

Statement - Central Bank (Individual Accountability Framework) Bill 2021

27 July 2021 Press Release

The Central Bank of Ireland welcomes today's (27 July 2021) publication of the General Scheme of the Central Bank (Individual Accountability Framework) Bill 2021 by the Department of Finance.

The Central Bank has been actively engaged with the Department of Finance on these proposals and will continue to work with the Department of Finance throughout subsequent stages as the legislation progresses through the Oireachtas to enactment.

In more recent years, there has been an increased focus nationally and internationally on strengthening corporate culture, driving positive behaviour and increasing individual accountability to mitigate conduct risk and prevent issues arising within firms. As Director General Financial Conduct, Derville Rowland, said "*Culture is developed and evolves within individual firms. As regulators, we cannot prescribe or mandate a culture for firms. We can, however, monitor, assess and seek to influence culture within firms in order to guard against conduct risk and drive better outcomes for consumers and investors.*"

Experience has shown that in order for a regulatory framework to work well, it should stimulate strong and effective governance within firms. To achieve this:

- the allocation of responsibilities within firms needs to be transparent, clear and comprehensive; and
- individuals need to know what they are responsible and accountable for, be clear what standards of behaviour are expected of them, and recognise that where their actions fall short of expected standards, they will be held accountable.

The following four key components of the Individual Accountability Framework (IAF), proposed in the Central Bank's [Behaviour and Culture Report into Irish Retail Banks](#), set out to achieve these behavioural, cultural and regulatory objectives:

- The Senior Executive Accountability Regime will require firms to set out clearly and comprehensively where responsibility and decision-making lie in order to achieve transparency as to who is accountable for what within firms.
- The enforceable Conduct Standards set out the behaviour expected of firms and their staff, including obligations to conduct themselves with honesty and integrity, to act with due skill, care and diligence, and in the best interest of consumers.
- The Central Bank's [Fitness & Probity Regime](#) will be enhanced and will place a greater onus on firms to proactively certify that certain staff are fit and proper and capable of performing their roles with integrity and competence.
- The Central Bank's [Administrative Sanctions Procedure](#) will be strengthened to ensure that individuals can be pursued directly for their misconduct rather than only where they have participated in a firm's wrongdoing. The reforms will also provide for greater process efficiency, clarity and administrative consistency to all involved,

including those who may be the subject of enforcement action. A continued focus by the Central Bank on proportionality and fair procedures is a key theme of its IAF proposals.

The various separate aspects of the IAF complement each other to achieve the ultimate goals of better outcomes for consumers and a more sustainable financial system by driving higher standards of behaviour for individuals in financial services firms.

The IAF is ultimately about incentivising positive behaviours and promoting an improved culture within firms while strengthening the Central Bank's enforcement toolkit, particularly with respect to individuals, to allow the Central Bank to more effectively hold to account those that fall below the expected standards.

Once the Bill has been enacted the Central Bank intends to publicly consult on the implementation of the IAF.

Notes

Director General, Financial Conduct, Derville Rowland was speaking on [the importance of fitness, probity and ensuring responsibility](#), at Institute of Director's Briefing on 10 June 2021.

The IAF has its origins in two main documents, the Central Bank's [Response to the Law Reform Commission's Issues Paper on Regulatory Enforcement and Corporate Offences](#) published in December 2017 and the [Behaviour and Culture Report into Irish Retail Banks](#), which the Central Bank prepared in conjunction with the Dutch Central Bank in July 2018 on foot of a request by the Minister for Finance.

In the [Behaviour and Culture of the Irish Retail Banks Report](#) the Central Bank recommended the introduction of an enhanced Individual Accountability Framework for individuals, working in regulated entities which would go significantly beyond existing enforcement and fit and proper processes.

Our recommendations focused on four key components (which are reflected in the key components of the IAF Bill):

- Conduct Standards which set out the standards of behaviour the Central Bank expects of firms and the individuals working within them as directly applicable and enforceable legal obligations;
- A Senior Executive Accountability Regime (SEAR) which ensures clearer accountability by imposing obligations on in-scope firms and senior individuals within them to set out clearly where responsibility and decision-making lies for their business;
- Enhancements to the current [Fitness & Probity \(F&P\) Regime](#) to strengthen the onus on firms to proactively assess individuals in controlled functions on an ongoing basis, and to address some current limitations of the F&P Regime; and
- An improved enforcement process, to ensure that we can pursue individuals directly for their misconduct rather than only where they have participated in a firm's wrongdoing.

The issue of individual responsibility was also addressed in the [Law Reform Commission's 2016 Issues Paper on Regulatory Enforcement and Corporate Offences](#). In its [response](#) to this Issues Paper, the Central Bank stated that it '*strongly recommends that reforms assigning responsibility to senior personnel be adopted in this jurisdiction*', noting that "*great benefit has been found in other jurisdictions in relation to the adoption of this policy*". The Central Bank's response contained some of the key IAF proposals relating to F&P such as allowing investigations into those who were no longer performing controlled functions and increasing the period of suspension of individuals subject to an F&P investigation.

