

LEGAL DEFINITIONS

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Version History

Version	Date	Amendments
0.1	July 2013	Initial Version.
1.0	September 2013	Amended definition of 'savings' in the Credit Union Acts 1997-2012 to reflect Department of Finance Implementation Plan.
1.1	November 2015	Amended to reflect definitions contained in the Credit Union Act 1997 (Regulatory Requirements) 2016.
1.2	January 2016	Updated to reflect definitions contained in the Credit Union Act 1997 (Regulatory Requirements) 2016.

1. Legislation

Section 2 – Interpretation*

(1) In the *Credit Union Acts 1997 to 2012*—

‘Act of 1966’ means the Credit Union Act 1966;

‘Advisory Committee’ means the committee established under section 180;

‘amendment’, in relation to the rules of a credit union, includes a new rule, and a resolution rescinding a rule, of the credit union;

‘annual accounts’ has the meaning given by section 111(6);

‘annual general meeting’ has the meaning given by section 78(1);

‘annual return’ means the annual return which a credit union is required by section 124 to send to the Bank;

‘Bank’ means the Central Bank of Ireland;

‘board of directors’ means the body which has general control, direction and management of a credit union and to which section 53 relates;

‘board oversight committee’ has the meaning given by section 76L;

‘books and documents’ includes accounts and records made in any manner, and ‘books or documents’ shall be construed accordingly;

‘business continuity’ and ‘business continuity plan’ have the meanings given to them, respectively, by section 76I;

‘chair’ has the meaning given by section 55A(2);

‘civil partner’ has the same meaning as it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘cohabitant’ has the same meaning as it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

'common bond' means a common bond falling within section 6(3);

'compliance officer' has the meaning given by section 76D;

'contravention' includes failure to comply;

'Court' means the High Court;

'credit institution' means—

- (a) a recognised bank within the meaning of the Central Bank Acts 1942 to 2011,
- (b) a trustee savings bank,
- (c) the Post Office Savings Bank, or
- (d) a building society within the meaning of the Building Societies Act 1989;

'credit union' means a society registered as such under this Act, including a society deemed to be so registered by virtue of section 5(3);

'debentures' means any debentures, debenture stock or bonds of a credit union, whether constituting a charge on the assets of the credit union or not;

'financial services legislation', where applicable to credit unions acting under any authorisation from the Bank provided for by law, means—

- (a) the designated enactments within the meaning of section 2 of the Central Bank Act 1942,
- (b) the designated statutory instruments within the meaning of section 2 of the Central Bank Act 1942, and
- (c) the Central Bank Acts 1942 to 2011 together with the statutory instruments made under those Acts;

'general meeting' means an annual general meeting or a special general meeting;

'internal audit charter' has the meaning given by section 76K(2);

'internal audit function' has the meaning given by section 76K(1);

'internal audit plan' has the meaning given by section 76K(3);

'manager', in relation to a credit union, means the individual appointed to the role of manager of the credit union under section 63A;

'management team' has the meaning given by section 55(1)(i);

'meeting', includes, where the registered rules of a credit union so allow, a meeting of delegates appointed by members;

'member of the family', in relation to any person, means that person's father, mother, grandfather, grandmother, father-in-law, mother-in-law, spouse or civil partner, cohabitant, son, daughter, grandson, granddaughter, brother, sister, half-brother, half-sister, uncle, aunt, nephew, niece, first cousin, step-son, step-daughter, step-brother, step-sister, son-in-law, daughter-in-law, brother-in-law or sister-in-law;

'Minister' means the Minister for Finance;

'nomination committee' has the meaning given by section 56B(1);

'non-qualifying member', in relation to a credit union, has the meaning given by section 17(4);

'officer', in relation to a credit union, includes—

(a) the chair, the secretary or any other member of the board of directors, a member of a principal Committee, a member of the board oversight committee, risk management officer, compliance officer, credit officer or credit control officer of the credit union,

(b) an employee of the credit union to whom paragraph (a) does not apply, and

(c) a voluntary assistant of the credit union,

but does not include an auditor appointed by the credit union in accordance with the requirements of this Act;

'operational risk' has the meaning given by section 76E(1);

'organisation meeting' has the meaning given by section 77(1);

'pass book' includes any type of written statement of account;

'persons claiming through a member' includes the executors or administrators and assignees of a member and, where nomination is allowed, the member's nominee;

'prescribe' means—

(a) in relation to the Minister, prescribed by regulations made by the Minister under section 182, and

(b) in relation to the Bank, prescribed by regulations made by the Bank under section 182A;

'principal Committee', in relation to a credit union, means a credit committee, credit control committee or membership committee;

'register' means the register maintained under section 8(5);

'registered' means for the time being entered in the register and 'registration' shall be construed accordingly;

'regulatory directions' has the meaning given by section 87(3);

'restructuring proposal' has the meaning given by *section 45(1) of the Credit Union and Co-operation with Overseas Regulators Act 2012*;

'risk management officer' has the meaning given by section 76C(1);

'risk management system' has the meaning given by section 76B(1);

'savings', in relation to a credit union, has the meaning given by section 27(1);

'share', in relation to a credit union, means each sum of one euro standing to the credit of a member of that credit union in respect of shares in the register of members required by this Act to be kept by that credit union;

'special general meeting' shall be construed in accordance with section 79;

'special resolution' means a resolution which is passed by a majority of not less than three quarters of such members of a credit union present and voting and who are for the time being entitled to vote in person at any general meeting of which notice, specifying

the intention to propose the resolution, has been duly given according to the rules of the credit union;

'strategic objectives' has the meaning given by section 76A(1);

'strategic plan' has the meaning given by section 76A(1);

'voluntary assistant', in relation to a credit union, means a member of the credit union who, although not a remunerated employee of the credit union, is engaged in any way in the operation of the credit union.

- (2) Any reference in this Act to a member present at a meeting means, in the case of a member which is not a natural person, being represented at the meeting by a representative, as mentioned in *section 82(4)*.
- (3) In this Act a reference to a Part, section or Schedule is to a Part, section or Schedule of or to this Act, unless it is indicated that reference to some other enactment is intended.
- (4) In this Act a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.
- (5) In this Act a reference to an enactment includes a reference to that enactment as amended by or under any enactment, including this Act.

2. Regulations

CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS) REGULATIONS 2016
(S.I. No. 1 of 2016)

PART 1

PRELIMINARY AND GENERAL

Interpretation

2. (1) In these Regulations, unless the context otherwise requires: -

"accounts in credit institutions" means interest bearing deposit accounts (or instruments with similar characteristics) in a credit institution;

“assets” means the total assets referred to in section 85A of the Act;

“bank bonds” means senior bonds issued by a credit institution and traded on a regulated market where the capital amount invested is guaranteed by the issuer;

“the Bank” means the Central Bank of Ireland;

“business day” means a day upon which a credit union is open to conduct all or part of its activities;

“collective investment schemes” means units, interests or shares in open-ended retail collective investment schemes, other than property schemes, authorised by the Bank or by a competent authority of another EEA State;

“commercial loan” means a loan, the primary objective of which is to fund an activity whose purpose is to make a profit;

“community loan” means a loan to a community or voluntary organisation which is established for the express purpose of furthering the social, economic or environmental well-being of individuals within the common bond of the credit union in any of the following areas -

- (a) sport and recreation;
- (b) culture and heritage;
- (c) the arts (within the meaning of the Arts Act 2003);
- (d) health of the community;
- (e) youth, welfare and amenities; and
- (f) natural environment;

“counterparty” means any person that a credit union has made investments with. Where a counterparty is a company, the definition also includes a related company;

“credit institution” means a person authorised as same pursuant to Directive 2013/36/EU;

“deposit protection account” means the amount a credit union must maintain under the Deposit Guarantee Scheme;

“EEA” means the European Economic Area;

“final repayment date” means the date on which the loan is due to expire, as indicated on the relevant credit agreement in accordance with section 37C(1)(j) of the Act or any subsequent date agreed between the credit union and the member to whom the loan has been made;

“house” means any building or part of a building used or suitable for use as a dwelling and any outhouse, yard, garden or other land appurtenant thereto or usually enjoyed therewith;

“house loan” means a loan made to a member secured by property for the purpose of enabling the member to:

- a) have a house constructed on the property as their principal residence;
- b) improve or renovate a house on the property that is already used as their principal residence,
- c) buy a house that is already constructed on the property for use as their principal residence, or
- d) refinance a loan previously provided for one of the purposes specified in (a), (b) or (c) for the same purpose;

“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;

“Irish and EEA State Securities” means transferable securities issued by the Irish State and other EEA States and traded on a regulated market;

“member of the family” means in relation to any person, that person’s father, mother, spouse or civil partner, cohabitant, son, daughter, brother, or sister;

“minimum reserve deposit account” means the account that the credit union must hold with the Bank in accordance with Regulation (EC) No. 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves, as that framework may be applied and amended from time to time;

“personal loan” means a loan to a natural person, once the loan is for purposes unrelated to the person’s trade, business, profession or the purchase of property;

“Personal Retirement Savings Account”, “PRSA” and “PRSA Provider” each have the same meaning as in Part X of the Pensions Act 1990;

“regulated market” means a multilateral system as defined in Article 4 of Directive 2004/39/EC;

“related company” means companies related within the meaning of section 2(1) of the Companies Act 2014;

“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;

“significant shareholding” means 10 per cent or more of the shares or voting rights in the business;

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

“total realised reserves” means the regulatory reserves of the credit union held in accordance with, and for the purposes of, Part 2 of these Regulations and section 45 of the Act, plus any other realised reserves held by the credit union;

“total savings” means, in respect of a member, those savings referred to in section 27(1) of the Act and any other amounts held by a credit union;

“unattached savings” means those total savings which are not attached to loans or otherwise pledged as security and are withdrawable by members.

- (2) A word or expression used in these Regulations and also used in the Act has, unless the contrary intention appears, the same meaning in these Regulations that it has in the Act.

3. Guidance

This Chapter sets out the definitions of terms provided in:

- section 2 of the 1997 Act; and
- Part 1 of the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016.

3.1 Definitions provided in section 2 of the 1997 Act

The definitions in section 2 of the 1997 Act apply to terms wherever they occur in the 1997 Act. In addition, such definitions also apply where they appear generally in the Credit Union Acts 1997 to 2012 (which encompasses the 2012 Act in addition to the 1997 Act) unless otherwise stated. While the majority of definitions contained in the 1997 Act are provided in section 2 of the 1997 Act, a definition that applies to a term used only in a specific section or Part of the 1997 Act may not be defined in section 2 of the 1997 Act but may be defined in the section or Part where it is used. For example, “systems and controls” is defined in section 76B(1) of the 1997 Act which relates to risk management systems and systems and control.

3.2 Definitions provided in Part 1 of the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016

The definitions in Part 1 of the Regulations apply to terms wherever they occur in the Regulations.