



Bane Ceannais na hEireann
Central Bank of Ireland

Eurosystem

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Re: Minimum Competency Code 2011, Consumer Protection Code 2012 and Fitness and Probity Standards

Dear Director/Partner/Principal

The Minimum Competency Code 2011 has been effective since 1 December 2011 and the Consumer Protection Code 2012 since 1 January 2012. Since then a number of recurring issues have arisen and the Central Bank feels that it would be helpful to bring these issues to the attention of the Retail Intermediary Sector in order to assist it in implementing the relevant provisions. We hope that this information will be of assistance to you in developing and ensuring your own firm's compliance.

Fitness and Probity Standards

You are reminded of your responsibilities in relation to the recruitment and continuing employment of persons in your firm – both staff and tied agents.

Prior to the employment of an individual, the Central Bank expects a firm to ensure that it carries out sufficient background checks on the character and previous relevant history of the potential employee to enable it to make a sound judgement of an individual's fitness and probity. We expect that firms do seek relevant references from an individual's past employer(s) to allow them to form a reasonable opinion as to that person's fitness and probity for the proposed role. All documentation in support of this process should be maintained by the firm.

Pre-Approval Controlled Functions (PCFs) and Controlled Functions (CFs)

Retail intermediaries are reminded that they are required to satisfy themselves on reasonable grounds that all persons performing a CF meet the [Standards](#) of fitness and probity. The due diligence undertaken by the intermediary must be kept on record and made available to the Central Bank on request. The same is true for all persons performing a PCF, however the pre-approval of the Central Bank is also required before that person can perform said function.

The Central Bank expects a person to have the qualifications, experience, competence and capacity appropriate to the relevant function to prove their fitness. Examples of the due diligence that the Central Bank would expect a retail intermediary to undertake regarding a person's fitness are contained within section 15 of the Guidance on Fitness and Probity Standards.



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With regard to a person's probity, the person must be in a position to demonstrate that his or her ability to perform the CF or PCF is not adversely affected to a material degree by any matter contained within sections 4.1 and 5.2 of the Standards. Examples of the due diligence that the Central Bank expects a retail intermediary to undertake are contained within section 17 of the Guidance.

Minimum Competency Code 2011 (MCC)

Firms are required to ensure that the proposed employee meets the relevant provisions of the MCC, if applicable, and that records are retained as required under the MCC. In particular, firms are required to ensure that records are retained that provide confirmation regarding an individual's grandfathered status together with relevant records of an individual's Continued Professional Development compliance. Where issues are discovered, we expect the firm to document the issue and the decision taken in relation to that individual's proposed employment.

Firms must also ensure that the required records are retained in relation to the grandfathered status and CPD compliance of all their relevant existing employees. Firms should review their records to ensure that they are up-to-date and rectify any areas of non-compliance without further delay. I would like to take this opportunity to remind you that, by 1 January 2013, a Statement of Grandfathered Status, in the format set out in the MCC, must be completed in respect of all grandfathered persons acting on behalf of the firm.

Consumer Protection Code 2012 (CPC)

Retail intermediaries are also reminded of the revised provisions of the CPC in relation to "Personal Visits and Contact with Consumers". In this regard, I would recommend that you familiarise yourselves with the relevant revised provisions as set out in the CPC and ensure that all persons acting on behalf of your firm comply with these and other relevant provision of the CPC.

The Fitness and Probity Standards, MCC and CPC are issued under the relevant legislation as set out in these and other related documents. Retail Intermediaries should note that the Central Bank will have regard to the guidance set out in this Letter, or any other guidance issued by the Central Bank in relation to the application of the relevant Standards and Codes in assessing your firm's compliance with the provisions of these Standards and Codes. Failure to comply with these requirements may result in the firm and/or a person concerned in its management being exposed to financial penalties and other sanctions under Part IIIC of the Central Bank Act 1942.

Yours sincerely

Helena Mitchell
Deputy Head of Insurance, Investment and Intermediaries Division
Consumer Protection Directorate