



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

# Fitness and Probity for Credit Unions Frequently Asked Questions

2024

# Version History

<b>Title of Document</b>	Fitness and Probity for Credit Unions Frequently Asked Questions
<b>This Version</b>	<p>September 2024</p> <p>Updates include: changes on foot of the Central Bank (Individual Accountability Framework) Act 2023 re the certification requirements, the extension of the Minimum Competency Code 2017 (MCC) to all credit union activities that fall within scope of the MCC and the consequential changes on foot of the Central Bank Reform Act 2010 (Sections 20 and 22 – Credit Unions (Amendment) Regulations 2023, updated references to the Guidance on Fitness and Probity Standards for Credit Unions (updated as at September 2024), updated references and links to Regulations and guidance documents, and the inclusion of certain information previously contained in the Guidance on Fitness and Probity Standards for Credit Unions (June 2018 version), which is noted as an update in this version of the FAQ.</p>
<b>Previous Version</b>	2018

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## Introduction

This document, the fitness and probity for credit unions frequently asked questions (the FAQs), is drawn up by the Central Bank of Ireland (the Central Bank) to address commonly asked questions which have been raised in relation to the operation of the Fitness and Probity Regime for credit unions under Part 3 of the Central Bank Reform Act 2010, (the Fitness and Probity Regime).

The FAQs have no legal status. Interested parties should consult their legal advisers concerning any matter of legal interpretation of the Act, the Regulations or any Codes issued thereunder.

## List of Legislation, Regulations and Codes abbreviated throughout the FAQs

'The Act' refers to the Central Bank Reform Act 2010

'2013 Regulations' refers to the Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions) Regulations 2013

'2015 Regulations' refers to the Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions that are also authorised as Retail Intermediaries) Regulations 2015

'2018 Regulations' refers to the Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions) (Amendment) Regulations 2018

'2023 Regulations' refers to the Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions) (Amendment) Regulations 2023

'MCC' refers to the Minimum Competency Code 2017

'MCR' refers to the Minimum Competency Regulations 2017

'Minimum Competency Standards' refers to both the Minimum Competency Code 2017 and Minimum Competency Regulations 2017

## Application of Fitness and Probity for credit unions

### 1. What is the Central Bank's Fitness and Probity Regime for credit unions?

Fitness relates to an individual's competence and capability. Probity means acting honestly, ethically, with integrity and being financially sound.

The Central Bank's Fitness and Probity Regime for credit unions sets out the minimum standards of Fitness and Probity that apply to individuals carrying out certain functions in credit unions.

### 2. Where can I find information on the Fitness and Probity Regime for credit unions, including those authorised as retail intermediaries?

Information on the Fitness and Probity Regime for credit unions, including those authorised as retail intermediaries is available on the "Fitness and Probity – Credit Unions" section of the Central Bank's website at the following [link](#). The documents referred to below are also available at this link.

#### The Regulations

Pursuant to powers under the Central Bank Reform Act 2010 (the Act), the Central Bank has issued a number of statutory instruments prescribing controlled functions (CFs) and pre-approval controlled functions (PCFs) by regulation (the Regulations) which should be read together and not in isolation. The Central Bank issued the Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions) Regulations 2013 [S.I. No. 171 of 2013] prescribing CFs and PCFs for credit unions (**the 2013 Regulations**).

The Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions that are also authorised as Retail Intermediaries) Regulations 2015 [S.I. No. 97 of 2015] was issued on 24 March 2015 prescribing CFs and PCFs for credit unions that are also authorised as retail intermediaries (**the 2015 Regulations**)<sup>1</sup>.

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<sup>1</sup> Regulation 9 of the Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions) (Amendment) Regulations 2023 [S.I. No. 454 of 2023] revoke the 2015 Regulations in their entirety (effective 1 October 2024). The CFs and PCFs previously contained in the 2015 Regulations for credit unions authorised as retail intermediaries have been retained in the 2023 Regulations.

The Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions) (Amendment) Regulations 2018 [S.I. No. 187 of 2018] was issued in July 2018 prescribing three additional PCFs for credit unions with total assets of at least €100 million (**the 2018 Regulations**).

The Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions) (Amendment) Regulations 2023 [S.I. No. 454 of 2023] was issued in 2023 (**the 2023 Regulations**) to give effect to the application of the Minimum Competency Code 2017 (MCC)<sup>2</sup> and the Minimum Competency Regulations 2017 (MCR)<sup>3</sup> (together the Minimum Competency Standards) to credit unions for services which fall within scope of the MCC<sup>4</sup> (effective 1 October 2024). The 2023 Regulations prescribe six new CFs, together with the CFs and PCFs for credit unions that are also authorised as retail intermediaries, and which were originally prescribed by the 2015 Regulations. Regulation 9 of the 2023 Regulations revoke the 2015 Regulations in their entirety (effective 1 October 2024).

## Codes

The Central Bank has issued two codes under Section 50 of the Act setting out Standards of Fitness and Probity for Credit Unions (**the F&P Standards for Credit Unions**) and the MCC.

## Guidance

For guidance purposes the Central Bank has issued the following non-statutory guidance documents in relation to Part 3 of the Act:

- “Guidance on Fitness and Probity for Credit Unions” (**the Guidance**), and
- “Fitness and Probity Investigations, Suspensions and Prohibitions: Guidance” (April 2023), available on the “Investigations and Enforcement” section of the Central Bank’s website at the following [link](#)

The guidance documents were updated following enactment of Part 3 of the Central Bank (Individual Accountability Framework) Act 2023 (**the IAF Act**). A Statutory Instrument was also issued in 2023 - “[The Central Bank Reform Act 2010 \(Procedures Governing the](#)

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<sup>2</sup> The MCC is issued as a set of standards pursuant to section 50 of the Central Bank Reform Act 2010 and apply to individuals in CFs when performing certain activities.

<sup>3</sup> The MCR are issued under section 48 of the Central Bank (Supervision and Enforcement) Act 2013 and apply to regulated financial service providers and their obligations to ensure their employees are compliant with the MCC.

<sup>4</sup> Prior to 1 October 2024 the Minimum Competency Standards only applied to credit unions in certain circumstances e.g. when acting as retail intermediaries.

[Conduct of Investigations\) Regulations 2023](#)<sup>5</sup>, these regulations are based on the pre-existing regulations<sup>6</sup>, which have now been revoked, and include changes necessary to align with the IAF Act.

The Central Bank has published the “Individual Questionnaire” template along with the “Fitness and Probity Individual Questionnaire, Applications and PCF Roles Guidance” for fitness and probity applications, which are available on the Central Bank’s website at the following [link](#).

The Central Bank also publishes [Regulatory Service Standards Performance Reports](#) which set out the Central Bank’s performance against Service Standards that it has committed to in respect of processing fitness and probity applications.

### 3. What are the key changes to the Fitness and Probity Regime on foot of the Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions) (Amendment) Regulations 2023?

*[Question added September 2024]*

Effective from 1 October 2024, and linked to the application of the MCC to credit unions for all activities which are within scope of the MCC, the 2023 Regulations prescribes a further six CFs for credit unions, as follows:

A function in relation to the provision of a financial service which is likely to involve the person responsible for its performance in the provision of a financial service by a credit union in one or more of the following ways:

- (a) Giving of advice to a member of a credit union, in the course of providing, or in relation to the provision of, the financial service (CUCF-3);
- (b) Arranging, or offering to arrange, a financial service for a member of a credit union (CUCF-4);
- (c) Assisting a member of a credit union in the making of a claim under a contract of insurance or reinsurance (CUCF-5);

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<sup>5</sup> S.I. No.190 of 2023.

<sup>6</sup> Central Bank Reform Act 2010 (Procedures Governing the Conduct of Investigations) Regulations 2012 (S.I. No. 56 of 2012).

- (d) Determining the outcome of a claim arising under a contract of insurance or reinsurance (CUCF-6);
- (e) Acting in the direct management or supervision of those persons who act for a credit union in providing the services referred to in subparagraphs (a) to (d) (CUCF-7); or
- (f) Adjudicating on any complaint communicated to a credit union by a member in relation to the provision of a financial service (CUCF-8).

With effect from 1 October 2024 the 2023 Regulations revoke the 2015 Regulations (further information in question 4).

#### 4. Have the Central Bank Reform Act 2010 (Sections 20 and 22 - Credit Unions that are also authorised as Retail Intermediaries) Regulations 2015 been revoked?

*[Question added September 2024]*

Yes, with effect from 1 October 2024 the 2023 Regulations revoke the 2015 Regulations. However, with effect from 1 October 2024, the 2023 Regulations insert the CFs and PCFs previously prescribed in Schedules 1 and 2 of the 2015 Regulations into the 2013 Regulations - at Schedules 1A and 2A respectively. These are the same CFs and PCFs that were prescribed in the 2015 Regulations. Credit unions also authorised as retail intermediaries continue to be within scope of the Fitness and Probity Regime for Credit Unions.

## The Fitness and Probity Standards for Credit Unions

#### 5. What are the Fitness and Probity Standards for Credit Unions?

The F&P Standards for Credit Unions are a Code issued under Section 50 of the Act that individuals performing CFs and PCFs in credit unions are required to comply with.

The F&P Standards for Credit Unions provide that an individual performing a CF, including a PCF, is required to be:

- Competent and capable;

- Honest, ethical and to act with integrity, and
- Financially sound.

See the F&P Standards for Credit Unions for further information.

A credit union must not permit a person to perform a CF unless it is satisfied on reasonable grounds, and certifies, that the person complies with the F&P Standards for Credit Unions, and has obtained confirmation that the person has agreed to comply with the F&P Standards for Credit Unions. Credit unions are responsible for ensuring that persons performing CFs meet the F&P Standards for Credit Unions both prior to appointment and on an on-going basis.

## 6. What Standard of Fitness and Probity is appropriate to a particular CF?

Section 21 of the Act requires that a credit union, including those authorised as a retail intermediary, satisfies itself on reasonable grounds, and certifies, that persons performing CFs and PCFs comply with any code setting out standards of fitness and probity issued by the Central Bank under section 50 of the Act (e.g. the F&P Standards for Credit Unions). The person in a CF role is also required to agree to comply with any standards of fitness and probity issued under section 50 of the Act.

In complying with section 21 of the Act, the Central Bank expects credit unions to consider the responsibilities of a particular function and to determine the specific competencies and level of probity that should be expected of a person performing that particular CF in the credit union.

Role descriptions could assist credit unions in determining the specific competencies, experience, qualifications, capacity and level of probity that are required to carry out the responsibilities of CF and PCF roles.

See Part C of the Guidance for further information.

## CFs and PCFs

### 7. Who does Fitness and Probity Regime apply to in credit unions?

The Fitness and Probity Regime applies to individuals in credit unions who perform CFs and PCFs.

In the case of credit unions that are also authorised as retail intermediaries, Fitness and Probity also applies to individuals that perform CFs and PCFs **for that part of the business that the credit union undertakes as a retail intermediary.**

### 8. What are Controlled Functions (CFs)?

*[Updated September 2024 to include CUCF-3 to CUCF-8]*

CFs are functions in relation to the provision of a financial service which are prescribed by the Regulations as CFs.

The Central Bank has prescribed CF roles for credit unions as follows:

- CUCF-1: a function in relation to the provision of a financial service which is likely to enable the person responsible for its performance to exercise a significant influence on the conduct of the affairs of a credit union.
- CUCF-2: a function in relation to the provision of a financial service which is related to ensuring, controlling or monitoring compliance by a credit union with its relevant obligations.
- CUCF3-8: a function in relation to the provision of a financial service which is likely to involve the person responsible for its performance in the provision of a financial service by a credit union in one or more of the following ways:
  - (a) CUCF-3 giving of advice to a member of a credit union, in the course of providing, or in relation to the provision of, the financial service;
  - (b) CUCF-4 arranging, or offering to arrange, a financial service for a member of a credit union;

- (c) CUCF-5 assisting a member of a credit union in the making of a claim under a contract of insurance or reinsurance;
- (d) CUCF-6 determining the outcome of a claim arising under a contract of insurance or reinsurance;
- (e) CUCF-7 acting in the direct management or supervision of those persons who act for a credit union in providing the services referred to in subparagraphs (a) to (d); or
- (f) CUCF-8 adjudicating on any complaint communicated to a credit union by a member in relation to the provision of a financial service.

See Section 4 of the Guidance for further information on CFs.

*[Text below re CURICF-1 – CURICF11) updated as at September 2024]*

The Central Bank has also prescribed CF roles for credit unions that are also authorised as retail intermediaries as follows:

- CURICF-1: a function in relation to the provision of a financial service which is likely to enable the person responsible for its performance to exercise a significant influence on the conduct of the affairs of a credit union that is also authorised as a retail intermediary.
- CURICF-2: a function in relation to the provision of a financial service which is related to ensuring, controlling or monitoring compliance by a credit union that is also authorised as a retail intermediary with its relevant obligations.
- CURICF3-8: a function in relation to the provision of a financial service which is likely to involve the person responsible for its performance in the provision of a financial service by a credit union that is also authorised as a retail intermediary in one or more of the following ways:
  - (a) CURICF-3: giving of advice to a member of the credit union under its authorisation as a retail intermediary, in the course of providing, or in relation to the provision of, the financial service; or

- (b) CURICF-4: arranging, or offering to arrange, a financial service for a member of the credit union under its authorisation as a retail intermediary; or
  - (c) CURICF-5: assisting a member in the making of a claim under a contract of insurance or reinsurance; or
  - (d) CURICF-6: determining the outcome of a claim arising under a contract of insurance or reinsurance; or
  - (e) CURICF-7: acting in the direct management or supervision of those persons who act for a credit union under its authorisation as a retail intermediary in providing the services referred to in subparagraphs (i) to (iv), or
  - (f) CURICF-8: adjudicating on any complaint communicated to a credit union by a member in relation to the provision of a financial service under its authorisation as a retail intermediary.
- CURICF-9: in respect of a person involved in insurance or reinsurance distribution as defined in the European Union (Insurance Distribution) Regulations 2018, the function of being involved in insurance or reinsurance distribution activities.
  - CURICF10-11: a function in relation to the provision of a financial service which is likely to involve the person responsible for its performance in the provision of a financial service by a credit union that is also authorised as a retail intermediary in one or more of the following ways:
    - (a) CURICF-10: dealing in or having control over property of a member of the credit union that is also authorised as a retail intermediary to whom a financial service is provided or to be provided, whether that property is held in the name of the member or some other person; or
    - (b) CURICF-11: dealing in or with property on behalf of the credit union that is also authorised as a retail intermediary, or providing instructions or directions in relation to such dealing.

## 9. What are Pre-approval Controlled Functions (PCFs)?

PCFs are a sub-set of CFs which, by virtue of the nature of the role, require the pre-approval of the Central Bank. Therefore, PCFs are, by definition, also CFs.

The Central Bank prescribed PCF roles for all credit unions in Schedule 2 and for credit unions that are also authorised as retail intermediaries in Schedule 2A<sup>7</sup> of the 2013 Regulations as follows:

- CUPCF-1: Chair of the board of directors, and
- CUPCF-2: Manager.
- CURIPCF-1: Chair of the board of directors, and
- CURIPCF-2: Manager.

The Central Bank prescribed three additional PCF roles for credit unions with total assets of at least €100 million in Schedule 3 of the 2013 Regulations (as inserted by the 2018 Regulations) as follows:

- CUPCF-3: Risk Management Officer;
- CUPCF-4: Head of Internal Audit, and
- CUPCF-5: Head of Finance.

See Section 4 of the Guidance for further information on PCFs. The process for pre-approval of PCFs is outlined in Section 6 of the Guidance.

## 10. What roles in a credit union are CUCF-1 and CUCF-2?

*[Question added September 2024 – previously included in the Guidance]*

It is a matter for a credit union to determine the roles that fall within CUCF-1 and CUCF-2. However, it is anticipated that at a minimum, the roles in a credit union that would fall within the scope of CUCF-1 would include the board of directors, the chair, the manager, the risk management officer, the credit committee, the credit control committee, the membership committee, the nomination committee, the management team and any other person whose role may exercise a significant influence on the conduct of the affairs of a credit union.

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<sup>7</sup> As inserted by Regulation 7 of the Central Bank Reform Act 2010 (Sections 20 and 22 – Credit Unions) (Amendment) Regulations 2023.

The Central Bank expects that the following roles would fall within the scope of CUCF-2 - the board oversight committee, the compliance officer, the money laundering reporting officer, the internal audit function, and any other person whose role relates to ensuring, controlling or monitoring compliance by the credit union.

The roles listed above are not exhaustive. It is a matter for the credit union to determine any additional roles in the credit union that fall within CUCF-1 and CUCF-2. For example, a credit officer may fall within the scope of CUCF-1 if they are likely to exercise a significant influence on the conduct of the affairs of the credit union in the performance of their role.

## 11. What are the obligations on a person whose role falls within the definition of a CF?

*[Question added September 2024 – previously included in the Guidance]*

If a person is performing functions which fall within the definition of one or more of the CFs, that person is subject to the Central Bank's Fitness and Probity Regime.

The practical implications of this includes that the person:

- (i) Must comply with the F&P Standards for Credit Unions (as applicable);
- (ii) Must agree in writing to comply with the F&P Standards for Credit Unions issued under section 50 of the Act;
- (iii) Must provide the credit union with the required information to enable it to conduct the appropriate due diligence e.g. if relevant to the performance of the function, then a transcript of a specific qualification should be provided where requested;
- (iv) May be the subject of an investigation pursuant to section 25 of the Act where the Deputy Governor (Prudential Regulation) has reason to suspect that person's fitness and probity to perform the relevant CF, and decides in the circumstances that an investigation is merited;
- (v) May be required to comply with an evidentiary notice;

- (vi) May be the subject of a suspension notice or a prohibition notice issued under Part 3 of the Act.

Where an individual is captured by the Minimum Competency Code 2017 (MCC) with respect to a CF then that individual must comply with the MCC.

A person performing a CF (which is not a PCF) is not required to submit an Individual Questionnaire to the Central Bank in relation to the performance of that CF.

## 12. What are the obligations on the credit union, for the purposes of the Fitness and Probity Regime with respect to those persons captured by the definition of a CF?

*[Question added September 2024 (and updated) – previously included in the Guidance]*

If a person is performing functions which fall within the definition of one or more of the CFs, obligations for the credit union include:

- (i) The credit union must satisfy itself on reasonable grounds that the person complies with the F&P Standards for Credit Unions. To this effect the credit union is expected to conduct due diligence on the person's compliance with the F&P Standards for Credit Unions;
- (ii) The credit union must get written confirmation from those persons performing CFs that they will comply with the F&P Standards for Credit Unions;
- (iii) A certificate of compliance with the F&P Standards for Credit Unions, given by the credit union in accordance with Section 21 of the Act, is in force in relation to the person;
- (iv) Effective 1 January 2025 credit unions will be required to submit an annual return to the Central Bank to confirm compliance with the certification requirements for both CFs and PCFs (for further information on this see question 36);

(v) Where the CF is or has been the subject of an investigation<sup>8</sup> by the Central Bank, the credit union may have to:

- comply with a suspension notice (see section 27 of the Act);
- comply with an evidentiary notice; or
- comply with a prohibition notice.

The Minimum Competency Regulations (MCR) impose certain obligations on RFSPs (including credit unions) under Section 48 of the Central Bank (Supervision and Enforcement) Act 2013. Under the MCR, credit unions must ensure that persons performing relevant functions on its behalf comply with the standards set out in the Minimum Competency Code 2017 (MCC). Where a person is captured by the MCC with respect to a CF then the credit unions must get confirmation from those persons that they comply with the MCC.

### 13. What happens if a person is promoted into a CF role or if a person changes role in the credit union?

*[Question added September 2024 – previously included in the Guidance]*

If a credit union has determined that the role in question is a CF, the credit union must satisfy itself on reasonable grounds, and certify, that the person fulfilling that new or changed role complies with the F&P Standards for Credit Unions. The credit union should consider the responsibilities of the specific role and should determine the specific competencies and level of probity that should be expected of a person performing that specific CF.

### 14. Can an individual hold multiple CF roles?

*[Question added September 2024 – previously included in the Guidance]*

Yes. Where an individual seeks to hold more than one CF role in a credit union, including those authorised as retail intermediaries, that individual must display the competence

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<sup>8</sup> [Guidance on Investigations](#) under Part 3 of the Central Bank Reform Act 2010 is available on the Central Bank website.

required for each role. For example, if an individual was to perform the role of Compliance Officer and Money Laundering Reporting Officer, they must display the competencies required for both of these roles.

## 15. Can an individual hold multiple PCF roles?

*[Updated September 2024 - to include text previously set out in the Guidance]*

Yes. A person could hold multiple PCF roles in a number of credit unions at the same time, provided they were either in situ at the time of commencement of the existing Fitness and Probity Regime or if they have received approval from the Central Bank for that PCF role.

A person may hold more than one PCF role concurrently, provided that it is appropriate and permitted under legislation<sup>9</sup> e.g. manager and head of finance. A person cannot hold the position of chair and manager concurrently.

It is a matter for the credit union to consider the responsibilities of each function and determine if the individual has the specific competencies expected of a person performing each of the PCF roles for which they are applying. In determining this, the credit union should assess their fitness for each role in isolation, whether they have displayed the competence required for each role, and any time constraint resulting from holding multiple PCF roles.

In conjunction with the above, the credit union should give regard to the nature, scale, complexity and risk profile of the credit union and ensure that:

- All functions of the role can be effectively carried out by the proposed resourcing arrangements;
- Any potential conflicts with regard to independence are identified and managed;
- Any time constraints related to workload are identified and managed;
- Where independence of functions is required that this is maintained, and

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<sup>9</sup> Refer to the Credit Union Act, 1997 for restrictions on concurrent roles and responsibilities.

- All legal and regulatory requirements such as those relating to outsourcing are met.

Where an individual wishes to hold multiple PCF roles, they must submit an Individual Questionnaire (IQ) to the Central Bank for each specific PCF role. Pre-approval is only given for a specific PCF role in the specific institution for which the application is being made. However, where an individual wishes to apply for multiple PCF roles in a single credit union at the same time, this may be facilitated through a single IQ application by selecting the relevant multiple PCF roles.

## 16. What categories of person are not eligible to become a director or a member of the board oversight committee?

*[Updated September 2024 to take account of changes introduced by the Credit Union (Amendment) Act 2023 to Section 72 of the Credit Union Act, 1997]*

Section 53(10) of the Credit Union Act, 1997 sets out the categories of persons who are not eligible to become a director (a role that would fall within CUCF-1) of a credit union. Section 76N(4) of the Credit Union Act, 1997 sets out the categories of persons who are not eligible to become a member of the board oversight committee (a role that would fall within CUCF-2) of a credit union.

The categories of persons not eligible to become a director of a credit union or a member of the board oversight committee of a credit union include:

- An employee of any credit union;
- A voluntary assistant or member of the board oversight committee (director restriction) of the credit union;
- A director of any other credit union;
- The auditor of the credit union or a person employed or engaged by that auditor;
- A solicitor or other professional adviser who has been engaged by or on behalf of the credit union within the previous 3 years, and

- A person who is a spouse or civil partner, parent or child of a director, board oversight committee member or employee of that credit union<sup>10</sup>.

This list is not exhaustive and credit unions should refer to sections 53(10) and 76N(4) of the Credit Union Act, 1997 for the full list of persons ineligible to become a director or member of the board oversight committee.

Please refer to Section 18.2.3 of the Guidance for further information on the categories of persons not eligible to become a director of a credit union or a member of the board oversight committee of a credit union.

In accordance with section 72 of the Credit Union Act, 1997 any person who has been adjudicated bankrupt and whose bankruptcy still subsists, or who, in the previous 10 years, has been convicted of an offence in relation to a credit union or an offence involving fraud or dishonesty, may not hold a CF within a credit union. Please refer to section 16 of the Guidance for further information.

## 17. What categories of person are not eligible to become a chair of the board of a credit union?

Under section 55A(4) of the Credit Union Act, 1997, any person that has served as an employee or acted in a management capacity in the credit union in the previous five years is not eligible for election to the position of chair. For the avoidance of doubt, acting in a management capacity does not include being a member of the board of directors or the board oversight committee.

Under section 55A(6) of the Credit Union Act, 1997, and subject to the conditions set out therein, any person that has served four consecutive terms as chair is not eligible to be chair.

These exclusions apply from 11 October 2013. The time referred to in sections 55A(4) and 55A(6) includes time served before 11 October 2013. Credit unions should ensure that an

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<sup>10</sup> Siblings are also included in the persons not eligible to become a director in section 53(10)(m).

applicant is not ineligible to be chair under these requirements, or any other legal requirements, prior to submitting an Individual Questionnaire to the Central Bank.

Please refer to Section 18.3.3 of the Guidance for further information.

## 18. What categories of person are not eligible to become a risk management officer of a credit union?

Under section 76C(1) of the Credit Union Act, 1997, the board of directors of a credit union shall appoint a person (in this Act referred to as a 'risk management officer') with the necessary authority and resources to manage the risk management function within the credit union. Credit unions should ensure that an applicant is not ineligible to be a risk management officer under these requirements, or any other legal requirements, prior to submitting an Individual Questionnaire to the Central Bank.

Section 76C(3)(a) of the Credit Union Act, 1997 provides that a risk management officer shall not be a director, a member of the board oversight committee or the auditor of the credit union.

Please refer to Section 18.1.5 of the Guidance for further information.

## 19. What categories of person are not eligible to become a head of internal audit of a credit union?

Under section 76K(4) of the Credit Union Act, 1997, the internal audit function shall be separate from other functions and activities of the credit union, and be capable of operating independently of management and without undue influence over its activities.

Please refer to Section 18.1.6 of the Guidance for further information.

## 20. What actions should be taken if a credit union, with total assets of at least €100 million, does not have a dedicated Head of Finance function?

It is a matter for the credit union to consider who is currently carrying out the tasks typically associated with the head of finance function, such as generating financial projections and

monitoring and reporting on the financial position of the credit union. The credit union should assess whether this individual is fit and proper for the role of head of finance and this individual must be pre-approved for this role. This individual does not need to be appointed as a head of finance to be deemed to hold that controlled function, and may hold another role which is also deemed a controlled function. The requirement to obtain pre-approval will not change their role or necessitate a new role within the credit union.

## Due Diligence

### 21. How does the Central Bank define “fitness” and “probity”?

*[Question added September 2024 - to include text previously set out in the Guidance]*

Fitness relates to the qualifications, experience, knowledge and other relevant factors that will make a person fit for the performance of a CF or PCF.

Probity is a matter of character illuminated by a person’s past behaviour. It means acting honestly, ethically, with integrity and being financially sound.

The Central Bank requires individuals proposed for CFs or PCFs to be honest, diligent and independent-minded and to act ethically and with integrity.

Credit unions should consider each of these when assessing whether a person is fit and proper to perform a CF. As part of this assessment, the credit union should perform due diligence on the person(s) holding or proposing to hold CF roles.

### 22. Why do credit unions have to conduct due diligence?

*[Question added September 2024]*

Section 21 of the Act requires that a credit union satisfies itself on reasonable grounds, and certifies, that a person complies with the F&P Standards for Credit Unions. A certificate of compliance with standards of fitness and probity, given by the credit union in accordance with section 21 of the Act, is required to be in force in relation to the person, and the person in a CF role is also required to agree in writing to comply with the F&P Standards for Credit Unions.

In complying with Section 21 of the Act, the Central Bank expects credit unions to consider the responsibilities of the specific function and to determine the specific competencies and level of probity that should be expected of a person performing that specific CF in the credit unions.

### 23. What is the appropriate level of due diligence a credit union should carry out on a CF?

*[Updated September 2024]*

Credit unions should consider the responsibilities of the specific function and determine the specific competencies and level of probity that should be expected of a person performing that specific CF in the credit union.

The Guidance sets out due diligence that the Central Bank expects would be undertaken by credit unions in particular cases when assessing compliance with the F&P Standards for Credit Unions.

The Central Bank expects credit unions to undertake the following due diligence when assessing a person's 'fitness':

- a) Evidence of compliance with MCC 2017, where relevant;
- b) Evidence of professional qualification(s), where relevant;
- c) Evidence of CPD, where relevant;
- d) Record of interview and application;
- e) References;
- f) Record of previous experience;
- g) Record of experience gained outside the State;
- h) Concurrent responsibilities (Directorships / Other Roles).

Please see Section 12 of the Guidance for further information.

Credit unions should undertake the following due diligence when assessing a person's 'probity':

- a) Signed written confirmation from the individual performing the CF as to whether any of the circumstances set out in Section 4.1(a)-(p) ['Honest, Ethical, Integrity'] or Section 5.2(a)-(e) ['Financial Soundness'] of the F & P Standards for Credit Unions apply;
- b) Where one or more of the circumstances apply, the individual must be in a position to demonstrate that his or her ability to perform the CF is not adversely affected to a material degree.

Please see Sections 13 and 14 of the Guidance for further information.

In all cases, it is for the credit union itself to assess the information and exercise judgement to determine whether a person is fit and proper to carry out a particular CF.

#### 24. Can an electronic process be used by an individual to confirm that they will comply with the F&P Standards for Credit Unions?

*[Question added 2024 – to include text previously set out in the Guidance]*

Yes, this confirmation does not have to be a paper based process. Electronic communication whereby an individual submits confirmation that they will comply with the F&P Standards for Credit Unions is sufficient.

#### 25. What due diligence is expected for in situ PCFs / CFs?

The requirement to obtain a reference(s) does not apply where the person has performed the same CF or PCF in that credit union for at least 1 year as at the date the credit union became subject to fitness and probity. While it may not be possible to ascertain all the same forms of due diligence for in situ PCFs / CFs, the credit union must, however, satisfy itself on reasonable grounds, and certify, that the individual meets the F&P Standards for Credit Unions and agrees to comply with them.

See Part C of the Guidance for further information on Due Diligence.

#### 26. Is the credit union expected to seek evidence of all educational qualifications, including transcripts?

No. A credit union is not expected to seek evidence of all educational qualifications, only those that are relevant to the exercise of the role.

See Part C of the Guidance for further information on Due Diligence.

#### 27. Can a credit union rely on another RFSPs/credit union due diligence and assessment that a person complies with the F&P Standards for Credit unions?

*[Question added September 2024]*

No, a credit union must take appropriate steps to satisfy itself on reasonable grounds, and certify that, that person complies with the F&P Standards for Credit Unions.

**28. If a person performing a CF is in a disciplinary process, how does this impact the credit union's compliance with Section 21 of the Central Bank Reform Act 2010?**

*[Question added 2024 - to include text previously set out in the Guidance]*

A disciplinary process is a matter between the credit union and the credit union officer. The fact that a person has been the subject of a disciplinary process will not, of itself, indicate that s/he is not "fit and proper" to perform a CF in compliance with the F&P Standards for Credit Unions. The credit union should consider the outcome of the disciplinary process in terms of its relevance to the CF. Where, in light of the outcome of the disciplinary process, the credit union is not satisfied on reasonable grounds that the person performing the CF is compliant with the F&P Standards for Credit Unions, section 21 of the Act provides that the credit union cannot permit the person to continue to perform the CF. Nothing in this guidance affects the contractual rights or obligations of the credit union and the persons performing the CF.

## Approval Process for PCFs

### 29. What is the approval process for PCFs?

The approval process for PCFs requires the submission of an Individual Questionnaire to the Central Bank. In the case of elected PCF roles, credit unions and PCF applicants should be mindful of the fact that approval should be sought and received from the Central Bank in advance of the Annual General Meeting (AGM)<sup>11</sup> being held (for positions subject to election at AGM).

The submission is made through the Central Bank of Ireland [Portal](#). A template of the Individual Questionnaire is available on the Central Bank's website.

Further information on the approval process is contained in Section 6 of the Guidance. Further information on completing and submitting an Individual Questionnaire is contained in the "Fitness and Probity Individual Questionnaire, Applications and PCF Roles Guidance" available on the Central Bank website [here](#).

### 30. Who should complete and submit the Individual Questionnaire?

The completion and submission of an Individual Questionnaire is a three stage process. The proposing credit union completes Section 1.A of the Individual Questionnaire. The PCF applicant must complete Sections 1.B to 10 of the Individual Questionnaire, as applicable and submit the application to the proposing credit union. The proposing credit union then completes Section 11 of the Individual Questionnaire and submits the Individual Questionnaire via the Central Bank of Ireland Portal for assessment. The same process is followed for an outsourced individual seeking to apply for a PCF role.

The following people within a credit union can submit an Individual Questionnaire application to the Central Bank on behalf of a credit union:

- Chair of the Board of Directors (CUPCF-1);
- Manager (CUPCF-2); and
- Chair of the Nomination Committee.

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<sup>11</sup> Or Special General Meeting (SGM).

Further information on completing and submitting an Individual Questionnaire is contained in the “Fitness and Probity Individual Questionnaire, Applications and PCF Roles Guidance” available on the Central Bank website [here](#).

### 31. How far in advance of an AGM should an Individual Questionnaire be submitted for the role of chair?

Credit unions should not submit an Individual Questionnaire to the Central Bank where an AGM has not been scheduled. If the Individual Questionnaire is submitted to the Central Bank before an AGM has been scheduled by the credit union or more than two months before an AGM is scheduled to take place, the Individual Questionnaire will be returned to the credit union to ensure the assessment of Fitness and Probity is based on the most current information. The return of the Individual Questionnaire will have no impact or bearing on any subsequent Individual Questionnaires received from the credit union and the return of the Individual Questionnaire is no reflection of the Central Bank’s views on the particular application.

Once an AGM has been scheduled, credit unions should submit the Individual Questionnaire in sufficient time to allow the Central Bank to process the application prior to the AGM. It is advisable that the credit union allow additional time for any interview and/or request for further information from the Central Bank to the individual proposed/credit union as may be necessary.

Please refer to Section 6 of the Guidance for further information.

### 32. If the total assets of a credit union increase above €100 million after 1 July 2018, is the credit union expected to seek pre-approval for the Risk Management Officer, Head of Internal Audit and Head of Finance?

Where the total assets of a credit union increase above €100 million after 1 July 2018, as stated in the most recent audited financial statements, the credit union would be expected to seek pre-approval for any new appointments or the first contract renewal for the three new PCF roles introduced in the 2018 Regulations:

- Risk Management Officer (CUPCF-3);

- Head of Internal Audit (CUPCF-4);
- Head of Finance (CUPCF-5).

Existing PCF role holders (CUPCF-3, CUPCF-4 and CUPCF-5) would be deemed to be in-situ if they held the role on the date that a credit union has total assets of at least €100 million according to the credit union's latest audited balance sheet and would follow the normal process for completing an in-situ return to the Central Bank. Where a PCF role holder is in-situ either at the time the 2018 Regulations were introduced, or on the date that the credit union has total assets of at least €100 million according to the credit union's latest audited balance sheet, and subsequently has their contract renewed, this would constitute a new appointment and is subject to Section 23 of the Act.

The first contract renewal will require the individual to complete an Individual Questionnaire and provide this to the Central Bank. All subsequent contract renewals will not require the individual to undergo the approval process again as long as s/he remains in that role and circumstances have not changed since pre-approval was granted.

## In Situ PCFs

### 33. Are in situ PCFs required to go through the pre-approval process if they are subject to re-election/re-appointment?

Yes. The re-election/re-appointment of a person constitutes a 'break in service'. This means that where an in situ PCF at the time of the introduction (or amendment) of the Fitness and Probity Regime for credit unions is subject to re-election / re-appointment, then that person will be required to receive approval from the Central Bank through the submission of an Individual Questionnaire. This is in accordance with section 23 of the Act.

Once a person has been approved to a role that is subject to re-election / re-appointment provisions, it is the intention of the Central Bank that the approval given shall state that s/he shall not be required to undergo the approval process again as long as s/he remains in that role. The credit union however will be required to confirm to the Central Bank upon re-election / re-appointment that his / her circumstances have not changed since pre-approval was granted.

For example, persons who were in situ in a PCF role such as chair, who are subject to re-election, will be subject to the process set out above.

### 34. Are in situ outsourced PCFs required to go through the pre-approval process if their contract is renewed?

*[Updated September 2024 – to include text previously set out in the Guidance]*

Yes. Persons who were in-situ in PCF positions who are subject to employment contract renewals may also be subject to the approval process. There may be situations where contracts contain certain provisions which mean a contract renewal is not a re-appointment as such. Ultimately it will be for the credit union to determine, based on the terms of contracts, in conjunction with legal advice if appropriate, whether they need to comply with the obligations of section 23 of the Act in this regard or not.

It is the intention of the Central Bank that after the initial approval, that this approval would cover any subsequent contract renewals. However, the credit union will be required to confirm to the Central Bank, that the person's circumstances have not changed for contract renewals subsequent to the initial submission of the Individual Questionnaire and the Central Bank's initial approval.

### 35. What happens when an in situ PCF changes to a different PCF role?

*[Question added September 2024 – to include text previously set out in the Guidance]*

If an in situ PCF changes to a 'new' PCF role within the same credit union, or to the same PCF role in a different credit union or regulated financial service provider, s/he will be required to seek the Central Bank's prior approval to that appointment in writing.

### 36. What is the Annual PCF Confirmation Return?

*[Updated September 2024 – to reflect changes on foot of the Central Bank (Individual Accountability Framework) Act 2023 re the Certification Regulations [S.I. No.2 of 2024]]*

The Central Bank (Individual Accountability Framework) Act 2023 introduced enhancements to the Fitness and Probity regime – requiring additional certification requirements for controlled functions (PCFs and CFs). Credit unions must therefore issue a

"certificate of compliance" confirming that they are satisfied on reasonable grounds that the PCF and CF role holders comply with the Fitness and Probity Standards for Credit Unions and that the person has agreed, in writing, to comply with the Standards.

With effect from 1 January 2025<sup>12</sup> and as part of the Annual PCF Confirmation Return credit unions will be required to:

- submit confirmation of completion of the certification process for each PCF role holder to the Central Bank on an annual basis via the Annual PCF Confirmation Return; and
- confirm the completion of the overall certification process in respect of all other CF role holders on an annual basis via the Annual Overall Certification Process Return.

This Return is submitted through the F&P section of the Central Bank of Ireland Portal, and credit unions will have until 31 March annually to submit this return. The Registry of Credit Unions considers the Manager of the credit union to be responsible and accountable for certification.

Guidance on the Annual PCF Confirmation Return can be found on the Credit Union section of the Central Bank's website at the following [link](#).

Credit unions should review the PCF roles listed in the Annual PCF Confirmation Return and correct any information prior to submission such as: entering start dates or submitting resignations. Submission is final and cannot be amended once completed on the Central Bank of Ireland Portal.

As stated in the Annual PCF Confirmation Guidance, the requirement for the board of directors to confirm to the Central Bank upon re-election / re-appointment of a PCF that his/her circumstances have not changed since pre-approval was granted will also be satisfied by the completion of the annual confirmation.

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<sup>12</sup> Prior to the IAF Act and the Certification Regulations credit unions have only been required to confirm compliance with the Fitness and Probity Standards for Credit Unions for PCFs, and this has been completed on an annual basis as part of the Annual Return. The Annual Return has been updated to remove the 'Annual PCF Confirmation' Return and this change is effective as at 30 September 2024.

## Transfer of Engagements / Amalgamations

37. Do PCFs require pre-approval if a credit union has undergone a transfer of engagements?

No. When a credit union undergoes a transfer of engagement, no further pre-approval is required to remain in a PCF role.

38. Do PCFs require pre-approval if a credit union has undergone an amalgamation?

Yes. Where a person holds a PCF role in a credit union that undergoes an amalgamation, then the person holding that role will have to seek pre-approval for the new PCF role in the amalgamated credit union prior to the amalgamation taking place, as the amalgamation involves the establishment of a new credit union.

# Minimum Competency Code and Minimum Competency Regulations

## 39. Why are new controlled functions (CFs) coming into effect on 1 October 2024?

*[Question added September 2024]*

The Central Bank's Minimum Competency Requirements 2006 were originally introduced with effect from 1 January 2007 and established minimum professional standards for staff of financial service providers with particular emphasis on staff dealing with consumers in relation to retail financial products. The Minimum Competency Code 2017 (MCC) and the Central Bank (Supervision and Enforcement) Act 2013 (Section 48 (1)) Minimum Competency Regulations 2017 (MCR) (together the Minimum Competency Standards) came into effect on 3 January 2018. For further information on the MCC see the Central Bank's Minimum Competency webpages at the following link:

<https://www.centralbank.ie/regulation/how-we-regulate/authorisation/minimum-competency>

The MCC is closely linked to the [Fitness and Probity regime](#). The MCC 2017 specifies certain minimum competencies that persons falling within its scope must comply with when performing certain controlled functions. The MCR 2017 imposes certain obligations on regulated firms under Section 48 of the Central Bank (Supervision and Enforcement) Act 2013.

On 19 January 2022, the Central Bank published Consultation Paper 147 (CP147)<sup>13</sup> proposing to apply the requirements of the MCC to all credit union services that fall within the scope of the MCC 2017. At that time, the requirements of the MCC only applied to credit unions when:

- acting as retail intermediaries;

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<sup>13</sup> [Consultation Paper 147: Application of the Minimum Competency Code 2017 and the Minimum Competency Regulations 2017 to credit union core services and Feedback Statement on CP147.](#)

- providing mortgage credit agreements in line with the knowledge and competence requirements of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016; and
- devising or creating mortgage credit products.

Following a review of the responses received to that consultation, the Central Bank concluded that the requirements of the MCC would apply to all credit union services within scope of the MCC 2017, from 1 October 2024, with a four-year transition period ending on 1 October 2028 for those in situ on that date. For new entrants, the requirements in Section 1.4 of the MCC apply.

Therefore, with effect from 1 October 2024, the MCC 2017 and MCR 2017 apply to all in-scope activities for credit unions. These regulatory changes are being introduced with a view to ensuring that credit union members are afforded the same level of protection as consumers availing of similar products and services from other regulated entities.

In order to extend the scope of the MCC to include all activities conducted by a credit union which are in scope of the MCC, the Fitness and Probity Regime for credit unions had to be amended to include six additional CFs for credit unions (CUCF-3 to CUCF-8). These six additional CFs are effective from 1 October 2024. Further information on the six additional CFs can be found at Q&A 3.

#### 40. [Where can I find information on what credit union activities are in scope of the Minimum Competency Code 2017 \(MCC\) and the Central Bank \(Supervision and Enforcement\) Act 2013 \(Section 48 \(1\)\) Minimum Competency Regulations 2017 \(MCR\)?](#)

*[Question added September 2024]*

With effect from 1 October 2024, the MCC and MCR apply to credit union staff and volunteers who are exercising a controlled function, the exercise of which includes one of the activities listed in section 1.2 or section 2.1 of the MCC. The MCC applies to persons when undertaking specific activities relating to financial products and services.

Credit unions are therefore required to determine whether or not an activity falls within scope of the MCC. Credit unions will need to ascertain whether a person exercising a

controlled function on its behalf is carrying out an activity listed in section 1.2 or 2.1 of the MCC.

Further information on the application of the MCC and MCR can be found [here](#) on the Minimum Competency webpages on the Central Bank website.

**41. Has the Central Bank prepared a Frequently Asked Questions document on the application of the Minimum Competency Code 2017 (MCC) and the Central Bank (Supervision and Enforcement) Act 2013 (Section 48 (1)) Minimum Competency Regulations 2017 (MCR) for credit unions?**

*[Question added September 2024]*

Yes, the Central Bank has prepared a 'Minimum Competency Code 2017 and Minimum Competency Regulations 2017 - Questions and Answers' document (Q&A) on the MCC and MCR for all in scope firms, which includes credit unions. This Q&A can be found [here](#) on the Minimum Competency webpages on the Central Bank website.

**42. Who can I contact if I still have a query after reviewing the Minimum Competency Code 2017 and Minimum Competency Regulations 2017 Questions and Answers document?**

*[Question added September 2024]*

If after reviewing the 'Minimum Competency Code 2017 and Minimum Competency Regulations 2017 - Questions and Answers' document a query has not been addressed, the Central Bank's Minimum Competency team can be contacted as follows:

Consumer Policy and Research Division

Central Bank of Ireland,

PO Box 559,

Dublin 1.

Tel: +353 1 224 6000

E-mail [competency@centralbank.ie](mailto:competency@centralbank.ie)

#### 43. Are CUCF3–8 only intended to capture roles covered by Minimum Competency Code 2017(MCC)?

*[Question added September 2024]*

CUCF3–8 apply to customer facing roles rather than consumer facing roles and are thus not limited to the scope of the MCC. If an individual is captured by the MCC, s/he will be captured by CUCF3-8. However, not all individuals captured by CUCF3-8 will be subject to the MCC. The scope of CUCF3-8 is thus broader than the MCC.

#### 44. Will the chair be subject to the Minimum Competency Code 2017 (MCC)?

The MCC may be relevant to the applicant however, in most cases, it is anticipated that the chair of the credit union would not be subject to the MCC as they are not likely to perform functions that fall within the scope of the MCC. See Section 1.2 and Appendix 2 of the MCC for details of persons that are subject to the MCC.

#### 45. Will the Minimum Competency Code 2017 (MCC) apply to credit union volunteers?

*[Question added September 2024]*

The MCC applies to persons in credit unions when undertaking specific activities relating to retail financial product(s), rather than to the titles or roles held by these persons. If a person undertakes activities within scope of the MCC they should be appropriately qualified, in line with the competency requirements outlined in the MCC, regardless of whether they undertake these activities as a volunteer or an employee. Credit unions will need to ascertain whether a person exercising a controlled function on its behalf is carrying out an activity listed in section 1.2 or 2.1 of the MCC.

#### 46. Where a credit union is also authorised as a retail intermediary, are any of the additional CURICF roles (CURICF 3 – 11) subject to the Minimum Competency Code 2017 (MCC)?

Roles within a credit union that is also authorised as a retail intermediary that fall within CURICF-3 to CURICF-9 are also subject to the MCC. The MCC was updated in 2017 to

reflect requirements arising from EU legislation. The updated MCC has been effective since 3 January 2018 and applies to credit unions authorised as retail intermediaries with respect to their retail intermediary business and to all credit unions when providing mortgage credit agreements.

If an individual is captured by the MCC, s/he will be captured by CURICF-3 to CURICF-9. However, not all individuals captured by CURICF-3 to CURICF-9 will be subject to the MCC. The scope of CURICF-3 to CURICF-9 is thus broader than the MCC.

From 1 October 2024 the MCC will apply to all credit union activities within scope of the MCC, see above for further detail.

## Outsourcing

### 47. What are the obligations on a credit union where CFs are outsourced to a regulated entity?

*[Question added September 2024 – previously included in the Guidance]*

Section 21 of the Act requires that a credit union must satisfy itself on “reasonable grounds”, and certify, that individuals performing CFs comply with the F&P Standards for Credit Unions and those persons have agreed to comply with the F&P Standards for Credit Unions.

Section 1.6 of the F&P Standards for Credit Unions excludes individuals performing outsourced CFs in certain regulated entities<sup>14</sup> from the scope of the F&P Standards for Credit Unions. As of March 2015, this has been amended to clarify that the exclusion only applies where the other financial service provider is regulated for a similar business to that conducted by the credit union.

Subject to the conditions set out in Section 1.6 of the F&P Standards for Credit Unions being met, persons who will perform CFs under the written agreement which governs the outsourcing arrangement are excluded from the scope of the F&P Standards for Credit Unions. Accordingly, in respect of those CFs, the credit union will not have compliance obligations under section 21 of the Act. However, Part 3 of the Act will continue to apply.

The credit union is responsible for ensuring that it has obtained the Central Bank’s prior written approval prior to appointing the individual to the PCF role.

A pre-approval is only valid for the PCF role being applied for, in the institution that sought the pre-approval. Where an individual who has already obtained pre-approval for a specific PCF in a specific credit union is proposed to hold the same PCF role in a different credit

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<sup>14</sup> Persons performing controlled functions with respect to a credit union under the following conditions:

- a) There is in place a written agreement between the credit union and a separate financial service provider for the carrying on of that function by that other person on behalf of the credit union; and
- b) That other financial service provider (other than a certified person within the meaning of section 55 of the Investment Intermediaries Act, 1995) is regulated for similar business to that conducted by the credit union either:
  - i. By the Central Bank; or
  - ii. By an authority that performs functions in an European Economic Area (EEA) country that are comparable to the functions performed by the Central Bank; or
  - iii. By an authority that performs functions in a non EEA country that are comparable to the functions performed by the Central Bank.

union, a separate application for pre-approval must be made in order for the Central Bank to assess the applicant. The assessment will be based on the most up to date information, and on the individual's ability to conduct the PCF role in that specific credit union based on its nature, scale and complexity, and on their ability to conduct the PCF role in an increased number of credit unions.

For further information, please refer to Section 5 of the Guidance.

#### 48. What are the obligations on a credit union where PCFs are outsourced to an unregulated entity?

*[Question added September 2024 - previously included in the Guidance]*

Where a credit union has entered into an outsourcing arrangement with an unregulated entity<sup>15</sup> for the performance of a CF the credit union remains responsible for compliance with its obligations under section 21 of the Act, including in relation to certification.

The outsourcing agreement between the credit union and the entity will be required to specify the individual within the entity who will be responsible for carrying out the PCF role.

The credit union is responsible for ensuring that it has obtained the Central Bank's prior written approval prior to appointing the individual to the PCF role and the individual will be required to comply with the F&P Standards for Credit Unions.

Where more than one individual from an unregulated outsourced service provider conducts the PCF role in a credit union, pre-approval must be obtained for the individual who has ultimate responsibility for, and who ultimately signs off on reports submitted to the credit union.

A pre-approval is only valid for the PCF role being applied for, in the institution that sought the pre-approval. Where an individual who has already obtained pre-approval for a specific PCF in a specific credit union is proposed to hold the same PCF role in a different credit

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<sup>15</sup> "Unregulated entity" means an entity (including a certified person within the meaning of section 55 of the Investment Intermediaries Act, 1995) that is not regulated either:

- i. By the Central Bank; or
- ii. By an authority that performs functions in an EEA country that are comparable to the functions performed by the Central Bank; or
- iii. By an authority that performs functions in a non EEA country that are comparable to the functions performed by the Central Bank.

union, a separate application for pre-approval must be made in order for the Central Bank to assess the applicant. The assessment will be based on the most up to date information, and on the individual's ability to conduct the PCF role in that specific credit union based on its nature, scale and complexity, and on their ability to conduct the PCF role in an increased number of credit unions.

The outsourced service provider should provide written confirmation to the credit union that those individuals performing CFs are compliant with the F&P Standards for Credit Unions and have agreed in writing to comply with them. In addition to this written confirmation, the outsourced service provider should furnish the credit union with sample documentation as to how compliance with the F&P Standards for Credit Unions is adhered to.

See Section 1.6 of the F&P Standards for Credit Unions and Section 5 of the Guidance for further information on outsourcing.

**49. If an outsourced service provider is applying for a PCF role, which individual in that outsourced service provider should pre-approval be obtained for?**

Pre-approval must be obtained for the individual who has ultimate responsibility for fulfilling the tasks associated with the role, and who ultimately signs off on reports submitted to the credit union.

**50. If an outsourced service provider is applying for PCF roles in multiple credit unions, can one application be provided to the Central Bank?**

An individual from the outsourced service provider must submit an Individual Questionnaire to the Central Bank for each PCF role and for each credit union they are seeking to provide an outsourced service to. For example if the individual is applying for the position of Head of Internal Audit (CUPCF-4) for five credit unions, the individual is required to submit five Individual Questionnaires as approval is only related to the specific entity.

The credit union should also give regard to the nature, scale, complexity and risk profile of the credit union and ensure that:

- All functions of the role can be effectively carried out by the proposed resourcing arrangements;
- Any potential conflicts with regard to independence are identified and managed;
- Any time constraints related to workload are identified and managed;
- Where independence of functions is required that this is maintained, and
- All legal and regulatory requirements such as those relating to outsourcing are met.

#### 51. Do outsourced PCFs require pre-approval when their contract is renewed?

Yes, the first contract renewal constitutes a new appointment and is subject to Section 23 of the Act. For example, if an outsourced service provider has a break in contract or their contract is renewed for the first time, the outsourced service provider must go through the pre-approval process for their new appointment.

## On-going Compliance

### 52. Is compliance with Section 21 of the Central Bank Reform Act 2010 an on-going requirement? What does this mean in practise?

*[Question added September 2024]*

Section 21 of the Act is a continuing obligation. It is not a once-off obligation discharged when due diligence has been undertaken in relation to an initial appointment to a CF or PCF.

Further, credit unions should have regard to the following:

- Credit unions should require persons performing CFs to undertake to notify the credit union of any material changes to initial due diligence. See Section 17 of the Guidance.
- In terms of internal controls, the Central Bank expects credit unions to implement procedures to manage their compliance obligations with Section 21 of the Act. See Section 10 of the Guidance.
- Credit unions will need to maintain a Register of individuals in CF and PCF roles that is current at all times, and which is reflective of the certification process as required under Section 21 of the Act. They will also need to document and record all due diligence undertaken in relation to persons performing CFs. See section 10 of the Guidance.
- As part of the continuing obligation, each credit union is required to submit an Annual Confirmation Return for PCFs and CFs via the F&P section of the Central Bank of Ireland Portal.
- Credit unions should have regard to their obligations under General Data Protection Regulation.<sup>16</sup>

The Central Bank may inspect the Register. It may require proof of due diligence and/or records maintained either in the context of an investigation into a credit union's compliance

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<sup>16</sup> REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

with Section 21 of the Act, or an investigation in relation to a person's fitness and probity to perform a CF. See Section 10 of the Guidance.

### 53. How can a credit union notify the Central Bank of the election / appointment of a PCF?

Following approval by the Central Bank of an applicant(s) for a PCF role(s), the proposing credit union should notify the Central Bank via the Central Bank of Ireland Portal of the date that the PCF holder(s) has/have taken up their role - the effective start date (in the case of a manager, the risk management officer, head of internal audit, head of finance) or the election date (in the case of a chair).

Further information on how this information can be updated is provided in the [“Fitness and Probity Individual Questionnaire, Applications and PCF Roles Guidance”](#), which is available on the Central Bank website.

### 54. How can a credit union notify the Central Bank where a PCF approved applicant is not taking up the role?

The credit union should notify the Central Bank via the Central Bank of Ireland Portal to confirm where an applicant will not take up the role once this becomes clear to the credit union (i.e. where a person approved for the role of chair by the Central Bank is subsequently not elected at the AGM).

Further information on how this information can be updated is provided in the [“Fitness and Probity Individual Questionnaire, Applications and PCF Roles Guidance”](#), which is available on the Central Bank website.

### 55. How can a credit union notify the Central Bank of the resignation of a PCF?

The credit union must notify the Central Bank without delay via the Central Bank of Ireland Portal of the resignation of an individual who has been approved as a PCF.

Further information on how this information can be updated is provided in the [“Fitness and Probity Individual Questionnaire, Applications and PCF Roles Guidance”](#).

Under section 63(5) of the Credit Union Act, 1997, the chair or secretary of the credit union is obliged to notify the Central Bank in writing of the election, appointment, retirement, removal or resignation of the chair within 14 days of the election, appointment, retirement, removal or resignation.

#### 56. What happens if a credit union forgets to submit details of a PCF role start date or resignation date?

A validation will prevent the completion and submission of the Annual Return in instances where the credit union's PCF data relating to the Chair and Manager has not been kept up to date, i.e. where start dates and resignation/end dates relating to the Chair and Manager have not been maintained via the Central Bank of Ireland Portal.

The effective start date and the end date of a PCF role holder must be submitted via the Fitness and Probity section of the Central Bank of Ireland Portal. Instructions can be found on the Central Bank website [here](#).



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