

# BORROWING

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## Version History

Version	Date	Amendments
0.1	July 2013	Initial Version.
1.0	September 2013	No Amendments.
1.1	November 2015	<ul style="list-style-type: none"> <li>• Amended section 33 to reflect the commencement of section 10 of the 2012 Act.</li> <li>• Inserted regulations in Section 2.</li> <li>• Inserted guidance in Section 3.</li> </ul>
1.2	January 2016	<ul style="list-style-type: none"> <li>• Updated regulations in Section 2.</li> </ul>
1.3	April 2024	<ul style="list-style-type: none"> <li>• Amended text in section 33(2)(a) to reflect the commencement of the Credit Union (Amendment) Act 2023.</li> </ul>
1.4	September 2024	<ul style="list-style-type: none"> <li>• Amended text in Regulation 43 of the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016 to reflect the change made by the Credit Union Act 1997 (Regulatory Requirements) (Amendment) Regulations 2024.</li> </ul>

# 1. Legislation

## Section 33 – Power to borrow\*

- (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, 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.

## 2. Regulations

### CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS) REGULATIONS 2016 (S.I. No. 1 of 2016)

#### PART 7

#### BORROWING

##### Interpretation – Part 7

39. In this Part the word “borrow” or any word which is a variant, derivative or translation of, or is analogous to that word shall not include the issue of shares, or the acceptance of deposits from members of the credit union in accordance with the Act.

##### Borrowing Limit

40. A credit union may borrow money, on security or otherwise, so long as the total amount outstanding in respect of monies so borrowed does not at any time exceed 25 per cent of the total savings of the credit union.

##### Borrowing Requirement – Notice to Bank

41. Where a credit union proposes to borrow in accordance with Regulation 40, the credit union shall provide at least 28 days’ notice in writing to the Bank of its intention to undertake the proposed borrowing.

##### Borrowing Requirement - Calculation

42. For the purposes of Regulation 40, when calculating the total amount outstanding in respect of moneys borrowed by a credit union at any time, an overdraft received from its banker shall be disregarded.

##### Borrowing Policy

43. A credit union shall establish and maintain a written policy in relation to borrowing.

The board of directors of the credit union shall, at least every 3 years, review, update and approve this policy.

**Transitional Arrangements**

44. Where, at the commencement of these Regulations, a credit union has borrowings made in accordance with or under the Act which exceed the requirements in this Part, the credit union shall:
- (a) reduce those borrowings in order to ensure compliance with this Part;
    - (i) as soon as possible without incurring a loss; and
    - (ii) in any event not later than the second anniversary of the commencement of these Regulations or such later date as the Bank may permit, and
  - (b) only borrow where such borrowing would not cause the credit union to either fail to comply or exacerbate a failure to comply with any of the requirements in this Part.

**3. Guidance**

Credit unions may include their borrowing policy within the asset and liability management policy or it may be maintained as a separate policy. Guidance on the asset and liability management policy is provided in the Chapter on "Liquidity".