

**CONSULTATION PAPER
CP 45
REVIEW OF MINIMUM COMPETENCY REQUIREMENTS**

RESPONSE OF THE IRISH INSURANCE FEDERATION

	CHAPTER 1: INTRODUCTION AND BACKGROUND	
	Proposals included in draft revised Requirements	IIF Detailed Comments
	<p>We welcome your views on the proposed amendments to the Requirements, which are included in the attached document. While we would appreciate your views on any of the proposed amendments, we would particularly welcome your comments on the following:</p>	<p>Our main concern about proposed changes to the MCR is their impact on the non-life market. However some of our preliminary observations are relevant to Life assurance also.</p> <p>CP45 fails to question a number of key potential problems that arise from the current competency regime. Indeed it even compounds some of them. In particular we are concerned that the highly prescriptive nature of the requirements gives rise to two problems:</p> <ul style="list-style-type: none"> • firstly they impose requirements for knowledge in certain areas that may not be relevant at all to the professional activities of those required to comply whilst ignoring the need for knowledge in other areas; • secondly, they may create incentives for training bodies to refuse to accept as qualifying CPD in-house or other independent events that should qualify on their intrinsic content and standard. IIF and individual insurers have had experience of this already. <p>A complete review of the MCR should include a comparative examination of the regime against those in other countries, particularly the UK – the market to which we bear the closest similarity. This would have included comparisons of costs, benefits and flexibility. Questions should include:</p> <ul style="list-style-type: none"> • Are the requirements relevant and cost-effective for ALL types of activity, or should they be enhanced or relaxed for particular activities? • Are the designated training bodies, rather than the FR, the correct authorities to decide on equivalence of alternative qualifications and to assess and award CPD credits?

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		<p>Our instinct is that the FR should allow more flexibility for internal training and certification of staff who undertake certain activities to be accredited as part of the overall MCR/CPD regime, provided the firm adheres to certain principles.</p> <p>We would make the following specific points on the application of MCR in the non-life market:</p> <ol style="list-style-type: none"> 1. 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 are ultimately passed on to the consumer in higher premiums, the current regime, as applied, could be seen as detrimental to the consumer's interests. 2. 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 more equivalent to commodity purchases, are usually of limited duration and carry a lower financial outlay to the consumer. <p>These factors are currently recognised by other European regulators, and there is no EU Directive which stipulates an exam requirement for staff of regulated firms involved in general insurance mediation or direct insurer/customer contacts. As an example of this, the UK FSA regulatory requirement for general insurance does not include a formal qualification by examination. It stipulates:</p> <p style="padding-left: 40px;"><i>“A firm must employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.</i></p> <p style="padding-left: 40px;"><i>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.</i></p> <p style="padding-left: 40px;"><i>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</i></p>

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

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	<ul style="list-style-type: none"> 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>See comments under <i>Advice</i> on page 11</p>
	<ul style="list-style-type: none"> 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) 	<p>Can the Financial Regulator clarify why they feel the need to increase the level of CPD hours required from an average of 13.33 hours (i.e. 40 hours over 3 years) to 15 formal hours per annum?</p> <p>Depending on an individual’s experience and/or level of qualifications, an individual could be grandfathered in one area and hold qualifications in another area or could have 2/3 different qualifications (i.e. QFA, CIP etc). In such circumstances, it would not be appropriate for someone to be required to complete an aggregate of 30 or potentially 45 hours of CPD each year which in practice would be very cumbersome, expensive for the Company and likely to involve a lot of duplication.</p> <p>If multiple CPD will not be required, can some mechanism be put in place for the Educational Bodies to collaborate on CPD to ensure that, as far as possible, attendance at one CPD event will grant formal hours towards a range of qualifications?</p> <p>If the FR insists on moving to 15 formal hours for every accredited individual then there may be difficulties for these individuals acquiring the required number of formal hours as currently some CPD programmes would not meet individual needs.</p>
	<ul style="list-style-type: none"> 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) 	<p>We need more clarity regarding grandfathered status.</p>

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	<ul style="list-style-type: none"> We propose allowing an individual who has lost his/her grandfathered status to have that status reinstated in certain circumstances. (Requirement 3.2.5) 	We agree with this addition.
	<ul style="list-style-type: none"> 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) 	We agree with this. It is flexible.
	<ul style="list-style-type: none"> 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. (Requirement 4.4). 	We have no objection to this proposal.

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<p data-bbox="293 188 501 220"><i>Grandfathering</i></p> <p data-bbox="293 261 1133 735">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 data-bbox="293 778 1122 884">We would welcome your views on the proposal to phase out the grandfathering arrangements and also on the proposed timeframe.</p>	<p data-bbox="1160 188 2083 368">The reason given for the proposed phasing out of grandfathering does not seem to us to justify the radical action proposed. If there is confusion about the process, it should be cleared up by clear directives as to how individuals qualified for grandfathering, and fuller specification of the relevant activities covered. Of itself, confusion in the market as to how to apply the current rules is not a good reason to do away with the system in its entirety.</p> <p data-bbox="1160 403 2078 491">In addition, existing grandfathered individuals already meet previous requirements set out by the Regulator. We believe it would be unfair to rescind the status conferred on them by the Regulator and expect them to have to obtain a qualification.</p> <p data-bbox="1160 526 2074 584">Furthermore we believe it sets an unwelcome precedent to accept the principle that it is permissible for the Regulator to rescind a competency standard already conferred.</p> <p data-bbox="1160 619 2074 799">Grandfathering is by definition an ever-decreasing phenomenon with no further people now qualifying for that status. It seems disproportionate to take the action suggested in relation to a dwindling sector. The main effect may be that experienced individuals will simply leave the industry – or relocate to the neighbouring jurisdiction where these requirements do not arise – thus depriving their customers and employers of the benefit of their experience.</p> <p data-bbox="1160 834 2078 986">It is also worth noting that grandfathered individuals have had almost 4 years of additional experience since the concept of grandfathering was introduced. If grandfathering was acceptable in 2007, why is it unacceptable now for the same body of (even more) experienced and knowledgeable people to continue to practice their profession without additional qualifications?</p>

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		<p>Should the Regulator proceed to make the change and remove the Grandfathering facility then we believe the level of acceptable qualifications would need to be expanded.</p> <p>As an alternative approach, we believe that the following initiatives can introduce effective standards for grandfathered individuals and offer a better solution to any perceived problems than phasing out grandfathering:</p> <ol style="list-style-type: none"> 1. Adopting the new proposals on CPD in Chapter 3 of CP45. 2. Maintaining a register as proposed in Section 4.1 of CP45 3. Introducing a common certificate of compliance with the experience requirement for all grandfathered individuals as per proposals in Section 4.2 of CP45. 4. Introducing specified documentation as per Section 4.4 to be provided when grandfathered individuals are leaving a firm.
	<p><i>Internet</i></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>In principle equivalent requirements should apply to all providers, irrespective of sales channel/medium. Thus the key issue is the extent to which sales or claims advice is provided or cover is arranged via online services.</p> <p>Assuming that internet sales are not advised sales – which they are not - if a website does not comply with consumer protection or Distance Marketing regulations then this is a design problem and the FR can simply direct changes to be made.</p> <p>As the MCR relate to individuals, it is difficult to see in any event how they could be adapted to apply to an automated process. Clearly webmasters, designers, systems engineers etc cannot be made personally subject to MCR as their competences and functions are technical ones aimed at ensuring the smooth operation of the system itself. Insofar as an identifiable individual within an online sales operation can be identified as providing advice or arranging cover (i.e., if cover is confirmed online without further correspondence/checking based on details supplied online by the customer – unusual; and if acceptance is subject to the intervention of an underwriter rather than pursuant to preset criteria) then in principle the MCR should apply to that person. Otherwise – i.e., in the majority of situations as we understand online services currently operate – MCR is not relevant and CPC and/or DMD rules are better suited to dealing with any consumer protection/information issues.</p>

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		<p>The internet represents a new distribution model for selling insurance products in a way that could reduce costs – including intermediary costs – and bring benefits to consumers. Where the product does not require advice then the regulations should not apply and applying them would be very damaging to the evolution of the industry towards business models that allow for more efficiencies. Also the FR needs to keep in mind that the Distance Marketing of Consumer Financial Services Regulations 2004, which apply to sales over the internet, provide a significant measure of consumer protection.</p>

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<p data-bbox="297 188 461 220"><i>Outsourcing</i></p> <p data-bbox="297 261 1137 660">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 data-bbox="1167 188 2078 395">On an individual level - this depends upon what level the claims handling is being conducted at. At an ‘initial’ level and where the claim is not large this processing can be entirely automated and rules-based. Individuals responsible for processing claims at this level should not be subject to the requirements. The issue of competency arises when a human decision to pay or not pay the claim is invoked. Anyone with authority to refuse a claim should be subject to MCR. Anyone with no authority to decide should not.</p> <p data-bbox="1167 437 2063 612">It is our view that regulated firms should not be responsible for the requirements in outsourced firms. These firms – which are mostly quite large firms specialising in financial services and with an existing familiarity with regulatory requirements - should be regulated in their own right and should be obliged to register with the Financial Regulator and therefore be directly subject to an authorisation process and ongoing supervision.</p> <p data-bbox="1167 651 2069 1011">The majority of the firms to which work is outsourced by Insurers do not have an exclusive arrangement with any particular insurer. Many firms provide services to a large number of insurers. If each of these outsourced firms has to demonstrate its compliance with the requirements to each of the insurers to which it provides services, this will involve a lot of duplication and cost as they will essentially be subject to multiple regulation by each of the regulated firms to whom they provide services (cf the former system of supervision of insurance intermediaries under the 1989 Insurance Act). This could result in an increase in the cost of the outsourced services, which could ultimately increase costs for customers. Further, in the event that the outsourced firm breaches the requirements, as they are not directly regulated and generally will not provide exclusive services to one insurer, it will often not be clear which insurer should take the lead in addressing or resolving any issues.</p> <p data-bbox="1167 1050 2078 1289">Under section 2.1.5 of the MCR , “Firms authorised by, or registered with, the Financial Regulator are not subject to these Requirements when providing services in other EU or EEA Member States, but must comply with the corresponding requirements of the Member State into which they are providing their services.” It would be helpful if the Regulator could clarify that this exception will also apply in future to outsourced services provided in connection with foreign business sales, claims etc., whatever regime is put in place for outsourcing of domestic business servicing. There has been some confusion about this issue.</p>

	Additional Proposals included in draft revised Requirements	IIF Detailed Comments
	<p data-bbox="293 181 450 217"><i>CPD Hours</i></p> <p data-bbox="293 256 1133 847">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?</p>	<p data-bbox="1162 181 2074 245">If we understand this correctly it will need to be co-ordinated with the training bodies for which some qualifications require ongoing CPD.</p>
	<p data-bbox="293 847 551 882"><i>Loan Restructuring</i></p> <p data-bbox="293 922 1133 1106">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>	

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	<p><i>Investment Management</i></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 would appreciate some clarity as to the exact definition of investment management? For instance, does this relate only to pure management of investments (i.e. fund management activity including buying and selling units, asset allocation, bid/offer spread management etc) or does it also relate to investment advice which would be provided by a financial adviser?</p> <p>The competencies for investment management activities are generally beyond the scope of the QFA regime – the Chartered Financial Analyst (CFA) regime is more appropriate.</p>
	<p><i>Administrative Functions</i></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>This is a good example of how the one-size-fits-all approach could prove very costly and how the regime presents a significant threat to the cost structure of the non-life industry in particular. Applying an MCR regime to staff processing relatively low-level changes to certain policies would impact significantly the cost of doing business.</p> <p>The role of individuals involved in administrative functions is mostly limited to amending policies as a result of an instruction from a consumer and issuing that consumer with updated, and in most cases, system generated documents. In many cases the administrator works to a predefined and scripted routine to elicit and process the necessary details. No advice is provided to the customer and therefore we feel that it would be excessive to expect such individuals to complete six exams to obtain a qualification for this type of activity.</p> <p>It would be better to allow amendments to be made on the basis of a customer request (e.g. a simple change to a motor policy that adds or remove a named driver) and to allow the CPC to prescribe safeguards. Trying to legislate for perfection in this manner will prove prohibitively expensive.</p> <p>Hence we do not agree that administrative functions should come into the scope of the requirements. We feel that the requirements should clearly differentiate the provision of advice (which clearly must be covered by MCR) from pure administrative activity.</p> <p>If nevertheless the FR feels that some sort of qualification is necessary, then it should not extend beyond the first two parts of the CIP/QFA qualification as is the case for call centre operatives.</p>

Definitions	IIF Detailed Comments
<p data-bbox="293 188 389 217"><i>Advice</i></p> <p data-bbox="293 261 1133 517">For the purposes of these Requirements, the term ‘advice’, in relation to a retail financial product, means the provision of a personal recommendation to a consumer, either at the consumer’s request or at the initiative of the firm, to enter into or to become entitled to benefit under, terminate, exercise any right or option under, or take any benefit from one or more retail financial products.</p>	<p data-bbox="1167 220 2074 306">The stated intention to widen the definition of "advice" to include administrative functions would have a significant impact on those insurers that utilise call centres to manage mid-term adjustments.</p> <p data-bbox="1167 341 2074 491">We need clarification that personnel working within prescribed scripts and routines are out of scope. This could apply to quotations, execution-only (i.e., non-advised) sales & mid-term adjustments. In none of these cases would a staff member offer a "personal recommendation". However at present it would seem that all of these these activities could fall within the scope of the MCR.</p>
<p data-bbox="293 558 434 587"><i>Consumer</i></p> <p data-bbox="293 632 1077 699">For the purposes of these Requirements, the term ‘consumer’ means:</p> <ul style="list-style-type: none"> <li data-bbox="344 743 1093 810">a. A natural person acting outside their business, trade or profession; <li data-bbox="344 820 1122 1034">b. A person or group of persons, but not an incorporated body with an annual turnover in excess of three million euro. For the avoidance of doubt a group of persons includes partnerships and other unincorporated bodies such as clubs, charities and trusts, not consisting entirely of bodies corporate; <li data-bbox="344 1043 1115 1219">c. Incorporated bodies having an annual turnover of three million euro or less in the previous financial year (provided that such body shall not be a member of a group of companies having a combined turnover greater than the said three million euro); <li data-bbox="344 1228 757 1257">d. A member of a credit union; <p data-bbox="293 1299 1115 1366">and includes, where appropriate, a potential ‘consumer’ (within the meaning above).</p>	

	Definitions (cont'd)	IIF Detailed Comments
	<p data-bbox="295 188 504 220"><i>Regulated Firm</i></p> <p data-bbox="295 261 1055 293">For the purposes of these Requirements a regulated firm is:</p> <ul data-bbox="344 304 1137 671" style="list-style-type: none"> <li data-bbox="344 304 1137 408">• a firm authorised or licensed by the Financial Regulator (except moneylenders authorised under the Consumer Credit Act 1995), <li data-bbox="344 416 640 448">• a certified person¹, <li data-bbox="344 456 1137 560">• a firm registered for the purposes of the IMD to undertake insurance mediation or reinsurance mediation in the State, or <li data-bbox="344 568 1137 671">• a financial services provider authorised or registered in another EU or EEA Member State and providing services into the State on a branch or cross-border basis. 	

2.0	CHAPTER 2: SCOPE AND APPLICATION	IIF Detailed Comments
2.1	To whom do the Requirements apply?	
2.1.1	Advising/arranging/specified activities	
	<p>The Requirements apply to regulated firms that, on a professional basis:</p> <ul style="list-style-type: none"> • provide advice to consumers on retail financial products, • arrange or offer to arrange retail financial products for consumers, or • undertake certain specified activities. <p>Regulated firms must ensure that individuals who provide such services on their behalf meet the Requirements. Such individuals, having attained and continuing to satisfy the specified minimum competency standards, are referred to in this document as accredited individuals where they provide advice to consumers on retail financial products or arrange or offer to arrange retail financial products for consumers, and specified accredited individuals where they undertake certain specified activities.</p>	
2.1.2	Referring/Introducing	
	<p>Where an individual's only activity in relation to retail financial products is referring or introducing consumers to regulated firms, the following requirements apply on an ongoing basis. The individual must:</p> <ul style="list-style-type: none"> • know the different types of entities regulated by the Financial Regulator; and • know the different registers maintained by the Financial Regulator. <p>Such individuals must not provide any advice or assistance to consumers in relation to a retail financial product other than the referral or introduction to a regulated firm.</p>	

2.1.3	Prescribed Script and Routine	IIF Detailed Comments
	<p>Where an individual operates within a narrow and rigid set of criteria and according to a prescribed script and routine, the following requirements apply:</p> <ol style="list-style-type: none"> 1. The criteria, script and routine must be devised by an accredited individual. 2. The individual must have received appropriate training. This training may be in the form of internal training or part(s) of the relevant recognised qualifications. The firm must be able to demonstrate to the Financial Regulator that the training given is relevant and appropriate, e.g., the Insurance Foundation Certificate would demonstrate appropriate training in the case of call centres processing requests for motor insurance renewal quotations. 3. The individual’s training must be kept up to date on an ongoing basis. 4. The individual must refer requests for additional information and advice to an appropriately accredited individual. 5. The individual must be supervised by an appropriately accredited individual. 6. The individual’s activity must be monitored to ensure that there is no breach of these requirements. 7. The firm must maintain records to demonstrate compliance with the above requirements. 	<p>The rules set out in Paragraph 2.1.3 (Prescribed script and routine), should be applicable to first level claims handlers undertaking activities of a limited nature.</p> <p>The issue of competency arises when a human decision to pay or not pay the claim is invoked. Anyone with authority to refuse a claim should be subject to MCR. Anyone with no authority to decide should not. The FR should recognise that this person would typically be a supervisor or team leader rather than a first level claims handler following a prescribed script and routine.</p> <p>At present the provisions of paragraph 2.1.3 are drafted relatively broadly and do not specifically include or exclude individuals making claims decisions in a very limited manner, i.e. employees whose function is merely to decide claims in accordance with the strict criteria set out in the policy terms and conditions and not to sell or give advice on policies. The role of such a first level claims handler making claims decisions in this manner is akin to the example provided in the consultation paper (processing quotation requests) and such staff should be subject to equivalent requirements.</p> <p>We therefore do not believe that first level claims handlers should be required to meet the Requirements set out in Appendix 1 and obtain one of the qualifications listed in Appendix 2.</p> <p>The current qualifications impose requirements in certain cases for knowledge in areas that do not apply at all to the job and in other cases the content related to certain products (for example payment protection insurance) is sparse.</p> <p><u>Supervisory level claims staff</u> on the other hand should be required to meet the full MCR. This level is responsible for approving call-scripts, training content and will make final decisions on any claims that may fall outside the prescribed terms and conditions.</p> <p>Paragraph 2.3 (Specified activities) specifically states that being involved in the decision-making process in relation to claims or assisting consumers in the administration or performance of claims is deemed a “specified activity” under the Requirements. However we feel that the knowledge requirements imposed do not add value for consumers or create competence in the case of first level claims handlers who are unable to apply the knowledge gained in their day to day work. They have no discretion in making their decisions and have no advisory function vis-à-vis the customer.</p>

2.1.3	Prescribed Script and Routine (cont'd)	IIF Detailed Comments
		<p>On the basis of the limited nature of the activities undertaken by claims handlers in certain products in the non-life and life markets, the internal training programme provided by firms, along with the level of supervision and controls that are applied, we would propose a change in the Requirements to allow exemption from the MCR qualification requirements for those in a limited claims handling role (precise definition of which to be agreed).</p> <p>The rules could therefore allow for more relevant internal training and certification on the basis that the firm as a whole would be required to demonstrate adherence to the FR's competence principles in its training records, documentation and supervisory processes.</p>
2.1.4	Credit Unions	
	<p>Credit unions are subject to these Requirements when providing services in relation to retail financial products for which they require to be authorised by, or registered with, the Financial Regulator under the legislation listed under 'Legal Background' above (i.e., other than the Credit Union Act 1997). The core lending activities of credit unions and the operation by them of credit union share and deposit accounts are not subject to these Requirements.</p>	
2.1.5	Passporting	
	<p>Where firms are providing services on a branch or cross-border basis, the following will apply:</p> <ul style="list-style-type: none"> • These Requirements apply to a financial services provider authorised or registered in another EU or EEA Member State when providing services into the State on a branch or cross-border basis, except where responsibility for Requirements in relation to the provision of such services into the State is reserved to that provider's home state regulator or to a provision of EU law by a European Community instrument. 	

2.1.5	Passporting (cont'd)	IIF Detailed Comments
	<ul style="list-style-type: none"> • Firms authorised by, or registered with, the Financial Regulator are not subject to these Requirements when providing services in other EU or EEA Member States, but must comply with the corresponding requirements of the Member State into which they are providing their services. 	
2.2	Retail Financial Products	
	For the purposes of these Requirements the following are deemed to be retail financial products:	
	1. Life Assurance Protection Policies <ul style="list-style-type: none"> • Temporary assurance policies, which do not provide an encashment value at any stage • Whole of life policies • Permanent health insurance policies which do not provide an encashment value at any stage • Industrial assurance business policies. 	
	2. General Insurance Policies <ul style="list-style-type: none"> • Non-life insurance policies of the classes specified in Part A of Annex I to the European Communities (Non-Life Insurance) Framework Regulations 1994 	

Retail Financial Products (cont'd)	IIF Detailed Comments
<p>3. Shares and Bonds and other Investment Instruments</p> <ul style="list-style-type: none"> • Shares in a company listed on a Stock Exchange • Bonds listed on a Stock Exchange • Shares in a company not listed on a Stock Exchange (excluding services to corporate clients in relation to capital structure, industrial strategy, mergers, the purchase or sale of undertakings and related matters) • Collective investment scheme instruments, including: <ul style="list-style-type: none"> • life assurance investment bonds • UCITS • Exchange traded funds • Unit trusts, providing facilities for the public to participate in the profits or income from the trust • Designated companies³, which are not a UCITS • An investment limited partnership • Designated investment funds • Common contractual funds • Financial instruments which derive their value from an investment instrument traded on a Stock Exchange or from a stock market index, other than tracker bonds. • Tracker bonds 	
<p>4. Savings, Investment and Pension Products including: Assurance Protection Policies</p> <p>including:</p> <ul style="list-style-type: none"> • Temporary life assurance savings, investment and pension policies (i.e. policies which are not life assurance protection policies as listed in 1 above and not industrial assurance business policies.) • Deposits with a term equal to or greater than one year • Tracker bonds 	

	Retail Financial Products (cont'd)	IIF Detailed Comments
	<ul style="list-style-type: none"> • Collective investment scheme instruments, including: <ul style="list-style-type: none"> • life assurance investment bonds • UCITS • Exchange traded funds • Unit trusts, providing facilities for the public to participate in the profits or income from the trust • Designated companies, which are not a UCITS • An investment limited partnership • Designated investment funds • Common contractual funds • Personal Retirement Savings Accounts <p>Excluding:</p> <ul style="list-style-type: none"> • Deposits with a term of less than one year 	
	<p>5. Housing Loans, Home Reversion Agreements and Associated Insurances including the following associated insurances:</p> <ul style="list-style-type: none"> • Mortgage protection • Permanent health insurance • Payment protection insurance • Home and contents insurance • Endowment assurances and pension plans in relation to their use in accumulating funds to repay housing loans • Mortgage indemnity guarantee insurance • Structural defect insurance 	

	Retail Financial Products (cont'd)	IIF Detailed Comments
	<p>6. Consumer Credit and Associated Insurances</p> <p><i>excluding:</i> Moneylending agreements</p> <ul style="list-style-type: none"> • Housing loans • Credit cards • Advances on current accounts <p><i>but including the following associated insurances:</i> Payment protection insurance</p> <ul style="list-style-type: none"> • Permanent health insurance protection • Permanent health insurance 	
	<p>These categories may be reviewed from time to time to reflect changing products and industry practice.</p> <p>Where a retail financial product is provided free of charge in conjunction with another financial product it is excluded from these Requirements.</p>	
2.3	Specified Activities	
	<p>For the purposes of these Requirements the following are deemed to be specified activities:</p> <ol style="list-style-type: none"> 1. 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; 2. Being directly involved in the activity of reinsurance mediation, as defined in Article 2(4) of the IMD; 	

	Specified Activities (cont'd)	IIF Detailed Comments
	<p>3. Acting for or on behalf of a regulated firm in the direct management or supervision of those accredited individuals who act for or on behalf of that provider in providing advice to consumers about retail financial products or who arrange or offer to arrange retail financial products for consumers;</p> <p>4. Acting for or on behalf of a regulated firm in adjudicating on any complaint communicated to that provider by a consumer which relates to advice about a retail financial product given to that consumer or the arranging of a retail financial product for that consumer by an individual acting for or on behalf of that provider.</p> <p>Where adjudication on complaints is through a panel of experts or by an individual who is not a specified accredited individual, at least one accredited individual or specified accredited individual, accredited for the relevant activity, in the regulated firm should be involved and that individual should sign off on any final decision.</p>	
2.4	Recognised Qualifications	
	<p>Appendix 1 sets out current Minimum Competency Requirements applying in respect of different retail financial products.</p> <p>Compliance with the Requirements specified in Appendix 1 can be fulfilled only by attainment of a recognised qualification from an external professional educational body (except in the case of those who have availed of the grandfathering arrangements outlined in Appendix 4).</p>	<p>It is difficult to understand why accounting, financial services and actuarial qualifications do not count when the requirement calls for general business knowledge (e.g. in complaints or claims) rather than specific product knowledge. It would also seem entirely incorrect that an actuarial qualification is not considered appropriate for advising on life products when in fact, many of the products being advised on are designed by Actuaries.</p>

Recognised Qualifications (cont'd)	IIF Detailed Comments
<p>Firms are required to ensure that accredited individuals meet the Requirements for the retail financial products in respect of which they are acting or to hold a qualification recognised by the Financial Regulator in relation to the activity being carried out by the regulated firm on whose behalf the accredited individual is acting.</p> <p>Firms are required to ensure that specified accredited individuals either meet the Requirements for the retail financial products in respect of which the specified activity is carried out or to hold a qualification recognised by the Financial Regulator in relation to that specified activity.</p> <p>Existing accredited individuals or specified accredited individuals who wish to provide services in an additional category of retail financial product or specified activity must either have obtained a relevant recognised qualification or otherwise comply with the requirements for new entrants/new activities outlined below.</p> <p>A recognised qualification for a category of retail financial product must assess the relevant competencies for that category of retail financial product specified in Appendix 1.</p> <p>The Qualified Financial Adviser (QFA) designation, which was developed as a joint initiative of the Institute of Bankers in Ireland, The Insurance Institute of Ireland and the LIA, with the support of the Financial Regulator, and the Certified Insurance Practitioner (CIP) designation, developed by The Insurance Institute of Ireland, are the core qualifications recognised for the purposes of the Requirements and represent the minimum professional standard for accredited individuals in respect of the relevant retail financial products.</p>	

Recognised Qualifications (cont'd)	IIF Detailed Comments
<p>The academic qualifications required to achieve these two designations are included in the National Framework of Qualifications at level 7.</p> <p>A list of qualifications that meet the current Minimum Competency Requirements for the various categories of retail financial products is set out in Appendix 2. A list of additional qualifications recognised by the Financial Regulator for specified accredited individuals is set out in Appendix 3.</p> <p>Where a number of qualifications meet the Requirements, it is the responsibility of the regulated firm to assess which is the most appropriate qualification for individual employees or principals of the firm, having regard to the Requirements, and to monitor compliance with those Requirements. Where a regulated firm takes full responsibility for the activities of tied agents or others, the regulated firm is required to monitor the compliance with the Requirements of those tied agents or others. Any qualification should be appropriate to an individual's job role, and should be relevant and up to date.</p>	<p>The existing MCR impose an oversight obligation on insurance undertakings in relation to tied agents for whom they take full and unconditional responsibility i.e. “where a regulated firm takes full responsibility for the activities of tied agents or others, the regulated firm is required to monitor the compliance with the Requirements of those tied agents or others”.</p> <p>Whilst we consider this approach to be reasonable in respect of individual tied agents, given the responsibilities placed on insurers under both the Investment Intermediaries Act 1995 and the European Union (Insurance Mediation) Regulations 2005, there is a potential discrepancy in the interpretation of the rules as they apply to individual tied agents and corporate tied agents (and their employees). In many cases corporate tied agents (CTAs) will be large financial services firms affiliated in groups/conglomerates with the insurer to which they are tied. Many of these CTAs are already subject to direct supervision by the FR in respect of solvency, compliance with the CPC and in other areas. It is not entirely clear from the existing MCR wording whether it was intended that insurers should check the individual compliance with MCR requirements of relevant members of staff WITHIN their CTAs. It is likely that the drafters had individual rather than corporate tied agents in mind in writing this section. It would seem perverse to require the insurer in such cases to carry out checks on individuals employed by a separate corporate entity (which are, as stated, in most cases regulated firms in their own right), irrespective of either:</p> <ul style="list-style-type: none"> • Group structures; or • Whether “full and unconditional responsibility” for the CTA has been undertaken by the insurer in question <p>and, in practice to date it seems that insurer oversight of CTA employees' MCR compliance has NOT been insisted upon by the FR. This situation should continue and any clarifying amendments necessary to underpin it should be incorporated into the revised MCR</p>

	<p>It is not our intention to take part in course design or examinations. Our relationship with educational bodies will be confined to setting and reviewing the Requirements and confirming whether any particular professional qualification meets the Requirements or not.</p>	<p>A more active role for the FR may be appropriate in:</p> <ul style="list-style-type: none">• determining equivalence of non-standard qualifications <u>vs.</u> default qualifications;• overseeing and co-ordinating CPD award standards;• providing an avenue of recourse where (e.g., specialist) staff may not be able to obtain suitable CPD from existing sources due to the economic limitations necessarily forced on the educational bodies and other providers <p>(See also comments at pp. 1-2, above).</p>
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2.5	Other Qualifications	IIF Detailed Comments
	<p>Other qualifications may also meet the competencies set out in Appendix 1. New qualifications may be developed by recognised professional educational bodies or existing qualifications may be modified to ensure that they meet the specified Requirements. Such qualifications will be considered as part of the ongoing assessment of the Requirements. However, any additional qualifications should:</p> <ul style="list-style-type: none"> • Have broad support within the relevant industry; • Include the competencies set out in Appendix 1; • Provide a standard of knowledge at least equivalent to that provided by the existing qualifications; • Have their underlying academic qualifications included in the National Framework of Qualifications at level 7 or higher; and • Include ongoing Continuing Professional Development requirements. <p>In addition, the Financial Regulator reserves the right to enter into a public consultation in relation to such qualifications and to have them reviewed by an independent competent external body.</p> <p>There are a number of qualifications that cover some of the competencies set out in the Requirements. We would expect that the educational bodies providing recognised qualifications would treat fairly any application for exemption from all or part of their examinations and would apply any exemption decisions consistently. In this regard, both the QFA Board and The Insurance Institute of Ireland have published comprehensive schedules of exemptions from their examinations, which cover various qualifications available in Ireland, and also UK and other international qualifications.</p>	<p>In some cases, both default examination courses syllabuses and CPD fail to facilitate individuals who are in certain specialist or restricted roles. For example Marine, Engineering or Accident & Health Underwriters may have a limited choice of CPD lectures to attend that are relevant to their competencies. The only place they can obtain relevant training may be from colleagues in their company, and they do not obtain CPD points for this. Similarly, there are only limited basic courses on offer from the main training bodies in relation to e.g., D & O liability, crime and professional indemnity underwriters (and these courses are generally given by colleagues in any event).</p> <p>Thus individuals spend time attending lectures on subjects that are generally largely irrelevant to them purely to build up CPD hours rather than building their core competency in their designated area which seems to be at odds with what is intended.</p> <p>In summary, in specialist areas where individuals are compelled to do 15 hours CPD in subjects that are not relevant to them, CPD does not currently in our view contribute to improved standards of competency but merely ‘ticks the box’.</p> <p>The MCR are of necessity principally aimed at broad life and general practitioners and not specialists. This makes them generally irrelevant for a fair proportion of individuals within the company market and suggests that some flexibility is warranted in a number of restricted areas, in the interest of both practical administration of the business and the specific professional knowledge/competency requirements of the relevant individuals.</p> <p>These issues should be separately considered as the points made impact on suitability of syllabuses and availability of relevant CPD material.</p>

2.5	Other Qualifications (cont'd)	IIF Detailed Comments
	<p>The QFA Board, the Institute of Bankers in Ireland, the LIA and The Insurance Institute of Ireland have committed to have schedules of exemptions from recognised qualifications available publicly, which will be kept up to date as new applications are determined. Where the formal appeals process within existing structures has been exhausted, it would always be open to individuals to raise concerns with the Financial Regulator. Based on this, we can review the Requirements on an ongoing basis.</p>	
2.6	New Entrants/New Activities	
	<p>Individuals who wish to act, for the first time, as an accredited individual, or who wish to undertake a new activity, but who do not possess the relevant qualification appropriate to the particular activity, may commence to act as an accredited individual in relation to an activity provided:</p> <ol style="list-style-type: none"> 1. They have already undergone a relevant training programme organised by that regulated firm or they have obtained part of a relevant recognised qualification for that particular activity, and 2. They are working towards obtaining a recognised qualification; and 3. They act under the immediate direction and supervision of another nominated accredited individual, within the firm, who possesses at that time the relevant qualification appropriate to the particular activity or who has been grandfathered in respect of the particular activity, and 4. The maximum period for which they can act as an accredited individual for or on behalf of all regulated firms in respect of that activity without obtaining a relevant qualification is 4 years in total. Compliance with this maximum 4 year period is the responsibility of the regulated firm for which or on whose behalf the individual acts at that time. 	<p>These rules are generally workable and appropriate for employees of regulated insurers but issues arise again here in relation to responsibility for supervision of tied agents.</p> <p>Where individual tied agents are appointed on a provisional basis, pending completion of MCR compliance obligations, the insurer to which they are tied must assume some supervisory responsibility for them during their trainee period (in the absence of anyone else in a supervisory capacity). However, trainee employees of corporate tied agents (CTAs) – often large institutions separately regulated directly by the FR and familiar with regulatory/compliance procedures and standards – should be supervised by managers/superiors WITHIN the CTA firm itself. The insurer to which the CTA is tied should NOT have any supervisory function in such cases. From a practical as well as an enforcement point of view, this makes sense as the trainee will then be supervised by a qualified person with day-to-day management responsibility rather than an outside entity with no direct control of their activities.</p> <p>Whatever amendments are needed to clarify that this is what is intended under section 2.6 should be made.</p> <p>Could one tied agent act as supervisor of another tied agent assuming the supervising tied agent is either qualified or grandfathered for the relevant specific activity?</p>

New Entrants/New Activities (cont'd)	IIF Detailed Comments
<p>For new entrants and new activities, supervision must be by an appropriately grandfathered or qualified individual within the firm and may not be by an individual outside the firm. If there is no suitably grandfathered or qualified individual within the firm, the new entrant or individual wishing to undertake new activities must obtain a relevant recognised qualification before undertaking the particular activity.</p> <p>The supervision requirement does not apply in the case of individuals who commence an activity in this State but who have significant relevant experience in another EU or EEA Member State, i.e., at least four years' experience.</p> <p>The requirements outlined above for new entrants will also apply to specified accredited individuals in respect of specified activities.</p> <p>It is the responsibility of the regulated firm to ensure that a new entrant is competent in relation to those retail financial products or specified activities in respect of which the new entrant is acting.</p>	

3.0	CHAPTER 3: CONTINUING PROFESSIONAL DEVELOPMENT (CPD)	IIF Detailed Comments
	<p>All accredited individuals and specified accredited individuals, whether accredited through grandfathering or obtaining a recognised qualification, are obliged to complete a number of hours of CPD each year.</p> <p>Regulated firms must ensure that relevant individuals comply with the CPD requirements on an ongoing basis.</p>	
3.1	Qualifications that have a CPD requirement?	
3.1.1	CPD Requirement	
	Where an accredited individual or specified accredited individual holds a qualification satisfying the Requirements, fulfilment of the CPD requirement attaching to that qualification will be considered sufficient	
3.1.2	Failure to comply	
	An individual who has had his/her professional designation removed due to failure to comply with the relevant CPD regulations must be removed from the regulated firm's Register and will not be in a position to act as an accredited individual or specified accredited individual, as appropriate, until the professional designation has been reinstated by the relevant professional educational body.	<p>The Regulator needs to be cognisant of the very real HR issues which arise in situations where an individual fails to achieve the required qualifications and should provide guidance on any flexibility which it proposes to allow. That is, does the FR wish to have people dismissed in this economic environment for reasons of delay/failure to achieve academic qualifications notwithstanding e.g. high quality performance in the job itself?</p> <p>Will the FR for example consider a "grace period" to facilitate re-assignment or must the firm act immediately to remove from their register anyone who has failed to meet CPD obligations as soon as the firm has notice of that failure?</p>

3.2	Qualifications without a CPD requirement and grandfathered individuals	IIF Detailed Comments
3.2.1	CPD Requirement	
	<p>Accredited individuals and specified accredited individuals who hold qualifications that do not have a CPD requirement and those who are allowed under the grandfathering provisions to act as an accredited individual or specified accredited individual must complete 15 hours of formal CPD each calendar year.</p> <p>Such individuals may either:</p> <ul style="list-style-type: none"> • Participate in a CPD scheme operated by an external professional educational body that provides a qualification that meets the relevant competency requirements set out in this document, provided that the requirements of the CPD scheme are essentially the same as the CPD requirements attaching to the recognised qualification; or • Arrange their own CPD. 	<p>15 formal hours <i>p.a.</i> is too demanding. The 15 hours should be a mix of formal and informal hours or should be reduced to 10 hours.</p> <p>If the FR insists on moving to 15 formal hours for every accredited individual then there may be difficulties for these individuals acquiring the required number of formal hours as currently some CPD programmes may not meet individual needs – it would be pointless to insist on people taking irrelevant courses/attending events which will not benefit their professional knowledge simply to meet formal CPD requirements.</p>
3.2.2	Formal Hours	
	<p>Formal or structured CPD hours may be obtained by attending seminars, lectures, conferences, certified completion of appropriate e-learning tutorials, workshops or courses dealing with a directly relevant topic.</p> <p>The content of the CPD hours must be directly relevant to the retail financial products or the specified activities for which the individual is accredited. In the case of accredited individuals, the overriding objective of the CPD requirement is to ensure that the knowledge needed to provide advice on or sell retail financial products to consumers is kept up to date. The CPD material for accredited individuals must therefore be related to the competencies set out in Appendix 1 for the retail financial products for which they are accredited.</p>	<p>If only the educational bodies can register formal hours then this could present problems where the subject matter is for example claims, where educational bodies may not provide sufficiently expert specialist courses. We feel that the FR itself and individual regulated firms should have a greater role in determining suitability of CPD events and assessing CPD credits.</p>

3.2.2	Formal Hours (cont'd)	IIF Detailed Comments
	<p>CPD needs to be widely spread, to ensure that accredited individuals and specified accredited individuals maintain and enhance their knowledge across a range of topics relevant to the retail financial products or the specified activities for which they are accredited.</p> <p>All formal CPD hours must be accredited by one of the professional educational bodies providing recognised qualifications that have a CPD requirement. The maximum number of formal hours in any day is eight hours and the maximum for any single topic is four hours.</p> <p>Surplus hours in one year may not be carried into the following year.</p> <p>Where individuals arrange their own CPD, they must retain written records to demonstrate that they have satisfied the requirement (e.g., maintenance of a log, supported by receipts from courses attended, certificates of attendance, certificates of completion, etc.), including the requirement that the content of the course was relevant to the retail financial products or the specified activities for which they are accredited.</p>	
3.2.3	Pro-Rata Adjustment of CPD Hours	
	<p>A pro-rata adjustment may be applied by the regulated firm in the following circumstances:</p> <ul style="list-style-type: none"> • Statutory Leave: A pro-rata adjustment in requirements may be applied to those taking: <ul style="list-style-type: none"> - block parental leave - statutory maternity leave - statutory adoption leave, or - statutory carer's leave 	<p>Consideration should be given to a pro-rata adjustment of CPD hours for people who are unemployed. A maximum period of unemployment for which the pro-rata adjustment applies should be considered. The costs alone of maintaining accredited status while unemployed can be prohibitive for some individuals. Unemployment generates uncertainty about future employment options and prospects and it may take some time for an unemployed person to decide if they either wish or have the opportunity to remain in financial services. Meeting full CPD obligations while deciding if their future is in financial services should not be mandatory.</p> <p>Pro rata increases in the 4-year period for acquisition of the requisite qualification (subject to a "long-stop" overall time limit) should also be considered in similar circumstances, e.g., in particular (repeated) maternity leave?</p>

3.2.3	Pro-Rata Adjustment of CPD Hours (cont'd)	IIF Detailed Comments
	<p>provided the individual is not acting as an accredited individual or specified accredited individual while availing of the statutory leave (includes statutory paid and unpaid leave only; does not include additional unpaid leave or holidays).#</p> <ul style="list-style-type: none"> • Serious Illness: Individuals out of work due to long term illness, i.e., not less than 2 months, may apply a pro-rata adjustment subject to medical certification of the illness. <p>A pro-rata adjustment will not apply in the following circumstances:</p> <ul style="list-style-type: none"> • Part-time work • Unemployment (where the individual wishes to retain accredited status) • Retirement (where the individual wishes to retain accredited status) • Career Break • Holidays 	

3.2.4	Failure to Comply	IIF Detailed Comments
	<p>Any individual who fails to complete the required number of CPD hours in a given year, must make up the shortfall by the end of the following year (in addition to the requirements for that CPD year).</p> <p>If an individual incurs a shortfall in any of the three years following a previous shortfall, he/she will be deemed to no longer meet the Requirements. Grandfathered individuals will be deemed to have lost their grandfathered status.</p> <p>Individuals who do not meet the Requirements must be removed from the regulated firm’s Register and will not be in a position to act as an accredited individual or specified accredited individual, as appropriate.</p>	<p>We feel that the requirements are fair given the reinstatement process proposed. It is helpful to have the matter clarified.</p> <p>See also however comments under section 3.1.2 above re HR issues and the possible need for a “grace period” before removal from the Register.</p>
3.2.5	Reinstatement	
	<p>Individuals holding qualifications that do not have a CPD requirement and individuals who have lost their grandfathered status, may be reinstated subject to the following:</p> <ul style="list-style-type: none"> • Reinstatement within one year, provided the individual has been removed from a regulated firm’s Register no more than once: <ul style="list-style-type: none"> - Individuals must complete any shortfall in CPD hours and, in addition, must complete five penalty hours CPD. • Other reinstatements : <ul style="list-style-type: none"> • An individual who holds a recognised qualification that does not have a CPD requirement will be required to pass the final examination of that qualification within two years of reinstatement. 	<p>These requirements appear fair. The ladder of intervention between first missing part of one’s CPD requirements and eventually being required to undertake a recognised qualification is clearly set out and would provide adequate warning to any grandfathered individual.</p> <p>However the definition of “other reinstatements” needs to be clarified. Does it refer only to reinstatements done 1 year or more after loss of status?</p> <p>Under Appendix 2, the proposed requirement that individuals holding QFA or grandfathered for other forms of insurance must obtain the “Certificate in Private Medical Insurance” but that such persons may also gain the institute’s “Professional Certificate in General Insurance” for personal lines general insurance only is unclear. Does the general certificate include “private medical insurance” or not?</p>

3.2.5	Reinstatement (cont'd)	IIF Detailed Comments
	<ul style="list-style-type: none"> • An individual who has lost his/her grandfathered status will be required to complete a relevant recognised qualification within four years of reinstatement. <p>Such individuals will not be required to be supervised while undertaking such an examination or qualification. However, if the individual is not consistently working towards obtaining the examination or relevant recognised qualification, he/she may not provide advice on or arrange retail financial products or undertake specified activities.</p> <p>Failure to meet these conditions of reinstatement will result in loss of capacity to act as an accredited individual or specified accredited individual, as appropriate.</p>	<p>Are the rules the same or different when private medical insurance is provided on an incidental basis? Further, when may a “part-qualified” QFA student commence activities affected by the requirements in light of these new rules? We would like the Financial Regulator to provide some clarity around this.</p> <p>Also, on a general point, we would appreciate if the Financial Regulator could indicate whether there will be a lead-in time to allow for any development, system changes to be made and if so how long?</p>

4.0	CHAPTER 4: DEMONSTRATING COMPLIANCE	IIF Detailed Comments
	<p>Regulated firms failing to comply with the Requirements may be subject to the imposition of administrative sanctions under Part IIIC of the Central Bank Act 1942.</p> <p>Regulated firms must maintain written records to demonstrate that they are in compliance with the Requirements.</p>	
4.1	Register	
	<p>A regulated firm must maintain a register of all accredited individuals and specified accredited individuals, acting as, for or on behalf of the regulated firm. The register must identify those who have obtained recognised qualifications, those who have availed of the grandfathering arrangements and those who are new entrants, and the retail financial products or specified activities for which each individual meets the Requirements. The register should contain the following information in respect of each individual that falls under the Requirements:</p> <ul style="list-style-type: none"> • Name; • Qualification, grandfathered status, new entrant; • Retail financial product or specified activity; • Date individual obtained a recognised qualification or was grandfathered; • If individual is a new entrant or new to a particular activity, <ul style="list-style-type: none"> - date of commencement of the activity, - qualification being pursued, and - name of supervisor; • date individual ceased to act as an accredited individual/specified accredited individual. 	<p>This is a logical and practical proposal and we support it.</p> <ul style="list-style-type: none"> - Date individual grandfathered. Is this not 01/01/2008 for everyone affected? - Date individual ceased to be grandfathered. Is this not contradictory - if someone ceases to act do they not just come off the register? - Informing customers of existence of register. When a policyholder deals through a broker they may not get a copy of the insurer's Terms of Business. In these circumstances when is it intended that the policyholder gets notification? We believe it should only be when dealing with issues such as customer complaints.

4.1	Register (cont'd)	IIF Detailed Comments
	<p>Each regulated entity must ensure that each branch office has a register of all accredited individuals and specified accredited individuals working in that branch.</p> <p>Firms must either make the register, or an extract from the register, available to the public on request or provide each accredited individual and specified accredited individual with a certificate on the firm's headed stationery in the following format:</p> <p>I, _____ (name) _____ (job title) certify that the undermentioned _____ (name of accredited/specified accredited individual) meets the Minimum Competency Requirements and is deemed competent in respect of the following products/activities:</p> <p>Example:</p> <ul style="list-style-type: none"> • Providing advice on and arranging: <ul style="list-style-type: none"> - housing loans - private medical insurance - pension products <p>1. dealing with claims.</p> <p>This Certificate is valid until [insert date] Signed by: _____ Job Title: _____ Date of signing: _____</p> <p>This Certificate remains the property of [the regulated firm].</p>	

4.1	Register (cont'd)	IIF Detailed Comments
	<p>Consumers must be informed that they may request sight of the register or the certificate.</p> <p>The certificate must be provided by an individual holding a senior position in the firm with responsibility for ensuring compliance with the Requirements. The regulated firm should carry out an annual review of the certificates issued to ensure they are still accurate and up to date.</p>	<p>Whilst this requirement could be achieved in a relatively straightforward manner by adding some information to a financial adviser's terms of business letter, we would question the value of it given the low level of interest shown by consumers in the register to date.</p>
4.2	Grandfathering Assessments	
	<p>When the Requirements were introduced in 2007, they included grandfathering provisions for those individuals with four years' experience in dealing with retail financial products or specified activities (see Appendix 4). Firms were required to carry out and document an assessment for grandfathering purposes and to certify each individual's compliance with the experience requirement.</p> <p>Firms must ensure that the following records are retained on file for each grandfathered individual:</p> <ol style="list-style-type: none"> 1. The criteria for assessment for grandfathering purposes. 2. Certification of the individual's compliance with the experience requirement. 3. Supporting documentation to confirm the individual's experience, for example, samples of advice or sales to consumers, confirmation from previous employers of the individual's experience, etc. (self-certification by the individual is not sufficient). 4. Where the grandfathering assessment was carried out after 31 December 2007, the reason for the delay. 5. Any relevant documentation in relation to marginal cases or exceptional circumstances. 	<p>It would be useful if it could be clarified that where the experience of an individual all relates to the firm that has carried out the grandfathering assessment, that supporting documentation need only be available within the firm and does not have to be maintained as part of the grandfathering record. In particular a number of issues (including Data Protection concerns) may arise if records of advice or sales to customers are kept on an employee's file.</p>

4.3	New Entrants/New Activities	IIF Detailed Comments
	<p>Firms must ensure that the following written records are maintained in respect of new entrants and individuals new to a particular activity:</p> <ol style="list-style-type: none"> 1. Date the individual commenced the activity. 2. Details of the training or part of a recognised qualification completed by the new entrant prior to dealing with consumers. 3. Qualification being obtained. 4. Details of the arrangements for supervision by an appropriately qualified or grandfathered individual, including name of supervisor, date supervision commenced and level of supervision. 5. Any relevant documentation in relation to marginal cases or exceptional circumstances. 	<p>What is meant by "level of supervision"?</p>
4.4	<p>Grandfathered individuals: documentation to be provided on leaving a regulated firm</p>	
	<p>When a grandfathered individual ceases employment with a regulated firm, and that regulated firm carried out the assessment of the individual's experience for grandfathering purposes, the regulated firm must provide the individual with a Certificate of Compliance with the Experience Requirement for Grandfathering in the format set out in Appendix 5. The certificate must be provided by an individual holding a senior position in the firm with responsibility for ensuring compliance with the Requirements.</p>	<p>This will be very helpful when checking the qualifications of potential recruits. This benefit outweighs the small administrative burden of producing it for leavers so the requirement is to be welcomed. There is still a risk that individuals may have failed to maintain their CPD during the period from when they left their previous employment and started a new role. However, it is still an improvement on the current situation.</p>

4.5	Compliance with CPD Requirements	IIF Detailed Comments
	<p>Where its employees are members of a CPD scheme administered by an external professional educational body that provides a qualification that meets the relevant competency requirements, a regulated firm may rely on information provided by the educational body regarding the compliance or non-compliance of those employees with the requirements of the CPD scheme. However, responsibility to ensure compliance with the Requirements remains with the regulated firm at all times.</p> <p>Where a regulated firm relies on information provided by the educational body, it should have its own written procedures in place (including appropriate audit trail) to take (and demonstrate that it has taken) the necessary action where it has received information that some employees are no longer compliant with the requirements of the educational body's CPD scheme. Plans for and actual progress in undertaking CPD requirements (including the number of hours CPD and relevance to the categories of product for which the individual is accredited) should be reviewed regularly by the line manager of each accredited individual. Ideally, this would be carried out as part of a regulated firm's normal staff review/performance appraisal process.</p> <p>In all cases, while account will be taken of any spot-checks carried out by a relevant professional educational body, the Financial Regulator reserves the right to check any individual's compliance with the CPD requirements during the course of an inspection of a regulated firm.</p>	

4.5	Compliance with CPD Requirements (cont'd)	IIF Detailed Comments
	<p>Firms must ensure they retain the following written records on file:</p> <ol style="list-style-type: none"> 1. Records demonstrating compliance by grandfathered and qualified individuals with the CPD requirements. 2. Pro-rata adjustments: number of hours, reason for adjustment, medical certification of illness, where appropriate. 3. Any relevant documentation in relation to marginal cases or exceptional circumstances. 	
	<p>Appendix 4 – Grandfathering arrangements and transitional arrangements – P53.</p>	<p>The addition of longer term deposits is a helpful clarification as the requirement under the Consumer Protection Code to produce a fact-find for these deposits was previously slightly at variance with their exclusion from the minimum competency requirements.</p>

END