



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Notice of Intention

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

22 September 2021

Notice of Intention

The Central Bank of Ireland proposes to amend the PCF list as follows:

1. Expand PCF-16 to include branch managers in non-EEA countries;
2. Introduce stand-alone PCFs in respect of:
 - a. Independent Non-Executive Directors;
 - b. The Head of Anti-Money Laundering and Counter-Terrorist Financing; and
3. Remove PCF-31 Head of Investment.

1. Introduction

Section 22 of the Central Bank Reform Act 2010 enables the Central Bank of Ireland (the Central Bank) to prescribe by regulation pre-approval controlled functions (PCFs). The Central Bank considers a number of amendments to the PCF list warranted on the basis of its supervisory experience of the use of a number of current PCFs (i.e. PCF-2 Non-executive director, PCF-15 Head of Compliance with responsibility for Anti-Money Laundering and Counter Terrorist Financing Legislation, PCF-30 Chief Investment Officer and PCF-31 Head of Investment) and in view of the changing structure of, and landscape surrounding, the Irish financial services industry (in the context of PCF-16 Branch Manager of branches in other EEA countries).

With the exception of the removal of PCF-31 (which is relevant to investment firms only), the proposed amendments to the PCF list will be applicable to all Irish Regulated Financial Service Providers (RFSPs) other than credit unions.

2. Expansion of PCF-16

The Central Bank has been monitoring the appropriateness of its list of PCFs in the context of the changing structure of, and landscape surrounding, Irish financial services, including *inter alia*, in the lead up to and post-Brexit. In this regard, given the number and size of branches of RFSPs outside of the EEA, the Central Bank considers an amendment to PCF-16, such that it includes managers of branches of Irish RFSPs in non-EEA countries, necessary.

The intended amendment would introduce the pre-approval requirement of Section 23 of the Central Bank Reform Act 2010 to all branch managers of RFSPs outside Ireland. The Central Bank considers this amendment warranted on the basis of the level of control and autonomy that such individuals may have. The Central Bank notes that these individuals are also currently subject to the fit and proper requirements of the host regulator responsible for the supervision of the relevant branches. While, as a PCF, it will not be permissible for a branch manager of a branch in a non-EEA country to be appointed

without the Central Bank’s approval, the Central Bank does not envisage that this amendment would have any other impact on the role of the Central Bank with regard to the supervision of such branches.

General	
PCF-16	Branch managers of branches outside Ireland of Irish Regulated Financial Service Providers in other EEA countries

3. Segregation of PCF-2

The Central Bank regularly communicates the importance it attaches to the role of Non-Executive Directors and Independent Non-Executive Directors. The Central Bank regards Independent Non-Executive Directors, in particular, an integral component of the board of an RFSP and a fundamental safeguard within an RFSP’s governance framework. On this basis, and in the interest of greater clarity, it is the Central Bank’s intention to split PCF-2 to reflect the distinction between Non-Executive Directors and Independent Non-Executive Directors, as follows:

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

4. Segregation of PCF-15

Noting the increasing importance of the role of individuals with responsibility for Anti-Money Laundering and Counter Terrorist Financing, and the number of appointments of individuals to carry out this role in its own right (as opposed to within the remit of the role of Head of Compliance), it is the Central Bank’s view that it is necessary to replace PCF-15 with a dedicated role for Anti-Money Laundering and Counter Terrorist Financing as follows:

General	
PCF-12	Head of Compliance
PCF-15	Head of Compliance With responsibility for Anti Money Laundering and Counter Terrorist Financing Legislation
PCF-52	Head of Anti-Money Laundering and Counter Terrorist Financing

5. Removal of PCF-31

The Central Bank notes an element of duplication between PCF-30 and PCF-31 and accordingly intends to remove PCF-31.

Investment Firms	
PCF-30	Chief Investment Officer
PCF-31	Head of Investment

6. The application of the in-situ process

Individuals in situ in the existing PCFs on the date the amended regulations come into effect will not be required to seek the approval of the Central Bank to continue to perform one (or more, in the case of current PCF-15 holders) of the amended PCF roles. The following in-situ process will apply in respect of each amended PCF:

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

The in-situ process will commence after the amended regulations come into effect and a period of 6 weeks will be provided to submit the in-situ confirmation. The full application process will apply to any new appointment to the amended PCFs after the amended regulations come into effect.

The Central Bank invites comments from stakeholders on this proposal. Comments should be submitted by email to governanceconsultations@centralbank.ie no later than 20 October 2021.

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