

Skandia Life Ireland has the following comments on the proposed new Fit and Proper regime:

Central Bank Question – Do you consider any PCFs or CFs should be removed from the list?

16 i (a) - Yes

- We believe that PCF-9, The Office of Secretary, should be removed from the list of PCFs as it does not exercise a significant influence on the conduct of the affairs of the company.
- We would like to see more proportionality given to smaller Irish regulated financial service providers who are using group functions e.g. Head of Internal Audit which is at group level, where the Board and the heads of any Audit and Risk Committees will fall within the scope of the Pre-Approval Controlled Functions (PCF) regime.
- We welcome the application of the test in respect to “exercise significant influence on the conduct of the affairs of the company.” Accordingly where a PCF such as PCF-20, Head of Investment, is listed as a required role, our intention is only to consider them in scope if, in their mandate, they are able to exercise significant influence on the conduct of the affairs of the company. However, if their mandate is restricted by limits set by the Board of Directors, we will consider them exempt as a PCF as significant influence will either sit with the Board, a Board member or a Senior Manager, who will already be a PCF. For clarity, we would like confirmation on what Central Bank mean by significant influence.
- Where an Irish regulated insurance company is a subsidiary of a group, functions listed as PCFs which are carried out at group level by persons already approved by another EU regulator should be excluded from seeking prior Central Bank approval under the Irish Fit and Proper requirements. Where already approved by another EU regulator, the requirement to also comply with the Irish Fit and Proper regime for these individuals would be prohibitive for International Insurance Companies and may be a consideration in the parent Company not locating their business to Ireland. In this context, we propose that consideration be given to more proportionality for smaller companies using group functions.
- We would like the Central Bank of Ireland to reconsider their requirement for an individual to undergo a new approval process where they take up a similar position in another company where that person has already been approved by the Central Bank for a PCF. This could potentially cause an unnecessary gap in filling a PCF whilst waiting on Central Bank approval.
- Where a person is applying for a different PCF within the same firm, we would query why a new approval is required if that person is already deemed to be fit and proper by the Central Bank for one role and the Central Bank have already agreed that they are honest, ethical, acting with integrity and financially sound. The responsibility in such circumstances should be on the firm to document why they believe the person has the relevant experience and qualifications to fulfil the new role.

Central Bank Question – Do you consider any other positions or functions should be added to the lists of CFs and PCFs?

16 i (b) - No

Central Bank Question – Should we formally exempt specific categories of staff from the definition of a CF

16 i (c) 1 & 2 - Yes

- The Controlled Functions (CFs) as detailed in schedule 1, section 3 (a) are too broad. We would like to recommend that they be limited to Directors and Senior Managers who give advice or assistance to a customer making it clear that effective supervisory responsibility for the actions of staff below Director and Senior Management level remains with the Directors and Senior Managers who are responsible to the Central Bank. It will be unnecessarily bureaucratic otherwise.
- We would like clarification on point 3 (b) of Schedule 1 – CFs. For investment linked life policies, the life company has legal and beneficial ownership of all the assets. We would presume that this would not be caught by the proposed definition. The role in practice, will not exercise a significant influence on the conduct of the affairs of a regulated financial services provider.
- We would like CFs to be explicitly defined.
- Non statutory guidance on appropriate levels of due diligence which firms should carry out prior to appointing staff would be helpful.

Central Bank Question – Do you consider that the Standards are comprehensive?

41 i – Yes

Central Bank Question – Do you consider that the Standards specified are superfluous?

41 ii – No

Central Bank Question – Do you consider that the Standards specified are sufficiently clear to be adopted by firms?

41 iii – Yes for the most part, one question below

- To what lengths are firms expected to go in terms of establishing financial soundness i.e. Are Credit Referencing, Bankruptcy and Revenue checks sufficient?

Central Bank – Comments are invited as to whether non-statutory guidance would be useful on the statutory standards

42 – Yes

- Guidance on establishing financial soundness would be helpful