



## GE Money

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Governance, Accounting and Auditing Policy Division  
Policy and Risk Directorate  
Central Bank of Ireland  
PO Box No 559  
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20<sup>th</sup> May 2011

### Re: CP 51: The Fit and Proper Regime in Part 3 of the Central Bank Reform Act 2010

Dear Sirs,

Please find enclosed our response to Consultation Paper CP51 on the Fit and Proper Regime.

Given the nature and extent of the financial crisis, we welcome the proposed enhancements to the fitness and probity regime. We acknowledge that it is proposed that common standards of probity should apply across all institutions regardless of the size or activity of the entity but that the requirements for competence will vary to reflect the nature of the post and the size and activity of the entity. We agree with this proposal and note that conducting our affairs with integrity is fundamental to GE.

Regarding the requirements for competence we agree that these should vary to reflect the nature of a role and the size and activity of the entity. For example, we consider GE Money Ireland to be at the lower end of the scale in relation to these factors given the current status of our business and that we are not part of any of the schemes that have been put in place to recapitalise the Irish Financial Institutions. We are of the view that each firm should be responsible for assessing its own business to determine the requirements for competence when implementing the relevant standards.

If you have queries regarding our response, please don't hesitate to contact Patricia Dardis on 01 4021191.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ciarán Barr', written over a horizontal line.

Ciarán Barr  
CEO, GE Money



**GE MONEY**

**RESPONSE TO CP51**

GE Money is a trading name of GE Capital Woodchester Limited (reg. no.9380), GE Capital Woodchester Finance Limited (reg. no. 24267) and GE Capital Woodchester Home Loans Limited (reg. no. 34927).  
Registered Offices: 31–36 Golden Lane, Dublin 8.

## INTRODUCTION

This response to CP51 is on behalf of GE Money, also referred to in the response below as “we/ us/our”.

### **Section 4: Questions relating to proposed PCFs and CFs**

**16.**

**Question i. a:** Do you consider any PCF’s or CF’s should be removed from the list? If so, the reason why?

**Response:** We are in agreement with the Central Bank on the list of PCF’s provided as this list is clear and unequivocal.

Regarding the CF’s, the proposed regulations are less clear and as a result unsatisfactory. The Central Bank acknowledges (p. 19 (20.)) that when considering the competence and capability of a person proposed for appointment to a CF or PCF, the entity should take into account all relevant considerations including the activities and size of the entity and the responsibilities of the position. Clarification is required or it is likely to result in differing interpretations between financial institutions as to what should be considered a CF.

Referring to Appendix 1, Schedule 1 (2.), within the relevant functions such as compliance, controllership or audit, there may be a number of persons who are involved in carrying out activities to ensure compliance by a regulated financial services provider with its relevant obligations. However, we are of the view that it is the function manager who is responsible for the process that is captured by the new powers, not those that carry out the activity. In our business the Head of Compliance & Regulatory Affairs and the Financial Controller are ultimately responsible for processes and activities to ensure compliance with our obligations.

Regarding persons giving advice or assistance to a customer in the course of providing, or in relation to the provision of, the financial service (Appendix 1, Schedule 1 (3. a)), we interpret this as referring to advice or assistance given during the sales process or management of specified investment type products, and not as part of the ongoing servicing of less complex products such as Mortgages, Personal Loans or Hire Purchase Agreements. We are of the view that it is not the intention that the processes for servicing these products are to be captured by the new powers but clarification is required.

We suggest that a definition for “giving of advice” be included in the regulations.

The regulations require that a function is a CF where the person responsible is involved in ‘dealing in or having control over property of a customer of the regulated financial service provider to whom a financial service is provided or to be provided, whether that property is held in the name of the customer or some other person’ or ‘dealing in or with property on behalf of the regulated financial service provider, or providing instructions or directions in relation to such dealing.’ We assume that these requirements relate to properties other than consumer mortgages.

Section 4, 13 states that managers/supervisors who have responsibility for ensuring proper process and information to customers rather than call centre staff are captured by the new powers. A definition of ‘managers/supervisors’ should be included as such titles can refer to very different roles/levels of authority depending on the size and nature of the financial service providers business.

Given that the Central Bank must approve the appointment of a person to a PCF before a firm can offer to appoint that person to the function, it is imperative that the Central Bank has sufficient resource available to ensure requests for approval are processed in a timely manner and we are of the view that the Central Bank should commit to and publish a timeline for same.

Regarding persons acting as a PCF in a temporary capacity, whether in an interim capacity pending PCF approval for a PCF role or a longer term temporary capacity, for example to cover a maternity leave or sick leave, regulation 11 (Appendix 1) requires that the Central Bank agree to the temporary situation in writing. We suggest that those acting in a temporary capacity such as a maternity leave will not be required to submit a full PCF application and that once a firm has proposed an arrangement, it would be in order for an individual to act in a temporary capacity until the Central Bank acknowledges their approval of the arrangement, or otherwise, in writing.

**Question i. b:** Do you consider any other positions or functions should be added to the lists of CF’s and PCF’s? If so, the reasons why?

**Response:** No, we don’t consider any other positions or functions should be added at this point. However, as suggested above, further clarification should be provided in relation to CF’s.

**Question i. c:** Submissions on the most appropriate guidance to firms in relation to the level of due diligence which firms would carry out prior to appointing individuals to CF positions.

**Response:** The draft Fitness and Probity Standards (Appendix 2) clearly sets out the conduct required to be honest, ethical and to act with integrity and also the requirements for financial soundness. We believe that it will be quite straightforward to produce a questionnaire covering the requirements.

Regarding conduct to be competent and capable, guidance should be provided on what is required to demonstrate that a person has 'professional or other qualifications and capability appropriate to the relevant function'. While the professional qualifications for an accountant or solicitor are clearly appropriate and generally required for specific functions, the qualifications required for other roles are less clear. Indeed a person may not have any formal qualification but may be fit for the role due to their experience. We propose that the standards should read (a) and/or (b).

When providing information to confirm their fitness and probity, we believe responsibility should lie squarely with the individual applying for a CF role to provide information that candid and truthful, full, fair and accurate. The onus should not be on the financial institution to have procedures in place to verify information supplied. However, individuals would be aware that if they are found to have provided inaccurate information, they could be suspended or removed from a position, or incur a penalty.

## **Section 8: Questions relating to the proposed Standards of Fitness and Probity**

**41.**

**Question i.:** Do you consider that the Standards are comprehensive in setting the appropriate standards for fitness and probity of individuals working in the financial services industry in Ireland?

**Response:** We believe the standards are comprehensive. However, as outlined in 16 (1.a) above, we suggest that further clarification should be provided in relation to CF's.

**Question ii.:** Do you consider that any of the Standards are superfluous? If so, the reasons why?

**Response:** No

**Question iii:** Do you consider that the Standards specified are sufficiently clear to be adopted by firms for their internal fit and proper process?

**Response:** As outlined in 16 (1.a) above, we suggest that further clarification should be provided in relation to CF's.

42.

Whether non-statutory guidance on the statutory Standards would be useful to firms and if so, what issues should the guidance cover to assist firms in carrying out their own fit and proper test for persons proposed or holding both PCF's and CF's?

**Response:** We don't consider it necessary to have additional guidance assuming that the onus rests on individuals to provide information that candid and truthful, full, fair and accurate, as outlined in Q16 (i.c) above.