



**PIBA submission on the  
The Fit & Proper Regime in Part 3 of the Central Bank Reform Act 2010  
Consultation Paper 51**

**MAY 2011**

The Professional Insurance Brokers Association (PIBA) is the largest independent representative body for insurance and mortgage brokers with nearly 900 member firms throughout Ireland. This submission outlines a response to the consultation on the Fit & Proper regime on behalf of questions raised relevant to our members.

PIBA welcomes the consultation in relation to the Fitness & Probity standards and agrees that there should be enhanced Fitness & Probity standards for individuals with senior positions within firms operating within the industry. However, we do believe that these vetting standards should operate on a proportionate basis to the role of the individual and the size of the firm. It is clear that a “one size fits all” is not appropriate and that introduced measures must be proportionate and on a risk based approach depending on turnover and systemic risk.

### **Questions relating to proposed PCFs and CFs**

**16. (i) a. Do you consider any PCFs or CF should be removed from the list? If so why?**

#### **Controlled Functions**

PIBA feels that the following criterion for what is deemed a controlled function is too wide-ranging:

*“ the giving of advice or assistance to a customer of the regulated financial service provider in the course of providing, or in relation to the provision of, the financial service”*

This means that all staff involved in sales could fall under the definition of a “Controlled Function” despite the fact that they may be operating on an employee basis only with no significant influence in the firm. We do not feel that such individuals should be subjected to the Fitness & Probity standards apart from the requirement to meet the Minimum Competency Requirements and standard employer reference checks.

#### **Pre-Approved Controlled Functions**

PIBA is in broad agreement with the criteria set down as Pre-Approved Controlled Functions, however, we would like to reiterate point 13 that it is important that all staff (not just call centre staff) who give advice to consumers but may not have be in a position of responsibility do not fall under the Fitness & Probity requirements.

**b. Do you consider any other positions or functions should be added to the list of CFs and PCFs? If so, the reasons why?**

PIBA queries why proposed appointees to Credit Unions are exempted from obtaining approval before been appointed. Given the large volume of lending and deposits undertaken by Credit Unions it is important that individuals in positions of responsibility within Credit Unions are subject to fitness & probity standards.

**(1) Should we formally exempt specific categories of staff from the definition of a CF; or**

PIBA believes that sales staff should be removed from the definition of a CF.

**(2) Should we provide non statutory guidance to firms on what we consider to be appropriate levels or types of due diligence which firms should carry out prior to appointing staff thereby allowing for firms to adopt varying levels of due diligence (for example providing reduced vetting for assistance roles with a lower risk profile, such as call centre staff)?**

Yes, PIBA believes it would be useful if non-statutory guidance was provided to firms regarding what is the appropriate levels of due diligence a firm should have undertaken before appointing staff who have a low risk profile.

**Financial Soundness**

Given the economic turbulence of the past number of years, PIBA believes that it is important for the Central Bank to recognise that even though an individual may have been associated with an entity that went insolvent etc. this does not necessarily mean that the individual may have acted in an improper manner and should not prevent the individual from been appointed to a controlled function in the future. We would suggest that the Central Bank should look at such individuals on a case by case basis.

**Section 7: Processing Fitness & Probity applications**

PIBA is in favour of the proposed new online individual questionnaire system. However, PIBA firmly believes that the content of the Individual Questionnaire should be tailored to the activities of the firm, for example the required information to be supplied by a Director of a Brokerage should be less detailed than the information required for a director of a credit institution/Insurance Undertaking. This is to recognise the fact that Brokers pose a limited systemic risk compared with a larger undertaking.

In many instances, Brokers may be applying on a sole-trader basis thereby it would be impossible for someone within the firm to confirm that the check have been undertaken by the firm on the individual. Scenario's like this should be borne in mind particularly if a validation process at point of submission to the Bank is going to be in place.

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

PIBA believes that non-statutory guidance notes on fitness & probity tests would be useful to the industry. These guidance notes should take into consideration smaller entities where only one individual may have a dominant position within the firm and other individuals may be operating solely on an employee basis.