

Irish Mortgage Corporation Limited submission to Financial Regulator – CP45
Review of Minimum Competency Requirements – 12.08.2010

Proposals included in the draft revised Requirements

- Additional proposals

- **Grandfathering**

We would be in agreement with the phasing out of the grandfathering arrangements and the Financial Regulator's proposed timeframe of 2015.

- **Internet**

We do not believe that internet providers of financial service products should be exempt from the requirements. Some financial services provided through this medium require the customer to provide details in order for a product selection to be made and this would not constitute an "execution only" arrangement. This, in our opinion, requires the originator of the service to put in place certain criteria in producing product choice(s) to the customer. This is no different than a customer dealing with a financial adviser and availing of the services being provided by the adviser. A level playing field must exist where there is similar financial services and products being provided by an Internet provider and other forms of intermediary and product provider.

- **Loan restructuring**

In the area of mortgage/loan arrears we are completely in favour of the requirements being applied to individuals giving advice on the restructuring of existing loans, including unsecured loans. In addition, we would advocate the regulation of those firms who offer or specialise in the provision of debt management services.

- **Investment Management**

We are of the view that this activity differs from that of investment advice and that

- **Administrative functions**

We believe that many amendments to insurance contracts, both life and non-life, carried out by staff is as a result of advice being given to the customer. Therefore, administrative functions should be covered under the Minimum Competency Requirements (MCR) and Continuous Programme for Development (CPD).

Chapter 2: Scope & Application

2.6 – New entrants/new activities

In regard to Point 4 under this heading we would ask the Financial Regulator for guidance in regard to where the 4-year period to attain a relevant qualification has expired and an individual has failed to attain that qualification. We particularly ask the Regulator as to what prescribed action needs to be taken, other than the removal of the individual from the register. Is the individual re-categorised as a new entrant?

Does the regulated firm prevent that individual from advising/selling a retail financial product entirely or is there a requirement to have increased levels of supervision for that individual whilst they work toward their relevant qualification?

On these questions, we would ask the Regulator to consider the potential issues arising under employment law where an individual has failed to attain the relevant qualification and their employment contract was issued by the regulated firm before the implementation of MCR and as a result, does not take such this matter into consideration.

In addition, does the external professional educational body require the individual to re-sit all of the subject modules for that qualification?

We ask that the Regulator and/or financial industry bodies offer guidelines on the prescriptive measures and levels of supervision that should be carried out on new entrants and that these guidelines are implemented as an industry standard.

We would also recommend that supervision for a limited period to be determined by the Regulator be applied to those experienced individuals (at least 4 years experience) who commenced an activity in another EU or EEA Member State. In addition to this, we would look for guidelines to be given on the type and level of supervision required. This is based on the individual working toward a recognised relevant qualification in Ireland (if they do not already hold such a qualification).

Chapter 3: Continuing Professional Development (CPD)

3.2 – Qualifications without a CPD requirement & grandfathered individuals

3.2.2 – Formal Hours

The current requirement for accredited individuals who hold qualification without CPD requirements and grandfathered individuals to return CPD hours falls on both the individual and the regulated firm to ensure that (a) this is being carried out and (b) to record the return of CPD hours carried out.

Currently, the LIA grants membership to grandfathered individuals for CPD purposes. We would recommend that it is mandatory for these individuals to be members of an external professional educational body and that all returns are made to these bodies. In addition, a full detailed return (full details of each CPD event) should be made to the body on their website. The current process that only records the number of hours completed is far too weak. The external professional educational body will inform the regulated firms of any individuals who fail to comply. In addition, the external professional educational body will have a list of all events and activities that have been approved for CPD for verification purposes. This allows the regulated firm to monitor the CPD activity of its accredited individuals and ensure that it is being met.

We also feel that a maximum of 5 hours surplus in one year be allowed to be carried over to the following year.

3.2.3 – Pro-Rata Adjustment of CPD Hours

We feel that given the current economic climate, pro-rata adjustment should apply for unemployment subject to a maximum period of 6 months in the calendar year.

3.2.4 – Failure to comply

Refer to 3.2.2 – allowance of a maximum of 5 hours surplus should reduce the likelihood of failure to comply. We would add that where the deficit has occurred in two consecutive years, then the individual lose their accreditation.

3.2.5 – Reinstatements

In respect of reinstatement within one year, we feel that this requirement is flawed as it is reliant on each firm where an individual has worked to ensure that their register is maintained accurately to record any removal of that individual. Registering with an external professional body who will have a central record of the individual's CPD returns and any shortfalls ensures that there are no inaccuracies.

Under the subheading, the Regulator has stated that there is a requirement of an individual who holds a recognised qualification where there is no CPD requirement having to pass the final examination within two years of reinstatement. We would ask that if the individual holds a qualification where there is no CPD requirement in the first instance, how can fail to comply with the requirement for CPD? We would appreciate further clarification from the Regulator on this point.

The last paragraph of this heading has stated that failure to meet the condition of reinstatement will result in the loss of capacity to act as an accredited individual or specified accredited individual. I would refer you to a similar point raised under paragraph 2.6. Has the Regulator considered the potential issues arising under employment law where an individual

has failed to meet this requirement and their employment contract was issued by the regulated firm before the implementation of MCR and as a result, does not take this matter into consideration.

Chapter 4: Demonstrating Compliance

4.1 – Register

We would advise that most of the general public is unaware of the requirement for a regulated firm to keep a register of its accredited individuals and that this register or an extract of this register must be produced by the firm on request.

We would recommend that reference of this fact be made on firms Terms of Business.

4.3 – New entrants/new activities

Under point 4. - We ask that the Regulator and/or financial industry bodies offer guidelines on the prescriptive measures and levels of supervision that should be carried out on new entrants and that these guidelines are implemented as an industry standard

4.4 – Grandfathering individuals: documentation to be provided on leaving a regulated firm

In addition to the format of the Certificate of Compliance with the Experience Requirement for Grandfathering as set out in Appendix 5 of the Regulator's document, we would recommend the inclusion of CPD hours returned in the previous year and compliance with that requirement of the MCR.

4.5 – Compliance with CPD requirements

We refer to paragraph 3.2.2 and in addition to the recommendations under this paragraph, we would recommend that all returns for CPD activity for both grandfathered and qualified individuals who are required to carry out CPD are made through external professional educational bodies and that the regulated firms are given access to these returns and any shortfalls are reported to the regulated firm who will take appropriate action with the individual.

My CPD, which is available on the LIA, is an example of the tool available to the accredited individuals for making such returns.

This recommendation and that made under 3.2.2 is in our opinion a much more suitable option to the onerous task of firms having to carry out this monitoring

In regard to Point 1 under this paragraph (see Page 23), we would recommend that those records be held by an external professional education body in the same way as the footnotes recommends this course of action for Points 2 & 3.