



05 January 2023

The Central Bank (Individual Accountability Framework) Bill 2022 - Update

As readers will be aware from our previous [briefing](#), the Central Bank (Individual Accountability Framework) Bill (the “**Bill**”) was published in July 2022.

The Bill proposes to:

- (i) introduce a new “*Senior Executive Accountability Regime*” for those discharging senior executive functions in the financial services industry;
- (ii) enhance the existing fitness and probity regime operated by the Central Bank of Ireland (the “**Central Bank**”);
- (iii) extend and clarify the powers of the Central Bank under its administrative sanctions procedure; and
- (iv) introduce new conduct standards for all financial services service providers.

Last month, the Bill completed the “*Committee Stage*” during which provisions of the Bill were debated and considered by the Dáil Finance Committee (the “**Committee**”). All of the proposed amendments to the Bill put forward by the Minister for Finance were approved by the Committee without objection.

The Bill is now currently awaiting “*Report Stage*”. It is expected to move to the Seanad for consideration early this year.

Key Amendments

While many of the amendments proposed by the Minister and approved by the Committee were technical in nature, some of the key amendments are considered below.

In the main, the amendments relate to Part 3 and Part 4 of the Bill, regarding the Central Bank’s powers in relation to officers etc. of financial service providers and the structures and procedures of the Administrative Sanctions Procedure of the Central Bank.

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



John O’Riordan

DD: +353 1 673 1792

John.ORiordan@dilloneustace.ie



Peter Bredin

DD: +3535 1 674 1013

Peter.Bredin@dilloneustace.ie



Rachel Turner

DD: +353 1 673 1845

Rachel.turner@dilloneustace.ie

- *Procedures for issuing suspension notices:* The Bill includes provisions introducing the ability of the Central Bank to issue a suspension notice to a person who has already been subject to a prohibition notice by the Central Bank (whether or not there has been any investigation into that person's fitness and probity to carry out the controlled function assigned to them).

The amendments made to the Bill also provide greater clarity on the nature of the submissions a suspended person or entity may make in respect of a suspension notice and the timeframe within which such submissions must be made.

- *The definition of "authorised officer" for the purposes of the Administrative Sanctions Regime:* This definition has been extended to include any person appointed by the Central Bank as an "authorised officer" under any designated enactment or statutory instrument. This is to support new sections inserted into the Bill to provide for fairness of procedures in the Central Bank's investigation processes following the Supreme Court's decision in *Zalewski v Adjudication Officer and the Workplace Relations Commission, Ireland and the Attorney General* [2021] IESC 24.
- *Confidential information during the course of an investigation:* A person must keep information received in the course of an investigation confidential where the Central Bank has advised that it is confidential unless they are authorised by the bank to disclose it or required to do so by law. This confidentiality obligation does not apply where information is disclosed to the person's legal representative.
- *Separation of functions during the course of a Central Bank Inquiry:* In order to provide for fairness of procedures in inquiry processes following on from the *Zalewski* case referred to above, the Bill now outlines that the person who makes the decision to hold an inquiry shall not be involved in making submissions, in leading evidence, or in examining witnesses on behalf of the Central Bank.
- *Fitness and probity investigations already begun under existing legislation:* The Bill now clarifies that investigations already begun are not affected by the commencement of the new requirements that provide for separation of functions following the *Zalewski* case. This is to ensure ongoing investigations can continue and that decisions made by persons concerned prior to the commencement of the new legislation will stand.

Necessity for in-scope firms to prepare for implementation of the Bill once enacted

In the course of the debate on the Bill, the then Minister for Finance, Pascal Donohoe, remarked that "*next year...the entities that are subject to this legislation will have to put a lot of focus into making sure there is sufficient awareness in place among staff regarding their heightened legal responsibilities.*" He went on to warn that "*employers and those charged with overseeing the provisions of this legislation within their companies have a solemn duty to make sure that those who are working for them have access across next year to the training needed to make sure this legislation is implemented.*"

Conclusion

As noted above, the Bill is now currently awaiting Report Stage and is expected to move to the Seanad for consideration early this year. We can expect it to be enacted shortly thereafter. The Central Bank previously indicated that it expected the finalised legislation to begin to apply from late in 2023.

The Bill provides the Central Bank with significant regulation and guidance-making powers which are intended to assist in-scope firms in their implementation of the new regime. The Central Bank has indicated that this suite of secondary legislation and guidance will be published for consultation immediately after the legislation is enacted.

If you require advice in relation to the Bill, please contact your usual contact in Dillon Eustace.

The authors would like to thank Jack Doyle for his contribution to this article.

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

33 Irving Place, New York, NY10003, U.S.A. Tel: +1 646 770 6080

Tokyo

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

DISCLAIMER

This document is for information purposes only and does not purport to represent legal advice. If you have any queries or would like further information relating to any of the above matters, please refer to the contacts above or your usual contact in Dillon Eustace LLP.

Copyright Notice:© 2023 Dillon Eustace LLP. All rights reserved.