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The Individual Accountability Framework: Action Items for Funds and Fund Management Companies

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Following a three month consultation process, the Central Bank of Ireland (“**Central Bank**”) has issued finalised **regulations** and **guidance** to firms (“**Guidance**”) on the Individual Accountability Framework (“**IAF**”). It has also published a **feedback statement** in relation to the consultation.

The Guidance is intended to provide clarity regarding the Central Bank’s expectations for the implementation of three aspects of the framework: the conduct standards, enhancements to the fitness and probity regime and the Senior Executive Accountability Regime (“**SEAR**”). We have set out below the key elements of each of these aspects of the IAF and the relevant application date.

Aspect of the IAF	Scope	Application Date	Action Required by Irish domiciled funds and fund management companies
<p>Conduct Standards</p> <p>The legislation provides for three types of conduct standards for regulated financial service providers (“RFSPs”) and their staff:</p> <ul style="list-style-type: none"> (a) common conduct standards (b) additional conduct standards (c) business conduct standards 	<ul style="list-style-type: none"> (a) common conduct standards will apply to all individuals within Irish RFSPs (including Irish externally managed funds) performing controlled functions (“CFs”) or pre-approval controlled functions (“PCFs”) (b) additional conduct standards will apply to all PCFs within Irish RFSPs (c) business conduct standards will apply to all Irish RFSPs 	<p>The common conduct standards and additional conduct standards apply from 29 December 2023.</p> <p>The business conduct standards will not be effective until the revised Consumer Protection Code is implemented.</p>	<p>Prepare and implement a conduct standards policy</p> <p>Notify individuals performing PCF and CF roles of their statutory obligation to comply with the relevant conduct standards before 29 December 2023</p> <p>Provide conduct standards training to individuals performing PCF and CF roles as at 29 December 2023</p> <p>Consider whether employment contracts or letters of appointment in place with PCFs / CFs need to be updated</p>

<p>Enhancements to Fitness and Probity Regime</p> <p>The legislation provides that RFSPs may not allow an individual to perform a CF role unless a certificate of compliance with standards of fitness and probity, given by the RFSP, is in force in relation to that person. Provisions relating to the due diligence to be carried out on in-situ PCFs / CFs have also been revised.</p>	<p>All Irish RFSPs</p>	<p>29 December 2023</p>	<p>Update fitness and probity policies to reflect new certification regime and due diligence provisions.</p>
<p>SEAR</p> <p>The SEAR will be similar in many respects to the UK’s Senior Manager and Certification Regime (“SMCR”). The regime is intended to ensure greater transparency and clearer accountability within the financial services sector by imposing obligations on certain RFSPs to set out clearly where responsibility and decision-making lies within the RFSP.</p> <p>In-scope RFSPs will be required to:</p> <ul style="list-style-type: none"> ■ prepare statements of responsibilities for each of their senior executives which clearly set 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. 	<p>The SEAR will apply to all Irish credit institutions, certain Irish insurance undertakings, certain Irish investment firms and incoming third country branches of these firms. It is expected that the SEAR will be extended to other firms within the Irish financial services sector at a later date, but it will not apply initially to Irish fund management companies and Irish funds.</p>	<p>The SEAR will apply from 1 July 2024 for in-scope firms. Application to independent non-executive directors and non-executive directors has been moved out to 1 July 2025.</p>	<p>No action required. SEAR may apply to Irish domiciled funds and fund management companies at a future date.</p>

The key changes of relevance to funds and fund management companies made since the publication of the consultation in March of this year are as follows:

- The Central Bank has clarified that the requirement to submit the first annual submission of confirmation of completion of the certification process will relate to the 2024 calendar year and will be required in 2025.
- The requirement to report to the Central Bank that a formal disciplinary action has been concluded against an individual in respect of a breach of the Conduct Standards has been removed, although firms and PCFs are still required to report suspected “prescribed contraventions” which includes breaches of the common conducts standards or additional conduct standards.
- The scope of the enhanced due diligence requirements of the fitness and probity certification regime has been limited to PCFs, CF1s and CF2s. Individuals in roles in the CF3 to CF11 categories may self-certify.

Further changes to the draft guidance published in March 2023 relating to SEAR are outlined in our related [briefing note](#).



Tara Doyle

Partner

T +353 1 232 2221

E tara.doyle@matheson.com



Michael Jackson

Managing Partner

T +353 1 232 2000

E michael.jackson@matheson.com



Dualta Counihan

Partner

T +353 1 232 2451

E dualta.counihan@matheson.com



Shay Lydon

Partner

T +353 1 232 2735

E shay.lydon@matheson.com



Philip Lovegrove

Partner

T +353 1 232 2538

E philip.lovegrove@matheson.com



Liam Collins

Partner

T +353 1 232 2195

E liam.collins@matheson.com



Elizabeth Grace

Partner

T +353 1 232 2104

E elizabeth.grace@matheson.com



Michelle Ridge

Partner

T +353 1 232 2758

E michelle.ridge@matheson.com



Barry O'Connor

Partner

T +353 1 232 2488

E barry.oconnor@matheson.com



Donal O'Byrne

Partner

T +353 1 232 2057

E donal.o'byrne@matheson.com



Catriona Cole

Partner

T +353 1 232 2458

E catriona.cole@matheson.com



Anthony Gaskin

Partner

T +353 1 232 3043

E anthony.gaskin@matheson.com



Eunan Hession

Partner

T +353 1 232 2402

E eunan.hession@matheson.com



Orlaith Finan

Partner

T +353 1 232 2351

E orlaith.finan@matheson.com



Brónagh Maher

Professional Support Lawyer

T +353 1 232 3757

E bronagh.maher@matheson.com

Please get in touch with your usual Asset Management and Investment Funds Department contact or any of the contacts listed in this publication should you require further information in relation to the material referred to in this update.

Full details of the Asset Management and Investment Funds Department, together with further updates, articles and briefing notes written by members of the Asset Management and Investment Funds team, can be accessed at www.matheson.com.

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DUBLIN

70 Sir John Rogerson's Quay,
Dublin 2
Ireland

T: +353 1 232 2000
E: dublin@matheson.com

CORK

City Gate
Mahon Point, Cork
Ireland

T: +353 2 1240 9100
E: cork@matheson.com

LONDON

1 Love Lane
London EC2N 7JN
England

T: +44 20 7614 5670
E: london@matheson.com

NEW YORK

200 Park Avenue
New York, NY 10166
United States

T: +1 646 354 6582
E: newyork@matheson.com

PALO ALTO

530 Lytton Avenue
Palo Alto, CA 94301
United States

T: +1 650 617 3351
E: paloalto@matheson.com

SAN FRANCISCO

156 2nd Street
San Francisco CA 94105
United States

T: +1 650 617 3351
E: sf@matheson.com