

# FITNESS AND PROBITY

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## Version History

Version	Date	Amendments
0.1	July 2013	Initial Version.
1.0	September 2013	<ul style="list-style-type: none"> <li>• Inserted details on in-situ PCF's in section 1.1.</li> <li>• Guidance on Fitness and Probity for Credit Unions (2013) reflects updated guidance effective from 1 October 2013.</li> </ul>
1.1	October 2013	<ul style="list-style-type: none"> <li>• Guidance on Fitness and Probity for Credit Unions reflects the Credit Union and Co-operation with Overseas Regulators Act 2012 (Commencement of Certain Provisions) (No.2) Order 2013.</li> </ul>
1.2	June 2014	<ul style="list-style-type: none"> <li>• Guidance on Fitness and Probity for Credit Unions (2014) reflects legislative amendments to section 23 of the Central Bank Reform Act 2010.</li> </ul>
1.3	March 2015	<ul style="list-style-type: none"> <li>• Inserted details of introduction of additional fitness and probity requirements for credit unions that are also authorised as retail intermediaries in section 1, 1.1, 1.2 and 1.3.</li> <li>• Inserted 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) in section 3.</li> <li>• The Fitness and Probity Standards for Credit Unions and Guidance on Fitness and Probity for Credit Unions have been updated to reflect new requirements from 1 August 2015 for:               <ul style="list-style-type: none"> <li>○ credit unions with total assets of €10m or less; and</li> <li>○ credit unions that are also authorised as retail intermediaries.</li> </ul> </li> </ul>
1.4	January 2016	<ul style="list-style-type: none"> <li>• Updated to reflect the introduction of the Fitness and Probity regime on 1 August 2015 for:               <ul style="list-style-type: none"> <li>○ credit unions with total assets of €10m or less; and</li> <li>○ credit unions that are also authorised as retail intermediaries.</li> </ul> </li> </ul>
1.5	July 2018	<ul style="list-style-type: none"> <li>• Updated to reflect the introduction from 1 July 2018 of 3 additional PCFs for credit unions with total assets of at least €100 million.</li> </ul>

## 1. Introduction

On 24 September 2012, Part 3 of the Central Bank Reform Act 2010 ("the Act") was commenced for credit unions providing a statutory system for the regulation by the Central Bank of individuals performing Controlled Functions ("CFs") and Pre-Approval Controlled Functions ("PCFs") in credit unions.

A Fitness and Probity regime for credit unions came into effect on 1 August 2013 and was fully implemented by 1 August 2016. The Fitness and Probity regime for credit unions was introduced on a phased basis as follows:

- the first phase commenced on 1 August 2013, and introduced Fitness and Probity requirements for credit unions with total assets, per their latest audited balance sheet, of greater than €10 million;
- the second phase commenced on 1 August 2015 when all remaining credit unions were brought within the scope of the regime.

Since 1 August 2015, credit unions that are also authorised as retail intermediaries are subject to additional Fitness and Probity requirements for the part of the business that the credit union undertakes as a retail intermediary.

Since 1 July 2018, for credit unions that have total assets of at least €100 million, according to the credit union's latest audited balance sheet, 3 additional roles are designated PCFs.

### 1.1 Regulations

There are three sets of regulations prescribing CFs and PCFs pursuant to sections 20 and 22 of the Act respectively. S. I. no. 171 of 2013 (the "2013 Regulations") is effective from 1 August 2013 and applies to all credit unions. S. I. No. 97 of 2015 (the "2015 Regulations") is effective from 1 August 2015 and applies to credit unions that are also authorised as retail intermediaries. S. I. no. 187 of 2018 (the "2018 Regulations") is effective from 1 July 2018 and applies to credit unions with total assets of at least €100 million.

#### 2013 Regulations

The 2013 Regulations identify those CFs and PCFs that come within the scope of the Fitness and Probity regime for credit unions.

There are two CFs prescribed in the 2013 Regulations:

- 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-1);
- 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 (CUCF-2)

Credit unions are not required to seek the prior approval of an individual before their appointment to a CF role.

There are also two PCFs prescribed in the 2013 Regulations:

- the office of chair of the board of the credit union (CUPCF-1); and
- the office of manager of the credit union (CUPCF-2).

PCFs are a subset of CFs and the prior approval of the Central Bank is required before an individual can be appointed to a PCF role. The individual must complete an online Individual Questionnaire which is endorsed by the proposing credit union and then submitted electronically to the Central Bank for assessment.

A credit union must not appoint an individual to perform a PCF until the Central Bank has approved the appointment in writing.

In situ PCFs are persons who held the role of chair or manager at the time of commencement of the 2013 Regulations and the 2015 Regulations. These persons do not have to apply for pre-approval from the Central Bank unless they are seeking re-election or being re-appointed to the role e.g. when a chair is subject to re-election.

### 2015 Regulations

The 2015 Regulations are effective from 1 August 2015 and apply to credit unions that are also authorised as retail intermediaries. The 2015 Regulations specify the CFs and PCFs that come within the scope of the Fitness and Probity regime for credit unions that are also authorised as retail intermediaries for the part of the business that the credit union undertakes as a retail intermediary.

The 2015 Regulations prescribe the same CF and PCF positions as the 2013 Regulations. They also prescribe an additional 9 CF positions as follows:

- (a) CUCF 3 – 9: Member facing functions which are likely to involve one or more of the following tasks:

- (i) 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 (CUCF-3); or
- (ii) arranging, or offering to arrange, a financial service for a member of the credit union under its authorisation as a retail intermediary (CUCF-4); or
- (iii) assisting a member in the making of a claim under a contract of insurance or reinsurance (CUCF-5); or
- (iv) determining the outcome of a claim arising under a contract of insurance or reinsurance (CUCF-6); or
- (v) 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) (CUCF-7); or
- (vi) 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 (CUCF-8).
- (vii) in respect of a person referred to in paragraph (a) or (b) of Regulation 15(1) of the European Communities (Insurance Mediation) Regulations 2005, the function of a person described in that Regulation (CUCF-9).

(b) CUCF 10 – 11: Dealing in property functions under its authorisation as a retail intermediary.

### 2018 Regulations

The 2018 Regulations are effective from 1 July 2018 and apply to credit unions that have total assets of at least €100 million, according to the credit union's latest audited balance sheet. The 2018 Regulations specify three additional PCFs for such credit unions:

- Risk Management Officer (CUPCF-3),
- Head of Internal Audit (CUPCF-4), and
- Head of Finance (CUPCF-5)

Similar to the role of Chair (CUPCF-1) and Manager (CUPCF-2), the prior approval of the Central Bank is required before an individual can be appointed to one of the above listed PCF roles. The individual must complete an online Individual Questionnaire which is endorsed by the proposing credit union and then submitted electronically to the Central Bank for assessment.

A credit union must not appoint an individual to perform a PCF until the Central Bank has approved the appointment in writing.

In situ PCFs are persons who hold PCF roles at the time of their introduction in the respective credit union. These persons do not have to apply for pre-approval from the Central Bank unless they are being re-appointed to the role.

## **1.2 Fitness and probity standards for credit unions**

The Fitness and Probity Standards for Credit Unions (the "Standards") provide that a person performing a CF or PCF is required to be:

- competent and capable;
- honest, ethical and to act with integrity; and
- financially sound.

A credit union must not permit a person to perform a CF role or PCF role unless it is satisfied on reasonable grounds that the person complies with the Standards and has obtained confirmation that the person has agreed to abide by those Standards. Credit unions are responsible for ensuring that staff performing CFs or PCFs meet the Standards, both on appointment to such functions and on an on-going basis.

## **1.3 Guidance on the Fitness and Probity regime for credit unions**

The Central Bank of Ireland has published guidance to assist credit unions, including those authorised as retail intermediaries, in complying with their obligations under the Act in relation to Fitness and Probity (the "Guidance"). The Guidance outlines the steps which the Central Bank expects credit unions to take in order to satisfy themselves on reasonable grounds that individuals performing CFs, including PCFs, are in compliance with the Standards. It also includes guidance on other issues including transitional arrangements, additional information for credit unions that are also authorised as retail intermediaries and operational considerations for credit unions in implementing the Fitness and Probity regime.

Links to the 2013 Regulations, the 2015 Regulations, the 2018 (Amendment) Regulations, the Standards and the Guidance are contained below. Further information on the Fitness & Probity regime for credit unions, including Frequently Asked Questions, the Individual Questionnaire for Credit Unions and the Individual Questionnaire Application Guidance for Credit Unions is available [here](#).

## **2. Legislation**

- Central Bank Reform Act 2010

## **3. Central Bank Requirements**

- [Central Bank Reform Act 2010 \(sections 20 and 22 – Credit Unions\) Regulations 2013 \(S.I. No. 171 of 2013\)](#)
- [Central Bank Reform Act 2010 \(sections 20 and 22 – Credit Unions that are also authorised as Retail Intermediaries\) Regulations 2015 \(S.I. No. 97 of 2015\)](#)
- [Central Bank Reform Act 2010 \(sections 20 and 22 – Credit Unions\) \(Amendment\) Regulations 2018 \(S.I. No. 187 of 2018\)](#)
- [Fitness and Probity Standards for Credit Unions \(Code issued under section 50 of the Central Bank Reform Act 2010\)](#)

## **4. Guidance**

- [Guidance on Fitness and Probity for Credit Unions](#)