

# CONSUMER PROTECTION

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## Version History

Version	Date	Amendments
0.1	July 2013	Initial Version.
1.0	September 2013	No Amendments.
1.1	May 2018	Section 3.1 amended to reflect introduction of European Union (Payment Services) Regulations 2018

## 1. Introduction

This Chapter relates to certain consumer protection requirements that apply to credit unions arising from their authorisation as credit unions. It does not relate to consumer protection requirements that apply to credit unions resulting from other authorisations (e.g. Consumer Protection Code and Minimum Competency Code requirements that arise from a credit union's authorisation to act as a retail intermediary).

The Chapter refers to consumer protection requirements on:

- consumer credit agreements; and
- conduct of business requirements under the Payment Services Regulations.

## 2. Consumer credit agreements

### 2.1 Legislation

The following apply where a credit union provides a loan **between €200 and €75,000**:

- sections 37A and 37B of the 1997 Act; and
- the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. 281/2010).

The following applies where a credit union provides a loan **in excess of €75,000**:

- section 37A to section 37E of the 1997 Act.

#### **Section 37A – Member to receive written notice of loan approval**

(1) On approving a loan in accordance with section 36 or 37, a credit union shall, in writing, notify the member who applied for the loan of the approval and of any time limit within which the approval will expire.

(2) ‡ A notice under subsection (1) may be in a form that, when endorsed by the member on accepting a loan offered by the credit union, constitutes a credit agreement for the purposes of—

(a) sections 37B and 37C, or

(b) where the loan is for an amount between €200 and €75,000, the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010).

**Section 37B – Credit agreement in respect of loans exceeding €200**

- (1) If the amount of a loan approved by a credit union exceeds €200, the credit union shall ensure that—
- (a) a credit agreement is entered into in writing and signed by the member concerned and by or on behalf of all other parties to the agreement, and
  - (b) a copy of the agreement—
    - (i) is handed personally to the member immediately after the agreement is entered into, or
    - (ii) is delivered or sent to the member within 10 days after the agreement is entered into, and
  - (c) any contract of guarantee relating to the loan is in writing and signed by the guarantor and by or on behalf of all other parties to the agreement, and a copy of the guarantee and the agreement—
    - (i) is handed personally to the guarantor immediately after the contract is entered into, or
    - (ii) is delivered or sent to the guarantor within 10 days after the contract is entered into.
- (2) † For the purposes of this section, a contract of guarantee—
- (a) includes, where the member is not of full age, an indemnity provided by a parent or guardian of the member or by another person approved by the board of directors, and
  - (b) may form part of the relevant agreement or may be in a separate document.
- (3) A credit union that makes a loan without having complied with subsection (1) commits an offence.
- (4) If a credit union is found guilty of an offence against subsection (3), the following provisions apply:

- (a) the credit union is taken to have waived all interest agreed to be paid by the member in respect of the loan;
- (b) the member, or the member's personal representative, is entitled to recover as a debt, by proceedings brought in a court of competent jurisdiction, any interest paid in respect of the loan.

**Section 37C – Contents of credit agreements<sup>1</sup>**

- (1) When entering into a credit agreement with a member, a credit union shall ensure that it contains a statement setting out the following particulars:
- (a) the name and address of each party to the agreement;
  - (b) the amount of the loan provided under the agreement and the total amount payable in respect of the loan;
  - (c) details of the security (if any) given in respect of the loan;
  - (d) the date or dates on which the loan is to be provided (unless unascertainable at the time of the agreement);
  - (e) the number of repayment instalments under the agreement and amount of each of those instalments;
  - (f) the date, or the method of determining the date, on which each repayment instalment is payable;
  - (g) the rate of interest charged in respect of the loan and the relevant APR;
  - (h) the circumstances in which that APR may be amended;
  - (i) any charges that, although not included in the calculation of the APR, must be paid by the member in specified circumstances;
  - (j) the date on which the loan expires;

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<sup>1</sup> Section 37C(3) of the 1997 Act has been deleted by the 2012 Act.

- (k) the manner in which the member can terminate the agreement before the final repayment instalment is payable and the cost to the member of terminating the agreement;
- (l) any cost or penalty that the member may incur for failing to comply with the agreement.
- (2) † The credit union shall also ensure that the agreement specifies a cooling-off period under which the member has a right to withdraw from the agreement without penalty if the member gives to the credit union a written notice to that effect within 14 days after—
- (a) the day on which the credit agreement was concluded, or
- (b) the day on which the member receives contractual terms and conditions and information in accordance with sections 37C and 37D if that date is later than the date referred to in paragraph (a).
- (4) A credit union that fails to comply with subsection (1) or (2) commits an offence.
- (5) † This section does not apply to credit agreements covered by the European Communities (Consumer Credit Agreements) Regulations 2010.

**Section 37D – Notice of important information to be included in credit agreements**

- (1) A credit union shall not enter into a credit agreement with a member, unless the agreement and the notice referred to in section 37A (1) display prominently on their respective front pages, in a form approved by the Bank, the following information:
- (a) the amount of the loan;
- (b) the period of the agreement;
- (c) the number of repayment instalments;
- (d) the total amount repayable to the credit union;
- (e) the cost of the loan to the member;

(f) the APR in respect of the loan;

(g) particulars of the cooling-off period.

(2) A credit union that contravenes subsection (1) commits an offence.

(3) † This section does not apply to credit agreements covered by the European Communities (Consumer Credit Agreements) Regulations 2010.

#### **Section 37E – Definition and calculation of “APR” for the purposes of section 37C and 37D †**

(1) For the purposes of sections 37C and 37D ‘annual percentage rate of charge’, in relation to a credit agreement entered into between a credit union and a member, means the annual percentage rate of charge as defined under Regulation 6 of the European Communities (Consumer Credit Agreements) Regulations 2010.

(2) The annual percentage rate of charge specified in a credit agreement shall be in accordance with Part 5 of the European Communities (Consumer Credit Agreements) Regulations 2010.

### **3. Conduct of business requirements under the Payment Services Regulations**

#### **3.1 Legislation**

Where a credit union provides payment services under the European Communities (Payment Services) Regulations 2018 (S.I. No. 6 of 2018), the following provisions of the Payment Services Regulations apply, from a conduct of business perspective:

- Part 3 - Transparency of Conditions and Information Requirements for Payment Services; and
- Part 4 - Rights and Obligations in Relation to the Provision and Use of Payment Services.

### **4. Further information**

Further information on consumer protection is available on the Consumer Protection section of the Central Bank website at the following [link](#).