



Banc Ceannais na hÉireann  
Central Bank of Ireland  
Eurosystem

2015

## Minimum Competency Code 2011

### Addendum for Credit Servicing

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## **INTRODUCTION**

This Addendum to the Minimum Competency Code 2011 (MCC) is being introduced to establish minimum competency standards for persons exercising a controlled function or a pre-approval controlled function in a credit servicing firm and for credit servicing firms themselves when the following activities are being conducted:

- Providing advice to consumers on retail financial products;
- Arranging or offering to arrange retail financial products for consumers, including the restructuring or rescheduling of loans;
- Acting for or on behalf of a regulated firm in the direct management or supervision of those persons who act for or on behalf of that regulated firm in providing advice to consumers about retail financial products or who arrange or offer to arrange retail financial products for consumers; and
- Adjudicating on any complaint communicated to a regulated firm by a consumer or the arranging or the offering to arrange of a retail financial product for that consumer.

With effect from 8 July 2015, the regulation of credit servicing (as defined) is provided for under section 1 of the Consumer Protection (Regulation of Credit Servicing Firms) Act 2015, which amends Part V (definitions) of the Central Bank Act 1997.

For the purposes of applying the Minimum Competency Code 2011 to persons exercising a controlled function or a pre-approval controlled function on behalf of a credit servicing firm, the following amendments are now made:

- a definition of credit servicing is included;
- transitional arrangements for persons already exercising a controlled function or pre-approval controlled function on a professional basis on behalf of a credit servicing firm on 8 July 2015 are included.

For the purposes of applying the Minimum Competency Code 2011 to credit servicing firms, the following amendments are now made:

- requirements in relation to transitional arrangements for persons already exercising a controlled function or pre-approval controlled function on a professional basis on behalf of a credit servicing firm on 8 July 2015.

## **LEGAL BASIS**

Pursuant to Section 50 of the Central Bank Reform Act 2010, Part 1 of the MCC is hereby amended as set out below. Amendments to Part 2 of the MCC, arising as a consequence of the amendments to Part 1, are made pursuant to the legislative provisions set out in Section 2.1 of the MCC.

## **DEFINITIONS**

The 'Definitions' section of the MCC is hereby amended, as follows:

'*credit servicing*' has the meaning assigned to it by section 28 of the Central Bank Act 1997.

## **GRANDFATHERING**

Persons already grandfathered in respect of the provision of advice on loans falling within category 7 – Housing Loans, Home Reversion Agreements and Associated Insurances or category 8 – Consumer Credit Agreements and Associated Insurances, or arranging or offering to arrange such loans, or the exercise of a specified function in relation to such loans would meet the standards of the MCC in respect of those activities where they are provided by a credit servicing firm.

The grandfathering arrangements under the MCC can no longer be availed of and grandfathering arrangements specifically for individuals providing credit servicing are not being introduced.

## **AMENDMENT TO PART 1 OF THE MCC**

### **FITNESS AND PROBITY STANDARDS (MINIMUM COMPETENCY)**

#### **Amendment to Section 1.3 of the MCC, the Minimum Competency Standards**

Section 1.3 of the MCC is hereby amended, as follows:

- d) is availing of the transitional arrangements in respect of the function to be exercised pursuant to Section 1.8 or Section 1.9 of the *Standards*, or

#### **Transitional Arrangements**

The following text is hereby added to Part 1 of the MCC:

##### **1.9 TRANSITIONAL ARRANGEMENTS FOR CREDIT SERVICING**

A *person* exercising a controlled function or a pre-approval controlled function on a professional basis on behalf of a credit servicing firm (in the context of this paragraph 1.9, the term "credit servicing firm" does not include a person authorised to provide credit or payment services in the State) on 8 July 2015, the exercise of which, in relation to loans, includes the following:

- providing advice to consumers on retail financial products,
- arranging or offering to arrange retail financial products for consumers, including the restructuring or rescheduling of loans,
- acting for or on behalf of a regulated firm in the direct management or supervision of those persons who act for or on behalf of that regulated firm in providing advice to consumers about retail financial products or who arrange or offer to arrange retail financial products for consumers ...., and
- adjudicating on any complaint communicated to a regulated firm by a consumer which relates to advice about a retail financial product provided to that consumer or the arranging or the offering to arrange of a retail financial product for that consumer,

who does not hold a *recognised qualification* in respect of that function may, until 8 July 2019, perform that function as if that person were a qualified person provided:

- (a) the *person* is working towards obtaining a *relevant recognised qualification*.  
In this regard, the *person* must:

- i) register for the first available sitting of the relevant examination which the person could reasonably be expected to sit, and should the *person* fail to pass the examination on that occasion, each available sitting thereafter until the *person* obtains the qualification;
  - ii) work towards obtaining examinations for the relevant qualification on a consistent and timely basis, until completion; and
  - iii) maintain a record of all examinations completed, results obtained and examinations scheduled for completion; **and**
- (b) the person obtains a *relevant recognised qualification* by 8 July 2019. A pro-rata adjustment to this timeframe may be applied in the same circumstances as outlined in paragraph 1.4.1(d) (ii) of the MCC in respect of new entrants.

## **AMENDMENT TO PART 2 OF THE MCC**

### **MINIMUM COMPETENCY – REQUIREMENTS ON *REGULATED FIRMS***

#### **Transitional Arrangements**

The following text is hereby added to Part 2 of the MCC:

#### **2.9 TRANSITIONAL ARRANGEMENTS FOR CREDIT SERVICING**

A regulated firm must:

- a) inform the person availing of the transitional arrangements, within three weeks of the date the Addendum is imposed, of the requirement to obtain a relevant recognised qualification by 8 July 2019;
- b) agree a plan for obtaining a *recognised qualification* with the person availing of the transitional arrangements and monitor the person's progress in adhering to this plan; and
- c) where an opportunity to sit an examination is not availed of by a person availing of the transitional arrangement, the *regulated firm* must document the reasons why.

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