

Changing banking culture

New Irish Banking Standards Board to be established

Introduction

On 31 December 2017, the Minister for Finance & Public Expenditure and Reform, Paschal Donohoe, announced that the chief executives of the 5 main retail banks in Ireland (Allied Irish Banks, Bank of Ireland, KBC, Permanent TSB and Ulster Bank) have informed the Department of Finance of their intention to establish an Irish Banking Standards Board ("BSB").

It is envisaged that the core functions of the new BSB will include:

- promoting the highest ethical business standards by leading and overseeing the collective effort to raise banking industry standards
- driving a continuous improvement culture across the Irish banking industry for incumbents and new entrants by requiring participating banks to commit to a programme of improvement under the headings of competence, culture and customer outcomes
- setting standards of best practice by identifying activities where voluntary standards serve the customer and public interest and work with practitioners, regulators, government and other stakeholders to develop any required procedures
- developing a single banking industry code
- providing a best practice advisory role to assist banks in implementing and embedding new codes of conduct.

The BSB, which will be funded by the retail banks, is to be made up of expert people from across civil society "all of whom are committed to and focused on enhancing competence, culture, reputation and trust across the Irish banking industry." A new Chairman, CEO and Board is to be appointed and it is anticipated that the BSB will be operational in late 2018.

According to the statement issued by the Minister, the Board will not act as a lobbying or representative organisation for the retail banks.

New BSB to be modelled on the UK Banking Standards Board

The Minister's statement noted that the new Board will be broadly modelled on the UK Banking Standards Board ("UK BSB").

The UK BSB was established in April 2015. Its membership spans banks and building societies in the UK. With regard to its core aims:

"The [UK] BSB does not exist to encourage trust in the banking sector, but to help to raise the trustworthiness of the sector; a very different proposition. The onus is not on customers, members or clients to trust the firm, but on banks and building societies themselves to demonstrate through their actions that they are worthy of being trusted. These actions need to encompass the broad spectrum of competence, behaviour and culture."

The UK BSB is not an industry representative body or lobbying group. According to the UK BSB, its work is "intended to provide member firms with the evidence, support and challenge that will help them to achieve and maintain high standards of behaviour and competence, individually and collectively.

The main activities of the UK BSB to date have been the following.

Annual Assessment of member firms

In March 2017, the UK BSB published an overview of the results of its first comprehensive survey of 22 UK BSB member banks and building societies in the UK. The survey included questionnaire responses from 28,000 employees, interviews with senior management of the firms and separate questionnaire responses from the Chairmen of the firms about the firm's purpose and culture.

The aim of the UK BSB's Assessment of the UK banks and building societies is to provide member firms with the evidence, support and challenge that will help them to achieve and maintain high standards of behaviour and competence, individually and collectively – it is a matter for each firm to address its own culture, behaviour and competence issues. The firms are assessed against nine characteristics: honesty, respect, openness, accountability, competence, reliability, responsiveness, personal and organisational resilience, and shared purpose.



The results of each firm's assessment are benchmarked and given to the Board of each firm. Whilst the UK BSB does not publish these assessments, it does publish an overview of the cross-firm outcomes.

Amongst survey findings the UK BSB published in March 2017 were: 27% of respondents either strongly agreed or agreed with the statement "If I raised concerns about the way we work, I would be worried about the negative consequences for me"; 12% either strongly agreed or agreed with the statement "In my organisation I see instances where unethical behaviour is rewarded" and 13% either strongly agreed or agreed with the statement "It is difficult to make career progression in my organisation without flexing my ethical standards".

The UK BSB intends to carry out this assessment of its members on an annual basis and to use the survey results to identify areas of policy work it should focus on.

Statements of good practice

In February 2017, the UK BSB published its first Statement of Good Practice (in relation to fitness and propriety assessments); in July 2017 it launched a Consultation Paper on proposed supporting guidance to help firms identify and deal with risks and issues when assessing fitness & propriety. As stated by the UK BSB:

Firms are under no legal or regulatory obligation to comply with a [UK] BSB Statement of Good Practice or with Supporting Guidance. Rather, such Statements and Guidance are intended to provide [UK] BSB members (and others in the sector) with the ability to reference their own policies and procedures against an informed statement of what 'good' looks like in the relevant context, thereby raising standards across the sector and changing expectations of what is regarded as acceptable or 'good enough'.

Consumer framework

In November 2017, the UK BSB published a Consultation Paper on "What do good banking outcomes look like to consumers?".

This Consultation Paper invites comments on the UK BSB's proposed approach and framework for assessing what a good banking culture and outcomes look like for consumers. The criteria it identifies in this paper for good consumer outcomes are: access; choice; clarity and transparency; safety and security; redress and being listened to; value for money; fairness.

Thought leadership events

In March 2017, the UK BSB hosted an event entitled "Worthy of trust? Law, ethics and culture in banking", at which eminent speakers provided insights. In the lead-up to the event, the UK BSB commissioned a number of leading bankers, academics, law professionals and UK Board members to write short blog pieces on the issue of trustworthiness and banking.

The above gives a useful indication of some of the types of work that the new Irish BSB may focus on.

Moving from an 'is it legal?' culture to a more customer-focused culture

In an important speech delivered at an Eversheds Sutherland conference in November 2017, the Central Bank of Ireland's Deputy Governor, Ed Sibley, criticised the Irish banks for making decisions on the basis of whether they were legal and in the short-term interests of shareholders, "with too little consideration of whether they were ethical or in the interests of the customer"; "as the tracker mortgage scandal has demonstrated, this 'is it legal?' attitude still pervades in too many institutions".

The move from an 'is it legal?' culture to a more customer-focused culture will, however, take some time. As noted by the UK BSB:

"Addressing each of these challenges will not be quick or simple; nor will raising standards of behaviour and competence across the sector. We are at the start of what will be a long haul. To keep heading in the right direction, we need an understanding of the culture of banking that is based on evidence, and a clear picture not only of what is happening now and what is changing, but what all the people who are working in banks and building societies are trying to make happen in the future."

How Eversheds Sutherland can help

Eversheds Sutherland is a leading global law firm.

Our Financial Regulation, Governance and Compliance ("FRGC") team, which includes a former Deputy Head of the Enforcement Division of the CBI and another former senior official from the CBI Enforcement Division, can assist firms to:

- have in place an effective culture which supports high standards of behaviour, through the Eversheds Sutherland Culture Review service for financial services firms (see our separate brochure on this)
- ensure that they have in place effective and robust governance and Fitness & Probity policies and procedures
- deal with any conduct risk/behaviour issues (including potential regulatory breaches) that may arise.

Key contacts



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