



## ***Update on Fitness and Probity for Credit Unions*** **March 2015**

The Fitness and Probity regime for credit unions commenced on 1 August 2013 (for credit unions with total assets > €10m). The second phase of the regime will commence on 1 August 2015 when all remaining credit unions come within the scope of Fitness and Probity for credit unions. On 1 August 2015, additional fitness and probity requirements will apply to those credit unions that are also authorised as retail intermediaries, for the part of their business that relates to being a retail intermediary.

Please find below a number of important updates regarding this second phase of the Fitness and Probity regime. The topics covered are:

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## 1. OVERVIEW OF FITNESS AND PROBITY 2015

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On 1 August 2015, the second phase of Fitness and Probity for credit unions commences when credit unions with assets of €10m or less come within the scope of the Fitness and Probity regime for credit unions. Fitness and Probity will be fully implemented for these credit unions by 1 August 2016. Further information on Fitness and Probity for credit unions with total assets of €10m or less is set out in Section 2 below.

From 1 August 2015, additional fitness and probity requirements will apply to credit unions that are authorised as retail intermediaries, for the part of their business that they undertake as a retail intermediary. This regime will also be fully implemented by 1 August 2016. These 2015 Regulations will be effective from 1 August 2015. Further information on Fitness and Probity for credit unions that are also authorised as retail intermediaries is set out in Section 3 below.

Taking account of the above changes, the Central Bank have published the following updated documents:

- Standards of Fitness and Probity for Credit Unions (Standards);
- Guidance on Fitness and Probity for Credit Unions (Guidance); and
- Fitness and Probity for Credit Union Frequently Asked Questions (FAQ).

Some other additional changes which have been made to the Standards, Guidance and FAQ that apply to all credit unions are set out in Section 4 below.

## 2. FITNESS AND PROBITY FOR CREDIT UNIONS WITH TOTAL ASSETS OF €10M OR LESS

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### 2.1 Commencement of Fitness and Probity for credit unions with total assets of €10m or less

The second phase of the fitness and probity regime for credit unions will commence on 1 August 2015, when credit unions that have total assets of €10 million or less come within the scope of the regime. The Fitness and Probity Regulations for all credit unions ([2013 Regulations](#)) designate the pre-approval controlled functions (PCFs) and controlled functions (CFs) positions that apply to all credit unions. Transitional arrangements on the implementation of the Fitness and Probity regime will apply as follows:

- (a) From 1 August 2015, the Standards shall apply to persons performing CFs which are also prescribed as PCFs with effect from that date;
- (b) These Standards will apply to persons appointed to CFs (other than PCFs) after 1 November 2015 from the date that such appointment takes effect. This is to include new offers of employment and internal transfers / promotions to a CF role after that date. Accordingly, where a person already occupying a CF is transferred after 1 November 2015 to another CF, the Standards shall apply to that person from the date of commencement of the new CF;
- (c) The Standards shall apply to all persons occupying CFs as at 1 August 2016.

## 2.2 CF and PCF roles for credit unions

There are two CFs prescribed in the 2013 Regulations. These are:

- (i) A function in relation to the provision of a financial service which is likely to enable the person responsible for its performance to exercise a significant influence on the conduct of the affairs of a credit union (CUCF-1);
- (ii) A function in relation to the provision of a financial service which is related to ensuring, controlling or monitoring compliance by a credit union with its relevant obligations (CUCF-2).

There are also two PCFs prescribed in the 2013 Regulations:

- (iii) the office of chair of the board of the credit union (CUPCF-1); and
- (iv) the office of manager of the credit union (CUPCF-2).

A person performing a PCF role must be pre-approved by the Central Bank in order to take up that role. This will require the submission of an Individual Questionnaire via the Online Reporting System. Approval should be sought and received from the Central Bank in advance of the AGM as a PCF cannot be elected to the position of chair if they have not been preapproved by the Central Bank.

Please see Section 6 of the [Guidance](#) for further detail on the approval process for PCFs and Section 8 for information on the process for electing CFs / PCFs.

## 2.3 Obligations on the credit union

The [Standards](#) require a person performing a CF or PCF role to be:

- competent and capable
- honest, ethical and to act with integrity; and
- financially sound.

The credit union must satisfy itself on reasonable grounds that a person performing a CF or PCF role complies with the Standards. The credit union is therefore expected to conduct due diligence on a person's compliance with the Standards. The credit union must also get written confirmation from those persons performing CFs and PCFs that they will comply with the Standards. Please refer to Section 7 of the [Guidance](#) for further information on due diligence.

## 2.4 Guidance and other supporting material

The Central Bank has published non-statutory [Guidance on Fitness and Probity for credit unions](#). The Guidance contains information on key areas such as what is a CF/PCF, the approval process for PCFs and how a credit union should conduct due diligence. The Central Bank has also published a [FAQ](#) on Fitness and Probity for credit unions.

There is also a dedicated [Fitness and Probity for credit unions section](#) on the Central Bank website. This contains all key information on Fitness and Probity for credit unions and a 'Contact Us' page. It also contains

links to other supporting documentation on areas such as how to complete and submit an Individual Questionnaire and ongoing compliance.

### **2.5 PCF In Situ Return**

Credit unions with assets of €10m or less will be required to submit a PCF In Situ Return by 1 December 2015. This return requires the credit union to submit details of persons holding PCF roles in that credit union as at 1 August 2015. Further information on the PCF In Situ Return can be found on the Central Bank's website [here](#). The Central Bank will also contact credit unions with assets of €10m or less with further information on how to submit this return.

## **3. FITNESS AND PROBITY FOR CREDIT UNIONS THAT ARE ALSO AUTHORISED AS RETAIL INTERMEDIARIES**

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### **3.1 Commencement of Fitness and Probity for credit unions that are also authorised as retail intermediaries**

From 1 August 2015, credit unions that are also authorised as retail intermediaries will be subject to additional fitness and probity requirements **in relation to the part of their business that relates to being a retail intermediary**. The Central Bank have published on its website new Regulations in relation to Fitness and Probity for credit unions that are also authorised as retail intermediaries ([2015 Regulations](#)). The 2015 Regulations prescribe the PCFs and CFs positions that apply to credit unions that are also authorised as retail intermediaries. Transitional arrangements on the implementation of the Fitness and Probity regime for the part of the business that the credit union undertakes as a retail intermediary will apply as follows.

- (a) From 1 August 2015, the Standards shall apply to persons performing CFs which are also prescribed as PCFs with effect from that date;
- (b) These Standards will apply to persons appointed to CFs (other than PCFs) after 1 November 2015 from the date that such appointment takes effect. This is to include new offers of employment and internal transfers / promotions to a CF role after that date. Accordingly, where a person already occupying a CF is transferred after 1 November 2015 to another CF, the Standards shall apply to that person from the date of commencement of the new CF;
- (c) The Standards shall apply to all persons occupying CFs as at 1 August 2016.

### **3.2 CF and PCF roles for credit unions that are also authorised as retail intermediaries**

The PCF positions designated are the same as the current PCF positions for credit unions (CUPCF-1 Chair and CUPCF-2 Manager).

The CF positions designated include the same CFs that apply to all credit unions (CUCF-1 and CUCF-2). There are also an additional nine CF roles (CUCF-3 to CUCF-11) that will also apply to credit unions that are also authorised as retail intermediaries. CUCF-3 to CUCF-9 are member facing functions that are involved in giving advice on a financial service, arranging or offering to arrange a financial service, determining the

outcome of a claim arising under a contract of insurance or reinsurance and functions involved in the management or supervision of these member facing functions. They also include functions adjudicating on complaints relating to the provision of a financial service and certain persons referred to in the European Communities (Insurance Mediation) Regulations 2005. CUCF-10 and CUCF-11 are functions that deal with property of members/the credit union.

The CF and PCF roles are set out in Schedule 1 and 2 of the [2015 Regulations](#). For further information on the additional CF roles CUCF3 – CUCF-11 please refer to Section 12 of the [Guidance](#).

### **3.3 Additional Information**

The Standards, Guidance and FAQ have been updated to reflect the changes arising from these additional requirements for credit unions that are also authorised as retail intermediaries.

A dedicated website page in the Fitness and Probity for Credit Unions section of the Central Bank's website has also been created and contains further information on how fitness and probity applies to credit unions that are also authorised as retail intermediaries. This page can be accessed [here](#).

## **4. OTHER FITNESS AND PROBITY UPDATES FOR ALL CREDIT UNIONS**

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Some other additional changes that apply to all credit unions have been made to the Standards, Guidance and FAQs. Further information is provided below.

### **4.1 Updates to the Standards**

Section 1.6 (b) of the Standards has been updated in relation to persons excluded from the scope of the Standards, to reflect that the outsourcing exclusion applies only where the other financial service provider (other than a certified person within the meaning of section 55 of the Investment Intermediaries Act, 1995) is regulated for a similar business to that conducted by the credit union. This change ensures that the Standards are consistent with those of the general Fitness and Probity regime that applies to all other regulated financial service providers.

Please refer to section 1.3 of the [Standards](#) for a schedule detailing all amendments made to the Standards.

### **4.2 Updates to the Guidance**

Changes in the Guidance that are applicable to all credit unions include updates to reflect the introduction of new requirements for credit unions in sections 53, 55A and 76N of the Credit Union Act, 1997 (and includes other information that was previously communicated to credit unions via updates issued in October 2013 and July 2014). These amendments relate to guidance on:

- governance requirements that should be considered when carrying out due diligence for members of the board of directors, the chair and the board oversight committee (Section 8); and
- informing the Central Bank following a PCF's election / appointment / resignation (Section 10).

Please refer to the Explanatory Memorandum and Appendix 4 in the [Guidance](#) for further details on these and all other changes in the Guidance.

#### 4.3 Updates to the FAQ

The [FAQ](#) has been updated to reflect changes made to the Standards and Guidance.

#### 4.4 Updates to the Website

The 2015 Regulations, updated Standards, Guidance and FAQ have all been published in the Fitness and Probity Chapter of the Credit Union Handbook and in the Fitness and Probity for credit unions section of the Central Bank website.

To further assist credit unions, the following changes have also been made to the Fitness and Probity section of the Central Bank website:

- there is a new dedicated page containing additional information on fitness and probity for credit unions that are also authorised as retail intermediaries;
- the existing pages have been updated to reflect the implementation of fitness and probity for credit unions with assets of €10m or less; and
- the 'Contact Us' page has been enhanced to include additional contact details for fitness and probity related policy queries (see below).

## 5. CONTACT DETAILS

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The following contact details have been placed on the 'Contact Us' page of the Fitness and Probity section of the Central Bank website.

#### **Fitness and Probity for Credit Unions Policy Queries\***

Registry of Credit Unions  
Central Bank of Ireland  
Dame Street  
Dublin 2  
Tel: +353 1 224 4621  
Email: [rcu@centralbank.ie](mailto:rcu@centralbank.ie)

\*User queries in relation to the Fitness and Probity Regulations, Standards and Guidance for credit unions.

#### **Fitness and Probity for Credit Unions authorised as Retail Intermediaries Queries**

Consumer Protection: Policy & Authorisations  
Central Bank of Ireland  
Dame Street  
Dublin 2  
Tel: +353 1 224 4570  
Email: [retailintermediaries@centralbank.ie](mailto:retailintermediaries@centralbank.ie)

Policy queries on Fitness and Probity in relation to the retail intermediary part of a credit unions' business can be addressed to the e-mail addresses provided below:

Minimum Competency queries: [competency@centralbank.ie](mailto:competency@centralbank.ie)

Other queries: [retailintermediaries@centralbank.ie](mailto:retailintermediaries@centralbank.ie)

