



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Fitness and Probity Gatekeeper Process

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Contents

| | |
|---|-----------|
| Introduction | 6 |
| Chapter 1: Submitting a Pre-Approval Controlled Function Application | 8 |
| Who is Responsible for Submitting the Application? | 8 |
| What is the Portal and How Do I Set It Up? | 8 |
| Creating a Fitness and Probity Profile on the Portal | 9 |
| Completing the Individual Questionnaire | 9 |
| Supporting Documentation..... | 11 |
| Completeness Check..... | 11 |
| Process where an Application is Incomplete | 11 |
| Chapter 2: Application Assessment | 12 |
| Assessment Steps..... | 13 |
| Assessment against Fitness and Probity Standards..... | 13 |
| Engagement by the Central Bank with Third Parties | 14 |
| Additional Information Requests | 15 |
| Interviews..... | 16 |
| Withdrawal of Applications and Ensuring Transparency..... | 20 |
| Chapter 3: Decision Making | 21 |
| Introduction..... | 21 |
| Decision making – General..... | 22 |
| Process for Applications in which Material Concerns Exist | 23 |
| The Gatekeeping Decisions Committee | 24 |
| Appeals..... | 25 |
| Appendix 1 | 26 |
| Credit Unions | 26 |
| Appendix 2 | 27 |

Glossary of Terms

| Term | Definition/Explanation |
|------------------------------------|--|
| Application | The Individual Questionnaire, and all attached documents, submitted by a regulated entity to seek approval from the Central Bank for an individual to perform a PCF. |
| Proposed Appointee | An individual who is proposed for a PCF role. |
| Central Bank | The Central Bank of Ireland |
| CF | Controlled Function, in accordance with Section 18 of the Central Bank Reform Act 2010 (as amended) (which includes PCFs). |
| Credit union | Credit Union has the meaning given by the Credit Union Act, 1997 (as amended) |
| Due diligence documentation | Documentation which demonstrates the due diligence undertaken by a regulated entity in order to assess an individual's compliance with the F&P Standards, including the information collected, assessments conducted and decisions made. |
| F&P Guidance | Guidance on Fitness and Probity Standards |
| Central Bank Portal/Portal | Portal operated by the Central Bank, which allows authorised users to view and request changes to specific institutions details, and to access and submit Individual Questionnaires and other regulatory returns. |
| F&P Standards | Fitness and Probity Standards, and/or the Fitness and Probity Standards for Credit Unions, as applicable |

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| Fitness and Probity Profile | <p>Profile created on the Central Bank Portal by Proposed Appointee before submitting an Individual Questionnaire for the first time. This profile includes essential information about the Proposed Appointee including professional experience, training, qualifications and current directorships in both regulated and non-regulated entities.</p> |
| Gatekeeping Decisions Committee / the Committee | <p>Committee of senior officials from the Central Bank from which decision makers may be appointed to make certain categories of decisions, including decisions whether to refuse an application, on behalf of the Central Bank</p> |
| Irish Financial Services Appeals Tribunal | <p>An independent tribunal which hears and determines appeals from parties against certain decisions of the Central Bank.</p> |
| Individual Questionnaire (IQ) | <p>Individual Questionnaire, which a Proposed Appointee must complete to apply for a PCF role which is endorsed by the regulated entity and submitted electronically to the Central Bank for assessment via the Central Bank Portal.</p> |
| Minded to Refuse Letter | <p>A letter stating that the Central Bank is minded to refuse the application together with a draft decision outlining the grounds for the proposed refusal.</p> |
| Minimum Competency Code | <p>Minimum Competency Code 2017.</p> |
| PCF | <p>Pre-Approval Controlled Function, which are positions whereby prior approval must be sought from the Central Bank before appointing an individual to that role or function.</p> |

Regulated entity

Regulated entity, regulated entities or RFSPs should be understood as also applying to firms which are seeking authorization/ registration.

Significant credit institution (SI)

A credit institution which qualifies as a significant institution (SI) pursuant to the SSM Regulation¹ and the SSM Framework Regulation² and is directly supervised by the European Central Bank.

¹ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

² Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities.

Introduction

This document provides an overview of the fitness and probity gatekeeping process drawing on the experience of the Central Bank and relevant insights from peer regulators. This document is intended as practical guidance for regulated entities³ and Proposed Appointees. It is not legal advice. It should be read in conjunction with the Central Bank Reform Act 2010, related regulations, statutory codes and guidance. Our objective is to provide an overview of the key steps of the fitness and probity gatekeeping assessment process, outlining each stage and its respective key components, while offering guidance for stakeholders involved.

At the outset, it is essential to clarify the roles and responsibilities within the fitness and probity gatekeeping assessment process. While the Central Bank performs an important role in the context of fitness and probity, it is the primary responsibility of regulated entities to ensure that persons running the business are fit and proper. This responsibility extends beyond the initial appointment stage, requiring regulated entities to conduct a fitness and probity certification process on an annual basis.⁴

Recognising the importance of efficiency and effectiveness in conducting fitness and probity gatekeeping assessments, the Central Bank commits to concluding its assessment of applications within a 90 day timeframe. Although this target may not be achievable in all cases, we will closely monitor our performance, publishing standardised information to promote transparency and accountability.

This document applies to all applications for PCFs for both existing regulated entities and those seeking authorisation.

Regulated entities must not allow individuals who are proposed to perform PCFs, to perform any functions in relation to those role(s), until written approval is received from the Central Bank for the individual to perform the role(s).

The fitness and probity gatekeeping assessment process outlined in this document pertains specifically to cases that fall under the Central Bank's decision making competence. For instance, when a Significant credit institution proposes an individual

³ Appendix 1 contains additional guidance for the PCF assessment process relating to credit unions.

⁴ Please see the 'PCF Annual Confirmation and CF Certification Guidance' for more detail.

for a management body position or other key function holder role, the assessment will be conducted by the European Central Bank in line with its established processes.

By integrating the above elements into a single overarching overview of the fitness and probity assessment process, the intention is to provide a valuable resource for all stakeholders.

Chapter 1: Submitting a Pre-Approval Controlled Function Application

The objective of this Chapter is to provide an overview for submitting an Individual Questionnaire.

Who is Responsible for Submitting the Application?

As part of the fitness and probity gatekeeping process, it is a statutory obligation for regulated entities to seek approval from the Central Bank before appointing a Proposed Appointee to a PCF role.⁵ This includes where a Proposed Appointee is moving to a different type of PCF role in their current entity or where a Proposed Appointee has previously been approved for a specific PCF role and proposes moving to another regulated entity to perform the same type of PCF role. No application should be submitted to the Central Bank without the regulated entity having first satisfied itself that the Proposed Appointee has the appropriate fitness and probity for the proposed role. The regulated entity and the Proposed Appointee should collaborate closely to complete the Individual Questionnaire and submit it via the Central Bank Portal.

The Central Bank has issued specific guidance both on the operation of the Portal and on particular industry sectors. The Central Bank has created a web page which has collated much of this helpful material - <https://www.centralbank.ie/regulation/how-we-regulate/fitness-probity/requirements-assessment-compliance/regulated-financial-service-providers/requirements-guidance>.

What is the Portal and How Do I Set It Up?

The Portal allows authorised users to view and request changes to regulated entities details, and to access and submit Individual Questionnaires and other regulatory returns. Regulated entities and Proposed Appointees who have access to the Portal will also require access to the Fitness and Probity section of the Portal to submit an Individual Questionnaire.

⁵ **Credit unions:** in the case of elected PCF roles, credit unions and Proposed Appointees should be mindful of the fact that approval should be sought and received from the Central Bank in advance of the Annual General Meeting being held as a PCF cannot be elected to the position of chair if they have not been pre-approved by the Central Bank. For further information on the timing of the submission of an Individual Questionnaire for an elected PCF role within a credit union please refer to Appendix 1.

If you are a Proposed Appointee and you do not currently have access to the Fitness and Probity section of the Portal, the Portal Administrator in your regulated entity will be able to provide access for Proposed Appointees. For new or existing regulated entities seeking access to the Portal for the first time, please follow the [Institution One-Time Portal Set Up Instructions](#).

The Portal will be the primary tool of communication between the Central Bank and the regulated entity or Proposed Appointee regarding the application for the duration of the PCF assessment process.

Creating a Fitness and Probity Profile on the Portal

Any Proposed Appointee in a regulated entity or an entity that is seeking authorisation must complete a Fitness and Probity Profile on the Portal before submitting an Individual Questionnaire for the first time. This profile includes essential information about the Proposed Appointee including professional experience, training, qualifications and current directorships in both regulated and non-regulated entities.

Please ensure that all details, including time commitment, are included in the profile. The Fitness and Probity Profile contains core relevant information about the Proposed Appointee and can be saved for future applications.

It is the responsibility of the Proposed Appointee to ensure that their Fitness and Probity Profile is kept up to date and remains accurate and complete.

Completing the Individual Questionnaire

The regulated entity initiates the application process for the proposed appointment. At this stage, both the regulated entity and the Proposed Appointee should carefully determine which sections of the Individual Questionnaire are required to be completed and ensure that this is done correctly in order to avoid delays or incomplete applications.

All relevant information should be disclosed by the Proposed Appointee and the regulated entity as part of the application. If there is doubt as to the relevance or materiality of certain information, then the Proposed Appointee and the regulated entity should provide this information to the Central Bank, which can then assess its

relevance. An example that has frequently occurred is where a Proposed Appointee does not share that they have held a position of responsibility or influence in a regulated entity that has been previously sanctioned (section 5.31 of the Individual Questionnaire) or has not declared previous minor criminal offences (such as driving convictions). In such cases, a “yes” response should be provided to the relevant question in the Individual Questionnaire and further information provided on the surrounding circumstances.

The Central Bank may challenge regulated entities and Proposed Appointees if they fail to provide full disclosure in the Individual Questionnaire. In particular a failure to disclose information may lead to further information requests which can cause delays in the completion of assessments. Non-disclosure, especially if it appears to be an attempt to mislead, can raise concerns about the Proposed Appointee’s suitability and the regulated entity’s decision to propose them and may lead to a refusal of the application.⁶

Both the regulated entity and the Proposed Appointee must confirm the accuracy of the information provided in the Individual Questionnaire before submission. In addition, when submitting an application to the Central Bank, it is imperative for both the regulated entity and the Proposed Appointee to thoroughly review and be comfortable with the declarations sought by the Central Bank. These declarations include provision of consent to the Central Bank requesting third parties to furnish-relevant information to the Central Bank. The ability to contact certain third parties facilitates the Central Bank’s assessment process and assists in reaching an informed decision. Where a Proposed Appointee does not provide such authorisation this may hinder the Central Bank’s ability to conduct its assessment, which could potentially impact the decision.⁷ Further detail on the process for engaging with third parties is outlined below in Chapter 2.

⁶ By way of reminder, section 2.3 of the Fitness and Probity Standards provides that: “Any information provided by an individual pursuant to this Code to the Central Bank and/ or a regulated financial service provider/ holding company shall be candid and truthful and shall be full, fair and accurate in all respects and not misleading to the best of his or her knowledge.”

⁷ For more detailed guidance on the submission of an Individual Questionnaire please refer to the [Fitness and Probity Individual Questionnaire, Applications and PCF Roles Guidance](#).

Supporting Documentation

The required supporting documentation depends on the proposed role for which approval is sought and the legal requirements which apply to the relevant regulated entity. When submitting the Individual Questionnaire on the Central Bank Portal, Proposed Appointees will be prompted to upload attachments to meet the minimum requirements during different stages of submitting an application. Failing to provide the necessary supporting documents will result in the Individual Questionnaire being returned as incomplete and a new Individual Questionnaire will have to be submitted.

Please note that the regulated entity is not required to provide its due diligence documentation as part of the Individual Questionnaire submission. However, we advise retaining records of this due diligence, as the Central Bank may request it.

Completeness Check

To ensure a smooth and efficient assessment process, the Central Bank adopts the following approach to the assessment of applications received. Upon receiving an application the Central Bank will review it for completeness within five working days. If the application is deemed complete, the assessment process will commence from the date of receipt of the Individual Questionnaire.

Process where an Application is Incomplete

If the application is incomplete the Central Bank will return the Individual Questionnaire within 5 working days and a new Individual Questionnaire must be submitted. The Central Bank will indicate the aspects in which the application is incomplete.

Chapter 2: Application Assessment

The fitness and probity gatekeeping process serves as a crucial mechanism to ensure the honesty, integrity, competence and financial soundness of persons in key positions within regulated entities. As part of this process, the application assessment is vital in determining a Proposed Appointee's suitability for a role in a regulated entity. This chapter will provide an overview of the application assessment process. It is important to note that the Central Bank will conduct its assessment in a risk-based and proportionate manner.

Key components of the assessment process include initial completeness checks, requests for additional information (where required), the review of supporting documentation, reference checks and, when necessary, gatekeeping interviews. Each of these elements plays a significant role in ascertaining the fitness and probity of Proposed Appointees, thereby maintaining the overall stability and trustworthiness of the financial services industry.

While the Central Bank has an important role to perform in evaluating the suitability of candidates, this does not negate the primary responsibility of regulated entities in maintaining the highest standards of integrity and professionalism. Before submitting an Individual Questionnaire, a regulated entity must be confident that the Proposed Appointee is fit and proper to perform the role for which they are proposed. In line with best practice, the assessment process must be proportionate, enabling the Central Bank to make informed decisions regarding a Proposed Appointee's suitability for a specific role by conducting sufficient due diligence. This requires close cooperation between regulated entities and the Central Bank.⁸

The forthcoming sections of this chapter will delve into aspects of the application process, offering insights into the scrutiny that applications undergo before being approved for a role in a regulated entity.

⁸ See also note 7.

Assessment Steps

In order to maintain fairness and clarity for applicants, it is important to outline the key steps within the assessment process and the engagement they will receive from the Central Bank.

The various assessment components encompass completeness checks of the Individual Questionnaire, assessing against the relevant standards⁹, engagement with supervisors, the interview process and the provision of feedback. Each of these stages contributes to an evaluation of a fitness and probity assessment. It is essential to understand that each stage of the assessment process may not be required in all cases and, even when a specific stage is necessary, the intensity of that stage may vary. Our aim is to ensure that the assessment process remains proportionate and tailored to the specifics of each individual case. Throughout the assessment process both regulated entities and Proposed Appointees can access the Portal to view the current status.

Assessment against Fitness and Probity Standards

The Central Bank carries out a desk based evaluation of the Proposed Appointee's fitness and probity for the intended role. This assessment involves an examination of the application and supporting documentation submitted at the time of application. The primary objective of this review is to determine whether the Proposed Appointee meets the Fitness and Probity Standards for the specific PCF role.¹⁰

The Fitness and Probity Standards (including the Minimum Competency Code, if relevant) are central to the Central Bank's evaluation of a Proposed Appointee's suitability for a specific role. These standards require that a Proposed Appointee should be competent and capable, honest, ethical and to act with integrity, and financially sound. They serve as a foundation for the assessment process, and it is against these that key aspects of a Proposed Appointee's background, experience and capabilities are considered.

The Central Bank recognises the importance of applying the Fitness and Probity Standards in a balanced and proportionate manner. Consequently each stage of the

⁹ The Fitness and Probity Standards and the Minimum Competency Standards, and applicable Guidance.

¹⁰ A copy of the Fitness and Probity Standards, the Minimum Competency Code and relevant guidance are located at <https://www.centralbank.ie/regulation/how-we-regulate/fitness-probity/requirements-assessment-compliance>

assessment process applies the Standards in a proportionate manner. This proportionate approach enables the Central Bank to adjust its assessment to the unique characteristics of a given application, whilst still having regard to the nature, scale and complexity of the relevant industry sector.

Engagement by the Central Bank with Third Parties

In certain cases, the Central Bank may need to engage with third parties during the fitness and probity assessment process to ensure a comprehensive and accurate evaluation of a Proposed Appointee's suitability for a PCF role. These third parties may include former employers¹¹, other regulatory bodies¹² or organisations such as the National Vetting Bureau¹³. This additional step can provide valuable insights into a Proposed Appointee's professional history, conduct and overall fitness and probity.

Although regulated entities and Proposed Appointees are expected to provide relevant information at the initial application stage, there may be instances where the Central Bank needs to seek further clarification or verification from third parties to make an informed decision. This may involve confirming details provided at application stage, or obtaining further clarity on a Proposed Appointee's background and experience.

¹¹ As regards employer references, two referees are sought preferably from Human Resources or Manager from the Proposed Appointee's most recent role. In cases where the Individual Questionnaire is linked to an authorisation application for a regulated entity, the Proposed Appointee can request that the Central Bank delay contacting an employer until the authorisation process is further progressed.

¹² External regulator checks are conducted where the Proposed Appointee has not been previously approved by the Central Bank and where the Proposed Appointee has been approved in another jurisdiction by a comparable regulator. An exception to this general approach arises for current holders of a PCF role and Proposed Appointees in QIAIFs seeking authorisation from the Central Bank.

¹³ Applicants applying for all PCF roles in the Credit Institution sector who are an Irish Resident, are required to undergo Garda Vetting which will be carried out by the National Vetting Bureau. Applicants applying for the role of Sole Trader (PCF-10) or a Single Director (PCF-01) in a Private Company Limited by Shares, are required to undergo Garda Vetting which will be carried out by the National Vetting Bureau. If during the course of any fitness and probity gatekeeping assessment, the Central Bank believes Garda Vetting may be required to complete a comprehensive assessment, in Section 10 of the Individual Questionnaire the applicant is asked to give consent to the Central Bank to contact the National Vetting Bureau. Question 5.45 on the Individual Questionnaire asks "*To the best of your knowledge, have you ever been convicted of a criminal offence or been subject to criminal investigations or proceedings or subject of civil proceedings?*"

The applicant is expected to be honest in relation to all offences, however, the Central Bank may decide that minor offences, or those occurred a long time ago may not be material to applicant's probity. However, non-disclosure of any offence may lead to questions around the Proposed Appointee's honesty, therefore a yes answer for any offence is expected.

Engaging with third parties can play an important role in the fitness and probity assessment process, as it helps to:

- a) Verify information – third party engagement allows the Central Bank to verify the accuracy of information provided ensuring that decisions are based on accurate and reliable information; and
- b) Identify or mitigate potential concerns – by consulting with third parties (such as former employers or other regulators), the Central Bank can clarify information provided or indeed reveal undisclosed information of relevance to a fitness and probity assessment.

It is important to note that consent for such engagements is specifically requested in the Individual Questionnaire, ensuring consent and awareness of the potential need for third party involvement and providing the necessary permissions for the Central Bank to conduct its assessment.

Failure to provide consent may impact the Central Bank's final decision.

Additional Information Requests

The Central Bank may request further information in cases where sufficient detail is not provided in relation to any section of the Individual Questionnaire, and where this hinders our assessment against the Fitness and Probity Standards.

Typical additional information requests where there is insufficient information include:

- Experience relative to the role or transferable skills;
- Where there has been a “Yes” response in Section 5 of the Individual Questionnaire (reputation questions), without sufficient explanatory information;
- Omissions/inconsistencies/insufficient detail;
- Insufficient supporting documentation (for example, compliance with the Minimum Competency Code);
- Conflicts of interests – shareholdings/conflict between roles internal and external;
- Time commitments.

Regulated entities and Proposed Appointees are reminded to provide fulsome responses within the requested timeframe. Specified officers or employees of regulated entities may be requested to provide this information in writing or potentially by way of interview. It is important to emphasise the importance of engaging fully and promptly to any requests for further information within a given timeframe. The engagement is vital to enable the Central Bank to consider the application and failure to engage or respond to additional information request may impact on the final decision.

Interviews

The fitness and probity assessment process may include an interview component in certain cases, as interviews serve as an additional tool for the Central Bank to gather relevant information and evaluate a Proposed Appointee's suitability for a proposed role. In the context of a fitness and probity assessment, it is crucial to understand that an interview by the Central Bank should not be viewed as a negative indicator. These interviews serve as an essential information gathering tool, enabling the Central Bank to gain deeper insights and understanding of a Proposed Appointee's fitness and probity for a PCF role within a regulated entity.

Interviews may be employed for certain PCF roles more so than for others, such as Chairs or CEOs in large firms.

The Central Bank aims to conduct a single comprehensive interview where required; however, in some instances, more than one interview may be necessary (for example, where there remains outstanding matters for discussion). In either case, both the Proposed Appointee and the regulated entity (either of whom may be an interviewee) will be provided with an outline of topics to be discussed during the interview, enabling them to prepare in advance. Where a Proposed Appointee or regulated entity chooses to not attend a requested interview, this decision may impact the assessment outcome.

Interviews: General

The interview panel typically consists of up to three Central Bank staff members, including a minute taker, although the composition may vary based on specific

circumstances. Panel members are selected on the basis of their qualifications and experience, ensuring these align with the regulated entity's profile and the proposed role's requirements.

While it is not necessary for an interviewee to be accompanied during the interview, the Central Bank allows for this option if desired. Should the interviewee wish to be accompanied, they must inform the Central Bank 48 hours in advance, allowing for appropriate arrangements to be made. It is essential to note that responsibility of answering questions remains with the interviewee in cases where accompanied by a third party.

Unless advised otherwise, interviewees are not required to bring any documentation to the interview apart from identification documents necessary for gaining access to the Central Bank's premises. The Central Bank may provide documentation for discussion during the interview, and if this is the case, the interviewee will receive these materials at the same time as the interview notification. The Central Bank will not present documents at the interview for discussion that have not been shared previously with the interviewee. However, interviewees are expected to be familiar with the documentation that has been submitted as part of the application and these documents may be discussed during the interview.

Notification of an interview

The Central Bank will contact the regulated entity and the Proposed Appointee to schedule an interview. The Central Bank will provide a minimum of five working days' notice prior to the interview, ensuring that all parties have adequate time to prepare. Applicants should be aware that an interview request may follow the submission of an application.

The interview notification will include the following essential details:

- a) Date, time, location and mode of interview;
- b) Information on the interview panel members from the Central Bank, including their names and job titles;

- c) An outline of the topics which the Central Bank wishes to discuss. The objective of providing these topics for discussion is to assist the interviewee's preparation. Where an interviewee refers to additional items or issues during the interview, the Central Bank may further discuss these during the interview;
- d) A designated point of contact within the Central Bank for queries or concerns;
- e) A reminder for the interviewee to bring identification documents, as well as a request for advance notification (at least 48 hours prior) should they wish to be accompanied by another person (who will also need to provide identification).

By providing comprehensive and clear information in the interview notification, the Central Bank aims to facilitate a well-prepared and engaging interview process, ultimately ensuring that the Individual Questionnaire is appropriately assessed. In cases where changes to the panel are necessary after the interview notification has been issued, the Central Bank will endeavour to notify the relevant parties in a timely manner.

Duration of interview

Interviews will be scheduled for 90 minutes, ensuring a focussed discussion on the topics identified in the interview notification. An interviewee may, in advance of or during an interview, request to extend the duration of an interview. Such a request will be considered by the Central Bank. While a single interview is anticipated to be sufficient in most cases, there may be instances where a follow up interview is necessary. In such situations, the Central Bank will adhere to the same notification process outlined above, providing all relevant details in a timely manner.

Setting of interview

Typically, interviews will be conducted at the Central Bank's Dockland Campus in Dublin. However, in specific circumstances, interviews held remotely via video conference may be considered. In such circumstances, cameras will be activated for all individuals involved fostering effective communication and to maintain the integrity of the interview process.

Conduct of interview

The primary objective of the interview is in the context of an assessment of the fitness and probity of a Proposed Appointee for a specific role, focusing on their suitability rather than engaging in a broader discussion on supervisory matters. To this end, the interviewee should be prepared to address the application, including the details provided in the Individual Questionnaire, as well as the fitness and probity of the Proposed Appointee in relation to the proposed role. Specifically, the interviewee will be aware of the Central Bank's areas of focus from the interview notification.

The Central Bank will adhere to a structured format during the interview process. At the outset, the interviewee will be introduced to the interview panel, will be informed of the interview duration, the process for breaks, and the legal basis for the interview. The panel will also outline the potential outcomes of the fitness and probity assessment process.

Subsequently, the interview panel will proceed with the topics outlined in the interview notification. The Central Bank will seek to maintain a considerate and adaptable approach to the interview process, ensuring that both interviewee and panel members can engage productively in the interview, which informs the overall fitness and probity assessment. To ensure smooth and efficient process, interviewees are encouraged to come adequately prepared, focusing on delivering relevant and concise answers.

Post Interview process

To ensure transparency and accuracy, the expectation is that the Central Bank will provide minutes or other record of the interview to the regulated entity and Proposed Appointee within five working days, allowing a further five working days for the interviewee to respond in relation to any perceived factual inaccuracies in the minutes or other record of what was said in the interview.

In addition, written correspondence will be provided as soon as possible post interview that outlines the Central Bank's feedback in cases where concerns remain for the Central Bank with regard to the Proposed Appointee's suitability for the role following the interview. It is important to note that such feedback serves solely as a means of communication and should not be construed as a decision or indeed a minded to refuse

type letter.¹⁴ Instead, the Central Bank will continue with its assessment process, which may include conducting further interviews or requesting additional information as necessary.

Withdrawal of Applications and Ensuring Transparency

During the fitness and probity gatekeeping process, applications may be withdrawn at any stage. These withdrawals can occur for a variety of reasons. While the Central Bank acknowledges and respects the right of parties to withdraw applications, it is essential for the Bank to maintain transparency and fairness throughout the assessment process.

To achieve this, the Central Bank will ensure that any concerns arising during the assessment process will be communicated as appropriate to both the Proposed Appointee and the regulated entity. For instance, if concerns regarding a Proposed Appointee's fitness and probity emerge or remain during an interview, the Central Bank will provide feedback expressing such concerns, regardless of whether the application has been withdrawn. It should be born in mind that such feedback does not represent definitive decisions by the Central Bank on the individual's fitness and probity for a given role.

This transparent approach aims to promote fairness for all parties, particularly the Proposed Appointee, by clearly outlining any concerns the Central Bank may have. Additionally, it is designed to assist the Proposed Appointee in their professional development by highlighting areas for improvement and growth, thereby contributing to a culture of continuous learning and progress within the industry. Ultimately, open communication and transparency in the fitness and probity assessment process will foster trust between the Central Bank, regulated entities and Proposed Appointees ensuring a collaborative and productive process for all.

¹⁴ For more information, please refer to Chapter 3.

Chapter 3: Decision Making

Introduction

The decision making stage within the fitness and probity gatekeeping process plays a crucial role in ensuring the overall effectiveness and integrity of the assessment. It is a stage at which the Central Bank carefully considers the information gathered throughout the assessment process, including information provided in the application or otherwise available (including by way of interview), to determine a Proposed Appointee's suitability for a specific PCF role within a regulated entity.

These gatekeeping decisions are highly nuanced and are focussed on the characteristics of the regulated entity, the industry sector and the Proposed Appointee in question and the specific role for which the Proposed Appointee is applying for. These decisions reflect the Central Bank's assessment of fitness and probity for a particular role at a specific point in time, taking into account a Proposed Appointee's expertise, experience and circumstances relevant to the role including the information available to the Central Bank at that time. Any decision made is a firm-specific and position-specific assessment. If a Proposed Appointee is not approved for a particular role it does not mean the individual can never be approved for the role. For example, a decision to refuse may indicate that the Proposed Appointee is not yet ready for the proposed role and requires further development in certain areas or that the Proposed Appointee does not have the relevant experience at that point in time, to perform the role in a regulated entity of that nature, scale and complexity. Over time, as the individual's expertise and experience evolves, the decision could be different on a subsequent application.

It is equally important to note that an approval by the Central Bank for the appointment of a Proposed Appointee to a PCF role does not mean that the individual will be approved for every PCF role. The nature of the role, the industry sector involved and the specifics of the regulated entity along with the Proposed Appointee's expertise and experience are among relevant factors that the Central Bank will take into consideration when making a decision on further applications regarding the individual.

Decision making – General

Upon determining that a Proposed Appointee meets the necessary fitness and probity standards, the Central Bank will approve their appointment and notify the regulated entity in writing.

In cases where concerns regarding a Proposed Appointee's fitness and probity arise, the Central Bank may, depending on the nature of the concerns involved, take one of the following actions:

- a) Indicate a proposed **approval**, with conditions/recommendations which will be specific and relevant to the performance of the PCF role (for example, particular training or mentoring); or
- b) Indicate a proposed **refusal**, by issuing a "Minded to Refuse" letter stating that the Central Bank is minded to refuse the application together with a draft decision outlining the grounds for the proposed refusal. Further detail on the decision making process where there is a proposed refusal is outlined below.

For both scenarios, the Central Bank will provide the Proposed Appointee and the regulated entity with an opportunity to respond within a reasonable time frame. The Central Bank will consider all submissions provided in the context of the concerns raised.

Where the Central Bank is satisfied that, based on the submissions received or otherwise, its concerns have been addressed the application may progress to approval in the normal way.

Where the Central Bank is not satisfied that its concerns have been addressed it will continue to progress the case towards a refusal decision. This includes situations where the Central Bank is "*unable to decide*"¹⁵ on an application due to the insufficiency of information available regarding the Proposed Appointee's fitness and probity.

¹⁵ This derives from section 23(5)(b) of the Central Bank Reform Act 2010: "*The Bank may refuse to approve the appointment of a person ... where the Bank is unable to decide, on the basis of the information available to it, whether the person is of such fitness and probity.*"

Process for Applications in which Material Concerns Exist

As outlined above, if at the conclusion of the assessment stage, the Central Bank forms the view that a Proposed Appointee lacks the necessary fitness or probity to perform a specific PCF in a certain regulated entity, a letter will be issued to the regulated entity and the Proposed Appointee, indicating that the Central Bank is “minded to refuse” the application.¹⁶ The Minded to Refuse Letter will outline the steps which the Central Bank has taken in assessing the application and explain that the regulated entity and Proposed Appointee now has an opportunity to make submissions on the proposed decision and will outline the next steps in the process. There is also an option to withdraw the application at this stage.

The Central Bank will also provide a draft decision at this stage outlining the grounds and legal basis for the proposed refusal of the application, which will be supported by information gathered during the assessment stage.

The Proposed Appointee and the regulated entity will be given a reasonable opportunity, typically 10 working days, to provide submissions in response to the proposed decision. Within these submissions, they may challenge the grounds for the proposed refusal and present any additional information that could help to address the Central Bank’s concerns.

Upon receiving submissions, the Central Bank will carefully consider the provided information and determine whether or not the concerns have been adequately addressed. If the concerns have been addressed, the Central Bank will approve the Proposed Appointee’s appointment (including, potentially, an approval with conditions as referenced above) and notify the regulated entity in writing. However, if the grounds for the proposed refusal remain, the decision then required will warrant referral to decision maker(s) who have not been involved in the application assessment process. The Central Bank will acknowledge receipt of the submissions and notify the

¹⁶ If, during the assessment stage, legal advice is required it shall be provided by the Legal Division within the Central Bank.

regulated entity and Proposed Appointee that the matter is being referred for decision.

When referring the matter for decision, the following items will be provided to the decision maker(s):

- a) A copy of the Minded to Refuse letter, as already sent to the regulated entity and the Proposed Appointee;
- b) The draft decision issued to the regulated entity and Proposed Appointee that outlines the grounds and legal basis for the proposed refusal of the application with the supporting information gathered during the assessment stage; and
- c) Any submissions on the draft decision received from the regulated entity and the Proposed Appointee, together with the views of the Central Bank as to why those submissions were or were not accepted.

This multi stage approach ensures a fair and thorough evaluation of the Proposed Appointee's fitness and probity, offering ample opportunity for the regulated entity and the Proposed Appointee to address any concerns raised by the Central Bank. The separation of those involved in the assessment and decision-making stages further strengthens the impartiality and integrity of the process.

The Gatekeeping Decisions Committee

The Gatekeeping Decisions Committee is a committee of senior officials that serves a crucial function in the application process: determining whether it is appropriate for the Central Bank to refuse an application based on the Proposed Appointee's fitness and probity for the role applied for. On receipt of a referral of a proposal to refuse an application, the Chair of the Committee will appoint a decision maker or a sub-committee of three decision makers to consider the draft decision. The appointed decision maker(s) will not have been involved in the assessment, ensuring impartiality and objectivity in their decision making.

The role of the decision maker(s) in this context is to review cases where the application is proposed for refusal due to concerns about the Proposed Appointee's fitness and probity.

After considering the materials, the decision maker(s) will decide whether to refuse the application.

The Central Bank will communicate the Committee's decisions and relevant next steps to the regulated entity and the Proposed Appointee, including outlining the appeal mechanism available if a refusal of the application issues.¹⁷

Appeals

A decision by the Central Bank to deny prior written approval for the appointment of a PCF may be appealed to the Irish Financial Services Appeals Tribunal. Information on how to submit an appeal can be found at <https://www.ifsat.ie>.

¹⁷ The Central Bank will publish statistics on fitness and probity gatekeeping applications that it receives, including information on timeframes, approvals and refusals.

Appendix 1

Credit Unions

Assessment process for PCFs

The assessment process will require the submission of an Individual Questionnaire (IQ) which is available on the Central Bank's website. In the case of elected PCF roles, credit unions and Proposed Appointees 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)¹⁸ being held as a PCF cannot be elected to the position of chair if they have not been preapproved by the Central Bank.

Timing for submission of Individual Questionnaires

Where a person wishes to seek election to the role of chair, the person and the credit union need to allow sufficient time in advance of an AGM for the Proposed Appointee, the credit union and the Central Bank to process the person(s) application for the PCF role.

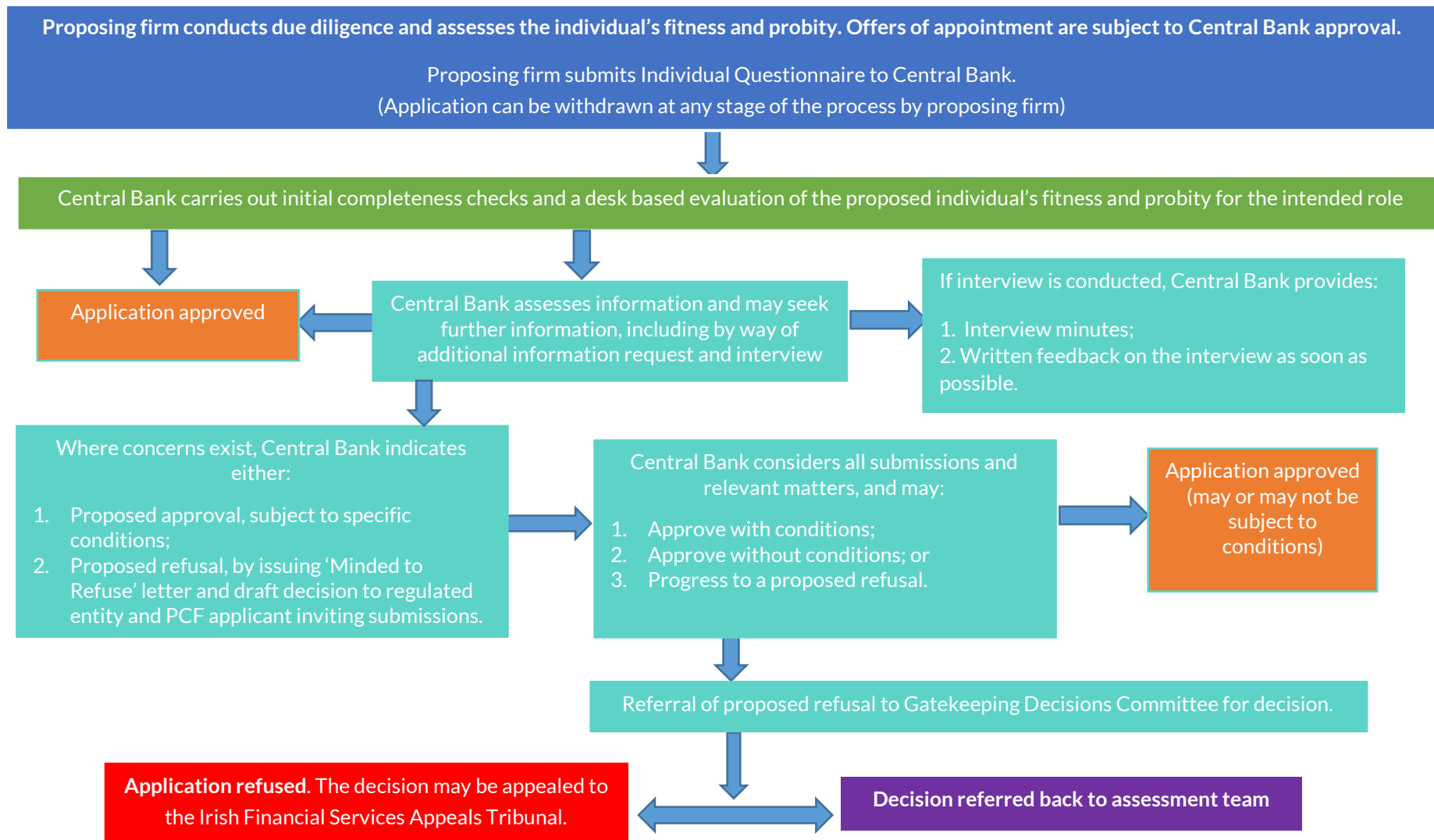
Credit unions should not however submit an IQ to the Central Bank where an AGM has not been scheduled. If the IQ is submitted to the Central Bank before an AGM has been scheduled by the credit union the IQ will be returned to the credit union to ensure the assessment of Fitness and Probity is based on the most current information. Taking into consideration the Central Bank's commitment to conclude assessments of applications within a 90 day timeframe, credit unions should submit an IQ in an appropriate timeframe to ensure a decision can be reached in advance of the AGM.

In considering the timing of submitting an application for a PCF role, the applicant and the credit union should also bear in mind the possibility that the Proposed Appointee may be called for an interview as part of the application process.

¹⁸ Or Special General Meeting (SGM) as appropriate. Any reference to AGMs in this document also relates to SGMs.

Appendix 2

PCF Assessment Process





Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem