



FSU Individual Accountability Framework Consultation Paper to Central Bank of Ireland

Introduction

The importance of the implementation of an individual accountability framework in Ireland cannot be overstated given the ongoing societal impact of the bank bailout and the more recent tracker scandal and the legacy of distrust that has been left behind as a result of the actions of all the retail banks. The stark fact that no one has been held accountable speaks to the urgent need to have the ability to hold accountable those who commit wrongdoing in the sector.

However, that is measured against the knowledge that in the UK where this legislation has been in place for a number of years that a very small number of cases have been taken against senior executives. This is also against a backdrop of bank failures in the US and Switzerland in recent weeks.

It is also very important to understand that an individual accountability framework of itself will not change the behaviour of bad actors and other checks and balances will be required. A lot of public comment sees the introduction of a individual accountability framework as the end point when in fact it is but one component of a properly functioning ethical financial system.

The Financial Services Union will not be answering all the questions in the consultation paper but will be concentrating on these which we feel will directly affect our members.

We look forward to the opportunity to discussing these and other matters with the regulator over the next few months.

Q1. What are your overall views and comments on the draft SEAR Regulations and related draft guidance?

ANS: *The draft SEAR Regulations and related draft guidance are helpful and informative. They give key insights into the thought processes of the Central Bank but by their nature are text heavy and open to interpretation.*

Trust in this sector has been eroded over many years with cultural problems and poor decision making been identified as a contributing factor. The continuing work of the Irish Banking Culture Board has helped address some of these problems and it is our hope that the implementation of individual accountability framework legislation will contribute positively to increasing consumer trust levels in the sector.

However, many of the recent issues in Banking branch closures, access to cash, withdrawal of services from communities, against fierce community, consumer and political opposition would not be sufficiently captured in the regulations. We believe these issues should also be explicitly identified as potential issues of failing to operate in the best interests of the customer.

Experience from the UK of a similar type of regulation has shown that there has been very few cases brought forward and those that have been processed have been extremely difficult to prosecute.

We have also seen the regulator call on the banks to cease branch closures during covid only for the banks to disregard the FCA calls.

Our main observations on the individual accountability framework are regarding reach and transparency, the expanding nature of SEARs has moved it from a Senior Executive focus to a broader focus of staff across the sector. It is imperative that those who initiate, and drive decisions do so with a clear focus on the customer and are held accountable for decisions and that those staff who are instructed to implement are not the easy targets or scapegoats.

The lack of transparency is something that must be addressed prior to the formal rollout of the regulations. Requiring firms to have responsibility frameworks and responsibility maps but to not require them to be shared either with consumers, staff or regulators is a huge shortcoming in the regulations. Our concern is that it will lead to a lack of focus on these key areas and a disjointed approach and understanding across the sector. Clear deadlines are necessary for consistency and to ensure a consistent consumer experience.

The complete lack of a focus on speaking up is a key weakness in the regulations. Again, the UK experience for whistle-blowers in the sector has not been positive. A multifaceted approach to ensuring an ethical finance sector must include supporting and empowering employees to call out behaviours or initiatives that are not customer centric and in breach of the individual accountability framework. We believe that all entities should inform staff of the speaking up process in the firm and highlight in their annual reports the numbers of cases recorded each year. Staff should also independently be made aware of the CBI speaking up line for finance workers. Targeting or victimising whistle-blowers should be called out as a serious breach.

These seismic changes will require training for staff who are tasked with implementation every day. The regulations cover training but are not explicit enough in ensuring there is protected time provided for staff. The legislation is far reaching and has many implications for finance workers. The regulations require additional reporting structures. Training is vital to the good workings and implementations of the regulations. Training cannot be a text manual issued to staff without proper instructions and without adequate time given for staff to absorb and understand the consequences and responsibilities for each individual employee. This training and protected time should be available to all staff including board members and recorded in each banks annual report. Because banks run on very lean staffing models, and no leave reserve system exists proper staffing to carryout business as usual has been a challenge. Adding in onerous responsibilities without provision for training time to be supported by staffing levels is not going to lead to a good rollout of the regulations.



Q2. Do you agree with our proposed approach to the Inherent Responsibilities? N/A

Q3. Do you agree with our proposed approach to the Prescribed and Other Responsibilities? N/A

Q4. Do you agree with our proposed approach to the sharing of roles and responsibilities including job sharing?

ANS: *It is important there is adequate protection against any potential discrimination in relation to part time workers including job sharers. Unintended consequences of worsening gender pay gaps for instance should be considered. We understand the challenge but feel an exception of agreed days of responsibility (working pattern) of shared responsibility could be provided for the small number of these roles that are at senior level.*

Q5. Do you agree with our proposed approach to the inclusion of INEDs/NEDs within scope of SEAR?

ANS: *Yes, the FSU position is there is a requirement to include INEDs and NEDs in scope of the framework as outlined. Staff and INEDs and NED should be treated equally for training e.g. if outside expertise is made available to the board it should also be available for staff training.*

Q6. Do you agree with our proposed approach to the Statements of Responsibilities? Consultation Paper 153 Central Bank of Ireland Page 31

ANS: *No, we believe they should be supplied on a fixed annual date to the regulator.*

Q7. Do you agree with our proposed approach to the Management Responsibilities Map?

ANS: *No, we believe they should be supplied on a fixed annual date to the regulator. Transparency for staff on senior management responsibilities including free access to management responsibilities maps is required for consumers and staff.*

Q8. Do you agree with our proposed approach to submission of documents?

ANS: *No, we believe for them to be seen as important documents that they should be submitted annually.*

Q9. Do you agree with our proposed approach to outsourcing in the context of SEAR?

ANS: *Yes, but we also believe each entity should publish in its annual report the name, description and function of its outsourced functions including the countries that they are located in, particularly in a GDPR context.*

Q10. Do you agree with our proposed approach to reasonable steps in respect of SEAR and the Conduct Standards? Consultation Paper 153 Central Bank of Ireland Page 33

ANS: Yes



Q11. Does the guidance assist you in understanding the Duty of Responsibility and the non-exhaustive list of factors to be considered with regard to reasonable steps?

ANS: *Yes, the guidance is helpful in giving an understanding of the duty of responsibility for individuals.*

Q12. What are your views and comments regarding the guidance on the Common Conduct Standards and Additional Conduct Standards?

ANS: *The issue of training for conduct standards, and overall compliance with IAF, is one that requires protected time for staff to ensure that they are not expected to learn while working. The experience of some staff in AML training has not been conducive to learning. Supplying staff with manuals with no time to read and absorb their content does not constitute training. Equally for Board members separate training days should be a requirement.*

Q13. What are your views and comments on the guidance in relation to obligations on the firm in respect of Conduct Standards? N/A

Q14. Do you agree with our proposed approach to temporary appointments within scope of SEAR and the Conduct Standards?

ANS: *Yes*

Q15. What are your views and comments on the draft Certification Regulations and related guidance?

ANS: *We believe that certification should be supplied to the regulator on an annual basis.*

Q16. Do you agree with our proposed approach to roles prescribed as PCF roles for holding companies in the draft Holding Companies Regulations? N/A

Q17. Do you agree with our proposed approach to reporting of disciplinary actions?

ANS: *We believe due process should be respected and that the outcome of a formal disciplinary action should be notified to CBI. We would ask for clarity about how long of a period will the Central Bank be required to hold documentation in relation to disciplinary action it has been notified of.*

We would question the rationale behind the decision to require a regulated financial service provider or holding company to maintain all information and documentation relied upon in relation to the certification that a person complies with any standard of fitness and probity for a minimum of 6 years after that person has ceased to perform the controlled function on behalf of the regulated financial service provider.

Q18. Do you agree with our proposed approach to introducing the Head of Material Business Line role for insurance undertakings and investment firms? N/A

