Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Feedback Statement CP147

Application of the Minimum Competency Code 2017 and Minimum Competency Regulations 2017 to credit union core services

September 2023

Contents

Introduction

1. During the review of the Minimum Competency Standards in 2016, the Central Bank of Ireland (the Central Bank) proposed to extend the Minimum Competency Code 2017 (the MCC) and the Minimum Competency Regulations 2017 (the MCR) (together the Standards) to apply to all credit union activities within the scope of the Standards, in order to ensure the same level of protection for consumers regardless of the type of entity they are dealing with.

   At the time, the Central Bank deferred further consideration of this proposal in order to undertake additional work to gain a better understanding of the potential impact of these proposed changes on the sector.

2. On 12 April 2021, the Central Bank issued a questionnaire to the credit union sector to assess the level of qualification in the sector and the impact of the proposal to extend the Standards to core credit union activities, such as lending and deposits, which were not currently in scope.

3. On 19 January 2022, the Central Bank published Consultation Paper on the application of the MCC and the MCR to credit union core services (CP147). The closing date for responses to CP147 was 19 April 2022.

4. The proposal will help to ensure the same level of protection for consumers regardless of the type of entity they are dealing with, will contribute to maintaining member confidence in the sector and underpin the current evolution in credit union business models.

5. CP147 invited responses from interested stakeholders, including firms, representative bodies, and service providers, to three specific questions (see below). 13 submissions were received. The views expressed, including those relating to the challenges that credit unions are currently facing, have been carefully considered.

6. The purpose of this Feedback Statement is to provide a response to the submissions received, inform stakeholders of the outcome of the consultation and the Central

Bank's next steps. All submissions have been published on the Central Bank's website.

Feedback to CP147

The Central Bank received 13 responses to CP147, nine from credit unions and one each from the Credit Union Development Association (CUDA), the Credit Union Managers' Association (CUMA), the Irish League of Credit Unions (ILCU), and the National Supervisory Forum (NSF). A summary of the key positions and issues identified by the Central Bank in its review of the responses received to these questions is set out below.

Statutory Consultation

Following consideration of the submissions received on CP147 the Central Bank provided draft regulations, along with an overview of the feedback received on CP147, to the Minister for Finance in line with the statutory consultation required under section 49(1)(a) of the Central Bank (Supervision and Enforcement) Act 2013. While a number of the credit union bodies made detailed submissions on CP147, these bodies, and the Credit Union Advisory Committee, were also provided with the draft regulations and invited to provide any additional comments ahead of finalisation of the regulations, as provided for under Section 49(2)(b) of the Central Bank (Supervision and Enforcement) Act 2013. Feedback provided during this statutory consultation process has informed the commencement date of the regulations and a number of the clarifications provided in the Minimum Competency Code 2017 and Minimum Competency Regulations 2017 Questions and Answers.

1. Extending the scope of the Minimum Competency Standards

Question 1: *Do you agree that the scope of the MCC and MCR should be extended to apply to credit unions' core services? Please set out the reasons for your views.*

Submissions

Respondents broadly agreed with the proposal. The main reasons expressed in support of the proposal were as follows:

- The proposal will benefit both members and staff in the delivery of services by competent staff and should help credit unions in the long term to provide a more rounded financial service.
- The proposal supports the credit union aspiration to become a true alternative to banks and non-bank lenders, including in the context of large volumes of savings being moved from banks to the sector.
- The proposal supports better consumer protection.
- The proposal aligns with the position of the credit union sector, which already encourages staff to obtain qualifications.

Some of the respondents raised the following concerns:

- The important role of volunteers and how they would fit within the Standards.
- Whether board members will be captured by the scope of the Standards.
- The competencies set out in Appendix 3 of the MCC for the Savings and Investments category is excessive when compared with the type and volume of term deposits offered by credit unions.
- The number of qualified staff as revealed by the analysis of the survey is inaccurate and may potentially understate the number of qualified staff.

Response from the Central Bank

The Central Bank welcomes the positive feedback and support for this proposal. We also take this opportunity to answer the above concerns as follows:

- ***The role of volunteers***: The MCC applies to persons when undertaking specific activities relating to retail financial product(s) and services, rather than the titles or roles held by those persons. The Central Bank acknowledges that volunteers play an important part in the credit union sector. However, this needs to be balanced against the need for consumers to receive the same level of protection and quality of advice regardless of both the regulated entity and the status / title of the regulated entity's staff member they are dealing with. If a staff member is in scope of the Standards, they should be appropriately qualified regardless of whether they are a volunteer or an employee.

- ***Competency of board members***: Any person undertaking an activity in scope of the MCC must comply with the relevant standards independently of their title. Whether board members fall in scope of the MCC is a matter for each credit union to determine having regard to the board members' activities.

- ***Number of qualified staff***: The figures published by the Central Bank for the number of qualified staff was compiled from the survey responses received from individual credit unions.

- ***Savings and Investments competencies***: Term deposits are a subset of the Savings and Investments category as set out in Appendix 1 of the MCC. Under the proposal, credit union staff who undertake any of the activities listed in Section 1.2 of the MCC in respect of that category must hold a recognised qualification that covers the competencies listed in Appendix 3 for that category. The timeline set out by the Central Bank will provide sufficient time for staff to obtain the required qualifications.

2. Transition period

Question 2: *Do you agree that a four-year transitional period is sufficient for credit union staff to obtain relevant recognised qualifications? Please set out the reasons for your views. If you disagree, please set out what you would consider an appropriate transitional period for the application of the MCC and MCR to credit union core services.*

Submissions

The respondents generally agreed with the proposal stating that:

- The proposed period is sufficient, fair and reasonable.
- The Central Bank has given sufficient notice.
- The demand can be mitigated by remote learning.

One respondent expressed concerns in respect of staff who may need to start a new qualification and new entrants who may need time to familiarise themselves with the credit union sector before commencing a qualification. The same respondent suggested allowing a six-month lead-in time for new entrants before they are required to apply for the next available examination.

Some respondents suggested that:

- The length of the transition period should be proportional to the time needed to obtain each qualification, suggesting for example that a QFA can be achieved in 2 years so 4 years is enough, an Accredited Product Adviser (APA) can be achieved in 1 year so 4 years is too much.
- A transition period of 5 years instead of 4 years should be adopted to allow credit union staff, including volunteers, to obtain the recognised qualifications whilst having less impact on the operational model, considering that the credit union sector is still adjusting to Covid-19 challenges and is undergoing human resources restructuring.
- A transition period of 2 years should be sufficient.

Response from the Central Bank

The Central Bank acknowledges the feedback that some credit union staff who have acquired competency, knowledge and skills through experience will need to complete a new qualification recognised under the MCC. Considering the likely evolution of credit unions' service offerings, it is essential for consumers to be able to rely on the Standards regardless of the staff or financial services provider they are dealing with.

One respondent raised concerns in relation to the rules that apply to new entrants and, in particular, the maximum period of four years for which a new entrant may participate in the training process. The Central Bank does not propose to amend this timeframe.

While the Central Bank understands that certain qualifications may be obtained in a shorter period of time, the length of the transition period needs to take into account the volume and complexity of each credit union along with the challenges that credit unions are currently facing. Considering the range of respondents' positions in that regard, the Central Bank believes that the standard period of four years is most appropriate. However, the Central Bank is keen to provide credit unions with a lead-in period that allows sufficient time to adjust and manage arising challenges (See Section 3 below).

3. Timeline

Question 3: *Do you agree with the timeline? Please set out the reasons for your views. If you disagree, please set out what you would consider an appropriate timeline for the application of the MCC and MCR to credit union core services.*

Submissions

Most respondents agreed with the proposed timeline stating that:

- The Central Bank has provided the sector with sufficient notice of their intention in this area, through the publication of CP147 and the credit union questionnaire issued in 2021.
- The proposal should be rolled out as soon as possible in the interest of credit union members and in consideration of evolving credit union business models.

While most respondents agreed that the proposed timeline was reasonable and sufficient, a small number of respondents communicated the following concerns:

- The proposed amendments to the Standards are likely to run concurrently with other proposed legislative amendments for credit unions.
- The proposal seems reasonable subject to clarification in relation to the role of volunteers.

Some respondents suggested postponing the proposal, at the earliest to Q1 2024 due to the proposed commencement of the new credit union legislative amendments and due to Covid-19 challenges.

Response from the Central Bank

The Central Bank respects the concerns of the credit union sector and representative bodies, particularly in respect of the legacy of Covid-19 challenges and concurrent legislative amendments. In that context, the Central Bank has decided to extend the lead-in period to one year instead of six months. This will be followed by the standard four-year transition period. The Central Bank further clarifies that the requirements apply to volunteers and employees to ensure that all staff providing in-scope services are suitably qualified.

Engagement with the qualifications providers

The Central Bank recognises the key role that credit union representative bodies have played, and continue to play, in supporting credit union staff obtaining training and qualifications.

We will continue to engage with the providers of the credit union specific qualifications to ensure that those qualifications continue to meet the requirements under the MCC.

Members who hold qualifications other than those recognised for the purposes of the MCC may seek an exemption from part of the recognised qualifications from the professional educational bodies providing those qualifications.

Fitness and Probity

The Central Bank would like to use this opportunity to provide credit unions and their staff with clarifications regarding the consequences that the decision to extend the Standards will have on the Fitness and Probity regime for credit unions.

As set out in Section 5.1.2 of CP113 (Consultation on Potential Amendments to the fitness and probity regime for credit unions)[1] and in the associated Feedback Statement[2], the application of the Standards is linked to the Central Bank's Fitness and Probity regime in that they apply to persons who exercise certain prescribed controlled functions.

The Standards apply to persons in controlled functions who act on a professional basis, the exercise of which includes at least one of the activities listed under Section 1.2 or Section 2.1 of the MCC. The MCC and MCR Q&A will clarify that the requirements apply to volunteers and employees. The Central Bank prescribes Controlled Functions under Section 20 of the Central Bank Reform Act 2010 and these are published on the Central Bank website.

Credit unions are subject to a tailored fitness and probity regime. The Credit Union Fitness and Probity Regime applies to persons performing Controlled Functions (CFs), which include Pre-Approval Controlled Functions (PCFs), in credit unions. Two CFs are currently prescribed for all credit unions in S.I. No. 171 of 2013[3] (CUCF-1 and CUCF-2), and eleven CFs are prescribed for credit unions authorised as retail intermediaries, with respect to their retail intermediary business, in S.I. No. 97 of 2015[4] (CUCF-1 to CUCF-11).

In order to bring credit union staff who undertake an activity within the scope of the MCC within scope of the Standards, the Central Bank will amend the Fitness and Probity Regulations for credit unions, which prescribe CFs for credit unions, to introduce additional

[1] "In order for the MCC to be applied to credit unions, the designation of additional customer facing CFs within the Fitness and Probity regime is required. This would require an alignment of the CFs within the Fitness and Probity regime for credit unions with the CFs prescribed under the existing Fitness and Probity regime applying credit unions acting as retail intermediaries".

[2] https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp113/cp113-feedback-statement.pdf?sfvrsn=2

[3] Central Bank Reform Act 2010 (Sections 20 and 22 – Credit Unions) Regulations 2013 (S. I. No. 171 of 2013).

[4] Central Bank Reform Act 2010 (Sections 20 and 22 – Credit Unions that are also authorised as Retail Intermediaries) Regulations 2015 (S.I. No. 97 of 2015).

CFs for credit unions. These consequential amendments to the Fitness and Probity Regulations for credit unions will be undertaken through amending S.I. No. 171 of 2013, to include at Schedule 1 the additional CFs for credit unions, which are required to apply the Standards to credit unions, i.e. CUCF-3 to CUCF-8. Furthermore, to ensure a single reference point for all CFs for credit unions, S.I. No. 97 of 2015 (which includes CFs for credit unions that are also authorised as retail intermediaries) will be revoked and new schedules – replicating the wording of Schedules 1 and 2 of S.I. No. 97 of 2015 – will be inserted to S.I. No. 171 of 2013.

The amending Fitness and Probity Regulations for credit unions, which will include the consequential controlled functions, will apply from 1 October 2024, to align with the twelve-month lead-in period for the updated Standards.

The introduction of additional CFs into the Fitness and Probity regime for credit unions will introduce additional obligations on credit unions and on the individuals in these CF roles, as they will be subject to the full provisions contained within Part 3 of the Central Bank Reform Act, 2010 and also to those sections of Part 3A of the Central Bank Reform Act, 2010 that apply to CFs when Part 3A is commenced.

Further details on the implementation of these changes will be covered in an updated version of the Guidance on Fitness and Probity for Credit Unions and other supporting documentation, prior to the commencement of the amending Fitness and Probity Regulations for credit unions.

Next Steps

The Central Bank acknowledges and appreciates the positive engagement from stakeholders to CP147. Taking into account the various submissions, the Central Bank will proceed to apply the MCC and the MCR to credit unions as follows:

- The MCC will apply to credit union staff who are exercising a controlled function on a professional basis on behalf of a regulated firm, the exercise of which includes one of the activities listed in Section 1.2 or Section 2.1 of the MCC. This will mainly affect MCC activities in relation to consumer credit and term deposits. However, should a credit union staff member undertake any of the MCC activities in relation to any other product category, they will also need to comply with the MCC.

- The MCR will apply to in-scope credit unions. Under the MCR, a regulated firm must ensure that persons performing controlled functions on its behalf comply with the standards set out in the MCC.

- The Standards will apply respectively to credit union staff members including volunteers and credit unions on 1 October 2024. The amending Fitness and Probity regulations for credit unions, which will include the additional controlled functions, will also apply from this date.

- A four-year transition period will apply starting on the date of application of the Standards to credit unions. During this period, a person exercising a controlled function on behalf of a regulated firm, the exercise of which includes one of the activities listed in Section 1.2 or Section 2.1 of the MCC, on the first day of the transition period, can continue to undertake this activity without supervision provided that they are working towards obtaining a relevant recognised qualification and obtain it during those four years.

- New entrants starting an MCC activity during the four-year transition period will be required to comply with the new entrant requirements as set out in Section 1.4 of the MCC.

T: +353 (0)1 224 6000
E: competency@centralbank.ie
www.centralbank.ie

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