



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Prohibition Notices under the Fitness and Probity Regime

Supplemental Guidance [Draft]

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Supplemental Guidance

This document supplements the ‘Decision’ chapter of our guidance on ‘Fitness and Probity Investigations, Suspensions and Prohibitions’.

Purpose

1. This document (the **Supplemental Guidance**) provides guidance on the circumstances and general principles relevant to each of the following:
 - Decisions to impose a prohibition under the Act.
 - Requests by prohibited persons to the Bank for the termination of a prohibition agreement.¹
 - The cessation of a Prohibition Notice.
 - The publication of a Prohibition Notice.²
2. The guidance on [Fitness and Probity Investigations, Suspensions and Prohibitions \(April 2023\)](#) (the **Main Guidance**) is available on the Central Bank’s website. Terms used in the Supplemental Guidance have the same meaning that they have in the Main Guidance.

Statutory Objectives

3. Part 3 of the Act establishes the Bank’s fitness and probity regime. The objectives of Part 3 of the Act include, in particular:
 - The need to prevent potential serious damage to the financial system in the State and ensure the continued stability of that system.
 - The need to protect users of financial services.
4. The imposition of a prohibition serves these objectives, including by:

¹ See paragraphs 82 and 84 of the Main Guidance.

² See paragraph 91 of the Main Guidance.

- Upholding and encouraging the required standards of fitness and probity in individuals who perform CF roles.
- Maintaining the public's trust and confidence in the regulated financial sector by ensuring that only individuals who meet the required standards of fitness and probity are permitted to perform CF roles.

Prohibition Decision Maker

5. The Bank³ will appoint⁴ an individual from the Regulatory Decisions Panel⁵ (the **Prohibition Decision Maker**) to decide whether to impose a prohibition in the following circumstances:
 - Where an investigation has been completed and a Report has been prepared.⁶
 - Where facts are undisputed.⁷
6. In each case, when considering whether to impose a prohibition, the Prohibition Decision Maker will have regard to the Supplemental Guidance.

Determining a Prohibition

7. When imposing a prohibition and determining its nature, scope and duration, the Prohibition Decision Maker will consider:
 - The objectives of Part 3 of the Act (as set out above).
 - The relevant circumstances of the case (see the non-exhaustive list in Table 1 below) including the reasons why the Subject is not of appropriate fitness and probity and the level

³ As for the 'Decision' chapter of the Main Guidance, in the Supplemental Guidance a reference to "the Bank" includes a reference to "the Governor," except in paragraphs 30 to 32 below (Publication of a Prohibition Notice).

⁴ The Bank may appoint persons to perform functions on its behalf. See paragraph 10 of the Main Guidance.

⁵ The Regulatory Decisions Panel is a panel of decision makers established by the Minister for Finance for the purposes of section 33BI of the Central Bank Act 1942 (as amended). The panel comprises both externally recruited experts and Bank staff. The Bank will select suitably qualified members of the panel for appointment as Prohibition Decision Makers, taking account of their experience and expertise, availability, and any conflicts of interest. The Prohibition Decision Maker will have had no involvement in any fitness and probity investigation that may have taken place.

⁶ See paragraphs 71 and 72 of the Main Guidance.

⁷ See paragraph 90 of the Main Guidance.

of risk that they pose to the achievement of the objectives of Part 3 of the Act.

Relevant Circumstances

8. The relevant circumstances may include, but are not limited to, those set out in Table 1 below. The relevant circumstances and guidance described in Table 1 are not intended to be definitive or exhaustive.

Table 1 | Relevant Circumstances

	Relevant Circumstance and Guidance
A.	<p>The extent to which the Subject is not of such fitness and probity as is appropriate to perform the relevant CF, a specified part of a CF, or any CF.</p> <p>Considerations include the applicability and materiality of:</p> <ul style="list-style-type: none"> ▪ The matters set out in section 43(2) of the Act (the grounds on which the Prohibition Decision Maker may form the opinion that a person is not of appropriate fitness and probity).⁸ ▪ Any relevant standards of fitness and probity in a code issued by the Bank pursuant to Section 50 of the Act.⁹
B.	<p>The degree of risk posed to the achievement of the objectives of Part 3 of the Act.</p> <p>Considerations include the degree of risk posed by the relevant circumstances set out in this Table as well as matters such as the following:</p> <ul style="list-style-type: none"> ▪ The particular CF(s) that the Subject is or was performing in a relevant entity, for example the seniority and responsibilities of the role. ▪ The nature, scale, complexity and activities of the relevant entity concerned and the markets in which it operates.

⁸ See Appendix 3 of the Main Guidance.

⁹ See for example the [Fitness and Probity Standards \(November 2025\)](#) available on the Central Bank's website.

- The duration, frequency or repetition of any matters indicating a lack of appropriate fitness and probity.
- Whether there has been any damage (and, if so, the degree of that damage) to the financial system and the stability of that system, and whether there is a risk of such damage.
- Whether there has been any loss or detriment (and, if so, the degree of that loss or detriment) to users of financial services, and whether there is a risk of such loss or detriment.

In many cases, the degree of risk posed to the objectives of Part 3 of the Act will be clear to the Prohibition Decision Maker. For example, where the Prohibition Decision Maker forms the opinion that the Subject lacks probity in circumstances such as the following, the Prohibition Decision Maker may conclude that this gives rise to a high degree of risk:

- Fraud, misrepresentation, dishonesty, deceit, or breach of trust.
- Money laundering or terrorist financing.
- Serious misconduct in relation to the affairs of a relevant entity.
- A criminal conviction, in particular, where a custodial sentence has been imposed.
- Other serious lack of integrity.

Similarly, in relation to a Subject's fitness, circumstances leading to the formation of the opinion that the Subject is incompetent to perform a relevant CF may lead the Prohibition Decision Maker to conclude that there is a high degree of risk. However, isolated moments of carelessness or minor defects in skills or experience are less likely to do so.

C.

The previous supervisory, disciplinary, criminal and compliance record of the Subject.

	<p>Considerations include whether the Bank or another regulator or designated professional body, domestic or international, has previously imposed a prohibition or a disciplinary or administrative sanction on the Subject, or whether the Subject has ever been convicted of a relevant criminal offence.</p>
D.	<p>The length of time that has elapsed since the occurrence of any matters indicating a lack of appropriate fitness and probity.</p> <p>Considerations include the relevance of the passage of time to the necessity and proportionality of prohibition in the particular case. If the matters in question are ongoing, or if a short time has passed since their occurrence or existence, this may indicate a greater risk to the objectives of Part 3 of the Act. If a significant amount of time has passed where the Subject has performed a CF role without further such matters arising, this may indicate a lesser risk to these objectives.</p>
E.	<p>The Subject's behaviour since the occurrence of any matters indicating a lack of appropriate fitness and probity.</p> <p>Considerations include the relevance of any evidence (or lack thereof) of rehabilitation / remediation to the necessity and proportionality of prohibition in the particular case.</p>
F.	<p>Whether the Subject has shown an understanding of any matters indicating a lack of appropriate fitness or probity.</p> <p>Considerations include the relevance of a Subject's insight (or lack of insight) into their lack of appropriate fitness and probity to the necessity and proportionality of prohibition in the particular case.</p> <p>Indicators that the Subject has insight into their lack of appropriate fitness or probity may include that they:</p> <ul style="list-style-type: none"> ▪ Brought the matters indicating a lack of appropriate fitness or probity to the attention of the Bank, any relevant entities and any relevant users of financial services. ▪ Made any relevant admissions.

	<ul style="list-style-type: none"> ▪ Accepted responsibility for their actions or omissions. ▪ Expressed regret or remorse. ▪ Displayed an understanding of how they have fallen short of the required standards of fitness and probity.
G.	<p>The personal circumstances of the Subject.</p> <p>Considerations include:</p> <ul style="list-style-type: none"> ▪ The impact that a prohibition will have on the Subject. This may be relevant when considering the proportionality of a prohibition. ▪ Any other relevant personal circumstances of the Subject, including those which pertained at the time of the occurrence of the matters indicating a lack of appropriate fitness and probity. This may be relevant to the risks posed by the Subject to the objectives of Part 3 of the Act.

9. The Prohibition Decision Maker will determine the weight to be given to the relevant circumstances in any given case and may have regard to the cumulative effect of a number of relevant circumstances when imposing a prohibition and determining its nature, scope and duration.

Nature of Prohibition

10. The nature of a prohibition will vary by reference to its scope, duration and the specification of conditions (if any).¹⁰ When determining the nature of a prohibition, the Prohibition Decision Maker has a duty to act proportionately. In doing so, the Prohibition Decision Maker will have regard to the objectives of Part 3 of the Act and the relevant circumstances of the case. In general, subject to the overriding requirement of proportionality, the greater the risk posed to the objectives of Part 3 of the Act the more serious the nature of the prohibition will be.

¹⁰ See paragraph 75 of the Main Guidance.

Scope

11. In accordance with the Act, and as detailed in the Main Guidance, a prohibition may forbid the Subject from carrying out a relevant CF in relation to one or more specified relevant entities, one or more specified classes of relevant entities, or any relevant entity.
12. A prohibition covering a narrow range of relevant entities may be appropriate if the matters indicating a lack of fitness and probity are confined to a particular CF role in a particular relevant entity or class, and/or where the degree of risk posed to the objectives of Part 3 of the Act is low. A prohibition covering a wider range of relevant entities is more likely to be appropriate where the matters indicating a lack of fitness and probity are not confined in this manner, and/or where the degree of risk posed is high.

Duration

13. A prohibition may forbid the Subject from carrying out a relevant CF for a specified period. Alternatively, a prohibition may have an indefinite duration.
14. A prohibition imposed for a specified period of up to 5 years may be appropriate where the degree of risk posed to the objectives of Part 3 of the Act is in the lower range. In general, where the degree of risk posed is in the higher range, a prohibition of indefinite duration is more likely to be appropriate.
15. Any Prohibition Notice, including one in which a prohibition of indefinite duration has been imposed, may cease to have effect in certain circumstances. This is explained further below.¹¹

Conditions

16. A prohibition may be imposed with conditions or without conditions. A prohibition with conditions means that the Subject is permitted to perform a relevant CF but must comply with one or more specified conditions while doing so. They must not carry out the relevant CF otherwise than in accordance with the specified conditions. A prohibition with conditions is likely to be

¹¹ See also paragraphs 84 and 89 of the Main Guidance. A Prohibition Notice may cease to have effect in circumstances where a prohibition agreement is terminated by the Bank due to there being no further need to continue the Prohibition Notice. A confirmed Prohibition Notice may be revoked or varied by the High Court where there has been a material change of circumstances.

an appropriate measure only where it is clear that the specified conditions effectively mitigate the risk to the objectives of Part 3 of the Act.

17. Specified conditions may restrict the Subject's performance of, or require them to do something in relation to, the relevant CF. If specifying one or more conditions, a Prohibition Decision Maker will determine, on a case-by-case basis, conditions that are appropriate, proportionate and measurable in the circumstances so that the Subject knows what is expected of them and, if relevant, when the conditions have been satisfied or completed.
18. Examples of some conditions which may be specified include:
 - A condition that a Subject be supervised or monitored in the performance of the relevant CF.
 - A condition that a Subject perform the relevant CF only in a certain manner.
 - A condition that a Subject cannot perform one (or more) aspects of the relevant CF.
 - A condition that a Subject satisfy an appropriate time commitment to the performance of the relevant CF, or parts thereof.
 - A condition that a Subject obtain or maintain a qualification or professional membership as respects the relevant CF.
 - A condition that a Subject complete specified training or upskilling within a certain time period in order to address any deficit in, for example, skills or experience as respects the relevant CF.
19. A specified condition will relate to the ongoing performance of the relevant CF and will not take the form of a pre-condition or requirement that must be met before the Subject may perform (or resume performing) the CF.
20. Where a cost is incurred in complying with any condition, the Bank will not be responsible for that cost.

Hearing

21. When considering whether to impose a prohibition, the Bank must be satisfied that the Subject and any relevant entities concerned have been afforded such a hearing in relation to the proposed issue of the Prohibition Notice as is necessary to do justice in the circumstances.¹²
22. Where necessary, an oral hearing for the purposes of fact finding will be held during the investigation by the Deputy Governor.¹³ The investigation report will set out the Deputy Governor's findings in relation to the investigation and address any oral hearing that took place.¹⁴ Save where it is necessary to do justice in the circumstances, the Prohibition Decision Maker will not hold a further oral hearing for the same purpose. In general, any hearing held by the Prohibition Decision Maker will relate to the proposed issue of a Prohibition Notice and will be limited to the imposition and nature of the prohibition.

Past Prohibition Notices

23. The Bank publishes [Prohibition Notices](#) and related information on its website.
24. Examples of misconduct or other failings that have given rise to the imposition of a prohibition in the past include the following:
- Fraud or other serious misconduct in relation to the affairs of a relevant entity.
 - Misappropriation of funds.
 - Providing false or misleading information or failing to provide material information to the Central Bank.
 - Failure to cooperate with the Central Bank.

Cessation of a Prohibition Notice

25. A Prohibition Notice will cease to have effect in each of the following circumstances:

¹² See paragraphs 76 to 79 of the Main Guidance.

¹³ See paragraphs 41 to 53 of the Main Guidance. See also paragraphs 9 to 11 of the Main Guidance, which note that the Deputy Governor may appoint persons to carry out the Deputy Governor's functions under the Act; and that a reference to the Deputy Governor includes any such appointee.

¹⁴ See paragraphs 67 to 71 of the Main Guidance.

- Where a prohibition agreement is terminated by the Bank (see paragraphs 27 to 28 below).
- Where a confirmed Prohibition Notice is subsequently revoked (or, in some cases, varied) by the High Court (see paragraph 29 below).
- Where the period specified in the Prohibition Notice expires.

26. In each of these circumstances an individual may seek to perform the relevant CF again. However, the individual will need to satisfy the relevant entity as to their fitness and probity to do so.¹⁵ In addition, in the case of a PCF role, and with the exception of a prohibition with conditions, an application will need to be made to the Bank for pre-approval to perform the role.¹⁶

Requests to the Bank for the Termination of a Prohibition Agreement

27. A Subject may request the Bank to terminate a prohibition agreement.¹⁷ Any such request must be made in writing. In general, the Bank will only consider terminating a prohibition agreement where the Bank has received such a request.

28. In assessing such a request, the Bank will have regard to the amount of time that has passed since the prohibition was imposed and any new relevant and material information provided by the Subject, such as any steps taken subsequently by the Subject to remedy the misconduct or other lack of fitness and probity. The Bank may also have regard to the matters set out in Table 1 above (Relevant Circumstances) to the extent that they appear relevant. The Bank will not terminate a prohibition agreement unless the Bank is satisfied that the Subject is of appropriate fitness and probity to perform a relevant CF, and that termination will not result in a reoccurrence of the risk to the objectives of Part 3 of the Act that resulted in the prohibition being imposed.

¹⁵ Section 21 of the Act.

¹⁶ Section 23 of the Act.

¹⁷ See paragraphs 82 to 84 of the Main Guidance.

Applications to the High Court for the Revocation or Variation of a Confirmed Prohibition Notice

29. A Subject may apply to the High Court for an order revoking or varying a confirmed Prohibition Notice.¹⁸ While the Bank may also make such an application, in general, it is for the Subject to make any such application and to satisfy the Court that it should make any such order.

Publication of a Prohibition Notice

30. The Bank may publish a Prohibition Notice.¹⁹ The publication of a Prohibition Notice is an important measure for achieving the protective purposes of Part 3 of the Act. As publication is necessary in order for a Prohibition Notice to be fully effective, in many cases it will be necessary to publish a Prohibition Notice. The publication of a Prohibition Notice serves to inform relevant entities, the regulated financial sector generally and the public at large that a person has been found to not meet the required standards of fitness and probity, and the basis for that finding. Therefore, the publication of a Prohibition Notice serves to protect the financial system and its users from the risks posed by the prohibited person. It also serves to inform the regulated financial sector and its participants as to the Bank's expectations as regulator, to maintain standards in the sector, and to uphold the public's trust and confidence in the financial system.
31. The publication of a Prohibition Notice will be in compliance with the Act together with the Bank's obligations as a data controller. The Bank's expectations in relation to the period of publication of a Prohibition Notice are set out in the Bank's [Data Protection Privacy Notice](#), available on our website.
32. The Bank may publish a Prohibition Notice after it has been served and prior to it taking effect.²⁰

¹⁸ See paragraph 89 of the Main Guidance.

¹⁹ See paragraph 91 of the Main Guidance.

²⁰ A Prohibition Notice takes effect when either (a) the prohibited person agrees in writing to comply with the Prohibition Notice or (b) the Prohibition Notice has been confirmed by the High Court. See paragraphs 82 to 84 and 89 of the Main Guidance.

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