Banc Ceannais na hÉireann
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Report on Anti-Money Laundering/Countering the Financing of Terrorism and Financial Sanctions Compliance in the Irish Credit Union Sector

Contents

1 Overview

1.1 Introduction

This report (the "Report") sets out the key observations and expectations of the Central Bank of Ireland (the "Central Bank") in relation to Anti-Money Laundering ("AML")/Countering the Financing of Terrorism ("CFT") and Financial Sanctions ("FS") compliance by credit unions in Ireland.

The Report is based on on-site inspections carried out by the Central Bank and supplemented by Risk Evaluation Questionnaires ("REQs") completed by credit unions and submitted to the Central Bank for assessment. The Report is based on a sample of credit unions of varying size. While all of the issues outlined did not arise in every credit union inspected, they are representative of the observations of the Central Bank across the sample.

The purpose of this Report is to share the Central Bank's findings and observations from the AML/CFT inspections and REQs with the credit union sector as a whole. The Report is not legal advice and should not be treated as such. A credit union must at all times refer directly to the relevant legislation to ascertain its statutory obligations. The Central Bank expects all credit unions to carefully consider the issues raised in the Report and to use the Report to inform the development of their AML/CFT and FS frameworks. Boards of Directors (the "Board") and Senior Management must take steps to ensure that there is an embedded and effective AML/CFT compliance programme and culture operating in their credit union.

1.2 Background

The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended by the Criminal Justice Act 2013) (the "CJA 2010") specified the Central Bank as the State's competent authority for the effective monitoring of credit and financial institutions ("designated persons") for compliance with the CJA 2010. Section 63 of the CJA 2010 requires the Central Bank to effectively monitor designated persons and take measures that are reasonably necessary for the purpose of securing compliance by those designated persons with the requirements specified in Part 4 of the CJA 2010.

The CJA 2010 sets out in detail the requirements for credit and financial institutions, including credit unions. Breach of provisions of the CJA 2010 may be subject to criminal and/or administrative sanctions. Effective management of Money Laundering/Terrorist Financing and FS risk will only occur where credit unions understand the risks applicable to

their own business and implement systems and controls that are appropriate to effectively mitigate those risks.

The credit union movement is an important component of the financial services sector. One of the unique features of the movement, the Common Bond, assists credit unions in knowing their members. However, this does not minimise or reduce the obligations of credit unions pursuant to the CJA 2010. Credit unions need to use this knowledge to comprehensively assess the money laundering and terrorist financing risk in their business and implement the recommendations of this report as appropriate to the nature, scale and complexity of that business.

The number and nature of issues identified during the inspections of the credit union sector suggest that credit unions in Ireland need to significantly improve their AML/CFT policies, procedures, systems and controls to ensure compliance with the CJA 2010.

The Central Bank expects all credit unions to carefully consider the issues raised in the Report, and to use the Report to inform the remediation and development of AML/CFT and FS Frameworks. The Central Bank would also like to draw attention to the recently published "Report on Anti-Money Laundering/ Countering the Financing of Terrorism and Financial Sanctions in the Irish Banking Sector", which can be found here. The Central Banks expects that credit unions should also have regard to the issues and observations outlined in that report.

1.3 Methodology

The Report was compiled using a combination of both on-site and off-site elements which are outlined in more detail below.

On-site

AML/CFT and FS on-site inspections were carried out focusing on the following areas:

- AML/CFT compliance governance and controls, including:
  - Governance structures;
  - Risk Assessment;
  - Policies, processes and procedures;
  - Training;
  - Management Information;
  - Internal Controls;

  - Record Keeping.

- Customer Due Diligence ("CDD")

- On-going Monitoring
  - Transaction monitoring/ account monitoring.

- Suspicious Transaction Reporting ("STR") including:
  - Process for identification and escalation of suspicious transactions;
  - Decision making process and documentation of rationale for onward reporting to the authorities or not.

- EU Financial Sanctions
  - Policies and procedures for screening for EU Financial Sanctions matches.
  - Procedures for escalation of any potential matches.

The onsite elements of the inspections were conducted through a combination of:

- Meetings with key credit union staff;
- Review of policy and procedures;
- Sample testing of CDD documentation, STR records, transaction monitoring records and training records.

Off-Site

The on-site inspections were supplemented by REQs completed by credit unions and returned to the Central Bank for assessment. REQs facilitate the Central Bank's analysis of Money Laundering/Terrorist Financing risk through an evaluation of the inherent risk posed to the credit union as well as an assessment of the credit union's AML/CFT control framework.

1.4 Summary of Issues Identified

The issues identified, which are set out in more detail in the remainder of this report, include:

- Failure to implement the requirements of the CJA 2010 in a timely manner. The CJA 2010 was enacted in July 2010, however, many credit unions inspected waited until the publication of the core guidance notes by the Department of Finance in 2012, or in some cases even longer, before taking any definitive steps to implement policies and procedures to address the requirements of the CJA 2010;
- Lack of oversight of AML/CFT issues at Board level;
- Inadequate policies, procedures and processes in relation to CDD for new and existing members, on-going monitoring and classification of risk;
- Non-adherence to stated AML/CFT policies;
- Failure to conduct adequate Money Laundering/Terrorist Financing risk assessment of the business;
- Engaging in non-standard practices without appropriate Board oversight and approval and without proper policies, procedures and systems and controls in place. For example, accepting large cash lodgements from local businesses, or lodgement of business proceeds to members' personal accounts, without considering and documenting any risks associated with these practices or any additional due diligence or on-going monitoring requirements which may apply;
- Lack of documented procedures to identify and verify beneficial owners where warranted, for example in the case of business customers, clubs and societies etc.;
- Failure to have adequate systems and controls, procedures and documentary evidence of on-going monitoring of transactions;
- Failure to define Politically Exposed Persons (PEPs) within policies. Lack of systems and formal processes for identifying, verifying and monitoring PEPs;
- Failure to ensure the provision of appropriate training to the Board members, staff and volunteers at all levels, as well as enhanced training for staff in key AML/CFT and FS roles;
- Inconsistent and/or undocumented approaches for the reporting of STRs by staff to the Money Laundering Reporting Officer ("MLRO"), or the process for onward reporting to the relevant authorities.
- Lack of a documented timeframe for reports to be received and reported and failure to reference the penalties for not reporting or the offence of 'tipping-off' within the AML Policies.

1.5 Conclusion

While examples of good practice were observed, the Central Bank also identified widespread and common deficiencies in some of the practices of credit unions with regard to compliance with the CJA 2010. It is imperative that an AML/CFT framework is established and embedded into the business of credit unions and that this is led from the top down to ensure not only compliance with the legislation but an overall improved standard and quality. The Central Bank expects all credit unions to carefully consider the issues raised in the Report and to use the Report to inform the development of their AML/CFT and FS frameworks.

In addition, credit unions should be aware that they will be required to confirm annually that they have put in place appropriate measures to address the expectations outlined in the Report. This confirmation will be requested as part of the Anti-Money Laundering section of the 2016 Credit Union Annual Return due for submission to the Central Bank by 31 March 2017 and subsequent annual returns.

2. Governance and Controls

In accordance with Section 54(1) of the CJA 2010, all credit unions must adopt policies and procedures to prevent and detect the commission of money laundering and terrorist financing. Insufficient or absent AML/CFT risk management policies, procedures and processes expose credit unions to significant risks, including not only financial but also reputational, operational and compliance risks. The adopted risk management measures should be risk-based and proportionate, informed by a credit union's individual assessment of its Money Laundering/Terrorist Financing risk exposure and in compliance with the legislation. The Board and Senior Management must take responsibility for managing the identified risks by demonstrating active engagement in a credit union's approach to effectively mitigating such risks.

2.1 Governance Structure

2.1.1 Board of Directors

Credit union Boards and Senior Management play a critical role in the operation of the credit union's AML/CFT systems and controls. The Board has ultimate responsibility for ensuring that the credit union complies with the CJA 2010.

When assessing the Governance structures in place, the Central Bank found a number of inadequate practices, for example:

- Boards did not have sufficient oversight or awareness of AML/CFT issues and/or did not implement the requirements of the CJA 2010 in a timely manner.
- No records of discussions and decisions made in relation to how the requirements of the CJA 2010 were assessed and implemented.
- Board Members had not received instruction on the law relating to money laundering and terrorist financing, as required by the CJA 2010.
- Minutes of Board Meetings did not record discussions regarding the CJA 2010 and AML/CFT issues on an on-going basis.
- Boards were not always informed or aware of certain business practices, for example, where large cash lodgements were accepted from local businesses. The risks relating to these practices had not been properly assessed and/or sufficiently robust policies and controls had not been established.

In assessing the governance structures in place the Central Bank expects that:

- Boards should clearly define and document the role and responsibilities of the Board and other key roles, such as the MLRO, Risk Officer, Compliance officer and Internal Audit, in dealing with AML/CFT activities.
- AML/CFT issues appear as an agenda item of Board meetings at regular intervals. More frequent discussion may be required depending on the Money Laundering/Terrorist Financing risk profile of the credit union or where urgent or important issues arise.
- Appropriate mechanisms are in place to facilitate the escalation of AML/CFT issues for discussion at Board level.
- Appropriate records are retained in relation to AML/CFT discussions and decisions made at Board level.
- Boards are proactive and involved in discussing and assessing Money Laundering/Terrorist Financing issues and risks.
- Boards demonstrate an awareness of changes in legislation which may impact on the credit union's AML/CFT framework

2.1.2 Money Laundering Reporting Officer (MLRO)

MLROs play a key role in ensuring that credit unions comply with the CJA 2010 and are central to credit unions' AML/CFT oversight and reporting process. The person appointed to the role must have appropriate knowledge and expertise. The person must also be sufficiently senior within the credit union to have the autonomy and influence at a senior level to allow them to discharge their duties effectively. They must have the capabilities, capacity and experience to investigate suspicious transaction reports and liaise with the relevant authorities where necessary.

When assessing the governance structures in place, the Central Bank raised a number of issues in respect of the role and practices of MLROs, including:

- The role of MLRO being allocated to individuals who were reluctant to undertake it.
- MLROs not receiving the appropriate training to discharge their responsibilities.
- MLROs having numerous other roles within the credit union and unable to commit the necessary time to the role.
- Poor operational practices by MLROs in the review, decision making, reporting and record keeping with regard to on-going monitoring and suspicious transaction reporting.
- Lack of appropriate and timely reporting to the Board on AML/CFT issues.

In assessing the role and practices of MLROs in credit unions, the Central Bank expects that MLROs:

- Produce regular Management Information ("MI") to the Board regarding AML/CFT activities at the credit union. It is also good practice for the MLRO to produce an Annual MLRO Report comprehensively detailing the work of the MLRO and Money Laundering/Terrorist Financing risks facing the credit union.
- Provide the Board with sufficiently detailed information to ensure that the Board is able to make informed and appropriate decisions.
- Provide regular training sessions to staff on AML/CFT compliance issues.
- Have the appropriate time to devote to the MLRO role and the necessary experience and expertise to address issues promptly and appropriately.
- Have the appropriate level of seniority to enable them to influence staff and Senior Management with regard to AML/CFT issues.

2.2 Risk Based Approach

The effective assessment of Money Laundering/Terrorist Financing risk is essential to the development of effective AML/CFT policies and procedures and to credit unions' ability to apply proportionate systems and controls. The Central Bank observed an inconsistent approach to the assessment of Money Laundering/Terrorist Financing risk by credit unions.

Most credit unions inspected conducted some form of Money Laundering/Terrorist Financing risk assessment. However, the quality of risk assessments varied considerably and in many cases they were not sufficiently comprehensive. Credit unions generally did not demonstrate awareness of risks pertaining to their credit union, nor did they proactively determine their risk appetite and implement appropriate controls.

In reviewing risk assessments carried out by credit unions the Central Bank found a number of inadequate practices in place, including:

- Absence of, or inadequate completion of, Money Laundering/Terrorist Financing risk assessment of the credit union's business.
- Over reliance on *Sectoral Guidance Notes for Credit Unions,* for example, insertion of the *Money Laundering/Terrorist Financing Risk Assessment* from appendix II of the Guidance Notes, into policies and procedures without any amendment/adaptation to align the risk assessment to the day-to-day operation of the credit union.
- Failure to document risk classification decisions.

- Failure to classify members in accordance with their level of risk.
- Where a risk assessment has been conducted, failure to implement resulting controls in the day-to-day activities of the credit union.
- Limited or no involvement by the Board in the approval of the risk assessment or ensuring the implementation of associated controls.

The Central Bank expects that:

- Credit unions will undertake and document a Money Laundering/Terrorist Financing risk assessment of their business, to include all risk categories (such as geographic risk, industry risk, member risk and channel/ distribution).
- The methodology for undertaking the risk assessment and determining the relevant risk ratings is documented.
- Appropriate controls are devised to mitigate any risks identified and that these controls are aligned to and embedded in operational procedures.
- The assessment identifies gaps, with action plans to address such gaps and also identifies the parties responsible for undertaking the resulting actions.
- Risk assessments are reviewed and approved by the Board at least annually and are used to inform the credit union's approach to the management of Money Laundering/Terrorist Financing risk.

2.3 Policies and Procedures

In accordance with Section 54(1) of the CJA 2010, credit unions must adopt policies and procedures to prevent and detect the commission of Money Laundering/Terrorist Financing.

In assessing the policies and procedures in place, the Central Bank found a number of inadequate practices, including:

- Failure to have in place robust, adequate and relevant AML/CFT policies and procedures that are aligned to and reflective of the Money Laundering/Terrorist Financing risk assessment of the credit union.
- Incorporating the *Sectoral Guidance Notes for Credit Unions* recommendations into policies and procedures with no assessment or adaptation to reflect how policies and procedures should address the specific needs and risks of the particular credit union.
- Failure to adhere to stated policies and procedures.

- Failure to ensure that AML/CFT policies and procedures are adequately reviewed and approved.

The Central Bank expects credit unions to have at least the following components by way of policy and procedures in place to build an effective AML/CFT control framework:

- A specific Money Laundering/Terrorist Financing risk assessment and plan – either as a separate document or incorporated into the AML/CFT policy.
- Specific and relevant AML/CFT policies and procedures developed and implemented and reviewed as appropriate, but at least annually.
- Involvement of key staff in the development and on-going improvement of AML/CFT policies and procedures.
- Documented duties and responsibilities of the MLRO and any other key staff or committees involved in the oversight of AML/CFT issues in the credit union.
- CDD policy and procedures for opening member accounts, including clubs, societies and minor accounts.
- Procedures for on-going monitoring, determining the intended nature of the business relationship and identifying and, where necessary, verifying beneficial owner(s).
- Inactive account procedures[1].
- Procedures for higher risk scenarios including, for example, safeguards around accepting large cash lodgements from businesses.
- PEP and FS procedures.
- STR and transaction monitoring procedures.
- Training procedures and records of training provided.
- Record retention policy and procedures.

[1] 'Inactive accounts' are often referred to as 'Dormant Accounts' by credit unions. The term should not however, be confused with 'Dormant Accounts' as defined by the Dormant Account Acts 2001 and 2012.

2.4 Training

Section 54(6) of the CJA 2010 requires credit unions to ensure that staff are aware of the law relating to Money Laundering/Terrorist Financing and are provided with on-going training.

The Central Bank identified the following inadequate practices in relation to training:

- Board members, staff and volunteers not receiving relevant and regular AML/CFT training.
- Staff being provided with general high level AML/CFT training, but limited or no specific training in the AML/CFT procedures of the credit union.
- Additional specialist training not provided to MLROs or other staff in key roles relating to the management of Money Laundering/Terrorist Financing risk.
- Incomplete training records, or in some cases records not being maintained at all.

In assessing the approach of credit unions to training, the Central Bank expects that:

- Credit unions source relevant training for staff and key personnel involved in the management of Money Laundering/Terrorist Financing risk, tailored to specific needs and risks of the credit union.
- AML/CFT training is provided initially for new hires and at least on an annual basis (or more regularly if required) thereafter for Board members, staff and volunteers.
- Training content is reviewed and updated on a regular basis and is reviewed and signed-off by Senior Management.
- Training includes an assessment/exam, which is required to be passed in order for training to be recorded as completed.
- Enhanced training is provided to Senior Management and staff in key AML/CFT roles to ensure their knowledge remains adequate and up-to-date.
- Training records are maintained and relevant MI circulated to Senior Management.

2.5 Record Keeping

Section 55 of the CJA 2010 requires credit unions to keep records evidencing procedures applied and information obtained to verify the identity of customers or beneficial owners. In addition it specifies that credit unions shall keep records evidencing the history of services and transactions carried out in relation to their members.[2]

The Central Bank observed the following inadequacies in relation to record retention in credit unions:

- No policies and procedures/deficient policies and procedures for the retention of records relating to on-going monitoring, training and suspicious transaction reporting.
- Non-adherence to policies regarding scanning of documentation in some credit unions, for example some credit unions have in place a policy of scanning all documents and destroying the hard copy, but testing of this process identified that not all documents had in fact been scanned. This non-adherence to stated policy could lead to a risk of documents being destroyed without being scanned and the credit union could lose important information and breach its legislative obligations in respect of maintaining records evidencing the procedures applied by the credit union under Chapter 3 of the CJA 2010.

In assessing the credit unions' approach to record keeping, the Central Bank expects that:

- Credit unions have a documented record retention policy and procedures relating to all records relevant to their AML/CFT framework;
- These policies and procedures are adhered to in practice.
- Assurance testing is conducted at appropriate intervals to ensure that records are being retained and/or destroyed in line with the credit union's policy.

[2] In this regard, the Central Bank also draws your attention to the requirements set out in provision 11.6 of the Consumer Protection Code 2012.

3. Customer Due Diligence (CDD)

In addition to the requirements of Chapter 5 of the Consumer Protection Code 2012[3] and in accordance with Section 33 of the CJA 2010, credit unions are required to identify and verify ("ID&V") members and, where applicable, the beneficial owner(s), prior to the establishment of a business relationship or the carrying out of a transaction or service.

The Central Bank found that all credit unions had policies and procedures in place for verifying the identity of new members, but the scope and quality of policies and procedures varied greatly, as did the application in practice.

3.1 Procedures and Practice

As a result of sampling of CDD files held by credit unions, the Central Bank identified the following inadequate practices in operation around CDD:

- ID and/or address verification documents were missing from member files.
- Documents obtained were not in compliance with identification and verification policies and procedures.
- Documents were not legible.
- In some cases member files could not be located for review.
- ID&V requirements as outlined in the procedures were not adhered to by reason of 'personal knowledge of member' without any appropriate sign-off permitting exceptions to procedure on a specified basis.
- The CDD procedures in place were not detailed enough so as to properly inform staff of the requirements for different categories of member accounts (see sections 3.2 and 3.3 for further details).
- Lack of assurance testing to ensure that CDD procedures are being adhered to.

In assessing how credit unions have discharged their CDD obligations the Central Bank expects:

- Clear and detailed policies and procedures provided to staff, setting out requirements and acceptable forms of ID&V for all member types.

[3] Chapter 5 of the Consumer Protection Code 2012 – Knowing the Customer and Suitability

- A formal and documented process for escalation and approval of exceptions to the CDD requirements in cases where appropriate documents cannot be furnished by the member.
- Testing of CDD processes and files to ensure adherence in practice to all procedures.

A good practice observed by the Central Bank in a number of credit unions, was a system in place whereby a member is photographed and the member's picture appears on the teller's screen, as verification that the individual presenting at the counter is the member is question[4].

3.2 Clubs, Societies and Company Accounts

In accordance with Section 33 of the CJA 2010, credit unions are required to identify and verify ("ID&V") members and, where applicable, the beneficial owner(s), prior to the establishment of a business relationship or the carrying out of a transaction or service.

The Central Bank identified a number of inadequate practices in the conduct of CDD for clubs, societies and company accounts, including:

- Failure to verify name, legal status, place of residence and purpose of the club, society or company.
- Failure to identify the beneficial owner(s) or controller(s) of the club, society or company.

Where credit unions open and operate accounts for clubs, societies or company accounts, the Central Bank expects that:

- Credit unions take steps to satisfy themselves of the name, legal status, place of residence and purpose of the club/society.
- Credit unions identify and verify at least two elected officials and/or signatories on the account for clubs/societies and two directors in the case of a company[5] and obtain appropriate documentation to support this.
- Credit unions identify and where necessary, verify, the beneficial owner(s) or controller(s) of the club, society or company.

[4] This process is supplementary to standard ID&V requirements.
[5] Note: Credit unions should be aware that these requirements may change in the future as a result of changes to the Companies Acts.

- Credit unions conduct checks to ensure that the company is a bona fide company registered in the state (for example via Company Registration Office) and obtain original or certified copies of the Certificate of Incorporation and/or Memorandum and Articles of Association[6].

3.3 Minor Accounts

In accordance with Section 33 of the CJA 2010, credit unions are required to identify and verify ("ID&V") members and, where applicable, the beneficial owner(s), prior to the establishment of a business relationship or the carrying out of a transaction or service.

The Central Bank acknowledges that in most instances, standard proof of address documentation will not be available for a minor, however, appropriate alternative measures must be taken by the credit union to satisfy their CDD obligations.

In assessing the CDD practices relating to minor accounts, the Central Bank found a number of inadequate practices, including:

- Insufficient CDD documentation held for the minor, for example failure to obtain a birth certificate.
- Inadequate or no CDD documentation obtained for the parent or guardian.
- No explanation or information sought or documented, on the reason for substantial lodgements into accounts which may not match the profile of a minor.
- No evidence of on-going monitoring of minor accounts. CDD information on the minor is not being updated when the minor becomes an adult.

With regard to minor accounts, the Central Bank expects that:

- Credit unions obtain verification of the child's identity through a passport or birth certificate.
- Where the person opening the account is a parent or guardian who is not a member of the credit union, standard identification and verification procedures should be followed before the account is opened.
- Where the parent or guardian is a credit union member, opening of a minor account should be used as a trigger to validate that appropriate CDD is actually held on file for that member.

[6] Note: Credit unions should be aware that these requirements may change in the future as a result of changes to the Companies Acts.

- Procedures should be in place to re-verify the account holder when the minor reaches adulthood.
- Credit unions must have appropriate systems and controls to monitor minor accounts. It cannot be assumed that minor accounts are low risk, low level activity accounts with small balances. The Central Bank noted numerous examples of minor accounts with substantial balances. It is important to monitor minor accounts to ensure that activity is in line with the expectations of a minor account and in compliance with the CJA 2010.

As an example of good practice observed in this regard, a number of credit unions have developed triggers within their systems with regard to accounts for minors. When the child becomes an adult, the system sends reminders or flags to the operator to remind the operator to obtain updated CDD documentation.

3.4 Establishing the Purpose and Intended Nature of the Business Relationship

In accordance with Section 35(1) of the CJA 2010, credit unions must obtain information reasonably warranted by the risk of money laundering or terrorist financing on the purpose and intended nature of the business relationship with a member prior to the establishment of the relationship. Credit unions must obtain sufficient information about their members in order to adequately monitor their activity and transactions and to satisfy themselves that the account is operating in line with the intended purpose. Requesting information from members from the outset as to the purpose and intended nature of the account is necessary.

The Central Bank identified the following inadequate practices surrounding the requirements to establish the purpose and intended nature of the business relationship:

- Failure to seek and obtain information on the purpose and intended nature of the business relationship due to longevity of dealings with a member and in some cases, a reluctance by staff to question/ challenge members in circumstances where this may be warranted.
- Assumption by credit unions that the purpose and intended nature of the business relationship was obvious based on the product or service offered.
- Absence of monitoring to assess whether the account is operating in line with expectations.

The Central Bank expects that:

- Credit unions establish the nature and intended purpose of the business relationship at the outset of the relationship.
- Where deviations to the expected pattern of use of the account/service occur, that credit unions take measures to establish the rationale for changes in behaviour and take appropriate steps, for example conduct additional due diligence or if warranted, submit a suspicious transaction report to the relevant authorities.

3.5 Beneficial Ownership

The CJA 2010 specifies in section 33(2)(b) the measures to be applied to identify any beneficial owners connected with the member or service concerned, and CDD measures that need to be undertaken which are reasonably warranted due to the risk of money laundering or terrorist financing. This issue is particularly relevant, but not limited, to Clubs, Societies and Companies, which by their nature may have multiple beneficial owners.

The Central Bank noted the following inadequate practices:

- Limited or no consideration given as to the circumstances in which it would be necessary to identify and, where necessary, verify beneficial owners.
- Limited or no procedures relating to this requirement.
- Members were rarely questioned as to whether they were the beneficial owners of the account.

The Central Bank expects:

- Detailed, documented assessments by credit unions determining scenarios where beneficial ownership may be a factor with regard to the services offered by the credit union.
- Assessment of the circumstances under which it would be reasonably warranted due to the risk of money laundering or terrorist financing to verify the identity of any beneficial owners and procedures to be applied in these circumstances.

3.6 Politically Exposed Persons (PEPs)

Section 37 of the CJA 2010 requires credit unions to determine whether or not a member or a beneficial owner connected with the member or service concerned, being a customer or beneficial owner residing in a place outside the State, is a PEP or an immediate family member, or a close associate of a PEP. A PEP is defined as a person who is, or has at any time in the preceding 12 months been, entrusted with a prominent public function. This definition is extended to include family members and known close associates of a PEP. PEPs are subject to Enhanced Due Diligence ("EDD") as per Section 37 of the CJA 2010.

It is noted that a credit union's common bond should make it relatively rare to have non-resident PEPs as members. However, without appropriate procedures and screening mechanisms in place, there is a risk that a credit union could open an account for a PEP, or that an existing member could become a PEP without the credit union being aware. As the CJA 2010 requires that additional measures must be undertaken in the approval and management of PEP relationships, credit unions must be in a position to address this requirement.

Credit unions should be mindful of the new provisions of the proposed 4th EU Money Laundering Directive, which may include an expanded definition of PEPs, including domestic PEPs.

In assessing the approach of credit unions with respect to PEPs, the Central Bank observed the following inadequate practices:

- Limited knowledge and understanding of the legislative provisions relating to PEPs.
- Limited evidence of PEP screening systems or solutions in place to identity PEPs at the account opening stage or during the business relationship (most applicable for credit unions).
- No evidence of appropriately approved policies and procedures for PEPs.
- A lack of adequate training in this area.

In order to ensure that any PEP relationship is managed in line with the requirements of the CJA 2010, the Central Bank expects that:

- Systems and/or processes exist to enable credit unions to determine if a member is a PEP at account take-on and/or if they become a PEP during the course of the business relationship.

- Appropriate policies and procedures are developed and implemented to ensure the effective management of any PEP relationships identified, including reporting of any such relationships to Senior Management, securing Senior Management sign-off to continue the relationship and the application of EDD measures to PEPs, including determining Source of Wealth ("SOW") and Source of Funds ("SOF") for these members.

3.7 Existing Members

Section 33(1)(d) of the CJA 2010 requires that CDD be applied to existing members where there exists *"reasonable grounds to doubt the veracity or adequacy of documents or information previously obtained for the purposes of verifying the identity of the customer."* In addition Section 54(3)(c) of the CJA 2010 (as inserted by the 2013 Act) provides that designated persons must establish policies and procedures to ensure that documents and information relating to the designated persons' customers are kept up-to-date.

Given the generational profile of credit union membership, obtaining up-to-date CDD documentation is an important legislative requirement affecting credit unions. Many members joined credit unions pre-1995, when CDD was not a mandatory requirement. Credit unions must ensure that they obtain and keep up-to-date, relevant documentation and/or information in relation to all members, including pre-1995 customers.

The Central Bank identified the following inadequate practices in operation around the review and refresh of documentation and/or information for existing members:

- Many credit unions had not reviewed or assessed their existing member database to determine if remediation was required.
- Many credit unions acknowledged issues relating to existing members CDD but had not conducted the necessary work to determine the extent of the issues or to remedy the issues.
- Credit unions did not have appropriate policies and procedures to deal with inactive accounts. For example, no definition of when an account is to be categorised as inactive or no system to flag or highlight an inactive account to staff or the MLRO or what steps to take if an inactive account is re-activated.

In assessing the CDD practices for existing members, the Central Bank expects that:

- Credit unions conduct a review and analysis of their pre-1995 member files to determine where CDD deficiencies exist and develop remediation plans to address any shortcomings in CDD for existing members.
- For member files where CDD is held, credit unions use trigger events to prompt a review of existing CDD at appropriate intervals and where necessary develop appropriate plans to address gaps or shortcomings in the documentation and/or information which may occur over time. Examples of trigger events include, request for a new loan/change of address/ account review/ account re-activation etc.
- Inactive account policies should include a provision that CDD be reviewed and, if necessary, updated when an account is reactivated.

3.8 Higher Risk Scenarios

Where credit unions provides any service that may present a heightened risk of Money Laundering/Terrorist Financing, they should adopt enhanced AML/CFT procedures to counteract the heightened risk. A comprehensive risk assessment of any such service and the implementation of appropriate controls, will significantly improve a credit union's ability to manage risks as and when they arise.

Examples of Higher Risk Scenarios

Large Cash Lodgements from Local Business

There is a common practice in credit unions of accepting large cash lodgements from local businesses in exchange for a credit union cheque. It was articulated by credit unions that this practice allows credit unions to meet their cash flow requirements, while also reducing bank charges for both parties. However, in most cases there is insufficient oversight or control of this practice.

The Central Bank identified the following inadequate practices in relation to the treatment of large cash lodgements:

- No formal risk assessment undertaken or identification of the controls required to manage this practice.
- In some cases it appeared that the Board of the credit union was unaware of the practice and so had not endorsed or approved it.
- No/limited CDD being conducted in relation to the businesses in question.

- No independent third party evidence sought or obtained to corroborate that the business was cash intensive and that the level of turnover would justify the large cash lodgements.
- Guidance on how staff should deal with these scenarios is not contained in the credit union's procedures.

Where credit unions engage in such non-standard practices, the Central Bank expects that:

- An assessment of the risk associated with this practice is conducted by the credit union and appropriate controls are put in place to mitigate any risks identified.
- Boards have awareness and appropriate oversight of any such practices and have reviewed and signed off on the risk assessment and associated controls.
- Documented procedures are in place outlining the CDD and on-going monitoring requirements associated with such practices.

Use of Standard 'Single or Joint' Member Accounts for Business Proceeds

The Central Bank noted that in some instances members use their personal accounts for the lodgement of business proceeds. However in these scenarios, the CDD conducted at the account opening has only been conducted in line with the requirements for a 'natural person' and the credit union has not identified or recorded that the account is to be used for business purposes. As such, credit unions are not determining the intended nature and purpose of the business relationship at the outset (as referenced in section 3.4).

The Central Bank identified the following inadequate practices in relation to the treatment of such accounts:

- No formal risk assessment undertaken or identification of the controls required to manage the practice.
- No documented procedures highlighting this practice or the steps to be taken to manage and monitor such accounts.

Where credit unions permit 'Single or Joint' accounts to be used in this manner, the Central Bank expects that:

- An assessment of any risks associated with this practice is conducted by the credit union and appropriate controls are put in place to mitigate any risks identified.
- Boards have awareness and appropriate oversight of any such practices and have reviewed and signed off on the risk assessment and associated controls.
- Documented procedures are in place outlining the CDD and on-going monitoring requirements associated with such accounts.

4. On-going Monitoring

Section 54(3) of the CJA 2010 provides that credit unions must adopt policies and procedures dealing with, the identification and scrutiny of complex or large transactions, unusual patterns of transactions that have no apparent economic or visible lawful purpose and any other activity that the designated person has reasonable grounds to regard as particularly likely, by its nature, to be related to money laundering or terrorist financing. Credit unions must also gather sufficient information at the outset of the member relationship to allow them to determine if account activity is in line with expectations.

During the inspections, the Central Bank examined a sample of member transactions including high value transactions, the objective of which was to assess the extent of on-going monitoring.

The Central Bank observed the following examples of inadequate practices in relation to on-going monitoring of member activities:

- On-going monitoring policies and procedures were not appropriately discussed or approved.
- On-going monitoring was being conducted but there was no documented methodology or rationale as to why specific on-going monitoring was conducted e.g. rules, trends or thresholds being used.
- Documented evidence to verify that on-going monitoring takes place was not maintained and so there was no record of the monitoring results or decisions taken.
- Evidence to support how monitoring thresholds were determined from a risk perspective was not maintained.
- Gaps in the gathering of pertinent information about members at account opening which would assist credit unions in understanding the expected turnover and activity on the member's account, for example no information obtained on source of funds, or the 'occupation' field on a number of application forms was blank, yet membership was still approved.

The Central Bank expects that:

- Credit unions will develop an approach to on-going monitoring that is appropriate to the business of the credit union and that any thresholds set are based on an assessment of anticipated/standard account activity and what the credit union would deem to be outside the norm.
- Information is obtained at the outset of the business relationship which will assist credit unions in determining whether account activity is in line with expectations.
- Records are maintained of on-going monitoring conducted and resulting decisions made.

5. Suspicious Transaction Reporting (STR)

Section 42(1) of the CJA 2010 requires a designated person who knows, suspects or has reasonable grounds to suspect on the basis of information obtained in the course of carrying on business as a designated person, that another person has been or is engaged in an offence of Money Laundering/Terrorist Financing, shall report to An Garda Síochána and the Revenue Commissioners that knowledge or suspicion or those reasonable grounds. In accordance with Section 42(2) of the CJA 2010, such a report should be made as soon as practicable.

All credit unions reviewed had established policies and procedures that documented the actions to be taken with regards to suspicious transactions. These procedures generally included details on how to report a suspicious transaction internally to the MLRO for review and provided details to assist staff on how to determine whether a transaction should be regarded as suspicious. However, the policies and procedures varied in terms of their level of detail and quality.

The standard of reporting varied considerably across the sector. Some credit unions had reasonably documented procedures in place, however the Central Bank found that these procedures were often not followed in practice through day-to-day reporting.

Specifically, the Central Bank identified the following inadequate practices around identification, escalation and record keeping in relation to Suspicious Transactions:

- Lack of clear and consistent procedures for the reporting of suspicions from staff to the MLRO.
- Suspicions being raised to the MLRO but not raised in writing or on the appropriate internal form.
- MLROs not acknowledging STRs in writing.
- Lack of clarity in procedures as to when staff members are considered to have discharged their obligations.
- No definition of the offence 'Tipping-off' or the associated penalties, to ensure that staff are aware to exercise caution in this regard.
- Poor record keeping and limited or no details filed regarding decisions to report/ not to report a suspicious transaction.
- Reports not submitted to An Garda Síochána and the Revenue Commissioners within a reasonable time frame.

- STRs not sufficiently detailed or comprehensive enough to provide assistance to the authorities.

In relation to the identification and reporting of suspicious transactions, the Central Bank expects that:

- Clear, documented procedures are in place, both for staff raising suspicions to the MLRO and for the onward reporting by MLROs to the relevant authorities.
- Staff and volunteers are clear on their obligations to report and the penalties for not doing so.
- Appropriate training, relevant to the business of the credit union is provided to staff and volunteers, including guidance as to what constitutes a suspicion.
- Staff and volunteers are aware of activities that may be deemed suspicious in the context of the members, account types and transactions that are handled by the credit union.
- Staff are encouraged to question the reasons for unusual transactions, provided it is safe to do so without tipping-off.
- Appropriate records are maintained of suspicious transaction reports generated, the decisions to report/not to report and the rationale for these decisions.

It is important to note that in normal circumstances where a "suspicious" or "unusual" transaction has been identified, a credit union may not know whether or not there is an underlying predicate offence. However, in situations whereby the underlying predicate offence is identified, that underlying offence (e.g. theft, fraud etc.) should be separately reported (in addition to the STR) to An Garda Síochána [Garda Bureau of Fraud Investigation or local Garda Station depending on the nature/complexity of same] to ensure that same can be investigated. If the credit union is not the injured party/complainant, then a report pursuant to Section 19 Criminal Justice Act 2011 should be considered in this regard. This is to ensure that An Garda Síochána can investigate the predicate offence as it is precluded from so doing on foot of an STR alone.

6. EU Financial Sanctions

EU Member States implement Financial Sanctions ("FS") or restrictive measures either autonomously at an EU level, or as a result of binding resolutions of the United Nations Security Council through the adoption of EU Regulations. EU FS Regulations are directly effective and are binding on all EU persons, all entities incorporated or constituted under the laws of the EU and all persons and entities in the EU, including nationals of non-EU countries.

The Minister for Finance gives EU FS Regulations further effect in Irish law by enacting domestic Statutory Instruments (S.I.s) which provide for the penalties applicable to a breach of the EU FS Regulations. Certain EU FS regulations, such as EU Council Regulation 2580/2001, are specifically implemented for the purpose of preventing the financing of terrorism.

While specific FS requirements vary across FS regimes, the core provisions are:

(i) Freezing requirement; freezing action required in relation to all funds and economic resources belonging to, owned, held or controlled by persons, entities and bodies listed in the relevant EU FS Regulation.
(ii) Prohibition on making funds and economic resources available; directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies listed in the relevant EU FS Regulation.
(iii) Obligation to notify the Competent Authority; requirement to provide any information in relation to action taken in accordance with an EU FS Regulation or which would facilitate compliance with an EU FS Regulation to the Competent Authority without delay.

Credit unions must ensure that they are in compliance with all current applicable FS Regulations.

In this regard, the Central Bank expects that:

- Credit unions will devise and implement policies, procedures, systems and controls, to facilitate adherence to their obligations in relation to FS Regulations, for example the implementation of appropriate FS screening mechanisms and procedures for the escalation and management of any potential FS matches.

- Credit unions will determine the appropriate frequency of on-going screening required, aligned to a documented risk assessment of potential FS exposure.
- Credit unions will consider the implications of the provision of new services such as international funds transfer etc., and whether such services necessitate the introduction of additional FS measures e.g. payments screening.

Credit unions should also refer to the recently published "Report on Anti-Money Laundering/Countering the Financing of Terrorism and Financial Sanctions in the Irish Banking Sector" for further information on FS Regulations and requirements.

Appendix: Glossary

4th EU Money Laundering Directive	The proposed 4th EU Money Laundering Directive is in response to changes made to the requirements issued by the FATF in February 2012, and a review by the Commission of the implementation of the 3rd EU Money Laundering Directive, issued in October 2005.
AML	Anti-Money Laundering.
Central Bank	The Central Bank of Ireland.
Beneficial Owner	The natural person who ultimately owns or controls the customer. An entity may have more than one beneficial owner.
CDD	Customer Due Diligence. CDD refers to the range of measures used by designated persons to comply with their obligations under the CJA 2010 in respect of: identifying and verifying the identity of their customers and identifying beneficial owners and verifying their identity; obtaining information on the purpose and intended nature of the business relationship; conducting on-going due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, including, where necessary, the source of funds.
CFT	Countering the financing of terrorism.
CJA 2010	The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 which came into force from 15 July 2010, transposes the Third Money Laundering Directive (2006/70/EC) into Irish law. The Criminal Justice Act, 2013, which amends the CJA 2010 was signed into law on the 12th June 2013. Part 2 of the 2013 Act, which deals with the changes to the 2010 Act came into effect on the 14th June 2013 (with the exception of sections 5, 15 and 16).
Competent	A person or organisation that has the legally delegated or invested

Authority	authority, capacity or power to perform a designated function.
Designated Person	As defined by Section 25 of the CJA 2010.
EDD	Enhanced Due Diligence. The CJA 2010 requires firms to apply additional, 'enhanced' customer due diligence measures in higher-risk situations. See CJA 2010, Section 37 and Section 38.
EU	European Union.
EU Financial Sanctions	Financial sanctions or restrictive measures vary from prohibiting the transfer of funds to a sanctioned country and freezing assets of a government, the corporate entities and residents of the target country to targeted asset freezes on individuals/entities. EU Financial Sanctions may apply to individuals, entities and governments, who may be resident in Ireland or abroad.
FS	Financial Sanctions. See "EU Financial Sanctions."
ID&V	Identify and Verify. Identification means ascertaining the name of, and other relevant information about, a member or beneficial owner. Verification means making sure the member or beneficial owner is who they claim to be.
Member	Members of the credit union as defined by the Credit Union Act 1997.
MI	Management information.
MLRO	Money Laundering Reporting Officer. The MLRO is responsible for ensuring that measures to combat Money Laundering/Terrorist Financing within the firm are effective.
MLRO Report	A report prepared by the MLRO and presented to relevant governance committees that analyses and informs on the operation and effectiveness of a firm's AML/CFT and FS systems and controls established to comply with the CJA 2010.
Money Laundering	The process by which the proceeds of crime are converted into assets which appear to have a legitimate origin, so that they can be retained permanently, or recycled to fund further crime.

On-Going Monitoring	The CJA 2010 requires the on-going monitoring of business relationships. This means that the transactions performed by a member, and other aspects of their behaviour, are scrutinised throughout the course of their relationship with the firm. The intention is to identify where a member's actions are inconsistent with what might be expected of a member of that type, given what is known about their business, risk profile, etc. Where the risk associated with the business relationship is increased, firms must enhance their on-going monitoring on a risk-sensitive basis. Firms must also update the information they hold on a member for AML purposes.
PEP	Politically Exposed Persons. A PEP can be defined as a person who is, or has at any time in the preceding 12 months been, entrusted with a prominent public function. The CJA 2010 also stipulates that the term PEP only applies to non-resident PEPs, i.e. PEPs residing outside of Ireland. This definition is extended to include family members and known close associates of a PEP. PEPs are subject to EDD as per Section 37 of the CJA 2010.
REQ	Central Bank of Ireland Risk Evaluation Questionnaires. REQ's are completed by firms and submitted to the Central Bank for assessment. REQ's facilitate an analysis by the Central Bank of Money Laundering/Terrorist Financing risk through an evaluation of the inherent risk posed by the firm's business model as well as the firm's AML/CFT control framework.
Sectoral Guidance Notes for Credit Unions	Guidance notes prepared by the Irish League of Credit Unions (ILCU) and published by the Department of Finance (DOF).
STR	Suspicious Transaction Report. A Report made to the authorities about suspicions of money laundering or terrorist financing. This is also known as a Suspicious Activity Report or SAR. Both terms have substantially the same meaning.
SOF	Source of Funds. SOF is required to be provided prior to the approval of a PEP.

SOW	Source of Wealth. SOW is required to be provided prior to the approval of a PEP.
TF	Terrorist Financing – an act that constitutes an offence under section 13 of the Criminal Justice (Terrorist Offences) Act 2005.

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