CENTRAL BANK FITNESS AND PROBITY CONSULTATION AND UPDATES–APRIL 2025

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EU Asset Management and Investment Funds Alert

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Following the 2024 independent review by Mr Andrea Enria (former Chair of the European Central Bank Supervisory Board) of the Central Bank of Ireland's Fitness and Probity (F&P) assessment process, the Central Bank has published a report outlining the progress made on implementing Mr. Enria's 12 recommendations and launched a consultation on proposed revisions to its F&P regime.

REPORT ON IMPLEMENTATION OF RECOMMENDATIONS

The report details the actions taken to date by the Central Bank to implement Mr. Enria's recommendations across the review's three areas of focus - (1) clarity of supervisory expectations; (2) internal governance of the process; and (3) fairness, efficiency and transparency of the process.

In response to the review's finding that the Central Bank's F&P standards were "*fragmented across different documents and not user-friendly*", the Central Bank has proposed to update and consolidate the Central Bank's guidance on the F&P standards into a single document.

The review also highlighted critical areas for improvement within the F&P gatekeeping process, including the need for enhanced seniority and independence in the final decision making stages. To address these gaps, the Central Bank has established a new F&P unit which has ownership of: (*i*) F&P gatekeeping assessment work with certain key responsibilities such as conducting assessment work across all F&P gatekeeping applications, (*ii*) approving F&P applications, and (*iii*) ensuring adherence to established process and progression of decisions in a timely manner. In addition, in cases of potential refusal, the F&P unit will now refer cases to a newly established 'Gatekeeping Decisions Committee' which is chaired by the Deputy Governor of Financial regulation within the Central Bank.

It was further noted that the Central Bank could make improvements to ensure that appropriate standards of fairness, efficiency and transparency are consistently achieved. To acknowledge this finding, the Central Bank has published an assessment process document which aims to codify and reflect the principle that regulatory assessments must be conducted with the utmost integrity and to ensure that applications are treated equitably.

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CONSULTATION PAPER ON AMENDMENTS TO THE FITNESS AND PROBITY REGIME (CP160)

In addition to the report, the Central Bank published a consultation paper (CP160) in order to address the recommendations for increased clarity and transparency of supervisory expectations in relation to the application of the Central Bank's F&P standards.

As part of this consultation, the Central Bank has sought feedback from stakeholders on the consolidation of and proposed enhancements to its existing guidance on the F&P standards, a draft of which is available on the Central Bank's website (the Revised Guidance). With this Revised Guidance, the Central Bank aims to ensure industry understanding of the F&P assessment process by: (a) identifying and incorporating objective measures and role summaries for certain pre-approval controlled functions (PCFs); (b) including specific provisions on identifying, managing and mitigating conflicts of interest; (c) clarifying the way in which collective suitability and diversity within board and management teams are assessed; and (d) outlining the approach to be taken in determining the relevance of past events to an individual's application.

The Central Bank further proposes to undertake a substantive review of PCF roles with a view to ensuring that the level of Central Bank gatekeeping is appropriate however, due to the fact that the list of PCF roles is embedded in the Senior Executive Accountability Regime Regulations, which is in its early stages of introduction, the Central Bank plans to defer this review to 2027. In the meantime however, the Central Bank has proposed to remove the sector specific categorisations so that there will be one list of PCFs applying to all regulated firms (other than Credit Unions).

Submissions to the consultation can be made via CP160@centralbank.ie until 10/07/2025.

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