



FINANCIAL REGULATOR
Rialtóir Airgeadais

Addendum to Minimum Competency Requirements

May 2008

Minimum Competency Requirements

Addendum for Retail Credit Firms and Home Reversion Firms

Introduction

The Central Bank Act 1997, as amended by the Markets in Financial Instruments and Miscellaneous Provisions Act 2007, provides that retail credit firms and home reversion firms must be authorised and subject to ongoing supervision by the Financial Regulator.

With effect from 1 February 2008, retail credit firms and home reversion firms must apply for authorisation to the Financial Regulator and the Minimum Competency Requirements [the Requirements] will apply on authorisation. The Financial Regulator reserves the right to apply the Requirements at any time during the course of the authorisation process, if appropriate.

Where a regulated entity provides credit to relevant persons (as defined) and a separate authorisation for that activity is not required, the regulated entity will be subject to the Requirements in respect of that activity from 1 June 2008.

For the purposes of applying the Requirements to retail credit firms and home reversion firms, the following amendments are now made:

- ▶ the 'Retail financial products' section is amended to include home reversion agreements;
- ▶ the relevant dates contained in the 'Grandfathering arrangements', 'Transitional arrangements' and 'New entrants' sections are amended for retail credit firms and home reversion firms; and
- ▶ the knowledge requirements set out in Appendix 1 are amended to include home reversion agreements and retail credit firms.

Retail financial products

The 'Retail financial products' section is now amended as follows:

Retail financial products

5. Housing Loans, Home Reversion Agreements¹ and Associated Insurances

including the following associated insurances:

- ▶ Mortgage Protection
- ▶ Permanent Health Insurance
- ▶ Payment Protection Insurance
- ▶ Home and Contents Insurance
- ▶ Endowment Assurances and Pension Plans in relation to their use in repaying housing loans
- ▶ Mortgage Indemnity Guarantee Insurance
- ▶ Homebond Insurance

Grandfathering arrangements, transitional arrangements and new entrants

The Requirements recognised that many individuals would have had considerable experience in dealing with the retail financial products or *specified activities* set out in the Requirements. Such individuals are not required to obtain a recognised qualification but could be 'grandfathered' by virtue of their experience. Transitional arrangements were included for those who did not meet the experience requirement for grandfathering. In addition, a timeframe was set out for those who needed to obtain a recognised qualification.

Similar provisions are available for retail credit firms and home reversion firms. The relevant dates that apply to these provisions are amended for retail credit firms and home reversion firms. These dates only apply to that part of a firm's business that falls to be regulated from 1 February 2008. Firms already engaged in activities covered by the Requirements prior to this date must continue to comply with the provisions set out in the original Requirements.

¹ As defined in Part V of the Central Bank Act 1997

Grandfathering arrangements and transitional arrangements for retail credit firms and home reversion firms

The specified Requirements will apply to relevant individuals from 1 June 2008.

Grandfathering arrangements

Individuals who would otherwise be *accredited individuals* on 1 June 2008, but who do not at that date hold a recognised qualification in respect of the specified categories of retail financial products for which they are acting as an *accredited individual* on that date, may continue to act as an *accredited individual* in respect of those activities PROVIDED they have carried on the same activity for a period of at least four years in the eight-year period 1 June 2000 to 1 June 2008.

When considering the 4-year experience requirement, firms may take account of relevant experience in another EU or EEA Member State. A period of up to a maximum of 2 years in the eight-year period 1 June 2000 to 1 June 2008 may be taken into account.

Certification of compliance with the experience requirement will be the responsibility of the *regulated firm*. Before 1 June 2009, the *regulated firm* must certify and retain on file the compliance of individuals who act as, for or on behalf of the firm, including employees, principals and those tied agents or others where the firm takes full and unconditional responsibility for their activities. The criteria for assessment of individuals for grandfathering purposes must be documented by the firm.

Individuals who avail of the grandfathering arrangements will be required to comply on an ongoing basis with the Continuing Professional Development requirements set out below, commencing from 1 June 2009.

The grandfathering arrangements outlined above will also apply to *specified accredited individuals* in respect of *specified activities*.

Grandfathered individuals may only act as an *accredited individual* or a *specified accredited individual* in respect of the activity or activities for which they have the relevant experience to avail of the grandfathering arrangements.

Transitional arrangements

Individuals who would otherwise be *accredited individuals* on 1 June 2008, but who do not at that date hold a recognised qualification in respect of the specified categories of retail financial products for which they are acting as *accredited individuals* and who cannot benefit from the grandfathering arrangements set out above, must obtain a recognised relevant qualification in respect of each category of *retail financial product* for which they are acting as an *accredited individual* by 1 June 2012.

Prior to 1 June 2012 such individuals may continue to act as an *accredited individual* for those activities they are carrying out on 1 June 2008 but must be working towards obtaining a relevant recognised qualification. If individuals wish to act as an *accredited individual* in respect of any other activities they must first comply with the relevant Requirements for that activity and, in respect of that activity, must comply with the requirements outlined below for new entrants.

The transitional arrangements outlined above will also apply to *specified accredited individuals* in respect of *specified activities*.

New entrants

Individuals who wish to act, **for the first time**, as an *accredited individual* after 1 June 2008, but who do not possess at that time the relevant qualification appropriate to the particular activity, may commence to act as an *accredited individual* in relation to an activity provided:

- ▶ they have already undergone a relevant training programme organised by that *regulated firm* or they have obtained part of a relevant recognised qualification for that particular activity, and
- ▶ they are working towards obtaining a recognised qualification; and
- ▶ they act under the immediate direction and supervision of another nominated *accredited individual* who possesses at that time the relevant qualification appropriate to the particular activity or who has been grandfathered in respect of the particular activity, and
- ▶ the maximum period for which they can act as an *accredited individual* for or on behalf of all *regulated firms* in respect of that activity without obtaining a relevant qualification is 4 years in total. Compliance with this maximum 4-year period will be the responsibility of the *regulated firm* for which or on whose behalf the individual acts at that time.

The requirements outlined above for new entrants will also apply to *specified accredited individuals* in respect of *specified activities*.

Appendix 1 - Minimum Competency Requirements for Retail Financial Products

Retail Financial Product: Housing Loans, Home Reversion Agreements and Associated Insurances

SUBJECT MATTER	KNOWLEDGE
<p>2. Housing loans and home reversion agreements</p>	<ul style="list-style-type: none"> ✓ To know the main features of the generic types of housing loans, including in particular the capital and interest, endowment, pension and interest only mortgages. ✓ To know what a home reversion agreement is, its main features, and how a home reversion agreement differs from a housing loan. ✓ To know the main forms of security typically required by a mortgage lender in relation to providing housing loans to consumers. ✓ To know the main benefits and risks for the consumer associated with endowment, pension and interest only mortgages. ✓ To know the main benefits and risks for the consumer associated with home reversion agreements. ✓ To know the different interest options offered by generic types of housing loans, including in particular variable rate, fixed rate and tracker variable rate. ✓ To know how housing loans can be used for 'debt consolidation', and to know and understand the benefits, limitations and risks for the consumer in consolidating other debts and loans into a housing loan. ✓ To know the different ways housing loans and home reversion agreements can be used for 'equity release', and to know and understand the benefits, limitations and risks for the consumer in obtaining capital in this manner.
<p>8. Regulation</p>	<ul style="list-style-type: none"> ✓ To know the structure of the Financial Regulator and its main functions, including its enforcement powers. ✓ To know the main regulatory requirements which directly apply to the activity of advising a consumer on and the arrangement of a housing loan or home reversion agreement: <ul style="list-style-type: none"> ● the authorisation requirements of mortgage intermediaries, under Part IX Consumer Credit Act 1995 ● the different obligations and restrictions imposed on mortgage intermediaries, mortgage lenders, and mortgage agents by the Consumer Credit Act, 1995 in relation to housing loans and associated insurance requirements ● the European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004 ● the provisions of relevant Codes of Conduct, issued by the Financial Regulator ● obligations on mortgage lenders as designated bodies under the Criminal Justice Act, 1994 ● the details of the Financial Services Ombudsman scheme ● the provisions of the Data Protection Act, 1988 related to the maintenance, disclosure and use of personal data.

Appendix 1 - Minimum Competency Requirements for Retail Financial Products

Retail Financial Product: Consumer Credit and Associated Insurances

SUBJECT MATTER	KNOWLEDGE
<p>7. Regulation</p>	<ul style="list-style-type: none"> ✓ To know the functions of the National Consumer Agency in relation to the regulation of credit intermediaries and the provision of consumer credit. ✓ To know the main regulatory requirements which directly apply to arranging credit for a consumer: <ul style="list-style-type: none"> ● the authorisation requirements of credit intermediaries, under Part XI Consumer Credit Act, 1995 ● the role of the Financial Regulator in relation to the imposition of charges in consumer credit agreements ● the different obligations and restrictions imposed on credit intermediaries and credit institutions by the Consumer Credit Act, 1995 in relation to the provision and advertisement and arranging of consumer credit ● the European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004 ● the provisions of relevant Codes of Conduct, issued by the Financial Regulator applying to regulated financial services providers and retail credit firms ● obligations on credit institutions as designated bodies under the Criminal Justice Act, 1994 ● the details of the Financial Services Ombudsman scheme ● the provisions of the Data Protection Act, 1988 related to the maintenance, disclosure and use of personal data.



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