



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

Feedback Statement

# AMENDMENTS TO THE LIST OF PRE-APPROVAL CONTROLLED FUNCTIONS (PCFs)

5 April 2022

# Amendments to the PCF List

Further to the Notice of Intention issued in September 2021, the Central Bank of Ireland is amending the PCF list as follows:

1. Expanding PCF-16 Branch Manager of branches in other EEA countries to include branch managers in non-EEA countries;
2. Introducing stand-alone PCFs in respect of:
  - a. Independent Non-Executive Directors;
  - b. Head of Anti-Money Laundering and Counter Terrorist Financing Compliance; and
3. Removing PCF-31 Head of Investment.

## Introduction

1. The Central Bank of Ireland (the Central Bank) proposed, within its Notice of Intention<sup>1</sup> issued in September 2021, to amend the PCF list<sup>2</sup> as follows:
  - Expand PCF-16 Branch Manager of branches in other EEA countries (PCF-16) to include branch managers in non-EEA countries;
  - Introduce stand-alone PCFs in respect of:
    - PCF-2B Independent Non-Executive Directors (PCF-2B)<sup>3</sup>;
    - PCF-52 The Head of Anti-Money Laundering and Counter-Terrorist Financing (PCF-52)<sup>4</sup>; and
  - Remove PCF-31 Head of Investment (PCF-31).
2. The Central Bank proposed such amendments to the PCF list on the basis of its supervisory experience of the use of a number of existing PCFs (i.e. PCF-2 Non-executive director (PCF-2), PCF-15 Head of Compliance with responsibility for Anti-Money Laundering and Counter Terrorist Financing Legislation (PCF-15), PCF-30 Chief Investment Officer (PCF-30) and PCF-31) and in view of the changing structure of, and landscape surrounding, the Irish financial services industry (in the context of PCF-16).
3. The Central Bank welcomed comments from all stakeholders on this proposal, and received responses from 7 regulated financial service providers (RFSPs), 6 representative bodies, 2 service providers and a law firm.

---

<sup>1</sup> <https://www.centralbank.ie/docs/default-source/regulation/how-we-regulate/fitness-probity/news/amendments-to-list-of-pre-approval-controlled-functions.pdf?sfvrsn=6>

<sup>2</sup> Applicable to regulated financial service providers (excluding credit unions)

<sup>3</sup> As distinct from PCF-2 Non-executive director

<sup>4</sup> As distinct from PCF-15 Head of Compliance with responsibility for Anti-Money Laundering and Counter Terrorist Financing Legislation

4. The Central Bank has considered and, as appropriate, taken into account the feedback received and accordingly, intends to proceed with the amendments to the PCF list as set out in the Notice of Intention, subject to a small number of minor changes.
5. This feedback statement summarises the responses received to each specific proposed amendment set out in the Notice of Intention, provides the Central Bank's position in relation to same and identifies any additional related changes to the proposed amendments to the PCF list.
6. The Central Bank would like to take the opportunity to acknowledge all parties who took the time to make a submission in response to the Notice of Intention.

## **Expansion of PCF-16**

### *Multi-jurisdictional approvals*

7. The Central Bank notes two queries in relation to the practical operation of PCF-16 in instances whereby the branch is located in a jurisdiction in which the host regulator also requires the pre-approval of branch managers for that country.
8. Specifically, respondents queried the timing of approvals and the impact of any delay in approval on the carrying out of business by branches where they are already approved or close to approval by the host regulator and the likelihood or impact of a contradiction in feedback from home and host regulators.
9. As set out in the Notice of Intention, the Central Bank considers this amendment warranted given the number and size of branches of RFSPs outside of the EEA and on the basis of the level of control and autonomy that the managers of such branches may have. As stated, this amendment will mean that it will not be permissible for a branch manager of a branch in a non-EEA country to be appointed without the Central Bank's approval. However, the Central Bank reaffirms that it does not envisage that this amendment would have any other impact on the role of the Central Bank with regard to the supervision of such branches.
10. Further, the Central Bank advises that the existing applicable timelines/standards will continue to apply to such PCF applications.
11. In addition, the Central Bank will take into account any feedback available to it from the application process of a host regulator, and will operate in line with any Memoranda of Understanding in existence with other jurisdictions.

12. Accordingly, the Central Bank intends to proceed with the amendment as proposed in the Notice of Intention, and as follows:

General	
PCF-16	Branch managers of branches <b>established outside the State</b> <del>in other EEA countries</del>

#### *In-situ process*

13. As set out in the Notice of Intention, there is no action required from RFSPs within which an individual holds an existing PCF-16 designation. RFSPs now captured by the expansion of PCF-16 (i.e. branches outside of the EEA, including in the UK) are required to submit confirmation of their assessment under Section 21 of the Central Bank Reform Act 2010 in respect of individuals in situ to the Central Bank by 3 June 2022.

#### **Segregation of PCF-2**

##### *Definition of, and criteria for use in assessing, director independence*

14. The Central Bank notes requests for the provision of guidance for use in the assessment of the independence of directors within the PCF-2A Non-executive director (PCF-2A) and PCF-2B categorisation from six respondents. Specifically, some respondents requested confirmation that the existing definitions and criteria within sectoral requirements, codes and guidelines could be utilised for this purpose.

15. While the Central Bank considers the use of the definition of, and criteria for use in assessing, director independence contained within the Central Bank's Corporate Governance Requirements (for Credit Institutions, for Insurance Undertakings and for Investment Firms and Market Operators) best practice, it is acknowledged that the Corporate Governance Requirements do not apply to all sectors.

16. Accordingly, the Central Bank confirms that the definition and criteria provided within the various sectoral requirements, codes and guidelines is appropriate for use in this regard.

17. In this regard, the Central Bank notes that in some sectors, there are a number of applicable definitions and criteria e.g. within the Corporate Governance Requirements for Credit Institutions and the Corporate Governance Requirements for Investment Firms and Market Operators, and within the Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders.

18. The Central Bank reaffirms its position that, if a conflict arises between corporate governance obligations or standards, the stricter of the obligations or standards should be met so as to ensure compliance with both sets of obligations.

*The appointment of INEDs*

19. Two respondents also sought clarity as to whether the proposed amendment introduces, or seeks to introduce, any new or more stringent requirements regarding the appointment of INEDs.

20. The Central Bank confirms that this amendment was proposed in the interest of greater clarity and for record-keeping purposes only, and accordingly will not result in any additional or changed requirements regarding the appointment of INEDs.

*Impact on the board and interaction with company law*

21. Four respondents noted a potential practical impact of the proposed split of PCF-2 on the functioning of the board and its interaction with company law requirements.

22. The Central Bank does not envisage any impact on the functioning of the board or on the interaction between the Central Bank’s Fitness and Probity Regime and its Corporate Governance Requirements, and Irish company law requirements, given that it is an existing practice for directors to be categorised as NEDs or INEDs.

23. In addition, information in respect of director designations is generally publicly available and is also submitted to the Central Bank by way of compliance with a number of other existing requirements e.g. Compliance Statements in respect of the Corporate Governance Requirements. However, for clarity and record keeping purposes, it is deemed important to include this categorisation within the PCF application process also and accordingly, the Central Bank intends to proceed with the amendment as set out in the Notice of Intention, and below:

General	
PCF-2	Non-Executive Director
PCF-2A	Non-Executive Director
PCF-2B	Independent Non-Executive Director

### *In-situ process*

24. The Central Bank also notes two questions regarding the application of the in-situ process.
25. The Central Bank wishes to confirm that this process is applicable to all sectors within the financial services industry (as opposed to only those sectors to which the Central Bank's Corporate Governance Requirements apply).
26. However, as outlined above, this should not be taken to mean that there are new requirements regarding the appointment of INEDs, rather where an existing PCF-2 is categorised as an INED, RFSPs will be required to notify the Central Bank of the individuals' status as PCF-2B.
27. RFSPs are reminded that a comprehensive review is required in respect of any individual who has been an INED on the board of an RFSP subject to the Central Bank's Corporate Governance Requirements for Credit Institutions and the Central Bank's Corporate Governance Requirements for Insurance Undertakings for nine years or more, and that such reviews should be carried out annually where INEDs have been members of the board for more than nine years.
28. As outlined in the Notice of Intention, all individuals currently occupying PCF-2 will be re-designated as PCF-2A. RFSPs are required to submit confirmation of any PCF-2B designations to the Central Bank by 3 June 2022.

### **Segregation of PCF-15/Introduction of PCF-52**

#### *Nature and title of the role*

29. The Central Bank considered questions raised, within five responses, with regard to the nature of the role of PCF-52, and specifically whether the Central Bank considers it a compliance or operational role.
30. In addition, the Central Bank notes suggestions from three respondents for an amendment to the title of the role, with two of these proposing an amendment in line with the Central Bank of Ireland's AML/CFT Anti-Money Laundering and Countering the Financing of Terrorism Guidelines for the Financial Sector (the Central Bank Guidelines).
31. The Central Bank advises that this amendment was proposed in response to queries received regarding the use of PCF-15 and to reflect the number of appointments of individuals to carry out an AML-role in its own right (as opposed to within the remit of the role of Head of Compliance), and therefore confirms that PCF-52 is a necessary amendment to introduce an

AML-specific compliance role. On this basis, and in order to ensure consistency with equivalent existing PCF titles, the title of PCF-52 will be amended as follows: PCF-52 Head of Anti-Money Laundering and Counter Terrorist Financing Compliance.

#### *The appointment of individuals to PCF-52*

32. The Central Bank notes three requests for clarity regarding whether the proposed amendment introduces, or seeks to introduce, any new or more stringent requirements regarding the appointment of separate individuals to PCF-12 Head of Compliance (PCF-12) and PCF-52. In this regard, RFSPs are reminded that, in line with Section 3.2 of the Fitness and Probity – Frequently Asked Questions<sup>5</sup>, they are not required to create a new PCF role to comply with the obligations under the Fitness and Probity Regime where one did not previously exist.
33. Accordingly, the Central Bank advises that this amendment does not, in and of itself, result in any additional or changed requirements regarding the appointment of separate individuals to PCF-12 and PCF-52.
34. The Central Bank also reminds RFSPs that the onus will be placed on the RFSP itself to review its functions to determine whether the role meets the substance of PCF-52, noting that it is possible that an RFSP may not require a specific PCF-52.<sup>6</sup>
35. In addition, it should be noted that an individual can occupy more than one PCF role e.g. an individual could be listed as PCF-12 and PCF-52. Again, it will be the responsibility of the RFSP to determine if a position represents both PCF roles. In such circumstances, with respect to individuals in-situ, the in-situ process for each PCF applies, while with regard to new appointments, the individual must be approved by the Central Bank in respect of the performance of each PCF role.

#### *Timeline for the introduction of PCF-52*

36. Four respondents also sought clarity on the timeline for the introduction of PCF-52, with some suggesting that this amendment be deferred until the EBA Guidelines on policies and procedures in relation to compliance management and the role and responsibilities of the AML/CFT Compliance Officer are finalised.

---

<sup>5</sup> <https://www.centralbank.ie/docs/default-source/regulation/how-we-regulate/authorisation/fitness-probity/fitness-and-probity---frequently-asked-questions-2018.pdf?sfvrsn=6>

<sup>6</sup> RFSPs should also have regard to their obligations under the Criminal Justice Act 2010, the Central Bank Guidelines, and the EBA Guidelines on policies and procedures in relation to compliance management and the role and responsibilities of the AML/CFT Compliance Officer when implemented.

37. As outlined above, this amendment was proposed in response to queries received regarding the use of PCF-15 and to reflect the number of appointments of individuals to carry out an AML-specific compliance role in its own right. Accordingly, the Central Bank views this amendment as important and distinct from the EBA proposals, and intends to proceed with same as follows:

General	
PCF-12	Head of Compliance
<del>PCF-15</del>	<del>Head of Compliance with responsibility for Anti-Money Laundering and Counter Terrorist Financing Legislation</del>
PCF-52	Head of Anti-Money Laundering and Counter Terrorist Financing Compliance

#### *In-situ process*

38. One respondent sought clarity on the operation of the in-situ process.

39. As set out in the Notice of Intention, there is no action required from RFSPs within which an individual holds an existing PCF-12 designation. With respect to in-situ PCF-15s, this designation will be end-dated, and RFSPs will be required to notify the Central Bank of the appropriate PCF designation(s) of the individual i.e. either or both PCF-12 and PCF-52 by 3 June 2022.

40. In this regard, where an RFSP determines that it is appropriate for an individual designated as PCF15 to be re-designated as PCF-52 as set out above, RFSPs will be required to notify the Central Bank accordingly. In all other cases, an RFSP should review its functions and determine whether any would meet the Head of Anti-Money Laundering and Counter Terrorist Financing Compliance role. Where it is determined by the RFSP that this role does exist, the RFSP will be required to review their assessment under Section 21 of the Central Bank Reform Act 2010 in respect of individuals in-situ and submit confirmation of such an assessment to the Central Bank.

#### **Removal of PCF-31**

##### *Practical use of the roles*

41. The Central Bank notes that one respondent considered that there are differences between PCF-30 and PCF-31 in practical terms.



42. However, the Central Bank, in proposing this amendment, had reviewed the use of PCF-30 and PCF-31 and notes that RFSPs to which these PCFs apply typically use PCF-30 only.

43. It is for this reason that the Central Bank considers the retention of both of these PCFs duplicative and accordingly, intends to progress with the deletion of PCF-31 as indicated in the Notice of Intention and below.

Investment Firms	
PCF-30	Chief Investment Officer
<del>PCF-31</del>	<del>Head of Investment</del>

44. As stated within the Notice of Intention, there is no action required from RFSPs to which this change affects as the small number of individuals who currently hold PCF-31 designations will automatically be re-designated as a PCF-30.

### General feedback received

#### *Title of Chair roles*

45. In line with the importance of, and focus on, diversity and inclusion at RFSPs and further to general feedback received, the Central Bank proposes to amend the title of all roles which relate to the chairing of a board or committee. Accordingly, the titles of such roles will be amended as follows:

General	
PCF-3	Chair <del>man</del> of the board
PCF-4	Chair <del>man</del> of the audit committee
PCF-5	Chair <del>man</del> of the risk committee
PCF-6	Chair <del>man</del> of the remuneration committee
PCF-7	Chair <del>man</del> of the nomination committee

46. There is no action required from RFSPs to which this change affects; the titles of individuals occupying such roles will automatically be amended.

### *Interaction with the Senior Executive Accountability Regime*

47. The Central Bank also notes two questions regarding the interaction of these changes to the PCF list with the Senior Executive Accountability Regime (SEAR).
48. In line with the content of the General Scheme of the Central Bank (Individual Accountability Framework) Bill 2021 and with previous communications, the Central Bank confirms that the intention is for the population of Senior Executive Functions under the SEAR to align with the list of PCFs under the Fitness and Probity Regime.
49. As recently communicated<sup>7</sup>, post enactment of the legislation there will be a comprehensive consultation on the Individual Accountability Framework, and the SEAR, including any proposed amendments to the PCF list. Accordingly, the amendments to the PCF list as outlined in this Feedback Statement are not related to the SEAR.

### *The application of the in-situ process*

50. The Central Bank notes two queries regarding the length of the in-situ process for the intended changes. Noting that there is no action required in respect of PCF-2A, PCF-3 - PCF-7, PCF-12 and PCF-31, the Central Bank considers the indicated six-week in-situ process to be sufficient.
51. For clarity, the applicable in-situ process commences on 25 April 2022 until 3 June 2022 and is summarised in Annex 1.
52. As set out in the Notice of Intention, the full application process will apply to any new appointment to the amended PCFs after the amended regulations come into effect.

---

<sup>7</sup> Within the Central Bank's [Statement on the Central Bank \(Individual Accountability Framework\) Bill 2021](#)

**Annex 1**

PCF	Applicable in-situ process
PCF-2	All PCF-2s will be re-designated as PCF-2A. RFSPs are required to notify the Central Bank which individuals should be designated as PCF-2B by 3 June 2022.
PCF-3	No action required; title will be automatically amended.
PCF-4	No action required; title will be automatically amended.
PCF-5	No action required; title will be automatically amended.
PCF-6	No action required; title will be automatically amended.
PCF-7	No action required; title will be automatically amended.
PCF-12	No action required.
PCF-15	All individuals designated as PCF-15 will have this designation end-dated. RFSPs will be required to notify the Central Bank of the appropriate PCF designation(s) of the individual i.e. either or both PCF-12 and PCF-52.
PCF-16	No action required from RFSPs within which an individual holds an existing PCF-16 designation. RFSPs now captured by the expansion of PCF-16 (i.e. branches outside of the EEA, including the UK) are required to submit confirmation of their assessment under Section 21 of the Central Bank Reform Act 2010 in respect of individuals in situ to the Central Bank by 3 June 2022.
PCF-31	No action required – all individuals who are PCF-31 will automatically be re-designated as a PCF-30.
PCF-52	Where an RFSP determines that it is appropriate for an individual designated as PCF15 to be re-designated as PCF-52 as set out above, RFSPs will be required to notify the Central Bank accordingly. In all other cases, an RFSP should review its functions and determine whether any would meet the Head of Anti-Money Laundering and Counter Terrorist Financing Compliance. Where it is determined by the RFSP that this role does exist, the RFSP will be required to review their assessment under Section 21 of the Central Bank Reform Act 2010 in respect of individuals in situ and submit confirmation of such an assessment to the Central Bank.

T: +353 (0)1 224 6000  
E: [governanceconsultations@centralbank.ie](mailto:governanceconsultations@centralbank.ie)  
[www.centralbank.ie](http://www.centralbank.ie)



Banc Ceannais na hÉireann  
Central Bank of Ireland

---

Eurosystem