McCann FitzGerald

The Individual Accountability Framework and Senior Executive Accountability Regime

Supporting our clients in ensuring a positive and customer-focused culture

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What is the Individual Accountability Framework?

The Framework is intended to confer powers on the Central Bank of Ireland (the "**Central Bank**") to strengthen and enhance individual accountability in the management and operation of regulated financial service providers (each an "**RFSP**").

The Individual Accountability Framework is set out in the Central Bank (Individual Accountability Framework) Act 2023 which was commenced in 2023

The Individual Accountability Framework:

a) provides for obligations on RFSPs with respect to senior executive accountability and other governance and management arrangements;

b) sets out standards of behaviour for RFSPs and individuals performing functions in RFSPs;

c) enhances sanction processes for individuals who breach their responsibilities under financial services legislation; and

d) prescribe and allocate responsibility and accountability for the management and operation of RFSPs to individuals.

Who does it apply to?

The Individual Accountability Framework applies to Regulated Financial Service Providers.

The Individual Accountability Framework essentially includes all financial service providers whose business is subject to regulation by the Central Bank and in certain circumstances other European' regulators or the ECB. The Framework comprises four parts, including the Senior Executive Accountability Regime (**"SEAR"**).

SEAR will be implemented on phased basis and initially apply to:

- credit institutions (excluding credit unions);
- certain insurance undertakings
- investment firms, and
- third country branches of such firms.

Other sectors may be included in the future.

Conduct standards have a wider application to all RFSPs, beyond those RFSPs and senior executives to which SEAR applies.

The Fitness & Probity regime and the Central Bank's enforcement powers apply to all RFSPs

What does the regime involve?

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1. Senior Executive Accountability Regime (SEAR)
2. Individual and Business Conduct Rules
3. Enhancements to the Fitness & Probity Regime
4. Enhancements to the Central Bank's Powers

What does the regime involve? cont.

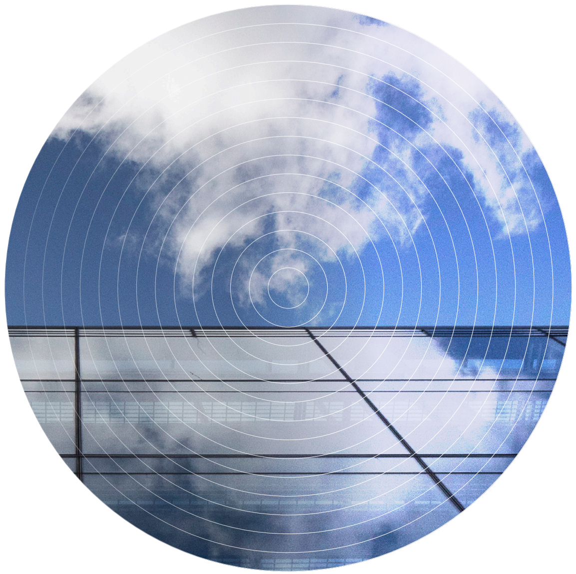
“RFSPs and senior executives need to take steps to ensure that their organisational controls are fit for purpose.”

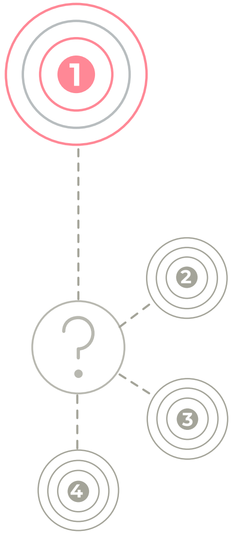
- Josh Hogan
Partner, Financial Services

Why is it important?

- Senior executives are individually accountable for decisions made on their watch
- Ensuring that ‘reasonable steps’ have been taken is key
- Obligation on RFSPs and relevant individuals to disclose to the Central Bank anything relating to the RFSP of which the Central Bank would reasonably expect notice
- Conduct standards will apply to individuals
- Annual certification requirements
- Increased focus on actions of individuals
- Increased Central Bank enforcement powers

What does the Framework involve? cont.





SEAR

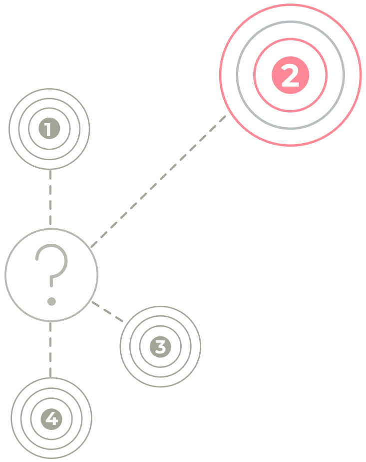
The first part of the Individual Accountability Framework, SEAR, requires every in- scope RFSP to set out clearly where responsibility and decision-making lies within the organisation.

RFSPs will be required to:

- identify the individuals within the RFSP who are carrying on certain functions;
- allocate responsibilities to such individuals;
- provide a statement of responsibilities to the Central Bank for relevant individuals which clearly sets out their role and areas of responsibility; and
- produce a management responsibility map documenting key management and governance arrangements in a comprehensive and accessible way within a single source of reference.

Relevant individuals have a duty of responsibility to take reasonable steps to avoid their firm committing or continuing to commit a "prescribed contravention" in relation to the areas of the business for which they are individually responsible.

What does the Framework involve? cont.



Business and Conduct Rules

The regime imposes obligations on RFSPs with respect to expected standards of conduct ("Standards for Business"); and expected standards of conduct for every person carrying on a Controlled Function ("CF") role ("Common Conduct Standards"); and certain additional expected standards of conduct for so-called `persons in senior roles' ("Additional Conduct Standards").

The Standards for Business apply to the RFSP itself and inform how it is managed and governed.

The Common Conduct Standards apply to every CF (including pre-approval controlled function roles “PCFs”)) in an RFSP and not merely to PCFs. RFSPs are required to ensure that CFs are aware of these Common Conduct Standards and CFs are obliged to follow such standards.

The Additional Conduct Standards apply to every PCF in every RFSP (irrespective of whether the relevant RFSP is within the SEAR regime) and to every other person "who exercises significant influence on the conduct of an RFSP's affairs" (CF-1).

Breach Reporting

The regime introduces an obligation on RFSPs and relevant individuals to disclose to the Central Bank anything relating to the RFSP of which the Central Bank would reasonably expect notice. In addition, RFSPs and relevant individuals may be required to report, in a timely manner, any disciplinary action arising from breaches of the business and conduct standards to the Central Bank.

Common Conduct Standards

The Common Conduct Standards impose an obligation to:

a) act honestly and with integrity;

b) act with due skill, care and diligence;

c) co-operate in good faith and without undue delay with the Central Bank;

d) act in the best interest of the customers and treat them fairly and professionally; and

e) operate in compliance with standards of market conduct and trading venue rules.

f) notice.

What does the Framework involve? cont.

Business and Conduct Rules cont.

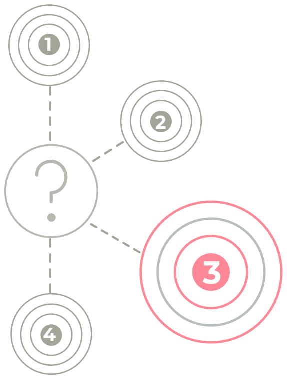
The Additional Conduct Standards will include obligations to:

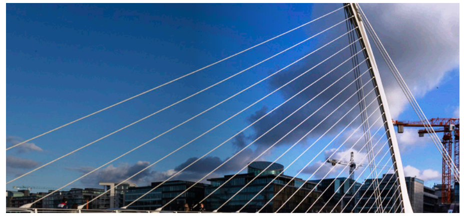
a) ensure that the business of the RFSP is controlled effectively;

b) ensure that the business of the RFSP is conducted in accordance with its obligations under financial services legislation;

c) ensure that delegation of relevant tasks is to an appropriate personwith effective oversight; and

d) disclose promptly and appropriately to the Central Bank any information of which the Central Bank would reasonably expect notice.



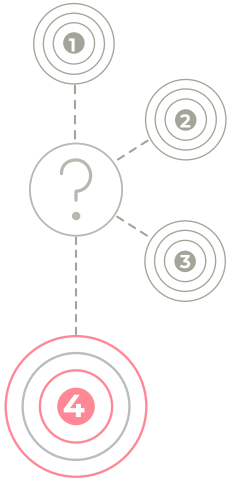


The Enhanced Fitness and Probity Regime

The regime requires RFSPs to periodically certify the fitness and probity of persons in CF and PCF roles. All RFSPs must not permit a person to perform a CF unless the RFSP has certified that it is satisfied that the person complies with the applicable Fitness and Probity standards before any appointment to a CF (including PCF) role.

The Central Bank has made regulations specifying requirements in relation to certification, the due diligence that RFSPs must undertake prior to certifying persons in CF roles and the adoption of fitness and probity procedures, systems and controls.

What does the Framework involve? cont.



Enhanced Central Bank Enforcement Powers

The Central Bank no longer has to first find that an RFSP has committed a regulatory breach before it can take enforcement action against any individual in that RFSP.

Under the Central Bank's Administrative Sanctions Regime and the Fitness and Probity Standards, a breach of the Conduct Standards is a prescribed contravention of financial services legislation, such that the Central Bank can take action against the individual(s) who are accountable.

The Central Bank takes a 'proportionate and risk-based' approach to enforcement. It is a defence for an individual to show that they acted reasonably in all of the circumstances of the case.

What do RFSPs need to do, and what can they do now?

Implementing the Individual Accountability Framework, and driving the culture changes necessary to embed processes within an organisation is likely to be a multi-year project.

What should RFSPs be doing?

1	2	3	4	5
Keep IAF on the agenda	**Review the landscape**	**Ensure Policies and Procedures are fit for**	**Provide annual certification to the Central Bank**	**Training and Awareness**
Periodically consider your existing culture and what may need to change to continue to comply with the SEAR and Individual Accountability Framework .	Periodically identify those carrying on senior executive functions in your organisation and review your Responsibility Map as relevant.	Continue to periodically update your regulatory and HR policies and procedures and template contracts of employment.	As appropriate, RFSPs should provide annual certification in relation to CF (including PCF) holders.	Provide annual training on the Individual Accountability Framework to relevant individuals

How can we help?

Implementing and maintaining a robust internal framework to promote a positive customer-focused culture, and to address the challenges posed by the Individual Accountability Framework is a significant undertaking for many RFSPs and involves considerable management time. We can assist in the process.

The regime requires multi-disciplinary expertise, access to specialists across multiple areas of legal practice, and the ability to run large-scale complex legal projects.

Our team of regulatory, employment law, corporate, litigation, pensions and technology experts spans the firm's entire range of expertise. This enables us to offer a composite, first-class professional service to in-scope RFSPs. The key strength of our specialist team lies in the ability to provide support and assistance on a cross-disciplinary basis, offering a fully-integrated, seamless service to in-scope RFSPs, both large and small.

Integrated Offering

Proven Track Record

Cost Effectiveness and Transparency

Market Leading Experience

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