Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

September 2017

Consultation on Potential Amendments to the Fitness and Probity regime for credit unions

Consultation Paper CP 113

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Contents

Section 1: Introduction

The Central Bank of Ireland (the Central Bank) is publishing this consultation paper to consult on potential amendments to the Fitness and Probity regime for credit unions.

On 24 September 2012, as recommended by the Final Report of the Commission on Credit Unions, the Minister for Finance commenced Part 3 of the Central Bank Reform Act 2010 (the Act) for credit unions, which provided the Central Bank with the powers to set out the Regulations and Standards of Fitness and Probity for credit unions.

In December 2012, the Central Bank issued Consultation Paper 62 (CP62) which consulted on the introduction of a Fitness and Probity regime for credit unions. This resulted in the introduction, on a phased basis, of a tailored Fitness and Probity regime for the sector. The tailored Fitness and Probity regime for credit unions was implemented on 1 August 2013 and initially applied to credit unions with total assets of greater than €10 million. From 1 August 2015, the regime was extended to credit unions with total assets of less than €10 million. The regime for credit unions has been fully implemented since 1 August 2016.

In developing a Fitness and Probity regime for credit unions, the Central Bank's initial objective was to improve governance standards in credit unions at board and management level by ensuring that individuals who exercise significant influence and control in a credit union are capable, competent and financially sound individuals with the appropriate skills, experience, knowledge and integrity to manage and govern the credit union. The tailored regime for credit unions prescribes two Pre-approval Controlled Functions (PCFs) and two Controlled Functions (CFs). PCFs are required to be pre-approved by the Central Bank before taking up their role. Both PCFs and CFs are required to abide by the Standards of Fitness and Probity. Appendix A contains the regulations for the Fitness and Probity regime for credit unions.

On 1 August 2014, the Central Bank issued Consultation Paper 83 (CP83) which consulted on the Fitness and Probity regime for credit unions also authorised as retail intermediaries. This consultation resulted in the introduction, from 1 August 2015, of additional CFs for credit unions who are also authorised as retail intermediaries.

The Fitness and Probity regime for credit unions also authorised as retail intermediaries was aimed at ensuring that individuals in credit unions, that are also authorised as retail intermediaries, who give advice to a member and provide a financial service under the credit union's authorisation as a retail intermediary, are subject to the fitness and probity standards and the Minimum Competency Code. Appendix B contains the regulations for the Fitness and Probity regime for credit unions also authorised as retail intermediaries.

The tailored Fitness and Probity regime for credit unions differs to the Fitness and Probity regime which applies to all other regulated financial service providers (RFSPs). The regime applying to all other RFSPs prescribes 46 PCFs and 11 CFs.

In the feedback statement issued on CP62, the Central Bank committed, post implementation of the regime, to a review of the Fitness and Probity regime for credit unions taking account of the new regulatory framework for credit unions and post restructuring of the sector. It was signalled that consideration at this point would be given to the designation of additional CFs, which may include customer facing CFs, and additional PCFs for key functions, which may include all board members, the risk management officer, the compliance officer, the money laundering reporting officer and the internal audit function. CP83 indicated that this review would be undertaken in 2017.

This consultation paper consults on potential changes to the Fitness and Probity regime for credit unions in relation to their core business only and does not propose changes to the Fitness and Probity regime applicable to credit unions who are also authorised as retail intermediaries.

The consultation paper is structured as follows:

- Section 2 sets out the purpose of this consultation;
- Section 3 provides detail on what the review has considered;
- Section 4 provides detail on the proposals for the Fitness and Probity regime for credit unions;
- Section 5 provides an overview of other developments which are impacting on the Fitness and Probity regime for credit unions;
- Section 6 provides an overview of the RIA undertaken;
- Section 7 outlines the next steps in relation to this consultation;
- Section 8 summarises the areas where the Central Bank is seeking views;
- Section 9 sets out how to make submissions to the Central Bank;
- Appendix A sets out the regulations for the Fitness and Probity regime for credit unions.
- Appendix B sets out the regulations for the Fitness and Probity regime for credit unions also authorised as retail intermediaries.
- Appendix C contains the full RIA.

Section 2: Purpose of this Consultation

Following a review of the Fitness and Probity regime for credit unions introduced on 1 August 2013, the Central Bank is considering a number of potential changes to the Fitness and Probity regime for credit unions.

Views are sought in this consultation paper on:

- Potential amendments to the Fitness and Probity regime for credit unions including;
  - (i) the designation of additional PCFs and CFs; and
  - (ii) the timelines for introduction of any additional PCFs and CFs.

Section 4 of this consultation paper sets out the potential changes to the regime for credit unions and seeks views on these. The specific questions respondents are asked to reply to are set out throughout section 4 and summarised in section 8.

Detail on the RIA, that assesses the likely impact of the potential changes to the Fitness and Probity regime for credit unions, is set out in section 6. The full RIA is contained in Appendix C. Credit unions and other sector stakeholders may wish to provide additional information or analysis they may have on the likely impact of the potential changes.

Section 3: Review of the Fitness and Probity regime for credit unions

3.1 Background

The review of the Fitness and Probity regime for credit unions has assessed whether a tailored Fitness and Probity regime for credit unions remains appropriate or whether the credit union regime should be aligned, at this time, with the existing Fitness and Probity regime which applies to all other RFSPs. Consideration has been given as to whether it is appropriate to prescribe additional PCFs and/or additional CFs for credit unions. In addition, the review has focused on the implementation approach for any potential additional PCF or CF roles which may be brought within scope of the regime.

The review has taken account of the Central Bank's primary objective of strengthening governance at board and management level across the credit union sector. Recent developments, including sector restructuring and the potential for business model development, and the Central Bank's regulatory priorities have informed the review. The review has also been informed by the findings of the themed inspection on Fitness and Probity in credit unions[1] conducted in 2016 and supervisory findings around governance and systems of control arising from on-site inspections conducted by the Central Bank in credit unions.

3.2 Objective

The Central Bank is seeking to improve governance standards in credit unions at board and management level. The Credit Union and Co-operation with Overseas Regulators Act 2012 (the 2012 Act), set out comprehensive governance requirements for credit unions designed to provide a framework to improve governance standards in credit unions with a particular focus at board and management level. The introduction of a Fitness and Probity regime for credit unions complemented this governance framework by requiring that credit unions ensure that individuals who take up key board and management positions are fit and proper.

In reviewing the Fitness and Probity regime for credit unions, the Central Bank's objective is to ensure that the regime remains appropriate for the sector and to ensure that credit union members can have confidence that the persons holding key roles in credit unions are fit and proper to hold those roles. The Central Bank is of the view that current priorities should be around raising standards of competence and capability in key roles where supervisory engagement has identified weaknesses with a view to improving governance and ensuring that individuals who exercise significant influence and control in a credit union are capable, competent and financially sound individuals with the appropriate skills, experience, knowledge and integrity to manage and govern the credit union.

[1] https://www.centralbank.ie/docs/default-source/publications/thematic-fitness-probity-inspections-credit-unions.pdf?sfvrsn=4

3.3 Recent Sector Developments

The Fitness and Probity regime for credit unions was introduced on 1 August 2013. Since this time, there has been a significant amount of restructuring and consolidation across the sector which has resulted in the sector having a significantly different profile to that which existed when the regime was introduced. Table 1 below illustrates this and highlights that restructuring activity has resulted in a lesser number of small credit unions and led to a greater number of larger credit unions with increased scale.

Table 1

	Total Assets ≤ €25m	Total Assets > €25m and < €100m	Total Assets ≥ €100m	Total
Number of Credit Unions – 2013[2]	219 (55.7%)	146 (37.2%)	28 (7.1%)	393
Number of Credit Unions – 2017[3]	98 (35.6%)	125 (45.5%)	52 (18.9%)	275
% Change	-55.3%	-14.4%	+85.7%	-30%

Table 2 illustrates the overall proportion of sector assets within each of the category of credit unions in 2013 and in 2017. As can be evidenced, over half of sector assets can now be attributed to those credit unions with total assets ≥€100m.

Table 2

	Total Assets ≤ €25m	Total Assets > €25m and < €100m	Total Assets ≥ €100m	Total
Total Asset Size Credit Unions – 2013[2]	€2,509.2m (18%)	€6,947.9m (49.9%)	€4,478.4m (32.1%)	€13,935.5m
Total Asset Size Credit Unions – 2017[3]	€1,381.1m (8.3%)	€6,291.0m (37.8%)	€8,966.3m (53.9%)	€16,638.3m
% Change	-45%	-9.5%	+100.2%	+19.4%

Restructuring across the sector and the resulting creation of larger credit unions with increased scale has presented challenges for a number of credit unions. Effective integration of governance and systems and controls remains vital for credit unions to derive the benefits which transfers can present including strategic opportunities around business model development and growth.

In addition to this shift in the asset size profile of the credit union sector and the challenges arising from managing larger scale operations, a number of credit unions are struggling to ensure viability. Many credit unions are facing significant financial challenges resulting from decreased demand for loan products, pressure on investment returns, increasing costs and the resulting negative impact on return on assets. Attention for a number of credit unions has now turned to business model development.

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[2] Based on the number of credit unions submitting a Prudential Return for 30 September 2013.
[3] Based on the number of credit unions submitting a Prudential Return for 30 June 2017.

Credit unions are seeking to develop financial and operational strength and capability, to manage the transition to different business model offerings and deal with the risks and regulatory requirements, in addition to attending to regulatory requirements to safeguard members' funds. It is imperative that the key roles in credit unions operate effectively to support business model development. Sound governance and effective systems of control driven by these key role holders are an essential foundation to underpin development of the credit union sector and it is important that credit unions embed systems and controls to acceptable levels before considering significant business model development.

3.4 Central Bank's Supervisory Experience

Since the introduction of the strengthened regulatory framework for credit unions and commencement of the Fitness and Probity regime for credit unions, the Central Bank has seen some evidence of credit unions seeking to embed the regulatory framework including having effective governance through boards adopting a strategic focus and displaying a good balance and mix of skills and experience on the board. However, at an operational level we are continuing to find weaknesses across a range of basic systems and controls in a number of credit unions, not just confined to any size or type of credit union or a particular region. These weaknesses have ranged from failure to adequately segregate duties and responsibilities; deficiencies in procedures, systems and controls; and inadequate financial accounting systems. Such failures can result in instances of financial fraud and losses as well as uncertainty over the completeness and accuracy of the books and records of the credit union and the overall financial position of the credit union. The remedial action required to be taken by the credit union to remedy such financial failures, can often result in significant costs – both in terms of the credit union's own resources needed to remedy the issues and bring the systems and controls to the appropriate standard and, where applicable, the need to engage external expertise, such as forensic accountants, IT specialists or other third parties, to determine and report on the extent of the issues that have arisen. In addition to the financial costs, reputational damages may arise for individual credit unions which also has the potential to impact negatively on the sector as a whole.

The 2012 Act introduced a number of key roles for credit unions and placed these on a statutory footing. These included the role of risk management officer, compliance officer and internal audit. The evidence obtained through our supervisory engagement suggests that these roles are not yet fully effective in credit unions. Directors and managers need to ensure that they are fully informed on the nature of risks and compliance issues arising and that the functions set out in the regulatory framework, including risk management, compliance and internal audit operate as envisaged by the legislation. A large number of the Risk Mitigation Programmes (RMPs) issued post our supervisory engagement have identified risks and required actions related to the effectiveness of these key roles.

3.5 Thematic Fitness and Probity Inspection

During 2016 the Central Bank undertook a thematic inspection in the area of Fitness and Probity to assess compliance with the requirements of the Fitness and Probity regime by credit unions with a particular focus on the level and quality of due diligence being undertaken on CFs by credit unions. Inspections were undertaken in a sample of

16 credit unions which were selected to provide a mix of asset size, urban and rural locations and a mix of industrial and community based credit unions. While there were some examples of well embedded practices the inspections highlighted a number of issues particularly in the area of due diligence which included examples of some credit unions failing to undertake due diligence on CF role holders or incomplete and poor quality due diligence being undertaken. This resulted from some credit unions in the sample failing to fully and properly engage with the Fitness and Probity regime for credit unions. It is crucial that credit unions properly embed the Fitness and Probity requirements in order to ensure that only financially sound, honest and ethical individuals who act with integrity and have the competence and capability required, take up key roles in credit unions.

3.6 Conclusion

Having undertaken the review of the Fitness and Probity regime for credit unions, the Central Bank is of the view that, at this time, a tailored Fitness and Probity regime for the sector remains appropriate. There is an acknowledgement however that there are certain roles in credit unions which are not functioning to the level expected and operating with the intended outcomes envisaged under the governance framework. It is possible that with increased focus and further embedding of the Fitness and Probity regime that the effectiveness of these roles may be enhanced which in turn may result in placing credit unions in a stronger position as they embrace any challenges which present. Further detail on potential amendments to the Fitness and Probity regime for credit unions aimed at enhancing the effectiveness of key roles is outlined in section 4.

Section 4: Potential Amendments to the Fitness and Probity regime for credit unions

It is the Central Bank's view, having considered the current profile of the sector and current sector priorities around restructuring and business model development, that a tailored Fitness and Probity regime for credit unions remains appropriate. It is considered that now would not be an appropriate time to align the credit union regime with the Fitness and Probity regime which applies to all other RFSPs.

The Central Bank is seeking views on the following:

1. Do you agree that a tailored Fitness and Probity regime for credit unions remains appropriate at this time?
2. Do you feel that the Fitness and Probity regime for credit unions should be aligned to the Fitness and Probity regime applying to all other RFSPs at a later stage? If so, please indicate what timeline you feel is appropriate for this to occur.

4.1 Controlled Functions

There are currently two CFs within scope of the Fitness and Probity regime for credit unions. These relate to those functions in a credit union which have the power to exercise a significant influence on the conduct of the affairs of the credit union or a function charged with ensuring, controlling or monitoring compliance by the credit union with its relevant obligations. Examples of the roles which fall within the scope of a CF include the board of directors, the risk management officer, the compliance officer, the money laundering reporting officer and the internal audit function. Unlike the Fitness and Probity regime for all other RFSPS, there are not currently any customer facing CF roles designated in the Fitness and Probity regime for credit unions.

As outlined in section 3, the Central Bank through its interactions with credit unions has identified a number of weaknesses across the sector which point to deficiencies in the performance of key roles which are currently CFs. Issues arising include weaknesses in systems of control which have led to losses and reputational damage for a number of credit unions. Our evidence suggests that certain CF roles have not fully embedded and are not operating as effectively as they could. As a result, the Central Bank does not view that now is an appropriate time to designate additional customer facing CF roles for credit unions. It is considered a priority that credit unions increase their focus on the existing CF roles in order to ensure that the persons in these roles are fit and proper, competent and capable of contributing positively to the governance and internal control framework in credit unions.

The Central Bank is seeking views on the following:

3. Are there any additional roles within credit unions which you consider should be prescribed CFs under the Fitness and Probity regime for credit unions? If so, please specify them along with a supporting rationale.

4.2 Pre-Approval Controlled Functions

The Central Bank proposes to prescribe an additional three PCF roles for credit unions. It is proposed that these roles would initially be prescribed as PCFs in credit unions where the total assets of the credit union are at least €100 million[4].

These proposed PCF roles are the:
(i) Risk Management Officer (CUPCF-3);
(ii) Head of Internal Audit (CUPCF-4); and
(iii) Head of Finance (CUPCF-5).

It is proposed to prescribe these roles as PCFs in recognition of their importance in credit unions and to focus more attention in credit unions on these roles. It is of utmost importance that the persons holding these roles are capable, competent and financially sound individuals with the appropriate skills, experience, knowledge and integrity required for the roles relative to the nature, scale and complexity of the credit union. From a Central Bank perspective prescribing these roles as PCFs will provide increased visibility through the pre-approval process.

All credit unions are required to have a risk management officer and an internal audit function under the Credit Union Act, 1997. There is no statutory requirement to have a head of finance, however from our supervisory experience it appears that a large number of credit unions with total assets of > €100 million have a dedicated finance function in place. Where an individual in a credit union is undertaking a role which also includes the tasks associated with the head of finance, it is required that this individual is pre-approved for the head of finance role.

The designation of these roles as PCFs for credit unions with total assets of at least €100 million is in acknowledgment of the increased scale and specific characteristics of these credit unions. There are currently 52[5] credit unions with total assets in excess of €100 million and over 65% of these credit unions have engaged in transfers of engagement since 2013, with a significant number of these credit unions engaging in multiple transfers of engagement. While this restructuring activity has presented opportunities for these credit unions, challenges have also arisen. These challenges have manifested as the resulting larger credit unions have sought to integrate governance, branch offices and systems & controls and develop cohesive risk management frameworks aimed at ensuring that they are on a strong footing and poised to reap the potential benefits presented from restructuring activity undertaken. The Central Bank's experience to date with credit unions on business model development indicates that it is predominately those credit unions of a larger scale who are demonstrating a desire to further develop their business and are actively engaging in this area.

It is proposed that these roles will be designated PCF roles from 1 April 2018.

These proposed PCF roles for credit unions with assets of at least €100 million are currently CF roles in all credit unions and will continue to remain CF roles for those credit unions with total assets of less than €100 million. The Central Bank expects credit unions

[4] As per the most recently audited financial statements of the credit union.
[5] Based on data submitted by credit unions on the 30 June 2017 Prudential Returns.

to undertake adequate due diligence for all CF roles to ensure that only financially sound, honest and ethical individuals who act with integrity and have the competence and capability required, take up these key roles in credit unions.

The powers afforded to the Central Bank under Part 3 of the Act in relation to the investigation, suspension or prohibition of officers of financial service providers are the same regardless of whether the person undertaking a role is a CF or a PCF. The Central Bank will give consideration at a later stage, to designating these CF roles to PCFs for credit unions with total assets of less than €100 million or for a sub group of these credit unions. We anticipate that this will be considered within a 3 year timeframe when there is further clarity on the level of transformation of the sector which has occurred post further progression in the areas of restructuring and business model development, and consultation would be undertaken on any proposed changes.

The Central Bank views that these potential PCFs are key roles for credit unions and are central roles for credit unions looking to further develop their business model and ensure viability into the future. It is viewed that there should be suitably experienced, competent and capable persons, placed in these roles in credit unions in order to ensure that the tasks and deliverables associated with these key roles are carried out to the expected high standard.

The risk management officer in a credit union is responsible for identifying, assessing, reporting and monitoring all internal and external risks that could affect the credit union. They are required to assist the manager with managing and mitigating identified risks and have a reporting line to the board of directors. The internal audit function has a responsibility to provide internal oversight and to evaluate and improve the effectiveness of the credit union's risk management, internal controls and governance processes. The internal audit function is required to be capable of operating independently to management and without undue influence over its activities. Both of these functions are viewed as crucial functions which must operate effectively in credit unions in order to ensure that the credit union has a strong risk management, internal controls and governance framework capable of identifying and resolving weaknesses which may pose a threat to the credit union.

Credit unions are required to maintain a dynamic strategic plan which should be accompanied and backed up by realistic financial projections. Credit unions are going through a time of transition with some facing significant viability challenges. Similarly as some credit unions seek to engage in different areas of business, it is imperative that the financial implications of such business lines are carefully considered including any asset and liability management and associated funding and liquidity issues. Credit unions must ensure that the persons responsible for the finance function within the credit union are fit and proper and capable of critically analysing the financial implications of the credit union's business model on an ongoing basis. The Central Bank acknowledges that not all credit unions may have a Head of Finance and that this role may be performed by the manager. Where this is the case and the Head of Finance role is designated a PCF role, the credit union will be required to ensure that the person performing this role is fit and proper to perform this role regardless of whether that person performs another PCF role in the credit union.

Requirements in relation to PCF roles

The designation of these roles as PCFs for credit unions with total assets of at least €100 million will require these credit unions to seek pre-approval from the Central Bank, via the submission of an IQ, before a person can take up a position in one of these roles. As is currently the case for all CF and PCF roles, the credit union will be required to undertake due diligence on prospective role holders to assess the fitness and probity of proposed individuals to ensure that they meet the Standards of Fitness and Probity for credit unions and have agreed to abide by them on an ongoing basis. Similarly the PCF role holder will be required to confirm on an annual basis that they abide by the Standards of Fitness and Probity.

The Central Bank is seeking views on the following:

4. Do you have any comment on these proposed PCF roles?
5. Have you any comment on the application of these proposed PCF roles on a tiered basis to credit unions with total assets of at least €100 million only at this time?
6. Do you have any comment on the proposed commencement date for these roles being designated PCF roles?
7. Are there any other roles which you feel would benefit from being designated PCF roles at this time?

Proposed Transitional Arrangements

It is envisaged that transitional arrangements will apply to the three proposed PCF roles. All individuals holding these proposed PCF roles in credit unions, at commencement of their application in the regime, will be deemed in-situ and may continue in their position without applying for pre-approval from the Central Bank. Credit unions will be required to ensure appropriate due diligence on all individuals holding in-situ PCF roles has been undertaken. Within 4 months they will be required to submit to the Central Bank electronically a list of individuals holding these PCF roles in the credit union and confirm that the individuals are fit and proper according to the Standards of Fitness and Probity for credit unions issued under section 50 of the Act and that they have agreed to abide by the Standards. Any new persons taking up one of these PCF roles post 1 April 2018 will be required to seek pre-approval from the Central Bank prior to appointment to the role.

The Central Bank is seeking views on the following:

8. Do you have any comment on the proposed transitional arrangements for the designation of the proposed PCF roles?

Practical Considerations re Outsourcing

The Central Bank is aware that credit unions may outsource some of the roles which it has proposed to designate as PCF roles within the regime, particularly the internal audit and risk management roles[6].

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[6] Based on data submitted on the Annual Return for 2016, c.88% and c.39% of credit unions outsource the internal audit and risk management function respectively. For those credit unions with total assets > €100 million, c.80% outsource internal audit and c.19% outsource risk management.

The existing Fitness and Probity regime applying to all other RFSPs requires that where a role is outsourced to a RFSP, the entity is excluded from the requirement to seek the Central Bank's prior approval to the appointment of that PCF role. The person in the RFSP will not be required to comply with the Standards of Fitness and Probity. However, where a role is outsourced to a firm which is not regulated by the Central Bank, the written agreement which governs the outsourcing agreement between the entity and the unregulated firm, must identify the person who will be performing the outsourced PCF on behalf of the entity. The entity must obtain the Central Bank's prior approval to the appointment of the individual to the PCF. The individual performing the outsourced role under the PCF agreement must comply with and confirm that they agree to abide by the Standards of Fitness and Probity.

It is proposed that the outsourcing arrangements applicable to RFSPs under the existing Fitness and Probity Regime will apply to credit unions where they outsource any of the proposed PCF roles. The Central Bank would expect that in the majority of cases, where roles are outsourced, they will be outsourced to unregulated entities. Where this occurs, 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 will be required to seek pre-approval from the Central Bank prior to appointing the individual to the PCF role and the individual will be required to comply with the Standards of Fitness and Probity.

The Central Bank is seeking views on the following:

9. Do you have any comment on the requirements and obligations on the credit union where PCF roles are outsourced?

Section 5: Other Developments impacting on the Fitness and Probity regime for credit unions

Recent developments in relation to the Minimum Competency Code 2011 (MCC 2011) and the European Union (Consumer Mortgage Credit Agreements) Regulations 2016[7] (the Mortgage Credit Regulations) will have an impact on the Fitness and Probity regime for credit unions. The background of each of these and the resulting implications for the Fitness and Probity regime for credit unions are explored below.

5.1 Minimum Competency Code (MCC)

5.1.1 Background on MCC

In November 2016, the Central Bank published CP106[8], which consulted on a Review of the MCC 2011, which sets out minimum professional standards for staff of financial service providers when they are dealing with customers in relation to retail financial products. CP106 outlined a number of changes to the MCC 2011 arising from requirements under EU legislation, including the application of the MCC to credit unions when providing mortgage credit agreements[9]. The MCC 2011 currently applies to credit unions authorised as retail intermediaries with respect to their retail intermediary business. It does not apply to credit unions for their core loan and savings business. Views were also sought on whether the MCC should be applied to credit unions in respect of any retail financial products offered by credit unions that fall within the scope of the MCC. This would mean that the MCC would apply to credit unions for their core business.

A number of submissions to CP106 were received from credit union sector stakeholders. The Minimum Competency Code 2017 (MCC 2017)[10] and Minimum Competency Regulations 2017[11] were published by the Central Bank on 1 September 2017. From 3 January 2018, together they replace the former MCC 2011. A Questions and Answers document on the review of the MCC 2011[12] was also published which outlines the Central Bank's intention to undertake further work (seeking information from the credit union sector about the level of qualifications already held by staff) to gain a better understanding of the impact of proposed changes on the sector while taking account of comments made in CP106 submissions to determine an appropriate implementation approach for the application of the MCC to credit unions for their core lending and term deposit business.

5.1.2 Implications of application of the MCC to credit unions

The application of the MCC to credit unions for their core business, when applied, will have impacts on the Fitness and Probity regime for credit unions which are outlined below.

[7] S.I. No. 142 of 2016

[8] https://www.centralbank.ie/publication/consultation-papers/consultation-paper-detail/cp106---review-of-the-minimum-competency-code-2011

[9] As required under the Mortgage Credit Regulations

[10] https://centralbank.ie/docs/default-source/Regulation/how-we-regulate/authorisation/minimum-competency/minimum-competency-code-2017.pdf?sfvrsn=2

[11] https://centralbank.ie/docs/default-source/Regulation/how-we-regulate/authorisation/minimum-competency/minimum-competency-regulations-2017.pdf?sfvrsn=2

[12] https://www.centralbank.ie/docs/default-source/Regulation/how-we-regulate/authorisation/minimum-competency/review-of-the-minimum-competency-code-2011---cp106-questions-and-answers.pdf?sfvrsn=4

Additional Customer Facing CF roles

The MCC is applied to persons exercising a ***CF*** on a professional basis, the exercise of which includes providing advice to consumers, arranging or offering to arrange a retail financial product for consumers or the exercise of a specified function. In order for the MCC to be applied to credit unions, the designation of additional customer facing CFs within the Fitness and Probity regime is required. This would require an alignment of the CFs within the Fitness and Probity regime for credit unions with the CFs prescribed under the existing Fitness and Probity regime applying credit unions acting as retail intermediaries.

These additional CFs are outlined on the table below:

CUCF-3	Giving of advice to a customer of the credit union
CUCF-4	Arranging a financial service for a customer of the credit union
CUCF-5	Assisting a customer in the making of a claim under a contract of insurance or reinsurance
CUCF-6	Determining the outcome of a claim arising under a contract of insurance or reinsurance
CUCF-7	Management or supervision of those persons undertaking CF3 to CF6 roles
CUCF-8	Adjudicating on any complaint communicated to a credit union by a customer
CUCF-9	Insurance and reinsurance intermediaries who direct and manage the undertaking or are directly involved in insurance or reinsurance mediation
CUCF-10	Dealing in or having control over property of a customer of the credit union
CUCF-11	Dealing in or with property on behalf of the credit union

Credit unions will be required to conduct appropriate due diligence to assess the fitness and probity of proposed individuals to these CF roles to ensure that they meet the Standards of Fitness and Probity for credit unions and have agreed to abide by them on an ongoing basis.

5.2 European Union (Consumer Mortgage Credit Agreements) Regulations 2016

5.2.1 Background on European Union (Consumer Mortgage Credit Agreements) Regulations 2016

The Mortgage Credit Regulations which transposed the Mortgage Credit Directive into Irish law, apply to credit unions who are involved in the provision of mortgages to their members. Schedule 1 of the Mortgage Credit Regulations contains minimum knowledge and competence requirements for staff involved in the provision of mortgages. The Mortgage Credit Regulations require the Central Bank to establish and publish minimum knowledge and competence requirements for the staff of creditors and mortgage credit intermediaries and state that those requirements shall be at least in accordance with the principles set out in Schedule 1 of the Regulations.

5.2.2 Implication on the MCC for Credit Unions

As outlined above, the Central Bank has issued the MCC 2017 and the Minimum Competency Regulations 2017 to reflect the knowledge and competence requirements as required by the Mortgage Credit Regulations. Consequently, from 3 January 2018, they will apply to those persons in credit unions when devising or creating mortgage credit products, advising on or arranging or offering to arrange mortgage credit products or carrying out a specified function in respect of such products.

Section 6: Regulatory Impact Analysis

In accordance with the Consultation Protocol for Credit Unions, issued on 27 November 2012, the Central Bank has conducted a RIA to assess the potential impact of the changes to the Fitness and Probity regime for credit unions set out in this consultation paper.

The full RIA is set out in Appendix C. Credit unions and other sector stakeholders may also wish to provide additional information or analysis they may have on the likely impact of the potential changes to the Fitness and Probity regime for credit unions.

Section 7: Next Steps

The table below sets out proposed next steps and timelines for the introduction of potential changes to the investment framework for credit unions set out in this consultation paper.

Date	Step
8 September 2017	Consultation Paper on Potential Amendments to the Fitness and Probity regime for credit unions published
10 November 2017	Consultation period closes
Q1 2018	Publish feedback statement and final regulations reflecting changes to Fitness and Probity regime for credit unions
Q2 2018	Commencement of amending regulations for the Fitness and Probity regime for credit unions

Section 8: Summary of areas where the Central Bank is seeking views

Tailored Fitness and Probity Regime:

1. Do you agree that a tailored Fitness and Probity regime for credit unions remains appropriate at this time?
2. Do you feel that the Fitness and Probity regime for credit unions should be aligned to the Fitness and Probity regime applying to all other RFSPs at a later stage? If so, please indicate what timeline you feel is appropriate for this to occur.

Controlled Functions:

3. Are there any additional roles within credit unions which you consider should be prescribed CFs under the Fitness and Probity regime for credit unions? If so, please specify them along with a supporting rationale.

Pre-approval Controlled Functions:

4. Do you have any comment on these proposed PCF roles?
5. Have you any comment on the application of these proposed PCF roles on a tiered basis to credit unions with total assets of at least €100 million only at this time?
6. Do you have any comment on the proposed commencement date for these roles being designated PCF roles?
7. Are there any other roles which you feel would benefit from being designated PCF roles at this time?

Transitional Arrangements:

8. Do you have any comment on the proposed transitional arrangements for the designation of the proposed PCF roles?

Practical Considerations re Outsourcing:

9. Do you have any comment on the requirements and obligations on the credit union where PCF roles are outsourced?

Section 9: Making submissions

Please make your submissions in writing, if possible electronically as a word document or a .pdf document by email, on or before Friday 10 November 2017.

When addressing the questions raised in this Consultation Paper, please use the relevant section heading to identify the section you are referring to and clearly set out the basis for your views.

The Central Bank intends to make all submissions available on the Central Bank website. Information deemed to be potentially libellous or defamatory will not be published. The Central Bank will accept no liability in respect of any information provided which is subsequently released, or in respect of any consequential damage suffered as a result.

Submissions should be marked "Consultation on Potential Amendments to the Fitness and Probity regime for credit unions" and sent by email to rcuconsultation@centralbank.ie.

In the event that you are unable to send your response electronically, please forward it by post before Friday 10 November 2017 to:

Registry of Credit Unions
Central Bank of Ireland
PO Box 559
Dublin 1

Registry of Credit Unions

Appendix A: Regulations for the Fitness and Probity regime for Credit Unions

S.I. No. 171 of 2013

CENTRAL BANK REFORM ACT 2010 (SECTIONS 20 AND 22 – CREDIT UNIONS) REGULATIONS 2013

In exercise of the powers conferred on the Central Bank of Ireland ("the Bank") by section 20(1) and section 22(2) of the Central Bank Reform Act 2010 the Bank hereby makes the following Regulations:

1. These Regulations may be cited as the Central Bank Reform Act 2010 (Sections 20 and 22 – Credit Unions) Regulations 2013.

2. These Regulations apply to and in relation to regulated financial service providers that are credit unions within the meaning of the Credit Union Act, 1997 as follows:

   a) in the case of a credit union the total assets of which, after deducting any provisions for bad and doubtful debts, exceed €10 million according to the credit union's latest audited balance sheet, from 1 August 2013; and
   b) in the case of a credit union other than a credit union specified in paragraph (a), from 1 August 2015.

3. Subject to Regulations 5 to 9, the functions in Schedule 1 of these Regulations are prescribed as controlled functions.

4. Subject to Regulations 5 to 11, the controlled functions in Schedule 2 of these Regulations are prescribed as pre-approval controlled functions.

5. References in these Regulations to a controlled function shall be taken to include a part of a controlled function unless the context otherwise requires.

6. References to a title commonly used for a person who performs a function shall be taken to refer to the functions commonly performed by a person of such title.

7. A person who performs a function shall be taken to be responsible for the performance of such function notwithstanding that the person in question does not have the title commonly used by a person who performs such function.

8. A person who performs a function of the holder of an office or position shall be taken to be responsible for the performance of such function notwithstanding that the person in question is not the holder of such office or position.

9. (1) A person shall be taken to perform a function where the credit union or a person or persons in the credit union are, with respect to that function, accustomed to act in accordance with the directions or instruction of the person in question.

   (2) Paragraph (1) shall not be taken to include a person in accordance with whose instruction a person is accustomed to act by reason only that such person does so on advice given by the person in question in a professional capacity.

10. A person (the 'temporary officer') shall not be taken to be responsible for the performance of a pre-approval controlled function solely as a result of the temporary officer being responsible for the performance of such function on a temporary basis pending the credit union appointing a person to perform such pre-approval controlled function, provided such temporary officer performs such function under an arrangement agreed in writing with the Bank in advance of the person in question assuming such responsibility as a temporary officer.

11. A function is and shall remain prescribed as a controlled function notwithstanding that such function, or part thereof, is comprised within a function, or part thereof, prescribed as a pre-approval controlled function.

12. Where the Bank approves the appointment of a person to perform a pre-approval controlled function then, unless expressly stated otherwise in the approval in writing, the person shall be so approved to perform the function in or on behalf of the credit union or credit unions named in the application for approval and not in or on behalf of any other credit union or any other regulated financial service provider.

Signed for and on behalf of the CENTRAL BANK OF IRELAND
on this 28 the day of May 2013.

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MATTHEW ELDERFIELD
Deputy Governor (Financial Regulation)

Schedule 1

Controlled Functions in respect of credit unions

The following functions are controlled functions for the purposes of these Regulations:

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-1).

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 (CUCF-2).

Schedule 2

Pre-Approval Controlled Functions in respect of credit unions

A person who holds or performs the duties of any of the following positions or offices in the credit union:

(a) the office of chair of the board of the credit union (CUPCF-1),
(b) the office of manager of the credit union (CUPCF-2).

Appendix B: Regulations for the Fitness and Probity regime for credit unions also authorised as retail intermediaries

S.I. No. 097 of 2015

CENTRAL BANK REFORM ACT 2010 (SECTIONS 20 AND 22 – CREDIT UNIONS THAT ARE ALSO AUTHORISED AS RETAIL INTERMEDIARIES) REGULATIONS 2015

In exercise of the powers conferred on the Central Bank of Ireland ("the Bank") by section 20(1) and section 22(2) of the Central Bank Reform Act 2010 the Bank hereby makes the following regulations:

1. These Regulations may be cited as the Central Bank Reform Act 2010 (Sections 20 and 22 – Credit Unions that are also authorised as Retail Intermediaries) Regulations 2015.

2. For the purpose of these Regulations, a credit union that is also authorised as a retail intermediary is a credit union that is registered under the Credit Union Act, 1997 and is also authorised as an investment business firm under the Investment Intermediaries Act, 1995 and / or as an insurance intermediary under the European Communities (Insurance Mediation) Regulations 2005.

3. These Regulations apply to and in relation to regulated financial service providers that are credit unions that are also authorised as retail intermediaries for the part of the business that the credit union undertakes as a retail intermediary.

4. Subject to Regulations 5 to 9, the functions in Schedule 1 of these Regulations are prescribed as controlled functions.

5. Subject to Regulations 5 to 11, the controlled functions in Schedule 2 of these Regulations are prescribed as pre-approval controlled functions.

6. References in these Regulations to a controlled function shall be taken to include a part of a controlled function unless the context otherwise requires.

7. References to a title commonly used for a person who performs a function shall be taken to refer to the functions commonly performed by a person of such title.

8. A person who performs a function shall be taken to be responsible for the performance of such function notwithstanding that the person in question does not have the title commonly used by a person who performs such function.

9. A person who performs a function of the holder of an office or position shall be taken to be responsible for the performance of such function notwithstanding that the person in question is not the holder of such office or position.

10. (1) A person shall be taken to perform a function where the credit union or a person or persons in the credit union are, with respect to that function, accustomed to act in accordance with the directions or instruction of the person in question.

    (2) Paragraph (1) shall not be taken to include a person in accordance with whose instruction a person is accustomed to act by reason only that such person does so on advice given by the person in question in a professional capacity.

11. A person (the 'temporary officer') shall not be taken to be responsible for the performance of a pre-approval controlled function solely as a result of the temporary officer being responsible for the performance of such function on a temporary basis pending the credit union appointing a person to perform such pre-approval controlled function, provided such temporary officer performs such function under an arrangement agreed in writing with the Bank in advance of the person in question assuming such responsibility as a temporary officer.

12. A function is and shall remain prescribed as a controlled function notwithstanding that such function, or part thereof, is comprised within a function, or part thereof, prescribed as a pre-approval controlled function.

13. Where the Bank approves the appointment of a person to perform a pre-approval controlled function then, unless expressly stated otherwise in the approval in writing, the person shall be so approved to perform the function in or on behalf of the credit union or credit unions named in the application for approval and not in or on behalf of any other credit union or any other regulated financial service provider.

14. These Regulations come into operation on 1 August 2015.

Signed for and on behalf of the CENTRAL BANK OF IRELAND
on this 24 day of March 2015

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CYRIL ROUX
Deputy Governor (Financial Regulation)

Schedule 1

Controlled Functions in respect of credit unions that are also authorised as retail intermediaries

The following functions are controlled functions for the purposes of these Regulations:

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 (CUCF-1).

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 (CUCF-2).

3. 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) giving of advice to a member, in the course of providing, or in relation to the provision of, the financial service (CUCF-3); or
   (b) arranging, or offering to arrange, a financial service for a member of the credit union that is also authorised as a retail intermediary (CUCF-4); or
   (c) assisting a member in the making of a claim under a contract of insurance or reinsurance (CUCF-5); or
   (d) determining the outcome of a claim arising under a contract of insurance or reinsurance (CUCF-6); or
   (e) acting in the direct management or supervision of those persons who act for a credit union that is also authorised as a retail intermediary in providing the services referred to in subparagraphs (a) to (d) (CUCF-7); or
   (f) adjudicating on any complaint communicated to a credit union that is also authorised as a retail intermediary by a member in relation to the provision of a financial service (CUCF-8).

4. 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)

5. 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) 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 (CUCF-10); or
   (b) 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 (CUCF-11).

Schedule 2

Pre-Approval Controlled Functions in respect of credit unions that are also authorised as retail intermediaries

A person who holds or performs the duties of any of the following positions or offices in the credit union:

(a) the office of chair of the board of the credit union that is also authorised as a retail intermediary (CUPCF-1),

(b) the office of manager of the credit union that is also authorised as a retail intermediary (CUPCF-2).

Appendix C: Regulatory Impact Analysis

Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

September 2017

Regulatory Impact Analysis on Potential Amendments to the Fitness and Probity regime for credit unions

Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Contents

1. Introduction

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

- Credit unions with total assets of greater than €10 million have been subject to fitness and probity requirements since 1 August 2013;
- Credit unions with total assets of less than or equal to €10 million have been subject to fitness and probity requirements since 1 August 2015; and
- Credit unions who are also authorised as retail intermediaries have been subject to additional fitness and probity requirements since 1 August 2015, for the part of the business that the credit union undertakes as a retail intermediary.

In the 2013 feedback statement issued on CP62, which consulted on the introduction of a Fitness and Probity regime for credit unions, the Central Bank committed to a full review of the Fitness and Probity regime for credit unions. In 2014, CP83, which consulted on the Fitness and Probity regime for credit unions also authorised as retail intermediaries, indicated that this review would be undertaken in 2017. The Central Bank is now carrying out a consultation on potential amendments to the Fitness and Probity regime for credit unions, "Consultation Paper 113 – Potential Amendments to the Fitness and Probity regime for credit unions" ("CP 113").

The "Consultation Protocol for Credit Unions", issued on 27 November 2012, states that a Regulatory Impact Analysis (RIA), which will contain an examination of the impacts of the new regulations and consideration of alternative options, will be carried out by the Central Bank, where practicable, when consulting on new regulations.

As part of the review of the Fitness and Probity regime for credit unions, the Central Bank undertook a RIA, set out below, to examine the impact of the potential amendments to the Fitness and Probity regime for credit unions and to identify the most appropriate option.

The RIA is structured as follows:

- Section 2 sets out the policy context and objective;
- Section 3 identifies the potential amendments to the Fitness and Probity regime for credit unions;
- Section 4 outlines the costs, benefits and impacts for the potential amendments;
- Section 5 outlines the Central Bank's commitment to the consultation process;
- Section 6 sets out the responsibilities for ensuring and monitoring compliance with the implementation of any potential amendments;
- Section 7 outlines the Central Bank's commitment to consider sectoral feedback as part of the consultation process; and
- Section 8 sets out where the publication of the relevant consultation paper may be found.

2. Policy Context and Objective

As indicated, the Central Bank has undertaken a review of the Fitness and Probity regime for credit unions. The primary objective of the Central Bank in relation to the Fitness and Probity regime for credit unions remains the strengthening of governance at board and management level across the credit union sector. This review has considered the wider environment in which credit unions operate and its associated challenges, together with specific issues that are highlighted through the Central Bank's ongoing supervisory engagement with credit unions and the findings from the thematic inspections on Fitness and Probity conducted in credit unions in 2016.

Since the first phase of the regime was introduced in August 2013, the credit union sector has continued to see many changes, including an increase in the amount of restructuring, leading to a greater number of larger credit unions with increased scale. At the time of introduction of the regime in 2013, 28 credit unions, or 7.1% of credit unions, had total assets of at least €100 million. There are currently 275 active credit unions and based on data reported on the June 2017 Prudential Return, 52 of these credit unions have total assets of at least €100 million. In addition to the changes introduced by restructuring, credit unions face significant financial challenges resulting from decreased demand for loan products, pressure on investment returns, increasing costs and the resulting negative impact on return on assets. Attention for a number of credit unions has now turned to business model development. In such cases, it is imperative that the key roles in credit unions operate effectively to develop financial and operational strength and capability, to manage the transition to different business model offerings, and to deal with the associated risks and regulatory requirements.

Supervisory engagement has indicated that a number of key roles introduced by the Credit Union and Co-operation with Overseas Regulators Act 2012 (the 2012 Act) are not yet fully effective in credit unions. A large number of Risk Mitigation Programmes (RMPs) issued post our supervisory engagements have identified risks and required actions related to the effectiveness of these key roles. The findings from the 2016 thematic Fitness and Probity inspections also highlighted certain concerns regarding the embedding of the existing Fitness and Probity regime. In considering potential amendments to the regime, the Central Bank has taken account of the issues evidenced through our supervisory engagement with the sector.

Taking account of the above challenges which credit unions face and in seeking to ensure that the regime remains appropriate for the sector, and that credit union members continue having confidence that the persons holding key roles in credit unions are fit and proper, the Central Bank is considering certain amendments to the regime. Details and analysis of the potential amendments are covered in the remaining sections of this document.

3. Potential Amendments to the Fitness and Probity regime for credit unions

In developing potential amendments to the Fitness and Probity regime for credit unions, consideration was given to aligning the regime more closely with the regime that applies to all other regulated financial service providers (RFSPs). The designation of additional Controlled Functions (CFs) and additional Pre-Approval Controlled Functions (PCFs) was considered, along with an appropriate timeframe for any potential amendments.

3.1 Tailored Regime

It is the Central Bank's view, having considered the current profile of the sector and current sector priorities around restructuring and business model development, that a tailored Fitness and Probity regime for credit unions remains appropriate. It is not viewed that now would be an appropriate time to align the credit union regime with the Fitness and Probity regime which applies to all other RFSPs.

3.2 Controlled Functions

The Fitness and Probity regime for all other RFSPs designates additional CF roles in firms which are customer facing CFs and are concerned with the giving of advice to a consumer or the arranging of a product or service for a consumer. As part of the review of the tailored regime for credit unions, consideration was given to the introduction of additional CFs in credit unions, relating to customer facing roles for core business activities including savings and lending. Credit unions also authorised as retail intermediaries are already subject to the requirement to have additional customer facing CFs, but only for their retail intermediary business.

The Central Bank does not view that now is an appropriate time to designate additional customer facing CF roles for credit unions. The Central Bank's primary objective is to improve governance standards at board and management level across the credit union sector. It is considered a priority that credit unions increase their focus on the existing CF roles which are required in order to ensure that the persons in these roles are fit and proper, competent and capable of contributing positively to the governance and internal control framework in credit unions.

3.3 Pre-Approval Controlled Functions

The Central Bank proposes to prescribe an additional three PCF roles for credit unions. It is proposed that these roles would be prescribed as PCFs in credit unions where the total assets of the credit union are at least €100 million.

These potential PCF roles are the:
(i) Risk Management Officer (CUPCF-3);
(ii) Head of Internal Audit (CUPCF-4); and
(iii) Head of Finance (CUPCF-5).

It is proposed to prescribe these roles as PCFs in recognition of their importance in credit unions of this scale and to focus more attention in credit unions on these roles. It is of paramount importance that the persons holding these roles are capable, competent and financially sound individuals with the appropriate skills, experience, knowledge and integrity required for the roles relative to the nature, scale and complexity of the credit union. From a Central Bank perspective prescribing these roles as PCFs will provide increased visibility of the persons exercising these roles through the pre-approval process.

The designation of these roles as PCFs for credit unions with total assets of at least €100 million only is in acknowledgment of the increased scale of these credit unions and their potential desire to further develop their business and engage in a more complex business offering. The majority of restructuring across the sector has been undertaken by credit unions with total assets in excess of €100 million and the resulting creation of larger credit unions with increased scale has presented challenges for a number of these credit unions. Effective integration of governance and systems and controls remains vital for credit unions to derive the benefits which transfers can present including strategic opportunities around business model development and growth.

It is proposed that these roles will be designated PCF roles from 1 April 2018.

4. Analysis of Costs, Benefits and Impacts for Potential Amendments

The costs, benefits and impacts for credit unions, their members, the credit union sector and the Central Bank were considered in the analysis of the potential amendments to the regime.

4.1 Controlled Functions

As outlined previously, the Central Bank does not view that now is an appropriate time to designate additional customer facing CF roles for credit unions. Therefore, this RIA does not contain an analysis of the costs, benefits or impacts which would be associated with the designation of additional CFs under the Fitness and Probity regime for credit unions.

4.2 Pre-Approval Controlled Functions

Analysis of the costs, benefits and impacts of the potential introduction of three additional PCFs for credit unions with total assets of at least €100 million is outlined in this section.

Costs

The costs involved in the introduction of the potential PCFs should not be hugely significant to credit unions with total assets of at least €100 million. It is important to note that, as each of the additional PCFs are currently classified as a CUCF-1 or a CUCF-2 function, the level of due diligence expected for these new PCFs will not change. However, as the 2016 themed Fitness and Probity inspections highlighted a number of issues of concern particularly in the area of due diligence, including examples of credit unions having failed to undertake due diligence and examples of incomplete or poor quality due diligence, credit unions may incur additional costs in ensuring that the due diligence conducted on all CFs, including the potential new PCFs, is robust and meets the required standard. Any costs in this area are not expected to be significant.

The submission of an Individual Questionnaire ("IQ") will be required for new appointments to these potential PCFs and for renewals of contracts of persons currently in situ in these PCF roles. While there may be some incremental costs for the credit union in meeting this requirement, it is not expected to be significant. There will be additional time required for the completion and submission of an IQ, mainly on the part of the PCF applicant.

It is worth noting that the potential PCFs, in general, will be employees of the credit union or be contracted by the credit union on an outsourced basis, and will not be subject to an annual election process. As such, the requirement for frequent appointments or contract renewals is anticipated to be relatively low. Therefore, it is not envisaged that a credit union will be required to submit an IQ application for any of the potential new PCFs on a highly regular basis i.e. annually.

The following table outlines the likely number of PCF applications annually for a credit union with total assets of at least €100 million and for all credit unions with total assets of at least €100 million. This is based on certain assumptions as follows:

- Likely duration of appointment to these potential PCF roles is
  (i) four years for Risk Management Officer
  (ii) three years for Head of Internal Audit
  (iii) five years for Head of Finance; and
- Likely number of applicants for each position when it comes up for appointment is one.

	Number of Positions	Likely Annual Rotation	Likely Applicants per rotated Position	Likely PCF Applications per Credit Union	Likely PCF Applications for Credit Unions with Total Assets ≥€100m
CUPCF-3 – Risk Management Officer	1	0.25	1	0.25	13
CUPCF-4 – Head of Internal Audit	1	0.33	1	0.33	17
CUPCF-5 – Head of Finance	1	0.20	1	0.20	10
				0.78	41

As can be seen, based on the assumptions above an individual credit union with total assets of at least €100 million can expect to put through just one additional PCF application on an annual basis. This equates to just 41 PCF applications annually for all those credit unions which would be required to have these potential new PCF roles.

Furthermore, as it is proposed to initially introduce the additional PCFs only for credit unions with total assets of at least €100 million (a total of 52 credit unions based on 30 June 2017 Prudential Return data), the Central Bank would expect that sufficient resources are already in place in these credit unions to manage and monitor the additional requirement of submitting IQ applications.

Based on the data submitted on the 2016 Annual Return, of the credit unions with total assets greater than €100 million, approximately 80% reported that their Internal Audit function was outsourced, and approximately 19% reported that their Risk Management function was outsourced. Although some work may be needed to make the appropriate changes to the outsourcing agreement between the credit union and the outsourced service provider to reflect the fact that these will be PCF roles which will be subject to the related fitness and probity requirements and to obtain pre-approval from the Central Bank prior to the appointment of the individual to the PCF, this should not lead to incremental costs for the credit union.

Benefits

The introduction of the potential three new PCFs will assist in maintaining and building members' confidence in the credit union sector. The requirement to obtain Central Bank pre-approval prior to the appointment of an individual to a PCF role will ensure that only

those persons who are deemed competent and capable of carrying out the respective role by both the credit union and the Central Bank will be permitted to take up the PCF role. Reclassifying each of these three roles from the position of CF to the position of PCF would emphasise the importance of the roles in ensuring that the credit union manages and protects their members' funds in a competent and responsible manner.
The Central Bank believes that the introduction of additional PCFs would be beneficial in helping to improve the calibre of persons holding key roles within the credit union, and whose influence can affect the operation of the credit union. It is expected that the introduction of the potential PCFs will bring significant benefits in terms of further strengthening the quality of governance and internal controls in credit unions, and in improving member confidence in the sector as a result.

Impacts

The submission of an in-situ return will be required for those individuals holding these PCF roles in the credit union, at commencement of their application in the regime. This return consists of a list of individuals holding the PCF roles, submitted electronically to the Central Bank, together with a confirmation that the individuals are fit and proper according to the Standards of Fitness and Probity for credit unions and that they have agreed to abide by the Standards of Fitness and Probity for credit unions.

The designation of these roles as PCFs for credit unions with total assets of at least €100 million will require these credit unions to seek pre-approval from the Central Bank, via the submission of an IQ, before a new person can take up a position in one of these roles. As is currently the case for all CF and PCF roles, the credit union will be required to undertake due diligence on prospective role holders to assess the fitness and probity of proposed individuals to ensure that they meet the Standards of Fitness and Probity for credit unions and have agreed to abide by them on an ongoing basis. Similarly the PCF role holder will be required to confirm on an annual basis that they abide by the Standards of Fitness and Probity.

Outsourcing

The roles of the risk management officer and the head of internal audit can be potentially outsourced by the credit union. In the case of one or more of the potential new PCFs being outsourced to a firm that is not regulated by the Central Bank, the outsourcing arrangement between the credit union and the unregulated firm will be required to specify the individual within the entity who will be responsible for carrying out the PCF role. Central Bank pre-approval must be obtained prior to the appointment of the individual to the PCF, and the individual must comply with and confirm that they agree to abide by the Standards of Fitness and Probity. Note that, where renewal of a contract does not constitute a break in service for an individual already pre-approved as a PCF, there is no requirement to obtain pre-approval for a second time, as long as the individual can confirm that they still abide by the Standards of Fitness and Probity.

As noted in the Report on Thematic Outsourcing Inspections in Credit Unions[1] published by the Central Bank in April 2017, half of the credit unions in the sample inspected were

[1] https://www.centralbank.ie/docs/default-source/Regulation/industry-market-sectors/credit-unions/communications/reports/2017-report-on-thematic-outsourcing-inspections-in-credit-unions.pdf?sfvrsn=4

unable to show any critical analysis of the outsourcing contracts they had entered into with service providers, and that half of the sample did not, or were unable to show evidence of, undertaking proper due diligence.

It is envisaged that the potential new requirements will highlight the expectations of the Central Bank in relation to the PCF that is being outsourced, and to the written agreement governing the relationship between the credit union and its outsourced partner. The Central Bank would expect to see improved outsourcing arrangements with regard to outsourced PCFs, which would allow the credit union to monitor any potential time commitment issues and to seek assurance on an annual basis that the individual still abides by the Standards of Fitness and Probity. The Central Bank intends to issue guidance in relation to the Fitness and Probity requirements for outsourced roles in credit unions.

5. Consultation

As outlined in the Consultation Protocol for Credit Unions issued on 27 November 2012, the Central Bank has committed to consult on potential new regulations which, in the Central Bank's view, will have a significant impact on the business of credit unions.

Consultation on potential amendments to the Fitness and Probity regime for credit unions is contained within CP113. This RIA is included as an Appendix within the consultation paper.

6. Enforcement and Compliance

The responsibility for enforcing and ensuring compliance with the Fitness and Probity regime for credit unions will rest with the Central Bank.

7. Review

The Central Bank will consider the feedback received on CP113 and this RIA before publishing final amendments to the Fitness and Probity regime for credit unions.

8. Publication

The RIA will be published as part of CP113 which is available at www.centralbank.ie

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