



**SIMI Response to Financial Regulator
Discussion Paper on the Proposed Review of
Minimum Competency Requirements - CP45**

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Background

The SIMI (Society of the Irish Motor Industry) is the official voice of the motor industry in Ireland. We are a member's organisation which consists of Dealers, Repairers, Vehicle Distributors, Wholesalers, Retailers, Vehicle Testers and many other operators within the Industry in Ireland. An important role of the Society is to represent the views of the Motor Industry to Government, State bodies/agencies, media and the motoring public.

SIMI recognises the responsibility of every member company to maintain high standards of business ethics and integrity and we require our members subscribe to these principles under our Code of Ethics.

Some 500 Vehicle Franchise Dealers and perhaps 150 Independent Non-Franchise Dealers are involved in selling vehicles and offering the option of arranging Finance for customers. These members are registered as Credit Intermediaries with the National Consumer Agency. Members only provide such intermediary services to consumers in connection with the financing motor vehicles. Such Finance packages are developed and packaged by the supplying Bank or Finance House and are offered with the potential for Payment Protection Insurance Cover, should this be required by the consumer. As a result these Dealers are also registered as Insurance Intermediaries with IFSRA and contribute to the Insurance Compensation Fund and the relevant Ombudsman's Office. In the present Banking climate virtually all dealers report significant difficulties in obtaining Finance for would-be car buyers and some report that it is virtually unobtainable yet they have remained registered and compliant as Intermediaries.

From the introduction of the Consumer Protection Code, SIMI has supported the implementation of CPD requirements for persons providing financial advice. In this regard member companies employ relevant staff with recognised qualifications and staff who have been grandfathered, based on experience and knowledge/expertise acquired during their career.

As part of our commitment to this process SIMI has provided accredited CPD training programmes, in conjunction with the Institute of Bankers in Ireland, to enable our members meet their formal CPD requirements.

While we would welcome some elements proposed in this review of minimum competence requirements there are other proposals which we would not favour.

The following are our comments on the Discussion Paper.

Removal of 3 year CPD cycle

We believe that an annual CPD requirement would be more manageable for individuals and will provide a greater level of incentive to individuals in attaining CPD hours consistently throughout the year.

We believe that the proposal to reduce the annual requirement to 15 formal hours would be a positive approach to ensuring the development of consistent and completed CPD records by all relevant qualified staff.

Grandfathering

We are strongly opposed to the proposal to phase-out grandfathering arrangements, as currently outlined. The Motor Industry employs over 500 individuals who have been grandfathered, based on their previously acquired knowledge and experience. They have been registered and we have worked to assist these individuals to comply with the requirements set for them. Such individuals have spent the last four years maintaining CPD requirements and further developing their knowledge of the regulation of the finance market. We believe that it would be completely unjustified to remove the grandfathering arrangements, unless there is compelling objectively collective evidence that such grandfathered individuals have performed less well, in respect of consumers or of the requirements of the regulations, than academically qualified individuals.

In the absence of evidence from objective research, and there is no indication that there is any to hand at this stage, one must ask why this proposal is included in the Discussion Paper proposals? It should certainly not be driven by the interests of those who sell the qualifications that are proposed to be compulsory. In every academic and training framework, whether at National or European level, there is a requirement to recognise Accreditation of Prior Learning (APL). Such processes recognise that a newly qualified person with no experience in the field may not carry as much knowledge and expertise as an individual without qualifications but who is very experienced in the field. The grandfathering process recognises that the individuals concerned have gained significant knowledge and expertise in their own specified areas over a significant number of years.

Any proposal to remove this pathway from employees raises a number of serious questions. Firstly the lack of an appropriate and fair APL system raises potential Competition and Constitutional issues that may lead to legal challenges that should be entirely unnecessary. Secondly it raises questions regarding EU labour mobility. We believe that any proposal which requires staff in Ireland to hold a nationally-recognised qualification will also have to recognise equivalent qualifications of staff moving to Ireland from other EU countries. In many cases this will mean qualified staff from another EU Member State, who do not hold Academic Qualifications could not compete for a job in Ireland while an Irish Professional could, still seek a similar position in the other member States. Any locally constructed employment requirements that have as an effect, even if unintended, the potential to disadvantage similar classes of employees from other Member States would clearly be in Breach of our EU obligations. The EU is so focused on this issue that we are currently engaged in an EU-funded project EC VET, aimed at ensuring the transferability of Commercial Vehicle Mechanics across EU borders, even though the Academic level of their qualifications may not be equal. In Ireland we actually have a higher level, Level 6 on the National Qualifications Framework, than most other countries that are at Level 5. This is not acceptable in European terms as a barrier to employment opportunities for other EU nationals in this country and their Qualifications, which may include APL credits must be recognised and valued.

Any proposal to phase-out the recognition of Grandfathered individuals it can only be done on the basis of a balanced and fair system of recognition of APL. Where such knowledge is appropriately recognised and is combined with planned appropriate CPD programmes it is possible to ensure that grandfathered individuals are at least as well equipped to appropriately deal with consumers as those with more formal initial qualifications.

It should also be noted that Grandfathered individuals, and their employers have already spent considerable time and money maintaining their status since the regulations were introduced. It would be grossly unfair to write-off this level of investment by removing their designation.

The intention of the current Grandfathering arrangement was to recognise the individual's previous experience, subject to the requirements for CPD, to ensure that the Grandfathered individuals remain at the required standard. To now suggest that such arrangements can be withdrawn at will, after the Grandfathered individual had complied with all of the requirements set for them undermines the whole concept of Grandfathering and could be viewed as an unjustified interference with the right of those individuals to earn a living. In this regard the removal of Grandfathering

arrangements has the potential to cause severe financial hardship to individuals within an industry already seriously affected by the economic down-turn.

Modern regulation, in many fields, consistently recognises the value of grandfathering appropriate individuals through the regulatory regime. Most, if not all, of the regulated professions have Grandfathering arrangements. Those arrangements are such that they cannot be withdrawn after the individual has been Grandfathered, provided these individuals remain subject to the regulatory regime that requires them to undertake appropriate CPD.

We fully support the proposal to clarify aspects of the grandfathering process and to achieve a consistent standard across the industry but this would be better served by ensuring grandfathered individuals remain within the system and achieve CPD standards, than by abolishing grandfathering altogether.

If there is to be a phasing-out of the current Grandfathering arrangements then SIMI would propose that this can only be done in conjunction with the development of a fair and balanced APL system that would confirm the appropriateness of the Grandfathered Qualification for currently grandfathered individuals. Where a shortfall exists in the APL of currently Grandfathered individuals, this would require the provision of appropriate structured modules, to allow such Grandfathered individuals a fair opportunity to undertake any modules necessary to achieve the full qualification to be able to continue in their employment.

An alternative approach would be to limit the area of operation for individuals who have been Grandfathered. In the case of the Motor Industry the area of involvement in the provision of Financial Services is very limited with a very narrow range of products focused on vehicle purchase, that have already been developed by a Bank or Finance Company . Any new requirements on Qualifications should recognise the area of expertise and of professional competence required to deliver the service safely and appropriately to the consumer. If such individuals are required to be expert only in a limited range of issues, that should be sufficient and their qualification should confirm the limits of their area of operation, with the certification identifying the modules undertaken or the APL accredited. This would only permit the grandfathered individual to operate within that limited designated area. Should individuals wish to operate beyond these limits, they could only do so if they undertake further required training modules.

CPD Hours

The proposal to set CPD at 30 hours per annum for certain grandfathered individuals should be considered in conjunction with a review of the subject matter permitted for CPD training. As an organisation we would welcome the inclusion of Industry-specific and Finance product-specific topics in consumer credit CPD training.

We would also be unhappy with a limited number of professional institutions being given total control in respect of qualifications and CPD if the current proposals are to be implemented. If the Financial Regulator is increasing the level of Qualification and CPD requirements this cannot be left as an oligopoly with total control in the hands of those, no matter how worthy they may be, who benefit financially from the provision of the training, who supply the qualifications and who accredit the hours granted for CPD.. It is essential that this whole area must see a more open system and more direct involvement from the Financial Regulator in authorising training providers for initial and CPD training and in relation to course content and testing requirements. Such a process would ensure an enhanced standard of training, a greater level of consistency and the potential for price competition from alternative suppliers.