

# **Submission to the Department of Enterprise, Trade and Employment**

**Re: Public Consultation on the Corporate  
Sustainability Reporting Directive**

**March 2023**

## Background

CUDA (the Credit Union Development Association) welcomes the opportunity to make a submission on behalf of its member credit unions to the public consultation by the Department of Enterprise, Trade and Employment in respect of EU Member State options in the transposition of Directive (EU) 2022/2464 of the European Parliament and of the Council (hereafter “the CSRD”).

As a representative body and development association for many of Irelands largest and most progressive credit unions, CUDAs membership is supportive of the objectives of the European green deal and intend to be active participants in meeting the challenge presented by the climate crisis. Credit unions occupy a unique position in Irish society – as volunteer led, financial cooperatives they have been a constant and reassuring presence in their communities for generations. Their success and the high regard in which they are held by the Irish public is attributable to the dedication of staff and volunteers operating under a culture and ethos of service to their membership. This ethos is enshrined in legislation that safeguards the economic, social and cultural well-being of its members as well as their communities<sup>1</sup>. It is this ethos and culture, together with their cooperative business model that make credit unions naturally aligned with the principles of sustainability.

## Submission

CUDA notes that Article 1(3) of the CSRD allows Member States the option to exclude certain undertakings from the scope of CSRD in their transposition of the Directive. The relevant provision specifically references undertakings listed in points (2) to (23) of Article 2(5) of Directive 2013/36/EU of the European Parliament and of the Council wherein, with respect to Ireland, point (8) listed credit unions and friendly societies.

CUDA fully supports the approach taken in Directive 2013/36/EU to exclude credit unions from the scope of that Directive and commends the position enunciated in Recital 49 therein, “...[that] *In order to secure a sustainable and diverse Union banking culture which primarily serves the interest of the citizens of the Union, small-scale banking activities, such as those of credit unions and cooperative banks, should be encouraged.*”

**It is CUDAs strong belief that Ireland should exercise the option to exclude credit unions and friendly societies from the scope of CSRD in the transposition of the Directive.**

Given our position that credit unions should not be included under CSRD, we will limit our submission exclusively to the question regarding Article 1.

In support of our position that credit unions should not be included under CSRD, CUDA submits:

### **1. Credit unions do not satisfy CSRD inclusion criteria.**

CSRD lowers the inclusion thresholds from those which applied under the Non-Financial Reporting Directive with the effect that far more undertakings will fall under the scope of CSRD. The scope now encompasses:

- a. A large undertaking within the definition set out in Directive 2013/34/EU of the European Parliament and of the Council; or

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<sup>1</sup> Credit Union Act 1997, Section 6(2)

- b. A small or medium undertaking (but not a micro) which is a public-interest entity.

No Irish credit union could be considered a large undertaking under the definitions. The vast majority would be categorised as small with some falling into the micro category. In any event, no credit union would meet the definition of a public-interest entity as a credit institution because the definition provided by Article 4 of Directive 2006/48/EC of the European Parliament and of the Council excludes entities listed under Article 2 of that Directive and both credit unions and friendly societies are listed under Article 2.

CUDA is concerned that, should credit unions not be specified as exempt under CSRD, there would be significant uncertainty and ambiguity as to their legal status, given the exemptions applied by past directives which are relied upon by CSRD as a source for definitions.

## **2. Difficulty aligning mandatory adoption of CSRD with the unique legislative and regulatory frameworks applicable to credit unions.**

Credit unions in Ireland operate under a unique legislative and regulatory framework emanating from the Credit Union Act 1997 (as amended). The assets which credit unions manage are predominantly either loans or investments. Lending is always provided to those who hold the common bond of the credit union (i.e. live within a geographic area or work within a particular sector) and is almost exclusively provided to consumers. While some capacity exists to lend for commercial purposes, this is heavily restricted by regulation<sup>2</sup>. Likewise, with respect to investments, regulations restrict credit unions to investments in a narrow list of asset classes, primarily on deposit in credit institutions, in bank bonds or in Irish or EEA State Securities<sup>3</sup>.

CUDA is concerned that, should credit unions be subjected to the mandatory adoption of CSRD, there would be a requirement to comply with both the Common Reporting Standards and the EU Taxonomy Regulation. Given the limited optionality available to credit unions in their lending and investment choices, this would present significant challenges. Regardless, the frameworks applicable to credit unions are self-limiting and by consequence, Irish credit unions do not have an exposure to lending or investments in activities which might be considered harmful or damaging to the environment or society.

## **3. Position of credit unions as financial cooperatives**

In the Proposal Document for CSRD<sup>4</sup> it was noted at page 3 “[that] *The primary users of sustainability information disclosed in companies’ annual reports are investors and non-governmental organisations, social partners and other stakeholders. Investors, including asset managers, want to better understand the risks of, and opportunities afforded by, sustainability issues for their investments, as well as the impacts of those investments on people and the environment.*”

As financial cooperatives, credit unions are owned and controlled by their members and are not subject to institutional investment. CUDA member credit unions are, however, acutely aware of their obligations with respect to ESG. Significant work has already been undertaken on improving the quality and detail of the disclosures reported to members in their Annual

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<sup>2</sup> S.I. No. 1 of 2016, Reg 2(1) and PART 4, as amended by S.I. No. 642 of 2019

<sup>3</sup> S.I. No. 1 of 2016 Part 2(1) and PART 5, as amended by S.I. No. 32 of 2018

<sup>4</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021PC0189&from=EN>

Report<sup>5</sup>. Engagements are ongoing with the regulator with regard to enhancing existing risk management frameworks to better account for climate-related and environmental risks. Cross-sectoral initiatives are underway to ensure credit unions are positioned to adapt to climate change and take advantage of opportunities presented.

## Summary

CUDA strongly believes that Ireland should exercise the option to exclude credit unions and friendly societies from the scope of CSRD.

We do however wish to reiterate that our position is grounded in the fact that a number of technical challenges make it neither proportionate nor possible for credit unions to adopt CSRD as a mandatory standard.

Irrespective of the application of CSRD, CUDA members are fully committed to the voluntary adoption of best practices within the confines of our legal and regulatory framework. The Irish credit union movement takes pride in its role as a strong advocate for social justice since its foundation sixty years ago and looks forward to being an active participant in a just transition in the decades ahead.

CUDA is grateful to the Department for the opportunity to lodge a submission on a topic of such importance to our membership and we are available to respond to any questions arising.

## CUDA

9<sup>th</sup> March 2023



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<sup>5</sup> Under the existing legislative framework, credit unions do not file management reports with the Companies Registration Office.