



May 2020

CBI Regulated Firms and PCF vacancies due to COVID-19

On the 30th of April, 2020, the Central Bank of Ireland (“**CBI**”) published a [letter](#) to fund management companies regarding certain COVID-19 related measures (the “**Letter**”). The Letter addressed a number of areas for consideration including in relation to Pre-Approved Controlled Functions (“**PCFs**”). The Letter acknowledged the possibility of a PCF being incapacitated as a result of COVID-19 and the potential for delays in finding a suitable replacement due to the current pandemic. In light of this, the CBI has outlined a pragmatic approach to deal with such scenarios. These measures apply not just to PCFs in fund management companies or Irish resident directors but to PCF holders in all firms regulated by the CBI (the “**Firms**”) whether those PCF holders are located in Ireland or abroad.

Steps to be taken by Firms

The CBI have outlined on their website under the “[COVID-19 - Regulated Firms FAQ](#)” section that if a PCF holder is unable to perform their role due to illness, or if a Firm cannot fill a permanent PCF role vacancy due to COVID-19, the Firm can seek to have another suitable individual perform that role for a limited period of time. However, the proposal to have another individual perform the role on a temporary basis requires the prior agreement of the CBI.

In addition, the CBI have set out the following steps Firms should take when considering appointing an individual to perform the PCF role for this limited period:

- ❑ The Firm should refer to its succession and contingency plan in the first instance and identify a suitable individual to perform the PCF role which has become temporarily vacant;

For further information on any of the issues discussed in this article please contact:



Emmet Quish

DD: + 353 (0)1 673 1724

emmet.quish@dilloneustace.ie



Hannah Fenlon

DD: + 353 (0)1 674 1005

hannah.fenlon@dilloneustace.ie

- The Firm should contact the CBI (the contact is likely to be the Firm's supervisor or the supervisory team within the CBI responsible for supervising the Firm or the Firm's area of regulation) to state that they wish to make a temporary appointment. In their correspondence, Firms should:
 - Outline the circumstances that have given rise to the need for the temporary appointment;
 - Provide confirmation that the Firm is satisfied on reasonable grounds that the person complies with the Fitness and Probity ("F&P") Standards. In providing this confirmation, the Firm should consider time commitments and other roles that the proposed temporary officer may already be performing;
 - Provide confirmation that the person has agreed to abide by the F&P Standards and will continue to do so whilst performing the PCF role; and
 - Outline the period of time for which the appointment is requested (which should normally not extend beyond three months).

Given the temporary nature of the appointment of a replacement PCF holder, the CBI will not require an Individual Questionnaire to be submitted for their review. However, the CBI is reminding Firms that they may conduct interviews as part of the approval process for the appointment of a replacement PCF holder during COVID-19. Video conferencing and phone interviews are currently being considered by the CBI.

If the CBI agrees to the request by a Firm of the appointment of a PCF holder for a limited period in light of the exceptional circumstances, a letter will issue to the Firm regarding the appointment of the replacement PCF holder.

The CBI has advised that Firms should keep the situation under review and inform the CBI of any changes in respect of the appointment. We would expect that notification of such changes would, aside from the ability of the original PCF holder to perform their role again, include the temporary PCF holder's compliance with the F&P Standards, applicable Minimum Competency Codes, relevant Fitness and Probity regulations in the Firm's area of authorisation and regulation as well as related CBI guidance.

Other PCF vacancies

Outside of COVID-19 related changes, the CBI has reminded Firms that they must not appoint a person to perform a PCF role on an ongoing basis unless the CBI has approved the appointment of the person to perform the function in accordance with its normal pre-approval process.

If you have any queries in respect of the issues raised in this article, please do not hesitate to contact us.

Dillon Eustace
May 2020

DILLON  EUSTACE

Dublin

33 Sir John Rogerson's Quay, Dublin 2, Ireland. Tel: +353 1 667 0022 Fax: +353 1 667 0042.

Cayman Islands

Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands. Tel: +1 345 949 0022 Fax: +1 345 945 0042.

New York

245 Park Avenue, 39th Floor, New York, NY 10167, U.S.A. Tel: +1 212 792 4166 Fax: +1 212 792 4167.

Tokyo

12th Floor, Yurakucho Itocia Building, 2-7-1 Yurakucho, Chiyoda-ku, Tokyo 100-0006, Japan. Tel: +813 6860 4885 Fax: +813 6860 4501.

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