

Insight Series on the Central Bank of Ireland's Consultation Paper on the Consumer Protection Code

Insight 1: Standards for Business

Overview of Insights Series

Following on from our *Initial Observations on the Central Bank of Ireland's Consumer Protection Code Consultation Paper* we will be releasing a series of Insights over the next 4 weeks on the changes and enhancements proposed by the Central Bank of Ireland ("**Central Bank**") in its Consultation Paper on the Consumer Protection Code ("**CPC**").

This series of Insights will cover both the principal and additional policy proposals and include our analysis of the key changes for regulated financial service providers ("**RFSPs**").

The policy proposals aim to modernise the CPC and ensure it remains fit for purpose, reflecting the ever evolving nature of financial services and the key developments in the Central Bank's supervision of RFSPs in recent years.

Our first Insight provides an overview of the **new Standards for Business**.

Keep an eye out for our next Insight which will explore the new Standard for Business of Securing Customers Interests and the related obligations on RFSPs in further detail.



The Revised Code

The Central Bank has proposed a revised structure to the CPC comprising:

- (i) The Central Bank Reform Act 2010 (Section 17A) (Standards for Business) Regulations, (“**Standards for Business Regulations**”);
- (ii) The Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Conduct of Business Regulations) (“**Conduct of Business Regulations**”);
- (iii) Supporting Guidance on Securing Customers’ Interests; and
- (iv) Supporting Guidance on Protecting Consumers in Vulnerable Circumstances, (together the “**Revised Code**”).



Standards for Business Regulations

The Standards for Business Regulations set out nine Standards for Business. The Standards for Business include standards relating to governance, resources and risk management, along with robust conduct standards, which build on and update the existing General Principles of the CPC.

- i Secure customers’ interests;
- ii Act with honesty and integrity;
- iii Act with due skill care and diligence;
- iv Act in the best interests of customers and treat them fairly and professionally;
- v Effectively inform customers;
- vi Control and manage affairs and systems, sustainably, responsibly and in a sound and prudent manner;
- vii Maintain adequate financial resources;
- viii Control and manage affairs and systems to counter the risk of financial abuse; and
- ix Engage and co-operate with regulators in good faith and without delay.

These Standards for Business will be complemented by new Supporting Standards for Business which provide further specific detail on a RFSP’s obligations under each of the nine Standards for Business. These aim to provide further clarity to the Standards for Business and increase the predictability of the Central Bank’s expectations of individual RFSPs.



The Individual Accountability Framework

The Individual Accountability Framework (“IAF”) is aligned to the proposed Standards for Business Regulations by ensuring that the behaviour and actions of the individuals working in RFSPs contribute to the RFSPs’ adherence to their obligations under the Standards for Business Regulations and the Conduct of Business Regulations. The Conduct of Business Regulations set out the general requirements which RFSPs must adhere to, comprising cross-sectoral and sector-specific requirements. The Standards for Business and Conduct of Business Regulations apply robust conduct Standards for Business and General Requirements, which seek to ensure RFSPs appropriately protect consumers’ interests.



Who is in Scope?

The Standards for Business Regulations apply to all RFSPs other than those providing MiFID services and crowdfunding services (for which there are equivalent regimes in EU legislation), and credit union savings and lending activities. It is anticipated that the scope of the Standards for Business Regulations will, in time, be extended to capture all activities of credit unions.



What are the New Requirements?

A number of the Standards for Business are closely aligned with the existing general principles set out in Chapter Two of the CPC. However, the Standards for Business Regulations impose certain new standards on RFSPs, requiring them to:

1. **Secure Customers’ Interests;** This is a new obligation of RFSPs to ensure that the interests of customers are properly taken into account in the culture, strategy, business model, decision-making, systems, controls, policies, processes and procedures of a RFSP, the design and delivery of products and services, resolution of errors and complaints, the carrying on of regulated and unregulated activities and in delivering fair outcomes for customers. This new Standard for Business only applies to RFSPs when dealing with consumers in Ireland. We will explore the various new requirements introduced under this Standard for Business in our next insight.
2. **Inform Effectively;** This new Standard expands the general duty to ensure that all information that it provides to a customer is clear, accurate, up to date, and written in plain and accessible language, avoiding the unnecessary use of technical terms. RFSPs must also continue to provide information to customers on a timely basis, and to bring key information to the attention of customers. This requirement aims to ensure that consumers have a full and meaningful understanding of the product or service they are accessing, its costs, risks, and relative advantages and disadvantages.
3. **Protect against Frauds and Scams;** This new Standard imposes an obligation on RFSPs to control and manage their affairs and systems to counter the risks that consumers face, in circumstances which amount to ‘financial abuse’. A definition of ‘financial abuse’ is provided to explain the circumstances in which the new Standard for Business applies. The Supporting Standards provide further obligations on RFSPs to further mitigate the risk of financial abuse to consumers, including a new obligation to notify consumers of frauds or deception of which the RFSP is aware.

In addition, the following obligations of RFSPs under sector specific and cross-sectoral financial services legislation have been incorporated into the Revised Code by way of Standards for Business:

1. Control and manage its affairs and systems, sustainably, responsibly and in a sound and prudent manner;
2. Maintain adequate financial resources; and
3. Engage and co-operate with regulators in good faith and without delay.

A key driver for the updated Standards for Business is seeking to ensure that RFSPs act, at all times, in the best interests of customers and also appropriately protect and secure customers’ (and potential customers) interests. This approach is reflective of the increased focus by regulators across the European Union and further afield, ensuring that RFSPs effectively incorporate the interests of consumers into their strategy, business model and decision-making process.



What are the Supporting Standards for Business?

Additional Supporting Standards are set out in the Standards for Business Regulation, to complement the Standards for Business and support RFSPs in the effective implementation of all their consumer-protection obligations. It is intended that the additional detail will assist RFSPs in determining what should be considered, the actions to be taken and the overall mind-set that should be adopted towards their customers. The Supporting Standards for the existing Standards for Business are not viewed as additional requirements, but rather, provide a clearer articulation of the steps that RFSPs are required to take in order to comply with each of the Standards for Business.



What is the Impact on RFSPs?

The new Standards for Business and in particular, the new Supporting Standards for Businesses will require all (in scope) RFSPs to conduct a complete review of their internal policies and procedures to ensure that they are compliant. Given the broad reach of the new Standards for Business, we will provide a **separate update on each of these new Standards for Business as part of this Insight Series**, to support RFSPs in considering the impact of these new Standards for Business on them.

For any queries on this Insight or any aspect of the CPC, please do not hesitate to contact **Darren Maher**, **Gráinne Callanan**, **Elaine Long**, **Joe Beashel**, **Ian O'Mara**, **Niamh Mulholland** or your usual Financial Institutions Group contact at Matheson



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