

INTRODUCTION

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Version History

Version	Date	Amendments
0.1	July 2013	Initial Version.
1.0	September 2013	<ul style="list-style-type: none"> • Re-ordered a number of sections and amended text to provide clarity. • Inserted Section 1 and Section 3.2.
1.1	October 2013	<ul style="list-style-type: none"> • Amended text in sections 1, 3.1, 6.2 and footnote 6 to reflect the Credit Union and Co-operation with Overseas Regulators Act 2012 (Commencement of Certain Provisions) (No.2) Order 2013.
1.2	March 2014	<ul style="list-style-type: none"> • Amended text in Section 1 and Section 3.1 and inserted footnotes 2 and 5 to reflect the Credit Union and Co-operation with Overseas Regulators Act 2012 (Commencement of Certain Provisions) Order 2014.
1.3	May 2015	<ul style="list-style-type: none"> • Updated to reflect the new name for the Anti-Money Laundering and Countering the Financing of Terrorism chapter.

Version	Date	Amendments
1.4	January 2016	<ul style="list-style-type: none"> Amended text in Section 1 and Section 3.1 to reflect the introduction of Credit Union Act (Regulatory Requirements) Regulations 2016 and the commencement of the remaining sections of the Credit Union and Co-Operation with Overseas Regulators Act 2012. Amended text in Section 3.1 to reflect the Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions that are also authorised as Retail Intermediaries) Regulations 2015. Removed Section 6, New and Existing Requirements. Amended text in Section 6.2 to reflect the introduction of the Regulations.
1.5	June 2018	<ul style="list-style-type: none"> Amended text in Section 3.1 to reflect the introduction of additional Fitness and Probity requirements for credit unions with assets of at least €100 million

1. Introduction

The Report of the Commission on Credit Unions,¹ published in April 2012, made a number of recommendations regarding the strengthening of the regulatory framework for credit unions, including more effective governance and regulatory requirements. The Commission on Credit Unions also recommended that Part 3 of the Central Bank Reform Act 2010 be commenced for credit unions providing the Central Bank with the powers to set out the Regulations and Standards of Fitness and Probity for credit unions.

On 24 September 2012, the Minister for Finance commenced Part 3 of the Central Bank Reform Act 2010 for credit unions. Following consultation, a new Fitness and Probity regime for credit unions came into effect on 1 August 2013 and will be fully implemented by 1 August 2016.

Many of the Commission on Credit Union's recommendations have been reflected in the Credit Union and Co-operation with Overseas Regulators Act 2012 ("the 2012 Act") which was enacted on 19 December 2012. The majority of sections of the 2012 Act have been commenced. The remaining sections of the 2012 Act commenced on 1 January 2016. These replace, amend or supplement a number of existing sections of the 1997 Act. The introduction of the new sections into the 1997 Act by the 2012 Act, in effect, removes some of the requirements (including limits) that currently exist in these sections and provide regulation making powers to the Central Bank. The new sections also contain a number of new requirements.

As some of the key prudential requirements (e.g. lending and savings limits) are removed from the 1997 Act by the commencement of the remaining sections of the 2012 Act, the Credit Union Act (Regulatory Requirements) Regulations 2016 ("the Regulations") introduced regulations at the same time as these sections of the 2012 Act were commenced

¹ Report of the Commission on Credit Unions (March 2012), available at the following [link](#).

to ensure key prudential requirements for credit unions remained in place to continue the introduction of the strengthened regulatory framework for credit unions.

The main amendments to the 1997 Act arising from these commencements of sections of the 2012 Act are:

- section 27, relating to member savings, substituted into the 1997 Act;
- section 33, relating to borrowing, substituted into the 1997 Act;
- section 35, relating to lending, substituted into the 1997 Act;
- section 43, relating to investments, substituted into the 1997 Act;
- section 45, relating to the regulatory reserve requirement, substituted into the 1997 Act;
- section 85A and section 85B, relating to liquidity requirements, added to the 1997 Act.

The Regulations contain requirements in relation to the following areas:

- Reserves;
- Liquidity;
- Lending;
- Investments;
- Savings;
- Borrowing;
- Systems, Controls and Reporting Arrangements; and
- Services Exempt from Additional Services Requirements.

The Regulations commenced on 1 January 2016.

2. Purpose of the Credit Union Handbook

In order to assist credit unions with the implementation of the new regulatory framework the Central Bank has developed a Credit Union Handbook (the "Handbook"). The purpose of the Handbook is to assist credit unions by bringing together in one place a number of legal and regulatory requirements and guidance that apply to credit unions.

3. New Regulatory Framework

3.1 Introduction of new framework and Regulations

The new regulatory framework combines requirements that came into effect in 2013 arising from the introduction of the Fitness and Probity regime for credit unions and the

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commencement of the majority of the sections of the 2012 Act. The new regulatory framework, including the remaining sections of the 2012 Act and the Regulations, applies to all credit unions.

The main changes in the regulatory framework are:

1 August 2013²

- Introduction of Fitness and Probity requirements for credit unions with assets greater than €10 million – see Chapter on “Fitness and Probity”;
- Administrative Sanctions Procedure – see Appendix 2; and
- Appeals to IFSAT – see Appendix 3 (also relevant to Appendix 2 and the Chapter on “Fitness and Probity”).

1 October 2013

- Introduction of Revised ‘[Section 35 Regulatory Requirements for Credit Unions](#)’ (previously issued in November 2010).

11 October 2013³

- Majority of governance and prudential requirements inserted into the 1997 Act by the 2012 Act.

3 March 2014⁴

- New section 53, relating to the board of directors, substituted into the 1997 Act;
- Introduction of requirement for credit unions to submit an annual compliance statement to the Central Bank; and
- Requirement for board oversight committee to report to the members at the AGM.

1 August 2015

- Introduction of Fitness and Probity requirements for credit unions with total assets of €10 million or less – See Chapter on “Fitness and Probity”; and
- Introduction of Fitness and Probity requirements for credit unions also authorised as retail intermediaries for the part of the business that the credit union undertakes as a retail intermediary – See Chapter on “Fitness and Probity”.

² The Commencement Order for provisions of the 2012 Act commenced on 1 August 2013 is available [here](#).

³ The Commencement Order for provisions of the 2012 Act commenced on 11 October 2013 is available [here](#).

⁴ The Commencement Order for provisions of the 2012 Act commenced on 3 March 2014 is available [here](#).

1 January 2016⁵

Commencement of the remaining sections of the 2012 Act and introduction of the Regulations in the following areas:

- Reserves;
- Liquidity;
- Lending;
- Investments;
- Savings;
- Borrowing;
- Systems, Controls and Reporting Arrangements; and
- Services Exempt from Additional Services Requirements.

1 July 2018

- Introduction of additional Fitness and Probity requirements for credit unions with assets of at least €100 million – see Chapter on “Fitness and Probity”.

3.2 Governance arrangements

The Handbook includes Chapters containing both governance and prudential requirements applying to credit unions. The Chapter on “Governance” sets out a framework to improve governance standards in credit unions with a particular focus at board of directors and management level. At the core of this framework is a separation between executive or operational roles and non-executive or governance roles. The executive or operational roles are performed by the manager, the management team, staff and voluntary assistants. The non-executive or governance roles are performed by the board of directors. The Chapter on “Governance” also deals with the governance arrangements, organisational structure and resources required to meet governance requirements.

3.3 Nature, scale and complexity

Credit unions should take the nature, scale and complexity of the business being conducted by the credit union into consideration when establishing governance arrangements, including arrangements in relation to the board of directors, the chair of the board of directors, the nomination committee, other (board) committees, the manager, the management team, the board oversight committee, risk management systems, systems and control, the risk management officer, the compliance officer and the internal audit function.

⁵The Commencement Order for the remaining provisions of the 2012 Act is available [here](#).

The nature, scale and complexity of the business being conducted by a credit union will impact on the:

- level of oversight;
- extent of skills and expertise; and
- details of policies and procedures, processes, practices, systems, controls and reporting arrangements required by credit unions in these areas.

4. Scope of the Handbook

The scope of the Handbook includes legal and regulatory requirements⁶ and guidance that apply to credit unions arising from their authorisation as credit unions. The Handbook makes reference to the following legislation:

- Credit Union Act, 1997;⁷
- Central Bank Reform Act 2010;
- Credit Union Act 1997 (Regulatory Requirements) Regulations 2016;
- European Communities (Consumer Credit Agreements) Regulations 2010;
- European Communities (Payment Services) Regulations 2009; and
- Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

This legislation applies to credit unions arising from their registration as credit unions, or by virtue of the nature of their business, where compliance with this legislation is supervised by the Central Bank. Legal and regulatory requirements and guidance that apply to credit unions arising out of any other authorisation (such as authorisation as a retail intermediary⁸) are not within the scope of the Handbook, with the exception of the Chapter on “Fitness and Probity” which contains details on the fitness and probity regime for credit unions that are also authorised as retail intermediaries for the part of the business that the credit union undertakes as a retail intermediary.

5. Structure of the Handbook

The Handbook contains the following Chapters and appendices:

- Introduction
- Glossary
- Legal Definitions

⁶“Legal and regulatory requirements” refers to requirements contained in primary Legislation and Regulations, compliance with which is supervised by the Central Bank, and requirements contained in Regulations, Codes or Standards issued by the Central Bank.

⁷ Including the new regulatory requirements contained in the Credit Union Act, 1997 as amended by the 2012 Act.

⁸ Credit unions authorised as retail intermediaries are credit unions that also hold an authorisation pursuant to the Investment Intermediaries Act, 1995 and/or the European Communities (Insurance Mediation) Regulations 2005.

- Accounts and Audit
- Additional Services
- Anti-Money Laundering
- Borrowing
- Consumer Protection
- Fitness and Probity
- Governance
- Internal Audit
- Investments
- Lending
- Liquidity
- Operational Risk
- Outsourcing
- Reserves
- Risk Management and Compliance
- Savings
- Strategic Plan
- Transfers of Engagements and Amalgamations

Appendix 1: Documentation required to be maintained pursuant to the 1997 Act

Appendix 2: Enforcement

Appendix 3: Appeals under the 1997 Act

6. Contents of the Handbook

The Chapters in the Handbook contain legal and regulatory requirements, regulations and also include guidance, where appropriate.

6.1 Legislation

Sections on Legislation contain:

- provisions of the 1997 Act;
- references to other primary legislation⁹ supervised by the Central Bank that apply to credit unions and other regulated financial services providers; and
- references to Regulations¹⁰ that apply to other entities in addition to credit unions, other than Regulations issued by the Central Bank.

⁹ The references to other primary legislation in the Handbook are references to the legislation as enacted and may have been amended since enactment. Credit unions should ensure that they are aware of, and comply with, legislation as amended since enactment.

¹⁰ The references to Regulations in the Handbook are references to the Regulations as enacted and may have been amended since enactment. Credit unions should ensure that they are aware of, and comply with, Regulations as amended since enactment.

Provisions of the 1997 Act are set out in a shaded grey box.

6.2 Central Bank Requirements

Sections on Central Bank Requirements contain Regulations, Codes, Standards or requirements issued by the Central Bank that apply to credit unions. These include the Regulations which were introduced on 1 January 2016. The Regulations cover the following areas:

- Reserves;
- Liquidity;
- Lending;
- Investments;
- Savings;
- Borrowing;
- Systems, Controls and Reporting Arrangements; and
- Services Exempt from Additional Services Requirements.

6.3 Guidance

Sections on guidance contain guidance issued by the Central Bank.¹¹ The purpose of guidance is to assist credit unions by setting out the Central Bank's expectations on how credit unions should meet legal and regulatory requirements.

A glossary of terms used throughout the Handbook is provided in the Chapter entitled "Glossary" including terms used in this Chapter. This Chapter also contains an index of the legislative provisions referenced in the Handbook. The Chapter entitled "Legal Definitions" sets out the legal definitions contained in section 2 of the 1997 Act and regulation 3 of the Regulations and should be read in conjunction with the Chapters of the Handbook that contain legal and regulatory requirements from the 1997 Act and the Regulations.

The Chapters of the Handbook are set out in alphabetical order for ease of reference.

7. References to Legislation

7.1 References to the 1997 Act and the 2012 Act

The 2012 Act makes significant amendments to the 1997 Act. Part 2 of the 2012 Act inserts or substitutes a number of sections into the 1997 Act. Schedule 1 of the 2012 Act inserts,

¹¹ The Chapter on "Anti-Money Laundering" refers to guidance issued by the Department of Finance.

substitutes or deletes certain sections/subsections of the 1997 Act. Where sections are set out in the shaded grey boxes of the Handbook, these relate to sections of the 1997 Act including sections or subsections as inserted or substituted by the 2012 Act.

7.2 Highlighting changes to the 1997 Act made by the 2012 Act

Where a provision of the 1997 Act has been inserted or substituted by the 2012 Act, this has been specified in the Handbook as follows:

* indicates that the provision has been inserted or substituted by Part 2 of the 2012 Act.

‡ indicates that the section/subsection has been inserted or substituted by Schedule 1 of the 2012 Act.

7.3 Provisions of the 2012 Act not contained in the Handbook

Credit unions must also be aware of other provisions of the 2012 Act which are standalone provisions and do not amend the 1997 Act including, Parts 1 (Preliminary and General), 3 (Restructuring) and 4 (Stabilisation) of the 2012 Act. These provisions are outside the scope of the Handbook.

8. Clarifications

The Handbook is not intended to be comprehensive nor to replace or override any legal and regulatory requirements. The Handbook should be read in conjunction with the 1997 Act and other financial services legislation¹² ("the Legislation") and any Regulation, Code or other legal instrument as the Central Bank may issue from time to time.

The information contained in the Handbook is derived from but does not replicate in full or replace the relevant legal and regulatory requirements of the Legislation.

Credit unions must ensure they comply with all requirements of the Legislation. In the event of a discrepancy between the Handbook and the Legislation, the Legislation will apply.

Credit unions should also be aware of other statutory obligations not included in the Handbook, for example, the Data Protection Act, 1988.

¹² As defined in Section 2(1) of the 1997 Act.

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The Handbook is for information purposes only. This document does not constitute legal advice and any guidance provided in the Handbook should not be construed as legal advice or legal interpretation. Guidance does not constitute secondary legislation and credit unions must always refer directly to the Legislation and any regulation, code or other legal instrument as the Central Bank may issue from time to time when ascertaining their statutory obligations. Guidance is not intended to be exhaustive or to set the limits for the steps to be taken to meet statutory obligations. It is a matter for credit unions to seek legal advice regarding the application of relevant legislation to their particular set of circumstances.

Where lists of matters to be covered by credit unions in meeting legal and regulatory requirements and guidance are provided in the Handbook, these lists represent the minimum matters to be covered and should not take the place of a credit union performing its own assessment of the manner in which it shall comply with its statutory obligations.

Where there is a reference to a "report" (including reports on deviations), "review" or "update" in the Handbook, these reports, reviews and updates should be documented in writing.

Nothing in the Handbook should be read as providing an express or implied assurance that the Central Bank would defer or refrain from using its enforcement powers where a suspected breach of legislation comes to its attention.

9. Contact details

Where credit unions have queries relating to Chapters of the Handbook they should contact the Registry of Credit Unions at rcu@centralbank.ie unless the query relates to Anti Money Laundering or Consumer Protection.

Further information in relation to anti-money laundering and consumer protection can be found in the Chapter on "Anti-Money Laundering" and the Chapter on "Consumer Protection" respectively which include links to the relevant sections of the Central Bank website.