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

**Unofficial Consolidation**

This document is an unofficial consolidation of the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016 (S.I. No. 1 of 2016) as amended by the Credit Union Act 1997 (Regulatory Requirements) (Amendment) Regulations 2018 (S.I. No. 32 of 2018).<sup>1</sup>

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Central Bank of Ireland, 9 March 2018

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<sup>1</sup>Amendments made by S.I. No. 32 of 2018 come into operation on 1 March 2018.

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S.I. No. 1 of 2016

CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS) REGULATIONS 2016

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S.I. No.            of 2016

## CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS) REGULATIONS 2016

In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 182A of the Credit Union Act, 1997 (“the Act”), the Bank, having consulted with the Minister for Finance, the Credit Union Advisory Committee and other bodies that appear to the Bank to have expertise or knowledge of credit unions generally and that the Bank considers appropriate to consult in the circumstances, hereby makes the following Regulations.

### PART 1

#### PRELIMINARY AND GENERAL

##### *Citation and Commencement*

1. (1) These Regulations may be cited as the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016.
- (2) These Regulations commence on 1 January 2016.

##### *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;

[“approved housing body” means a housing body granted approval status under section 6 of the Housing (Miscellaneous Provisions) Act, 1992;]<sup>2</sup>

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

[“bank bond” means a senior bond issued by a credit institution and traded on a regulated market where the capital amount invested is guaranteed by the issuer and, for the avoidance of doubt, does not include any bond that is subordinated to any other liability of that credit institution;]<sup>3</sup>

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<sup>2</sup>Inserted by Regulation 3(c) of S.I. No. 32 of 2018.

<sup>3</sup>Inserted by Regulation 3(a) of S.I. No. 32 of 2018

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“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;

[...] <sup>4</sup>

“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;

[“corporate bond” means a bond issued by a company and traded on a regulated market excluding the following:

- (a) a bond issued by a credit institution;
- (b) a bond issued by a holding company of a credit institution;]<sup>5</sup>

“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;

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<sup>4</sup>Definition of ‘collective investment schemes’ deleted by Regulation 3(b) of S.I. No. 32 of 2018.

<sup>5</sup>Inserted by Regulation 3(c) of S.I. No. 32 of 2018

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[“credit rating” has the same meaning as it has in Article 3(1)(a) of Regulation (EC) No. 1060/2009 of the European Parliament and of the Council of 16 September 2009<sup>6</sup> on credit rating agencies;]<sup>7</sup>

“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;

[“holding company” means a company whose business consists wholly or mainly of the holding of shares or securities of other companies;]<sup>8</sup>

“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;

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<sup>6</sup>OJ No. L302, 17.11.2009, p. 1

<sup>7</sup>Inserted by Regulation 3(c) of S.I. No. 32 of 2018

<sup>8</sup>Inserted by Regulation 3(c) of S.I. No. 32 of 2018

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“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;

[“recognised rating agency” means a credit rating agency that is registered or certified in accordance with Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009<sup>9</sup> on credit rating agencies;]<sup>10</sup>

“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

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<sup>9</sup>OJ No. L302, 17.11.2009, p. 1

<sup>10</sup>Inserted by Regulation 3(c) of S.I. No. 32 of 2018

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- (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;

[“supranational bond” means a bond issued by a supranational institution, being an institution formed by two or more central governments with the purpose of promoting economic development for the member countries;]<sup>11</sup>

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

[“Tier 3 Approved Housing Body” means a housing body granted approval status under section 6 of the Housing (Miscellaneous Provisions) Act, 1992 and classified as Tier 3 under the Voluntary Regulation Code for Approved Housing Bodies in Ireland;]<sup>12</sup>

“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;

[“UCITS” means an undertaking authorised as an undertaking for collective investment in transferable securities by the Bank or by a competent authority of another EEA State pursuant to Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009<sup>13</sup> on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS);]<sup>14</sup>

“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.

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<sup>11</sup>Inserted by Regulation 3(c) of S.I. No. 32 of 2018

<sup>12</sup>Inserted by Regulation 3(c) of S.I. No. 32 of 2018

<sup>13</sup>OJ No. L302, 17.11.2009, p. 32

<sup>14</sup>Inserted by Regulation 3(c) of S.I. No. 32 of 2018

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## PART 2

### RESERVES

#### *Reserves Perpetual in Nature and Available to Absorb Losses*

3. (1) A credit union shall ensure that all reserves held in accordance with, and for the purpose of, this Part and section 45 of the Act are:
  - (a) perpetual in nature;
  - (b) freely available to absorb losses;
  - (c) realised financial reserves that are:
    - (i) unrestricted; and
    - (ii) non-distributable.
- (2) For the purpose of paragraph (1), any instrument classified or contributing to a reserve shall, in order to be eligible:
  - (a) not be secured or subject to a guarantee which enhances its seniority;
  - (b) be permanent and without an obligation for repayment of principal;
  - (c) have no preferential distribution rights;
  - (d) rank below all other claims in the event of a liquidation;
  - (e) qualify as a reserve for accounting purposes.

#### *Regulatory Reserve Requirement*

4. (1) Subject to paragraph (2), a credit union shall establish and maintain a minimum regulatory reserve requirement of at least 10 per cent of the assets of the credit union.
- (2) A newly registered credit union shall establish and maintain an initial reserve requirement that:
  - (a) is sufficient to meet the credit union's anticipated growth over 3 years;
  - (b) takes account of operating losses that can be expected to occur until the credit union reaches an operationally viable performance level; and
  - (c) is at least equal to the greater of:
    - (i) €10,000; or

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- (ii) minimum regulatory reserve requirement specified in paragraph (1).

#### *Reporting Requirements*

- 5. (1) A credit union shall monitor its reserves on a continuous basis to ensure compliance with this Part and section 45 of the Act.
- (2) Where a credit union fails, or is likely to fail, to comply with its reserve requirement in this Part or section 45 of the Act, the credit union shall notify the Bank in writing no later than close of business of the next business day.

#### *Dividends*

- 6. Where a credit union has complied with the requirements in this Part and section 45 of the Act, but has recorded a deficit in its annual accounts and is proposing to pay a dividend and/or a loan interest rebate, the credit union shall inform the Bank in writing at least 3 weeks before it gives notice of its Annual General Meeting, as required under section 80(3) of the Act.

### PART 3

#### LIQUIDITY

#### *[Interpretation - Part 3]*

- 7. (1) In this Part "relevant liquid assets" means the following unencumbered assets only:
  - (a) cash;
  - (b) investments with a maturity of less than 3 months, excluding the minimum reserve deposit account and the deposit protection account;
  - (c) Irish and EEA State Securities, bank bonds and supranational bonds with a maturity of greater than 3 months, held either directly or through a UCITS, provided that all such Irish and EEA State Securities and supranational bonds comply with the minimum rating requirements specified in Regulation 29(1) or 29(3).
- (2) For the purposes of calculating the minimum liquidity ratio specified in Regulation 8(1), the following discounts shall be applied in valuing the relevant liquid assets specified in paragraph (1)(c):

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- (a) where such investments have a maturity of greater than three months and less than one year, a 10 per cent discount shall be applied to the market value of such investments;
- (b) where such investments have a maturity of at least one year but less than 5 years, a 30 per cent discount shall be applied to the market value of such investments;
- (c) where such investments have a maturity of at least 5 years and up to 10 years, a 50 per cent discount shall be applied to the market value of such investments.

#### *Liquidity Requirements*

8. (1) A credit union shall establish and maintain a minimum liquidity ratio of relevant liquid assets of at least 20 per cent of its unattached savings, subject to the following:
- (a) at least 2.5 per cent of unattached savings shall be comprised of cash and investments with a maturity of less than 8 days;
  - (b) no more than 10 per cent of unattached savings shall be comprised of the relevant liquid assets specified in Regulation 7(1)(c), after application of the applicable discounts specified in Regulation 7(2).

#### *Reporting Requirements*

9. (1) A credit union shall monitor its liquidity ratio on a continuous basis to ensure compliance with the liquidity requirements in this Part and in the Act.
- (2) Where a credit union is failing, or likely to fail to comply, with the liquidity requirements in this Part or in the Act, it shall notify the Bank in writing no later than close of business on the next business day.]<sup>15</sup>

#### *Transitional Arrangements*

10. [...] <sup>16</sup>

## PART 4

## LENDING

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<sup>15</sup>Substituted by Regulation 4 of S.I. No. 32 of 2018

<sup>16</sup>Deleted by Regulation 4 of S.I. No. 32 of 2018

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### *Categories of Lending*

11. (1) A credit union shall only make loans that fall within the following categories:
- (a) Personal loans;
  - (b) Commercial loans;
  - (c) Community loans;
  - (d) House Loans;
  - (e) Loans to other credit unions.
- (2) A commercial loan granted by a credit union, where the total amount of commercial loans granted to a borrower, or group of borrowers who are connected, is less than €25,000, is not subject to Regulations 12(a) or 16. For the purposes of paragraph (2), a commercial loan is included in the calculation of commercial loans until the commercial loan has been repaid in full.

### *Concentration Limits*

12. A credit union shall not make:
- (a) a commercial loan, where such a loan would cause the total amount of outstanding commercial loans of the credit union to exceed 50 per cent of the credit union's regulatory reserve,
  - (b) a community loan, where such a loan would cause the total amount of outstanding community loans to exceed 25 per cent of the credit union's regulatory reserve, or
  - (c) a loan to another credit union, where such a loan would cause the total amount of outstanding loans to other credit unions to exceed 12.5 per cent of the credit union's regulatory reserve.

### *Large Exposure Limit*

13. (1) A credit union shall not make a loan to a borrower or a group of borrowers who are connected which would cause the credit union to have a total exposure to the borrower or group of borrowers who are connected of greater than €39,000 or 10 per cent of the regulatory reserve of the credit union.

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- (2) Where an exposure to a borrower or group of borrowers who are connected exceeds the limit set out in paragraph (1), the credit union must hold the amount of the exposure that is in excess of the limit in a realised reserve, separate from the regulatory reserve of the credit union.
- (3) The requirement specified in paragraph (2) shall not apply to exposures existing at the time of the commencement of these Regulations, for a period of 2 years from the commencement of these Regulations.

#### *Maturity Limits*

14. (1) A credit union shall not make a loan to a member:–
  - (a) for a period exceeding 5 years if, were the loan to be made, the total gross amount outstanding in relation to all loans with more than 5 years to the final repayment date would exceed –
    - (i) 30 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or
    - (ii) if the Bank so approves in writing, 40 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or
  - (b) for a period exceeding 10 years if, were the loan to be made, the total gross amount outstanding in relation to all loans with more than 10 years to the final repayment date would exceed –
    - (i) 10 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or
    - (ii) if the Bank so approves in writing, 15 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union.
- (2) The Bank may impose on approval, for the purposes of subparagraph (a)(ii) or (b)(ii) of this Regulation, any condition that the Bank considers appropriate.
- (3) A credit union shall not make a loan to a member for a period exceeding 25 years.

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#### *Requirement for House Loans*

15. A credit union shall only grant a house loan where it holds the first legal charge on the property in respect of which the loan is to be provided.

#### *Lending Practices for Specific categories of Lending*

16. (1) A credit union shall only grant a commercial loan, community loan or loan to another credit union where a comprehensive business plan and detailed financial projections (supported by evidence based assumptions), appropriate for the scale and complexity of the loan, are provided and in place before granting the relevant loan.
- (2) A credit union shall report on the performance of loans, in writing, to the board of directors of the credit union on a monthly basis. For the purposes of paragraph (2), such a report shall include details on the performance of commercial loans, community loans and loans to other credit unions.

#### *General Lending Practices*

17. (1) A credit union shall permit a member to repay a loan on any day that the credit union is open for business (including opening hours of branch or otherwise available for business).
- (2) A credit union shall establish and maintain the matters specified below in writing:
- (a) limits in respect of credit concentration and loan portfolio diversification including the maximum amount of commercial lending, community lending and lending to other credit unions; and
- (b) processes which the credit union will follow in relation to arrears management and rescheduling.
- (3) A credit union shall ensure that its credit assessment process is based on coherent and clearly defined criteria and that the process of approving loans and amending loans is clearly established and documented in its credit policy.

#### *Related Parties - General*

18. (1) A credit union shall not make a loan to a related party which would provide that party with more favourable terms than a loan by the credit union to non-related parties (including,

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without limitation, terms as to credit assessment, duration, interest rates, amortisation schedules, collateral requirements).

- (2) A credit union shall not manage a loan to a related party on more favourable terms than a loan by the credit union to non-related parties (including but not limited to varying the terms of a loan, permitting rescheduling, interest roll-up, granting a grace period for payment, loan write-off in whole or in part, provisioning against a loan, decisions to take or not to take enforcement action).

#### *Related Parties - Specific*

19. (1) Subject to Regulation 18, a credit union shall ensure that the making of a loan to a related party is subject to individual prior approval in writing by the credit committee and that actions in relation to the management of a loan are subject to individual prior approval in writing by the credit committee or the credit control committee of the credit union as appropriate.
- (2) A credit union shall exclude individuals on the credit committee or the credit control committee with conflicts of interest in relation to matters specified in paragraph (1).

#### *Related Parties – Exempt Exposures*

20. (1) Regulations 19 and 21 do not apply where the total credit union exposure to the related party is not greater than €2,000.
- (2) In relation to exempt exposures referred to in paragraph (1), a credit union shall ensure that:-
  - (a) the credit union monitors these loans to ensure that the limit imposed is not exceeded;
  - (b) a register of these loans recording how it has complied with this requirement is maintained by the credit union; and
  - (c) a report on these loans is reviewed and approved by the board of directors of the credit union on a quarterly basis.

#### *Related Parties – Recording and Monitoring Requirements*

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21. (1) A credit union shall record and monitor loans made to related parties and report, in writing, to the board of directors on related party loans on a monthly basis. Such a report shall include details of loans advanced to related parties during the month, total loans outstanding to related parties, the performance of loans to related parties and actions in respect of the management of loans to related parties.
- (2) A credit union shall ensure that the internal audit function assesses, at least annually, the compliance or otherwise by a credit union with Regulation 19 and paragraph (1) of this Regulation and, after each assessment, submit a written report to the board of directors indicating their findings and conclusions and, where appropriate, making recommendations on any changes required.

#### *Related Parties – Credit Policy*

22. A credit union shall include the process in relation to lending to a related party in its Credit Policy.

#### *Lending Policies*

23. A credit union shall, at a minimum, establish and maintain the following written lending policies:-
- (a) Credit Policy;
  - (b) Credit Control Policy; and
  - (c) Provisioning Policy.

#### *Transitional Arrangements*

24. (1) Nothing in these Regulations shall render unlawful any loan made in accordance with or under the Act to a member before the commencement of these Regulations.
- (2) Where, at the commencement of these Regulations, a credit union is failing to comply with the requirements in this Part, that credit union shall only make a loan where the making of such a loan would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.

## PART 5

### INVESTMENTS

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#### *[Classes of Investments]*

25. (1) A credit union may only invest in euro denominated investments in the following:

- (a) Irish and EEA State Securities;
- (b) supranational bonds;
- (c) accounts in credit institutions;
- (d) bank bonds;
- (e) corporate bonds;
- (f) regulated investment vehicles where the underlying investments of the regulated investment vehicle are investments in Tier 3 Approved Housing Bodies;
- (g) UCITS;
- (h) shares of, and deposits with, other credit unions;
- (i) shares of a society registered under the Industrial and Provident Societies Act 1893 to 1978, provided the society is not an approved housing body.

(2) For the purposes of Regulation 25(1)(f), the underlying investments of a regulated investment vehicle in a Tier 3 Approved Housing Body shall consist exclusively of loans or other forms of debt financing provided by the regulated investment vehicle to the Tier 3 Approved Housing Body.

(3) A credit union may invest in a UCITS only where -

- (a) the underlying investments of the UCITS are composed of instruments specified in Regulation 25(1)(a), (b), (c), (d) or (e) (or any combination of such instruments),
- (b) the UCITS has total assets with a value of at least €150 million, and
- (c) the making of such an investment would not cause a credit union to fail to comply with this Part.

(4) The Bank may prescribe from time to time, in accordance with section 43 of the Act, further classes of investments in which a credit union may invest its funds which may include investments in projects of a public nature. Investments in projects of a public nature include, but are not limited to, investments in social housing projects.

#### *Counterparty Limits*

26. (1) A credit union shall not make an investment with a counterparty which, were that investment to be made, would cause the credit union's investments with that counterparty to exceed 20 per cent of the credit union's total value of investments.

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(2) A credit union shall not make a direct investment in corporate bonds issued by a particular counterparty which, were that investment to be made, would cause the credit union's direct investments in corporate bonds issued by that counterparty to exceed 5 per cent of the total value of the credit union's regulatory reserve.

#### *Concentration Limits*

27. (1) A credit union shall not make an investment in Irish and EEA State Securities, either directly or through a UCITS, which would cause the credit union's combined investments in Irish and EEA State Securities and supranational bonds, held directly or through a UCITS, to exceed 70 per cent of the total value of the credit union's investments.

(2) A credit union shall not make an investment in supranational bonds, either directly or through a UCITS, which would cause the credit union's combined investments in Irish and EEA State Securities and supranational bonds, held directly or through a UCITS, to exceed 70 per cent of the total value of the credit union's investments.

(3) A credit union shall not make an investment in bank bonds, either directly or through a UCITS, which would cause the credit union's investments in bank bonds, held directly or through a UCITS, to exceed 70 per cent of the total value of the credit union's investments.

(4) A credit union shall not make an investment in corporate bonds, either directly or through a UCITS, which would cause the credit union's investments in corporate bonds, held directly or through a UCITS, to exceed 50 per cent of the credit union's regulatory reserve.

(5) A credit union shall not make an investment in a regulated investment vehicle referred to in Regulation 25(1)(f) which would cause the credit union's investments in such regulated investment vehicles to exceed-

- (a) 50 per cent of the credit union's regulatory reserve, where the credit union has assets of at least €100 million, or
- (b) 25 per cent of the credit union's regulatory reserve, where the credit union has assets of less than €100 million.

(6) A credit union shall not make an investment in another credit union which would cause the credit union's investments in other credit unions to exceed 12.5 per cent of the credit union's regulatory reserve.

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(7) A credit union shall not make an investment in the shares of a society referred to in Regulation 25(1)(i) which would cause the credit union's investments in shares in societies referred to in Regulation 25(1)(i) to exceed 12.5 per cent of the credit union's regulatory reserve.

#### *Maturity Limits*

28. (1) With the exception of an investment in a regulated investment vehicle referred to in Regulation 25(1)(f), a credit union shall not make an investment, either directly or through a UCITS, which has a maturity date which exceeds 10 years from the date of the investment.

(2) A credit union shall not make an investment in a regulated investment vehicle referred to in Regulation 25(1)(f) where the underlying investments of that regulated investment vehicle have a maturity date which exceeds 25 years from the date of the investment.

(3) A credit union shall not make an investment which would cause the credit union to have more than 30 per cent of its investments maturing after 7 years.

(4) A credit union shall not make an investment which would cause the credit union to have more than 50 per cent of its investments maturing after 5 years.

#### *Minimum Rating Requirements*

29. (1) A credit union may invest directly in -

- (a) Irish and EEA State Securities, or
- (b) supranational bonds,

only where at least two recognised rating agencies have assigned to those investments a credit rating of investment grade or higher.

(2) A credit union may invest in corporate bonds directly only where at least two recognised rating agencies have assigned to each such investment a credit rating that is at least equivalent to an A3 rating on the rating scale issued by Moody's Investor Service.

(3) A credit union may invest in UCITS where the underlying investments of the UCITS are composed of -

- (a) Irish and EEA State Securities,
- (b) supranational bonds, or

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(c) corporate bonds,

only where at least one recognised rating agency has assigned to each such underlying investment of the UCITS a credit rating of investment grade or higher.

(4) Subject to Regulation 33(2), where an investment made by a credit union no longer complies with the minimum rating requirements specified in paragraph (1), (2) or (3), a credit union shall divest itself of that investment as soon as possible.

#### *Holding of Investments*

30. A credit union shall ensure that any investments made remain in compliance with the investment requirements in this Part.

#### *Investment Practices - Distribution of Investment Income/ Investment Gain*

31. A credit union shall not distribute from its annual operating surplus, investment income or an investment gain to members or transfer investment income or an investment gain to a reserve set aside to provide for dividends, unless the investment income or investment gain falls within the following:

- (a) investment income or an investment gain received by the credit union at the balance sheet date;
- (b) investment income that will be received by the credit union within 12 months of the balance sheet date.

#### *Investment Practices - Concentration Risk*

32. A credit union shall establish and maintain a written strategy having regard to section 43 of the Act to manage concentration risk which can result from dealing with a single counterparty or holding investments with similar characteristics like maturities and to ensure investments remain within the limits contained in these Regulations.

#### *Transitional Arrangements*

33. (1) Where, on 1 March 2018, a credit union has investments made in accordance with legislative requirements applicable at the time of the investment which do not comply with the requirements in this Part, the credit union shall (subject to paragraph (2)):

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- (a) take such actions as are necessary in relation to those investments in order to ensure compliance with this Part –
  - (i) as soon as possible without incurring a loss, and
  - (ii) in any event not later than 1 March 2020 or such later date as the Bank may permit;
- (b) only make an investment where the making of such an investment would not cause the credit union to either –
  - (i) fail to comply with any of the requirements in this Part, or
  - (ii) exacerbate a failure existing on 1 March 2018 to comply with any of the requirements in this Part.

(2) A credit union may hold to maturity all fixed term investments made in accordance with legislative requirements applicable at the time of the investment and held by that credit union on 1 March 2018.]<sup>17</sup>

## 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.

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<sup>17</sup>Substituted by Regulation 5 of S.I. No. 32 of 2018

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- (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:

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- (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.
- (2) 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.

## PART 7

### BORROWING

*Interpretation – Part 7*

39. In this Part the word “borrow” or any word which is a variant, derivative or translation of, or is analogous to that word shall not include the issue of shares, or the acceptance of deposits from members of the credit union in accordance with the Act.

*Borrowing Limit*

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40. A credit union may borrow money, on security or otherwise, so long as the total amount outstanding in respect of monies so borrowed does not at any time exceed 25 per cent of the total savings of the credit union.

*Borrowing Requirement – Notice to Bank*

41. Where a credit union proposes to borrow in accordance with Regulation 40, the credit union shall provide at least 28 days' notice in writing to the Bank of its intention to undertake the proposed borrowing.

*Borrowing Requirement - Calculation*

42. For the purposes of Regulation 40, when calculating the total amount outstanding in respect of moneys borrowed by a credit union at any time, an overdraft received from its banker shall be disregarded.

*Borrowing Policy*

43. A credit union shall establish and maintain a written policy in relation to borrowing. The board of directors of the credit union shall, at least annually, review, update and approve this policy.

*Transitional Arrangements*

44. Where, at the commencement of these Regulations, a credit union has borrowings made in accordance with or under the Act which exceed the requirements in this Part, the credit union shall:
- (a) reduce those borrowings in order to ensure compliance with this Part;
    - (i) as soon as possible without incurring a loss; and
    - (ii) in any event not later than the second anniversary of the commencement of these Regulations or such later date as the Bank may permit, and
  - (b) only borrow where such borrowing would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.

PART 8

SYSTEMS, CONTROLS AND REPORTING ARRANGEMENTS

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### *Risk Register*

45. (1) A credit union shall establish and maintain a written risk register, maintained by a risk management officer, that documents the risks that the credit union is, or may be, exposed to and the systems and controls that the credit union has established to manage and mitigate those risks.
- (2) A credit union shall ensure that the board of directors of the credit union review and approve the risk register, at least annually, to ensure that the risks that the credit union is, or may be, exposed to are contained on the risk register and that the systems and controls are appropriate to manage and mitigate these risks.

### *Plans, Policies and Procedures*

46. (1) A credit union shall establish and maintain, in writing, all policies specified in section 55(1)(o) of the Act.
- (2) A credit union shall ensure that the matters specified below shall be communicated to all officers in the credit union following any updates made, including the review, approval and update by the board of directors required at least annually of:
- (a) the risk management policy;
  - (b) the business continuity plan;
  - (c) the conflicts of interest policy; and
  - (d) the standards of conduct and ethical behaviour of officers.
- (3) A credit union shall document, approve and update, at least annually, the matters specified in Schedule 1 to these Regulations.
- (4) A credit union shall, at a minimum, establish and maintain information systems and management information policies which include:
- (a) a management information policy;
  - (b) an information security policy;
  - (c) an information systems change management policy; and

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- (d) an information systems asset management policy.

#### *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.

### PART 9

#### SERVICES EXEMPT FROM ADDITIONAL SERVICES REQUIREMENTS

##### *Performing Services*

48. (1) The services set out in Schedule 2 to these Regulations are services prescribed by the Bank for the purposes of section 48(2)(b) of the Act.
- (2) A credit union shall not perform the services specified in Schedule 2 to these Regulations unless the appropriate conditions specified in that Schedule are fulfilled.

### PART 10

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## MISCELLANEOUS

### *Revocations*

49. The following are revoked:

- (a) The Credit Union Act 1997 (Section 85) Rules 2009 (S.I. No. 344 of 2009); and
- (b) The Credit Union Act 1997 (Section 85) Rules 2010 (S.I. No. 515 of 2010).

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#### SCHEDULE 1

1. The systems of control of its business and records required under section 108(1)(b) of the Act,
2. A succession plan for the board of directors and the management team which shall detail the key skills and competencies required for members of the board of directors and management team,
3. The annual review of overall performance carried out by the board of directors as required under section 55(4) of the Act,
4. The annual compliance statement, together with supporting documentation used in the preparation of the compliance statement.

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## SCHEDULE 2

### **Telephone, internet and fax access to the credit union by the member.**

#### **1. (1) Access by telephone,**

- (a) that is to say any service by which the credit union member may by telephone using a unique number or password allocated by the credit union to the member,
  - (i) obtain information on the member's credit union accounts, including the balance of the member's share, deposit and loan accounts with that credit union,
  - (ii) transfer funds between accounts,
  - (iii) request a withdrawal from share and deposit accounts,
  - (iv) apply for a loan and calculate loan repayments,
- (b) conditions to be fulfilled -
  - (i) the relevant registration form in relation to such access must be completed by the parties concerned prior to the commencement of such a service,
  - (ii) loan approval is subject to the relevant loan application forms and other necessary documentation in relation to such transactions being completed by the parties concerned.

#### **(2) Access by internet,**

- (a) that is to say any service by which a credit union member may by internet using a unique number or password allocated by the credit union to the member,
  - (i) obtain information on the member's credit union accounts, including the balance of the member's share, deposit and loan accounts with that credit union,
  - (ii) transfer funds between accounts,
  - (iii) request a withdrawal from share and deposit accounts,
  - (iv) apply for loans and calculate loan repayments,
- (b) conditions to be fulfilled -

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- (i) the relevant registration form in relation to such access must be completed by the parties concerned prior to the commencement of such a service,
- (ii) loan approval is subject to the relevant loan application forms and other necessary documentation in relation to such transactions being completed by the parties concerned.

**(3) Loan applications by fax,**

- (a) that is to say any service by which credit union members may submit details necessary for loan applications in the form of a fax,
- (b) condition to be fulfilled -  
  
loan approval is subject to the relevant loan application forms and other necessary documentation in relation to such transactions being completed by the parties concerned.

**2. Third Party Payments,**

that is to say any service whereby a credit union member may arrange to have transferred to or from the member's account third party payments by way of electronic funds transfer or otherwise.

**3. Automated teller machine services (ATMs),**

- (a) that is to say a service which enables a credit union member to withdraw funds from the member's credit union account by means of a credit union branded ATM card,
- (b) conditions to be fulfilled -
  - (i) terms and conditions of use of such a card must be agreed by the credit union and the member,
  - (ii) the member must complete the relevant registration form prior to the issue of the card.

**4. Insurance services,**

- (a) that is to say any service the credit union may provide to its members in respect of each of the following categories:
  - (i) loan protection and life savings insurance (including related riders);

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- (ii) travel insurance;
- (iii) home insurance;
- (iv) motor insurance;
- (v) repayment protection insurance.

(b) condition to be fulfilled -

these services must be provided on an agency basis and the insurer must be authorised by the Bank.

**5. Group health insurance schemes,**

that is to say a service by which a credit union may provide to its members a discount scheme with an undertaking which is registered in the Register of Health Benefits Undertakings within the meaning of the Health Insurance Acts 1994-2013. The subscription to such a scheme may, at the credit union member's request, be discharged from the member's account.

**6. Discount for goods and services,**

(a) that is to say a service by which the credit union may negotiate, on behalf of its members, discounts for the supply of goods and services to be purchased by those members,

(b) condition to be fulfilled -

any such contract must be between the supplier of the goods and services and the credit union member and the credit union must not be a party to such contracts.

**7. Budget account scheme,**

(a) that is to say a service by which the credit union may agree to provide members with a budget account, on which a credit facility may be offered, and charges (including a participation fee) may be made, into which members pay agreed regular sums and from which the credit union will discharge, on the members' behalf, a list of bills agreed with each member as and when they fall due.

(b) condition to be fulfilled –

the credit union must account separately in its books for all such transactions.

**8. Bill payment services,**

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that is to say a service by which a credit union member may have a utility or other household bill paid by the credit union, either by debiting the member's account or by using cash supplied by the credit union member.

**9. Euro drafts and bureau de change**

(a) that is to say a service the credit union may provide to its members whereby a credit union member may-

- (i) purchase euro drafts,
- (ii) purchase foreign currency drafts, travellers cheques and travel money cards,
- (iii) purchase or sell foreign currency,

(b) conditions to be fulfilled -

- (i) these services must be provided on an agency basis and the principal must be licensed to provide such services,
- (ii) the credit union must be indemnified for the provision of these services under an insurance policy in accordance with section 47 of the Act,
- (iii) the credit union must charge the members any expenses incurred for the provision of these services and may in addition retain its own commission,
- (iv) the credit union must account in its books for all such transactions.

**10. Money transfers,**

(a) that is to say a money transmission service the credit union may provide to its members,

(b) conditions to be fulfilled -

- (i) this service must be provided on an agency basis,
- (ii) the credit union must be indemnified for the provision of these services under an insurance policy in accordance with section 47 of the Act,
- (iii) the credit union must charge the members any expenses incurred for the provision of these services and may in addition retain its own commission,
- (iv) the credit union must account in its books for all such transactions.

**11. Money Advice and Budgeting Service,**

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that is to say any service provided by a credit union to its members under the Money Advice and Budgeting Service which is funded and supported by the Citizens Information Board.

**12. Service centres,**

(a) that is to say a service a credit union may provide its members for photocopying, fax and computer facilities to be made available on the credit union premises,

(b) condition to be fulfilled –

the credit union may charge a fee for this service.

**13. Draws,**

(a) the credit union may carry out regular draws for which members are eligible to enter on payment of a regular subscription,

(b) condition to be fulfilled –

such draws must be conducted on a break-even basis.

**14. Standing orders,**

that is to say a service which may be provided by a credit union whereby a member may instruct the member's credit union to debit the member's accounts, and pay a fixed sum at regular intervals to a specified payee. Credit unions may charge members for the provision of this service.

**15. Direct debits,**

that is to say a service whereby the credit union may make payments to a payee designated by the credit union member on specified dates. Such payments may vary and the account of the member shall be debited accordingly on each occasion. Credit unions may charge members for the provision of this service.

**16. Financial Counselling,**

(a) that is to say a service by which a credit union member may receive, free of charge, advice on the use and management of the member's funds in the credit union,

(b) condition to be fulfilled -

the credit union must be indemnified for the provision of this service under an insurance policy in accordance with section 47 of the Act.

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**17. Will making,**

- (a) that is to say a service arranged by the credit union by which a solicitor is available in the credit union from time to time, to take instructions and draw up wills and other testamentary documents for credit union members,
- (b) conditions to be fulfilled -
  - (i) the solicitor concerned must be a practising solicitor within the meaning of the Solicitors Acts 1954 to 2008,
  - (ii) the solicitor concerned must be one in respect of whom a policy of professional indemnity insurance under the Solicitors Acts 1954 to 2008 is in force in relation to that solicitor as respects the service referred to in paragraph (a).

**18. Gift cheques,**

that is to say a service by which a credit union member may purchase a cheque made payable to a third party in return for payment of that amount. Credit unions may charge members for the provision of this service.

**19. Electricity budget meter cards or tokens,**

that is to say a service by which a credit union member may purchase electricity budget meter cards or tokens from the member's credit union to facilitate payment of the member's electricity expenses.

**20. Savings Stamps,**

- (a) that is to say a service by which a credit union member may purchase savings stamps issued by the credit union,
- (b) condition to be fulfilled -
  - the credit union must account in its books for all such transactions with individual members.

**21. PRSA**

- (1) Any service ("service") whereby -

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- (a) a credit union member may be introduced to a PRSA Provider by the member's credit union for advice on the provision of a PRSA, or
  - (b) when such an introduction takes place, a credit union may make facilities available to a PRSA Provider to enable it provide such advice.
- (2) Conditions to be fulfilled where a credit union wishes the service to be offered or provided to its members:
- (a) the service shall be on an introduction basis only, where the credit union introduces the member to a PRSA Provider, and the credit union may not provide any advice to a member in relation to a PRSA;
  - (b) a credit union which intends to enter into an arrangement with a PRSA Provider is required to notify the Registrar of Credit Unions in writing of such intention not less than 7 days before entering into such an arrangement;
  - (c) the credit union may only have such an arrangement with one PRSA Provider at any one time in relation to the service;
  - (d) the credit union holds any authorisation required under the Investment Intermediaries Act 1995 and/or the European Communities (Insurance Mediation) Regulations 2005 in respect of the service;
  - (e) the credit union is required to enter into a written agreement with the PRSA Provider referred to in subparagraph (c) ("contracting PRSA Provider") under which the contracting PRSA Provider is responsible for any act or omission of the credit union concerned in respect of any matter pertaining to a PRSA offered or provided by the contracting PRSA Provider;
  - (f) any contract arising from the service is required to be between the contracting PRSA Provider and a credit union member and the credit union concerned may not be a party to any such contract;
  - (g) the credit union may not permit any premises which the credit union uses to be used for the purposes of arranging or offering to arrange the provision of a PRSA to a member of the credit union by a PRSA Provider other than the contracting PRSA Provider;

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- (h) a clear distinction shall be drawn between the business of the credit union and that of the contracting PRSA Provider and this shall extend to all signage, stationary or other branding of whatever kind;
- (i) the credit union is required to state on letter headings and business forms which are used for the purposes of the service referred to in paragraph 1(a) that the credit union acts as an introducer solely for the contracting PRSA Provider;
- (j) an officer or staff member of the credit union may not receive remuneration directly or indirectly from the PRSA Provider in respect of the service;
- (k) the credit union shall account separately in its books for any fees or commissions received in relation to the provision of the service.

## **22. Insurance Services on an introduction basis**

- (1) Any service whereby a credit union member may be introduced to an insurance intermediary, with the appropriate authorisation under the European Communities (Insurance Mediation) Regulations 2005 or Investment Intermediaries Act 1995, or an insurance undertaking, authorised pursuant to Directive 2009/138/EC (hereinafter either intermediary or undertaking shall be referred to as “regulated entity”), by the member’s credit union for the purpose of obtaining “insurance services”.
- (2) Conditions to be fulfilled where a credit union offers the service referred to in paragraph (1) to its members and the credit union receives remuneration:
  - (a) The credit union shall have the appropriate authorisations to act as a retail intermediary – “Retail Intermediary” means an insurance intermediary as described in the European Communities (Insurance Mediation) Regulations 2005 and/or an investment business firm as described in the Investment Intermediaries Act 1995;
  - (b) The credit union shall ensure that the regulated entity has the necessary authorisations to provide the insurance services;
  - (c) Prior to introducing a credit union member to a regulated entity for the purpose of obtaining insurance services, the credit union shall have undertaken an assessment of the financial and other implications for the credit union of the provision of the

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insurance services and shall have, on the basis of that assessment, determined that there is no undue risk to members' savings;

- (d) The credit union shall ensure that adequate compensation is available to those members in respect of negligence, fraud or other dishonesty on the part of officers of the credit union in connection with the provision of the insurance services;
- (e) The credit union shall account separately in its books for any fees or commissions received in relation to the provision of the insurance services;
- (f) The credit union shall ensure that an officer or staff member of the credit union does not receive remuneration directly or indirectly in respect of the insurance service;
- (g) The credit union shall ensure that the insurance service is on an introduction basis only, where the credit union introduces the member to the regulated entity and the credit union does not provide any advice to a member in relation to the insurance service;
- (h) The credit union shall ensure that a clear distinction exists, between the business of the credit union and that of the regulated entity. The credit union shall ensure that any marketing material relating to the insurance service should clearly identify the regulated entity providing the insurance service to the member and this shall extend to all signage, stationary or other branding of whatever kind relating to the insurance service;
- (i) The credit union shall enter into a written agreement with the regulated entity under which that undertaking is responsible for any act or omission of the credit union concerned in respect of any matter pertaining to the insurance service offered or provided by the regulated entity;
- (j) The credit union shall ensure that any contract arising from the insurance service is between the regulated entity and a credit union member and that the credit union is not party to any such contract.

Signed for and on behalf of the CENTRAL BANK OF IRELAND

1 January 2016

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ANNE MARIE MCKIERNAN,

Registrar of Credit Unions