

Credit Union Update

LEGISLATION UPDATE

26 July 2013

Legislation update

- The Credit Union and Co- operation with Overseas Regulators Act 2012 (the "2012 Act") was published in September 2012.
- The provisions of this bill are gradually being enacted through a series of commencement orders by means of Statutory Instruments as set out below:

SI 557 of 2012 commencement on 19 December 2012

This implemented Sections 1,2,3 & 5, Parts 3 to 5 inclusive and Schedules 1,3,4 & 5 respectively.

Part 2 is proposed to be implemented on a phased basis from 1 August 2013 through to 1 April 2014

Legislation update

In summary, the vast majority of the provisions of the 2012 Act will be implemented by **1 April 2014**.

The provisions in the 2012 Act represent either additions to or amendments of certain sections of the Credit Union Act 1997. As a result the new legislation may be cited together as The Credit Union Acts 1997 to 2012.

Other legislation relevant to the operations of Credit Unions include the following:

- Criminal Justice (Money Laundering and Terrorist Financing) Act 2010
- Central Bank Reform Act 2010 & 2013 (Fitness & Probity)

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Reference s to the above will be made by subsequent presenters

Legislation update

Credit Union Acts 1997 to 2012

New Requirements – Headline Bullet Points

Governance Issues

- definitive splitting of executive and governance roles
- requirement for a board oversight committee
- requirement for an internal audit function
- requirement for a risk management officer
- requirement for a compliance officer

- clear organisational structure to be drawn up with defined reporting roles
- clearly defined duties of the manager
- written remuneration policies to be drawn up

- annual compliance statement – first one due by 30 November 2014 to cover financial year ended 30 September 2014

Legislation update

New Rules impacting on Board of Directors – effective 3 March 2014

- between 7 and 11 and an odd number
- directors be sure they have time to devote to duties
- term of 3 years but then eligible for re-election
- not a director of any other Credit Union
- not an employee or voluntary assistant
- not a spouse, parent or child of a director, board oversight member or employee

Legislation update

- From 1 October 2013 no more than 12 years in aggregate out of 15 years on board or oversight committee followed by a 3 year break before re-election eligibility
- No more than 3 years in any one post
- Focus of directors very much on strategic plan, performance of executives & succession planning
- Meet at least 10 times per annum at no worse than 6 week intervals

Detailed provisions on the Chair set out in the Act

- Must not have been an employee or in a voluntary management role in the previous 5 years
- Can only serve for 4 consecutive years before a mandatory break of at least 1 year

Legislation update

- A nomination committee must be formed from within the board members of between 3-5 members
- Very important role now to identify and assess candidates for election to the board and thus facilitate a succession plan
- Review of directors in office for in excess of 12 years an interesting point!

Legislation update

Board committees may be prescribed by the Central Bank, comprising directors only to undertake following roles:

- audit committee
- risk committee
- remuneration committee

Best practice to have such committees

Skill sets will need to be assessed by board before appointing members to these committees; chair of board may not act as chair of any board committee

Legislation update

Board Oversight Committee

- 3-5 members
- Not a director
- Not an employee or voluntary assistant of the Credit Union
- Not a member of board oversight committee of any other Credit Union
- Not a spouse, child or parent of any other board oversight committee member
- 1 October 2013 no more than 12 years in aggregate out of 15
- Must report material deviations to the Central Bank
- Term of 3 years then eligible for re-election

Legislation update

Manager

- Credit Union must now appoint a manager
- Acts as chief executive
- Focus very much on strategic plan as well as normal operational duties

Legislation update

Internal Audit

- Board must now appoint an internal audit function
- Assesses risk management, internal controls and governance processes
- Separate from all other functions and works independent of management
- Quarterly report to the board or audit committee, if one exists
- May be sourced in-house or through a sharing arrangement with other Credit Unions or outsourced to a third party service provider
- Can not be undertaken by the statutory auditors for independence reasons
- Internal audit charter and plan must be prepared in advance by the board

Legislation update

Operational Risk

- The board must appoint a risk management officer
- He will assess the risk of loss, financial or otherwise, by assessment of the organisation's controls
- A system needs to be developed to ensure that operational risks are managed and mitigated
- A business continuity plan to address external events needs to be documented
- Regular reporting by the risk manager to the board is required

Legislation update

Outsourcing

- Under the new provisions, certain activities may be outsourced by the board
- An outsourcing agreement must be drawn up following adequate vetting of the calibre of the service provider; this must clearly define the respective responsibilities of both parties

Legislation update

Strategic Plan

- Board must prepare and keep updated, a plan which documents the strategy and objectives of the Credit Union; manager will have a big input to this strategic plan
- To cover at least a 3 year period to include very detailed assumptions and financial projections on how to fund the projected balance sheet structure

Legislation update

Restructuring and Stabilisation is provided for in Parts 3 & 4 of the 2012 Act

- Section of Act implemented with effect from 19 December 2012
- Credit Union Restructuring Board to be known as “Rebo”; an independent body corporate
- Expected to have completed its work by January 2016
- Object to facilitate the restructuring of credit unions in order to support the financial stability and long term sustainability of credit unions generally
- All proposals submitted to Rebo by 2 or more credit unions must provide for either the amalgamation or the transfer of engagement between the credit unions
- The initial proposal is prepared by the relevant credit unions but most likely Rebo will direct a nominated third party to prepare a report and verify the details included in the initial proposal

Legislation update

Restructuring and Stabilisation is provided for in Parts 3 & 4 of the 2012 Act

- The proposal and associated funding requirements, if approved by Rebo, will then be sent by Rebo to the minister
- The financing of the operations of Rebo will be provided through the Rebo Levy on credit unions; this levy will be at different rates for various classes of credit unions and this levy is paid into the Credit Union Fund
- The minister will appoint the board members of Rebo to include one member of the Central Bank, to be nominated by the Governor of the Bank. The board members will be remunerated as determined by the minister. A chief executive has been appointed to Rebo, who will not be a member of the board who will employ staff as required

Legislation update

Restructuring and Stabilisation is provided for in Parts 3 & 4 of the 2012 Act

- The annual accounts of Rebo will be audited by the Comptroller and Auditor General
- The Credit Union Fund will be used to finance the operations of Rebo and to provide Stabilisation Support for any individual credit union under Part 4. Further sums may also be contributed to the Credit Union Fund by the minister from the Central Fund of the exchequer. Stabilisation support funding may be subsequently recouped from the individual credit union and refunded to the Credit Union Fund
- The Credit Union Fund will be administered by the minister

Legislation update

Restructuring and Stabilisation is provided for in Parts 3 & 4 of the 2012 Act

- Stabilisation support funding (under Part 4) may be paid to an individual credit union which fails to meet the current regulatory reserve requirement but only if it has a regulatory reserve of at least 7.5% of the total assets and in the opinion of the Bank it is considered viable. This funding can only be accessed with the permission of Rebo and only in cases where the credit union is not party to restructuring proposals. Such funding is most likely to be dependent on specified governance changes

Legislation update

Summary

- Legislation will be fully implemented by April 2014
- Compliance must be notified by 30 November 2014
- Best to develop a legislation compliance plan now and set out a timetable to cover all of the provisions
- Outsourcing of services a practical reality
- Use of IT wherever possible
- Role of nomination committee highly important
- Legislation very much directed towards the protection of members' savings
- Strategic planning and very accurate financial forecasting paramount
- Retention of reserve requirements so important in order to stay out of the red zone

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