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*Number 23 of 2010*

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**CENTRAL BANK REFORM ACT 2010**

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*Number 23 of 2010*

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**CENTRAL BANK REFORM ACT 2010**

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AN ACT TO ESTABLISH THE CENTRAL BANK OF IRELAND AS A SINGLE FULLY-INTEGRATED STRUCTURE WITH A UNITARY BOARD — THE CENTRAL BANK COMMISSION — REPLACING THE BOARDS OF THE CENTRAL BANK AND IRISH FINANCIAL SERVICES REGULATORY AUTHORITY; TO ENHANCE THE SYSTEM OF REGULATORY CONTROL AND TO CONFER ADDITIONAL POWERS ON THE CENTRAL BANK, THE GOVERNOR AND THE HEAD OF FINANCIAL REGULATION TO PREVENT POTENTIAL SERIOUS DAMAGE TO THE FINANCIAL SYSTEM IN THE STATE, SUPPORT THE STABILITY OF THAT SYSTEM AND TO PROTECT USERS OF FINANCIAL SERVICES; TO TRANSFER CERTAIN FUNCTIONS OF THE CENTRAL BANK TO THE NATIONAL CONSUMER AGENCY; TO AMEND THE ENACTMENTS RELATING TO THE CENTRAL BANK AND CERTAIN OTHER ACTS CONSEQUENTIAL ON THAT REORGANISATION; TO AMEND THE LAW RELATING TO THE REGULATION OF LENDING BY CREDIT UNIONS; TO EXTEND THE RANGE OF PERSONS WHO CAN BE AUTHORISED TO INVESTIGATE THE AFFAIRS OF AN INSURER; AND TO PROVIDE FOR RELATED MATTERS.

[17th July, 2010]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY

1.—(1) This Act may be cited as the Central Bank Reform Act 2010. Short title and collective citation.

(2) The Central Bank and Financial Services Authority of Ireland Acts 1942 to 2009 and this Act may be cited together as the Central Bank Acts 1942 to 2010.

Commencement. 2.—(1) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to a particular purpose or provision. Different days may be so appointed for different purposes or different provisions.

(2) An order under *subsection (1)* may, in relation to the amendments of Acts and statutory instruments set out in *Schedules 1 to 3*, appoint different days for the amendment of different Acts or statutory instruments or different provisions of them.

Interpretation. 3.—(1) In this Act—

“Act of 1942” means the Central Bank Act 1942;

“cessation date” means the last day on which section 33B of the Act of 1942 is in operation.

(2) An expression used in this Act and also in the Act of 1942 has, unless the contrary intention appears, the same meaning in this Act as in the Act of 1942.

## PART 2

### REFORM OF THE CENTRAL BANK OF IRELAND — TRANSITIONAL AND SAVING PROVISIONS

Transitional arrangements in relation to certain office-holders.

4.—(1) The person who held, on the cessation date, the office of Chief Executive of the Regulatory Authority (within the meaning then given by the Act of 1942) shall be taken, on the following day, to be appointed as Head of Financial Regulation.

(2) Subject to *subsection (5)*, the person referred to in *subsection (1)* holds the office of Head of Financial Regulation until the time at which his or her appointment as Chief Executive of the Regulatory Authority would have expired.

(3) The person who held, on the cessation date, the office of Director General of the Bank shall be taken, on the following day, to be appointed as Head of Central Banking.

(4) Subject to *subsection (5)*, the person referred to in *subsection (3)* holds the office of Head of Central Banking until the time at which his or her appointment as Director General of the Bank would have expired.

(5) A person referred to in *subsection (1)* or *(3)* may be removed from office for the same reasons, and in the same way, as a person appointed to hold office as a Head of Function under section 23B of the Act of 1942.

(6) This section has effect notwithstanding sections 23B(2) and 23C(2) of the Act of 1942.

Preservation of rights of employees.

5.—Other than the holder of a statutory office that ceases to exist because of amendments to the Act of 1942 by this Act, nothing in this Act affects the terms and conditions of the employment of any officer or employee of the Bank.

## 6.—(1) In this section—

“seconded” means an employee seconded from the Bank to the Agency under arrangements referred to in *subsection (2)*.

Arrangements for secondment of certain employees.

(2) The Bank and the Agency may make arrangements for the secondment of employees of the Bank to the Agency for the purposes of any function transferred from the Bank to the Agency pursuant to amendments to the Act of 1942 by this Act.

(3) A seconded employee may elect to become an employee of the Agency at any time until 29 February 2012.

(4) A seconded employee who does not make an election under *subsection (3)* continues to be an employee of the Bank until 29 February 2012. His or her terms of employment (including any term conferring a right to an increase in remuneration) continue to be those applicable to his or her employment by the Bank.

(5) On 1 March 2012, a seconded employee who has not made an election under *subsection (3)* shall be taken to have elected to continue to be an employee of the Bank.

(6) An election under *subsection (3)* to become an employee of the Agency has effect if and only if the chief executive officer of the Agency, the Minister for Finance and the Minister for Enterprise, Trade and Innovation all consent. If all of them so consent, the election has effect immediately after the latest of those consents is given. Until that time the employee concerned continues to be an employee of the Bank.

(7) If a seconded employee elects to become an employee of the Agency, the terms of employment by the Agency at the time the election has effect shall not be less favourable than the terms at that time of his or her employment by the Bank (subject to any provision in any enactment).

(8) If a person’s employment is transferred under this section, the person’s previous service with the Bank is to be counted as service for the purposes of the following Acts:

- (a) the Redundancy Payments Acts 1967 to 2007;
- (b) the Protection of Employees (Part-Time Work) Act 2001;
- (c) the Protection of Employees (Fixed-Term Work) Act 2003;
- (d) the Organisation of Working Time Act 1997;
- (e) the Terms of Employment (Information) Acts 1994 and 2001;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;
- (h) the Maternity Protection Acts 1994 and 2004;
- (i) the Parental Leave Acts 1998 and 2006;
- (j) the Adoptive Leave Acts 1995 and 2005;

(k) the Carer's Leave Act 2001.

Saving of certain regulations, rules, codes, etc.

**7.—(1)** Any instrument (whether described as a rule, regulation, order or code of practice or in any other way, and whether or not a statutory instrument to which the Statutory Instruments Act 1947 primarily applies) made or issued by or on behalf of the Regulatory Authority or the Consumer Director and in force on the cessation date has, after that date, the same force and effect as it had on that date.

(2) An instrument referred to in *subsection (1)* may be revoked or amended by the Bank as if made by the Bank.

Saving of certain schemes.

**8.—(1)** The repeal of section 33 of the Act of 1942 by this Act does not affect the operation of any scheme made by the Bank or the Governor under that section and still in operation, or any rights of any person under such a scheme.

(2) A scheme referred to in *subsection (1)* may be amended by the Bank as if section 33 of the Act of 1942 had not been repealed.

Applications, etc., made to Regulatory Authority.

**9.—(1)** An application for a licence, authorisation or permission (however described) made to the Regulatory Authority on or before the cessation date has, after that date, the effect that it would have if made to the Bank.

(2) Nothing in *subsection (1)* is taken to alter the date on which an application referred to in that subsection was made.

Information in possession of Regulatory Authority.

**10.—(1)** On the day after the cessation date, the records of the Regulatory Authority and information that was, on the cessation date, in the possession of the Regulatory Authority come into the possession of the Bank.

(2) The Bank has the same rights, powers, duties and obligations in relation to records and information referred to in *subsection (1)* as the Regulatory Authority had on the cessation date.

(3) In particular, without prejudice to the generality of *subsection (2)*, the Bank—

(a) may have regard, in carrying out its regulatory functions under the Act of 1942 as amended by this Act, to any record or information referred to in *subsection (1)*,

(b) specifically, may have regard to any such record or information for the purpose of deciding whether a person may have committed an offence (whether against the *Central Bank Acts 1942 to 2010* or any other law), and

(c) has the same powers and obligations to deal with such records and information (including that of disclosing such information to another authority in accordance with section 33AK of the Act of 1942) as the Regulatory Authority had on the cessation date.

**11.—**(1) A regulatory action taken by the Regulatory Authority on or before the cessation date, and not already spent, continues to have effect according to its terms. The Bank may enforce such a regulatory action.

Regulatory action taken by Regulatory Authority.

(2) In *subsection (1)* “regulatory action” includes any direction, order, requirement, sanction, condition, appointment or request (however described) of a regulatory nature made, given or imposed by the Regulatory Authority.

**12.—**(1) An inquiry undertaken by the Regulatory Authority under Chapters 2 and 3 of Part IIIC of the Act of 1942 on or before the cessation date, and not already completed, may be continued by the Bank. The Bank may take regulatory action on the basis of such an inquiry.

Inquiries, etc., undertaken by Regulatory Authority.

(2) An assessor appointed by the Regulatory Authority on or before the cessation date under—

- (a) Part 5 of the Market Abuse (Directive 2003/6/EC) Regulations 2005,
- (b) Part 5 of the Prospectus (Directive 2003/71/EC) Regulations 2005, or
- (c) Part 10 of the Transparency (Directive 2004/109/EC) Regulations 2007,

may continue, if the assessment for which he or she was appointed is not completed at that date, to carry out that assessment. The Bank may take regulatory action on the basis of such an assessment.

(3) In *subsections (1)* and *(2)* “regulatory action” includes any direction, order, requirement, sanction, condition, appointment or request (however described) of a regulatory nature that the Bank may make, give or impose.

**13.—**(1) If on the cessation date the Regulatory Authority is a party to any legal proceedings, then the Bank is taken, immediately after that date, to be substituted for the Regulatory Authority as such a party.

Legal proceedings to which Regulatory Authority is party.

(2) Nothing in *subsection (1)* makes available against the Bank any right (including, in particular, any right to seek discovery of documents) that was not or is no longer available against the Regulatory Authority.

(3) An order by a court or the Appeal Tribunal against the Regulatory Authority has effect, after the cessation date, as an order against the Bank.

(4) In this section “legal proceedings” includes—

- (a) an appeal to the Appeal Tribunal, and
- (b) a prosecution where the Regulatory Authority is prosecutor.

Amendments of  
Central Bank Acts.

**14.**—(1) The Act of 1942 is amended as set out in *Part 1 of Schedule 1*.

(2) Parts IIIC, VIIA and VIIB of the Act of 1942 are further amended as follows:

(a) by deleting “Regulatory Authority” and substituting “Bank” in each place where it occurs;

(b) by deleting “that Authority” and substituting “the Bank” in each place where it occurs.

(3) The provisions of the Act of 1942 set out in *Part 2 of Schedule 1* are repealed.

(4) The Central Bank Act 1971 is amended as set out in *Part 3 of Schedule 1*.

(5) The Central Bank Act 1989 is amended as set out in *Part 4 of Schedule 1*.

(6) The Central Bank Act 1997 is amended as set out in *Part 5 of Schedule 1*.

(7) The Central Bank Act 1998 is amended as set out in *Part 6 of Schedule 1*.

Amendments of  
other Acts.

**15.**—(1) The Anglo Irish Bank Corporation Act 2009 is amended as set out in *Part 1 of Schedule 2*.

(2) The Companies (Auditing and Accounting) Act 2003 is amended as set out in *Part 2 of Schedule 2*.

(3) The Company Law Enforcement Act 2001 is amended as set out in *Part 3 of Schedule 2*.

(4) The Consumer Credit Act 1995 is amended as set out in *Part 4 of Schedule 2*.

(5) The Consumer Protection Act 2007 is amended as set out in *Part 5 of Schedule 2*.

(6) The Credit Institutions (Financial Support) Act 2008 is amended as set out in *Part 6 of Schedule 2*.

(7) The Credit Union Act 1997 is amended as set out in *Part 7 of Schedule 2*.

(8) The Disability Act 2005 is amended as set out in *Part 8 of Schedule 2*.

(9) The Health (Repayment Scheme) Act 2006 is amended as set out in *Part 9 of Schedule 2*.

(10) The Insurance Act 1989 is amended as set out in *Part 10 of Schedule 2*.

(11) The National Asset Management Agency Act 2009 is amended as set out in *Part 11 of Schedule 2*.

(12) The Official Languages Act 2003 is amended as set out in *Part 12 of Schedule 2*.

(13) The Personal Injuries Assessment Board Act 2003 is amended as set out in *Part 13* of *Schedule 2*.

(14) Each enactment specified in *Part 14* of *Schedule 2* is amended by deleting “Central Bank and Financial Services Authority of Ireland” and substituting “Central Bank of Ireland”.

**16.—**(1) The Ethics in Public Office (Prescribed Public Bodies, Designated Directorships of Public Bodies and Designated Positions in Public Bodies) Regulations 2004 (S.I. No. 699 of 2004) are amended as set out in *Part 1* of *Schedule 3*. Amendments of  
statutory  
instruments.

(2) The European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010) are amended as set out in *Part 2* of *Schedule 3*.

(3) The European Communities (Cooperation between National Authorities Responsible for the Enforcement of Consumer Protection Laws) Regulations 2006 (S.I. No. 290 of 2006) are amended as set out in *Part 3* of *Schedule 3*.

(4) The European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003 (S.I. No. 211 of 2003) are amended as set out in *Part 4* of *Schedule 3*.

(5) The Market Abuse (Directive 2003/6/EC) Regulations 2005 (S.I. No. 342 of 2005) are amended as set out in *Part 5* of *Schedule 3*.

(6) The Prospectus (Directive 2003/71/EC) Regulations 2005 (S.I. No. 324 of 2005) are amended as set out in *Part 6* of *Schedule 3*.

(7) The Transparency (Directive 2004/109/EC) Regulations 2007 (S.I. No. 277 of 2007) are amended as set out in *Part 7* of *Schedule 3*.

(8) If a provision of an Order made pursuant to section 4 of the Financial Transfers Act 1992 provides that the Central Bank and Financial Services Authority of Ireland may give directions or issue instructions for any purpose, the provision is amended by deleting “Central Bank and Financial Services Authority of Ireland” and substituting “Central Bank of Ireland”.

(9) If a provision of Regulations made pursuant to section 3 of the European Communities Act 1972 (being Regulations made for the purpose of a Regulation of the European Commission or the Council of the European Union imposing financial sanctions) provides that the Central Bank and Financial Services Authority of Ireland may give directions or issue instructions for any purpose, the provision is amended by deleting “Central Bank and Financial Services Authority of Ireland” and substituting “Central Bank of Ireland”.

(10) If a provision of Regulations made pursuant to section 42(6) of the Criminal Justice (Terrorist Offences) Act 2005 provides that the Central Bank and Financial Services Authority of Ireland may give directions or issue instructions for any purpose, the provision is amended by deleting “Central Bank and Financial Services Authority of Ireland” and substituting “Central Bank of Ireland”.

(11) Each provision of a statutory instrument specified in *Part 8* of *Schedule 3* is amended by deleting “Central Bank and Financial Services Authority of Ireland” and substituting “Central Bank of Ireland” in each place where it occurs.

(12) The amendment of a statutory instrument by this section does not prevent or restrict the subsequent amendment or revocation of the instrument by another statutory instrument.

Construction of certain references.

**17.—**(1) After the cessation date, a reference in an enactment or a provision of a statutory instrument to the Board of the Central Bank and Financial Services Authority of Ireland shall be construed as a reference to the Commission.

(2) After the cessation date, a reference in an enactment or a provision of a statutory instrument to a member of the Board of the Central Bank and Financial Services Authority of Ireland shall be construed as a reference to a member of the Commission.

(3) After the cessation date, a reference in an enactment or a provision of a statutory instrument to the Chief Executive of the Irish Financial Services Regulatory Authority shall be construed as a reference to the Head of Financial Regulation.

(4) After the cessation date, any other reference in an enactment or a provision of a statutory instrument to the Central Bank and Financial Services Authority of Ireland shall be construed as a reference to the Bank.

(5) After the cessation date, any other reference in an enactment or a provision of a statutory instrument to the Irish Financial Services Regulatory Authority (as “the Regulatory Authority” or in any other way) shall be construed as a reference to the Bank.

### PART 3

#### POWERS OF BANK IN RELATION TO OFFICERS, ETC., OF FINANCIAL SERVICE PROVIDERS

##### CHAPTER 1

##### *Preliminary*

Definitions (*Part 3*). **18.—**(1) In this Part—

“Court” means the High Court;

“evidentiary notice” means a notice under *section 32*;

“controlled function” means a function prescribed in regulations made under *section 20*;

“pre-approval controlled function” shall be construed in accordance with *section 22*;

“suspension notice” means a notice under *section 26*.

(2) This Part applies to and in relation to regulated financial service providers other than credit unions.

(3) On and from a date to be fixed by the Minister by order, this Part applies to and in relation to all regulated financial service providers, including credit unions.



## CHAPTER 2

*Controlled functions*

**19.**—In this Chapter “relevant obligations” has the same meaning as in Part IV of the Central Bank Act 1997. Definition (*Chapter 2*).

**20.**—(1) The Bank may make regulations prescribing functions that are to be controlled functions. Controlled functions.

(2) The Bank may prescribe a function under *subsection (1)* if and only if the function is a function in relation to the provision of a financial service and—

- (a) is likely to enable the person responsible for its performance to exercise a significant influence on the conduct of the affairs of a regulated financial service provider,
- (b) is related to ensuring, controlling or monitoring compliance by a regulated financial service provider with its relevant obligations, or
- (c) is likely to involve the person responsible for its performance in the provision of a financial service by a regulated financial service provider in one or more of the following ways:
  - (i) 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;
  - (ii) 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;
  - (iii) dealing in or with property on behalf of the regulated financial service provider, or providing instructions or directions in relation to such dealing.

(3) A controlled function that is carried on by a person who, or a partnership or an entity that, is not a regulated financial service provider remains a controlled function.

(4) A controlled function remains a controlled function even if—

- (a) it is carried on at an office or location outside the State,
- (b) it is carried on at the office or location of another person, whether or not the other person is a regulated financial service provider, or
- (c) it relates to a business of a regulated financial service provider established in the State conducted by that provider outside the State.

(5) A function may be prescribed as a controlled function in relation to a specified class or classes of regulated financial service

providers or in relation to regulated financial service providers generally.

(6) The Bank shall give to the Minister a copy of any regulations made by it under this section as soon as practicable after the regulations are made and the Minister shall, as soon as may be, cause a copy of the regulations to be laid before each House of the Oireachtas.

Application of standards of fitness and probity.

**21.—(1)** A regulated financial service provider shall not permit a person to perform a controlled function unless—

- (a) the regulated financial service provider is satisfied on reasonable grounds that the person complies with any standard of fitness and probity in a code issued under *section 50*, and
- (b) the person has agreed to abide by any such standard.

(2) The Bank may take into account standards of fitness and probity referred to in *subsection (1)* when performing its functions and exercising its powers.

Pre-approval controlled functions.

**22.—(1)** A function is a pre-approval controlled function if—

- (a) it is prescribed as such in regulations made pursuant to *subsection (2)*, or
- (b) it has been declared by the Bank to be a pre-approval controlled function by written notice pursuant to *subsection (8)*.

(2) The Bank may prescribe by regulation a controlled function as a pre-approval controlled function if the function is one by which a person may exercise a significant influence on the conduct of a regulated financial service provider's affairs. In prescribing such a function, the Bank may describe or identify the function by reference to a title commonly used for a person who performs the function.

(3) Without prejudice to the generality of *subsection (2)*, the Bank may, pursuant to that subsection, prescribe a controlled function as a pre-approval controlled function if—

- (a) the person who performs the function reports directly to—
  - (i) a person who holds an office or position mentioned in a subparagraph of *subsection (4)(a)*, or
  - (ii) a person referred to in *paragraph (b) or (c) of subsection (4)*,
 and
- (b) the Bank is satisfied that the prescription of the function as a pre-approval controlled function—
  - (i) is warranted on the grounds of the size or complexity of the regulated financial service provider or its business, and

- (ii) is necessary or prudent in order to verify the compliance by the regulated financial service provider with its relevant obligations.

(4) For the purposes of *subsection (2)*—

(a) in the case of a regulated financial service provider that is a body corporate of a prescribed class, a person who holds or performs the duties of any of the following positions or offices in a regulated financial service provider shall be taken to exercise a significant influence on the conduct of the regulated financial service provider's affairs:

- (i) the office of director;
- (ii) the office of chief executive;
- (iii) the office of secretary;
- (iv) subject to *subsection (3)*, an office or position the holder of which reports directly to—
  - (I) a person who holds an office or position referred to in *subparagraph (i), (ii) or (iii)*, or
  - (II) a person referred to in *paragraph (b) or (c)*,

(b) each member of a partnership that is a regulated financial service provider of a prescribed class shall be taken to exercise a significant influence on the conduct of the regulated financial service provider's affairs, and

(c) if a natural person is a regulated financial service provider of a prescribed class, he or she shall be taken to exercise a significant influence on the conduct of the regulated financial service provider's affairs.

(5) For the purposes of *subsection (4)(a)*, the Bank may prescribe bodies corporate of a specified class or may prescribe all bodies corporate to be a class. In prescribing bodies corporate of a particular class, the Bank may define the class by reference to any common characteristic of the class, including in particular the kind of business engaged in or the size of the balance sheets of the bodies corporate.

(6) For the purposes of *paragraph (b) or (c) of subsection (4)*, the Bank may prescribe regulated financial service providers that are partnerships or natural persons, as the case may be, of a specified class or may prescribe all regulated financial service providers that are partnerships or natural persons to be a class. In prescribing regulated financial service providers that are partnerships or natural persons of a particular class, the Bank may define the class by reference to any common characteristic of the class, including in particular the kind of business engaged in or the annual turnover of the partnerships or natural persons concerned.

(7) Regulations made under this section may be made in the same instrument as regulations made under *section 20*.

(8) The Bank may declare by notice in writing served on a regulated financial service provider that a function performed by, for or on behalf of the regulated financial service provider is a pre-approval controlled function if—

- (a) the person who performs the function is concerned in the management of the regulated financial service provider,
- (b) the function is not prescribed as a pre-approval controlled function in regulations made pursuant to *subsection (2)*, and
- (c) no other person in the regulated financial service provider performs a pre-approval controlled function.

Appointment of persons to perform pre-approval controlled functions.

**23.—(1)** A regulated financial service provider shall not offer to appoint a person to perform a pre-approval controlled function unless the Bank has approved in writing the appointment of the person to perform the function. An offer made in contravention of this subsection does not create any contractual obligation.

(2) For the purposes of considering whether or not to approve a person under *subsection (1)*, the Bank may request the person, or a specified officer or employee of the regulated financial service provider that proposes to appoint the person to perform a controlled function, by notice in writing to do any one or more of the following:

- (a) produce a specified document or documents to the Bank;
- (b) provide specified information to the Bank;
- (c) produce to the Bank documents of a kind described in the notice;
- (d) answer a question or questions set out in the notice;
- (e) attend before a specified officer or employee of the Bank for interview.

(3) A notice under *subsection (2)* shall specify a date and time by which, and a place at which, the person shall provide the document or documents or information, provide answers to the question or questions, or attend for interview, as the case may be.

(4) Nothing in *subsection (2)* or any notice given by the Bank under that subsection requires a person—

- (a) to produce to the Bank a document that the person could not have been compelled to produce to a court,
- (b) to give the Bank information that the person could not have been compelled to give a court, or
- (c) to answer a question (either in writing or at interview) that the person could not have been compelled to answer in a court.

(5) The Bank may refuse to approve the appointment of a person for the purposes of *subsection (1)* where—

- (a) the Bank is of the opinion that the person is not of such fitness and probity as is appropriate to perform the function for which he or she is proposed to be appointed, or
- (b) the Bank is unable to decide, on the basis of the information available to it, whether the person is of such fitness and probity.

(6) Without prejudice to the generality of *subsection (5)*, the Bank may refuse to approve the appointment of a person under *subsection (1)* if—

- (a) the person, or an officer or employee of the regulated financial service provider concerned, has failed to comply with a request under *subsection (2)*, or
- (b) any of the grounds set out in *paragraphs (a) to (g)* of *section 25(3)* apply.

(7) A refusal pursuant to *subsection (5)* is an appealable decision for the purposes of Part VIIA of the Act of 1942.

### CHAPTER 3

#### *Suspension and investigation of fitness and probity of persons performing controlled functions, etc.*

**24.**—In this Chapter “suspended person” means a person who is the subject of a suspension notice. Definition (*Chapter 3*).

**25.**—(1) If in relation to a person to whom *subsection (2)* applies, the Head of Financial Regulation is of the opinion that— Head of Financial Regulation may investigate persons’ fitness and probity.

- (a) there is reason to suspect the person’s fitness and probity to perform the relevant controlled function, and
- (b) in the circumstances an investigation is warranted into the person’s fitness and probity,

the Head of Financial Regulation may conduct an investigation, in accordance with this Chapter, in relation to the fitness and probity of the person to perform the controlled function.

(2) This subsection applies to a person—

- (a) if the person performs a controlled function in relation to a regulated financial service provider,
- (b) if, to the knowledge of the Head of Financial Regulation, a regulated financial service provider proposes to appoint the person to carry out a controlled function (other than a pre-approval controlled function), or
- (c) if the Head of Financial Regulation has reason to believe that a regulated financial service provider is considering the appointment of the person to perform a controlled function (other than a pre-approval controlled function).

(3) Without prejudice to the generality of *subsection (1)*, the Head of Financial Regulation may form the opinion referred to in that subsection if there is reason to suspect that—

- (a) the person does not have the experience, qualifications or skills necessary to perform properly and effectively the controlled function, the part of a controlled function or any controlled function, as the case may be,
- (b) the person does not satisfy an applicable standard of fitness and probity in a code issued pursuant to *section 50*,

- (c) the person has participated in serious misconduct in relation to the business of a regulated financial service provider,
- (d) the person has directly or indirectly provided information to the Bank, the Governor or the Head of Financial Regulation (whether pursuant to this Part or otherwise) that the person knew or ought to have known was false or misleading,
- (e) the person has directly or indirectly provided information that the person knew or ought to have known was false or misleading to another person in order for it to be provided to the Bank, the Governor or the Head of Financial Regulation,
- (f) the person has caused or sought to cause information requested by the Head of Financial Regulation by evidentiary notice from a regulated financial service provider or a person who is carrying out a controlled function not to be provided by the due date,
- (g) the person has failed to comply with an evidentiary notice, or
- (h) the person has been convicted of an offence (whether in the State or outside the State) of money laundering or terrorist financing or an offence involving fraud, dishonesty or breach of trust.

Head of Financial Regulation may issue suspension notice, etc.

**26.—(1)** If a person’s fitness and probity is or has been the subject of an investigation under *section 25*, and the Head of Financial Regulation is satisfied that it is necessary in the interests of the proper regulation of a regulated financial service provider concerned that the person not perform the relevant controlled function, or any controlled function, while the Head of Financial Regulation, the Bank or the Governor, as the case may be, is carrying out any function in relation to the person under this Chapter or *Chapter 4*, the Head of Financial Regulation may issue a notice (in this Part called a “suspension notice”) in relation to the person.

(2) When considering whether to issue a suspension notice, the Head of Financial Regulation shall have particular regard, where appropriate, to—

- (a) the need to prevent potential serious damage to the financial system in the State and ensure the continued stability of that system, and
- (b) the need to protect users of financial services.

(3) Before issuing a suspension notice in the circumstances referred to in *section 25(2)(c)*, the Head of Financial Regulation shall ask the regulated financial service provider concerned in writing whether it is actually considering the appointment of the person concerned to perform the relevant controlled function. If the regulated financial service provider confirms in writing that it is not considering such an appointment, the Head of Financial Regulation shall not issue the notice unless there is reason to believe that such an appointment will nevertheless be made, or has been made.

(4) A suspension notice—

- (a) is required to be in writing,
  - (b) shall set out the grounds on which the Head of Financial Regulation holds the opinion referred to in *section 25(1)*,
  - (c) shall specify whether the suspended person is suspended from performing—
    - (i) a particular specified controlled function,
    - (ii) a specified part of a particular specified controlled function, or
    - (iii) all controlled functions,
  - (d) shall require the suspended person and the regulated financial service provider concerned to show cause, in writing, within 5 days after service of the notice, why the suspension order should not be confirmed, and
  - (e) shall set out any condition imposed under *subsection (8)* on the regulated financial service provider.
- (5) The Head of Financial Regulation shall serve a copy of a suspension notice on each of the following:
- (a) the suspended person;
  - (b) each regulated financial service provider for whom, to the knowledge of the Head of Financial Regulation, the suspended person performs the specified controlled function, the specified part of a controlled function, or any controlled function, as the case requires;
  - (c) any regulated financial service provider that—
    - (i) to the knowledge of the Head of Financial Regulation, proposes to appoint the suspended person to perform the specified controlled function, the specified part of a controlled function, or any controlled function, as the case requires, or
    - (ii) the Head of Financial Regulation believes to be considering appointing the suspended person to perform the specified controlled function, the specified part of a controlled function, or any controlled function, as the case requires.
- (6) A suspension notice may be served on a person (including a regulated financial service provider)—
- (a) by delivering it to the person,
  - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address,
  - (c) by sending it by post in a prepaid letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address, or

(d) electronically (by electronic mail to an email address, or by facsimile to a facsimile number, furnished by the person to, or otherwise known to, the Head of Financial Regulation).

(7) A regulated financial service provider on which a suspension notice is served shall immediately—

(a) give a copy of the notice to the suspended person (unless it is impracticable to do so), and

(b) after it has done so, certify in writing to the Head of Financial Regulation that it has done so.

(8) In a suspension notice the Head of Financial Regulation may impose on any regulated financial service provider concerned any terms and conditions relating to the enforcement of, or compliance with, the notice that the Head of Financial Regulation thinks fit (including any condition as to the cessation, restriction or conduct of all or part of the business of the regulated financial service provider concerned until the regulated financial service provider complies with the notice).

(9) A suspended person, and a regulated financial service provider on which a suspension notice is served, may, within the period mentioned in *subsection (4)(d)*, make a written submission to the Head of Financial Regulation in relation to the fitness and probity of the suspended person concerned or any terms or conditions imposed.

(10) Where a person on whom a suspension notice has been served asks the Head of Financial Regulation to decide, before the end of the period provided by *section 28(b)(i)*, whether or not to confirm the suspension notice, and provides material that the Head of Financial Regulation is satisfied allows him or her to make a proper and fair decision, the Head of Financial Regulation shall make all reasonable efforts to make that decision as soon as reasonably practicable.

Effect of suspension notices.

**27.—**(1) A regulated financial service provider on whom a suspension notice is served—

(a) shall immediately remove the suspended person concerned from performing—

(i) the particular controlled function concerned,

(ii) the specified part of the controlled function concerned, or

(iii) all controlled functions,

as specified in the notice, or

(b) shall not appoint the suspended person to carry out the controlled function or part, or any controlled function, as specified in the notice,

as the case requires.

(2) A regulated financial service provider on whom a suspension notice is served shall comply with any condition imposed on the regulated financial service provider by the notice.



(3) A suspended person on whom a suspension notice in relation to him or her is served, or who has been given a copy of such a notice by a regulated financial service provider shall cease performing, or (as the case requires) shall not begin to perform—

- (a) the particular controlled function concerned,
- (b) the specified part of the controlled function concerned, or
- (c) all controlled functions,

as specified in the relevant suspension notice.

(4) A suspension notice does not alter the contractual rights of any person to remuneration or benefits. Those rights shall continue to be determined in accordance with the relevant contract.

**28.**—A suspension notice that has not been confirmed by the Head of Financial Regulation pursuant to *section 29*—

Suspension notices that have not been confirmed — period of effect.

- (a) takes effect on its service on the regulated financial service provider for whom the suspended person performs the relevant controlled function, and
- (b) ceases to have effect—
  - (i) at the end of the 10th day after that service, unless within that period it is confirmed in accordance with *section 29*, or
  - (ii) if before the end of that day the Head of Financial Regulation revokes the notice, when the notice is revoked.

**29.**—(1) If the Head of Financial Regulation, having considered any written submissions made pursuant to *section 26* within the period mentioned in *section 26(4)(d)* by a person on whom, or a regulated financial service provider on which, a suspension notice has been served, is satisfied that—

Confirmation of suspension notices.

- (a) there is still reason to believe that the person is not of such fitness and probity as is appropriate to perform the relevant controlled function,
- (b) in the circumstances an investigation is still warranted into the person's fitness and probity, and
- (c) it is necessary in the interests of the proper regulation of the financial service provider that the person not perform the controlled function, or any controlled function, while the matter is investigated,

the Head of Financial Regulation may confirm the suspension notice.

(2) To avoid any doubt, the Head of Financial Regulation may confirm a suspension notice at the end of the period mentioned in *section 26(4)(d)* even if no submission has been made in relation to it by either or both of the suspended person and any regulated financial service provider concerned.

(3) If a suspended person makes a submission in relation to a suspension notice after the end of the period mentioned in *section 26(4)(d)*, and the Head of Financial Regulation is satisfied that there was good reason why the submission could not have been made within that period, or that it is necessary to do so in the interests of justice, the Head of Financial Regulation shall—

- (a) consider the submission, and
- (b) if after doing so he or she is satisfied that any condition in *paragraph (a), (b) or (c) of subsection (1)* is no longer satisfied, revoke the notice.

(4) A suspension notice that has been confirmed in accordance with *subsection (1)* has effect for 3 months (unless sooner revoked) from the date upon which the suspension notice would otherwise have ceased to have effect under *section 28(b)*.

(5) The Head of Financial Regulation shall serve a notice of the confirmation of a suspension notice on each person on whom the suspension notice was served.

(6) The Head of Financial Regulation may revoke a suspension notice at any time if he or she considers that—

- (a) there is no longer any reason to suspect the person's fitness and probity to perform the relevant controlled function, or
- (b) although the investigation continues, it is no longer necessary in the interests of the proper regulation of the regulated financial service provider concerned that the person not perform the relevant controlled function, or any controlled function, during the investigation.

Enforcement of suspension notice.

**30.—If—**

- (a) a person performs a controlled function or part of a controlled function in contravention of a suspension notice, or
- (b) a regulated financial service provider permits a suspended person to perform a controlled function or part of a controlled function in contravention of a suspension notice,

the Head of Financial Regulation may apply *ex parte* to the Court for an order directing the person or regulated financial service provider to comply with the notice.

Court's power to extend validity of suspension notices.

**31.—(1)** During the period of validity of a suspension notice that has been confirmed by the Head of Financial Regulation, the Head of Financial Regulation may apply to the Court, on notice to the suspended person and any regulated financial service provider on which the notice was served, for an order extending the period of validity of the notice.

(2) If the Court is satisfied, having regard to the reasons for the issue and confirmation of the notice stated by the Head of Financial Regulation, that there are sufficient grounds to extend the period of validity of the notice, the Court may extend the notice for such

further period (but not longer than a further 3 months) as the Court orders.

(3) When considering whether to make an order under *subsection (2)*, the Court shall give particular regard to—

- (a) the need to prevent potential serious damage to the financial system in the State and ensure the continued stability of that system, and
- (b) the need to protect users of financial services.

**32.—(1)** The Head of Financial Regulation may serve a notice (in this Part called an “evidentiary notice”) on a person requiring the person—

Head of Financial Regulation may require persons to give evidence or produce documents.

- (a) to appear before the Head of Financial Regulation to give evidence about a matter,
- (b) to provide information to the Head of Financial Regulation, or
- (c) to produce a document for examination,

if—

- (i) the Head of Financial Regulation is investigating the person’s fitness and probity under this Chapter, or
- (ii) the Head of Financial Regulation believes on reasonable grounds that the person may be able to give evidence, or to produce a document, that relates to a matter concerning the fitness or probity of a person whose fitness and probity is being investigated under this Chapter.

(2) Without prejudice to the generality of *subsection (1)*, the Head of Financial Regulation may serve a notice under *subsection (1)* on—

- (a) a regulated financial service provider,
- (b) a former regulated financial service provider, or
- (c) an officer or employee, or former officer or employee, of a regulated financial service provider or a former regulated financial service provider.

(3) An evidentiary notice shall—

- (a) specify the matter to which the evidence relates, or specify or describe the document to be produced or the information to be provided, as the case requires,
- (b) in the case of a notice to appear before the Head of Financial Regulation to give evidence—
  - (i) specify the date, time and place at which the person is required to appear before the Head of Financial Regulation, and
  - (ii) state whether and to what extent the evidence is to be given orally or on affidavit,

and

(c) in the case of a notice to provide information or produce a document for examination, specify—

(i) the date and time by which, and the place at which, the information is to be provided or the document is to be produced, and

(ii) the officer or employee of the Bank to whom the information is to be provided or the document produced.

(4) The Head of Financial Regulation may take a copy or copies of a document produced pursuant to an evidentiary notice, and may retain any such copy.

(5) Nothing in this section affects any power of the Bank, the Governor or the Head of Financial Regulation to obtain documents or information otherwise than under this section.

Offence of failing to appear.

**33.**—(1) A person commits an offence if, having been required to appear before the Head of Financial Regulation in compliance with an evidentiary notice, the person fails to comply with the requirement, and has not been excused, or released from further attendance, by the Head of Financial Regulation.

(2) *Subsection (1)* does not apply if the person has a reasonable excuse.

Investigation into fitness and probity — conduct of proceedings.

**34.**—(1) The Head of Financial Regulation may hear oral evidence where he or she is satisfied that it is necessary to do so for the proper conduct of an investigation.

(2) The Head of Financial Regulation may permit a person giving oral evidence to be cross-examined.

(3) The Head of Financial Regulation shall determine the procedures for the conduct of proceedings in an investigation, subject to any regulations made by the Bank under *section 53(2)*.

Proceedings normally to be in private.

**35.**—(1) Except as provided by this section, evidence to be given, or a document to be produced, to the Head of Financial Regulation by a person who appears before the Head of Financial Regulation in compliance with an evidentiary notice shall be given or produced in private.

(2) If a person who appears before the Head of Financial Regulation in compliance with an evidentiary notice requests that the matter or any part of it be dealt with in public, the Head of Financial Regulation shall comply with the request unless—

(a) the matter raises issues that, in the opinion of the Head of Financial Regulation, should be dealt with in private, or

(b) the Head of Financial Regulation considers that it is necessary or desirable to deal with the matter or part of it in private in order to avoid the disclosure of information of the kind referred to in *section 33AK(1A)* of the Act of 1942.

(3) Subject to *subsections (1) and (2)*, if the Head of Financial Regulation is satisfied that it is desirable in the public interest that the evidence to be given should be given, or the document to be produced should be produced, in public, the Head of Financial Regulation may direct accordingly.

(4) If the evidence is to be given, or the document is to be produced, in private, the Head of Financial Regulation may do either or both of the following:

- (a) give directions as to the persons (other than the Head of Financial Regulation or an officer or employee of the Bank) who may be present during the proceeding;
- (b) give directions preventing or restricting the publication of the whole or any part of the evidence or of matters contained in the document.

(5) If the evidence is to be given, or the document is to be produced, in private, a person (other than the person required to appear before the Head of Financial Regulation, the Head of Financial Regulation or an officer or employee of the Bank) may be present only if entitled to be present because of a direction given under *subsection (4)(a)*.

(6) A person who contravenes a direction of the Head of Financial Regulation under *subsection (4)(b)* commits an offence.

**36.—(1)** A person commits an offence if, having been required to produce a document or provide information to the Head of Financial Regulation in compliance with an evidentiary notice, he or she fails to comply with the requirement and has not been excused by the Head of Financial Regulation.

Offence of failing to produce document, etc.

(2) *Subsection (1)* does not apply if the person has a reasonable excuse.

(3) It is a reasonable excuse for the purposes of *subsection (2)* that—

- (a) the person does not have the document or information and cannot by any reasonable effort obtain it; or
- (b) the person could not be compelled to produce the document in, or provide the information to, a court of law.

(4) *Subsection (3)* does not limit what is a reasonable excuse for the purposes of *subsection (2)*.

**37.—(1)** A person appearing before the Head of Financial Regulation in compliance with an evidentiary notice commits an offence if the person—

Offence of refusing to answer question, etc.

- (a) refuses or fails to give evidence in compliance with the evidentiary notice, or
- (b) refuses or fails to answer a question put to the person by the Head of Financial Regulation or in cross-examination with the permission of the Head of Financial Regulation.

(2) *Subsection (1)* does not apply if the person has a reasonable excuse.

(3) It is a reasonable excuse for the purposes of *subsection (2)* for a person to refuse or fail to answer a question that the answer might tend to incriminate the person.

(4) *Subsection (3)* does not limit what is a reasonable excuse for the purposes of *subsection (2)*.

(5) If a person alleges that he or she has a reasonable excuse for refusing or failing to give evidence, or refusing or failing to answer a question, he or she shall provide a written statement setting out details of the excuse to the Head of Financial Regulation.

(6) The Bank may have regard to the contents of a statement under *subsection (5)* for the purposes of the exercise of its powers and the performance of its functions under the *Central Bank Acts 1942 to 2010*.

(7) A statement under *subsection (5)* is not admissible in evidence, against the person who made it, in proceedings in relation to an offence.

Privilege for evidence given under this Chapter, etc.

**38.**—Evidence given to the Head of Financial Regulation in accordance with this Chapter, and any report prepared pursuant to *section 41* on the basis of such evidence, is absolutely privileged.

Payment of allowances and expenses to persons who appear before Head of Financial Regulation.

**39.**—(1) A person (other than a person to whom *subsection (2)* applies) who appears before the Head of Financial Regulation in compliance with an evidentiary notice is entitled to be paid such allowances and travelling or other expenses as the Head of Financial Regulation may reasonably allow.

(2) This subsection applies to—

- (a) a person whose fitness and probity is being investigated under this Part,
- (b) a regulated financial service provider or a former regulated financial service provider, and
- (c) a person called or put forward by a person referred to in *paragraph (a)* or *(b)* to give evidence.

(3) All allowances and expenses payable under *subsection (1)* are payable by the Bank.

Head of Financial Regulation may certify failure to produce document, etc.

**40.**—(1) If a person refuses or fails—

- (a) to produce a document to the Head of Financial Regulation in accordance with an evidentiary notice,
- (b) to provide information to the Head of Financial Regulation,
- (c) to attend before the Head of Financial Regulation in accordance with an evidentiary notice, or

- (d) to answer a question put to him or her by the Head of Financial Regulation,

the Head of Financial Regulation may certify the refusal or failure to the Court.

(2) The Court may, after hearing any witnesses who may be produced against or on behalf of the person alleged to have so refused or failed and any statement which may be offered in defence, make any order or give any direction it thinks fit.

(3) Without prejudice to the generality of *subsection (2)*, the Court may—

- (a) order the person concerned to attend or re-attend before the Head of Financial Regulation, or to produce a particular document, provide particular information or answer a particular question put to him or her by the Head of Financial Regulation, or
- (b) order that the person concerned need not produce a particular document, provide particular information or answer a particular question put to him or her by the Head of Financial Regulation.

**41.**—(1) After carrying out an investigation under this Chapter, the Head of Financial Regulation shall prepare a report for consideration by the Bank and the Governor. Head of Financial Regulation to prepare report.

(2) The Head of Financial Regulation shall serve a copy of a report prepared in accordance with *subsection (1)* on each of—

- (a) the person whose fitness and probity was the subject of the relevant investigation, and
- (b) any regulated financial service provider concerned.

(3) A copy of a report may be served in any of the ways that a suspension notice may be served.

(4) A person (including a regulated financial service provider) on whom a copy of a report is served pursuant to *subsection (2)* may make, within the period specified in accordance with *subsection (5)*, a submission in writing to the Head of Financial Regulation in relation to any matter in the report.

(5) When the Head of Financial Regulation serves a copy of a report on a person (including a regulated financial service provider) pursuant to *subsection (2)*, the Head of Financial Regulation shall inform the person in writing of the person's right under *subsection (4)* to make a submission in relation to any matter in the report, and shall specify the period within which the person may do so. The period specified shall be 7 days, or such longer period as the Head of Financial Regulation considers reasonable in all the circumstances.

#### CHAPTER 4

##### *Prohibition of certain persons from performing controlled functions*

**42.**—In this Chapter—

Definitions  
(Chapter 4).

“prohibited person” means a person forbidden, by a prohibition notice, to carry out a controlled function;

“prohibition notice” means a notice under *section 43*.

Bank may prohibit person from carrying out controlled function, etc.

**43.—(1)** Subject to *subsection (4)*, if the Bank or the Governor has reasonably formed the opinion that a person is not of such fitness and probity as is appropriate to perform a particular controlled function, a specified part of a controlled function or any controlled function, the Bank or the Governor, as the case may be, may issue a notice in writing (in this Part called a “prohibition notice”) forbidding the person—

- (a) to carry out the controlled function, the specified part of a controlled function or any controlled function, as the case requires, or
- (b) to carry out the controlled function, the specified part of such a function or any controlled function, as the case requires, otherwise than in accordance with a specified condition or conditions,

either for a specified period or indefinitely.

(2) Without prejudice to the generality of *subsection (1)*, the Bank or the Governor may form the opinion referred to in that subsection if satisfied that—

- (a) the person does not have the experience, qualifications or skills necessary to perform properly and effectively the controlled function, the specified part of a controlled function or any controlled function, as the case may be,
- (b) the person does not satisfy an applicable standard of fitness and probity in a code issued pursuant to *section 50*,
- (c) the person has participated in serious misconduct in relation to the business of a regulated financial service provider,
- (d) the person has directly or indirectly provided information to the Bank, the Governor or the Head of Financial Regulation (whether pursuant to this Part or otherwise) that the person knew or ought to have known was false or misleading,
- (e) the person has directly or indirectly provided information that the person knew or ought to have known was false or misleading to another person in order for it to be provided to the Bank, the Governor or the Head of Financial Regulation,
- (f) the person has caused or sought to cause information requested by the Head of Financial Regulation by evidentiary notice from a regulated financial service provider or a person who is carrying out a controlled function not to be provided by the due date,
- (g) the person has failed to comply with an evidentiary notice or a suspension notice, or



- (h) the person has been convicted of an offence (whether in the State or outside the State) of money laundering or terrorist financing or an offence involving fraud, dishonesty or breach of trust.

(3) The Bank or the Governor shall not issue a prohibition notice in relation to a person unless—

(a) either—

(i) all of the following requirements have been satisfied:

- (I) the Head of Financial Regulation has conducted an investigation into the person's fitness and probity in accordance with this Chapter;
- (II) *section 41* has been complied with in relation to that investigation and the report of it;
- (III) the Bank or the Governor, as the case may be, has considered the report and any submissions made (within the period specified pursuant to *section 41(4)*) to the Head of Financial Regulation in relation to any matter in the report,

or

(ii) there are undisputed facts that in the reasonable opinion of the Bank or the Governor render an investigation unnecessary, and the person and any regulated financial service provider concerned have been afforded a reasonable opportunity to make a submission in relation to the matter,

(b) the person and the regulated financial service provider have been afforded such a hearing in relation to the proposed issue of the prohibition notice as is necessary to do justice in the circumstances, and

(c) the Bank or the Governor, as the case may be, is satisfied that the issue of a prohibition notice is necessary in the circumstances.

(4) When considering whether to issue a prohibition notice, the Bank or the Governor, as the case may be, shall have particular regard to—

(a) the need to prevent potential serious damage to the financial system in the State and ensure the continued stability of that system, and

(b) the need to protect users of financial services.

(5) A prohibition notice may be expressed to apply—

(a) to one or more specified controlled functions or parts of controlled functions or all controlled functions, and

(b) in relation to the performance of any such controlled function or part of a controlled function for one or more regulated financial service providers, a class of regulated financial service providers or every regulated financial service provider.

(6) A prohibition notice may be served in any of the ways that a suspension notice may be served.

(7) A prohibition notice—

- (a) takes effect on first service on either the prohibited person or the regulated financial service provider concerned, and
- (b) if an application is made to the Court under *section 45* before the notice ceases to have effect, continues to have effect until that application is determined by the Court or withdrawn.

Subject to *section 46*, a prohibition notice ceases to have effect at the end of 2 months (or a shorter period specified in the notice) beginning on the day after it is first served as mentioned in *paragraph (a)* if no application is made to the Court within that period.

(8) A prohibited person shall not perform a controlled function if doing so would require the person to contravene a prohibition notice served on the person.

(9) A regulated financial service provider shall not permit a prohibited person to perform a controlled function if doing so would require the person to contravene a prohibition notice served on the regulated financial service provider.

(10) The Bank may publish a prohibition notice if, in the opinion of the Governor, it is necessary to do so in order to achieve the purposes of this Part.

(11) A prohibition notice does not alter the contractual rights of any person to remuneration or benefits. Those rights shall continue to be determined in accordance with the relevant contract.

(12) The Bank or the Governor, as the case may be—

- (a) shall not continue a prohibition notice for longer than is necessary to achieve those purposes, and
- (b) shall not make an application to the Court under *section 45* in relation to a prohibition notice unless the Bank or the Governor is satisfied that it is necessary that the notice continue for longer than 2 months to achieve the purposes referred to in *subsection (4)*.

Enforcement of certain prohibition notices.

**44.—**(1) Subject to *subsection (2)*, if—

- (a) a person performs a controlled function in contravention of a prohibition notice, or
- (b) a regulated financial service provider permits a prohibited person to perform a controlled function in contravention of a prohibition notice,

the Head of Financial Regulation may apply *ex parte* to the Court for an order directing the person or regulated financial service provider to comply with the notice.

(2) This section does not apply in relation to a prohibition notice that has been confirmed by the Court under *section 45*.

**45.—**(1) The Bank may apply to the Court in accordance with this section for an order confirming a prohibition notice. Where such an application is made with the consent of the prohibited person concerned, the Court may make an order under this section *ex parte*.

Application to  
Court to confirm  
prohibition notice.

(2) Without limiting the exercise of the judicial function with respect to a particular case, it shall be the duty of the High Court, in so far as it is practicable, to hear and determine an application under this section within 3 months after the date on which the application is made to it.

(3) If when hearing an application under *subsection (1)* the Court is satisfied that, for reasons of confidentiality or commercial sensitivity or in order to avoid the disclosure of information of the kind referred to in section 33AK(1A) of the Act of 1942, the hearing of the Court should be held otherwise than in public, the Court may so order.

(4) The Court may, on the hearing of an application under *subsection (1)*, consider evidence not adduced or hear an argument not made to the Bank or the Governor, if the Court is satisfied that—

- (a) there are cogent reasons justifying the failure to adduce the evidence or make the argument to the Governor or the Bank, and
- (b) it is just and equitable for the Court to consider the evidence or hear the argument, as the case may be.

(5) On an application under this section—

- (a) if the Court is satisfied that there is a reasonable basis (as set out in *subsection (6)*) for the opinion of the Bank or the Governor, as the case may be, that the prohibited person concerned is not of such fitness and probity as is appropriate to perform the relevant controlled function or part of a controlled function, or any controlled function (as the case may be), the Court may make—

- (i) an order confirming the relevant prohibition notice,
- (ii) if the Court considers that it is necessary in the interests of justice, or for any other good reason, to vary the prohibition notice, an order varying or limiting it (including by imposing a condition or conditions on the prohibited person or a regulated financial institution concerned), and

- (iii) any other additional or ancillary order it thinks fit,  
and

- (b) if the Court is not satisfied as provided for in *paragraph (a)*, the Court may make—

- (i) an order setting aside the notice,
- (ii) an order remitting the matter to the Bank or the Governor for reconsideration in accordance with any directions by the Court (whether or not the Court also sets aside the notice), or

- (iii) any other order it thinks fit.

(6) For the purposes of *subsection (5)(a)*, there is a reasonable basis for an opinion if, taking into account the expertise and specialist knowledge possessed by the Bank or the Governor, as the case requires, the opinion (and the process that led to its formation) was not vitiated by—

- (a) any significant and serious error or series of such errors,
- (b) a mistake of law, or
- (c) the evidence, taken as a whole, not supporting the finding.

(7) When considering whether to make an order under *subsection (5)*, the Court shall have particular regard to—

- (a) the need to prevent potential serious damage to the financial system in the State and ensure the continued stability of that system, and
- (b) the need to protect users of financial services.

(8) An order under *subsection (5)* may be expressed to have effect—

- (a) indefinitely, or for a particular period that the Court thinks appropriate, or
- (b) until further order of the Court.

(9) A prohibition notice that has been confirmed by the Court (whether or not also varied by the Court) has effect as an order of the Court and may be enforced accordingly.

(10) *Section 43* applies to any prohibition notice made by the Bank after reconsideration in accordance with an order referred to in *subsection (5)(b)(ii)*.

(11) The setting aside by the Court of a prohibition notice does not of itself prevent the further exercise of the powers of the Bank, the Governor or the Head of Financial Regulation under this Part.

Agreement between Bank or Governor, prohibited person and regulated financial service provider.

**46.—**(1) Where the Bank or the Governor has issued a prohibition notice in relation to a person, the person (and, where at the time of issue of the prohibition notice, the person is performing a controlled function, the regulated financial service provider concerned) may agree in writing with the Bank or the Governor that the person and, where applicable, the regulated financial service provider shall continue to comply with the prohibition notice for such period as is agreed.

(2) Where a person and the Bank or the Governor have agreed as set out in *subsection (1)*, then—

- (a) nothing in *section 45* requires the Bank or the Governor to apply for an order under that section,
- (b) subject to *subsection (3)*, and notwithstanding *subsection 43(6)*, the prohibition notice shall continue in effect in accordance with its terms, and
- (c) in the event of a contravention of the agreement—

- (i) the Bank may apply to the Court for an order under *section 44*, and
- (ii) the prohibition notice shall continue in effect in accordance with its terms.

(3) If the Bank or the Governor, as the case may be, considers that there is no further need to continue a prohibition notice that is the subject of an agreement under *subsection (1)*, the Bank or the Governor, as the case may be, may terminate the agreement by written notice to that effect to the prohibited person and any regulated financial service provider concerned. On the giving of such a notice the prohibition notice ceases to have effect.

## CHAPTER 5

### *Miscellaneous*

**47.**—The Bank may make use of—

Use of information.

- (a) information and evidence gathered by the Head of Financial Regulation in the course of an investigation under *Chapter 3*,
- (b) anything in any submission made to the Head of Financial Regulation pursuant to *section 41*, and
- (c) anything in any document or evidence placed before the Court in the course of proceedings under *Chapter 3* or *4*,

for the purposes of any statutory function of the Bank (including, in particular, an inquiry pursuant to Part IIC of the Act of 1942 and the imposition of sanctions as a result of such an inquiry).

**48.**—(1) A person shall not provide to the Head of Financial Regulation or the Bank, for the purposes of this Part, information that the person knows or ought to know is false or misleading.

Offences of providing false or misleading information, etc.

(2) A person who is carrying out, or proposes to carry out, a controlled function shall not provide information or a document that the person knows or ought to know is false or misleading to a regulated financial service provider with a view to the information or document being provided to the Head of Financial Regulation or the Bank for the purposes of this Part.

(3) A person shall not give the Head of Financial Regulation or the Bank, for the purposes of this Part, a document (whether in response to an evidentiary notice or otherwise) that the person knows or ought to know is false or misleading or is not what it purports to be.

(4) A person (in this subsection called the “examinee”) who is appearing before the Head of Financial Regulation shall not, in an answer to a question put by the Head of Financial Regulation or another person with the consent of the Head of Financial Regulation, make a statement that the examinee knows or ought to know is false or misleading in a material particular.

(5) A person who contravenes *subsection (1)*, *(2)*, *(3)* or *(4)* commits an offence.

Penalties for offences under this Part.

**49.**—A person guilty of an offence under this Part is liable—

- (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

Standards of fitness and probity.

**50.**—The Bank may issue a code setting out standards of fitness and probity for the purposes of this Part.

Effect of this Part.

**51.**—(1) Nothing in this Part affects any other power of the Bank in relation to the fitness and probity of persons who are officers of, or responsible for the management of, financial service providers.

(2) The Bank may have regard to a document or information gathered or received otherwise than under this Part for any purpose under this Part.

Appointment of nominees, etc., for purposes of this Part.

**52.**—(1) The Governor may at his or her discretion appoint a suitably qualified person (including a person who is not an officer or employee of the Bank) to perform a function of the Governor under this Part if the Governor considers it necessary or appropriate to do so to ensure that the functions of the Governor under this Part are performed efficiently and effectively.

(2) The Head of Financial Regulation may at his or her discretion appoint a suitably qualified person (including a person who is not an officer or employee of the Bank) to perform a function (or any part of a function) of the Head of Financial Regulation under this Part if the Head of Financial Regulation considers it necessary or appropriate to do so to ensure that the functions of the Head of Financial Regulation under this Part are performed efficiently and effectively.

(3) Without prejudice to the generality of *subsections (1) and (2)*, the power to appoint a person to perform a function in accordance with either of those subsections includes the power to appoint the person to do any one or more of the following:

- (a) form an opinion required by this Part to be formed by the Governor or the Head of Financial Regulation (as the case may be);
- (b) make an application to the Court;
- (c) certify a matter to the Court.

Regulations — facilitation of performance of functions.

**53.**—(1) The Minister may, in respect of any difficulty that arises in the operation of this Act during the period of 2 years beginning on the date this section comes into operation, make regulations to do anything that appears necessary or expedient for bringing this Act into operation.

(2) The Bank may make regulations setting out procedures to be followed in the exercise of the powers of the Bank, the Governor or the Head of Financial Regulation under this Part.

(3) Regulations made by the Bank under this section may contain such incidental, supplementary and consequential provisions as appear to the Bank to be necessary or expedient for the purposes of the regulations.

(4) Sections 61C and 61D of the Act of 1942 apply to regulations made under this Part.

Section 14.

SCHEDULE 1

AMENDMENTS OF CENTRAL BANK ACTS

Section 14(1).

PART 1

AMENDMENTS OF CENTRAL BANK ACT 1942

Item	Provision affected	Amendment
1	Section 2(1)	After the definition of “Appeals Tribunal”, insert: “ ‘appointed member’ or ‘appointed member of the Commission’ means a member of the Commission referred to in section 18CA(1)(b);”.
2	Section 2(1), definition of “appointed Director”	Delete.
3	Section 2(1), definitions of “Bank” and “Board”	Substitute: “ ‘Bank’ means the Central Bank of Ireland;”.
4	Section 2(1), definition of “Chief Executive”	Substitute: “ ‘Commission’ means the Central Bank Commission;”.
5	Section 2(1), definitions of “constituent part” and “Consumer Director”	Delete.
6	Section 2(1), definition of “designated enactments”	Substitute: “ ‘designated enactments’ means, subject to subsection (2A), the enactments specified in Part 1 of Schedule 2;”.
7	Section 2(1), definition of “Director”	Delete.
8	Section 2(1), definition of “employee”	Delete “Secretary to the Bank”, substitute “Secretary of the Bank”.
9	Section 2(1)	After the definition of “ESCB Statute”, insert: “ ‘ <i>ex-officio</i> member’ or ‘ <i>ex-officio</i> member of the Commission’ means a member of the Commission referred to in section 18CA(1)(a);”.



Item	Provision affected	Amendment
10	Section 2(1), definition of “general fund”	Substitute: “ ‘general fund’ means the fund referred to in section 32F;”.
11	Section 2(1), definition of “Governor”, paragraph (b)	Delete “Director General of the Bank”, substitute “Head of Central Banking”.
12	Section 2(1)	After the definition of “Governor”, insert: “ ‘Head of Central Banking’, ‘Head of Financial Regulation’ and ‘Head of Function’ shall be construed in accordance with section 23;”.
13	Section 2(1)	After the definition of “local authority”, insert: “ ‘member’ or ‘member of the Commission’ means an appointed member or an <i>ex-officio</i> member;”.
14	Section 2(1), definition of “officer”	Substitute: “ ‘officer’ means each Head of Function, the Secretary of the Bank and the Registrar of Credit Unions;”.
15	Section 2(1), definition of “official Director”	Delete.
16	Section 2(1), definition of “regulated financial service provider”	Substitute: “ ‘regulated financial service provider’ means— (a) a financial service provider whose business is subject to regulation by the Bank under this Act or under a designated enactment or a designated statutory instrument, (b) a financial service provider whose business is subject to regulation by an authority that performs functions in an EEA country that are comparable to the functions performed by the Bank under this Act or under a designated enactment or designated statutory instrument, or (c) in relation to Part VIIB only, any other financial service provider of a class specified in the regulations for the purposes of this paragraph;”.
17	Section 2(1), definition of “Regulatory Authority”	Delete.
18	Section 2(1), definition of “Rome Treaty”	Substitute: “ ‘Rome Treaty’ means the Treaty on the Functioning of the European Union done at Rome on 25 March 1957, as amended by the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community signed at Lisbon on 13 December 2007;”.

Item	Provision affected	Amendment
19	Section 2	<p>After subsection (2), insert:</p> <p>“(2A) Commission Regulations (EC) No. 1287/2006<sup>1</sup> and (EC) No. 924/2009<sup>2</sup> shall be taken to be designated enactments.”.</p>
20	Section 5	<p>Substitute:</p> <p><i>“Establishment of Central Bank of Ireland.</i></p> <p>5.—(1) The body corporate formerly called the Central Bank and Financial Services Authority of Ireland is continued in existence under the name ‘Central Bank of Ireland’.</p> <p>(2) The Bank—</p> <p>(a) has perpetual succession, and</p> <p>(b) may take legal proceedings and be proceeded against in its corporate name.</p> <p>(3) The Bank is required to have a seal. The seal shall be judicially noticed.</p> <p>(4) Except as expressly provided by this Act, the affairs and activities of the Bank are to be managed and controlled by the Central Bank Commission.”.</p>
21	Section 5A	<p>Substitute:</p> <p><i>“General functions and powers of the Bank.</i></p> <p>5A.—(1) The Bank has the following functions:</p> <p>(a) to carry out the efficient and effective co-ordination of—</p> <p>(i) the activities of the Bank,</p> <p>(ii) activities undertaken by persons who provide services to, or receive services from, the Bank, and</p> <p>(iii) the exchange of information between the Bank and any of those persons;</p> <p>(b) where appropriate, to represent and co-ordinate the representation of the Bank on international financial bodies and at international meetings relating to financial or economic matters;</p> <p>(c) to establish and maintain, either directly or indirectly, contact with the monetary authorities established in other countries and in territories;</p> <p>(d) whenever it thinks fit, to provide governments of, and financial institutions and other bodies established in, other countries and in territories with advice or other assistance on matters within its expertise;</p> <p>(e) the function of holding an inquiry under Part IIC;</p> <p>(f) the function of monitoring the provision of financial services to consumers of those services to the extent that the Bank considers appropriate, for the purposes of protecting the public interest and the interests of consumers;</p> <p>(g) to provide for the collection and study of data that deal with monetary and credit problems and to publish information about that data;</p>

<sup>1</sup>OJ L 241, 2.9.2006, pp. 1-25.

<sup>2</sup>OJ L 266, 9.10.2009, pp. 11-18.

Item	Provision affected	Amendment
		<p>(h) to provide advice and assistance to the Central Statistics Office about the collection, compilation, analysis and interpretation of statistics relating to the balance of payments, national accounts and other financial statistics and, where appropriate, to collect data for that purpose;</p> <p>(i) to perform such other functions as are imposed on it by or under this and any other Act or law.</p> <p>(2) The Bank has power to do whatever is necessary for or in connection with, or reasonably incidental to, the performance of its functions.</p> <p>(3) In particular, the powers of the Bank include powers of a kind that, in accordance with normal banking practice, may be exercised by a bank.</p> <p>(4) The functions of the Agency specified in subsection (5) are, in so far as they relate to a financial service provided by a regulated financial service provider, also functions of the Bank and subsections (6) to (8) have effect for the purposes of this subsection.</p> <p>(5) The functions of the Agency referred to in subsection (4) are the following functions of it under the Consumer Protection Act 2007, namely, functions under—</p> <p>(a) subsections (1), (4), (5) and (6) of section 8 of that Act in relation to—</p> <p>(i) sections 41 to 49 and 51 to 56 of that Act, and</p> <p>(ii) the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 and 2000 (S.I. No. 27 of 1995 and S.I. No. 307 of 2000),</p> <p>and</p> <p>(b) sections 30, 71, 72, 73, 75, 81, 82, 84, 86, 88 and 90 of that Act.</p> <p>(6) Subsection (4) operates to vest in the Bank, concurrently with the vesting in the Agency of those functions by the Consumer Protection Act 2007, the functions specified in subsection (5).</p> <p>(7) Accordingly—</p> <p>(a) the functions so specified are, subject to any relevant co-operation agreement entered into under section 21 of the Consumer Protection Act 2007, capable of being performed by either the Agency or the Bank, and</p> <p>(b) subject to subsection (9), references to the Agency in the provisions of that Act specified in subsection (5) are to be read as including references to the Bank and those provisions otherwise apply.</p> <p>(8) Subject to subsection (9), sections 80, 85 and 87 of the Consumer Protection Act 2007 apply to the Bank as they apply to the Agency and, accordingly, references to the Agency in those sections are to be read as including references to the Bank.</p> <p>(9) Where any section of the Consumer Protection Act 2007 specified in subsection (5) or (8) provides for anything to be done in relation to the Agency (whether the giving of notice to it, the submitting of a thing to it or the doing of any</p>

Item	Provision affected	Amendment
		<p>other thing) then, if a co-operation agreement entered into under section 21 of that Act so specifies, it is sufficient compliance with the section concerned if the thing is done in relation to the Agency or the Bank as is specified in that agreement.</p> <p>(10) The Bank is required to perform its functions and exercise its powers in a manner consistent with the Rome Treaty and the ESCB Statute.</p> <p>(11) Subject to subsection (10), the Bank shall perform its functions and exercise its powers in a way that is consistent with—</p> <ul style="list-style-type: none"> <li>(a) the orderly and proper functioning of financial markets,</li> <li>(b) the prudential supervision of providers of financial services, and</li> <li>(c) the public interest and the interest of consumers.</li> </ul> <p>(12) The Bank can perform its functions and exercise its powers both within the State and elsewhere.”.</p>
22		<p>After section 5B, insert:</p> <p><i>“Supplementary powers of Bank with respect to certain responsibilities.</i></p> <p>5C.—(1) To enable the Bank to carry out its responsibilities, the Bank may—</p> <ul style="list-style-type: none"> <li>(a) undertake studies, analyses and surveys with respect to the provision of relevant financial services to consumers,</li> <li>(b) collect and compile information for that purpose, and</li> <li>(c) publish the results of any such studies, analyses or surveys.</li> </ul> <p>(2) In undertaking such a study, analysis or survey, the Bank—</p> <ul style="list-style-type: none"> <li>(a) may, by notice in writing, require any person who, in the opinion of the Bank, has information, or has control of a record or other thing, that is relevant to the study, analysis or survey, to provide the information, record or thing to the Bank, and</li> <li>(b) may, by the same or another notice in writing, require the person to attend before an officer or employee of the Bank for that purpose.</li> </ul> <p>(3) Subject to section 33AK, if the Agency is of the opinion that information obtained by the Bank pursuant to subsections (1) and (2) is relevant to the exercise of that Agency’s functions under section 8(3)(ha) of the Consumer Protection Act 2007, the Bank shall provide the requested information to the Agency at the Agency’s request.</p> <p>(4) A person commits an offence if the person—</p> <ul style="list-style-type: none"> <li>(a) intentionally prevents the Bank from exercising a power conferred by subsection (1),</li> <li>(b) intentionally obstructs or hinders the Bank in the exercise of such a power,</li> <li>(c) without reasonable excuse, fails to comply with a requirement made to the person in accordance with subsection (2), or</li> <li>(d) in purporting to comply with a requirement made under subsection (2) to provide information,</li> </ul>

Item	Provision affected	Amendment
		<p>provides the Bank with information that the person knows, or ought reasonably to know, is false or misleading in a material respect.</p> <p>(5) The Head of Financial Regulation may, in writing, authorise an officer or employee of the Bank to investigate the business, or any aspect of the business, of a financial service provider who has been required under this section to provide information, or a record or other thing. Such an officer or employee may take whatever steps are necessary for or in connection with carrying out such an investigation.</p> <p>(6) A financial service provider who—</p> <p>(a) without reasonable excuse, fails to co-operate with an investigation carried out under subsection (5), or</p> <p>(b) intentionally prevents such an investigation from being carried out, or intentionally obstructs or hinders the investigation,</p> <p>commits an offence.</p> <p>(7) A person who is convicted of an offence under this section is liable—</p> <p>(a) on conviction on indictment, to a fine not exceeding €30,000 or to imprisonment for a term not exceeding five years, or to both, or</p> <p>(b) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months, or to both.</p> <p>(8) Summary proceedings for an offence under this section may be brought and prosecuted by the Bank, but not to the exclusion of any other person who is authorised to bring and prosecute summary offences.”</p>
23	Section 6	<p>After subsection (1), insert:</p> <p>“(1A) Nothing in the <i>Central Bank Acts 1942 to 2010</i> affects the independence of the Bank, the Governor and the Commission required by the Rome Treaty and the ESCB Statute.</p> <p>(1B) Without limiting the generality of subsection (1A), nothing in the <i>Central Bank Acts 1942 to 2010</i> authorises any person or authority to give any direction to, or require any action (including the provision of information) by, the Bank, the Governor or the Commission if compliance by the Bank, the Governor or the Commission (as the case may be) with the direction or requirement would be inconsistent with the Rome Treaty or the ESCB Statute.”.</p>
24	Subsections (2) and (3) of section 6A	<p>Substitute:</p> <p>“(2) The Bank also has the following objectives:</p> <p>(a) the stability of the financial system overall;</p> <p>(b) the proper and effective regulation of financial service providers and markets, while ensuring that the best interests of consumers of financial services are protected;</p> <p>(c) the efficient and effective operation of payment and settlement systems;</p> <p>(d) the provision of analysis and comment to support national economic policy development;</p> <p>(e) the discharge of such other functions and powers as are conferred on it by law.</p>

Item	Provision affected	Amendment
		(3) The Minister may, from time to time, request the Governor or the Commission to consult with the Minister, in relation to their respective functions, as regards the performance by the Bank of any function of the Bank (other than one imposed on it by the Rome Treaty or the ESCB Statute).”.
25	Section 6A(5)	Substitute:  “(5) The Governor or the Commission (as the case requires) shall comply with a request to the Governor or the Commission under subsection (3) or (4) in so far as the request is consistent with the Rome Treaty, the ESCB Statute and the law of the State.”.
26	Sections 6B to 6E	Substitute:  “ <i>Bank’s power to hold and deal in land, etc.</i> 6B.— (1) For the purpose of enabling the Bank to perform its functions, the Bank— (a) may acquire and hold land, and (b) may build, establish, equip and maintain offices and other premises,  in such places, whether in the State or elsewhere, as it considers appropriate.  (2) The Commission is responsible for administering the provision of accommodation and office and other equipment with a view to enabling the Bank to perform and exercise its functions and powers.  (3) The Bank may sell, lease or otherwise dispose of land held by the Bank whenever the Commission considers that the land is no longer required for the purpose of enabling the Bank to perform its functions.  (4) In this section ‘acquire’ includes acquire by purchase, lease or exchange.  <i>Staff of Bank.</i> 6D.—(1) Subject to this section, the Commission shall appoint a Secretary of the Bank and such other employees of the Bank as they consider necessary for the effective performance and exercise of the functions and powers of the Bank.  (2) The Commission is responsible for administering the staff of the Bank with a view to enabling the Bank to perform and exercise its functions and powers.  (3) Except as regards the appointment of a Secretary of the Bank, the Governor has the same power to appoint employees of the Bank as the Commission has under subsection (1), but that power is only exercisable in relation to responsibilities specified in paragraphs (a) and (b) of subsection (1), and subsection (2), of section 19A.  (4) Employees appointed under subsection (3) are taken, for the purposes of this Act, to have been appointed under subsection (1).  (5) The employees of the Bank are to be employed on such conditions (including conditions as to remuneration and allowances) as the Commission fixes from time to time.  (6) Subject to subsection (8), an appointment under this section shall be made by competition to be conducted in accordance with rules made by the Commission.  (7) The Commission may, in relation to a particular competition, impose conditions of entry, limitations and safeguards.  (8) Subsection (6) does not apply to an appointment to a position if the Commission decides that appointment to the position by competition would be inappropriate.

Item	Provision affected	Amendment
		<p>(9) The Commission shall establish and operate a policy under which provision is made for employees of the Bank to be given opportunities for training and experience in various activities of the Bank.”.</p>
27	Section 10	<p>Substitute:</p> <p><i>“Seal of Bank.</i>  10.—(1) The seal of the Bank shall be kept in such custody as the Commission directs.</p> <p>(2) The seal of the Bank may be used only as authorised—</p> <p>(a) if the seal is to be used in relation to a function or power of the Bank that is to be performed or exercised by the Commission, by the Commission, or</p> <p>(b) if the seal is to be used in relation to a function or power of the Bank that is to be performed or exercised by the Governor, by the Governor.</p> <p>(3) The seal of the Bank shall be authenticated by—</p> <p>(a) the signature of the Governor or a member of the Commission authorised in that behalf by the Commission, and</p> <p>(b) the counter-signature of the Secretary of the Bank or some other officer or employee of the Bank authorised in that behalf by the Commission.</p> <p>(4) A document purporting to be made or issued by the Bank and to be sealed with the seal of the Bank authenticated in accordance with subsection (3) is admissible in evidence and shall be taken to have been made or issued by the Bank until the contrary is proved, without proof of the signature or authority of any person purporting to have signed or counter-signed it.”.</p>
28	Sections 18B to 18D	<p>Substitute:</p> <p><i>“Functions of Central Bank Commission.</i>  18B.—(1) Except as expressly provided otherwise by this Act, the affairs and activities of the Bank shall be managed and controlled by the Central Bank Commission.</p> <p>(2) The Commission shall ensure that the Bank’s central banking functions and financial regulation functions are integrated and coordinated.</p> <p>(3) Without prejudice to section 19A, the Commission shall ensure that the powers and functions conferred on the Bank by sections 5A, 5B and 5C are properly exercised and discharged.</p> <p>(4) The performance and exercise of the functions and powers of the Commission are not affected by there being one or more vacancies in the membership of the Commission.</p> <p><i>Acts, etc., of Commission to be acts, etc., of Bank.</i>  18C.—Any act, matter or thing done in the name of, or on behalf of, the Bank by the Commission in the performance or exercise of the Commission’s functions or powers shall be taken to have been done by the Bank.</p> <p><i>Membership of Commission.</i>  18CA.—(1) The Commission comprises—</p> <p>(a) the persons for the time being holding or performing the duties of the following offices:</p> <p>(i) Governor;</p>

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		<p>(ii) Head of Central Banking;</p> <p>(iii) Head of Financial Regulation;</p> <p>(iv) Secretary General of the Department of Finance, and</p> <p>(b) at least 6, but no more than 8, other members appointed by the Minister.</p> <p>(2) The Governor is the Chairperson of the Commission.</p> <p><i>Additional powers of Commission.</i></p> <p>18D.—(1) The Commission has power to do whatever is necessary for or in connection with, or reasonably incidental to, the performance of its functions.</p> <p>(2) Without prejudice to the generality of subsection (1) and subject to subsection (3), the Commission—</p> <p>(a) may establish committees of the Commission consisting of one or more members of the Commission either solely or together with one or more officers or employees of the Bank, and</p> <p>(b) may determine the procedure and define the functions and powers of such committees.</p> <p>(3) Subsection (2) does not authorise the Commission to delegate to a committee any function of the Bank that a provision of this Act requires to be performed by the Governor.</p> <p><i>Bank may establish advisory groups.</i></p> <p>18E.—(1) Subject to subsection (2), the Bank may establish an advisory group or groups to advise it on the performance of its functions and the exercise of its powers and shall in particular establish the following:</p> <p>(a) an advisory group to advise the Bank on the performance of its functions and the exercise of its powers in relation to consumers of financial services;</p> <p>(b) an advisory group to advise the Bank, where the Bank so requests, on the performance of its functions and the exercise of its powers in relation to credit unions.</p> <p>(2) The Bank shall not establish an advisory group in relation to the Governor’s ESCB-related functions.</p> <p>(3) Subject to subsection (4), an advisory group established under subsection (1) shall be made up of persons who have expertise, knowledge or experience relevant to the functions of the advisory group concerned, and may include members of the Commission, officers of the Bank or employees of the Bank.</p> <p>(4) The advisory group (in this section called ‘the consumer advisory group’) established to advise the Bank on the performance of its functions and the exercise of its powers in relation to consumers of financial services shall not include members of the Commission, officers of the Bank or employees of the Bank.</p> <p>(5) The consumer advisory group shall advise the Bank on the exercise of the Bank’s powers and the performance of the Bank’s functions in relation to the consumers of financial services and in particular in relation to—</p> <p>(a) the effects of the Bank’s Strategic Plans on consumers of financial services,</p> <p>(b) initiatives aimed at further enhancing the protection of consumers of financial services, and</p>



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		<p>(c) if the Bank so requests, documents, consultation papers or other materials prepared by the Bank.</p> <p>(6) The period for which a member of the consumer advisory group is appointed may be up to 3 years. A member is eligible for re-appointment.</p> <p>(7) The Bank shall determine the manner in which, and the reasons for which, a member of an advisory group may be removed from membership of the advisory group.</p> <p>(8) The Bank shall provide an advisory group with such administrative services and funds as the Bank believes necessary to carry out its functions.</p> <p><i>Delegation of certain functions of Commission, etc.</i></p> <p>18F.—(1) Subject to subsection (3), the Commission may delegate to the Governor, a Head of Function or an employee of the Bank any function or power of the Commission, if the Commission considers it appropriate to do so in the interests of the efficient and effective management of the Bank and the exercise of its powers and functions.</p> <p>(2) Without prejudice to the generality of subsection (1), the Commission may in particular—</p> <p>(a) delegate to a specified person or body (including a committee established under section 18D(2)) the performance or exercise of any one or more of the functions and powers of the Commission;</p> <p>(b) impose conditions, limitations, or restrictions on the performance or exercise by any such person or body of functions or powers delegated under this subsection;</p> <p>(c) provide in appropriate cases for the review by the Commission of decisions taken or things done by any such person or body in the performance or exercise of any function or power so delegated.</p> <p>(3) Subsection (2) does not authorise the Commission to delegate to a committee any function of the Bank that a provision of this Act requires to be performed by the Governor.”.</p>
29	Section 19A(3)	<p>Substitute:</p> <p>“(3) Subject to the requirements of the Rome Treaty and the ESCB Statute, the Governor shall provide the Commission with information about, and may discuss with the Commission, the performance by the Governor of the functions and powers referred to in subsections (1) and (2).”.</p>
30	Section 19B	<p>Substitute:</p> <p><i>“Decisions about certain issues involving Treaties governing European Union and ESCB Statute.</i></p> <p>19B.—Where the Commission is considering a budgetary or funding issue relating to the Bank, and in the opinion of the Governor the issue has implications for the independence of the Bank or the performance by the Governor of the functions conferred on the Governor and the Bank by or under the treaties governing the European Union (within the meaning given by section 1 of the European Communities Act 1972 as amended by section 2 of the European Communities Act 2009) or the ESCB Statute, the Governor shall so inform the Commission and thereafter—</p> <p>(a) the Commission shall cease to consider the issue,</p> <p>(b) the Governor has the sole right to determine the issue, and</p> <p>(c) the Governor’s decision is final.”.</p>

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31	Section 21(2)	Delete “if the other members of the Board have passed a unanimous resolution requesting the President to remove the Governor from office”.
32	Section 22(1)	Delete “Directors”, substitute “members”.
33	Section 22(2)	Delete “Directors”, substitute “members”.
34	Subsections (3) to (7) of section 22	<p>Substitute:</p> <p>“(3) If the office of Governor becomes vacant, the Commission may appoint another member of the Commission to act as Governor to carry out the designated responsibilities of the Governor during the vacancy. A member so appointed shall not continue to act after the end of 3 months from the occurrence of the vacancy which occasioned his or her appointment.</p> <p>(4) A member appointed under this section, while acting as Governor, has the designated responsibilities of the office of Governor and also the powers relating to the carrying out of those responsibilities.</p> <p>(5) A member appointed under this section to act as Governor is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Commission determines from time to time.</p> <p>(6) A member appointed under this section to act as Governor does not, by reason of that appointment, vacate his or her office as a member.</p> <p>(7) This section does not apply to responsibilities of the Governor that are required, by virtue of section 22A, to be carried out by the Head of Central Banking in any of the circumstances specified in that section.”.</p>
35	Section 22A	Delete “Director General of the Bank”, substitute “Head of Central Banking”.
36	Sections 23 to 25	<p>Substitute:</p> <p><i>“Heads of Function.</i></p> <p>23.—(1) In this Act a reference to the Heads of Function is a reference to the Head of Central Banking and the Head of Financial Regulation.</p> <p>(2) With the consent of the Minister, the Commission may substitute another title for either or both of the titles ‘Head of Central Banking’ and ‘Head of Financial Regulation’. If the Commission does so, the Commission shall cause a notice of the substitution to be published in the <i>Iris Oifigiúil</i>. The substitution has effect only on and after the date of that publication.</p> <p>(3) If the Commission substitutes a title in accordance with subsection (2), a reference in this Act or in any other enactment or statutory instrument to the title ‘Head of Central Banking’ or ‘Head of Financial Regulation’, as the case may be, shall be construed in accordance with the substitution.</p> <p><i>Responsibilities of Heads of Function.</i></p> <p>23A.—Subject to section 22A, the responsibilities of a Head of Function are those assigned to the office concerned by the Commission.</p> <p><i>Appointment of Heads of Function.</i></p> <p>23B.—(1) The Commission shall, with the consent of the Minister, appoint suitably qualified persons as Heads of Function.</p> <p>(2) Subject to subsection (3), an appointment as a Head of Function shall be made by open competition.</p>

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		<p>(3) Subsection (2) does not apply to the appointment of a Head of Function if the Commission, with the consent of the Minister, decides that appointment to the office by open competition would be inappropriate.</p> <p>(4) A person is not eligible for appointment as a Head of Function if he or she—</p> <ul style="list-style-type: none"> <li>(a) is a member of either House of the Oireachtas,</li> <li>(b) is, with his or her consent, nominated as a candidate for election as such a member or is nominated as a member of Seanad Éireann,</li> <li>(c) is a member of the European Parliament or is, with his or her consent, nominated as a candidate for election as such a member or to fill a vacancy in the membership of that Parliament, or</li> <li>(d) is a member of a local authority or is, with his or her consent, nominated as a candidate for election as such a member.</li> </ul> <p><i>Terms of appointment of Heads of Function.</i></p> <p>23C.—(1) An appointment as a Head of Function has effect from the date on which the Minister consents to the appointment or a later date agreed between the Commission and the person appointed.</p> <p>(2) Subject to subsections (3) and (6), a Head of Function holds office for up to 5 years, as the Minister approves at the time of the Head of Function's appointment, and is eligible for reappointment provided that the total term in office of a person appointed as a Head of Function shall not exceed 10 years.</p> <p>(3) The following do not count towards determining the period for which a person has held office as a Head of Function:</p> <ul style="list-style-type: none"> <li>(a) any period during which the person was acting in either office of Head of Function;</li> <li>(b) any period during which the person held the other office of Head of Function.</li> </ul> <p>(4) A Head of Function shall receive such remuneration and allowances, and is subject to such conditions of service, as the Commission from time to time determines.</p> <p>(5) A person appointed as a Head of Function may engage in other remunerative employment only with the consent of the Commission.</p> <p>(6) A person ceases to hold office as a Head of Function if he or she—</p> <ul style="list-style-type: none"> <li>(a) dies,</li> <li>(b) completes a term of office and is not re-appointed,</li> <li>(c) resigns the office by notice in writing addressed to the Governor,</li> <li>(d) is, with his or her consent, nominated as a candidate for election as a member of either House of the Oireachtas or is nominated as a member of Seanad Éireann,</li> <li>(e) is, with his or her consent, nominated as a candidate for election as a member of the European Parliament or to fill a vacancy in the membership of that Parliament,</li> </ul>

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		<p>(f) is, with his or her consent, nominated as a candidate for election as a member of a local authority,</p> <p>(g) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors,</p> <p>(h) becomes physically or mentally incapable of performing the duties of the relevant office of Head of Function,</p> <p>(i) is convicted of an offence (either in the State or elsewhere) and sentenced to serve a term of imprisonment for the offence, or</p> <p>(j) is removed from office under subsection (7).</p> <p>(7) The Commission may remove or suspend a Head of Function from office, but only for reasons previously notified in writing to the Head of Function concerned.</p> <p><i>Acting Heads of Function.</i></p> <p>23D.—(1) In the event of—</p> <p>(a) the illness or absence of a Head of Function,</p> <p>(b) the suspension from office of the holder of such an office, or</p> <p>(c) a vacancy in such an office,</p> <p>the Governor, with the consent of the other members of the Commission, may appoint a member of the Commission or an officer or employee of the Bank to act in the relevant office.</p> <p>(2) A person acting as a Head of Function has, while acting in that office, all the responsibilities and powers of that office.</p> <p>(3) The other members of the Commission may at any time remove from office a person who is acting as a Head of Function.</p> <p>(4) If a person is to act as a Head of Function for a period of more than 6 months, the appointment does not take effect until the Minister approves it. A person acting as a Head of Function shall not continue to so act for more than 6 months without the consent of the Minister.</p> <p>(5) A person acting as a Head of Function is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Commission determines from time to time.</p> <p><i>Appointment of members of Commission.</i></p> <p>24.—(1) The Minister may appoint a person as a member of the Commission if and only if the Minister is of the opinion that the person has relevant knowledge of—</p> <p>(a) accountancy,</p> <p>(b) actuarial science,</p> <p>(c) banking,</p> <p>(d) consumer interests,</p> <p>(e) corporate governance,</p> <p>(f) economics,</p> <p>(g) financial control,</p> <p>(h) financial regulation,</p> <p>(i) financial services,</p>

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		<p>(j) insurance,</p> <p>(k) law,</p> <p>(l) social policy, or</p> <p>(m) systems control.</p> <p>(2) A person is not eligible for appointment as a member of the Commission if he or she—</p> <p>(a) is a member of either House of the Oireachtas,</p> <p>(b) is, with his or her consent, nominated as a candidate for election as such a member or is nominated as a member of Seanad Éireann,</p> <p>(c) is a member of the European Parliament or is, with his or her consent, nominated as a candidate for election as such a member or to fill a vacancy in the membership of that Parliament, or</p> <p>(d) is a member of a local authority or is, with his or her consent, nominated as a candidate for election as such a member.</p> <p><i>Remuneration, etc., of appointed members of Commission.</i></p> <p>24A.—An appointed member of the Commission is entitled to receive such remuneration and allowances, and is subject to such conditions of service, as the Minister from time to time determines.</p> <p><i>Tenure of office of members of Commission.</i></p> <p>24B.—(1) An <i>ex-officio</i> member of the Commission holds office as such for as long as he or she holds or performs the duties of the office by virtue of which he or she is such a member.</p> <p>(2) Subject to subsections (3) and (4), an appointed member of the Commission holds office as such for a period of 5 years unless he or she previously ceases to hold that office in accordance with a provision of this Part.</p> <p>(3) Of the first 8 persons appointed as members of the Commission—</p> <p>(a) 2 or 3 of those persons shall be appointed for a first term of 5 years,</p> <p>(b) 2 or 3 of those persons shall be appointed for a first term of 4 years, and</p> <p>(c) 2 or 3 of those persons shall be appointed for a first term of 3 years.</p> <p>(4) An appointed member of the Commission shall not be entitled to serve more than 2 terms of office.</p> <p><i>Vacation of office of members of Commission.</i></p> <p>25.—(1) A person ceases to be an <i>ex-officio</i> member of the Commission if he or she ceases to hold or perform the duties of the office by virtue of which he or she is such a member.</p> <p>(2) An appointed member of the Commission ceases to be an appointed member if he or she—</p> <p>(a) dies,</p> <p>(b) completes a term of office and is not re-appointed,</p> <p>(c) resigns the office by notice in writing addressed to the Governor,</p>

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		<p>(d) has, without the permission of the other members, been absent from meetings of the Commission for a consecutive period of 6 months,</p> <p>(e) is, with his or her consent, nominated as a candidate for election as a member of either House of the Oireachtas or is nominated as a member of Seanad Éireann,</p> <p>(f) is, with his or her consent, nominated as a candidate for election as a member of the European Parliament or to fill a vacancy in the membership of that Parliament,</p> <p>(g) is, with his or her consent, nominated as a candidate for election as a member of a local authority,</p> <p>(h) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors,</p> <p>(i) becomes physically or mentally incapable of performing the duties of a member of the Commission,</p> <p>(j) is convicted of an offence (either in the State or elsewhere) and sentenced to serve a term of imprisonment for the offence, or</p> <p>(k) is removed from office under subsection (3).</p> <p>(3) The Minister may remove an appointed member of the Commission from office—</p> <p>(a) for proven misconduct or incompetence, or</p> <p>(b) if in the Minister's opinion it is necessary or desirable to do so to enable the Commission to function effectively.”.</p>
37	Section 28	<p>Substitute:</p> <p><i>“Filling of vacancies in Commission.</i></p> <p>28.—As soon as practicable after an appointed member of the Commission ceases to hold office, the Minister shall appoint a person to fill the vacancy.”.</p>
38	Section 32	Delete “Board”, substitute “Commission”.
39	Part IIIA, Chapters 1 and 2	<p>Substitute:</p> <p style="text-align: center;">“PART IIIA</p> <p style="text-align: center;">MANAGEMENT, FINANCE, AND ACCOUNTABILITY</p> <p style="text-align: center;">Chapter 1A</p> <p style="text-align: center;"><i>Management</i></p> <p><i>Framework for assignment of responsibilities.</i></p> <p>32A.—(1) The Governor shall propose to the Commission a plan of the assignment of responsibility for specified powers and functions of the Bank to himself or herself, a Head of Function or an officer or employee of the Bank.</p> <p>(2) Where appropriate, the assignment of the responsibility for the performance of a function requires the person to whom the function is assigned—</p> <p>(a) to provide policy advice in relation to the subject matter of the assignment and related matters,</p>

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		<p>(b) to achieve any outputs specified in the assignment,</p> <p>(c) to accept responsibility for the operation of statutory schemes or programmes specified in the assignment,</p> <p>(d) to accept responsibility for the delivery of quality services pursuant to the assignment,</p> <p>(e) to ensure that the expenditure in relation to the area of the assignment accords with the purpose for which the expenditure is appropriate and chargeable to the accounts of the Bank and that value for money is obtained, and</p> <p>(f) to perform, on behalf of the Commission, functions in relation to appointments, performance and discipline of personnel in the area of the assignment.</p> <p>(3) A Head of Function or an employee to whom the responsibility for the performance of a function has been assigned is accountable for the performance of the function to the Governor and to any other person specified for the purpose in the assignment.</p> <p><i>Bank to prepare strategic plan.</i></p> <p>32B.—(1) At least 3 months before the beginning of each period specified in subsection (2), the Bank shall—</p> <p>(a) prepare for the period a strategic plan that complies with this section, and</p> <p>(b) submit the plan to the Minister.</p> <p>(2) The periods referred to in subsection (1) are—</p> <p>(a) the period of 3 financial years that begins on 1 January 2011, and</p> <p>(b) each subsequent period of 3 financial years.</p> <p>(3) A strategic plan shall specify—</p> <p>(a) the objectives of the Bank's activities for the relevant period,</p> <p>(b) the nature and scope of the activities to be undertaken,</p> <p>(c) the strategies and policies for achieving those objectives,</p> <p>(d) targets and criteria for assessing the performance of the Bank, and</p> <p>(e) the uses for which the Bank proposes to apply its resources.</p> <p>(4) If the Minister has notified the Bank in writing of any requirements with respect to the form in which a strategic plan is to be prepared, such a plan shall comply with those requirements.</p> <p>(5) As soon as practicable after receiving the Bank's strategic plan, the Minister shall arrange for the plan to be laid before each House of the Oireachtas.</p> <p>(6) As soon as practicable after becoming aware that a strategic plan has been laid before both Houses of the Oireachtas, the Bank shall publish the strategic plan and take all reasonably practical steps to implement it.</p>

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		<p style="text-align: center;">Chapter 2A</p> <p style="text-align: center;"><i>Finance and accounting</i></p> <p><i>Annual estimates in relation to financial regulation functions.</i></p> <p>32C.—No later than one month before the end of each financial year, the Bank shall prepare and submit to the Minister an estimate of—</p> <ul style="list-style-type: none"> <li>(a) its income from levies and fees imposed by regulations under sections 32D and 32E,</li> <li>(b) any other source of funds for the purposes of its powers and functions under the designated enactments and designated statutory instruments, and</li> <li>(c) its expenditure in relation to the exercise of those powers and functions,</li> </ul> <p>during the next financial year.</p> <p><i>Power to impose levies.</i></p> <p>32D.—(1) The Commission may make regulations prescribing levies to be paid by persons who are subject to regulation under the designated enactments and designated statutory instruments.</p> <p>(2) In particular, regulations under subsection (1) may provide for any of the following matters:</p> <ul style="list-style-type: none"> <li>(a) the activities, services or other matters for which specified kinds of levies are payable;</li> <li>(b) the persons, or classes of persons, who are required to pay specified kinds of levies;</li> <li>(c) the amounts of specified kinds of levies;</li> <li>(d) the periods for which, or the dates by which, specified levies are to be paid to the Bank;</li> <li>(e) penalties payable by a person who does not pay a levy on time;</li> <li>(f) the keeping of records, and the making of returns to the Bank, by persons who are liable to pay a specified levy;</li> <li>(g) the collection and recovery of levies.</li> </ul> <p>(3) Regulations made under this section do not take effect until approved by the Minister.</p> <p>(4) A levy prescribed in relation to credit unions is to be fixed so that the total amount of levy collected or recovered from credit unions does not exceed the total costs incurred by the Bank in performing its functions and exercising its powers under the Credit Union Act 1997.</p> <p>(5) The Bank may, by proceedings in a court of competent jurisdiction, recover as a debt an amount of levy payable under regulations in force under this section.</p> <p>(6) The Bank may refund the whole or a part of a levy paid or payable under regulations in force under this section.</p> <p>(7) The Commission may amend or revoke a regulation made under this section.</p> <p>(8) An amendment or revocation of regulations made under this section does not take effect until approved by the Minister.</p> <p>(9) In this section 'levy' does not include a fee.</p>



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		<p><i>Power to prescribe fees.</i></p> <p>32E.—(1) The Commission may make regulations prescribing fees for the purpose of any enactment that provides, by reference to this section or to section 33K (as in force at any time before the coming into operation of this section), for the payment of a fee.</p> <p>(2) The Commission may make regulations providing for all or any of the following matters:</p> <p>(a) the persons, or classes of persons, who are required to pay specified kinds of fees;</p> <p>(b) the amounts of specified kinds of fees;</p> <p>(c) the collection of fees.</p> <p>(3) Regulations of the kind referred to in subsection (2) may be included in regulations made under subsection (1).</p> <p>(4) Regulations made under this section do not take effect until approved by the Minister.</p> <p>(5) The Bank may, by proceedings in a court of competent jurisdiction, recover as a debt an amount payable as a fee under regulations in force under this section.</p> <p>(6) The Bank may refund the whole or a part of a fee paid pursuant to regulations made under this section.</p> <p>(7) The Commission may amend or revoke a regulation made under this section.</p> <p>(8) An amendment or revocation of regulations made under this section does not take effect until approved by the Minister.</p> <p><i>General fund.</i></p> <p>32F.—(1) The Bank shall continue to keep and operate the fund called the general fund.</p> <p>(2) The Bank shall pay into the general fund all money received by the Bank and shall pay from that fund all amounts that it is required to pay.</p> <p>(3) The expenses incurred by the Bank in performing functions or exercising powers under this or any other Act or law are payable out of the general fund of the Bank, except where otherwise provided by or under this or any other Act.</p> <p>(4) Any claims on or liabilities to the European Central Bank are to be treated as assets or liabilities of the general fund or any other fund that the Minister by order establishes for that purpose.</p> <p><i>Surplus or deficiency in income of Bank during financial year.</i></p> <p>32G.—(1) If the total sum received by the Bank on account of levies and fees prescribed under sections 32D and 32E during a financial year is greater than the Bank's expenditure on the performance of its functions and the exercise of its powers during that financial year, the Bank—</p> <p>(a) shall apply the surplus to the performance of those functions and the exercise of those powers in the following financial year, and</p> <p>(b) shall reduce the levies and fees prescribed in relation to the latter financial year accordingly.</p> <p>(2) If the sum received by the Bank on account of levies and fees prescribed under sections 32D and 32E during a financial year is less than the Bank's expenditure on the performance of its functions and the exercise of its powers during that financial year, the Bank may prescribe levies and fees in relation to the following financial year sufficient to—</p> <p>(a) make good the deficiency, and</p>

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		<p>(b) ensure that the sum received by the Bank on account of such levies and fees during the following financial year fully covers the performance of its functions and the exercise of its powers during both those financial years.</p> <p><i>Bank's surplus income.</i></p> <p>32H.—(1) The Bank shall pay its surplus income as and when determined under this section into the Exchequer in such manner as the Minister directs and may at any time pending such determination pay into the Exchequer such sums on account of surplus income as may be agreed on by the Minister and the Bank.</p> <p>(2) The Minister may, after consultation with the Bank, make regulations providing for the periodic determination of the Bank's surplus income and, in particular, such regulations may—</p> <p>(a) enable provision to be made for reserves, depreciation and other similar matters before the surplus income is determined, and</p> <p>(b) provide for any matter arising from the implementation of Chapters VI, VIII and IX of the ESCB Statute.</p> <p>(3) In exercising the powers conferred by this section, the Minister is required to have regard to the functions imposed and the powers conferred on the Bank by or under the Rome Treaty and the ESCB Statute.</p> <p><i>Provision of funds by Bank to meet shortfall.</i></p> <p>32I.—(1) If at any time it appears to the Commission that the funds raised from levies and fees prescribed by regulations in force under sections 32D and 32E are, or are likely to be, insufficient to enable the Bank to properly perform its regulatory functions, the Bank may apply to the performance of those functions such amount as the Commission considers necessary.</p> <p>(2) The Bank may apply an amount under subsection (1) only if the Minister so approves.</p> <p>(3) Before deciding whether or not to give approval under subsection (2), the Minister shall consult the Governor. The Governor may express his or her opinion on the amount of funds concerned, so far as it could affect—</p> <p>(a) the carrying out by the Bank of its obligations with respect to the promotion of the financial stability of the State, and</p> <p>(b) the performance of the functions of the Bank in its capacity as a member of the European System of Central Banks.</p> <p>(4) In approving the application of an amount of funds under subsection (2), the Minister shall have regard to the functions and powers of the Bank under the Rome Treaty and the ESCB Statute.</p> <p><i>Accounting and other records of Bank.</i></p> <p>32J.—(1) The Bank shall keep all proper accounting records of all its transactions.</p> <p>(2) The Bank's accounts shall show separately—</p> <p>(a) receipts from funds raised from levies and fees prescribed by regulations in force under sections 32D and 32E and expenditure on the performance of its functions and the exercise of its powers,</p>

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		<p>(b) its income from penalties imposed under paragraphs (c) and (f) of section 33AQ(3), and</p> <p>(c) other receipts and expenditure.</p> <p>(3) Within 6 months after the end of each financial year, the Bank shall prepare and transmit to the Comptroller and Auditor General a statement of accounts for the financial year concerned. The statement shall be in a form approved by the Minister after consulting the Bank. The approval of a form of statement of accounts under this subsection remains in force until superseded by the approval of another form of statement of accounts.</p> <p>(4) The statement shall show separately—</p> <p>(a) receipts from funds raised from levies and fees prescribed by regulations in force under sections 32D and 32E and expenditure on the performance of its functions and the exercise of its powers, and</p> <p>(b) other receipts and expenditure.</p> <p>(5) The Comptroller and Auditor General shall audit, certify and report on the statement of accounts and, as soon as practicable after completing the report, give it and the statement of accounts to the Minister.</p> <p>(6) As soon as practicable after being given the report and statement of accounts, the Minister shall arrange for copies of those documents to be laid before each House of the Oireachtas.</p> <p>(7) The accounts of the Bank may be audited in accordance with Article 27 of the ESCB Statute and, for that purpose, the Bank shall provide any auditors appointed in accordance with that Article with full information, books and records.</p> <p>(8) The Bank shall keep its accounting records for at least 6 years.</p> <p><i>Report of operations, etc., by Bank.</i></p> <p>32K.—(1) Within 6 months after the end of each financial year, the Bank shall prepare a report of its operations during the year and present the report to the Minister.</p> <p>(2) The report shall include a statement of the role of each advisory group established by the Bank under section 18E, and a summary of the work of each such advisory group during the relevant financial year.</p> <p>(3) As soon as practicable after being given the report and statement of accounts, the Minister shall arrange for copies of those documents to be laid before each House of the Oireachtas, together with any other reports required to be included in or attached to the report.</p> <p>(4) The Bank shall give to the Minister for publication in the <i>Iris Oifigiúil</i> such periodical returns concerning the transactions of the Bank as the Minister directs from time to time.</p> <p style="text-align: center;">Chapter 2A</p> <p style="text-align: center;"><i>Accountability</i></p> <p><i>Annual performance statements.</i></p> <p>32L.—(1) No later than 30 April in each year, the Bank shall prepare a statement relating to the Bank's performance in regulating financial services (in this section called a 'performance statement').</p>

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		<p>(2) A performance statement is to be in 3 parts—</p> <p>(a) details, including the aims and objectives, of regulatory activity planned for the current year (in this subsection called a ‘Regulatory Performance Plan’),</p> <p>(b) a review of the Bank’s regulatory performance during the preceding year having regard to the Regulatory Performance Plan for that year and any other relevant matters, and</p> <p>(c) the report of any international peer review carried out during the preceding year under section 32M.</p> <p>(3) The review of the Bank’s regulatory performance required by subsection (2)(b) shall include details of the activities carried out during the relevant year by—</p> <p>(a) the part of the Bank responsible for internal audit, and</p> <p>(b) the Registrar of Credit Unions.</p> <p>(4) A performance statement is to be in the form, and is to relate to the matters, that the Minister directs, but shall not relate to the exercise by the Governor of his or her functions under the ESCB Statute.</p> <p>(5) Within one month after receiving a performance statement, the Minister will lay it before each House of the Oireachtas.</p> <p>(6) If the Governor or a Head of Function is requested by a Committee of the Oireachtas to—</p> <p>(a) attend before the Committee, and</p> <p>(b) provide that Committee with information relating to the Bank’s performance statement,</p> <p>the Governor or Head of Function shall—</p> <p>(i) appear before the Committee, and</p> <p>(ii) subject to section 33AK(1A), provide the Committee with such information relating to the performance statement as the Committee requires.</p> <p>(7) The reference in subsection (6) to a Committee of the Oireachtas is a reference to a Committee appointed by either House or by both Houses jointly to examine matters relating to the Bank and includes a subcommittee of such a Committee, but does not include the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann.</p> <p><i>International peer review of regulatory performance.</i></p> <p>32M.—At least every 4 years the Bank shall make appropriate arrangements for—</p> <p>(a) another national central bank, or</p> <p>(b) another person or body certified by the Governor, after consultation with the Minister, as appropriate,</p> <p>to carry out a review of the Bank’s performance of its regulatory functions.”.</p>
40	Section 33X(1)	Delete “Regulatory Authority is to”, substitute “Bank shall”.

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41	Section 33X(3)	Delete “Regulatory Authority”, substitute “Bank”.
42	Section 33X(6)	Delete “Regulatory Authority”, substitute “Bank”.
43	Section 33X(7)	Delete “members of the Regulatory Authority”, substitute “Bank”.
44	Section 33X(8)(c)	Delete “members of the Regulatory Authority”, substitute “Bank”.
45	Section 33X(9)	Delete “Regulatory Authority”, substitute “Bank”.
46	Section 33Y(1)	Delete “The Regulatory Authority”, substitute “The Governor, with the consent of the Commission.”.
47	Section 33Y(3)	Delete “The Regulatory Authority”, substitute “Bank”.
48	Section 33Y(4)	Delete “Regulatory Authority”, substitute “Bank”.
49	Section 33AA(1)(a)	Delete “Regulatory Authority”, substitute “Bank”.
50	Section 33AA(3)	Delete “Regulatory Authority”, substitute “Bank”.
51	Subsections (4) to (7) of section 33AA	<p>Substitute:</p> <p>“(4) In carrying out the responsibilities and exercising the powers imposed or conferred by this section, the Registrar, through the Head of Financial Regulation, is subject to the control of the Bank and shall comply with any directions by the Commission with respect to the carrying out of those responsibilities or the exercise of those powers.</p> <p>(5) A direction given in accordance with subsection (4) shall not be inconsistent with—</p> <p>(a) in relation to a function or power to which subsection (1)(a) relates, the Credit Union Act 1997, and</p> <p>(b) in relation to a function or power the management of which stands delegated to the Registrar under subsection (1)(b), any other relevant Act or law.</p> <p>(6) In issuing directions to the Registrar under subsection (4) which relate to the exercise of the responsibilities and powers referred to in subsection (1)(a), the Bank shall have regard to the particular nature of credit unions, and in particular by reference to—</p> <p>(a) the conditions for the registration of a credit union set out in section 6 of the Credit Union Act 1997 and to the objects and common bonds referred to in that section, and</p> <p>(b) the voluntary ethos of credit unions.</p> <p>(7) The Bank may, from time to time, issue to the Registrar guidelines, not inconsistent with any law, in relation to consultation and co-operation with the bodies and persons specified in subsection (8) on matters concerning the functions and powers of those bodies and persons. The Registrar shall comply with any such guidelines.</p> <p>(8) The bodies and persons referred to in subsection (7) are the following:</p> <p>(a) the Bank;</p> <p>(b) the Commission;</p> <p>(c) the Governor;</p>

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		<p>(d) the officers and employees of the Bank.</p> <p>(9) The Registrar shall provide the Head of Financial Regulation with such information and assistance as the Head of Financial Regulation requests in relation to any complaint to the Bank about the conduct of a credit union.”.</p>
52	Section 33AB	<p>Substitute:</p> <p><i>“Bank to provide Registrar with adequate funds.</i></p> <p>33AB.—(1) The Bank shall provide the Registrar with such funds as the Bank considers necessary to enable the Registrar to perform the functions and exercise the powers of the Registrar.</p> <p>(2) The provision of funds under this section is subject to such conditions as the Bank thinks fit to impose.”.</p>
53	Section 33AC(1)(b)	Delete “Regulatory Authority”, substitute “Bank”.
54	Section 33AC(2)	<p>Substitute:</p> <p>“(2) The Head of Financial Regulation may direct the Registrar as to the form of the report and the matters that the report shall deal with. The Registrar shall comply with any such direction.”.</p>
55	Section 33AD	<p>Substitute:</p> <p><i>“Registrar to provide information, reports and advice to Head of Financial Regulation.</i></p> <p>33AD.—The Registrar shall provide the Head of Financial Regulation with such information relating to the performance and exercise of the Registrar’s responsibilities and powers as the Head of Financial Regulation requires from time to time. That information may include (but is not limited to) information relating to—</p> <p>(a) the use by the Registrar of the resources of the Bank that have been allocated for the performance and exercise of those responsibilities and powers, and</p> <p>(b) the value of outcomes and outputs derived from the use of those resources.”.</p>
56	Section 33AE	<p>Substitute:</p> <p><i>“Registrar to prepare work plan.</i></p> <p>33AE.—(1) The Registrar shall, at least 3 months before the beginning of each financial year—</p> <p>(a) prepare for the year a draft work plan that complies with this section, and</p> <p>(b) submit the draft plan to the Bank for approval.</p> <p>(2) A draft work plan shall specify—</p> <p>(a) the objectives of the Registrar for the financial year concerned,</p> <p>(b) the nature and scope of the activities to be undertaken,</p> <p>(c) the strategies and policies for achieving those objectives and how the resources allocated to the Registrar are proposed to be used, and</p> <p>(d) targets and criteria for assessing the performance of the Registrar.</p> <p>(3) If the Head of Financial Regulation has notified the Registrar of any requirements with respect to the form in which a draft work plan is to be prepared, the Registrar shall</p>

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		take such steps as are necessary to ensure that the plan complies with those requirements.  (4) The Bank may approve a work plan either with or without amendment.  (5) On being approved under subsection (4), a draft work plan prepared for a financial year becomes the work plan for the Registrar for that year. The Registrar shall take all reasonably practical steps to implement the plan.”.
57	Section 33AF(3)	Delete “Chief Executive”, substitute “Head of Financial Regulation”.
58	Section 33AF(5)	Delete “Regulatory Authority”, substitute “Commission”.
59	Paragraphs (b) and (c) of section 33AG(1)	Substitute:  “(b) former Directors;  (ba) appointed members and former appointed members of the Commission;  (bb) <i>ex-officio</i> members of the Commission and former <i>ex-officio</i> members of the Commission;  (c) former members of the Regulatory Authority;  (ca) officers and former officers of the Bank;”.
60	Section 33AG(8), definition of “retirement”	Delete “subsection (1)(a), (b) or (c),”, substitute “paragraph (a), (b), (ba) or (c) of subsection (1),”.
61	Section 33AJ(1)(b)	Substitute:  “(b) the Governor;  (ba) the Heads of Function;  (bb) the Secretary General of the Department of Finance, in his or her capacity as an <i>ex-officio</i> member of the Commission;  (bc) the appointed members of the Commission;”.
62	Section 33AJ(1)(f)	Delete “or of any of its constituent parts”.
63	Section 33AJ(7)	Delete “Chief Executive”, substitute “Head of Financial Regulation”.
64	Section 33AK(1)	Substitute: “33AK.—(1) This subsection applies to the following persons:  (a) the Governor and every former Governor;  (b) every former Director of the Central Bank and Financial Services Authority of Ireland;  (c) every former member of the Irish Financial Services Regulatory Authority;  (d) every member and every former member of the Commission;  (e) every Head of Function and every former Head of Function;  (f) the Registrar of Credit Unions and every former Registrar of Credit Unions;  (g) every other officer or employee and every other former officer or employee of the Bank;

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		<p>(h) every person who is or was formerly employed as a consultant, auditor or in any other capacity by the Bank;</p> <p>(i) every person to whom this subsection (as in force immediately before the amendment of this section by the <i>Central Bank Reform Act 2010</i>) applied immediately before that coming into operation.</p> <p>(1A) A person to whom subsection (1) applies shall not disclose confidential information concerning—</p> <p>(a) the business of any person or body whether corporate or incorporate that has come to the person's knowledge through the person's office or employment with the Bank, or</p> <p>(b) any matter arising in connection with the performance of the functions of the Bank or the exercise of its powers,</p> <p>if such disclosure is prohibited by the Rome Treaty, the ESCB Statute or the Supervisory Directives.”.</p>
65	Section 33AK(5)	<p>After paragraph (ah), insert:</p> <p>“(aha) to any Commission of Investigation established under the Commissions of Investigation Act 2004, or”.</p>
66	Section 33AK(5)(al)	Delete “functions.”, substitute “functions, or”.
67	Section 33AK(5)	<p>Insert at the end:</p> <p>“(am) to a body or authority that is a competent authority for the purposes of a Regulation of the European Union or European Communities that imposes restrictive measures within the framework of the EU Common Foreign and Security Policy.”.</p>
68	Section 33AK(5)(p)	Delete “section 6H applies”, substitute “subsections (3) and (4) of section 32I apply”.
69	Section 33AL	<p>Substitute:</p> <p>“<i>Bank to inform persons of obligations under section 33AK.</i> 33AL.—(1) Subject to subsection (2), the Commission shall inform a person who is about to be appointed—</p> <p>(a) as Governor,</p> <p>(b) as an appointed member of the Commission,</p> <p>(c) as a Head of Function,</p> <p>(d) as Registrar of Credit Unions,</p> <p>(e) as an officer or employee of the Bank, or</p> <p>(f) as a consultant or auditor or in any other capacity by the Bank,</p> <p>of the obligation imposed by section 33AK.</p> <p>(2) In the case of a person appointed as the Secretary General of the Department of Finance, the Commission shall inform him or her of the obligation imposed by section 33AK as soon as practicable after he or she is so appointed.</p> <p>(3) A person shall not accept office as Governor or as an appointed member of the Commission, as a Head of Function, or as an officer or employee of the Bank, unless he or she has acknowledged, in a form determined by the Commission, that he or she has been informed of the obligations imposed by section 33AK.”.</p>



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70	Paragraphs (a) to (d) of section 33AM(1)	Substitute: “(a) the Governor; (b) the Head of Central Banking; (c) the Head of Financial Regulation;”.
71	Section 33AN, definition of “inquiry”	Substitute: “ ‘inquiry’ means an inquiry held under section 33AO or section 33AR, and includes such an inquiry begun by the former Regulatory Authority and continued by the Bank;”.
72	Section 33BE	Substitute: “ <i>Performance and exercise of regulatory functions.</i> 33BE.—(1) Such officers and employees of the Bank and such suitably qualified persons as the Bank designates from time to time pursuant to subsection (2) are responsible for performing and exercising the functions and powers of the Bank under this Part. (2) Without prejudice to the generality of subsection (1), the Bank may for the purposes of that subsection designate a person who is not an officer or employee of the Bank. A person so designated is an agent of the Bank for performing and exercising the functions and powers of the Bank under this Part or the part of those functions and powers for which the Bank designated him or her.”.
73	Paragraphs (b) and (c) of Section 57AV(1)	Substitute: “(b) in the case of a body corporate — by leaving it at, or by sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.”.
74	Section 57CQ(1)	Delete “(and in particular the Consumer Director)”.
75	Section 57CQ(2)	Substitute: “(2) The Council and the Financial Services Ombudsman may make recommendations to the Bank and the Registrar of Credit Unions with respect to measures that the Bank and Registrar might take so as— (a) to effectively deal with persistent patterns of complaints made against specified regulated financial service providers or against a specified class of those financial service providers, (b) to improve the way in which regulated financial service providers deal with complaints that are made against them, or (c) to effectively deal with any other matter relating to promoting the interests of consumers of financial services.”.
76	Section 61C	Delete “the Government, Minister or the Chief Executive”, substitute “the Government, the Minister or the Bank”.
77		Before section 61E, insert: “ <i>Prosecution of offences.</i> 61DA.—Proceedings for an offence under this Act, a designated enactment or a designated statutory instrument may be brought and prosecuted summarily by the Bank.”.
78	Section 61G(1)	Delete “or the Regulatory Authority”.
79	Section 61G(3)(a)	Delete “or Regulatory Authority”.

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80		<p>After section 61G, insert:</p> <p><i>“Arrangements for collection of certain levies.</i></p> <p>61H.—(1) The Bank may enter into an arrangement with a prescribed body in relation to the collection of a levy.</p> <p>(2) An arrangement referred to in subsection (1) is to be for the purpose of enabling the Bank or prescribed body to collect the relevant levy from each person or body obliged to pay it and pay the collected levy to the entity entitled to receive it.</p> <p>(3) An arrangement referred to in subsection (1) shall provide for the costs associated with the collection of the levy concerned to be met by the entity entitled to receive the levy.</p> <p>(4) In this section—</p> <p>‘levy’ means a levy imposed under section 32D or any other enactment;</p> <p>‘prescribed body’ means the following:</p> <ul style="list-style-type: none"> <li>(a) the Pensions Board;</li> <li>(b) the Financial Services Ombudsman;</li> <li>(c) the Agency;</li> <li>(d) any other body prescribed by the Minister by regulations made for the purposes of this section.”. </li></ul>
81	Schedule 1	<p>Substitute:</p> <p style="text-align: center;">“Section 32.                                 SCHEDULE 1</p> <p style="text-align: center;">PROCEDURE OF THE COMMISSION</p> <p><i>General procedure.</i></p> <p>1.—The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings is, subject to this Schedule, to be as determined by the members. The members may determine that procedure by means of rules or standing orders or by any other means.</p> <p><i>Quorum.</i></p> <p>2.—If there are 10 or 11 members of the Commission, 6 members constitute a quorum; if there are 12 members of the Commission, 7 members constitute a quorum.</p> <p><i>Who is to preside at meetings of Commission.</i></p> <p>3.—(1) A meeting of the Commission is to be presided over by—</p> <ul style="list-style-type: none"> <li>(a) the Governor, or</li> <li>(b) in the absence of the Governor, or if there is no Governor— <ul style="list-style-type: none"> <li>(i) the member appointed under section 22 to act as Governor, or</li> <li>(ii) if no member has been appointed under that section, a member elected by the members present at the meeting.</li> </ul> </li> </ul> <p>(2) If the votes are equal on a motion put at a meeting of the Commission, the person who is presiding at the meeting has a casting as well as a deliberative vote.</p>

Item	Provision affected	Amendment
		<p><i>Voting at Commission meetings.</i> 4.—A decision supported by a majority of the votes cast at a meeting of the Commission at which a quorum is present is the decision of the Commission.</p> <p><i>Transaction of business otherwise than at ordinary meetings.</i> 5.—(1) The Commission may, if it thinks fit, transact any of its business by the circulation of papers among all its members for the time being. A resolution approved in writing by a majority of those members is taken to be a decision of the Commission.</p> <p>(2) The Commission may, if it thinks fit, transact any of its business at a meeting at which its members (or some of its members) participate by telephone, closed circuit television or other means, but only if any member who speaks on a matter being considered by the meeting can be heard by the other members. For the purposes of—</p> <p>(a) the approval of a resolution under subparagraph (1), or</p> <p>(b) a meeting held in accordance with subparagraph (2),</p> <p>the members have the same voting rights as they have at an ordinary meeting of the Commission.</p> <p>(3) Papers may be circulated among the members for the purposes of subparagraph (1) by the electronic transmission of the information in the papers.</p> <p><i>Disclosure of members' pecuniary interests.</i> 6.—(1) If—</p> <p>(a) a member of the Commission has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Commission, and</p> <p>(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,</p> <p>the member shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a meeting of the Commission or to the Secretary of the Commission.</p> <p>(2) In the case of a disclosure under subparagraph (1) to the Secretary of the Commission, the Secretary shall inform the next meeting of the Commission of the disclosure.</p> <p>(3) A disclosure by a member that he or she—</p> <p>(a) is a director, or is in the employment, of a specified company or other body,</p> <p>(b) is a partner, or is in the employment, of a specified person, or</p> <p>(c) has some other specified interest relating to a specified company or other body or to a specified person,</p> <p>is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body, or to that person, that may arise after the date of the disclosure and that is required to be disclosed under subparagraph (1).</p> <p>(4) The Secretary of the Commission shall make and keep a record of particulars of any disclosure made under this paragraph and, subject to section 33AK, shall make that record available for inspection at all reasonable hours by any person who asks to see it.</p>

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		<p>(5) After a member has disclosed the nature of an interest in a matter, he or she may not, unless the other members otherwise determine—</p> <p style="padding-left: 40px;">(a) be present during any deliberation of the Commission with respect to the matter, or</p> <p style="padding-left: 40px;">(b) take part in any decision of the Commission with respect to the matter.</p> <p>(6) For the purposes of the making of a determination by the members under subparagraph (5)(b), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates is not entitled—</p> <p style="padding-left: 40px;">(a) to be present during any deliberation of the Commission for the purpose of making the determination, or</p> <p style="padding-left: 40px;">(b) to take part in the making by the Commission of the determination.</p> <p>(7) A contravention of this paragraph does not invalidate a decision of the Commission.</p> <p>(8) This paragraph does not apply to or in relation to an interest of a member in a matter or thing that arises merely because he or she is a contributor to a retirement benefits scheme.”.</p>

82	Schedule 2	Substitute: "Section 33C(1) and (2).  SCHEDULE 2 DESIGNATED ENACTMENTS AND DESIGNATED STATUTORY INSTRUMENTS PART 1 ENACTMENTS			
		Item	Number and year	Short Title	Provisions
		1	9 Edw 7, c.49	Assurance Companies Act 1909	The whole Act
		2	No. 45 of 1936	Insurance Act 1936	The whole Act
		3	No. 22 of 1942	Central Bank Act 1942	Section 5C
		4	No. 7 of 1953	Insurance Act 1953	Section 4
		5	No. 33 of 1963	Companies Act 1963	Section 213
		6	No. 18 of 1964	Insurance Act 1964	The whole Act
		7	No. 24 of 1971	Central Bank Act 1971	The whole Act, other than subsections (1) and (4) of section 7 and sections 44 to 46, 48 to 50 and 55
		8	No. 30 of 1978	Insurance (Amendment) Act 1978	The whole Act
		9	No. 24 of 1983	Postal and Telecommunications Services Act 1983	Sections 67 and 104
		10	No. 29 of 1983	Insurance (No. 2) Act 1983	The whole Act
		11	No. 3 of 1989	Insurance Act 1989	The whole Act
		12	No. 16 of 1989	Central Bank Act 1989	The whole Act other than sections 22 to 25 and 118 to 126
		13	No. 17 of 1989	Building Societies Act 1989	The whole Act
		14	No. 21 of 1989	Trustee Savings Banks Act 1989	The whole Act
		15	No. 27 of 1990	Companies (Amendment) Act 1990	Sections 3, 3C, 18, 23, 24 and 27
		16	No. 33 of 1990	Companies Act 1990	Part XIII
		17	No. 37 of 1990	Unit Trusts Act 1990	The whole Act
		18	No. 18 of 1992	Housing (Miscellaneous Provisions) Act 1992	Section 13

19	No. 24 of 1994	Investment Limited Partnerships Act 1994	The whole Act
20	No. 27 of 1994	Solicitors (Amendment) Act 1994	Section 78
21	No. 11 of 1995	Investment Intermediaries Act 1995	The whole Act
22	No. 24 of 1995	Consumer Credit Act 1995	The whole Act
23	No. 25 of 1995	Netting of Financial Contracts Act 1995	Sections 2 and 3
24	No. 8 of 1997	Central Bank Act 1997	The whole Act other than Parts II and III and section 77
25	No. 15 of 1997	Credit Union Act 1997	The whole Act
26	No. 37 of 1998	Investor Compensation Act 1998	The whole Act
27	No. 32 of 2001	Dormant Accounts Act 2001	The whole Act
28	No. 47 of 2001	Asset Covered Securities Act 2001	The whole Act
29	No. 28 of 2001	Company Law Enforcement Act 2001	Section 110A
30	No. 2 of 2003	Unclaimed Life Assurance Policies Act 2003	The whole Act
31	No. 12 of 2005	Investment Funds, Companies and Miscellaneous Provisions Act 2005	The whole Act
32	No. 41 of 2006	Investment Funds, Companies and Miscellaneous Provisions Act 2006	The whole Act
33	No. 19 of 2007	Consumer Protection Act 2007	The whole Act
34	No. 37 of 2007	Markets in Financial Instruments and Miscellaneous Provisions Act 2007	Part 1 and sections 9 to 11, 13 and 17
35	No. 1 of 2009	Anglo Irish Bank Corporation Act 2009	The whole Act other than section 2
36	No. 34 of 2009	National Asset Management Agency Act 2009	Part 12
37	No. 6 of 2010	Criminal Justice (Money Laundering and Terrorist Financing) Act 2010	Part 4

38	No. — of 2010	Central Bank Reform Act 2010	Part 3
PART 2 STATUTORY INSTRUMENTS			
Item	Number and Year	Citation	Provisions
1	S.R.& O. No. 75 of 1940	Actuary (Qualifications) Regulations 1940	The whole instrument
2	S.R.& O. No. 76 of 1940	Industrial Assurance (Contents of Policies) Order 1940	The whole instrument
3	S.R.& O. No. 78 of 1940	Insurance (Deposits) Rules 1940	The whole instrument
4	S.R.& O. No. 80 of 1940	Insurance Regulations 1940	The whole instrument
5	S.R.& O. No. 81 of 1940	Industrial Assurance (Fees for Determination of Disputes) Regulations 1940	The whole instrument
6	S.I. No. 64 of 1971	Decimal Currency (Friendly Society and Industrial Assurance Contracts) Regulations 1971	The whole instrument
7	S.I. No. 115 of 1976	European Communities (Non-Life Insurance) Regulations 1976	The whole instrument
8	S.I. No. 178 of 1978	European Communities (Insurance Agents and Brokers) Regulations 1978	The whole instrument
9	S.I. No. 382 of 1978	European Communities (Insurance)(Non- life) Regulations 1978	The whole instrument
10	S.I. No. 65 of 1983	European Communities (Co-Insurance) Regulations 1983	The whole instrument

11	S.I. No. 57 of 1984	European Communities (Life Assurance) Regulations 1984	The whole instrument
12	S.I. No. 27 of 1987	Building Societies Regulations 1987	The whole instrument
13	S.I. No. 191 of 1990	Insurance (Bonding of Intermediaries) Regulations 1990	The whole instrument
14	S.I. No. 142 of 1991	European Communities (Non-Life Insurance) (Amendment) (No. 2) Regulations 1991	The whole instrument
15	S.I. No. 197 of 1991	European Communities (Non-Life Insurance) (Legal Expenses) Regulations 1991	The whole instrument
16	S.I. No. 244 of 1992	European Communities (Non-Life Insurance) (Amendment) Regulations 1992	The whole instrument
17	S.I. No. 294 of 1992	European Communities (Credit Institutions: Accounts) Regulations 1992	Regulations 8, 14 and 15
18	S.I. No. 395 of 1992	European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992	The whole instrument
19	S.I. No. 359 of 1994	European Communities (Non-Life Insurance) Framework Regulations 1994	The whole instrument
20	S.I. No. 360 of 1994	European Communities (Life Assurance) Framework Regulations 1994	The whole instrument



21	S.I. No. 27 of 1995	European Communities (Unfair Terms in Consumer Contracts) Regulations 1995	The whole instrument
22	S.I. No. 168 of 1995	European Communities (Deposit Guarantee Schemes) Regulations 1995	The whole instrument
23	S.I. No. 202 of 1995	European Communities (Non-Life Insurance Accounts) Regulations 1995	The whole instrument
24	S.I. No. 23 of 1996	European Communities (Insurance Undertakings Accounts) Regulations 1995	The whole instrument
25	S.I. No. 25 of 1996	European Communities (Swiss Confederation Agreement) Regulations 1996	The whole instrument
26	S.I. No. 267 of 1996	Supervision of Credit Institutions Stock Exchange Member Firms and Investment Business Firms Regulations 1996	The whole instrument
27	S.I. No. 380 of 1997	Stock Exchange Act, 1995 (Determination Committees) Rules of Procedure 1997	The whole instrument
28	S.I. No. 381 of 1997	Rules entitled Investment Intermediaries Act 1995 (Determination Committee) Rules of Procedure 1997	The whole instrument
29	S.I. No. 307 of 2000	European Communities (Unfair Terms in Consumer Contracts) (Amendment) Regulations 2000	The whole instrument

30	S.I. No. 473 of 2000	Insurance Act, 1989 (Reinsurance) (Form of Notice) Regulations 2000	The whole instrument
31	S.I. No. 15 of 2001	Life Assurance (Provision of Information) Regulations 2001	The whole instrument
32	S.I. No. 221 of 2002	European Communities (Electronic Money) Regulations 2002	The whole instrument
33	S.I. No. 335 of 2002	European Communities (Cross Border Payments in Euro) Regulations 2002	The whole instrument
34	S.I. No. 168 of 2003	European Communities (Reorganisation and Winding-up of Insurance Undertakings) Regulations 2003	The whole instrument
35	S.I. No. 211 of 2003	European Communities (Undertakings for Collective Investments in Transferable Securities) Regulations 2003	The whole instrument
36	S.I. No. 198 of 2004	European Communities (Reorganisation and Winding-Up of Credit Institutions) Regulations 2004	The whole instrument
37	S.I. No. 727 of 2004	European Communities (Financial Conglomerates) Regulations 2004	The whole instrument
38	S.I. No. 853 of 2004	European Communities (Distance Marketing of Consumer Financial Services) Regulations 2004	The whole instrument
39	S.I. No. 13 of 2005	European Communities (Insurance Mediation) Regulations 2005	The whole instrument

40	S.I. No. 324 of 2005	Prospectus (Directive 2003/71/EC) Regulations 2005	The whole instrument
41	S.I. No. 342 of 2005	Market Abuse (Directive 2003/6/EC) Regulations 2005	The whole instrument
42	S.I. No. 380 of 2006	European Communities (Reinsurance) Regulations 2006	The whole instrument
43	S.I. No. 660 of 2006	European Communities (Capital Adequacy of Investment Firms) Regulations 2006	The whole instrument
44	S.I. No. 661 of 2006	European Communities (Capital Adequacy of Credit Institutions) Regulations 2006	The whole instrument
45	S.I. No. 60 of 2007	European Communities (Markets in Financial Instruments) Regulations 2007	The whole instrument
46	S.I. No. 366 of 2007	European Communities (Insurance and Reinsurance Groups Supplementary Supervision) Regulations 2007	The whole instrument
47	S.I. No. 383 of 2009	European Communities (Payment Services) Regulations 2009	The whole instrument (other than Part 3)
48	S.I. No. 475 of 2009	European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009	The whole instrument
49	S.I. No. 183 of 2010	European Communities (Cross Border Payments in the Community) Regulations 2010	The whole instrument

		50	S.I. No. 281 of 2010	European Communities (Consumer Credit Agreements) Regulations 2010	The whole instrument
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Section 14(3).

## PART 2

## PROVISIONS OF THE CENTRAL BANK ACT 1942 REPEALED

- 1 Sections 6G, 6H and 6I
- 2 Section 33
- 3 Part VIIC (sections 57CV to 57DH)
- 4 Schedule 3
- 5 Schedule 8

Section 14(4).

## PART 3

## AMENDMENTS OF CENTRAL BANK ACT 1971

Item	Provision affected	Amendment
1	Section 2(1), definition of "Bank"	Delete "and Financial Services Authority".
2	Section 2(1), definition of "Regulatory Authority"	Delete.
3	Section 17A(8), definition of "suitably qualified person"	Delete "or the Chief Executive", substitute "or the Head of Financial Regulation".
4	Section 33	Insert after subsection (2):  “(3) Notwithstanding the periods specified in subsection (1) of this section, the Minister may, in any particular case, following consultation with the Governor, reduce one or more of those periods where, and to the extent, the Minister considers it necessary for the purpose of financial stability.”.

## PART 4

*Section 14(5).*

## AMENDMENTS OF CENTRAL BANK ACT 1989

Item	Provision affected	Amendment
1	Section 3(1), definition of “the Bank”	Delete “and Financial Services Authority”.
2	Section 50(2)	Substitute: “(2) The Bank may, in writing, appoint a person to be a member of a committee of inspection appointed in respect of the holder or former holder of a licence.”.

## PART 5

*Section 14(6).*

## AMENDMENTS OF CENTRAL BANK ACT 1997

Item	Provision affected	Amendment
1	Section 2(1), definition of “the Bank”	Delete “and Financial Services Authority”.
2	Section 75(8), definition of “appropriate person”, paragraph (b)	Delete.
3	Section 75(8), definition of “responsible authority”	Substitute: “‘responsible authority’ means the Head of Financial Regulation.”.
4	Section 77(1)	Delete “or constituent part”.

## PART 6

*Section 14(7).*

## AMENDMENT OF CENTRAL BANK ACT 1998

Item	Provision affected	Amendment
1	Section 2, definition of “Bank”	Delete “and Financial Services Authority”.

Section 15.

SCHEDULE 2

AMENDMENTS OF OTHER ACTS

Section 15(1).

PART 1

AMENDMENTS OF ANGLO IRISH BANK CORPORATION ACT 2009

Item	Provision affected	Amendment
1	Section 1, definition of "Central Bank"	Delete "and Financial Services Authority".
2	Section 1, definition of "Regulatory Authority"	Delete.
3	Section 2(2)	Delete "and the Regulatory Authority", substitute "and the Central Bank".
4	Section 2(3)	Delete "or the Regulatory Authority".
5	Section 21(2)(f)	Delete.
6	Section 21(2)(g)	Delete "or the Regulatory Authority".

Section 15(2).

PART 2

AMENDMENTS OF COMPANIES (AUDITING AND ACCOUNTING) ACT 2003

Item	Provision affected	Amendment
1	Section 26(12)	Delete "Irish Financial Services Regulatory Authority", substitute "Central Bank of Ireland".
2	Section 31(3)(b) (viii)	Delete "and Financial Services Authority".

## PART 3

*Section 15(3).*

## AMENDMENTS OF COMPANY LAW ENFORCEMENT ACT 2001

Item	Provision affected	Amendment
1	Section 110A(1)(e)	Substitute:  “(e) in relation to functions that, under the Companies Acts, are to be performed by the Central Bank of Ireland—  (i) the Head of Financial Regulation (within the meaning given by the Central Bank Act 1942), or  (ii) a person appointed by some other person to whom the Head of Financial Regulation has delegated responsibility for appointing persons for the purposes of this section;”.
2	Section 110A(8A)	Substitute:  “(8A) A document purporting to be a copy of, or an extract from, a document kept by the Central Bank of Ireland and certified by—  (a) the Head of Financial Regulation of the Central Bank of Ireland, or  (b) a person authorised by the Head of Financial Regulation,  to be a true copy of, or an extract from, the document so kept is, without proof of the official position of the person purporting to so certify, admissible in evidence in all legal proceedings as of equal validity with the document so kept.”.

## PART 4

*Section 15(4).*

## AMENDMENTS OF CONSUMER CREDIT ACT 1995

Item	Provision affected	Amendment
1	Section 1, definition of “Bank”	Delete “and Financial Services Authority”.
2	Section 1, definition of “Regulatory Authority”	Delete.
3	Part 1B, heading	Delete “and Financial Services Authority”.
4	Section 92(2)	Delete “a member of the Irish Financial Services Regulatory Authority.”.

Section 15(5).

## PART 5

## AMENDMENTS OF CONSUMER PROTECTION ACT 2007

Item	Provision affected	Amendment
1	Section 3(2)	Delete “Every regulation”, substitute “Subject to section 24B(5), every regulation”.
2	Section 8(3)	<p>After paragraph (h), insert:</p> <p>“(ha) shall promote the interests of consumers of financial services by—</p> <p>(i) providing information in relation to financial services, including information in relation to the costs to consumers, and the risks and benefits associated with the provision of those services, and</p> <p>(ii) promoting the development of financial education and capability.”.</p>
3		<p>After section 8, insert:</p> <p><i>“Supplementary powers of Agency with respect to carrying out certain responsibilities.</i></p> <p>8A.—(1) To enable the Agency to perform the functions set out in section 8(3)(ha), the Agency may—</p> <p>(a) undertake studies, analyses and surveys with respect to the provision of relevant financial services to consumers,</p> <p>(b) collect and compile information for that purpose, and</p> <p>(c) publish the results of any such studies, analyses or surveys.</p> <p>(2) In undertaking such a study, analysis or survey, the Agency—</p> <p>(a) may, by notice in writing, require any person who, in the opinion of the Agency has information, or has control of a record or other thing, that is relevant to the study, analysis or survey to provide the information, record or thing to the Agency, and</p> <p>(b) may, by the same or another notice in writing, require the person to attend before an officer or employee of the Agency for that purpose.</p> <p>(3) A person commits an offence if the person—</p> <p>(a) intentionally prevents the Agency from exercising a power conferred by subsection (1),</p> <p>(b) intentionally obstructs or hinders the Agency in the exercise of such a power,</p> <p>(c) without reasonable excuse, fails to comply with a requirement made to the person in accordance with subsection (2), or</p> <p>(d) in purporting to comply with a requirement made under subsection (2) to provide information, provides the Agency with information that the person knows, or ought reasonably to know, is false or misleading in a material respect.</p>



Item	Provision affected	Amendment
		<p>(4) A person who is convicted of an offence under this section is liable—</p> <p>(a) on conviction on indictment, to a fine not exceeding €30,000 or to imprisonment for a term not exceeding five years, or to both, or</p> <p>(b) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months, or to both.</p> <p>(5) Summary proceedings for an offence under this section may be brought and prosecuted by the Agency, but not to the exclusion of any other person who is authorised to bring and prosecute summary offences.”.</p>
4	Section 21(11)(a)(i)	<p>Substitute:</p> <p>“(i) the Central Bank of Ireland;”.</p>
5		<p>After section 24, insert:</p> <p>“<i>Annual estimate of income for certain purposes.</i></p> <p>24A.—At least one month before the start of each financial year the Agency shall prepare, and shall submit to the Minister and the Minister for Finance, a statement of the expenditure required during the financial year for the purposes of the functions referred to in section 8(3)(ha).</p> <p><i>Power to impose levies.</i></p> <p>24B.—(1) The Agency may make regulations prescribing levies to be paid by persons who are subject to regulation under the designated enactments and designated statutory instruments (within the respective meanings given by the Central Bank Act 1942).</p> <p>(2) A levy prescribed under subsection (1) shall relate only to the Agency’s performance of its functions referred to in section 8(3)(ha).</p> <p>(3) In particular, regulations under subsection (1) may provide for any of the following matters:</p> <p>(a) the activities, services or other matters for which specified kinds of levies are payable;</p> <p>(b) the persons, or classes of persons, who are required to pay specified kinds of levies;</p> <p>(c) the amounts of specified kinds of levies;</p> <p>(d) the periods for which, or the dates by which, specified levies are to be paid to the Agency;</p> <p>(e) penalties that are payable by a person who fails to pay a levy on time;</p> <p>(f) the keeping of records, and the making of returns to the Agency, by persons who are liable to pay a specified levy;</p> <p>(g) the collection and recovery of levies.</p> <p>(4) Regulations made under this section do not take effect until approved by the Minister with the consent of the Minister for Finance.</p> <p>(5) Section 3(2) does not apply to regulations made under subsection (1).</p> <p>(6) The Agency may refund the whole or a part of a levy paid or payable under regulations in force under this section.</p>

Item	Provision affected	Amendment
		<p>(7) The Agency may amend or revoke a regulation made under this section.</p> <p>(8) An amendment or revocation of regulations made under this section does not take effect until approved by the Minister with the consent of the Minister for Finance.</p> <p>(9) The Agency may, by proceedings in a court of competent jurisdiction, recover as a debt an amount of levy payable under regulations in force under this section.</p> <p><i>Surplus or deficiency in certain income of Agency during financial year.</i></p> <p>24C.—(1) If the total sum received by the Agency on account of levies prescribed under section 24B during a financial year is greater than the Agency's expenditure on the performance of its functions referred to in section 8(3)(ha) during that financial year, the Agency—</p> <p>(a) shall apply the surplus to the performance of those functions and the exercise of those powers in the following financial year, and</p> <p>(b) shall reduce the levies prescribed in relation to the latter financial year accordingly.</p> <p>(2) If the sum received by the Agency on account of levies prescribed under section 24B during a financial year is less than the Agency's expenditure on the performance of its functions referred to in section 8(3)(ha) during that financial year, the Agency may prescribe levies in relation to the following financial year sufficient to—</p> <p>(a) make good the deficiency, and</p> <p>(b) ensure that the sum received by the Agency on account of such levies during the following financial year fully covers the performance of those functions during both those financial years.</p> <p><i>Arrangements in relation to collection of levies.</i></p> <p>24D.—(1) The Agency may enter into an arrangement with a prescribed body in relation to the collection of a levy.</p> <p>(2) An arrangement referred to in subsection (1) is to be for the purpose of enabling the Agency or prescribed body to collect the relevant levy from each person or body obliged to pay it and pay the collected levy to the entity entitled to receive it.</p> <p>(3) An arrangement referred to in subsection (1) shall provide for the costs associated with the collection of the levy concerned to be met by the entity entitled to receive the levy.</p> <p>(4) Nothing in this section affects any other power of the Agency to enter into an arrangement for the collection of levies.</p> <p>(5) In this section—</p> <p>'levy' means a levy imposed under section 24B or any other enactment;</p> <p>'prescribed body' means the following:</p> <p>(a) the Pensions Board;</p> <p>(b) the Financial Services Ombudsman;</p> <p>(c) the Central Bank of Ireland;</p> <p>(d) any other body prescribed by the Minister by regulations made for the purposes of this section.</p>

Item	Provision affected	Amendment
		<p><i>Accounting for levies.</i>                      24E.—In its annual report and annual accounts, the Agency shall include statements of—</p> <p>(a) the amounts collected by way of levies under section 24B, and</p> <p>(b) how those amounts were expended.”.</p>

PART 6

*Section 15(6).*

AMENDMENTS OF CREDIT INSTITUTIONS (FINANCIAL SUPPORT) ACT 2008

Item	Provision affected	Amendment
1	Section 2(2)	Delete “the Governor and the Regulatory Authority”, substitute “the Central Bank and the Governor”.
2	Section 2(3)	Delete “or the Regulatory Authority”.
3	Section 7(1)(a)	Delete “and the Regulatory Authority”.

PART 7

*Section 15(7).*

AMENDMENTS OF CREDIT UNION ACT 1997

Item	Provision affected	Amendment
1	Section 2, definition of “Bank”	Delete “and Financial Services Authority”.
2	Section 35(2)	<p>Substitute:</p> <p>“(2) A credit union shall not make a loan to a member—</p> <p>(a) for a period exceeding 5 years if, were the loan to be made, the total gross amount outstanding in relation to all loans with greater than 5 years to the final repayment date would exceed—</p> <p>(i) 30 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or</p> <p>(ii) if the Bank so approves in writing, 40 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or</p> <p>(b) for a period exceeding 10 years if, were the loan to be made, the total gross amount outstanding in relation to all loans with greater than 10 years to the final repayment date would exceed—</p> <p>(i) 10 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or</p>

Item	Provision affected	Amendment
		<p>(ii) if the Bank so approves in writing, 15 per cent of the total gross loan book balance outstanding at that time in relation to all loans made by the credit union, or</p> <p>(c) in the circumstances specified in subsection (3).</p> <p>(2A) The Bank may impose on an approval, for the purposes of paragraph (a)(ii) or (b)(ii) of subsection (2), any condition that the Bank considers appropriate.</p> <p>(2B) In subsection (2), 'final repayment date' for a loan means—</p> <p>(a) the date on which the loan is due to expire, as indicated on the relevant credit agreement in accordance with section 37C(1)(j), or</p> <p>(b) any subsequent date agreed between the credit union and the member to whom the loan has been made.</p> <p>(2C) Where the Bank considers it necessary for the adequate protection of the savings of members of a particular credit union, a class of credit unions or all credit unions, the Bank may by written notice impose on the credit union, the class of credit unions or all credit unions such requirements as the Bank considers appropriate in relation to any one or more of the following matters:</p> <p>(a) lending practices;</p> <p>(b) reporting loans to the Bank;</p> <p>(c) the holding of provisions, reserves or capital against loans or specified classes or types of loans;</p> <p>(d) the holding of liquid assets as a specified percentage based on the percentage of the total gross loan book balance outstanding for a period exceeding 5 years;</p> <p>(e) systems, controls and reporting arrangements in relation to any of the matters set out in paragraphs (a) to (d).</p> <p>(2D) In exercising the power conferred on it by subsection (2C), the Bank shall have regard to the lending framework provided for in subsection (2).</p> <p>(2E) A notice under subsection (2C) may describe a class of credit unions, or a class or type of loans, by reference to any common characteristic of the credit unions or loans concerned.</p> <p>(2F) A credit union shall ensure that it has appropriate processes, procedures, systems, controls and reporting arrangements to monitor compliance with the requirements of this section and any requirement imposed under this section."</p>

## PART 8

*Section 15(8).*

## AMENDMENTS OF DISABILITY ACT 2005

Item	Provision affected	Amendment
1	Section 43(2)(c)	Delete “Irish Financial Services Regulatory Authority”, substitute “Central Bank of Ireland”.
2	Section 44(2)	Delete “Irish Financial Services Regulatory Authority”, substitute “Central Bank of Ireland”.

## PART 9

*Section 15(9).*

## AMENDMENTS OF HEALTH (REPAYMENT SCHEME) ACT 2006

Item	Provision affected	Amendment
1	Section 2, definition of “Authority”	Delete.
2	Section 9(2)(a)(ii)(I)	Substitute: “(I) with a financial institution authorised by the Central Bank of Ireland;”.
3	Section 11(12)(a)(i)	Substitute: “(i) with a financial institution authorised by the Central Bank of Ireland;”.

## PART 10

*Section 15(10).*

## AMENDMENTS OF INSURANCE ACT 1989

Item	Provision affected	Amendment
1	Section 59(1)	After “employees” insert “, or other suitably qualified persons”.
2	Section 59	Insert after subsection (3): “(4) In this section “ <i>suitably qualified person</i> ” means a person (other than an employee of the Bank) who, in the opinion of the Bank, has the qualifications and experience necessary to exercise the powers conferred on authorised officers by the Insurance Acts.”.

Section 15(11).

## PART 11

## AMENDMENTS OF NATIONAL ASSET MANAGEMENT AGENCY ACT 2009

Item	Provision affected	Amendment
1	Section 3(a)	Delete “the Governor, the Central Bank or the Regulatory Authority”, substitute “the Governor or the Central Bank”.
2	Section 4(1), definition of “Central Bank”	Delete “and Financial Services Authority”.
3	Section 4(1), definition of “Regulatory Authority”	Delete.
4	Section 15(2)(j)	Delete “director”, substitute “member of the Commission”.
5	Section 15(2)(l)	Delete.
6	Section 67(1)	Delete “and the Regulatory Authority”.
7	Section 67(5)	Delete “Regulatory Authority”, substitute “Central Bank”.
8	Section 68(1)(e)	Delete “Regulatory Authority”, substitute “Central Bank”.
9	Section 69(1)	Delete “NAMA, the Governor and the Regulatory Authority”, substitute “NAMA and the Governor”.
10	Section 202(6)(e)	Substitute: “(e) the Central Bank,”.
11	Section 203(v)	Substitute: “(v) the Central Bank,”.
12	Section 205(1)	Delete “Regulatory Authority”, substitute “Central Bank”.
13	Section 205(4)	Delete “Regulatory Authority”, substitute “Central Bank”.
14	Section 206(1)	Delete “Regulatory Authority”, substitute “Central Bank”.
15	Section 207(1)	Delete “Regulatory Authority”, substitute “Central Bank”.
16	Section 207(2)	Delete “Regulatory Authority”, substitute “Central Bank”.
17	Section 207(4)	Delete “Regulatory Authority”, substitute “Central Bank”.
18	Section 208(1)	Delete “Regulatory Authority”, substitute “Central Bank”.
19	Section 208(3)	Delete “Regulatory Authority”, substitute “Central Bank”.
20	Section 208(6)	Delete “Regulatory Authority”, substitute “Central Bank”.
21	Section 208(8)	Delete “Regulatory Authority”, substitute “Central Bank”.
22	Section 209(1)	Delete “Regulatory Authority” (twice occurring), for each substitute “Central Bank”.
23	Section 209(5)	Delete “Regulatory Authority”, substitute “Central Bank”.

## PART 12

*Section 15(12).*

## AMENDMENTS OF OFFICIAL LANGUAGES ACT 2003

Item	Provision affected	Irish text	English text
1	First Schedule	In the Irish text, delete “Banc Ceannais agus Údarás Seirbhísí Airgeadais na hÉireann”, substitute “Banc Ceannais na hÉireann”.	In the English text, delete “Central Bank and Financial Services Authority of Ireland”, substitute “Central Bank of Ireland”.
2	First Schedule	In the Irish text, delete “Údarás Rialála Seirbhísí Airgeadais na hÉireann”.	In the English text, delete “Irish Financial Services Regulatory Authority”.

## PART 13

*Section 15(13).*

## AMENDMENT OF PERSONAL INJURIES ASSESSMENT BOARD ACT 2003

Item	Provision affected	Amendment
1	Section 56(6)	Delete “the chief executive of the National Consumer Agency and the Consumer Director of the Irish Financial Services Regulatory Authority”, substitute “and the chief executive of the National Consumer Agency”.

## PART 14

*Section 15(14).*

## ENACTMENTS AMENDED BY SUBSTITUTING “CENTRAL BANK OF IRELAND” FOR “CENTRAL BANK AND FINANCIAL SERVICES AUTHORITY OF IRELAND”

1. Assurance Companies Act 1909, section 29 (definition of “Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))
2. Insurance Act 1936, section 3(1) (definition of “the Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))
3. Insurance Act 1953, section 1(1) (definition of “Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))
4. Insurance Act 1964, section 1 (definition of “the Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))
5. Insurance (No. 2) Act 1983, section 1(1) (definition of “the Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

6. Building Societies Act 1989, section 2(1) (definition of “Central Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

7. Insurance Act 1989, section 2(1) (definition of “Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

8. Trustee Savings Banks Act 1989, section 3(1) (definition of “Central Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

9. Companies (Amendment) Act 1990, section 1 (definition of “Central Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

10. Companies Act 1990, section 3(1) (definition of “Central Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

11. Unit Trusts Act 1990, section 1(1) (definition of “the Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

12. Investment Limited Partnerships Act 1994, section 3 (definition of “the Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

13. Solicitors (Amendment) Act 1994, section 78(17) (definition of “Central Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

14. Netting of Financial Contracts Act 1995, section 1 (definition of “Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

15. Investor Compensation Act 1998, section 2(1) (definition of “Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

16. Dormant Accounts Act 2001, section 2(1) (definition of “Central Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

17. Asset Covered Securities Act 2001, section 3(1) (definition of “Central Bank” (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003))

18. Council of Europe Development Bank Act 2004, section 3(3)

19. Development Banks Act 2005, section 3(3)

20. Investment Funds, Companies and Miscellaneous Provisions Act 2005, section 6(1) (definition of “Bank”)

21. Sea Pollution (Hazardous Substances) (Compensation) Act 2005, section 2(1) (definition of “the Central Bank”)

22. International Criminal Court Act 2006, section 48(4)(a)

23. Sea Pollution (Miscellaneous Provisions) Act 2006, section 8(4)(b)



24. Markets in Financial Instruments and Miscellaneous Provisions Act 2007, section 3(1) (definition of “Bank”)

25. Consumer Protection Act 2007, sections 8(2), 31(1)(e) and 31(2)(e)

26. Carbon Fund Act 2007, section 2(2)

27. National Oil Reserves Agency Act 2007, section 44(7)

28. Credit Institutions (Financial Support) Act 2008, section 1 (definition of “Central Bank”)

29. Criminal Justice (Mutual Assistance) Act 2008, section 12(1) (definition of “financial institution”, paragraph (a)(i))

30. Anglo Irish Bank Corporation Act 2009, section 1 (definition of “Central Bank”)

31. Financial Emergency Measures in the Public Interest Act 2009, section 1 (definition of “public service body”, paragraph (f))

32. Financial Services (Deposit Guarantee Scheme) Act 2009, section 1 (definition of “Bank”)

33. Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, sections 25(3)(b), 40(1)(a)(vi), 60(2)(a) and 62(1)(a)

Section 16.

SCHEDULE 3

AMENDMENTS OF STATUTORY INSTRUMENTS

Section 16(1).

PART 1

AMENDMENTS OF ETHICS IN PUBLIC OFFICE (PRESCRIBED PUBLIC BODIES, DESIGNATED DIRECTORSHIPS OF PUBLIC BODIES AND DESIGNATED POSITIONS IN PUBLIC BODIES) REGULATIONS 2004

Item	Provision affected	Amendment			
1	Schedule, item 257	Delete the item, substitute:			
		"257.	Central Bank of Ireland	Member of the Central Bank Commission	"
2	Schedule, item 271	Delete the item.			

Section 16(2).

PART 2

AMENDMENTS OF EUROPEAN COMMUNITIES (CONSUMER CREDIT AGREEMENTS) REGULATIONS 2010

Item	Provision affected	Amendment
1	Regulation 25(5)	Delete "and Financial Services Authority".
2	Regulation 26	Delete "Irish Financial Services Regulatory Authority", substitute "Central Bank of Ireland".

Section 16(3).

PART 3

AMENDMENTS OF EUROPEAN COMMUNITIES (COOPERATION BETWEEN NATIONAL AUTHORITIES RESPONSIBLE FOR THE ENFORCEMENT OF CONSUMER PROTECTION LAWS) REGULATIONS 2006

Item	Provision affected	Amendment
1	Regulation 2(1), definition of "Irish Financial Services Regulatory Authority"	Delete.
2	Schedule, item 3	Delete "Irish Financial Services Regulatory Authority", substitute "Central Bank of Ireland".
3	Schedule, item 13	Delete "Irish Financial Services Regulatory Authority", substitute "Central Bank of Ireland".

## PART 4

*Section 16(4).*

AMENDMENTS OF EUROPEAN COMMUNITIES (UNDERTAKINGS FOR  
COLLECTIVE INVESTMENT IN TRANSFERABLE SECURITIES) REGULATIONS  
2003

Item	Provision affected	Amendment
1	Regulation 2(1), definition of "Bank"	Delete "and Financial Services Authority".
2	Regulation 98(8), definition of "qualified person", paragraph (a)	Substitute:  “(a) a member of the Central Bank Commission or an officer or employee of the Bank, or”.
3	Regulation 98(8), definition of "responsible authority"	Substitute:  “ ‘responsible authority’ means the Governor of the Bank or the Head of Financial Regulation of the Bank;”.

## PART 5

*Section 16(5).*

AMENDMENTS OF MARKET ABUSE (DIRECTIVE 2003/6/EC)  
REGULATIONS 2005

Item	Provision affected	Amendment
1	Regulation 2(1) (definition of "Bank")	Delete "and Financial Services Authority".
2	Regulation 27, definition of "responsible authority"	Substitute:  “ ‘responsible authority’ means—  (a) the Head of Financial Regulation of the Central Bank of Ireland, or  (b) any person to whom the Head of Financial Regulation has delegated responsibility for appointing authorised officers.”.
3	Regulation 28(4)(d)	Delete "Irish Financial Services Regulatory Authority", substitute "Central Bank of Ireland".

Section 16(6).

## PART 6

AMENDMENTS OF PROSPECTUS (DIRECTIVE 2003/71/EC) REGULATIONS  
2005

Item	Provision affected	Amendment
1	Regulation 80, definition of “responsible authority”	Substitute: “ ‘responsible authority’ means—  (a) the Head of Financial Regulation of the Central Bank of Ireland, or  (b) any person to whom the Head of Financial Regulation has delegated responsibility for appointing authorised officers.”.
2	Regulation 85(4)(d)	Delete “Irish Financial Services Regulatory Authority”, substitute “Central Bank of Ireland”.

Section 16(7).

## PART 7

AMENDMENT OF TRANSPARENCY (DIRECTIVE 2004/109/EC)  
REGULATIONS 2007

Item	Provision affected	Amendment
1	Regulation 38, definition of “responsible authority”	Substitute: “ ‘responsible authority’ means:  (a) the Head of Financial Regulation of the Central Bank of Ireland,  (b) the Chief Executive of IAASA, or  (c) any person to whom that Head or that Chief Executive has delegated the responsibility for appointing authorised persons.”.

Section 16(11).

## PART 8

PROVISIONS OF STATUTORY INSTRUMENTS AMENDED BY SUBSTITUTING  
“CENTRAL BANK OF IRELAND” FOR “CENTRAL BANK AND FINANCIAL  
SERVICES AUTHORITY OF IRELAND”

1. European Communities (Non-Life Insurance) Regulations 1976 (S.I. No. 115 of 1976), Regulation 2(1) (definition of “Bank”)
2. European Communities (Insurance Agents and Brokers) Regulations 1978 (S.I. No. 178 of 1978), Regulation 2(1) (definition of “Bank”)
3. European Communities (Co-Insurance) Regulations 1983 (S.I. No. 65 of 1983), Regulation 2 (definition of “Bank”)
4. European Communities (Life Assurance) Regulations 1984 (S.I. No. 57 of 1984), Regulation 2(1) (definition of “Bank”)

5. European Communities (Non-Life Insurance) (Amendment) (No. 2) Regulations 1991 (S.I. No. 142 of 1991), Regulation 2 (definition of “Bank”)
6. European Communities (Non-Life Insurance) (Legal Expenses) Regulations 1991 (S.I. No. 197 of 1991), Regulation 2 (definition of “Bank”)
7. European Communities (Credit Institutions: Accounts) Regulations 1992 (S.I. No. 294 of 1992), Regulation 2(1) (definition of “Bank”)
8. European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992), Regulation 2(1) (definition of “Bank”)
9. European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994), Regulation 2(1) (definition of “Bank”)
10. European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994), Regulation 2(1) (definition of “Bank”)
11. European Communities (Deposit Guarantee Schemes) Regulations 1995 (S.I. No. 168 of 1995), Regulation 3(1) (definition of “Bank”)
12. European Communities (Non-Life Insurance Accounts) Regulations 1995 (S.I. No. 202 of 1995), Regulation 2 (definition of “Bank”)
13. European Communities (Insurance Undertakings: Accounts) Regulations 1996 (S.I. No. 23 of 1996), Regulation 2(1) (definition of “Bank”)
14. European Communities (Electronic Money) Regulations 2002 (S.I. No. 221 of 2002), Regulation 2(1) (definition of “Bank”)
15. European Communities (Cross Border Payments in Euro) Regulations 2002 (S.I. No. 335 of 2002), Regulation 2(1) (definition of “Bank”)
16. European Communities (Distance Marketing of Consumer Financial Services) Regulations 2004 (S.I. No. 853 of 2004), Regulation 3(1) (definition of “the Bank”)
17. European Communities (Financial Conglomerates) Regulations 2004 (S.I. No. 727 of 2004), Regulation 3(1) (definition of “the Bank”)
18. Central Bank Act 1942 (Sections 33J and 33K) Regulations 2004 (S.I. No. 447 of 2004), Regulation 2 (definition of “Bank”)
19. European Communities (Reorganisation and Winding-up of Credit Institutions) Regulations 2004 (S.I. No. 198 of 2004), Regulation 2(1) (definition of “Bank”)
20. European Communities (Insurance Mediation) Regulations 2005 (S.I. No. 13 of 2005), regulation 3(1) (definition of “the Bank”)
21. Prospectus (Directive 2003/71/EC) Regulations 2005 (S.I. No. 324 of 2005), Regulation 2(1) (definition of “Bank”)

22. Central Bank Act 1942 (Section 33K) Regulations 2005 (S.I. No. 325 of 2005), Regulation 2 (definition of “Bank”)

23. Criminal Justice (Terrorist Offences) Act 2005 (Section 42(6)) (Counter Terrorism) (Financial Sanctions) Regulations 2006 (S.I. No. 221 of 2006), Regulation 2(1) (definition of “Central Bank”)

24. European Communities (Award of Public Authorities’ Contracts) Regulations 2006 (S.I. No. 329 of 2006), Regulation 13(1)

25. European Communities (Reinsurance) Regulations 2006 (S.I. No. 380 of 2006), Regulation 3(1) (definition of “Bank”)

26. Criminal Justice (Terrorist Offences) Act 2005 (Section 42(6)) (Usama Bin Laden, Al-Qaida and Taliban of Afghanistan) (Financial Sanctions) Regulations 2006 (S.I. No. 432 of 2006), Regulation 2(1) (definition of “Central Bank”)

27. European Communities (Capital Adequacy of Investment Firms) Regulations 2006 (S.I. No. 660 of 2006), Regulation 2(1) (definition of “Bank”)

28. European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. No. 661 of 2006), Regulation 2(1) (definition of “Bank”)

29. European Communities (Award of Contracts by Utility Undertakings) Regulations 2007 (S.I. No. 50 of 2007), Regulation 20(1)(e)

30. European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007), Regulation 3(1) (definition of “Bank”)

31. Credit Union Act 1997 (Exemption From Additional Services Requirements) Regulations 2007 (S.I. No. 107 of 2007), Regulation 2(1) (definition of “Central Bank”)

32. Criminal Justice (Terrorist Offences) Act 2005 (Section 42(6)) (Usama Bin Laden, Al-Qaida and Taliban of Afghanistan) (Financial Sanctions) Regulations 2007 (S.I. No. 206 of 2007), Regulation 2(1) (definition of “Central Bank”)

33. European Communities (Admissions to Listing and Miscellaneous Provisions) Regulations 2007 (S.I. No. 286 of 2007), Regulation 2(1) (definition of “Central Bank”)

34. European Communities (Insurance and Reinsurance Groups Supplementary Supervision) Regulations 2007 (S.I. No. 366 of 2007), Regulation 3(1) (definition of “Bank”)

35. National Oil Reserves Agency Act 2007 (Returns and Levy) Regulations 2007 (S.I. No. 567 of 2007), Schedule 1 (twice occurring)

36. European Communities (Information on the Payer Accompanying Transfers of Funds) Regulations 2007 (S.I. No. 799 of 2007), Regulation 2(1) (definition of “Bank”)

37. Private Security (Licensing and Standards) (Cash in Transit) Regulations 2007 (S.I. No. 857 of 2007), Regulation 3 (definition of “Central Bank”)

38. European Communities (Settlement Finality) Regulations 2008 (S.I. No. 88 of 2008), Regulation 2(1) (definition of “Bank”)
39. Central Bank and Financial Services Authority of Ireland Superannuation Scheme 2008 (S.I. No. 99 of 2008), Rule 3(1) (definition of “Bank”)
40. European Communities (Cross-Border Mergers) Regulations 2008 (S.I. No. 157 of 2008), Regulation 16(7)
41. European Communities (Payment Services) Regulations 2009 (S.I. No. 383 of 2009), Regulation 3(1) (definition of “Bank”)
42. European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009 (S.I. No. 475 of 2009), Regulation 3(1) (definition of “Bank”)
43. National Asset Management Agency (Determination of Long-term Economic Value of Property and Bank Assets) Regulations 2010 (S.I. No. 88 of 2010), Regulation 5(2)(c)
44. European Communities (Republic of Guinea) (Financial Sanctions) Regulations 2010 (S.I. No. 221 of 2010), Regulation 5
45. Financial Transfers (Republic of Guinea) (Prohibition) Order 2010 (S.I. No. 222 of 2010), Article 5
46. European Communities (Slobodan Milosevic and Associated Persons) (Financial Sanctions) Regulations 2010 (S.I. No. 224 of 2010), Regulation 5
47. Financial Transfers (Slobodan Milosevic and Associated Persons) (Prohibition) Order 2010 (S.I. No. 225 of 2010), Article 5
48. European Communities (Credit Rating Agencies) Regulations 2010 (S.I. No. 247 of 2010), Regulation 3(1) (definition of “Bank”).