

FITNESS AND PROBITY

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Version History

Version	Date	Amendments
0.1	July 2013	Initial Version.
1.0	September 2013	<ul style="list-style-type: none"> • Inserted details on in-situ PCF's in section 1.1. • Guidance on Fitness and Probity for Credit Unions (2013) reflects updated guidance effective from 1 October 2013.
1.1	October 2013	<ul style="list-style-type: none"> • Guidance on Fitness and Probity for Credit Unions reflects the Credit Union and Co-operation with Overseas Regulators Act 2012 (Commencement of Certain Provisions) (No.2) Order 2013.
1.2	June 2014	<ul style="list-style-type: none"> • Guidance on Fitness and Probity for Credit Unions (2014) reflects legislative amendments to section 23 of the Central Bank Reform Act 2010.
1.3	March 2015	<ul style="list-style-type: none"> • Inserted details of introduction of additional fitness and probity requirements for credit unions that are also authorised as retail intermediaries in section 1, 1.1, 1.2 and 1.3. • Inserted Central Bank Reform Act 2010 (sections 20 and 22 – Credit Unions that are also authorised as Retail Intermediaries) Regulations 2015 (S.I. No. 97 of 2015) in section 3. • The Fitness and Probity Standards for Credit Unions and Guidance on Fitness and Probity for Credit Unions have been updated to reflect new requirements from 1 August 2015 for: <ul style="list-style-type: none"> ○ credit unions with total assets of €10m or less; and ○ credit unions that are also authorised as retail intermediaries.
1.4	January 2016	<ul style="list-style-type: none"> • Updated to reflect the introduction of the Fitness and Probity regime on 1 August 2015 for: <ul style="list-style-type: none"> ○ credit unions with total assets of €10m or less; and ○ credit unions that are also authorised as retail intermediaries.
1.5	July 2018	<ul style="list-style-type: none"> • Updated to reflect the introduction from 1 July 2018 of 3 additional PCFs for credit unions with total assets of at least €100 million.

<p>1.6</p>	<p>September 2024</p>	<ul style="list-style-type: none"> • Updated section 1 to reflect the enhancements to the Fitness and Probity regime on foot of the Central Bank (Individual Accountability Framework) Act 2023 - to include the Certification Regulations prescribed pursuant to the Central Bank Reform Act 2010 (Section 21(6)) Regulations 2024 (S.I. No. 2 of 2024). • Updated section 1 to reflect the introduction on 1 October 2024 of six additional CFs linked to the application of the Minimum Competency Code 2017 ("MCC") and the Minimum Competency Regulations 2017 for all credit union activities that fall within scope of the MCC, together with the revocation of the Central Bank Reform Act 2010 (sections 20 and 22 – Credit Unions that are also authorised as Retail Intermediaries) Regulations 2015 (S.I. No. 97 of 2015). • Inserted details of the six new CFs in section 1.1, together with the CFs and PCFs that came within the scope of the Fitness and Probity regime for credit unions also authorised as retail intermediaries which have been retained in the Central Bank Reform Act 2010 (sections 20 and 22 – Credit Unions) (Amendment) Regulations 2023 (S.I. No. 454 of 2023). • Updated text in section 1.2 to reflect enhancements to the Fitness and Probity regime on foot of the Certification Regulations prescribed pursuant to the Central Bank Reform Act 2010 (Section 21(6)) Regulations 2024 (S.I. No. 2 of 2024). • Updated text and links in section 1.3. • Updated the list of Regulations in section 3 together with the links. • Updated the link in section 4.
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1. Introduction

On 24 September 2012, Part 3 of the Central Bank Reform Act 2010 ("the Act") was commenced for credit unions providing a statutory system for the regulation by the Central Bank of individuals performing Controlled Functions ("CFs") and Pre-Approval Controlled Functions ("PCFs") in credit unions.

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

- the first phase commenced on 1 August 2013, and introduced Fitness and Probity requirements for credit unions with total assets, per their latest audited balance sheet, of greater than €10 million;
- the second phase commenced on 1 August 2015 when all remaining credit unions were brought within the scope of the regime.

Since 1 August 2015, credit unions that are also authorised as retail intermediaries are subject to additional Fitness and Probity requirements for the part of the business that the credit union undertakes as a retail intermediary.

Since 1 July 2018, for credit unions that have total assets of at least €100 million, according to the credit union's latest audited balance sheet, three additional roles are designated PCFs.

In March 2023, the Central Bank (Individual Accountability Framework) Act 2023 ("the IAF") amended and replaced section 21 of the Act to provide that a regulated financial service provider (which includes credit unions) shall not permit a person to perform a controlled function in relation to it unless a certificate of compliance with standards of fitness and probity, given by the regulated financial service provider in accordance with section 21 of the Act, is in force in relation to the person. This amended provision of the Act came into operation on 29 December 2023.

On 8 January 2024, and further to the IAF, the Certification Regulations came into effect. The Certification Regulations apply to all regulated financial service providers and certain holding companies to which Part 3 of the Act applies.

Since 1 October 2024, and linked to the application of the Minimum Competency Code ("MCC") and the Minimum Competency Regulations 2017 ("MCR") (together the "Minimum

Competency Standards”) to credit unions for all activities which are within scope of the MCC, six new CF roles were introduced for credit unions.

1.1 Regulations

Since 2013, four sets of regulations have prescribed CFs and PCFs pursuant to sections 20 and 22 of the Act respectively. S. I. no. 171 of 2013 (the “2013 Regulations”) is effective from 1 August 2013 and applies to all credit unions. S. I. No. 97 of 2015 (the “2015 Regulations”) was effective from 1 August 2015 and applied to credit unions also authorised as retail intermediaries.¹ S. I. no. 187 of 2018 (the “2018 Regulations”) is effective from 1 July 2018 and applies to credit unions with total assets of at least €100 million. S.I. no. 454 of 2023 (the “2023 Regulations”) is effective from 1 October 2024 and gives effect to the application of the Minimum Competency Standards to credit union services which fall within scope of the MCC. Both the 2018 Regulations and the 2023 Regulations amended the 2013 Regulations.

2013 Regulations

The 2013 Regulations identify those CFs and PCFs that come within the scope of the Fitness and Probity regime for credit unions. The 2013 Regulations have been amended by the 2018 Regulations and the 2023 Regulations.

Two CFs were prescribed in the original 2013 Regulations:

- CUCF-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; and
- CUCF-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.

Credit unions are not required to seek the prior approval of an individual before their appointment to a CF role.

Two PCFs were also prescribed in the original 2013 Regulations:

- CUPCF-1: the office of chair of the board of the credit union; and

¹ The 2015 Regulations prescribed two PCFs in respect of credit unions that are also authorised as retail intermediaries. These are both the same as the PCFs prescribed in the 2013 Regulations in respect of credit unions. The 2015 Regulations also prescribed eleven CFs in respect of credit unions that are also authorised as retail intermediaries, two of which are prescribed in respect of credit unions in the 2013 Regulations. On 1 October 2024 the 2015 Regulations were revoked. The 2023 Regulations which commenced on 1 October 2024 prescribed the same two PCFs and eleven CFs which were previously prescribed in the 2015 Regulations in respect of credit unions that are also authorised as retail intermediaries.

- CUPCF-2: the office of manager of the credit union.

PCFs are a subset of CFs and the prior approval of the Central Bank is required before an individual can be appointed to a PCF role. The individual must complete an online Individual Questionnaire which is endorsed by the proposing credit union and then submitted electronically to the Central Bank for assessment.

A credit union must not appoint an individual to perform a PCF until the Central Bank has approved the appointment in writing.

In situ PCFs are persons who held the role of chair or manager at the time of commencement of the 2013 Regulations and the 2015 Regulations. These persons do not have to apply for pre-approval from the Central Bank unless they are seeking re-election or being re-appointed to the role e.g. when a chair is subject to re-election.

2018 Regulations

The 2018 Regulations amended the 2013 Regulations by prescribing an additional three PCFs for credit unions with total assets of at least €100 million, as determined by the credit union's latest audited balance sheet. The 2018 Regulations are effective from 1 July 2018, and specify three additional PCFs for such credit unions:

- CUPCF-3: Risk Management Officer,
- CUPCF-4: Head of Internal Audit, and
- CUPCF-5: Head of Finance.

Similar to the role of Chair (CUPCF-1) and Manager (CUPCF-2), the prior approval of the Central Bank is required before an individual can be appointed to one of the above listed PCF roles. The individual must complete an online Individual Questionnaire which is endorsed by the proposing credit union and then submitted electronically to the Central Bank for assessment.

A credit union must not appoint an individual to perform a PCF until the Central Bank has approved the appointment in writing.

In situ PCFs are persons who hold PCF roles at the time of their introduction in the respective credit union. These persons do not have to apply for pre-approval from the Central Bank unless they are being re-appointed to the role.

The 2023 Regulations also amended the 2013 Regulations and prescribe eight CFs in respect of credit unions, two of which were first prescribed in the 2013 Regulations and six of which are newly introduced. The 2023 Regulations are effective from 1 October 2024 and introduce these additional CFs for credit unions which are required as a consequence of the extension of the MCC to all credit union activities that fall within scope of the MCC with effect from 1 October 2024. These new CFs are as follows:

- CUCF3-8: 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 in one or more of the following ways:
 - (a) CUCF-3: Giving of advice to a member of a credit union, in the course of providing, or in relation to the provision of, the financial service;
 - (b) CUCF-4: Arranging, or offering to arrange, a financial service for a member of a credit union;
 - (c) CUCF-5: Assisting a member of a credit union in the making of a claim under a contract of insurance or reinsurance;
 - (d) CUCF-6: Determining the outcome of a claim arising under a contract of insurance or reinsurance;
 - (e) CUCF-7: Acting in the direct management or supervision of those persons who act for a credit union in providing the services referred to in subparagraphs (a) to (d);
or
 - (f) CUCF-8: Adjudicating on any complaint communicated to a credit union by a member in relation to the provision of a financial service.

Furthermore, on 1 October 2024 the 2023 Regulations revoked the 2015 Regulations², and amend the 2013 Regulations to retain the CFs and PCFs that came within the scope of the Fitness and Probity regime for credit unions that are also authorised as retail intermediaries for the part of the business that the credit union undertakes as a retail intermediary.

The 2013 Regulations now contain the following PCFs and CFs for credit unions who are also authorised as retail intermediaries:

² The 2015 Regulations originally prescribed two PCFs and eleven CFs in respect of credit unions also authorised as retail intermediaries. For further information refer to footnote 1.

- CURIPCF-1: the office of chair of the board of the credit union; and
- CURIPCF-2: the office of manager of the credit union.

- CURICF-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.
- CURICF-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.

- CURICF3 – 8: 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) CURICF-3: giving of advice to a member of the credit union under its authorisation as a retail intermediary, in the course of providing, or in relation to the provision of, the financial service; or
 - (b) CURICF-4: arranging, or offering to arrange, a financial service for a member of the credit union under its authorisation as a retail intermediary; or
 - (c) CURICF-5: assisting a member in the making of a claim under a contract of insurance or reinsurance; or
 - (d) CURICF-6: determining the outcome of a claim arising under a contract of insurance or reinsurance; or
 - (e) CURICF-7: acting in the direct management or supervision of those persons who act for a credit union under its authorisation as a retail intermediary in providing the services referred to in subparagraphs (a) to (d); or
 - (f) CURICF-8: adjudicating on any complaint communicated to a credit union by a member in relation to the provision of a financial service under its authorisation as a retail intermediary; or

- CURICF-9: in respect of a person involved in insurance or reinsurance distribution as defined in the European Union (Insurance Distribution) Regulations 2018, the function of being involved in insurance or reinsurance distribution.

- CURICF10 – 11: 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) CURICF-10: 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; or
- (b) CURICF-11: 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.

1.2 Fitness and probity standards for credit unions

The Fitness and Probity Standards for Credit Unions (the “Standards”) provide that a person performing a CF or PCF is required to be:

- competent and capable;
- honest, ethical and to act with integrity; and
- financially sound.

A credit union must not permit a person to perform a CF role or PCF role unless it is satisfied on reasonable grounds, and certifies, that the person complies with the Standards and has obtained confirmation that the person has agreed to comply with the Standards. Credit unions are responsible for ensuring that staff performing CFs or PCFs meet the Standards, both on appointment to such functions and on an on-going basis.

1.3 Guidance on the Fitness and Probity regime for credit unions

The Central Bank of Ireland has published guidance to assist credit unions, including those authorised as retail intermediaries, in complying with their obligations under the Act in relation to Fitness and Probity (the “Guidance”). The Guidance outlines the steps which the Central Bank expects credit unions to take in order to satisfy themselves on reasonable grounds that individuals performing CFs, including PCFs, are in compliance with the Standards. It also includes guidance on other issues including transitional arrangements, the MCC and operational considerations for credit unions in implementing the Fitness and Probity regime.

Links to the original 2013 Regulations, the 2018 Regulations, the 2023 Regulations, the Certification Regulations, the Standards and the Guidance are contained below. Further information on the Fitness and Probity regime for credit unions, including Frequently Asked Questions, the Individual Questionnaire and the ‘Fitness and Probity Individual

Questionnaire, Application and PCF Roles Guidance' can be found on the Fitness and Probity for credit unions section of the Central Bank website at the following [link](#).

2. Legislation

- Central Bank Reform Act 2010

3. Central Bank Requirements

- [Central Bank Reform Act 2010 \(sections 20 and 22 – Credit Unions\) Regulations 2013 \(S.I. No. 171 of 2013\)](#)
- [Central Bank Reform Act 2010 \(sections 20 and 22 – Credit Unions\) \(Amendment\) Regulations 2018 \(S.I. No. 187 of 2018\)](#)
- [Central Bank Reform Act 2010 \(sections 20 and 22 – Credit Unions\) \(Amendment\) Regulations 2023 \(S.I. No. 454 of 2023\)](#)
- [Central Bank Reform Act 2010 \(section 21\(6\)\) Regulations 2024 \(S.I. No. 2 of 2024\)](#)
- [Fitness and Probity Standards for Credit Unions \(Code issued under section 50 of the Central Bank Reform Act 2010\)](#)

4. Guidance

- [Guidance on Fitness and Probity for Credit Unions](#)