

FINANCIAL REGULATION
& INVESTIGATIONS

The Individual Accountability Framework and SEAR

Expectations from the final legislation and the Central Bank of Ireland's Consultation and draft Guidance under the Central Bank (Individual Accountability Framework) Act 2023

45 MIN READ

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01 / THE NEW LANDSCAPE

Four and a half years after the Central Bank of Ireland's (**Central Bank**) Report on the 'Behaviour and Culture of the Irish Retail Banks', the Individual Accountability Framework (**IAF**) is here.

The Central Bank (Individual Accountability Framework) Act 2023 (**IAF Act**) was signed by the President on 9 March 2023. The Central Bank quickly published draft regulations and guidance on 13 March 2023 with a consultation on both of those to run for three months, until 13 June 2023 (**Consultation**).

This Guide focuses on what is clearer, and what remains unclear, under the Consultation. This Guide also addresses what implementation of the IAF looks like for regulated firms, both for firms within the initial scope of the Senior Executive Accountability Regime (**SEAR**), and firms that are currently 'out of scope' of SEAR but still subject to the Conduct Standards and the fitness and probity (**F&P**) certification requirements.

This spotlight assumes a basic understanding of the IAF. For an outline of the IAF and the IAF Act, see our **ALG IAF Guide** on 'The Individual Accountability Framework and SEAR – What you need to know and what next' here:

[Download ALG IAF Guide here](#)



The observations in this Guide are intended to help firms identify issues they may need to deal with in preparing for SEAR and the IAF 'upfront'. Contact any members of ALG's SEAR/IAF cross-disciplinary team to discuss your queries on the Consultation and reforms and how we can help you and your firm.



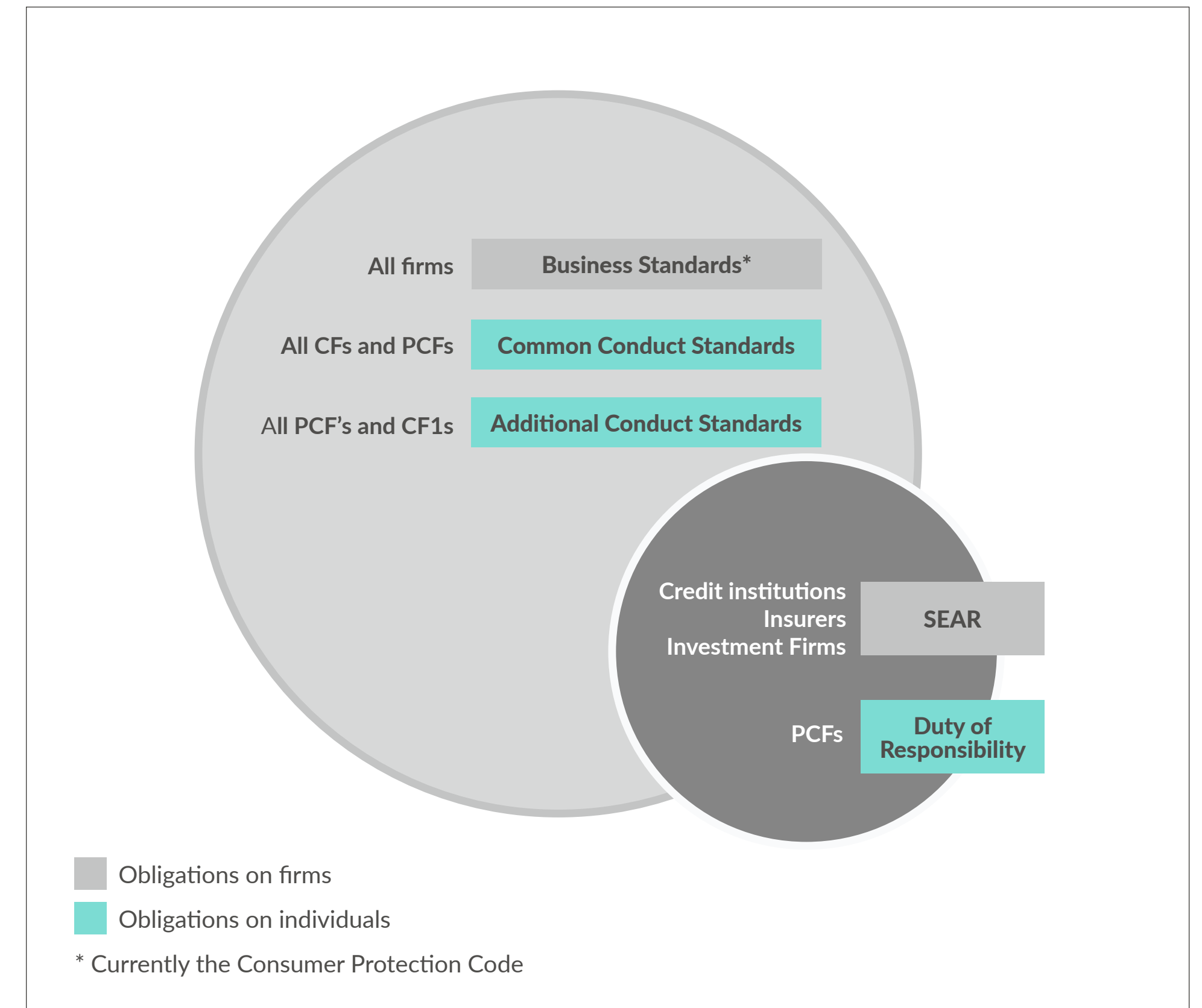
02 / IAF AT A GLANCE

There are six parts to the IAF, some of which apply to all Regulated Financial Service Providers (RFSPs), and others which apply initially only to credit institutions and certain types of insurers and investment firms:

- **SEAR** – the Consultation provides further guidance on key aspects of SEAR, such as: Inherent, Prescribed and Other Responsibilities, Statements of Responsibilities and Management Responsibilities Maps and the application of SEAR to non-executives
- **The ‘Duty of Responsibility’ for individuals within the scope of SEAR** – the Consultation provides further guidance on the ‘reasonable steps’ that individuals are required to take to ensure compliance with the Duty
- **Conduct Standards for individuals, with Common Conduct Standards applying to all Controlled Function (CF) (including Pre-approval Controlled Function (PCF)) role holders, and Additional Conduct Standards applying to all PCF and CF1 role holders** – the Consultation provides guidance on the ‘reasonable steps’ individuals are required to take to ensure they meet the Conduct Standards, whilst ensuring collective responsibility/decision-making is not undermined/diminished

- **Business Standards applying to all RFSPs** – not addressed in this Guide, as the Consultation clarifies that the Business Standards are not part of this consultation process, and are being developed in conjunction with the Central Bank’s separate review of the Consumer Protection Code (CPC). Importantly, this means that certain RFSPs to which the CPC does not apply will not have additional Business Standards to comply with (at least not immediately)
- **Enhancements to the Central Bank’s F&P regime** – the Consultation addresses the certification process, extension of the F&P regime to certain holding companies and the introduction of a ‘Head of Material Business Line’ PCF for insurance undertakings and investment firms
- **Enhancements to the Central Bank’s Administrative Sanctions Procedure (ASP)** – not addressed in this Guide, as the Consultation clarifies that the Central Bank will launch a separate public consultation in respect of these enhancements in mid-2023. These reforms are outlined in our separate ALG IAF Guide

At a glance: What applies to your firm and you?



03/ IMPLEMENTATION

The Consultation proposes the following implementation timeline:

- Conduct Standards, including accountability of senior individuals for running their parts of the business effectively under the Additional Conduct Standards (i.e. the 'reasonable steps' obligations on PCFs and CF1s under these Standards) to apply from **31 December 2023**
- F&P regime – Certification and inclusion of holding companies to apply from **31 December 2023**
- Regulations prescribing responsibilities of different roles and requirements on SEAR firms to clearly set out allocation of those responsibilities and decision-making (i.e. SEAR) to apply to in-scope firms from **1 July 2024**

Comment

Whilst clarification of the proposed implementation timeline is welcomed, this divergence of dates could raise practical issues. E.g. In particular, PCF role holders, and those holding CF1 roles will be required from December 2023 to take 'reasonable steps' to ensure the Additional Conduct Standards are met (including e.g. to ensure the area of the business for which they are responsible is controlled effectively and, conducted in accordance with applicable financial services legislation etc). However, the obligation on an in-scope SEAR firm to prepare Statements of Responsibilities for, at least, PCF role holders, which will clarify what areas of the business the PCF role holders are responsible for, does not crystallise until later on 1 July 2024. It is unclear how PCF role holders can be held to be taking 'reasonable steps' under the Additional Conduct Standards relating to responsibilities that may not yet be fully documented within their firm under SEAR. This may place additional pressure on in-scope SEAR firms to implement SEAR, in addition to the Conduct Standards, by 31 December 2023 instead of 1 July 2024.

04/ SEAR - OVERVIEW

Scope

In the initial phase, SEAR will apply to the following from 1 July 2024:

- Credit institutions (excluding credit unions)
- Insurance undertakings (excluding reinsurance undertakings, captive (re) insurance undertakings and insurance special purpose vehicles)
- Investment firms (which underwrite on a firm commitment basis and/or deal on own account and/or are authorised to hold client monies/assets)
- Third country branches of any of the above

A proportionate approach

Taking into account nature, scale and complexity, the Consultation confirms that the Central Bank will apply the principle of proportionality in the implementation of the IAF in firms. This is most clearly manifested in the approach to low risk in-scope investment firms and incoming third country branches, with a reduced number of prescribed responsibilities applying to such firms.

Responsibilities – Inherent, Prescribed and Other

What is clearer?

The Inherent and Prescribed Responsibilities, both of which will form part of a PCF's Statement of Responsibilities, have now been published as part of the draft SEAR Regulations.

Inherent Responsibilities

Inherent Responsibilities directly align with PCF roles under the F&P regime. While these are relatively high level, they do give some indication of what the Central Bank views as 'core' to a particular PCF role. As is the case under the F&P regime, firms will not be required to create new roles to fulfil the Inherent Responsibilities.

The list of Inherent Responsibilities is included at **Annex 1** to this Guide.

Prescribed Responsibilities

Prescribed Responsibilities are those responsibilities, including the management and oversight of key risks, which a firm must allocate to an individual carrying out a PCF role at in-scope SEAR firms.

The Consultation sets out the following Central Bank expectations regarding a firm's allocation of Prescribed Responsibilities to PCF role holders:

- Consistency of allocation – a Prescribed Responsibility should be allocated to an appropriate PCF role holder. Firms should ensure that there is appropriate consistency and coherence to the way in which Prescribed Responsibilities are allocated
- Appropriate level of seniority – a Prescribed Responsibility should be allocated to the most senior individual, with the appropriate authority, responsible for that area taking into account the governance structures of the firm
- Beware of over-allocation – firms should carefully consider the allocation of multiple Prescribed Responsibilities to any one PCF role holder, ensuring that individuals have sufficient time and resources to carry out the allocated responsibility
- Sharing and splitting – with the exception of 'job-sharing', Prescribed Responsibilities should not be shared and 'splitting' is not permitted

- Nature of the responsibility – in allocating a Prescribed Responsibility to a PCF role holder, the nature of the Prescribed Responsibility must be considered with those that are non-executive in nature (as designated by the Central Bank) only being allocated to Non-Executive Directors (**NEDs**) / Independent NEDs (**INEDs**) (see 'Application of SEAR to non-executives' below)

The list of Prescribed Responsibilities is included at **Annex 2** to this Guide.

Other Responsibilities

The Consultation clarifies that Other Responsibilities capture any other material functions/business areas/projects to the extent that they are not captured by the Inherent and Prescribed Responsibilities. The purpose of Other Responsibilities is to:

- Ensure that there is clarity surrounding the allocation of responsibilities in relation to any material functions/business areas/projects
- Ensure that these are captured under relevant Statements of Responsibilities (see 'Documentation - Statements of Responsibilities and Management Responsibilities Maps' below)



- Ensure that the key risks at a firm are identified and appropriately allocated to PCF role holders

Firms must determine what Other Responsibilities are to be identified and allocated, with any functions/business areas/projects that are not captured by the Inherent and Prescribed Responsibilities, but included on the Management Responsibility Map, being allocated to a PCF role holder. It is therefore for firms to scope and identify these responsibilities, in contrast to the Prescribed and Inherent responsibilities.

What is not clearer?

In the context of SEAR implementation, in-scope SEAR firms must assign PR1 'responsibility for the firm's performance of its obligations under SEAR' to an individual. However, the day-to-day operation and management of SEAR may be delegated to a relevant department(s). The Guidance sets out no expectation as to how or to whom this should be delegated across e.g. operations, HR or compliance. It will also be important that whoever takes on this responsibility is involved in a firm's implementation project even though the

responsibility is engaged on SEAR coming into effect.

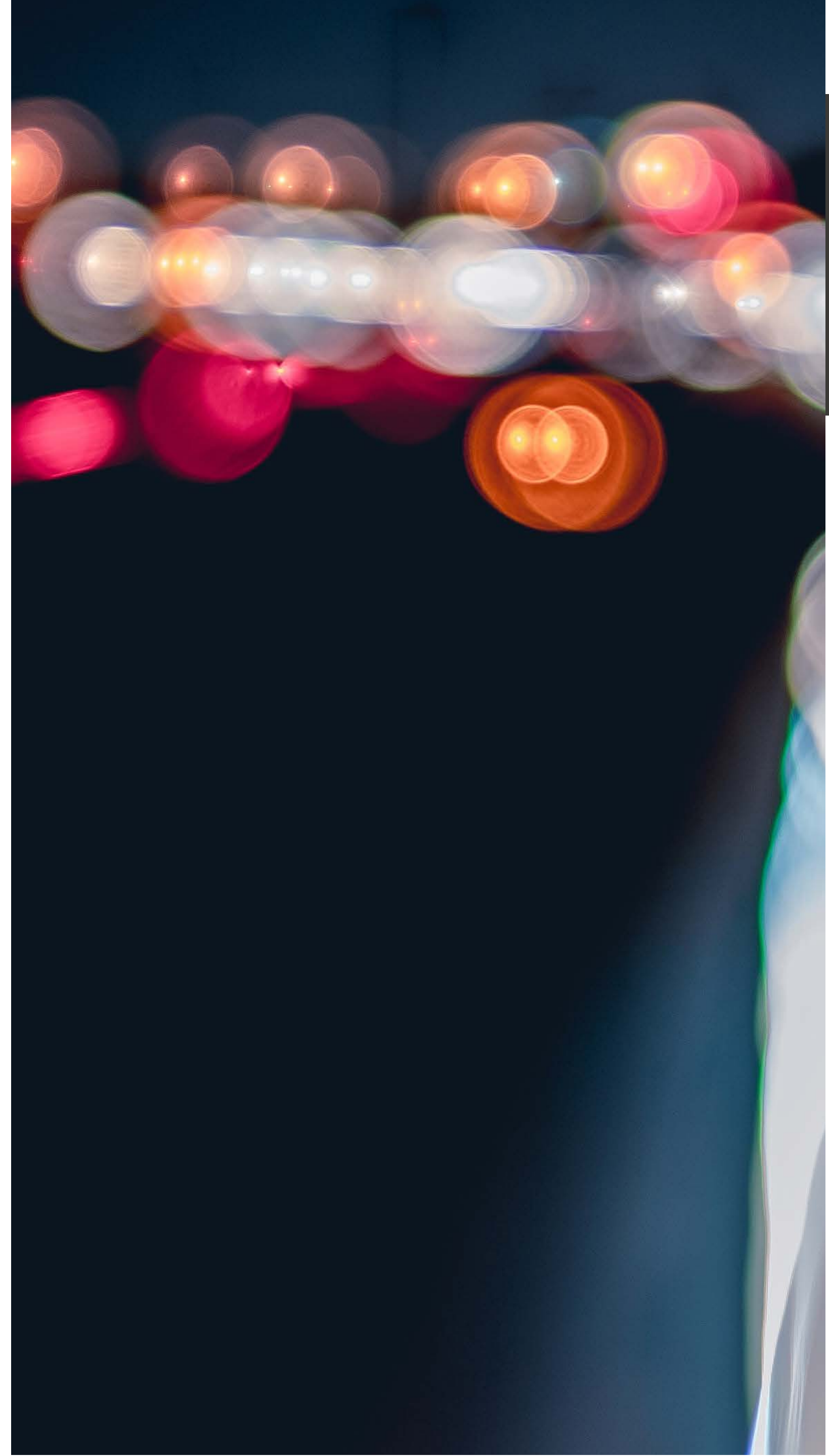
Firms will need to review the scope of Prescribed Responsibilities carefully and in the context of their own firm. For example:

- Many large consumer organisations will have a 'consumer champion'. But firms will need to check how their role will overlap with many different Prescribed Responsibilities covering consumer or customer related engagements, such as PR4 (development of the firm's culture, including policies and procedures in relation to consumer protection risk); PR5 (adopting the firm's culture in the day to day operation of the firm); PR6 (incorporation of consumer protection and conduct risk into the firm's remuneration policies and practices). Firms should consider whether the governance of any consumer committee needs to be amended to capture all of these aspects
- There seems to be some nuance as to who is ultimately responsible for the 'tone from the top'. PR4 is responsibility for leading the development of the

firm's culture, including conduct, by the Board as a whole. This is listed as a non-executive responsibility, so will likely be allocated to the Chair. However, the CEO is often the leader of culture more generally across the organisation (and this is supported in the Conduct Standards Guidance). Firms will need to clarify how the CEO and Chair's roles interact in practice regarding a firm's culture

As Other Responsibilities are not defined, the onus is on the firm to identify these, but the means of doing so in practice is not clear. However, it may be of assistance to consider what 'benchmark documents' the firm already holds, such as material projects or items on their risk registers, or other operational risk reporting and governance.

Similar issues arise with the category of 'circumstance specific prescribed responsibilities' such as PR37 dealing with specific steering committees established to address regulatory matters. Assessing whether any such committee is sufficiently material to trigger the need to allocate this prescribed responsibility will involve considering similar types of benchmarks within a firm.



Application of SEAR to non-executives

What is clearer?

The Consultation confirms that all NEDs and INEDs at in-scope SEAR firms are included within the scope of SEAR. Firms will be required to ensure that NEDs and INEDs have a Statement of Responsibilities, which reflects both Inherent Responsibilities and, where allocated, any additional non-executive responsibilities.

The Consultation clarifies the Central Bank's expectation is that the role of non-executives should not change under SEAR, as the responsibilities reflect existing responsibilities under, for example, the corporate governance framework.

The Consultation recognises that the responsibilities for which NEDs and INEDs are accountable are limited, relating to their role in respect of governance, oversight and challenge and they are not expected to assume executive responsibilities. The Consultation also recognises that expectations as to 'reasonable steps' for non-executives will be limited by reference to their non-executive roles.

Firms will be required to assign the following Prescribed Responsibilities to the Chair of the Board and Chairs of the Board Committees (Audit, Risk, Remuneration and Nomination):

NON-EXECUTIVE PRESCRIBED RESPONSIBILITIES

- PR4** Responsibility for leading the development of the firm's culture, including conduct, by the Board as a whole including effectively managing any conflicts of interest in relation to consumer protection risk
- PR6** Responsibility for overseeing the development of, and embedding positive ethical culture, consumer protection and conduct risk into, the firm's remuneration policies and practices
- PR9** Responsibility for safeguarding the independence of the internal audit function and for oversight of the function and the Head of Internal Audit
- PR10** Responsibility for safeguarding the independence of the compliance function and for oversight of the function and the Head of Compliance
- PR11** Responsibility for safeguarding the independence of the risk function and for oversight of the function and the Chief Risk Officer
- PR12** Responsibility for leading the development and monitoring effective implementation of policies and procedures for succession planning, induction, training and professional development of all members of the Board
- PR13** Responsibility for ensuring the independence, autonomy and effectiveness of the firm's policies and procedures on whistleblowing

What is not clearer?

Your firm's NEDs and INEDs will likely require supports as to how they discharge the Duty of Responsibility in practice and how that is evidenced.

Some key points for your NEDs and INEDs to consider are:

- Do I have effective oversight?
- Do I receive enough management information? Is it complete (or is it too extensive)?
- What ongoing training do I receive in my role?
- How do I exercise effective challenge and oversight? Through what formal channels (e.g. committees) or informal channels (e.g. tutorials)?

In addition, non-executives must remain cognisant of their obligations in respect of collective decision-making, further addressed under the Conduct Standards below.

Splitting or sharing of Responsibilities

What is clearer?

The Consultation clarifies that sharing or splitting of Responsibilities is not permitted, other than in the case of job sharing.

Each job sharing individual will have full accountability for the relevant Responsibility. However, when considering 'reasonable steps' to discharge the responsibility, the Central Bank will have regard to the manner in which activities and tasks were shared amongst the job sharers, and their completion of tasks on that basis.

What is not clearer?

It is not clear how this prohibition on sharing or splitting will apply where two or more individuals currently hold the same PCF role in the firm, and were approved by the Central Bank on that basis, for example with a geographic or product split. If the Central Bank's strict position on sharing and splitting remains, it may be that firms will need to incorporate role restructuring into their implementation programs.

It also remains to be seen how individuals 'job sharing' need to document their tasks in practice (e.g. with 'checklists' for their 'joint handover day' of outstanding tasks, allocating them as immediate or longer term).

Outsourcing

What is clearer?

The Consultation confirms that, where outsourcing arrangements are in place, there must be a PCF role holder in the regulated firm with responsibility for outsourcing arrangements.

In addition, where there is outsourcing of a PCF role, that role holder should fall under the oversight of a PCF role holder within the entity.

The Consultation also provides detailed guidance on the interaction of SEAR with the F&P regimes' exemptions for outsourced roles.

What is not clearer?

The Consultation is clear that a PCF must be allocated PR21 (developing structures and mechanisms to oversee, monitor and assess the appropriateness and performance of the firm's outsourcing framework including outsourcing arrangements and associated outsourcing risks). Equally, the underlying activities the subject of an individual PCF's role and responsibilities may be subject to intra-group or third party outsourcing and that PCF should retain oversight of that role.

The balance of roles and responsibilities in overseeing outsourcing activities will need to be carefully allocated and documented as between the PCF allocated PR21 and the PCF whose role and responsibilities are directly related to or impacted by the services being outsourced. This analysis may be particularly complex for 'service companies' to which multiple and varied services are outsourced under single contractual and governance arrangements.

Firms will also need to ensure that they have in place escalation and reporting structures to feed into any outsourcing governance committee and ensure that membership, reporting executives and the Chair of relevant outsourcing fora are appropriately defined.

Documentation – Statements of Responsibilities and Management Responsibilities Maps

What is clearer?

Statements of Responsibilities

The Consultation confirms firms must ensure that each individual in a PCF role at an in-scope SEAR firm has a documented Statement of Responsibilities which clearly sets out their role and outlines Inherent, Prescribed and Other Responsibilities that have been allocated to them.

This requirement extends to all individuals in PCF roles on implementation of SEAR. In respect of new PCF role holder appointments, an approved Statement of Responsibilities must be submitted to the Central Bank, along with the Individual Questionnaire (IQ), when approval for a PCF role is being sought.

Individuals holding (or seeking to hold) more than one PCF role at an in-scope SEAR firm require only one Statement of Responsibility; however, individuals holding (or seeking to hold) PCF roles in more than

one firm, including within a group, must have a Statement of Responsibilities in respect of each firm.

In addition to Inherent, Prescribed and Other Responsibilities, firms are expected to include additional information in the Statements of Responsibilities, including details of any job sharing arrangements, any outsourcing arrangements and the timeline associated with any short-term/project-related responsibility.

The Central Bank's expectation in respect of Statements of Responsibilities is that they be:

- Kept up-to-date, contain the date and version control and signed by the PCF role holder, i.e. firms must treat the Statements of Responsibilities as live documents, which are continually edited and updated as appropriate
- Reviewed on a regular basis by firms
- Approved on initial implementation and when they are updated
- Available to the Central Bank on request

The Central Bank will review Statements of Responsibilities as part of its ongoing

supervision, rather than setting periodic reporting requirements. Statements of Responsibilities must be retained by firms for 10 years and made available to the Central Bank on request.

Management Responsibilities Maps

The Consultation confirms that each in-scope SEAR firm must at all times have a comprehensive and up-to-date Management Responsibilities Map that describes its management and governance arrangements (including any outsourcing arrangements). The Management Responsibilities Map must be a single composite document.

The Management Responsibilities Map should identify the individuals in PCF roles at in-scope SEAR firms (and therefore the related Inherent Responsibilities) as well as the allocation of Prescribed and Other Responsibilities among individuals in PCF roles, to demonstrate that there are no gaps in responsibilities across the firm.

This requirement extends to all in-scope firms on implementation of SEAR. In respect of firms seeking authorisation, they will be required to prepare and submit a

Management Responsibilities Map as part of an application for authorisation.

The Central Bank's expectation in respect of Management Responsibilities Maps is that they be:

- Kept up-to-date, contain the date and version control i.e. firms must treat the Management Responsibilities Maps as live documents, which are continually edited and updated as appropriate
- Reviewed on a regular basis by firms
- Approved on initial implementation and when they are updated
- Available to the Central Bank on request

The Central Bank will review Management Responsibilities Maps as part of its ongoing supervision, rather than setting periodic reporting requirements. Management Responsibilities Maps must be retained by firms for 10 years and made available to the Central Bank on request.

Interaction between Statements of Responsibilities and Management Responsibilities Maps

The Consultation clarifies that a firm's Management Responsibilities Map is, in effect, a sum of the individual Statements of Responsibilities and should provide an overarching view of the allocation of Responsibilities across a firm.

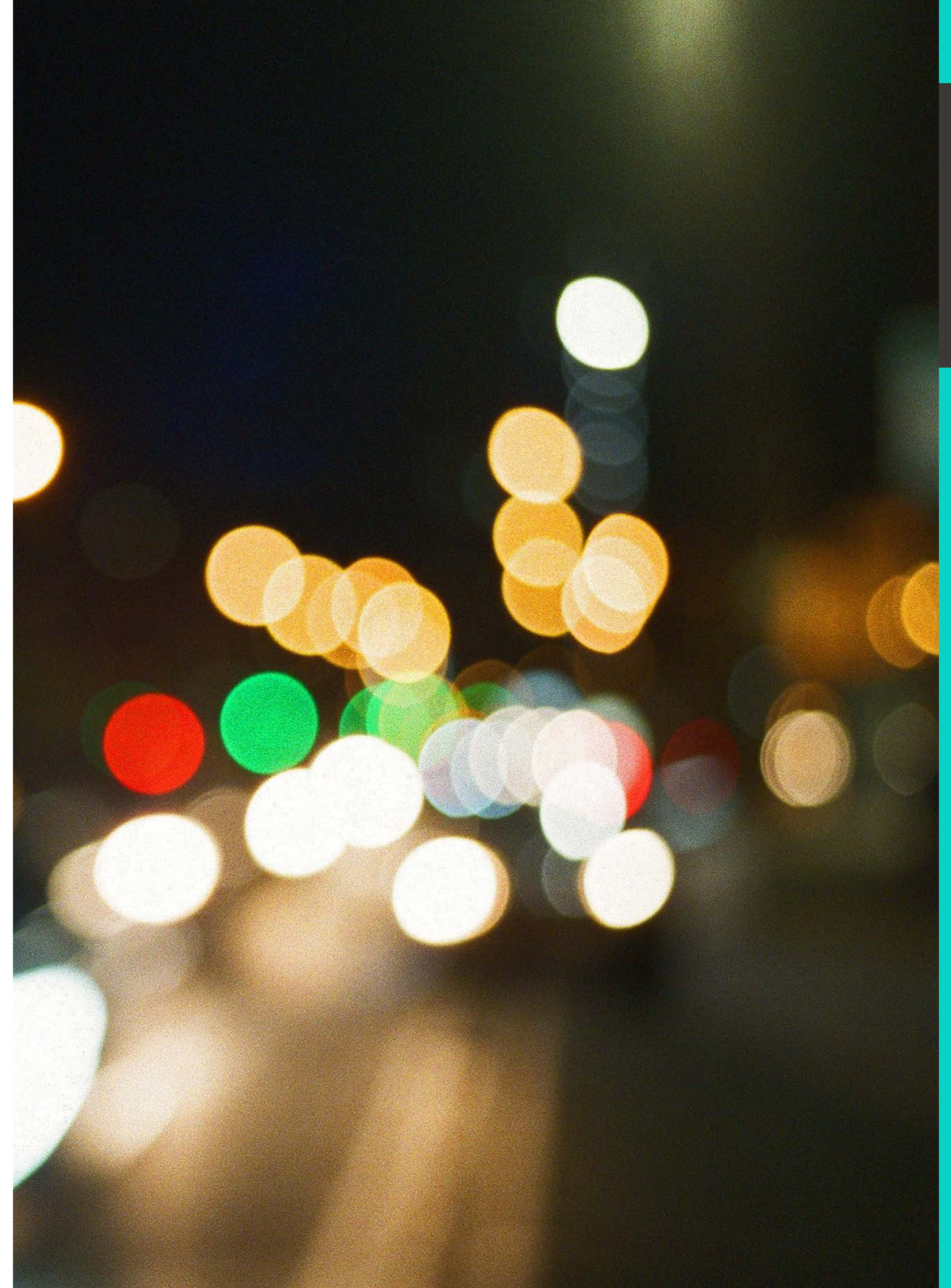
Revisions to Statements of Responsibilities must be reflected in the Management Responsibilities Map.

What is not clearer?

Firms are not required to disclose Statements of Responsibilities and/or Management Responsibilities Maps to the Central Bank on a periodic basis: they just need to be available on request. Firms will need to consider how this will work in practice during, for example, a supervisory engagement such as an on-site inspection, when the Central Bank is likely to request the full 'suite' of these documents to understand who is responsible for what from a governance perspective, and expect that those documents are up to date.

While the Central Bank has helpfully clarified that the Statement of Responsibilities will form part of the IQ in the PCF approval process, the Guidance is not clear as to whether the applicant's proposed Statement of Responsibilities will be sufficient for that purpose. The interaction of roles and responsibilities as between PCFs is an important aspect of any PCF Role. Therefore the IQ may need to provide additional information as to how the applicant's roles and responsibilities fit within the larger firm structure.

The Guidance expressly refers to the possibility of a firm having matrix reporting, key group level individual with influence over the firm (e.g. Group NEDS) and the interaction of group-level governance committees with the firm. However, firms will need to consider carefully how these work in their firm/group in practice (particularly e.g. who in a group may exert influence over the firm) and ensure these are documented clearly and holistically on their Management Responsibilities Map.



05 / SEAR – THE DUTY OF RESPONSIBILITY

Scope

The Duty of Responsibility applies to all PCF role holders of in-scope SEAR firms.

Nature of the Duty

The Duty of Responsibility requires that a person who has inherent or allocated responsibility for an aspect of the affairs of an RFSP shall take any steps that it is reasonable in the circumstances for the person to take to ensure that, while the person has that responsibility, the aspect of the affairs of the RFSP is so as to **avoid contravention by it of its obligations under financial services legislation**. This includes avoiding the continuation of a contravention.

The focus of the Duty of Responsibility is therefore on taking 'reasonable steps' to ensure that the aspect of an RFSP's business for which a PCF is responsible does not result in a regulatory contravention.

This is different in terms to the separate obligations on all CFs (regarding the Common Conduct Standards) and PCFs and

CF1s (regarding the Additional Conduct Standards) to take 'reasonable steps' to ensure those respective Conduct Standards are met. However, the general approach that a PCF, CF1 or CF should go about to assess what is required of them, in their particular circumstances and their particular RFSP, to take 'reasonable steps' is similar. See Section 8 below regarding the scope of 'Reasonable Steps'.

What is clearer?

The Consultation acknowledges that 'perfection' is not the required standard. Rather, in assessing the steps that an individual took in any particular case, the Central Bank will consider what steps an individual, in that position, could reasonably have been expected to take at that point in time.

The Consultation also states that 'financial services legislation' includes a relevant Act or Statutory Instrument, or any requirement imposed on the firm pursuant to a relevant Act or Statutory Instrument, such as a Code (e.g. the Consumer Protection Code), Direction or Condition.

The Consultation clarifies the Central Bank's view that, if a contravention by the RFSP does occur, then assessing whether a person was responsible for an aspect of a firm's affairs relevant to that contravention will be a matter of 'substance over form'. Whilst this will be determined by reference to an RFSP's Management Responsibilities Map and an individual's Statement of Responsibilities, the Consultation states it may however be necessary to look beyond these documents where circumstances require it.

The Consultation states that the Central Bank may therefore consider other sources of information when determining the scope of a person's responsibility at any particular point in time, including organisational charts, minutes of meetings, emails, regulatory interviews and telephone recordings. The Consultation notes that this material may help to show how the RFSP operated in practice, how responsibilities were actually allocated in practice, the actual roles and responsibilities PCF role holders took in the RFSP from time to time, and the relationship between PCF role holders' responsibilities in practice.



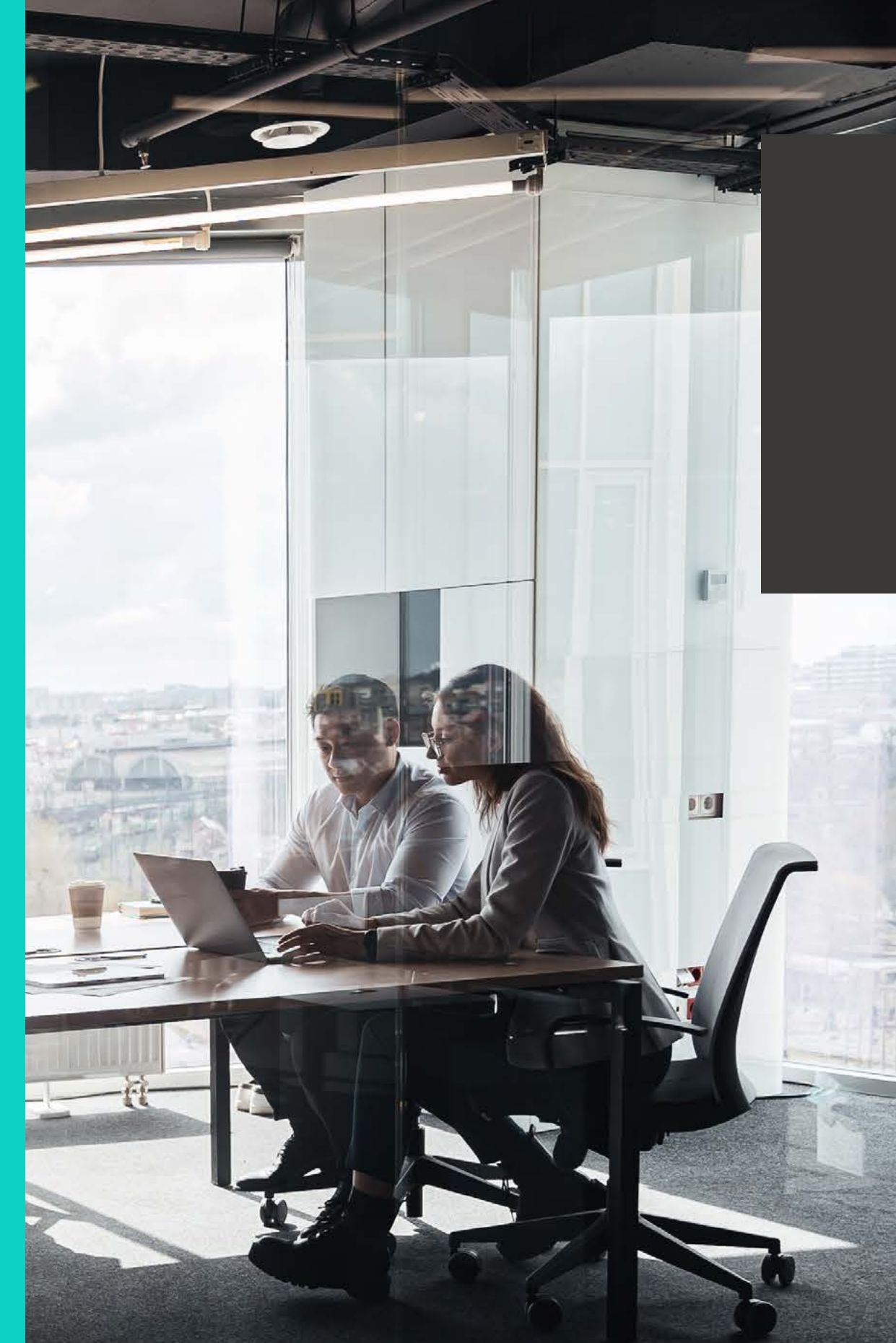
It is therefore important that PCF role holders understand what responsibilities have been formally allocated to them under SEAR, and that they act in accordance with those responsibilities (feeding back to the core SEAR programme where necessary if their responsibilities develop over time as the RFSP's structures, business or the market develops).

The Consultation also acknowledges that more than one PCF role holder may be responsible under SEAR for an aspect of the firm's affairs. If so, the Central Bank will consider whether it is appropriate to take enforcement action against one, some or all such individuals if the RFSP commits a regulatory contravention.

What is not clearer?

It remains unclear how the Central Bank will exercise any discretion in practice when considering whether enforcement action is appropriate. E.g.:

- The acknowledgment that responsibility involves 'form over substance' opens the possibility of detailed factual investigations into what scope of responsibilities individual PCF role holders may have 'assumed' in practice over time after the initial implementation of SEAR
- It is unclear to what extent in practice an RFSP's Management Responsibilities Map or Statements of Responsibilities will form a clear basis for allocating responsibility, with perhaps a relatively high evidential bar for other documents such as emails and meeting minutes to amend the Central Bank's own view of an individual's remit of responsibility
- The Central Bank has also not set out any guidance as to factors that would be relevant in assessing which of several PCFs may face enforcement action if a regulatory contravention occurs within areas for which they have some aspect of responsibility on the particular facts



06/ COMMON CONDUCT STANDARDS

Scope

Apply to all CF (including PCF) role holders in all RFSPs, including incoming and outgoing third country and EEA branches

What is clearer?

The Consultation expands on certain aspects of the non-exhaustive list of standards of behaviour under each Common Conduct Standard set out at section 53E of the Central Bank Reform Act 2010. We highlight below some of the key clarifications of the Central Bank's expectations under the Common Conduct Standards.

Reasonable steps

An individual who performs a CF role (including PCFs) in relation to a firm should take the steps that it is reasonable in the circumstances for the individual to take to ensure that the Common Conduct Standards are met. The Consultation clarifies that the Central Bank shall assess 'reasonable steps' in the context of the level of seniority of the roles in scope, noting that there may

be significant differences in the relevant responsibilities and expectations. In the context of enforcement, 'reasonable steps' will be considered on a case-by-case basis by reference to the relevant circumstances in each case. 'Reasonable steps' are addressed further in Section 8 below.

Interaction with F&P

The Guidance does seek to provide some clarity on the interaction between F&P and the Conduct Standards by stating that an individual may breach a Conduct Standard but still comply with the F&P Standards and vice versa. However, a past breach of a Conduct Standard may be relevant to ongoing suitability for a role. In practice this is likely to add a layer of complexity to assessments of individuals when falling short of expected standards and the interaction between this assessment and employment rights.

The Standards

Acting with honesty and integrity

The Consultation clarifies that this Standard aligns with the F&P Standard, which requires a person to be 'honest, ethical and to act

with integrity'. Further guidance is provided on acting with 'integrity' (in particular, the Consultation clearly states that if an individual does something wrong deliberately, that may indicate a lack of integrity); the need for individuals to be aware of individual and group cognitive bias in decision-making; and the importance of preventing, identifying and managing any potential conflicts of interest. The Central Bank's expectations in respect of conflicts of interest are important for all CFs, but particularly to non-executives who may have roles outside the firm. The Consultation also sets out examples of behaviours not consistent with this Standard.

Acting with due skill, care and diligence

The Consultation clarifies that this Standard requires individuals to act to the best of their abilities, and in a consistent manner, to a standard that could reasonably be expected from an individual in such a role. An individual is not expected to exhibit in the performance of their role/function, a greater degree of skill, care and diligence than might reasonably be expected from an individual in the relevant role with the relevant qualifications, knowledge and experience. The Consultation

welcomingly clarifies that this does not represent a standard of perfection – errors of judgment, or omissions, which are not deliberate, may happen. It is also clarified that compliance goes beyond 'box-ticking' and should be pursued on a positive/active basis, rather than reactive or responsive to prompts/threats of punitive actions.

The Consultation clarifies that directors' fiduciary duties under the Companies Act 2014 are complementary to the Common Conduct Standards. This Standard to act with due skill, care and diligence applies to both executive and non-executive directors exercising their role and responsibilities as a member of the Board, other governing body, or its committees.

Acting with due skill, care and diligence – collective responsibility

The Consultation clarifies the Central Bank's view that the introduction of the IAF does not alter the concepts of collective responsibility shared by directors as board members, and collective decision-making, which is dependent on the appropriate contributions of individual members of senior management in order to be robust.

The Consultation clarifies that participation in collective decision-making goes beyond the board and formal board committees and may extend to, for example, steering or project committees related to key business or regulatory initiatives.

The Central Bank's expectations of firms and CF (including PCF) role holders in respect of collective decision-making include:

- Ensuring that CF role holders are fully informed of matters for which they are collectively responsible
- Ensuring that members of the Board and other senior individuals are familiar with obligations that apply under the corporate governance framework and Companies Acts in respect of their role and responsibilities in decision-making at the firm
- Ensuring that all decisions are properly informed, that they exercise sound judgment and contribute to collective decisions, as would be appropriate
- Ensuring sufficient attention to, and awareness of, their own behaviour, cognitive biases of participants and the group dynamics that influence the results

- Providing input and constructive challenge, in such a way that recognises both the value and limitations of their own knowledge, skills and experience
- Contributing in an engaging and inclusive manner

Where an individual considers a decision may not be in the best interests of customers, following appropriate and effective challenge, they should take appropriate follow-up action, including reporting to relevant regulatory bodies where required.

Cooperating in good faith and without delay

The Consultation clarifies that this Standard does not represent a duty on an individual to proactively report or disclose information to the Central Bank and/or other regulators (a requirement to do so exists under the Duty of Responsibility and the Additional Conduct Standards, but these are limited to PCF/CF1 role holders). The Central Bank's expectation is that, where an individual receives a specific request for information or attendance at a meeting, the individual should accommodate any such request in a timely, co-operative and transparent manner, answering any questions openly

and honestly. The Consultation also sets out examples of behaviours not consistent with this Standard.

Acting in the best interests of customers and treating them fairly and professionally

The Consultation clarifies that this Standard applies to all individuals, regardless of whether they have direct contact or dealings with customers. All individuals have a responsibility to 'act in the best interests of customers' throughout the product design, distribution and delivery lifecycles. The Consultation also clarifies that, in deciding what it means to 'act in the best interests of customers', a key determinant is the legitimate expectations of those customers. The Consultation also sets out examples of behaviours not consistent with this Standard.

Operating in compliance with standards of market conduct and trading venue rules

The Consultation provides welcome guidance on this Standard, which is sparsely addressed in the IAF Act itself. In particular, the Consultation clarifies the Central Bank's expectations of CF (including PCF) role holders in respect of this Standard, as follows:

- Refraining from improper actions, behaviours or practices that are contrary to the firm's code of conduct, which could result in harm to the firm, its customers, counterparties and market participants, or damage to the integrity and transparency of financial markets
- Compliance with internal processes, policies and procedures, systems and controls, which firms have adopted for the purpose of ensuring compliance with the market conduct standards to which the firm is subject
- Taking reasonable steps to ensure they have an awareness and understanding of:
 - » The relevant regulatory framework that applies to the firm's activities, and the regulatory requirements and expectations relevant to their role
 - » Conduct risks relevant to the function the individual performs and/or market activity in which the individual engages
- Compliance with relevant industry Codes of Conduct/Practices related to the firm's activities

Firm obligations

The Consultation clarifies that firms have a critical role to play in embedding the Conduct Standards into its culture. Three key ways in which firms can successfully embed the Conduct Standards into their culture are notification; training; and integration. Relevant individuals for the purposes of notification, training and integration are CF (including PCF) role holders in respect of the Common Conduct Standards, and PCF and CF1 role holders in respect of the Additional Conduct Standards.

- **Notification** – firms should maintain up to date records regarding notification of the Conduct Standards to relevant individuals, which should be available to the Central Bank upon request
- **Training** –
 - » firms should provide appropriate induction training on the Conduct Standards to all relevant individuals in a timely manner on implementation and, going forward, to all newly appointed relevant individuals
 - » firms should also provide appropriate

training on an ongoing basis to ensure that all CF role holders are clear on their obligations in respect of the Conduct Standards and, specifically, what is expected of them in the context of their role

- » firms should maintain up-to-date records evidencing relevant individuals' completion of relevant training, which should be available to the Central Bank upon request
- » firms should ensure that the training programme is subject to oversight and challenge by senior management
- » senior management should ensure that it is provided with timely and effective management information in relation to Conduct Standards training and that appropriate remediation action is taken where required
- » for in-scope SEAR firms, the PCF role holder allocated PR3 should oversee training in respect of the Conduct Standards
- **Integration** –
 - » firms should develop appropriate policies as to how the Conduct

Standards will be incorporated into the firm's culture, which are continually reviewed and well communicated across the firm

- » firms should consider how failure to meet the Conduct Standards could be linked to matters such as performance review and promotion
- » for in-scope SEAR firms, the PCF role holder allocated PR3 should provide effective oversight and challenge of the firm's policies incorporating the Conduct Standards into the firm's culture

What is not clearer?

The Consultation clarifies that the Conduct Standards apply to both **incoming and outgoing third country and EEA branches**. However, for incoming branches from an EEA Member State, the branch would not historically have been particularly concerned with the F&P regime because the F&P Standards did not apply through an exemption. However, the Common Conduct Standards, including requirements such as acting in the best interests of customers and clients, will

now apply to anyone in the business who are fulfilling roles which would be classified as CFs. Those firms in particular may have additional implementation steps beyond what they anticipated from the draft legislation.

How the Common Conduct Standards will be assessed and enforced in practice remains to be seen. Some key aspects which remain unclear from the Consultation are discussed below.

In respect of the Common Conduct Standard of *'acting with Honesty and Integrity'*:

- The Consultation suggests that a failure to follow firm policies may indicate a lack of integrity. The Guidance does not seem to limit this to particular policies, such as a conflicts of interest policy. This would appear to be substantially broader than a common understanding of 'integrity' and clarity may be required on this point

In respect of the Common Conduct Standard of *'acting with due skill, care and diligence'*:

- The Consultation requires the individual to have a 'clear and comprehensive

understanding of the business activities of the firm that are relevant to their role/function and the specific responsibilities that are to be undertaken in the relevant function...’ It appears that firms will be required to support the CF population by way of mapping of business activities and roles/functions as well as education on the relevant business activities and this should form part of a firm’s implementation project and training

- In respect of collective decision-making, each individual is required to be aware of their own behaviour, cognitive biases of participants and group dynamics as well as utilising ‘active listening’. While many CFs and PCFs will practice these skills day-to-day, it is not clear whether or how the Central Bank will judge compliance with such expectations and what records in particular beyond minutes of committee or fora meetings will be relied upon
- There are some areas where collective responsibility may start to be probed. The Consultation expressly gives comfort that *‘it is important to ensure that collective decision-making is not negatively impacted as a result of an increased focus on individual*

responsibilities’. However, the Consultation requires that where an individual considers a decision may not be in the best interest of customers, following appropriate and effective challenge, they should take appropriate follow-up action including reporting to relevant regulatory bodies where required. Care will need to be taken to provide appropriate supports and escalation measures for individuals to raise concerns with the collective decision-making process, while maintaining the principles of collective decision-making

In respect of the Common Conduct Standard of *‘cooperating in good faith and without delay’*:

- The Central Bank warns against relying on ‘loopholes or technicalities’ to justify or defend a particular action or behaviour in providing information or documentation. This may be considered as not fully cooperative or acting in good faith. It is not clear where the dividing line is between an individual, or the firm, relying on its legal rights and obligations and a ‘loophole’ or ‘technicality’ - this will come into particularly sharp focus in

any supervisory inspection or regulatory enforcement action

In respect of the Common Conduct Standard of *‘acting in the best interests of customers and treating them fairly and professionally’*:

- The Guidance refers, e.g., to individuals reviewing the causes of errors and issues to determine the root causes and which other customers of the firm may also be affected. It specifically notes the importance for the firm and individuals to act without having to wait for a complaint or other prompt from a customer. This appears consistent with e.g. the Tracker Mortgage Examination and Business Interruption Supervisory Frameworks in the banking and insurance contexts. Firms and individuals will however need to assess carefully when these ‘read across’ considerations are triggered if no other customers have complained or if the relevant customers’ complaints are not well articulated or mixed with separate conduct issues



07/ ADDITIONAL CONDUCT STANDARDS

Scope

Apply to all PCF and CF1 role holders in all RFSPs, including incoming and outgoing third country and EEA branches

What is clearer?

The Consultation sets out the Central Bank's expectation regarding compliance with each Additional Conduct Standard. We highlight below some of the key clarifications of the Central Bank's expectations under the Additional Conduct Standards.

Application to non-executives

The Consultation includes welcome clarification that the Central Bank recognises that NEDs and INEDs do not manage a firm's business in the same way as executive directors. The standards to be met by NEDs and INEDs will relate purely to their non-executive oversight functions and will be limited to what should reasonably be expected of individuals in that context.

Reasonable steps

The steps it is reasonable in the circumstances for an individual to take in respect of the Additional Conduct Standards are addressed separately at Section 8 below.

The Standards

That the business of the RFSP is controlled effectively

The Consultation again highlights the importance of collective decision-making, and the need for PCF/CF1 role holders, in attending and contributing at meetings at which collective decisions are made, to ensure that they have sufficient information and understanding of the matter(s) at hand to participate effectively in the collective decision-making, commensurate with the parameters of their role, including any broader responsibilities in the running of the business where relevant. Where a PCF role holder does not have sufficient information and understanding of the matter(s), they should take steps to obtain it and ensure that they are appropriately informed, seeking further briefings and explanations to the extent necessary. The Central Bank's expectation is that PCF role holders should

rationally challenge and debate the matters, including review of any risks involved in the decision, and take appropriate follow-up action where the outcome is not in the best interest of the firm and its related stakeholders, including its customers.

That the business of the RFSP is conducted in accordance with its obligations under financial services legislation

The Consultation clarifies that PCF/CF1 role holders are expected to ensure the following (however they are not personally required to undertake each of these actions):

- The area of the business for which they are responsible has appropriate and up-to-date operating policies and procedures with clear and well-defined steps for complying with all relevant regulatory requirements
- Compliance with relevant regulatory requirements is appropriately monitored
- All staff are aware of and understand the need for compliance, and concerns with staff performance relating to non-compliance are promptly and appropriately addressed

- In the case of a temporary appointment, appropriate arrangements are in place to ensure ongoing compliance and mitigation of any risks/disruption to compliance during transition or interim period
- They are kept up to date and informed in a timely manner about potential or actual breaches of regulatory requirements

That any delegated tasks are assigned to an appropriate person with effective oversight

The Consultation clarifies that an individual may delegate the management of the day-to-day business, where it is appropriate to do so; however, they will retain overall accountability. The larger and more complex the business, the greater the need for clear and effective delegation and reporting lines.

An individual should only delegate where they are satisfied that the delegate has the competence, knowledge, seniority, skill and capacity to deal with the tasks/activities being delegated. Any such delegation must be appropriately arranged, managed and monitored.

That any information of which the Bank would reasonably expect notice in respect of the business of the RFSP is disclosed promptly and efficiently to the Central Bank

The Consultation clarifies that this Standard extends beyond the Common Conduct Standard of ‘cooperating in good faith and without delay’ and includes making a disclosure in the absence of a specific request or query from the Central Bank, where relevant matters come to an individual’s attention.

The Central Bank’s expectation is that, where an individual becomes aware of information which they might expect the Central Bank could reasonably expect notice, they should first determine whether that information falls within the scope of their responsibilities. Where unsure, the individual should promptly make enquiries to clarify such responsibilities. Individuals are expected to disclose information that does fall within the scope of their responsibilities promptly to the Central Bank. If, however, the information does not reasonably fall within their scope of responsibilities, then they may reasonably

assume another individual is responsible and should seek confirmation that the disclosure is being addressed.

There is also clarity that, where a decision has been made not to report to the Central Bank, this decision must be documented. It is therefore important that internal escalation and regulatory reporting procedures are updated to reflect the new obligation.

Firm obligations

As set out in Section 6 above, firms are obliged to embed the Conduct Standards (including the Additional Conduct Standards) into their culture through notification; training; and integration.

What is not clearer?

The Consultation clarifies that the Additional Conduct Standards apply to both **incoming and outgoing third country and EEA branches**, including the requirement to take certain ‘reasonable steps’ to ensure the Additional Conduct Standard are met, which could now apply to an Irish Branch Head.

In respect of the Additional Conduct Standard ‘*that the business of the regulated financial service provider is controlled effectively*’:

- The Consultation is clear that to meet this Additional Conduct Standard, an individual should ensure that they ‘fully understand the area of the business for which they are responsible’
 - » for the PCF population, while their Statement of Responsibilities would tell them the area of the business for which they are responsible, those are not currently due to be completed by 1 July 2024, while the Additional Conduct Standards will need to be in place by 31 December 2023
 - » for the CF1 population, there will be no requirement to put in place Statements of Responsibilities at all, notwithstanding the Additional Conduct Standards being introduced by 31 December 2023; however, many firms may choose to implement some form of Statements of Responsibilities for CF1 role holders to assist them in understanding the scope of their

‘reasonable steps’ obligations under the Additional Conduct Standards

How the Additional Conduct Standards will be assessed and enforced in practice remains to be seen. Some key aspects which remain unclear from the Consultation are discussed below:

In respect of the Additional Conduct Standard ‘*that the business of the regulated financial service provider is conducted in accordance with its obligations under financial services legislation*’:

- It is not clear where the dividing line is between a confirmation that PCFs/CF1s are not required to themselves put in place the relevant systems and controls but must ensure e.g that such policies and procedures have clear and well defined steps for complying with the detail of all of the relevant regulatory requirements
- While the PCF/CF1 role holder must ensure that suitable training is provided to staff to enable them to fully understand the business and regulatory environment, it is not clear to what degree reliance can be placed on internal

or external training or education teams. At a minimum we would expect that the individual must exercise oversight and challenge over the training developed and provided to ensure it is provided at an appropriate time and frequency

- The Central Bank's acknowledgment that where errors occur and a root cause analysis is conducted, it is not unreasonable for the firm to carry out a cost benefit analysis on any recommendations for improvements is welcome. However, in practice, it is not clear how that cost benefit analysis will be viewed should another subsequent error occur; any such analysis will at the very least need to be supported by clear decision-making and challenge

In respect of the Additional Conduct Standard '*that any information of which the Bank would reasonably expect notice in respect of the business of the regulated financial service provider is disclosed promptly and appropriately to the Bank*':

- Although this requirement is broader than the current obligation on PCFs

under section 38(2) of the Central Bank (Supervision and Enforcement) Act 2013, the Guidance has not provided much clarity on what the Central Bank expects to be reported. The Consultation simply states that PCFs and CF1s are expected to have the 'expertise to recognise when' the information is something the Central Bank would reasonably expect notice of. As part of the implementation project, supports and internal processes will be essential to assist the PCF and CF1 population in your firm in meeting this requirement and avoid unnecessary and unhelpful 'over-reporting'. Firms may consider extending whatever supports they provide PCFs in ensuring they comply with their reporting obligations under the above 2013 Act to PCF and CF1 role holders regarding their reporting obligations under the Additional Conduct Standards

In respect of **General Counsel and Senior In-House Lawyers**, the scope of the Additional Conduct Standards raise several practical issues, e.g.:

- The obligations to report matters to the Central Bank do not 'override' legal privilege in advice given by an in-house lawyer (indeed it is the firm's rather than the lawyer's privilege to waive). However, when providing information to the regulator in compliance with this requirement, lawyers may need to be careful that the 'non-privileged' information is at least consistent with privileged and non-disclosed legal advice
- Some Prescribed Responsibilities cover matters into which in-house lawyers routinely input. E.g. PR 7 refers to ensuring action is taken to prevent 'further harm' where a firm becomes aware of conduct that may have caused detriment to customers. This often involves amending litigation or customer engagement processes in consumer businesses which usually require significant legal input. Although overall responsibility for this aspect must remain with the PCF to which PR7 is allocated, significant delegation to in-house lawyers may be necessary depending on the firm's circumstances

08 / REASONABLE STEPS – DUTY OF RESPONSIBILITY AND CONDUCT STANDARDS

Scope

The concept of ‘reasonable steps’ is relevant to both PCFs within the scope of SEAR and PCFs and CFs in relation to the operation of the Conduct Standards. The Consultation therefore discusses generally how individuals, RFSPs and the Central Bank will assess what ‘reasonable steps’ are required in any particular case across all of the following:

- The Duty of Responsibility under SEAR obliges PCF role holders to **take any steps that it is reasonable in the circumstances for them to take** to avoid a contravention by their firm of its obligations under financial services legislation in relation to an aspect of the firm’s affairs for which the PCF role holder is responsible under SEAR
- The Common Conduct Standards oblige a CF (including PCF) role holder to **take the steps that it is reasonable in the circumstances for the individual to take**

to ensure that the Common Conduct Standards are met

- The Additional Conduct Standards oblige a PCF/CF1 role holder to **take the steps that it is reasonable in the circumstances for the individual to take** to ensure that the Additional conduct Standards are met

Section 53D of the IAF Act lists the circumstances that are relevant in determining whether an individual took ‘reasonable steps’ in any of the above three contexts¹ including: the nature of the RFSP’s business; the individual’s function(s) and the knowledge/experience expected for this function; the individual’s knowledge and experience; the existence and application of systems and controls, oversight of delegation, procedures for identifying and remedying problems; and any relevant Central Bank guidance.

The Consultation sets out in more detail the Central Bank’s guidance in this regard. It refers to proportionality, predictability and reasonable expectations being the

foundations of the Central Bank’s approach to the IAF, including ‘reasonable steps’

What is clearer?

The Central Bank’s Expectations in Practice

The Consultation includes some general points on assessing ‘reasonable steps’:

- The Central Bank will consider what steps an individual, in their position, could reasonably have been expected to take at the relevant point in time. Whilst the regulatory landscape and environment may change, the Central Bank clearly states that standards will not be applied retrospectively or with the benefit of hindsight
- The Central Bank recognises that individuals in senior roles have to exercise judgment in discharging their responsibilities and notes that it will consider whether individuals demonstrated how their judgment was reasonable at the time, even if in hindsight it turned out to be wrong

The Consultation also provides more detail on how it will apply the statutory list of factors outlined above. In summary:

- **Nature, scale and complexity of the RFSP** - this will include the size and complexity of its operations and the nature of services provided (e.g. multiple product lines would require more extensive risk management frameworks)
- **Functions of the individual** - this includes not only an individual’s written responsibilities but how they interact with others’ responsibilities. Individuals should be satisfied with the quality of any input provided by another area of the firm. The Central Bank acknowledges that individuals coming into a more senior role for the first time will be on a learning curve (subject to minimum expectations)
- **Level of knowledge/experience the person has or could reasonably be expected to have** - this includes how long they have been in the role, transitional arrangements, the extent of awareness of

¹ see Section 3 of ALG’s IAF and SEAR Guide for more details

regulatory requirements necessary for the role; ongoing professional development including training and the steps the individual took to ensure their awareness of key risks and developments relevant to their area of the business

- **Existence and application of appropriate and effective systems** - this includes the extent to which the individual assessed, monitored and reviewed the adequacy and effectiveness of the governance, operational and risk management in place in the relevant area; how they informed themselves of material changes to risk and considered the broader implications; the steps taken by the individual to implement systems and controls and to ensure these were kept up to date; and how recommendations from relevant reviews were implemented
- **Effective delegation** - this includes how the individual ensured delegation to an appropriate delegate; and the steps taken to ensure a clear understanding of what was delegated and expectations; how the delegation was overseen such as staying up to date on the progress of deliverables, ensuring the existence and familiarity

of escalation and whistleblowing procedures, ensuring delegates are aware of the RFSP's culture, having processes to manage disruptions to staffing levels and ensuring appropriate transitions of responsibilities between delegates

- **Procedures for identifying and remedying problems** - this includes:
 - » ensuring there are appropriate and effective procedures for the timely identification; remediation and mitigation of problems or breaches (e.g. in relation to the expansion of a business, highly profitable or unusual transactions); appropriate escalation procedures, ensuring issues are raised comprehensively and transparently and are thoroughly reviewed and documented; and ensuring matters are reported both internally and externally where required and with appropriate follow up resolution and approaching 'lessons learned' to address implications for the RFSP's wider control environment
 - » how the individual meaningfully informed themselves of e.g. proper

reporting and explanation of issues, obtaining independent expert advice and escalating to senior management/ the board where appropriate

- » the steps an individual takes to prevent breaches of customer's consumer protection rights and that they are adequately considered, including assessing whether customer interests are at the center of the RFSP's dealings, the disclosure of all material information, the identification and engagement with impacted customers where a failing is identified to prevent further harm, and engagement with the Central Bank openly and constructively on these issues
- **Whether a matter was within the control or influence of the Individual** - this includes the overall circumstances and environment in which the individual was operating (including the extent of adherence to firm procedures); how the individual reviewed and challenged information available to them; and how the individual participated in collective decisions including ensuring appropriate attendance and participation in relevant

meetings, and ensuring they were sufficiently and appropriate informed of relevant matters

Reasonable steps and temporary appointments

Whilst the Consultation does not provide any more clarity on the practical steps for obtaining formal approval for temporary PCF appointments, it does acknowledge that, while the necessary Duty of Responsibility or Conduct Standards will apply, the consideration of 'reasonable steps' will reflect the particular circumstances of the individual, including what steps they took to appraise themselves of the role and relevant area of the business on taking on the temporary role.

What is not clearer?

The difference in wording between the Duty of Responsibility (focusing on preventing regulatory contraventions) and the Conduct Standards (e.g. with the Additional Conduct Standards referring not only to the RFSP's business acting in accordance with regulatory obligations, but also that the

business is controlled effectively and that delegation is effective) may cause some confusion across the industry.

However, in practice, taking reasonable steps to ensure these other elements of the Additional Conduct Standards are complied with should match the steps that one might objectively expect within any particular RFSP to ensure regulatory compliance. RFSPs should therefore consider carefully a consistency of approach between supporting PCFs in complying with the Duty of Responsibility under SEAR (if applicable to the RFSP) and supports for all individuals within the F&P regime to comply with their own ‘reasonable steps’ obligations. This is particularly the case for PCFs and CF1s under the Additional Conduct Standards.

The expectations on PCFs and CF1s in particular will obviously be fact specific. However, some generic themes arise which are not clarified in any detail in the Consultation. E.g.:

- One aspect of ensuring regulatory compliance is ensuring the operational effectiveness of related systems and

controls. Whilst the Consultation indicates that senior individuals may not be expected to put in place the necessary systems or controls themselves, it may be difficult to assess in any particular case where the line is between: (i) not having to implement systems yourself; and (ii) ensuring, for example, that those systems have ‘clear and well defined steps’ for complying with regulations. This will require careful and well documented delegation by senior individuals

- The Consultation acknowledges that if an issue arises in an RFSP, it may ‘touch’ several individual’s responsibilities. For example, in the context of disclosure to the Central Bank, it notes that individuals might assume a matter does not fall within their own remit if this is a reasonable conclusion, but that they should still obtain confirmation of how the matter was dealt with and, if appropriate, disclosed to the regulator by another appropriate individual. This will require careful management in practice, especially given the urgency on ‘day one’ of the identification of a regulatory breach

- The nature and extent of documentation expected by the Central Bank to evidence ‘reasonable steps’ is not clarified in any great detail. For example, as regards appropriate delegation, some RFSPs will assist PCFs and CF1s with training for themselves and/or their direct reports, whereas other more complex RFSPs may require internal ‘delegation matrices’ where specific tasks are delegated in writing to specific individuals, with expectations on reporting KPIs, escalation and query resolution being clearly set out. RFSPs are required to continue assessing what is right for their business with limited further guidance
- The impact of ‘reasonable steps’ on collective decision-making is only generally dealt with¹. E.g. whilst the Consultation acknowledges an intention that collective decision-making will not be impacted by individual accountability, it goes on to refer to an expectation that individuals who participate in a collective decision but ultimately believe the outcome was not in the best interest of customers should take ‘appropriate follow up action’ which could include internal

challenge of the collective decision or ultimately reporting to ‘relevant regulatory bodies where required’

¹ see section 6 above for more detail on collective decision-making

09 / F&P – CERTIFICATION

Scope

All RFSPs currently in the F&P regime, regardless of sector, and certain holding companies.¹

What is clearer?

The Consultation confirms the obligation on RFSPs and in-scope holding companies to issue a certificate of compliance (confirming an individual's compliance with requisite standards of fitness and probity) in respect of all CF (including PCF) role holders (Certificate). We set out below key aspects of this certification requirement, which are clarified by the Consultation:

Circumstances triggering the certification requirement and validity

- The requirement to issue a Certificate is triggered in respect of existing CF (including PCF) role holders, and proposed CF role holders, and must be issued prior to the appointment of a person to perform the CF
- The Certificate must contain a statement that the RFSP or holding company is

satisfied that the person complies with any standard of fitness and probity issued under section 50 of the Central Bank Reform Act 2010

- A newly authorised RFSP or holding company shall issue the Certificate in respect of each CF role holder within 5 days of authorisation (or as otherwise agreed with the Central Bank)
- Certificates must be updated where it proposed that a previously certified CF role holder perform further controlled function(s)
- A Certificate is valid for 12 months from the date of issue
- RFSPs and in-scope holding companies must issue the Certificate within two months of the Certification Regulations coming into operation (adopting the current implementation timeline indicated by the Central Bank, this would be 29 February 2024)

Due diligence

- RFSPs and in-scope holding companies must undertake appropriate due diligence to satisfy themselves that

each CF role holder is fit and proper to perform that role

- RFSPs and in-scope holding companies should have regard to the Central Bank's Guidance on Fitness and Probity Standards 2018, which sets out the Central Bank's expectations on firms in relation to due diligence, and apply an approach consistent with the nature, scale and complexity of the firm and the CF roles therein

Procedures, systems and controls to be adopted and checks to be performed by RFSPs and in-scope holding companies

RFSPs and in-scope holding companies must maintain a record of:

- The particular CFs held by each person performing a CF
- Aspects of the firm's affairs in which the CF role holder will be involved
- The basis on which the firm is satisfied that a person performing a CF meets any standard of fitness
- Details of certain outsourcing arrangements, which involve the performance of a CF²

¹ Financial holding companies, mixed financial holding companies, insurance holding companies and investment holding companies established in the State will, as a result of the IAF Act, fall within scope of the F&P regime.

² Where the outsourced provider is a person who is not a RFSP or a Certified Person within the meaning of section 55 of the Investment Intermediaries Act 1995



Record keeping

RFSPs and in-scope holding companies must:

- Maintain all information and documentation relied upon in relation to certification (including due diligence and agreements to abide by the F&P standards) for a minimum of 6 years after that person has ceased to perform the CF on behalf of the firm.
- Maintain an accurate and up-to-date register of individuals in CF roles, which is available to the Central Bank upon request

Reporting of certification information to the Central Bank

RFSPs and in-scope holding companies must submit the following information to the Central Bank annually (as part of annual PCF confirmation):

- Confirmation of completion of the certification process in respect of each PCF role holder
- Confirmation of completion of the certification process in respect of all other CF role holders

RFSPs and in-scope holding companies must also notify the Central Bank of a decision to revoke and/or not renew a Certificate (in whole or in part) in respect of a CF role holder.

Responsibility for and compliance with the certification process

RFSPs and in-scope holding companies should implement procedures to manage their obligations under the certification requirement. These procedures may be incorporated into existing ongoing performance monitoring.

The Central Bank's expectation is that there should be one individual within a RFSP or in-scope holding company with overall responsibility for certification. For in-scope SEAR firms, an individual must be assigned PR2 'responsibility for the firm's performance of its obligations under the F&P regime (including certification)'. For other firms, the Central Bank considers the CEO, or equivalent, to be responsible and accountable for certification.

Reporting of 'disciplinary action' to the Central Bank

RFSPs and in-scope holding companies must report to the Central Bank disciplinary action taken against a CF role holder where that disciplinary action is relevant to compliance with the F&P Standards, in particular, disciplinary action relating to a breach of the Conduct Standards (Common and Additional Conduct Standards).

This report must be made, in writing, to the Central Bank within five business days of the disciplinary action concluding, and should include details about:

- The individual who has committed the breach
- What Conduct Standard(s) has been breached
- The disciplinary action taken (disciplinary action extends to the issuing of a formal written warning or the suspension/dismissal of the individual, or the reduction or recovery of any of the individual's remuneration)

The Central Bank's expectation is that RFSPs and in-scope holding companies will put in



place a framework to identify, monitor and action potential breaches of the Conduct Standards, including clear decision-making processes with appropriate governance.

What is not clearer?

The obligation to report to the Central Bank disciplinary action taken against an individual performing a CF role where that disciplinary action is relevant to compliance with the F&P Standards, including disciplinary action arising from breaches of the Conduct Standards, raises some complexities in practice. In particular, the Central Bank's expectation of RFSPs and in-scope holding Companies is expressed differently, and therefore might be interpreted differently, to its parallel expectations under the F&P Guidance on investigating concerns regarding individuals' fitness and probity.

The Consultation also provides that, in order to comply with obligations to report breaches of the Conduct Standards, RFSPs and in-scope holding companies should put in place a framework to identify, monitor

and action potential breaches of these Standards. The Central Bank gives specific examples, including: a review of existing control, for example incidents logs, instances of whistleblowing and customer complaints data, to assess how these can be used to monitor potential breaches of the Conduct Standards. Firms' mechanisms for reviewing potential breaches (e.g. reviewing customer complaint patterns) now need to 'speak to' their HR and disciplinary procedures.

Also, in light of the obligation on firms to report disciplinary action arising from breaches of the Conduct Standards to the Central Bank within 5 days of the disciplinary action concluding, RFSPs and holding companies will need to carefully consider how their disciplinary procedure interacts with any assessment as to whether or not a breach of the Conduct Standards has been engaged, and whether that in turn impacts on an individual's fitness and probity. This is no doubt an area in which we will see further development as the regime beds in.

The Consultation also requires firms to put in place a framework to identify, monitor

and action potential breaches of the Conduct Standards, referring to reviewing incident logs, whistleblowing instances and customer complaints and assessing how these can be used to monitor potential breaches of the Conduct Standards. How each firm should action this expectation will depend on the size, complexity and nature of their business.

10/ F&P – EXTENSION TO HOLDING COMPANIES

Scope

F&P regime extended to financial holding companies, mixed financial holding companies, insurance holding companies and investment holding companies established in the State.

What is clearer?

The Consultation clarifies that individuals proposed for PCF roles in in-scope holding companies will be assessed by the Central Bank under the existing F&P regime in the same way as individuals proposed for PCF roles in RFSPs are assessed. In addition, all CF role holders of in-scope holding companies will be required to comply with the F&P Standards and, as outlined above, in-scope holding companies must comply with the certification requirement.

The Consultation further clarifies that individuals who are performing CF roles at an in-scope holding company level only will not be subject to the Conduct Standards, as the holding company itself is not a RFSP.

Controlled functions

The following functions are proposed as CFs in respect of in-scope holding companies:

- 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 holding company
- A function in relation to the provision of a financial service which is ensuring, controlling or monitoring compliance by a holding company with its relevant obligations

Pre-approval controlled functions

Chairman of the Board and Director are both proposed PCFs in respect of in-scope holding companies.

11/ F&P – HEAD OF MATERIAL BUSINESS LINE

Scope

Proposed introduction of a ‘Head of Material Business Line’ PCF for insurance undertakings and investment firms.

What is clearer?

The Central Bank is proposing to introduce the Head of Material Business Line role (previously introduced in respect of credit institutions only) for insurance undertakings and investment firms.

Head of Material Business Line for Insurance

The Consultation clarifies that the Head of Material Business Line for insurance is an individual who has significant influence over the performance of a material line, for example, oversees the performance of that business line and the business line in question satisfies either of the following quantitative criteria:

- Has gross technical provisions (whether positive or negative) equal to, or in excess of, €10 billion; or

- Accounts for 25 per cent or more of the insurance undertaking’s gross earned premium, if that gross earned premium is above €1bn per annum

Head of Material Business Line for Investment Firms

The Consultation clarifies that the Head of Material Business line for investment firms is an individual who has significant influence over the performance of a material line, for example, oversees the performance of that business line and the business line in question satisfies either of the following quantitative criteria:

- Has gross technical provisions (whether positive or negative) equal to, or in excess of, €5 billion; or
- Accounts for 10 per cent or more of the investment firm’s gross revenue

12/ NEXT STEPS

The Consultation is open to all interested stakeholders, including the public, regulated firms, staff, representative bodies, consultancies and service providers until 13 June 2023.

The Consultation clarifies that enhancements to the F&P investigative process will be the subject of separate guidance, and the Central Bank intends to issue updated F&P Investigations Regulations and F&P Investigations Guidance. The Central Bank does not propose to conduct a public consultation in respect of these changes as they are necessitated by the IAF Act.

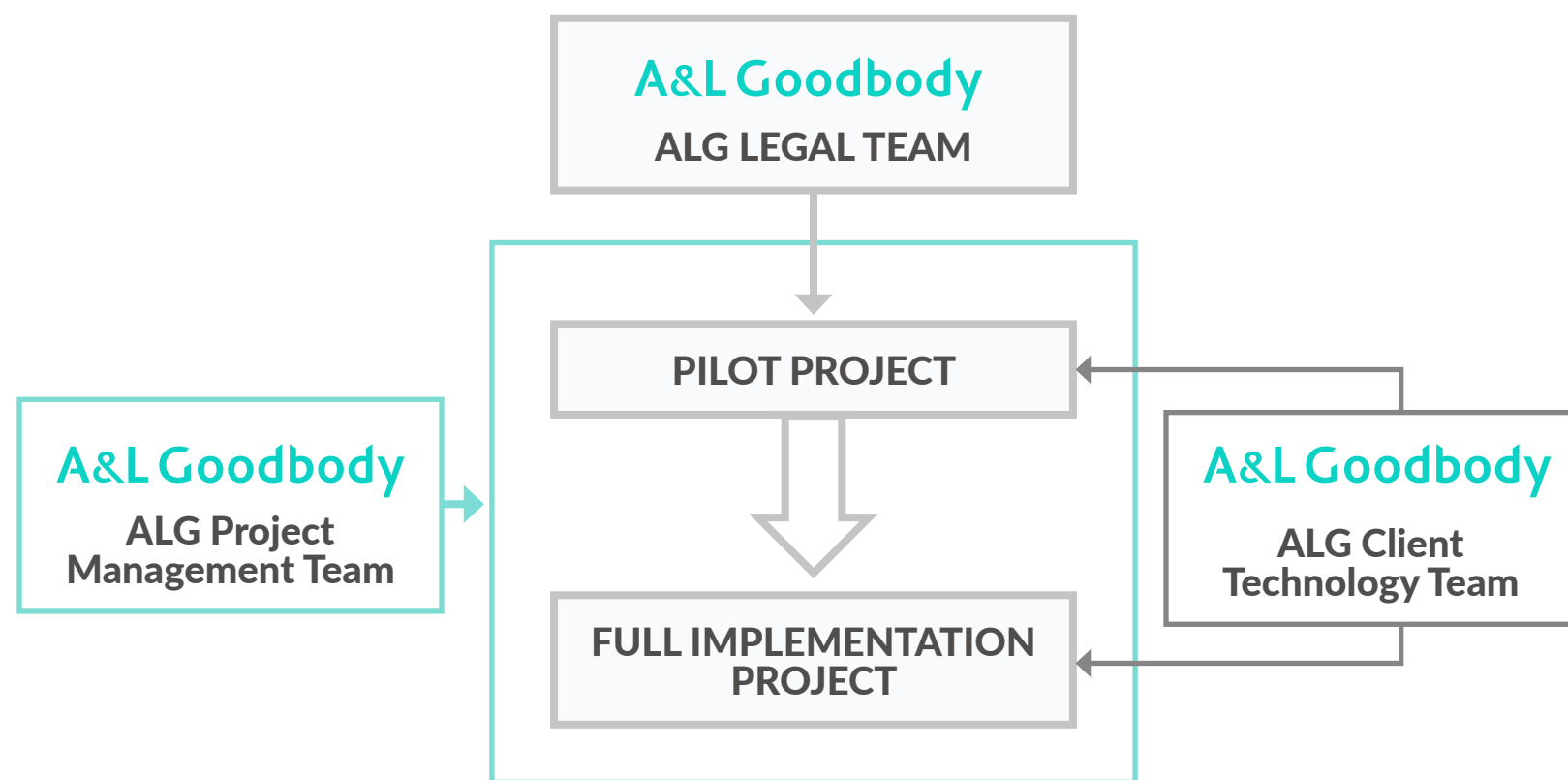
In addition, the Central Bank intends to launch a separate public consultation on changes to its Administrative Sanctions Procedure (**ASP**) in mid-2023. This consultation will include revised ASP Outline, ASP Inquiry Guidelines and ASP Sanctions Guidance for consideration by all relevant stakeholders.



13/ HOW CAN A&L GOODBODY HELP?

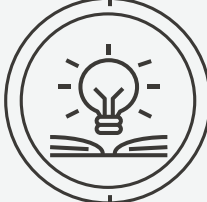
Your ALG SEAR team combines specialists from our Financial Regulation & Investigations Group and experts from our Employment, Corporate Governance, Banking, Insurance and Investment Funds Groups to provide a holistic approach to implementing SEAR.

Our ALG Regulatory specialists, Legal Project managers and Client Technology teams are working seamlessly to design, oversee and progress implementation plans for firms to get ahead of the reforms.



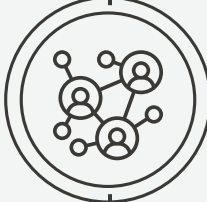
-  Planning and scoping your project
-  Collating current contractual, governance, HR and compliance materials
-  Assessing current practices and gaps
-  Employment, corporate governance and regulatory compliance advice
-  Reviewing governance structures, reporting lines, senior responsibilities
-  Amending HR documents, policies and procedures
-  Preparing SEAR documentation
-  Designing SEAR processes to support senior executives (e.g. delegation and oversight)
-  Board, senior executive and staff training
-  Updates on regulatory framework and SEAR best practice

ALG Solutions can provide supports to assist clients in the SEAR/IAF process.




Resources

Understanding the resource demands that the IAF will put on your organisation, ALG can provide dedicated resources to you, on-site or off-site, to progress document and information collation, driving your IAF project.



Systems

ALG's investment in technology can help store, process and manage the complexity of information and scope of documents to be reviewed and produced, as well as the efficiency of legal and regulatory review, during your IAF project.



Project management

ALG can provide dedicated project management resources to manage all of your scheduling and planning requirements to deliver on time and to budget, including resource plans, delivery of milestones, interview and briefing scheduling and required reporting.

Advantages of using ALG solutions model

Resources

- Free up resources in your legal and compliance teams
- Act as a dedicated line between your internal teams and ALG's legal and regulatory team
- Utilises flexible pricing models for resource support to meet your project demands

Systems

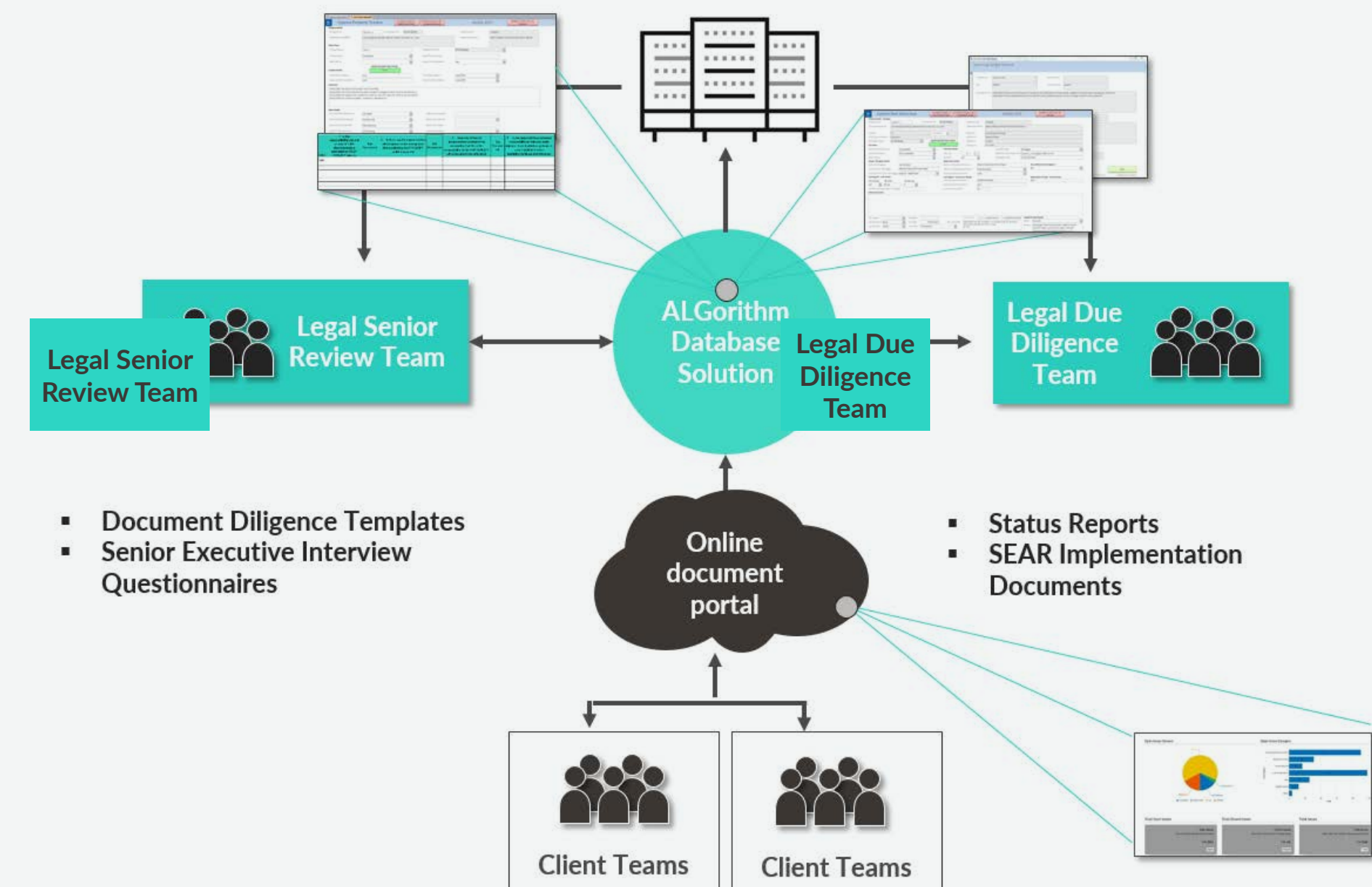
ALG systems can:

- Act as a repository of information and documentation
- Synthesise complex information and present it in a clear and concise format
- Improve the efficiency of legal and regulatory review during your project
- Provide live updates on the progress of the IAF project
- Create a picture of your organisation as a whole

Project management

ALG's PM function ensures:

- Close engagement with ALG and client team resources without necessity or cost of additional third-party consultants
- A dovetail with your business team to maximise efficiency through strong planning and delivery of key milestones to budget and schedule



ALGorithm

Our ALG Solutions team has worked with our Financial Regulatory & Investigations team to develop our ALGorithm system for SEAR implementation. ALGorithm combines a document transfer portal with a customised relational database solution to:

- Collate centrally all documentation 'artefacts', information in response to questionnaires and the outcome of senior executive interviews
- Facilitate a holistic review of these materials
- Ensure a consistent approach to drafting responsibility statements, maps and associated regulatory and HR documentation changes

Using ALGorithm, our SEAR team can identify overlaps and underlaps whilst providing an end to end audit trail, gap analysis and progress reporting in a cost efficient project.

Your SEAR team

Our Financial Regulation & Investigations, Employment and ALG Solutions teams are already working closely with our experts in our Banking, Insurance and Investment Funds Groups across industry to help firms prepare for SEAR.

Financial Regulation & Investigations



Dario Dagostino
Partner



Patrick Brandt
Partner



Mark Devane
Partner



Kevin Allen
Partner



Chloe Culleton
Partner



Sian Langley
Knowledge Lawyer

Employment



Duncan Inverarity
Partner



Noeleen Meehan
Partner



Michael Doyle
Partner

Insurance



James Grennan
Partner



Laura Mulleady
Partner



Sinead Lynch
Partner



Emma Martin
Of Counsel

ALG Solutions



Charles Carroll
Partner



Gillian McDonald
Partner



David Lucas
Senior Project Manager



Kevin O'Neill
Head of Program Management

Banking



Peter Walker
Partner



Seamus O'Croinin
Partner

Asset Management & Investment Funds



Kerill O'Shaughnessy
Partner



Stephen Carson
Partner

ANNEX 1

INHERENT RESPONSIBILITIES

PART 1: INHERENT RESPONSIBILITIES

1	PCF1 Executive director	Directing the business of the firm
2	PCF2A Non-executive director	Overseeing and monitoring the strategy and management of the firm
3	PCF 2B Independent Non-executive director	Overseeing and monitoring the strategy and management of the firm
4	PCF3 Chair of the board	Chairing meetings of the board, leading and overseeing its performance
5	PCF4 Chair of the audit committee	Chairing meetings of the audit committee, leading and overseeing the committee's performance
6	PCF5 Chair of the risk committee	Chairing meetings of the risk committee, leading and overseeing the committee's performance
7	PCF6 Chair of the remuneration committee	Chairing meetings of the remuneration committee, leading and overseeing the committee's performance
8	PCF7 Chair of the nomination committee	Chairing meetings of the nomination committee, leading and overseeing the committee's performance
9	PCF8 Chief Executive	Overall responsibility for managing and steering the business activities of the firm
10	PCF11 Head of Finance	Overall responsibility for managing the financial resources, financial planning and financial reporting of the firm and reporting directly to the Board on financial affairs
11	PCF12 Head of Compliance	Overall responsibility for managing the operation of the compliance function and reporting directly to the Board on compliance matters
12	PCF13 Head of Internal Audit	Overall responsibility for managing the operation of the firm's internal audit function and reporting directly to the Board on internal audit matters
13	PCF14 Chief Risk Officer	Overall responsibility for managing the firm's risk function including risk controls, setting and managing risk exposures and reporting directly to the Board on risk management matters
14	PCF16 Branch Manager of branches established outside the State	Overall responsibility for managing the operations of a branch of the firm located outside of the State
15	PCF17 Head of Retail Sales	Overall responsibility for managing the operation of the firm's retail sales function
16	PCF42 Chief Operating Officer	Overall responsibility for managing the internal operations of the firm
17	PCF41 Manager of a branch in Ireland of a RFSP established in a country that is not an EEA country	Overall responsibility for managing the operations of a branch of the firm located in the State
18	PCF49 Chief Information Officer (CIO)	Overall responsibility for managing the firm's information and use of technology
19	PCF52 Head of AML/CTF	Overall responsibility for managing the operation of the firm's AML/CFT functions

PART 2: INVESTMENT FIRMS

20	PCF28 Branch Managers in Ireland	Overall responsibility for managing the operations of the branch in the State
21	PCF29 Head of Trading	Overall responsibility for managing the operation of the firm's trading function
22	PCF30 Chief Investment Officer	Overall responsibility for managing the operation of the firm's investment functions
23	PCF45 Head of Client Asset Oversight	Overall responsibility for managing the operation of the firm's client asset function

PART 3: INSURANCE UNDERTAKINGS

24	PCF18 Head of Underwriting	Overall responsibility for managing the operation of the firm's underwriting function
25	PCF19 Head of Investment	Overall responsibility for managing the operation of the firm's investment function
26	PCF43 Head of Claims	Overall responsibility for managing the operation of the firm's claim function
27	PCF48 Head of Actuarial Function	Overall responsibility for managing the operation of the firm's actuarial function

CREDIT INSTITUTIONS

28	PCF21 Head of Treasury	Overall responsibility for managing the operation of the firm's treasury function
29	PCF22 Head of Credit	Overall responsibility for managing the operation of the firm's credit function
30	PCF23 Head of Asset and Liability Management	Overall responsibility for managing the operation of the firm's asset and liability management function
31	PCF50 Head of Material Business Line	Overall responsibility for managing the operation of a material business line at the firm
32	PCF51 Head of Market Risk	Overall responsibility for managing the operation of the firm's market risk function

ANNEX 2

PRESCRIBED RESPONSIBILITIES

GENERAL PRESCRIBED RESPONSIBILITIES

- PR1** Responsibility for the firm's performance of its obligations under the Senior Executive Accountability Regime
- PR2** Responsibility for the firm's performance of its obligations under the Fitness and Probity Regime (including Certification)
- PR3** Responsibility for embedding the conduct standards throughout the firm
- PR4** Responsibility for leading the development of the firm's culture, including conduct, by the Board as a whole including the implementation of effective conflicts of interest policies and procedures in relation to consumer protection risk
- PR5** Responsibility for adopting the firm's culture in the day-to-day operation of the Firm
- PR6** Responsibility for overseeing the development of, and embedding positive culture, consumer protection and conduct risk into, the firm's remuneration policies and practices
- PR7** Responsibility for ensuring that action is taken to prevent further harm or detriment to customers where the firm becomes aware that a Decision or action taken or failure to act has caused harm or detriment to customers
- PR8** Responsibility to adequately consider the impact of key business initiatives and strategic decisions and to ensure that any necessary changes are made to such initiatives/decisions prior to their implementation to avoid any harm to customers
- PR9** Responsibility for safeguarding the independence of the internal audit function and for Oversight of the function and the Head of Internal Audit
- PR10** Responsibility for Safeguarding the independence of the compliance function and for oversight of the function and the Head of Compliance
- PR11** Responsibility for Safeguarding the Independence of the risk function and for oversight of the function and the Chief Risk Officer
- PR12** Responsibility for leading the development and monitoring implementation of effective policies and procedures for succession planning, Induction, training and professional development of all members of the Board
- PR13** Responsibility for ensuring the independence, autonomy and effectiveness of the firm's policies and procedures on whistleblowing
- PR14** Responsibility for monitoring implementation of effective policies and procedures for succession planning, induction, training and professional development of staff
- PR15** Responsibility for developing and maintaining the firm's recovery plan, the accurate and timely reporting of all information required for recovery and resolution purposes, the implementation of measures necessary to achieve the operationalisation of recovery and resolution strategies, and for overseeing the internal processes regarding their governance, including the coordination of the entity's compliance in those respects

GENERAL PRESCRIBED RESPONSIBILITIES

- PR16** Responsibility for managing the firm's internal stress-tests and ensuring the accuracy and timeliness of information provided to the Central Bank for the purposes of stress-testing
- PR17** Responsibility for the board's development and maintenance of the firm's business Model
- PR18** Responsibility for managing the calculation and maintenance of the firm's financial resources including accuracy of capital, funding and liquidity
- PR19** Responsibility for managing the firm's treasury management functions and associated risks
- PR20** Responsibility for ensuring accuracy, completeness and timely production and submission of the firm's financial reports and regulatory returns
- PR21** Responsibility for developing structures and mechanisms to oversee, monitor, and assess the appropriateness and performance of the firm's outsourcing framework including outsourcing arrangements and associated outsourcing risks
- PR22** Responsibility for managing the anti-money laundering/ countering the financing of terrorism ('AML/CFT') function in order to address the firm's money laundering and terrorist financing risks including the development, implementation and oversight of a robust AML/CFT framework including, effective systems and controls
- PR23** Responsibility for the firm's compliance with client asset requirements
- PR24** Responsibility for oversight and governance of the development, design and distribution of products, review of products and sale and post-sale arrangements to ensure fair customer outcomes
- PR25** Responsibility for the development and implementation of Information and Communication Technology (ICT) strategy; ensuring the efficient and secure operation of ICT systems; oversight of delivery of ICT projects; and management and development of ICT resources
- PR26** Responsibility for leading the development of a framework for and monitoring the implementation of the conduct requirements including ensuring accuracy, completeness and timely production and submission of the firm's conduct information
- PR27** Responsibility for developing an internal audit charter, developing a risk based audit plan with appropriate and timely actions and reporting taken in relation to audit findings
- PR28** Responsibility for managing the firm's approach to identifying, assessing and managing climate-related and environmental risks across the firm
- PR29** Responsibility for overseeing the adoption of the firm's policy on diversity and inclusion

SECTOR OR CIRCUMSTANCE SPECIFIC RESPONSIBILITIES

CREDIT INSTITUTIONS

PR30 Responsibility for overseeing the credit granting process for new, renewal and re-financing of existing credits, providing challenge in relation to all aspects of current and proposed credit risk exposures, providing comprehensive and timely information to senior management and credit committee on the firm's adherence to policies, guidelines, procedures and limits

INSURANCE UNDERTAKINGS

PR31 Responsibility for developing and implementing the insurance undertaking's reinsurance/retrocession programme

PR32 Responsibility for implementing the ORSA process in the insurance undertaking

PR33 Responsibility for ensuring that appropriate independent validation of the technical provisions is conducted in the insurance undertaking

CIRCUMSTANCE SPECIFIC RESPONSIBILITIES

PR34 Where the firm carries out proprietary trading, responsibility for the firm's proprietary trading activities

PR35 Where the firm does not have a CRO, responsibility for the compliance of the firm's risk management systems, policies and procedures

PR36 Where the firm outsources its internal audit function, responsibility for taking reasonable steps to ensure that every person involved in the performance of that function is independent from the persons who perform external audit

PR37 Where the firm has established a specific steering committee to address regulatory matters, responsibility for managing the operation of the committee and for providing comprehensive and timely reporting to senior management and to the board

PRESCRIBED RESPONSIBILITIES IN THE APPLICATION OF PROPORTIONALITY TO LOW IMPACT IN-SCOPE MIFID INVESTMENT FIRMS

GENERAL PRESCRIBED RESPONSIBILITIES

PR1 Responsibility for the firm's performance of its obligations under the Senior Executive Accountability Regime

PR2 Responsibility for the firm's performance of its obligations under the Fitness & Probity regime (including certification)

PR3 Responsibility for embedding the conduct standards Throughout the firm

PR4 Responsibility for leading the development of the firm's culture, including conduct, by the Board as a whole Including the implementation of effective conflicts of interest policies and procedures in relation to consumer Protection risk

PR10 Responsibility for safeguarding the Independence of the compliance function and for oversight of the function and the Head of Compliance

PR14 Responsibility for leading the development and monitoring implementation of effective policies and procedures for succession planning, induction, training and professional development of all members of the Board

PR18 Responsibility for managing the calculation and maintenance of the firm's financial resources including accuracy of capital, funding and liquidity

PR20 Responsibility for ensuring accuracy, completeness and timely production and submission of the firm's financial reports and regulatory returns

PR22 Responsibility for managing the anti-money laundering/ countering the financing of terrorism ('AML/CFT') function in order to address the firm's money laundering and terrorist financing risks including the development, implementation and oversight of a robust AML/CFT framework including, effective systems and controls

PR23 Responsibility for the firm's compliance with client asset requirements

PR24 Responsibility for oversight and governance of the development, design and distribution of products, review of products and sale and post-sale arrangements to ensure fair customer outcomes

PR25 Responsibility for the development and implementation of Information and Communication Technology (ICT) strategy; ensuring the efficient and secure operation of ICT systems; oversight of delivery of ICT projects; and management and development of ICT resources

INCOMING THIRD COUNTRY BRANCHES

PRESCRIBED RESPONSIBILITIES FOR INCOMING THIRD COUNTRY BRANCHES	
PR1	Responsibility for the Third Country Branch's performance of its obligations under the Senior Executive Accountability Regime
PR2	Responsibility for the Third Country Branch's performance of its obligations under the Fitness and Probity Regime (including certification)
PR3	Responsibility for the Third Country Branch's embedding the conduct standards throughout the firm
PR4	Responsibility for managing the anti-money laundering/ countering the financing of terrorism ('AML/CFT') function in order to address the Third Country Branch's money laundering and terrorist financing risks including the development, implementation and oversight of a robust AML/CFT framework including effective systems and controls
PR5	Responsibility for the Third Country Branch's compliance with client asset Requirements
PR6	Responsibility for ensuring that the Third Country Branch has effective processes in place to identify and manage the risks to which the Third Country Branch is or might be exposed
PR7	Responsibility for monitoring, and on a regular basis assessing, the adequacy and effectiveness of measures and procedures put in place by the Third Country Branch to comply with its regulatory and supervisory obligations, as well as associated risks
PR8	Responsibility for the escalation of correspondence from the Central Bank and other regulators in respect of the Third Country Branch to the board of the Third Country Branch or, where appropriate, of the parent undertaking or holding companies of the Third Country Branch's group
PR9	Responsibility for ensuring that the internal control framework is effective
PR10	Responsibility for management of the Third Country Branch's capital and liquidity or, where relevant, the submission of information to the Central Bank/relevant competent authority on the Third Country Branch's capital and liquidity position
PR11	Responsibility for ensuring accuracy, completeness and timely production and submission of the Third Country Branch's financial reports and regulatory returns
PR12	Responsibility for the development and maintenance of the Third Country Branch's business model by the board
PR13	Responsibility for managing the Operational Risk within the Third Country Branch