liquidity

Current guidelines are more than sufficient and requiring Credit Unions to hold higher percentages of their assets in short-term liquid form will further limit every Credit Union's ability to return operating surpluses and therefore threaten their viability.

18. Provisioning (Section 6)

Any new model of provisioning should be drafted by the Credit Union sector itself and should be designed in line with best International practice and methodology.

19. Timelines

We suggest that because of the unprecedented level of change that Credit Unions are still dealing with due to CUCORA 2012 and associated requirements over the last year we recommend that no further regulatory changes be considered until the current changes have had a chance to bed-in. A tiered regulatory approach should only be phased in over a three-year period and only then after a full regulatory impact analysis has been completed.

20. Regulatory Impact Analysis

In advance of any changes in regulatory approach a full RIA should be carried out as per best practice. Any other approach risks damaging Credit Unions.

Summary / Conclusion

Chapter 15 Credit Unions have examined the proposals in CP 76 and we have furthermore consulted with other credit unions across the West and North-West region. Our considered opinion is that many of the proposals contained in this consultation paper are quite inappropriate and can only impact negatively on Credit Unions in our region.

We therefore ask the CB as our statutorily appointed Regulator to review these proposals in light of the clear opinion of rank and file credit unions across this country that operate at the coal-face of community financial services on a daily basis. We contend that Credit Unions deserve regulation that will support them in delivering very necessary financial services to citizens who badly need these services while of course ensuring the safety and soundness of their institutions.

Any further regulatory action should be focused primarily on the long term viability of Credit Unions and on the long term viability of the Credit Union movement itself.

Approved by Chapter 15

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