European Network of Credit Unions

12 January 2012

Re: Credit Unions and Amendments to the draft Directive on Credit Agreements Relating to Residential Property

Dear MEP Sanchez-Presedo,

On behalf of the European Network of Credit Unions (ENCU) I am writing regarding the (draft) Directive on credit agreements relating to residential property. By way of background, ENCU is comprised of European members of the World Council of Credit Unions and represents the Association of British Credit Unions Ltd., the Irish League of Credit Unions, the Polish National Association of Cooperative Savings and Credit Unions, the Central Federation of Romanian Credit Unions, the Estonian Union of Credit Cooperatives, and FULM Savings House of the former Yugoslav Republic of Macedonia. The Network represents more than 1,000 credit unions serving over six million citizens in the EU.

ENCU and its members **strongly support amendment 313 of the ECON report (tabled by MEP Vicky Ford) and amendment 132 of the IMCO report (tabled by MEP Ashley Fox)** which would allow national supervisors to exempt credit unions and similar cooperative financial institutions from some or all of the (draft) Directive's requirements. This national exemption authority for credit unions would be similar to the existing "lighter regime" approach that EU decision-makers have implemented for credit unions under Article 2(5) of Directive 2008/48/EC on credit agreements for consumers (often called the Consumer Credit Directive).[1] National legislators, for instance, in Great Britain have adopted this approach for credit unions in relation to consumer lending in order to limit regulatory burdens on small credit unions and help preserve low-income consumers' access to credit at reasonable rates of interest.[2]

We are concerned that without a similar national "lighter regime" option, the (draft) Directive will impose excessive regulatory burdens on smaller, often volunteer-operated credit unions in some Members States. Without these amendments the (draft) Directive is likely to have the unintended consequences of in practice limiting these credit unions' ability to safely and soundly manage credit risk, protect their members' savings, and provide needed credit to their frequently low-income members.

Amendments to the (draft) Directive are Necessary to Maintain Credit Union Safety and Soundness and Consumers' Access to Credit

We believe that a national "lighter regime" option for credit unions is essential and urge support for the amendments tabled by MEPs Vicky Ford and Ashley Fox. In this way, it would be left to Member States to adopt

[1] Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, art. 2(5), 2008 O.J. (L 133) 66 (EC), *available at* http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:133:0066:01:EN:HTML.

[2] Credit unions are unique in Great Britain as the only lending institutions subject to a statutory maximum interest rate cap of 26.8% APR.

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a targeted and proportionate approach to credit unions similar to that under Directive 2008/48/EC, when doing so is appropriately based on a national credit union system's size and technical capacity.

As member-owned, not-for-profit cooperatives, credit unions exist to serve their member-owners by offering loans and savings products at fair rates of interest; credit unions do not maximize profits at consumers' expense. Only members can borrow from or save with the credit union, and typically only persons who fall within a credit union's "common bond"—such as people who live or work in a specific local area—can become members. Credit unions can be very small financial institutions that are entirely run by volunteers, especially in rural areas. European credit unions also do not operate on a cross-border basis and credit union directors, who are elected from amongst the membership, serve on a voluntary basis and do not receive remuneration for their services.

Credit unions typically hold their loans "in portfolio" and—unlike some lending institutions that prior to the last financial crisis failed to determine adequately borrowers' ability to repay mortgage loans—credit unions do not engage in the "originate-to-securitise" lending model, meaning that credit unions and their member-savers (as opposed to outside investors) bear the losses on these loans if member-borrowers default. Credit unions therefore have no incentive to make mortgages that borrowers cannot repay. Further, many of these credit unions are already subject to significant regulatory burdens and may not have the technical capacity and/or staff resources to comply with all of the (draft) Directive's requirements.

Credit union long-term mortgage lending is also already subject to strict national regulatory regimes and internal policy guidelines adopted by credit union boards. Accordingly, only the largest and best capitalised credit unions are allowed to provide long-term loans and the repayment period and the maximum loan amount are restricted, amongst others, on the basis of the credit union's total assets and the borrower's shareholding in the credit union. For instance, only four out of over 400 British credit unions are licensed to offer long-term mortgage loans to members.

Many other credit unions, however, take security interests in residential property vis-à-vis consumer and business loans in order to protect their member-owned capital and members' savings (which typically serve as the credit union's primary source of funding for its loans to members), and the (draft) Directive would apply to these loans as well as to the long-term loans traditionally thought of as "mortgages." In some Member States (such as Estonia, Ireland or Poland), loans by credit unions, regardless of their purpose, are often secured against valuable assets which can include residential property.

Often such a charge over property is the only available security a member can provide for obtaining a loan. These loans are already subject to stringent underwriting standards that assess, among other things, the member-borrower's ability to repay because (as noted above) credit unions typically hold these loans on their balance sheets until maturity and therefore have a strong disincentive from making unaffordable loans that could result in a loss to the institution. The regulatory burdens imposed by overly prescriptive requirements, however, risk forcing credit unions with limited technical capacity and/or staff resources to cease being able, as a practical matter, to take security interests in residential property.

For example, the Estonian Union of Credit Cooperatives estimates that in Estonia approximately 63% of all credit issued by credit unions is guaranteed by residential property. This large percentage of loans secured by immovable property is mainly due to the fact that Estonian credit unions have no access to deposit protection schemes. Guaranteeing loans against immovable property serves to protect the shares members hold in their credit union (which represent a way of accumulating savings) in a safe and sound manner. Members' savings would be subject to significant risk of loss if these credit unions cannot in the future accept residential real estate as collateral that can satisfy the obligations of members who have borrowed from the credit union but are unable to repay because of, for example, loss of employment.

We believe that credit unions which are no longer able to use residential property as collateral as a practical matter will be faced with significant, possibly insurmountable safety and soundness concerns from their prudential regulators, and may be forced to reduce or cease lending to their typically low-income members. It could also lead to credit union failures (and credit union members' resultant loss of savings) in some Member States if credit union managers are unable to adequately control for the new safety and soundness risks presented by being unable in practice to use residential property as collateral. At a minimum, these small credit unions would be forced to scale back their lending to members and/or raise interest rates in order to compensate for the increased credit risks presented by unsecured loans.

We therefore strongly urge the European Parliament and Council to adopt the amendments tabled by MEPs Vicky Ford and Ashley Fox at the earliest possible juncture. The Ford and Fox amendments to the (draft) Directive are consistent with the existing credit union "lighter regime" option available under Article 2(5) of Directive 2008/48/EC on credit agreements for consumers, and are necessary for credit unions in some Member States to be able to continue to make safe and sound loans, protect their members' savings, and ensure members' continued access to loans at fair rates of interest.

Thank you for the opportunity to share our views on this very important matter. If you have any questions about this issue please do not hesitate to contact me or Anne Schneider at +32 (0) 2626 9500.

Sincerely,

Michael S. Edwards
Chief Counsel and VP for Advocacy and Government Affairs
European Network of Credit Unions
World Council of Credit Unions