



FINANCIAL REGULATOR  
*Rialtóir Airgeadais*

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November 2009

**Re: Themed Inspection – Minimum Competency Requirements**

Dear «Greeting»

In the Financial Regulator's strategic plan of 2008-2010, we set out that we would "*Undertake a review of Minimum Competency Requirements*". In order to inform our review, earlier this year we carried out a themed inspection of Credit Institutions to examine compliance with the Minimum Competency Requirements ('Requirements'), with a particular focus on the grandfathering arrangements and register maintenance provisions of the Requirements.

With the exception of two institutions, the findings from the themed inspection were unsatisfactory. Many compliance issues with the Requirements were identified during the inspections, and are being pursued with the individual institutions concerned.

The purpose of this letter is to provide some general feedback in relation to the findings from this themed inspection. We would request that you consider the issues raised in the context of your own institution and review the way in which you implemented the Requirements, in order to assess whether the issues raised are also of relevance to your institution and to ensure that your institution is in full compliance with the Requirements.

We would like to highlight the following issues identified:

**Grandfathering Arrangements**

The Requirements state that responsibility for certification with the experience requirement of the grandfathering arrangements rests with the regulated entity. Institutions were required to assess each individual for grandfathering

purposes before 1 January 2008, to keep a record of this assessment on file and to document the criteria used to assess each individual. In order for an individual to qualify for grandfathering in respect of any activity, they were required to have carried on that same activity for a minimum of 4 years during the 8 year period 1 January 1999 to 1 January 2007.

Some institutions were unable to demonstrate compliance with the specific requirements referred to above for a number of reasons. A number of institutions relied on a process of self-assessment and allowed individuals to certify themselves as being eligible to be grandfathered. The self-assessments were not subject to scrutiny in a number of institutions and therefore evidence of compliance with the experience requirement was certified by the individual themselves, and not the institution. *The responsibility to certify compliance with the Requirements rests with the institution and not the grandfathered individual. Institutions should ensure that the criteria for assessment of grandfathered individuals is clearly documented. Each institution's procedures should have ensured that the individuals were deemed eligible to be grandfathered by the institution, and not the individual themselves.*

In some cases, the record of the assessment carried out did not contain sufficient details of the individual's relevant experience to show that the individual was eligible to be grandfathered. For example, sale of overdrafts and credit cards was used as relevant experience in the area of Consumer Credit and Associated Insurances, when these retail financial products are specifically excluded from the scope of the Requirements. *Institutions should ensure that individuals were only deemed to be grandfathered where they have fully satisfied the experience requirement.*

### **Continuing Professional Development ('CPD')**

The Requirements state that grandfathered individuals are required to comply with the CPD requirements and must complete a total of 60 hours of CPD over a 3 year period, completing a minimum of 15 hours CPD in each of the 3 years. The content of the CPD hours must be directly relevant to the activities undertaken by the grandfathered individual.

Some institutions relied solely on reports from educational bodies providing CPD programmes to confirm compliance of individuals with the CPD requirements. *The responsibility to ensure compliance with the Requirements rests with the institution at all times, regardless of whether aspects of the CPD process are recorded by an educational body or not. Each institution must ensure that it can determine if each grandfathered individual has firstly completed the required number of hours of CPD, and secondly that each hour*

*is relevant to the activities undertaken by the grandfathered individual. This point is not only relevant to grandfathered individuals, but all those individuals required to undertake CPD.*

## **Register**

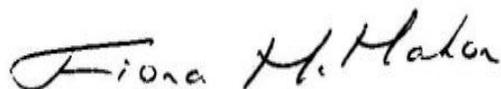
The Requirements state that each institution is required to maintain a register of all accredited individuals and specified accredited individuals, including grandfathered individuals and those who have obtained recognised qualifications. The register must be available to the public on request.

*In most institutions inspected, the register was not available to the public at local level, i.e. in each branch. While no specific requirements have been set out in relation to the details to be included in the register, the purpose of the register is to inform the consumer that the individual providing any of the services set out in the Requirements possesses an appropriate level of knowledge and expertise. Therefore, for example, an individual seeking advice in relation to an investment product should be able to see on the register that the individual providing the advice holds a recognised qualification or is grandfathered for that category of product. The register must include the accredited individuals and specified accredited individuals currently providing services for the firm. At any point in time in relation to any time period since 1 January 2007, consumers may wish to check whether an individual was included on the register and the register should be capable of providing such information.*

The findings from this theme will feed into the Review of the Minimum Competency Requirements.

Should you have any queries in relation to any of the above, please contact Ms Mary McEvoy on (01) 224 4512 or Ms Lara Lenehan on (01) 224 4513.

Yours sincerely



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**Fiona McMahan**  
**Deputy Head**  
**Consumer Protection Codes**