

Subject: EMA response to the CBI Consultation Paper I60 on Amendments to the Fitness and Probity Regime

Date: 10 July 2025

Overarching comments:

The EMA welcome the efforts of the Central Bank of Ireland with continued improvements to the Fitness and Probity (F&P) Regime following the Independent Review Report of July 2024.

We welcome this Consultation Paper initiative to enhance the clarity and transparency of the F&P regime. The proposals under CPI60 appear to aim to simplify regulatory expectations and improve procedural visibility, particularly beneficial to rapidly evolving sectors here in Ireland such as fintech. The Consultation and review process should ensure that RFSPs in Ireland continue to be led by competent, honest individuals with appropriate integrity, but ensure that the process for approving such individuals for the senior roles in organisations remains transparent and appropriate.

We appreciate the consolidation of guidance and the publication of a Gatekeeper Manual. These changes are a strong foundation for predictability and professionalism in regulatory engagement.

We must mention initially the disadvantage of a PCF IQ section 5 additional attestation requirement, only in place for EMI, Pls and CSPs, which the EMA have been discussing with the CBI since our submission in February 2025, annexed at the end of this submission. The section 5 additional attestation requirement to a 'no' answer is unnecessarily onerous. We again ask for the full removal of this requirement for this cohort of financial services. We acknowledge continued engaged discussions, as recently as the latest meeting of 2 July, in which there was suggested agreement with the removal of the attestation requirement, to be replaced with the CBI undertaking garda vetting, in line with the approach for other sectors, including banking.

Furthermore, members have noted issues with the IQ process when it is deemed 'incomplete,' being 'closed' and requiring a full resubmission. Those proposers in firms having to resubmit the same information more than once is an unnecessary time-waster for all. If there is an issue with, for example the s5 attestation, we would ask that the same application would be kept in operation, and amended with the newly submitted information, to avoid unnecessary duplication of efforts. We would agree that there could be limited timeframes for resubmission in such circumstances.

Members would also ask for reconsideration of those in RFSP firms who can be official PCF 'proposers' on the portal. Members note that proposers should be allowed to be someone in a firm with sufficient seniority, and that it shouldn't necessarily have to be a PCF role holder acting as the proposer. Firms propose that those individuals involved in this PCF IQ submission process in firms, the proposing individual, can be nominated or put forward by their firm, and that this should be considered sufficiently appropriate to allow them to carry out that submission responsibility.

We note that fintech's ability to attract international and non-traditional talent is vital. The evolving F&P regime must balance rigor with flexibility. We would suggest that the review occurring with CPI60 would further include clarifying how remote/hybrid leadership roles might be treated (e.g., the possibility of a Chief Risk Officer based abroad at early stages of a low-risk fintech). It is also

important to ensure that the F&P regime remains inclusive of diverse, innovative leadership profiles, as often founders in fintech may not have traditional financial service backgrounds.

We would say that any and all further reviews to the F&P process should be based on general and sector specific needs, and result from known or witnessed concerns or shortfalls, with continued engagement cross-sectorally to ensure relevance,, applicability, implementation and effectiveness. A well-calibrated F&P framework will enhance trust, governance, and stability across all regulated sectors, including fintech, and we support CPI60 being a valuable step in that direction.

Consultation Paper Responses

- Q1. (a) Do you agree with the proposed revision to the draft Guidance?
(b) Are the enhancements to the draft Guidance useful to you?
(c) What other elements could the Central Bank include within the draft Guidance?

We feel that the new unified F&P guidance is a welcome move toward greater clarity. However, some elements could benefit from fintech-specific illustrations or tailoring:

Suggestions:

- Provide **examples or case studies** relevant to fintech (e.g., an early-stage founder taking a PCF role without traditional financial services experience).
- Clarify the **treatment of tech-focused leaders** who may bring critical skills but lack conventional regulatory roles on their CVs.
- Offer **digital compliance tools or templates** to help smaller firms meet annual certification and due diligence obligations. We know that a number of firms lost manhours ensuring certificates of compliance met the requirements under the IAF, for example.

While fintech application decision-making is currently a small percentage of the overall market of F&P team applications (in 2024, PSPs were 9% of all F&P applicants), we note the continued increase in market share and applicability as fintech broadens at such pace here in Ireland.

Members with non-Irish parent entities can have difficulties with cross-border resourcing or Board composition challenges, and will continue working with the CBI as Irish regulated RFSPs on this.

The Gatekeeper Manual is welcome, improving procedural transparency, especially for PCF interviews and timelines.

We welcome the offering of predictable SLAs for PCF approvals, especially where delays could impact funding or go-live dates. A 90 day SLA timeframe is welcome, and we hope that it can be achieved most of the time. Timely decisions on these key role holder approvals are necessary, not only for the firms to be assured, but the role holder applicants themselves.

Members have asked for consideration of fast-tracked PCF approvals in two scenarios, though we welcome the addition of further scenarios:

- (i) Fast track approval for people who are between jobs and seeking approval for a role via the Central Bank. Members would ask for consideration of a 2-4 week period in these circumstances, a maximum 30 days turnaround. A potential 3 month turnaround on this could mean 3 months out of work for such an individual.

- (ii) Also, for those moving between firms, members ask that if you are already holding a similar role in a similar type of firm, that such an approval could be fast tracked? Ideally members would seek an automatic approval in such circumstances, but understand that it might require human intervention to note the role/firm similarities.

Both these fast-tracked requests could have stringent requirements to outline the reasons for seeking the fast-tracked approval, so that it will only apply to such specific, limited circumstances.

We encourage the Central Bank to:

- Ensure the provision of feedback where PCF applications are delayed or not approved.
- Allow pre-submission discussions for firms undertaking large hiring rounds or internal reorganisations, to ensure firms understand the expectations of the Central Bank on their initial hiring, and then further expectations at certain growth or time period milestones.

We welcome the continuation of dual-hatting for some PCF roles, on a risk-based approach, particularly for low-risk and scaling firms. This is necessary to ensure competition among smaller innovative start-up firms.

It would be useful for sections 4.19 and 4.22 of the draft Guidance to be updated to reflect that firms should assess the existence of conflicts of interest notified to the firm by the applicant by way of self-certification. A requirement for firms to evidence this otherwise seems onerous.

On Table 4, Level of Experience, it speaks to Non-Executive Directors having “Three years of recent relevant practical experience” including “theoretical knowledge” but that term is not defined, in that table or on the others. It would be useful if defined in broad terms, to ensure continued diverse hiring for important Board roles.

Additionally members would request further clarification on how the enhanced F&P expectations under CPI60 will apply in cases where an individual:

- Holds an executive PCF role ; and
- Simultaneously serves as a member of the Board of Directors of the same regulated entity.

We respectfully request the Central Bank to confirm whether such a dual role is permissible under the enhanced F&P framework proposed in CPI60, and whether the Central Bank considers it to present any inherent conflict from a fitness or probity perspective.

Whether the F&P regime will require:

- Additional governance safeguards or documentation (e.g. clear role delineation);
- Separate fitness assessments for the board and executive aspects of the role; or
- Enhanced scrutiny in the context of independence, objectivity, or challenge.
- Whether holding both roles may impact ongoing due diligence assessments (e.g. regarding independence of judgment or collective responsibility).

We acknowledge that the F&P Standards already require individuals to act with integrity, competence, and independence. However, we would welcome further guidance on whether the dual-role construct raises any concerns under the updated framework, particularly for firms with

smaller or non-complex structures where such arrangements are often necessary and proportionate.

On Material Changes, 5.32, members would welcome further clarity on the threshold for immediately notifying the CBI about an individual's Fitness & Probity (F&P), outside of the annual process.

Members ask to ensure an unambiguous message throughout the final drafting of documents, around PCF role holders, the leadership of the firm, having unfettered access to the Board as needed. It is imperative that this is clearly understood within all RFSP firms, to ensure that those making the key decisions of the firm have consistent, unwavering support of the Board as required.

Q2. (a) Do you agree with the proposed revisions to the PCF list?
(b) Have you identified any issues with this revision?

We generally support the move toward a sector-agnostic PCF list. However, fintech firms, particularly startups and scale-ups, often operate with leaner management structure set ups. The proposed expansion of PCF roles could impose a disproportionate compliance burden on early-stage firms, thus it is key that applicability is properly determined sector by sector, and further, between sector firm types.

Recommendations:

- Consider **tiered or proportional application** of the new PCF list, with thresholds based on firm complexity or scale (eg. A MiFID investment firm vs. EMI).
- Publish **transitional guidance or FAQs** to assist firms in mapping current functions to the new PCF role requirements.
- Clarify how non-traditional financial service roles in fintech (e.g., Head of Product, Chief Innovation Officer) should be treated under the new regime, where they are not covered in the new PCF listing. Members would be eager to see that these non-traditional financial service roles can be approached in a fair and proportionate manner, based on the needs of each firm.

Members are interested in proportionate consideration of the Head of Safeguarding Oversight, PCF-45 role applicability, on the newly proposed list. We acknowledge the merging of the previous roles of PCF-45 (Head of Client Asset Oversight for Investment), PCF-46 (Head of Investor Money Oversight for UCITS Self-Managed Investment Company / Management Company) and PCF-53 (Head of Client Asset Oversight for Credit Institutions). Some members question its necessity and relevance, as a stand-alone role, for all sectors, and presume the approach will be that dual-hatting will be allowed on a case by case approach. It will be pivotal that the determination of applicability or otherwise of certain PCF roles on the new listing are considered not only on a per sector basis, but on a per firm basis. While the role might be deemed necessary for some complex RFSPs, such as credit institutions (reflecting the 3 PCF roles currently in place), in fintech, flexibility of consideration of applicability will be key to the PCF-45 role.

EMA members concerns are that, for smaller EMIs for example, the introduction of a standalone safeguarding PCF may place undue strain on resources. In many cases, safeguarding oversight is already integrated into the responsibilities of an existing PCF role holder (typically the Head of Finance or Chief Risk Officer). Mandating a separate appointment may lead to operational inefficiencies and unnecessary duplication.

Again, it is recommended that the CBI adopt a proportionality-based approach, allowing smaller institutions to designate an existing PCF (e.g. PCF-11 Head of Finance) as the safeguarding function-holder, provided the individual can demonstrate adequate capacity and competence.

Furthermore, members would ask that, PCF-45 is included as an example on the table of expectations and responsibilities in the Draft Guidance, in Chapter 4 from pages 77-88.

Further clarity is needed on the exact expectations of the safeguarding PCF in practice. For instance:

- Will the safeguarding PCF be personally accountable for the day-to-day execution of safeguarding controls?
- What level of interaction is expected with third-party safeguarding partners (e.g. safeguarding account banks or insurers)?
- Will the PCF be subject to direct liability in the case of operational safeguarding breaches?

These questions require clearer guidance to ensure RFSPs can make appropriate governance decisions and select qualified individuals for the role, if required, after the consultation process has been concluded.

We acknowledge the plan to carry out in-situ assessments for incumbents already acting in roles that newly become PCFs. However, we would ask for further detail on:

- The timelines and notification procedures.
- The criteria for continued approval versus new application.
- Whether temporary derogations or 'acting' arrangements will be allowed during any assessment process.

For firms managing growth or scale-up funding, this transition needs careful pacing to avoid potential governance bottlenecks.

Members would also like some clarity on time commitments for PCF role holders, in situations where time-commitments were already agreed with the CBI during PCF approval processes. Can in-situ role holders be assured that previously agreed commitments with the CBI remain in place?

Similarly, firms and role holders would be reassured to know that currently agreed dual-hatting scenarios will remain untouched (until a previously agreed triggering event) under this review of the F&P regime. The mention of executive PCF role holding being "carried out on a full time basis" (section 4.4 draft guidance) could be added to with determination on a case by case basis.

We also have concern with the wording of section 4.17 "The sharing of PCF roles in firms is not permitted in any other cases and it is expected that there will be an individual PCF role holder for each respective PCF role in existence in the firm." Members are concerned about the potential removal or restriction of dual PCF appointments based on "an individual PCF role holder for each respective PCF role." Particularly when considering smaller or new entrant firms, where qualified senior leadership often assumes more than one PCF role (e.g. Head of Compliance and MLRO). The same individual often holds two PCFs by necessity rather than convenience, particularly in the early stages of development, pending business growth. We rely on 4.13 "it is possible that an individual can hold more than one PCF role."

We would propose an approach that allows for some flexibility in dual appointments where:

- There are no conflicts of interest;
- The individual has demonstrable capacity and expertise;
- The governance structure includes appropriate independent oversight;
- As is already the case, the CBI can reassess dual roles periodically based on business scale and complexity.

Conclusion:

We fully support the CBI's objectives to enhance governance and the effectiveness of the Fitness & Probity regime. However, we again encourage the Central Bank to adopt a proportional, flexible and principles-based approach, particularly in areas that significantly affect smaller or scaling firms.

We believe these recommendations would still achieve the Central Bank's objectives while enabling RFSPs, especially those in growing sectors, to maintain effective and efficient governance structures.

We note finally, as mentioned by the CBI at the useful F&P industry event at the end of May, to ensure to keep levels of clarity on proportionality, especially in light of IAF application and the potential extension of SEAR requirements to additional sectors over coming years. While all process improvement measures are welcome, proportionality and a continued risk-based approach must remain top of mind at all stages of consideration, drafting, reviewing and implementation.

Annex I – EMA letter sent to the CBI in February 2025

FAO: Fitness & Probity PCF Authorisation and Supervision Teams

27 February 2025

Dear CBI Fitness and Probity and Supervision Teams,

The EMA have discussed with Central Bank representatives previously, namely at the 27 November 2024 quarterly engagement, our concerns with the CBI PCF IQ Section 5 self-certification requirements.

We question why Payment Institution, Electronic Money Institution or a Crowdfunding Service Providers are specified under Section 5 (5.7 and 5.8) to have to self-certify and evidence a “No” answer to reputation questions when other regulated markets are not subject to the same obligation. As the requests are related to reputation exclusively, it is unclear why payment sector firms should be expected to reach a higher standard than, say credit institutions or fund managers.

The CBI confirmed this requirement was taken directly from ‘Guideline I6: Identity and suitability assessment of directors and persons responsible for the management of the payment institution’ of the [EBA Guidelines on the information to be provided for the authorisation of payment institutions and e-money institutions and for the registration of account information service providers under Article 5\(5\) of Directive \(EU\) 2015/236](#). However, EU member states are at liberty to disapply elements of EBA Guidelines, as long as they can provide a justification. EMA members report that NCAs in other EU member states – to which the same Guidelines also apply - do not require firms to provide this self-certification and evidence when applying for such roles. These include the Netherlands, France, Italy, Spain and others.

As mentioned at the last CBI Quarterly supervisory meeting, we have set out below the specific challenges for firms in adhering to these requirements.

Unnecessary requirement: not only is the requirement to self-certify and evidence their “no” answer to reputational questions onerous, but it also does not add anything of value to the process. In effect, the lawyers providing the attestation simply re-confirm the information that the PCF submitter has already provided in the IQ application on their appropriateness for holding the PCF.

An Garda Síochána limitations: The question requires the PCF applicant to provide evidence for a negative answer, which is counterintuitive. Proving that an individual has no criminal record in Ireland is difficult as there is no way to obtain 'clearance' on criminal record responses from Gardaí. Solicitors are also reticent to self-certify a response to a negative answer, where in principle if you have no criminal record there is nothing to find.

Impact on smaller firms: Smaller firms who don't have in-house lawyers must engage external lawyers to perform background and credit checks and obtain a solicitors letter stating that based on the information provided, they are satisfied that the individual is fit and proper, attaching the searches as evidence. Not only is this an unnecessary expense for these firms, but they also

experience significant difficulty in finding external lawyers to write such attestations, particularly given the lack of guidance provided by the CBI – see below.

Lack of guidance: The CBI could be clearer in terms of the attestations needed. Firms find that because solicitors do not have sufficient guidance on what is required, it falls to the PCF applicant/firm to devise a template for solicitors to attest, which can be developed wrongly or rightly. The previous RTD Fitness and Probity team were both hard to contact and not always available to help; we hope that the new CBI structure will remedy this issue.

Impact on ongoing business operations: PCF applicants often experience high levels of stress during this process; employers query the reason for delays, and for attestations not being accepted due to incomplete content etc. as mentioned above. Greater transparency up front, and better guidance during the process would help greatly.

Overseas applicants: This process becomes even more stressful, costly and onerous when the PCF applicant is based overseas. Due to the lack of guidance outlining what is required and how to satisfy it, few solicitors are willing to provide the attestation because such requirements and/or documents do not exist in Ireland. Members find that large legal and consultancy firms here will not provide any help for out of State applicants, so firms and the PCF applicants are often stressed and worried trying to get the attestation, but with the existing knowledge gaps of what specifically is required and what an Irish solicitor is willing to put their name to regarding cross-border reputation. Conversely, non-Irish based solicitors do not want to attest to reputation for an Irish PCF approval without clear and unambiguous understanding of expectations.

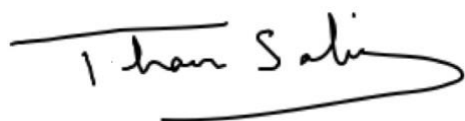
The EMA ask the CBI to consider:

- That the self-attestation of the IQ form itself acts as the evidence required;
- The requirement for Payment Institution, Electronic Money Institution or Crowdfunding Service Providers to further evidence a 'no' answer should be removed;
- While the preference would be the removal of the requirement altogether based on the above, in any case, once a proposed PCF has been approved, the need for these letters should reduce. The CBI should be able to rely on their own approval process to confirm that an individual remains fit and proper for a role if that individual decides to move companies, where there is no change in their background or circumstances.

We await further engagement on the above, and are happy to discuss this approach with you and/or colleagues at any time.

Sinead and Judith can be contacted at sinead.hmw@e-ma.org and judith.crawford@e-ma.org.

Yours sincerely,



Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association