

Allianz response to MCR Consultation

The Allianz response to the FR consultation is as outlined below. However, as part of the current consultation process, we believe that it is essential for the FR to go beyond the current consultation topics and re-evaluate the relevance of MCR for general insurers.

The background to this is that the current MCR regime has added a disproportionate level of costs to the general insurance sector, without adding corresponding value to the consumer. In fact, as the costs of MCR will ultimately be passed on to the consumer in higher premiums, MCR could be considered to be detrimental to the consumer.

While MCR adds value to more complex products such as life assurance, shares, bonds, investments, pension products and housing loans, it does not add the same value to general insurance products as these products have no investment element, are usually of one year duration and carry a lower financial outlay to the consumer.

These factors are currently recognised by other European regulators, and there is no EU Directive which stipulates an exam requirement for general insurance mediation activity.

As an example of this, there is no exam requirement for general insurance in the UK. The FSA regulatory requirement for general insurance stipulates :

- ' - A firm must employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.
- A firm's systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it. This includes assessing an individual's honesty and competence. This assessment should normally be made at the point of recruitment. An individual's honesty need not normally be revisited unless something happens to make a fresh look appropriate.
- Any assessment of an individual's suitability should take into account the level of responsibility that the individual will assume within the firm. The nature of this assessment will generally differ depending upon whether it takes place at the start of the individual's recruitment, at the end of the probationary period (if there is one) or subsequently.' [1]

[1] Ref : Financial Services Authority (2010) FSA Handbook. SYSC 5. [Internet]
<http://www.fsa.gov.uk>

Finally, we'd also like to note that we have asked the IIF to co-ordinate a response on behalf of all general insurers, to request a FR review of the relevancy of MCR for the general insurance sector.

Moving on to our Consultation responses, our comments are based on the premise that MCR will continue to apply to the general insurance sector :

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.

We have no issues with this change

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.

We agree with the change to an annual requirement, however we do not agree that it is reasonable to increase formal hours to 15 hours. We believe that 10 hours is more than adequate and increasing this to 15 hours simply adds cost.

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.

We agree with this new section.

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

We agree with this addition.

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.

We agree with this new section.

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

We agree with this proposal.

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.

Our position on this is that under no circumstances should grandfathering be withdrawn. The current grandfathering provision recognises the knowledge and experience within the sector, and provides a high level of professionalism and consumer service, higher than the knowledge standards set by the CIP. To require experienced and knowledgeable grandfathers to undertake the CIP exams would be unreasonable, and would simply add cost without any additional value.

The grandfathering arrangements are particularly relevant and beneficial in Claims handling, as specific product knowledge and claims experience provide the best level of service to a claimant.

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.

As internet sales are information based and are not advised sales, MCR is not relevant. Internet sales are adequately protected by the Consumer Protection Code, the Distance Marketing of Consumer Financial Services Regulations 2004, etc.

□ 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.

While being involved in 'the management of claims of an insurance undertaking on a professional basis' falls outside the IMD, it does not appear to fall outside the MCR provision of 'being involved in the decision-making process in relation to claims or assisting consumers in the administration or performance of claims arising under contracts of insurance'. The fact that management of claims falls outside the IMD does not seem relevant here, as claims handling falls under the EC Non-Life Assurance Framework Regulations, 1994.

The above question seems ambiguous as there is nothing in MCR to state that 'the management of claims of an insurance undertaking on a professional basis' is excluded.

□ 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?

As a grandfather undertaking a qualification will normally undertake the qualification in the same category of retail financial products it would be unreasonable to require this individual to undertake 120 hours of CPD. The 120 hour requirement should only apply where an individual is undertaking a qualification in a different category of retail financial products.

□ 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.

There is no benefit to separately specifying the activity of dealing directly with consumers in relation to amendments to policies as this falls under 'arrange or offer to arrange retail financial products for consumers', however further clarification could be added to the definitions to ensure clarity.