

ACCOUNTS AND AUDIT

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Version History

Version	Date	Amendments
0.1	July 2013	Initial Version.
1.0	September 2013	No Amendments.
1.1	September 2014	<ul style="list-style-type: none"> • Inserted 2014 year-end circulars for credit unions and credit union auditors and links to these circulars. • Amended text in section 114(1), in Section 1 of the Chapter, as item 102 of schedule 1 to the 2012 Act has not yet commenced.
1.2	November 2015	<ul style="list-style-type: none"> • Inserted regulations in Section 2. • Amended section 114 (1) to reflect the commencement of item 102 of schedule 1 of the 2012 Act.
1.3	January 2016	<ul style="list-style-type: none"> • Updated regulations in Section 2.
1.4	September 2016	<ul style="list-style-type: none"> • Amended text in Section 3.5.
1.5	April 2017	<ul style="list-style-type: none"> • Added new Section 3.6.
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1. Legislation

Section 107 – Financial year of a credit union

- (1) Subject to *subsections (2) and (3)*, the financial year of a credit union shall be the period of 12 months ending on the 30th day of September or such other date as the Bank may determine.
- (2) The initial financial year of a credit union shall be such period as begins on the date on which the credit union is registered and expires on the following 30th September or on such other date as the Bank may have determined before the 30th September.
- (3) The final financial year of a credit union shall be that period (of less than 12 months) which expires on the date to which the credit union makes up its final accounts and begins on the day following the end of the preceding financial year (as determined under *subsection (1) or subsection (2)*).

Section 108 – Accounting records etc.

- (1) Every credit union shall—
 - (a) cause proper accounting records, whether in the form of documents or otherwise, to be kept on a continuous and consistent basis, that is to say, the entries shall be made in a timely manner and be consistent from one year to the next, and
 - (b) establish and maintain systems of control of its business and records,in accordance with this section and *section 109*.
- (2) The accounting records of a credit union shall be such as—
 - (a) correctly to record and explain the transactions of the credit union;
 - (b) to disclose, with reasonable accuracy and promptness, the financial position of the credit union at any time;
 - (c) to enable the officers properly to discharge the duties imposed on them by or under this Act;

- (d) to enable the credit union properly to discharge the duties imposed on it by or under this Act; and
- (e) to enable the accounts of the credit union to be readily and properly audited.
- (3) Without prejudice to the generality of *subsections (1) and (2)*, accounting records kept pursuant to this section shall contain—
- (a) entries from day to day of all sums of money received and expended by the credit union and the matters in respect of which the receipt and expenditure take place;
- (b) a record of the assets and liabilities of the credit union and entries from day to day of every transaction entered into by the credit union which will or may give rise to liabilities or assets of the credit union; and
- (c) in respect of the provision of services, whether under *section 48* or otherwise, a record of the services provided and all transactions relating to them.
- (4) For the purposes of *subsection (1)* proper accounting records shall be deemed to be kept if they comply with *subsections (2) and (3)* and give a true and fair view of the state of affairs of the credit union and explain its transactions.
- (5) The accounting records of a credit union—
- (a) shall be kept at the registered office of the credit union or at such other place in the State as the board of directors think fit; and
- (b) † shall at all reasonable times be open to inspection by the members of the board of directors and the board oversight committee.
- (6) Every record required to be kept under this section shall be preserved by the credit union for not less than six years from the latest date to which it relates
- (7) † Where the accounting records of the credit union are kept at a place other than the registered office of the credit union, the chair shall have responsibility for ensuring that a written record of their location is kept.

- (8) Where a credit union conducts its business in more than one place, the board of directors shall ensure that such accounting records are kept and such systems of control are established and maintained for each of those places as will enable the credit union to comply with this section and *section 109*.
- (9) A credit union shall take adequate precautions to ensure the safe keeping of the accounting records of the credit union no matter what form they may take.

Section 109 – Systems of control and safe custody

- (1) The systems of control which are to be established and maintained by a credit union pursuant to *section 108 (1)* are systems for the control of the conduct of its business as required by or under this Act and in accordance with the decisions of the board of directors and for the control of the accounting and other records of its business.
- (2) Without prejudice to the generality of *section 108 (1)*, the systems of control must be such as to secure that the credit union's business is so conducted and its records so kept that—
- (a) the information necessary to enable the officers, the credit union and the auditor to discharge their functions is sufficiently accurate, and is available with sufficient regularity and with sufficient promptness for those purposes, and
- (b) the information obtained by or furnished to the Bank is sufficiently accurate for the purposes for which it is obtained or furnished and is available as and when required by the Bank.
- (3) Every credit union shall establish and maintain a system to ensure the safe custody of all documents of title belonging to the credit union.

Section 110 – Accounting principles

- (1) Subject to *subsection (2)*, the amounts to be included in the accounts of a credit union in respect of items shown shall be determined in accordance with the following principles—
- (a) the credit union shall be presumed to be carrying on business as a going concern;

- (b) accounting policies shall be applied consistently from one financial year to the next;
- (c) the amount of any item in the accounts shall be determined on a prudent basis and in particular—
- (i) only surpluses realised at the balance sheet date shall be included in the income and expenditure account, and
 - (ii) all liabilities and losses which have arisen or are likely to arise in respect of the financial year to which the accounts relate, or the previous financial year, shall be taken into account, including those liabilities and losses which only become apparent between the balance sheet date and the date on which the accounts are signed in pursuance of *section 111*;
- (d) ‡ all income and charges relating to the financial year to which the accounts relate shall be taken into account without regard to the date of receipt or payment;
- (e) ‡ in determining the aggregate amount of any item the amount of each individual asset or liability that falls to be taken into account shall be determined separately; and
- (f) ‡ in determining how amounts are presented within items in the income and expenditure account and balance sheet, the directors of a credit union shall have regard to the substance of the reported transaction or arrangement, in accordance with generally accepted accounting principles or practice.
- (2) If it appears to the directors of a credit union that there are special reasons for departing from any of the principles specified in *subsection (1)*, they may so depart, but particulars of the departure, the reasons for it and its effect on the balance sheet and income and expenditure account shall be stated in a note to the accounts, for the financial year concerned, of the credit union.

Section 111 – Annual accounts

- (1) ‡ The directors of a credit union shall prepare or cause to be prepared, with respect to each financial year—

- (a) an income and expenditure account giving a true and fair view of the credit union's income and expenditure for that year,
- (b) a balance sheet giving a true and fair view of the state of its affairs as at the end of that year, and
- (c) any statement required by the body of accountants (referred to in *section 114 (1)(a)*) of which the auditor is a member to be included with the annual accounts so that the annual accounts together with the statement or statements give such a true and fair view as is referred to in *paragraph (a)* or, as the case may be, *paragraph (b)*,

and each of these shall be in such form and shall contain such particulars as the Bank may prescribe.

- (2) Unless the Bank otherwise allows, for each financial year, the income and expenditure account, the balance sheet and the statement or statements referred to in *subsection (1)(c)* shall, where applicable, include corresponding particulars for the preceding financial year.
- (3) The annual accounts shall also contain such supplementary information as is required by or under this Act.
- (4) A credit union shall not publish, for any financial year, any income and expenditure account, balance sheet or statement unless—
 - (a) it has been previously audited by the auditor last appointed to audit the annual accounts of the credit union, and
 - (b) it incorporates a report by the auditor stating whether in his opinion it complies with *paragraph (a)* or *paragraph (b)* of *subsection (1)*, whichever is applicable in that case, and
 - (c) † it has been signed by the manager of the credit union, by a member of the board oversight committee acting on behalf of that committee and by a member of the board of directors acting on behalf of the board.
- (5) † If, in relation to any income and expenditure account or balance sheet of a credit union for a financial year, a member of the board of directors fails to take all

reasonable steps to secure compliance with the provision of subsection (1) which is applicable in that case, the member shall be guilty of an offence and liable on summary conviction to a class C fine unless the member proves that there were reasonable grounds for the member to believe that a competent and reliable person was charged with the duty of seeing that the relevant provision was complied with, and was in a position to discharge that duty.

- (6) The accounts prepared with respect to a credit union's financial year under this section together with the notes to them are referred to in this Act as the "annual accounts".

Section 112 – Balance sheet to be available to members

- (1) Every credit union shall keep available for inspection by its members at all reasonable times—
- (a) a copy of the latest audited balance sheet of the credit union; and
 - (b) a copy of the auditor's report on that balance sheet.
- (2) Every credit union shall cause to be displayed at all times in a conspicuous position at its registered office a notice informing members of the availability of the documents referred to in *subsection (1)*.
- (3) A credit union which fails to comply with the preceding provisions of this section shall be guilty of an offence.

Section 113 – Obligation to appoint auditors

- (1) At each annual general meeting a credit union shall, by a majority vote of the members present and voting, elect an auditor to hold office from the conclusion of that meeting until the next annual general meeting.
- (2) Notwithstanding any agreement between the credit union and an auditor, and without prejudice to any rights of the auditor in relation to his removal under this Act, a credit union may by resolution at a general meeting remove an auditor before the term of his office expires and may elect in his place a person—
- (a) who has been duly nominated for election;
 - (b) who is qualified under this Act to be an auditor of a credit union; and

- (c) of whose nomination due notice has been given to the members of the credit union and the Bank.
- (3) The first auditor of a credit union may be appointed by the directors at any time before the first annual general meeting; but no person shall be so appointed unless he is qualified for election as an auditor of a credit union.
- (4) Where the directors fail to exercise their power under *subsection (3)*, the first auditor may be elected by a majority vote of the members present and voting at a general meeting of the credit union and thereupon the power of the directors under *subsection (3)* shall cease.
- (5) Where, at an annual general meeting, no auditor is elected, the Bank may appoint a person who is qualified under this Act to be an auditor of a credit union to fill the vacancy and the remuneration and expenses of an auditor so appointed shall be paid out of the funds of the credit union.
- (6) A credit union shall—
- (a) within one week of the Bank's powers under *subsection (5)* becoming exercisable, give the Bank notice of that fact; and
- (b) where a resolution removing an auditor is passed, give notice of that fact to the Bank in such form as may be required by the Bank within 14 days of the meeting at which the resolution removing the auditor was passed.
- (7) The directors of a credit union may fill any casual vacancy in the office of auditor with a person who is qualified to be elected an auditor of a credit union but, while any such vacancy continues, the surviving or continuing auditor or auditors, if any, may act.
- (8) The election of a firm by the name of the firm to be the auditor of a credit union shall be deemed to be an election of those persons who from time to time during the period of appointment are the partners in that firm as from time to time constituted and are qualified to be auditors of a credit union.
- (9) Where the Bank is of the opinion that it would not be in the interest of the orderly and proper regulation of the business of a credit union or in its members' interests,

it may by notice in writing order the credit union not to elect or re-elect to the office of auditor, or the directors not to fill a casual vacancy in that office with, a named person.

- (10) Where the Bank makes an order under *subsection (9)*, the credit union may appeal against the order to the Court but, subject to any direction or decision of the Court, the credit union shall comply with the order.

Section 114 – Qualification for appointment as auditor

- (1) † A person shall not be qualified for election as auditor of a credit union unless the person—

(a) is a member of a recognised accountancy body within the meaning of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010) and holds a valid practicing certificate, or

(b) is otherwise for the time being authorised by the Irish Auditing and Accounting Supervisory Authority under any provision of the Companies Acts to be appointed as a public auditor.

- (2) None of the following persons shall be qualified for election as auditor of a credit union—

(a) † a person who is or, at any time during the period of three years preceding the meeting at which the election is to be made, has been an officer of the credit union;

(b) † a parent, spouse or civil partner, brother, sister or child of an officer of the credit union; or

(c) † a person who is a partner of, or in the employment of, or who employs, an officer of the credit union.

- (3) Any election made by a credit union in contravention of *subsection (1)* or *subsection (2)* shall not be an effective election for the purposes of this Act.

- (4) A person shall not act as auditor of a credit union at a time when he is disqualified under this Act or the Companies Acts for election or appointment to that office and,

if an auditor of a credit union becomes so disqualified during his term of office, he shall—

- (a) thereupon vacate his office; and
- (b) give immediate notice in writing to the credit union and to the Bank that he has vacated his office by reason of the disqualification.

(5) A person who contravenes *subsection (4)* shall be guilty of an offence.

Section 115 — Eligibility of auditor for re-election

(1) A person who was elected (or appointed) to audit the annual accounts of a credit union for a financial year and who continues to be qualified under this Act to be an auditor of a credit union shall be eligible for re-election (or election) as auditor of the credit union for the following financial year unless—

- (a) he has given to the credit union notice in writing of his unwillingness to be re-elected (or elected); or
- (b) he is ineligible for election as auditor of the credit union for that financial year; or
- (c) he has ceased to act as auditor of the credit union by reason of incapacity; or
- (d) the Bank has made an order under *section 113 (9)* prohibiting his election or re-election as auditor of the credit union.

(2) For the purposes of *subsection (1)*, a person is ineligible for election as auditor of a credit union for a particular financial year if, at the date of the general meeting at which an auditor would be elected for that financial year, he is, by virtue of *section 114 (2)*, disqualified for election in relation to that credit union.

Section 116 — Removal of auditor of credit union by Bank*

(1) Where the Bank considers it necessary in the interest—

- (a) of the members or creditors of a credit union, or

- (b) of the orderly and proper regulation of the business of a credit union, the Bank may remove from office the auditor of the credit union.
- (2) Any auditor who has been removed from office under subsection (1) may apply to the Court for an order setting aside the removal.
- (3) On an application under subsection (2), the Court may make—
- (a) an order setting aside the removal,
 - (b) an order confirming the removal, or
 - (c) such other order as may appear to the Court to be necessary.
- (4) The Bank may apply to the Court for, and the Court may grant, an order confirming the removal.
- (5) The Court may by order revoke or vary an order made by it under this section.
- (6) If, in a case where an application has been made to the Court under this section, the Court is satisfied, because of the nature or circumstances of the case or otherwise in the interests of justice, that it is desirable, the whole or any part of any proceedings under that provision may be heard otherwise than in public.
- (7) Unless an order has been made by the Court in respect of a removal, the

Section 117 — Resolutions relating to appointment and removal of auditors

- (1) Subject to *subsection (2)*, a resolution at a general meeting of a credit union—
- (a) nominating for election as auditor a person other than a retiring auditor,
 - (b) providing that a retiring auditor shall not be nominated for election,
 - (c) removing an auditor before the expiration of his term of office, or
 - (d) nominating for election as auditor a retiring auditor who was appointed by the directors to fill a casual vacancy,

shall not be effective unless notice of the intention to move it has been given to the credit union and to the Bank not less than 28 days before the meeting at which it is to be moved.

- (2) Where, after notice of the intention to move such a resolution has been given to the credit union, a general meeting of the credit union is called for a date less than 28 days after the notice has been given, the notice, although not given within the time required by *subsection (1)* shall be deemed to have been properly given for the purpose of that subsection.
- (3) Subject to *subsection (4)*, a credit union shall give its members notice of any such intended resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, it shall give them notice, the period of which has been approved by the Bank, of the intended resolution by advertisement in at least two appropriate newspapers, within the meaning of *section 80 (5)(a)*, published in the State and circulating in the area in which the credit union's registered office is situated.
- (4) A notice under *subsection (3)* shall not be given within 7 days of the date of the receipt of notice of the intended resolution under *subsection (1)*.
- (5) On receipt of notice of an intended resolution under *subsection (1)*, the credit union shall forthwith—
 - (a) if the resolution is a resolution mentioned in *paragraph (a), paragraph (b)* or *paragraph (d)* of that subsection, send a copy thereof to the retiring auditor;
 - (b) if the resolution is a resolution mentioned in *paragraph (c)* of that subsection, send a copy thereof to the auditor proposed to be removed.
- (6) Where notice is given of such an intended resolution as is mentioned in any of *paragraphs (a), (b) and (c)* of *subsection (1)* and the retiring auditor or the auditor proposed to be removed, as the case may be, makes in relation to it representations in writing to the credit union (not exceeding a reasonable length) and requests their notification to the members of the credit union, the credit union shall, subject to *subsection (8)*, (unless the representations are received by it too late for it to do so)—

- (a) in any notice of the intended resolution given to members of the credit union, state the fact of the representations having been made; and
- (b) send a copy of the representations to every member of the credit union to whom notice of the meeting is sent (whether before or after the credit union receives the representations).
- (7) Subject to *subsection (8)*, and whether or not copies of any representations made by him have been sent as mentioned in *subsection (6)*, the auditor concerned may require that, without prejudice to his right to be heard orally, the representations made by him shall be read out at the meeting at which the intended resolution is to be moved.
- (8) *Subsections (6) and (7)* shall not apply if, on the application either of the credit union or of any other person who claims to be aggrieved, the Bank is satisfied that compliance with the subsections would diminish substantially public confidence in the credit union or that the rights conferred by it are being, or are likely to be, abused in order to secure needless publicity for defamatory matter.
- (9) An auditor of a credit union who has been removed shall be entitled—
- (a) to attend the annual general meeting of the credit union at which, but for his removal, his term of office as auditor of the credit union would have expired;
- (b) to attend the general meeting of the credit union at which it is proposed to fill the vacancy occasioned by his removal;
- (c) to receive all notices of, and other communications relating to, any such meeting which a member of the credit union entitled to notice of the meeting is entitled to receive; and
- (d) to be heard at any such meeting or any part of the business of the meeting which concerns him as a former auditor of the credit union.

Section 118 — Resignation of auditors

- (1) An auditor of a credit union may, by a notice in writing which complies with *subsection (3)*, is served on the credit union and states his intention to do so, resign from the office of auditor to the credit union, and the resignation shall take effect

on such date as may be specified in the notice, being not less than 28 days after the notice is served.

- (2) A copy of a notice under *subsection (1)* shall be sent by the auditor to the Bank at the same time as it is served on the credit union.
- (3) A notice under *subsection (1)* shall contain either—
 - (a) a statement to the effect that there are no circumstances connected with the resignation to which it relates that the auditor concerned considers should be brought to the notice of the members or creditors of the credit union; or
 - (b) a statement of any such circumstances.
- (4) Subject to *subsection (5)*, where a notice under *subsection (1)* is served on a credit union and the notice contains a statement falling within *subsection (3) (b)*, the credit union shall, not later than 14 days after the date of that service, send a copy of the notice to every person who is entitled to notice of a general meeting of the credit union.
- (5) Copies of a notice served on a credit union under *subsection (1)* need not be sent to the persons specified in *subsection (4)* if, on the application of the credit union concerned or any other person who claims to be aggrieved, the Bank is satisfied that the sending of the notice would be likely to diminish substantially public confidence in the credit union or that the rights conferred by this section are being abused to secure needless publicity for defamatory matter.

Section 119 – Requisitioning of general meeting and circulation of statement by resigning auditor

- (1) A notice served on a credit union under *section 118* by a resigning auditor which contains a statement falling within *subsection (3)(b)* of that section may also requisition the convening, by the directors of the credit union, of a general meeting of the credit union for the purpose of receiving and considering such account and explanation of the circumstances connected with his resignation from the office of auditor to the credit union as the auditor may wish to give to the meeting.
- (2) Where an auditor makes a requisition under *subsection (1)*, the directors of the credit union shall, within 14 days of the service on the credit union of the notice

containing the requisition, proceed duly to convene a general meeting of the credit union for a day not more than 28 days after the service of that notice.

(3) Subject to *subsection (4)*, where—

(a) a notice served on a credit union under *section 118* contains a statement falling within *subsection (3)(b)* of that section, and

(b) the auditor concerned requests the credit union to circulate to its members—

(i) before the general meeting at which, apart from the notice, his term of office would expire, or

(ii) before any general meeting at which it is proposed to fill the vacancy caused by his resignation or convened pursuant to a requisition under *subsection (1)*,

a further statement in writing prepared by the auditor of the circumstances connected with the resignation that the auditor considers should be brought to the notice of members,

the credit union shall in any notice of the meeting given to its members state the fact of the statement having been made, and send a copy of the statement to every person who is entitled to notice of a general meeting of the credit union.

(4) *Subsection (3)* need not be complied with by the credit union concerned if, on the application of either the credit union or of any other person who claims to be aggrieved, the Bank is satisfied that the sending of the statement would be likely to diminish substantially public confidence in the credit union or that the rights conferred by this section are being abused to secure needless publicity for defamatory matter.

(5) A person who has resigned from the office of auditor of a credit union shall be permitted—

(a) to attend any such meeting of the credit union as is mentioned in *subsection (3)(b)*; and

(b) to be heard at any such meeting on any part of the business which concerns him as a former auditor of the credit union;

and the credit union shall send to such a person all notices of, and other communications relating to, any such meeting that a member of the credit union who is entitled to notice of the meeting is entitled to receive.

Section 120 – Auditor's report, right of access and to be heard

- (1) The auditor of a credit union shall make a report to the members on the accounts examined by him, and on the annual accounts which are to be laid before the credit union at the annual general meeting during his tenure of office; and the auditor's report—
 - (a) shall be read at the annual general meeting of the credit union, and
 - (b) shall be open to inspection by any member of the credit union.
- (2) ‡ Before signing the auditor's report, the auditor of a credit union shall meet with and report to the directors of the credit union and the members of the board oversight committee on the annual accounts and any matter relating to those accounts which the auditor considers should be drawn to their attention.
- (3) The auditor's report shall state whether—
 - (a) he has obtained all the information and explanations which, to the best of his knowledge and belief, were necessary for the purposes of his audit;
 - (b) he is of the opinion that proper accounting records have been kept by the credit union;
 - (c) the credit union's annual accounts are in agreement with the accounting records of the credit union;
 - (d) he is of the opinion that the credit union's annual accounts have been properly prepared so as to conform with any requirements made by or under this Act and give a true and fair view—
 - (i) in the case of the balance sheet, of the credit union's state of affairs as at the end of the financial year;

(ii) in the case of the income and expenditure account, of the income and expenditure of the credit union for the financial year; and

(e) the credit union's annual accounts contain any statement required under *section 111 (1)(c)* to be included by the body of accountants concerned.

(4) Without prejudice to *subsection (3)*, where the report of the auditor relates to any accounts other than the income and expenditure account for the financial year in respect of which he is appointed, that report shall state whether those accounts give a true and fair view of any matter to which they relate.

...

(6) † Every auditor of a credit union shall have a right of access at all reasonable times to the books and documents of the credit union, and shall be entitled to require from the officers of the credit union such information and explanations that are within their knowledge or can be procured by them, as he thinks necessary for the performance of his duty as auditor.

(7) The auditor of a credit union shall be entitled—

(a) to attend any general meeting of the credit union; and

(b) to be heard at any general meeting on any part of the business which concerns him as auditor of the credit union;

and the credit union shall give its auditor the same notice of, and any other communications relating to, a general meeting that a member of the credit union is entitled to receive.

Section 121 — Regulations relating to accounts and audit

Regulations under section 182 may make provision with respect to the annual accounts of credit unions and to their audit and, in particular, any such regulations may do all or any of the following:

(a) add to the documents to be comprised in the annual accounts of a credit union prepared with respect to a financial year under section 111;

- (b) make further provision as to the matters to be included in any document comprised in a credit union's annual accounts;
- (c) make further provision in relation to accounting principles and rules for the preparation of annual accounts including, if the Minister considers it necessary or desirable, adherence to particular formats of presentation.¹

Section 122 – Auditor's duty to report to Bank

- (1) If at any time the auditor of a credit union—
- (a) has reason to believe that there exist circumstances which are likely to affect materially the credit union's ability to fulfil its obligations to its members or meet any of its obligations under this Act,
 - (b) has reason to believe that there are material defects in the accounting records, systems of control of the business and records of the credit union,
 - (c) has reason to believe that there are material inaccuracies in or omissions from any returns made by the credit union to the Bank,
 - (d) proposes to qualify any report which he is to provide under this Act,
 - (e) has reason to believe that there are material defects in the system for ensuring the safe custody of all documents of title, deeds and accounting records of the credit union, or
- ...
- the auditor shall forthwith report the matter to the Bank in writing.
- (2) The auditor of a credit union shall, if requested by the Bank, furnish to the Bank a report stating whether in his opinion and to the best of his knowledge the credit union has or has not complied with such requirements under this Act as the Bank may have requested the auditor to furnish a report on.
- (3) The auditor of a credit union shall send to it, forthwith, a copy of any report made by him to the Bank under *subsection (1)* or *subsection (2)*.

¹ The Minister has not yet prescribed Regulations under this subsection.

- (4) Whenever the Bank is of the opinion that the exercise of its functions under this Act or the protection of the interests of the members of a credit union so requires, it may require the auditor of the credit union to supply it with such information as it may specify in relation to the audit of the business of the credit union.
- (5) The Bank may require that, in supplying information for the purpose of *subsection (4)*, the auditor shall act independently of the credit union.
- (6) No duty to which the auditor of a credit union may be subject shall be regarded as contravened, and no liability to the credit union, its members, creditors or other interested parties shall attach to the auditor, by reason of his compliance with any obligation imposed on him by or under this section.

Section 123 — Penalty for false statements etc. to auditors

- (1) ‡ An officer of a credit union who knowingly or recklessly makes a statement to which this section applies that is misleading, false or deceptive in a material particular shall be guilty of an offence.
- (2) This section applies to any statement made to the auditor of a credit union (whether orally or in writing) which conveys, or purports to convey, any information or explanation which he requires under this Act, or is entitled so to require, as auditor of the credit union.
- (3) ‡ An officer of a credit union who fails to provide to the auditor of the credit union, within five days of the making of the relevant requirement (not including a Saturday, Sunday or public holiday) any information or explanation that the auditor requires as auditor of the credit union and that is within the knowledge of, or can be procured by, the officer shall be guilty of an offence.
- (4) In a prosecution for an offence under this section it shall be a defence for the defendant to show—
 - (a) that it was not reasonably possible for him to comply with the requirement under *subsection (3)* to which the offence relates within the time specified in that subsection; and
 - (b) that he complied with that requirement as soon as was reasonably possible after the expiry of that time.

Section 124 – Annual returns

- (1) Subject to *subsection (3)*, every credit union shall, not later than 31st March in each year, send to the Bank a return relating to its affairs for the most recent complete financial year, together with the annual accounts and a copy of the report of the auditor on the credit union's annual accounts for that financial year.
- (2) A return required by this section shall contain, with respect to the financial year to which it relates—
 - (a) the income and expenditure account prepared in accordance with *section 111 (1)(a)*;
 - (b) the balance sheet as at the end of the financial year prepared in accordance with *section 111 (1)(b)*; and
 - (c) any statement prepared in accordance with *section 111 (1)(c)*.
- (3) If the Bank is of the opinion that special circumstances exist, it may by notice in writing allow a credit union to make a return under this section up to a date other than the end of a financial year and, in that case—
 - (a) *subsection (2)* shall apply subject to such modifications as may be specified in the notice;
 - (b) the return shall be sent to the Bank not later than three months after the date to which it is to be made up; and
 - (c) the period of the next return (if any) under this section shall begin immediately after that date and end at the end of the financial year in which that date falls;and, for the purposes of *subsection (2)*, such a return as is referred to in *paragraph (c)* shall be regarded as made in respect of the financial year referred to in that paragraph.
- (4) The last return under this section by a credit union which is being dissolved by an instrument of dissolution under *section 135* shall be made up to the date of the instrument of dissolution.
- (5) Every credit union shall supply free of charge to every member of the credit union who applies for it a copy of the latest return of the credit union under this section

and shall so supply with every such copy a copy of the report of the auditor on the accounts and balance sheet contained in the return.

(6) A credit union which fails to comply with this section shall be guilty of an offence.

The following provisions of the Central Bank Act 1997 also apply to the auditor of a credit union:

- section 27B of the Central Bank Act, 1997;
- section 27G of the Central Bank Act, 1997; and
- section 27H of the Central Bank Act, 1997.

2. Regulations

CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS) REGULATIONS 2016

(S.I. No. 1 of 2016)

(This Chapter has not reproduced the entirety of Part 1 – please consult the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016 for the full provision.)

PART 1

PRELIMINARY AND GENERAL

Interpretation

In these Regulations, unless the context otherwise requires:-

“investment gain” means an increase in the value of an investment, made as provided for under section 43 of the Act on the balance sheet of a credit union, other than income receivable;

“investment income” means income received or receivable from an investment made as provided for under section 43 of the Act;

“related party” means -

- (a) a member of the board of directors or the management team of a credit union;

- (b) a member of the family of a member of the board of directors or the management team of a credit union; or
- (c) a business in which a member of the board of directors or the management team of a credit union has a significant shareholding;

“the Act” means the Credit Union Act, 1997;

PART 8

SYSTEMS, CONTROLS AND REPORTING ARRANGEMENTS

Reporting and Disclosure in the Annual Accounts

47. (1) In addition to the information required under section 111 of the Act, a credit union shall ensure that the directors of a credit union shall prepare or cause to be prepared the following supplementary information to be contained in its annual accounts:
- (a) the regulatory reserve requirement, the credit union’s regulatory reserve expressed as a percentage of total assets, the additional reserves that the credit union holds in respect of operational risk expressed as a percentage of total assets, together with the credit union’s dividend and loan interest rebate policy; and
 - (b) the total amount of loans outstanding to related parties and the loans to such persons as a percentage of the total loans outstanding.
- (2) A credit union shall separately analyse investment income and investment gains in the income and expenditure account (or notes) of the annual accounts of the credit union, as follows:-
- (a) investment income and investment gains received by the credit union at the balance sheet date;
 - (b) investment income that will be received within 12 months of the balance sheet; and
 - (c) other investment income.

3. Guidance

The Central Bank has issued the following circulars in relation to annual accounts:

- [Circular re Credit Union Financial Year End 30 September 2018 – Year End Approach \(September 2018\)](#)

3.1 Accounting Policies

The board of directors of each credit union should adopt accounting policies that are appropriate to its circumstances for the purposes of ensuring that its income and expenditure account and balance sheet give a true and fair view. The accounting policies should be consistent with the requirements of the 1997 Act and the Regulations and in compliance with Generally Accepted Accounting Principles.

The objectives against which the board of directors of a credit union should judge the appropriateness of accounting policies to its particular circumstances are the requirements of the 1997 Act in relation to consistency and prudence.

The objective of annual accounts is to provide information about a credit union's financial performance and financial position that is useful for assessing the stewardship of the board of directors and for making business/financial decisions. Appropriate accounting policies will ensure that the financial information being presented is relevant and reliable.

Financial information should be prudently prepared. This involves the application of a degree of caution in exercising judgement and making the necessary estimates. Often there is uncertainty, either about the existence of assets, liabilities, gains or losses, or about the amount at which they should be valued. The board of directors should consider whether market conditions could give rise to a risk of material misstatement.

Appropriate accounting policies should result in financial information being presented in a way that enables its significance to be understood by the users of accounts.

3.2 Valuation of Investments

The accounting policy adopted by the board of directors of a credit union for the valuation of investments should comply with the relevant sections of the 1997 Act, in particular section 110. This section requires that the amount of any item in the accounts shall be determined on a prudent basis and in particular that all liabilities and losses which have arisen or are likely to arise in the financial year to which the accounts relate, or a previous financial year, shall be taken into account including those liabilities and losses which only become apparent between the balance sheet date and the date the accounts are signed.

It is recognised that under generally accepted accounting practice there are a number of different bases available for the valuation of investments. The Central Bank is of the view that for the majority of credit unions, having regard to the nature of their operations and the requirements of the 1997 Act, the lower of cost and net realisable value will usually be the most appropriate valuation method.

Under this method the amount to be included in the balance sheet in respect of investments should be the lower of their cost or net realisable value. The amount of any write-down provided should be clearly shown in the income and expenditure account.

Where the circumstances for which any write-down for diminution in value, made in accordance with the above, cease to apply, that provision should be written back to the extent that it is no longer necessary.

Where a credit union has adopted an accounting policy on valuation of investments other than the lower of cost and net realisable value, it should discuss its accounting policy with its professional advisors in the context of this guidance in order to determine the appropriate course of action for current and future accounting periods.

Full and detailed disclosure of the accounting policy adopted for valuation of investments should be disclosed in the annual accounts.

3.3 Investment Income Recognition

The accounting policy adopted by the board of directors of a credit union for the recognition of investment income should be in compliance with the relevant sections of the 1997 Act and the Regulations.

Auditors are obliged to review the financial statements prepared by the board of directors and may express an adverse or qualified opinion if they disagree with the accounting policies, the method of their application or the adequacy of the disclosures selected².

3.4 Analysis of Investment Income in the Income and Expenditure Account

Any investment income, which does not fall within the criteria set out in Regulation 31(a) or (b) should not be distributed and should be transferred to a reserve, which is designated as not eligible for distribution, for so long as those amounts do not meet these criteria.

While amounts falling within these criteria may be considered as available for distribution, any decision by the board of directors of the credit union on the actual distribution level for a particular year must be considered in the context of whether it is prudent to do so. In particular, in making an assessment on the amount of any distribution of income falling within criteria set out in Regulation 31(b) any terms or conditions attaching to the receipt of this income, such as a requirement to hold the investment until maturity before a return crystallises, must be taken into account. Where the circumstances are such that the credit union may need to breach any of the terms or conditions attaching to the particular investment, no distributions of such income should be made until the income has been received.

3.5 Reporting and Disclosures in the Annual Accounts

In addition to the information required under section 111 of the 1997 Act, credit unions are required under the Regulations to disclose additional information such as: the total amount of loans outstanding to related parties and the loans to such persons as a percentage of the total loans outstanding. These disclosures should be included in supplementary information to be contained in the annual accounts.

3.6 Auditor Rotation

While the 1997 Act does not contain any requirements for rotation of credit union auditors, RCU is of the view that in order to enhance the independence and objectivity of the audit process consideration should be given to appropriate levels of audit partner and audit firm rotation. The standards and regulations referred to below can inform credit unions and their auditor in this regard.

² International Standard on Auditing (UK and Ireland) 700 "the Auditor's Report on Financial Statements issued by the Auditing Practices Board.

In June 2016, two new Regulations came into force in Ireland which make reference to rotation of audit partners and audit firms. While credit unions are not within the scope of these regulations, they can inform credit unions and their auditors in relation to auditor rotation.

Regulations

- **S.I. No. 312/2016 - European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU and Regulation (EU) No. 537/2014) Regulations 2016.** Under this regulation, the key audit partner responsible for carrying out a statutory audit of a public interest entity shall cease his or her participation in the statutory audit of the entity not later than 5 years from the date of his or her first appointment to carry out such audit.
- **Regulation (EU) No. 537/2014 - on specific requirements regarding statutory audit of public-interest entities.** This regulation requires that “neither the initial engagement of a particular statutory auditor or audit firm, nor this in combination with any renewed engagements therewith shall exceed a maximum duration of 10 years.”

Ethical Standards

- In January 2017³ the Irish Auditing and Accounting Supervisory Authority (IAASA) issued the **Ethical Standard for Auditors (Ireland)** (the Standard)⁴. Section 3 of the Standard provides auditors with requirements and guidance in relation to dealing with the risks to auditor independence which may occur from long association with audit engagements and with entities relevant to audit engagements including audit partner and audit firm rotation.

Please bring the above guidance to the attention of your external auditors.

³ The Ethical Standard for Auditors (Ireland) was revised in April 2017.

⁴ [https://www.iaasa.ie/Publications/Auditing-standards/International-Standards-on-Auditing-for-use-in-Ire/Ethical-Standard-for-Auditors-\(Ireland\)-2017](https://www.iaasa.ie/Publications/Auditing-standards/International-Standards-on-Auditing-for-use-in-Ire/Ethical-Standard-for-Auditors-(Ireland)-2017)