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Credit Union Development Association  
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IoD (Institute of Directors in Ireland)  
Irish Funds Industry Association  
Irish League of Credit Unions  
Law Society of Ireland  
Society of Actuaries in Ireland  
The Bar of Ireland

## By email

21 April 2023

## Updates to the Central Bank's Fitness and Probity Enforcement Procedures

Dear Sir or Madam

I am writing to notify your organisation that we have updated our procedures for fitness and probity investigations, suspensions and prohibitions. The updated procedures (regulations and guidance, referred to below) apply from 20 April 2023 and are available on our website.<sup>1</sup> We would appreciate you bringing this letter to the attention of your members and affiliates, where relevant.

### Fitness and Probity Investigations, Suspensions and Prohibitions

Under Part 3 of the Central Bank Reform Act 2010 (the **2010 Act**) we may investigate the fitness and probity of individuals to perform “controlled function” (**CF**) roles in regulated firms. In particular, we may investigate whether such individuals meet our standards of fitness and probity, including whether such individuals are of appropriate competence, honesty and integrity to perform CF roles. We may, in certain circumstances, suspend individuals from CF roles while investigations are ongoing. Following investigation, we may prohibit individuals from CF roles.

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<sup>1</sup> See: <https://www.centralbank.ie/regulation/how-we-regulate/fitness-probity/investigations-enforcement>



## Amendments to Part 3 of the 2010 Act

Part 3 of the 2010 Act has been amended by the Central Bank (Individual Accountability Framework) Act 2023 (the **IAF Act**).<sup>2</sup> The amendments, which were commenced by Order on 19 April 2023 (the **commencement date**),<sup>3</sup> are summarised in the Appendix.

## Updated Central Bank Procedures

The amendments to Part 3 of the 2010 Act have necessitated a number of changes to our regulations and guidance in relation to fitness and probity enforcement procedures. The updated regulations and guidance, which apply from 20 April 2023, are as follows:<sup>4</sup>

- Central Bank Reform Act 2010 (Procedures Governing the Conduct of Investigations) Regulations 2023<sup>5</sup>
- Fitness and Probity Investigations, Suspensions and Prohibitions: Guidance (April 2023)

## Transitional Arrangements

Investigations, and procedures flowing from such investigations, that were already in being on the commencement date, are subject to savings and transitional provisions under Part 7 of the IAF Act. We have explained this in our guidance Fitness and Probity Investigations, Suspensions and Prohibitions: Guide to Transitional Arrangements Arising from the Central Bank (Individual Accountability Framework) Act 2023 (April 2023).<sup>6</sup> We are writing directly to parties involved in ongoing procedures to bring this guidance to their attention.

## The Individual Accountability Framework

The amendments to Part 3 of the 2010 Act are part of a suite of changes that are being introduced in order to give effect to the individual accountability framework (the **IAF**). The Central Bank has opened a three month consultation on certain aspects of the IAF. Further information is available at [www.centralbank.ie/IAF](http://www.centralbank.ie/IAF) should you or your members wish to contribute.

Yours sincerely

Seána Cunningham

A handwritten signature in blue ink, appearing to read 'S. Cunningham'.

**Director, Enforcement and Anti-money Laundering  
Central Bank of Ireland**

<sup>2</sup> See: <https://www.irishstatutebook.ie/eli/2023/act/5/enacted/en/pdf>

<sup>3</sup> Central Bank (Individual Accountability Framework) Act 2023 (Commencement of Certain Provisions) Order 2023 (S.I. No. 176 of 2023).

<sup>4</sup> The updated procedures and the pre-existing procedures are available on the website of the Central Bank: see link at footnote 1.

<sup>5</sup> S.I. No. 190 of 2023.

<sup>6</sup> See link at footnote 1.



## Appendix: Overview of Changes

Change	Summary
<b>Investigation of individuals who formerly performed CF roles</b>	The Central Bank can now investigate an individual who formerly performed a controlled function (CF) role provided that they performed the role within the shorter of the following periods: (a) the period since 19 April 2023 (the commencement date of the relevant statutory provision), and (b) the 6 years before the date on which an investigation is commenced.
<b>Commencement of investigation</b>	A new statutory procedure has been introduced for giving notice of investigations.
<b>Suspension</b>	<p>The limit for the initial duration of a suspension notice issued by the Central Bank has increased from 3 months to 6 months.</p> <p>Suspension notices confirmed by the Central Bank may now be appealed to the Irish Financial Services Appeals Tribunal.</p> <p>The period for which the High Court may extend a suspension notice has increased from 3 months to 6 months.</p> <p>The Central Bank may make subsequent applications to the High Court to further extend the suspension notice.</p>
<b>Investigation report</b>	The statutory procedure for investigation reports has been changed to provide for the preparation and service of a draft report followed by a final report.
<b>Discontinuing an investigation</b>	The Central Bank may discontinue an investigation for reasons to be stated in a notice.
<b>Prohibition</b>	Prohibition notices, which previously took effect on service, will now take effect only when confirmed by the High Court or agreed in writing.
<b>Varying / revoking prohibition</b>	A procedure has been introduced allowing the Central Bank or the subject to apply to the High Court for an order varying or revoking a prohibition notice that was previously confirmed by the Court.
<b>Regime extended to certain holding companies</b>	The fitness and probity regime will (upon the Central Bank issuing regulations) apply to individuals performing certain CF roles in holding companies of certain regulated firms.
<b>Enhanced independence requirements</b>	Certain requirements have been introduced to ensure the independence of an investigation and associated decision-making procedures.



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