



CP153 Submission

13th June 2023

CP153 Enhanced governance, performance and accountability in financial services

Regulation and Guidance under the Central Bank (Individual Accountability Framework) Act 2023

INTRODUCTION

CUMA welcomes the opportunity to respond to CP153 Enhanced governance, performance and accountability in financial services.

In an increasingly technological and rapidly changing financial services landscape, the need for effective governance underpinned by strong ethical culture, ethos and robust systems of delivery, which incorporate trust components, is essential. CUMA agrees that financial institutions need to be effectively managed and organised and individuals need to be clear what they are responsible for and both need to be accountable.

The RepTrak survey emphasises attributes such as trust and respect, which are core to the ethos of credit unions which are locally owned, and, or managed. With over 3,000 Credit Union employees and 2,300 volunteers, we are proud to be at the heart of communities nationwide.

The introduction of the Fitness and Probity Regime for credit unions has focussed attention on the competence and capability of individuals taking up key roles and strengthened the regulatory framework for credit unions.

For the purposes of our response, we have concentrated on the areas that directly impact upon the credit union sector, namely the Conduct Standards, Fitness and Probity reforms and Investigations and Enforcement powers.

CUMA appreciates the opportunity to participate in the consultation process and are happy to elaborate on any matters raised in our responses. As always, we are happy to meet with the Central Bank to communicate further on any issues, in particular those affecting credit unions.

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

There is a significant parallel between the proposed Conduct Standards and the existing Fitness and Probity Regime. There is cross over between the two standards that will apply to individuals. For example, both sets of standards include requirements in relation to honesty and integrity.

Principle 3 may pose a difficulty as there may be times when it clashes with the Assisted Decision Making Capacity Act 2015 (ADMCA), as enacted in 2022 and commenced on 26 April 2023.

Whereas Section 8 (7) (e) of the ADMCA seems to be aligned to the third principle, Section 8 (7) (b) of the ADMCA could, at times, be seen to be in contradiction with the third principle and indeed with the earlier-mentioned section of the ADMCA.

The problem lies within the ADMCA 2015 as amended. Section 8 (7) (b) effectively instructs the intervener to follow the instruction of the member or customer even if it is not in his or her best interest.

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

CUMA believes the guidance in relation to obligations to be reasonable and in the interest of enhanced consumer and member protection.

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

Whereas CUMA agrees in principle, the Central Bank's approval of permanent and temporary appointments is over-long drawn out, opaque and inefficient, and needs immediate review before further unnecessary bureaucracy is imposed.

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

CUMA agrees that all individuals must be competent and capable to perform their roles. The draft Certification Regulations and related guidance seem reasonable.

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

This is a very considerable intrusion into the privacy rights of an employee. It could also be viewed as an intrusion into the employment rights of an individual. Such a report might adversely impact the employee's future career prospects. That introduces the concept of double penalty – the disciplinary action and future career damage. There are also data protection issues here around disclosure of data, retention by a third party of sensitive data, and the future use of that data by the Bank.

Comments on Implementation Timeline

CUMA requests that the Conduct Standards and Fitness and Probity Regime, including certification be aligned with the 1st July 2024 date with the other regulations applying to in-scope firms.

31st December 2023 is year-end and an extremely busy period with credit union AGMs and essentially if implemented will give Credit Unions two months to successfully implement and be compliant.

Board and Board Officer elections continue to take place up until 31st January, so that is a bad time to commence this.

New officers and directors would be in place by July 2024 and it would also afford time to organise relevant training requirements.

