

**By Email:** CP160@centralbank.ie

**Subject:** Central Bank of Ireland Consultation Paper 160 Amendments to the Fitness & Probity Regime

**Date:** 9<sup>th</sup> July 2025

Dear Sir/Madam,

The Compliance Institute (the 'Institute') is the professional body for compliance professionals. With over 3,500 members, it is the premier provider of education and professional development in compliance, providing an authoritative and balanced voice on matters relating to regulatory compliance and business ethics in industry in Ireland.

The Institute is supportive of the Fitness and Probity Regime in its aim to ensure that individuals in key and customer facing positions are competent and capable, honest, ethical and of integrity and financially sound. The Institute is well placed to provide informed feedback given the key role that the profession has in the embedding of the regime within firms, and its diverse membership that includes compliance and other professionals from a broad range of sectors subject to different levels of regulation and supervision. Many of our members perform control function roles, primarily acting as PCF12 Heads of Compliance or CF2s ensuring, controlling or monitoring compliance by Regulated Financial Service Providers ('RFSP(s)') with their relevant obligations.

The Institute welcomes the publication by the Central Bank of Ireland (the 'Central Bank') of the Consultation Paper on Amendments to the Fitness and Probity (F&P) Regime, and the opportunity to provide responses to the questions which are set out in Appendix 1.

The recent workshop, which included an introduction to the Central Bank's new F&P Unit, was very well received by our membership and the opportunity to engage and communicate in these types of fora very positive. We would welcome the facilitation of similar events by the Central Bank as the changes to the regime are embedded.

The views expressed in this letter reflect those of the Institute as a professional body for compliance professionals in consultation with a sub-section of its members representing a range of financial services industry sectors.

We hope you find our views constructive and, if helpful, we are available to discuss further.

Yours faithfully,



Michael Kavanagh

CEO

## **APPENDIX 1**

### **RESPONSES TO CP160 QUESTIONS**

#### **1. (a) Do you agree with the proposed revision to the draft Guidance?**

The revised Guidance is very much welcomed by our membership as a helpful step to improve understanding of the F&P regime. The consolidation of content into one singular text will be very beneficial, having the requisite detail more readily available in this manner and to better facilitate monitoring for any future changes. Members would very much welcome all content being consolidated in the Guidance insofar as possible in this way, with future revisions where feasible being highlighted through the singular document via a marked-up version release.

#### **(b) Are the enhancements to the draft Guidance useful to you?**

Our membership welcomes the enhancements to the draft Guidance. In our view, the enhancements simplify the process in that they provide increased clarity and transparency on the process.

Enhancements to the interview process have been well received by our membership, namely that the applicant and RFSP will be provided with information in advance to aid interview preparation. The ninety minute duration limit, ability to be accompanied by a note taker and Central Bank commitment to provide feedback are all viewed as positive enhancements in supporting the applicant in the process.

From a training and education perspective, the Institute very much welcomes the additional detail on specific qualifications, knowledge and expertise for Controlled Functions. The publication of additional guidance in this area would be very useful to better equip RFSPs to assess the relevant expectations and requirements for professional qualifications for respective (P)CF roles. In relation to the Head of Compliance specifically, our members would welcome further guidance on the type(s) of regular training the Central Bank expects Compliance Officers to have access to.

#### **(c) What other elements could the Central Bank include within the draft Guidance?**

The Institute's membership has identified certain areas where further guidance would be particularly helpful in supporting effective and consistent application of the F&P Regime in practice.

#### **Control Function Classifications**

Further guidance on the assessment of the role of the Company Secretary for the purposes of the regime would be welcome, with the provision of some example cases to aid decision-making in that respect.

The draft Guidance indicates that a PCF would be classified as a Controlled Function 1. The significance of this secondary classification is unclear and potentially confusing in practice. It is submitted that singular, separate classification as either a PCF or CF is preferable, for example leading to greater clarity as to the capacity in which individuals are acting. The merits of this additional classification as

both PCF and CF are not understood and what this would mean from a practical perspective is also unclear. In the interests of clarity and efficient operation of the regime, and in the absence of any strong rationale to retain, our members ask that the removal of this duplicative approach to categorisations would be considered. If the Central Bank does not consider the removal of this classification to be appropriate, we suggest that additional guidance would be helpful to assist firms with interpretation.

### **Interim or Temporary PCF Coverage**

Our members requested more guidance around the approach to interim cover for PCFs and the appointment and approval of temporary PCFs. Members were keen to understand what the Central Bank views as appropriate in terms of temporary appointment durations and arrangements in the various circumstances such may arise. In the interests of diversity and inclusion, clarity around parental, maternity and paternity leave for example would also be welcomed. Mechanisms such as the 12-week rule applied in the UK was cited by our membership as being a helpful construct for the Central Bank to potentially consider in this context. The publication of some case studies would be helpful in this area as it is sometimes difficult for firms to navigate these vacancies from a fitness and probity perspective.

### **Offshore PCFs**

Members sought greater clarity in relation to the parameters surrounding when offshore PCFs would be permitted. The Institute's membership would welcome greater certainty as to when it is appropriate to put forward a non-Ireland based PCF for a PCF role, noting that it was unclear when this would be deemed acceptable or not. Some examples by way of a guide would be welcomed in this respect. This would assist firms currently authorised by the Central Bank and those seeking to apply for authorisation.

### **Due Diligence Process**

Members request further guidance from the Central Bank on the extent and frequency of the due diligence required in relation to (P)CFs. Approaches across members' firms vary in this respect and clarity as to whether proportionality in relation to screening is permitted (e.g. from sample screening for larger CF populations to annual full screening of the complete (P)CF population within smaller firms). Members flagged ongoing challenges associated with obtaining references for individuals and completing vetting/criminal record checks, particularly cross jurisdictionally.

### **Time Commitments**

Time commitments is an area of continual challenge for RFSPs and individual PCFs. The Institute supports the appropriate balance being achieved in terms of dedication to the role while acknowledging certain roles and activities may be ancillary or complimentary to the (P)CF role. Guidance from the Central Bank in terms of examples of what is acceptable would be helpful as the approach and interpretation around time commitments was noted as varying across our membership, including some ambiguity as to the definition of 'full-time basis'. This challenge was particularly relevant amongst larger RFSPs within our membership, for example where centralised specialist group functions supported key PCF activities across a variety of legal entities.

Specifically in relation to PCF12 time commitments, members noted that additional responsibilities such as Data Protection Officer and Artificial Intelligence Compliance Officer for example were often allocated to the compliance function.

### **Certification Process**

Our membership identified a divergence in approach to the timing of certification of PCFs. Clarification would be welcome on whether the PCF Certificate should be generated prior to the submission of the IQ to the Central Bank (and if so, perhaps noting within the text of such certificate that such certification and appointment to the role is conditional on Central Bank approval), or if the Certificate should rather only be generated after the Central Bank approval letter has been received by the applicant. Clarity in relation to this sequencing for certification would be well received.

### **Corporate Governance Requirements**

The draft Guidance includes detailed references to corporate governance requirements across various sectors, outlining expectations for time commitments, experience, and knowledge for PCFs. Existing Guidance centres around self-certification of concurrent responsibilities, and that performance of other responsibilities will not impact the individual's ability to perform the PCF role from a time perspective or otherwise. Members request further guidance on the Central Bank's expectations regarding the corporate governance requirements as part of the F&P process, including any specific obligations such as additional due diligence or pre-appointment assessments.

### **Central Bank Portal and Individual Questionnaire Process**

Members noted that questions were frequently raised by applicants regarding the approach to be taken to consideration of past events, particularly on completing the Individual Questionnaire process. An uplift to the Central Bank Portal system to pre-empt this challenge and better facilitate applicants' responses here would be welcome (e.g. the ability to check a box to indicate that the applicant was not employed within the RFSP at the time of the event, together with a free text box for further information as required).

Members also requested feedback as to the role of the Proposer in the PCF application process. The Central Bank's expectations of the Proposer as part of the due diligence and RFSP approval process would be welcome, together with any guidance the Central Bank could share in relation to who should act as Proposer for various PCF applications. More broadly, members did note various challenges associated with the Central Bank Portal itself and would welcome an information or feedback session on the topic and ask that ad hoc updates in relation to any system changes or new system functionality be communicated to the user population.

### **EEA Branch Entities**

Members acting as compliance officers in EEA branch entities would welcome greater clarity on the applicability of the F&P Regime. Although the Fitness and Probity Standards do not apply to persons performing CFs on behalf of a firm authorised in another EEA country it was noted by our members that certain RFSPs have been required to have some PCFs in place.

## **SEAR**

Noting the references to the Senior Executive Accountability Regime (“SEAR”) in the Guidance, members’ firms would request that it be made clear within the Guidance that this in no way constitutes an extension of the SEAR Regime beyond the current in scope entities, and inclusion thereof is for illustration purposes only. It would be helpful to include some language around the overlap between the two regimes for clarification purposes.

### **2. (a) Do you agree with the proposed revisions to the PCF list?**

While members welcome a proposed revision of the PCF list in general terms, they did identify certain issues relating to the timing and specifics of the changes contemplated, as are more particularly set out in our response to Question 2.(b).

### **(b) Have you identified any issues with this revision?**

Members noted the following potential issues with the proposed revision to the PCF list.

#### **Timing**

The Institute’s membership expressed a preference for a consolidated, once off revision to the PCF list, as opposed to a two-stage revision process. It is submitted that it may be optimum to complete the PCF list revisions together with the SEAR review, rather than adjust it on a piecemeal basis. This approach would likely avoid confusion as to the changes among industry and facilitate targeted training covering all aspects.

#### **Sector-Specific PCF Categories**

Members observed an existing lack of clarity in terms of what PCFs are required, including, at initial application for authorisation stage, and in the case of applications for extension of services or reorganisations. It is submitted that the removal of sector specific PCFs could lead to greater ambiguity in this regard. Our members have identified a risk that this approach could result in greater inconsistency in approach across RFSPs.

#### **SEAR and PCF Overall Coverage**

Following on from similar previous observations in the context of the Individual Accountability Framework and SEAR, members questioned the coverage of the PCF list, referring to the areas of Human Resources and Outsourcing for example, and noting the concentration of responsibilities within certain PCFs such as the CEO and COO.

Further in the context of merging PCFs and removing sector-specific categorisations, members are requesting guidance on assessing the applicability of any additional PCF roles resulting from these changes and the applicability of these changes in scope for SEAR.

### **CF3 to CF9**

The draft Guidance notes that CF8 (adjudicating on any complaint) specifically focuses on those roles that involve the management or supervision of individuals in CF3 to CF6 roles. However, under the current list of controlled functions, CF7 appears to also be relevant. We would welcome further clarification in this area.