

INDIVIDUAL ACCOUNTABILITY FRAMEWORK: Central Bank of Ireland



What you need to know

A new Individual Accountability Framework has been on the mind of the Central Bank of Ireland (CBI) for some years now and in time the proposed legislation is likely to apply to all Regulated Financial Services Providers (RFSP's) authorised by them. Whilst the CBI have signaled who they might apply the regime to initially, this is not yet confirmed.

But we are where we are and whilst good progress has been made latterly the regime that the CBI envisaged is not yet consulted on, whilst they wait for the expected legislative scrutiny to be completed.

We know from reviewing the governments legislation programme for 2022 that the Individual Accountability Framework bill has been noted as having priority status, so whilst it wouldn't be appropriate to say here when the actual Consultation Paper will drop into everyone's inbox, we do feel it worthwhile to share details of the high-level framework that has been outlined in the legislative paper.

From the Heads of Bill that was published for discussion and approval in 2021 by the CBI on the proposed Individual Accountability Framework in the Financial Services sector, in line with expectations this legislative framework will in due course facilitate a four-pillar approach similar to what was implemented by the PRA/FCA in the UK.

If we consider the proposed components of the new regime, it can be clearly seen that the focus will be on Individual Accountability at all levels within an organisation. Add to that a more robust approach to Fitness & Probity assessments, it will be interesting to see the fuller extent of the consultation from the CBI which is expected in the Summer of 2022.



Senior Executive Accountability Regime (SEAR)



Organisations will need to identify which individuals will be holding the Senior Executive Functions

- For each individual identified, each firm will need to identify which responsibilities must be allocated to that individual (we are yet to see the detail from the CBI on what this list composes of)
- Each Senior Manager identified will be required to have a Statement of Responsibility that clearly details their role and accountabilities
- Each firm will be required to produce a Management Responsibilities Map that details their key management structure and governance arrangements

We proposed a Senior Executive Accountability Regime, or “SEAR”, to ensure clearer responsibility and accountability by placing obligations on firms and senior individuals within them to set out clearly where responsibility and decision-making lie for their business.

Director General, Derville Rowland

Conduct Standards



With regards to conduct, the Heads of Bill provides for the CBI to introduce three new sets of conduct standards.

1. A set of Standards for Business that will require all Regulated Financial Services Providers (RFSPs) to act appropriately, and those familiar with the conduct rules in the UK will see great similarity in the conduct rules that in the CBI’s case will be applied at entity level, then further personal conduct rules being applied at an individual level
2. A set of Common Conduct Standards that will apply to individuals performing Controlled Function (CF) or Pre-Approval Controlled Functions (PCF) roles
3. An additional set of Conduct Standards that will apply to individuals performing PCF roles and those exercising significant influence on the conduct of an RFSP

Interesting to note that the Heads of Bill allows room for the CBI to impose requirements around appropriate training of staff on what is expected of them in respect of the conduct rules. This will be interesting as whilst in the UK we have the requirement around “role relevant” training for individuals, it appears that the CBI may be able to be more prescriptive than that.

Enhanced Fitness & Probity Requirements



The Head of Bill allows the CBI to apply more stringent obligations to RFSP's around Enhanced Fitness & Probity assessments. In a change from existing requirements where it is the individual telling the firm that they are compliant with the F & P regime, it will be for the firm to certify in writing that they are satisfied that individuals performing CF or PCF roles actually meet the required standard.

This is an interesting development because any individuals that have been involved with "Certification" under SM&CR in the UK will know that this puts an onerous burden on the firm around annual assessment processes which will be very challenging for most if they don't employ RegTech in support of these requirements.

FITNESS AND PROBITY CONSIDERATIONS

- RFSPs adopting Fitness & Probity policies and procedures
- Annual Certification of identified individuals
- Assessment of an individual's competence, integrity and financial soundness
- Applicable to all identified Controlled Function Holders
- Applicable to all Senior Executive Function Holders

Individual Accountability & Enforcement



The Heads of Bill has actually expanded the scope against which the CBI can use its powers in respect of investigation and enforcement of individuals. The historic link of having to prove a contravention to previous legislation by a RFSP before it can take action against an individual is being removed. Thus, allowing the CBI in future to hold individuals to account and therefore acting in support of what any individual accountability framework is intended to do and that is promote a culture where each individual understands and remains accountable for all that they are required to discharge in their role.



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In Summary

While we all need to wait for the detailed consultation paper that it would appear seems likely to land in H1 2022 (assuming legislative activity is completed), this is as one can imagine only a small piece of a very large jigsaw puzzle.

The Worksmart team have undertaken more SM&CR implementations in the UK than we've had hot dinners, or at least it feels that way! Let our very experienced team share with you our knowledge and expertise of working with the UK accountability regime over the last six years.



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