



FINANCIAL REGULATOR  
*Rialtóir Airgeadais*

Minimum Competency Requirements  
Public Response to CP14

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# Minimum Competency Requirements

## Public Response to CP14

### INTRODUCTION

The Minimum Competency Requirements [the Requirements] introduce a basic competency framework that will set minimum standards for the financial services industry. They have been drafted following a lengthy process which included two public consultations and discussions with industry representative and educational bodies. The final Requirements have been informed by these discussions and by the submissions received to the two consultations. We would like to express our appreciation to all those who provided assistance and feedback during this process.

Consultation Paper CP14, Limited Consultation on Proposed Minimum Competency Requirements, was issued in January 2006. Thirty-three submissions were received in response to this consultation paper, all of which were from those connected with the industry. The submissions were broadly supportive of the introduction of the Requirements and the proposed approach. They contained a number of suggestions, raised some additional issues and sought clarification in a number of areas. The views expressed have been carefully considered and have been useful in refining the final document, which incorporates a number of amendments and clarifications.

The Requirements are designed to establish minimum standards for financial services providers from which consumers seek advice on, or seek to purchase, retail financial products. The Requirements will apply to individuals who provide advice on or sell retail financial products or who undertake certain specified activities. Specified activities include claims administration, reinsurance intermediation, management of accredited individuals and adjudicating on complaints. These individuals, provided they comply with the ongoing Requirements, will be known as 'accredited individuals' or 'specified accredited individuals'.

The Requirements set out specific knowledge requirements for specific categories of retail financial product and we have also set out a number of qualifications which currently meet those knowledge requirements. In addition, individuals will be required to undertake a programme of Continuing Professional Development [CPD] on an ongoing basis.

We recognise that many individuals will already have considerable experience in dealing with the relevant retail financial products or specified activities. Such individuals will not be obliged to obtain a qualification but will be 'grandfathered' by virtue of their experience. However, they will be required to comply with the ongoing CPD requirements.

Where individuals do not have sufficient experience to be grandfathered and do not hold a recognised qualification, the Requirements allow them four years to obtain a recognised qualification.

Individuals who are new to the industry will also be allowed four years to obtain a recognised qualification but must, prior to dealing with retail consumers, have undergone a training programme or have obtained part of a recognised qualification. They must also be supervised by an 'accredited individual' until they obtain 'accredited individual' status.

We expect firms to interpret the Requirements in a reasonable manner and to use their own judgement in marginal cases or exceptional circumstances. Consequently, we do not intend to comment on specific situations as outlined in some submissions. We have, however, decided to provide additional clarification in a number of areas where concerns or uncertainty were evident in the submissions. These areas are addressed in this document under the following headings:

1. Grandfathering
2. Qualifications

3. Foreign qualifications
4. Time allowed to obtain qualifications
5. Continuing Professional Development [CPD]
6. Supervision
7. Definition of advice
8. Categories and activities
9. Referring
10. Register
11. Credit unions
12. Regulatory Impact Analysis

We would stress again that firms must take responsibility for ensuring that they interpret the Requirements in a reasonable and practical manner. The Requirements are intended to introduce minimum standards across the industry, with particular emphasis on areas dealing with consumers.

The framework established by the Requirements can evolve and develop in order to accommodate future market developments and address any material problems in its existing structure. However, while we will keep the requirements under review and will take account of applications for the recognition of additional qualifications, we would hope to avoid any material changes to the competencies or categories over the next three years.

## Grandfathering

In certain circumstances, individuals who have experience in dealing with the relevant retail financial products or specified activities will not be obliged to obtain a qualification but will be 'grandfathered' by virtue of their experience.

The majority of submissions agreed that four years experience would be appropriate for grandfathering purposes. Various other suggestions were received, including periods varying between 2 and 10 years. It was also suggested that grandfathering should not be permitted.

We agree that four years experience is appropriate for grandfathering purposes. However, a number of submissions expressed concerns in relation to situations such as special leave, maternity leave, career breaks, extended sick leave, part-time working, etc. In order to allow flexibility in such situations, we have amended the experience requirement to four out of the last eight years, i.e., four years in the period 1 January 1999 to 1 January 2007.

It was suggested that a shorter period of experience would be more appropriate for certain categories.

We believe that it would be confusing to have different periods applying to different financial products and so, in the interests of clarity and consistency, we are retaining the requirement that the same period applies to all categories of retail financial product.

Does cumulative experience in any activity count towards eligibility for grandfathering, e.g., experience in both claims and sales which together meet/exceed the minimum time period for grandfathering but where the time engaged in each activity individually is less than the minimum period?

Individuals may avail of the grandfathering arrangements for a specific activity if they meet the criteria specified. They must have carried out the activity for which they wish to be grandfathered for four out of the last eight years. This time period relates to each separate activity and is not cumulative. In the above example, the individual does not meet the requirement for either claims or sales and therefore cannot avail of the grandfathering arrangements for either of these activities.

It was suggested that the Financial Regulator should take account of any violations committed by a firm or complaints against it when determining who should be grandfathered.

There are no provisions in the Requirements on this issue. However, in the course of inspections the Financial Regulator will take into account complaints or other concerns relating to the firm and where relevant to the issue of the Requirements.

Within the parameters set out in the Requirements, each regulated firm will determine who should be grandfathered based on the individual's experience. Each firm should document the criteria for assessing individuals availing of the grandfathering arrangements.

Where a grandfathered individual moves to another financial institution, that financial institution should be able to rely on the fact that the individual's previous employer has appropriately grandfathered the individual.

We expect that employers will implement the Requirements in a practical and efficient manner. Firms must be satisfied that employees have appropriate competence and training. The Financial Regulator believes that the firm itself is primarily responsible for the quality of advice given by all of its employees.

It was suggested that the Financial Regulator should devise a template for reference requests for grandfathered employees moving to another entity.

As with any other potential employee, each firm must satisfy itself in relation to the references sought from previous employers.

## Qualifications

It was suggested that a lower qualification should apply to call centres and those providing a limited range of products.

We agree that those who provide services that are similar to services available on-line and do not include the provision of advice do not require the same level of expertise as those providing more comprehensive services. We have decided that individuals who process quotation requests within a narrow and rigid set of acceptance criteria and according to a prescribed script and routine will be subject to separate requirements, i.e.,

- the acceptance criteria, script and routine must have been devised by an accredited individual,
- the individuals must have received an appropriate level of training,
- their training must be kept up to date on an ongoing basis,

- they must be supervised by an accredited individual,
- they must not provide any advice to consumers, and
- their activity must be monitored to ensure there is no breach of the applicable requirements.

Courses developed in conjunction with the Institute of Bankers should be recognised.

Entities that have developed courses in conjunction with the Institute of Bankers or any other educational body should contact the providers of the recognised qualifications to determine whether these courses would lead to exemptions from part[s] or all of the recognised qualifications.

Clarification was sought that staff qualified to sell general insurance associated with Housing Loans or Consumer Credit would also be qualified to sell other general insurance.

General insurance covers a wide range of products, many of which are complex in nature and are not covered by the qualifications that are recognised for Housing Loans or Consumer Credit. Those qualifications would not qualify individuals to sell other general insurance. However, a Bridge Examination in General Insurance Policies has now been developed which will qualify those who hold the QFA diploma to sell other general insurance.

The Requirements will need to cater for the smaller insurance broker authorised to transact life, non-life and mortgage business. They will need qualifications in each area.

We believe that this issue has now been addressed by the development of the Bridge Examination in General Insurance Policies, which will qualify those who hold the QFA diploma to sell general insurance. The QFA diploma is a recognised qualification for life and mortgage business.

The matter of upgrading of competency into other product areas should be addressed.

Individuals who wish to engage in activities for which they do not hold a recognised qualification or have not been grandfathered must comply with the Requirements set out for new entrants in respect of that activity, i.e., they must complete an initial training course or part of a recognised qualification, they must be working towards a recognised qualification, they must be supervised by an individual who is an accredited individual for that activity and must obtain a recognised qualification within four years.

Individuals who hold the QFA diploma may now avail of a Bridge Examination in General Insurance Policies to enable them to provide services in relation to general insurance. Similarly, individuals who hold the CIP diploma may avail of a Bridge Examination in Life Assurance Protection Policies to enable them to provide services in relation to life assurance protection policies.

A number of submissions expressed concerns in relation to the industry educational institutes providing the recognised qualifications and expressed the view that independent bodies should be put in place, in particular to consider the recognition of foreign qualifications and appeals in the event that an exemption is refused.

The Financial Regulator will oversee the implementation of the Requirements. We believe that the educational institutes have provided a consistently high level of training in the qualifications listed. We are happy with the course content, training and rigour of the examination process.

We would expect that the educational bodies would treat fairly any application for exemption from all or part of their examinations and would apply any exemption decisions consistently. In this regard, the QFA Board has published a schedule of exemptions from its examinations, which covers various qualifications available in Ireland and UK financial planning qualifications. The QFA Board, the Institute of Bankers in Ireland, LIA and the Insurance Institute of Ireland have committed to have available publicly published schedules of exemptions from recognised qualifications, which will be kept up to date as new applications are determined. Where the formal appeals process within existing structures has been exhausted, it would always be open to individuals to raise concerns with the Financial Regulator. Based on this we can review the Requirements on an ongoing basis.

It was suggested that the Financial Regulator should engage with the National Qualifications Authority of Ireland. We are aware that the qualifications provided by professional institutes are not yet part of the National Qualifications Framework. However, each module of the qualifications listed in Appendix 2 provided by the Institute of Bankers in Ireland, LIA and the Insurance Institute of Ireland is also a module in UCD's Bachelor of Financial Services (Honours) degree programme. Each such module is worth 5 ECTS credits towards stage 1 of this qualification which, as an honours degree from an Irish university, is recognised at level 8 of the National Qualifications Framework. In addition, the Institute of Bankers in Ireland has recently established a new School of Professional Finance, which UCD has designated as the first external school to be recognised by it.

It was suggested that actuarial qualifications should be recognised.

Such qualifications provide essential expertise for particular aspects of the financial services industry. However, they do not focus on the sales and advisory process and we do not believe that they would meet all of the specific competencies set out for the categories of retail financial product. Similarly, we do not believe these qualifications would provide the full range of expertise in relation to the specified activities.

There should be flexibility with regard to accepting qualifications tailored to non-retail areas such as asset management.

The Requirements will only apply to retail financial products. It is intended to review the Requirements when they have been in operation for a period of time to ensure that the recognised qualifications, categories of products and specified activities remain appropriate.

There should be agreement at industry level on the levels of support to be provided to employees working towards obtaining a recognised qualification.

This is a matter for individual firms. Industry representative bodies may wish to discuss this issue and agree a voluntary code in this area.

## Foreign qualifications

Qualifications recognised in other jurisdictions should be recognised. Continuing Professional Development [CPD] or specific training or examination modules could satisfy requirements in relation to Irish taxation and legislation.

The Requirements apply to sales of retail financial products to consumers based in Ireland, rather than, for example, international business carried on in the International Financial Services Centre. We do not see the Requirements as a significant barrier but will keep the situation under review. Holders of qualifications obtained in other jurisdictions should seek exemptions from the recognised qualifications from the relevant educational bodies.

The approach to other EU qualifications will need to take account of the Directive on Mutual Recognition of Professional Qualifications.

It is our intention to work with the Department of Education and Science and educational bodies to ensure that we are compliant with any relevant terms of the Directive.

### **Time allowed to obtain qualifications**

The position of staff who do not complete the qualification within the relevant timeframe should be made clear.

The timeframe for obtaining qualifications has been clearly set out and we would expect firms to make clear that qualifications should be obtained within that time. We believe that in normal circumstances the time set out is more than sufficient. However, circumstances may arise, e.g., through accident or illness, where the timeframe may not be appropriate and we would expect firms to exercise discretion in such cases.

It was suggested that 2 years would be a more appropriate timeframe to obtain qualifications.

The majority of the submissions agreed that four years would be the appropriate time to obtain qualifications. The submissions advocating a shorter period expressed concerns relating to poor practice and poor service to consumers, and considered that a shorter period would encourage professionalism and be a better safeguard for the public. However, many submissions highlighted the need for flexibility to allow for breaks in service. We believe that firms will encourage employees to obtain the relevant qualifications as quickly as possible and, in addition, individuals will be supervised by an accredited individual while training. Therefore, we have retained the four-year period in which to obtain a qualification in order to allow flexibility for situations such as special leave, maternity leave, career breaks, extended sick leave, part-time working, etc.

### **Continuing Professional Development [CPD]**

Confirmation was sought that in-house training qualifies for CPD.

In-house training may qualify for CPD if it has been accredited by one of the professional educational bodies. Where CPD is not attached to a recognised qualification, it must be directly relevant to the activity for which the individual is accredited, as set out in the Requirements.

Clarification was sought in relation to who is responsible for ensuring an individual completes CPD and the implications where an individual has not maintained CPD records.

Each individual is primarily responsible for his/her compliance with the CPD requirements. In addition, a regulated firm must ensure that employees who are engaged in any of the activities covered by the Requirements are in compliance with those Requirements. Individuals will be subject to spot checks by the educational body that provided their qualification or by the Financial Regulator and where appropriate records of CPD have not been maintained there may be implications for the retention of their qualification or their grandfathered status.

Clarification was sought in relation to whether firms are obliged to provide training, financial assistance and time off to meet CPD.

We believe that it is in the interests of firms to facilitate their staff in this regard. However, no requirements have been specified in relation to training, financial assistance and time off to meet CPD. It is therefore a matter for firms to decide for themselves the extent to which they wish to provide assistance to employees to meet their CPD requirements.

Clarification was sought in relation to the CPD requirements where individuals are providing advice on two or more categories of retail financial product.

If individuals providing advice on two or more categories of retail financial product hold more than one recognised qualification and wish to retain those qualifications they must comply with the CPD requirements for each qualification. However, the same CPD hours may qualify for two or more courses subject to the individual agreement of the relevant provider of the recognised qualification.

It was suggested that a central register be maintained either by the Financial Regulator or through a joint initiative of the examining bodies to monitor compliance with CPD of grandfathered individuals.

We believe that the structures in place are adequate and that the cost and resources required to maintain a central register are not justified at this time. The relevant educational body will conduct spot checks on CPD compliance. Also the Financial Regulator reserves the right to check any individual's compliance with the CPD requirements during the course of an inspection of a regulated firm. We note that the QFA Board intend to create a register of individuals who have achieved and retained [through completion of the relevant CPD requirements] their QFA qualification.

## Supervision

What level of supervision is needed for new entrants?

Firms must be satisfied that the level of supervision of new entrants is appropriate and in keeping with the spirit of the Requirements. The level of supervision that would be appropriate must be considered by each firm taking account of the specific circumstances of the new entrant, e.g., the ability of the new entrant, the extent of his/her previous experience, any qualifications held, etc. It may also vary over the course of the four-year period during which time the new entrant will study to obtain a recognised qualification and will gain experience and knowledge.

Clarification was sought in relation to the ratio of supervisors to trainees.

The Requirements set out are principles based and consequently do not contain specific requirements in this area. The firm is responsible for the advice provided to its clients and must be satisfied that the structure of the firm is adequate to ensure that appropriate advice is provided.

Confirmation was sought that the work done by an individual during the four-year transitional period will not have to be subsequently reviewed should that individual fail to qualify, or move to another role within the firm.

On an ongoing basis, firms are responsible for the quality of advice provided. Regardless of the educational status of individual employees, firms should have structures in place to ensure that appropriate advice is provided.

It was suggested that firms should be required to formally consider whether it is appropriate for an individual who does not qualify under the grandfathering arrangements to be supervised and trained whilst they are obtaining the necessary qualifications.

The Requirements set out are principles based and therefore do not contain specific requirements for every circumstance. Firms are responsible for the advice and service provided to clients and must consider the structures and arrangements in place for the supervision and training of staff in that context.

Where a firm is required to monitor compliance of persons for whom they take full and unconditional responsibility, the firm should be able to rely on an annual certificate of compliance from that person.

Firms are responsible for the advice provided by persons for whom they take full and unconditional responsibility. They should regard such persons as employees of the firm for the purposes of the Requirements and should satisfy themselves that the procedures they put in place to monitor compliance with the Requirements are adequate.

## Definition of advice

There is no consistency between the definition of advice for minimum competency purposes and that in other regulatory or legislative texts, e.g., the Consumer Protection Code, the Investment Intermediaries Act, 1995, the Consumer Credit Directive, and the Markets in Financial Instruments Directive.

The Requirements cover a wide range of areas covered by a wide range of definitions. In drafting the definition of advice for minimum competency purposes, we tried to be clear and comprehensive and to be consistent with the general understanding of what constitutes advice. We sought views in the Limited Consultation Paper on this issue. A number of suggestions were received and some amendments have been made to the definition as a result. In the context of the Consumer Protection Code, workshops will be held with industry representative bodies to obtain a shared understanding of what constitutes advice.

Clarification was sought in relation to advertising as advertising leads people to use specific products or providers.

A range of requirements already apply to advertising, such as those contained in the Consumer Protection Code. We believe that these are sufficient and for this reason advertising is not included in the definition of advice.

To be advice must a communication cause a consumer to act on it?

It is not necessary that a consumer act on advice provided.

## Categories and activities

Clarification was sought in relation to the sale of insurance associated with credit cards.

The sale of insurance associated with credit cards is not exempt. The relevant qualifications are those recognised for the Consumer Credit and Associated Insurances category or the General Insurance Policies category.

It may not be the most appropriate to list the subject matter requirements for 'savings, investment and pension products' together, due to the fact that many businesses are specialised.

In considering the categories of financial product, we took a pragmatic approach and listed products together that have reasonably similar knowledge requirements.

Clarification was sought as to how the Requirements will sit with the suitability requirements of the proposed Consumer Protection Code.

The Consumer Protection Code contains specific suitability and know-your-client provisions which firms must comply with. Knowledge of 'Legislation, Regulation and Compliance' is specifically included in the competencies set out in the Requirements. This will require accredited individuals to know the relevant provisions of the Code including those related to suitability.

Is it intended that elements of specified activities contracted out to third party administrators should be subject to the Requirements (particularly in the area of claims investigation and administration)?

Third party administrators who are involved in the professional management of claims for an insurance or re-insurance undertaking are not subject to the Requirements in respect of these activities.

Concerns were raised in relation to the applicability of the Requirements to credit intermediaries.

Credit intermediaries are not authorised or supervised for their credit intermediary activity by the Financial Regulator and are not therefore subject to the Requirements. However, where they provide other financial services which are subject to authorisation or supervision by the Financial Regulator they will be subject to the Requirements.

## Referring

Clarification was sought that where a referral is made to a provider in another jurisdiction the referrer can rely without further inquiry on the fact that that regulated entity is complying with whatever competency regime applies in that jurisdiction.

Where a referral is made to another entity, firms should act in the best interests of clients and should satisfy themselves that that entity is appropriately authorised to carry on the activity for which the referral is made.

It was suggested that referrals to other staff members in the same organisation and to another business unit within the Group should be excluded from the Requirements.

Referrals to another business unit which is another company within the Group will fall within the scope of the Requirements and will be subject to the requirements set out for referring/introducing. Referrals to other staff members in the same organisation are an internal matter for the organisation.

## Register

Will the Financial Regulator hold a central register? It would be helpful if it were possible to establish which activity individuals are authorised to undertake as well as the qualifications they hold.

Each regulated entity must maintain a register of all accredited individuals and specified accredited individuals, whether accredited by obtaining a recognised qualification or by availing of the grandfathering arrangements and this register must be available to the public. We believe that the structures in place are adequate and that the administration and cost of maintaining a central register are not justified at this time. In addition, we note that the QFA Board intend to create a register of individuals who have achieved and retained [through completion of the relevant CPD requirements] their QFA qualification.

## Credit unions

Clarification was sought in relation to the precise scope of the exemption on core activities of credit unions.

Credit unions will be subject to the Requirements when providing services for which they require to be authorised by, or registered with, the Financial Regulator under relevant legislation other than the Credit Union Act, 1997 (e.g., the European Communities (Insurance Mediation) Regulations, 2005). So, for example, the core lending activities of credit unions and operation by them of credit union share and deposit accounts are not subject to the Requirements.

The exemption of credit union volunteers should be considered.

The Requirements do not apply to the core activities of credit unions [see above]. We have undertaken to consult with the credit union movement to develop an appropriate competency regime. The position of volunteers will be considered further in that context.

In the interests of consumer protection, credit unions and moneylenders should be included in the framework.

In accordance with our differentiated approach to the regulation of credit unions, we propose to exempt core activities, i.e., the normal lending activities by credit unions and the operation of share and deposit accounts, from the Requirements. We have indicated to the credit union representative bodies that we would intend to consult with the movement to develop an appropriate regime. However, given the legal requirement imposed by the IMD, credit unions which are authorised as insurance intermediaries will be subject to the requirements in relation to this specific activity.

We have excluded moneylenders because of the detailed requirements of the Consumer Credit Act, 1995 and the very narrow range of service provided. The Financial Regulator conducts on-site inspections of moneylenders to monitor compliance with that Act.

## Regulatory Impact Analysis

A Regulatory Impact Analysis [RIA] should be carried out.

There were a small number of calls for an RIA to be carried out. In subsequent bi-lateral discussions we outlined the reasons why we believe an RIA is not necessary. In one case the request was formally withdrawn. We believe that an RIA is not necessary because the Requirements have been developed following two consultations and extensive bi-lateral discussions with industry representative bodies and industry educational institutes. They build on structures already developed by the industry and we believe they enjoy the broad support of the industry. The introduction of the Requirements is effectively codifying current good practice in the industry. For example, about 6,000 people working in financial services already hold the QFA diploma while about 4,000 people hold a recognised mortgage qualification. The minimum standards set out in the Requirements should ensure that all firms reach an acceptable minimum level of training and competence.



FINANCIAL REGULATOR  
*Rialtóir Airgeadais*

PO Box No 9138  
COLLEGE GREEN,  
DUBLIN 2, IRELAND

T +353 1 410 4000  
Consumer help-line  
lo call 1890 77 77 77  
Register of Financial Service Providers help-line  
lo call 1890 20 04 69  
F +353 1 410 4900  
[www.financialregulator.ie](http://www.financialregulator.ie)  
[www.itsyourmoney.ie](http://www.itsyourmoney.ie)  
Information Centre: 6-8 College Green, Dublin 2