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*Number 40 of 2012*

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**CREDIT UNION AND CO-OPERATION WITH OVERSEAS  
REGULATORS ACT 2012**

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**CREDIT UNION AND CO-OPERATION WITH OVERSEAS  
REGULATORS ACT 2012**

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AN ACT TO AMEND CERTAIN PROVISIONS OF THE CREDIT UNION ACTS 1997 AND 2001, IN PARTICULAR, TO AMEND THE PRUDENTIAL REQUIREMENTS FOR CREDIT UNIONS, TO CHANGE THE GOVERNANCE REQUIREMENTS FOR CREDIT UNIONS BY REMOVING CERTAIN MANAGEMENT FUNCTIONS FROM BOARDS OF DIRECTORS OF CREDIT UNIONS AND PROVIDING FOR A SEPARATE MANAGEMENT STRUCTURE AND TO IMPROVE THE OVERSIGHT AND GENERAL POLICY FUNCTIONS OF SUCH BOARDS OF DIRECTORS; TO PROVIDE FOR THE RESTRUCTURING OF CREDIT UNIONS AND FOR STABILISATION SUPPORT TO CREDIT UNIONS, TO PROVIDE FOR A FUND TO BE KNOWN AS THE CREDIT UNION FUND FOR THE PURPOSES OF SUCH RESTRUCTURING AND STABILISATION AND TO PROVIDE FOR LEVIES IN RESPECT OF THAT FUND; TO PROVIDE FOR MISCELLANEOUS MATTERS RELATING TO CREDIT UNIONS; TO AMEND THE CENTRAL BANK ACTS 1942 TO 2011, TO PROVIDE FOR CO-OPERATION BETWEEN THE CENTRAL BANK OF IRELAND AND OVERSEAS REGULATORS AND TO PROVIDE FOR THE APPOINTMENT OF AUTHORISED OFFICERS BY THE CENTRAL BANK OF IRELAND; AND TO PROVIDE FOR MATTERS RELATED TO THE FOREGOING.

[19th December, 2012]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Credit Union and Co-operation with Overseas Regulators Act 2012.

Short title,  
construction and  
collective citation.

(2) The Credit Union Acts 1997 and 2001 and this Act (other than sections 36, 37, 48(2) and 56(3), Part 5 and Schedules 2 to 5) may be cited together as the Credit Union Acts 1997 to 2012 and shall be construed together.

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(3) The Central Bank Acts 1942 to 2011, *sections 36, 37, 48(2) and 56(3), Part 5* (in so far as it amends any of those Acts), and *Schedules 2 and 3* (in so far as they amend any of those Acts) may be cited together as the *Central Bank Acts 1942 to 2012*.

Commencement. 2.—(1) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

(2) Notwithstanding the commencement of the Principal Act, the provisions of section 3(2) of the Principal Act relating to an order under section 1(2) of that Act apply to an order made under this section.

Definition. 3.—In this Act “Principal Act” means the Credit Union Act 1997.

Savers for regulatory actions of Bank. 4.—(1) A regulatory action taken by the Bank under a provision being amended, repealed or revoked by this Act on or before the commencement of such amendment, repeal or revocation, continues to have effect according to its terms. The Bank may enforce such a regulatory action.

(2) Notwithstanding anything in the rules of a credit union, the board of directors may, by resolution passed during the transitional period, make such amendments of the rules of the credit union as may be consequential on the provisions of this Act.

(3) For the purposes of *subsection (2)*, the transitional period is the period of one year from the commencement of this section.

(4) Notwithstanding anything in section 14(4) of the Principal Act, after the expiry of one year from the commencement of this section, the Bank shall not be required to register any amendment of a credit union’s rules unless such consequential amendments of the registered rules as are mentioned in *subsection (2)* either—

(a) have been made before the Bank receives the amendment; or

(b) are to be effected by the amendment.

(5) In *subsection (1)* “regulatory action” includes any direction, order, requirement, sanction, condition, appointment or request (however described) of a regulatory nature made, given or imposed by the Bank.

Expenses. 5.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.



PART 2

AMENDMENTS TO CREDIT UNION ACT 1997 AND CONSEQUENTIAL AMENDMENTS, ETC.

6.—The Principal Act is amended by substituting the following for subsection (1) of section 2: Amendment of section 2 (Interpretation) of Principal Act.

“(1) In the *Credit Union Acts 1997 to 2012*—

‘Act of 1966’ means the Credit Union Act 1966;

‘Advisory Committee’ means the committee established under section 180;

‘amendment’, in relation to the rules of a credit union, includes a new rule, and a resolution rescinding a rule, of the credit union;

‘annual accounts’ has the meaning given by section 111(6);

‘annual general meeting’ has the meaning given by section 78(1);

‘annual return’ means the annual return which a credit union is required by section 124 to send to the Bank;

‘Bank’ means the Central Bank of Ireland;

‘board of directors’ means the body which has general control, direction and management of a credit union and to which section 53 relates;

‘board oversight committee’ has the meaning given by section 76L;

‘books and documents’ includes accounts and records made in any manner, and ‘books or documents’ shall be construed accordingly;

‘business continuity’ and ‘business continuity plan’ have the meanings given to them, respectively, by section 76I;

‘chair’ has the meaning given by section 55A(2);

‘civil partner’ has the same meaning as it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘cohabitant’ has the same meaning as it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘common bond’ means a common bond falling within section 6(3);

‘compliance officer’ has the meaning given by section 76D;

‘contravention’ includes failure to comply;

‘Court’ means the High Court;

‘credit institution’ means—

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- (a) a recognised bank within the meaning of the Central Bank Acts 1942 to 2011,
- (b) a trustee savings bank,
- (c) the Post Office Savings Bank, or
- (d) a building society within the meaning of the Building Societies Act 1989;

‘credit union’ means a society registered as such under this Act, including a society deemed to be so registered by virtue of section 5(3);

‘debentures’ means any debentures, debenture stock or bonds of a credit union, whether constituting a charge on the assets of the credit union or not;

‘financial services legislation’, where applicable to credit unions acting under any authorisation from the Bank provided for by law, means—

- (a) the designated enactments within the meaning of section 2 of the Central Bank Act 1942,
- (b) the designated statutory instruments within the meaning of section 2 of the Central Bank Act 1942, and
- (c) the Central Bank Acts 1942 to 2011 together with the statutory instruments made under those Acts;

‘general meeting’ means an annual general meeting or a special general meeting;

‘internal audit charter’ has the meaning given by section 76K(2);

‘internal audit function’ has the meaning given by section 76K(1);

‘internal audit plan’ has the meaning given by section 76K(3);

‘manager’, in relation to a credit union, means the individual appointed to the role of manager of the credit union under section 63A;

‘management team’ has the meaning given by section 55(1)(i);

‘meeting’, includes, where the registered rules of a credit union so allow, a meeting of delegates appointed by members;

‘member of the family’, in relation to any person, means that person’s father, mother, grandfather, grandmother, father-in-law, mother-in-law, spouse or civil partner, cohabitant, son, daughter, grandson, granddaughter, brother, sister, half-brother, half-sister, uncle, aunt, nephew, niece, first cousin, step-son, step-daughter, step-brother, step-sister, son-in-law, daughter-in-law, brother-in-law or sister-in-law;

‘Minister’ means the Minister for Finance;

‘nomination committee’ has the meaning given by section 56B(1);

‘non-qualifying member’, in relation to a credit union, has the meaning given by section 17(4);

‘officer’, in relation to a credit union, includes—

- (a) the chair, the secretary or any other member of the board of directors, a member of a principal Committee, a member of the board oversight committee, risk management officer, compliance officer, credit officer or credit control officer of the credit union,
- (b) an employee of the credit union to whom paragraph (a) does not apply, and
- (c) a voluntary assistant of the credit union,

but does not include an auditor appointed by the credit union in accordance with the requirements of this Act;

‘operational risk’ has the meaning given by section 76E(1);

‘organisation meeting’ has the meaning given by section 77(1);

‘pass book’ includes any type of written statement of account;

‘persons claiming through a member’ includes the executors or administrators and assignees of a member and, where nomination is allowed, the member’s nominee;

‘prescribe’ means—

- (a) in relation to the Minister, prescribed by regulations made by the Minister under section 182, and
- (b) in relation to the Bank, prescribed by regulations made by the Bank under section 182A;

‘principal Committee’, in relation to a credit union, means a credit committee, credit control committee or membership committee;

‘register’ means the register maintained under section 8(5);

‘registered’ means for the time being entered in the register and ‘registration’ shall be construed accordingly;

‘regulatory directions’ has the meaning given by section 87(3);

‘restructuring proposal’ has the meaning given by section 45(1) of the *Credit Union and Co-operation with Overseas Regulators Act 2012*;

‘risk management officer’ has the meaning given by section 76C(1);

‘risk management system’ has the meaning given by section 76B(1);

‘savings’, in relation to a credit union, has the meaning given by section 27(1);

‘share’, in relation to a credit union, means each sum of one euro standing to the credit of a member of that credit union in respect of shares in the register of members required by this Act to be kept by that credit union;

‘special general meeting’ shall be construed in accordance with section 79;

‘special resolution’ means a resolution which is passed by a majority of not less than three quarters of such members of a credit union present and voting and who are for the time being entitled to vote in person at any general meeting of which notice, specifying the intention to propose the resolution, has been duly given according to the rules of the credit union;

‘strategic objectives’ has the meaning given by section 76A(1);

‘strategic plan’ has the meaning given by section 76A(1);

‘voluntary assistant’, in relation to a credit union, means a member of the credit union who, although not a remunerated employee of the credit union, is engaged in any way in the operation of the credit union.”.

Supplemental provisions relating to registration, etc., under section 6 of Principal Act.

7.—The Principal Act is amended by inserting the following section after section 6:

“6A.—(1) The Bank may impose such conditions, if any, as the Bank considers to be necessary to protect, with effect from registration under this Part, the interests of the members of the society seeking registration and any such conditions shall be a condition for registration as a credit union.

(2) The conditions imposed by the Bank under subsection (1) may include requiring a credit union—

- (a) to notify the Bank of any events of such significance that could materially affect the credit union including any change to the strategic plan of the credit union;
- (b) to operate a more limited business model agreed with the Bank;
- (c) to cause to be undertaken an independent review of the credit union’s business within 12 months in order to ensure that the credit union is complying with all legal and regulatory requirements.

(3) Any of the conditions of registration may be amended or revoked by the Bank if, in the opinion of the Bank—

- (a) the amendment or revocation is necessary to protect the interests of the credit union’s members, or
- (b) the conditions concerned have become spent or obsolete and should be revoked.

(4) Whenever the Bank proposes to impose a condition in relation to a registration or to amend the conditions of a registration—

- (a) it shall notify in writing the society seeking registration under this Part or the credit union concerned, as the case may be—
  - (i) that it intends to impose one or more than one condition in relation to the registration or to amend the existing conditions of the registration imposed under this section, as the case may be, and of its reasons for so doing, and
  - (ii) that the society or credit union concerned, as the case may be, may, within 15 working days after the date of the giving of the notification, make representations in writing to the Bank in relation to the imposition or amendment, as the case may be, and shall specify in the notification, the condition or the amendment, as the case may be,

and

- (b) the society or credit union concerned, as the case may be, may make such representations to the Bank within the time referred to in paragraph (a)(ii).

(5) Before deciding to impose conditions of registration, or an amendment of conditions of the registration, under this section, as the case may be, the Bank shall consider any representations duly made to it under subsection (4)(b) and, after so considering, the Bank may—

- (a) decide to impose the conditions of registration, or the amendment of the conditions of the registration, under this section, as the case may be,
- (b) decide to impose the conditions or amend the conditions of the registration under this section, as the case may be, that differ from those specified in the notification concerned, but only if the difference results in the conditions concerned being no more onerous than would be the case had the Bank decided to impose the conditions or amend the conditions of the registration, as the case may be, in accordance with the notification concerned, or
- (c) without prejudice to subsections (1) to (3), decide not to impose the conditions or not to amend the conditions of the registration.”.

8.—The Principal Act is amended by substituting the following for Savings. section 27:

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

- (a) by the issue to its members of shares in the credit union (which may be withdrawable or non-withdrawable), and
- (b) by the acceptance of money on deposit from a member,

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

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

- (a) the maximum amount of savings (expressed as a monetary amount or as a percentage of some monetary amount or determinable monetary amount) or category of savings a credit union member may hold,
- (b) the ratio of total deposits from members that may be held by a credit union to total shares issued to members, and
- (c) any other requirement or limit which the Bank considers necessary to prescribe.

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

9.—The Principal Act is amended by inserting the following after section 27 (inserted by *section 8*):

“27A.—(1) In addition to its reporting functions under the *Credit Union Acts 1997 to 2012* and complying with any matter prescribed under those Acts, a credit union shall maintain appropriate oversight, policies, procedures, processes, practices, systems, controls, skills, expertise and reporting arrangements to ensure the protection of members' savings and that it complies with requirements imposed under the financial services legislation.

(2) Without prejudice to the generality of subsection (1), the Bank may make regulations prescribing—

- (a) certain oversight, policies, procedures, processes, practices, systems, controls, skills, expertise and reporting arrangements which the credit union is required to maintain where the Bank considers this is appropriate in the interest of protecting members' savings or otherwise appropriate to ensure compliance with the requirements imposed under financial services legislation;
- (b) requirements in relation to the oversight, policies, procedures, processes, practices, systems, controls, skills, expertise and reporting arrangements required to be maintained under this section.”.

**10.**—The Principal Act is amended by substituting the following Borrowing.  
for section 33:

“33.—(1) For the purpose of its objects as referred to in section 6 a credit union may borrow money, on security or otherwise, and may issue debentures accordingly.

(2) For the adequate protection of the savings of members of credit unions, the Bank may prescribe—

(a) the maximum amount of money a credit union may borrow at any one time which may be expressed as a percentage of the aggregate of shares balance and the deposits balance of the credit union, and

(b) the notice to be given to the Bank by a credit union in specified circumstances where the credit union proposes to borrow certain amounts of money (expressed as a monetary amount or as a percentage of some monetary amount or determinable monetary amount) in respect of those circumstances.

(3) Where the Bank considers it is necessary in the interests of the proper regulation of a credit union or credit unions generally, or the protection of members' savings, it may do either or both of the following:

(a) permit a credit union to borrow moneys in excess of the amount prescribed in accordance with subsection (2);

(b) waive any notice requirement prescribed in accordance with subsection (2).

(4) A person dealing with a credit union shall not be obliged to be satisfied or to enquire into whether the limit imposed on the credit union by virtue of subsection (2) (or such limit as may be duly affected under subsection (3)) has been or is being observed; but if a person who lends money to a credit union or takes security in connection with such a loan has, at the time the loan is made or the security is taken, actual notice of the fact that that limit has been or is thereby exceeded, the credit union's debt or, as the case may be, the security shall be unenforceable.

(5) Subject to subsection (4), a transaction with a credit union shall not be invalid or ineffectual by reason of the fact that the limit on borrowing prescribed by the Bank under subsection (2) (or such limit as may be duly affected under subsection (3)) has been or is by the transaction exceeded.

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

Pr.2 [No. 40.] *Credit Union and Co-Operation with Overseas Regulators Act 2012.* [2012.]

Lending. **11.—(1)** The Principal Act is amended by substituting the following for section 35:

“35.—(1) (a) In this section ‘large exposure’, in relation to loans of a credit union to a borrower or a group of borrowers who are connected, means the total exposure (including contingent liabilities) of the credit union where the total exposure to such borrower or group of borrowers would be greater than an amount (whether expressed as a monetary amount or as a percentage of some monetary amount or determinable monetary amount) prescribed by the Bank.

(b) For the purposes of this subsection—

‘control’ has the meaning assigned to it by section 432 of the Taxes Consolidation Act 1997 and the other relevant provisions of Part 13 of that Act;

‘group of borrowers who are connected’ means 2 or more persons—

- (i) who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other person or persons (not being individuals); or
- (ii) between whom there is no relationship of control as set out in subparagraph (i), but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, the other person or some or all of the other persons would be likely to encounter repayment difficulties.

(2) A credit union may make a loan to a member for such purpose as the credit union considers appropriate, upon such security (or without security) and terms as the rules of the credit union may provide. The ability of the loan applicant to repay shall be the primary consideration in the underwriting process of the credit union.

(3) A credit union shall manage and control lending to ensure the making of loans does not involve undue risk to members’ savings taking into account the nature, scale, complexity and risk profile of the credit union.

(4) Every application to a credit union for a loan shall be in writing and shall state the purpose for which the loan is required and the security (if any) offered for it.

(5) A credit union shall not accept from an officer of the credit union a guarantee for a loan to another member unless that other member is the officer’s spouse or civil partner, child or parent.

(6) Where the rules of a credit union so provide, the credit union may determine in accordance with those rules the total,



including percentage, amount of loans (if any) that it may grant to non-qualifying members.

(7) In relation to loans to which this section relates and for the adequate protection of the savings of members of credit unions, the Bank may prescribe one or more of the following:

- (a) the classes of lending a credit union may engage in whether by reference to any common characteristic of the credit unions or loans concerned, or otherwise;
- (b) the limits on the total, including percentage, amount of loans generally, or unsecured loans or class or classes of loans, that may be lent by credit unions, having regard to period or periods of time for which loans concerned are made;
- (c) the matters relating to large exposures of credit unions and limits relating to such exposures;
- (d) the limits on the concentration of lending, including concentration limits on loan classes, including concentration limits on loans to a member of a credit union;
- (e) any other limit that the Bank considers appropriate.

(8) For the adequate protection of the savings of members of credit unions the Bank may prescribe such other requirements as it considers necessary in relation to any one or more of the following matters:

- (a) the lending practices of credit unions, including—
  - (i) loan application assessments,
  - (ii) the making of provision for specified matters,
  - (iii) reviews to assess the adequacy of provisions,
  - (iv) maintaining policies for the holding of provisions, for credit and for credit control,
  - (v) the types of security that may be accepted;
- (b) reporting loans to the Bank;
- (c) the holding by credit unions of provisions, reserves or capital against loans or specified classes or types of loans.

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

(10) A credit union shall ensure that it has appropriate processes, procedures, systems, controls and reporting arrangements to monitor compliance with the requirements of this section and any requirement imposed under this section.

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(11) Subject to its rules, in respect of a loan, a credit union may accept, in addition to other forms of security—

- (a) a guarantee by a member, or
- (b) a pledge by a member of shares in or deposits with the credit union,

and, where such a guarantee or pledge is accepted, it shall be deemed to be a security for the loan.”.

(2) Where immediately before the commencement of this section, either generally or in respect of a category or categories of credit unions—

- (a) there is a subsisting approval given by the Bank under subsection (2) of section 35 of the Principal Act in respect of the limits set out in that subsection,
- (b) there is a subsisting approval given by the Bank under subsection (4) of section 35 of the Principal Act in respect of a larger percentage than that to which the subsection relates,
- (c) there is a subsisting order made by the Minister under subsection (6) of section 35 of the Principal Act in respect of financial (including percentage) limits, or
- (d) there are requirements in place for the purposes of section 35 of the Principal Act in respect of credit unions,

then that approval or order or those requirements shall continue to have effect to the extent that the matters to which such approval, order or requirements relate have not been dealt with by being prescribed by the Bank under that section of the Principal Act as amended by *subsection (1)*.

**12.**—The Principal Act is amended by substituting the following for section 43:

“43.—(1) A credit union shall manage its investments to ensure that those investments do not (taking account of the nature, scale, complexity and risk profile of the credit union) involve undue risk to members’ savings and, for that purpose, before making an investment a credit union shall assess the potential impact on the credit union, including the impact on the liquidity and financial position of the credit union.

(2) A credit union may invest any of its funds, which are surplus to its operating requirements and are not immediately required for the purposes of the credit union, in any one or more of the following:

- (a) the shares of, or deposits with (other than deposits to which subsection (6) relates) or loans to, another credit union as the Bank may prescribe;
- (b) the shares of a society registered under the Industrial and Provident Societies Acts 1893 to 1978 as the Bank may prescribe;

- (c) such other investments as may be prescribed for that purpose by the Bank under subsection (3).

(3) For the purposes of subsection (2)(c) the Bank may prescribe investments in which a credit union may invest its funds. In prescribing matters for the purposes of subsection (2) and having regard to the need to avoid undue risk to members' savings, the Bank may also prescribe other matters in relation to prescribed investments, including any of the following:

- (a) the classes of investments, including, where appropriate, any investment project of a public nature the credit union may invest in;
- (b) the quality of investments and quality of counterparties that the credit union may invest in;
- (c) the maximum, including percentage, amount (by reference to a credit union's surplus funds to which subsection (2) relates or otherwise) of a class of investments that may be invested in;
- (d) the term to maturity of a class of investments;
- (e) the currency of a class of investments;
- (f) limits for investment, whether by reference to maturity, currency, counterparty, sector, instrument or otherwise;
- (g) any other matters that the Bank may consider necessary in the circumstances.

(4) The Bank may prescribe matters for the purposes of any distribution policy to be applied by a credit union in respect of investment income.

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

(6) In so far as any funds of a credit union that are surplus to its operating requirements—

- (a) are not immediately required for the purposes of the credit union,
- (b) are not invested in accordance with subsection (2), or
- (c) are not kept in cash in the custody of officers of the credit union,

those funds shall be kept by the credit union on current account with a credit institution.

(7) Where any funds of a credit union are on current account with, or on loan to, an institution which ceases to be a credit institution, the credit union shall take all practicable steps to call in and realise the loan within the period of 3 months from the

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time when the institution so ceased or, if that is not possible, as soon after the end of that period as possible.”.

Reserves. **13.**—The Principal Act is amended by substituting the following for section 45:

“45.—(1) In this section—

‘assets’ means such assets as the Bank may from time to time specify for the purposes of this section;

‘regulatory reserve’ means a reserve that is a realised financial reserve which is—

- (a) unrestricted and non-distributable,
- (b) identified separately in a credit union’s accounts, and
- (c) to be maintained by a credit union pursuant to this section;

‘regulatory reserve requirement’ means the amount required to be held in the regulatory reserve of a credit union, expressed as a percentage of the assets of a credit union and prescribed by the Bank.

(2) A credit union shall maintain reserves that are adequate having regard to the nature, scale, complexity and risk profile of its business.

(3) The Bank may prescribe the regulatory reserve requirement that a credit union shall maintain at a minimum and, in so prescribing, may include conditions on the application of the regulatory reserve requirement. For that purpose the Bank may also prescribe in respect of other matters related to the regulatory reserve requirement, including any of the following:

- (a) the application of risk weightings to assets for the purposes of calculating the regulatory reserve requirement;
- (b) the types and attributes of the assets or liabilities included in the calculation of the regulatory reserve requirement;
- (c) the requirement for initial reserves to be held by a newly-registered credit union under section 6.

(4) Where requirements to which subsection (3)(c) relate have been prescribed, they shall not apply to a credit union established as a result of amalgamations of 2 or more existing credit unions.

(5) A credit union shall maintain reserves, in addition to the regulatory reserve requirement prescribed under subsection (3) that—

- (a) it has assessed are required in respect of operational risk having regard to the nature, scale, complexity and risk profile of its business, and

(b) which shall not be less than those required under any additional reserve requirement applicable to it in respect of operational risk by virtue of subsection (6).

(6) Either or both the level of additional reserves to be maintained by a credit union and the basis for calculating the additional reserves to be maintained by a credit union under this section in respect of operational risk may be prescribed by the Bank. For that purpose the Bank may also prescribe in respect of ancillary matters related to the additional reserves held in respect of operational risks.

(7) A credit union that fails to meet any reserve requirement under this section—

(a) may be required by the Bank to transfer all or part of its surplus to reserves, and

(b) shall secure the written approval of the Bank before paying a dividend or loan interest rebate.

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

(9) (a) Pending the prescribing by the Bank of reserve requirements for the purposes of this section in respect of credit unions generally or a category of credit unions, the reserve requirements applicable to credit unions under section 85 shall continue to apply generally or to such category of credit unions, as the case may be.

(b) Where reserve requirements have been prescribed by the Bank for the purposes of this section in respect of credit unions generally or a category of credit unions, then section 85 shall cease to apply generally to that category of credit unions, as the case may be, in respect of the matters so prescribed.”.

**14.**—The Principal Act is amended by substituting the following for section 52:

Appeal against certain decisions of Bank.

“52.—The following decisions are appealable decisions for the purposes of Part VIIA of the Central Bank Act 1942:

(a) a decision by the Bank under section 6A for the purposes of subsection (1) or (2) of that section;

(b) a decision by the Bank under section 11(5) to direct a credit union to change its name to a name approved by the Bank;

(c) a decision by the Bank under section 41(5) to direct a credit union to dispose of the interest to which the direction relates;

- (d) a decision by the Bank under section 49(3)(b) to refuse to grant approval;
- (e) a decision by the Bank under section 50(3)(a) to withdraw an approval granted under section 49;
- (f) a decision by the Bank under section 50(3)(b) to vary any condition imposed on such an approval;
- (g) a decision by the Bank to impose any condition on such an approval (whether at the time the approval is granted or later by virtue of section 50(3)(c));
- (h) a decision by the Bank to give a regulatory direction under subsection (1) or (2) of section 87.”.

Board of directors. **15.—**(1) The Principal Act is amended by substituting the following for section 53:

“53.—(1) A credit union shall have a board of directors which shall have responsibility for the general control, direction and management of the credit union.

(2) The board of directors of a credit union shall be of sufficient number and expertise to adequately oversee the operations of the credit union.

(3) Except in the circumstances set out in subsection (4), the number of directors shall be specified in the registered rules as set out in section 13 and shall be—

- (a) not less than 7,
- (b) not more than 11, and
- (c) an odd number.

(4) The number of directors of a credit union may be more than 11 or may be an even number if an additional director is appointed under section 95A.

(5) Each director of a credit union shall ensure that he or she has sufficient time to devote to the role of director and the responsibilities associated with that role as indicated by the nomination committee under section 56B(4)(g).

(6) The board of directors of a credit union shall be elected—

- (a) where the organisation meeting occurs after the commencement of this provision (as amended by *section 15* of the *Credit Union and Co-operation with Overseas Regulators Act 2012*), by secret ballot at the organisation meeting and, subject to subsection (15) and section 57, subsequent vacancies on the board of directors shall be filled by secret ballot at an annual general meeting, and
- (b) in any other case, by secret ballot at the annual general meeting first occurring after the commencement of this provision (as amended by *section 15* of the *Credit Union and Co-operation with Overseas*

*Regulators Act 2012*) or, if earlier than that annual general meeting, at a special general meeting called for the purpose of such ballot and, subject to subsection (15) and section 57, subsequent vacancies on the board of directors shall be filled by secret ballot at an annual general meeting.

- (7) The term of office of a director of a credit union—
- (a) shall begin at the conclusion of the general meeting at which the director is elected,
  - (b) shall not extend beyond the third subsequent annual general meeting after his or her election, and
  - (c) subject to paragraph (b), subsections (8) and (12) and all other applicable requirements of financial services legislation, shall be determined in accordance with the registered rules,

but, except where this Act or any other applicable requirement of financial services legislation or the registered rules otherwise provides, a retiring director shall be eligible for re-election.

(8) At each annual general meeting of a credit union the number of directors whose term of office expires shall, as near as possible, be the same.

(9) Only a natural person of full age may be a director of a credit union.

(10) The following persons are not eligible to become a director of a credit union:

- (a) an employee or voluntary assistant of the credit union or an employee of any other credit union;
- (b) a member of the board oversight committee of the credit union;
- (c) a director of any other credit union;
- (d) an employee of a representative body of which the credit union is a member, where that employee's role could expose them to a potential conflict of interest;
- (e) a public servant (within the meaning of the Financial Emergency Measures in the Public Interest Act 2009) assigned to the Department of Finance and involved in advising the Minister on credit union issues or in the examination of credit union issues;
- (f) a member of the Commission of the Bank;
- (g) an officer (within the meaning of section 2 of the Central Bank Act 1942) or other employee of the Bank and who is involved in the regulation of credit unions;
- (h) the Financial Services Ombudsman (within the meaning of section 2 of the Central Bank Act 1942) or a



Bureau staff member (within the meaning of section 57BA of that Act);

- (i) a member of the Irish Financial Services Appeals Tribunal or a member of its staff (including the Registrar of the Appeals Tribunal appointed under section 57J of the Central Bank Act 1942);
- (j) the chief executive of the National Consumer Agency, an authorised officer of that Agency (within the meaning of section 2 of the Consumer Protection Act 2007) or any other member of its staff;
- (k) the auditor of the credit union or a person employed or engaged by that auditor;
- (l) a solicitor or other professional adviser who has been engaged by or on behalf of the credit union within the previous 3 years;
- (m) a person who is a spouse or civil partner, parent, sibling or child of a director, board oversight committee member or employee of that credit union.

(11) A person shall resign from being a director of a credit union if and when he or she becomes a person to whom any provision of subsection (10) relates.

(12) A member of a credit union may not be appointed or elected to the board of directors if he or she has served for more than 12 years in aggregate in the previous 15 years on either the board of directors or the board oversight committee of the credit union.

(13) For directors of a credit union or members of the board oversight committee who were already directors or members of the board oversight committee on the date of the commencement of this section in respect of such credit union, the 12 year period set out in subsection (12) commences on the date this subsection so commences.

(14) Directors of a credit union may not serve more than 3 consecutive years in any one principal post (as referred to in section 63) and a person who has been the holder of such a principal post shall not be eligible for re-election thereto until after the expiry of one year since he or she last held it.

(15) Subject to the requirements set out in this section and all other applicable requirements of financial services legislation, the board of directors may at any time and from time to time appoint a member of the credit union (including a former director) to be a director to fill a casual vacancy.

(16) A director appointed under subsection (15) shall hold office from the date of the appointment to the next following annual general meeting of the credit union or, if it is earlier, the next special general meeting at which an election is held for directors of the board of directors.

(17) Where all the directors of a credit union intend to resign on the same date, the secretary shall give written notice of the



directors' intention to the Bank and the board oversight committee.”.

(2) An amendment to the rules of a credit union passed in accordance with section 14(1) of the Principal Act to give effect to a reduction in the number of board of directors in compliance with that Act, shall have immediate effect notwithstanding section 14(2) of that Act.

**16.**—The Principal Act is amended by substituting the following for section 54: Operation of board of directors.

“54.—(1) The board of directors of a credit union shall meet as often as may be appropriate to fulfil its responsibilities effectively and prudently and reflecting the nature, scale and complexity of the credit union, but in any event—

- (a) the board of directors shall hold at least 10 meetings in any year, and
- (b) the interval between any 2 meetings of the board of directors shall not be greater than 6 weeks.

(2) Meetings of the board of directors of a credit union shall be chaired by the chair or, in his or her absence, by the vice-chair or, in the absence of the chair and the vice-chair, in a manner prescribed by the Bank or, if no manner is so prescribed, in a manner provided for in the rules of the credit union.

(3) The secretary of a credit union shall keep minutes of all meetings of the board of directors.

(4) Subject to subsection (10), the chair shall cause a detailed agenda of items for consideration and discussion to be prepared by the secretary of the credit union for each meeting of the board of directors.

(5) The secretary of the credit union shall cause the detailed agenda and proposed minutes of the previous meeting of the board of directors to be circulated sufficiently in advance of each board of directors meeting to allow all directors adequate time to consider them. Where necessary, sufficient and clear supporting information and papers shall also be so circulated.

(6) Nothing in subsection (4) or (5) shall be read as preventing discussion or consideration of any matter urgently arising that is not included in the detailed agenda but any such matter shall, without prejudice to subsection (7), be recorded in the minutes of the meeting concerned and, where appropriate or the board of the credit union so directs, clear supporting information and papers relating to the matter so arising shall be circulated as soon as practicable in the circumstances.

(7) Minutes of all meetings of the board of directors shall—

- (a) be prepared with all decisions, discussions and points for further action being documented,
- (b) record all dissensions or minority votes in terms acceptable to the dissenting person or minority voter, and

(c) provide sufficient detail to identify the nature and extent of the discussion on any matter and the decision or other outcome.

(8) All discussions at board of directors meetings relating to conflicts of interest (whether of board members or otherwise) shall be recorded in sufficient detail in the minutes of the meeting concerned, together with a record of any action taken or proposed to be taken.

(9) The minutes of each meeting of the board of directors shall be motioned for agreement and approval at the next subsequent meeting of the board of directors. Those minutes shall be so approved or approved subject to such qualifications and modifications as may be made to them at that subsequent meeting. Any such modification or qualification shall also be minuted in the minutes of that subsequent meeting.

(10) In causing the agenda for a meeting of directors of a credit union to be prepared, the chair shall endeavour to ensure that adequate and sufficient time is provisionally allocated to all material relevant matters for discussion.

(11) Directors of the board of directors shall attend every meeting of the board of directors unless they are unable to attend due to circumstances beyond their control.

(12) The extent of the attendance of each board member at meetings of the board of directors shall be recorded in the minutes for the meeting concerned.”.

Functions of board of directors.

**17.**—The Principal Act is amended by substituting the following for section 55:

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

- (a) setting the strategy for the credit union by preparing, including active participation and examination of strategies being developed or proposed by the manager, management team or others and preparing and adopting a strategic plan;
- (b) monitoring the implementation of the strategic plan by the credit union, reviewing the performance of the credit union against the measurements defined in the strategic plan and assessing, on a regular basis but at least annually, how the strategic objectives of the credit union are being achieved;
- (c) reviewing the credit union’s strategic plan on a regular basis, but at least annually, to ensure that it remains relevant and up to date and modifying or revising the strategic plan to incorporate any changes required as a result of the review;
- (d) operating a comprehensive decision-making process, considering all matters it considers to be of material relevance to the credit union and documenting the reasons for its decisions;

- (e) the appointment of a manager, risk management officer and compliance officer and the approval of the appointment of any other member of the management team;
- (f) ensuring that there is an effective management team in place;
- (g) reviewing the performance of the manager on an annual basis and monitoring on an ongoing basis his or her continued appropriateness to be the manager;
- (h) ensuring that the performance of every other employee and voluntary assistant, is reviewed and monitored on an ongoing basis to ensure his or her continued appropriateness for his or her role in the credit union;
- (i) identifying, in consultation with the manager, other officer positions within the credit union that—
  - (i) are essential to the proper management of the credit union,
  - (ii) are likely to enable the person holding the position to exercise significant influence on the conduct of the affairs of the credit union,and which, together with the manager and risk management officer of the credit union are referred to in this Act as the ‘management team’;
- (j) ensuring there is an appropriate succession plan in place in respect of each of the positions that constitute the management team;
- (k) exercising appropriate oversight over execution by the management team of the agreed strategies, goals and objectives;
- (l) reviewing and approving all elements of the risk management system on a regular basis, but at least annually and, in particular—
  - (i) assessing the appropriateness of the risk management system,
  - (ii) taking account of any changes to the strategic plan including the credit union’s resources or the external environment, and
  - (iii) taking measures necessary to address any deficiencies identified in the risk management system;
- (m) ensuring compliance with all requirements imposed on the credit union by or under the *Credit Union Acts 1997 to 2012* or any other financial services legislation;
- (n) the removal from office of an officer of the credit union, except directors or members of the board

oversight committee, where the board of directors has duly determined that there has been a failure by the person concerned to perform duties or responsibilities;

- (o) approving, reviewing, and updating, where necessary, but at least annually, all plans, policies and procedures of the credit union, including the following:
  - (i) lending policies including lending limits;
  - (ii) policies in relation to members' shares and deposits including the setting of a maximum number of shares a member can hold and a maximum amount that a member may deposit;
  - (iii) liquidity management policies;
  - (iv) reserve management policies;
  - (v) investment policies;
  - (vi) the designating of depositories for the funds of the credit union and signatories to cheques, drafts or similar documents drawn on the credit union;
  - (vii) standards of conduct and ethical behaviour for officers;
  - (viii) remuneration policies and practices;
  - (ix) compliance plan and policies;
  - (x) records management policies;
  - (xi) information systems and management information policies;
  - (xii) business continuity plan;
  - (xiii) asset and liability management policies;
  - (xiv) outsourcing policies;
  - (xv) risk management policy;
  - (xvi) conflicts of interest policy;
  - (xvii) such other matters as the Bank may prescribe;
- (p) the recommendation to members, for approval, of dividends to members;
- (q) ensuring the accounts of the credit union are submitted for audit;
- (r) reporting to the members of the credit union at the annual general meeting, including nominating a member of the board to present the annual accounts at the annual general meeting;

(s) reviewing and considering any update of financial statements provided to the board by the manager under section 63A(4)(c).

(2) In deciding on the roles, responsibilities and administrative structures and reporting relationships of all officers, the board of directors of a credit union shall ensure that no single person is responsible for making all of the material decisions of the credit union or has effective control over the business of the credit union.

(3) The board of directors shall implement a risk management process that ensures that all significant risks are identified and mitigated to a level consistent with the risk tolerance of the credit union.

(4) The board of directors shall carry out at least annually a comprehensive review of its overall performance, relative to its objectives and implement any necessary changes or improvements.

(5) The review carried out by the board of directors under subsection (4) shall be documented in writing.

(6) In respect of the exercise of functions by the board of directors of a credit union, the board shall set out in writing a register of matters or categories of matters that require the board's approval and which cannot be assigned by the board to other persons for performance on the board's behalf. The register shall be used to record all such approvals by the board of directors.

(7) Where the board of directors causes any matter relating to its functions to be performed or carried out on its behalf, it shall continue to have responsibility for the matter.

(8) The board shall regularly review, but at least annually, the performance and effectiveness of the internal audit function, including reviewing and approving the internal audit charter and the internal audit plan and reviewing and approving any modifications to them, ensuring they are updated and that any issues identified in the review are managed and rectified in a timely manner.”.

**18.**—The Principal Act is amended by inserting the following after section 55 (inserted by *section 17*):

Chair of board of directors, etc.

“55A.—(1) The board of directors of a credit union shall elect one of its number to be the chair of the board, subject to that person being eligible to be chair of a board of directors.

(2) The chair of the board of directors of a credit union may be referred to by whatever title the rules of the credit union provide.

(3) The functions of the chair of a credit union include the following:

(a) ensuring that meetings of the board of directors operate in an efficient and effective manner;

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- (b) encouraging constructive discussions and debate at board of directors meetings;
- (c) promoting effective communications between members of the board of directors and between the board of directors and the management team of the credit union;
- (d) causing the agenda to be set by the secretary, attending and chairing board of directors meetings;
- (e) ensuring that the responsibilities of the nomination committee, as set out in section 56B(4), are performed by that committee;
- (f) conducting a performance evaluation of each member of the board of directors on an annual basis to ensure that each director is complying with the obligations under financial services legislation and the board of directors' objectives as set out in the credit union's strategic plan;
- (g) facilitating the work of the board oversight committee through providing it with all reasonable assistance to enable that committee to carry out its functions;
- (h) ensuring that conflicts of interest are appropriately managed by the board of directors, and by each of them, in accordance with section 69.

(4) A director of the credit union shall not be eligible to be elected as chair if the director had, at any time during the 5 years preceding the election, been—

- (a) an employee of that credit union, or
- (b) a person who acted in any management capacity (whether voluntary or paid) in that credit union,

and, for the purposes of this subsection, 'acted in any management capacity' includes performing a role where the person was in a position to exercise a significant influence on the conduct of the credit union's affairs but does not include acting as a member of the board of directors or as a member of the board oversight committee.

(5) Subject to subsection (7)(a), the term of office of a chair of a board of directors shall be for the period of one year.

(6) A chair of a board of directors shall not serve more than 4 consecutive terms in that position and, having so served, shall not be eligible to be chair until—

- (a) after another director has served at least one term as chair, or
- (b) where such other director has served for less than one year, after 2 or more directors have served as chair for the equivalent of at least one complete term,

but nothing in this section shall prevent a former chair of the board of directors from being selected under section 54(2) from

chairing a meeting of the board in the absence of the chair and, where relevant, the vice-chair.

(7) A person shall cease being chair of a board of directors if—

- (a) the person ceases being a director for any reason, or
- (b) the person resigns from being chair in accordance with subsection (8).

(8) A director may resign from being chair of the board of directors by sending his or her resignation in writing to the secretary of the credit union.”.

**19.**—The Principal Act is amended by inserting the following after section 56: Board committees.

“56A.—(1) Subject to the other provisions of the *Credit Union Acts 1997 to 2012* and any matter prescribed by the Bank, the board of directors of a credit union may cause any matter relating to its functions to be performed or carried out on its behalf by a committee, comprised entirely of directors or of a majority of directors, to act on behalf of the board of directors in respect of matters to be performed or carried out.

(2) A decision of the board of directors to cause any matter relating to its functions to be performed or carried out on its behalf under subsection (1) shall be taken at a meeting of the board.

(3) The Bank may prescribe that credit unions generally or any category or categories of credit union establish one or more of the following committees, all members of which shall be directors of the credit union:

- (a) an audit committee;
- (b) a risk committee;
- (c) a remuneration committee.

(4) Where a credit union is not required to establish a committee to which subsection (3) relates, the credit union—

- (a) if such a committee is already in place when this section is first commenced, shall as soon as practicable thereafter decide whether or not the committee shall continue, or
- (b) at any time after such commencement, it may decide voluntarily to establish such a committee if it considers it appropriate and proportionate to do so,

and the provisions of this section shall apply to the credit union, in respect of the committee so continued or established as if that committee were required to be established under subsection (3).

(5) A decision by the board of directors under subsection (1) shall be documented in writing by the board, which documentation shall include—

- (a) the terms of reference for the committee including—
    - (i) identifying the subject matter of the area concerned and respective responsibilities of both the board of directors and the committee,
    - (ii) indentifying the matters that may be decided by the committee and those that require the approval of the board,
    - (iii) a schedule of matters reserved for the board of directors that would otherwise be performed or carried out by the committee,

and
  - (b) the procedures for monitoring and documenting in writing the exercise of the matters to be carried out on behalf of the board.
- (6) The board of directors shall appoint the members of each committee to which subsection (1) relates.
- (7) A person appointed to a committee—
- (a) shall hold office until the next general meeting at which an election is held for the board of directors, or such shorter period as may be specified at the time the person is appointed to the committee, and
  - (b) may be removed from the committee by a decision of the board of directors.
- (8) When appointing members of a committee to which subsection (1) relates, the board of directors of a credit union shall ensure that—
- (a) each committee has an appropriate balance and sufficiency of skills and expertise available to it to carry out the matters delegated to it, and
  - (b) where necessary, some or all of the members of the committee are prepared to undertake relevant training to enhance their skills and experience for the purpose of carrying out functions in the context of paragraph (a).
- (9) For the purposes of a committee to which subsection (1) relates, the board of directors or, failing them, the committee concerned in consultation with the secretary of the credit union, shall appoint a secretary to the committee. The secretary to a committee shall perform the same functions to the committee as does the secretary to the credit union perform under subsections (3), (5), (7) and (8) of section 54.
- (10) The members of a committee to which subsection (1) relates shall perform their functions as such members in a manner consistent with the exercise of functions by members of the board of the credit union, both collectively and individually, as if the committee were the board and accordingly, the provisions of section 54, other than subsection (1), that relate to the board



shall, subject to any necessary modifications, apply to the committee.

(11) A committee to which subsection (1) relates shall be chaired in such manner as its terms of reference provide or, where not so provided, as the committee shall decide.

(12) The board of directors of a credit union—

(a) may establish such other committees as the directors consider appropriate, and

(b) shall have such other committees (if any) as may be prescribed by the Bank.

(13) In composing the membership of any committee under this section, the board of directors of a credit union shall endeavour to ensure that no one individual director is in a position to exercise excessive influence or control, in respect of the business affairs of the credit union, through membership of committees.

(14) Each committee shall, at least quarterly in every year, prepare and submit in writing to the board of directors a formal report on its activities and deliberations.”.

**20.**—The Principal Act is amended by inserting the following after section 56A (inserted by *section 19*):

Nomination  
committee.

“56B.—(1) The board of directors of a credit union shall establish a committee (in this Act referred to as the ‘nomination Committee’) whose members shall be elected in accordance with subsection (13).

(2) The nomination committee shall comprise not less than 3 members and not more than 5 members.

(3) Only members of the board of directors of a credit union are eligible to serve on a nomination committee of the credit union.

(4) The nomination committee shall be responsible for the following:

(a) identifying candidates to be nominated for appointment to the board of directors;

(b) accepting nominations of candidates proposed to be appointed to the board of directors;

(c) proposing—

(i) candidates, for election by a general meeting, to be members of the board, and

(ii) if prescribed by the Bank for the purposes of section 53(15), at least such and so many candidates as may be required for consideration for appointment to fill vacancies on the board of directors;

- (d) proposing an additional person to be a director of the credit union pursuant to section 95A(1);
- (e) assisting the credit union in performing any obligations of the credit union under section 23 of the Central Bank Reform Act 2010 in relation to any candidates proposed to perform pre-approval controlled functions (as construed in accordance with section 22 of that Act);
- (f) assisting the credit union in carrying out any checks which the credit union is undertaking to enable it to comply with its obligations under section 21 of the Central Bank Reform Act 2010;
- (g) informing each prospective candidate by notice in writing, before he or she is proposed as a candidate in accordance with paragraph (c), of the time commitment expected from him or her in respect of his or her role as a director;
- (h) ensuring that there is an appropriate succession plan in place for the board of directors;
- (i) ensuring that each director is given adequate induction to his or her role on the board of directors so as to ensure he or she has sufficient appreciation of, and appropriate training about, the strategy, operations and performance of the credit union;
- (j) ensuring that the induction process and training referred to in paragraph (i) occurs as soon as is practicable and in any event by no later than 6 months following a director's appointment to the board of directors;
- (k) arranging additional training, either individually or collectively, for the members of the board of directors during their respective terms of appointment to the extent that the nomination committee considers it necessary in order for the board of directors to make informed decisions;
- (l) maintaining a record in writing of the periods of time during which a person has served as a member of the board of directors of the credit union.

(5) Every candidate to be nominated for appointment as a member of the board of directors of a credit union shall be proposed through the nomination committee of the credit union. No person shall otherwise be put forward for election or seek election at an annual general meeting or special general meeting of the credit union at which an election is held for members of the board of directors.

(6) The nomination committee shall ensure it receives nominations for appointment of persons as members of the board of directors of a credit union in time prior to any annual general meeting, or special general meeting at which an election is held for such members, so as to enable any requirements by or under Part 3 of the Central Bank Reform Act 2010 to be met in advance of those persons being nominated for appointment.

(7) In identifying prospective candidates under subsection (4)(a) and considering the proposing of candidates under subsection (4)(c), the nomination committee shall consider the balance of skills, experience and knowledge on the current board of directors and any review undertaken under subsection (11).

(8) In considering the proposing of candidates under paragraph (4)(c), the nomination committee shall have regard to—

- (a) the number of directors on the board of directors and the number of vacancies to be filled,
- (b) whether potential conflicts of interest could arise from the appointment to the board of directors of a person if such person were duly nominated and appointed to the board, and
- (c) any other matter that the Bank may prescribe.

(9) Any potential conflict referred to in subsection (8) shall be brought to the attention of—

- (a) where subsection (4)(c)(i) is relevant, the members of the credit union at the general meeting concerned, and
- (b) where subsection (4)(c)(ii) is relevant, the directors of the board of directors of the credit union at the meeting of the board concerned.

(10) The nomination committee shall not propose appointments to the board of directors or allow appointments to proceed where conflicts of interest exist or could arise in a way which in its opinion could significantly affect the ability of the board of directors to operate in accordance with section 69(1).

(11) The nomination committee shall review the composition of the board of directors at least once a year for the purpose of identifying any deficiencies in the composition of the board. The review shall include determining whether or not there are any deficiencies in the balance of skills amongst the members of the board of directors and considering other matters relating to deficiencies that may be prescribed by the Bank.

(12) The nomination committee shall—

- (a) formally review the membership of any person who is a member of the board of directors for more than the 12 years in aggregate permitted under this Part, and
- (b) shall document the rationale for the continuance of such membership of that person.

(13) (a) At a meeting of the board of directors of a credit union—

- (i) which is held immediately after the organisation meeting, an annual general meeting or special general meeting at which an election is held for members of the board of directors, and

- (ii) which is chaired by a member of the board oversight committee,

the board shall elect by secret ballot directors to fill such positions as are then vacant on the nomination committee.

- (b) In the event of a casual vacancy on the nomination committee, the board of directors may by secret ballot elect a director to fill that vacancy until the next meeting at which, in accordance with paragraph (a), an election should be held to fill any vacancy in the nomination committee.”.

Manager of credit union.

**21.**—The Principal Act is amended by inserting the following after section 63:

“63A.—(1) The board of directors of a credit union shall appoint an individual to the role of manager of the credit union.

(2) The manager of a credit union shall be the chief executive officer of the credit union having responsibility for the day-to-day management of the credit union’s operations, compliance and performance and shall be responsible to the board of directors for the performance of his or her functions.

(3) Subject to the *Credit Union Acts 1997 to 2012*, any matters which the Bank may prescribe and other financial services legislation, the respective functions of, and the division of responsibilities between, the board of directors and the manager of a credit union shall be clearly established, formally documented in writing and approved by the board of directors.

(4) The functions of the manager of a credit union include the following:

- (a) without prejudice to the exercise by the board of directors of its functions under subsection (1)(a) of section 55, preparing and proposing to the board of directors for debate, scrutiny and approval, strategies for the strategic plan that the board of directors are required to prepare and approve under that subsection;
- (b) implementing the strategies agreed by the board of directors to the standards set out in the strategic plan or as otherwise required by the board of directors;
- (c) updating the board of directors on the financial position of the credit union, including submitting to the board of directors on a monthly basis unaudited financial statements that set out the financial position of the credit union;
- (d) appointing or causing to be appointed such and so many persons as employees or as voluntary assistants as the manager considers appropriate after consulting with the management team of the credit union;

- (e) preparing or causing to be prepared such financial reports and returns as may be required by the auditor of the credit union;
- (f) implementing the proper systems of internal control which the board of directors have approved;
- (g) ensure that all cash is deposited in accordance with the instructions of the board of directors;
- (h) such other matters as may be duly assigned to the manager by the board of directors.

(5) In appointing a person as manager of a credit union, its board of directors shall ensure that the person complies with all legal requirements (including requirements which the Bank may prescribe) to be appointed.”.

**22.**—The Principal Act is amended by substituting the following for section 65:

Credit officer and credit control officer.

“65.—(1) The board of directors may—

- (a) approve the appointment of a person by the manager, other than a member of the board, a member of the credit control committee or a credit control officer, as a credit officer to work under the supervision of the credit committee, and
- (b) assign to the credit officer the power to approve credit on its behalf—
  - (i) that is fully secured by the shareholding of the borrowing member or to an amount in excess of that shareholding, or
  - (ii) that qualifies as emergency credit within such definitions and limitations as to amount, the terms of repayment and security required for emergency credit as may be established in writing by the board of directors,

and the amount of the excess referred to in paragraph (b)(i), shall be determined from time to time by the board of directors.

(2) A record of each application for credit which has or has not been approved shall be furnished by the credit officer to the credit committee not later than 7 days of receipt of the application.

(3) Where the board of directors has assigned the power to approve credit under subsection (1)(b), a credit officer shall enquire into the character and financial circumstances of an applicant for credit and the security offered, if any, in order to—

- (a) ascertain the applicant’s ability to repay a loan in accordance with its terms, and
- (b) ensure that the provision of credit does not involve undue risk to members’ savings.

(4) The Board may approve the appointment of a person by the manager, other than a member of the board, a member of the credit committee or a credit officer, as a credit control officer to assist the credit control committee and work under its supervision and control.”.

Directors:  
suspension and  
removal by board  
oversight  
committee.

**23.**—The Principal Act is amended by substituting the following for section 66:

“66.—(1) If the board oversight committee of a credit union considers that a member of the board of directors has taken any action or decision which, in the opinion of the committee, given in writing to the director concerned, is not in accordance with the requirements of this Part, then, after consulting the Bank, the committee may either—

- (a) suspend, with immediate effect, the director by a unanimous vote of all the members of the committee taken at a meeting of the committee called for the purpose of considering the director’s suspension, or
- (b) convene a special general meeting of the credit union to consider whether to remove the director in light of the action or decision taken by that director,

but no steps shall be taken under this subsection without the director concerned being given an opportunity to be heard by the members of the board oversight committee.

(2) Where a director of a credit union has been suspended by the board oversight committee in accordance with subsection (1), the board oversight committee shall, within 7 days of that suspension, convene a special general meeting—

- (a) for the purpose of reviewing the suspension, and
- (b) to consider whether to remove the director having regard to the action or decision taken by that director.

(3) Where the board oversight committee convenes a special general meeting for the purposes of this section the credit union may, by resolution of a majority of the members present and voting at that special general meeting—

- (a) ratify the suspension of the director concerned and remove that director from office,
- (b) rescind the suspension of that director, or
- (c) remove that director from office,

but no director shall be so removed from office without being given an opportunity to be heard by the members present at the meeting.

(4) The secretary of the credit union shall, not less than 21 days before the date of the special general meeting at which it is proposed to move a resolution referred to in subsection (3), give written notice of that meeting to the director concerned.

(5) Where notice is given of an intended resolution to remove a director under this section and the director concerned makes in relation to it representations (not exceeding a reasonable length) in writing to the credit union and requests their notification to the members of the credit union then, unless the representations are received by it too late for it to do so, the credit union shall, subject to subsection (7)—

- (a) in any notice of the resolution given to members of the credit union, state the fact of the representations having been made, and
- (b) send a copy of the representations to every member of the credit union to whom notice of the meeting is sent.

(6) Subject to subsection (7), and whether or not copies of any representations made by it have been sent as mentioned in subsection (5), the director concerned may require that, without prejudice to his or her right to be heard orally, the representations made by him or her shall be read out at the special general meeting.

(7) Subsections (5) and (6) shall not apply if, on the application either of the credit union or of any person who claims to be aggrieved, the Bank is satisfied that compliance with the subsections would diminish substantially public confidence in the credit union or that the rights conferred by those sections are being, or are likely to be, abused in order to secure needless publicity for defamatory matter.

(8) Where a director of a credit union is removed from office at a special general meeting pursuant to this section, the vacancy caused by the removal shall be filled in such manner as may be determined by the meeting.”.

24.—The Principal Act is amended in Part IV by inserting the following after section 66: General governance requirements.

*“General governance requirements*

Governance arrangements in credit unions.

66A.—(1) A credit union shall have governance arrangements which shall—

- (a) be such as to ensure that there is effective oversight of the activities of the credit union, taking into consideration the nature, scale and complexity of the business being conducted,
- (b) include a clear organisational structure with well-defined, transparent and consistent reporting lines,
- (c) be documented and set out the roles, responsibilities and accountabilities of the officers clearly in writing,
- (d) be communicated in writing to all officers in the credit union, and



(e) be subject to regular internal review by the board of directors on, at a minimum, an annual basis.

(2) A credit union shall have in place the oversight, policies, procedures, practices, systems, controls, skills, expertise and reporting arrangements to ensure compliance with the requirements set out in this Part.

Remuneration policies and practices. 66B.—A credit union shall put in place remuneration policies and practices which shall be consistent with and promote sound and effective risk management.

Reporting to Bank. 66C.—(1) A credit union shall submit an annual compliance statement to the Bank certifying its compliance with the requirements of this Part and any other regulations prescribed under it by the Bank including regulations setting out the form and content of that statement.

(2) The annual compliance statement referred to in subsection (1) shall be submitted by a credit union to the Bank within 2 months of the end of each financial year of the credit union, or with such other frequency as the Bank may notify to the credit union from time to time.”.

Conflicts of interest. 25.—The Principal Act is amended by substituting the following for section 69:

“69.—(1) Officers of a credit union, including the members of its board of directors, shall at all times ensure that individually, and collectively when acting in that capacity, they act in a manner free from conflicts of interest.

(2) The board of directors of a credit union shall approve and document in writing a policy for identifying, managing and resolving conflicts of interest and which policy will apply to all officers of a credit union.

(3) Every officer of a credit union shall identify all potential conflicts between his or her own interests and the interests of the credit union and shall take all necessary steps to ensure his or her role in the credit union is not influenced by any other interest.

(4) An officer of a credit union shall not, in any manner, directly or indirectly, participate in the consideration or determination of any matter which he or she, or a body with which he or she is connected, has a pecuniary interest or other conflict of interest or where a reasonably perceived conflict of interest exists and, accordingly, an officer shall withdraw from any meeting or part of the meeting during which such a matter is to be considered or determined.

(5) If, apart from this section, the withdrawal of an officer from a meeting in pursuance of subsection (4) would cause the meeting to become inquorate, the remaining members shall be



treated as constituting a quorum while the matter in question is being considered or determined.

(6) An officer of a credit union who is or becomes interested, directly or indirectly, in—

- (a) a contract that is made or proposed to be made by the credit union or proposed to be amended by the credit union,
- (b) any matter prescribed by the Bank for the purposes of this section, or
- (c) any other matter identified by the board of directors for the purpose of this section,

then the officer shall declare the nature of his or her interest—

- (i) where that officer is the chair of the board of directors, in writing to the board of directors and served on the secretary,
- (ii) where that officer is the secretary, in writing to the board of directors and served on the chair,
- (iii) where that officer is any other member of the board of directors, in writing to the board of directors and served on the secretary and the chair,
- (iv) where that officer is the manager, in writing to the board of directors and served on the secretary, or
- (v) in any other case, in writing to the board of directors and the manager and served on the secretary,

as soon as possible after the contract is so made or proposed to be made or so proposed to be amended or, as the case may be, after he or she becomes so interested.

(7) In the case of a declaration under subsection (6) by a member of the board of directors—

- (a) where the contract or matter concerned comes before a meeting of the board, the declaration shall also be made in person by the member (if present) at the meeting at which the contract or matter is to be considered, and
- (b) in every other case, the secretary shall read the declaration made in writing under paragraph (i) or (ii) (as the case may be) of subsection (6) at the next meeting of the board of directors held after service of that declaration.

(8) Subject to subsection (9), for the purposes of this section, a general notice in writing which is served by an officer of the credit union on the appropriate person to whom paragraph (i), (ii), (iii), (iv) or (v) of subsection (6) would relate if a declaration were served under that subsection and which is to the effect that—

- (a) the officer is connected (whether as member, director, employee or otherwise) with a specified body and is regarded as interested in any contract, or other matter to which subsection (6) relates, which, after the date of the notice, may be made with or relate to that body; or
- (b) the officer is to be regarded as interested in any contract, or other matter to which subsection (6) relates, which, after the date of the notice, may be made with or relate to a specified person who is connected with him or her,

shall be deemed to be a sufficient declaration of interest in relation to any such contract or other matter.

(9) In the case of a general notice under subsection (8) and to which paragraph (i), (ii) or (iii) of subsection (6) relates, notice under subsection (8) may be given—

- (a) by the director concerned in person at a meeting of the board of directors, or
- (b) where the director concerned is the chair, in accordance with paragraph (i) of subsection (6) or where the director concerned is the secretary, in accordance with paragraph (ii) of that subsection, or, where the director concerned is any other director, in accordance with paragraph (iii) of that subsection,

and where a notice is given as mentioned in paragraph (b), the secretary shall read the notice at the next meeting of the board of directors.

(10) For the purposes of this section—

- (a) this section applies in relation to a transaction, arrangement or proposal in the same manner as it applies in relation to a contract, and
- (b) an officer of a credit union shall be regarded as connected with a particular body if the officer has an interest in the body, whether directly or indirectly and whether as a member, director, employee, shareholder or otherwise.

(11) Within 3 working days after a declaration or notice under this section is made or given, the secretary or manager (as the case may be) of the credit union concerned shall cause a copy of the declaration or notice to be entered in a register kept for that purpose, and that register shall—

- (a) be open for inspection without charge by any officer, auditor or member of the credit union or the internal audit function, and
- (b) be available at every general meeting of the credit union and, if adequate notice in advance is given to the secretary by any director, at any meeting of the board of directors.

(12) In the case of a member of the board of directors of a credit union, where recurring or ongoing conflicts of interest arise for the member, then—

- (a) where the member concerned is the chair, seek formal or informal guidance from some or all of the other directors, and
- (b) where the member concerned is not the chair, seek formal or informal guidance from the chair,

as to whether it is appropriate to resign and, following the consideration of such guidance by the member concerned, he or she shall resign as a member of the board of the credit union if he or she considers it appropriate to do so in the circumstances.”.

26.—Part IV of the Principal Act is amended by inserting the following after section 76:

Additional requirements for credit unions.

*“Additional requirements for credit unions*

Strategic plan. 76A.—(1) The board of directors of a credit union shall cause to be prepared and shall adopt a plan (in this Act referred to as a ‘strategic plan’) which documents the strategy and objectives of the credit union (in this Act referred to as the ‘strategic objectives’) and indicates how those strategic objectives are to be achieved.

(2) A strategic plan shall include—

- (a) the objectives of the credit union’s activities for a specified period of at least 3 years,
- (b) the nature and scope of the activities to be undertaken,
- (c) the strategies and policies for achieving those objectives,
- (d) the targets and criteria for assessing the performance of the credit union,
- (e) the financial projections for the credit union for a specified period of at least 3 financial years from, and including, the current financial year together with the supporting financial analysis and assumptions made,
- (f) the funding strategy proposed to support the projected balance sheet structure, and
- (g) such other matters as may be prescribed by the Bank.

(3) A credit union shall maintain adequate resources, both financial and non-financial, in relation to the nature, scale, complexity and risk

profile of the activities being undertaken or to be undertaken in accordance with the strategic plan.

Risk management systems and control.

76B.—(1) In this section—

‘compliance programme’, in relation to a credit union, means the policies, procedures, systems and plans the credit union puts in place to monitor compliance, on an ongoing basis, with its obligations including requirements under all legal and regulatory requirements;

‘risk management system’, in relation to a credit union, means the sum of those components that provide the basis (including organisational arrangements) for designing, implementing, monitoring, reviewing and continually improving risk management processes throughout the credit union;

‘systems and controls’, in relation to a credit union, means a set of arrangements designed to provide reasonable assurance regarding the achievement of objectives in relation to the effectiveness and efficiency of operations, reliability of financial reporting and compliance with all legal and regulatory requirements.

(2) A credit union shall develop, implement, document and maintain a risk management system with such governance arrangements and systems and controls to allow it to identify, assess, measure, monitor, report and manage the risks which it is, or might reasonably be, exposed to.

(3) The risk management system—

(a) shall be clearly set out and documented, and

(b) shall clearly set out the related tasks and responsibilities within the credit union.

(4) A credit union shall develop, adopt, implement, monitor, document and maintain systems and controls to manage and mitigate the risks identified by the risk management system.

(5) A credit union shall develop, implement, document and maintain a compliance programme that allows it to evaluate compliance with its obligations under this section including compliance with all legal and regulatory requirements.

Risk management officer.

76C.—(1) The board of directors of a credit union shall appoint a person (in this Act referred to as a ‘risk management officer’) with the necessary authority and resources to manage the risk management function within the credit union.

(2) Except where subsection (3)(a) applies or where otherwise prescribed by the Bank under

subsection (3)(b), nothing in this section shall be read as preventing the appointment of a person as risk management officer of a credit union who—

(a) holds another position as an officer in the credit union, or

(b) is the risk management officer for one or more than one other credit union.

(3) The risk management officer of a credit union shall not—

(a) be a director, a member of the board oversight committee or the auditor of the credit union, or

(b) hold such other position (whether within the credit union or otherwise) that the Bank may prescribe as being inappropriate to hold while being a risk management officer.

(4) The risk management officer of a credit union shall be responsible for identifying, assessing, reporting and monitoring all internal and external risks that could affect the credit union to which the risk management system referred to in section 76B relates, including risks to its employees, members, reputation and assets, and assisting the manager with managing and mitigating those risks.

(5) The board of directors of a credit union shall ensure that the risk management officer—

(a) has clearly documented reporting lines to the board,

(b) has access to the board,

(c) is independent in the exercise of his or her functions and, subject to paragraph (d), shall be free from influence, and

(d) is subject to internal oversight by the internal audit function.

(6) The board of directors of a credit union shall ensure that the role and functions of the risk management officer are documented in writing and include any role or function that may be prescribed by the Bank or be otherwise duly provided for by the Bank under any other enactment.

Compliance officer.

76D.—(1) The board of directors of a credit union shall appoint a person (in this Act referred to as a ‘compliance officer’) with the necessary authority and resources to manage the compliance programme, as provided for by section 76B, within the credit union.

(2) Except where subsection (3)(a) applies or where otherwise prescribed by the Bank under subsection (3)(b), nothing in this section shall be read as preventing the appointment of a person as compliance officer of a credit union who—

(a) holds another position as an officer in the credit union, or

(b) is the compliance officer for one or more than one other credit union.

(3) The compliance officer of a credit union shall not—

(a) be a director, a member of the board oversight committee or the auditor of the credit union, or

(b) hold such other position (whether within the credit union or otherwise) that the Bank may prescribe as being inappropriate to hold while being a compliance officer.

(4) The compliance officer of a credit union shall be responsible for managing compliance at all levels in the credit union including—

(a) ensuring that the credit union complies with all statutory and regulatory requirements, and

(b) monitoring such compliance to ensure that no conflict of interest arises.

(5) A credit union shall ensure that the compliance officer—

(a) has clearly documented reporting lines to the board,

(b) has access to the board,

(c) is independent in the exercise of his or her functions and, subject to paragraph (d), shall be free from influence, and

(d) is subject to internal oversight by the internal audit function.

(6) The board of directors of a credit union shall ensure that the role and functions of the compliance officer are documented in writing and include any role or function that may be prescribed by the Bank or be otherwise duly provided for by the Bank under any other enactment.

Operational risk.

76E.—(1) In this Act ‘operational risk’, in relation to a credit union, means the risk of loss (financial or otherwise) resulting from—

- (a) inadequate or failed internal processes or systems of the credit union,
- (b) any failure by persons connected with the credit union,
- (c) legal risk (including exposure to fines, penalties or damages as well as associated legal costs), or
- (d) external events,

but does not include reputational risk.

(2) A credit union shall identify the operational risks it is exposed to, or is likely to be exposed to, and provide for the management and mitigation of those risks in the credit union's risk management system as provided for by section 76B.

Records management. 76F.—(1) Without prejudice to sections 108 and 109, a credit union shall ensure—

- (a) that it makes, maintains and retains in books and documents proper and secure records of all matters that are required to enable the credit union, including the board of directors, board committees, nomination committee and officers and its board oversight committee and auditor to discharge their respective functions and as required by law,
- (b) that those records are made in a timely, accurate and consistent manner so that—
  - (i) they contain the information necessary to enable persons discharging functions to which paragraph (a) relates to discharge their respective functions and that those records are sufficiently accurate and available with sufficient regularity and sufficient promptness for the purpose of so discharging, and
  - (ii) any information furnished or caused to be furnished by or on behalf of the credit union to the Bank is sufficiently accurate for the purposes for which it was so furnished and is available as and when required by the Bank,

and

- (c) that those records are produced when duly called upon—

(i) by or under this Act, or

(ii) for the purposes of any other statutory obligation to produce them.

Information systems.

76G.—(1) In this section ‘information systems’, in relation to the business of a credit union, means all the technical and non-technical methods of establishing, implementing, documenting and maintaining data and information within the credit union in a coherent and informative way which is in, or capable of being reproduced in, a legible form.

(2) For the purpose of supporting the strategic plan and enabling the board of directors of a credit union and other persons involved in the management of the credit union to control, direct and manage its affairs, a credit union shall, taking account of the nature, scale and complexity and risk profile of its business but without prejudice to any other statutory obligation to the like effect as this section—

(a) develop, prepare, implement and maintain secure and reliable information systems, or

(b) where such systems already exist within the credit union, continue to implement and maintain such systems.

Management information.

76H.—Without prejudice to any other statutory obligation to the like effect as this section, a credit union shall ensure that its information systems (within the meaning of section 76G) produce management information and other reports that are accurate, reliable, consistent, and timely so as to enable the board of directors and management team to—

(a) direct, control and manage the credit union’s business efficiently and effectively,

(b) make informed strategic and operational decisions, and

(c) provide accurate information to the Bank on a timely basis, as and when required.

Business continuity plan.

76I.—(1) In this section—

‘business continuity’, in relation to the occurrence of one or more abnormal events which could cause a material interruption to the business of a credit union, means the continuation of its business during and after such an occurrence;

‘business continuity plan’, in relation to a credit union, means the contingency arrangements put in



place to ensure that its essential functions can continue during and after the occurrence of one or more abnormal events which could cause a material interruption to the business of the credit union.

(2) A credit union shall put in place a business continuity plan—

(a) to ensure its business continuity if there occurs one or more abnormal events which could cause a material interruption to its business, and

(b) to enable it to continue to meet all requirements imposed on it under the *Credit Union Acts 1997 to 2012* and other financial services legislation if any such interruption occurs,

and such plan shall include, where appropriate, comprehensive testing at regular intervals of recovery procedures by officers of the credit union and testing of backup facilities.

Outsourcing.

76J.—(1) Subject to the other provisions of this section, a credit union may by an agreement in writing entered into with any person (in this section referred to as a ‘service provider’) and upon such terms and conditions as may be specified in the agreement, provide for the performance by that person, subject to such terms and conditions (if any) as may be so specified, of such process, service or activity (in this section referred to as ‘outsourced activities’) of the credit union as may be so specified.

(2) The respective rights and obligations of the credit union and of the service provider shall be clearly allocated and set out in a written agreement.

(3) A credit union shall exercise due skill, care and diligence when entering into, managing or terminating any outsourced activities with a service provider.

(4) A credit union shall not enter into an agreement with a service provider for the performance of any of the functions exercisable by the board of directors of the credit union under section 55(1) but, subject to any matter that may be prescribed by the Bank, this shall not prevent the credit union from entering into an agreement under subsection (1) with a service provider for the provision of services in respect of any business activity (other than any such function) that is preliminary to or consequential upon the exercise by that board of the function concerned.

(5) The following conditions shall form part of every agreement to provide outsourced activities between a credit union and a service provider:

- (a) the service provider has the ability, capacity and any authorisation required by law to perform those activities reliably and professionally;
- (b) the service provider will carry out those activities effectively;
- (c) the service provider shall properly supervise the carrying out of those activities, and adequately manage the risks associated with the outsourcing;
- (d) appropriate action shall be taken by the credit union if it appears to it or to the Bank that the service provider may not be carrying out those activities effectively and in compliance with any applicable laws and regulatory requirements;
- (e) the service provider shall disclose to the credit union any development that may have a material impact on its ability to carry out the outsourced activities effectively and in compliance with applicable laws and regulatory requirements;
- (f) the credit union may terminate the arrangement for outsourcing, where necessary, without detriment to the continuity and quality of its provision of services to members;
- (g) the service provider shall, when required, co-operate with the Bank in connection with the outsourced activities;
- (h) the credit union, its auditors and the Bank shall have effective access to data related to the outsourced activities, as well as to the business premises of the service provider;
- (i) the Bank shall have without notice the right of access to the business premises of the service provider for the purposes of paragraph (g);
- (j) the service provider shall keep any confidential information relating to the credit union or its members in a safe and secure manner.

(6) For the purposes of every agreement to provide outsourced activities between a credit

union and a service provider, the credit union shall—

- (a) ensure that the service provider has no conflicts of interest in relation to the outsourced activity,
- (b) retain the necessary expertise to supervise the outsourced activities effectively, manage the risks associated with the outsourcing and supervise those activities and manage those risks,
- (c) establish methods for assessing the standard of performance of the service provider, and
- (d) be capable of resuming direct control over any outsourced activity or ensure that alternative arrangements are in place to provide the outsourced activities without detriment to the proper operation and functioning of the credit union or the continuity and quality of its provision of services to members.

(7) Where—

- (a) an agreement under this section has been entered into between a credit union and a service provider, and
- (b) it is necessary having regard to the activities that have been outsourced,

then the credit union and the service provider shall both establish, implement and maintain a business continuity plan and the credit union shall ensure that such plan is integrated, as necessary, within the business continuity plan referred to in section 76L.

(8) An outsourced activity shall not impair—

- (a) the orderliness of the conduct of the credit union's business,
- (b) the credit union's ability to manage and monitor its business,
- (c) the ability of the board of a credit union to undertake its functions,
- (d) the ability of the credit union to comply with requirements imposed under financial services legislation,
- (e) the supervision of the credit union by the Bank, and
- (f) the quality of the credit union's internal controls.

(9) Where a credit union has outsourced activities, the credit union remains legally responsible for compliance with requirements imposed under financial services legislation in respect of those activities.

(10) Nothing in this section shall be construed—

(a) as applying to any person in his or her capacity as an officer of the credit union, or

(b) as affecting any contract (whether oral or in writing) entered into between the credit union and any person for the performance by that person of any minor non-business activity where a defect or failure in its performance could not impair—

(i) the continuing compliance with the conditions and obligations of the credit union's registration or its other obligations under the financial services legislation,

(ii) the credit union's financial performance,

(iii) the soundness or continuity of the credit union's financial performance, or

(iv) the soundness or continuity of the credit union's business.

(11) (a) A credit union shall notify the Bank, in writing—

(i) when it is proposed to outsource to a service provider a material business activity, or

(ii) of any material development affecting the service provider and his or her ability to fulfil its obligations.

(b) In this subsection and subsection (12) 'material business activity' means an activity where a defect or failure in its performance would materially impair—

(i) the continuing compliance with the conditions and obligations of its registration or its other obligations under the financial services legislation,

(ii) its financial performance,

- (iii) the soundness or continuity of its financial performance, or
  - (iv) the soundness or continuity of its business.
- (12) (a) The Bank may prescribe the matters that a credit union shall have regard to when selecting a service provider.
- (b) Without prejudice to the generality of paragraph (a), requirements for the purposes of that paragraph may include any of the following:
- (i) the formalities to be involved in engaging a service provider for the purposes of a proposed outsourced activity including, for the purposes of subsections (1) and (2), the nature and content of written agreements to be entered into between the credit union and the service provider prior to commencement of the outsourcing activity;
  - (ii) the arrangements for notifying the Bank in writing when a material business activity is proposed to be outsourced;
  - (iii) the arrangements for notifying the Bank in writing of a material development affecting a service provider and what constitutes a material development.

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

Internal audit. 76K.—(1) The board of a credit union shall appoint a person (in this Act referred to as the ‘internal audit function’)—

- (a) to provide for independent internal oversight, and
- (b) to evaluate and improve the effectiveness,

of the credit union’s risk management, internal controls and governance processes.

(2) The internal audit function shall prepare, implement and maintain a document (in this Act

referred to as the ‘internal audit charter’) which, subject to subsection (4), shall define—

- (a) the activities of the internal audit function within the credit union, and
- (b) the scope of those activities,

and, relevant to the performance of its audits, shall authorise the access by the internal audit function to records, personnel and physical properties of the credit union. The internal audit charter shall be reviewed and modified in accordance with section 55(8).

(3) There shall be prepared by the internal audit function and approved by the board of a credit union or, where an audit committee exists for the credit union, by the audit committee with the agreement of that board, a written plan (in this Act referred to as an ‘internal audit plan’) detailing the scope and objectives of audits, setting priorities as regards areas to be audited and determine the necessary resources required to implement the plan. The internal audit plan shall be reviewed and modified in accordance with section 55(8).

(4) The internal audit function shall be separate from other functions and activities of the credit union, and be capable of operating independently of management and without undue influence over its activities.

(5) The internal audit function shall report the results of its evaluations and recommendations to the audit committee, where one exists, or otherwise to the board of directors, on a regular basis, and at least quarterly.

(6) (a) The Bank may prescribe the form and content of the internal audit charter and internal audit plan, and related matters.

(b) Without prejudice to the generality of paragraph (a), regulations may prescribe—

(i) the frequency and timing at which an examination of the records of the credit union is to be undertaken by the internal audit function, and

(ii) the nature of the records to be inspected for the purposes of subparagraph (i).

(7) The internal audit function shall have access, at all times, to the books and documents

(including draft documents) of the credit union to enable it to carry out its functions under the Act.”.

27.—(1) The Principal Act is amended by inserting the following Part after Part IV: Board oversight committee.

“PART IVA

BOARD OVERSIGHT COMMITTEE

Board oversight committee.

76L.—Every credit union shall have a committee (in this Act referred to as a ‘board oversight committee’) which shall—

- (a) consist of 3 or 5 members elected in accordance with section 76N, and
- (b) exercise the functions assigned to it by this Part.

Functions of board oversight committee.

76M.—A board oversight committee of a credit union shall assess whether the board of directors has operated in accordance with—

- (a) Part IV, this Part and any regulations made for the purposes of Part IV or this Part, and
- (b) any other matter prescribed by the Bank in respect of which they are to have regard to in relation to the board of directors.

Election of board oversight committee, etc.

76N.—(1) The board oversight committee of a credit union shall be elected—

- (a) where the organisation meeting occurs after the commencement of this provision, by secret ballot at the organisation meeting and, subject to section 76R(4), subsequent vacancies on the board oversight committee shall be filled by secret ballot at an annual general meeting,
- (b) in any other case, by secret ballot at the annual general meeting first occurring after the commencement of this provision or, if earlier than that annual general meeting, at a special general meeting called for the purpose of such ballot and, subject to section 76R(4), subsequent vacancies on the board oversight committee shall be filled by secret ballot at an annual general meeting.

(2) If a casual vacancy arises in the membership of a board oversight committee, then—

- (a) within one month of the vacancy arising, the Committee shall appoint a person (who may, if the Committee thinks fit, be a former member of the Committee) other than a person to whom subsection (4), (5) or (6) relates to fill the vacancy, and
- (b) the person so appointed shall hold office until the next general meeting at which an election is held for members of the board oversight committee.

(3) Where the secretary of the board oversight committee becomes aware that all the members of the committee intend to resign on the same date, the secretary shall give written notice of their intention to the Bank and the board of directors of the credit union.

(4) A credit union shall not elect under subsection (1) any of the following persons to be a member of its board oversight committee:

- (a) an employee or voluntary assistant of the credit union or an employee of any other credit union;
- (b) a member of the board oversight committee of any other credit union;
- (c) an employee of a representative body of which the credit union is a member, where that employee's role could expose them to a potential conflict of interest;
- (d) a public servant (within the meaning of the Financial Emergency Measures in the Public Interest Act 2009) assigned to the Department of Finance and involved in advising the Minister on credit union issues or in the examination of credit union issues;
- (e) a member of the Commission of the Bank;
- (f) an officer (within the meaning of section 2 of the Central Bank Act 1942) or other employee of the Bank and involved in the regulation of credit unions;
- (g) Financial Services Ombudsman (within the meaning of section 2 of the Central Bank Act 1942) or a Bureau staff member (within the meaning of section 57BA of that Act);



- (h) a member of the Irish Financial Services Appeals Tribunal or a member of its staff (including the Registrar);
- (i) the chief executive of the National Consumer Agency, an authorised officer of that Agency (within the meaning of section 2 of the Consumer Protection Act 2007) or any other member of its staff;
- (j) the auditor of the credit union or a person employed or engaged by that auditor;
- (k) a solicitor or other professional adviser who has been engaged by or on behalf of the credit union within the previous 3 years;
- (l) a person who is a spouse or civil partner, cohabitant, parent or child, of a director, board oversight committee member or employee of that credit union;
- (m) a body corporate;
- (n) a person who is not of full age;
- (o) a director of the credit union.

(5) A person shall resign from being a member of the board oversight committee of a credit union if and when he or she becomes a person to whom any of the provisions of subsection (4) relates.

(6) A board oversight committee member may not be appointed or reappointed to the board oversight committee if he or she has served for more than 12 years in the previous 15 years whether on the board of directors or the board oversight committee.

(7) The board oversight committee shall appoint one of their number as secretary of the committee.

76O.—(1) The board oversight committee of a credit union shall hold—

- (a) at least one meeting in every month, and
- (b) meetings with the board of directors at least 4 times in every year to facilitate it in carrying out the assessment under subsection (2),

and the board oversight committee shall keep minutes of every meeting held by it under paragraphs (a) and (b).

Board oversight committee: procedural provisions.

(2) The board oversight committee shall submit, within 2 weeks of any meeting referred to in subsection (1)(a), a written report to the board of directors on their assessment of whether the board of directors has operated in accordance with Part IV and this Part and any regulations relating to Part IV or this Part.

(3) The board oversight committee shall have access, at all times, to the books and documents (including draft documents) of the credit union to enable it to carry out its functions under the Act.

(4) Members of the board oversight committee shall have the right to attend all meetings of the board of directors and all meetings of committees of the credit union.

(5) The board oversight committee shall ensure at least one of its members attends every meeting of the board of directors.

(6) The board oversight committee may notify the Bank of any concern it has, that the board of directors has not complied with any of the requirements set out in this Part or Part IV, or regulations made thereunder, following a unanimous vote at a meeting of the committee called for the purpose of considering such a notification.

(7) The board oversight committee shall report to the members at the annual general meeting and, if it thinks fit, at a special general meeting, on whether the board of directors has operated in accordance with Part IV and this Part.

Board oversight committee: term of office and retirement.

76P.—(1) The term of office of a member of the board oversight committee—

- (a) shall begin at the conclusion of the general meeting at which the member is elected,
- (b) shall not extend beyond the third subsequent annual general meeting after being so elected, and
- (c) subject to the provisions of this Act and all other applicable legal requirements, shall be determined in accordance with the registered rules,

but, except where this Act or any other applicable legal requirement or the registered rules otherwise provides, a retiring member of the committee shall be eligible for re-election.

(2) The rules for retirement from the board oversight committee shall be as follows:

- (a) where the committee consists of 3 members, one shall retire at each annual general meeting;
- (b) where the committee consists of 5 members, 2 shall retire at each annual general meeting;
- (c) subject to paragraph (d), the members to retire at any time shall be those who have served longest since they were last elected;
- (d) as between members who were last elected on the same day, the member (or members) to retire shall be determined by agreement or, in default of agreement, by the drawing of lots.

Board oversight committee: removal from office.

76Q.—(1) Subject to subsection (2), a credit union may, by resolution of a majority of the members present and voting at a special general meeting called for that purpose, remove a member of the board oversight committee from office.

(2) The secretary of the credit union shall, not less than 21 days before the date of the special general meeting at which it is proposed to move a resolution referred to in subsection (1), give written notice of that meeting to the member concerned.

(3) Where notice is given of a resolution mentioned in subsection (1) and the member of the board oversight committee concerned makes in relation to it representations in writing to the credit union (not exceeding a reasonable length) and requests their notification to the members of the credit union, the credit union shall, subject to subsection (5), (unless the representations are received by it too late to do so)—

- (a) in any notice of the proposed resolution given to members of the credit union, state the fact of the representations having been made, and
- (b) send a copy of the representations to every member of the credit union to whom notice of the meeting is sent.

(4) Subject to subsection (5), and whether or not copies of any representations made under subsection (3) have been sent in accordance with that subsection, the member of the board oversight committee concerned may require that, without prejudice to that member's right to be heard orally, the representations made by that member shall be read out at the special general meeting.

(5) Subsections (3) and (4) shall not apply if, on the application either of the credit union or of

any person who claims to be aggrieved, the Bank is satisfied that compliance with the subsections would diminish substantially public confidence in the credit union or that the rights conferred by those subsections are being, or are likely to be, abused in order to secure needless publicity for defamatory matter.

(6) A vacancy arising from the removal of a member of a board oversight committee under this section shall be filled in accordance with section 76N(2).

Board oversight committee: supplementary provision.

76R.—(1) A register of the members of the board oversight committee shall be kept by the secretary of the credit union and shall be signed by each member of the board oversight committee after an annual general meeting or, in the case of a member appointed to fill a casual vacancy, after such member's appointment.

(2) In the event that the number of members of the board oversight committee falls to less than half the number specified in the registered rules, the secretary of the committee shall forthwith notify the Bank and the board of directors.

(3) The acts of a member of the board oversight committee of a credit union shall be valid notwithstanding any defect in the election or appointment of the member which may subsequently be discovered.

(4) Where any of the following events occur—

- (a) the secretary of the board oversight committee has given notice under section 76N(3) that all the members of the committee intend to resign on the same date,
- (b) all the members of the board oversight committee have been removed or suspended in accordance with section 96(1), or
- (c) there are no members of the board oversight committee,

then the board of directors shall convene a special general meeting of the credit union, within one month of the occurrence of the event in question, to elect a board oversight committee.

(5) If the special general meeting referred to in subsection (4) is not convened in accordance with that subsection, the Bank may convene such a special general meeting under section 92(1)(b).

(6) A credit union shall meet all such expenses as may be reasonably incurred by its board oversight committee in carrying out its function.”.

(2) Notwithstanding the repeal by this Act of the provisions of the Principal Act relating to Supervisory Committees, each member of the Supervisory Committee of a credit union shall, unless he or she resigns or otherwise ceases to be a member of that committee, be deemed to have been duly elected a member of the board oversight committee of the credit union for the remainder of the term that he or she would have been a member of the Supervisory Committee had this section not been enacted.

**28.**—The Principal Act is amended by substituting the following Special resolutions for section 83:

“83.—(1) If, at any general meeting of which notice has been given specifying the intention to propose a special resolution, the chair declares that the resolution has been passed as required by the definition of ‘special resolution’ in section 2(1), that declaration shall, without more, be evidence of that fact until the contrary is proved.

(2) A copy of every special resolution for any of the purposes mentioned in this Act—

- (a) shall be signed by the chair of the meeting at which the resolution was passed,
- (b) shall be countersigned by the secretary of the credit union, and
- (c) within 21 days of the date of the meeting at which the resolution was passed, shall be sent to the Bank to be registered by it,

and the special resolution shall not take effect until that copy is so registered.”.

**29.**—The Principal Act is amended by inserting the following after section 84: Power of Bank to make regulations.

“84A.—(1) In making regulations under this Act the Bank shall have regard to the need to ensure that the requirements imposed by the regulations so made are effective and proportionate having regard to the nature, scale and complexity of credit unions, or the category or categories of credit unions, to which the regulations will apply.

(2) Before making regulations under this Act, the Bank shall consult with—

- (a) the Minister and the Credit Union Advisory Committee,
- (b) any other body that appears to the Bank to have expertise or knowledge of credit unions generally, and
- (c) any other body that the Bank considers appropriate to consult in the circumstances.

(3) Regulations made under this Act may—

- (a) contain any incidental, supplementary and consequential provisions that appear to the Bank to be necessary or expedient for the purposes of the regulations,
- (b) apply either generally to a specified category or categories of credit union, and
- (c) include different provisions in relation to different categories of credit union.”.

Liquidity and stress testing, etc.

**30.**—The Principal Act is amended by inserting the following section after section 85:

“Liquidity.

85A.—(1) In this section—

‘liquid assets’ means the assets held by a credit union to enable it to meet its obligations as they arise;

‘maturity mismatch’ means the ongoing or possible future divergence between a credit union’s assets and liabilities because non liquid assets of the credit union have not or, at the appropriate time, will not have matured;

‘total assets’ means all the assets of a credit union having due regard to the accounting principles in section 110 after deducting provisions for bad and doubtful debts.

(2) A credit union shall at all times keep a proportion of its total assets in liquid form (in this section referred to as ‘liquid assets’) so as to enable the credit union to meet its obligations as they arise. The proportion of assets kept in liquid form shall take into account the nature, scale and complexity of the credit union, and the composition and maturity of its assets and liabilities.

(3) The Bank may prescribe the liquidity requirements that a credit union is required to maintain at a minimum as well as conditions on the application of the liquidity requirements. Regulations made by the Bank for the purpose of this section may deal with other matters related to minimum liquidity requirements, including—

- (a) the proportion and nature of assets to be held in liquid form,
- (b) the holding of liquid assets based on the duration of loans,
- (c) in relation to maturity mismatches, and
- (d) the liquid assets to be held as a safeguard on the basis of stressed conditions that may arise.

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

Supplemental provisions to sections 85 and 85A.

85B.—(1) In this section—

‘liquid assets’ has the meaning given by section 85 or 85A, as appropriate in the circumstances;

‘maturity mismatch’ has the meaning given by section 85A(1);

‘stress test’, in relation to a credit union, means the analysis of its cash flows under various headings and the placing of such cash flows in pre-determined time periods subject to specified conditions, including monetary limits where appropriate, to estimate the extent to which a credit union may have a maturity mismatch in respect of its assets and liabilities.

(2) (a) Pending the prescribing by the Bank of minimum liquidity requirements for the purposes of section 85A in respect of a category of credit unions, the liquidity requirements applicable to credit unions under section 85 shall continue to apply to such category of credit unions in respect of matters so prescribed.

(b) Where minimum liquidity requirements have been prescribed by the Bank for the purposes of section 85A in respect of a category of credit unions, then section 85 shall cease to apply to that category of credit unions in respect of the matters so prescribed.

(3) The Bank may, from time to time, require any credit union or credit unions (either generally or a particular category of credit union) to undertake stress tests into what would be the consequences for its liquidity if one or more scenarios were to arise. The terms of the stress test shall be laid down by the Bank including without limitation requirements on the frequency of stress tests, reporting arrangements for stress test results and requirements to develop contingency plans.

(4) In requiring a credit union to undertake any matter for the purposes of this section, the Bank shall have regard to the need to ensure that the requirements are effective and proportionate having regard to the nature, scale and complexity of the credit union.”.

Bank's power to require appointment of additional director of credit union.

**31.**—The Principal Act is amended by inserting the following after section 95:

“95A.—(1) Where the Bank is of the opinion, after an inspection under section 90 or after an investigation under section 92, that it is necessary to enhance or improve the expertise of the board of directors of a credit union, it may require the nomination committee of the credit union to nominate an additional person with the required skills and expertise to be a director of the board of directors of the credit union.

(2) Any person nominated under subsection (1) shall be subject to the approval of the Bank prior to that person being nominated for appointment to the board of directors.

(3) A person shall be appointed to the board of directors for the purposes of this section by being co-opted by the board of directors and such director shall hold office from the date of the appointment to the next following annual general meeting of the credit union or, if it is earlier, the next special general meeting at which an election is held for members of the board of directors.

(4) Any director appointed under subsection (1) shall have the same rights, duties and responsibilities as any other director appointed under section 53.

(5) Any period of appointment under this section shall not be reckoned for the purposes of calculating the number of years that a person has served in aggregate for the purpose of section 53(12) or section 76N(5).”

Removal of auditor of credit union by Bank.

**32.**—The Principal Act is amended by substituting the following for section 116:

“116.—(1) Where the Bank considers it necessary in the interest—

- (a) of the members or creditors of a credit union, or
- (b) of the orderly and proper regulation of the business of a credit union,

the Bank may remove from office the auditor of the credit union.

(2) Any auditor who has been removed from office under subsection (1) may apply to the Court for an order setting aside the removal.

(3) On an application under subsection (2), the Court may make—

- (a) an order setting aside the removal,
- (b) an order confirming the removal, or
- (c) such other order as may appear to the Court to be necessary.

(4) The Bank may apply to the Court for, and the Court may grant, an order confirming the removal.



(5) The Court may by order revoke or vary an order made by it under this section.

(6) If, in a case where an application has been made to the Court under this section, the Court is satisfied, because of the nature or circumstances of the case or otherwise in the interests of justice, that it is desirable, the whole or any part of any proceedings under that provision may be heard otherwise than in public.

(7) Unless an order has been made by the Court in respect of a removal, the Bank may at any time revoke the removal.”.

**33.**—The Principal Act is amended by inserting the following after section 182: General regulations by Bank.

“182A.—(1) The Bank may make regulations in respect of any matter which, under any provision of the *Credit Union Acts 1997 to 2012*, is to be prescribed by the Bank.

(2) Regulations made by the Bank under the *Credit Union Acts 1997 to 2012* may apply either generally or by reference to a specified category or categories of credit unions, or to a specified time or times, or during a specified period or periods or by reference to any other matter as the Bank may consider appropriate.”.

**34.**—The Principal Act is amended by substituting the following for section 184: Certain enactments not to apply to credit unions, etc.

“184.—The following enactments, namely—

- (a) section 117 of the Central Bank Act 1989,
- (b) Part IV (other than sections 27B, 27G and 27H) of the Central Bank Act 1997, and
- (c) the Consumer Credit Act 1995,

shall not apply to a credit union or to a body the members of which are credit unions and the principal objects of which are the promotion of the credit union movement and the provision of services to credit unions.”.

**35.**—The Principal Act is further amended as set out in *Schedule 1*. Miscellaneous and consequential amendments to Principal Act.

**36.**—Sections 33ANA and 33ANB of the Central Bank Act 1942 are repealed. Consequential amendments of the Central Bank Act 1942.

**37.**—Schedule 2 to the Central Bank Act 1942 is amended in Part 1 by substituting the following for Item 39: Amendment of Schedule 2 to Central Bank Act 1942.

“

39	No. 27 of 2011	Central Bank and Credit Institutions (Resolution) Act 2011	Part 8 and sections 22 and 106
40	No. — of 2012	<i>Credit Union and Co-operation with Overseas Regulators Act 2012</i>	The whole Act

”.

Revocation of statutory instruments.

**38.**—The following statutory instruments are revoked:

- (a) the Credit Union Act 1997 (Alteration of Financial Limit) Regulations 2001 (S.I. No. 476 of 2001);
- (b) the Credit Union Act 1997 (Alteration of Financial Limits) Order 2006 (S.I. No. 453 of 2006).

## PART 3

## RESTRUCTURING

*Preliminary and restructuring generally*

Interpretation (Part 3).

**39.**—In this Part—“Board of ReBo” means the Board appointed by the Minister under *section 49(1)*;“Chair of ReBo” has the meaning given by *section 49(3)*;“Chief Executive” has the meaning given by *section 52(1)*;“Credit Union Fund” has the meaning given by *section 57(1)*;“establishment day” means the day appointed under *section 42* as the establishment day;

“ReBo” means the Credit Union Restructuring Board;

“stabilisation support” has the meaning given by *section 61*.

Independence of Bank and its Governor not affected (Part 3).

**40.**—Nothing in this Part, or anything stated or done (nor the fact of something not having been stated or done) by an employee of the Bank appointed as a non-voting member to ReBo in accordance with *section 49(1)*, prevents or restricts the performance by the Governor of the Bank or the Bank of functions in relation to any credit union including functions under financial services legislation or affects any obligation arising under the treaties governing the European Union (within the meaning given by section 1 of the European Communities Act 1972) or the ESCB Statute (within the meaning given by section 2 of the Central Bank Act 1942).

**41.**—In performing a function under this Part, the Minister shall have regard to the laws of the European Union (including those governing state aid) and any relevant guidance issued by the Commission of the European Union.

Minister to have regard to European Union law (*Part 3*).

*Credit Union Restructuring Board*

**42.**—(1) The Minister shall by order appoint a day to be the establishment day for the purposes of this Part.

Establishment of Credit Union Restructuring Board.

(2) On the establishment day there shall stand established a body to be known as the Credit Union Restructuring Board (in this Part referred to as “ReBo”) which shall exercise the functions assigned to it by this Part.

(3) ReBo shall be a body corporate with the power to sue and be sued in its corporate name.

**43.**—(1) Subject to *subsection (2)*, when the Minister is satisfied, after conducting a review to which *subsection (2)* relates, that ReBo has completed the performance of its functions under this Part, the Minister may—

Cessation of effect of this Part.

(a) by order dissolve ReBo, and

(b) subject to the provisions of this Act, include in the order such incidental, ancillary or consequential provisions as the Minister considers necessary or expedient,

and, accordingly, this Part shall cease to have effect other than in so far as it relates to incidental, ancillary or consequential provisions provided for by the Minister under *paragraph (b)* and any such order may be amended by virtue of this section in so far as it relates to such provisions.

(2) (a) The Minister shall, not later than 1 January 2016 and after consultation with ReBo and such other persons whom he or she considers appropriate, conduct a review of the operation of this Part to determine whether or not ReBo has, in the Minister’s opinion, completed the performance of its functions.

(b) Where, having conducted a review under this subsection, the Minister is satisfied that ReBo has not completed the performance of its functions, then the Minister shall conduct a further such review within 12 months of the preceding review and such further review shall be considered as if it were a review conducted under *paragraph (a)*.

(3) When an order under *subsection (1)* is proposed to be made, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

Restructuring  
functions of ReBo.

**44.—(1)** In addition to the making of a recommendation under *section 65*, ReBo shall facilitate and oversee the restructuring of credit unions in accordance with this Part to support the financial stability and long term sustainability of credit unions generally, and for that purpose its functions shall include—

- (a) analysing and examining information provided to it by the Bank, credit unions or by any other person,
- (b) developing provisional proposals and plans with credit unions for the restructuring of the credit union sector,
- (c) engaging with credit unions to facilitate agreement on restructuring proposals,
- (d) assisting credit unions in the preparation of restructuring plans,
- (e) considering and assessing restructuring plans submitted to it by or on behalf of credit unions including any funding requirements under the plan including requiring credit unions to engage third parties to verify information and provide a report to ReBo,
- (f) approving, approving with conditions or rejecting those restructuring plans,
- (g) recommending the restructuring plans to the Minister and advising the Bank of its recommendations,
- (h) overseeing the implementation of restructuring plans, including the provision of post-restructuring support.

(2) Subject to this Part, ReBo may do anything which it considers necessary or expedient to enable it to perform its functions including making arrangements with any other person or body for the use by it of premises or equipment belonging to that person or other body or for the use by ReBo of the services of officers or servants of that person or other body.

Restructuring of  
credit unions.

**45.—(1)** Where 2 or more credit unions decide to submit, either jointly or severally in respect of themselves, a proposed restructuring plan (in this Act referred to as the “restructuring proposal”) to ReBo, it shall be in such form and contain such information (including funding requirements and any analysis required to be undertaken) as ReBo may, from time to time, specify in writing as required for the purpose of the submission of a proposal to it.

(2) Every restructuring proposal under this section shall provide for—

- (a) the amalgamation of credit unions, or
- (b) the transfer of engagement between credit unions,

under Part IX of the Principal Act.

(3) Where ReBo decides that it will be or is relevant to its consideration of a restructuring proposal, it may—

(a) before submission to it of the restructuring proposal, and whether or not at the request of the credit union or credit unions concerned, indicate to the credit union or credit unions concerned that it requires the restructuring proposal to contain such additional information (including any analysis to be undertaken) as ReBo specifies, and

(b) after submission of the restructuring proposal to it, require such additional information (including any analysis to be undertaken) to be provided to it as ReBo specifies to the credit union or credit unions concerned.

(4) ReBo may require a credit union or group of credit unions to engage a third party approved by ReBo to prepare a report to verify the information provided to it under *subsection (3)* or otherwise.

(5) ReBo shall consider and assess any restructuring proposal submitted to it, including any funding requirements submitted to it in accordance with any requirements issued under *subsection (1)*, and any information required under *subsection (3)(b)* or report under *subsection (4)*. Following such consideration and assessment, the Board of ReBo shall—

(a) approve the restructuring proposal as a restructuring plan for the credit union or credit unions concerned, and, where relevant, recommend to the Minister the provision of financial support under this Part in respect of the restructuring proposal as a restructuring plan for the credit union or credit unions concerned, with or without specified conditions, or

(b) reject the restructuring proposal.

(6) Where ReBo approves the restructuring proposal as a restructuring plan for the credit union or credit unions concerned, with or without specified conditions, and makes a recommendation to the Minister it shall advise the Bank of its approval and recommendation (together with those conditions).

(7) Nothing in this Part prevents ReBo from making a recommendation to the Bank, in relation to an individual credit union for the purposes of *section 65*.

**46.—**(1) ReBo shall, in consultation with the Minister and, where relevant, the Bank, develop guidelines for the operating principles of ReBo and, after obtaining approval of the Minister for such, ReBo shall adopt such guidelines and have regard to them in the performance of its functions. Guidelines and directions.

(2) As soon as practicable after ReBo has adopted guidelines under *subsection (1)*, the Minister—

(a) shall cause the guidelines to be published in *Iris Oifigiúil*, and

(b) shall lay a copy of the guidelines before each House of the Oireachtas.

(3) The Minister may give a direction in writing to ReBo concerning any matter relating to the provision of funding to support the

achievement of the purposes of this Part and ReBo shall comply with any such direction.

(4) The Minister may consult with the Bank before giving directions under this section.

**47.**—(1) For the purpose of financing the performance by ReBo of its functions under this Part and subject to *subsection (6)*, ReBo shall, with the consent of the Minister and in accordance with any directions that the Minister may give for the purposes of this section, make regulations prescribing—

(a) the levy to be paid to it by credit unions (in this section referred to as the “ReBo levy”), and

(b) when the levy falls due to be paid by credit unions,

and different rates of levies may be imposed on different categories of credit unions, including the imposition of a levy of zero per cent on a category of credit unions.

(2) Without prejudice to the generality of *subsection (1)*, the power to make regulations under that subsection includes the power to provide for exemptions from the payment of the ReBo levy, or waiving, remitting or refunding that levy (in whole or in part), in different circumstances or classes of circumstances or in different cases or classes of cases.

(3) The total amount of the ReBo levy charged annually under this Part shall, as nearly as may be, taking one year with another, be equal to half the total expenditure incurred by ReBo annually in the performance of its functions.

(4) The ReBo levy received from each credit union shall be paid into the Credit Union Fund.

(5) ReBo may recover as a simple contract debt in any court of competent jurisdiction, from a person by whom the fee is payable, any amount due and owing to ReBo in respect of a levy charged under this section.

(6) Before making regulations under this section, the Board of ReBo—

(a) shall consult with the Minister and the Credit Union Advisory Committee, and

(b) may consult with any other body appearing to the Board to have expertise or knowledge of credit unions and with such other persons as the Board considers appropriate.

**48.**—(1) The ReBo levy shall be collected by ReBo or, where an arrangement has been entered into by it with the Bank pursuant to section 61H of the Central Bank Act 1942 (as amended by *subsection (2)*), by the Bank.

(2) Section 61H(4) of the Central Bank Act 1942 is amended in the definition of “prescribed body” by inserting the following after paragraph (c):

“(ca) the Credit Union Restructuring Board;”.

49.—(1) Subject to *subsection (2)*, the Minister shall appoint the Board of ReBo which shall consist of such number of persons as the Minister may determine, including an employee of the Bank nominated by the Governor for appointment as a non-voting member of the Board of ReBo. Membership of Board of ReBo, etc.

(2) Each member of the Board shall be appointed for such period as the Minister thinks fit, and every person so appointed, other than the person nominated by the Governor of the Bank, shall be chosen by the Minister for appointment—

- (a) by reason of that person’s knowledge of matters pertaining to the restructuring of credit unions, or
- (b) because, in the opinion of the Minister, that person is capable of giving substantial practical assistance in respect of the work of the Board.

(3) The Minister shall from time to time nominate one member of the Board of ReBo to act as its chairperson (in this Part referred to as the “Chair of ReBo”).

(4) There shall be paid to every member of the Board of ReBo such remuneration and expenses as the Minister may determine from time to time. The Minister may determine that the Chair of ReBo shall be paid additional remuneration or allowances on account of his or her responsibilities as chairperson.

(5) The Board of ReBo shall—

- (a) hold such meetings as are necessary for the performance of its functions, and
- (b) shall conduct its business with as little formality and technicality, and with as much expedition, as a proper consideration of the matters before it will allow,

and, subject to *paragraph (b)*, the Board of ReBo shall regulate its own procedures and business.

(6) ReBo shall comply with the Code of Practice for the Governance of State Bodies, published by the Department of Finance in May 2009, and with such other codes of practice or other like documents as may be published from time to time by the Minister or the Minister for Public Expenditure and Reform regarding the governance generally of State bodies, including—

- (a) any revisions duly made to such codes or like documents, or
- (b) any additional relevant requirements issued by the Minister or the Minister for Public Expenditure and Reform.

(7) The Minister may for stated reasons remove a member of the Board of ReBo from office if, in the opinion of the Minister—

- (a) the member has become incapable through ill health of effectively performing the functions of the office,



- (b) the member has committed stated misbehaviour,
- (c) the member has a conflict of interest of such significance that, in the opinion of the Minister, the person should cease to hold the office, or
- (d) the member's removal appears to be necessary for the effective performance of the functions of the Board.

Non-disclosure of information.

**50.—(1)** This section applies to the following persons:

- (a) every member of the Board of ReBo and every former member of that Board;
- (b) the Chief Executive and every former Chief Executive;
- (c) every member of the staff of ReBo and every former member of the staff of ReBo;
- (d) the auditor of ReBo and every former auditor of ReBo;
- (e) every person who is or was an agent, consultant or adviser of ReBo or appointed in any other capacity by ReBo;
- (f) every employee or former employee of an auditor, an agent, consultant or adviser appointed by ReBo.

(2) A person referred to in *subsection (1)* shall not disclose confidential information concerning—

- (a) the business of any person or body whether corporate or incorporate that has come to the person's knowledge through the person's office or employment or other role with ReBo, or
- (b) any matter arising in connection with the performance of the functions of ReBo or the exercise of ReBo's powers.

(3) ReBo may disclose information, including confidential information—

- (a) to the Minister,
- (b) to the Bank, and
- (c) generally or to a specified person or persons, with the consent of—
  - (i) the person to whom the information relates, and
  - (ii) if the information was obtained from another person, that other person.

(4) ReBo shall co-operate with the Bank with a view to ensuring that the provisions of this Part operate in a way that contributes to promoting the best interests of credit unions generally. This may include the sharing of such information required by the Bank relevant to the performance of its functions.

(5) As soon as practicable after the commencement of this section, ReBo and the Bank shall enter into a memorandum of



understanding setting out the terms under which they agree to give effect to this section.

- (6) Nothing in this section prevents the disclosure—
- (a) of information when required to be disclosed by law, or
  - (b) in a report or otherwise by ReBo of information relating to a person where the information is presented in a manner (either by the aggregation of information relating to more than one person or otherwise) that maintains the anonymity of each person concerned.

(7) A person who contravenes *subsection (2)* is guilty of an offence and liable on summary conviction to a class A fine.

**51.—**(1) ReBo may make such reports to the Minister on the performance of its functions as it thinks fit. Reports to Minister.

(2) ReBo shall give to the Minister such other information as the Minister may require in respect of the performance by ReBo of its functions and its policies in respect of such performance.

**52.—**(1) There shall be a chief executive officer of ReBo (in this Part referred to as the “Chief Executive”). Chief executive officer of ReBo.

(2) The Chief Executive shall, subject to *subsection (3)*, be appointed by the Board of ReBo on the recommendation of the Chief Executive of the Public Appointments Service.

- (3) The appointment shall either—
- (a) be on such terms (including terms as to remuneration, duration of term and allowances for expenses) as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine and be subject to the Public Service Management (Recruitment and Appointments) Act 2004, or
  - (b) be on such other terms (including terms as to remuneration, duration of term and allowances for expenses) as may be determined by the Board of ReBo and approved by the Minister with the consent of the Minister for Public Expenditure and Reform.

- (4) The Chief Executive shall—
- (a) implement the policies and decisions of ReBo,
  - (b) manage and control generally ReBo’s staff, administration and business, and
  - (c) perform such other functions as may be required or as may be duly authorised by the Board of ReBo under this Part.

(5) The Chief Executive shall be responsible to the Board of ReBo for the performance of the Chief Executive’s functions.

(6) The Chief Executive shall not be a member of the Board of ReBo, but may, in accordance with procedures established by the

Board, attend meetings of the Board and shall be entitled to speak at and give advice at such meetings.

(7) The Chief Executive shall provide the Board of ReBo with such information, including financial information in respect of the performance of the Chief Executive's functions, as the Board may require.

(8) The Chief Executive shall not hold any office or occupy any other position in respect of which remuneration is payable, or carry on any business, without the consent of the Board of ReBo and the approval of the Minister.

(9) Such of the functions of the Chief Executive as the Chief Executive may specify, may, with the consent of the Board of ReBo, be performed by such member or members of the staff of ReBo as the Chief Executive may authorise for that purpose.

(10) The functions of the Chief Executive may be performed during the Chief Executive's absence or when the post of Chief Executive is vacant by such member or members of the staff of ReBo as the Board of ReBo may authorise for that purpose.

Staff of ReBo.

**53.—**(1) ReBo may, with the approval of the Minister—

- (a) appoint such and so many persons to be members of the staff of ReBo as it may determine, and
- (b) determine the grades of such staff of ReBo and the number of staff in each grade.

(2) An appointment under this section shall either—

- (a) be on such terms (including terms as to remuneration, duration of term and allowances for expenses) as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine and be subject to the Public Service Management (Recruitment and Appointments) Act 2004, or
- (b) be on such other terms (including terms as to remuneration, duration of term and allowances for expenses) as may be determined by the Board of ReBo and approved by the Minister with the consent of the Minister for Public Expenditure and Reform.

Accounts and audit.

**54.—**(1) The Chief Executive, under the direction of the Board of ReBo, shall—

- (a) submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be specified by the Minister, and
- (b) provide to the Minister any information which the Minister may require regarding those estimates and also regarding the proposals and plans of the Board in respect of a period specified by the Minister.

(2) The Chief Executive, under the direction of the Board of ReBo, shall keep, in such form and in respect of such accounting

periods as may be approved of by the Minister, with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts of moneys received and spent by ReBo, including an income and expenditure account and a balance sheet.

(3) (a) The Board of ReBo, its Chief Executive and any relevant member of the staff shall, whenever so required by the Minister, permit any person appointed by the Minister to examine the accounts of ReBo in respect of any financial year or other period and shall facilitate any such examination, and ReBo shall pay to the Minister such fee for the examination as may be fixed by the Minister.

(b) In this subsection “relevant member of the staff” means a member of the staff of ReBo to whom duties relating to those accounts have been duly assigned.

(4) The accounts of ReBo shall be approved by it as soon as is practicable (but not later than 3 months after the end of the accounting period to which they relate) and submitted by it to the Comptroller and Auditor General for audit.

(5) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the members of ReBo and the Minister as soon as is practicable, and the Minister shall cause a copy of the accounts and report to be laid before each House of the Oireachtas.

**55.—**(1) ReBo may engage the services of any expert adviser or other service provider where ReBo considers it necessary or expedient to do so in connection with the performance of its functions. Contracted service providers.

(2) In contracts for the provision of services to ReBo by expert advisers and service providers, ReBo shall seek to ensure that each expert adviser or service provider—

(a) operates to the highest standards of honesty and fairness and with due skill, care, prudence and diligence in conducting its business activities under the contract concerned,

(b) effectively employs the resources and procedures that are necessary for the proper performance of such business activities,

(c) makes every effort to avoid or manage conflicts of interest and to declare any such conflict (actual or potential) to ReBo,

(d) complies with any regulatory regime to which it is subject,

(e) permits ReBo to engage auditors to carry out an audit of the books, accounts and other financial statements of the expert adviser or service provider so far as they relate to the services performed for ReBo, and

(f) is obliged to co-operate fully in such audits.

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Disclosure of information. **56.**—(1) Disclosure by a credit union to ReBo of information or records does not contravene any duty of confidentiality to which the credit union is subject.

(2) A credit union may disclose to ReBo personal data within the meaning of the Data Protection Acts 1988 and 2003.

(3) Section 33AK(5) of the Central Bank Act 1942 is amended by inserting the following paragraph after paragraph (aj):

“(aj) to the Credit Union Restructuring Board that is required for the performance of that Board’s functions.”.

*Credit Union Fund and Credit Union Levy*

Credit Union Fund. **57.**—(1) A fund, to be known as the Credit Union Fund, is established.

(2) The purpose of the Credit Union Fund is—

(a) to provide a source of financial support for the restructuring of credit unions under this Part,

(b) to provide stabilisation support in accordance with *Part 4*,

(c) to meet the expenses of ReBo in discharging its functions under this Act,

(d) to provide for the costs referred to in *section 60(2)*, and

(e) to provide for the expenses referred to in *section 67*.

(3) The Minister may contribute to the Credit Union Fund such sums as the Minister considers appropriate from the Central Fund or the growing produce of the Central Fund.

(4) The Minister is entitled to be reimbursed from the Credit Union Fund for all contributions under *subsection (3)*. All sums paid out of the Credit Union Fund in repayment of a contribution under this subsection shall be paid into or disposed of for the benefit of the Exchequer.

(5) The Minister may, following receipt of a recommendation from ReBo by virtue of *section 45(5)(a)*, provide financial support from the Credit Union Fund, on such terms and conditions that the Minister considers appropriate, to a credit union or group of credit unions for the purposes of restructuring under this Part. The provision of financial support by the Minister may be conditional on the Bank confirming the amalgamation or transfer under *section 131(6)(a)* of the Principal Act.

(6) Where requested by the Bank under *section 65(5)*, the Minister may provide stabilisation support from the Credit Union Fund on such terms and conditions as the Minister considers appropriate. The provision of stabilisation support by the Minister shall be conditional on the Bank approving the provision of stabilisation support under *section 65(6)*.

(7) The terms and conditions referred to in *subsections (5) and (6)* may include the recoupment of moneys over time from the credit

union in respect of the stabilisation support provided, including the cost of providing that support but conditions under *subsection (6)* shall not include any of the matters to which *section 65(6)* relates.

(8) Financial support under *subsection (5)* or *(6)* may take the form of a payment, a loan, a guarantee, an exchange of assets or any other kind of financial accommodation or assistance.

(9) Moneys recouped from a credit union in respect of financial support provided out of the Credit Union Fund to it under this Part shall be paid into that Fund.

**58.—**(1) The Minister shall administer and manage the Credit Union Fund and shall cause—

Keeping and audit of accounts of Credit Union Fund, etc.

- (a) all proper and usual accounts of receipts and payments to be kept for that Fund in respect of each financial year, and
- (b) the transmission of those accounts, not later than 30 June in the year following the end of the financial year to which they relate, to the Comptroller and Auditor General.

(2) The Comptroller and Auditor General shall audit the accounts of the Credit Union Fund transmitted to him or her pursuant to *subsection (1)*.

(3) Upon completion of the audit of the accounts, the Comptroller and Auditor General shall prepare a report in writing in relation to them and shall submit a copy of the report together with a copy of the accounts to the Minister not later than 31 August in the year following the financial year to which they relate. The Minister shall cause copies of the report and the said accounts to be laid before Dáil Éireann not later than 30 September in the year following the financial year to which they relate or, if Dáil Éireann then stands dissolved, the date that is one week after the first meeting of the next Dáil Éireann.

**59.—**(1) A credit union shall contribute to the Credit Union Fund in accordance with any regulations made under this section. Such contribution is, in this Part, referred to as the “credit union levy”.

Credit union levy.

(2) The Minister may make regulations prescribing the rate of contribution, or a method of calculating the rate of contribution, to the Credit Union Fund by a credit union under this section for the purpose of reimbursing the Minister for the provision of financial support under *section 57(5)* which is not recouped, or which, in the opinion of the Minister, is not recoupable in full, in accordance with the terms and conditions of that financial support, from the credit union to which such financial support was provided.

(3) The Minister shall make regulations prescribing the rate of contribution, or a method of calculating the rate of contribution, to the Credit Union Fund by a credit union under this section for the purpose of providing funding for the provision of stabilisation support under *section 57(6)*.

(4) In making regulations under *subsection (2)* the Minister shall have regard to—

- (a) the need for the Credit Union Fund to grow, over time, to a size commensurate to the costs that might be, or that have been, incurred in providing financial support for the restructuring of credit unions under this Part or providing stabilisation support under *Part 4*, and
  - (b) the need for the rate of contribution by a credit union, or category of credit unions, to be consistent with maintaining the financial viability and sustaining the commercial position of such credit unions.
- (5) Regulations under *subsection (2)* may prescribe different rates, or different methods of calculating rates, of contribution for different credit unions, or different category of credit unions, including according to—
- (a) the nature, scale and complexity of the business of each such credit union or category of credit union, and the level of risk associated with each such credit union, or category of credit unions concerned,
  - (b) the capacity of credit unions or categories of credit union to make the proposed contribution, and
  - (c) the extent to which a credit union or credit unions have or may benefit from the provision of financial support from the Credit Union Fund.
- (6) Before making regulations under this section, the Minister—
- (a) shall consult with the Bank, the Credit Union Advisory Committee and ReBo, and
  - (b) may consult with any other body appearing to the Minister to have expertise or knowledge of credit unions and with such other persons as the Minister considers appropriate. A draft of the proposed regulations may be provided as part of any such consultation.
- (7) Every credit union levy collected shall be paid into the Credit Union Fund.
- (8) The Minister may recover as a simple contract debt in any court of competent jurisdiction, from a person by whom the fee is payable, any amount due and owing to the Minister in respect of a levy charged under this section.

Arrangements for collection of credit union levies.

**60.—(1)** The Minister, the Bank, and the Credit Union Restructuring Board may enter into an arrangement in relation to the collection of contributions payable by credit unions in the form of levies under this Act.

(2) The costs associated with the collection of levies under this Act shall be met from the Credit Union Fund.

PART 4

STABILISATION

**61.**—In this Part—

Interpretation  
(Part 4).

“costs” include costs incurred by the Bank in the exercise of its functions under this Part;

“reserve requirement” means the reserves which a credit union is required to hold under section 45 of the Principal Act;

“Stabilisation Committee” has the meaning given by *section 66*;

“stabilisation support” means financial support provided under this Act by the Minister from the Credit Union Fund to a credit union for the purpose of restoring and facilitating the maintenance of that credit union’s reserve requirement, and such support by the Minister may include the provision of technical and financial advice and the provision of financial support to the credit union concerned.

**62.**—Nothing in this Part prevents or restricts the performance by the Governor of the Bank or the Bank of functions in relation to any credit union, including functions under financial services legislation, or affects any obligation arising under the treaties governing the European Union (within the meaning given by section 1 of the European Communities Act 1972) or the ESCB Statute (within the meaning given by section 2 of the Central Bank Act 1942).

Independence of Bank and its Governor not affected (Part 4).

**63.**—In performing a function under this Part, the Minister and the Bank shall have regard to the laws of the European Union (including those governing state aid) and any relevant guidance issued by the Commission of the European Union.

Minister and Bank to have regard to European Union law (Part 4).

**64.**—The Bank shall not approve the provision of stabilisation support under this Part unless the Credit Union Fund contains funds for the provision of stabilisation support.

Funding for stabilisation support.

**65.**—(1) (a) Subject to *subsection (2)* and *section 64*, the Bank may approve the provision of stabilisation support under this section to a credit union where the credit union does not meet the regulatory reserve requirement but only if—

Provision of stabilisation support.

(i) its regulatory reserve is equal to or greater than 7.5 per cent of the total assets of the credit union, and

(ii) in the opinion of the Bank, the credit union is viable as a credit union.

(b) In this subsection “total assets of the credit union” means all of the assets of the credit union concerned having due regard to the accounting principles set out in section 110 of the Principal Act after deducting any provisions for bad or doubtful debts.

(2) Until the commencement of an order under *section 43(1)*, stabilisation support shall not be approved by the Bank for a credit union under *subsection (1)* unless the Credit Union Restructuring



Board has recommended that the credit union be considered by the Bank for stabilisation support.

(3) The Credit Union Restructuring Board may only make a recommendation to the Bank in relation to an individual credit union for the purposes of *subsection (1)* if:

- (a) the credit union is not party to a restructuring proposal approved or being considered for approval as part of a restructuring plan under section 45(5)(a), and
- (b) the credit union satisfies the requirements of *subsection (1)(a)(i)*.

(4) Before deciding to approve the provision of stabilisation support under *subsection (1)*, the Bank shall have regard to the following:

- (a) the extent to which the credit union concerned has complied with, or failed to comply with, the regulatory requirements imposed on the credit union by or under the *Credit Union Acts 1997 to 2012* (including requirements regarding systems and controls) or the *Central Bank Acts 1942 to 2012* or otherwise imposed on that credit union;
- (b) any actions, plans or other strategies prepared or implemented by the credit union concerned to protect or improve its regulatory reserve requirement;
- (c) if stabilisation support were to be provided, the ability in the opinion of the Bank of the credit union concerned—
  - (i) to maintain its reserve requirement, and
  - (ii) to fund the business of the credit union,
 after the provision of stabilisation support for a period of at least 3 years after the provision of such stabilisation support under this Act;
- (d) any plans, information or analysis submitted by the credit union concerned, under *subsection (5)* or otherwise;
- (e) the availability to the Bank of up-to-date and accurate financial information and accounts of the credit union concerned, including (in the opinion of the Bank) full and fair financial disclosure;
- (f) the previous financial performance of the credit union concerned prior to applying for stabilisation support including any previous stabilisation support received under this section or otherwise;
- (g) any other matters that the Bank considers reasonably relevant, in the particular circumstances, having regard to the Bank's other functions;
- (h) such terms and conditions as the Minister considers appropriate to attach to the stabilisation support.



(5) For the purpose of exercising its functions under this section, the Bank may request the provision of stabilisation support by the Minister under *section 57(6)* and may require—

- (a) the credit union concerned to submit such plans, information or analysis as it considers reasonably necessary, and
- (b) that any such plans, information or analysis is verified by a report of a third party approved by the Bank and in accordance with requirements determined by the Bank.

(6) The provision of stabilisation support to a credit union under this section may be approved by the Bank on such terms and conditions as the Bank considers appropriate, including—

- (a) changes to the governance of the credit union,
- (b) changes to the business, operations, systems and processes within the credit union,
- (c) any requirement (in the form of a pre-condition or otherwise) by the Bank on the credit union to accept, or procure on such terms and conditions as the Bank considers appropriate, other support, including financial advice, technical advice and other advice,
- (d) any of the measures which may be contained in a regulatory direction under *section 87(3)* of the Principal Act,
- (e) compliance by the credit union with the above terms and conditions, including periodic targets for the credit union to meet and the preparation of updates or such other reports as the Bank may require to satisfy itself as to the credit union's compliance with the terms and conditions.

(7) The approval by the Bank of the provision of stabilisation support under this section is not a warranty by the Bank as to the solvency of the credit union or as to whether or not the credit union will in fact meet its reserve requirements, or any other requirement to which the credit union is subject.

**66.—**(1) On the appointed day there shall stand established by the Minister a body known as the Credit Union Stabilisation Committee (in this Part referred to as the “Stabilisation Committee”) which shall exercise the functions assigned to it by this section. Stabilisation Committee.

(2) The Stabilisation Committee shall examine the implementation by the Bank of the Bank's requirements and procedures in relation to its functions under this Part and the exercise of those functions by the Bank. Where after such examination the Stabilisation Committee forms a conclusion on any matter, it shall forward it in writing to the Minister and the Bank.

(3) In performing its functions the Stabilisation Committee shall not interfere or otherwise impinge on the independence of the Bank in the performance by the Bank of any of its functions.

(4) (a) The Stabilisation Committee shall consist of not more than 7 persons appointed in writing by the Minister for such period as the Minister thinks fit.

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- (b) A person appointed to the Stabilisation Committee shall be chosen by the Minister for appointment having regard to the representative nature of the person, and the volunteer ethos of credit unions and their representative bodies.
- (c) The Minister may remove a person from the Stabilisation Committee for stated reasons.
- (d) A person may resign from the Stabilisation Committee by sending his or her resignation in writing to the Minister.
- (5) (a) The Minister shall from time to time nominate one member of the Committee to act as chair.
- (b) The Minister may for stated reasons remove a person from acting as chair, with or without removing the person from being a member of the Stabilisation Committee.
- (6) Subject to the other provisions of this section, the Stabilisation Committee shall decide on its own procedures.

Expenses of Bank under *Part 4*.

**67.**—The expenses incurred by the Bank in exercising its functions under this Part shall be paid out of the Credit Union Fund.

## PART 5

### MISCELLANEOUS AMENDMENTS RELATING TO CENTRAL BANK ACTS 1942 TO 2011

Amendments to Central Bank Act 1942.

**68.**—(1) Section 33AK of the Central Bank Act 1942 is amended—

- (a) by substituting “subsection (1A)” for “subsection (1)(b)” in each place, and
- (b) in subsection (3) by substituting the following for paragraph (b):

“(b) Paragraph (a) does not apply—

- (i) where the Bank is satisfied that the supervised entity has already reported the information concerned to the relevant body, or
- (ii) where the information concerned has come into the possession of, or to the knowledge of the Bank, from an authority, in a jurisdiction other than that of the State, duly authorised to exercise functions similar to any one or more of the statutory functions of the Bank.”.

(2) Schedule 2 to the Central Bank Act 1942 is amended in Part 1 by substituting the following for item 38:

“

38	No. 23 of 2010	Central Bank Reform Act 2010	Parts 3, 4 and 5
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”.

69.—The Central Bank Reform Act 2010 is amended—

Amendment to  
Central Bank  
Reform Act 2010.

(a) in section 3 by inserting the following definitions:

“ ‘authorised officer’ means a person appointed by the Bank under Part 5 to be an authorised officer;

‘financial services legislation’ means—

- (a) the designated enactments,
- (b) the designated statutory instruments, and
- (c) the *Central Bank Acts 1942 to 2012* and statutory instruments made under those Acts;”

and

(b) by inserting the following after section 53:

“PART 4

OVERSEAS REGULATORS

Co-operation  
with overseas  
regulators.

54.—(1) In this section ‘overseas regulator’ means an authority in a jurisdiction other than that of the State duly authorised to perform functions similar to any one or more of the statutory functions of the Bank.

(2) At the request of an overseas regulator to do so in relation to any matter, the Bank may—

- (a) require information on the matter about which the Bank has required or could require the provision of information or the production of documents under any provision of financial services legislation, or
- (b) authorise one or more than one authorised officer to exercise any of his or her powers for the purposes of investigating the matter.

(3) In deciding whether or not to exercise any of its powers under subsection (2), the Bank may take into account in particular:

- (a) whether in the country or territory of the overseas regulator, corresponding assistance would be given to an authority duly authorised in the State to perform functions corresponding to functions exercised by the overseas regulator;
- (b) whether the case concerns the breach of a law, or other requirement, which has no close parallel in the State or involves the assertion of a jurisdiction not recognised by the State;
- (c) the seriousness of the case and its importance to persons in the State;
- (d) whether it is otherwise appropriate in the public interest to give the assistance sought.

(4) The Bank may decide that it will not exercise any of its powers under subsection (2) unless the overseas regulator undertakes to make such contribution towards the cost of such exercise as the Bank considers appropriate.

(5) Subsections (3) and (4) do not apply if the Bank considers that the exercise of its power is necessary to comply with any obligation created or arising by or under the Treaties governing the European Union.

(6) If the Bank authorises an authorised officer for the purposes of subsection (2)(b), the Bank may direct the authorised officer to permit a representative of the overseas regulator to attend, and take part in, any interview conducted for the purposes of the investigation of the matter concerned.

(7) A direction under subsection (6) is not to be given unless the Bank is satisfied that any information obtained by an overseas regulator as a result of the interview will be subject to obligations of non-disclosure of information similar to those imposed on the Bank in section 33AK of the Act of 1942.

(8) A person shall not be required for the purposes of the exercise of any power under this section to answer any question tending to incriminate the person.

## PART 5

### AUTHORISED OFFICERS

Definitions  
(Part 5).

55.—(1) In this Part—

‘agent’, in relation to a person to whom this Part applies, includes a past as well as a present agent and includes the person’s banker, accountant, solicitor, auditor and financial or other adviser, whether or not a person to whom this Part applies;

‘authorisation’ means an authorisation, licence or any other permission required to carry on business as a regulated financial service provider granted by the Bank pursuant to any provision of financial services legislation, and includes registration;

‘customer’, in relation to a regulated financial service provider, means—

(a) any person to whom the regulated financial service provider provides or offers financial services, or

(b) any person who requests the provision of financial services from the regulated financial service provider,

and includes a potential customer and a former customer;

‘person to whom this Part applies’ shall be read in accordance with section 56;

‘prescribed contravention’ has the same meaning as in section 33AN of the Act of 1942;

‘premises’ includes vessel, aircraft, vehicle and any other means of transport, as well as land and a building and any other fixed or moveable structure;

‘regulated market’ has the same meaning as in Regulation 3 of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007);

‘related undertaking’, in relation to a person (‘the first-mentioned person’), means—

- (a) if the first-mentioned person is a company, another company that is related within the meaning of section 140(5) of the Companies Act 1990,
- (b) a partnership of which the first-mentioned person is a member,
- (c) if the businesses of the first-mentioned person and another person have been so carried on that the separate business of each of them, or a substantial part thereof, is not readily identifiable, that other person,
- (d) if the decision as to how and by whom the businesses of the first-mentioned person and another person shall be managed can be made either by the same person or by the same group of persons acting in concert, that other person,
- (e) a person who performs a specific and limited purpose by or in connection with the business of the first-mentioned person, or
- (f) if provision is required to be made for the first-mentioned person and another person in any consolidated accounts compiled in accordance with Seventh Council Directive 83/349/EEC of 13 June 1983<sup>1</sup>, that other person.

(2) References in this Part to a regulated financial service provider, or a related undertaking, shall, unless the context otherwise requires, be read as including a person who was a regulated financial service provider, or a related undertaking, at the relevant time.

Persons to whom this Part applies.

56.—(1) The following are persons to whom this Part applies (including persons outside the State):

- (a) a regulated financial service provider;
- (b) a person who has applied for an authorisation but whose application has not been determined;

<sup>1</sup>OJ L 193, 18.7.1983, p.1

- (c) a person whom the Bank reasonably believes is or was a regulated financial service provider, or is or was acting as or claiming or holding himself or herself out to be a regulated financial service provider;
- (d) a person who is or was, or whom the Bank reasonably believes, is or was, without an authorisation, providing a financial service in respect of which an authorisation is required;
- (e) a related undertaking of any of the persons referred to in paragraph (a), (b), (c) or (d);
- (f) any other person whom the Bank reasonably believes may possess information about a person referred to in paragraph (a), (b), (c), (d) or (e);
- (g) any person whom the Bank reasonably believes may possess information about a financial product or investment admitted to trading or which is to be admitted to trading under the rules and systems of a regulated market.

(2) The duty imposed by this Part to produce or provide any information, extends to—

- (a) a person who is in relation to a person to whom this Part applies—
  - (i) an administrator within the meaning of section 1(1) of the Insurance (No. 2) Act 1983,
  - (ii) an administrator within the meaning of section 2 of the Investor Compensation Act 1998,
  - (iii) a person appointed as an administrator of a credit union by virtue of section 137 of the Credit Union Act 1997 or appointed to act as a provisional administrator of a credit union by virtue of section 138 of that Act,

- (iv) a special manager appointed pursuant to the Credit Institutions (Stabilisation) Act 2010,
- (v) an examiner, liquidator, receiver, official assignee, or
- (vi) in respect of a person outside the State, a person corresponding to any of the persons who come within subparagraphs (i) to (v),

and

(b) a person who—

- (i) is or has been an officer or employee or agent of any person to whom this Part applies, or
- (ii) appears to the Bank or the authorised officer to have the information in his or her possession or under his or her control.

Appointment of authorised officers.

57.—(1) For the purposes of obtaining any information necessary for the performance by the Bank of its functions under financial services legislation relating to the proper and effective regulation of financial service providers, the Bank may appoint any of its officers or employees or other suitably qualified persons to be authorised officers and to exercise any of the powers conferred by this Part.

(2) The Bank may revoke any appointment made by it under subsection (1).

(3) An appointment or revocation under this section shall be in writing.

(4) A person's appointment by the Bank as an authorised officer ceases on the earlier of—

- (a) the revocation by the Bank of the appointment,
- (b) in a case where the appointment is for a specified period, the expiration of the period,
- (c) on the person's resignation from the appointment, and



(d) in the case where the person is an officer or employee of the Bank—

(i) on the resignation of the person as an officer or employee of the Bank, or

(ii) on the termination of the person's employment with the Bank, or when the person's term of office ceases, for any reason.

(5) In this section 'suitably qualified person' means any person (other than an officer or employee of the Bank) who, in the opinion of the Bank, has the qualifications and experience necessary to exercise the powers conferred on an authorised officer by this Part.

Warrant of appointment.

58.—Every authorised officer appointed by the Bank shall be furnished with a warrant of his or her appointment, and when exercising a power conferred by this Part shall produce such warrant or a copy of it, together with a form of personal identification, for inspection if requested to do so by a person affected by the exercise of the power.

Power of authorised officer to enter premises.

59.—(1) Subject to subsection (2), an authorised officer may at all reasonable times enter any premises—

(a) which the authorised officer has reasonable grounds to believe are or have been used for, or in relation to, the business of a person to whom this Part applies, or

(b) at, on or in which the authorised officer has reasonable grounds to believe that records relating to the business of a person to whom this Part applies are kept.

(2) An authorised officer shall not enter a dwelling, otherwise than—

(a) with the consent of the occupier, or

(b) pursuant to a warrant under section 61.

Powers of authorised officer.

60.—(1) An authorised officer may do any one or more of the following:

- (a) search and inspect premises entered under section 59 or pursuant to a warrant under section 61;
- (b) require any person to whom this Part applies who apparently has control of, or access to, records, to produce the records;
- (c) inspect records so produced or found in the course of searching and inspecting premises;
- (d) take copies of or extracts from records so produced or found;
- (e) subject to subsection (3), take and retain records so produced or found for the period reasonably required for further examination;
- (f) secure, for later inspection, any records produced or found and any data equipment, including any computer, in which those records may be held;
- (g) secure, for later inspection, premises entered under section 59 or pursuant to a warrant under section 61, or any part of such premises, for such period as may reasonably be necessary for the purposes of the exercise of his or her powers under this Part, but only if the authorised officer considers it necessary to do so in order to preserve for inspection records that he or she reasonably believes may be kept there;
- (h) require any person to whom this Part applies to answer questions and to make a declaration of the truth of the answers to those questions;
- (i) require any person to whom this Part applies to provide an explanation of a decision, course of action, system or practice or the nature or content of any records;
- (j) require a person to whom this Part applies to provide a report on any matter about which the authorised officer reasonably

believes the person has relevant information;

- (k) require that any information given to an authorised officer under this Part is to be certified as accurate and complete by such person or persons and in such manner as the Bank or the authorised officer may require.

(2) Where records are not in legible form, an authorised officer, in the exercise of any of his or her powers under this Part, may—

- (a) operate any data equipment, including any computer, at the premises which is being searched or cause any such data equipment or computer to be operated by a person accompanying the authorised officer, and

- (b) require any person who appears to the authorised officer to be in a position to facilitate access to the records stored in any data equipment or computer or which can be accessed by the use of that data equipment or computer to give the authorised officer all reasonable assistance in relation to the operation of the data equipment or computer or access to the records stored in it including—

- (i) producing the records to the authorised officer in a form in which they can be taken and in which they are, or can be made, legible and comprehensible,

- (ii) giving to the authorised officer any password necessary to make the records concerned legible and comprehensible, or

- (iii) otherwise enabling the authorised officer to examine the records in a form in which they are legible and comprehensible.

(3) Where the Bank or an authorised officer proposes to retain, pursuant to this section, any records taken by the authorised officer under subsection (1) for a

period longer than 14 days after the date on which the records are taken, the Bank or the authorised officer shall, before the end of that period of 14 days, or such longer period with the consent of the person hereafter mentioned, furnish, on request, a copy of the records to the person who it appears to the Bank or the authorised officer, but for the exercise of the powers under this section, is entitled to possession of it.

(4) A person to whom this Part applies shall give to an authorised officer such assistance as the authorised officer may reasonably require and make available to the authorised officer such reasonable facilities as are necessary for the authorised officer to exercise his or her powers under this Part including such facilities for inspecting and taking copies of any records as the authorised officer reasonably requires.

(5) Subject to any warrant issued under section 61, an authorised officer may be accompanied, and assisted in the exercise of the officer's powers under this Part, by such other authorised officers, members of the Garda Síochána or other persons as the authorised officer reasonably considers appropriate.

Warrant  
required to  
enter premises.

61.—(1) Without prejudice to the powers conferred on an authorised officer by or under any other provision of this Part, if a judge of the District Court is satisfied on the sworn information of the authorised officer that there are reasonable grounds for believing that records are to be found on, at or in any premises, the judge may issue a warrant authorising an authorised officer accompanied by such other authorised officers or members of the Garda Síochána as may be necessary, at any time or times, within the period of validity of the warrant, on production, if so requested, of the warrant—

- (a) to enter the premises specified in the warrant, if need be by reasonable force, and
- (b) to exercise the powers conferred on authorised officers by this Part or such of those powers as are specified in the warrant.

(2) The period of validity of a warrant shall be 28 days from its date of issue.

(3) An application for a warrant under this section shall be made to a judge of the

District Court in the district court district in which the premises concerned are situate.

Authorised officer may attend meetings.

62.—(1) An authorised officer may attend any meeting relating to the business of a regulated financial service provider if the authorised officer considers that it is necessary to attend in order to assist the Bank in the performance of any of its functions under financial services legislation.

(2) The attendance of an authorised officer pursuant to subsection (1) at a meeting referred to in that subsection does not in any circumstances limit the powers of the authorised officer or of the Bank.

Production of record subject to legal professional privilege not required.

63.—Nothing in this Part shall operate to confer any right to production of, or access to, any record subject to legal professional privilege.

Disclosure or production not to be treated as breach or to affect lien.

64.—(1) The disclosure or production of any record or other information by a person under this Part shall not be treated, for any purpose, as a breach of any restriction under any enactment or rule of law on disclosure or production by the person or any other person on whose behalf the record or other information is disclosed or produced.

(2) Where a person from whom production of a record is required under this Part claims a lien on the record, the production of it shall be without prejudice to the lien.

Failure to comply with a requirement.

65.—(1) If any person to whom this Part applies fails or refuses to comply with a requirement under this Part the authorised officer may certify the failure or refusal under his or her hand to the High Court.

(2) When an authorised officer certifies a failure or refusal referred to in subsection (1) to the High Court, the High Court may inquire into the case and may make such order (including interim or interlocutory orders) or direction as the High Court thinks fit, after hearing—

(a) any witnesses who may be produced against or on behalf of the person concerned, and

(b) any statement which may be offered in defence.

Offence of obstruction or provision of false information.

66.—(1) A person commits an offence if he or she—

- (a) obstructs or impedes an authorised officer in the exercise of any of his or her powers under this Part, whether or not by virtue of a warrant issued under section 61,
- (b) without reasonable excuse, does not comply with a requirement of an authorised officer in the exercise of any of those powers,
- (c) in purported compliance with such a requirement, gives information to the authorised officer that the person knows to be false or misleading in a material respect, or
- (d) falsely represents himself or herself to be an authorised officer.

(2) A person who commits an offence under this section is liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 5 years or both.

(3) A person does not commit an offence of failing to comply with a requirement referred to in subsection (1)(b) unless, when the requirement was made, the person was warned that a failure to comply is an offence.

(4) If a person refuses to answer a question asked of him or her or to comply with any other requirement made, under this Part, on the grounds that the answer or compliance with the requirement might tend to incriminate the person and the person is informed of his or her obligation to answer the question or to comply with the requirement, the person shall not refuse to answer the question or to comply with the requirement but the answer given or information provided on that occasion shall not be admissible as evidence in criminal proceedings against the person other than proceedings against him or her under this section.”.

**70.**—(1) The Acts specified in *Part 1* of *Schedule 2* are amended to the extent specified in that Part.

Amendments, repeals, revocations, savings and transitional provisions (*Part 5*).

(2) The statutory instruments specified in *Part 2* of *Schedule 2* are amended to the extent specified in that Part.

(3) The Central Bank Acts 1942 to 2011 specified in *Parts 1* to *3* of *Schedule 3* are amended to the extent specified in each such Part.

(4) The Acts specified in *Parts 1* to *8* of *Schedule 4* are amended to the extent specified in each such Part.

(5) The statutory instruments specified in *Parts 1* to *7* of *Schedule 5* are amended to the extent specified in each such Part.

(6) A person who was an authorised officer, by whatever name called, appointed under the provisions of any enactment repealed or revoked by this Act immediately before the coming into operation of the repeal or revocation concerned is taken to have been appointed under Part 5 of the Central Bank Reform Act 2010.

(7) Anything done by a person who was an authorised officer, by whatever name called, appointed under the provisions of any enactment repealed or revoked by this Act immediately before the coming into operation of the repeal or revocation concerned shall be treated after the coming into operation of the repeal or revocation as done under Part 5 of the Central Bank Reform Act 2010 by an authorised officer appointed under Part 5 of the Central Bank Reform Act 2010.

(8) Any information gathered, or any other thing done, under the provisions of any enactment repealed or revoked by this Act is to be treated after the coming into operation of the repeal or revocation as if done under any provision of Part 5 of the Central Bank Reform Act 2010 under which it could have been done had the provision been in force at the time in question.

[No. 40.] *Credit Union and Co-Operation with Overseas Regulators Act 2012.* [2012.]

Section 35.

SCHEDULE 1

MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS TO CREDIT UNION ACT 1997

Item	Provision affected	Amendment
1	Section 6(1)(f)	Delete
2	Section 10	After subsection (6) insert:  “(7) Notwithstanding subsection (6) a credit union which is a sub-office of a registered credit union may cause its name, along with the registered name of the credit union, to be painted or affixed, and to be kept painted or affixed, in a conspicuous position and in letters easily legible, on the outside of its office.”.
3	Section 11(5)	Substitute “may decide to direct and direct the credit union to change its name to a name approved by the Bank” for “may direct the credit union to change its name to a name approved by the Bank”.
4	Section 14	Insert after subsection (3):  “(3A) Before sending a copy of the amended rules to the Bank under subsection (2) the credit union is required to satisfy itself that the amendment is not contrary to the financial services legislation.”.
5	Section 14	Substitute for subsections (4) and (5):  “(4) On being satisfied that an amendment of a credit union’s rules sent to it under subsection (2) is not contrary to the financial services legislation, the Bank shall issue to the credit union, within 3 months of its receipt of the amendment, an acknowledgement of registration which, unless the contrary is proved, shall be sufficient evidence that the amendment is duly registered.  (5) If the Bank is not satisfied that an amendment of a credit union’s rules sent to it under subsection (2) is not contrary to the financial services legislation, it shall refuse to register the amendment, in which case it shall give the credit union a notice of its refusal to register the amendment. The notice shall include a statement setting out the grounds for the refusal.”.
6	Section 17	After subsection (3) insert:  “(3A) Subject to the rules of the credit union concerned, a member who held common bond of that credit union shall not cease to be a member solely because that member no longer holds the common bond of that credit union.”.
7	Section 17(4)	Substitute:  “(4) If a member of a credit union ceases to have the common bond required of members of that credit union, any such member (referred to as a non-qualifying member) shall be left out of account in determining for any purpose whether a common bond exists between the members of the credit union.”.



Item	Provision affected	Amendment
8	Section 17(6)	Substitute:  “(6) Notwithstanding anything in subsection (5), a member of a credit union who is not of full age may not be a member of the board of directors or of a principal Committee or an office manager of the credit union.”.
9	Section 28(5)	Substitute “(other than the reserves required to be held under section 45)” for “(other than the statutory reserve)”.
10	Section 30(5)(a)	Substitute “requirements to hold reserves in accordance with section 45” for “requirement for the statutory reserve”.
11	Section 31(3)	Substitute “rate of interest offered” for “rate of interest payable”.
12	Section 31(4)	Delete.
13	Section 32(3)	Substitute:  “(3)(a) If a member of a credit union seeks to withdraw savings in the credit union at a time when the member has an outstanding liability (including a contingent liability) to the credit union, whether as borrower, guarantor or otherwise, that withdrawal shall only be permitted—  (i) if the savings are not attached savings; or  (ii) where the savings are attached savings, if the withdrawal of such attached savings is approved by a majority of the members of the board of directors voting at a meeting of the board;  but no approval may be given under subparagraph (ii) if, were the withdrawal to be approved, the value of the member’s attached savings immediately after the withdrawal would be less than 25 per cent of the member’s outstanding liability.  (b) Any savings that existed in the credit union immediately before the commencement of this provision (inserted by the <i>Credit Union and Co-operation with Overseas Regulators Act 2012</i> ) that were not withdrawable under this subsection immediately before that commencement shall be treated as attached savings after that commencement.  (c) Where the outstanding liability reduces below the level of attached savings, the amount of the attached savings shall not be greater than the outstanding balance of the loan.  (d) In this subsection—  ‘attached savings’ means a share in, or deposit with, a credit union which is pledged in writing by a member as security for a loan at the time of the issuing of the loan to the member or guaranteed by the member;  ‘savings’ means a share in, or deposit with, the credit union.”.

Item	Provision affected	Amendment
14	Section 36(3)	Substitute: “(3) Subject to subsection (5), a loan to an officer is required to be approved by not less than two-thirds of the members of a special committee voting by secret ballot at a meeting at which the application for the loan is considered.”
15	Section 36(4)	Substitute: “(4) The special committee referred to in subsection (3) shall consist of—  (a) a majority of the board of directors, and  (b) at least one member of the credit committee,  but shall not include the applicant for the loan.”
16	Section 36(5)	Substitute: “(5) Notwithstanding subsection (3), a loan to an officer which does not exceed the value of the officer’s attached savings may be approved as mentioned in paragraph (b) or (c) of subsection (2).”
17	Section 36(6)	Delete.
18	Section 37(2)(b)	Delete.
19	Section 37(3)	Substitute: “(3) For the purposes of the consideration of an appeal under this section, the appellate body shall not be regarded as quorate unless there are present a majority of the directors referred to in subsection (2)(a).”
20	Section 37A(2)	Substitute: “(2) A notice under subsection (1) may be in a form that, when endorsed by the member on accepting a loan offered by the credit union, constitutes a credit agreement for the purposes of—  (a) sections 37B and 37C, or  (b) where the loan is for an amount between €200 and €75,000, the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010).”
21	Section 37B(2)	Substitute: “(2) For the purposes of this section, a contract of guarantee—  (a) includes, where the member is not of full age, an indemnity provided by a parent or guardian of the member or by another person approved by the board of directors, and  (b) may form part of the relevant agreement or may be in a separate document.”

Item	Provision affected	Amendment
22	Section 37C(2)	Substitute:  “(2) The credit union shall also ensure that the agreement specifies a cooling-off period under which the member has a right to withdraw from the agreement without penalty if the member gives to the credit union a written notice to that effect within 14 days after—  (a) the day on which the credit agreement was concluded, or  (b) the day on which the member receives contractual terms and conditions and information in accordance with sections 37C and 37D if that date is later than the date referred to in paragraph (a).”
23	Section 37C(3)	Delete.
24	Section 37C	Insert after subsection (4):  “(5) This section does not apply to credit agreements covered by the European Communities (Consumer Credit Agreements) Regulations 2010.”
25	Section 37D	Insert after subsection (2):  “(3) This section does not apply to credit agreements covered by the European Communities (Consumer Credit Agreements) Regulations 2010.”
26	Section 37E	Substitute:  “37E.—(1) For the purposes of sections 37C and 37D ‘annual percentage rate of charge’, in relation to a credit agreement entered into between a credit union and a member, means the annual percentage rate of charge as defined under Regulation 6 of the European Communities (Consumer Credit Agreements) Regulations 2010.  (2) The annual percentage rate of charge specified in a credit agreement shall be in accordance with Part 5 of the European Communities (Consumer Credit Agreements) Regulations 2010.”
27	Section 37F	Delete.
28	Section 38(2)	Substitute:  “(2) If a credit union knowingly charges or accepts interest on a loan at a rate greater than that permitted under this section—  (a) all the interest agreed to be paid by the member shall be deemed to have been waived by the credit union; and  (b) any interest paid on the loan shall be recoverable summarily by the member (or his personal representative) as a simple contract debt.”
29	Section 41(5)	Substitute:  “(5) If the Bank is of the opinion that any building or other land held by a credit union is not in the best interest of the credit union, it may decide to direct and direct the credit union to dispose of its interest in it.”

Item	Provision affected	Amendment
30	Section 41(6)	Delete.
31	Section 44(4)	Substitute “reserves required to be held under section 45” for “statutory reserve”.
32	Section 46	Delete.
33	Section 47(1)	Delete “or voluntary assistants”.
34	Section 47(2)	Delete.
35	Section 47(3)	Delete.
36	Section 48(1)	Substitute:  “(1) Subject to the following provisions of this Part, a credit union may provide, as principal or agent, additional services of a description that appears to the credit union and to the Bank, to be of mutual benefit to its members.”.
37	Section 48(2)	Substitute:  “(2) In this section and the following provisions of this Part ‘additional services’, in relation to a credit union, means any services other than those—  (a) for which provision is made by the preceding provisions of this Part, or  (b) which are being prescribed for the purposes of this section as being services of a description that appears to the Bank to be of mutual benefit to its members,  and regulations made by the Bank for the purposes of paragraph (b) may make the exclusion of any services from being additional services conditional on compliance with such conditions as may be prescribed by the Bank.”.
38	Section 48(4)(a)	Substitute:  “(a) the credit union must adopt a decision to provide additional services of that description by a resolution passed by not less than two-thirds of the members present and voting at an annual general meeting or at a special general meeting called for the purpose of considering the resolution, or the credit union must adopt a decision to provide additional services of that description by a resolution of the board of directors;”.
39	Section 48(7)	Substitute:  “(7) The Bank may specify in writing such requirements as it considers necessary for credit unions providing additional services; and different requirements may be so specified in relation to different descriptions of additional services and apply to different classes of credit unions.”.
40	Section 48(8)	Substitute:  “(8) A credit union shall not be able or, as the case may be, shall cease to be able to provide additional services of a description to which requirements under subsection (7) apply if—  (a) the credit union does not satisfy those requirements, or  (b) within the period of 12 months beginning on the date on which approval for the provision of the services is given

Item	Provision affected	Amendment
		<p>under section 49, the credit union does not begin to provide those services;</p> <p>but, if a credit union ceases to comply with any of those requirements, the cessation shall not, of itself, impose an obligation on the credit union to dispose of any property or right acquired in connection with the provision of the additional services concerned.”.</p>
41	Section 49(2)(b)	Delete “or voluntary assistants”.
42	Section 49(7)(f)	Delete “or voluntary assistants”.
43	Section 49(8)	Delete.
44	Section 56(6)	Substitute:  “(6) A vacancy arising from the removal of a director under this section shall be filled in accordance with section 53(15).”.
45	Section 57(2)	Substitute:  “(2) In the event that the number of directors of a credit union falls to less than half the number specified in the registered rules, the secretary of the credit union shall forthwith notify the Bank and the board oversight committee of the credit union.”.
46	Section 57(4)	Substitute:  “(4) Where any of the following events occurs—  (a) the secretary of the credit union has given notice under section 53(17) that all the directors of the credit union intend to resign on the same date,  (b) all the directors have been removed or suspended in accordance with section 96(1), or  (c) there is no board of directors,  then the board oversight committee shall convene a special general meeting of the credit union, within one month of the occurrence of the event in question, to elect a board of directors.”.
47	Sections 58 to 62	Delete.
48	Section 63(1)	Substitute:  “(1) At a meeting of the board of directors of a credit union—  (a) which is held immediately after the organisation meeting, an annual general meeting or special general meeting at which an election is held for members of the board of directors, and  (b) which is chaired by a member of the board oversight committee,  the board of directors shall elect by secret ballot directors to fill such of the principal posts in the credit union as are then vacant; and, for the purposes of this section, the principal posts in a credit union are the posts of chair, vice-chair and secretary.”.
49	Section 63(2)	Delete.

Item	Provision affected	Amendment
50	Section 63(5)	Substitute: <p>“(5) The chair or secretary of a credit union shall notify the Bank in writing of the election, appointment, retirement, removal or resignation from office of chair, vice-chair, director, secretary, or committee member and the notification shall—</p> <p style="padding-left: 40px;">(a) be made within 14 days of the election, appointment, retirement, removal or resignation, and</p> <p style="padding-left: 40px;">(b) state the full name and address of the officer concerned.”.</p>
51	Section 63(6)	Delete.
52	Section 64	Delete.
53	Section 67(1)	Substitute: <p>“(1) Without prejudice to section 56A, the board of directors shall appoint—</p> <p style="padding-left: 40px;">(a) a credit committee, which shall decide on applications for credit;</p> <p style="padding-left: 40px;">(b) a credit control committee, which shall seek to ensure the repayment of loans by members of the credit union in accordance with their loan agreements; and</p> <p style="padding-left: 40px;">(c) a membership committee which shall consider applications for membership of the credit union;</p> <p>and the Third Schedule shall apply to the committees.”.</p>
54	Section 68(1)	Substitute: <p>“(1) A credit union shall not pay any remuneration, directly or indirectly, to—</p> <p style="padding-left: 40px;">(a) a director of the credit union, or</p> <p style="padding-left: 40px;">(b) a member of the board oversight committee or a principal Committee of the credit union,</p> <p>for any service performed by that person in that capacity.”.</p>
55	Section 68(3)	Delete “or voluntary assistant”.
56	Section 68(4)	Delete.
57	Section 70(2)	Substitute: <p>“(2) The documents to which subsection (1) applies are any of the following, so far as not required by law to be under the seal of a credit union—</p> <p style="padding-left: 40px;">(a) a conveyance or transfer of property of any description by a credit union; and</p> <p style="padding-left: 40px;">(b) any other document which does not fall within section 55(1)(o)(vi) but by which a credit union enters into an obligation of any description.”.</p>
58	Section 71(1)	Delete “or voluntary assistant”.
59	Section 71(2)	Substitute for paragraph (g): <p>“(g) which is made to the Bank for the purposes of its functions in relation to credit unions; or</p>

Item	Provision affected	Amendment
		(h) which is made to the Credit Union Restructuring Board for the purposes of its functions under the <i>Credit Union and Co-operation with Overseas Regulators Act 2012.</i> ”.
60	Section 71(3)	Delete “or voluntary assistant”.
61	Section 72(1)	Substitute: <p>“(1) A person who has been adjudicated bankrupt and whose bankruptcy still subsists or who has been convicted of an offence in relation to a credit union or an offence involving fraud or dishonesty shall not—</p> <p>(a) sign an application form for the registration of a society as a credit union,</p> <p>(b) be qualified to be appointed or to act as an officer, auditor, receiver or liquidator of a credit union,</p> <p>(c) directly or indirectly take part in or be concerned in the management or operation of a credit union, or</p> <p>(d) permit his or her name to be put forward for election or appointment to any of the positions referred to in paragraph (b).”.</p>
62	Section 72(2)	Substitute: <p>“(2) If a person who is a member of—</p> <p>(a) the board of directors,</p> <p>(b) the board oversight committee, or</p> <p>(c) a principal Committee,</p> <p>of a credit union is adjudicated bankrupt or convicted of such an offence as is referred to in subsection (1), then such person shall forthwith cease to hold office and the vacancy thereby created shall be deemed to be a casual vacancy and be filled accordingly.”.</p>
63	Section 73	Delete.
64	Section 74(1)	Delete “or voluntary assistant”.
65	Section 74(2)(b)	Delete “or voluntary assistant”.
66	Section 74(3)	Delete “or voluntary assistant” in both places where it occurs.
67	Section 74(4)	Substitute: <p>“(4) If any person fails to comply with a requirement under subsection (1), the Circuit Court, on the application to it of the credit union, may make an order requiring that person to comply with the requirement.”.</p>
68	Section 75(1)(f)	Substitute: <p>“(f) the membership numbers, names and addresses of the officers of the credit union (excluding any person who is an officer solely by virtue of being an employee or a voluntary assistant), with the offices held by them respectively, the dates on which they assumed office and, where applicable, on which they ceased to hold office.”.</p>

Item	Provision affected	Amendment
69	Section 75(5)	Substitute: “(5) The Bank or a person acting on its behalf may at all reasonable hours inspect any particulars in any register or duplicate register kept under this section.”.
70	Section 75(8)	Delete.
71	Section 76(7)(c)	Substitute: “(c) by the members or officers (other than any person who is an officer solely by virtue of being a voluntary assistant) or former members or officers (other than any person who was an officer solely by virtue of being a former voluntary assistant) of the credit union.”.
72	Section 78(3)	Substitute “the Bank may call or require the calling by the credit union of such a meeting” for “the Bank may call or direct the calling of such a meeting”.
73	Section 79(1)	Substitute: “(1) The board of directors or the board oversight committee of a credit union may, whenever they think fit, convene a special general meeting of the credit union.”.
74	Section 79(2)	Delete.
75	Section 82(5)(a)	Substitute: “(a) of excluding the right to demand a poll at a general meeting (or an adjourned meeting) on any question, other than the election of the chair of the meeting (or the adjourned meeting); or”.
76	Section 85(5)	Substitute “subject to regulations made under section 27(2)” for “subject to subsections (2) and (3) of section 27”.
77	Section 87(1)	Substitute “the Bank may decide to give and give the credit union such regulatory directions as it thinks proper” for “the Bank may give the credit union such regulatory directions as it thinks proper”.
78	Section 87(1)(d)	Delete.
79	Section 87(2)	Substitute “The Bank may also decide to give and give regulatory directions” for “The Bank may also give regulatory directions”.
80	Section 87(2)(b)	Delete “an offence under section 27(2) or section 33(6) or”.
81	Section 87(2)(c)	Substitute: “(c) that, since the registration of the credit union, the factors taken into account in granting registration have so changed that, if the society were now applying for registration, it would be refused; or  “(d) that the credit union has failed to comply with any terms and conditions imposed by the Bank under section 65(6) of the <i>Credit Union and Co-operation with Overseas Regulators Act 2012</i> relating to the provision of stabilisation support under this Act.”.
82	Section 88(1)	Substitute: “(1) When the Bank gives any regulatory directions to a credit union,—  “(a) it shall serve the directions at the registered office of the credit union or cause the directions to be so served, and



Item	Provision affected	Amendment
		<p>(b) the secretary of the credit union concerned shall, as soon as practicable, notify every member of the board of directors and every member of the board oversight committee of that credit union of the giving of those directions,</p> <p>but a failure to notify in accordance with paragraph (b) shall not affect the validity of the directions.”.</p>
83	Section 88(6)(a)	<p>Substitute:</p> <p>“(a) on summary conviction, to a class C fine; and”.</p>
84	Section 91(1)(b)	Delete “voluntary assistant,”.
85	Section 91(4)	Delete “voluntary assistant,”.
86	Section 91(8)(b)	<p>Substitute:</p> <p>“(b) by the officers or former officers (other than any person who is or was an officer solely by virtue of being a voluntary assistant or former voluntary assistant) of the credit union or any of them;”.</p>
87	Section 92(6)(c)	<p>Substitute:</p> <p>“(c) the Bank may appoint a person to be chair of the meeting but, if it does not do so, the members present at the meeting shall appoint the chair; and”.</p>
88	Section 92(8)(b)	<p>Substitute:</p> <p>“(b) by the members or former members or the officers (other than any person who is or was an officer solely by virtue of being a voluntary assistant) of the credit union or any of them;”.</p>
89	Section 93(2)(a)	Delete “, voluntary assistants”.
90	Section 94(5)	Delete “, voluntary assistants”.
91	Section 95(4)	<p>Substitute:</p> <p>“(4) Notwithstanding anything in section 68, all expenses of and incidental to the appointment of a person under this section shall be defrayed out of the funds of the credit union, or by the members or former members or the officers (other than any person who is or was an officer solely by virtue of being a voluntary assistant) of the credit union in such proportions as the Bank shall direct.”.</p>
92	Section 95(5)	Delete “, voluntary assistant”.
93	Section 96	Substitute “board oversight committee” for “Supervisory Committee” in each place where it occurs.
94	Section 96(4)	Substitute “or auditor of a credit union” for “auditor or voluntary assistant of a credit union”.
95	Section 108(5)(b)	<p>Substitute:</p> <p>“(b) shall at all reasonable times be open to inspection by the members of the board of directors and the board oversight committee.”.</p>
96	Section 108(7)	<p>Substitute:</p> <p>“(7) Where the accounting records of the credit union are kept at a place other than the registered office of the credit union, the chair shall have responsibility for ensuring that a written record of their location is kept.”.</p>

Item	Provision affected	Amendment
97	Section 109(2)(b)	Substitute:  “(b) the information obtained by or furnished to the Bank is sufficiently accurate for the purposes for which it is obtained or furnished and is available as and when required by the Bank.”.
98	Section 110(1)	Substitute for (d) and (e):  “(d) all income and charges relating to the financial year to which the accounts relate shall be taken into account without regard to the date of receipt or payment;  (e) in determining the aggregate amount of any item the amount of each individual asset or liability that falls to be taken into account shall be determined separately; and  (f) in determining how amounts are presented within items in the income and expenditure account and balance sheet, the directors of a credit union shall have regard to the substance of the reported transaction or arrangement, in accordance with generally accepted accounting principles or practice.”.
99	Section 111(1)	Substitute “as the Bank may prescribe” for “as the Bank may direct”.
100	Section 111(4)(c)	Substitute:  “(c) it has been signed by the manager of the credit union, by a member of the board oversight committee acting on behalf of that committee and by a member of the board of directors acting on behalf of the board.”.
101	Section 111(5)	Substitute:  “(5) If, in relation to any income and expenditure account or balance sheet of a credit union for a financial year, a member of the board of directors fails to take all reasonable steps to secure compliance with the provision of subsection (1) which is applicable in that case, the member shall be guilty of an offence and liable on summary conviction to a class C fine unless the member proves that there were reasonable grounds for the member to believe that a competent and reliable person was charged with the duty of seeing that the relevant provision was complied with, and was in a position to discharge that duty.”.
102	Section 114(1)	Substitute:  “(1) A person shall not be qualified for election as auditor of a credit union unless the person—  (a) is a member of a recognised accountancy body within the meaning of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010) and holds a valid practicing certificate, or  (b) is otherwise for the time being authorised by the Irish Auditing and Accounting Supervisory Authority under any provision of the Companies Acts to be appointed as a public auditor.”.
103	Section 114(2)(a)	Delete “or voluntary assistant”.

Item	Provision affected	Amendment
104	Section 114(2)(b)	Substitute:  “(b) a parent, spouse or civil partner, brother, sister or child of an officer of the credit union; or”.
105	Section 114(2)(c)	Delete “or voluntary assistant”.
106	Section 120(2)	Substitute:  “(2) Before signing the auditor’s report, the auditor of a credit union shall meet with and report to the directors of the credit union and the members of the board oversight committee on the annual accounts and any matter relating to those accounts which the auditor considers should be drawn to their attention.”.
107	Section 120(6)	Delete “and voluntary assistants”.
108	Section 123(1)	Delete “or voluntary assistant”.
109	Section 123(3)	Delete “or voluntary assistant” in both places where it occurs.
110	Section 130(1)	Substitute:  “(1) A credit union which proposes—  (a) to amalgamate with one or more other credit unions,  (b) to transfer its engagements to another credit union, or  (c) to undertake to fulfil the engagements of another credit union,  shall, subject to subsection (2), cause to be sent to every member entitled to notice of a general meeting of the credit union and to the auditor of the credit union a statement, in such form as the Bank may specify in writing, showing the matters specified in subsection (3), together with a copy of the annual accounts for each credit union concerned for the most recent financial year.”.
111	Section 130(2)	Substitute for paragraphs (a) and (b):  “(a) a notice of the resolution passed by the board of directors,  (b) a statement, in such form as the Bank may prescribe, showing the matters specified in subsection (3), and  (c) a copy of the annual accounts for each credit union concerned for the most recent financial year.”.
112	Section 130(4)	Substitute “subsection (1) or (2)” for “subsection (1)”.
113	Section 134(5)	Substitute:  “(5) Where a credit union is wound up by virtue of this section, sections 293 to 299 of the Companies Act 1963 and sections 202 to 204 of the Companies Act 1990, in so far as they relate to the liabilities of directors and officers (within the meaning of those Acts) of a company being wound up, shall apply with any necessary modifications in relation to the officers of the credit union to whom paragraph (a) of the definition of ‘officer’ in section 2 applies.”.
114	Section 135(7)	Substitute:  “(7) A credit union shall not be dissolved as mentioned in subsection (6) if—

Item	Provision affected	Amendment
		<p>(a) within one month of the date of the advertisement referred to in that subsection, a member or other person interested in or having any claim on the funds of the credit union commences proceedings in the Court to set aside the dissolution of the credit union,</p> <p>(b) not less than 7 days before those proceedings are commenced, the person intending to institute them serves notice of intention on the Bank, and</p> <p>(c) the dissolution of the credit union is set aside accordingly,</p> <p>and, within 7 days from the making of any order setting the dissolution aside, the credit union shall send notice of the order to the Bank.”.</p>
115	Section 135(8)	<p>Substitute:</p> <p>“(8) If the date of the meeting at which the special resolution referred to in subsection (1) is passed falls within one year after the credit union has changed its name, the former name, as well as the existing name, shall appear on all notices and advertisements relating to its dissolution under this section.”.</p>
116	Section 136(2)(a)	<p>Substitute:</p> <p>“(a) is signed by the secretary or other officer (other than a person who is an officer solely by virtue of being a voluntary assistant) of the dissolving or transferor credit union approved by the Bank; and”.</p>
117	Section 137(3)(c)	Delete “and voluntary assistants”.
118	Section 149(5)	Delete “voluntary assistants,”.
119	Section 150(1)	Delete “, voluntary assistants”.
120	Section 150(3)	Delete “, voluntary assistant” in both places where it occurs.
121	Section 150(4)	Delete “, voluntary assistant”.
122	Section 153(5)	<p>Substitute:</p> <p>“(5) If the examiner without reasonable excuse fails to comply with subsection (4), the examiner shall be guilty of an offence and liable to a class C fine.”.</p>
123	Section 163(2)(d)	Delete.
124	Section 171(1)	Delete.
125	Section 171(2)	<p>Substitute:</p> <p>“(2) A credit union or other person who is guilty of an offence under this Act, other than an offence for which a different penalty is expressly provided, shall be liable—</p> <p>(a) on summary conviction to a class C fine or to imprisonment for a term not exceeding 3 months or both; or</p> <p>(b) on conviction on indictment to a fine not exceeding €6,348.69 or to imprisonment for a term not exceeding 2 years or both.”.</p>
126	Section 171(3)	<p>Substitute:</p> <p>“(3) If the contravention in respect of which a credit union or other person is convicted of an offence under any provision of this Act is continued after that conviction, that credit union</p>

Item	Provision affected	Amendment
		or other person shall be guilty of a further offence for every day on which the contravention continues and for each such offence shall be liable on summary conviction to a class E fine or, on conviction on indictment, to a fine not exceeding €1,904.61.”.
127	Section 171(4)	Substitute: “(4) Summary proceedings for an offence against a provision of this Act may be brought by the Bank.”.
128	Section 173(2)(a)	Substitute: “(a) on summary conviction to a class C fine or to imprisonment for a term not exceeding one year or both; or”.
129	Section 177(1)	Delete “or voluntary assistant”.
130	Section 177(2)	Delete “or voluntary assistant”.
131	Section 178(1)	Delete “or voluntary assistant” in both places where it occurs.
132	Section 178(2)	Delete “or voluntary assistant”.
133	Section 180(6)	Substitute: “(6) The Minister shall from time to time nominate one member of the Advisory Committee to act as its chair.”.
134	Section 182(1), paragraphs (a) to (f)	Delete.
135	Section 182(1), paragraphs (h) and (i)	Delete.
136	Section 182(1)(k)	Delete.
137	Section 182(1)(m)	Delete.
138	Section 182(1)(n)	Substitute: “(n) prescribing any other matter which, under any provision of this Act, is to be prescribed except where it is provided that the matter is to be prescribed by the Bank.”.
139	Section 182(4)(a)	Substitute: “(a) if the offence is tried summarily, a class C fine, or”.
140	Section 186(1)	Substitute: “(1) A credit union shall maintain, in addition to the records required to be kept by a credit union by virtue of section 108, such other records as may be prescribed by the Bank.”.
141	Section 187(1)	Substitute “specified by the Bank” for “specified by directions given by the Bank”.
142	First Schedule, paragraph 6	Substitute: “6. The appointment and removal of the board of directors, the board oversight committee and any principal Committee and of other officers and their respective powers and remuneration.”.
143	First Schedule, paragraph 7	Substitute: “7. Determination (subject to any requirements under section 27(2)) of the maximum amount of the interest in the shares of the credit union which may be held by any member.”.

SCH.1

[No. 40.] *Credit Union and Co-Operation with Overseas Regulators Act 2012.* [2012.]

Item	Provision affected	Amendment
144	First Schedule	Insert after paragraph 13:  “14. Provision for dealing with directors and members of the board oversight committee who are more than 90 consecutive days in arrears under a debt obligation to the credit union up to and including the suspension or removal from the board of such directors.”.
145	Third Schedule, paragraph 1	Delete.
146	Third Schedule, paragraph 6	Delete.

[2012.] *Credit Union and Co-Operation with Overseas Regulators Act 2012.* [No. 40.]

SCHEDULE 2

Section 70.

AMENDMENTS TO CERTAIN ACTS AND STATUTORY INSTRUMENTS

PART 1

AMENDMENTS TO CERTAIN ACTS

Item (1)	Number and year (2)	Short title (3)	Extent of repeal (4)
1	No. 24 of 1971	Central Bank Act 1971	Section 17A
2	No. 3 of 1989	Insurance Act 1989	Sections 59 and 60
3	No. 17 of 1989	Building Societies Act 1989	Section 41
4	No. 21 of 1989	Trustee Savings Banks Act 1989	Section 24A
5	No. 24 of 1994	Investment Limited Partnerships Act 1994	Section 25(2)
6	No. 11 of 1995	Investment Intermediaries Act 1995	Sections 9(3), 64 and 65
7	No. 8 of 1997	Central Bank Act 1997	Sections 36G, 36H, 36I, 75 and 76
8	No. 47 of 2001	Asset Covered Securities Act 2001	Section 70

PART 2

AMENDMENTS TO CERTAIN STATUTORY INSTRUMENTS

Item (1)	Number and year (2)	Citation (3)	Extent of revocation (4)
1	S.I. No. 13 of 2005	European Communities (Insurance Mediation) Regulations 2005	Regulations 28, 29, 30 and 31
2	S.I. No. 380 of 2006	European Communities (Reinsurance) Regulations 2006	Regulations 72, 73, 74 and 75
3	S.I. No. 60 of 2007	European Communities (Markets in Financial Instruments) Regulations 2007	Regulations 163, 164 and 165
4	S.I. No. 383 of 2009	European Communities (Payment Services) Regulations 2009	Regulations 99, 100, 101, 102 and 110
5	S.I. No. 183 of 2010	European Communities (Cross Border Payments) Regulations 2010	Regulations 6, 7, 8, 9, 10, 11 and 12
6	S.I. No. 183 of 2011	European Communities (Electronic Money) Regulations 2011	Regulations 62, 63, 64, 65 and 72

[No. 40.] *Credit Union and Co-Operation with Overseas Regulators Act 2012.* [2012.]

Section 70.

SCHEDULE 3

AMENDMENTS OF CENTRAL BANK ACTS

PART 1

AMENDMENTS OF CENTRAL BANK ACT 1971

Item (1)	Provision affected (2)	Amendment (3)
1	Section 2(1)	In paragraph (d) of the definition of “related body” delete “section 17A” and substitute “Part 5 of the Central Bank Reform Act 2010”.
2	Section 58(1)	Delete “17A,”.

PART 2

AMENDMENTS OF CENTRAL BANK ACT 1997

Item (1)	Provision affected (2)	Amendment (3)
1	Section 28	<p>(a) Substitute the following for the definition of “authorisation”:</p> <p>“ ‘authorisation’ means an authorisation under this Part authorising a person to carry on a regulated business;”.</p> <p>(b) Delete the definition of “inspector”.</p> <p>(c) In the definition of “retail credit firm”—</p> <p>(i) substitute “paragraph (e)” for “paragraph (g)”, and</p> <p>(ii) substitute “section 2(1)” for “section 3”.</p>
2	Section 32A(5)(b)	After “officer” insert “appointed under Part 5 of the Central Bank Reform Act 2010”.



SCHEDULE 4

Section 70.

AMENDMENTS OF CERTAIN OTHER ACTS

PART 1

AMENDMENTS OF BUILDING SOCIETIES ACT 1989

Item (1)	Provision affected (2)	Amendment (3)
1	Section 119(1)(a)	(a) In subparagraph (v) substitute “section 41A” for “sections 41 or 41A”.  (b) Delete subparagraph (vii).

PART 2

AMENDMENT OF TRUSTEE SAVINGS BANKS ACT 1989

Item (1)	Provision affected (2)	Amendment (3)
1	Section 62(1)	Delete “24A,”.

PART 3

AMENDMENT OF INVESTMENT LIMITED PARTNERSHIPS ACT 1994

Item (1)	Provision affected (2)	Amendment (3)
1	Section 25(4)	In paragraph (a) delete the definition of “appropriate person”.

## PART 4

## AMENDMENTS OF CONSUMER CREDIT ACT 1995

Item (1)	Provision affected (2)	Amendment (3)
1	Section 8G(1)	<p>(a) In the definition of “authorised officer” substitute “8M” for “8L”.</p> <p>(b) Delete the definition of “responsible authority”.</p>
2	Section 8M	<p>(a) In subsection (1) substitute “The Minister” for “A responsible authority”.</p> <p>(b) In subsection (3) substitute “The Minister” for “A responsible authority”.</p> <p>(c) In subsection (5)—</p> <p>(i) in paragraph (a) substitute “the Minister” for “the responsible authority concerned”, and</p> <p>(ii) in paragraph (c) substitute “the Minister” for “the responsible authority”.</p>

## PART 5

## AMENDMENTS OF INVESTMENT INTERMEDIARIES ACT 1995

Item (1)	Provision affected (2)	Amendment (3)
1	Section 2(1)	<p>Substitute the following for the definition of “authorised officer”:</p> <p>“ ‘authorised officer’ means a person appointed to be an authorised officer under Part 5 of the Central Bank Reform Act 2010;”.</p>
2	Section 20(6)	Substitute “section 19 of this Act and Part 5 of the Central Bank Reform Act 2010” for “sections 19 and 65 of this Act”.
3	Section 79(1)	Substitute “21(10)” for “21(9)”.

PART 6

AMENDMENTS OF CREDIT UNION ACT 1997

Item (1)	Provision affected (2)	Amendment (3)
1	Section 90	<p>Substitute the following for section 90:</p> <p>“90.—(1) In this section and section 91 ‘authorised officer’ means an authorised officer appointed under Part 5 of the Central Bank Reform Act 2010.</p> <p>(2) The Bank may appoint an authorised officer to carry out an inspection and to provide a report of the inspection to the Bank.</p> <p>(3) An authorised officer may, for the purposes of carrying out an inspection, exercise any of the powers conferred on an authorised officer under Part 5 of the Central Bank Reform Act 2010.”.</p>
2	Section 91	<p>(a) Substitute the following for subsections (1) and (2):</p> <p>“(1) If required to do so by notice in writing served by the Bank at any time—</p> <p>(a) a credit union,</p> <p>(b) any person who is or has been an officer, member, agent or liquidator of a credit union, and</p> <p>(c) any other person who has in his or her possession or power any books or documents relating to a credit union, shall furnish to the Bank such books or documents which relate to the credit union and are in his possession or power and such information relating to the business of the credit union as may be specified in the notice and as may be reasonably required by the Bank in the exercise of its powers under this Act.</p> <p>(2) If required to do so by a notice in writing served on it by the Bank, a credit union shall furnish to the Bank a financial statement or periodic financial statements in such form and containing such information as may be specified in the notice and as may be reasonably required by the Bank in the exercise of the powers of the Bank under this Act.”.</p> <p>(b) Substitute the following for subsection (4):</p> <p>“(4) The Bank may take copies of or extracts from any item produced in compliance with a notice under subsection (1) or (2) and, if so required by the Bank, the person on whom a notice under subsection (1) was served or, in the case of a statement produced in compliance with a notice under subsection (2), a person who is or has been an officer, member, agent or liquidator of the credit union shall provide any explanation which may reasonably be required of an item so produced.”.</p>

## PART 7

## AMENDMENTS OF INVESTOR COMPENSATION ACT 1998

Item (1)	Provision affected (2)	Amendment (3)
1	Section 9	<p>Substitute the following for section 9:</p> <p>“(1) In this section ‘Act of 2010’ means the Central Bank Reform Act 2010.</p> <p>(2) Where the supervisory authority forms the view that an insurance intermediary may be unable to repay money belonging to a client of the insurance intermediary, the supervisory authority may appoint an authorised officer under Part 5 of the Act of 2010 to investigate whether the insurance intermediary is unable to repay money or otherwise discharge its obligations towards clients of the insurance intermediary and to make a report to the supervisory authority in respect of the insurance intermediary.</p> <p>(3) In relation to investment firms, an inspector appointed under the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007) shall, for the purposes of this section, have the powers conferred on an authorised officer appointed under Part 5 of the Act of 2010.</p> <p>(4) In relation to investment firms which are credit institutions, an inspector appointed under section 45 of the Building Societies Act 1989 shall, for the purposes of this section, have the powers conferred on an authorised officer appointed under Part 5 of the Act of 2010.</p> <p>(5) In relation to investment firms which are investment business firms, an inspector appointed under section 66 or 73 of the Investment Intermediaries Act 1995 shall, for the purposes of this section, have the powers conferred on an authorised officer appointed under Part 5 of the Act of 2010.”.</p>
2	Section 33(2)	<p>(a) Substitute “Part 5 of the Central Bank Reform Act 2010” for “the Act of 1995 and the European Communities (Markets in Financial Instruments) Regulations 2007”.</p> <p>(b) Substitute “Part of that Act” for “Act and those Regulations”.</p>

## PART 8

## AMENDMENT OF ASSET COVERED SECURITIES ACT 2001

Item (1)	Provision affected (2)	Amendment (3)
1	Section 98	In paragraph (a) delete “or any person authorised by it to perform the relevant function on its behalf.”.

SCHEDULE 5

Section 70.

AMENDMENTS TO CERTAIN STATUTORY INSTRUMENTS

PART 1

AMENDMENTS OF EUROPEAN COMMUNITIES (DISTANCE MARKETING OF CONSUMER FINANCIAL SERVICES) REGULATIONS 2004

(S.I. No. 853 of 2004)

Item (1)	Provision affected (2)	Amendment (3)
1	Regulation 25	In paragraph (1) substitute “competent authority (other than the Bank)” for “competent authority”.
2	Regulation 26	In paragraph (1) substitute “competent authority (other than the Bank)” for “competent authority”.

PART 2

AMENDMENT OF EUROPEAN COMMUNITIES (INSURANCE MEDIATION) REGULATIONS 2005

(S.I. No. 13 of 2005)

Item (1)	Provision affected (2)	Amendment (3)
1	Regulation 3(1)	Delete the definition of “authorised officer”.

PART 3

AMENDMENT OF EUROPEAN COMMUNITIES (REINSURANCE) REGULATIONS 2006

(S.I. No. 380 of 2006)

Item (1)	Provision affected (2)	Amendment (3)
1	Regulation 3(1)	Delete the definition of “authorised officer”.

## PART 4

## AMENDMENTS OF EUROPEAN COMMUNITIES (MARKETS IN FINANCIAL INSTRUMENTS) REGULATIONS 2007

(S.I. No. 60 of 2007)

Item (1)	Provision affected (2)	Amendment (3)
1	Regulation 3(1)	Substitute the following for the definition of “authorised officer”:  “ ‘authorised officer’ means an authorised officer appointed under Part 5 of the Central Bank Reform Act 2010”.
2	Regulation 6(7)	Substitute “Part 5 of the Central Bank Reform Act 2010” for “Regulation 164”.
3	Regulation 14(1)	In subparagraph (b) insert “appointed under Part 5 of the Central Bank Reform Act 2010” after “authorised officer”.
4	Regulation 147(1)(g)(ii)	Substitute “Part 5 of the Central Bank Reform Act 2010” for “Regulation 164”.
5	Regulation 174(1)	Delete “an authorised officer or”.

## PART 5

## AMENDMENTS OF EUROPEAN COMMUNITIES (INSURANCE AND REINSURANCE GROUPS SUPPLEMENTARY SUPERVISION) REGULATIONS 2007

(S.I. No. 366 of 2007)

Item (1)	Provision affected (2)	Amendment (3)
1	Regulation 3(1)	Substitute the following for the definition of “authorised officer”:  “ ‘authorised officer’ means an authorised officer appointed under Part 5 of the Central Bank Reform Act 2010;”.
2	Regulation 9	(a) Substitute the following for paragraph (5):  “(5) If, in a particular case, the Bank wishes to verify information concerning an insurer or reinsurer located in another Member State and the insurer or reinsurer is an associate of an insurer or reinsurer that both holds an authorisation issued by the Bank and is subject to supplementary supervision, the Bank shall request the competent authority of that other Member State to have that verification carried out by that authority or an officer appointed by it.”.  (b) In paragraph (7) insert “under Part 5 of the Central Bank Reform Act 2010” after “authorised officer”.

PART 6

AMENDMENTS OF EUROPEAN COMMUNITIES (CREDIT INSTITUTIONS)  
(CONSOLIDATED SUPERVISION) REGULATIONS 2009

(S.I. No. 475 of 2009)

Item (1)	Provision affected (2)	Amendment (3)
1	Regulation 20	<p>Substitute the following for Regulation 20:</p> <p>“20. (1) Section 18 of the Central Bank Act 1971 (No. 24 of 1971) applies to and in relation to a credit institution that is subject to consolidated supervision by the Bank as if—</p> <p style="padding-left: 40px;">(a) references in that section to a holder of a licence under that Act were references to the credit institution, and</p> <p style="padding-left: 40px;">(b) references in that section to a related body of a holder of such a licence were references to an associated enterprise of the credit institution.</p> <p>(2) Section 41A of the Building Societies Act 1989 (No. 17 of 1989) applies to and in relation to a building society that is subject to consolidated supervision by the Bank as if references in that section to a related body of a building society were references to an associated body of the building society.</p> <p>(3) Section 25 of the Trustee Savings Bank Act 1989 (No. 21 of 1989) applies to and in relation to a credit institution that is subject to consolidated supervision by the Bank as if references in that section to a trustee savings bank were references to the credit institution.”.</p>

PART 7

AMENDMENT OF EUROPEAN COMMUNITIES (CROSS BORDER PAYMENTS)  
REGULATIONS 2010

(S.I. No. 183 of 2010)

Item (1)	Provision affected (2)	Amendment (3)
1	Regulation 2(1)	Delete the definitions of “relevant records” and “search warrant”.