



Banking & Payments
Federation **Ireland**

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Consultation Paper 154

*Consolidated Guidelines in respect of the Central Bank
Administrative Sanctions Procedure*

*Amended in connection with the Central Bank (Individual
Accountability Framework) Act 2023*

14 September 2023

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Introduction

BPFI welcomes the opportunity to contribute to the CBI's Consultation Paper CP154 – Consolidated Guidelines in respect of the Central Bank Administrative Sanctions Procedure – Amended in connection with the Central Bank (Individual Accountability Framework) Act 2023 (the "Act").

BPFI made a submission on the CBI's Consultation Paper CP153 - Enhanced governance, performance and accountability in financial services Regulation and Guidance under the Act on 13 June 2023.

In our submission on CP153, we confirmed that BPFI members have been working with stakeholders over the past number of years to improve corporate governance in the banking sector in Ireland. We are supportive of the introduction of the Individual Accountability Framework (the "IAF"), and members agree that the IAF, when finalised, will benefit financial services, customers, the sector more broadly, and contribute to further enhancements to the culture of accountability in firms, bringing further clarity for individuals in respect of the standards of conduct which they are expected to meet.

We have provided detailed responses to CP154 below.

ASP Investigations – Questions 1 to 5

Q1. Do the Central Bank draft ASP Guidelines assist you in understanding the modified ASP investigation process now codified in statute?

The ASP Guidelines are helpful, however there are a number of matters which require clarification, as set out below in responses to questions 1-26.

Timing and application of changes:

- CP154 states that pursuant to section 95 of the Act, the amended disqualification sanction, and the new sanction (direction imposing conditions) for individuals cannot be imposed where a prescribed contravention or participation in a prescribed contravention occurred prior to the commencement date. Clarity is required as to the treatment which will be applied to scenarios where a prescribed contravention/ participation in a prescribed contravention occurred before the commencement date (19 April 2023) but the prescribed contravention has not been fully remediated as at the commencement date.
- Unlike investigations which are carried out in respect of fitness and probity, which have a time limit of six years from the date of commencement of the latest legislative changes, there is no time period or limitation on the commencement of an ASP investigation in respect of an individual, including in circumstances where they have left a firm or the regulated banking industry. Having regard to the differences between an investigation of a firm and an investigation of an individual, including requirements for the retention of an individual's emails and other records, clarity is requested as to the CBI's intentions in respect of the treatment of time periods for individual investigations.

Interpretation:

- The ASP Guidelines state at paragraph 15: “A reference to the commission of a prescribed contravention, or any variation or derivation of that term, includes the ongoing or past commission by a firm or an individual of a prescribed contravention. In the context of an individual, the commission of a prescribed contravention includes the ongoing or past participation by an individual in the commission by a firm of a prescribed contravention.” Having regard to the use of the relevant terms throughout the ASP Guidelines and the Act, and the commencement dates for the application of Conduct Standards and the Duty of Responsibility, clarity (and potentially further development) is required in respect of the scope of these definitions. The current drafting suggests that where investigations and inquiries are commenced after 19 April 2023, they will be subject to the new ASP legal requirements and ASP Guidelines, and these can be in respect of the commission by a firm or individual of a prescribed contravention occurring before 19 April 2023. Based on the provisions of the Act, firms do not consider that this is the intended outcome and clarity is requested as to the CBI’s intentions.
- It is noted that the ASP in respect of individuals is separate to and may in theory operate alongside a separate investigation of an individual in respect of fitness and probity, under the Central Bank (Reform) Act 2010 (the “2010 Act”) and the separate CBI guidance on fitness and probity investigations. Having regard to the crossover between matters which may be the subject of an ASP as against an individual (for example in respect of an allegation of a breach of a particular Conduct Standard) and an investigation under the 2010 Act in respect of fitness and probity, clarity is requested to be included in the ASP Guidance as to how both processes will be run, to the extent that there is an intention to use both investigation mechanisms.

Q2. Do the draft ASP Guidelines assist you in understanding the role of the RAO and the associated functions and responsibilities in respect of ASP investigations?

Use of discretion: We would welcome details from the CBI on the criteria to be applied when the Responsible Authorised Officer (“RAO”) is exercising her/ his discretion and if the exercise of these discretions can be challenged.

Reasons for decisions on report drafting: In addition, if the RAO does not amend a draft Investigation Report following receipt of submissions by the Subject, will the RAO provide reasons as to why the draft has not been amended to take account of the Subject’s submissions.

Consideration of information: In respect of the statement that the RAO will consider information and/or documents that support or undermine the commission of the prescribed contravention (paragraph 94 of the draft ASP Guidelines), some firms have queried does this

"undermine" mean that it is the RAO's view that the information or documents demonstrate that the prescribed contravention was not in fact committed?

Use of terms: We suggest that the Guidelines should refer to "suspected" prescribed contraventions in the Notice of Investigation.

Please also see response to Question 3 below.

Q3. Do the draft ASP Guidelines assist you in understanding the proposed approach to the issuing of the Notice of Investigation, what it contains and how it may be amended?

Powers of the RAO: In respect of paragraph 52 ,“circumstances could arise where the Responsible Authorised Officer may not consider it appropriate to provide copies of material with a Notice of Investigation. For example, where the material relates to a protected disclosure or is subject to professional secrecy, legal professional privilege or data protection requirements; or where providing copies might prejudice an ongoing criminal or other investigation”, and 82 ,“The Responsible Authorised Officer will determine whether or not information and/or documents are relevant and whether they will be relied upon for the purposes of the Draft Investigation Report”, noting the requirements of fair procedures and the significance of the potential outcomes for firms and individuals where suspected prescribed contraventions are alleged, it is critical that where information is being relied on by the CBI to support an allegation of a suspected prescribed contravention, this information is disclosed to the firm/individual, to enable them to respond to it.

Where information on which a suspected prescribed contravention is based is proposed to be withheld from a firm/individual by the CBI, the fact of the information’s existence, the nature of the information (for example, information from an (unnamed) employee of the firm; a third-party source; a separate investigation) and the reason for its withholding is described to the firm/individual in the relevant Notice of Investigation/Draft or Final Investigation Report.

Notice of the investigation delivery: We would welcome clarification on how Notice of the Investigation will be provided.

Q4. Do the draft ASP Guidelines assist you in understanding the Central Bank’s proposed approach to disclosure?

Discontinuation of prescribed contraventions:

- Where an investigation is discontinued in respect of any individual, clarity is required as to:
 - the effect of the discontinued investigation on the individual’s assessment under any future PCF applications;

- what records, if any, of the discontinued investigation are held on or associated with the PCF records held in the CBI in respect of that person, and if held, for how long;
- whether the matter is considered to affect any assessment of the individual for the purpose of fitness and probity certification.

Firms and PCF/CF holders have disclosure obligations in respect of regulatory matters and must ensure that information provided is correct and complete. Where an investigation is discontinued in respect of an individual or a firm, clarity is required as to whether the discontinuation is to be considered the end of the matter, or whether any revival of that investigation will be considered to be a continuation of a previous investigation. It is assumed having regard to the legal effect of a discontinuation that any revival would be considered a new investigation and once notice of discontinuation issues that investigation can no longer be considered to be active.

Discontinuation of certain suspected prescribed contraventions only: We note that that where the CBI discontinues an investigation, the RAO is obliged to give one or more reasons for that discontinuance (paragraph 76 of the draft ASP Guidelines). However, where an investigation of a particular prescribed contravention is discontinued but the investigation continues, then the RAO is not required to give a reason for the discontinuance of that aspect of the investigation (paragraph 77 of the draft ASP Guidelines). This appears to be inconsistent. Noting that there can be legal disclosure obligations on individuals and firms in respect of the scope of an ongoing investigation in particular circumstances, where particular prescribed contraventions have been discontinued, the rationale for this is relevant information in this context. Can the CBI look at this point and clarify the position.

Investigation Report: Paragraph 83 of the ASP Guidelines references that submissions in response to a Draft Investigation Report will be expected within 7 days (unless otherwise determined by the RAO). Firms note that having regard to the internal governance process for a firms' response (which will include the requirement for firms to take advice, consult with appropriate internal stakeholders and allow for careful assessment and determination by Board members), together with firms' experience of the complexity of issues which tend to give rise to an ASP, and the materiality of the potential outcomes arising from the report, 7 days is not considered to be a realistic baseline timeframe for responses. While acknowledging the potential for an RAO to provide for additional time in their discretion and following a formal request from a firm for additional time, firms consider that an extension request beyond 7 days would likely be necessary in all cases and this will result in additional processes for both the firms and the CBI. On this basis, firms request that the baseline period of 7 days be extended. This will minimise the requirement for extension requests and enable a more efficient overall time plan for the ASP (for both firms and the CBI).

Process map: Firms request that the process map on page 12 of the ASP Guidelines be amended to clarify that the Draft Investigation Report may be changed (consistent with paragraph 91).

Q5. What are your views in respect of the obligations and expectations regarding confidentiality described in the draft ASP Guidelines? ASP Inquiries

Process for legally privileged information: The process outlined in Part 13 is acknowledged. Firms request that the ASP Guidelines reflect the following, to assist the efficiency of the processing and delivery arrangements for legally privileged information:

(i) that the form of template for schedules in respect of privileged information includes the specifics of the CBI's requirements for the information to be provided, so that there is certainty as to the CBI's expectations and to ensure the efficiency of the privilege schedule process. For example, specifying the fields of metadata required and the specific details expected for the authorships/recipients/nature of the documentation in respect of which legal privilege is asserted;

(ii) that where the CBI intends to require specific information about privileged information in respect of which the right to legal privilege is asserted (and so the information is withheld) or where the firm has elected to waive legal privilege (and therefore submit the information to the CBI), those requirements are set out in the initial statutory request which seeks categories of information. This enables the initial collation and review of documentation by a firm/its advisers to incorporate the review to capture the CBI's requirements for privilege schedules and will avoid the need to duplicate reviews of the same documents and facilitate a more efficient delivery of information to the CBI.

This would allow for the review for the purpose of addressing CBI's privilege schedule requirements to take place during, rather than after, the initial collation and review of documents by the firm/ its advisers. Removing the need for a duplicate review of documents in this way would facilitate a more efficient delivery of information to the CBI.

(iii) that where the CBI intends to require that firms produce redacted forms of privileged documentation or extracts of information to reflect legal privilege principles, this is specified in the initial statutory request which seeks categories of information. As set out above, this avoids the need for duplicate reviews and processing of the same documentation by a firm/its advisers and facilitates a more efficient delivery of information to the CBI;

(iv) noting the likelihood of the use of disclosed information for the purpose of interviews with past or current staff of a firm, firms request that the ASP Guidelines reference this. Firms acknowledge that where a past or current staff member was previously a recipient of the relevant legally privileged information in advance of an investigation, there is no prejudice to the privileged status by that information being circulated again to that staff member and firms consider that this principle of legal privilege should be reflected in the ASP Guidelines. To the extent that the CBI envisages disclosure to such persons being captured under the new disclosure agreements referenced in the ASP Guidelines, firms request that this be referenced in the ASP Guidelines. In those circumstances, firms note that there may be a requirement for multiple disclosure agreements as an investigation progresses; and

(v) that where the CBI envisages that any particular person is required to enter into a disclosure agreement on behalf of a firm (for example a requirement that a PCF holder or

the CEO of a firm execute the agreement) this is specified in the ASP Guidelines so that firms can make the appropriate internal governance arrangements and reflect this in their internal ASP processes and allocations of responsibilities.

Scope of restriction on sharing of information:

The prohibition on disclosure and obligation of confidentiality throughout the ASP Guidelines are welcomed, as protections for all parties. The exception for legal representatives set out in the Act and the ASP Guidelines is noted. Noting that it is acknowledged that the confidentiality obligations do not restrict sharing of information with a legal representative, we understand this to include sharing of information in respect of any investigation with internal legal advisers as well as external legal advisers in the case of investigations of both individuals and firms.

Having regard to the fact that there may be other external firms/individuals with whom a firm/individual may be obliged to share information, or whose input is necessary to enable a firm/individual to engage with the ASP investigation effectively (for example, auditors, accountants, insurers, forensic providers and external consultants or service providers / former employees who have been involved in a particular matter which is the subject of an ASP investigation), firms request that this is acknowledged in the ASP Guidelines and that consent for the sharing of information with these parties will be granted on a timely basis to enable firms/individuals to progress with the collation of information necessary to respond to the CBI.

ASP Inquiries – Questions 6 to 9

Q6. Do the draft ASP Guidelines assist you in understanding the revised roles at inquiry?

Appointments: We note that the Regulatory Decisions Panel will comprise both externally recruited experts and CBI staff.

We would welcome detail and an explanation around the criteria for the appointment of individuals to the Regulatory Decisions Panel.

Conflicts: Regarding CBI staff appointments as Inquiry Members, how it is proposed that independence and conflicts of interest will be managed in this context.

Sole member: We note that where a committee of Inquiry Members is appointed then a legally qualified person will act as the Inquiry Chair (paragraph 120 of the draft ASP Guidelines). In a situation where a sole Inquiry Member is appointed who will act as Chair (paragraph 119 of the draft ASP Guidelines), also, it would be helpful to understand if there will be a requirement that they are a legally qualified person.

Third parties: In respect of the statement in the guidelines: *“The 1942 Act does not expressly provide for any third parties to have a role at an ASP inquiry. The draft ASP Guidelines propose that a firm who believes that it has an interest in the subject matter of an inquiry may apply to the inquiry member(s) to request a role in the inquiry. Such an application could be made where the inquiry subject is an individual who is or was performing a controlled function in that firm. Whether the firm will be afforded any role at an inquiry in which they are not the subject and the nature of any such role will be at the*

absolute discretion of the inquiry members”, firms request clarity be included in the ASP Guidelines as to:

- the third party’s entitlement to receive documentation and make submissions;
- the type of third party envisaged to be granted rights to have a role, for example, a large category of persons could be considered to have an interest in the subject matter of an inquiry, including an employing firm, a third party involved in a dispute/litigation with the subject of the investigation, customers alleged to be affected by the matter giving rise to the inquiry. It is important that firms and individuals have clarity on what precisely an inquiry will comprise and who precisely will be involved when making decisions in respect of their engagement with an ASP;
- Whether refusals of requests for a role in an inquiry are subject to appeal and if so the mechanism for appeal.

Some firms have requested that the CBI expand on the statement in the Consultation Paper in relation to the change from describing participants as the "regulated entity" and "persons presently or formerly concerned in their management" to "Subject" or "Inquiry Subject" in recognition of the CBI’s ability to take direct enforcement action against individuals for breaches of individual obligations that may arise in financial services i.e. the break in the "participation" link and the requirement to enforce against a firm before enforcing against an individual involved in the management of the firm.

Q7. Do the draft ASP Guidelines assist you in understanding the revised ASP inquiry process and procedures?

Departure from inquiry guidelines: In respect of potential departure from inquiry guidelines, firms request clarity as to whether subjects will be notified of the departure and the nature of the departure.

Process: Clarity is requested as to the timeline for the submission of the inquiry questionnaire ; the intended recipients of the responses.

Inquiry members: We would welcome clarification around the identity of Inquiry Members. Are details of the Members provided to a Subject when she/ he receives Notice of Inquiry Hearing.

Multiple inquiries: It would be helpful to understand if there is any likelihood that there could be dual Inquiries running concurrently out of the same alleged contravention i.e., against the firm and against the individual arising from the same set of circumstances.

Preliminary matters: Can the CBI provide some examples of what Enforcement might deem to be preliminary matters (paragraph 147 of the draft ASP Guidelines) as provided for within the Inquiry Management Questionnaire.

Notifications: It would be helpful to understand how an Inquiry Participant will be notified of new correspondence issued by the Regulatory Decisions Unit (Regulatory Decisions Unit electronically (paragraph 150 of the draft ASP Guidelines)

Q8. Do the draft ASP Guidelines assist you in understanding the process to be followed at the conclusion of an inquiry, including Consultation Paper 154 Central Bank of Ireland Page 50 notifying the inquiry decision and issuing an inquiry publication notice?

Please see commentary in response to questions 10 and 11 below.

Q9. Do the draft ASP Guidelines assist you in understanding how an ASP inquiry would work in practice?

Finding of no contravention: Some firms have requested clarity on the position in respect of a Subject's costs and expenses if the Inquiry Members find that no prescribed contraventions have been committed and that sanctions are not applicable.

ASP Settlement – Questions 10 to 18

Q10. Do the draft ASP Guidelines assist you in understanding the new undisputed facts settlement procedure particularly in terms of when it may be available and the Central Bank's proposed approach to it?

Determination of sanction by inquiry: Paragraph 252 of the Guidelines states: *“Where a Subject has acknowledged the commission of a prescribed contravention under the Undisputed Facts Settlement Process or the Investigation Report Settlement Process, the Central Bank may decide to hold an inquiry to determine sanctions only (see Part 5 (Settlement) and paragraph 101 regarding the decision whether to hold an inquiry).¹³ Such an inquiry has as its sole purpose the determination of what, if any, sanction to impose. Where the Central Bank decides to hold such an inquiry, Enforcement will issue a Notice of Inquiry to the Subject. See Section 17 (Notice of Inquiry).”* However, paragraph 290 and paragraph 300 set out the criteria for the Undisputed Facts and Investigation Report Settlement Processes, state that these processes are only available where conditions are met, including that the investigation subject has consented in writing to the sanctions proposed by the CBI. As these paragraphs are inconsistent with paragraph 252, clarity (and amendment of the Guidelines) is requested so that it is clear how either settlement process can have been entered into in circumstances where the sanctions have not been proposed by the CBI and where the CBI has decided that this is to be determined by inquiry.

Contents of public statements: Firms note the provisions in the ASP Guidelines and the Act in respect of the contents of the Notice of Investigation, the Statement of Undisputed Facts, the Final Investigation Report, the details to be provided in respect of the Investigation Report Settlement Process and the relevant public statement. Having regard to the requirements in respect of these elements and noting in particular:

(i) any admissions which may be made by a firm or an individual are in respect of the prescribed contraventions set out in the relevant Notice of Investigation and Statement of Undisputed Facts (and if relevant, Final Investigation Report and subsequent settlement letter); and

(ii) the public statement in respect of the prescribed contraventions which may be admitted by a firm or an individual is to include, as set out in the ASP Guidelines, the prescribed contraventions, the facts of the case and the details of the commission of the prescribed contravention, details of the investigation and/or inquiry, admissions to the prescribed contraventions;

(iii) the importance of fair procedures throughout the ASP process, which includes public statements made in respect of the outcome of an investigation;

(iv) the governance process through which determinations are made in firms in respect of admissions of prescribed contraventions; and

(v) the potential risks for firms/individuals where public statements are not consistent with the Notice of Investigation/Statement of Undisputed Facts/Final Investigation Report,

firms request that:

- each of the final Notice of Investigation, Statement of Undisputed Facts and/or if relevant any Final Investigation Report and associated letter, set out the particulars in full of the prescribed contraventions and the basis on which a determination has been made in respect of those prescribed contraventions, so that firms/individuals have clarity and certainty as to the scope of the admissions they may make and the description of those admissions;
- any public statement is consistent with and does not go beyond the prescribed contraventions or the basis for the determinations as set out in the relevant Notice of Investigation/Statement of Undisputed Facts/Final Investigation Report (for example, the public statement should not include additional allegations which have not been admitted or contraventions or an articulation of a contravention which is different to what is set out in the Notice of Investigation/Statement of Undisputed Facts/Final Investigation Report and which has been admitted by a firm/individual);
- firms/individuals have the opportunity with a reasonable timeframe to make submissions to the CBI in respect of any factual inaccuracies in the proposed public statement, including in respect of the consistency between the public statements and the admissions made in the Notice of Investigation/Statement of Undisputed Facts/Final Investigation Report; and
- the ASP Guidelines include a statement that the relevant documents and public statement will be issued on this basis.

Timing of public statements: Paragraph 330 of the ASP Guidelines state that the timing and manner of the release of a public statement will be within the sole discretion of the CBI and that the public statement will generally be published promptly by the CBI. Firms which are

subject to securities law requirements have statutory obligations in respect of the prompt release of market sensitive information (by the firm) and request that these obligations are considered in respect of any potential delay in the release of a public statement.

Market commentary: Paragraphs 270 and 331 of the ASP Guidelines reference the issuance of a market commentary statement by the CBI following an inquiry on the “market aspects of the case”. Clarity is required by firms as to what the CBI considers to be the market aspects of a case. Having regard to fair procedures and the significance of public statements made to the market, firms request that the ASP Guidelines clarify that any reference to the outcome of an inquiry, the evidence put before an inquiry or the details of any contraventions admitted by a firm or the cause of those contraventions is consistent with and does not go beyond the actual findings of the inquiry and the specific admissions made by a firm, if any.

Q11. Do the draft ASP Guidelines assist you in understanding the new investigation report settlement procedure particularly when such settlement procedure may be available and the Central Bank’s proposed approach to it?

The points made in response to question 10 are applicable to response to question 11 also.

Q12. Do the draft ASP Guidelines assist you in understanding the no admissions settlement procedure and the Central Bank’s continuing policy approach of seeking settlement with admissions?

We would welcome details from the CBI on the criteria to be applied when the RAO is exercising her/ his discretion and if the exercise of these discretions can be challenged.

In addition, we would welcome the CBI’s rationale for High Court confirmation not being required for the “No Admissions Settlement” sanction.

Q13. What are your views regarding the factors set out in the draft ASP Guidelines indicating a lack of suitability for the no admissions settlement process?

No comments.

Q14. Do the draft ASP Guidelines assist you in understanding the Central Bank’s proposed approach to the updated Settlement Scheme?

See above.

Q15. Do you agree with the Central Bank’s proposed approach regarding the application of the Settlement Scheme to monetary penalties only?

No comments.

Q16. Do you agree with the Central Bank’s proposed approach to undisputed facts settlements? Consultation Paper 154 Central Bank of Ireland Page 51

See above.

Q17. Do you agree with the Central Bank’s proposed approach to investigation report settlements?

See above.

Q18. What are your views and comments regarding the proposed Settlement Scheme?

See above.

ASP Sanctions – Questions 19 -24

Q19. Do the draft ASP Guidelines assist you in understanding the Central Bank’s proposed approach to the determination of sanctions, and what are your views in this regard?

Please see response to question 23 below.

Q20. Are the different sanctions which may be imposed on firms and individuals, sufficiently clear in the draft ASP Guidelines?

No comments.

Q21. Are the different sanctioning factors which may be applicable to firms and individuals, sufficiently clear in the draft ASP Guidelines?

Please see response to question 23 below.

Q22. Do the sanctioning factors assist you in understanding the Central Bank’s proposed sanctioning approach, and what are your views on the sanctioning factors?

We raise the following points in the context of Available Sanctions and the role of turnover:

1. We note the limit on monetary penalties for firms not exceeding €10 million or an amount equal to 10% of annual turnover (para 344 of the draft ASP Guidelines). We would welcome CBI’s clarification on the €5 million maximum monetary penalty for prescribed contraventions which occurred before July 2013.
2. We note that the CBI has deleted certain sanctioning factors including “the level of turnover of a firm in its last complete financial year prior to the commission of the contravention”. But we note that the “starting point” for calculation of sanctions in the methodology is a firm’s revenue and we also note the inclusion in the list of “other considerations” in Table 5 of this part of the ASP Guidelines of the following: “[...] In imposing a sanction that is meaningful and fair to firms and individuals, and which promotes high standards in financial services, the Central Bank considers deterrence both from the perspective of specific deterrence to the particular firm or individual, and general deterrence for the wider community of firms and individuals.” Clarity is requested as to whether the CBI envisages that the deterrence from the perspective of the particular firm will include consideration of the turnover of that firm, and what the role of turnover will be, notwithstanding the deletion of turnover as a specific sanctioning factor in the CBI’s list.

3. Can the Central Bank confirm that the “firm’s revenue” which is deemed to be the appropriate “starting point figure” for the purposes of sanctioning (point 1 in Table 6 (Monetary Penalty Methodology for Firms)) refers to the annual turnover of the firm?

Q23. What are your views on the monetary penalty methodologies?

Use of factors: The additional methodology information is welcomed, but it is noted that there is no information provided as to the relative weights/percentages/thresholds in respect of the various factors considered and so this information is not considered to provide sufficient transparency as to the approach, such that would enable a firm/individual to anticipate a potential range of outcomes. The approach to the starting figure based on revenue/income raises a question about the proportionality of a sanction determination insofar as it relates to the actual materiality of a matter, in particular having regard to the purpose of the ASP as set out in the ASP Guidelines. The methodology suggests that if the starting figure is revenue, a higher earning firm may always have a sanction which is calculated to be larger, even if the detriment/materiality/mitigating factors are more significant than for another smaller firm where the detriment/materiality of the matter may be more significant and there are less mitigating factors.

Point in time calculations: We would welcome clarification from the CBI as to whether it is an individual’s income at the time of a contravention or at the point at which a sanction is imposed, which is taken into account.

Q24. Is there any other aspect of the Central Bank’s sanctioning approach which would benefit from further consideration or explanation?

Please see above response to question 23.

ASP Court Confirmation and Appeals – Questions 25 & 26

Q25. Do the draft ASP Guidelines assist you in understanding the new requirement for High Court confirmation of sanctions agreed as part of (a) an undisputed facts settlement procedure and (b) an investigation report settlement procedure, and the Central Bank’s proposed approach to it?

Please see our responses to Questions 10 and 11 above.

Q.26 Do the draft ASP Guidelines assist you in understanding the revised confirmation and appeal procedures?

Please see our responses to Questions 10 and 11 above.

Conclusion

BPFI and its industry members recognise, understand, and agree with the CBI that financial regulation and guidance is about supporting positive outcomes, the interests of consumers and, ultimately, the economic well-being of society. As stated earlier, we welcome the introduction of the IAF, and its enhanced standards and expectations. Our detailed responses to CP153 and CP154 have been prepared in this context, and we look forward to the CBI considering our feedback, as our members endeavour to implement and embed the IAF in a meaningful way.