

Response to:

**Review of the
Minimum
Competency
Code 2011**

Consultation Paper 106

From:

C.U.M.A

15th February 2017

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Overall Remarks

The Credit Union Managers Association (CUMA) is the professional representative association for managers of credit unions in Ireland. CUMA provides professional development training and assistance to its members and engages with a wide range of stakeholders and industry bodies in its pursuit of excellence in professional standards in credit union management.

The Credit Union Managers Association on behalf of its members welcomes the opportunity to respond to this consultation and does so in a spirit of continuous improvement for the experience and outcomes obtained by credit unions and their members. Reference to member/ members in this document means Credit Union members throughout this document. Reference to credit unions refers to the body corporate, its staff and officers.

Significant change has occurred in the business of credit unions in recent years and this has been accompanied by a commensurate level of regulatory change, originating both in Europe and domestically. Credit Unions represent a subset of the social and financial systems in Irish society. They absorb change and evolve at a pace reflecting their scale, resource base and complexity. Initiatives involving regulatory change therefore should reflect the mass of change currently being undertaken by credit unions, the benefits from such initiatives, the degree of urgency associated with them, the evidence which supports their application and the relative regulatory priority within the credit union and contiguous domains.

Proportionality is a core principle of effective regulation and indeed of effective management. Administrative tasks should be completed underpinned by a lean, e-business, member oriented, continuous improvement philosophy. The design and operation of business systems should embrace the fundamental ethos of ensuring that members are faced with credit union personnel who engage with them using processes and procedures supportive of the provision of mutually satisfactory solutions to the financial needs present in their situation. A balance needs to be struck between specifying a particular approach to protecting members interests using a narrow prism and a broader approach which requires regulated entities to discharge responsibilities by exercising judgement and applying policies and procedures which secure the desired regulatory outcome.

Good regulatory practice would provide domestic and international evidence and argument for policy initiatives. The current consultation document relies on assertion and power rather than evidence and argument. The case for the proposed regulatory intervention is weaker as a result. The Central Bank has in its records the most comprehensive data set on Irish credit unions covering returns, financial statements and other documentation relating to regulatory interactions with credit unions. It also has similar data sets for other sectors. It collaborates internationally with other regulators. It is incumbent on the Central Bank to deploy such evidence in a balanced, transparent and robust manner where it would provide a basis for judging the appropriateness and timing of proposed regulatory interventions affecting credit unions and their members.

Overall Remarks

Credit Unions require a level of innovation in the nature and manner of services provision to members. This is typically and desirably an evolutionary rather than a radical-surge process. It entails phenomena such as:

- strategic fit
- market research
- financial appraisal
- resource alignment and commitment
- risk assessment and management

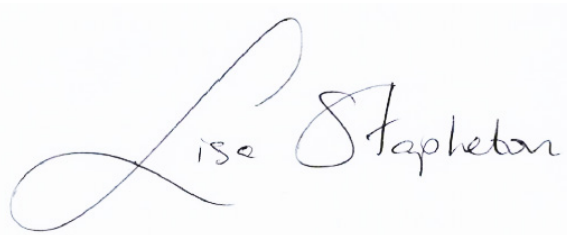
It is desirable that the process of applying competency requirements does not impair the quality and level of innovation that would serve the interests of members and credit unions.

Nor should it stymie competition in retail financial services which is in the interests of members in seeking to have their needs satisfied by institutions in their community they know, trust and influence and over which they can exercise control.

The consultation document is very helpful in setting out the knowledge required of individuals to whom the Code applies and also the list of bodies with recognised accreditation.

It is in the interests of credit unions and their staff to have access to recognised higher education providers beyond the current list of bodies, particularly where such bodies meet the Quality and Qualifications Ireland (QQI) framework, and have courses which match the learning needs of staff with respect to required competences.

Geographically credit unions are located across the 26 counties and forms of blended learning may be particularly effective, especially where they entail directed and independent learning, face to face and remote learning, individual and group learning, continuous assessment, and applied and integrated learning covering a range of competences.

A handwritten signature in black ink that reads "Lisa Stapleton". The signature is written in a cursive style with a large, looping initial "L".

Lisa Stapleton
Executive Officer
CUMA

Consultation Questions

The consultation paper posed 6 questions, outlined below. For reader convenience, we will repeat the question posed immediately prior to each response.

Question 1:

Do you agree that persons carrying out a relevant function in respect of any retail financial product that falls within the scope of the MCC should obtain a minimum level of experience prior to working without supervision? Please outline the reasons for your view.

Question 2:

If you agree with 1) above, do you consider a minimum six-month period to be sufficient? Or should the length of experience depend on the role(s) being carried out, the complexity of the product or a qualification already held by a person? Please outline the reasons for your view.

Question 3:

Do you agree with the proposal on how the experience requirement should be evidenced, i.e., that a regulated firm should sign a 'certificate of experience' and retain supporting documentation to support the certificate? Please outline your views.

Question 4:

Do you agree with the proposal set out above? Please set out the reasons for your view.

Question 5:

What alternative ways could persons demonstrate meeting the competencies and standards set out in the Mortgage Credit Regulations and the requirements of the ESA Guidelines and MiFID II Delegated Directive?

Question 6:

Do you agree that the MCC should apply to credit unions in respect of any retail financial product offered by credit unions that falls within the scope of MCC? Please set out the reasons for your views.

Response to Individual Questions

Question 1:

Do you agree that persons carrying out a relevant function in respect of any retail financial product that falls within the scope of the MCC should obtain a minimum level of experience prior to working without supervision? Please outline the reasons for your view.

It is appropriate that personnel in member facing roles providing financial products and services should be suitably qualified, trained, experienced and oriented in manner consistent with effective member service in a commercial environment which is trust inducing and of high integrity.

The literature on knowledge skills and competence suggests that context is a critical determinant of the quality or level at which these phenomena are manifest. Thus one would need to consider that the experience required prior to working without supervision is a function of variables such as:

- the volume and value of cases (contracts)
- the complexity or simplicity of those member interactions
- the learning and absorptive capacity of the individuals involved
- the degree of formal and informal collaboration between the staff of the unit or team involved in the member interaction
- the maturity of the organisation and the organisation unit of which the employee is part
- the previous experience of the individual in cognate areas of work and learning
- the attributes of the supervisor
- the robustness of the supervisory process
- the strength of the credit union's culture with respect to member care
- the reward structure which prevails for staff covered by the MCC and indeed in other parts of the organisation
- the extent to which members express satisfaction or otherwise by reference to the service or product provided

This is not an exhaustive list and the Central Bank through its supervisory and investigative role may have identified additional variables that affect the performance in roles covered by the minimum competency code. These should be enumerated in order to promote good practice in the domain and to bring to the attention of regulated entities the degree of sophistication required in assessing competencies in different circumstances.

The exchanges between a credit union and its member represent a relational process. The interactions that take place contribute to the realised level of understanding, cooperation and trust.

The application of a competency code should maintain the quality of this relational process and not weaken it by prioritising a simplistic perspective with respect to it.

The current proposal seems to favour a simplistic approach to protecting the quality of this relational process.

CUMA believes that no credit union allows untrained staff to work in an unsupervised environment.

Response to Individual Questions

Question 2:

If you agree with 1) above, do you consider a minimum six-month period to be sufficient? Or should the length of experience depend on the role(s) being carried out, the complexity of the product or a qualification already held by a person? Please outline the reasons for your view.

It is doubtful if such a rich and varied set of parameters could be meaningfully codified in a single prerequisite of six months. Sometimes it could be less and sometimes it could be more. If it was longer than twelve months, perhaps the individual might not be suitable for the role, the product might be beyond the capability of the unit, and of course the volume might not have critical commercial mass. If the person was technically advanced and an effective learner in a busy unit with good supervision, it might be as low as three months.

In these circumstances it may be more valid to express the six month period as a guideline with potential variation possible based on a documented expression of opinion and evidence which could underpin a variation within a range of three to twelve months.

It is appropriate that personnel in member facing roles providing financial products and services should be suitably qualified, trained , experienced and oriented in manner consistent with effective member service in a commercial environment which is trust inducing and of high integrity.

A guide serves as a benchmark while retaining and placing responsibility on managers in credit unions and giving scope to the regulated entity to provide reasonable and sound justification for any deviations from it within the range outlined.

Proportionality is important here also. The role being undertaken and the complexity of the product are also relevant factors.

Response to Individual Questions

Question 3:

Do you agree with the proposal on how the experience requirement should be evidenced, i.e., that a regulated firm should sign a 'certificate of experience' and retain supporting documentation to support the certificate? Please outline your views.

Experience may be evidenced in a variety of ways:

- Directly (observation questioning, specific performance)
- Indirectly (review of outputs for quality, written tests)
- By third parties (testimonials, complaints, supervisory reports)

For example where an individual's involvement in the provision of products or services is recorded in the business system used by the regulated firm, a report drawn from that system which shows the volume and value of cases demonstrates experience. Where such a report is not possible, then it could be argued that there is need for a separate calibration and record of the experience.

Most regulated firms will have personnel records which include qualifications, responsibilities, performance reviews and related Human Resources data: these records also serve to authenticate the individual staff members' fitness to perform the roles accorded to them within their organisations.

It is desirable that the process of evidence generation is automated as much as possible in order to avoid incurring additional overhead and displacing other value added activity.

A separate form should not be mandatory: what are needed are the capacity and the reality of evidence generation regarding experience.

An organisation needs to be able to extract such information in a compliant friendly format when and where needed. Thus a range of evidence is available and securing the policy goal should take cognisance of that range in framing the policy intervention and standard.

It is important that the emphasis should remain upon delivering excellence and fairness in service, not on introducing yet more red-tape.

Response to Individual Questions

Question 4:

Do you agree with the proposal set out above? Please set out the reasons for your view.

We agree with it in the qualified manner set out above.

Internationally one would look at the effectiveness of a simplistic approach to using a competency framework in seeking to advance the interests of individual service recipients and promote the integrity of financial markets. Did such a code operate in the UK or the US regarding the provision of:

- mortgage backed securities or investment products derived from them or
- payment protection insurance?

Such market developments reveal influential considerations. There may be other examples that should be considered in this jurisdiction. Together they require careful reflection in assessing where the emphasis of regulatory effort should now lie.

There is an onus on the regulatory process to weigh up such evidence with a degree of transparency in order to give sufficient validity to any proposals to extend the reach and scale of regulatory intervention, in the present context and beyond.

Response to Individual Questions

Question 5:

What alternative ways could persons demonstrate meeting the competencies and standards set out in the Mortgage Credit Regulations and the requirements of the ESA Guidelines and MiFID II Delegated Directive?

In a member facing setting featuring a retail product or service, an employee needs to display knowledge skills and competence. These are terms of art, craft and vocational practice rather than of science. Some writers consider knowledge to be a cognitive competence and skill to be a functional competence. There is also recognition of the term social or interpersonal competence.

A further term and concept that is used in this context is that of meta competence. This includes capabilities of learning, adapting, anticipating, and creating change.

Such competency is more likely to be associated with experienced personnel who have dealt with many members in many contexts involving varied economic and social conditions. Staff who have a degree of meta competence are likely to be able to treat members with limited supervision on products and services which are new or where the circumstances are new, provided the individuals participate in suitable advance training for the role now expected of them. What one seeks therefore is to establish if there are surrogate measures that are meaningful in assessing the presence or absence of the range of competencies in member exchanges.

These could include:

- (i) the CV / standing data of the staff member held in HR / personnel records covering responsibilities, seniority, roles, educational qualifications, CPD and training, and the recency of business practice;
- (ii) Records of training programmes held internally or externally in which staff members have participated e.g. content, duration, provider, participants;
- (iii) the actual business cases dealt with by an individual as recorded in the business system;
- (iv) presence or absence of member commendations or complaints;
- (v) the presence or absence of audit (internal or external) commentary regarding procedures with respect to member interactions;
- (vi) the presence or absence of supervisory or other quality assurance observations regarding an individual's interactions with members.

Response to Individual Questions

Question 6:

What alternative ways could persons demonstrate meeting the competencies and standards set out in the Mortgage Credit Regulations and the requirements of the ESA Guidelines and MiFID II Delegated Directive?

Extending the MCC in its current form to credit unions should not proceed until there has been further refinement of the code and further dialogue with stakeholders directly affected by such extension.

The requirement of having a designated board member subject to similar competency specifications in terms of evidence as outlined in this consultation seems inordinate and could easily backfire. Credit Unions wish to have boards that consist of a blend of representativeness, experience, perspectives, knowledge, skills, competences and commitment represented on Boards. Securing these is not an assured outcome and obstacles that could hinder a favourable outcome in renewing and developing board composition would not be helpful in securing this objective.

It would be undesirable if the burden placed on voluntary directors was inconsistent with the absence of monetary reward for discharging those responsibilities. It would be better at this stage to adopt an approach informed by behavioural economics which encouraged boards to have one or more directors who were designated as having a level of specific expertise in this domain and who would be supported by appropriate training and development. Their contribution could then be recorded in Board minutes as and when matters required attention at that level.

It would also be important not to confuse issues of operational responsibility with overall governance responsibility for core issues of business strategy, stewardship, risk, sustainability, liquidity, equity between members over time and capital adequacy. An expression of this may be seen in the term:

“hands on but not hands in”

Unlike many for profit entities already covered by the Code:

- customers do not have access to the AGM of the suppliers unless they are shareholders;
- shareholders have levels of influence based on the level of their shareholding and not on one member one vote as in credit unions;
- customers do not have the same level of access to the Board of Directors, unlike in credit unions where such access can be obtained through the complaints procedure;
- face to face modes remain the predominant model for most initial contractual interactions with members in credit unions;
- credit unions are co-operatives who legally can transact only with their members while most financial service suppliers are not similarly limited.

Account needs to be taken of the afore - mentioned additional beneficial features of a consumer - owned co-operative. Account should also be taken of the almost complete absence of complaints against Credit Unions in the Financial Services Ombudsman (FSO) Report, compared with other higher - risk and less regulated entities such as banks.

Appendix

Competence determination and assessment in the workplace.



<http://www.skillsrecognition.net.au/step-2-gathering-evidence> - a frame from the Australian rail sector

The above visual frame is drawn from a project undertaken with the rail sector in Australia. It represents a subset of a wider Federal Australian programme designed to improve and strengthen economic sectors within society through research and practice development. The Co-operative Research Centres Program is the vehicle used for this initiative by the Australian Government. It involves higher education and industrial sectors in a collaborative venture over a seven year period to address issues such as skills recognition, sharing good practice, increasing productivity, and creating a safer and sustainable environment.

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