

IAF Update: Finalised Guidance Published Ahead of Year-End Introduction of New Framework

On 16 November 2023, the Central Bank of Ireland ("Central Bank") issued a Feedback Statement¹, three sets of draft Regulations² and final Guidance³ on the Individual Accountability Framework ("IAF"). This follows on from its consultations on implementation of the framework (CP153 and CP154) after the Central Bank (Individual Accountability Framework) Act 2023 ("IAF Act") was signed into law on 9 March 2023.

For more information, please see CP153: CBI Consults on Individual Accountability Framework as Act Becomes Law⁴ and Preparing for SEAR and IAF: Recommended Measures for all Irish Regulated Firms to Consider⁵.

Background

The IAF Act enhances the regulation and governance of regulated financial service providers in Ireland ("firms"). It comprises:

- (a) the introduction of a new Senior Executive Accountability Regime ("SEAR") (applicable initially to a limited range of firms, such as banks and insurance companies);
- (b) the introduction (for all Irish firms) of new "Common Conduct Standards" and "Additional Conduct Standards", applicable to certain individuals in firms, and new "Business Standards" applicable to the firms themselves (together the "Conduct Standards");
- (c) enhancements to the Central Bank's Fitness and Probity regime; and
- (d) changes to the Central Bank's investigation and enforcement process and the administrative sanctions procedure.

Key Changes

The Guidance sets out the Central Bank's expectations for the implementation of SEAR, the Conduct Standards and aspects of the enhancements to the Fitness and Probity regime.

Taking into account feedback the Central Bank received in the consultation processes, a range of changes have been made in the final Guidance and draft Regulations, including:

- (a) The application of SEAR to non-executive directors ("NEDs") and independent non-executive directors ("INEDs") of in-scope

¹ https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp153/feedback-statement-to-cp153.pdf?sfvrsn=d2df9d1d_11

² https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp153/appendix-1-to-the-feedback-statement-to-cp153-draft-regulations.pdf?sfvrsn=6adf9d1d_4

³ https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp153/appendix-2-to-the-feedback-statement-to-cp153-guidance-on-the-iaf.pdf?sfvrsn=5fdf9d1d_4

⁴ <https://maples.com/en/knowledge-centre/2023/4/cp153-cbi-consults-on-individual-accountability-framework-as-act-becomes-law>

⁵ <https://maples.com/en/knowledge-centre/2023/1/preparing-for-sear-and-iaf-recommended-measures-for-all-irish-regulated-firms-to-consider>

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firms will be deferred by one year until 1 July 2025.

- (b) The SEAR Prescribed and Inherent Responsibilities have been amended. For example, some Prescribed Responsibilities have been removed and others have been merged or moved.
- (c) The scope of the enhanced due diligence aspect of the fitness and probity certification requirement has been limited to PCFs, CF1s and CF2s. This facilitates self-certification for individuals in the CF3 to CF11 categories.
- (d) The Guidance clarifies the application of the IAF to job sharing arrangements and temporary PCF appointments and temporary officers. It sets out specific instances where the sharing of PCF roles may be allowed.
- (e) The requirement to report to the Central Bank if a formal disciplinary action has been concluded against an individual in respect of a breach of Conduct Standards has been removed from the Guidance and draft Regulations.

Timeframe

The enhancements to the Fitness and Probity Regime will apply, as previously planned, from 29 December 2023.

The Conduct Standards will also apply from 29 December 2023 (except for the Business Standards which will not be effective until the revised Consumer Protection Code is implemented).

SEAR will apply to all PCF roles within in-scope firms from 1 July 2024 (except for NEDs / INEDs where this date is deferred to 1 July 2025.)

Further Information

⁶ <https://maples.com/en/services/specialty-services/irish-financial-services-regulatory>

Further information on our Irish Financial Services Regulatory Group and the services we provide is available on our website⁶ and in our FSR⁷ brochure. If you would like further information, please liaise with your usual Maples Group contact or the persons below.

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November 2023

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⁷ <https://maples.com/-/media/files/pdfs/articles-and-chapters/financial-services-regulatory-group--core-services.pdf>