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Central Bank of Ireland  
North Wall Quay  
Dublin 1  
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**(by email only)**

**Response to Discussion Paper on the Consumer Protection Code Review**

Dear Colm

The Irish League of Credit Unions (ILCU) is the largest representative body for Credit Unions in Ireland. Founded in 1960 with the aim of providing representation, leadership, co-operation, support and development for credit unions in both Northern Ireland and the Republic of Ireland, the ILCU today has an affiliated membership of circa 270 credit unions in the Republic of Ireland and Northern Ireland. Membership of the ILCU is open to every credit union in Ireland. The credit union movement is built on an ethos of mutuality, volunteerism, self-help and not for-profit philosophy. The ILCU, as an advocate of this ethos, has a vision to influence, inspire, and support the credit union movement to achieve all its goals – social, economic and cultural – while always respecting the individual’s rights and dignity. In short, the activities of the ILCU include promoting the credit union idea and ethos; lobbying central Government on behalf of affiliated credit unions; maintaining a professional working relationship with the regulatory bodies regarding credit union regulation and compliance; and providing a range of professional services to credit unions. We are a democratic organisation where elections take place to the Board of Directors every two years at our AGM.

By way of background, credit unions provide a range of financial services to their members and every credit union is owned by its members — the people who save with it and borrow from it. Credit unions exist only to serve members — not to profit from their needs. Surplus income generated is returned to the members by way of a dividend, loan rebate and/or is directed to improved or additional services for members. Members' savings are used to fund loans to other credit-worthy members of the credit union. So, the money in a credit union always remains in the local community or 'common bond' that the credit union serves.



Credit Unions have a proven track record in providing superior customer service and this is illustrated by credit unions ranking first for the eighth year in a row in the CXi poll. The Customer Experience Insight (CXi) Report is published annually by the CX Company based on a survey carried out on their behalf by Amárach Research. Over 33,000 experiences were evaluated using the CX Framework, including value, channel usage, how important employees are to the customer experience, and net promoter score (NPS) which measures the loyalty of customers to a company.

ILCU welcomes the opportunity to respond to the discussion paper on Consumer Protection Code. This is timely given the rapid pace of digitalisation and the increasing consolidation of the Irish retail banking sector. Consumer protection is a top priority for credit unions. Consumer protection is in our DNA and our operating principles clearly demonstrate the central role of consumer protection for credit unions.

The ILCU believes that the best way to protect consumers is to promote effective competition to the retail banks in Ireland. A modernised Consumer Protection Code that is dynamic and capable of addressing the rapid pace of change is key. We ultimately see the endpoint as a clear and accessible consumer protection code.

In terms of specific points for consideration, we would like to see regular reviews of the code; an electronic automated switching code with the establishment of a switching service as referred to in the Payments Account Directive; IBAN portability to reduce the cost and disruption of switching current accounts; a level playing field for firms selling the same product; a need for a new initiative to help resolve legacy mortgage arrears; a full implementation of the Retail Banking Code particularly relating to increasing the minimum notice period required to four months for significant banking service changes and to six months for branch closures; increased focus and collaboration on combatting fraud; and the need for full implementation of Open Banking by credit institutions here.

Please find attached our response which has also been uploaded on the portal. Given the essential role Credit Unions play in Irish society, we would like to have a meeting with the Code Review team to discuss this in greater detail and our Head of Advocacy and Regulatory engagement, Barry Harrington is available to discuss this further at

[Redacted contact information]

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David Malone  
Chief Executive Officer

Copied Elaine Byrne, Registrar of Credit Unions



## Appendix – ILCU response to Consumer Protection Code Discussion Paper

### Broad Theme A – Availability and Choice

#### **1. What are your views on availability and choice of financial services and products for consumers?**

It is the view of the Irish League of Credit Unions that the best way to protect consumers is to promote effective competition to the retail banks in Ireland. There is wide availability and choice in the Irish market however there is increased concentration in the retail banking market and this could lead to consumer detriment. Credit unions provide a range of financial services to their members and every credit union is owned by its members. These services include savings, loans, investments and insurance and are provided in the context of over 400 locations throughout Ireland. It is our view that the retail banking sector is not sufficiently meeting the needs of all consumers and SMEs. Credit unions issued approximately 500,000 loans last year, have approximately 50% of the market share of the personal loan category and in Q4 2022 10% of all current accounts opened were in Credit unions. Credit unions are at the heart of communities and have a bigger geographical location network than the three retail banks combined.

New entrants are dependent on money markets and external funds whereas credit unions are not and have access to funding with €12.5 billion of members savings that could be lent out. New entrants on the other hand must significantly increase their rates as the European Central Bank raises rates or in line with market volatility.

Credit unions continue to grow strongly in terms of membership and for the 8th consecutive year positioned in 1st place in the Customer Experience Awards (“CXi”), the only organisation worldwide to achieve this remarkable result. This success is based on the unique feature where members are both the owners and the consumers; an expanded product and channel offering; and commitment to personal, flexible approached delivered via local branches throughout Ireland.

#### **2. How important are new providers and new delivery channels to serving consumers' financial needs?**

The retail banking sector is undergoing fundamental change including exits of large incumbents Ulster Bank and KBC, new market entrants in certain product categories, and rapid digitalisation of the business model.

Innovation is key to providing new products and services that reflect the changing dynamic in Irish society such as the rapid move to digitalisation. A high level of consumer protection that ensures avenues for redress are essential. We believe that there should be a level playing field for firms providing the same services in the Irish market.

Whatever channel a customer or SME chooses to engage with their financial institution of choice, it is important for them to have the necessary experienced and educated staff to engage with, to complement their experience, and add value.

**3. In implementing its consumer protection mandate, how should the Central Bank reflect the importance of competition in its regulatory approach?**

Competition is essential to ensure a wide variety of products and services are available at fair prices for consumers. The Financial Conduct Authority in the UK has a mandate *“to promote competition in the interest of consumers..”*, we believe this to be a laudable approach. Competition is particularly necessary in the Irish retail banking market where concentration in the mortgage market is acute with the Herfindahl-Hirschmann Index (HHI) showing an increasing, high level of concentration. Credit unions are highly regulated, well run, well capitalised, intensively supervised and can provide effective competition to the retail banks with a local presence and high levels of trust.

Credit unions will continue to address negative market consequences by providing unrivalled local community support, a flexible approach, and expanded offering. Greater collaboration is likely using corporate credit unions and credit union service organisations. Forthcoming legislative change is welcome and appropriate.

Capital requirements is an issue for competition in the market. The average capital requirements for European bank mortgages are 2.1%, whereas this figures rises to 5.7% for Irish bank mortgages, and there is an additional premium for Irish credit union house loans including an operational risk reserve.

Broad Theme B – Firms Acting in Consumers’ Best Interests

**4. Do you agree that the Central Bank should develop guidance on what it means for a firm to act in the best interests of its customers?**

Yes, it can be difficult to analyse and assess the ever increasing number of reports, opinions, speeches and to rank these in order of priority behind legislation, regulations or directions. Any attempts to improve communication, transparency and expectations is welcome.

It is important that consumers should be given greater education about financial matters, products and their rights to ensure they are adequately protected at the point of sale and in any redress.

**5. Does the suggested outline of ‘customer best interest’ guidance capture the essence of the obligation to act in customers’ best interests? What other guidance would you suggest?**

It can be difficult to be prescriptive and definitive for every situation. The Credit union movement provides the option of in-person, local staff dealing with its members rather than customers and in the context of ever increasing digitalisation and the use of IT systems this is a unique differentiator over the retail banks. This allows credit unions to be much more responsive and cognisant of customer best interest.





## Theme 1 – Innovation and Disruption

### **6. Do you agree with our proposed approach to enhancing our Innovation Hub?**

The Innovation Hub has proven to be a useful and valuable resource for firms attempting to launch new products or to ascertain the extend of the regulatory perimeter. We fully agree and support the proposed approach to enhancing the Innovation Hub as outlined in this discussion paper and in the Ireland for Finance action plan and the IMF Financial Sector Assessment Programme report of 2022.

### **7. What more should be done to support innovation while ensuring consumers' best interests are protected?**

Consumer protection should be at the forefront of any new product or service. We believe that Credit unions' regulatory position should be regularly reviewed as unintended consequences of overlapping requirements impacts on business model sustainability and can hinder innovation. Simplification and more proportionate regulation is a key area for ILCU and we are developing our strategy as called for in the Retail Banking review.

The recently published "Financial Conditions of Credit union 2022" highlights the resilience of the sector with the average rate of arrears has fallen to a seven-year low of 3.0 per cent at 30 September 2022. The report also illustrates the strong capital positions of credit unions with total realised reserves as a percentage of total assets increased to 16.1% and savings continued to increase during 2022, totalling €17bn at 30 September 2022. Coupled with that there is an increased duration in lending continued during 2022, with close to 32 per cent of loans now outstanding for periods of greater than 5 years. Total credit union assets have reached a record high of €20.31 billion at 30 September 2022.

It should be noted that accounts in authorised credit institutions remain the largest single component of credit union investments, accounting for more than 65 per cent of investments throughout the period as per the investment regulations applicable to the credit union sector and this impacts on the range and scale of investments credit unions can invest in and seek a return from. Over 90% of credit union investments are with banking sector via accounts in authorised credit institutions and bank bonds. This demonstrates the high level of concentration created by the restrictions in the investment regulations.

### **8. How can regulators ensure that neither firms currently in the market, nor new entrants, have unfair advantages which could be a barrier to fair competition?**

It is important that barriers to entry are not artificially created or by different regulatory or supervisory approaches. Open banking is a key element to allow further innovation and competition to thrive in the market. However the roll out and establishment of APIs in the open banking space has been inconsistent, difficult to align to and cumbersome. This is a requirement under the Payment Services Directive and full compliance should be adhered to and monitored.

## Theme 2 – Digitalisation

### **9. Do you agree with our analysis of the benefits, challenges and risks around digitalisation in the area of financial services? What are the key issues for you?**

We have seen a rapid move to digitalisation and while there are undoubted benefits it is important to ensure adequate level of services for people who may be vulnerable or less digitally aware or like to have human contact for products and services. Digitalisation should not be an excuse for lowering consumer protection and people's rights should not be different because of the method of delivery of the product or service. Fraud prevention is a key concern with the move to more digital delivery as trust can be broken or people can be targeted.

### **10. How do you think the personalisation and individual-targeting of ads can be made compatible with the requirement for firms to act in the best interests of customers?**

This requires further thought and reflection because of the unique nature of financial services and products, it is important that firms "*acts honestly, fairly and professionally in the best interests of its customers and the integrity of the market*". Individual targeted and personalisation is a concern given that this could be used by fraudsters and we would ask the Central Bank to reflect on what products and services are appropriate for that form of advertising.

## Theme 3 – Unregulated Activities

### **11. The Code requires regulated firms to provide a statement indicating that they are 'regulated by the Central Bank'. Do you think this is useful for consumers?**

### **12. How can the difference between regulated and unregulated activities be made clearer for consumers?**

### **13. Should there be additional obligations on regulated firms when they undertake unregulated activities?**

Unregulated activities is a key area where consumer protection is at risk. Given the dynamic nature of financial services and innovation, it is likely that more products and services will originate outside the regulatory perimeter. Firms that operate when not regulated should be punished as the potential for consumer detriment is increased. We would view regulation and legislation as an ongoing process rather than a point in time effort. We would ask the Central Bank to consider regular reviews of legislation and regulations including this code, particularly those powers that are domestic, to ensure risk based, proportionate regulation that is appropriate and allows consumers have a full nature of products and services available to them.

#### Theme 4 – Pricing Matters

- 14. What can firms do to improve transparency of pricing for consumers?**
- 15. In relation to pricing, are there examples of firms using unfair practices to take advantage of customer vulnerabilities?**

In terms of pricing, this is a matter for each individual financial entity and for business model development. Transparency is key and consumer should be full aware of costs, fees and charges including any indirect fees that are incurred. The European Supervisory authorities have undertaken significant work on inducements and cross-selling and these principles should be incorporated into the revised code. We note that some players in the market flag a headline rate (the lowest possible rate) at point of application - however the price quoted is not guaranteed (there tends to be small print in relation to this) - however, this is not clear and a deliberate, misleading practice to ensure the consumer starts the application process. Credit Unions don't undertake this misleading practice at present.

#### Theme 5 – Informing Effectively

- 16. How can regulation improve effectiveness of information disclosure to consumers?**
- 17. How can firms better support consumers' understanding - can technology play a role?**
- 18. Does the way in which firms approach disclosure in respect of mortgage products need enhancing? If so, how? -taking account of the wide variety of features of mortgage products and borrowers' different circumstances and needs.**

Informing consumers is key. There are overlapping and at times contractionary requirements to disclose information that stem from the Mortgage Credit Directive, Payments Services Directive, the Consumer Protection Code and the Code of conduct on Mortgage Arrears. This can lead to an information overload for the consumer. It is important that any disclosure is simple, easy to read and easily understandable given the asymmetry of information between the financial service entity and the consumer. ILCU would advocated for terms and conditions to be simplified and written in accordance with the National Adult Literacy Agency guidelines.

#### Theme 6 – Vulnerability

- 19. Given that vulnerability should be considered more as a spectrum of risk than a binary distinction, how should firms' duty to act in their customers' best interests reflect this?**
- 20. What other specific measures might be adopted to protect consumers in vulnerable circumstances while respecting their privacy and autonomy?**

The definition of vulnerable customer need to be considered and updated as necessary and aligned with the Financial Conduct Authority's definition. The Financial Conduct Authority's Guidance FG21/1 of 2021 is an excellent piece of work that could be tailored to the Irish market. Credit Unions always



act in the best interest of their customers and have led the way in ensure vulnerable customers are respected and aided in any way. This is helped by a wide geographical spread of approximately 400 locations throughout Ireland and where branches are staffed by well trained staff. Among the Credit Union operating principles are service to members and return on savings and deposits.

#### Theme 7 Financial Literacy

- 21. What can the responsible authorities do to improve financial education?**
- 22. How can consumers be empowered to better protect their own interests when dealing with financial matters?**

Credit unions are thought leaders in improving financial education and financial inclusion. There are key features of the credit union business model that help improve financial education and people to manage their finances. Improving Financial education and literacy is key. We fully support any efforts to improve financial education and we are engaging with authorities including Government Departments in terms of how to improve financial literacy. Among the Credit Union operating principles are ongoing education and cooperating among cooperatives. The ILCU foundation works with credit union movements internationally to achieve a collective aim - financial inclusion for people and communities everywhere. This is a tangible example of how credit unions are fundamentally different we are sharing the success of the Irish credit union movement with credit union movements in low-income developing countries, to build financial inclusion.

#### Theme 8 – Climate Change

- 23. How should the financial system best fulfil its role in supporting the transition to a climate neutral economy?**
- 24. How will climate change impact on availability, choice and pricing for financial products and services?**
- 25. Does the impact of climate change require additional specific consumer protections?**

The transition to a low carbon economy is government policy and as such Credit unions have an essential role to play in ensuring the financing of the change is sufficient and sustainable. It is too early to be definitive on the need for additional consumer protection in climate change but Credit unions have funds available to lend for retrofitting, electric car loans and solar panels or other efforts to aid the transition to a climate neutral economy.