



Chartered Accountants
Regulatory Board

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Consumer Protection Codes Department
Financial Regulator
PO Box 9138
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24 August 2010

Dear Sir/Madam

Consultation Paper CP45: Review of Minimum Competency Requirements

The Chartered Accountants Regulatory Board (CARB) is pleased to respond to the above Consultation proposing amendments to the existing competency requirements and setting out some matters for future consideration.

We attach comments on each proposal in the attached appendix, however, believe it appropriate to highlight two major areas.

Continuing Professional Development (CPD)

You propose changing the current three year cycle for CPD to an annual requirement, further you propose that the annual requirement of 15 hours be for formal hours.

In 2009 CARB, on behalf of Chartered Accountants Ireland, issued its new CPD Regulations. Those Regulations were developed in line with the requirements of IFAC International Education Standards ES8. These new Regulations reflect the international move away from formal CPD hours basis (input approach) to a more challenging results based approach (output approach). We attach both our Regulations and the IFAC Standard for your information.

We believe that greater value can be attained by individuals carefully assessing their competencies, identifying their training needs and developing programmes to meet these needs. This may not necessarily be achieved by merely attending a course and ticking a box. We believe that the CPD Regulations are appropriate for firms (and accredited individuals) regulated by CARB and would ask these be recognised as such.

Whilst we appreciate that it is easier for the regulator to confirm that the requisite number of hours have been achieved we believe this is at a cost of ensuring the appropriate learning has been achieved. We would therefore recommend that, given the fundamental change in thinking internationally, a review of the continued validity of the input based approach is undertaken.

Grandfathering

In your matters for future consideration, you state that you are considering phasing out the grandfathering arrangements, requiring individuals who have been grandfathered to attain a relevant qualification by 2015. We are not aware of any substantial confusion around the grandfathering process. In addition CARB has developed both Investment Business and CPD Regulations and monitors compliance with those Regulations.

We believe that the combination of grandfathering persons with requisite knowledge and experience together with the ongoing CPD requirements and the ongoing monitoring of compliance

with the relevant Regulations is sufficient to ensure consistency across the industry. We therefore do not believe the change contemplated to be necessary.

We would be happy to discuss any of our comments with you, should you wish to do so please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Heather Briers', with a long horizontal flourish extending to the right.

Heather Briers
Director
Chartered Accountants Regulatory Board

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Response to Consultation Paper CP45: Review of Minimum Competency Requirements

Reference	Proposed Amendment	Comment
Proposals included in draft revised Requirements		
	<p>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.</p>	<p>We agree with this proposal.</p>
Requirement 3.2.1	<p>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.</p>	<p>See comments in covering letter.</p> <p>In addition, we fully support the Regulators position that individuals can arrange their own CPD and relevant Institute courses meet the requirements.</p>
Requirement 3.2.4	<p>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.</p>	<p>We agree with this proposal on the grounds that the individual can make good any shortfall in one year the following year. We also agree that the consequences of failing to achieve the required CPD should not differ between those who hold a professional qualification and those who have been grandfathered.</p>
Requirement 3.2.5	<p>We propose allowing an individual who has lost his/her grandfathered status to have that status reinstated in certain circumstances.</p>	<p>We agree with this proposal, however we would refer you to our comments at 3.2.4 above.</p>
Requirement 4.1	<p>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</p>	<p>We believe it is in the public interest to have a register available for review. We note that the business and not personal addresses are included in the register.</p>

Reference	Proposed Amendment	Comment
	<p>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.</p>	<p>We believe that only in exceptional circumstances where the accredited individual can clearly demonstrate that a security risk exists should they not be included on the register.</p>
<p>Requirement 4.4</p>	<p>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.</p>	<p>We agree with this proposal.</p>

Additional proposals

Proposed Amendment	Comment
<p>Grandfathering</p> <p>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.</p> <p>We would welcome your views on the proposal to phase out the grandfathering arrangements and also on the proposed timeframe.</p>	<p>See comments in covering letter.</p>
<p>Internet</p> <p>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.</p>	<p>We believe that it is in the public interest that the competency requirements apply to the covered services regardless of how they are provided. This includes via the internet.</p>
<p>Outsourcing</p> <p>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.</p>	<p>This is not applicable to firms authorised by CARB therefore we have no comments to make.</p>
<p>CPD hours</p> <p>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</p>	<p>See our earlier comments. We have a large number of queries in relation to this proposal and</p>

<p>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.</p> <p>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?</p>	<p>the Financial Regulator's expectations.</p> <p>However we do not believe the approach should differ regardless of whether a recognised qualification held. The purpose of CPD is to maintain ongoing competence where as the attainment of a qualification measures it at a specific point in time.</p> <p>We look forward to discussing this issue with you.</p>
<p>Loan restructuring</p> <p>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?</p>	<p>We had understood this to be separately regulated and therefore outside the scope of these Requirements.</p>
<p>Investment management</p> <p>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.</p>	<p>We do not believe it is necessary to include investment management as a separate activity. In providing such services the adviser is using the specific knowledge gained in all the other areas of competency set out.</p>
<p>Administrative functions</p> <p>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.</p>	<p>It is our understanding that advising of amendments to policies already fall within the scope of the Requirements.</p>