Ulster Bank Group response to Consultation Paper 45: Review of Minimum Competency Requirements

1. Introduction

Ulster Bank Group

Ulster Bank was founded in 1836 and became a wholly owned subsidiary of NatWest in 1917. Across the Republic of Ireland and Northern Ireland Ulster Bank employs approximately 6000 people who serve approximately 1.9 million personal and business customers through 297 branches and business banking offices. Throughout the changing market conditions of the past year, Ulster Bank has continued to enjoy the strong support of its parent RBS Group itself supported by the UK government. Ulster Bank remains focused on the needs of its customers and will continue to provide both business and personal customers with the highest standards of service.

Minimum Competency Requirements (MCR) Consultation Paper (CP) 45

UBG welcomes the opportunity to discuss the proposed changes outlined in CP45. UBG, along with all other industry members, have applied much time and resource in supporting and implementing the MCR since its introduction in January 2007, and, as you will be aware, were also active participants in the consultation process at the time they were initially be developed in CP4 and CP14.

Our response to this CP45 is broken down as follows:

1. Introduction
2. General approach to consultation
3. Specific “additional proposals” outlined in CP 45
4. Other issues arising from draft revised requirements in the Appendix to CP45

If you have any further queries regarding this submission, please contact Barry Rojack, Upstream Risk Manager, Ulster Bank Group Centre, George’s Quay, Dublin 2. We would be happy to meet in person to discuss any aspects of our submission which you may wish to delve further into.

2. General approach to consultation

We note from your two latest consultation papers (CP46 and CP45) that a new approach appears to be emerging whereby the first part of the CP provides a brief summary of some of the changes proposed, a second section which calls out specific additional issues of concern to you, and an appendix including an unmarked reissued draft of the full rulebook being consulted on. This approach is problematic in that it is very difficult to call out precisely what the full gamut of changes being made is.

We would request that, in line with regulatory best practise worldwide, future CPs dealing with changes to existing rules or codes either call out each and every change being made in the first section (rather than just a small selection), or provide marked up versions of the existing rules as changed by the proposed new text (using strikethrough font on text being removed and underlined, bold italicised font on new wording being introduced, or both. This would ensure that all stakeholders can easily identify the changes being proposed and identify the impact and issues raised by the proposed new rules in a timely and considered way.

In the absence of this being present for the CP45 proposals, we would respectfully request a reissuance of the revised text with clear identification of all changes and a short limited further consultation stage for the benefit of any stakeholders who may not have realised the extent and nuances of changes being made.

3. Specific "additional proposals" outlined in CP 45

On the general questions you have raised in the 1st section of CP 45, these are our comments and queries.

(a) Applying MCR requirements to the internet

We are unclear as to the precise nature of your proposal in relation to the internet. Within Ulster Bank, customer interaction over the internet is currently carried out in 4 ways (none of which, we believe currently attract MCR requirements, as staff members are not arranging products or providing advice or specified activities):

(1) Standard internet banking facilities on www.ulsterbankanytimebanking.ie
(2) Live web chat for basis support purposes on www.ulsterbankanytimebanking.ie
(3) General product information / advertising on www.ulsterbank.ie
(4) Product application processes on www.ulsterbank.ie

Potentially it is currently possible to provide advice or arrange products in direct interactions with customers via the internet, but if these were provided today we would have thought they would be covered under existing requirements as things stand.

We would need further clarity to understand what is being proposed before providing further comment, and therefore await further consultation on this proposal if the Regulator chooses to pursue it further, however we would be concerned if the proposal began to stray towards all persons designing product information / advertising, or designing sales processes and procedures being subject to MCR requirements, as we do not believe this would be appropriate.

(b) Outsourcing (claims management / generally)

We are unclear as to the precise nature of your proposal in relation to outsourcing, as it begins exclusively in relation to claims management, but then appears to branch out to outsourcing in general.

As we would currently expect any outsourced MCR activity to be MCR compliant in line with the relevant requirements for outsourcing generally and the provisions of the MCR requirements on scope, we would need further clarity to understand what is being proposed before providing further comment, and therefore await further consultation on this proposal if the Regulator chooses to pursue it further.

(c) CPD hours – grandfathered + qualified

In respect of the grandfathering statement, we are of the understanding that no industry members currently adopt the approach you have outlined as your current interpretation. This is principally because the CPD system to date from a firm's perspective has focused on hours taken rather than

content (which has been the responsibility of the individual to confirm). However as you may be aware this position is in this process of changing as industry-wide tools are being developed to help individuals confirm their CPD is specifically relevant to the role / status.

We believe the same base formal CPD hours should apply to all staff independent of whether they are purely qualified, qualified plus grandfathered, or purely grandfathered – i.e. 15 formal hours. The onus would be on the individual staff member (as is currently the case) to ensure a balanced spread of topics were covered from a CPD perspective.

(d) Loans restructuring

In respect of the proposals regarding loan restructuring, similar issues arise as regards "administrative functions" (see comments below). As things currently stand, confusion appears to be present in respect of whether the concept of "arranging" captured amendment of existing products – this is mainly because "arranging" has generally been viewed as a synonym for "selling". It is unclear from the proposals whether distinctions should be drawn between customers involved in restructuring / amendment on a business-as-usual basis (e.g. changing the rate applicable to a mortgage) and those involved from an arrears / recoveries perspective. It is also unclear whether a distinction is to be drawn between staff involved in restructuring who are actually dealing directly with customers, and those staff who work from a back-office perspective in progressing restructuring or, for example, making credit decisions.

As per "administrative functions" below, we would be in favour a clearer distinction being drawn between "selling" and other activities to be captured by MCR, and look forward to discussing this matter further when more detailed proposals are put forward for consultation. At this stage we would wish to reserve our opinion until we see further detail, however we do not see any evidence that it would be necessary, for example, to impose MCR requirements on staff not dealing directly with customers in the context of loan restructuring.

(e) Administrative functions

In respect of administrative functions, it would appear that the proposal seems to concern amendments and renewals of products by customer-facing staff. The section appears to exclusively deal with insurance policies, however it is unclear why this is the case.

We note that both the regulator (e.g. section 3.2.2 of CP45) and the industry have tended to correlate "arranging" with "selling". In this regard, it may be helpful to draw a distinction between the activity of "selling" and other activities which are or should be captured by the MCR. We would reserve our views on this proposal until it is clarified in more detail at the next stage of consultation.

Were any activities beyond "selling" be brought into scope, this would be a large piece of work to implement and would require significant time to be given to bring in any changes.

4. Other issues arising from draft revised requirements in the Appendix to CP45

(a) Changing of definition of advice

At present we would view advice as being a recommendation endorsed by the staff member for a customer to choose one product over the others as most suitable to his/her needs. We do not currently view a staff member stating his belief that a particular product or series of products meet a customer's specified needs as constituting advice, however we would be concerned that by seeking to mimic the definition of advice in MiFID, then this interpretation may result.

If the regulator wants the application of MCR confined to those persons selling products and those persons giving advice in the sense of recommending one product over another, then we believe the revised definition should not be used (we would also add that CESR is currently considering changing the guidance / scope of advice under MiFID, and that this could also have unforeseen knock-on effects if the revised MiFID version of advice was used for MCR purposes). Further, we believe the currently definition should be clarified to specifically cover advisors recommending one product over another as best meeting the needs of a client.

If the regulator does not agree with our position on this, and decides to proceed on the basis that staff not offering "best advice" should also be covered by advice under MCR where they are confirming a product meets a customer's individual needs, then a possible alternative approach which may better reflect reality would be to identified the two types of customer interaction separately as "type 1" and "type 2" advice.

In this way, the MCR definition could read as follows:

For the purpose of these Requirements, advice can include type 1 or type 2 advice:

- *type 1 advice: where a staff member recommends one retail financial product to a customer as being more suitable, or better, than other retail financial products which also meet a customer's needs.*
- *type 2 advice: where a staff member verifies that a particular retail financial product is suitable in light of the customer's specific circumstances and needs.*

This would allow firms that maintains a current distinction between staff who offer what would be called type 1 advice (typically investment advisors) and who would currently be viewed as providing advice, from those people in the front office of branches who would offer what would be called type 2 advice but would not currently be viewed as providing advice. It could also help clarify scope in that it would better align application of the MCR to those persons issuing suitability statements under the Consumer Protection Code (for those products within scope of MCR).

(b) *Removal of explicit situations not constituting the provision of advice*

We note that the removal of these exceptions was not specifically called out in the consultation paper. While the removal of the old wording would be expected to be largely neutral in effect, as most of the examples would not be seen to constitute advice in any event, 2 specific examples might be seen to be advice in the absence of explicit exclusion (*"advice to undertakings on capital structure, industrial strategy and related matters and advice relating to mergers and the purchase or sale of undertakings"; "providing information on an incidental basis in conjunction with some other professional activity, so long as the purpose of the activity is not to assist a consumer 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 product"*)

As the removal of these exceptions was not specifically called out in the CP, the merits of removing these examples may merit further specific consultation. Our current view is that either the examples should be kept in as currently worded, or further consultation should be engaged in calling out the change and the implications for it, and seeking feedback on whether the removal of each of the examples should proceed.

(c) Definition of consumer and "retail financial products"

The CP and proposed revised version of the Code do not address historic problems with the definition of consumer and the use of the term "retail financial product".

The original consumer term which is reflected in the current MCR requirements was a straight lift from the Ombudsman definition used for decided on standing for hearing of complaints. The application of this definition on a business-as-usual basis for firms creates operational problems in that a necessary implication of the Ombudsman approach is that the assessment is carried out at a single point in time – i.e. the point in time that the complaint is referred to the Ombudsman. However, this implicit time application is not relevant to the day-to-day business of a regulated entity. As such the requirements we would prefer if all regulatory requirements issued (such as MCR, CPC etc.) specified at what point this assessment should be made (i.e. it could be at point of sale for a specific product, or point of initial business relationship being set up with the firm, or first product being sold, or advice provided, to a customer).

In the absence of clear time limitation, as currently written the definition is ambiguous – it is therefore practically impossible to distinguish for some business areas within a firm whether the requirements apply or not, which leads to the unnecessary cost and burden of over-compliance.

In addition, while "retail" is used in the context of retail financial products, the implications of the use of this term is not defined. In the sense used colloquially in regulated firms, "retail" would refer to non-business/non-commercial business. If this meaning is to be applied to MCR this would limit the application of the requirements to situations where non-business customers are concerned. We believe that this would be an appropriate distinction and new definitions of "consumer" and "retail" should be introduced to distinguish between dealings with business and consumer customers.

(d) Use of italicised words in the Requirements, and use of definitions

It is noted that certain words still appear in italics in the new draft requirements document.

When we noted this at the time the previous requirements were being drafted, we assumed at first that this was, in line with other regulatory codes and requirements, an indicator that the italicised words were defined in the document, however this was not consistently the case.

We welcome the introduction of a definitions section in the new draft MCR requirements, however we would like to see further definitions brought into this section (see below), and, noting that italicised words are still used in the draft document, would ask that a level of consistency be applied in the new rules so that only words defined in the definitions section would be italicised, so there is no confusion that explanations have been omitted in error.

Some of the terms we would like to see moved into the definition section (rather than being defined elsewhere in the document) are:

- Advice
- Arranging
- Undertaking specified activities
- Referring / introducing
- Retail financial products (and further definitions required of the classes of retail financial product)

(e) *Position of cross-border firms passporting into Ireland*

It is noted that no change has been made to the existing requirements to clarify the position of cross-border firms passporting into Ireland. After several years of the requirements been in existence, the regulator presumably is now aware of what the European Law is on this issue, and should be in a position to spell out precisely which services are "reserved" under EU law.

In addition, while we welcome the move of the definition of regulated firm to include passporting firm, we believe the definition of passporting firm should be expanded in the definition to include which types of firms / services are excluded by virtue of EU law, rather than having separate sections relating to passporting firms in the new definitions section and in draft section 2.1.5.

(f) *Referring / introducing*

It is noted that no change has been made to the provisions relating to referring / introducing. We would query the continuing merit of this requirement. We would welcome some explanation in the response to this consultation that addresses the regulatory purpose behind, and practical benefits of, this requirement, and why it is deemed to pass any cost / benefit analysis.

In any event, the inclusion of the word "assistance" without further definition may be too vague to realistically provide any scope for someone to be captured by this requirement.

(g) *Prescribed script and routine*

We note that the provisions in relation to prescribed script and routine have changed – given the nature of the change (potentially significant in effect but very minor in terms of change in wording) we believe it would have benefited from being specifically highlighted in the consultation paper, and may have been missed by contributors to your consultation process. As such this particular provision may merit re-consultation.

The old provision has been a source of confusion in the past – the older wording seemed to attract a specific set of requirements for persons following a script and routine for exclusively issuing quotation requests (which only seems to arise in the context of loans and insurance, and which of itself would not seem to be arranging as it is only the pre-sale provision of information), however in practice it is our understanding that the industry and regulatory approach was to apply this generally to anyone interacting on a purely scripted basis with customers applying for products, so we would welcome any change to clarify the position on this requirement.

Unfortunately, the new wording is still somewhat confusing. It is not clear in what circumstances the new requirements apply (as issuing quotations is no longer referred to, but no activity is referred to in its place). As we do not believe the issuing of quotes is arranging or advising for the purpose of the requirements, our preference would be for no persons conducting the activity of issuing quotes to be covered by the requirements, and for a exemption from the general requirements for persons to be qualified / grandfather (and complete CPD) to explicitly apply to people arranging retail

financial products according to a defined set of eligibility criteria and following a prescribed script and process – e.g. persons dealing with customers applying for products on a distance basis where the call operator is following a clear script and process in handling the application.

Consequently, we would seek for this requirement to be amended to be read something along the lines of the following (as an exclusion in the definition of arranging under the definitions section):
Where an individual arranges a retail financial product with a consumer in line with a narrow and rigid set of acceptance / eligibility criteria, and in accordance with a prescribed script and routine, that person will not be conducting the activity of arranging provided the following requirements apply:
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.

(h) Changes to list of retail financial products

We note that the list of products have been subtly changed as outlined below.

The old products which have been expanded are as follows:

- Whole of life policies [previously "non-profit whole of life policies"]
- Unit trusts, providing facilities for the public to participate in the profits or income from a trust [previously just "unit trusts"]

New products now included are:

- Exchange traded funds
- Including deposits with a term equal to or greater than one year
- Excluding deposits with a term of less than 1 year
- Structural defect insurance

Old products deleted include:

- homebond Insurance [deleted]
- credit protection insurance [deleted]

These changes have complicated potential consequences for regulated entities.

To start with, current unqualified grandfathered / “working-towards” in-scope staff may need to be re-assessed to see if they can arrange or advise on such products as part of their grandfathering (if this is possible, which is not clear) / “working towards”.

In addition, a wholesale review would also need to be carried out to see if any staff not currently in scope need to be brought into scope, and then either checked for grandfathering up to the cut off date (if this is possible, which is not clear).

Finally updates would need to made across the entire register of each firm to reflect the new product choices for all staff.

This piece of work is very large, and comes shortly after a number of firms have conducted full revalidation exercise at great effort and cost.

We believe the changes to the product list should be reconsidered, particularly the new explicit inclusion of deposit products with a term of 1 year or greater. As the changes to products were not specifically called out in the consultation paper, it may be that the consequences of what appears on its face a small change may not have been fully considered, and other providers may have missed the relevant change in considering their answers to this CP. We would request that the change in products should not proceed at this stage, or if it is to proceed, the benefits, costs, consequences and relevant timeframe needed for implementation should be fully debated in a further consultation paper.

In addition, in respect of the list of retail financial products, we note that the ambiguous use of the term “including” in each category presents a potential problem in assessing scope, and also creates a potential risk of unexpected enforcement. As a non-exclusive term, “including” suggests the list is not limited, and in theory may mean, for example, that the products now removed from the lists that previous appeared may actually still be in scope, and the new ones not previously included should always have been there. As our presumption is that the use of the term “including” is a mistaken misnomer, we would suggest the word “including” be changed to “defined as”. The continuing use of “excluding” does not attract the same issues.

(i) New requirements for qualifications to assess the relevant competencies in Appendix 1; and revised approach to competencies

We note that the approach to the competencies in Appendix 1 has changed from an expectation of knowledge-based testing to a practical application assessment, and that number of changes have been made in certain competencies or in the addition of new ones, for example (there are many more similar examples across Appendix 1):

- To define the main requirements for the legal tender of assets, including the death benefit under a life assurance protection policy, of a deceased to his or her next of kin [new inclusion in Life insurance – section 6]
- To calculate a consumer’s Income Tax liability, given details of his or her earnings and reliefs [new inclusion in Life insurance – section 6]
- To define what the terms RIY, APR and EAR mean and demonstrate how they can be used to compare different financial products [new inclusion in Life insurance – section 10]
- To describe the structure of the **Central Bank of Ireland** and its main functions, including its enforcement powers [revised from “Financial Regulator” (CBI being much wider) in Life insurance – section 12]
- To describe the main functions of the National Consumer Agency in relation to the provision of financial services to consumer [new inclusion in Life insurance – section 12]

- Relevant provisions of the Consumer Credit Act, 1995 **(and relevant Regulations made under the Act)** [revised from purely CCA in Life insurance – section 12]
- The provisions of relevant Codes of Conduct issued by the **Central Bank of Ireland** [revised from "Financial Regulator" in Life insurance – section 12]
- obligations on insurance intermediaries and **financial services providers** [revised from "companies" in Life insurance – section 12]
- the provisions of the Data Protection Acts, 1988 and 2003 related to the maintenance, disclosure and use of personal data **and the Equal Status Act 2002** [new addition of Equal Status Act in Life insurance – section 12]

In addition, other old competencies have been removed, for example Section 2 of the General Insurance Policies competencies "To understand the role of the legal system and its main parties in claims settlement" and "To understand the need for and importance of the insurance documentation required by insurance organisations for fulfilment of legal and regulatory requirements"

It is unclear what the extent of the effect of the changed competencies across all the relevant products is supposed to be.

The obvious effect of the new requirements is that changes may be required for courses / exams of qualification bodies. It is unclear what the effect is in respect of persons who are already qualified if their qualifications did not cover the relevant new competencies – it may be that such persons require specific CPD on these issues (further it is not clear if such CPD is required to be carried out before a person can continue to be considered satisfactorily qualified). It is also unclear to what extent, if any, these new provisions should have on CPD to be carried out by grandfathered individuals.

Finally, it may be the case that relevant testing of competency within firms may need to be changed if it was based on a "knowledge" assessment rather than "practical application" assessment.

In the absence of further instruction or guidance on how firms should ensure competence of "new entrants" under the final paragraph of section 2.6 in the draft requirements, we would be concerned that firms may be expected to conduct tests in line with Appendix 1, which we do not believe would be appropriate, so we would also seek more clarity in the rules under 2.6 as to the nature and extent of competence assurance required.

We would seek clarity from you as to the extent of the effect you expect these changes to have, and would welcome a further round of consultation to discuss this in more detail (unless the changes will solely apply to assessments carried out in qualifications).

(j) Recognition of other/ foreign qualifications

We welcome the introduction of more extensive guidance in section 2.5 on when and to what extent qualifications not listed in Appendix 2 or 3 may be acceptable under the MCR requirements. We note the opportunity to provide a specific appeals process by which the Regulator could make an ultimate decision on partial or full acceptability has not been provided, and it may be impractical in a contentious situation to report to the Regulator in the hope of the Requirements being amended, as the amended process would be expected to be long and subject to prior consultation.

We would also query whether the position the MCR requirements have been considered in light of EU Directive 2005/36/EC, which consolidates and modernises the rules currently regulating the

recognition of professional qualifications in the EU – this would appear to merit consideration in the context of this consultation and whether the requirements (as currently drafted and as proposed to be changed under CP45) meet the rigours of European law.

(k) *New entrants / new activities*

We note that in respect of section 2.6 of the draft requirements, the maintenance of the onus on the firm to ensure an individual has not worked for more than 4 years across multiple firms remains in place. As this information would principally be within the knowledge and control of the individual, we believe the responsibility should primarily lie on the individual to ensure they are suitably qualified within the relevant time period. A provision could be made for firms to be secondarily responsible where they have failed to make reasonable enquiries on the matter, but we believe there should be an express exclusion from secondary liability for the firm where a firm makes reasonable enquiry and is provided with incorrect or incomplete information from the staff member concerned.

In respect of the 2 new provisions in section 2.6, supervision by a person employed by a different company to the firm concerned may often legitimately occur where the firm has outsourced certain activities to a separate company. In particular, this may happen where there is intra-Group outsourcing. The term "within the firm" is ambiguous on this point, and we would suggest it should be changed to something along the lines of "*works for or on behalf of the firm, whether directly employed by the firm or on an outsourced basis*".

In respect of the proposed exemption from supervision for foreign-experienced staff, while we welcome this development in that it recognised the requirement for intense supervision is not required where someone has real experience, it is difficult to understand why a distinction is being drawn in this case between foreign experience and experience in Ireland. Limiting this purely to staff with foreign experience seem to be counter-intuitive in that domestic experience would seem to be more relevant to justify the lack of a need for supervision in conducting regulated business in Ireland than foreign experience. As such we would suggest the exemption from supervision should apply to all staff with significant relevant experience. In addition, as things stand, the terms "significant relevant experience" are too open to variation in interpretation, and as such we would suggest tightening it to "at least 4 years relevant experience".

(l) *CPD requirements – acceptable hours, adjustment of hours, failure to comply and conditions for reinstatement*

We welcome the expansion of the CPD section of the MCR to address certain gaps in the current requirements.

We are in favour of the change to 15 hours formal CPD for grandfathered staff and qualifications that do not carry a CPD requirement.

We welcome the guidance in respect of the application of pro-rata adjustment of minimum CPD hours required. It would seem appropriate for this to be explicitly applicable across CPD requirements generally – i.e. for both regulated firms assessing CPD for grandfathers, and also educational boards assessing CPD for qualified individuals.

Equally, we welcome further clarification of what formal hours are acceptable, and would also suggest it would be appropriate for these guidelines to be explicitly applicable to the determination

of acceptable hours for educational boards assessing CPD for qualifying individuals (in passing we would note the reference in 3.2.2 to "sell" should presumably be to "arrange").

Similarly, it may also be appropriate for the requirements for reinstatement for grandfathers to be explicitly applicable to educational bodies in deciding whether to reinstate a professional's designation following failure to comply with that body's CPD requirements.

In respect of the practical application of the reinstatement standards for grandfathers and persons holding qualifications that do not carry their own CPD requirements, a number of matters would benefit from further clarity:

- In the case of someone who has not been removed previously from a firm's register (presumably "removed for failure to meet CPD requirements" – this appears to be implicit but may be better if made clearer), do the shortfall in CPD hours, and five penalty hours have to be completed before being reinstated, or can the staff member commit to doing these within a defined time period? In any event, the inclusion of "penalty hours" may be excessive – once the relevant hours have been made up (presumably within a short period of time in most cases that would occur), the individual concerned should be suitably knowledgeable to begin working again after they have caught up.
- In the case of someone who already holds a recognised qualification but has failed to meet CPD requirements, it is unclear why they would need to re-sit their final examination within 2 years of reinstatement.
- In the case of a grandfathered individual being reinstated, it would appear that the proposals allow someone to be reinstated on the basis that they will in future (within 4 years) complete a relevant recognised qualification, provided they are consistently working towards the qualification. It is not clear what "consistently working towards" means here – greater guidance / clarity should be provided around the situations in which an individual needs to complete certain actions before they can be reregistered, and other situation where they can be reregistered based purely on a commitment to complete a qualification within a certain time period, and what the minimum expected of a staff member is (attendance at lectures, (successful) completion of exams / years etc.) to be seen to be consistently working towards.

(m) Demonstrating Compliance – The Register

We note that the cumbersome public availability of the register has been retained and in some ways expanded. While we have no objection to the maintenance of a central internal register, for the purpose of a firm tracking internal compliance and risks arising, and to assist the regulator on queries where required, the reality is that consumers are not interested in having access to, or visibility of, the register, and being able to access it does not benefit them – either a staff member meets the MCR requirements or they do not. In the several years of existence of the MCR, we are not aware of one single request coming from a member of the public seeking access to, or verification of a staff's inclusion on, the bank's register.

Consumers are entitled to expect that the individuals they deal with in regulated entities are competent, and that, in general, the firm operates in accordance with the rules and requirements applicable to it. It is our responsibility to make sure that we comply with the rules, subject to the regulator's ability to seek rectification and take enforcement action where we do not.

The requirement to have an extract or separate register available for inspection in each branch is more administratively difficult than the previous requirement of dealing reactively with consumer requests.

Consequently we would strongly propose that the register requirements be reduced to an internal requirement only.

If the requirement to keep an external register available is maintained, please note it is unclear how customers should be made aware of the availability of the register – for some customer interactions, particularly those which do not take place in a branch (e.g. a direct sales situation over the telephone), it is unclear whether the access to register requirements would apply at all (as it is not a branch), and if they did apply, what the appropriate way of informing the customer would be, and how the customer would access it given that he is not "on site".

(n) Demonstrating Compliance – Certificates

As per our comments regarding the register, we do not see the benefit of certificates to consumers in the absence of any demand or need for them.

In addition, the risks of fraud and inaccuracy would be increased by the annual issuance of a certificate rather than using the internal register as a "live" basis for confirming someone meets the MCR requirements. The fact that the draft requirements allow for annual provision and review without reference to reissuing the cert mid-year would be an accuracy flaw, but persistently amending these would be a high administrative burden.

If the certificate system were to be used, more clarity would be required about what level of seniority would be required for sign off, and it is not clear what the position would be if a senior person changed roles or left the firm concerned.

Given that the certification system seems more unwieldy than the existing or amended registration system, and that we believe the public availability of the register is administratively difficult and not of sound benefit and should be removed, we are not in favour of the certification system.

(o) Grandfathering – certificate on leaving firm

The introduction of the grandfathering certificate is welcome in that it seeks to address an existing problem regarding staff mobility in the industry, however there should be an explicit declaration that the certificate provides no assurance in respect of CPD compliance, and as grandfathering experience ended as at a particular date, it should explicitly only be correct as at the cut-off date for grandfathering experience. It is important to note that while well-intentioned, ultimately these certificates may be impractical to be relied on as a firm's grandfathering records may legitimately only relate to a product category, rather than individual sub-products.

(p) Appendix 2 – recognised qualifications

The changes in qualification raise two queries which we are unclear on:

1) To what extent, if any, has consideration been given to any impact from reducing the type of general insurance policies covered by the general insurance bridge? If the reduction reflects the belief by the regulator that in the general insurance market, only personal lines general insurance are "retail financial products" (i.e. non-personal lines insurance is not), then the definition of general insurance under retail financial products should make this clear. If this is not correct, then some sort of transitional period may be required for previously qualified staff and their staff needing to review the options open to them. Alternatively, the qualification could be left as it currently is under the old requirements.

2) Are staff currently designated as grandfathered but holding some of the new qualifications now required to be recorded on the register as qualified, and complete the relevant CPD for that course, or can individual / firms choose to keep the status as “grandfathered”?