

# Fitness and Probity



## The Why

### Regulation

#### Central Bank of Ireland

- Fitness and Probity Regime (F&P)
- The Individual Accountability Framework and Senior Executive Accountability Regime ("SEAR") (enhanced F&P requirements)



## Current F&P challenges

- Executing due diligence on individuals prior to submitting application for PCF role to Central Bank.
- Preparing individuals for PCF interviews by the Central Bank.
- High bar in terms of CBI appointment process and increase in the number of "Specific Interviews".
- Assessment of CF holders to determine F&P and robustness of related procedures.
- Assessment of F&P by HR and robustness of procedures in place to do so – both at recruitment stage and on an ongoing basis, for both PCF and CF functions.
- Lack of adequate system and controls in place for managing compliance with the F&P regime and ensuring remedial actions are reported and addressed promptly.
- Challenges around third party providers performing CF roles.
- Additional challenges posed by remote assessment in the current COVID-19 environment.
- How are Fit and Proper individuals discharging their responsibilities in the current environment.
- Establishing succession and contingency planning to identify individuals who could temporarily perform PCF roles when required and in particular in the current COVID-19 environment.



## F&P Timeline

2010

Introduction of The F&P Regime by the Central Bank of Ireland under the Central Bank Reform Act 2010.

2011

Commencement of application of the F&P Standards; updated in 2014. Further guidance released in 2018.

2018

Release of Central Bank report, "Behaviour and Culture of the Irish Retail Banks", announcing the proposals for the Individual Accountability Framework and SEAR.

2019

Dear CEO letter sent to all Regulated Financial Services Providers ("RFSPs") to reinforce their obligations under the F&P Regime. This included the Central Banks concerns on the current lack of awareness of these obligations by RFSPs.

2020

The Central Bank has indicated that they intend to broaden the PCF roles in advance of the introduction of the Individual Accountability Framework.

2020

Legislation to facilitate the introduction of the new Individual Accountability Framework and SEAR is expected in late 2020 which includes enhancement to the F&P Regime.



## Background

### Fitness and Probity

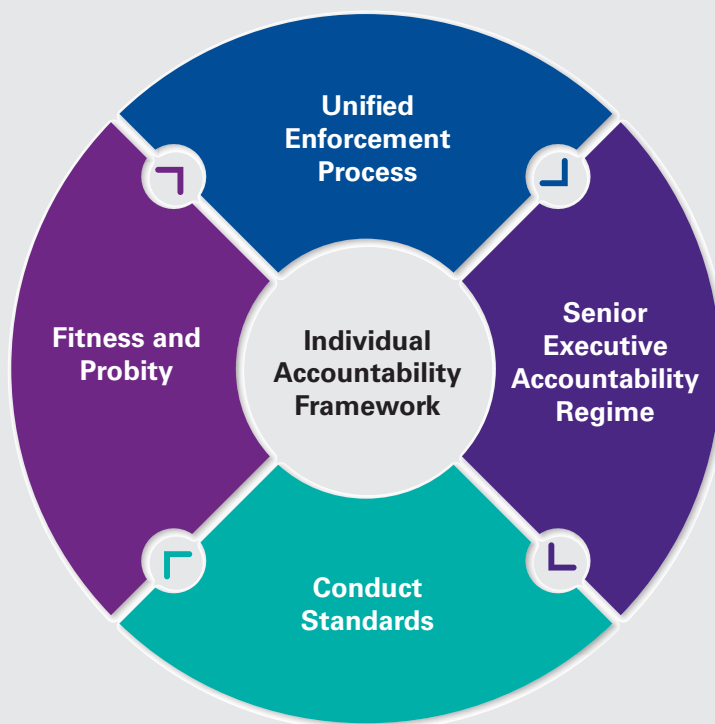
The Fitness and Probity Regime was introduced by the Central Bank to ensure that individuals in senior positions in regulated firms meet the high standards of competence, integrity and honesty expected of them. This includes Controlled Functions ("CFs") and Pre-approval Controlled Functions ("PCFs"). The persons proposed for PCF roles must be pre approved by the Central Bank who acts as a gatekeeper to ensure that only fit and proper individuals enter these positions of importance and influence.

In 2019, the Central Bank published a Dear CEO letter, highlighting its concerns on the lack of understanding by RFSPs of the extent of their obligations under the F&P regime. In particular, it re-emphasised the need for RFSPs to conduct robust due diligence on individuals being proposed for PCF roles.

### Individual Accountability

Amendments to the current F&P requirements are also being developed by the Central Bank as part of the Individual Accountability Framework.

In July 2018 the Central Bank put forward its proposals for a new Individual Accountability Framework which incorporates many of the elements introduced by the UK Senior Manager and Certification Regime, and enhancements to the existing F&P Regime. It also recently announced potentially including a number of new PCF roles under the current F&P regime, including Chief Information Officer ("CIO"), Head of Material Business Line & Head of Market Risk.



### Enhancement to F&P regime

The Central Bank has clearly articulated that firms must take a strategic view of compliance with the F&P obligations they face.

The Central Bank proposed supplementing the existing F&P Regime with the introduction of a certification regime for those currently occupying CF roles. This would oblige firms to annually certify that the individuals in question are

fit and proper persons to perform their functions. It is also proposing publishing refusals of appointments to PCF roles and to investigate those who performed CF roles in the past.

Below we have set out the key considerations for firms to ensure they are both compliant with F&P requirements and also prepared for the proposed enhancements of the Individual Accountability Framework.



## Fitness and Probity Considerations



### Regulation Review

- Have you discussed the Central Bank Dear CEO letter with your Board or relevant Nomination Committee?
- Have you reviewed the F&P Statements available to you to investigate whether your firm's F&P policies, procedures and controls are compliant with obligations?
- Have you considered the enhancements that will be made to the current F&P regime by the Individual Accountability Framework?
- Have you assessed why an application of a senior person may have been refused by the Central Bank or withdrawn?



### Procedure Mapping

- Do your hiring procedures and controls include assurance that in-scope employees understand and agree to the F&P standards?
- Are you satisfied on reasonable grounds that all persons working in a PCF or CF role are compliant with the F&P Standards?
- Have you conducted a review to ensure all relevant individuals have agreed in writing to abide by the F&P standards?
- Do you have adequate succession and contingency plans to fulfil vacant PCF roles?



### Annual F&P confirmation & Annual Audit

- How does the firm annually ensure that all individuals working in a CF certify that they are aware of the standards and will abide by them?
- What procedures are in place should the firm be concerned that an employee is in violation of the F&P Standards?
- Is there an adequate procedure in place to ensure persons performing CF and PCF roles notify the firm of any material change in circumstance which results in non-compliance with the F&P standards?
- Do you have an annual audit in place? Is this robust? Are there actions plans in place for any findings?



### Compliance Assessment

- Has an assessment highlighted any issues? Are there any actions in place to remediate issues?
- Have you considered how you will evidence compliance following findings?



### Due Diligence

- Are individuals being proposed for PCF roles given the appropriate level of Due Diligence by the firm and is this appropriately reflected in the Individual Questionnaire ("IQ")?
- How does the firm consider if a candidate is competent and of integrity?
- Does your firm provide sufficient support to the senior individual as part of the approval process for the PCF role (including interview preparation)?
- Do you have a robust internal governance process in place? Does the Board approve all PCF;s prior to being submitted to the CBI?



### Central Bank Approval

- Have you reviewed your PCF hiring Procedures to ensure that the firm receives written approval from the Central Bank prior to an individual starting the role?
- Do employment contracts for PCF roles adequately reflect that obtaining and remaining in the PCF role is subject to preapproval by the Central Bank and meeting the requirements of the F&P Regime on an ongoing basis?



### Reporting to Central Bank

- Do your policies include protocol to report to the Central Bank any cases where you have identified F&P concerns about an individual working in a CF /PCF role, and have taken action based on these concerns?
- Do you have adequate record keeping procedures to ensure that records for PCF and CF roles are retained in line with the Central Bank requirements, including after an individual has left the firm?



### Evidence of Review

- Have you collated evidence of Board discussions and an internal review of policies, procedures and processes? Have any weaknesses been identified and remedied and can this be evidenced?
- Are the results of reviews monitored on an ongoing basis? And if your firm were to be inspected by the Central Bank, do you have sufficient evidence to demonstrate ongoing review?



## Digitally-enabled Fitness & Probity Manager



We acknowledge the level of effort required of organisations to provide assurance of compliance with their F&P requirements. We have designed a bespoke tool that will enable you to effectively manage and demonstrate how you can meet your F&P obligations on an on-going basis. We can utilise the same critical workflows on platforms that align to your business set up.



One convenient repository to retain all mandatory documents in line with record retention requirements, including self-declaration responses from identified PCF and CF role holders. Our workflows have robust audit trails.



The tool can connect to your HR platform and help manage changes to your PCF / CF population (joiners, leavers, movers).

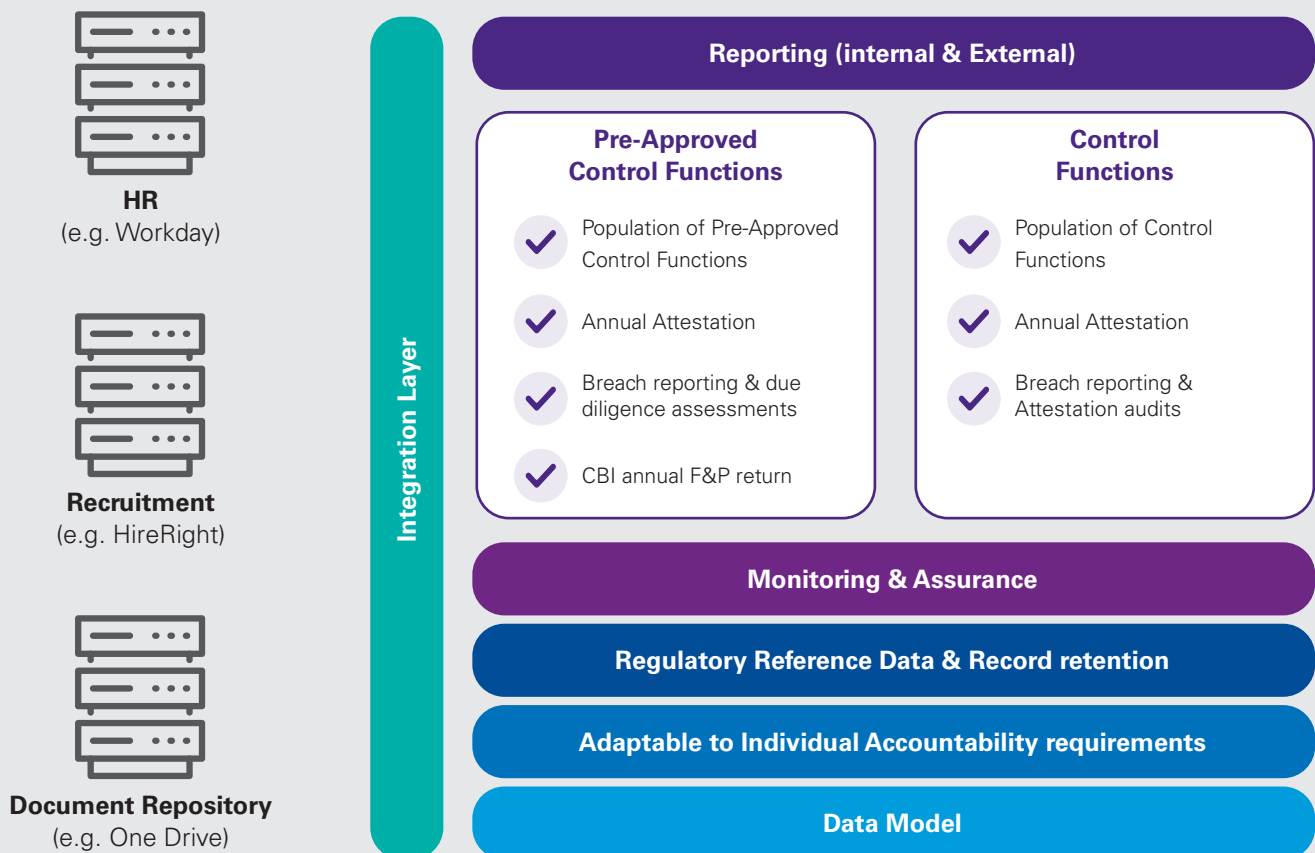


The tool enables effective communication and collaboration via automated end-user generated reporting. Ability to design dashboards to monitor on-going compliance, highlight breaches and track employee change.



The tool can be adapted to address the enhanced F&P requirements and other requirements of the proposed Individual Accountability Regime.

### Be-spoke Tool







## How can KPMG help?



KPMG can provide services to ensure both individuals in senior positions and firms themselves are adequately prepared for F&P regime and that they are well-appointed to maintain compliance with the regime on an on-going basis.



Examples of how our team of experts can assist include:

- Provision of **general fitness and probity advice**
- Assistance with identifying PCF and CF roles including consideration of allocation of responsibilities
- **Interview preparation / coaching** for PCFs who are awaiting approval from the Central Bank
- Formation of **robust procedural and policy framework**
- **Design, implementation and on-going assurance** of internal controls in place to ensure compliance with F&P regime
- Assistance with on-going **due diligence requirements** as set out in the F&P regime



We also have a **technology solution** which we can help your firm manage the F&P requirements (and enhanced requirements following the proposed Individual Accountability Framework). This workflow tool manages certification, tracks status of F&P submissions, tracks annual certification and highlights any non-compliance etc. Our tool will also address the DEAR CEO findings and can link to HR systems. This is a move away from manually tracking compliance on spreadsheets with is labour intensive and can be error prone.



KPMG's Risk and Regulatory Consulting team comprise of F&P, Conduct Risk, UK SMCR and Australian BEAR specialists who have assisted clients in the design and implementation of individual accountability regimes in the UK and Australia.



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Produced by: KPMG's Creative Services. Publication Date: July 2020. (6353)