



29 January 2016

*Filed Electronically*

European Commission  
SPA2 06/070  
1049 Brussels  
Belgium

**Re: European Commission, *Call for Evidence: EU Regulatory Framework for Financial Services (2015)***

Dear Sir or Madam:

The European Network of Credit Unions (ENCU) appreciates the opportunity to provide the European Commission with our comments and data in response to the Commission's *Call for Evidence: EU Regulatory Framework on Financial Services*.<sup>1</sup> Credit unions are not-for-profit financial cooperatives which exist to serve their members by providing financial services at fair rates and promoting thrift.

Credit unions play an important role in promoting financial inclusion in many EU Member States, and the ENCU represents credit unions in Estonia, the Republic of Ireland, the Netherlands, Poland, Romania, the United Kingdom, FYR Macedonia, and Ukraine. In total, there are over 1,000 credit unions in the EU with approximately EUR 21 billion in assets which serve approximately 7 million natural person members, most of whom are people of modest means.<sup>2</sup> European credit unions are very small compared to banks, with an average asset size of only EUR 21 million in total assets.

### **Issue 1 – Unnecessary regulatory constraints on financing**

*The Commission launched a consultation in July on the impact of the Capital Requirements Regulation on bank financing of the economy. In addition to the feedback provided to that consultation, please identify undue obstacles to the ability of the wider financial sector to finance the economy, with a particular focus on SME financing, long-term innovation and infrastructure projects and climate finance. Where possible, please provide quantitative estimates to support your assessment.*

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<sup>1</sup> European Commission, *Call for Evidence: EU Regulatory Framework on Financial Services (2015)*, available at [http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/consultation-document\\_en.pdf](http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/consultation-document_en.pdf)

<sup>2</sup> European Network of Credit Unions, "Credit Unions in Europe"; [http://creditunionnetwork.eu/cus\\_in\\_europe](http://creditunionnetwork.eu/cus_in_europe).

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**To which Directive(s) and/or Regulation(s) do you refer in your example?**

Article 2(5) of the Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC Text with EEA relevance, known also as the “Capital Requirements Directive IV” (CRD IV): <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013L0036>.

**Please provide us with an executive/succinct summary of your example:**

Article 2(5) of the CRD IV exempts credit unions from the EU’s Basel III-based capital and liquidity rules for banks. The legislative procedure needed for a Member State to obtain a CRD Article 2(5) exemption for credit unions makes it more difficult to establish new credit union movements in Member States that do not have a CRD exemption for credit unions.

The ENCU strongly supports the retention of the CRD IV Article 2(5) exemption for credit unions as well as national-level capital rules for credit unions. Credit unions need exemptions from the CRD IV to promote financial inclusion effectively because European credit unions are much smaller than European banks— average asset size of credit unions in the European Union is approximately EUR 21 million in total assets—and in general credit unions would not be able to meet the CRD IV’s minimum initial capital requirement of EUR 5 million just as they would not be able to afford the compliance costs of CRD IV-compliance. Also, since credit unions often rely on retained earnings to build capital, it is not practical to start credit unions when a minimum capital requirement of EUR 5 million applies.

Further, credit unions are not-for-profit, community-based financial institutions that exist to promote financial inclusion and thrift, and are limited in their investment options by national portfolio-shaping rules to investing primarily in loans to their members, in bank deposits, and in government-guaranteed debt instruments. Risk-based capital requirements and similar CRD IV requirements intended to restrain excessive risk-taking by banks have little relevance for credit unions because credit unions are much less complex institutions that are engaged in much less risky investment and lending activities.

Credit unions that exist in Member States, such as Romania, that do not have a CRD IV exemption for credit unions are not permitted to accept deposits, and are not able to provide their members with loans and other services at the best rates. This is because a non-depository credit union has a higher cost of funds than a depository credit union and cannot offer depository savings products to their members. We have included data on this issue in response to the following question, below.

**Please provide us with supporting relevant and verifiable empirical evidence for your example:**

1) General Data on European Credit Unions:

Data on European credit unions can be found on the European Network of Credit Unions’ website at this link: [http://creditunionnetwork.eu/cus\\_in\\_europe](http://creditunionnetwork.eu/cus_in_europe).



Currently, there are more than 1000 credit unions in EU Member States with over EUR 21 billion in aggregate assets serving nearly 7 million physical-person Europeans. There are also credit union movements in EU accession states including Ukraine and FYR Macedonia.

The World Council of Credit Unions (World Council) also publishes an annual statistical report on credit union systems around the world (including Europe) which can be accessed here: <http://www.woccu.org/publications/statreport>.

## 2) The CRD IV Exemption and Its Value to Europeans of Modest Means:

In 2014, the World Council of Credit Unions conducted an economic analysis of the economic benefits that credit unions provide their members in terms of interest rates on loans and savings, compared to the “prime rates” that banks reporting charging customers on loans and the published rates banks pay on savings. This analysis did not include an analysis of fees because bank fee data was not readily available, even though credit unions generally charge lower fees than banks. The economic benefits of physical persons gaining access to credit are not included in this analysis.

In the EU, World Council compared the economic benefits that Irish credit unions—i.e. Europe’s largest credit union movement—provide their members with the economic benefits that Romanian credit unions provide their members.

This analysis compared the economic benefits of credit unions in the Republic of Ireland and Northern Ireland—both of which have CRD exemptions for credit unions—with the economic benefits of credit unions in Romania, which do not have a CRD exemption.

In Ireland (i.e. the Republic of Ireland and Northern Ireland), there are approximately 479 credit unions with more than EUR 14 billion in total assets serving approximately 3.3 million physical persons, which represents roughly 75% of Irish physical persons.

World Council’s analysis of economic benefits of Irish credit unions’ interest rates versus banks’ “prime” rates on loans and published savings rates in Ireland found that credit unions were providing their members with approximately EUR 26 in economic benefits annually compared to the banks’ prime interest rates.

Considering that credit union members are often people of modest means who would not likely be eligible for a bank’s “prime” lending rate, the fact that Irish credit unions are providing their members with economic benefits that exceed banks’ rates for their most credit-worthy customers is especially noteworthy. Most credit union members would pay significantly more than the “prime” rate on a bank loan, because of creditworthiness concerns and risk-based pricing, assuming that a bank were willing to lend to them in the first place.



In addition, the economic benefits of Irish credit unions are understated in this analysis because credit unions' generally lower fees were not able to be considered (because of a lack of comparable aggregate bank data on fees).

In Romania, where credit unions do not have a CRD IV exemption, there are 20 credit unions with approximately EUR 49 million in total assets serving more than 65,000 physical persons, which represents approximately 0.4% of Romanian physical persons.

World Council's analysis of economic benefits of Romanian credit unions' interest rates versus banks' "prime" rates on loans and published savings rates in Romania found that credit unions were providing their members with approximately EUR -77 in economic benefits annually compared to the banks' prime interest rates.

We believe that this interest rate analysis resulted in a negative economic benefit compared to prime rates for several reasons:

*A. High Cost of Funds Because of Reliance on External Sources to Fund Loan Book:*

Romanian credit unions do not have a CRD IV exemption and therefore cannot accept deposits from their members. This requires Romanian credit unions to borrow from external sources, with a higher cost of funds, and this higher cost of funds is passed along to the credit union member in the form of a higher interest rate. Romanian banks, however, will often not lend to many people who are credit union members at any rate—because of concerns about creditworthiness as well as because of limited lending capacity—meaning that the credit union is the only available source of credit at any rate for many physical people.

The economic benefits of getting access to credit are not included in this analysis. If the economic benefit of gaining access to credit were considered, however, the value of access to credit would likely by itself turn positive the value that Romanian credit unions provide their members.

*B. Lack of Authority to Offer Deposit Savings Products:*

Another factor reducing the economic benefits that Romanian credit unions are able to provide their members is that, since they cannot accept savings deposits from their members, they are not able to pay them a return on the savings side, whereas the Romanian banks considered in this analysis can accept deposits and pay interest on savings.

*C. The Analysis Does Not Include Fee Data or the Economic Benefit of Having Access to Credit:*

As noted above, this analysis did not include the economic benefit of gaining access to credit when credit would not otherwise be available to a person of modest means. This analysis also did not include an analysis of fee data, even though credit unions generally charge lower fees than banks, because of a lack of comparable bank fee data.



The ENCU believes that this economic benefit analysis and research performed by the World Council of Credit Union illustrates the value that credit unions having a CRD IV exemptions provide to European physical persons and financial inclusion. Credit unions in jurisdictions with CRD IV exemptions, like Ireland, provide their members with economic benefits that exceed banks' published rates for their most creditworthy borrowers.

Credit unions in jurisdictions without a CRD IV exemption, like Romania, do provide their members with significant economic benefits but could provide much greater economic benefits to Europeans of modest means if and when a credit union CRD IV exemption is extended to those Member States. Like Irish credit unions, with a CRD IV exemption these credit unions could also (potentially) provide their generally lower-income members with economic benefits exceeding banks' prime rates.

**If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

We urge the Commission to propose a legislative framework under Article 2 of the CRD IV (or a successor capital directive) that would allow Member States to obtain a CRD IV exemption using a more streamlined and procedurally transparent process than under current law.

**Issue 2 – Market liquidity**

*Please specify whether, and to what extent, the regulatory framework has had any major positive or negative impacts on market liquidity. Please elaborate on the relative significance of such impact in comparison with the impact caused by macroeconomic or other underlying factors.*

**To which Directive(s) and/or Regulation(s) do you refer in your example?**

Section 510 of the [Capital Requirements Regulation](#) (CRR) in the CRD IV Package, Regulation (EU) No 575/2013 and [Directive 2013/36/EU](#) (CRR/CRD IV,) and their implementing acts on the Liquidity Coverage Ratio and the Net Stable Funding Ratio. See, for example, European Banking Authority, "Liquidity Risk;" <https://www.eba.europa.eu/regulation-and-policy/liquidity-risk>.

**Please provide us with an executive/succinct summary of your example:**

Credit unions—as well as similar financial institutions with a social purpose in over 20 EU Member States—are exempt from the CRD IV and the European Union's Basel III liquidity rules but are impacted by these rules indirectly because credit unions are bank customers.

We urge the Commission to seriously consider the Net Stable Funding Ratio's (NSFR) impact on bank customers including credit unions, especially in the context of the NSFR's potential impact on credit unions' financial inclusion efforts, in developing its recommendations on the design of the EU's NSFR.



Excessively high reserve requirements under the Net Stable Funding Ratio for banks holding credit union deposits raises the bank's effective cost of funds, making it hard for credit unions to receive a reasonable return on their deposits. Credit unions' interest income from bank term deposits plays a key role in helping credit unions cover operational expenses and promote financial inclusion, especially in lower-income and rural areas.

Under their national rulebooks, credit unions are generally limited in their investment options to making loans to their members, and investing in bank term deposits and sovereign debt instruments. In times of limited loan demand—as has been the case in Europe for the past several years—credit unions generally invest in term deposits in banks because they view these as safe investments that are easier to manage than government bonds.

During the global financial crisis through today, credit unions' deposits in European banks have been sticky and stable. We have previously submitted detailed data to the EBA on the stocks of European credit unions' term deposits at banks which shows these deposits sticky and stable nature over many years.

Credit unions' term deposits in banks also received favourable treatment under the EU's Liquidity Coverage Ratio because of their sticky and stable nature.

We urge the Commission to recommend consistent, similarly favourable treatment for credit unions' term deposits in banks under the NSFR.

**Please provide us with supporting relevant and verifiable empirical evidence for your example:**

The European Banking Authority's (EBA) report on the NSFR issued in late 2015 highlights potential unintended consequences for credit unions in the event the Commission would not provide similar treatment to credit union deposits under the NSFR as it has under the related Liquidity Coverage Ratio (LCR).

The EBA's discussion and recommendation that the Commission should consider regulatory relief for credit unions under its NSFR rules can be found on pages 197-198 of the Authority's *Report on Net Stable Funding Requirements under Article 510 of the CRR* available here:

<https://www.eba.europa.eu/documents/10180/983359/EBA-Op-2015-22+NSFR+Report.pdf>.

The ENCU has also submitted extensive data to the Commission and the EBA concerning credit unions' sticky and stable stocks of bank deposit investments. This data is available in our comment letter to the EBA which are posted on the ENCU website:

- [Comment Letter](#) to the European Banking Authority for Credit Union Data on Term Deposit Investments.
- [Comment Letter](#) to the European Banking Authority's Consultative Paper on technical standards for the implementation of the Basel III liquidity standards in the European Union.



- [Comment Letter](#) in response to the Basel Committee on Banking Supervision's consultation on liquidity coverage ratios disclosure standards.
- [Comment Letter](#) in response to the Basel Committee on Banking Supervision's consultation on the Basel III Net Stable Funding Ratio.
- [Comment Letter](#) to the European Commission on the Basel III Net Stable Funding Ratio

**If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

We urge the Commission to extend the treatment envisaged for non-financial bank depositors in the NSFR to credit unions when acting as bank depositors (as in the LCR treatment), as recommended by the EBA. Similar treatment under the NSFR and LCR will enable credit unions to earn reasonable yields on their bank term deposit investments and to use that income to help better promote financial inclusion in European communities on a sustainable basis.

#### **Issue 4 – Proportionality / preserving diversity in the EU financial sector**

*Are EU rules adequately suited to the diversity of financial institutions in the EU? Are these rules adapted to the emergence of new business models and the participation of non-financial actors in the market place? Is further adaptation needed and justified from a risk perspective? If so, which, and how?*

**To which Directive(s) and/or Regulation(s) do you refer in your example?**

Directives with Exemptions for Credit Unions, including:

- Article 2(5) of the CRD IV: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013L0036>.
- Article 3(3)(c) of the Mortgage Credit Directive: Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 Text with EEA relevance: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0017>.
- Article 1(5) of the Payments Account Directive: Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features Text with EEA relevance: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0092>.
- Article 2(5) of the Revised Payments Services Directive (PSD 2): Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (Text with EEA relevance): <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L2366>.



**Please provide us with an executive/succinct summary of your example:**

A number of EU Directives and Regulations include exemptions for credit unions from all or part of these rules in order to limit unnecessary compliance burdens on credit unions. These exemptions are often in the form of a Member State option.

**Please provide us with supporting relevant and verifiable empirical evidence for your example:**

The concept of proportionality is essential to maintaining a diverse and inclusive financial system. This is because credit unions and other community-based financial institutions that have a purpose of promoting financial inclusion are much smaller than the large internationally active banks that are typically the impetus for new EU financial rules. Credit unions and similar community based financial institutions are therefore less able to afford the compliance costs imposed by these rules.

Large banks' economies of scale allow them to absorb the cost of regulation better than smaller institutions, and therefore excessively burdensome regulations give large banks a competitive advantage over their smaller competitors by creating artificial barriers to market entry.

In addition, rules designed to constrain excessively risky business activities at large banks are not necessary for credit unions because credit unions typically have limited balance sheet complexity and focus on promoting financial inclusion and thrift through a traditional community banking model.

**If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

We commend the EU's commitment to proportional regulation for credit unions as embodied in directives that have credit union exemptions, including the CRD IV, the Mortgage Credit Directive, the Payments Account Directive, and the Revised Payments Services Directive. Proportional regulation is essential to maintaining a diverse and inclusive financial sector in Europe. We urge the Commission to continue to consider exemptions for credit unions from excessively burdensome compliance requirements in the future.

#### **Issue 5 – Excessive compliance costs and complexity**

*In response to some of the practices seen in the run-up to the crisis, EU rules have necessarily become more prescriptive. This will help to ensure that firms are held to account, but it can also increase costs and complexity, and weaken a sense of individual responsibility. Please identify and justify such burdens that, in your view, do not meet the objectives set out above efficiently and effectively. Please provide quantitative estimates to support your assessment and distinguish between direct and indirect impacts, and between one-off and recurring costs. Please identify areas where they could be simplified, to achieve more efficiently the intended regulatory objective.*





**To which Directive(s) and/or Regulation(s) do you refer in your example?**

[Directive 2015/849/EU](#) so called the fourth Anti-Money Laundering (AML) Directive section 4 “Performance by third parties”.

**Please provide us with an executive/succinct summary of your example:**

It has become more difficult in recent years for credit unions in some European jurisdictions, such as in Great Britain, to obtain and maintain access to bank payments services. This is part of a broader trend of banks “de-risking” their customer bases by ceasing to do business with other financial businesses, like credit unions because of compliance costs and concerns about anti-money laundering/countering the financing of terrorism (AML/CFT) compliance and enforcement risks related to those relationships.

One of the likely reasons for this trend is a lack of clear regulatory guidance as to the degree banks are responsible for customer due diligence and monitoring of its customers’ customers (i.e., in this example, the credit union’s members).

The Financial Action Task Force issued a statement on de-risking in June 2015 and is at present developing detailed guidance intended to address the “de-risking” phenomenon.

We urge the Commission to issue guidance—either formally as part of the 4<sup>th</sup> AMLD or as guidance promulgated thereunder—that is based on the Financial Action Task Force’s forthcoming de-risking guidance as soon as practicable in order to resolve the de-risking problem in Europe expeditiously.

**Please provide us with supporting relevant and verifiable empirical evidence for your example**

Reports from British credit unions to the Association of British Credit Unions, Ltd. (ABCUL) and the ENCU confirm that British credit unions, especially smaller institutions that as bank customers would present relatively low volumes of payments business to a correspondent bank, have had trouble over establishing and maintaining bank accounts since the United Kingdom began implementing the 2012 version of the Financial Action Task Force’s “40 Recommendations” on anti-money laundering and countering the financing of terrorism (AML/CFT): [http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf).

Credit unions being able to offer electronic payments to their members is essential for them to be able to promote financial inclusion effectively in the 21<sup>st</sup> Century. A lack of access to corresponding banking services therefore hinders credit unions’ ability to promote financial inclusion.

**If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

Credit unions need access to banking payments infrastructure on fair and reasonable terms to be able to promote financial inclusion effectively. It is critical that the 4th AMLD and related AML/CFT guidance



clarify the regulatory requirements on correspondent banks in this area, so as to reduce regulatory uncertainty and attendant compliance burdens.

### **Issue 6 – Reporting and disclosure obligations**

*The EU has put in place a range of rules designed to increase transparency and provide more information to regulators, investors and the public in general. The information contained in these requirements is necessary to improve oversight and confidence and will ultimately improve the functioning of markets. In some areas, however, the same or similar information may be required to be reported more than once, or requirements may result in information reported in a way which is not useful to provide effective oversight or added value for investors.*

*Please identify the reporting provisions, either publicly or to supervisory authorities, which in your view either do not meet sufficiently the objectives above or where streamlining/clarifying the obligations would improve quality, effectiveness and coherence. If applicable, please provide specific proposals.*

*Specifically for investors and competent authorities, please provide an assessment whether the current reporting and disclosure obligations are fit for the purpose of public oversight and ensuring transparency. If applicable, please provide specific examples of missing reporting or disclosure obligations or existing obligations without clear added value.*

#### **To which Directive(s) and/or Regulation(s) do you refer in your example?**

[Directive 2014/49/EU](#) of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes Text with EEA relevance.

#### **Please provide us with an executive/succinct summary of your example:**

Deposit Guarantee Scheme Directive (DGSD) standardised disclosure statements – including the standardised disclosure statements themselves, exclusions lists and risk warnings under the DGSD – take up considerable credit union staff time and are expensive for small institutions such as credit unions to comply with.

#### **Please provide us with supporting relevant and verifiable empirical evidence for your example:**

Regarding the costs of DGSD-related disclosures, the Bank of England provides estimations as to the costs of compliance with the Recast Deposit Guarantee Legislation, please [see here](#).

The PRA estimates for the one-off and annual costs of this rule for credit unions on a per account and on a per-asset basis are included in the tables below:



**Table B Total cost per account and total cost to industry arising from changes required as a result of the recast DGSD**

Firm category	One-off costs		Annual costs	
	Total per category (£ millions)	Per account (£)	Total per category (£ millions)	Per account (£)
Large banks	25–30	0.1–0.2	15–20	Up to 0.1
Challenger banks	5–10	0.5–1.5	0.2–0.5	Up to 0.1
Small banks	0.5–1.5	0.1–0.5	Up to 0.1	Up to 0.01
Large building societies	2–10	0.1–0.5	Up to 0.5	Up to 0.01
Small building societies	0.5–3	0.5–1.5	Up to 0.1	Up to 0.05
Credit unions	2.5–3	2.5–2.5	0.2–1.0	0.2–0.5
Wholesale-only deposit-takers	2–3	50–800	0.5–1.0	10–390
Sector wide	35–60	0.1–2.5 <sup>(a)</sup>	20–25	0.01–0.5

(a) Total per account figure disregards per account figure for wholesale-only deposit-takers.

Source: Bank of England, Consultation Paper CP 20/14 (2014), p.22.

**Table D Average cost of proposed continuity of access changes (per category of firm and per account) for different categories of firms**

Firm category	One-off costs		Annual costs	
	Total per category (£ millions)	Per account (£)	Total per category (£ millions)	Per account (£)
Large banks	135–165	0.5–1.0	5–10	Up to 0.05
Challenger banks	2–5	0.5–1.0	Up to 0.2	Up to 0.05
Small banks	1–1.5	0.2–0.3	Up to 0.3	Up to 0.05
Large building societies	5–60	0.2–2.0	0.5–4	Up to 0.15
Small building societies	0.5–2.5	0.5–1.5	Up to 0.5	Up to 0.5
Credit unions	n.a.	n.a.	n.a.	n.a.
Wholesale-only deposit-takers	10–15	100–4,000	0.5–1	20–620
Sector wide	155–250	0.2–2.0 <sup>(a)</sup>	10–15	0.01–0.3

(a) Total per account figure disregards per account figure for wholesale-only deposit-takers.

Source: Bank of England, Consultation Paper CP 20/14 (2014), p.23.



**If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

We urge the Commission to conduct a holistic review of all of the EU's reporting and disclosure requirements and their regulatory burdens from a cost-benefit perspective as part of an examination of the EU's Regulatory Framework for Financial Services. Reporting and disclosure requirements should be phased-out if they do not meet a reasonable cost-benefit threshold either with respect the financial sector as a whole or with respect to specific sub-sectors like credit unions.

### **Issue 8 – Rules outdated due to technological change**

*Please specify where the effectiveness of rules could be enhanced to respond to increasingly online-based services and the development of financial technology solutions for the financial services sector.*

**To which Directive(s) and/or Regulation(s) do you refer in your example?**

[Directive on markets in financial instruments \(MiFID 2\)](#) repealing Directive 2004/39/EC and the [Regulation on markets in financial instruments \(MiFIR\)](#). Credit unions are technically exempt from these rules but are nonetheless required to follow the outsourcing aspects of these rules in Member States such as the United Kingdom (UK).

**Please provide us with an executive/succinct summary of your example:**

MiFID rules on outsourcing—i.e. the restrictions and requirements on outsourcing in MiFID—are applied to all financial firms in the UK, even where these firms are exempt from MiFID itself as credit unions are. Internet and computing technology has developed significantly since the time of when the EU established these rules. The latter rules are now no longer relevant in a number of respects, due to technological changes.

Recently, credit unions have faced significant costs when undergoing the regulatory authorisation process in responding to regulators concerns regarding outsourcing requirements. In at least one case, credit unions have had to use materially deficient IT solutions in order to comply with rules around effective access to outsourced providers' business premises. The relevant rules for the UK are available here: <http://www.prarulebook.co.uk/rulebook/Content/Chapter/305496/21-12-2015>

**If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

We urge the Commission to work to modernise the MFID in order to reduce outdated compliance burdens on credit unions.

### **Issue 11 – Definitions**

*Different pieces of financial services legislation contain similar definitions, but the definitions sometimes vary (for example, the definition of SMEs). Please indicate specific areas of financial*



services legislation where further clarification and/or consistency of definitions would be beneficial.

**To which Directive(s) and/or Regulation(s) do you refer in your example?**

Directive: [International Accounting Standards \(IAS\), International Financial Reporting Standards \(IFRS\) and related interpretations \(SIC/IFRIC\)](#), as adopted into EU law.

**Please provide us with an executive/succinct summary of your example:**

EU-adopted IFRS defines deposit-takers as “publicly accountable” institutions that cannot employ the less burdensome *International Financial Reporting Standards for Small and Medium Enterprises (IFRS for SMEs)* even though the *IFRS for SMEs* standard itself offers leeway for small credit unions to use that standard.

UK and Irish accounting authorities have recognised that credit unions should be able to use an accounting standard derived from *IFRS for SMEs* in order to limit compliance burdens on these small institutions. This is not the case in other Member States.

**Please provide us with supporting relevant and verifiable empirical evidence for your example:**

Comment letters and position papers on this issue can be accessed below:

- The Future of Financial Reporting – ABCUL response. [See here.](#)
- Accounting Standards Board - The Future of Financial Reporting, revised exposure drafts. [See here.](#)
- Accounting Standards Board; Policy Proposal: The Future of UK GAAP. [See here.](#)
- World Council of Credit Unions, IFRS for SMEs Comprehensive Review. [See here.](#)

ABCUL has estimated that the compliance costs for approximately 365 British credit unions related to the less burdensome standard derived from *IFRS for SMEs* will be between GBP 6 million and GBP 7.5 million annually.

It is not possible at this time to estimate what the costs of full IFRS would have been for British credit unions, other than that those costs would be considerably higher.

**If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

The average asset size of small credit unions in Europe is EUR 21 million in total assets, making these institutions small enterprises based on any reasonable definition of Small or Medium Enterprise, including the EU’s definition of SME that defines an SME as having less than EUR 43 million in assets. See *Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (2003/361/EC)*, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:EN:PDF>.



SME financial institutions should be able to use accounting standards designed for SMEs, in order to limit their accounting compliance costs to a reasonable level.

### **Issue 14 – Risk**

*EU rules have been put in place to reduce risk in the financial system and to discourage excessive risk-taking, without unduly dampening sustainable growth. However, this may have led to risk being shifted elsewhere within the financial system to avoid regulation or indeed the rules unintentionally may have led to less resilient financial institutions. Please indicate whether, how and why in your view such unintended consequences have emerged.*

**To which Directive(s) and/or Regulation(s) do you refer in your example?**

[Directive 2014/49/EU](#) of the European Parliament and of the Council on deposit guarantee schemes (DGSD).

**Please provide us with an executive/succinct summary of your example:**

DGSD removed all deposits guarantee scheme protection from financial institutions' bank deposits while extending it to the vast majority of other corporate depositors. This has created a situation where small credit unions no longer receive protection on their bank deposits from national savings guarantee schemes.

**Please provide us with supporting relevant and verifiable empirical evidence for your example:**

In the case of small credit unions, the loss of GBP 75,000 or EUR 100,000 (or the equivalent under a particular Member State's deposit guarantee scheme) could result in the credit union losing a significant part of its regulatory capital and could cause the insolvency of the credit union in some cases. Small credit unions do not have greater ability to assess the credit risk of a counterparty bank than non-financial corporates do. Credit unions also have limited investment options under national rulebooks, in practice requiring credit unions to invest in bank deposits de facto. As a result, these deposits are sticky, making the moral hazard arguments against guaranteeing credit unions' deposits in banks irrelevant with respect to credit unions that invest in bank deposits.

**If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

Providing a DGS guarantee to credit unions' deposits made in banks would help protect credit unions' regulatory capital and the financial system from cascading losses and contagion related to a bank failure.

### **Conclusion**



The ENCU appreciates the opportunity to provide the European Commission with our comments and data in response to the Commission's *Call for Evidence: EU Regulatory Framework on Financial Services*.

Please do not hesitate to contact me or Melina Raso at +32 2 626 9500 should you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael S. Edwards". The signature is fluid and cursive.

Michael S. Edwards  
Vice President and General Counsel  
European Network of Credit Unions  
World Council of Credit Unions