



## ***Update on Fitness and Probity for Credit Unions*** **October 2013**

The Fitness and Probity Regime for credit unions has been in place since 1 August 2013 (for credit unions with 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 regime. These updates include feedback arising from the Individual Questionnaire (IQ) applications received to date. The topics covered are:

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## 1. INDIVIDUALS REQUIRED TO COMPLETE AND SUBMIT AN IQ

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From 1 August 2013, the following individuals must obtain pre-approval from the Central Bank **before** they take up their position

- any person that wishes to seek election to the position of chair; and
- any person a credit union wishes to appoint to the position of manager.

### **Chair**

This includes in situ chairs that are subject to re-election at the board meeting following the next AGM.

Credit unions should ensure that IQs for the role of chair are submitted sufficiently in advance of the AGM. As per the [Fitness and Probity Service Standards](#), the turnaround time for a standard IQ is 15 business days. However, this turnaround time does **not** apply where further information or an interview is required as part of the application process.

### **Manager**

From 11 October 2013, all credit unions are required to have a manager. Credit unions must obtain approval from the Central Bank before appointing a manager. In situ managers (i.e. managers in place at 1 August 2013) are not required to obtain pre-approval from the Central Bank unless they are subject to re-appointment.

## 2. IMPORTANT POINTS TO NOTE WHEN COMPLETING AND SUBMITTING AN IQ

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The '[Fitness and Probity – Credit Unions](#)' Section on the Central Bank website contains information, including a guidance manual and training videos, to assist credit unions and applicants in completing and submitting an IQ. This information is available at the following [link](#).

Based on a review of the IQs received to date, the following important points should also be noted:

### **2.1 Has the applicant included details of their Experience, Qualifications and Training?**

Section 3 of the IQ relates to an applicant's Professional & Other Relevant Experience, Educational Qualifications, Professional Memberships and Relevant Training. This section provides an applicant with the opportunity to detail any necessary qualifications, experience and training to demonstrate that they have the competence and capacity appropriate to the relevant Pre-Approval Control Function (PCF) applied for. Applicants should ensure they include all relevant details here.

*Applicants should include details of any relevant credit union experience (e.g. member of the board of directors of a credit union) in Section 3.1 Professional and Other Relevant Experience.*

Where an applicant does not provide sufficient information in the IQ to support an assessment of their Fitness and Probity, this will result in requests from the Central Bank for further information and will impact on the processing time for the IQ. In such cases, the target processing time for a standard IQ (15 business days) contained in the Service Standards will not apply.

## **2.2 Has the credit union included details of the applicant's competence and capability?**

Question 12.6 of the IQ requires details from the proposing credit union of why the applicant is competent and capable to carry out the PCF(s) applied for, outlining the basis for the recommendation, including financial and all other relevant experience and qualifications that the applicant holds. Credit unions should ensure they include sufficient detail to support the credit union's determination that the person is competent and capable.

## **2.3 Question 1.9 – Will you, as chair, be subject to the Minimum Competency Code (MCC)?**

If a credit union also has an authorisation as a retail intermediary, the MCC may be relevant to the applicant.

In most cases, it is anticipated that the chair of the credit union would not be subject to the MCC as they are not likely to perform functions that fall within the scope of the MCC. See Section 1.2 and Appendix 2 of the [MCC](#) for details of persons that are subject to the MCC.

## **2.4 Are you eligible to be chair under section 55A(4) and 55A(6) of the Credit Union Act, 1997?**

On 11 October 2013 the Minister for Finance commenced the majority of the governance and prudential requirements in Credit Union and Co-operation with Overseas Regulators Act 2012 ("the 2012 Act") which were inserted into the Credit Union Act, 1997 ("the 1997 Act"). This included the insertion of 55A(4) and 55A(6) in the 1997 Act which set out requirements on eligibility for election to the position of chair.

### **Section 55A(4)**

Under section 55A(4) of the 1997 Act, any person that has served as an employee or acted in a management capacity in the credit union in the previous 5 years is not eligible for election to the position of chair (acting in a management capacity does not include being a member of the board of directors or board oversight committee). See Question 8 of the [Implementation of the New Governance and Prudential Requirements for Credit Unions Frequently Asked Questions](#).

### **Section 55A(6)**

Under section 55A(6) of the 1997 Act, any person that has served four consecutive terms as chair is not eligible to be chair. See Question 7 of the [Implementation of the New Governance and Prudential Requirements for Credit Unions Frequently Asked Questions](#).

### **Relevant Time Period for Section 55(A)(4) and Section 55(A)(6)**

The time referred to in Section 55A(4) and Section 55A(6) includes time served before 11 October 2013. Credit unions should ensure that an applicant is not ineligible to be chair under these requirements, or any other legal requirements, prior to submitting an IQ to the Central Bank.

## **2.5 Are you an In Situ Manager?**

Any manager that was in situ at 1 August 2013 is not required to submit an IQ to the Central Bank for pre-approval unless they are subject to re-appointment.

### **3. UPCOMING DATES FOR FITNESS AND PROBITY IN 2013: 1 NOVEMBER AND 1 DECEMBER**

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#### **3.1 New Controlled Functions (CFs) - 1 November 2013**

From 1 November 2013, all new CFs are subject to the Fitness and Probity regime for credit unions.

This includes new offers of employment and internal transfers / promotions which may involve a CF after that date. Where a person already occupying a CF is re-elected or re-appointed to the same CF position (e.g. director of the board other than chair), this is not considered to be a new CF.

From 1 November 2013, a credit union must satisfy itself on reasonable grounds that a person complies with the Standards of Fitness and Probity and obtain the person's agreement to comply with the Standards of Fitness and Probity **before** appointing the person to a new CF.

See the [Guidance on Fitness and Probity for Credit Unions](#) for further details.

#### **3.2 PCF In Situ Return - 01 December 2013**

All credit unions subject to the Fitness and Probity regime are required to submit the In Situ PCF Return via the Central Bank's Online Reporting System by 1 December 2013. This should list all In Situ PCF Holders and confirm that the credit union has undertaken due diligence and obtained confirmation of agreement to abide by the Standards in relation to those PCF Holders that were in situ at 1 August 2013.

The 'Fitness and Probity – Credit Unions' section on the website contains information, including a guidance document and quick reference guides, to assist credit unions in completing and submitting the PCF In Situ Return. This information is available at the following [link](#).

### **4. DETAILS OF APPOINTMENT/RESIGNATION TO BE SUBMITTED TO THE CENTRAL BANK**

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#### **4.1 Appointment of a PCF**

Credit unions must submit notification of start date/election date for individuals that have received approval to perform a PCF through the Central Bank's Online Reporting System. Details of a role not being taken up or an individual not being elected must also be submitted.

The 'Fitness and Probity – Credit Unions' section on the website contains information, including a [guidance document](#) and quick reference guides, to assist credit unions in submitting this information. This information is available at the following [link](#).

#### **4.2 Resignation of a PCF**

Credit unions must 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 Central Bank Online Reporting System.

The 'Fitness and Probity – Credit Unions' section on the website contains information, including a [guidance document](#) and quick reference guides, to assist credit unions in submitting this information. This information is available at the following [link](#).

Where an in-situ PCF resigns, the credit union should notify their supervisory team in the Central Bank of the resignation without delay. Please contact your supervisory team by e-mailing [rcu@centralbank.ie](mailto:rcu@centralbank.ie).

## **5. UPDATES TO THE GUIDANCE ON FITNESS AND PROBITY FOR CREDIT UNIONS**

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The Guidance on Fitness and Probity has been updated to reflect the commencement on 11 October 2013 of the majority of the governance and prudential requirements in the 2012 Act. The updated guidance is available at the following [link](#).