

# SAVINGS

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## Version History

Version	Date	Amendments
0.1	July 2013	Initial Version.
1.0	September 2013	No Amendments.
1.1	November 2015	<ul style="list-style-type: none"> <li>• Amended section 27 to reflect commencement of section 8 of the 2012 Act.</li> <li>• Amended section 28(5) to reflect the commencement of item 9 of schedule 1 of the 2012 Act.</li> <li>• Amended section 30(5)(a) to reflect item 10 of schedule 1 of the 2012 Act.</li> <li>• Inserted the Regulations in Section 2.</li> <li>• Updated Guidance in Section 3 on the savings limit.</li> </ul>
1.2	January 2016	<ul style="list-style-type: none"> <li>• Updated regulations in Section 2</li> <li>• Inserted section 27A of the Credit Union Act, 1997.</li> </ul>
1.3	March 2018	<ul style="list-style-type: none"> <li>• Guidance in relation to Savings Club Accounts.</li> </ul>



## 1. Legislation

### Section 27 – Raising of funds by shares and deposits\*

(1) A credit union may raise funds to be used for its objects—

(a) by the issue to its members of shares in the credit union (which may be withdrawable or non-withdrawable), and

(b) by the acceptance of money on deposit from a member,

and the cumulative amount of such shares in, and money on deposit (if any) with, the credit union is referred to in this Act as 'savings'.

(2) For the adequate protection of the savings of members of credit unions the Bank may prescribe requirements and limits for savings, including—

(a) the maximum amount of savings (expressed as a monetary amount or as a percentage of some monetary amount or determinable monetary amount) or category of savings a credit union member may hold,

(b) the ratio of total deposits from members that may be held by a credit union to total shares issued to members, and

(c) any other requirement or limit which the Bank considers necessary to prescribe.

(3) In prescribing matters for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements imposed by the regulations made by it are effective and proportionate having regard to the nature, scale and complexity of credit unions, or the category or categories of credit unions, to which the regulations will apply.

### Section 27A- Protection of members' savings\*

(1) In addition to its reporting functions under the Credit Union Acts 1997 to 2012 and complying with any matter prescribed under those Acts, a credit union shall maintain appropriate oversight, policies, procedures, processes, practices, systems, controls, skills, expertise and reporting arrangements to ensure the

protection of members' savings and that it complies with requirements imposed under the financial services legislation.

- (2) Without prejudice to the generality of subsection (1), the Bank may make regulations prescribing-
- (a) certain oversight, policies, procedures, processes, practices, systems, controls, skills, expertise and reporting arrangements which the credit union is required to maintain where the Bank considers this is appropriate in the interest of protecting members' savings or otherwise appropriate to ensure compliance with the requirements imposed under financial services legislation;
  - (b) requirements in relation to the oversight, policies, procedures, processes, practices, systems, controls, skills, expertise and reporting arrangements required to be maintained under this section.

#### **Section 28 - Shares: general provisions**

- (1) All shares in a credit union shall be of €1 denomination and, subject to the rules of the credit union, may be subscribed for either in full or by periodical or other subscriptions, but no share shall be allotted to a member until it has been fully paid in cash.
- (2) A credit union shall not issue to a member a certificate denoting ownership of a share.
- (3) All withdrawable shares in a credit union shall have equal rights.
- (4) All non-withdrawable shares in a credit union shall have equal rights, and repayments in respect of such shares shall not be capable of being made except as provided by this Act.
- (5) ≠ Notwithstanding *subsection (1)*, whenever its board of directors so recommends, a credit union may apply any sum standing to the credit of its reserves (other than the reserves required to be held under section 45) to the payment up of shares, and may issue the shares to members as fully paid-up bonus shares in the proportions to which the members would have been entitled if the sum concerned had been distributed by way of dividend.

**Section 29 – Transfer of shares**

- (1) A member of a credit union may transfer a share in the credit union to another member so long as—
- (a) the number of shares held by that other member does not exceed the limit imposed under this Act; and
  - (b) if the board of directors so require in any case, the transfer has the approval of the board.
- (2) No charge shall be made by a credit union in respect of a transfer of shares by a member, and such a transfer shall entitle the transferee to any dividends in respect of the transferred shares which are unpaid at the date of the transfer.
- (3) If, in a case where the board of directors of a credit union have imposed a requirement under *subsection (1)(b)*, the board refuses to approve the proposed transfer of shares in the credit union by a member, the member may appeal against the refusal to a Judge of the District Court for the district in which the registered office of the credit union is situated.
- (4) Notice of appeal under *subsection (3)* shall be in writing and shall set out the grounds on which the appeal is based; and, on the hearing of the appeal, the District Court may either confirm the refusal or direct the board of directors to approve the transfer.
- (5) A decision of the District Court on an appeal under *subsection (3)* shall be final, except that any question of law arising on the appeal may be referred to the Court for its determination; and, by leave of the Court, an appeal shall lie to the Supreme Court from every such determination.

**Section 30 – Dividends on shares**

- (1) At each annual general meeting of a credit union, a dividend on shares, not exceeding the permitted maximum, may be declared in respect of the preceding financial year by a resolution passed by a majority of the members present and voting.
- (2) A dividend so declared shall be paid on all shares in the credit union but, in the case of shares which have been held during part only of the financial year to which the

dividend relates, only a proportional part of the dividend shall be paid and, in determining such a proportional part, a part of a month may be disregarded.

- (3) The permitted maximum referred to in *subsection (1)* is ten per cent. of the nominal value of the shares of the credit union or such other percentage of that value as may for the time being be prescribed.
- (4) The rate of dividend declared under *subsection (1)* shall not exceed the rate recommended to the members by the board of directors.
- (5) No dividend on shares shall be paid otherwise than out of—
  - (a)  $\neq$  surplus funds in respect of the year in question (as ascertained under *section 45*) which are available for that purpose and have been accumulated after meeting the requirements to hold reserves in accordance with *section 45*; or
  - (b) a reserve set aside previous years to provide for dividends.

### **Section 31 – Interest on deposits**

- (1) Subject to *subsections (2)* and *(3)*, a credit union may pay interest on deposits at different rates determined from time to time by the board of directors.
- (2) The rate of any interest payable at any time by a credit union on deposits of a particular class shall be the same for all deposits of that class.
- (3)  $\neq$ A credit union shall ensure that the rate of interest offered at any time on deposits of any class does not exceed the rate of return received by the credit union from the employment of its funds, whether in the form of loans or investments.

### **Section 32 – Restrictions on the withdrawal of shares and deposits**

- (1) Notwithstanding anything in the rules of a credit union or in any contract, a credit union may require not less than 60 days' notice from a member of his intention to withdraw a share in the credit union and a member may not withdraw any shares at a time when a claim due on account of deposits is unsatisfied.
- (2) Notwithstanding anything in the rules of a credit union or in any contract, a credit union may require not less than 21 days' notice from a member of his intention to withdraw a deposit.

(3) ‡(a) If a member of a credit union seeks to withdraw savings in the credit union at a time when the member has an outstanding liability (including a contingent liability) to the credit union, whether as borrower, guarantor or otherwise, that withdrawal shall only be permitted—

(i) if the savings are not attached savings; or

(ii) where the savings are attached savings, if the withdrawal of such attached savings is approved by a majority of the members of the board of directors voting at a meeting of the board;

but no approval may be given under subparagraph (ii) if, were the withdrawal to be approved, the value of the member's attached savings immediately after the withdrawal would be less than 25 per cent of the member's outstanding liability.

(b) Any savings that existed in the credit union immediately before the commencement of this provision (inserted by the *Credit Union and Cooperation with Overseas Regulators Act 2012*) that were not withdrawable under this subsection immediately before that commencement shall be treated as attached savings after that commencement.

(c) Where the outstanding liability reduces below the level of attached savings, the amount of the attached savings shall not be greater than the outstanding balance of the loan.

(d) In this subsection—

'attached savings' means a share in, or deposit with, a credit union which is pledged in writing by a member as security for a loan at the time of the issuing of the loan to the member or guaranteed by the member;

'savings' means a share in, or deposit with, the credit union.

(4) If the Bank sees fit to do so in the circumstances of a credit union, it may, on such terms as it thinks proper, by notice in writing addressed to the credit union provide that *subsection (3)* shall apply in relation to the credit union with the substitution of a higher or lower percentage than that for the time being applicable to the credit union under that subsection.

- (5) Where a member of a credit union is indebted to the credit union and consents in writing to the credit union acting under this subsection, the credit union may, by way of set-off against the indebtedness, withdraw any of the member's shares or deposits; and such a withdrawal may be made notwithstanding anything in *subsections (2) and (3)*.

**Section 55 – Functions of board of directors\***

*(This Chapter has not reproduced the entirety of section 55 – please consult the Credit Union Act, 1997 for the full provision.)*

- (1) Without prejudice to the generality of section 53(1), the functions of the board of directors of a credit union shall include the following:

...

- (o) approving, reviewing, and updating, where necessary, but at least annually, all plans, policies and procedures of the credit union, including the following:

...

- (ii) policies in relation to members' shares and deposits including the setting of a maximum number of shares a member can hold and a maximum amount that a member may deposit;<sup>1</sup>

...

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<sup>1</sup> See the Chapter on "Liquidity" for a reference to this policy.



## 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:-

“the Bank” means the Central Bank of Ireland;

“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;

#### **PART 6**

#### **SAVINGS**

##### **Savings Requirement – Aggregate Liabilities**

34. The aggregate liabilities of a credit union in respect of deposits shall not at any time exceed 100 per cent of aggregate liabilities in respect of shares issued to members.

##### **Savings Limit**

35. Subject to Regulation 36 and 37, a credit union shall ensure that no member shall have total savings which exceed €100,000.

##### **Transitional Arrangements – Retention of savings in excess of €100,000**

36. (1) (a) Subject to paragraph (2), where, on the commencement of these Regulations, a member has total savings with a credit union in excess

of €100,000 the credit union shall repay to such members those savings in excess of €100,000.

- (b) For the purpose of subparagraph (a), the repayment shall occur as soon as possible and in any event within 12 months of the commencement of these Regulations or such other date that the Bank may permit.
- (2)
- (a) Where, on the commencement of these Regulations, a member has total savings with a credit union in excess of €100,000 the credit union may apply to the Bank for approval to continue to hold (but not increase) such savings.
  - (b) For the purpose of subparagraph (a), an application shall be submitted in writing to the Bank and contain such information as the Bank may specify from time to time.
  - (c) The Bank may grant approval for an application received under subparagraph (a) where the credit union has demonstrated and the Bank is satisfied that the granting of such approval is:
    - (i) consistent with the adequate protection of the savings of members; and
    - (ii) effective and proportionate, having regard to the nature, scale and complexity of the credit union.
  - (d) For the purpose of subparagraph (c) the Bank shall consider the following:
    - (i) the total realised reserve position of the credit union;
    - (ii) the asset size of the credit union, by reference to its total assets; and
    - (iii) such other matters that the Bank may specify from time to time.

#### **Approval for additional savings**

37. (1) A credit union may apply to the Bank for approval to increase individual member total savings in excess of €100,000.

- (2) For the purpose of paragraph (1), an application shall be submitted in writing to the Bank and contain such information as the Bank may specify from time to time.
- (3) The Bank may grant approval for an application received under paragraph (1) where the credit union has a minimum total asset size of €100,000,000 and has demonstrated and the Bank is satisfied that the granting of such approval is:
  - (a) consistent with the adequate protection of the savings of members; and
  - (b) effective and proportionate, having regard to the nature, scale and complexity of the credit union.
- (4) For the purpose of paragraph (3) the Bank shall consider the following:
  - (a) the total realised reserve position of the credit union; and
  - (b) such other matters that the Bank may specify from time to time.

#### **Regulations 36 and 37: Conditions on approval**

38. (1) Where the Bank grants an approval under Regulation 36 or 37, it may, at that time or at any other time, subject such approval to conditions with which the credit union shall comply.
- (2) Where a credit union fails to comply with a condition imposed pursuant to paragraph (1), the credit union shall notify the Bank as soon as possible and thereafter repay to such members those savings in excess of €100,000.
- (3) For the purpose of paragraph (2), the repayment shall occur as soon as possible and in any event within 12 months after the credit union has notified the Bank, or the Bank otherwise becomes aware, of the matters specified in paragraph (2) or such date as the Bank may permit or require.

## **3. Guidance**

### **3.1 Savings Limit**

The individual member savings limit of €100,000 in the Regulations applies on a per member basis. In calculating the total savings of each individual credit union member, the credit union needs to take account of monies held by each member in the credit union

across all types of accounts held by the member. This means that each member can only hold savings up to the total savings limit of €100,000 regardless of the number of accounts that the member holds. In general, savings in excess of €100,000 must be repaid to members. The repayment should be made as soon as possible and in any event within 12 months of the commencement of the Regulations.

The following are examples of the types of accounts that are included when calculating the total savings held by an individual member in a credit union:

- deposit accounts;
- share accounts;
- dormant accounts;
- joint accounts;
- saving stamps;
- budget accounts;
- clubs / associations;
- minor accounts.

The Central Bank expects that credit unions maintain sufficient records to ensure that money in all accounts can be attributed to individual members.

### **3.1.1 Joint accounts**

Where a member holds one or more accounts in the credit union, the limit on individual member savings applies on an aggregate basis, regardless of the manner in which savings are held in the credit union. Money in joint accounts is assumed to be split equally unless evidence shows that it should be split otherwise. The Central Bank expects credit unions to maintain sufficient records to ensure that members and their associated savings can be readily identified for calculation of total savings held by each individual member.

### **3.1.2 Saving stamps**

Under the Regulations, credit unions are required to maintain adequate records to allow savings stamps to be attributed to individual member accounts. In calculating the total savings a member holds in the credit union the amount a member holds in savings stamps needs to be taken into account. This includes savings stamps held in both hardcopy and on virtual cards. The Central Bank expects that savings stamps are non-transferable between members and each saving stamp issued is attributable to an individual member.

### **3.1.3 Budget accounts**

Where a credit union member holds a budget account, any positive balance in this account is included in the total members' savings calculation. Where this account is in a negative

balance, the total amount overdrawn from the account is not taken into account when calculating total members' savings.

#### **3.1.4 Clubs / associations**

Where clubs and associations hold savings in a credit union, the savings limit applies in respect of the total savings of the club or association. The club or association is treated as a single member for the purposes of applying the individual members' savings limit.

#### **3.1.5 Minor accounts**

Where a minor has an account in their own name, where a member is the signatory on the account, the individual member's savings limit applies in respect of the minor, whose name is on the account.

### **3.2 Calculation of the Savings Limit**

The following are matters that credit unions should consider in relation to the application of the individual member's savings limit:

- interest payable / payment of dividends;
- attached savings.

#### **3.2.1 Interest payable / Payment of Dividends**

Where payment of interest or a dividend would result in an individual member's savings exceeding €100,000 the Central Bank expects the credit union to take steps to avoid this situation arising. Credit unions should give consideration to paying out such amounts to the member to avoid such breaches occurring.

#### **3.2.2 Attached savings**

Attached savings are to be included when calculating the total savings held by an individual member in a credit union.

### **3.3 Savings Club Accounts**

Where a credit union operates a savings club account it should remain cognisant to the risks posed by such accounts including operational and reputational risks. A credit union may operate a savings club account where pooled savings of members of the credit union are held in one account. Typically, such accounts will be opened by two or more credit union members who will be named signatories on the account. These members will collect savings from other members of the credit union and deposit these in the account over a defined period of time. When this defined period has expired, the named signatories on the account will withdraw all funds in the account and return these funds to the individual members/savers (in the proportion with which they saved the funds over the defined

period). Typically such accounts operate as Christmas savings clubs which are opened in January with disbursements in December of each year.

The Central Bank expects credit unions to have operational procedures in place for such accounts in order to ensure compliance with all legislative and regulatory requirements including the Credit Union Act, 1997, the Credit Union 1997 (Regulatory Requirements) Regulations 2016 and the Criminal Justice (Money Laundering and Terrorist Finance) Act 2010, as amended by Part 2 of Criminal Justice Act 2013.

The guidance set out below should be followed at a minimum by all credit unions who operate savings club accounts of this nature. Only where a credit union is in a position to ensure that the below guidance can be followed should savings club accounts of this nature be operated.

- (1) The credit union should maintain a written policy which details the procedures for the operation of savings club accounts. This policy should be approved by the board of directors and reviewed on an annual basis.

This policy should at a minimum outline:

- (i) The organisational arrangements setting out the roles and responsibilities in relation to the operation of savings club accounts;
- (ii) The minimum number of account holders required for each savings club operated by the credit union;
- (iii) The operational procedures to be followed in the credit union in relation to the receipt and disbursement of funds from the savings club;
- (iv) The maximum amount which may be accepted into any savings club account, both in aggregate and from any individual saver. This should be determined in accordance with the credit union's risk appetite and to ensure compliance with all regulatory requirements and must take account of other savings which are held by members of the savings club with the credit union. This is particularly relevant in the context of ensuring compliance with the €100,000 individual member savings limit prescribed by Regulation 35 of the 2016 Regulations or any approval granted under Regulation 36 of the 2016 Regulations;
- (v) Any operational risks posed by the operation of a savings club and the risk mitigants proposed by the credit union to address such risks including ensuring that the operation of the savings club by the account holders of the savings club is operated to ensure that the savings of the beneficial owners of the funds (i.e. the relevant member) in the savings club are protected at all times;
- (vi) The dividend policy in relation to savings club accounts;

- (vii) Operational procedures for disbursements from savings club accounts. The Central Bank would expect that disbursements from savings club accounts are made payable to the beneficial owner of the funds (i.e. the relevant member) only in order to minimise the risk of misappropriation of saving club members' funds; and
- (viii) Details on the customer due diligence to be undertaken on all members of the savings club to ensure compliance with AML legislation.

(2) The credit union should ensure that a comprehensive and up to date list is maintained which includes the name and address of each member of each savings club.

(3) The credit union should ensure that, at any point in time, the monies owed to each individual member of an individual savings club can be clearly identified.

(4) A monthly reconciliation should be undertaken of each savings club account to ensure that the beneficial owners of all savings held in the account are known.

(5) The credit union should ensure that the monies held by an individual member with the credit union and the monies held by that individual member within a savings club can be readily identified for the purposes of assessing compliance with the €100,000 individual member savings limit, where applicable.

(6) The credit union should ensure that appropriate documentation is maintained on file for each individual member of the savings club for the purposes of assessing compliance with AML legislation.

(7) For the purposes of Prudential Return reporting to the Central Bank, the credit union should report the total savings held by each individual member in the credit union and this should include the savings held by the credit union member in a savings club account where applicable.

(8) A reconciliation should be performed at the end of each year or at the end of the defined period over which the savings club has operated to ensure that all monies received into the savings club account have been reimbursed to the individual members of the savings club in accordance with the amounts saved by each individual member of the savings club.

Where a credit union operates savings club accounts the Central Bank expects that such accounts and the operational procedures in relation to these accounts would be subject to periodic reviews by the internal audit function in the credit union with reports on the same supplied to the board of directors for review.