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Implementation of the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016 for Credit Unions Frequently Asked Questions



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Introduction

This document (the FAQs) is drawn up by the Central Bank of Ireland (the Central Bank) to address questions which credit unions may have in relation to the implementation of the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016 (the Regulations).

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.

Where a reference is made to a specific section of the Credit Union Act, 1997 (the 1997 Act) in the FAQs, this relates to the 1997 Act as amended by Part 2 or Schedule 1 of the Credit Union and Co-operation with Overseas Regulators Act 2012 (the 2012 Act).

Where extracts from the 1997 Act and the Regulations are included in the FAQs these are shown in quotes and italics.

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

Version	Date	Amendments
1.0	November 2015	Initial Version
1.1	June 2016	• Questions 7, 11, 12, 22, 23, 24, 25, 26 have been added.

Application of the Regulations

1. When will the Regulations come into effect?

The Minister for Finance signed a commencement order on 17 December 2015 commencing all remaining sections of the 2012 Act on 1 January 2016 which provided regulation making powers to the Central Bank. Further to this the Regulations were commenced for credit unions on 1 January 2016.

The Regulations contain transitional arrangements for certain areas (see question 4 for details on individual transitional arrangements).

The Central Bank updated the relevant chapters of the Credit Union Handbook to reflect the commencement of the remaining sections of the 2012 Act and the new regulations and provide guidance where appropriate.

2. What are the main implications arising from the commencement of the remaining sections of the 2012 Act?

The following sections of the 2012 Act were commenced on 1 January:

- Section 8 Savings;
- Section 10 Borrowing;
- Section 11 Lending;
- Section 12 Investments;
- Section 13 Reserves; and
- Section 30 Liquidity and stress testing, etc.

These sections of the 2012 Act, replace, amend or supplement existing sections of the 1997 Act relating to these areas. For each of these areas the legislation section of the relevant chapter in the Credit Union Handbook has been updated.

In addition, a number of Items from Schedule 1 of the 2012 Act also commenced. These items largely relate to amendments that are consequential on the insertion of the remaining sections into the 1997 Act. For each Schedule Item, the legislation in the Credit Union Handbook has been updated.

3. What are the main new requirements under each prudential area of the Regulations?

The main new requirements of the Regulations are set out below by prudential area (see Appendix 1 for a comparison between new and pre 1 January 2016 requirements):

Reserves (Regulations 3-6)

Regulations 3(1) and (2) set out the characteristics of eligible reserves:

- perpetual in nature;
- freely available to absorb losses;
- realised financial reserves that are:
 - unrestricted;
 - non-distributable;
- shall not be secured or subject to guarantee which enhances its seniority;
- be permanent and without an obligation for repayment of principal;
- have no preferential distribution rights;
- rank below all other claims in the event of a liquidation;
- qualify as a reserve for accounting purposes.

Regulation 4(2) establishes new requirements for reserves for a newly registered credit union including a minimum initial reserve requirement of €10,000.

Liquidity (Regulations 7-10)

Regulation 7(1) expands the definition of liquid assets to include the amount of any investment with more than three months to maturity where the credit union has an explicit written guarantee that the funds can be accessed by the credit union in less than three months, excluding penalties.

Regulation 8(2) establishes the requirement for a short term liquidity ratio of 5% of unattached savings where short term liquidity is defined as cash and investments with a maturity of less than eight days.

Lending (Regulations 11-24)

Regulation 11(1) establishes the following lending categories:

- Personal loans;
- Commercial loans;
- Community loans;
- House loans;
- Loans to other credit unions.

Regulation 12 sets maximum concentration limits for certain categories of loans:

- Commercial lending – 50% of Regulatory Reserve
- Community lending – 25% of Regulatory Reserve
- Lending to other credit unions - 12.5% of Regulatory Reserve.

Regulation 13(1) establishes a large exposure limit of the greater of €39,000 or 10% of Regulatory Reserve.

Regulation 14(3) sets a maximum maturity limit for loans of 25 years.

Regulations 18-22 set out new related party lending requirements including requirements for:

- Approval by credit /credit control committee; and
- Annual review by internal audit and report to board of directors.

Investments (Regulations 25-33)

Regulation 25 sets out the following classes of investments for credit unions:

- Irish and EEA State Securities;
- accounts in credit institutions;
- bank bonds;

- collective investment schemes;
- shares and deposits with other credit unions;
- shares of a society registered under the Industrial and Provident Societies Act 1893 to 1978.

Regulation 25(2) provides that the Central Bank may prescribe investments in projects of a public nature as a class of investments. Investments in projects of a public nature include, but are not limited to, investments in social housing projects.

The investment regulations also set out concentration and maturity limits for credit union investments.

Savings (Regulations 34-38)

Regulation 35 establishes a maximum individual member savings amount of €100,000.

Regulation 37 provides that a credit union with a minimum asset size of €100 million may apply to the Central Bank for approval to increase individual member savings in excess of €100,000.

Borrowing (Regulations 39-44)

Regulation 40 establishes a limit of 25% of total savings on the amount a credit union can borrow.

Systems, Controls and Reporting Arrangements (Regulations 45-47)

Regulation 47(1) establishes certain disclosure requirements in relation to supplementary information in the annual accounts of credit unions which include:

- The credit union's regulatory reserve expressed as a percentage of total assets;

- The additional reserves that a 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
- The total amount of loans outstanding to related parties and the loans to such persons as a percentage of total loans outstanding.

Regulation 47(2) requires that credit unions separately analyse investment income and investment gains in the income and expenditure account (or notes) of the annual accounts as:

- investment income and investment gains received by the credit union at the balance sheet date;
- investment income that will be received within 12 months of the balance sheet; and
- other investment income.

Additional Services (Regulation 48)

Schedule 2 of the Regulations adds ***insurance services on an introduction basis*** to the list of exempt services.

4. What are the transitional arrangements for the regulations?

The Regulations contain transitional arrangements in relation to new or amended liquidity, lending, investments, savings and borrowing requirements. The transitional arrangements range from 12 months to two years and apply from the commencement of the Regulations on 1 January 2016. The main transitional arrangements are as follows:

Liquidity

The credit union must be in compliance with the new short term liquidity requirements by 1 January 2017.

Lending

A loan made in accordance with the 1997 Act to a member before the 1 January 2016 will not be rendered unlawful by the Regulations.

Where, at commencement of the Regulations, a credit union is failing to comply with the lending regulations the credit union shall only make a loan where the making of such a loan would not cause the credit union to fail to comply with or exacerbate a failure to comply with any of the lending regulations.

Investments

The credit union must reduce their investments which are not in compliance with the Regulations:

Regulation 33(1)(a):

(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."

Regulation 33(2):

"A credit union may hold to maturity all fixed term investments held by that credit union on the commencement of these Regulations."

Savings

In general, savings in excess of €100,000 must be repaid to members. The repayment should be made as soon as possible and by 1 January 2017¹.

Credit unions that held individual member savings in excess of €100,000 at the commencement of the Regulations may apply to the Central Bank to retain these savings (see question 15 for further detail on the application process). Where a credit union is not successful in its application to retain

¹ Or any other date the Central Bank may permit.

individual member savings in excess of €100,000 these savings must be repaid to members as soon as possible and in any event by 1 January 2017².

Reserves

5. What are the implications of the commencement of the remaining sections of the 2012 Act and the Regulations for the statutory reserve?

Since the commencement of section 13 of the 2012 Act, any reference to the requirement for credit unions to hold a statutory reserve has been removed from the 1997 Act, including the requirement for credit unions to transfer 10% of their surplus to their statutory reserve each year.

Notwithstanding this credit unions will be expected to continue to allocate surplus funds to maintain reserves at an appropriate level taking prudent account of the nature, scale and complexity of the credit union's business, its risk profile and prevailing market conditions.

The Central Bank expects that credit unions whose total regulatory reserves are in excess of 10 per cent of total assets will continue to maintain reserves at existing levels ensuring that the total reserves reflect the board of directors assessment of the appropriate level of reserves for the credit union, taking prudent account of the nature, scale and complexity of the credit union's business, its risk profile and prevailing market conditions.

6. How does a credit union calculate its operational risk reserve?

Credit unions are required to hold reserves in relation to operational risk. The reserves that credit unions hold against operational risk are separate, distinct and in addition to the reserves that the credit union is required to hold under the regulatory reserve requirement. All reserves that are held as operational risk reserves must have the characteristics set out in Regulation 3 of the Regulations.

² Or any other date the Central Bank may permit.

Where operational risks are identified in a credit union the credit union's priority should be the mitigation of these risks through the implementation of appropriate processes and controls. The existence of an operational risk reserve does not impact on the need to appropriately mitigate operational risks.

When determining the appropriate level of operational risk reserves for a credit union, credit unions should assess the level of operational risk to which they are exposed. The Central Bank expects that the amount the credit union holds in its operational risk reserve will be based, at a minimum, on the predicted impact of operational risk events that may materially impact on the credit union's business.

This will be impacted by the business mix and risk profile of the activities being undertaken in the credit union. This assessment may be supported by considering available information including:

(i) Operational risks identified by internal processes:

- operational risks to which the credit union is exposed, as identified by the Risk Management Officer and risk management system including operational risks recorded on the credit union's risk register;
- reports of the internal auditor;
- reports of the compliance officer;
- the Annual Compliance Statement;
- previous operational risk events including inadequate or failed internal processes or systems of the credit union.

(ii) Operational risks identified in external reports:

- reports from external consultants;
- external auditor management letter issues;
- relevant asset review findings;
- reports from whistle-blowers.

(iii) Other operational risk considerations:

- implementation of the credit unions operational risk management system including the effectiveness of the credit union's internal control systems.

(iv) External events.

Where a credit union has existing reserves in excess of 10 per cent of total assets they may allocate an amount to the operational risk reserve, where the board of directors have determined that it is appropriate to do so having assessed the appropriate level of reserves for the credit union, as set out in Q5 above.

7. Where an amount is set aside in the operational risk reserve, is this the minimum amount that must be held on an ongoing basis?

Transfers can be made into and out of the operational risk reserve so long as the credit union ensures that the level of reserves held in the operational risk reserve are appropriate taking account of its assessment of the operational risks to which it is exposed. This assessment should be documented in writing.

The reserves that credit unions hold in relation to operational risk are separate, distinct and in addition to the reserves that the credit union is required to hold under the regulatory reserve requirement. All reserves that are held as operational risk reserves must have the characteristics, set out in Regulation 3 of the Regulations. Existing regulatory reserves in excess of 10 per cent of total assets, in addition to any other reserves that a credit union may hold, may be allocated to the operational risk reserve where the board of directors have determined that it is appropriate to do so having taken account of the appropriate level of reserves for the credit union, taking prudent account of the scale and complexity of the credit union's business, its risk profile and prevailing market conditions.

The Central Bank expects that the amount which a credit union holds in its operational risk reserve would be based, at a minimum, on the predicted financial impact of operational risk events that may have a material impact

on the credit union's business. This amount will be influenced by the business mix and risk profile of the activities being undertaken in the credit union.

Liquidity

8. How will the short term liquidity requirement be calculated?

Under the short term liquidity ratio, credit unions are required to maintain 5% of unattached savings in cash and investments with a maturity of less than eight days.

The expanded definition of liquid assets (as set out in Q3 above) that applies for the calculation of the minimum liquidity ratio will also apply for the calculation of the short term liquidity ratio.

Any cash and investments that fall within the short term liquidity ratio (i.e. they are available in less than eight days) will also be included in the liquid assets used to calculate the minimum liquidity ratio (assets available within three months). For example, where a credit union currently holds 5% of unattached shares in cash or investments available in less than eight days as part of the 20% minimum liquidity ratio, this will also satisfy the short-term liquidity requirement.

Lending

9. How will a credit union determine if a group of borrowers is connected?

The purpose of determining connected parties is to identify if it is likely that the financial problems of one borrower would cause difficulties for other borrowers in terms of full and timely repayment of a loan to the credit union. Connected borrowers means two or more borrowers who constitute a single or common risk to the credit union because if one of them were to experience financial problems, one or all of the others would be likely to encounter repayment difficulties. Single or common risk will generally occur where there is material financial interdependence between borrowers. The following is a non-exhaustive list of examples of potential connected borrowers. It is a

matter for each credit union to determine, taking account of all of the individual circumstances, if such borrowers are connected:

- a group of borrowers who are dependent on a single income source to repay their individual loans;
- the borrower and his/her spouse/partner if by contractual arrangements or marriage laws both are liable and the loans are significant for both; or
- a borrower and guarantor, where the guarantee is so substantial for the guarantor that his/her ability to service their other liabilities with the credit union will be affected if the guarantee is claimed by the credit union.

It is important that a credit union identifies connected borrowers to enable the credit union to monitor concentration risks in its loan portfolios. Each credit union needs to determine its exposure to connected borrowers based on the information available to the credit union. The assessment undertaken by the credit union should be documented in writing.

10. When will it be necessary to obtain security for a loan?

Under the Regulations security is required for house loans. Credit unions may determine that security should also be required for other types of loans. The level of security required in respect of individual loans should reflect the size and risk profile of the proposed loan. Approved types of security and the circumstances in which security should be taken, should be clearly set out in the credit policy of the credit union. Credit unions should document their assessment of security and all security documentation should be securely and efficiently maintained.

Under the lending regulations where a credit union is providing home improvement loans these may be provided as either 'personal' loans or as 'house' loans. Where such a loan is provided as a 'house' loan the credit union must hold the first legal charge secured on the property. Where such a loan is provided as a 'personal' loan there is no requirement to hold the first

legal charge secured on the property. It will be a matter for each credit union to determine if a home improvement loan is to be issued as a house loan or a personal loan.

Professional legal advice should be obtained when taking security for large or complex loans e.g. commercial loans, house loans etc. to ensure that legal title is properly perfected and enforceable in the event of default.

11. What are the implications of the commencement of the remaining sections of the 2012 Act for the provision of loans to non-qualifying members?

Section 35 of the 1997 Act has been replaced on commencement of the final sections of the 2012 Act. The new section 35 no longer contains the 10% limit on loans to non-qualifying members.

12. What is the approval process for a loan when someone is an officer and a related party?

When someone is an officer and a related party the approval process for loans must incorporate both the requirements under the 1997 Act relating to loans to officers and the requirements under the Regulations relating to related parties. The credit union's loan approval process should reflect both the provision of section 36 of the 1997 Act and Regulation 19 of the Regulations. Where a borrower is both an officer of a credit union and a related party, such loan applications must be approved in accordance with the requirements for a loan to an officer by "*not less than two-thirds of the members of a special committee voting by secret ballot at a meeting*" (section 36 of the 1997 Act) and also require prior approval as a related party loan in writing by the credit committee (Regulation 19). Credit unions may consider providing information to the credit committee in relation to loans to officers approved under section 36 of the 1997 Act to assist them in

their assessment of these loans where the borrower also falls within the definition of a related party³.

Investments

13. What type of investments can a credit union invest in after the Regulations take effect?

Under the Regulations credit unions are permitted to invest in the following investments:

- Irish and EEA State Securities;
- accounts in credit institutions;
- bank bonds;
- collective investment schemes;
- shares and deposits with other credit unions; and
- shares of a society registered under the Industrial and Provident Societies Act 1893 to 1978.

14. What investments are considered to be bank bonds?

The Regulations provide a definition of bank bonds which states that “*bank bonds*” means *senior bonds issued by a credit institution and traded on a regulated market where the capital amount invested is guaranteed by the issuer*”.

Unless a structured product, including a Credit Link Note, falls within this definition of bank bonds it would not be considered to be an investment permitted under the Regulations.

³ Under the Regulations related party means :

- (a) a member of the board of directors or the management team of a credit union;
- (b) a member of the family of a member of the board of directors or the management team of a credit union; or
- (c) a business in which a member of the board of directors or the management team of a credit union has a significant shareholding;

15. How will collective investment schemes be treated for the purposes of calculating investment counterparty exposures?

In assessing collective investment schemes for the purpose of calculating counterparty exposures credit unions should 'look-through' to the underlying holdings and counterparties held in the collective investment scheme. For example, where a credit union has a direct exposure to a counterparty and also holds an investment in a collective investment scheme with exposure to that counterparty, the credit union should aggregate the two exposures to determine their total exposure to that counterparty.

Savings

16. How will a credit union calculate individual member savings for the purposes of the €100,000 savings limit set out in the Regulations?

The individual member savings limit 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, subject to the application processes, savings in excess of €100,000 must be repaid to members (see questions 19 and 23 for more details on the application processes). The repayment should be made as soon as possible and in any event by 1 January 2017⁴.

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 account;**
- **share account;**
- **dormant account;**

⁴ Or any other date the Central Bank may permit.

- **joint accounts** – in general for the purposes of calculating an individual member's total savings, joint accounts should be split equally unless there is evidence that they should be split otherwise;
- **saving stamps** - each savings stamp issued by a credit union should be attributable to a member and should be included in the calculation of an individual members total savings;
- **budget accounts** – where a member holds a budget account any positive balance in this account should be included in the calculation of an individual member's total savings;
- **clubs/ associations accounts** - 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.

17. What action should a credit union take where payment of interest or a dividend would result in an individual member's savings exceeding the €100,000 limit?

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 such a situation arising. Credit unions should give consideration to paying out such amounts to the member to avoid such breaches occurring. It is a matter for credit unions to ensure that they have the appropriate systems and controls in place to record such payments and to ensure that certificates of interest, which reflect all dividend payments to the individual member, can be generated as required.

18. How does a credit union apply to retain member's savings over €100,000 which were held at the commencement of the Regulations?

In order to apply to the Central Bank for approval to retain individual members' savings in excess of €100,000 held at commencement of the Regulations, credit unions must complete an application form, have it approved by the board of directors and signed by the chair of the board on behalf of the board of directors and submit it to the Central Bank. The

application form is located at the following [link](#). The application process will consider the level of realised reserves and relevant liquid assets held by the credit union relative to the exposure of the credit union to savings in excess of €100,000. Credit unions will be required to submit a business rationale to support their application which outlines why they are applying to retain individual members' savings in excess of €100,000. The application process will also give consideration to other relevant supervisory information for individual credit unions.

The Central Bank will respond to any queries credit unions may have arising from the process of completion of the application form. Applications to retain individual members' savings in excess of €100,000 should be submitted by 27 June 2016. The Central Bank will endeavour to respond to credit unions on the outcome of their application by 26 August 2016. Approval will be granted where credit unions have demonstrated that it is consistent with the adequate protection of the savings of members and effective and proportionate, having regard to the nature, scale and complexity of the credit union, for them to retain individual members' savings in excess of €100,000 which were held at 1 January 2016. The Central Bank will only grant approval to retain an individual member's savings in excess of €100,000 where the individual member's savings do not represent an amount greater than 1% of the total assets of the credit union.⁵

Where the Central Bank grants an approval to a credit union to retain individual member savings in excess of €100,000, such approval may be subject to conditions specified by the Central Bank with which the credit union shall comply.

⁵ The Central Bank may, where it is satisfied that exceptional circumstances arise, grant approval for retention of an individual member's savings in excess of €100,000 that represents an amount greater than 1% of the total assets of the credit union. In determining whether the circumstances are exceptional the Central Bank will consider the additional information set out in Section 5 of the Application Form.

19. What will happen if a credit union is not approved to retain member's savings over €100,000? How long will the credit union have to return the savings?

Where a credit union is not approved to retain individual member savings in excess of €100,000, these savings must be repaid to members as soon as possible and in any event by 1 January 2017⁶.

20. What will happen if a credit union that has been approved to retain individual member savings in excess of €100,000 subsequently fails to meet one or more of the criteria referred to in the application process?

Where the Central Bank grants an approval to a credit union to retain individual member savings in excess of €100,000, such approval may be subject to conditions specified by the Central Bank with which the credit union shall comply. These conditions are likely to include compliance on an ongoing basis with the criteria used in the application process. Where a credit union fails to comply with a condition it must notify the Central Bank immediately outlining the appropriate measures which the credit union will take to resume compliance with these criteria.

21. What will happen if a payment is made by a member or a third party into a member's account which results in the total members' saving being over €100,000?

Credit unions should ensure that members are made aware of the €100,000 savings limit and credit unions are expected to have appropriate monitoring systems to flag such potential situations. In the event of such a situation arising, the credit union should take the appropriate steps, as soon as possible, to bring the member's account into compliance with the relevant regulatory requirements.

⁶ Or any other date the Central Bank may permit.

22. How does a credit union apply to increase individual member's savings over €100,000?

Credit unions with a minimum asset size of €100 million⁷, may apply to the Central Bank for approval to increase individual members' savings in excess of €100,000. To do this, such credit unions must complete an application form, have it approved by the board of directors and signed by the chair of the board on behalf of the board of directors and submit it to the Central Bank. The application form is located at the following [link](#).

Credit unions applying for approval to increase individual members' savings in excess of €100,000 will be required to provide a business case which outlines clearly the rationale for the credit union in seeking approval to increase individual members' savings in excess of €100,000 along with an estimate of the additional members' savings in excess of €100,000. Financial projections should accompany the business case for a period covering the next three financial years. Further, they will be required to demonstrate that they have the necessary risk management systems and controls in place to adequately manage the risk associated with increasing the level of individual members' savings in excess of €100,000.

The Central Bank will respond to any queries credit unions may have arising from the process of completion of the application form. Credit unions, with a minimum asset size of €100 million, are permitted at any time to submit an application to increase individual members' savings in excess of €100,000 (i.e. there is no closing date for these applications).

Where the Central Bank grants an approval to a credit union to increase individual member savings in excess of €100,000, such approval may be subject to conditions specified by the Central Bank with which the credit union shall comply.

⁷ Minimum asset size of €100 million is by reference to the most recently submitted Prudential Return of the credit union.

23. Can a credit union with a minimum asset size of €100 million take in savings in excess of €100,000 prior to receiving approval?

Regulation 35 requires credit unions to ensure that no member shall have total savings in excess of €100,000. This provision applies from the commencement date of the regulations, which is 1 January 2016, subject to the transitional arrangements provided in regulation 36(1) which relate to existing savings.

It is further provided in the regulations that a credit union may be approved to retain any savings in excess of €100,000 which it held at commencement of the Regulations. A credit union, which has a minimum asset size of €100 million, may also be approved to increase individual members' savings in excess of €100,000. In order for a credit union to be granted any such approval(s) it will be required to demonstrate that the approval is consistent with the adequate protection of the savings of members' and is effective and proportionate, having regard to the nature, scale and complexity of the credit union.

Taking cognisance of the Regulations, in particular regulation 37, a credit union may not accept from an individual member, any additional savings which would result in that members total savings either (i) exceeding €100,000 or (ii) increasing further above €100,000 than the amount held at commencement of the Regulations, if and until such time as the credit union has been approved by the Central Bank to increase individual members' total savings in excess of €100,000.

24. Is approval required to retain individual members' savings in excess of €100,000 before approval can be sought to increase individual members' savings above €100,000?

The expectation is that credit unions with a minimum asset size of €100 million, who held individual members' savings in excess of €100,000 at commencement of the Regulations on 1 January 2016, will firstly apply to the Central Bank for approval to retain those savings held in excess of €100,000

given there are specific timelines in place. Where a credit union has a minimum total asset size of €100 million, they may at the same time as submitting an application to retain individual members' savings in excess of €100,000 or at a later stage, also submit a separate application to increase individual members' savings in excess of €100,000. Where a credit union submits both applications at the same time, the Central Bank may consider and review these applications during the same period.

If a credit union with a minimum asset size of €100 million, did not hold individual members' savings in excess of €100,000 at commencement of the Regulations, they may apply at any date for approval to increase individual members' savings in excess of €100,000.

25. How can a credit union calculate if it meets the criteria specified at paragraph 1A i and ii of the Financial Criteria and Consideration of the Central Bank section of the Application to retain individual members' savings in excess of €100,000 held at commencement of the Regulations Form?

Where a credit union meets the criteria specified at paragraph 1A i and ii of the Financial Criteria and Consideration of the Central Bank section of the Savings Application Form, the credit union may be permitted to retain an individual member's savings in excess of €100,000 held at commencement of the Regulations, subject to Paragraphs 2, 3 and 4 of that section of the Savings Application Form. In this respect the approval conditions will include that the credit union must maintain such excess realised reserves and excess relevant liquid assets on an ongoing basis which ensures that the overall exposure to savings in excess of €100,000 is no more than the lesser of 50% of the excess realised reserves or 50% of the excess relevant liquid assets.

The example below is intended as an *illustrative example only*. It outlines how a credit union may calculate:

1. the exposure to individual member savings in excess of €100,000 held at the commencement of the Regulations;
2. excess realised reserves;

3. excess relevant liquid assets; and
4. the exposure to aggregate savings in excess of €100,000 as a percentage of excess realised reserves and excess relevant liquid assets.

Relevant financial information of the credit union:

At 31 Dec 15:

Total Assets	€62.5 million
Total Realised Reserves	€8.65 million
Relevant Liquid Assets	€12.55 million
Total unattached Savings	€49 million

At 1 Jan 16:

Total Savings > €100,000	€10million ⁸
Total Members with Savings > €100,000	90 members ⁸

1. How to calculate the exposure to savings in excess of €100,000, excluding individual members with savings in excess of €100,000, where such savings represent an amount greater than 1% of the total assets of the credit union?

$$\text{Total Savings} > \text{€100,000}^8 \text{ minus (No of Members with Savings} > \text{€100,000} \times \text{€100,000)}$$

Workings: €10 million minus (90 members x€100,000)

Answer= €1million

2. How to calculate the level of excess realised reserves?

⁸ Excludes members with savings in excess of 100,000 where such savings represent an amount greater than 1% of the total assets of the credit union where the credit union has not been approved based on exceptional circumstances to retain such savings.

- Calculating the reserves required to meet the regulatory reserve requirement:

Total Assets x 10%

Workings: €62.5 million x 10%

Answer = €6.25 million

- Calculating the excess realised reserves:

Total Realised Reserves minus reserves required to meet the Regulatory Reserve Requirement

Workings: €8.65 million minus €6.25 million

Answer = €2.4million

3. How to calculate the level of excess liquid assets?

- Calculating the liquid assets required to meet the minimum liquidity requirement:

Unattached Savings x 20%

Workings: €49 million x 20%

Answer = €9.8 million

Calculating the excess liquid assets:

Relevant Liquid Assets minus liquid assets required to meet the minimum Liquidity Requirement

Workings: €12.55million minus €9.8 million

Answer = €2.75 million

4. The aggregate exposure of savings in excess of €100,000 as a % of the excess realised reserves and excess relevant liquid assets, i.e. above those which are required to be held to satisfy the required regulatory minimum, may be calculated as follows:

Exposure to savings in excess of €100,000 as a % of excess realised reserves

$$€1 \text{ million} / €2.4 \text{ million} = \mathbf{42\%}$$

Exposure to savings in excess of €100,000 as a % of excess relevant liquid assets

$$€1 \text{ million} / €2.75 \text{ million} = \mathbf{36\%}$$

26. How can a credit union calculate the maximum amount of savings a credit union may be allowed to retain if the credit union does not meet the financial assessment criteria required in paragraph 4, as the credit union had less than €6,000,000 excess total realised reserves as at 31 December 2015 and has an exposure to savings in excess of €100,000 of greater than the lesser of 50% of the excess realised reserves or 50% excess relevant liquid assets?

Where a credit union meets the criteria specified at paragraph 1A i and ii of the Financial Criteria and Consideration of the Central Bank section of the Application to retain individual members' savings in excess of €100,000 held at the commencement of the Regulations Form, and subject to paragraphs 2 and 3 of that section, but does not meet the financial assessment criteria required in paragraph 4, as the credit union had less than €6,000,000 excess total realised reserves as at 31 December 2015 and has an exposure to savings in excess of €100,000 of greater than the lesser of 50% of the excess realised reserves or 50% excess relevant liquid assets, the credit union cannot be permitted to retain all individual member's savings in excess of €100,000. However, the Central Bank may grant approval to the credit union to retain individual members' savings in excess of €100,000 up to an aggregate amount of no greater than 50% of the excess realised reserves or 50% of excess relevant liquid assets, whichever is the lesser.

The following example details how to calculate the maximum amount of savings in excess of €100,000 a credit union may be allowed to retain:

Relevant financial information of the credit union:

At 31 Dec 15:

Total Assets	€65 million
Total Realised Reserves	€7.4 million
Relevant Liquid Assets	€11.5 million
Total unattached Savings	€52 million

At 1 Jan 16:

Total Savings > €100,000	€6 million ⁹
Total Members with Savings > €100,000	55 members ⁹

Exposure to savings in excess of €100,000 as a % of excess realised reserves
 $€0.5\text{million} / €0.9\text{million} = 55\%$

Exposure to savings in excess of €100,000 as a % of excess relevant liquid assets
 $€0.5\text{ million} / €1.1\text{ million} = 45\%$

The amount up to which individual members' savings in excess of €100,000 could be retained can be calculated as follows:

50% of the Excess Realised Reserves:

€0.9 million x 50%

€0.45 million

⁹ Excludes members with savings in excess of 100,000 where such savings represent an amount greater than 1% of the total assets of the credit union where the credit union has not been approved based on exceptional circumstances to retain such savings.

50% of the Excess Relevant Liquid Assets:

€1.1 million x 50%

€0.55 million

In this example the credit union may retain aggregate individual members' savings in excess of €100,000 up to €0.45 million out of €0.5 million, the credit unions total exposure to savings in excess of €100,000.

Appendix 1 – Comparison of Pre 1 January 2016 and New Framework

Area	Requirements and Guidance pre 1 January 2016	Requirements in the Regulations
Reserves	<ul style="list-style-type: none"> • Minimum Regulatory Reserve - 10% of total assets • Notifications to Central Bank in certain circumstances 	<ul style="list-style-type: none"> • Minimum Regulatory Reserve - 10% of total assets • Notifications to Central Bank in certain circumstances • Minimum initial reserve requirement of €10,000 and initial reserves sufficient • Classification of an eligible reserve: <ul style="list-style-type: none"> ○ shall not be secured or subject to guarantee which enhances its seniority ○ be permanent and without an obligation for repayment of principal ○ have no preferential distribution rights ○ rank below all other claims in the event of a liquidation ○ qualify as a reserve for accounting purposes
Liquidity	<ul style="list-style-type: none"> • Minimum liquidity ratio of 20% • Notification to Central Bank where fail to meet liquidity requirements 	<ul style="list-style-type: none"> • Minimum liquidity ratio of 20% • Short term liquidity ratio of 5% • Definition of liquid assets expanded • Notification to Central Bank where fail to meet liquidity requirements
Lending	<ul style="list-style-type: none"> • Large exposure limit- greater of €39,000 or 1.5% of total assets • Limit on lending over 5 years – 30% of loan book • Limit on lending over 10 years – 10% of loan book • Central Bank approval for additional longer term lending 	<ul style="list-style-type: none"> • Large exposure limit- greater of €39,000 or 10% of Regulatory Reserve • Limit on lending over 5 years – 30% of loan book • Limit on lending over 10 years – 10% of loan book • Maximum maturity limit - 25 years • Central Bank approval for additional longer term lending • Categories of loans <ul style="list-style-type: none"> ○ Personal loans ○ Commercial loans ○ Community loans ○ House loans ○ Loans to other credit unions • Concentration limits <ul style="list-style-type: none"> ○ Commercial lending – 50% of Regulatory Reserve ○ Community lending – 25% of Regulatory Reserve ○ Lending to other credit unions – 12.5% of Regulatory Reserve • Related party lending requirements <ul style="list-style-type: none"> ○ Approval by credit /credit control committee ○ Annual review by internal audit and report to board of directors

Area	Requirements and Guidance pre 1 January 2016	Requirements in the Regulations
<p>Investments</p>	<ul style="list-style-type: none"> • Classes of investments <ul style="list-style-type: none"> ○ Irish and EMU State ○ Accounts in Authorised Credit Institutions (AACIs) ○ Bank bonds ○ Equities ○ Collective investment schemes ○ Other credit unions ○ Industrial and Provident Societies • Counterparty limit – investments in single institution – 25% of investment portfolio • Concentration limits <ul style="list-style-type: none"> ○ Investments in Irish and EMU State Securities – 70% of investment portfolio ○ Investments in bank bonds – 70% of investment portfolio • Maturity limits <ul style="list-style-type: none"> ○ Maximum maturity 10 years ○ AACIs maturing after 5 years – 50% of this class of investment ○ AACIs maturing after 7 years – 20% of this class of investment ○ Irish and EMU State Securities maturing after 7 years – 30% of this class of investment ○ Bank bonds maturing after 7 years – 30% of this class of investment • Currency limits – all investments denominated in Euro 	<ul style="list-style-type: none"> • Classes of investments <ul style="list-style-type: none"> ○ Irish and EEA State Securities ○ Accounts in Authorised Credit Institutions (AACIs) ○ Bank bonds ○ Collective investment schemes ○ Other credit unions ○ Industrial and Provident Societies • Regulation 25(2) of the investments regulations now makes reference to the fact that the Central Bank may prescribe further classes of investments for credit unions which may include investments in projects of a public nature. The regulation states that investments in projects of a public nature include, but are not limited to, investments in social housing projects. • Counterparty limit – investments in single institution – 25% of investment portfolio • Concentration limits <ul style="list-style-type: none"> ○ Investments in Irish and EEA State Securities – 70% of investment portfolio ○ Investments in bank bonds – 70% of investment portfolio ○ Investments in other credit unions – 12.5% of Regulatory Reserve ○ Investments in societies – 12.5% of Regulatory Reserve • Maturity limits <ul style="list-style-type: none"> ○ Maximum maturity 10 years ○ Investments maturing after 5 years – 50% of investment portfolio ○ Investments maturing after 7 years – 30% of investment portfolio • Currency limits - all investments denominated in Euro

Area	Requirements and Guidance pre 1 January 2016	Requirements in the Regulations
Savings	<ul style="list-style-type: none"> • Maximum individual member savings – greater of €200,000 or 1% of total assets • Limit on total deposits as percentage of total shares – 100% • Maximum individual member deposit - €100,000 	<ul style="list-style-type: none"> • Maximum individual member savings – €100,000 • Limit on total deposits as percentage of total shares – 100% • A period of 12 months provided to bring any savings over €100,000 into compliance with the new requirements • Credit unions that have savings in excess of €100,000 may apply to the Central Bank to retain these savings where they can demonstrate it is prudent and appropriate to do so • Credit unions with a minimum total asset size of €100,000,000 may apply to the Central Bank to increase individual member total savings in excess of €100,000 where they can demonstrate it is prudent and appropriate to do so.
Borrowing	<ul style="list-style-type: none"> • Maximum borrowing – 50% of aggregate savings • Notification to Central Bank 	<ul style="list-style-type: none"> • Maximum borrowing – 25% of aggregate savings • Notification to Central Bank
Systems, Controls and Reporting Arrangements	<ul style="list-style-type: none"> • Requirement to maintain, approve and review a risk register and other documentation referred to in the 1997 Act • Communication of certain policies to all officers of the credit union 	<ul style="list-style-type: none"> • Requirement to maintain, approve and review a risk register and other documentation referred to in the 1997 Act • Communication of certain policies to all officers of the credit union • Certain disclosure requirements in relation to the annual accounts
Additional services	<ul style="list-style-type: none"> • Exemption from Additional Services Requirements Regulations (S.I. No. 223 of 2004 and S.I. No. 107 of 2007) 	<ul style="list-style-type: none"> • Exemptions in S.I. No. 223 of 2004 and S.I. No. 107 of 2007 now provided for under Central Bank regulation making powers • Insurance services on an introduction basis included on list of exempt services

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