

FINANCIAL REGULATION
& INVESTIGATIONS

The Individual Accountability Framework and SEAR

What you need to know and what next

Updated to reflect the passing of the Central Bank
(Individual Accountability Framework) Bill 2022



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THE NEW LANDSCAPE

The Central Bank of Ireland's (**Central Bank**) Individual Accountability Framework will be one of the most impactful regulatory changes of recent years.

While much of the focus has been on the Senior Executive Accountability Regime (**SEAR**), this is just one element of the overall Individual Accountability Framework.

The recent passing of the Central Bank (Individual Accountability Framework) Bill 2022 (**IAF Bill**) by the Dáil, and its expected enactment in the coming weeks, brings implementation of these reforms into sharp focus. It is important that all regulated firms take steps now to assess the impact of the Individual Accountability Framework on their compliance and governance arrangements and their business.

This Guide summarises what you need to know and what you need to do, as well as highlighting what is new under the IAF Bill, since initiated in 2022 and what remains to be clarified by way of Central Bank consultation and regulatory guidance.

We will be updating our insights as the regulatory guidance develops.



There are six parts to the Individual Accountability Framework, 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:

- The introduction of SEAR
- A new 'Duty of Responsibility' for individuals within the scope of SEAR
- New Conduct Standards for individuals, with Additional Conduct Standards applying to pre-approval controlled function (**PCF**) holders and controlled function (**CF**) 1 holders, and Common Conduct Standards applying to all persons in CF roles. Both sets of standards apply to all RFSPs
- New Business Standards applying to all RFSPs
- Enhancements to the Central Bank's Fitness and Probity (**F&P**) regime
- Enhancements to the Central Bank's Administrative Sanctions Procedure (**ASP**)

This suite of reforms is designed to:

- Clarify the roles and responsibilities of senior individuals within RFSPs 'in scope' for SEAR
- Provide for the direct enforceability of Additional and Common Conduct Standards against senior individuals in all RFSPs
- Make it easier for the Central Bank to engage in enforcement investigations against individuals
- Set a benchmark of general conduct standards for all regulated firms which can be directly enforced

A&L Goodbody has a host of resources on our dedicated IAF/SEAR [webpage](#).

CENTRAL BANK IAF BILL 2023

What is new under the IAF Bill since initiated in 2022?

- There have been no substantive amendments to SEAR, the Duty of Responsibility or the Conduct Standards, although we can expect detail and clarification in delegated regulation(s) and regulatory guidance
- There have been amendments to both the F&P and enforcement aspects of the Individual Accountability Framework, as follows:

Amendments to the F&P regime

Appointments to PCFs in significant institutions

- The European Central Bank's (ECB) role in pre-approval of certain roles in significant institutions has been clarified, and all such roles are confirmed to require specific ECB approval before the individual commences the role

F&P suspension notices

- The Central Bank will have a power to issue a suspension notice where it has imposed a prohibition (pending High Court approval) on the person from carrying out a CF, or part thereof
- This suspension notice may issue whether or not there has been an investigation into

the person's fitness and probity pursuant to section 25 of the Central Bank Reform Act 2010, and may issue pending High Court confirmation of the prohibition itself

- This is in addition to the Central Bank's previous power to issue a suspension notice where the person's fitness and probity is or has been the subject of a Central Bank investigation
- In effect, this amendment clarifies that the Central Bank may ultimately suspend an individual from performing a CF role, even if that individual intends to challenge the issuing of the prohibition notice before the High Court

Amendments to the ASP

Confidentiality of information provided to third parties

- A further bespoke confidentiality provision in respect of confidential information provided for the purposes of an investigation and/or an investigation report is introduced
- Where the Central Bank provides such information to a third person, that third person will be expressly prohibited from disclosing that information to anyone other than their legal representative, unless authorised by to do so by the Central Bank in writing, or required to do so by law

'Disqualification' sanction against individuals

- The newly expanded disqualification sanction, which disqualifies a person from performing any CF and/or imposes conditions in the performance of that CF, will apply only to wrongdoing which occurs post-commencement of the IAF Bill
- The original disqualification sanction, as already provided for in the 1942 Act, permits the disqualification of a person from being concerned in the management of a regulated financial service provider. This will continue to apply to wrongdoing which occurs prior to commencement of the IAF Bill

Amendment to transitional provision

- A late amendment to the IAF Bill, introduced at the Seanad, ensures that inquiry decisions made post-commencement of the IAF Bill by existing inquiries (i.e. inquiries established pre-commencement) will be subject to the new, *Zalewski* informed, appeal and court confirmation processes

What remains to be clarified?

- The list of 'prescribed responsibilities' which must be allocated to a PCF holder – at present there has been no indication from the Central Bank as to the content of these responsibilities
- The list of 'inherent responsibilities' of each PCF role – as with 'prescribed responsibilities' there has been no indication from the Central Bank as to the content of these responsibilities
- The scope of 'responsibilities' held by Non-Executive Directors
- The content and format of a 'statement of responsibilities' and a 'management responsibility map'
- The sharing and splitting of roles and responsibilities consistent with 'dual-hatting' arrangements
- Allocation of responsibilities on an 'interim' or 'temporary' basis
- While the General Scheme limited the Common and Additional Conduct Standards to the 'business of the firm' which the individual was responsible for, no such limitation has been included in the IAF Bill. What this means in practice will be a matter for Central Bank guidance
- Treatment of core responsibilities within an RFSP, which are held by individuals who do not hold a PCF role, such as Head of Human Resources

01/ CONTEXT TO THE REFORMS

Why now?

On 1 March 2023, the IAF Bill was passed by the Dáil, following on from its publication in July 2022, and publication of the General Scheme of the IAF Bill (General Scheme) a year earlier.

The proposals were first outlined in the Central Bank’s Behaviour and Culture of the Irish Retail Banks Report (the **Culture Report**) in July 2019. This followed the regulator’s intervention into consumer issues such as the Tracker Mortgage Examination. Since then, the Central Bank has taken similar intrusive supervisory approaches in other areas such as the Insurance and Investment Funds sectors. The proposals reflect the regulator’s evolving toolkit in monitoring regulatory compliance across the supervisory and enforcement spectrum. This context is an important backdrop when addressing these new requirements.

How does this compare with other jurisdictions?

At a high level there are many similarities between the proposed Individual Accountability Framework and the existing regulatory regime in other jurisdictions (e.g. the UK Senior Managers and Certification Regime (**SMCR**)). However, the Irish proposals are in some respects broader, such as the requirement to conduct business sustainably and the scope of the general duty to avoid conflicts of interest. Other differences arise from the underlying regulatory and constitutional landscape in Ireland. Firms intending to ‘drag and drop’ their processes from other jurisdictions with Individual Accountability regimes must assess these differences carefully before taking their next steps.

Is there a broader change in regulatory approach in Ireland?

The UK’s Financial Conduct Authority (**FCA**) operates principle-based regulation whereas the Irish regulator has traditionally operated a rules-based system, under which the Central Bank prescribes contraventions and specifies required conduct. Aspects of the Individual Accountability Framework, such as the Common Conduct Standards for individuals and the Business Standards for RFSPs, read more like ‘general principles’. This potentially represents a significant shift in both

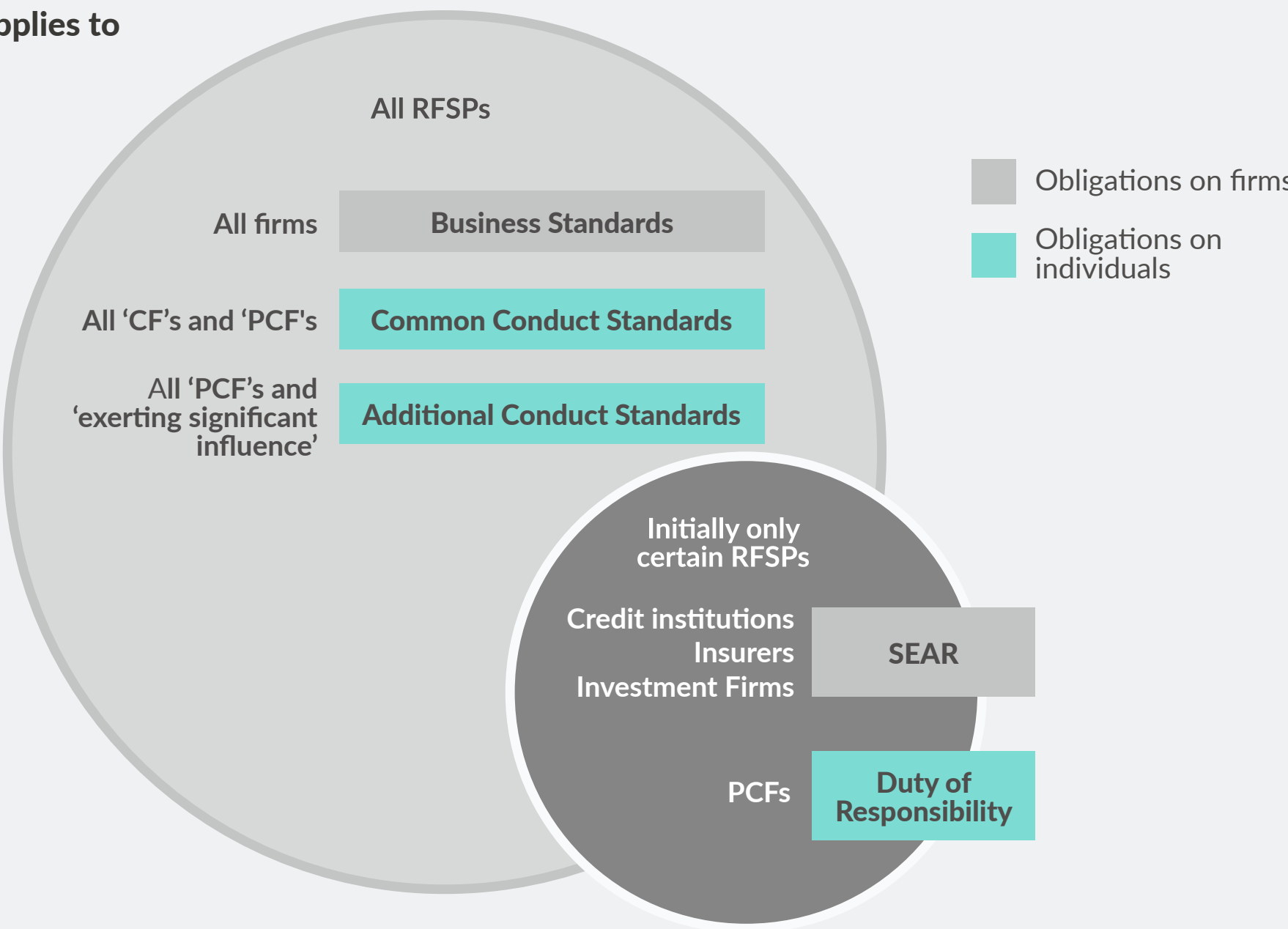
supervision and enforcement in Ireland, not just for senior individuals but for all regulated firms. This needs to be reflected in a firm’s implementation plans.

Constitutional issues?

Individuals enjoy a number of rights under the Irish constitution, including the right to fair procedures and natural justice, the right to their good name and the right to earn a livelihood. The IAF Bill amends the Central Bank’s F&P regime and the ASP to ensure that

they conform to the required standards of fairness in the administration of justice, in light of the Supreme Court decision of *Zalewski v An Adjudication Officer and Others*¹ (**Zalewski**). This is a key difference with, for example, the UK legal backdrop. The interaction between the current F&P regime and employment and constitutional rights of individuals has historically been challenging for Irish regulated firms as regulatory or compliance contraventions are identified and addressed. These issues will require even more care under the new regime.

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



¹ [2021] IESC 24

02/ SENIOR EXECUTIVE ACCOUNTABILITY REGIME

Application – while the IAF Bill does not address its initial scope, the General Scheme and public statements by the Central Bank indicate that, in the first phase, SEAR will apply to:

- 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
- (other sectors may be brought within the scope of SEAR in the future by further regulations)

Summary of SEAR

SEAR will clarify senior individuals' roles and responsibilities and will enhance the Central Bank's ability to hold individuals to account for regulatory breaches in the area for which they are responsible.

RFSPs will be required to take a number of compliance steps to implement the regime, including:

- **Allocated responsibilities:** The IAF Bill provides for:
 - » 'prescribed responsibilities' defined by the Central Bank and which all in scope RFSPs must allocate to a PCF role in their organisation
 - » 'inherent responsibilities' which are inherent to a particular role, such as the Chief Executive Officer or Chair of the Board
 - » 'other' responsibilities which RFSPs may be required to assign to a PCF holder, which reflect the aspects of their business not captured in 'prescribed' or 'inherent' responsibilities

This allocation of responsibilities will ensure that specific conduct or prudential risks are ultimately allocated to a particular PCF holder.

The Central Bank is obliged to prepare Guidelines for the purpose of providing practical guidance for persons subject to these responsibilities.

- **Statements of responsibilities:** RFSPs will be required to prepare 'statements of responsibilities' for each PCF setting out clearly which activities and areas that PCF holder is accountable for
- **Responsibility maps:** RFSPs will be required to prepare 'management responsibility maps' including governance arrangements for the Board, Board committees and other decision-making committees or groups, and reporting lines for PCF holders

The Central Bank has indicated that requirements in respect of both 'statements of responsibilities' and 'management responsibility maps' will be set out in regulations

“SEAR will support senior management in implementing an effective governance framework by identifying how the business and its risks are being managed and any gaps which may arise.”

*'Individual Accountability – a maturing of financial regulation',
speech by Gerry Cross, Central Bank's Director of Financial Regulation: Policy and Risk (24 June 2022)*

Key issues

SEAR will capture all PCF roles, such as Non-Executive Directors (**NEDs**) including Independent Non-Executive Directors (**INEDs**), with no exceptions to the obligations placed on them by the regime. This would be in contrast to other regimes, such as the UK SMCR under which NEDs are only in scope on a more limited basis (e.g. if acting as chair of a relevant board committee).

The issue of whether in-house lawyers fall within the regime, which was debated in the UK reforms, is not expressly dealt with but they appear unlikely to fall within scope unless they also hold PCF functions or 'exercise significant influence' on their firm's affairs.

'Management responsibility maps' must make clear the governance structure which determines how the RFSP and

PCF holders relate to persons concerned in the ownership or control of the RFSP, or representing its customers or other stakeholders. This may include reporting outside, as well as within, Ireland and to outline how local Irish governance arrangements interact with group arrangements. This could be complex in organisations with direct, indirect or 'dotted line' / matrix reporting.

It remains to be seen how the Central Bank will apply the regime where a single regulatory contravention arises from failures in a number of areas (e.g. errors in financial reporting arising from both inaccurate financial data and errors in regulatory reporting compilation). In other jurisdictions, concepts of 'shared' and 'split' responsibilities are

used to clarify PCF holder's accountability. The position for interim role changes will need to be considered in practice, if not in further guidance.

Third country branches of credit institutions, in-scope insurance undertakings or in-scope investment firms have to date been required to apply the F&P regime to e.g. the branch manager as a PCF holder. The Central Bank has indicated that SEAR will apply to incoming 'third country' branches and all outgoing branches. The extension of SEAR to these branches will require a significant overhaul of governance arrangements to support those individuals in complying with the Common Conduct Standards, Additional Conduct Standards and the 'Duty of Responsibility'.

Key actions

- Identify your firm's population of 'in scope' PCFs and understand how this compares with your current fitness and probity population
- Accurately documenting PCF holders' responsibilities and creating responsibility maps requires careful and detailed diligence of your firm's 'as is' position before devising the 'to be' position
- Records of PCF holders' current responsibilities often overlap or may have become out of date over time. They are often documented in different ways (job descriptions, employment contracts, committee terms of reference, team charters). RFSPs should start this diligence exercise now
- Allocating 'prescribed', 'inherent' and 'other' responsibilities must be done 'holistically'. This also involves consultation with the PCF holders involved. Methodological allocation of responsibilities, based on detailed diligence, will help avoid 'overlaps' and 'underlaps' between responsibilities and maximise clarity
- Consider how your firm will 'arbitrate' any differences of views between PCF holders as to their respective responsibilities
- Producing 'management responsibility maps' presents an opportunity to review and update governance arrangements (e.g. reporting lines, interactions between board and other committees, group fora and other group entities)
- Consider how your implementation of the new regime overlaps with other internal processes (e.g. legal authority delegation, outsourcing arrangements etc.)

03/ DUTY OF RESPONSIBILITY

Applies to:

PCF holders in RFSPs within SEAR.

Summary of the Duty of Responsibility

PCF holders will have a Duty of Responsibility to take any steps that are reasonable in the circumstances for the person to take, to avoid the relevant RFSP from committing or continuing to commit a prescribed contravention (an enforceable regulatory breach), in the area of the business for which they are individually responsible.

If the RFSP commits a regulatory breach, the Central Bank will assess whether the relevant PCF holder took any steps that it is reasonable in the circumstances for the person to take, to avoid that breach. This will also act as a potential defence for the individual. In making this assessment, the Central Bank must consider:

- The nature of the business of the RFSP, including its scale and complexity
- The functions of the person and the level of knowledge and experience to

be expected of a person performing the relevant PCF (an objective standard)

- The level of knowledge and experience of the person (a subjective standard)
- The existence and application (or otherwise) of –
 - » appropriate and effective systems
 - » effective oversight of, and effective safeguards regarding, any delegation of responsibilities
 - » appropriate and effective procedures for identifying and remedying problems
 - » the extent to which these were within the control or influence of the person

The Central Bank has indicated that it will provide further clarity, via guidance, on the Duty of Responsibility and, in particular, its expectations as to the behavior of PCF holders and what steps may be considered 'reasonable'.

Enforcement

The Central Bank may enforce failure to comply with the Duty of Responsibility directly against a PCF holder through the ASP.

Key issues

- Complexities can arise where more than one PCF holder was responsible for several business areas which were 'relevant' to an RFSP's prescribed contravention. This emphasises the importance of clarity of responsibilities in business areas where several functions collaborate to achieve an outcome or product (e.g. regulatory reporting, product development etc.). Similar issues arise with 'dual-hatting' arrangements
- In other jurisdictions significant guidance has been issued as to the regulators' expectations of PCF holders in complying with this duty. These discuss factors relevant to good delegation and oversight; receiving and interrogating appropriate management information; commissioning and reviewing investigations or second line reviews into the business area for which the PCF holder is responsible; and implementing, policing and reviewing appropriate compliance processes. Other regulators have issued guidance on effective delegation (as to which see 'Key actions')
- The IAF Bill refers to a PCF holder taking 'any steps that it is reasonable in the circumstances for the person to take'. This allows for the context of the particular circumstances to be taken into account



Key actions

- Socialise the concept of the Duty of Responsibility with individuals who may perform PCFs under the regime. This will be important to enable PCF holders to understand the scope of their obligations arising from proposed statements of responsibility developed during your implementation project and what steps they must take to comply
- Consider what support your firm will provide to those in PCF roles to comply with this duty: training, workshops or more detailed 'reasonable steps' framework and formal documentation of delegated activities and delegation procedures
- These supports can cover e.g. accountability, governance, supervision and escalation, change control, BAU risks and management information. The nature and detail of support can vary by business area or PCF role and can include PCF holders alone or include their direct reports or teams
- These supports can include formal written delegation procedures and documenting which areas or individuals a PCF holder is relying on for the performance of specific activities within the business area they are responsible for, and how matters should be escalated to and addressed by, the PCF holder
- Consider specifically how your firm will support INEDs/Non-Executives in complying with any duties in the context of collective decision making e.g. documenting their roles in certain collective decisions; assessing the quality of management information; assessing the frequency and circulation of incident/escalation reports; and the appropriate sequencing and documentation of collective decision making fora

04/ COMMON CONDUCT STANDARDS

Applies to:

All persons performing CFs and PCFs in all RFSPs, regardless of sector.

“The Individual Accountability Framework is about incentivising positive behaviours, promoting an improved culture in financial services firms to ensure good standards of governance and behaviour and benefitting consumers and investors.”

Central Bank Annual Report & Annual Performance Statement 2021

Summary of the Common Conduct Standards

The Common Conduct Standards will require that persons performing CFs and PCFs shall:

- Act with honesty and integrity
- Act with due skill, care and diligence
- Cooperate in good faith and without delay with the Central Bank and other relevant regulatory authorities
- Act in the best interests of customers and treat them fairly and professionally
- Observe proper standards of market conduct

RFSPs, for the purpose of ensuring compliance with the Common Conduct Standards, will be obliged to:

- Notify persons performing CFs and PCFs of these standards and how they apply to them
- Provide suitable training to staff on these standards
- Establish, maintain and give effect to policies on how the Common Conduct Standards are integrated into the conduct of the affairs of the RFSP

The IAF Bill contains a detailed but non-exhaustive list of examples of expected behaviours relating to each of the five Common Conduct Standards. These are listed in an annex to this guide.

The IAF Bill requires the Central Bank to issue guidelines, for the purpose of providing practical guidance for persons subject to the Common Conduct Standards. Whilst the Central Bank has recognised the importance of such guidance in ensuring its expectations are clear, it has indicated that such guidance cannot be overly prescriptive and needs to be appropriate to different sectors and take into account the nature, scale and complexity of individual firms and roles.

Enforcement

The Central Bank may enforce a failure to comply with any of the Common Conduct Standards directly against an individual through the ASP. It will be a defence if the individual can show they took any steps that were reasonable in the circumstances to ensure that the Common Conduct Standards were met. Similar considerations to ‘reasonable steps’ assessments under the Duty of Responsibility will apply.

The Central Bank has indicated that it will provide guidance on the concept of ‘reasonable steps’, including a non-exhaustive list of what may be relevant to assessing whether a person took such reasonable steps.

Failure by an RFSP to comply with the requirement to ensure compliance with the Common Conduct Standards e.g. to establish, maintain and give effect to policies integrating the Common Conduct Standards, can also be enforced directly against the RFSP through the ASP.

Key issues

- These standards comprise general principles (similar to the General Principles of the Central Bank's Consumer Protection Code). Although the IAF Bill also includes non-exhaustive examples of expected behavior, all individuals subject to these standards will need to keep up-to-date on the regulator's expectations regarding compliance with these principles
- The non-exhaustive list of examples of conduct expected in acting with honesty and integrity sets out generic regulatory expectations e.g.
 - » It includes a reporting obligation to report appropriately, and not to impede others from reporting, to the management of the RFSP, information relevant to the commission of a regulatory breach, or any matters adversely affecting the activities or interests of customers, the RFSP, its related undertakings, or the financial system. This is a very broad obligation and highlights the importance of effective governance around reporting/escalation of issues within a regulated entity
- The non-exhaustive list of examples of conduct expected in acting with due skill, care and diligence also codifies generic regulatory expectations e.g.
 - » It includes acting appropriately in any decision-making, including collective decision making. This emphasizes the importance of these standards to NEDs and INEDS and the need to assess supports, such as training, reporting lines, management information provided to non-executives and the sequencing of board / committee business so related topics are considered in context
- » It refers to monitoring the performance of any delegated tasks and ensuring that those tasks are appropriately performed. Even if an individual is not a PCF holder within SEAR, there appears to be an expectation that they delegate effectively
- The non-exhaustive list of examples of conduct expected regarding cooperating with the Central Bank and other relevant regulatory authorities overlays current statutory provisions e.g.
 - » This list prohibits providing false, inaccurate or misleading information, records or explanation to such authorities. Current statutory provisions¹ provide for criminal offences only where information provided was knowingly false in a material particular
- The non-exhaustive list relating to acting in the best interests of customers and treating them fairly and professionally also provides a general overlay to more specific regulatory obligations e.g.
 - » A generic requirement to act in a manner that is fair to customers introduces a more flexible tool potentially enabling the Central Bank to consider enforcement action against individuals for taking decisions, or acting contrary to the regulator's view of what would have been 'in a manner that is fair to customers', in any particular case

¹ Such as the information gathering powers under the Central Bank (Supervision and Enforcement) Act 2013

Key actions

- Consider appropriate training for all in scope CF and PCF holders, not only on the terms of the Common Conduct Standards but also the Central Bank's expectations of how these should be complied with
- Consider how your firm will support CF and PCF holders to track any updated guidance issued by the Central Bank on their expectations on how these standards should be complied with e.g. thematic reviews, Dear CEO letters, AML Bulletins etc.
- Consider how, in practice, the Common Conduct Standards will not only be communicated to CF and PCF holders but how in practice they will be 'embedded' in your organisation
- Collate, review and assess your HR policies and employment documentation (e.g. offer letters and onboarding procedures, employment contracts, codes of conduct, performance assessments, disciplinary procedures, regulatory remuneration policies) so they reflect these standards and provide your firm with appropriate measures to deal with any non-compliance by individuals
- Assess your whistle blowing procedures to ensure they capture all conduct within scope of the Common Conduct Standards

05/ ADDITIONAL CONDUCT STANDARDS FOR INDIVIDUALS IN SENIOR POSITIONS

Applies to:

Individuals performing PCF roles and other persons who ‘exercise significant influence’ on the conduct of the affairs of all RFSPs (whether in or out of SEAR) (**Persons in Senior Roles**). This is broader than the PCF population subject to SEAR.

Summary of the Additional Conduct Standards

The Additional Conduct Standards will require Persons in Senior Roles to:

- Ensure that the business of the RFSP is controlled effectively
- Ensure that the business of the RFSP is conducted in accordance with its obligations under financial services legislation
- Ensure that any delegated tasks are assigned to an appropriate person with effective oversight

- Disclose promptly and appropriately any information of which the Central Bank ‘would reasonably expect notice’, including information relevant to:
 - » commission of an offence by the RFSP its CF/PCF holders
 - » commission of a prescribed contravention or any other breach of obligations under financial services legislation by the RFSP its CF/PCF holders
 - » concealment or deliberate destruction of evidence relating to the above matters
 - » provision of false or misleading information to the Central Bank relating to the above matters
 - » obstruction or impeding of an investigation relating to the above matters
 - » commencement of legal proceedings by or against the RFSP arising from its obligations under financial services legislation

- » commencement of legal proceedings against the RFSP which may impact on its ability to continue to trade
- » anything that may otherwise interfere significantly with the operation of the RFSP or its compliance with its obligations under financial services legislation
- » a decision by the RFSP to cease to provide certain financial services

RFSPs, for the purpose of ensuring compliance with the Additional Conduct Standards, will be obliged to:

- Notify Persons in Senior Roles of the Additional Conduct Standards and how they apply to them
- Provide training to Persons in Senior Roles to ensure that they have appropriate knowledge of the Additional Conduct Standards, and how they apply to them

The IAF Bill also requires the Central Bank to issue Guidelines on the Additional Conduct Standards.

Enforcement

The Central Bank may enforce failure to comply with any of the Additional Conduct Standards directly against an individual through the ASP.

It will be a defence for the individual to show they took reasonable steps, in the circumstances, to ensure that the Additional Conduct Standards were met. Similar considerations to ‘reasonable steps’ assessments under the Duty of Responsibility and Common Conduct Standards will apply.

The Central Bank has indicated that it will provide guidance on the concept of ‘reasonable steps’, including a non-exhaustive list of what may be relevant to assessing whether a person took such reasonable steps.

Failure by an RFSP to comply with the requirement to ensure compliance with the Additional Conduct Standards e.g. to notify Persons in Senior Roles of the Additional Conduct Standards and how they apply to them, can also be enforced directly against the RFSP through the ASP.

Key issues

- There appears to be significant overlap between SEAR and the obligations under the Additional Conduct Standards (e.g. there is some overlap between SEAR Duty of Responsibility, at least as regards delegation, and the requirements regarding delegation in the Additional Conduct Standards)
- Whilst RFSPs not in scope of SEAR are not technically required to produce statements of responsibilities and responsibility maps, such frameworks will assist Persons in Senior Roles to understand their respective responsibilities and therefore aid compliance with the Additional Conduct Standards
- RFSPs not in scope of SEAR should still consider what further supports set out in Section 3 above should in practice be put in place to support Persons in Senior Roles (see Key actions)
- In due course regulatory guidance on steps expected to comply with e.g. the Duty of Responsibility in SEAR may be a useful reference point for RFSPs supporting Persons in Senior Roles, although this guidance should not take precedence over what, in practice, can be reasonably required of Persons in Senior Roles in their own firms, roles and circumstances

“Effective governance is essential if the financial sector is to be resilient, trustworthy, adapt to shocks and rise to the challenges ahead. And effective governance is at the heart of our proposals for an Individual Accountability Framework”.

'The role of financial regulation in building resilience, anticipating risk, and protecting citizens – in steady times and through shocks', speech by Dervile Rowland, Central Bank's Director General Financial Conduct (11 March 2022)

Key actions

Whether or not your firm is in scope for SEAR:

- Consider processes to support Persons in Senior Roles to ensure relevant business areas are controlled effectively (e.g. second and third line structures and reviews, adequate resourcing and training)
- Consider what additional support is required to support Persons in Senior Roles to ensure that the business for which they are responsible complies with relevant regulatory requirements

(e.g. access to second line, legal and compliance; training on regulatory requirements and expectations; reporting lines and appropriate management information; second line reviews)

- Consider what additional support is required for Persons in Senior Roles to ensure they can delegate effectively (e.g. written delegation frameworks, reporting lines and appropriate management information, formal and information team meetings)



06/ BUSINESS STANDARDS

Applies to:

All RFSPs regardless of sector.

Summary of the Business Standards

The IAF Bill grants a regulation making power to the Central Bank to prescribe the Business Standards, for the purpose of ensuring that, in the conduct of its affairs, a RFSP:

- Acts in the best interests of customers and of the integrity of the market
- Acts honestly, fairly and professionally
- Acts with due skill, care and diligence

The IAF Bill requires that the Business Standards include standards requiring that a RFSP:

- Does not mislead a customer as to the advantages or disadvantages of any financial service
- Maintains adequate financial resources
- Controls and manages its affairs and systems (including risk management systems, internal control mechanisms and governance arrangements) sustainably, responsibly, and in a sound and prudent manner

- Prevents or identifies and appropriately manages, conflicts of interest
- Arranges adequate protection for assets held by the RFSP on behalf of a customer
- Engages and cooperates in good faith and without delay with the Central Bank, and with other relevant regulatory authorities
- Discloses to the Central Bank promptly, and in a manner appropriate to the circumstances, any matter relating to the RFSP of which the Central Bank would reasonably expect notice

The Central Bank may make regulations specifying additional detail regarding these requirements.

Enforcement

Failure by an RFSP to comply with the Business Standards, once introduced by way of Central Bank regulation, can be enforced directly against the RFSP through the ASP.

Key issues

- This represents a potentially material change in supervision and enforcement for all RFSPs. The Business Standards comprise general requirements and represent a shift from ‘rules based’ to ‘principles based’ regulation
- General principles of this kind have been deployed by the Central Bank in certain spheres (e.g. the application of the General Principles of the Consumer Protection Code in retail banking and consumer insurance contexts) and potentially provide the Central Bank with a broader toolkit to take enforcement action when an RFSP’s engagement with customers or clients does not meet regulatory expectations
- The text of the Business Standards contain more detail and are potentially broader than the initial proposals in the Culture Report, e.g. incorporating references to sustainability in parallel with the ongoing regulatory dialogue regarding ESG
- There may be some initial differences between those Business Standards and those in other jurisdictions, e.g. the UK FCA’s Principles for Business refer to managing conflicts fairly rather than preventing conflicts. The IAF Bill also includes an additional layer requiring RFSPs to act in the best interest of customers and of the integrity of the market
- The Business Standards now codify an obligation similar to the UK FCA’s ‘Principle 11’ requiring the disclosure of any information of which the regulator would reasonably expect notice. Although this has been the regulatory expectation in most sectors for some time, previously some firms were not under such a broad formal legal obligation of disclosure

“The aim of this regime is to allocate responsibility and prevent misdemeanor, rather than being punitive. This framework is designed to improve governance and the management of risk and outcomes for consumers.”

Paschal Donohoe, Minister for Finance, Dáil Éireann Debate (14 June 2022)

Key actions

- Prepare content and controls to ensure all first and second line teams are trained on the content of, and Central Bank’s expectations regarding compliance with, the Business Standards
- Consider what sales, execution or other processes and/or policies and procedures may require review and updating to ensure compliance with the general nature of the Business Standards
- Consider how your firm will track any updated guidance issued by the Central Bank on their expectations on how these standards should be complied with e.g. thematic reviews, Dear CEO letters, AML Bulletins, etc.
- Consider what additional steps your procedure for communicating with the regulator may need in order to achieve consistency in communications, appropriate escalation of regulatory communications and to ensure that appropriate disclosures to the Central Bank will be made in all circumstances (e.g. a central regulatory relations office; recording all regulatory communications through regulatory contact logs; collating centrally all regulatory communications for consistency of approach)

07/ FITNESS AND PROBITY CERTIFICATION REQUIREMENT

Applies to:

All RFSPs currently in the F&P regime, regardless of sector, and certain holding companies².

Summary of certification requirement

RFSPs or holding companies shall not permit a person to perform a CF or a PCF unless they have ‘given’ a certificate of compliance with standards of fitness and probity in respect of that person. A certificate of compliance is ‘given’ where a RFSP or holding company is satisfied on reasonable grounds that the person concerned complies with any standard of fitness and probity, and the person concerned has agreed in writing to comply with any such standards.

RFSPs or holding companies must revoke the certificate if they cease to be satisfied, on reasonable grounds, that the person concerned complies with any standard of fitness and probity.

The Central Bank may make regulations:

- As to the ‘giving’ of certificates
- As to the making of reports to the Central Bank by RFSPs or holding companies in connection with

their certification obligations (including, in particular, reports on disciplinary action relevant to compliance with standards of fitness and probity)

- The form and content of a certificate
- The period of validity of a certificate
- Procedures, systems and checks to be adopted by RFSPs or holding companies regarding the ‘giving’ or revoking of a certificate
- The form and content of a person’s written agreement to comply with any standard of fitness and probity

Enforcement

Breaches of this requirement will be enforceable against the RFSP or holding company through the ASP.

Key issues

- The Central Bank has set out various expectations regarding the processes for, and quality of, due diligence when assessing the fitness and probity of individuals to perform CF roles and in preparing applications for approval for PCF roles (e.g. through its Dear CEO letters and Guidance on Fitness and Probity Interviews). Any further regulations specifying diligence required by the certification requirement will add to this guidance
- The IAF Bill does not go so far as providing for a ‘regulatory reference’ regime as in for example the UK. This may be due to constitutional concerns. However, in practice the level of due diligence required by any additional regulations issued by the Central Bank could place an onus on RFSPs to engage proactively with former employers of individuals proposed for CF or PCF roles

Key actions

- Consider alignment of SEAR and fitness and probity compliance frameworks including e.g. training modules; due diligence processes pre-appointment to ‘in scope’ roles; second line support for individuals under either regime; escalation and review processes for concerns regarding compliance with either regime
- RFSPs have recently been assessing the Central Bank’s publications on the operation of the F&P regime, and in particular the due diligence requirements, oversight at board level and remediating issues where necessary. Any remediation or enhancement projects should now take account of this additional certification requirement

² 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 Bill, fall within scope of the F&P regime.

08/ ENHANCEMENTS TO THE FITNESS AND PROBITY REGIME AND OVERLAP WITH THE INDIVIDUAL ACCOUNTABILITY FRAMEWORK

Applies to:

All RFSPs in the F&P regime, regardless of sector, and certain holding companies³.

Summary of enhancements initially addressed in the General Scheme

- The F&P regime will be expanded to apply to certain holding companies³
- The Central Bank may investigate persons who formerly performed CF or PCF roles up to six years before the commencement of an investigation, regardless of whether they still perform these roles or other roles in the F&P regime
- Additional information-gathering powers are granted to the Central Bank to request information from firms who are in the process of applying for an authorisation
- The Central Bank can already issue and confirm suspension notices in respect of an individual performing a CF or PCF role. Upon confirmation, the period of suspension possible will be increased from three months to six months. Further extensions of suspension notices by the High Court are provided for in the IAF Bill

Summary of enhancements as a result of *Zalewski*

- The *Zalewski* enhancements aim to ensure that the F&P regime conforms to the required standards of fairness in the administration of justice. The following key amendments are made to both the (i) investigative/adjudicative stage, and the (ii) post investigative/adjudicative stage of the F&P regime:

Investigative/adjudicative stage of the F&P regime

- Issuing a notice of an F&P investigation by the Central Bank is now placed on a statutory footing, as is the information that must be included in the notice. The Central Bank must also keep a person the subject of an investigation informed as to the progress of an investigation and, where an investigation is discontinued, must provide reasons for the discontinuance

- The IAF Bill sets out items to be considered by the Central Bank before preparing a report of a fitness and probity investigation. The IAF Bill also provides for the right of a person the subject of an investigation to make submissions on the report before it is finalised
- Independence of decision makers – to ensure fairness in an F&P investigation, the IAF Bill places limits on the persons that may perform functions in that investigation, the confirmation of a suspension notice and the imposition of a prohibition. It also provides that the persons deciding to issue or confirm a suspension notice or to impose a prohibition will be appointed from a panel (which may include Central Bank staff and persons from outside the Central Bank). The IAF Bill also makes clear that panel members must act independently and the Central Bank may not attempt to affect a panel member's independence

Post investigative/adjudicative stage of the F&P regime

- Suspension notices can be appealed to the Irish Financial Services Appeal Tribunal (IFSAT)
- A prohibition notice will not take effect unless confirmed by the High Court, subject to an exception where the Central Bank and individual agree in writing on the prohibition notice
- The Central Bank or a prohibited person may apply to the High Court to amend or remove a prohibition notice where there has been a change in circumstance, such that the High Court would make a different decision as to whether to 'confirm' the notice

Additional enhancements under the IAF Bill (since initiated in 2022)

- The Central Bank may issue a suspension notice where it has imposed a prohibition on the person from carrying out a CF, or part thereof

³ 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 Bill, fall within scope of the F&P Regime.

Key issues

- The amendment to enable the Central Bank to investigate persons who formerly performed a CF will have consequences for staff who are moving on and may wish to ensure continued access to files and ongoing insurance cover
- Similarly to existing Central Bank legislation, for those who remain in CF roles, the IAF Bill does not reference a statutory limitation period in relation to actions under the Individual Accountability Framework. This will have ramifications for e.g. document retention and D&O insurance run-off cover

Key actions

- RFSPs should consider whether the Common Conduct Standards and Additional Conduct Standards are particularly relevant to assessments of fitness and probity of particular CF or PCF candidates in their organisation before these standards come into full effect
- Assess what, if any, support your firm does, or intends to provide to senior individuals after they have fulfilled CF or PCF roles in your organisation regarding their conduct whilst operating within the F&P regime

09/ ENFORCEMENT INVESTIGATIONS AND INQUIRIES

Summary of enhancements initially addressed in the General Scheme

- The Central Bank will no longer be required to prove that an individual who is 'concerned in the management' of the relevant RFSP 'participated' in a regulatory contravention by the firm in respect of contraventions under SEAR, the Common Conduct Standards or the Additional Conduct Standards. As outlined above, any such contraventions may be directly enforced against an individual under the ASP
- 'Participation' does however remain in the ASP in respect of all other regulatory contraventions and is, in fact, extended beyond an individual who is 'concerned in the management' of the relevant RFSP to a person performing a relevant CF
- Further amendments are procedural in nature and seek to address investigatory issues that the Central Bank has encountered over the last number of years, such as disclosure of privileged material, as well as the role of the Central Bank in an 'Inquiry' process

The suite of reforms to the ASP and the inquiry process reflect many issues that we at A&L Goodbody have encountered in our extensive investigations practice. The Central Bank has clearly engaged extensively with the legislature to address procedural issues encountered over the years during these investigations.

Summary of enhancements as a result of *Zalewski*

The enhancements arising from the *Zalewski* judgment aim to ensure that the Central Bank's ASP conforms to the required standards of fairness in the administration of justice. The following key amendments are made to both the (i) investigative/ adjudicative stage, and the (ii) post investigative/adjudicative stage of the ASP:

Investigative/adjudicative stage of the ASP

- The ASP investigative process is now placed on a statutory footing and now includes defined circumstances where a notice of an investigation may be amended and, where an investigation is discontinued, obliges

the Central Bank to provide reasons for the discontinuance. The standard of proof at inquiry is confirmed as being on the balance of probabilities

- On completion of an ASP investigation, the Central Bank must prepare a 'report' of the investigation, on which the person to whom the investigation relates may make submissions. These must be considered by the Central Bank before the report is finalised
- The Central Bank now has two distinct options to settle an enforcement investigation:
 - » acknowledgment of a contravention – where, after consideration of the final investigation report or where there are undisputed facts⁴ that, render an ASP investigation unnecessary, and the person acknowledges the commission of/participation in the contravention, the Central Bank may enter into a settlement agreement with the person, or hold an inquiry to specifically determine what (if any) sanction should be imposed

⁴The introduction of an undisputed facts process into the ASP is new and reflects the undisputed facts process in the F&P regime

- » no acknowledgment of a contravention – where the Central Bank suspects on reasonable grounds that a person is committing or participating in or has committed or participated in a prescribed contravention, and the person the subject of the investigation does not acknowledge the commission of/participation in the contravention, the Central Bank may enter into a settlement agreement with the person
- In determining a sanction to be imposed on a natural person, the Central Bank will be required to have regard to a statutory list of relevant considerations, such as the previous record of the person and any matters relevant to the financial position of the person. This list of relevant considerations largely reflects those sanctioning factors set out in the Central Bank’s Outline of the Administrative Sanctions Procedure, Inquiry Guidelines and Sanctions Guidance
- Independence of decision makers – the IAF Bill introduces safeguards around decision-makers at the investigative and inquiry stage of the process, to ensure the independence of those decision-makers

Post investigative/adjudicative stage of the ASP

The grounds on which the following may be appealed to IFSAT have been narrowed: (i) a finding by the Central Bank as to whether a person has committed or participated in, a prescribed contravention; or (ii) a decision of the Central Bank to impose a sanction following inquiry.

Where the Central Bank enters into a settlement agreement with a person on consent, the sanction imposed is subject to confirmation by the High Court. However, no High Court confirmation is required where the Central Bank enters into a settlement agreement and there is no acknowledgement of a contravention

Similarly, a decision of the Central Bank to impose a sanction following inquiry, or any decision of IFSAT in relation to such a decision to impose sanction, must be confirmed by the High Court. The High Court shall confirm such a decision unless there was a manifest and fundamental error of law or the sanction is manifestly disproportionate.

Additional enhancements under the IAF Bill (since initiated in 2022)

The newly expanded disqualification sanction under section 33AQ of the 1942 Act, which disqualifies a person from performing any CF and/or imposes conditions in the performance of that CF, will only apply to wrongdoing which occurs post-commencement of the IAF Bill

“The Central Bank’s approach to enforcement action will remain...proportionate and risk-based...[including] the extent to which such action will promote compliance by the regulated entity and within the industry or sector”

General Scheme (27 July 2021)



10/ NEXT STEPS

Commencement

The Minister for Justice, Deputy Michael McGrath, has clarified that all sections of the IAF Bill will be commenced as soon as possible following enactment, with the exception of sections 3 - 6 and section 10 of the IAF Bill, which address SEAR, the Conduct Standards and the F&P certification requirement, respectively.

The Minister for Justice further clarified that these sections will commence following completion of the Central Bank's public consultation (see below), and it is expected that the IAF Bill, as enacted, will be fully implemented in 2023.

Consultation processes

The Central Bank has indicated that, upon enactment, it will move quickly to consult and engage with key stakeholders on the 'operationalisation' of the Individual Accountability Framework. This consultation is expected to include draft regulations and accompanying guidance on key components of the IAF, such as:

- 'Inherent' and 'prescribed' responsibilities
- Requirements in respect of 'statements of responsibilities' and 'management responsibility maps'
- Clarity on the Central Bank's expectation as to the behavior of senior executives and what steps may be considered 'reasonable' in the context of the 'Duty of Responsibility'

- Clarity on the concept of 'reasonable steps' in the context of the Common Conduct Standards and Additional Conduct Standards, including a non-exhaustive list of what may be relevant to assessing whether a person took such reasonable steps

As regards implementation of the IAF Bill, i.e. its commencement, it is likely that many provisions of the IAF Bill will be subject to delayed commencement orders, particularly those provisions requiring consultation/ stakeholder engagement, such as SEAR and the Conduct Standards. However, it is possible that those provisions of the IAF Bill concerning the *Zalewski* amendments, which are key to ensuring that the F&P regime and the ASP are in conformity with the required standards of fairness in the administration of justice, may be commenced as a priority and, possibly, upon enactment or shortly thereafter.

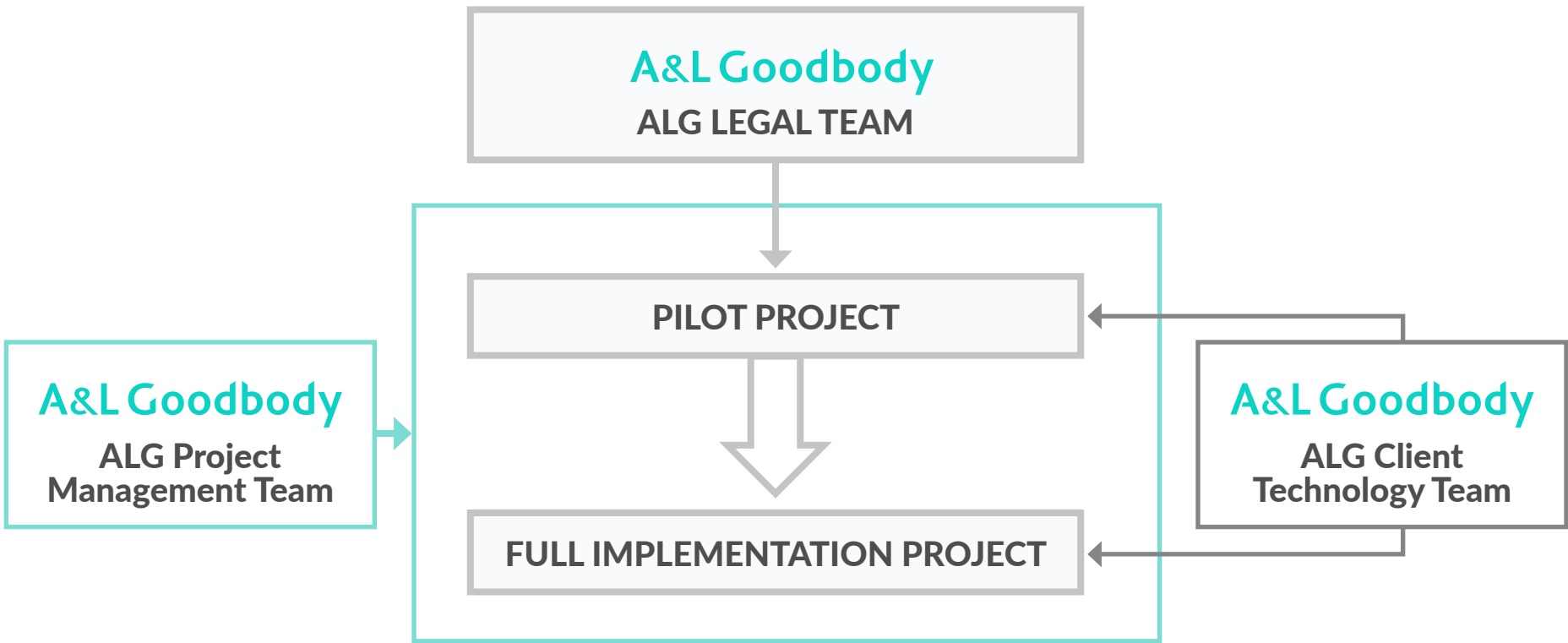
“I would encourage firms to use this time to prepare to implement the new framework by understanding their obligations and assessing their current governance structures in order to identify clearly who is responsible for what within the firm.”

'Individual Accountability – a maturing of financial regulation', speech by Gerry Cross, Central Bank's Director of Financial Regulation: Policy and Risk (24 June 2022)

11/ 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.



“Our practice area specialists and Legal Project Management teams are ready to plan, advise on and oversee your implementation project end to end.

- 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



STEP 1: WHAT CAN FIRMS DO NOW?

While much of the detail of SEAR remains to be clarified in Central Bank guidance and regulation, there are actions that our clients can take now to prepare for their implementation project and take initial steps in that project. The objective is to put our clients in the best position possible to have an implementation project which achieves not only compliance with the requirements but meets expectations around enhancements to governance, reporting lines, information flows and delegation.

- 01**

Scope and design a full implementation plan – this allows you to assess your resource, timing and stakeholder requirements
- 02**

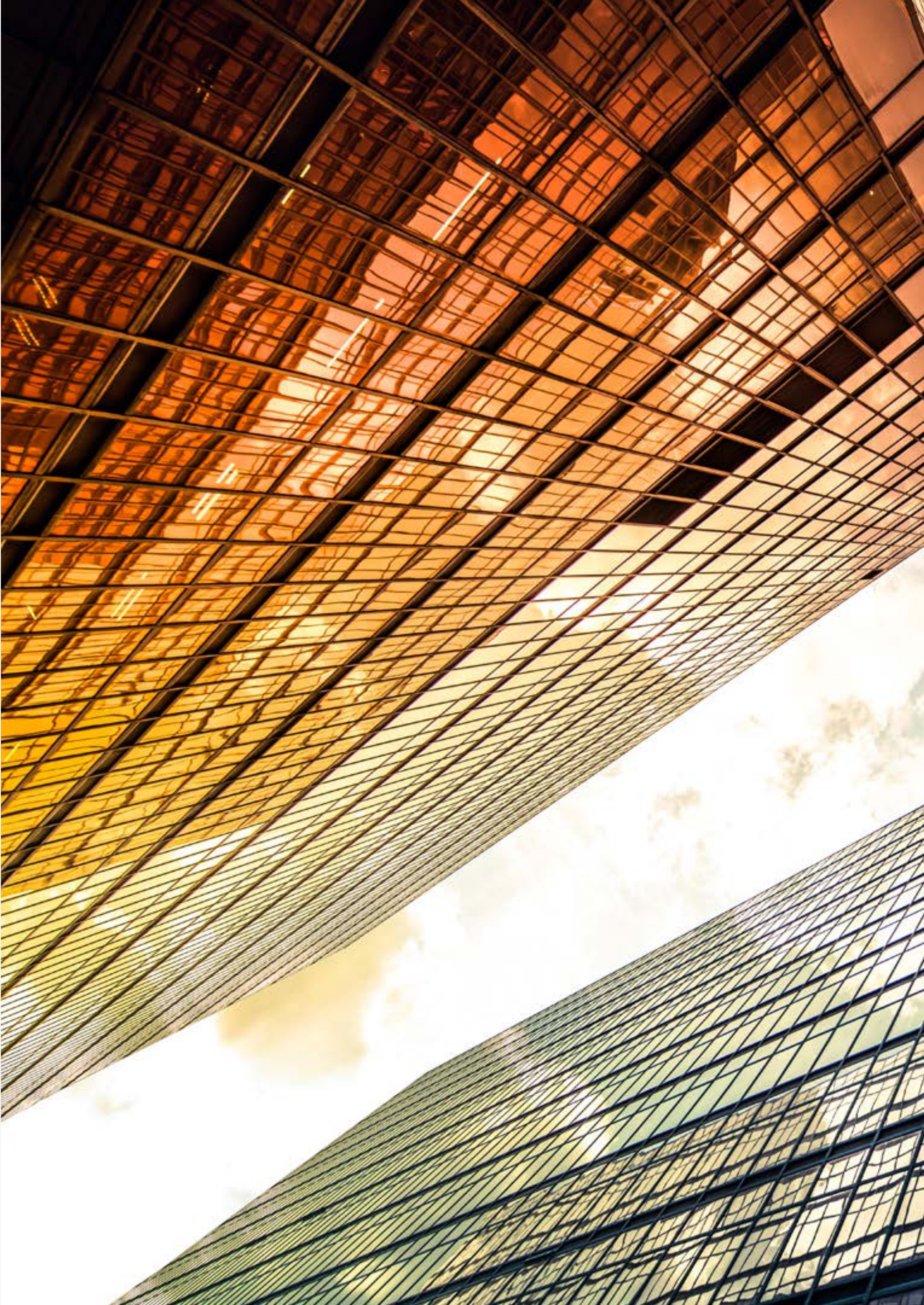
Consider ‘piloting’ elements of your implementation project to identify potential roadblocks and issues specific to your organisation
- 03**

Identify ‘foundational’ issues which should be addressed before commencing any implementation project such as the robustness of your PCF and CF populations
- 04**

Socialise potential key changes with internal stakeholders at first and second line as well as the Executive team and the Board
- 05**

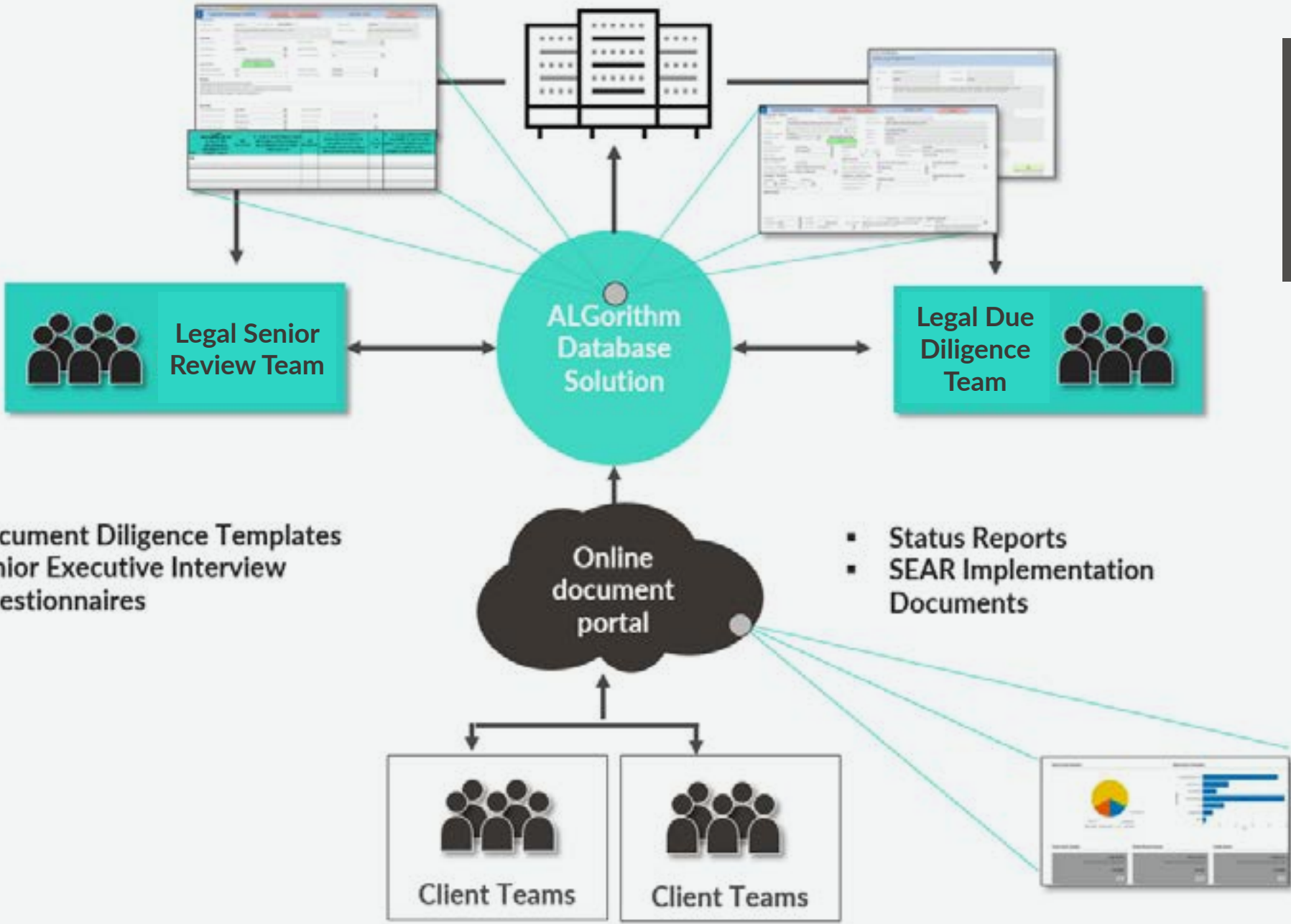
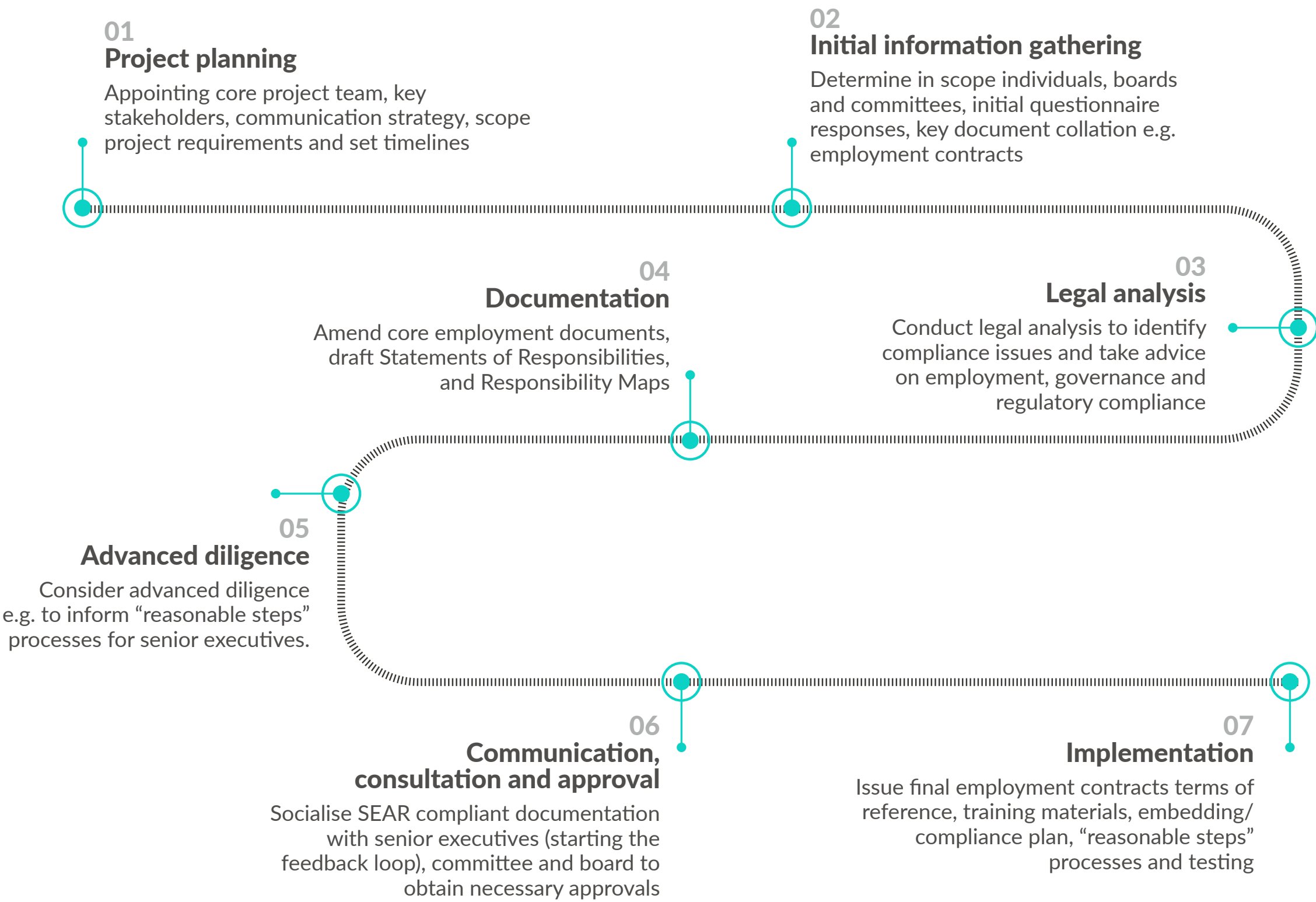
Assess your ‘as is’ on key topics such as governance structures, reporting lines, delegation, ‘reasonable steps’ and role and responsibility definition
- 06**

Consider your processes for ongoing fitness and probity due diligence



STEP 2: YOUR FULL IMPLEMENTATION PLAN

Implementation will involve a number of key phases and will require cooperation between legal, compliance, HR, Co Sec and executive teams. A&L Goodbody’s combined SEAR team is experienced in steering your firm’s own multidisciplinary team through key legal and regulatory issues and project managing your implementation plan.



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.

12/ SEAR/IAF - ALG SOLUTIONS

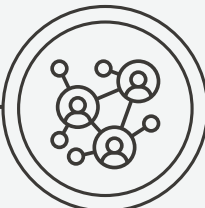
ALG Solutions can provide supports to assist clients in the SEAR/IAF process.

SUPPORT




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

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



Mark Devane
Partner



Chloe Culleton
Partner



Patrick Brandt
Partner



Kevin Allen
Partner



Sian Langley
Knowledge Lawyer

Employment



Duncan Inverarity
Partner



Noeleen Meehan
Partner



Michael Doyle
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James Grennan
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Laura Mulleady
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Sinead Lynch
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Emma Martin
Of Counsel

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Charles Carroll
Partner



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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: NON EXHAUSTIVE EXAMPLES OF REQUIREMENTS UNDER THE COMMON CONDUCT STANDARDS

01. Acting with honesty and integrity, by:

- Having regard to the legitimate interests of the RFSP, its staff, customers and other persons with whom it engages
- Operating without bias and preventing, or identifying and appropriately managing, conflicts of interest
- Not exerting pressure or influence on a customer so as to limit his or her ability to make an informed choice in relation to any financial service
- Not misusing or misappropriating any assets or information of the RFSP or its customers
- Reporting appropriately, and not impeding others from reporting, to the management of the RFSP –
 - » information relevant to, or giving rise to a suspicion of, the commission of a prescribed contravention or contravention of any other legal obligation or standard imposed on the RFSP
 - » any matter otherwise adversely affecting the activities or interests of customers, the RFSP, its related undertakings, or the financial system in the State

02. Acting with due skill, care and diligence by:

- Having appropriate knowledge of the business activities of the RFSP relevant to the CF, and the associated risks of those activities
- Having appropriate knowledge of the legal and regulatory framework, including any legal obligation or standard imposed on the RFSP, relevant to the CF
- Operating in compliance with the systems and controls, processes, policies and procedures of the RFSP and any legal obligation or standard imposed on the RFSP
- Acting without detriment to customers, the RFSP, its related undertakings, or the financial system in the State
- Ensuring that any communication, including any record, provided to a customer or other person is clear, accurate, up to date and not misleading
- Acting appropriately in any decision-making, including collective decision-making, ensuring decisions are properly informed and exercising sound judgement
- Monitoring the performance of any delegated tasks and ensuring that those tasks are appropriately performed

03. Cooperating in good faith and without delay with the Central Bank and other relevant regulatory authorities, by:

- Responding to requests and requirements under financial services legislation in an open and timely manner
- Disclosing information or records when required to do so under financial services legislation
- Attending meetings and interviews when required to do so under financial services legislation
- Not providing false, inaccurate or misleading information, records or explanations
- Not destroying, hiding or putting beyond reach information or records that it is reasonable for the person to expect to be required to be disclosed under financial services legislation
- Not engaging in evasive, misleading or obstructive conduct

04. Acting in the best interests of customers and treating them fairly and professionally, by:

- Ensuring that customers are informed in a clear manner of relevant information relating to financial services of which they ought to be aware, and not impeding the Provision of relevant information to customers
- Communicating with customers in a timely manner having regard to the urgency of any matter and the time required by the customer to consider the relevant information
- Assessing the needs and circumstances of customers, including their level of knowledge and experience of financial services, their financial circumstances and the range of options available to them, and ensuring that any advice or recommendation provided to customers is appropriate and tailored to their needs and circumstances
- Ensuring that customers are not misled as to the advantages of any financial service
- Acknowledging and seeking to resolve any complaints received from customers
- Resolving errors or mistakes affecting customers, and disclosing errors or mistakes to the customers affected in a timely manner
- Not acting in a manner that is unfair to customers

05. Operating in compliance with standards of market conduct and trading venue rules to which the RFSP is subject by law and any market codes that apply to the affairs of the RFSP

