



Banc Ceannais na hÉireann
Central Bank of Ireland

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Annual Compliance Statement for Credit Unions Frequently Asked Questions



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Introduction

Under section 66C of the Credit Union Act, 1997 (“the 1997 Act”), all credit unions are required to submit an annual compliance statement to the Central Bank of Ireland (“the Central Bank”).

Guidance on the annual compliance statement is contained in Section 2.4 of the Governance Chapter of the Credit Union Handbook, available at the following [link](#).

This document (“the FAQs”) is drawn up by the Central Bank to address commonly asked questions which have been raised by credit unions in relation to the annual compliance statement.

The FAQs have no legal status. Credit unions should consult their legal advisers concerning any matter of legal interpretation of the 1997 Act or regulations issued thereunder.

The FAQs are updated as necessary. Please see version history below which sets out amendments made to the FAQs.

| Version | Date | Amendments |
|---------|--------------|--------------------------------------|
| 1.0 | October 2014 | Initial Version |
| 1.1 | October 2015 | Update after first submission of ACS |

1. What is the scope of the Annual Compliance Statement?

The annual compliance statement certifies a credit union's compliance with the requirements of Part IV of the 1997 Act and any other regulations prescribed under Part IV of the 1997 Act ("the Requirements").¹ Part IV of the 1997 Act relates to the management of credit unions and includes sections 53 to 76K of the 1997 Act.

2. What are credit unions required to certify when they submit an Annual Compliance Statement to the Central Bank?

When a credit union submits an annual compliance statement to the Central Bank the credit union is required to certify that it has:

- complied with the Requirements; or
- failed to comply with all or any of the Requirements.

Where a credit union has failed to comply with all or any of the Requirements the credit union must also indicate on the annual compliance statement whether the non-compliance was material or non-material. In the event of material non-compliance with the Requirements, a 'Report of Material Non-Compliance' must be submitted as part of the annual compliance statement. The 'Report of Material Non-Compliance' provides details of the background to any material deviation from the Requirements, along with the date and extent of the deviation, the potential consequences and the remedial action taken or proposed to be taken by the credit union.

See Question 8 for further information on materiality for the purpose of the annual compliance statement.

3. When are credit unions required to submit an Annual Compliance Statement to the Central Bank?

Since 3 March 2014, under section 66C of the 1997 Act, all credit unions are required to submit an annual compliance statement to the Central Bank within two months of the end of the financial year of the credit union. Therefore all credit unions are required to submit an annual compliance statement by 30 November each year..

¹ The Central Bank has not yet prescribed regulations under this Part.

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4. What period does an Annual Compliance Statement cover?

The annual compliance statement covers the period relating to the credit union's financial year, that is from 1 October to 30 September. The annual compliance statement relates to a credit union's compliance with the Requirements during the period from 1 October to 30 September and is not limited to the credit union's compliance with the Requirements on a particular date or point in time.

If one or more of the Requirements were not complied with at any time during the period from 1 October to 30 September then this is relevant for the annual compliance statement to be submitted by 30 November. This includes areas of non-compliance during the financial year where the non-compliance has subsequently been addressed.

Where a credit union submits a 'Report of Material Non-Compliance' as part of the annual compliance statement, this should include areas of material non-compliance that have subsequently been addressed by the credit union.

5. How do credit unions submit an Annual Compliance Statement to the Central Bank?

The annual compliance statement must be submitted to the Central Bank electronically on the Online Reporting System, which can be accessed [here](#). A document entitled 'Submission of the Annual Compliance Statement Guidance Notes (for Credit Unions)' is available on the Online Reporting System.

When completing the annual compliance statement, help is available on lo-call number 1890 252 080 or +353 1 224 4545 (Monday to Friday 9.30am to 5.00pm) or at regulatorytransactions@centralbank.ie.

6. Where does the Annual Compliance Statement fit within the compliance framework for credit unions?

While the annual compliance statement is required to be submitted to the Central Bank once a year, compliance is an on-going obligation for all credit unions. Under section 27A(1) and section 66A(2) credit unions are required to have in place oversight, policies, procedures, processes, practices, systems, controls, skills, expertise and reporting arrangements to ensure compliance. Therefore, the annual compliance statement is just one part of the overall compliance framework contained in the 1997 Act.

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The processes and systems that credit unions are required to have to ensure compliance include requirements for all credit unions to:

- develop a compliance programme, which incorporates the compliance policy and compliance plan;
- appoint a compliance officer with responsibility for managing compliance in the credit union; and
- document roles and responsibilities, including the role and function of the compliance officer and all others involved in compliance.

The 1997 Act also sets out some specific responsibilities for the board of directors, compliance officer and manager in relation to compliance.

The compliance programme is broader in scope than the annual compliance statement as it relates to a credit union's compliance with all legal and regulatory requirements, whereas the annual compliance statement relates to compliance with Part IV of the 1997 Act and any regulations made under Part IV.

The annual compliance statement is submitted to the Central Bank once a year. However, the compliance programme should maintain and update details of any breaches, including breaches of the Requirements, on an on-going basis, along with details of the remedial actions taken.

7. What inputs could assist credit unions when assessing compliance for the purpose of preparing an Annual Compliance Statement?

The compliance framework in the 1997 Act and the on-going monitoring of compliance undertaken by credit unions will support credit unions in the preparation of the annual compliance statement. For example, the compliance programme and compliance reports will be useful inputs. Other relevant reports would include reports on the risk management system, internal audit reports, board oversight committee reports and any other internal or external reports on governance or compliance.

8. What factors should a credit union consider when assessing materiality of non-compliance for an Annual Compliance Statement?

For the purpose of the annual compliance statement, where a credit union has failed to comply with the Requirements, this non-compliance may be material or

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non-material. The board of directors is responsible for determining if non-compliance is material. Whether a deviation is material or not will depend upon the facts of each case and the specific circumstances in the credit union.

To assist credit unions in determining materiality for any case of non-compliance, the board of directors should ensure a materiality statement is developed, setting out the credit union's definition of what constitutes material non-compliance and documenting the factors that will be used to assess materiality. This materiality statement can then be referred to when an area of non-compliance is identified to determine whether the non-compliance is material. The materiality statement should be reviewed and updated at least annually by the board of directors and could be included as part of the credit union's compliance policy.

Some factors that a credit union should consider when assessing materiality include:

- the frequency and duration of non-compliance – for example a one off instance of non-compliance that is immediately rectified may not be material, while repeated non-compliance or non-compliance of considerable duration may be material;
- the extent to which non-compliance departs from the required standard – for example a minor deviation from the standard may be less material than a significant deviation;
- the impact of the non-compliance on the credit union – for example consideration should be given to the impact of non-compliance on:
 - the governance of the credit union;
 - the financial position of the credit union;
 - the reputation of the credit union; and
 - the members of the credit union including protection of members' savings and access to services;
- consideration should also be given to whether non-compliance indicates serious or systemic weakness of management systems or internal controls;
- it is also important to consider non-compliance collectively – for example, a number of issues that appear non-material individually may collectively be considered to be material and may be indicative of weaknesses in risk management, compliance, internal audit and/or systems and controls.

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All of these factors are relevant when assessing whether non-compliance with the Requirements is material.

In addition, where a report, such as a compliance report, an internal audit report, a risk management report, a board oversight committee report or any other internal or external report on governance or compliance, raises concerns in relation to compliance with the Requirements, this should be included in the factors considered when assessing materiality.

9. What documentation should be maintained by credit unions when preparing and completing an Annual Compliance Statement?

Credit unions should document their approach to preparing and completing the annual compliance statement and this process should ensure the credit union has a formal approach to making and recording decisions on compliance with the Requirements. Credit unions should also retain any documentation used during the preparation of the annual compliance statement, including documentation that forms the basis for a decision on compliance or non-compliance with the Requirements. Credit unions are not required to submit this documentation to the Central Bank. However this documentation should be available for review by the Central Bank if requested.

10. Who has responsibility for the Annual Compliance Statement?

Under section 55(1)(m) of the 1997 Act the board of directors is responsible for ensuring compliance with all requirements imposed on the credit union under the 1997 Act and other financial services legislation. This includes responsibility for the submission of the annual compliance statement to the Central Bank.

The annual compliance statement and any Report of Material Non-Compliance should be approved by the board of directors at a board meeting before being submitted to the Central Bank. The annual compliance statement must be signed by the chair of the board of directors and two other directors of the credit union, on behalf of the board of directors of the credit union, prior to submission to the Central Bank.

11. What happens when new requirements come into effect during the period covered by an Annual Compliance Statement?

Where new requirements come into effect during the period covered by the annual compliance statement, a credit union should assess compliance with the new requirement from the date the new requirement came into effect.

12. What should a credit union do when it becomes aware of material non-compliance with the Requirements?

A credit union should inform the Central Bank as soon as it becomes aware of any instances of material non-compliance with the Requirements and should not wait until the credit union submits the annual compliance statement to notify the Central Bank of these instances.

13. What action can the Central Bank take where a credit union reports non-compliance on an Annual Compliance Statement?

Where a credit union contravenes any of the requirements of the 1997 Act, including the requirements in Part IV of the 1997 Act, the Central Bank may consider taking an enforcement action. The decision to take an enforcement action will be informed by a number of facts including:

- the nature, seriousness and impact of the contravention;
- the conduct of the credit union after the contravention;
- the previous record of the credit union; and
- other general considerations.

Where a credit union fails to report non-compliance with the Requirements on the annual compliance statement and this is subsequently identified, this could result in the Central Bank deciding to take an enforcement action. In addition to the facts referred to above, the failure by the credit union to report the non-compliance on the annual compliance statement, whether by act or omission, would be taken into consideration when deciding whether to take an enforcement action.

14. Should transferor credit unions submit an annual compliance statement where they have transferred before the 30 November 2015?

The Central Bank confirms a transfer by issuing to the transferee credit union a certificate of confirmation of transfer. On the date that the certificate of confirmation is issued, the property, rights and liabilities of the transferor credit union will be transferred to the transferee credit union. The transferor credit union is dissolved on this date. Where a credit union is dissolved on or before 30 November the Central Bank will not expect to receive an annual compliance statement from that credit union.

15. Should a transferee credit union include details of the compliance of the transferor credit union in respect of the period prior to the date of the transfer?

Where a transfer of engagements has been confirmed before 30 September the compliance statement of the transferee credit union does not need to include details of the compliance of the transferor credit union in respect of the period prior to the date on which the transfer was confirmed.

So for example, if a transfer of engagements is completed during the period covered by the annual compliance statement, from 1 October to the date of confirmation of the transfer of engagements, the annual compliance statement to be submitted by the transferee credit union should relate to the transferee credit union only and from the date of the transfer of engagements to 30 September, the annual compliance statement should relate to the transferee credit union including the transferor credit union.

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