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## Review of Minimum Competency Requirements

### Consultation Paper CP 45

#### Proposals included in draft revised Requirements

1. The current definition of ‘advice’ is based on the definition contained in the Investment Intermediaries Act 1995. We propose amending this definition to more closely reflect the definition contained in the European Communities (Markets in Financial Instruments) Regulations 2007.

*Response:*

*Agree with this proposal.*

2. We propose changing from the current three-year cycle for Continuing Professional Development (CPD) to an annual requirement. We believe that an annual requirement would be more effective for both individuals and regulated firms to manage. In addition, we are proposing that CPD will only be made up of formal hours that can be validated and no longer include a requirement for informal hours that is difficult to verify. The proposed annual requirement will be 15 formal hours. (Requirement 3.2.1).

*Response:*

*Agree with this proposal.*

3. Grandfathered individuals are required to undertake CPD on an ongoing basis in order to retain their grandfathered status. We have set out the consequences for grandfathered individuals of failing to comply with this requirement. (Requirement 3.2.4).

*Response:*

*Agree with this proposal.*

4. We propose allowing an individual who has lost his/her grandfathered status to have that status reinstated in certain circumstances. (Requirement 3.2.5).

*Response:*

*No comment.*

5. Some regulated firms have indicated that there may be concerns in relation to the security of their employees arising from the requirement to make the Register publicly available. We propose retaining the requirement to maintain a register. Regulated firms may continue to provide the Register to the public or they may choose to provide each accredited individual and specified accredited individual with a certificate in a defined format, setting out the areas in which the individual has been grandfathered or holds a relevant recognised qualification. Consumers must be informed that they may request sight of the Register or the certificate. (Requirement 4.1).

*Response:*

*No comment.*

6. We are proposing that regulated firms that have allowed individuals to avail of the grandfathering arrangements would be required to provide those grandfathered

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individuals with a Certificate of Compliance with the Experience Requirement for Grandfathering when they cease employment with the firm. We have set out the format of the proposed Certificate. (Requirement 4.4).

*Response:*

*Agree with this proposal.*

### **Additional Proposals**

#### **7. Grandfathering**

We are considering phasing out the grandfathering arrangements and are proposing that this would take place over a period of time. A number of issues have arisen since the introduction of the Requirements in relation to the grandfathering process. There appears to be confusion in the industry regarding the process, the extent of the activities for which an individual may be grandfathered and the activities a grandfathered individual may undertake. In order to ensure a consistent standard across the industry, we propose phasing out the grandfathering arrangements over a four-year period. We would expect that all those providing services that fall within the scope of the Requirements would hold a relevant recognised qualification by 2015.

We would welcome your views on the proposal to phase out the grandfathering arrangements and also on the proposed timeframe.

*Response:*

*We would be in favour of reviewing the Grandfathering arrangements rather than phasing out completely to accommodate those individuals undertaking activities for many years and for those nearing retirement. The previous criteria of four years in an eight year period was too flexible as allowed for individuals to be Grandfathered who had been absent from the industry for up to four years prior to the Requirements being introduced in January 2007. In addition to a minimum number of years experience, there should be a requirement that the individual was involved in the relevant activity for a time period preceding implementation in January 2007.*

#### **8. Internet**

At present, the Requirements do not apply to those providing services over the internet. We would welcome your views as to whether individuals setting up internet sites that provide financial services should be subject to the Requirements.

*Response:*

*Clarity should be provided regarding 'individuals setting up internet sites'. Is this the company that owns the site? Suggest that the site is signed off by an accredited individual or a specified accredited individual, accredited for the relevant activity, before launch. Any subsequent change should also be subject to the same sign off.*

#### **9. Outsourcing**

The Requirements do not apply to firms involved in the professional management of claims for an insurance or re-insurance undertaking. This activity falls outside the definition of insurance mediation in the European Communities (Insurance Mediation) Regulations 2005 and, therefore, does not require authorisation. In order to ensure that all those dealing with claims are appropriately qualified, we are considering including a provision that would require regulated firms to ensure that the Requirements are complied with by firms undertaking certain activities on an outsourced basis. We would welcome your views on this proposal.

*Response:*

*Agree with this proposal. Any firm undertaking an activity which is within the scope of the Requirements should be required to comply with the Requirements.*

10. CPD hours

Individuals may be grandfathered for some activities and hold a recognised qualification for other activities. At present, a CPD requirement of 60 hours over a three-year cycle applies if an individual has been grandfathered for all retail financial products. However, an individual grandfathered for some activities and holding a recognised qualification for others may be required to undertake up to 120 hours' CPD over a three-year cycle. Under the new proposal set out above, this would become 30 formal hours each calendar year. Individuals may reduce the number of hours to be completed overall by undertaking CPD on common areas, for example, legislation, regulation or economic issues.

We would welcome your views as to whether there should be a reduction in the CPD requirement for grandfathered individuals who hold a recognised qualification. If so, please explain why and specify what would be an appropriate requirement in these circumstances?

*Response:*

*Yes, would agree with a reduction in the CPD requirement for grandfathered individuals who also hold a recognised qualification. A CPD programme for a recognised qualification allows CPD hours on common areas, for example, consumer protection and therefore this would suffice for both CPD requirements. The reduced number of hours for the grandfathered individual should be for the activity they do not hold a qualification for, for example, if the individual holds the QFA qualification and is grandfathered for general insurance, the reduced formal hours should be specific to general insurance and not include more common areas. An appropriate requirement in this circumstance would be 7 formal hours.*

11. Loan restructuring

The Requirements focus on the sales/advisory process and on certain specified activities. In view of the difficulties currently being experienced by many consumers in mortgage/loan arrears, should the Requirements specifically include the restructuring of existing loans?

*Response:*

*Yes.*

12. Investment management

Should investment management be included in the Requirements as a separate activity? If so, please set out the reasons why. Please also indicate whether you think the current recognised qualifications are appropriate for this activity and if there are other relevant qualifications that may also be appropriate.

*Response:*

*No comment.*

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13. Administrative functions

It has been suggested that there are different views in the industry on the application of the Requirements to areas that deal directly with consumers in relation to amendments to policies. It is our view that this activity falls within the scope of the Requirements as dealing with amendments to policies would involve arranging and/or providing advice on the policy concerned. We would welcome your views as to whether this activity should be separately specified and whether there are any other activities that should also be separately specified. In particular, we would be interested in receiving views as to whether different issues arise depending on whether the context is related to life assurance or non-life insurance.

*Response:*

*Agree with the view that this activity falls within the scope of the Requirements. Any role which involves communicating with a consumer regarding a retail financial product should be within the scope of the Requirements, with the exception of payment collection. A pure administrative role where the individual has no interaction with a consumer and processes the policy in line with a set of rules should not be within the scope of the Requirements.*

**Comments on sections not referred to in Consultation Paper**

14. Section 4.1 Register and Section 4.3 New entrants/new activities

Section 4.1 requires a regulated firm to maintain a register of all accredited individuals and specified accredited individuals, acting as, for or on behalf of the regulated firm. This register must identify those who are new entrants and include certain information regarding the new entrant. Section 4.3 also requires a regulated firm to maintain specific records for new entrants.

*Comment:*

*This would be duplication of work for firms as information on new entrants would be maintained on two registers and also more open to error. Would it be an option to separate these into two separate registers; one for qualified/grandfathered individuals and the other for New Entrants? Or alternatively, have one register with all the necessary information.*