

**QUINN-healthcare Response to
Review of Minimum Competency Requirements
Consultation Paper CP45**

Proposals included in Draft Requirements:

Proposal #1:

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

Response:

We are comfortable with this proposal.

Proposal #2:

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

Response:

We agree with the removal of the informal hours element as there was a complete lack of traceability and therefore this requirement was of no significance or benefit. We also agree with the removal of the 3-year cycle and replacing this with the annual requirement, as this is clearer and simpler to understand. However, if comparing the new requirements over an equivalent 3 year period to the previous 3 year cycle formal requirement of 40 hours, this proposal would see the CPD requirement increasing. We do not agree that an increase in CPD formal hours is necessary.

Proposal #3:

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

Response:

We are comfortable with this proposal.

Proposal #4:

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

Response:

We agree with this proposal. However, regarding the heading under 3.2.5 of “Other Reinstatements”, we feel that this wording is very unclear. Does this apply to all reinstatements where the Individual has lost their grandfathered status or not completed their CPD requirement for more than 1 year? Also, what does “final examination” refer to? In the example of the CIP Diploma, does “final examination” refer to re-sitting the 3B examination?

Proposal #5:

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

Response:

We agree that there is flexibility required here. However, instead of the above, we propose that there is no public register i.e. that the overall listing of those compliant is not made available to the public. Instead, as and when a request for visibility of compliance of a particular individual is received from a Consumer, it is at that point that the firm would issue a letter to the Consumer, in the form of the template included in 4.1 of the draft requirements.

Proposal #4:

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)

Response:

We welcome this proposal.

Additional Proposals:

Proposal #1:

Grandfathering

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

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

Response:

We reject this proposal. These Individuals have already been granted GF status due to the level of expertise and experience they possessed at the time of the initial implementation of the Minimum Competency requirements. In addition to the level of experience and expertise they held at that point, they have since gained an additional 4 years of experience as well as having completed 4 years worth of CPD requirements. We feel this is excessive, unnecessary and completely undermines the original framework.

Proposal #2:

Internet

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

Response:

We believe that those individuals involved in set-up, design and content creation of an internet site should not be subject to the requirements. However, where an Individual is assisting the sales/claims process through interacting with the Consumer via mechanisms such as webchat, email or contact-us links, processing online application forms etc – then these Individuals should be required to meet the requirements.

Proposal #3:

Outsourcing

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

Response:

The activities completed where there is outsourcing of claims management can vary considerably. Where the professional management of claims involves the actual processing or assessment of a claim, then those individuals completing those activities should be subject to the requirements.

Proposal #4:

CPD Hours

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

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

Response:

Increasing the provision of common area CPD would reduce or remove this burden, and therefore we would propose that this is how this issue should be addressed.

Proposal #5:

Loan Restructuring

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

Response:

No comment

Proposal #6:

Investment Management

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

Response:

No comment

Proposal #7:*Administrative Functions*

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

Response:

This should be determined by the level of interaction with the Consumer. If this is a policy change simply being actioned/processed on the system, then there should be no need for compliance. However, where the amendment/change involves interaction with the Consumer whereby the Individual is assisting the Consumer with their decision, then this should be subject to the requirements.

Other Issues not Raised in the CP45 Review**Failure to Comply:**

We require clarity and guidance from the Regulator on the implications of non-compliance by Individuals.

We are particularly concerned regarding individual cases where sensitive HR situations may be relevant, that the Regulator would take this into account when reviewing consequences of non-compliance.

Furthermore, in the current economic environment, where an Individual may be proven to be a significant asset to the business and very competent in their role, but has been unable to attain an academic qualification within the timeframe (many people completing the qualification have never completed an academic qualification at this level or have been out of the academic environment for a considerable amount of time), we would have significant concerns regarding the flexibility of the consequences set out for these individuals.

CPD Qualification:

We feel that the decision as to what qualifies as CPD should not be at the discretion of the Educational Bodies. The process whereby the approver is also the supplier, provides for an unnecessary conflict.