



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

December 2014

Feedback Statement on CP83: Fitness and Probity regime for Credit Unions that are also authorised as Retail Intermediaries



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Introduction

1. On 1 August 2014 the Central Bank of Ireland (the “Central Bank”) published Consultation Paper CP83 *Fitness and Probity Regime for Credit Unions that are also authorised as Retail Intermediaries* (“CP83”).
2. CP83 set out the Central Bank’s proposals for a revised approach on applying fitness and probity requirements to credit unions that are also authorised as retail intermediaries.
3. CP83 raised two specific questions for respondents to address on these proposals.
 - a. The first question asked if respondents agreed with the revised approach proposed for the application of fitness and probity requirements to credit unions that are also authorised as retail intermediaries in relation to controlled functions (CFs) and pre-approval controlled functions (PCFs);
 - b. The second question asked if respondents agreed with the proposals regarding the Standards¹, Guidance², timelines and transitional arrangements for the implementation of fitness and probity requirements for credit unions that are also authorised as retail intermediaries.
4. The closing date for receipt of comments was 30 September 2014 and 16 responses were received. The responses received can be broken down as follows:
 - 11 individual credit unions;
 - 1 credit union chapter; and
 - 4 bodies (3 credit union bodies and 1 retail intermediary body).

¹ [Fitness and Probity Standards for Credit Unions.](#)

² [Guidance on Fitness and Probity for Credit Unions.](#)

All individual responses are available on the Central Bank website at: www.centralbank.ie/regulation/poldocs/consultation-papers/Pages/closed.aspx.

5. The Central Bank has considered the responses received to CP83, which generally welcomed and supported the proposals in CP83. The Central Bank will proceed as outlined in CP83. In addition, where appropriate, the Central Bank will take on board specific feedback received, particularly in relation to the development of the non-statutory Guidance. Unless expressly stated otherwise herein, the proposals as described in CP83 will apply.
6. This paper summarises the responses received to CP83 and outlines the Central Bank's considered decisions. The sections in this feedback statement reflect the sections and questions set out in CP83. Each section sets out a summary of the responses received to each question along with the Central Bank's comments and decisions.
7. The Fitness and Probity regime for credit unions that are also authorised as retail intermediaries will come into effect from 1 August 2015. The Central Bank will publish new Regulations, revised Standards of Fitness and Probity for Credit Unions and updated Guidance on Fitness and Probity for Credit Unions. It is expected that these documents will be published by the end of March 2015.
8. The final Regulations, Standards and Guidance for credit unions also authorised as retail intermediaries will be effective from 1 August 2015. Nothing in this feedback statement should be seen as a clarification of or a supplement to the Regulations, Standards and Guidance. This feedback statement is published to promote understanding of the policy formation process within the Central Bank and is not relevant to assessing compliance with regulatory requirements.
9. Finally, the Central Bank is grateful to all parties who responded to CP83 and wishes to thank them for their time and effort.

Section 1: Overview of the revised approach

Question (i) – Do you agree with the revised approach proposed for the application of fitness and probity requirements to credit unions that are also authorised as retail intermediaries? If you have other suggestions, please provide them along with supporting rationale.

10. Almost all respondents agreed with the revised approach to the application of fitness and probity requirements to credit unions that are also authorised as retail intermediaries, in particular the reduced number of PCFs. Many respondents welcomed the revised approach. In particular, one respondent stated that the approach was proportionate from both a regulatory and operational point of view. Another respondent said it welcomed the progress the Central Bank has made in recognising, from an organisational perspective, the difference between credit unions and other types of retail intermediaries.

Central Bank: The Central Bank notes that there is general agreement with the revised approach to the application of fitness and probity requirements to credit unions that are also authorised as retail intermediaries. Accordingly, the revised approach will remain unchanged.

11. Several respondents also provided supporting rationales on why the revised approach was more appropriate for credit unions that are also authorised as retail intermediaries. Many of the rationales given were broadly in line with those outlined in CP83. Other rationales included concerns that credit unions would be unlikely to remain authorised as retail intermediaries if the full Fitness and Probity regime was introduced as the associated compliance costs would outweigh the income and associated benefits for members.

Central Bank: The Central Bank notes the agreement with the Central Bank's rationales and the additional rationales provided by respondents in support of the revised approach.

12. A number of respondents commented on the additional CFs (CFs 3-11) that will apply to credit unions that are also authorised as retail intermediaries. One respondent indicated that the number of CFs was excessive. One respondent agreed with the inclusion of CFs 3-11 as they believed it to be in the interest of good governance. Some of the concerns expressed relate to the applicability of some of the CF positions to a credit union also authorised as a retail intermediary (e.g. CFs 6, 9, 10 & 11).

Central Bank: In relation to the additional CFs 3-11 that will apply to credit unions also authorised as retail intermediaries, these are CFs that apply to all other retail intermediaries. The Central Bank is of the view that these CFs should also apply to credit unions that are also authorised as retail intermediaries. CFs 3-11 will only apply to credit unions that are also authorised as retail intermediaries where the credit union has a person performing the relevant CF role. If a credit union does not carry out business relating to certain CF roles, then these roles will not apply for the credit union. For example, if the credit union's retail intermediary business does not involve determining the outcome of claims arising under contracts of insurance/reinsurance, then CF6 will not apply to any individuals in the credit union.

Section 2: Implementation of the Fitness and Probity regime for credit unions that are also authorised as retail intermediaries

Question (ii) – Do you agree with the proposals regarding the Standards, Guidance, timelines and transitional arrangements for the implementation of fitness and probity requirements for credit unions that are also authorised as retail intermediaries? If you have other suggestions in relation to the proposals, please provide them along with supporting rationale.

13. Almost all respondents agreed with the proposals regarding the Standards, Guidance, timelines and transitional arrangements for the implementation of fitness and probity requirements for credit unions that are also authorised as retail intermediaries.
14. One respondent was of the view that the timelines and transitional arrangements should be delayed by a further six months to allow credit unions to consider the composition and structure of committees / roles which may or may not be affected by the revised approach as outlined in CP83, and also to allow credit unions time to decide whether they wish to remain authorised as retail intermediaries.

Central Bank: The Central Bank notes that most respondents agreed with the proposals regarding the Standards, Guidance, timelines and transitional arrangements for the implementation of fitness and probity requirements for credit unions that are also authorised as retail intermediaries. Accordingly, these proposals remain unchanged.

In response to the request that the implementation timeframe and transitional arrangements be delayed by a further six months, the Central Bank notes that credit unions have been aware of these timeframes and transitional arrangements since June 2013, as they are set out in the [Guidance on Fitness and Probity for Credit Unions](#). In addition, the revised approach contains fewer

PCFs for credit unions that are also authorised as retail intermediaries than the original proposals.

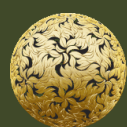
15. Some respondents raised queries on the roles within credit unions that are also authorised as retail intermediaries that will fall within the additional CF positions and requested further clarification on this. Other respondents requested further guidance on other areas, in particular the relationship between the Fitness and Probity requirements, the Minimum Competency Code 2011 and the Standards.

Central Bank: The [Guidance on Fitness and Probity for Credit Unions](#) will be reviewed and updated to reflect the introduction, on 1 August 2015, of Fitness and Probity for credit unions that are also authorised as retail intermediaries³. This feedback will be considered as part of this review and the Guidance will be updated as appropriate. However, it should be noted that the roles that fall within the additional CF positions, as referred to previously, will depend on the roles in each credit union.

The extension of the list of CFs to include CFs 3-11 from the general Fitness and Probity regime is to ensure that individuals in credit unions that provide financial services to members under the credit union's registration as a retail intermediary, including the provision of advice, are subject to the fitness and probity requirements. The scope of the [Minimum Competency Code 2011](#) ("MCC"), which already applies to credit unions for the retail intermediary portion of their business, is aligned with CFs 3-11 of the Fitness and Probity regime. Part 1 of the MCC will now apply directly to individuals carrying out those functions within credit unions and Part 2 will continue to apply to the credit union itself.

³ The Guidance will also be updated to reflect the introduction, on 1 August 2015, of Fitness and Probity for credit unions with assets of less than €10 million.

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