



STATUTORY INSTRUMENTS.

S.I. No. 437 of 2011



CENTRAL BANK REFORM ACT 2010 (SECTIONS 20 AND 22)
REGULATIONS 2011

(Prn. A11/1594)

CENTRAL BANK REFORM ACT 2010 (SECTIONS 20 AND 22)
REGULATIONS 2011

In exercise of the powers conferred on the Central Bank of Ireland (“the Bank”) by section 20(1) and section 22(2) of the Central Bank Reform Act 2010, the Bank hereby makes the following Regulations:

1. These Regulations may be cited as the Central Bank Reform Act 2010 (Sections 20 and 22) Regulations 2011.

2. (1) Subject to Regulations 4, 5, 7, 8, 9 and 10, the functions in Schedule 1 of these Regulations are prescribed as controlled functions.

(2) Each of the functions prescribed by paragraph (1) is prescribed in relation to all regulated financial service providers to which Part 3 of the Central Bank Reform Act 2010 applies.

3. (1) Subject to Regulations 4 to 11, the functions in Schedule 2 of these Regulations are prescribed as pre-approval controlled functions.

(2) Each of the functions in Part 1 of Schedule 2 of these Regulations is prescribed in relation to all regulated financial service providers to which Part 3 of the Central Bank Reform Act 2010 applies.

(3) Each of the functions in Parts 2 and 3 of Schedule 2 of these Regulations is prescribed in relation to the class of regulated financial service provider to which the function is stated in Parts 2 or 3 of Schedule 2 to relate.

4. References in these Regulations to a controlled function shall be taken to include a part of a controlled function unless the context otherwise requires.

5. References to a title commonly used for a person who performs a function shall be taken to refer to the functions commonly performed by a person of such title.

6. References in Part 2 of Schedule 2 of these Regulations to a class of regulated financial service provider by reference to an enactment or statutory instrument shall be taken to refer also to the corresponding provider under any enactment or statutory instrument which replaces or succeeds the enactment or statutory instrument referred to in Part 2 of Schedule 2, including as the terms or scope of the definition of such regulated financial service provider may have been amended (including without limitation by expansion of its scope) by such replacement or successor enactment or statutory instrument.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 2nd September, 2011.*

7. A person who performs a function shall be taken to be responsible for the performance of such function notwithstanding that the person in question does not have the title commonly used by a person who performs such function.

8. A person who performs a function of the holder of an office or position shall be taken to be responsible for the performance of such function notwithstanding that the person in question is not the holder of such office or position.

9. (1) A person shall be taken to perform a function where the regulated financial service provider or a person or persons in the regulated service provider are, with respect to that function, accustomed to act in accordance with the directions or instruction of the person in question.

(2) Paragraph (1) shall not be taken to include a person in accordance with whose instruction a person is accustomed to act by reason only that such person does so on advice given by the person in question in a professional capacity.

10. Without prejudice to the generality of Regulations 4 to 9, references to a director shall include:

(a) a shadow director within the meaning of section 27(1) of the Companies Act 1990; and

(b) an alternate or substitute director.

11. A person (the “temporary officer”) shall not be taken to be responsible for the performance of a pre-approval controlled function solely as a result of the temporary officer being responsible for the performance of such function on a temporary basis pending the regulated financial service provider appointing a person to perform such pre-approval controlled function, provided such temporary officer performs such function under an arrangement agreed in writing with the Bank in advance of the person in question assuming such responsibility as a temporary officer.

12. Where the Bank approves the appointment of a person to perform a pre-approval controlled function then, unless expressly stated otherwise in the approval in writing, the person shall be so approved to perform the function in or on behalf of the regulated financial service provider or regulated financial service providers named in the application for approval and not in or on behalf of any other regulated financial service provider.

13. These Regulations come into operation on 1 December 2011.

Signed for and on behalf of the
CENTRAL BANK OF IRELAND
on this the 1 day of September 2011

MATTHEW ELDERFIELD,

Deputy Governor.

Schedule 1**Controlled Functions**

1. A function in relation to the provision of a financial service which is likely to enable the person responsible for its performance to exercise a significant influence on the conduct of the affairs of a regulated financial service provider (CF-1).

2. A function in relation to the provision of a financial service which is related to ensuring, controlling or monitoring compliance by a regulated financial service provider with its relevant obligations (CF-2).

3. A function in relation to the provision of a financial service which is likely to involve the person responsible for its performance in the provision of a financial service by a regulated financial service provider in one or more of the following ways:

- (a) giving of advice to a customer of the regulated financial service provider, in the course of providing, or in relation to the provision of, the financial service (CF-3); or
- (b) arranging, or offering to arrange, a financial service for a customer of the regulated financial service provider (CF-4); or
- (c) assisting a customer in the making of a claim under a contract of insurance or reinsurance (CF-5); or
- (d) determining the outcome of a claim arising under a contract of insurance or reinsurance (CF-6); or
- (e) acting in the direct management or supervision of those persons who act for a regulated financial service provider in providing the services referred to in subparagraphs (a) to (d) (CF-7); or
- (f) adjudicating on any complaint communicated to a regulated financial service provider by a customer in relation to the provision of a financial service (CF-8).

4. In respect of a person referred to in paragraph (a) or (b) of Regulation 15(1) of the European Communities (Insurance Mediation) Regulations 2005, the function of a person described in that Regulation (CF-9).

5. A function in relation to the provision of a financial service which is likely to involve the person responsible for its performance in the provision of a financial service by a regulated financial service provider in one or more of the following ways:

- (a) dealing in or having control over property of a customer of the regulated financial service provider to whom a financial service is provided

or to be provided, whether that property is held in the name of the customer or some other person (CF-10); or

- (b) dealing in or with property on behalf of the regulated financial service provider, or providing instructions or directions in relation to such dealing (CF-11).

Schedule 2

Pre-Approval Controlled Functions

Part 1

PRE-APPROVAL CONTROLLED FUNCTIONS IN RELATION TO ALL REGULATED
FINANCIAL SERVICE PROVIDERS

1. In the case of a regulated financial service provider that is a body corporate incorporated in the State, a person who holds or performs the duties of any of the following positions or offices in the regulated financial service provider:

- (a) the office of:
 - a. executive director (PCF-1),
 - b. non-executive director (PCF-2),
- (b) the office of chairman of the board (PCF-3),
- (c) the office of chairman of the audit committee (PCF- 4),
- (d) the office of chairman of the risk committee (PCF-5),
- (e) the office of chairman of the remuneration committee (PCF-6),
- (f) the office of chairman of the nomination committee (PCF-7),
- (g) the office of chief executive (PCF-8),
- (h) the office of secretary (PCF-9).

2. In the case of a regulated financial service provider that is a partnership established in the State, each member of the partnership (PCF-10).

3. In the case of a regulated financial service provider that is a natural person, that person (PCF-11).

4. In the case of each regulated financial service provider established in the State:

- (a) Head of Finance (PCF-12),
- (b) Head of Compliance (PCF-13),
- (c) Head of Internal Audit (PCF-14),
- (d) Head of Risk (PCF-15),
- (e) Head of Compliance with responsibility for Anti-Money Laundering and Counter Terrorist Financing Legislation (PCF-16),

- (f) Branch Manager of branches in other EEA countries (PCF-17),
- (g) Head of Retail Sales (PCF-18).

Part 2

PRE-APPROVAL CONTROLLED FUNCTIONS IN RELATION TO SPECIFIED REGULATED
FINANCIAL SERVICE PROVIDERS

A person who performs one or more of the following functions in respect of a regulated financial service provider established in the State:

1. In respect of an Insurance Undertaking within the meaning of the Insurance Act 1989 or a Reinsurance Undertaking within the meaning of the European Communities (Reinsurance) Regulations 2006, other than a Captive Insurance Undertaking, a Captive Reinsurance Undertaking or a Special Purpose Reinsurance Vehicle:

- i. Head of Underwriting (PCF-19),
- ii. Head of Investment (PCF-20),
- iii. Chief Actuary (PCF-21).

2. In respect of a Credit Institution within the meaning of the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992:

- i. Head of Treasury (PCF-22),
- ii. Head of Credit (PCF-23),
- iii. Head of Asset and Liability Management (PCF-24).

3. In respect of the Irish Stock Exchange Limited:

- i. Head of Traded Markets (PCF-25),
- ii. Head of International Primary Markets (PCF-26),
- iii. Head of Markets Supervision (PCF-27),
- iv. Head of Operations (PCF- 28).

4. In respect of an Investment Firm within the meaning of the European Communities (Markets in Financial Instruments) Regulations 2007 or an Investment Business Firm authorised or required to be authorised under section 10 of the Investment Intermediaries Act 1995 other than:

- (a) an investment business firm which solely carries on the business of an investment product intermediary (within the meaning of section 25 of the Investment Intermediaries Act 1995); or
- (b) an entity authorised or required to be authorised under section 10 of the Investment Intermediaries Act 1995 which solely carries out:
 - (i) the administration of collective investment schemes, including the performance of valuation services or fund accounting services or acting as a transfer agent or a registration agent for such schemes; or
 - (ii) custodial operations involving the safekeeping and administration of investment instruments:
 - i. Branch Managers within the State (PCF-29),
 - ii. Head of Trading (PCF-30),
 - iii. Chief Investment Officer (PCF-31)
 - iv. Head of Investment (PCF-32).

5. In respect of:

- (a) an entity authorised or required to be authorised under section 10 of the Investment Intermediaries Act 1995 which carries out:
 - (i) the administration of collective investment schemes, including the performance of valuation services or fund accounting services or acting as a transfer agent or a registration agent for such schemes; or
 - (ii) custodial operations involving the safekeeping and administration of investment instruments; or
- (b) Trustees within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 or the Unit Trusts Act 1990 or Part XIII of the Companies Act 1990 or Custodians within the meaning of the Investment Limited Partnerships Act 1994 or the Investment Funds, Companies and Miscellaneous Provisions Act 2005:
 - i. Branch Managers within the State (PCF-33),
 - ii. Head of Transfer Agency (PCF-34),
 - iii. Head of Accounting (Valuations) (PCF-35),
 - iv. Head of Trustee Services (PCF-36),
 - v. Head of Custody Services (PCF-37).

6. In respect of:
- (a) a UCITS Self Managed Investment Company or Management Company within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011; or
 - (b) Management Company within the meaning of the Unit Trusts Act 1990 or Part XIII of the Companies Act 1990 or Investment Funds, Companies and Miscellaneous Provisions Act 2005; or
 - (c) General Partner within the meaning of the Investment Limited Partnerships Act 1994:
 - i. Head of Transfer Agency (PCF-38),
 - ii. Head of Accounting Valuations (PCF-39),
 - iii. Designated Person to whom a director of a UCITS self managed investment company or management company may delegate the performance of the management functions (PCF-40).
7. In respect of a Payment Institution authorised or required to be authorised under the European Communities (Payment Services) Regulations 2009 or an E-Money Institution within the meaning of the European Communities (Electronic Money) Regulations 2011:
- i. Branch Managers within the State (PCF-41).

Part 3

PRE-APPROVAL CONTROLLED FUNCTIONS IN RELATION TO ALL REGULATED
FINANCIAL SERVICE PROVIDERS ESTABLISHED OUTSIDE THE STATE

1. The manager of a branch in the State of a regulated financial service provider established in a country that is not an EEA country (PCF-42).

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give effect to section 20(1) and 22(2) of the Central Bank Reform Act 2010 for the purposes of prescribing controlled functions and pre-approval controlled functions.

BAILE ÁTHA CLIATH
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