



Update on Fitness and Probity for Credit Unions **July 2014**

The Fitness and Probity regime for credit unions has been in place since 1 August 2013 (for credit unions with total assets > €10m). The [‘Fitness and Probity – Credit Unions’](#) section of the Central Bank website contains information on the Fitness and Probity regime for credit unions including regulations, standards, guidance and other supporting information.

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

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1. 1 AUGUST 2014 – APPLICATION OF FITNESS AND PROBITY TO ALL CFS

Credit unions are reminded that from 1 August 2014, the [Fitness and Probity Standards for Credit Unions](#) (Code issued under Section 50 of the Central Bank Reform Act 2010) (the “Standards”) will apply to all persons performing a Controlled Function (“CF”) in credit unions with total assets of greater than €10 million.

By this date, credit unions must ensure that they are satisfied on reasonable grounds that all persons performing a CF in the credit union comply with the Standards and that the persons have agreed to abide by the Standards. This is a statutory obligation for all credit unions with total assets of greater than €10 million.

Credit unions should ensure that they have undertaken due diligence for all CFs in advance of 1 August 2014. Credit unions should also update their records of persons who are performing CFs to include the CFs from 1 August 2014 and maintain a record of the due diligence undertaken on these CFs. Sections 7 and 10 of the [‘Guidance on Fitness and Probity for Credit Unions’](#) provide more detail in this regard.

2. UPDATING PCF INFORMATION FOLLOWING ELECTION/APPOINTMENT/ RESIGNATION

2.1 Election/Appointment

Credit unions are reminded that following approval by the Central Bank of the applicant under the Fitness and Probity regime, the proposing credit union must notify the Central Bank via the Online Reporting System (“ONR”) of the date that the PCF holder(s) have taken up their role - the effective start date (in the case of a manager) or the election date, i.e. the AGM (in the case of a chair).

The ONR must also be updated to confirm where an applicant will not take up the role once this becomes clear to the credit union (i.e. where a person approved for the role of chair by the Central Bank is subsequently not elected at the AGM).

Further information on how this information can be updated is provided in the [PCF Information Guidance/Instructions](#)

2.2 Resignation

Credit unions must also notify the Central Bank without delay of the resignation of an individual who has been approved as a PCF. Resignation notifications for individuals approved as PCFs must be submitted through the ONR.

Further information on how to submit a PCF resignation notice is provided in the [PCF Resignation Process Guidance/Instructions](#).

The functionality to update PCF Information, including details of the appointment of PCFs and to submit a PCF resignation notification has now been restored on the ONR. We would like to apologise for any inconvenience caused to credit unions while this functionality was unavailable.

3. APPOINTMENT OF PCFs BY CREDIT UNIONS

Section 23 of the Central Bank Reform Act, 2010 (the “2010 Act”) has been amended by the Central Bank (Supervision and Enforcement) Act, 2013 as follows:

Previous wording: “A regulated financial service provider shall not offer to appoint a person to perform a pre-approval controlled function unless the Bank has approved in writing the appointment of the person to perform the function. An offer made in contravention of this subsection does not create any contractual obligation.”

Current wording: “A regulated financial service provider shall not appoint a person to perform a PCF unless the Bank has approved in writing the appointment of the person to perform the function.”

Updates have been made to the Fitness and Probity documentation to reflect this legislative amendment as follows:

- Introduction to the [Fitness and Probity chapter of the Credit Union Handbook](#) at page 3
- Section 6.4 of the [‘Guidance on Fitness and Probity for Credit Unions’](#)

In accordance with Section 23 of the 2010 Act, credit unions must ensure that no individuals are appointed to a PCF position unless the Central Bank has approved the application in writing. Breach of Section 23 of the 2010 Act is a prescribed contravention. If it is suspected that a prescribed contravention has occurred, this may lead to an investigation by the Central Bank’s Enforcement division.

4. PERSONS NOT ELIGIBLE TO BECOME A DIRECTOR – EFFECTIVE FROM 3 MARCH 2014

As stated in the communication to credit unions on 24 February 2014, Section 53(10) of the Credit Union 1997 Act sets out the categories of persons who are not eligible to become a director of a credit union. These exclusions apply from 3 March 2014.

The categories of persons not eligible to become a director of a credit union include:

1. An employee of any credit union;
2. A voluntary assistant or member of the board oversight committee of the credit union;
3. A director of any other credit union;
4. The auditor of the credit union or a person employed or engaged by that auditor;
5. A solicitor or other professional adviser who has been engaged by or on behalf of the credit union within the previous 3 years;
6. A person who is a spouse or civil partner, parent, sibling or child of a director, board oversight committee member or employee of that credit union.

When carrying out due diligence for proposed directors (CUCF-1) or the proposed chair (PCF-1), credit unions should ensure that the proposed candidate does not fall within the list of ineligible persons.

5. RETURN OF IQS TO CREDIT UNIONS WHERE NO AGM IS SCHEDULED

Credit unions are requested not to submit Individual Questionnaires (IQs) to the Central Bank where an AGM has not been scheduled or more than 2 months in advance of an AGM being held. Any IQs submitted before an AGM has been scheduled or earlier than 2 months before an AGM is held will be returned to the credit union. This is to ensure that the assessment of fitness and probity is based on the most current information. The return of the IQ will have no impact or bearing on any subsequent IQs received from the credit union and the return of the IQ is no reflection of the Central Bank's views on the particular application.

Updates have been made to the following Fitness and Probity documentation to reflect this change:

Page 15 of the '[Fitness and Probity Individual Questionnaire Application Guidance for Credit Unions](#)' and Section 8.3.3 of the '[Guidance on Fitness and Probity for Credit Unions](#)'

Once an AGM has been scheduled, credit unions should submit IQs in sufficient time to allow the Central Bank to process the application prior to the AGM. The standard processing time for IQs is 15 business days however it is advisable that the credit union allow additional time for any interview and/or request for further information from the Central Bank to the individual proposed/credit union as may be necessary.

6. GUIDANCE ON SECTION 8.1 OF THE IQ: CURRENT SHAREHOLDINGS IN FINANCIAL AND/OR OTHER ENTITIES

Section 8.1 of the IQ requests information regarding any current ownership or beneficial ownership of shares in any financial or other entities where shareholdings are 10% or above.

Guidance on the type of information that should be included in Section 8.1 has been provided in [the Fitness and Probity Individual Questionnaire Application Guidance for Credit Unions](#) at page 11.