

IAF Consultation team
Central Bank of Ireland
Dublin 1

(By email only to IAFconsultation@centralbank.ie)

13 June 2023

Response to Individual Accountability Framework Consultation Paper 153

To whom it may concern,

On behalf of the Irish League of Credit unions, we thank you for the opportunity to reply to the Consultation on Individual accountability Framework draft regulations and guidance.

We welcome the references to *“proportionality, predictability and reasonable expectations”* in the guidance and consultation paper. Credit Unions by ethos, by legislation and by central bank regulation are well run, intensively supervised, well capitalised and risk averse, limited in what activities we can engage in and bound by strict lending limits and investment restrictions. However, this does not appear to have carried through to the draft regulations and we would ask that the low impact nature and highly regulated position of the credit union sector is highlighted in the regulations.

We have a number of key concerns, namely the lack of proportionality, the truncated timeline for implementation, the alignment and consistency with the Credit Union Act 1997, alignment with the forthcoming Credit Union (Amendment) Bill 2022 and the interaction with the forthcoming amendments to the Minimum competency standards for credit unions which could change the functions and roles of Board of Directors. There is also a need for further clarity in the regulations and the need to differentiate between voluntary directors and paid employees.

The overall framework does not seem to take account of our unique, legislatively required circumstances and regulatory structure such as credit union boards are voluntary positions. We agree with the certification process for relevant employees, but not volunteers.


Likewise, we agree with the reporting of disciplinary actions for those subject to SEAR only.

We do welcome that Credit Unions are not in scope of the Senior Executive Accountability Regime (SEAR). The timeline for implementation is extremely challenging and we would call for a realistic implementation timeline i.e. an extension to the current proposed timelines to ensure a successful and consistent rollout.

We would welcome a fuller discussion on this and other related issues to ensure a consistency and holistic approach given the different legislative and regulatory changes currently forthcoming that will impact on the credit union sector. This is happening at a time when the retail banking sector is adapting to newly changed structure of the market and the changed macroeconomic and interest rate environment.

If you wish to discuss this further please contact myself (089 618 4083 or dmalone@creditunion.ie) or Barry Harrington (087 213 4222 or bharrington@creditunion.ie).

Best regards



David Malone
Chief Executive Officer

Enclosure Annex 1 – answers to IAF consultation questions

Annex 1 – ILCU response to Consultation Paper 153

Question 1: What are your overall views and comments on the draft SEAR Regulations and related draft guidance?

We welcome the references to “*proportionality, predictability and reasonable expectations*” in the guidance and consultation paper. Credit Unions by ethos, by legislation and by central bank regulation are well run, intensively supervised, well capitalised and risk averse, limited in what activities we can engage in and bound by strict lending limits and investment restrictions. However, this does not appear to have carried through to the draft regulations and we would ask that the low impact nature and highly regulated position of the credit union sector is highlighted in the regulations.

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The overall framework does not seem to take account of our unique, legislatively required circumstances and regulatory structure such as credit union boards are voluntary positions. We agree with the certification process for relevant employees, but not volunteers.

Likewise, we agree with the reporting of disciplinary actions for those subject to SEAR only. We do welcome that Credit Unions are not in scope of the Senior Executive Accountability Regime (SEAR). The timeline for implementation is extremely challenging and we would call for a realistic implementation timeline i.e. an extension to the current proposed timelines to ensure a successful and consistent rollout. We would highlight the use of lengthy timelines for implementation such as EU Directives or the recent Crowdfunding and Retail Credit Servicing firm legislation.

Question 2. - Do you agree with our proposed approach to the Inherent Responsibilities?

No comments on Q2 except we would ask clarity that inherent responsibilities align with the Credit Union Act 1997.

Question 3 - Do you agree with our proposed approach to the Prescribed and Other Responsibilities?

We would welcome a more detailed explanation of each Prescribed Responsibility, and the expectations in respect of each responsibility to ensure a consistency application across industry. There would appear to be duplicating or overlapping in some of the prescribed roles such as P3 and P26.

Question 4 - Do you agree with our proposed approach to the sharing of roles and responsibilities including job sharing?

We would ask for full clarity on the alignment and consistency with the Credit Union Act 1997, alignment with the forthcoming Credit Union (Amendment) Bill 2022 and the interaction with the forthcoming amendments to the Minimum competency standards for credit unions which could change the functions and roles of Board of Directors. There is also a need for further clarity in the regulations and the need to differentiate between voluntary directors and paid employees.

Question 5 - Do you agree with our proposed approach to the inclusion of INEDs/NEDs within scope of SEAR?

No comments on Question 5.

Question 6 - Do you agree with our proposed approach to the Statements of Responsibilities?

We welcome and acknowledge the template provided in the guidance document. Guidance note section 2.5.6 refers to *“reviewed on a regular basis”*, we would welcome further clarity on this point.

Question 7 - Do you agree with our proposed approach to the Management Responsibilities Map?

The Guidance note contains significant detail on the Management Responsibilities map but would benefit from further clarity on the outsourcing arrangements.

Question 8 - Do you agree with our proposed approach to submission of documents?

No comments on Question 8.

Question 9 - Do you agree with our proposed approach to outsourcing in the context of SEAR?

No comments on Question 9.

Question 10 - Do you agree with our proposed approach to reasonable steps in respect of SEAR and the Conduct Standards?

We believe that the guidance references to “proportionality, predictability and reasonable expectations” should carry forward to the concept of “reasonable steps”. We would ask for further clarity to ensure a consistent approach is applied to all of industry.

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?

Section 3.7 of the guidance appears to be in conflict with section 3.10 and could act as an additional barrier to employment to those without experience, early career professionals and is disproportionate to the aims of the Framework. We would suggest deleting or amending Section 3.7.

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

In terms of regulatory notifications, we would welcome a more formalised feedback loop and stakeholder meetings between the Central Bank of Ireland and the Credit union sector. This would help identify areas of concern between the industry and the regulator.

Credit Unions have “members” not “customers” so we suggest that the language in the regulations is clarified to align with section 16 of the Credit Union Act 1997.

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

As per the answer to Q17 we have concerns about the in the draft regulations and its interaction with employment law and the Credit Union Act 1997.

We would also ask for clarity on how the exemptions from Fitness and Probity carry forward to the new regime as outlined in Section 4.16.

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

No comments on Q14.



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

There is a concern that the certification process would apply to volunteers which we would object to as this is completely against the purpose of the Act which was to correct and punish executive dishonesty in the banking sector and stockbroking industries. We do agree that certification should apply to employees but would need further clarification on potential overlap between the timelines between re-confirming in the current Fitness and Probity regime and these regulations, and particularly how the forthcoming Credit Union (Amendment) Bill and the forthcoming amendments to the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Minimum Competency) Regulations 2017 will interact. We would also ask for the timeline to be moved out for the initial period and that clarity on what is the minimum level of information that should be on the certificate. For those individuals already in roles, the recertification process would benefit from a “grandfathering” provision to reduce the path to compliance and exempted categories should carry over to the new regime particularly for those outsourced service providers.

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

Question 16 is not relevant to the Credit union sector so no response is offered.

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

We have a number of concerns about the proposed approach to the reporting of disciplinary actions. The first concern relates to the voluntary nature of Directors on Credit Union boards as prescribed in Section 68 of the Credit Union Act 1997 which precludes the remuneration of Directors. Directors’ responsibilities are set out in detail in the Credit Union Act 1997 and will be amended in the forthcoming Credit Union (Amendment) Bill 2022 which has completed Second stage in the Oireachtas. It should be noted that the proposed regulations appear to directly conflict with the removal of Directors and associated processes described in the Credit Union Act. The functions of Directors are set out in Section 55 of the Credit Union 1997. We would not agree that Directors should be subject to additional reporting and processes as outlined in the regulations. We do agree that employees could be subject but a number of clarifications would be required and seems to diverge from the “proportionality” spoken of in the guidance document given the strict and burdensome nature of Central Bank regulations already pertaining to the Credit Union sector.

The importance of following best practise, allowing fair procedures and natural justice is common practise in Credit Unions. We are concerned that some of the language in the draft

Regulations and guidance could be in contravention of employment law, namely Regulations 5 and guidance note section 4.41.

Regulation 5 refers to “*suspension*”, a “*suspension*” does not automatically infer wrongdoing or guilt. It is common practise to suspend an employee pending an investigation. Reporting of “*suspensions*” could infer wrongdoing and could give rise to a lack of fair procedures and potentially breach employment law. We suggest deleting the term “*suspension*”.

Regulation 9 refers to “*disciplinary action taken*”. This is problematic for a number of reasons and clarity is requested on the definition, timeline for reporting, how to report, if this is compliance with data protection rules and the timeline for reporting seems excessively short.

Section 4.41 includes the text “*...in due course update the Central Bank on the outcome of any appeal*”. This is potentially problematic due to fair procedures and could limit the natural appeals process. We suggest this is amended to “*...after the expiry of all appeals processes*”.. or words to that affect.

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

No comments in relation to Question 18.