



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

November
2016

Review of the Minimum Competency Code 2011 Consultation Paper CP106



1. Introduction

The Central Bank of Ireland (Central Bank) first introduced Minimum Competency Requirements on 1 January 2007, which established minimum professional standards for staff of financial service providers with particular emphasis on staff dealing with consumers in relation to retail financial products. Following a review by the Central Bank during 2011 (undertaken in light of experience, market developments and new powers granted to the Central Bank under Part 3 of the Central Bank Reform Act 2010 to impose obligations on individuals), the Minimum Competency Requirements were replaced by the Minimum Competency Code 2011 (MCC), which came into effect on 1 December 2011.

The MCC applies to persons exercising a controlled function on a professional basis, the exercise of which includes providing advice to consumers on retail financial products, arranging or offering to arrange retail financial products for consumers, or the exercise of a specified function, which includes dealing with insurance claims, reinsurance mediation, providing debt management services, adjudicating on complaints, and direct management or supervision of accredited persons. Persons carrying out any of these functions must either hold a qualification recognised for the purposes of the MCC, be a grandfathered person in respect of the function being exercised, be a new entrant participating in a training process under the supervision of a qualified or grandfathered person or be operating in accordance with a prescribed script.

Grandfathered persons are individuals who are not required to obtain a recognised qualification provided they meet certain criteria, including that they were in the industry on 1 January 2007 and have at least four years' relevant experience in the eight-year period prior to that date. Both grandfathered and qualified persons must comply with Continuing Professional Development (CPD) requirements outlined in the MCC.

The MCC contains a number of appendices, setting out the:

- retail financial products that fall within the scope of the MCC;
- specified functions that fall within the scope of the MCC;
- competencies that must be met by persons that fall within the scope of the MCC; and
- qualifications that are recognised for the purposes of the MCC.

Regulated firms must ensure that persons exercising a relevant function on behalf of the regulated firm comply with the standards set out in the MCC. Firms

must also maintain a register of all accredited persons, acting as, for or on behalf of the regulated firm.

The MCC is closely linked to the Central Bank's Fitness and Probity Regime as it is one of the key factors in assessing whether a person is fit to exercise certain controlled functions in a regulated firm. A number of the controlled functions set out in the Central Bank Reform Act 2010 (Sections 20 and 22) Regulations 2011 (Fitness and Probity Regulations) are aligned with the scope of the MCC.

2. Review of MCC

2.1. EU Developments

Since the introduction of the MCC in 2011, professional knowledge and competence requirements have been increasingly introduced or updated in various EU Directives and Guidelines, including the:

- Mortgage Credit Directive which has been transposed into Irish law by the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (Mortgage Credit Regulations);
- Markets in Financial Instruments Directive II (MiFID II) and associated European Securities and Markets Authority Guidelines for the assessment of knowledge and competence (ESMA Guidelines) developed in accordance with Article 25(9) of MiFID II; and
- Insurance Distribution Directive (IDD).

In light of the above developments and in line with the Central Bank's standard practice to periodically review its codes, a full review of the MCC is now being undertaken. While the Central Bank intends to incorporate the relevant EU knowledge and competence requirements into the MCC, it is the responsibility of each firm subject to the EU requirements to satisfy itself that it complies with such requirements from the respective effective dates.

2.2. Statutory basis

While Part 1 of the MCC (imposing standards on persons) will remain a code issued under Section 50 of the Central Bank Reform Act 2010, the Central Bank intends to use its regulation-making powers under Section 48 of the Central Bank (Supervision and Enforcement) Act 2013 to replace Part 2 of the existing MCC (imposing obligations on regulated firms) and introduce reforms as required. Therefore, the structure of the new requirements will be in two parts as follows:

Revised Minimum Competency Code/Regulations	Minimum Competency Code 2011
Minimum Competency Code	Replaces Parts 1 (Standards), 3 (Qualifications) and appendices 1-4 of the MCC (Appendix 5 has been removed in the revised code as all Statements of Grandfathered Status were required to be completed by 1 January 2013)
Minimum Competency Regulations	Replaces Part 2 of the MCC (Requirements on regulated firms)

3. Your views

The Central Bank welcomes your views on the proposals set out in this consultation paper. This section of the consultation paper highlights:

1. Amendments to the MCC arising from requirements under EU legislation.
2. Other proposals arising from requirements under EU legislation.

3.1. Amendments to the MCC on foot of EU requirements

This section outlines amendments to be made to the MCC in order to satisfy EU requirements. These are included in the draft revised MCC and draft Minimum Competency Regulations, attached at Annex I and Annex II. The Central Bank is not specifically seeking views on such amendments but welcomes any observations from interested stakeholders.

3.1.1. Competencies

The Mortgage Credit Regulations, ESMA Guidelines and IDD each contain lists of minimum knowledge and competence requirements (competencies), some of which are additional to the competencies set out in Appendix 3 of the current MCC. For example, the Mortgage Credit Regulations contain a number of new competencies relating to mortgage credit agreements, including the *appropriate knowledge of the immovable property purchasing process, security valuation, and the organisation and functioning of land registers*. The ESMA Guidelines contain new competencies such as *understanding of the limits of predictive forecasting* and the IDD includes new competencies relating to *relevant social and labour law*. Consequently, a number of amendments have been included in the draft revised MCC (see Annex I, Appendix 3) in order to incorporate the additional competencies required under EU legislation and Guidelines.

3.1.2. Definition of advice

The current definition of ‘advice’ in the MCC is based on the definition contained in the Investment Intermediaries Act 1995. The Central Bank intends to amend this definition to take account of the definitions contained in MiFID II, the Mortgage Credit Regulations and the IDD (See Annex I - Definitions and Annex II - Interpretation).

3.1.3. MiFID II investment services and ancillary services

The ESMA Guidelines apply in respect of the provision of investment advice or information about *investment products and services* falling within the scope of MiFID II to *clients* (including professional and retail clients as defined in MiFID II). The MCC applies in respect of the provision of advice on, arranging or offering to arrange *retail financial products to consumers* (as defined in the MCC). In order to reflect the scope of the ESMA Guidelines, the Central Bank intends to amend the MCC as follows:

- update the list of ‘retail financial products’ in the draft revised MCC to capture financial instruments and structured deposits defined in MiFID II (see Annex I, Appendix 1, Category 3 – Savings and Investments);
- amend the scope of the MCC to capture retail clients and elective professional clients (See Section 1.2 of the draft revised MCC); and
- insert a new section in respect of additional requirements for the provision of advice on certain MiFID *services and activities*, which fall outside the scope of the existing MCC, e.g., operation of an OTF, operation of an MTF, placing of financial instruments, underwriting of financial instruments, advice to undertakings on capital structure, etc., (See Annex I, Part 2 of the draft revised MCC).

3.1.4. Qualifications and experience requirements

The Mortgage Credit Regulations¹ require the Central Bank to establish minimum knowledge and competence requirements for staff of mortgage creditors and mortgage credit intermediaries in accordance with the principles and other provisions set out in Schedule 1 of those Regulations. The Mortgage Credit Regulations state that the Central Bank shall determine the appropriate level of knowledge and competence on the basis of professional qualifications or professional experience, up to 21 March 2019. After that date, the Mortgage

¹ the Mortgage Credit Regulations apply to mortgage creditors (including credit institutions, retail credit firms and credit unions) and mortgage credit intermediaries

Credit Regulations state that the determination of the appropriate level of knowledge and competence shall not be based solely on professional experience.

Separately, the ESMA Guidelines specify the criteria for the assessment of knowledge and competence for staff of firms giving investment advice or information on financial instruments, structured deposits, investment services and ancillary services. The ESMA Guidelines define knowledge and competence as having acquired an appropriate qualification and appropriate experience to fulfil the obligations in Article 24 and Article 25 of MiFID II. Specifically, they require persons falling within scope of the guidelines to acquire an appropriate qualification and at least six months' experience performing relevant services², on a full time equivalent basis, by 3 January 2018. Where a person has not acquired the appropriate qualification or the appropriate experience to provide the relevant services by the specified date, the ESMA Guidelines specify that the staff member can provide the relevant services under supervision for a maximum period of four years. The guidelines further specify that such staff members must be providing the relevant services under the responsibility of a staff member who has both an appropriate qualification and appropriate experience.

Consequently, the Central Bank now intends to amend the MCC to reflect the requirements set out in the Mortgage Credit Regulations and ESMA Guidelines in respect of qualifications and experience, as follows:

- staff of mortgage creditors and mortgage credit intermediaries carrying out relevant functions in respect of mortgage credit agreements (as defined in the Mortgage Credit Regulations), including those who are currently grandfathered in respect of mortgage credit agreements, must obtain a recognised qualification by 21 March 2019. Alternatively, such staff members may act as new entrants working towards a recognised qualification; and
- staff of firms carrying out relevant functions in respect of investment products (financial instruments and structured deposits as defined in MiFID II), including those who are currently grandfathered in respect of such products, and persons in the direct management or supervision of persons dealing with such products, must have at least six months' experience and obtain a recognised qualification by 3 January 2018. Alternatively, with effect from 3 January 2018 such staff may act under immediate direction and supervision of a qualified and experienced person for a maximum period of four years while working towards

² defined in the ESMA Guidelines as providing investment advice or giving information about financial instruments, structured deposits, investment services or ancillary services to clients

obtaining a recognised qualification and the relevant level of experience (See Annex I, Section 1.3).

3.1.5. Annual Review

The ESMA Guidelines require firms falling within the scope of MiFID II to carry out an internal or external review, on at least an annual basis, of staff members' development and experience needs. The ESMA Guidelines state that the review should ensure that staff possess an appropriate qualification and maintain and update their knowledge and competence by undertaking continuous professional development or training for the appropriate qualification as well as specific training required in advance of any new investment products being offered by the firm.

Part 2 of the MCC already imposes staff monitoring requirements on regulated firms, for example, in relation to a new entrant's progress and compliance by qualified and grandfathered persons with the CPD requirements. The Central Bank intends to expand these requirements, for all firms falling within the scope of the MCC, to include an annual review which will take account of the personal development and experience needs of staff members, regulatory developments and new retail financial products offered by the firm. The amendments have been incorporated in the draft Minimum Competency Regulations (see Annex II, Regulation 13(1)).

3.1.6. Freedom to provide services

Under the Mortgage Credit Regulations, creditors or mortgage credit intermediaries providing services in Ireland under the freedom to provide services must meet certain competencies specific to the Irish market including:

- appropriate knowledge of the laws related to credit agreements for consumers, in particular consumer protection;
- appropriate knowledge and understanding of the immovable property purchasing process;
- appropriate knowledge of organisation and functioning of land registers; and
- appropriate knowledge of the mortgage market in the State.

Persons providing services in this State in respect of mortgage credit will be required to meet the above competencies through a recognised qualification or part of a recognised qualification for the purposes of the MCC (see Annex I,

Appendix 3 – Minimum Competencies for Housing Loans, Mortgage Credit Agreements, Home Reversion Agreements and Associated Insurances).

3.2. Other proposals arising from requirements under EU legislation

This section sets out a number of other EU knowledge and competence requirements and questions on:

- proposals to expand such requirements beyond what is specified in EU legislation; or
- the manner in which to apply such requirements.

The Central Bank is seeking your views on the proposals detailed under the five headings below.

3.2.1. Qualifications and experience requirements

Under the existing MCC, persons will be taken to comply with the minimum competency standards if they meet **any one** of the following requirements:

- complete one or more recognised qualifications, as set out in Appendix 4 of the MCC, which are relevant to the function to be exercised;
- meet the grandfathering arrangements set out in Section 1.5 of the MCC;
- meet the definition of new entrant and act in accordance with Section 1.4 of the MCC;
- meet the transitional arrangements in respect of debt management services or credit servicing; **or**
- perform a prescribed script function in accordance with Section 1.6 of the MCC.

As set out in Section 3.1.4. of this paper, the Central Bank intends to amend the MCC to reflect the ESMA Guidelines by requiring persons who carry out a relevant function in respect of MiFID II investment products to obtain a recognised qualification and at least six months' experience on a full time equivalent basis or be working under supervision for a maximum period of four years.

The Central Bank recognises the value of obtaining a minimum level of experience in addition to obtaining a relevant qualification. It has already incorporated this concept into the new entrant requirements of the MCC whereby a person must be working under the immediate direction and supervision of an accredited person while working towards obtaining a recognised qualification. In effect, a new entrant acquires a minimum level of working experience (up to four years) in advance of dealing directly with a consumer without supervision.

Experience has been a feature of the minimum competency standards since the introduction of the Minimum Competency Requirements in 2007 with the inclusion of grandfathering arrangements and the Central Bank considers that experience is particularly important when persons are advising on, arranging or offering to arrange complex products. Therefore, it is proposing to apply the same six-month experience requirement as under the ESMA Guidelines to persons carrying out a relevant function in respect of any retail financial product falling within the scope of the MCC.

This would mean that persons would be required to obtain both a qualification and at least six months' experience in respect of the retail financial product to which the function to be exercised relates (or be working as a new entrant under supervision for a maximum period of four years). The Central Bank proposes to apply the full new entrant requirements of the existing MCC in this case.

This proposed requirement would not affect grandfathered persons, other than those grandfathered in respect of mortgage credit agreements and MiFID II investment products who will be required to complete a relevant recognised qualification under the relevant legislation.

Consequently, a person who is currently qualified to work in an industry sector, but does not have experience working in that sector, would have to gain six months' experience under supervision. For example, a person who has already obtained a qualification in respect of life assurance and housing loans but only has working experience in the life assurance sector would have to acquire six months' experience in dealing with housing loans under supervision before he or she undertakes a role in respect of housing loans without supervision. The Central Bank acknowledges that gaining six months' experience in respect of each retail financial product on a full time equivalent basis may cause operational difficulties for some firms, in particular sole traders. However, the Central Bank believes that requiring persons to obtain at least six months' experience under supervision is prudent, increases professional standards and is in line with the training requirements of other professions. It also provides for consistency in standards for similar products, for example, insurance-based investment products and investment products falling within the scope of MiFID II.

Therefore, under this proposal and the amendments set out in Section 3.1.4. of this consultation paper, the minimum competency standards for the various sectors would be as follows:

Retail Financial Product	Revised Minimum Competency Standards
Investments (financial instruments and structured deposits as defined in MiFID II)	Recognised qualification and at least six months' experience (or be a new entrant or operate within a prescribed script)
Mortgage credit agreements (as defined in the Mortgage Credit Regulations)	Recognised qualification and at least six months' experience (or be a new entrant or operate within a prescribed script)
All other retail financial products listed in Appendix 1 of the MCC	Recognised qualification and at least six months' experience or meet the grandfathering arrangements (or be a new entrant or operate within a prescribed script)

In order to confirm and evidence a person's level of experience, the Central Bank proposes that a regulated firm must retain supporting documentation and sign a 'certificate of experience' to confirm the relevance and level of the person's experience.

Question 1:

Do you agree that persons carrying out a relevant function in respect of *any* retail financial product that falls within the scope of the MCC should obtain a minimum level of experience prior to working without supervision? Please outline the reasons for your view.

Question 2:

If you agree with 1) above, do you consider a minimum six-month period to be sufficient? Or should the length of experience depend on the role(s) being carried out, the complexity of the product or a qualification already held by a person? Please outline the reasons for your view.

Question 3:

Do you agree with the proposal on how the experience requirement should be evidenced, i.e., that a regulated firm should sign a 'certificate of experience' and retain supporting documentation to support the certificate? Please outline your views.

3.2.2. Devising or otherwise creating products

The Mortgage Credit Regulations specify that creditors and mortgage credit intermediaries shall require their staff to possess and keep up-to-date an appropriate level of knowledge and competence in relation to *devising or*

otherwise creating credit products. They further state that the knowledge and competence requirements for such staff, which must be specified by the Central Bank, must be in accordance with the principles and other provisions set out in Schedule 1 of those Regulations, which includes a set of competencies.

Separately, the European Supervisory Authorities (ESAs) have published requirements relating to product oversight and governance which include requirements in relation to the competence of manufacturers of products, as follows:

- EIOPA Preparatory Guidelines on product oversight and governance arrangements by insurance undertakings and insurance distributors, published on 2 June 2016, state that *'the manufacturer should ensure that relevant personnel involved in designing products possess the necessary skills, knowledge and expertise in order to properly understand the product's main features and characteristics as well as the interests, objectives and characteristics of the target market'*.
- EBA Guidelines on product oversight and governance arrangements for retail banking products, published on 15 July 2015, state that senior management should ensure that staff involved in designing a product are *competent and appropriately trained; and understand and are familiar with the product's features, characteristics and risks.*

In addition, the MiFID II Delegated Directive on product governance obligations states that Member States shall require investment firms to ensure that *relevant staff involved in the manufacturing of financial instruments possess the necessary expertise to understand the characteristics and risks of the financial instruments they intend to manufacture.*

The MCC does not currently apply to persons involved in the design or approval of a product as this activity does not include an element of advice or arranging, nor would it be considered a specified function. In order to take account of the competence requirements of the Mortgage Credit Regulations, the ESA Guidelines on manufacturers and personnel involved in product design and the MiFID II Delegated Directive on product governance obligations, the Central Bank proposes to amend the scope of the MCC by including a new specified function for those directly involved in the design of retail financial products (see Annex I, Appendix 2: Specified Functions).

The Central Bank acknowledges that a range of expertise and qualifications is required by persons involved in the development and design of retail financial products. Regulated firms subject to the above mentioned Regulations,

Guidelines and Delegated Directive must meet the requirements set out therein. One way of meeting the specific competencies set out in the Mortgage Credit Regulations would be to obtain a qualification recognised for the purposes of the MCC. There may be alternative ways that persons could demonstrate meeting the competencies and standards set out in those Regulations and the requirements of the ESA Guidelines and MiFID II Delegated Directive. However, regulated firms should at a minimum ensure that one person with material influence on the final decision regarding product design obtains the relevant MCC qualification.

Question 4:

Do you agree with the proposal set out above? Please set out the reasons for your view.

Question 5:

What alternative ways could persons demonstrate meeting the competencies and standards set out in the Mortgage Credit Regulations and the requirements of the ESA Guidelines and MiFID II Delegated Directive?

3.2.3 Credit unions

A strengthened regulatory framework has been introduced for the credit union sector over the last number of years which has been positive for enhancing the credit union sector's safety and soundness. The framework remains proportionate to the nature, scale and complexity of the credit union sector in Ireland. From a consumer protection perspective, a number of EU Directives apply to the conduct of business of credit unions in Ireland, including the Mortgage Credit Directive and elements of the Consumer Credit Directive which have both been transposed into Irish law. At a domestic level, the Central Bank introduced a Fitness and Probity Regime for credit unions³ on 1 August 2013, which has applied to all credit unions since 1 August 2015. The introduction of the regime has focussed attention on the competence and capability of individuals taking up key roles in credit unions. In light of the new strengthened regulatory framework for credit unions, in particular the Fitness and Probity Regime for key roles in credit unions, the Central Bank believes it is now appropriate to consider the competence of all staff within credit unions under the MCC.

³ [Central Bank Reform Act 2010 \(Sections 20 and 22 – Credit Unions\) Regulations 2013](#)

The MCC already applies to credit unions when providing insurance intermediation activities. The revised MCC will also apply to credit unions when providing mortgage credit agreements in line with the knowledge and competence requirements of the Mortgage Credit Regulations, which apply to credit unions. The knowledge and competence requirements set out in those Regulations apply to staff when devising or otherwise creating mortgage credit products, offering or granting of mortgage credit agreements, the carrying out of credit intermediation activities (as set out in those Regulations) and the provision of advisory services.

In order to reflect the Mortgage Credit Regulations, the Central Bank intends to apply the minimum competency standards of the MCC to credit unions and credit union staff when devising or creating mortgage credit products, advising on or arranging or offering to arrange mortgage credit products or carrying out a specified function in respect of such products.

Consequently, the revised MCC will apply to credit unions when acting as insurance intermediaries and when providing mortgage credit agreements. This results in disparity in the application of the MCC to credit unions. In the interests of consumers, the Central Bank considers that the MCC should apply to all credit union activities that fall within the scope of the MCC, whether the activity is in respect of an insurance product, investment product or a consumer credit loan.

When the Minimum Competency Requirements were being reviewed in 2011, the Central Bank did not have the powers to impose the MCC requirements on credit unions in respect of all activities that fall within the scope of the MCC. However, with the additional powers granted to the Central Bank under the Central Bank (Supervision and Enforcement) Act 2013, it is timely to consider the application of the MCC to all the activities of credit unions that fall within the scope of the MCC (for example core lending activities and savings and deposit products with a term equal to or greater than one year) in order to ensure the same level of protection for consumers regardless of the type of firm they are dealing with. However, in considering the application of the MCC, the Central Bank is cognisant of the timing for its application given the new regulatory framework recently introduced for credit unions.

Question 6:

Do you agree that the MCC should apply to credit unions in respect of *any* retail financial product offered by credit unions that falls within the scope of MCC? Please set out the reasons for your views.

Question 7:

If you agree, what do you consider to be an appropriate timeline for its application? Please set out the reasons for your views.

3.2.4. Members of the board of a mortgage credit intermediary

The Mortgage Credit Regulations require members of the board of a mortgage credit intermediary established as a legal person and natural persons performing equivalent tasks within a mortgage credit intermediary, which is a legal person but does not have a board, to possess the appropriate level of knowledge and competence in relation to mortgage credit agreements as stipulated by the Central Bank in accordance with the principles set out in Schedule 1 of the Mortgage Credit Regulations.

In order to reflect the requirements of the Mortgage Credit Regulations, the Central Bank intends to include a new specified function under the MCC for the role of a member of the board of a mortgage credit intermediary, or equivalent (See Annex I, Appendix 2 – Specified Functions).

The Central Bank is considering what standards should apply to board members of mortgage credit intermediaries, taking into account the principles of Schedule 1 of the Mortgage Credit Regulations which set out:

- that the knowledge and competence requirements for members of the board of a mortgage credit intermediary must include at least the competencies set out therein;
- the determination of appropriate knowledge and competence shall not be based solely on professional experience after 21 March 2019;
- examples of professional qualifications which include degrees, diplomas, training and competency tests; and
- that the Central Bank may differentiate between the levels and types of requirements applicable to the staff of creditors, the staff of mortgage credit intermediaries and the management of mortgage credit intermediaries.

As the role of a member of a board of a mortgage credit intermediary differs significantly from the role(s) of consumer-facing staff members, to whom the existing MCC primarily applies, the Central Bank considers that a differentiation in the types of requirements applicable to board members under the MCC may be appropriate.

Therefore, while the Central Bank considers that obtaining a qualification recognised for the purposes of the MCC, which relates to mortgage credit, meets the competencies set out in Schedule 1 of the Mortgage Credit Regulations and is an effective way for a person to evidence meeting those standards, it is seeking views on alternative ways that such board members could demonstrate meeting the competencies set out in the Mortgage Credit Regulations.

Question 8:

What other means do you consider to be appropriate for members of the board of a mortgage credit intermediary to meet the competencies specified in Schedule 1 of the Mortgage Credit Regulations and evidence that those competencies are met?

3.2.5. Reinsurance

The IDD states that home Member States shall ensure that insurance and reinsurance distributors and employees of insurance and reinsurance undertakings carrying out insurance or reinsurance distribution activities possess appropriate knowledge and ability in order to complete their tasks and perform their duties adequately. Consequently, the Central Bank proposes to amend the specified function set out in the MCC regarding reinsurance mediation to include the activity of reinsurance distribution (see Annex I, Appendix 2: Specified Functions). Under the MCC, the recognised qualification for reinsurance mediation depends on the category of insurance to which the reinsurance mediation relates, e.g., life assurance or non-life insurance. The Central Bank is currently considering whether qualifications, other than those listed under the MCC, should be recognised for reinsurance distribution activities.

Question 9:

What qualifications do you consider to be suitable in order to carry out reinsurance distribution activities?

4. Drafting amendments

Since the introduction of the MCC in 2011, two addenda to the MCC were published for debt management services and credit servicing in March 2014 and December 2015, respectively. In addition, a number of new qualifications were recognised by the Central Bank for the purposes of the MCC. The addenda to the existing MCC, and the qualifications recognised since its introduction, have been incorporated into the draft revised MCC and draft regulations along with

amendments to the MCC as referenced in Section 3 of this paper and other drafting amendments where it was deemed necessary to provide clarity (see Annex I and Annex II). The Central Bank welcomes your views on all of the drafting amendments.

5. Making your submission

The closing date for submissions is 15 February 2017. Comments and views are welcome from all interested parties on the issues highlighted in this paper and on the provisions proposed in the draft revised MCC and draft regulations. In addition, views are welcome on any other issues that may be relevant to the review of the MCC.

The Central Bank requests that submissions which put forward arguments for changes to the proposals be supported, where possible, by evidence which will aid its consideration of the issues.

Please make your submissions in writing and, if possible, by e-mail (see details below). When addressing any issue raised in this paper, please use the headings in this paper to identify the section you are referring to. If you are raising an issue that is not referred to in this paper, please indicate this in your submission.

The Central Bank intends to make submissions available on its website after the deadline for receiving submissions has passed. Because of this, please do not include commercially sensitive material in your submission, unless you consider it essential. If you do include such material, please highlight it clearly so that reasonable steps may be taken to avoid publishing that material. This may involve publishing submissions with the sensitive material deleted and indicating the deletions.

Despite the approach outlined above, the Central Bank makes no guarantee not to publish any information that you deem confidential. So be aware that, unless you identify any commercially sensitive information, you are making a submission on the basis that you consent to it being published in full.

Please clearly mark your submission 'Review of Minimum Competency Code 2011' and send it to:

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Annex I – Draft Revised MCC

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INTRODUCTION

Part 1 of this Code specifies certain minimum competency standards with which *persons* falling within the scope of this Code must comply when performing controlled functions. Part 2 of this Code sets out additional requirements for the provision of advice on certain MiFID services or activities. Part 3 of this Code sets out details on the recognition of qualifications in respect of retail financial products for the purposes of the Code. The Minimum Competency Regulations⁴ are associated with this Code and impose certain obligations on *regulated firms* under Section 48 of the Central Bank (Supervision and Enforcement) Act 2013 in connection with the minimum competency standards. This Code and the Minimum Competency Regulations replace the existing Minimum Competency Code 2011 with effect from ---.

Persons are expected to comply with the letter and spirit of this Code.

Any right acquired or obligation or liability incurred, in respect of a contravention of, or act of misconduct under, the previous Minimum Competency Code 2011 survives the replacement of the previous Minimum Competency Code 2011 with this Code and the Minimum Competency Regulations. Therefore, any legal proceedings, investigation, disciplinary or enforcement action in respect of a contravention of, or act of misconduct under, the provisions of the previous Minimum Competency Code 2011 in force at the time the contravention or act of misconduct occurred may be instituted, continued and enforced and any sanction or penalty in respect of such contravention or act of misconduct may be imposed by the Central Bank as if the provisions of the previous Minimum Competency Code 2011 had not been replaced.

Please note that compliance with this Code (where applicable) is one of a number of considerations which may be taken into account in deciding whether a *person* is of such fitness and probity as is appropriate to the performance of a controlled function within the meaning of Part 3 of the Central Bank Reform Act 2010.

DEFINITIONS

In this Code:

'*accredited person*' is a *person* who satisfies the standards set out in Part 1 of this Code.

⁴ CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013 (SECTION 48(1)) (Minimum Competency) REGULATIONS 201()

'*advice*' means the provision of a personal recommendation or information to a *person*, whether at the *person's* request or at the initiative of the firm, in the course of performing a relevant function. For the avoidance of doubt, this does not include any of the following:

- a) the provision of a brochure or booklet or other information to a *person*, without the provision of *advice* to that *person*;
- b) information given in a newspaper, journal, magazine or other publication, including electronic publications, where the principal purpose of the publication taken as a whole is not to lead *persons* to use any specific *retail financial product* or any specific provider of such products;
- c) information given in a lecture, seminar or similar event or series of such events, where the principal purpose of the event or events taken as a whole is not to lead *persons* to use a specific *retail financial product* or any specific provider of such products and where *persons* engaged in the organisation or presentation of such events will earn no remuneration, commission, fee or other reward as a result of any particular decision, by a *person* attending such event and arising out of such attendance, to use any particular *retail financial product* or any specific provider of such products;
- d) information given in sound or television broadcasts where the principal purpose of such broadcasts taken as a whole is not to lead *persons* to use any specific *retail financial product* or any specific provider of such products;
- e) providing information on an incidental basis in conjunction with some other professional activity (which professional activity is not subject to this Code), so long as the purpose of the activity is not to assist a *person* to enter into or to become entitled to benefit under, terminate, exercise any right or option under, or take any benefit from one or more *retail financial products*.

'*certified person*' has the meaning assigned to it by section 55 of the Investment Intermediaries Act 1995 (No. 11 of 1995);

'*consumer*' means any of the following:

- a) a *person* or group of *persons*, but not an incorporated body with an annual turnover in excess of three million euro (for the avoidance of doubt, a group of *persons* includes partnerships and other unincorporated bodies such as clubs, charities and trusts, not consisting entirely of bodies corporate);
- b) incorporated bodies having an annual turnover of three million euro or less in the previous financial year (provided that such body shall not be a member of a group of companies having a combined turnover greater than the said three million euro);
- c) a person to whom the regulated entity distributes insurance in accordance with Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution.

and includes, where appropriate, a potential '*consumer*' (within the meaning above).

'*controlled function*' means a function prescribed as a controlled function under the Central Bank Reform Act 2010 (Sections 20 and 22) Regulations 2011 (S.I. No. 437 of 2011);

'*credit servicing*' has the meaning assigned to it by section 28 of the Central Bank Act 1997 (No. 8 of 1997).

'*debt management services*' has the meaning assigned to it under section 28 of the Central Bank Act 1997.

'*elective professional client*' means a client described in Part II of Annex II to *MiFID II*.

'*financial instrument*' has the meaning assigned to it under Article 4 of *MiFID II*.

'*grandfathered person*' has the meaning assigned to it under Section 1.5 of this Code.

'*MiFID II*' means [Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments]

'*MiFID services or activities*' means services or activities related to financial instruments or structured deposits as set out in Section A and Section B of *MiFID II* that are carried out by firms subject to *MiFID II*.

'*mortgage credit agreement*' means a credit agreement as defined in Regulation 3 of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016

'*new entrant*' means

- a) an individual who wishes to act for the first time in a controlled function the exercise of which includes any of the *relevant functions* but who does not hold a *recognised qualification* or have at least six months' experience in respect of the function to be undertaken, or

- b) an individual who is already a *qualified person* with at least six months' experience, or a *grandfathered person* in respect of a relevant function but who wishes to undertake a new relevant function in respect of which the individual does not hold a *relevant recognised qualification* or have at least six months' experience or is not a *grandfathered person*.

'*per se professional client*' means a client described in Part I of Annex II to *MiFID II*.

'*person*' means a natural *person* or legal *person*.

'*prescribed script function*' means exercising a controlled function within a narrow and rigid set of criteria and according to a prescribed script and routine.

'*professional designation*' means a designation conferred by a professional educational body to indicate that the holder has specified qualifications, training or expertise.

'*qualified person*' means a *person* with one or more *recognised qualification(s)* which are relevant to the function to be exercised.

'*recognised qualification*' means a qualification listed at Appendix 4.

'*regulated firm*' means any of the following:

- a) a financial services provider authorised, licensed or registered by the Central Bank (except moneylenders authorised under the Consumer Credit Act 1995);
- b) a *certified person*;
- c) a financial services provider authorised, licensed or registered in another EU or EEA Member State when providing services into the State on a branch or cross-border basis, except where responsibility for requirements in relation to the provision of such services into the State is reserved to that provider's home state regulator by a provision of EU law.

'*relevant function*' means any function set out at Section 1.2 of this Code.

'*retail client*' means a retail client as defined in *MiFID II*.

'*retail financial product*' means those products listed at Appendix 1, as amended from time to time.

'*specified function*' means a function specified in Appendix 2 of the Minimum Competency Code;

'*structured deposit*' has the meaning assigned to it under Article 4 of *MiFID II*.

'*Standards*' has the meaning given to it in Section 1.1 of this Code.

PART 1

FITNESS AND PROBITY STANDARDS (MINIMUM COMPETENCY)

1.1 LEGISLATIVE BASIS

Part 1 and Part 2 of this Code (the *Standards*) are issued by the Central Bank pursuant to the powers set out in Section 50 of the Central Bank Reform Act 2010 (the Act).

Terms used in Part 1 and Part 2 of this Code have the meaning given to them in the introduction to this Code.

The *Standards* may be amended or supplemented by the Central Bank from time to time. Failure by a *person* to comply, or indicate an ability to comply, with the *Standards* where it is relevant to the exercise of a controlled function, may have consequences under the Act including the following:

- i) where the approval of the Central Bank is being sought to permit a *person* to perform a pre-approval controlled function, lead to approval being refused;
- ii) where a *person* is performing a controlled function, lead to an investigation being conducted in relation to the fitness and probity of that *person* to perform the *relevant function*;
- iii) cause that *person* to be the subject of a suspension notice under Section 43 of the Act;
- iv) cause that *person* to be the subject of a prohibition notice under Section 43 of the Act.

A *regulated firm* shall not permit a *person* to perform a controlled function unless the *regulated firm* is satisfied on reasonable grounds that the *person* complies with the *Standards* and the *person* has agreed to abide by the *Standards*.

If a *regulated firm* permits a *person* to perform a controlled function without being satisfied on reasonable grounds that the *person* complies with the *Standards* or if the *person* has not agreed to abide by the *Standards*, that regulated financial services provider and/or a *person* concerned in its management may be exposed to financial penalties and other sanctions under Part IIIC of the Central Bank Act 1942.

1.2 SCOPE

These *Standards* apply to the *persons* exercising a controlled function on a professional basis, the exercise of which includes the following:

Regulated activities other than MiFID services or activities:

- a) providing *advice* to *consumers* on *retail financial products*;
- b) arranging or offering to arrange *retail financial products* for *consumers*, including any amendments to insurance cover and the restructuring or rescheduling of loans, or
- c) the exercise of a *specified function*.

MiFID services or activities:

- a) providing *advice* to *retail clients and elective professional clients* on *retail financial products* and the services or activities specified in Section A, items (1) to (4), and Section B, item (2), of Annex 1 to *MiFID II*;
- b) arranging or offering to arrange *retail financial products* for *retail clients and elective professional clients*, including the services or activities specified in Section A, items (1) to (4), and Section B, item (2), of Annex 1 to *MiFID II*, or
- c) the exercise of a *specified function*.

These *Standards* do not apply to a *person* exercising a controlled function the exercise of which is concerned solely with the provision of a *retail financial product* free of charge in conjunction with another financial product.

1.3 THE MINIMUM COMPETENCY STANDARDS

A *person* performing the functions specified in Section 1.2 shall not be taken to comply with these *Standards*, unless he or she:

- a) meets the standards specified in the table below:

Retail Financial Product	Minimum Competency Standards
A person carrying out a <i>relevant function</i> in respect of <i>mortgage credit agreements</i>	Has one or more recognised qualifications which are relevant to the function to be exercised by 21 March 2019 and at least six months' experience (on a full time equivalent basis) relevant to the function to be exercised
A person carrying out a <i>relevant function</i> in respect of MiFID II <i>financial instruments or structured deposits</i>	Has one or more recognised qualifications which are relevant to the function to be exercised and at least six months' experience (on a full time equivalent basis) relevant to the function to be exercised by 3 January 2018
A person carrying out a <i>relevant function</i> in respect of any other <i>retail financial product</i> listed in Appendix 1	<ul style="list-style-type: none"> • has one or more recognised qualifications and has at least six months' experience (on a full time equivalent basis) relevant to the function to be exercised; or • is a grandfathered person in respect of the function to be exercised, pursuant to Section 1.5 of the <i>Standards</i>

or,

- b) is a *new entrant* participating in a training process under the supervision of a person who meets the standards at a) above, in accordance with Section 1.4 of the *Standards*, or
- c) is availing of the transitional arrangements in respect of the functions to be exercised pursuant to Section 1.8 or Section 1.9 of the *Standards*, or
- d) in the case of a person performing a *prescribed script function*, has complied with the standards set out in Section 1.6 of the *Standards*, **and**
- e) in the case of a) above, is compliant with the Continuing Professional Development (CPD) requirement set out in Section 1.7 of the *Standards*.

For the purposes of this Section, a *recognised qualification* shall be regarded as relevant to the function to be exercised if it is included in the list of qualifications recognised for that function, as set out in Appendix 4 (as such list of qualifications may be amended from time to time).

1.4 NEW ENTRANTS

A *new entrant* shall be taken to comply with these *Standards* where he or she participates in a training process that includes the following requirements:

a) Initial training

The *new entrant* must first undergo a training programme organised by the *regulated firm* on whose behalf the *new entrant* is acting, which is relevant to the function to be exercised, or have obtained part of a *relevant recognised qualification* for that particular function.

b) Supervision

- i) The *new entrant* must act under the immediate direction and supervision of another nominated *person*, who is a *person* who meets the standards set out in Section 1.3(a) in respect of the particular function being carried out by the *new entrant*.
- ii) The *new entrant* must ensure that all documentation relating to *the performance of a relevant function* is checked and approved in writing by a *person* who meets the standards set out in Section 1.3(a) in respect of the function being carried out until the *new entrant* obtains relevant experience and a qualification recognised in respect of the function being carried out.

c) Working towards a recognised qualification

The *new entrant* must be working towards obtaining a *relevant recognised qualification*.

In this regard, the *new entrant* 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.

d) Working towards obtaining relevant experience

The new entrant must be working towards obtaining at least six months' experience on a full time equivalent basis relevant to the function to be exercised and the related retail financial product.

e) Timeframe

- i) The maximum period for which a *new entrant* may participate in the training process is four years in total.
- ii) A pro-rata adjustment may be applied to the requirement to obtain a *relevant recognised qualification* and relevant experience within four years in the following circumstances:

- Statutory leave: A pro-rata adjustment in requirements may be applied to those taking:
 - block parental leave,
 - statutory maternity leave,
 - statutory adoption leave, or
 - statutory carer's leave,

provided the *person* is not carrying out any of the *relevant functions* while availing of the statutory leave (includes statutory paid and unpaid leave only; does not include additional unpaid leave or holidays).

- Serious illness: *Persons* out of work due to long term illness, i.e., not less than 2 months, may apply a pro-rata adjustment subject to medical certification of the illness.
- Career break.

A pro-rata adjustment will **not** apply in the following circumstances:

- Part-time work;
- Unemployment;
- Retirement; or
- Holidays.

1.5 GRANDFATHERING ARRANGEMENTS

A *person* shall be taken to be a *grandfathered person* and comply with these *Standards* in respect of a function to be exercised only if all of the following conditions are met:

- a) the function being carried out does not relate to:
 - debt management services
 - *mortgage credit agreements*
 - MiFID II *financial instruments* or *structured deposits*, **and**

- b) on 1 January 2007, the *person* was dealing with the *retail financial product* or *specified function* in respect of which he/she is availing of the grandfathering arrangements (other than retail credit or home reversion agreements), or on 1 June 2008, the *person* was dealing with retail credit or home reversion agreements; **and**
- c) the *person* had four years' experience carrying out the function to be exercised in the period 1 January 1999 to 1 January 2007 (1 June 2000 to 1 June 2008 in the case of retail credit and home reversion agreements), **and**
- d) an assessment for grandfathering purposes was carried out and documented by the *regulated firm*, **and**
- e) the *regulated firm* certified the *person's* compliance with the experience requirement, **and**
- f) the *person* complies with the requirement to complete Continuing Professional Development (CPD) on an ongoing basis, commencing from 1 January 2008 (1 June 2009 in the case of retail credit and home reversion agreements) at the latest.

1.6 PRESCRIBED SCRIPT FUNCTION

Where a *person*, in the exercise of a controlled function, operates within a narrow and rigid set of criteria and according to a prescribed script and routine, the following standards apply:

- a) The *person* must operate in accordance with a script devised by a *person* who meets the standards set out in Section 1.3(a) for that function.
- b) The *person* must have completed a training programme, organised by the *regulated firm* on whose behalf the *person* is acting, which is relevant to the function to be exercised, or have obtained part of a *relevant recognised qualification* for that particular function.
- c) The *person* must complete additional training on an ongoing basis, which is relevant to the function to be exercised, to keep his/her knowledge up to date.
- d) The *person* must refer requests for information and *advice* that are outside the specific content of the script to a person who meets the standards set out in Section 1.3(a) for that function.
- e) The *person* must operate under the supervision of a *person* who meets the standards set out in Section 1.3(a) for that function.

A *person* operating within a narrow and rigid set of criteria and according to a prescribed script or routine shall be taken to have complied with Part 1 of this Code once the *person* complies with the standards set out at a) – e) above.

1.7 CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

1.7.1 CPD requirement

- a) A *person* who is subject to this Code and is the holder of a *recognised qualification* with a *professional designation*, the ongoing maintenance of which depends on the completion of CPD, shall be taken to have complied with this section where he or she has successfully completed the CPD requirements of that *recognised qualification*.
- b) A *person* who is subject to this Code and is the holder of a *recognised qualification*, the ongoing maintenance of which is not dependent on the completion of CPD, shall, with effect from 1 January 2012, complete **15 formal hours** of CPD each calendar year.
- c) A *grandfathered person* shall, with effect from 1 January 2012, complete **15 formal hours** of CPD each calendar year.
- d) A *person* who is grandfathered in respect of a function(s) to be exercised and holds a *recognised qualification* for other functions is required to complete 15 formal hours of CPD in total each calendar year. The content of the CPD hours must be relevant to the functions in respect of which the individual is a *qualified person* and a *grandfathered person*. For example, an individual holding the CIP in respect of personal general insurance policies and grandfathered in respect of pensions must ensure that the CPD undertaken includes both personal general insurance and pensions.
- e) A *person* must complete at least one hour of CPD each calendar year for each function undertaken that falls within the scope of these *Standards*.
- f) A *person* must complete at least one hour of CPD each calendar year which relates to ethics.
- g) Surplus hours in one year may not be carried into the following year.
- h) Where a *person* fails to complete 15 formal CPD hours in any year, the shortfall may be made up by the end of the following year (in addition to the requirement for that CPD year) provided the *person* has not incurred another shortfall within the previous five years.

1.7.2 Formal CPD hours

Formal CPD hours may be obtained by attending seminars, lectures, conferences, certified completion of appropriate e-learning tutorials, workshops or courses dealing with a directly relevant topic.

The content of the CPD hours must be directly relevant to the functions of the *qualified person* or *grandfathered person* and the CPD material for *qualified persons* or *grandfathered persons* must therefore be related to the competencies set out in Appendix 3.

All formal CPD hours must be accredited by the provider of a *recognised qualification* or one of the professional educational bodies providing *recognised qualifications* that have a CPD requirement. The maximum number of formal hours in any day is eight hours and the maximum for any single topic is four hours.

1.7.3 Undertaking CPD hours

Persons who must complete CPD hours as set out in Section 1.7.1(b) and (c) above shall either:

- a) participate in a CPD scheme operated by an external professional educational body that provides a *recognised qualification* that meets the relevant competency requirements set out in this document, provided that the requirements of the CPD scheme do not differ in a material way from the CPD requirements set out in this document;

or

- b) arrange their own CPD hours. Where individuals arrange their own CPD hours, they must retain written records to demonstrate that they have satisfied the requirement (e.g., maintenance of a log, supported by receipts from courses attended, certificates of attendance, certificates of completion, etc.), including the requirement that the content of the course was relevant to the *retail financial products* or the *specified functions* for which they are a *qualified person* or a *grandfathered person*.

1.7.4 Pro-rata adjustment of CPD hours

A pro-rata adjustment may be applied to the CPD requirements in the following circumstances:

- Statutory leave: A pro-rata adjustment in requirements may be applied to those taking:
 - block parental leave,
 - statutory maternity leave,
 - statutory adoption leave, or
 - statutory carer's leave,
 provided the *person* is not carrying out any of the *relevant functions* for which he or she is a *grandfathered person* or a *qualified person* while availing of the statutory leave (includes statutory paid and unpaid leave only; does not include additional unpaid leave or holidays).
- Serious illness: *Persons* out of work due to long-term illness, i.e., not less than 2 months, may apply a pro-rata adjustment subject to medical certification of the illness.

A pro-rata adjustment will **not** apply in the following circumstances:

- Part-time work;
- Unemployment;
- Retirement;
- Career break; or
- Holidays.

1.8 TRANSITIONAL ARRANGEMENTS FOR DEBT MANAGEMENT SERVICES

A *person* performing the *specified function* of providing *debt management services* on 1 August 2013 who does not hold a *recognised qualification* in respect of that specified function may, until 1 August 2017, perform the specified function of providing *debt management services* 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;
 - 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 1 August 2017. A pro-rata adjustment to this timeframe may be applied in the same circumstances as outlined in Section 1.4(e)(ii) in respect of new entrants.

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;
- 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 Section 1.4(e)(ii) in respect of new entrants.

1.10 RECORDS

In all cases, *persons* shall document how they believe they have complied with the *Standards* and other requirements in this Code.

PART 2

ADDITIONAL REQUIREMENTS FOR THE PROVISION OF ADVICE ON *MiFID* SERVICES OR ACTIVITIES

2.1 SCOPE

These *Standards* apply to the *persons* exercising a controlled function on a professional basis, the exercise of which includes the following:

- a) providing *advice* to *per se professional clients* on *MiFID services or activities*; or
- b) providing *advice* to *retail clients* and *elective professional clients* on *MiFID services or activities* specified in Section A, items (6) to (9), and Section B, item (1) and (3) to (7), of Annex 1 to *MiFID II*.

2.2 THE MINIMUM COMPETENCY STANDARDS

2.2.1 A *person* performing the functions specified in Section 2.1 shall not be taken to comply with these *Standards*, unless he or she has complied with the requirements set out in the ESMA Guidelines for the assessment of knowledge and competence (or any future incarnation of those guidelines), including the following:

- a) has acquired an appropriate qualification in accordance with Section 2.2.2;
- b) has successfully demonstrated the ability to perform the relevant service through previous work, on a full time equivalent basis, for a minimum period of six months; and
- c) where the person has not acquired the appropriate qualification or the appropriate experience or both, only provides the relevant services under the supervision of an appropriately qualified and experienced person for a maximum period of four years.

2.2.2 Qualifications to be obtained by persons performing the functions specified in Section 2.1 shall:

- include the competencies set out in Sections V.II and V.III of the ESMA Guidelines for the assessment of knowledge and competence (or any future incarnation of those guidelines);
- include ongoing CPD requirements (at least 15 formal CPD hours each calendar year); and
- have their underlying academic qualifications included in the National Framework of Qualifications (or equivalent) at level 7 (or equivalent) or higher.

PART 3

MINIMUM COMPETENCY – RECOGNISED QUALIFICATIONS

Terms used in Part 3 of this Code have the meaning given to them in the introduction to this Code. Part 3 of this Code relates to recognition of qualifications for the purposes of Part 1 of this Code.

3.1 *Recognised qualifications*

A *recognised qualification* for a category of *retail financial product* must meet the relevant competencies for that category of *retail financial product* as specified in Appendix 3.

A list of qualifications that meet the current competencies for the various categories of *retail financial products* is set out in Appendix 4. A list of additional qualifications recognised by the Central Bank for *specified functions* is also set out in Appendix 4.

The Central Bank does not take part in course design or examinations. Our relationship with educational bodies is confined to setting and reviewing the *Standards* and confirming whether any particular professional qualification meets the *Standards* or not.

3.2 *Exemptions from recognised qualifications*

There are a number of qualifications that cover some of the competencies set out in this Code. We would expect that the professional educational bodies providing *recognised qualifications* would treat fairly any application for exemption from part of their examinations and would apply any exemption decisions consistently. In this regard, both the QFA Board and The Insurance Institute of Ireland have published comprehensive schedules of exemptions from their examinations, which cover various qualifications available in Ireland, and also UK and other international qualifications. The QFA Board, the Institute of Banking in Ireland, the LIA and The Insurance Institute of Ireland have committed to have schedules of exemptions from *recognised qualifications* available publicly, 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 Central Bank. Based on this, we can review this Code on an ongoing basis.

Where individual employees of *regulated firms* hold other qualifications, including those from another EU or EEA Member State, they may seek an exemption, from part of the *recognised qualifications*, from the professional educational bodies providing *recognised qualifications* and such exemptions where granted will be recognised for the purposes of this Code.

3.3 Other qualifications

Other qualifications may also meet the competencies set out in Appendix 3. New qualifications may be developed by professional educational bodies or existing qualifications may be modified to ensure that they meet the specified competencies. Such qualifications will be considered as part of the ongoing assessment of this Code. However, they must be formally approved as a recognised qualification by the Central Bank. In order to obtain recognition for the purposes of this Code, any additional qualifications should:

- have broad support within the relevant industry;
- include the competencies set out in Appendix 3;
- provide a standard of knowledge at least equivalent to that provided by the existing qualifications;
- have their underlying academic qualifications included in the National Framework of Qualifications at level 7 or higher; and
- include ongoing CPD requirements, which must not differ in a material way from the CPD requirements set out in this Code and which must incorporate a module, of at least one hour in duration, in relation to ethics.

In addition, the Central Bank reserves the right to enter into a public consultation in relation to such qualifications and to have them reviewed by an independent competent external body.

For the avoidance of doubt, no qualification shall be deemed to meet the minimum competency standards set out in this document unless and until the qualification has been formally recognised by the Central Bank.

Appendix 1: Retail financial products

For the purposes of this Code, the following are deemed to be *retail financial products*:

1. Life Assurance

- Life insurance policies of the classes specified in Schedule 2 to the European Union (Insurance and Reinsurance) Regulations 2015 and life insurance policies of the classes specified in Part A of Annex I of the European Communities (Life Assurance) Framework Regulations 1994, including:
 - temporary assurance policies;
 - whole of life policies;
 - life assurance savings and investment policies;
 - tracker bond policies;
 - permanent health insurance policies;
 - industrial assurance business⁵ policies.

2. Pensions

- occupational pension schemes whose liabilities are fully secured by one or more contracts of assurance;
- personal pension plans;
- personal retirement savings accounts (PRSAs);
- additional voluntary contributions (AVCs) whose liabilities are fully secured by one or more contracts of assurance;
- approved retirement funds (ARFs) whose liabilities are fully secured by one or more contracts of assurance;
- approved minimum retirement funds (AMRFs) whose liabilities are fully secured by one or more contracts of assurance;
- annuities;
- buy-out bonds.

3. Savings and Investments

- life assurance savings and investment policies;
- deposits with a term equal to or greater than one year;
- collective investment scheme instruments, including:
 - UCITS as defined in Directive 2009/65/EC on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as amended; and
 - AIFs as defined in Directive 2011/61/EU on Alternative Investment Fund Managers, such as:

- exchange traded funds;
 - unit trusts, providing facilities for the public to participate in the profits or income from the trust;
 - specially designated companies⁶, which are not a UCITS;
 - an investment limited partnership⁷;
 - designated investment funds⁸; and
 - common contractual funds⁹.
- Money-market instruments¹⁰;
 - Transferable securities, including:
 - shares in a company listed on a Stock Exchange;
 - bonds listed on a Stock Exchange;
 - transferable shares in a company not listed on a Stock Exchange.
 - financial instruments which derive their value from an investment instrument traded on a Stock Exchange or from a stock market index, other than tracker bonds;
 - tracker bonds;
 - all other MiFID II *financial instruments* and *structured deposits* that are not captured in the above list.

4. Personal General Insurance¹¹

- non-life insurance policies (other than health insurance contracts as defined in the Health Insurance Act 2015) of the classes specified in Part 1 of Schedule 1 to the European Union (Insurance and Reinsurance) Regulations 2015, effected by individuals for their personal insurance needs.
- non-life insurance policies (other than health insurance contracts as defined in the Health Insurance Act 2015) of the classes specified in Part A of Annex I to the European Communities (Non-Life Insurance) Framework Regulations 1994, effected by individuals for their personal insurance needs.

⁵ as defined in Regulation 3 of the European Union (Insurance and Reinsurance) Regulations 2015

⁶ as defined in Section 1395(5), Companies Act, 2014

⁷ as defined in Section 3 of the Investment Limited Partnership Act, 1994

⁸ investment funds designated by the Revenue Commissioners for the purposes of Section 508, Taxes Consolidation Act, 1997 (BES Funds)

⁹ as defined in Section 6(1), Investment Funds, Companies and Miscellaneous Provisions Act, 2005

¹⁰ as defined in Article 4 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2015 on markets in financial instruments

¹¹This includes Household (and standard extensions of cover), Personal legal expenses, Private motor, Motor cycle, Personal accident and sickness, Travel, Private Yacht / boat, Mobile home, Extended warranty, Pet and Personal (family and motor) legal protection.

5. Commercial General Insurance¹²

- non-life insurance policies (other than health insurance contracts as defined in the Health Insurance Act 2015) of the classes specified in Part 1 of Schedule 1 to the European Union (Insurance and Reinsurance) Regulations 2015 effected by commercial entities for their insurance needs.
- non-life insurance policies (other than health insurance contracts as defined in the Health Insurance Act 2015) of the classes specified in Part A of Annex I to the European Communities (Non-Life Insurance) Framework Regulations 1994, effected by commercial entities for their insurance needs.

6. Private Medical Insurance and Associated Insurances

- health insurance contracts as defined in the Health Insurance Act 2015, including the following associated non-life insurance policies:
 - major medical expenses;
 - dental insurance;
 - health cash plans; and
 - travel insurance.

7. Housing Loans¹³, Mortgage credit agreements, Home Reversion Agreements¹⁴ 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 accumulating funds to repay housing loans or *mortgage credit agreements*;
- mortgage indemnity guarantee insurance; and
- structural defect insurance.

¹² This includes Commercial property insurances (and standard extensions of cover) including Farmers, Business interruption insurance, Liability insurance, Professional indemnity, Directors' and Officers' liability, Commercial legal expenses, Commercial motor and motor fleet.

¹³ as defined in Section 2(1), Consumer Credit Act, 1995

¹⁴ As defined in Part V of the Central Bank Act 1997

8. Consumer Credit¹⁵ Agreements and Associated Insurances

excluding:

- moneylending agreements¹⁶;
- housing loans¹⁷ and *mortgage credit agreements*;
- credit cards;
- overdraft facilities;
- overrunning;

but including the following associated insurances:

- payment protection insurance; and
- permanent health insurance.

These categories may be reviewed and updated from time to time to reflect changing products and industry practice.

¹⁵ a credit agreement to which the European Communities (Consumer Credit Agreements) Regulations 2010 applies and cash loans, credit sale agreements, hire-purchase agreements and consumer-hire agreements to which the Consumer Credit Act, 1995 applies, other than the exceptions stated below.

¹⁶ as defined in Section 2(1), Consumer Credit Act, 1995

¹⁷ as defined in Section 2(1), Consumer Credit Act, 1995

Appendix 2: Specified functions

For the purposes of this Code, the following are deemed to be *specified functions*:

1. assisting *consumers* in the making of a claim under contracts of insurance;
2. determining the outcome of claims by *consumers* arising under contracts of insurance;
3. being directly involved in the activity of reinsurance distribution, as defined in [Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution];
4. providing *debt management services*, as defined in Part V of the Central Bank Act 1997;
5. 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* or who carry out the functions at (1), (2) or (4) above;
6. 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* or who carry out the functions at (1), (2) or (4) above;
7. a member of a board of a mortgage credit intermediary established as a legal person or a natural person performing equivalent tasks within a mortgage credit intermediary, which is a legal person but does not have a board; and
8. being directly involved in the design of retail financial products.
Where product design is carried out by a range of experts who are not accredited persons, at least one key person in the product design decision-making process shall hold a recognised qualification for the relevant retail financial product.

These categories may be reviewed and updated from time to time to reflect changing functions and industry practice.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Life Assurance

SUBJECT MATTER	COMPETENCIES
1. The concept of financial planning	<ul style="list-style-type: none">√ To analyse the main generic types of life assurance savings, protection and investment needs a <i>consumer</i> may have at different life stages.√ To explain the concept of financial planning and assess the benefits it can provide to <i>consumers</i> in terms of meeting their financial plans and objectives.
2. Legal principles	<ul style="list-style-type: none">√ To explain the main elements of a valid contract of assurance, how a contract is discharged and the remedies for breach of contract.√ To illustrate the particular legal principles underlying life assurance policies, including in particular the principles of <i>insurable interest</i> and <i>utmost good faith</i>.√ To describe the main requirements which these legal principles impose on <i>consumers</i> effecting life assurance policies, including in particular the duty to disclose known material facts, and how these principles can impact on policy benefits.√ To interpret the concept of <i>agency</i> and define the main duties of an agent to his or her <i>principal</i> and discuss how an agency may be terminated.
3. Life assurance protection policies	<ul style="list-style-type: none">√ To demonstrate an appropriate level of financial knowledge relevant to the life assurance market.√ To explain, compare and contrast the main features, benefits, limitations and risks (including ancillary risks, where applicable) of the different generic types of life assurance protection policies.√ To describe the terms and conditions of life assurance protection policies, including those of ancillary risks covered by such policies.√ To discuss the typical explicit charges of the different generic types of life assurance protection policies.√ To identify the different ways in which a life assurance protection policy can be arranged and owned and assess the impact of each different arrangement on entitlement to benefit under the policy.√ To illustrate the fiscal treatment for the <i>consumer</i> of premiums and benefits under the different generic types of life assurance protection policies.√ To assess and explain the different risks for a <i>consumer</i> effecting a life assurance protection policy.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Life Assurance

SUBJECT MATTER	COMPETENCIES
4. The underwriting process	<ul style="list-style-type: none">√ To explain the functions of the life assurance underwriting process and discuss the relationship between underwriting and the premium charged for life assurance benefits.√ To describe the typical underwriting process and associated requirements, including statutory restrictions, applicable to the effecting of a life assurance policy.√ To define what <i>reinsurance</i> is, explain why life assurance companies use reinsurance, and assess its potential impact on the underwriting process for life assurance policies.√ To describe the main different types of reinsurance a life company can enter into, and the benefits of such reinsurance for the life assurance company.
5. The claims process	<ul style="list-style-type: none">√ To explain the main requirements on both the claimant and the life assurance company throughout the claims settlement process under the different generic types of life assurance policies.
6. Wills and estates	<ul style="list-style-type: none">√ To differentiate between <i>joint tenants</i> and <i>tenants in common</i> ownership of assets.√ To identify the main legal requirements which apply to the making of a valid Will and explain how a valid Will can be revoked.√ To define the main Succession Act rights which the next of kin of a deceased may have to his or her estate.√ To describe the impact on a spouse's Succession Act rights of a legal separation or divorce.√ To describe the impact on a civil partner's Succession Act rights of the dissolution of a registered civil partnership.√ To define the main requirements for the legal transfer of assets, including the death benefit under a life assurance policy, of a deceased to his or her next of kin.
7. Savings and investment policies	<ul style="list-style-type: none">√ To explain, compare and contrast the main features, benefits, limitations and risks for a <i>consumer</i> of the different generic types of investment linked life assurance, including regular savings plans and lump sum investment bonds.√ To quantify the typical explicit charges of the different generic types of investment linked life assurance.√ To explain the different ways in which investment linked life assurance policies can be arranged and owned and demonstrate the impact of each arrangement on entitlement to benefit under the policy.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Life Assurance

SUBJECT MATTER	COMPETENCIES
	<ul style="list-style-type: none">√ To demonstrate the taxation treatment for the <i>consumer</i> of premiums and benefits under the different generic types of investment linked life assurance.√ To assess and explain the different risks for a <i>consumer</i> investing in an investment linked life assurance policy.
8. Tracker Bonds	<ul style="list-style-type: none">√ To describe how generic types of life assurance based Tracker Bonds are structured to provide the benefits promised to the investor.√ To demonstrate the taxation treatment of returns received from life assurance based Tracker Bonds.√ To assess and explain the different risks for a <i>consumer</i> investing in a Tracker Bond.
9. Personal taxation	<ul style="list-style-type: none">√ To list the main schedules under which Income Tax is assessed and identify the types of income which fall under each schedule.√ To describe the main Income Tax reliefs and credits which can be claimed by a <i>consumer</i>.√ To calculate a <i>consumer's</i> Income Tax liability, given details of his or her earnings and reliefs.√ To calculate an Inheritance Tax liability that could arise on the inheritance of an asset and apply the main exemptions and reliefs.√ To evaluate the main features and benefits of the reliefs afforded to life assurance policies used to fund Inheritance Tax or Gift Tax.√ To demonstrate the taxation treatment of a <i>consumer</i> investing in life assurance savings policies and investment bonds.
10. Business consumers	<ul style="list-style-type: none">√ To compare and contrast the main legal and taxation differences between a partnership and a limited company.√ To describe the different ways in which <i>Partnership Insurance</i> can be arranged and illustrate the taxation implications of each.√ To define <i>Keyperson Insurance</i>, explain how it can be arranged and the taxation implications.
11. The process by which appropriate advice is given to the consumer about a life assurance policy	<ul style="list-style-type: none">√ To identify the main items of information about a <i>consumer</i> which should be sought <i>before</i> providing <i>advice</i> to that <i>consumer</i> on his or her life assurance needs.√ To describe the main survivor's pension and disability benefits provided by the Social Insurance and Assistance schemes, and assess a <i>consumer's</i> potential entitlement to such benefits.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Life Assurance

SUBJECT MATTER	COMPETENCIES
	<ul style="list-style-type: none">√ To describe the main retirement pensions provided by the Social Insurance and Assistance schemes, and assess a <i>consumer's</i> potential entitlement to such benefits.√ To analyse information about a <i>consumer's</i> financial needs and resources in order to accurately identify, quantify and prioritise their life assurance protection, savings and investment needs.√ To compare and contrast the features, benefits, limitations and risks of different generic types of life assurance protection, savings and investment policies, so as to be able to recommend to a <i>consumer</i> a policy or a portfolio of policies appropriate to that <i>consumer's</i> financial needs, resources and attitude to risk.√ To compose a reason-why statement for a <i>consumer</i> setting out in clear terms the reasons underlying any <i>advice</i> given to the <i>consumer</i> regarding a life assurance protection, savings or investment policy.√ To explain why a regular review of a <i>consumer's</i> financial needs and resources should be conducted.
12. Inflation and financial mathematics	<ul style="list-style-type: none">√ To illustrate the impact inflation can have over time on a <i>consumer's</i> financial needs and resources, and on life assurance benefits.√ To calculate a sum accumulated over a specified period at a specified rate of interest, using appropriate accumulation tables.√ To calculate a sum discounted over a specified period at a specified rate of interest, using appropriate discounting tables.√ To define what the terms <i>RIY</i>, <i>APR</i> and <i>EAR</i> mean and demonstrate how they can be used to compare different financial products.
13. Best practice	<ul style="list-style-type: none">√ To describe the importance of confidentiality in relation to the collection, maintenance and processing of personal data related to <i>consumers</i>.√ To recognise the ethical issues arising in relation to the conduct of business.√ To describe how to advise a <i>consumer</i> in relation to the procedures involved in complaints handling and the use of alternative dispute resolution channels in relation to life assurance policies.√ To describe the provisions of relevant Codes of Conduct and Regulations issued by the Central Bank of Ireland and other legislative requirements regarding conflicts of interest.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Life Assurance

14. Legislation, regulation and compliance

- √ To discuss why Governments seek to regulate financial services companies.
- √ To distinguish between structural, systemic, prudential and *consumer* protection regulation.
- √ To describe the main functions of the Central Bank of Ireland, including its enforcement powers.
- √ To describe the main functions of the Competition and Consumer Protection Commission in relation to the provision of financial services to *consumers*.
- √ To describe the different types of *insurance intermediaries* authorised under the Investment Intermediaries Act, 1995 and registered under the European Communities (Insurance Mediation) Regulations 2005.
- √ To explain the main regulatory requirements which directly apply to the activities of advising and providing information to *consumers* on and effecting of a life assurance policy and to the activity of distributing insurance products, including in particular:
 - the registration and authorisation requirements of *insurance intermediaries*;
 - who prudentially regulates life assurance companies and the role of the Head of Actuarial Function;
 - the European Communities (Insurance Mediation) Regulations, 2005;
 - the European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004;
 - relevant provisions of the Consumer Credit Act, 1995 (and relevant Regulations made under the Act) in relation to insurance and housing loans and the European Union (Consumer Mortgage Credit Agreements) Regulations 2016;
 - relevant provisions of the European Communities (Consumer Credit Agreements) Regulations 2010 in relation to insurance and *consumer* credit agreements;
 - the provisions of relevant Codes of Conduct and Regulations, issued by the Central Bank of Ireland;
 - the Revenue reporting duties of insurance intermediaries who arrange foreign life assurance policies for Irish residents;
 - obligations on insurance intermediaries and financial services providers as *designated persons* under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010;
 - the provisions of Life Assurance (Provision of Information) Regulations, 2001;
 - the benefits provided to *consumers* by the Investor Compensation Scheme and the limitations of that scheme;
 - the details of the Financial Services Ombudsman Scheme, and how a *consumer* can access the Scheme;
 - the provisions of the Data Protection Acts, 1988 and 2003

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Life Assurance

SUBJECT MATTER

COMPETENCIES

related to the maintenance, disclosure and use of personal data and the Equal Status Acts 2000-2015;

- Directive 2016/97/EC on insurance distribution;
- European Union (Insurance and Reinsurance) Regulations 2015;
- tax law and social and labour law governing the distribution of insurance products.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Pensions

SUBJECT MATTER	COMPETENCIES
1. The concept of financial planning	<ul style="list-style-type: none">√ To analyse the main generic types of retirement planning needs a <i>consumer</i> may have at different life stages.√ To explain the concept of financial planning and assess the benefits it can provide to <i>consumers</i> in terms of meeting their financial plans and objectives.
2. Legal principles	<ul style="list-style-type: none">√ To explain the main elements of a valid contract of assurance, how a contract is discharged and the remedies for breach of contract.√ To interpret the concept of <i>agency</i> and define the main duties of an agent to his or her <i>principal</i> and discuss how an agency may be terminated.
3. Investment linked pension policies	<ul style="list-style-type: none">√ To compare and contrast the main features, benefits, limitations and risks for a <i>consumer</i> of the different generic types of investment linked pension policies, including annuities, PRSAs, Personal Pension Plans, AVCs, Buy Out Bonds, and individual defined contribution employer sponsored pension arrangements.√ To quantify the typical explicit charges of the different generic types of investment linked pension policies.√ To demonstrate the taxation treatment for the <i>consumer</i> of premiums and benefits under the different generic types of investment linked pension policies.√ To assess the different risks for a <i>consumer</i> investing in an investment linked pension policy.
4. Pensions and associated benefits	<ul style="list-style-type: none">√ To differentiate between <i>defined contribution</i> and <i>defined benefit</i> pension arrangements.√ To describe how an approved occupational pension scheme is set up.√ To explain the main legislative restrictions on the investment and operation of and the benefits arising from occupational pension schemes, AVCs, retirement annuities, ARFs, AMRFs, Buy Out Bonds and Personal Retirement Savings Accounts.√ To apply the Revenue Pensions Practice limitations on the maximum approvable benefits which can be provided for a member of an approved occupational pension scheme and calculate the maximum benefit in any individual case.√ To apply the Revenue Pensions Practice limitations on the maximum ordinary annual contribution which can be paid to an approved occupational pension scheme in respect of a member, and calculate the maximum ordinary annual contribution in any individual case.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Pensions

SUBJECT MATTER	COMPETENCIES
	<ul style="list-style-type: none">√ To define what a Small Self Administered Pension Scheme is and illustrate the current Revenue Pensions Practice and statutory restrictions on the operation of such schemes.√ To assess the different retirement benefit options under different types of pension arrangements and to compare the advantages and disadvantages of alternative benefit options for a <i>consumer</i>.√ To assess the main options open to an employee who leaves services with an entitlement to a preserved benefit under his or her employer's occupational pension scheme.√ To demonstrate the tax relief afforded to ordinary and special contributions to an approved occupational pension scheme and to overseas pension arrangements, and calculate the relief for an employer special contribution paid to an approved occupational pension scheme in a particular case.
5. Retirement portfolios	<ul style="list-style-type: none">√ To explain the main different ways in which pension arrangements can invest in geared property investment.√ To define an exempt unit trust and explain what types of investors can invest in such a unit trust√ To explain what an ARF portfolio is, and identify who is entitled to transfer funds into an ARF.√ To identify the main statutory restrictions on ARF, PRSA and occupational pension scheme investments.√ To demonstrate the taxation treatment of distributions from an ARF.√ To define what a <i>Small Self Administered Pension Scheme</i> is and illustrate the current Revenue practice and statutory restrictions on investment powers of such schemes.√ To explain what a <i>chargeable excess</i> is, how it can arise, and calculate the chargeable excess in an individual case.√ To explain how a tax charge can arise on the payment of a lump sum under a pension arrangement, and calculate the tax liability in an individual case.
6. Personal taxation	<ul style="list-style-type: none">√ To list the main schedules under which Income Tax is assessed and identify the types of income which fall under each schedule.√ To describe the main Income Tax reliefs and credits which can be claimed by a <i>consumer</i>, including pension tax reliefs.√ To demonstrate how termination and compensation payments are taxed, how the tax free part of termination payments is related to pension tax free lump sum entitlement, and to calculate the taxable part of a termination payment in an individual case.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Pensions

SUBJECT MATTER	COMPETENCIES
	<ul style="list-style-type: none">√ To calculate a <i>consumer's</i> Income Tax liability, given details of his or her earnings and reliefs.
7. The process by which appropriate advice is given to the <i>consumer</i> about pension products and benefits	<ul style="list-style-type: none">√ To identify the main items of information about a <i>consumer</i> which should be sought <i>before</i> providing <i>advice</i> to that <i>consumer</i> on pension policies and benefits.√ To describe the main retirement pensions provided by the Social Insurance and Assistance schemes, and assess a <i>consumer's</i> potential entitlement to such benefits.√ To analyse information about a <i>consumer's</i> financial needs and resources in order to accurately identify, quantify and prioritise their retirement needs.√ To compare and contrast the features, benefits, limitations and risks of different generic types of pension products, so as to be able to recommend to a <i>consumer</i> a product or a portfolio appropriate to that <i>consumer's</i> financial needs, resources and attitude to risk.√ To compose a reason-why statement for a <i>consumer</i> setting out in clear terms the reasons underlying any retirement planning <i>advice</i> given to the <i>consumer</i>.√ To explain why a regular review of a <i>consumer's</i> financial needs and resources should be conducted.
8. Inflation and financial mathematics	<ul style="list-style-type: none">√ To illustrate the impact inflation can have over time on a <i>consumer's</i> financial needs and resources, and on returns from pension products.√ To calculate a sum accumulated over a specified period at a specified rate of interest, using appropriate accumulation tables.√ To calculate a sum discounted over a specified period at a specified rate of interest, using appropriate discounting tables.√ To define what the term <i>RIY</i> means and demonstrate how it can be used to compare different pension policies.
9. Best practice	<ul style="list-style-type: none">√ To describe the importance of confidentiality in relation to the collection, maintenance and processing of personal data related to <i>consumers</i>.√ To recognise the ethical issues arising in relation to the conduct of business.
10. Legislation, regulation and compliance	<ul style="list-style-type: none">√ To discuss why Governments seek to regulate financial services companies.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Pensions

SUBJECT MATTER	COMPETENCIES
	<ul style="list-style-type: none">√ To distinguish between <i>structural</i>, <i>systemic</i>, <i>prudential</i> and <i>consumer protection</i> regulation.√ To describe the main functions of the Central Bank of Ireland, including its enforcement powers.√ To describe the main functions of the Competition and Consumer Protection Commission in relation to the provision of financial services to <i>consumers</i>.√ To describe the different types of <i>insurance intermediaries</i> authorised under the Investment Intermediaries Act, 1995 and registered under the European Communities (Insurance Mediation) Regulations 2005.√ To explain the main regulatory requirements which directly apply to the activity of advising <i>consumers</i> in relation to pension policies and associated benefits, including in particular:<ul style="list-style-type: none">• the registration and authorisation requirements of <i>insurance intermediaries</i>;• the provisions of relevant Codes of Conduct and Regulations, issued by the Central Bank of Ireland;• the conditions of 'execution only' transactions;• obligations on investment firms, insurance intermediaries and investment business firms as designated <i>persons</i> under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010;• the benefits provided to <i>consumers</i> by the Investor Compensation Scheme and the limitations of that scheme;• the details of the Financial Services Ombudsman Scheme, and how a <i>consumer</i> can access the Scheme;• the details of the Pensions Ombudsman Scheme, and how a <i>consumer</i> can access the Scheme;• the provisions of the Data Protection Acts, 1988 and 2003 related to the maintenance, disclosure and use of personal data and the Equal Status Acts 2000-2015;• the Pensions Act whistle blowing obligations on relevant <i>persons</i> in relation to the operation of occupational pension schemes and PRSAs.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Savings and Investments

SUBJECT MATTER	COMPETENCIES
1. The concept of financial planning	<ul style="list-style-type: none">√ To analyse the main generic types of savings and investment needs a <i>consumer</i> may have at different life stages.√ To explain the concept of financial planning and assess the benefits it can provide to <i>consumers</i> in terms of meeting their financial plans and objectives.
2. The financial services market	<ul style="list-style-type: none">√ To explain the main functions which the financial system fulfils.√ To list the key participants of the financial services system.√ To describe the main financial services which financial institutions provide.√ To define what <i>capital markets</i> are and differentiate between the <i>primary</i> and <i>secondary</i> capital markets.√ To describe how financial markets function and how they affect the value and pricing of savings and investment products.√ To describe specific market structures for savings and investment products and, where relevant, their trading venues or the existence of any secondary markets.√ To identify the main functions of the Irish Stock Exchange, including the main types of securities listed on the Exchange.
3. Legal principles	<ul style="list-style-type: none">√ To explain the main elements of a valid contract, how a contract is discharged and the remedies for breach of contract.√ To interpret the concept of <i>agency</i> and define the main duties of an agent to his or her <i>principal</i> and discuss how an agency may be terminated.
4. The economy	<ul style="list-style-type: none">√ To distinguish between <i>monetary</i> and <i>fiscal</i> policy.√ To differentiate between <i>Gross Domestic Product</i> and <i>Gross National Product</i>.√ To describe the impact of economic figures and national, regional and global events on markets and on the value of savings and investment products.√ To identify the different causes of inflation and deflation.√ To identify the different causes of unemployment.√ To discuss the main benefits of international free trade.√ To describe the main features of the European System of Central Banks.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Savings and Investments

5. Savings and Investment

- √ To describe the key characteristics, risks and features of savings and investment products, including products characterised by higher levels of complexity.
- √ To describe the total costs and charges incurred by a client in the context of savings and investment products and the costs related to the provision of advice and any other related services being provided.
- √ To describe the general tax implications incurred by a consumer in the context of transactions in relation to savings and investment products.
- √ To demonstrate an appropriate level of financial knowledge relevant to the savings and investments market.
- √ To demonstrate a basic knowledge of valuation principles for savings and investment products.
- √ To discuss the main investment asset classes.
- √ To discuss alternative asset classes.
- √ To explain the main advantages and disadvantages of different investment options for holders of insurance-based investment products.
- √ To explain the concept of the volatility of investment returns and describe how this volatility may vary by the main investment asset classes.
- √ To discuss the concept of the correlation of investment returns between different investments.
- √ To describe efficient portfolio theory, including the fundamentals of managing a portfolio and the implications of diversification regarding individual investment alternatives.
- √ To explain the main advantages and disadvantages of collective investment over individual direct investment.
- √ To describe the main features and risks of the different generic forms of collective investment funds, including differentiating between open ended and closed ended funds.
- √ To explain market efficiency and its implications for active, passive and consensus investment management styles.
- √ To assess the potential impact of different forms of risk which may be associated with an investment.
- √ To describe the difference between past performance and future performance scenarios, as well as the limits of predictive forecasting.
- √ To accurately appraise a consumer's attitude to investment risk.
- √ To describe the difference between optimisation and maximisation of investment returns.
- √ To identify the main restrictions which may apply to trustee investments under the Trustee (Authorised Investments) Act, 1958.
- √ To identify the main restrictions which apply to the investment of credit union assets.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Savings and Investments

- 6. Quoted shares**
- √ To list the different types of ordinary and preferences shares, and describe their differing shareholder rights.
 - √ To explain the different factors which can have an influence on quoted share prices, from time to time.
 - √ To calculate and interpret the main ratios used to assess and compare quoted share values, including in particular *dividend yield, dividend cover, earnings per share, PER, EBITDA, and net asset value*.
 - √ To explain the steps for the *consumer* involved in buying or selling quoted shares, including settlement procedures.
 - √ To distinguish between *discretionary, advisory and execution only* services provided by investment firms.
 - √ To identify the different methods of registering ownership of quoted shares.
 - √ To describe what the main ISEQ indices are.
 - √ To assess different potential risks for a *consumer* investing in a quoted share.
 - √ To define and calculate '*yield gap*' and '*equity risk premium*'.
- 7. Quoted bonds**
- √ To define what a *bond* is and what it offers *consumers*
 - √ To identify the steps and quantify costs involved in a *consumer* buying or selling quoted bonds, including settlement procedures.
 - √ To explain the main terms used in relation to the return offered by a bond, including *running or flat yield, gross redemption yield and net redemption yield* and calculate these returns, approximately, in the case of a particular bond.
 - √ To list the factors that influence the returns offered by bonds, from time to time.
 - √ To describe the different potential risks for a *consumer* investing in a quoted bond.
- 8. Investment linked life assurance policies**
- √ To describe the general terms and conditions of investment linked life assurance policies.
 - √ To compare and contrast the main features, benefits (guaranteed and unguaranteed), limitations and risks for a *consumer* of the different generic types of investment linked life assurance including regular savings plans and lump sum investment bonds.
 - √ To quantify the typical explicit charges of the different generic types of investment linked life assurance policies.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Savings and Investments

- √ To explain the different ways in which investment linked life assurance policies can be arranged and owned and demonstrate the impact of each arrangement on entitlement to benefit under the policy.
 - √ To demonstrate the taxation treatment for the *consumer* of premiums and benefits under the different generic types of investment linked life assurance policies.
 - √ To assess the different risks for a *consumer* investing in an investment linked life assurance policy.
 - √ To explain how the net premium payable by a *consumer* under an investment linked life assurance policy is determined.
- 9. Tracker Bonds**
- √ To describe how generic types of life assurance and deposit Tracker Bonds are structured to provide the benefits promised to the investor.
 - √ To illustrate the main differences for the *consumer* in the taxation treatment of returns received from life assurance and deposit based Tracker Bonds.
 - √ To explain the different risks for a *consumer* investing in a Tracker Bond.
- 10. Collective investment scheme instruments**
- √ To explain the different legal structures of, regulatory provisions applying to, and describe the main features, benefits, charges and risks for a *consumer* investing in collective investment scheme instruments.
- 11. Exchange Traded Funds (ETFs)**
- √ To define an Exchange Traded Fund (ETF) and discuss its advantages and disadvantages for a *consumer* as a means of investing in quoted shares.
- 12. Derivatives**
- √ To discuss the main features, benefits and risks for a *consumer* of investing in financial derivatives, linked to the movement in the value of quoted shares, including the following:
 - Contracts for Difference (CFDs)
 - Covered Warrants
 - Options
 - Futures
- 13. Unquoted shares**
- √ To describe the main benefits, features, characteristics and risks for a *consumer* investing in unquoted transferable shares.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Savings and Investments

14. Company law and accounting

- √ To describe how a company is formed.
- √ To differentiate between a private company and a public limited company (plc).
- √ To list the information contained in a typical company's Memorandum of Association and Articles of Association.
- √ To define the basic accounting principles which apply to the accounts of a typical trading company.
- √ To identify what information a typical trading company's Balance Sheet, Profit and Loss Account and Cash Flow statements contain and analyse this information to aid the assessment of the value of the company.

15. Personal taxation

- √ To list the main schedules under which Income Tax is assessed and identify the types of income which fall under each schedule.
- √ To apply the main Income Tax reliefs and credits which can be claimed.
- √ To calculate a Capital Gains Tax liability that could arise on the disposal by a *consumer* of an asset and apply the main exemptions and reliefs which are available.
- √ To demonstrate the taxation treatment of a *consumer* investing in collective investment scheme instruments, including UCITS (as defined in Directive 2009/65/EC on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as amended), AIFs as defined in Directive 2011/61/EU on Alternative Investment Fund Managers, unit trusts, designated investment companies, investment limited partnerships, UCITS, and BES designated investment funds and equivalent offshore funds.
- √ To demonstrate the taxation treatment of a *consumer* investing in a BES qualifying company and a Film qualifying company.
- √ To demonstrate how a *consumer* is taxed on profits arising from investing in derivatives, within the meaning of Directive 2014/65/EU on markets in financial instruments.

16. Business consumers

- √ To identify the main legal and taxation differences between a partnership and a limited company.
- √ To compare and contrast the main features, benefits, restrictions and taxation treatment of *Approved Share Options*, *Unapproved Share Option schemes*, *SAYE scheme* and *Approved Profit Sharing Schemes* which employers may provide for employees.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Savings and Investments

17. The process by which appropriate investment advice is given to the consumer

- √ To identify the main items of information about a *consumer* which should be sought *before* providing investment *advice* or information to that *consumer* on savings and investment products.
- √ To describe the main retirement pensions provided by the Social Insurance and Assistance schemes, and assess a *consumer's* potential entitlement to such benefits.
- √ To analyse information about a *consumer's* financial needs and resources in order to accurately identify, quantify and prioritise their savings and investment needs.
- √ To analyse data relevant to savings and investment products gathered in Key Investor Information Documents, prospectuses, financial statements, or financial data.
- √ To compare and contrast the features, benefits, limitations and risks of different generic types of savings and investment products, so as to be able to recommend to a *consumer* an investment portfolio or product appropriate to that *consumer's* financial needs, resources and attitude to investment risk.
- √ To describe how to fulfil the obligations on firms in relation to the suitability requirements set out in Directive 2014/65/EC on markets in financial instruments, including the obligations set out in the ESMA Guidelines on certain aspects of the MiFID suitability requirements.
- √ To compose a suitability statement setting out in clear terms the reasons underlying any investment *advice* given to the *consumer*.
- √ To explain how the type of investment product proposed may not be suitable for the client, having assessed the relevant information provided by the client against potential changes that may have occurred since the relevant information was gathered.
- √ To explain why a regular review of a *consumer's* financial needs and resources should be conducted.

18. Inflation and financial mathematics

- √ To illustrate the impact inflation can have over time on a *consumer's* financial needs and resources and on returns from savings and investment products.
- √ To calculate a sum accumulated over a specified period at a specified rate of interest, using appropriate accumulation tables.
- √ To calculate a sum discounted over a specified period at a specified rate of interest, using appropriate discounting tables.
- √ To calculate the *Net Present Value* of a simple investment proposition, using appropriate discounting tables.
- √ To define the terms *RIY*, *IRR*, and *CAR* and demonstrate how they can be used to compare different financial products.
- √ To describe and calculate measures of the volatility of investment returns.

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Retail Financial Product: Savings and Investments

19. Best practice

- √ To describe the importance of confidentiality in relation to the collection, maintenance and processing of personal data related to *consumers*.
- √ To recognise the ethical issues arising in relation to the conduct of business.
- √ To describe the provisions of relevant Codes of Conduct and Regulations issued by the Central Bank of Ireland and other legislative requirements regarding conflicts of interest.
- √ To describe how to advise a *consumer* in relation to the procedures involved in complaints handling and the use of alternative dispute resolution channels in relation to savings and investments products.

20. Legislation, regulation and compliance

- √ To discuss why Governments seek to regulate financial services companies.
- √ To distinguish between structural, systemic, prudential and consumer protection regulation.
- √ To describe the main functions of the Central Bank of Ireland, including its enforcement powers.
- √ To describe the main functions of the Competition and Consumer Protection Commission in relation to the provision of financial services to consumers.
- √ To list the main functions of the Director of Corporate Enforcement in relation to the regulation of corporate governance.
- √ To explain the role of the Irish Stock Exchange in relation to Member Firms.
- √ To describe the different types of intermediaries, authorised under the Investment Intermediaries Act, 1995 and registered under the European Communities (Insurance Mediation) Regulations 2005.
- √ To explain the main regulatory requirements which directly apply to the activity of advising or providing information to *consumers* in relation to savings and investment products, including in particular:
 - the registration and authorisation requirements of *insurance intermediaries*;
 - who prudentially regulates life assurance companies and the role of the Head of Actuarial Function;
 - Directive 2014/65/EC on markets in financial instruments;
 - ESMA Guidelines on certain aspects of the MiFID suitability requirements;
 - the European Communities (Insurance Mediation) Regulations, 2005;
 - the European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004;

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Retail Financial Product: Savings and Investments

- the main provisions of the Rules of the Irish Stock Exchange Limited;
- the provisions of relevant Codes of Conduct or Regulations, issued by the Central Bank of Ireland;
- the conditions of 'execution only' transactions;
- the Revenue reporting duties of intermediaries who arrange investment in offshore investment funds and foreign policies for Irish residents;
- obligations on investment firms, insurance intermediaries and investment business firms as *designated persons* under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010;
- the provisions of Life Assurance (Provision of Information) Regulations, 2001;
- the benefits provided to *consumers* by the Investor Compensation scheme and the limitations of that scheme;
- the details of the Financial Services Ombudsman Scheme, and how a *consumer* can access the Scheme;
- the main insider dealing provisions of the Companies Act, 2014;
- the main provisions of the Market Abuse (Directive 2014/57/EU) Regulations 2014, Part 4 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 and the Market Abuse Rules issued by the Central Bank of Ireland;
- the provisions of the Data Protection Acts, 1988 and 2003 related to the maintenance, disclosure and use of personal data and the Equal Status Acts 2000-2015;
- Directive 2016/97/EC on insurance distribution;
- tax law and social and labour law governing the distribution of insurance products.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Personal General Insurance

SUBJECT MATTER	COMPETENCIES
1. The concept of insurance	<ul style="list-style-type: none">√ To explain the nature of general insurance and the insurability of risks.√ To explain the concept of general insurance and the benefits it can provide to <i>consumers</i> in terms of protecting them against the consequences of adverse events.√ To analyse the risks faced by <i>consumers</i> in a comprehensive manner and to identify the extent of appropriate insurance solutions available in the market.
2. Basic legal and insurance principles underlying general insurance	<ul style="list-style-type: none">√ To illustrate the particular legal principles of <i>insurable interest</i> and <i>utmost good faith</i>.√ To describe the main requirements which these legal principles impose on <i>consumers</i> effecting general insurance policies, including in particular the duty to disclose material facts, and how these principles can impact on payment of claims and continuance of the policy.√ To explain the concept of indemnity and its application to personal general insurance policies.√ To apply the corollaries of indemnity, subrogation and contribution in commonly encountered situations where recovery rights may be exercised or dual insurance exists.√ To explain the operation of the principle of proximate cause in claims situations.
3. The insurance market and contractual considerations	<ul style="list-style-type: none">√ To explain the way in which the general insurance market operates.√ To describe the different types of intermediary and their responsibilities towards their clients.√ To describe the main elements of a valid contract, how a contract is discharged and the remedies for breach of contract.√ To explain the concept of <i>agency</i> and to know the main duties of an agent to his or her <i>principal</i> and how an agency may be terminated.
4. Underwriting procedures and policy wording	<ul style="list-style-type: none">√ To explain the general insurance underwriting process and the relationship between underwriting and the premium charged for general insurance policies.√ To describe the typical underwriting measures available to an underwriter when considering a general insurance proposal including restrictions such as the application of warranties.

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Retail Financial Product: Personal General Insurance

SUBJECT MATTER

COMPETENCIES

- √ To describe the function and legal significance of proposal forms and other insurance documentation and explain the importance of the accuracy and completeness of the information provided.
- √ To be able to frame questions (even if outside the scope of the proposal form) which encourage disclosure of the necessary material information for *consumers* to be provided with the most appropriate product and ensure that they fulfil their duty of utmost good faith.
- √ To explain insurer rating guides and their application in determining premiums charged to *consumers*.
- √ To describe the structure of general insurance policy wordings and common market exclusions and conditions.
- √ To define *reinsurance* and state what prompts its use in the underwriting process for general insurance policies and outline the main types of reinsurance.

5. Claims

- √ To explain the requirements on both the customer and the insurance company throughout the claims settlement process.
- √ To advise a *consumer* of the necessary procedures and documentation required to pursue a claim successfully.
- √ To explain why procedures are necessary that are designed to limit or prevent fraud or exaggeration of claims.
- √ To describe the role of the legal system and its main parties in the claims settlement process.
- √ To recognise and establish the extent to which the claim falls (or does not fall) within the scope of an insurance policy and explain why (or why not) to a *consumer*.
- √ To explain circumstances when other parties are involved in the claims process and their role and responsibility (InjuriesBoard.ie, solicitors, loss assessors, loss adjusters, appraisers, surveyors and other experts).

6. Risk management process

- √ To identify the main techniques used in risk management.
- √ To describe how risk management techniques can protect *consumers* and their business (physically and financially).
- √ To identify the main sources of risk management information, such as information provided by relevant government bodies and market associations.
- √ To analyse information about a *consumer's* personal situation or that of their business in order to identify means of applying risk prevention, reduction and avoidance techniques and retention options.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Personal General Insurance

SUBJECT MATTER	COMPETENCIES
7. The process by which appropriate advice is given to the consumer about a general insurance policy	<ul style="list-style-type: none">√ To describe the information and documentation required by insurance organisations for fulfilment of legal and regulatory requirements.√ To describe the main items of information about a <i>consumer</i> that should be sought <i>before</i> providing <i>advice</i> to that <i>consumer</i> about a general insurance policy.√ To be able to analyse and assess information about a <i>consumer's</i> general insurance needs in order to accurately identify, quantify and prioritise their general insurance needs.√ To accurately identify and compare the features, benefits and limitations of different generic types of general insurance policies so as to be able to develop effective solutions to meet a <i>consumer's</i> insurance needs.√ To draft a suitability statement for a <i>consumer</i> setting out in clear terms the reasons underlying any <i>advice</i> given to the <i>consumer</i> regarding a general insurance policy.√ To explain why a regular review of a <i>consumer's</i> general insurance needs should be conducted.
8. Best practice	<ul style="list-style-type: none">√ To explain the importance of confidentiality in relation to the collection, maintenance and processing of personal data related to <i>consumers</i>.√ To explain the ethical issues arising in relation to the conduct of business and the most appropriate means of ensuring ethical standards and behaviour.√ To advise a <i>consumer</i> in relation to the procedures involved in complaints handling and the use of alternative dispute resolution channels in general insurance.
9. In-depth knowledge of personal general insurance	<ul style="list-style-type: none">√ To describe and explain the scope and limitations of policy covers (including ancillary risks, where applicable) and standard options available.√ To describe and explain the terms and conditions of policies offered, including ancillary risks if covered by such policies.√ To explain the methods of underwriting, including appropriate reinsurance options.√ To describe and apply the relevant torts of negligence, trespass and strict liability.√ To outline and apply the personal general insurance claims handling procedures.√ To demonstrate an appropriate level of financial knowledge relevant to the insurance market.

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Retail Financial Product: Personal General Insurance

SUBJECT MATTER	COMPETENCIES
10. Legislation, regulation and compliance	<ul style="list-style-type: none">√ To discuss why Governments seek to regulate financial services companies.√ To distinguish between structural, systemic, prudential and <i>consumer</i> protection regulation.√ To describe the main functions of the Central Bank of Ireland, including its enforcement powers.√ To describe the different types of insurance intermediaries authorised under the Investment Intermediaries Act 1995 and registered under the European Communities (Insurance Mediation) Regulations 2005.√ To explain the requirements surrounding the authorisation and supervision of insurance undertakings.√ To describe the regulations which govern general insurance policies (e.g., scope of policy coverage, renewal).√ To describe the developments in the European Union that have influenced the provision of <i>advice</i> in relation to general insurance products and the means by which these have been brought into law in Ireland.√ To explain the main regulatory requirements which directly apply to the activities of advising and providing information to <i>consumers</i> on and effecting of a general insurance policy and to the activity of distributing insurance products, including but not limited to:<ul style="list-style-type: none">• the registration and authorisation requirements of <i>insurance intermediaries</i>;• the European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004;• the provisions of relevant Codes of Conduct and Regulations, issued by the Central Bank of Ireland;• obligations on insurance intermediaries as <i>designated persons</i> under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010;• the benefits provided to <i>consumers</i> by the Investor Compensation Scheme and the limitations of that scheme;• the details of the Financial Services Ombudsman Scheme, and how a <i>consumer</i> can access the Scheme;• the provisions of the Data Protection Acts, 1988 and 2003 related to the maintenance, disclosure and use of personal data and the Equal Status Acts 2000-2015;• Directive 2016/97/EC on insurance distribution;• European Union (Insurance and Reinsurance) Regulations 2015;• tax law and social and labour law governing the distribution of insurance products.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Commercial General Insurance

SUBJECT MATTER	COMPETENCIES
1. The concept of insurance	<ul style="list-style-type: none">√ To explain the nature of general insurance and the insurability of risks.√ To explain the concept of general insurance and the benefits it can provide to <i>consumers</i> in terms of protecting them against the consequences of adverse events.√ To analyse the risks faced by <i>consumers</i> in a comprehensive manner and to identify the extent of appropriate insurance solutions available in the market.
2. Basic legal and insurance principles underlying general insurance	<ul style="list-style-type: none">√ To illustrate the particular legal principles of <i>insurable interest</i> and <i>utmost good faith</i>.√ To describe the main requirements which these legal principles impose on <i>consumers</i> effecting general insurance policies, including in particular the duty to disclose material facts, and how these principles can impact on payment of claims and continuance of the policy.√ To explain the concept of indemnity and its application to commercial general insurance policies.√ To apply the corollaries of indemnity, subrogation and contribution in commonly encountered situations where recovery rights may be exercised or dual insurance exists.√ To explain the operation of the principle of proximate cause in claims situations.
3. The insurance market and contractual considerations	<ul style="list-style-type: none">√ To explain the way in which the general insurance market operates.√ To describe the different types of intermediary and their responsibilities towards their clients.√ To describe the main elements of a valid contract, how a contract is discharged and the remedies for breach of contract.√ To explain the concept of <i>agency</i> and to know the main duties of an agent to his or her <i>principal</i> and how an agency may be terminated.
4. Underwriting procedures and policy wording	<ul style="list-style-type: none">√ To explain the general insurance underwriting process and the relationship between underwriting and the premium charged for general insurance policies.√ To describe the typical underwriting measures available to an underwriter when considering a general insurance proposal including restrictions such as the application of warranties.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Commercial General Insurance

SUBJECT MATTER	COMPETENCIES
	<ul style="list-style-type: none">√ To describe the function and legal significance of proposal forms and other insurance documentation and explain the importance of the accuracy and completeness of the information provided.√ To be able to frame questions (even if outside the scope of the proposal form) which encourage disclosure of the necessary material information for <i>consumers</i> to be provided with the most appropriate product and ensure that they fulfil their duty of utmost good faith.√ To explain insurer rating guides and their application in determining premiums charged to <i>consumers</i>.√ To describe the structure of general insurance policy wordings and common market exclusions and conditions.√ To define <i>reinsurance</i> and state what prompts its use in the underwriting process for general insurance policies and outline the main types of reinsurance.
5. Claims	<ul style="list-style-type: none">√ To explain the requirements on both the customer and the insurance company throughout the claims settlement process.√ To advise a <i>consumer</i> of the necessary procedures and documentation required to pursue a claim successfully.√ To explain why procedures are necessary that are designed to limit or prevent fraud or exaggeration of claims.√ To describe the role of the legal system and its main parties in the claims settlement process.√ To recognise and establish the extent to which the claim falls (or does not fall) within the scope of an insurance policy and explain why (or why not) to a <i>consumer</i>.√ To explain circumstances when other parties are involved in the claims process and their role and responsibility (InjuriesBoard.ie, solicitors, loss assessors, loss adjusters, appraisers, surveyors and other experts).
6. Risk management process	<ul style="list-style-type: none">√ To identify the main techniques used in risk management.√ To describe how risk management techniques can protect <i>consumers</i> and their business (physically and financially).√ To identify the main sources of risk management information, such as information provided by relevant government bodies and market associations.√ To analyse information about a <i>consumer's</i> personal situation or that of their business in order to identify means of applying risk prevention, reduction and avoidance techniques and retention options.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Commercial General Insurance

SUBJECT MATTER	COMPETENCIES
7. The process by which appropriate advice is given to the consumer about a general insurance policy	<ul style="list-style-type: none">√ To describe the information and documentation required by insurance organisations for fulfilment of legal and regulatory requirements.√ To describe the main items of information about a <i>consumer</i> that should be sought <i>before</i> providing <i>advice</i> to that <i>consumer</i> about a general insurance policy.√ To be able to analyse and assess information about a <i>consumer's</i> general insurance needs in order to accurately identify, quantify and prioritise their general insurance needs.√ To accurately identify and compare the features, benefits and limitations of different generic types of general insurance policies so as to be able to develop effective solutions to meet a <i>consumer's</i> insurance needs.√ To draft a suitability statement for a <i>consumer</i> setting out in clear terms the reasons underlying any <i>advice</i> given to the <i>consumer</i> regarding a general insurance policy.√ To explain why a regular review of a <i>consumer's</i> general insurance needs should be conducted.
8. Best practice	<ul style="list-style-type: none">√ To explain the importance of confidentiality in relation to the collection, maintenance and processing of personal data related to <i>consumers</i>.√ To explain the ethical issues arising in relation to the conduct of business and the most appropriate means of ensuring ethical standards and behaviour.√ To advise a <i>consumer</i> in relation to the procedures involved in complaints handling and the use of alternative dispute resolution channels in general insurance.
9. In-depth knowledge of commercial general insurance	<ul style="list-style-type: none">√ To describe and explain the scope and limitations of policy covers and options available, including ancillary risks, where applicable.√ To describe and explain the terms and conditions of policies offered, including ancillary risks if covered by such policies.√ To recognise the enquiries required to establish the risk appetite and insurable risks faced by commercial organisations; highlighting issues which are of particular importance to commercial classes of insurance business.√ To explain the methods of underwriting, including appropriate reinsurance options.√ To outline the role of the insurance surveyor.√ To describe and apply the relevant torts of negligence, trespass, strict liability nuisance, defamation, libel and slander.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Commercial General Insurance

SUBJECT MATTER	COMPETENCIES
10. Legislation, regulation and compliance	√ To outline and apply the commercial general insurance claims handling procedures.
	√ To demonstrate an appropriate level of financial knowledge relevant to the insurance market.
	√
	√ To discuss why Governments seek to regulate financial services companies.
	√ To distinguish between structural, systemic, prudential and consumer protection regulation.
	√ To describe the main functions of the Central Bank of Ireland, including its enforcement powers.
	√ To describe the different types of insurance intermediaries authorised under the Investment Intermediaries Act 1995 and registered under the European Communities (Insurance Mediation) Regulations 2005.
	√ To explain the requirements surrounding the authorisation and supervision of insurance undertakings.
	√ To describe the regulations which govern general insurance policies (e.g. scope of policy, renewals).
	√ To describe the developments in the European Union that have influenced the provision of advice in relation to general insurance products and the means by which these have been brought into law in Ireland.
	√ To explain the main regulatory requirements which directly apply to the activities of advising and providing information to consumers on and effecting of a general insurance policy and to the activity of distributing insurance products, including but not limited to:
	<ul style="list-style-type: none">• the registration and authorisation requirements of insurance intermediaries;• the European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004;• the provisions of relevant Codes of Conduct and Regulations, issued by the Central Bank of Ireland;• obligations on insurance intermediaries as designated persons under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010;• the benefits provided to consumers by the Investor Compensation Scheme and the limitations of that scheme• the details of the Financial Services Ombudsman Scheme, and how a consumer can access the Scheme;

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Retail Financial Product: Commercial General Insurance

SUBJECT MATTER

COMPETENCIES

- the provisions of the Data Protection Acts, 1988 and 2003 related to the maintenance, disclosure and use of personal data and the Equal Status Acts 2000-2015; Directive 2016/97/EC on insurance distribution;
- European Union (Insurance and Reinsurance) Regulations 2015;
- tax law and social and labour law governing the distribution of insurance products.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Private Medical Insurance and Associated Insurances

SUBJECT MATTER	COMPETENCIES
1. The concept of insurance	<ul style="list-style-type: none">√ To explain the nature of general insurance (including Private Medical Insurance) and the insurability of risks.√ To explain the concept of general insurance and the benefits it can provide to <i>consumers</i> in terms of protecting them against the consequences of adverse events.√ To analyse the risks faced by <i>consumers</i> in a comprehensive manner and to identify the extent of appropriate insurance solutions available in the market.
2. Basic legal and insurance principles underlying general insurance (including Private Medical Insurance)	<ul style="list-style-type: none">√ To illustrate the particular legal principles of <i>insurable interest</i> and <i>utmost good faith</i>.√ To describe the main requirements which these legal principles impose on <i>consumers</i> effecting general insurance policies, including in particular the duty to disclose material facts, and how these principles can impact on payment of claims and continuance of the policy.√ To explain the concept of indemnity and its application to different classes of general insurance policies.√ To apply the corollaries of indemnity, subrogation and contribution in commonly encountered situations where recovery rights may be exercised or dual insurance exists.√ To explain the operation of the principle of proximate cause in claims situations.
3. The insurance market and contractual considerations	<ul style="list-style-type: none">√ To explain the way in which the general insurance and private medical insurance market operates.√ To describe the different types of intermediary and their responsibilities towards their clients.√ To describe the main elements of a valid contract, how a contract is discharged and the remedies for breach of contract.√ To explain the concept of <i>agency</i> and to know the main duties of an agent to his or her <i>principal</i> and how an agency may be terminated.√ To demonstrate the fiscal treatment for the <i>consumer</i> of premiums and benefits under private medical insurance policies.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Private Medical Insurance and Associated Insurances

SUBJECT MATTER	COMPETENCIES
4. Underwriting procedures and policy wording	<ul style="list-style-type: none">√ To explain the general insurance underwriting process and the relationship between underwriting and the premium charged for general insurance policies.√ To describe the typical underwriting measures available to an underwriter when considering a general insurance proposal including restrictions such as the application of warranties.√ To describe the function and legal significance of proposal forms and other insurance documentation and explain the importance of the accuracy and completeness of the information provided.√ To be able to frame questions (even if outside the scope of the proposal form) which encourage disclosure of the necessary material information for <i>consumers</i> to be provided with the most appropriate product and ensure that they fulfil their duty of utmost good faith.√ To explain insurer rating guides and their application in determining premiums charged to <i>consumers</i>.√ To describe the structure of general insurance policy wordings and common market exclusions and conditions.√ To define <i>reinsurance</i> and state what prompts its use in the underwriting process for general insurance policies and outline the main types of reinsurance.
5. Claims	<ul style="list-style-type: none">√ To explain the requirements on both the customer and the insurance company throughout the claims settlement process.√ To advise a <i>consumer</i> of the necessary procedures and documentation required to pursue a claim successfully.√ To explain why procedures are necessary that are designed to limit or prevent fraud or exaggeration of claims.√ To describe the role of the legal system and its main parties in the claims settlement process.√ To recognise and establish the extent to which the claim falls (or does not fall) within the scope of an insurance policy and explain why (or why not) to a <i>consumer</i>.√ To explain circumstances when other parties are involved in the claims process and their role and responsibility.
6. Risk management process	<ul style="list-style-type: none">√ To identify the main techniques used in risk management.√ To describe how risk management techniques can protect <i>consumers</i> and their business (physically and financially).√ To identify the main sources of risk management information, such as information provided by relevant government bodies and market associations.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Private Medical Insurance and Associated Insurances

SUBJECT MATTER	COMPETENCIES
7. The process by which appropriate advice is given to the consumer about a general insurance policy	<ul style="list-style-type: none">√ To describe the information and documentation required by insurance organisations for fulfilment of legal and regulatory requirements.√ To describe the main items of information about a <i>consumer</i> that should be sought <i>before</i> providing <i>advice</i> to that <i>consumer</i> about a general insurance policy.√ To be able to analyse and assess information about a <i>consumer's</i> general insurance needs in order to accurately identify, quantify and prioritise their general insurance needs.√ To accurately identify and compare the features, benefits and limitations of different generic types of general insurance policies so as to be able to develop effective solutions to meet a <i>consumer's</i> insurance needs.√ To draft a suitability statement for a <i>consumer</i> setting out in clear terms the reasons underlying any <i>advice</i> given to the <i>consumer</i> regarding a general insurance policy.√ To explain why a regular review of a <i>consumer's</i> general insurance needs should be conducted.
8. Best practice	<ul style="list-style-type: none">√ To explain the importance of confidentiality in relation to the collection, maintenance and processing of personal data related to <i>consumers</i>.√ To explain the ethical issues arising in relation to the conduct of business and the most appropriate means of ensuring ethical standards and behaviour.√ To advise a <i>consumer</i> in relation to the procedures involved in complaints handling and the use of alternative dispute resolution channels in general insurance.
9. In-depth knowledge of Private Medical Insurance	<ul style="list-style-type: none">√ To describe and explain the legal framework for conducting Private Medical Insurance business.√ To explain the scope and limitations of healthcare insurance policy covers (including ancillary risks, where applicable) and standard options available.√ To describe and explain the terms and conditions of policies offered, including ancillary risks if covered by such policies.√ To explain the methods of Private Medical Insurance and healthcare insurance underwriting.√ To explain and apply the Private Medical Insurance claims handling procedures.√ To explain and apply the taxation of premiums and benefits.√ To demonstrate an appropriate level of financial knowledge relevant to the insurance market

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Private Medical Insurance and Associated Insurances

SUBJECT MATTER	COMPETENCIES
10. Associated insurances	<ul style="list-style-type: none">√ To describe and explain the scope and limitations of policy covers and standard options available for:<ul style="list-style-type: none">• Major medical expenses;• Dental insurance;• Health cash plans;• Travel insurance.
11. Legislation, regulation and compliance	<ul style="list-style-type: none">√ To discuss why Governments seek to regulate financial services companies.√ To distinguish between structural, systemic, prudential and <i>consumer</i> protection regulation.√ To describe the main functions of the Central Bank of Ireland, including its enforcement powers.√ To describe the role of the Health Insurance Authority in relation to the regulation of Private Medical Insurance in Ireland.√ To describe the different types of insurance intermediaries authorised under the Investment Intermediaries Act 1995 and registered under the European Communities (Insurance Mediation) Regulations 2005.√ To explain the requirements surrounding the authorisation and supervision of insurance undertakings.√ To describe the regulations which govern general insurance policies (e.g. scope of policy coverage, renewal).√ To describe the developments in the European Union that have influenced the provision of <i>advice</i> in relation to general insurance products and the means by which these have been brought into law in Ireland.√ To explain the main regulatory requirements which directly apply to the activities of advising and providing information to <i>consumers</i> on and effecting of a general insurance policy and to the activity of distributing insurance products, including but not limited to:<ul style="list-style-type: none">• the registration and authorisation requirements of <i>insurance intermediaries</i>;• the European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004;• the provisions of relevant Codes of Conduct and Regulations, issued by the Central Bank of Ireland;• obligations on insurance intermediaries as <i>designated persons</i> under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010;• the benefits provided to <i>consumers</i> by the Investor Compensation Scheme and the limitations of that scheme;• the details of the Financial Services Ombudsman Scheme, and how a <i>consumer</i> can access the Scheme;

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Retail Financial Product: Private Medical Insurance and Associated Insurances

SUBJECT MATTER

COMPETENCIES

- the provisions of the Data Protection Acts, 1988 and 2003 related to the maintenance, disclosure and use of personal data and the Equal Status Acts 2000-2015; Directive 2016/97/EC on insurance distribution;
 - European Union (Insurance and Reinsurance) Regulations 2015;
- √ tax law and social and labour law governing the distribution of insurance products.

Appendix 3 – Minimum Competencies for Retail Financial Products

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

SUBJECT MATTER	COMPETENCIES
1. Legal	<ul style="list-style-type: none">√ To distinguish between <i>ownership</i> and <i>possession</i> of property and explain the two main different forms of ownership and possession of property.
2. Housing loans, Mortgage credit agreements¹⁸ and home reversion agreements¹⁹	<ul style="list-style-type: none">√ To describe the main features, benefits, restrictions and risks for the <i>consumer</i> of the different generic types of housing loans and mortgage credit agreements, including in particular the <i>capital & interest</i>, <i>endowment</i>, <i>pension</i> and <i>interest only</i> mortgages.√ To understand the ancillary services offered with mortgage credit agreements.√ To explain what a home reversion agreement is, its main features, benefits, restrictions and risks for the <i>consumer</i>, and how a home reversion agreement differs from a housing loan or mortgage credit agreement.√ To describe the process by which a consumer's creditworthiness is assessed.√ To identify the main forms of security typically required by a mortgage lender in relation to providing housing loan or mortgage credit agreements to <i>consumers</i>.√ To explain the main benefits and risks for the <i>consumer</i> associated with endowment, pension and interest only mortgages.√ To explain the main benefits and risks for the <i>consumer</i> associated with home reversion agreements.√ To compare and contrast the different interest options offered by generic types of housing loans or mortgage credit agreements, including in particular <i>variable rate</i>, <i>fixed rate</i> and <i>tracker variable rate</i>.√ To explain how housing loans and mortgage credit agreements can be used for '<i>debt consolidation</i>', and describe the benefits, restrictions and risks for the <i>consumer</i> in consolidating other debts and loans into a housing loan or mortgage credit agreement.√ To explain the different ways housing loans and mortgage credit agreements and home reversion agreements can be used for '<i>equity release</i>', and describe the benefits, restrictions and risks for the <i>consumer</i> in obtaining capital in this manner.√ To discuss the different methods by which housing loan lenders may deal with <i>consumers</i> who have accumulated arrears on a housing loan or mortgage credit agreement, including procedures for initiating legal proceedings.√ To describe the immovable property purchasing process.√ To describe security valuation.√ To describe the organisation and functioning of land registers.

¹⁸ credit agreement as defined in Regulation 3 of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016

¹⁹ As defined in Part V of the Central Bank Act 1997

Appendix 3 – Minimum Competencies for Retail Financial Products

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

SUBJECT MATTER	COMPETENCIES
3. The mortgage market	<ul style="list-style-type: none">√ To describe the way in which the mortgage market operates in Ireland.√ To describe the different types of mortgage lender and their responsibilities towards consumers.√ To describe the main elements of a valid contract, how a contract is discharged and the remedies for breach of contract.√ To demonstrate an appropriate level of financial and economic knowledge relevant to the mortgage market.
4. Taxation	<ul style="list-style-type: none">√ To explain the main details of, and apply the tax relief afforded to, interest for housing loans and mortgage credit agreements, including bridging loans.√ To calculate the tax relief afforded to investors on interest payments on housing loans and mortgage credit agreements in respect of rented residential property.
5. Associated insurances	<ul style="list-style-type: none">√ To discuss why Governments seek to regulate financial services companies.√ To distinguish between structural, systemic, prudential and <i>consumer</i> protection regulation.√ To describe the main functions of the Central Bank of Ireland, including its enforcement powers.√ To describe the role of the Health Insurance Authority in relation to the regulation of Private Medical Insurance in Ireland.√ To describe the different types of insurance intermediaries authorised under the Investment Intermediaries Act 1995 and registered under the European Communities (Insurance Mediation) Regulations 2005.√ To explain the requirements surrounding the authorisation and supervision of insurance undertakings.√ To describe the regulations which govern general insurance policies (e.g. scope of policy coverage, renewal).√ To describe the developments in the European Union that have influenced the provision of <i>advice</i> in relation to general insurance products and the means by which these have been brought into law in Ireland.√ To compare and contrast the main features, benefits, limitations and risks of the different generic types of life assurance protection policies, endowment mortgage policies, pension policies, and general insurance policies which can be used to provide for housing loan repayment in the event of death, disability or unemployment of the borrower, and/or to accumulate a fund to repay the housing loan or mortgage credit agreement by the end of the loan term.

Appendix 3 – Minimum Competencies for Retail Financial Products

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

SUBJECT MATTER	COMPETENCIES
	<ul style="list-style-type: none">√ To assess the main features, benefits and limitations of the Structural Defect Insurance cover.√ To compare and contrast the main features, benefits and limitations of the different generic types of general insurance policies which can be used to insure a house and the contents of a house, mortgaged in connection with a housing loan or mortgage credit agreement.√ To identify the obligations on mortgage lenders, under the Consumer Credit Act, 1995 and on creditors under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016, in relation to insurance of mortgaged property.√ To identify the obligations on mortgage lenders, under the Consumer Credit Act, 1995 and on creditors under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016, in relation to the provision of mortgage protection insurance cover for housing loan and mortgage credit agreement borrowers.√ To assess the relative advantages and disadvantages for the housing loan and mortgage credit agreement borrower of arranging associated insurances under a block policy arranged by the mortgage lender, compared with arranging such cover on an individual policy basis.√ To describe the main restrictions on mortgage agents, in the Consumer Credit Act 1995, in relation to linking services, and on creditors and mortgage credit intermediaries in the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 in relation to tying and bundling practices, in connection with the arrangement or provision of a housing loan or mortgage credit agreement.
6. The process by which appropriate advice is given to the consumer about a housing loan or mortgage credit agreement and associated insurances	<ul style="list-style-type: none">√ To identify the main items of information about a <i>consumer</i> which should be sought <i>before</i> providing <i>advice</i> to that <i>consumer</i> about a housing loan or mortgage credit agreement and/or associated insurances.√ To explain the various items of documentation a mortgage lender will typically seek from a <i>consumer</i> in order to process a housing loan or mortgage credit agreement application from that <i>consumer</i>.√ To list all the various explicit charges and costs a <i>consumer</i> is likely to bear when applying for and obtaining a housing loan or mortgage credit agreement, including the cost of any Payment Protection Insurance the credit institution may offer to arrange for the <i>consumer</i> in connection with the housing loan or mortgage credit agreement.

Appendix 3 – Minimum Competencies for Retail Financial Products

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

SUBJECT MATTER	COMPETENCIES
	<ul style="list-style-type: none">√ To compare and contrast the features, benefits, costs, limitations and risks of different generic types of housing loans or mortgage credit agreements so as to recommend to a <i>consumer</i> a type of housing loan or mortgage credit agreements appropriate to that <i>consumer's</i> financial needs, resources and attitude to risk.√ To compare and contrast the features, benefits, costs, limitations and risks of different generic types of life assurance and general insurance which can be required as part of a housing loan or mortgage credit agreement, so as to recommend to a <i>consumer</i> the type of cover and method of arrangement appropriate to that <i>consumer's</i> financial needs, resources and attitude to risk.√ To compose a suitability statement setting out in clear terms the reasons underlying any <i>advice</i> given to the <i>consumer</i> regarding a housing loan or mortgage credit agreement and/or the arranging of life assurance and/or general insurance related to the housing loan or mortgage credit agreement and the mortgaged property.
7. Compound interest	<ul style="list-style-type: none">√ To calculate a sum accumulated over a specified period at a specified rate of interest, using appropriate accumulation tables.√ To calculate a sum discounted over a specified period at a specified rate of interest, using appropriate discounting tables.√ To define what the term <i>APR</i> means and demonstrate how it can be used to compare different housing loans or mortgage credit agreements.
8. Best practice	<ul style="list-style-type: none">√ To describe the importance of confidentiality in relation to the collection, maintenance and processing of personal data related to <i>consumers</i>.√ To recognise the ethical issues arising in relation to the conduct of business.
9. Regulation	<ul style="list-style-type: none">√ To discuss the main functions of the Central Bank of Ireland, including its enforcement powers.√ To explain the main regulatory requirements which directly apply to the activity of advising a <i>consumer</i> on and the arrangement of a mortgage credit agreement or housing loan or a home reversion agreement:√ the authorisation requirements of <i>mortgage intermediaries</i>, under Part IX Consumer Credit Act 1995 and mortgage credit intermediaries under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016;

Appendix 3 – Minimum Competencies for Retail Financial Products

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

SUBJECT MATTER	COMPETENCIES
	<ul style="list-style-type: none">• the different obligations and restrictions imposed on <i>mortgage intermediaries, mortgage lenders, and mortgage agents</i> by the Consumer Credit Act, 1995 and on mortgage credit intermediaries and creditors under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016, in relation to housing loans or mortgage credit agreements and associated insurance requirements;• the European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004;• the provisions of relevant Codes of Conduct and Regulations, issued by the Central Bank of Ireland;• Consumer Protection (Regulation of Credit Servicing Firms) Act 2015• the main functions of the Competition and Consumer Protection Commission in relation to the provision of financial services to consumers;• obligations on mortgage lenders as designated <i>persons</i> under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010;• the details of the Financial Services Ombudsman Scheme, and how a <i>consumer</i> can access the Scheme;• the provisions of the Data Protection Acts, 1988 and 2003 related to the maintenance, disclosure and use of personal data and the Equal Status Acts 2000-2015;• The European Union (Consumer Mortgage Credit Agreements) Regulations 2016.

A person providing services in this State under the freedom to provide services, in respect of mortgage credit agreements as defined in the European Union (Consumer Mortgage Credit Agreements) Regulations 2016, must meet the competencies set out in subject matter 3 (the mortgage market) and 9 (Regulation) above and the following competencies set out in subject matter 2 (housing loans, mortgage credit agreements, and home reversion agreements):

- to describe the immovable property purchasing process; and
- to describe the organisation and functioning of land registers.

Appendix 3 – Minimum Competencies for Retail Financial Products
Retail Financial Product: Consumer Credit Agreements and Associated Insurances

SUBJECT MATTER	COMPETENCIES
1. Consumer contracts	<ul style="list-style-type: none">√ To explain the main elements of a valid contract, how a contract is discharged and the remedies for breach of contract.√ To describe the main forms of <i>consumer</i> credit agreements subject to Parts 2 to 7 of the European Communities (Consumer Credit Agreements) Regulations, 2010.√ To describe the impact of the European Communities (Unfair Terms in Consumer Contracts) Regulations, 1995 on <i>consumer</i> contracts.
2. Consumer credit agreements	<ul style="list-style-type: none">√ To describe the form and content of different types of <i>consumer</i> credit agreements, and how they differ from each other.√ To assess the main features of typical credit assessment and underwriting procedures used by creditors when advancing <i>consumer</i> credit.√ To identify the main forms of security which a creditor may require when advancing <i>consumer</i> credit.√ To discuss the information which must be provided by creditors and credit intermediaries to a <i>consumer</i> prior to the conclusion of a credit agreement with that <i>consumer</i>.√ To describe <i>consumer</i> rights and obligations under a <i>consumer</i> credit agreement.√ To discuss the different methods by which creditors may deal with <i>consumers</i> who have accumulated arrears on <i>consumer</i> credit agreements including procedures for initiating legal proceedings.
3. Associated insurances	<ul style="list-style-type: none">√ To compare and contrast the main features, benefits, limitations and risks of the different generic types of life assurance and general insurance policies which can be used to insure the credit outstanding and/or repayments under <i>consumer</i> credit agreements, in the event of death, disability or unemployment.√ To assess the relative advantages and disadvantages for the <i>consumer</i> of arranging associated insurances under a block policy arranged by the credit institution, compared with arranging such cover on an individual policy basis.
4. The process by which appropriate advice is given to a consumer about consumer credit and associated insurances	<ul style="list-style-type: none">√ To identify the main items of information about a <i>consumer</i> which should be sought <i>before</i> providing <i>advice</i> to that <i>consumer</i> about a <i>consumer</i> credit agreement.√ To explain the various items of documentation a creditor will typically seek from a <i>consumer</i> before offering to enter into a <i>consumer</i> credit agreement with that <i>consumer</i>.

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Consumer Credit Agreements and Associated Insurances

- √ To list all the various explicit charges a *consumer* is likely to bear when applying for and entering into a *consumer* credit agreement, including the cost of any Payment Protection Insurance or other insurance the creditor may offer to arrange for the *consumer* or require the *consumer* to have in connection with the *consumer* credit agreement.
 - √ To compare and contrast the features, benefits, limitations and risks of different generic types of *consumer* credit agreements so as to be able to recommend to a *consumer* a form of credit appropriate to that *consumer's* financial needs, resources and circumstances.
 - √ To compare and contrast the features, benefits, limitations and risks of different generic types of life assurance and general insurance policies which can insure the credit outstanding and/or repayments on a *consumer* credit agreement, so as to be able to recommend to a *consumer* the type of cover and method of arrangement of such cover appropriate to that *consumer's* financial needs, resources and attitude to risk.
 - √ To compose a reason-why statement setting out in clear terms the reasons underlying any *advice* given to a *consumer* regarding the provision of credit and/or the arranging of insurance on the credit outstanding on a *consumer* credit agreement.
- 5. Compound interest**
- √ To calculate a sum accumulated over a specified period at a specified rate of interest, using appropriate accumulation tables.
 - √ To calculate a sum discounted over a specified period at a specified rate of interest, using appropriate discounting tables.
 - √ To define what the term *APR* means and demonstrate how it can be used to compare different *consumer* credit agreements.
- 6. Best practice**
- √ To describe the importance of confidentiality in relation to the collection, maintenance and processing of personal data related to *consumers*.
 - √ To recognise the ethical issues arising in relation to the conduct of business.
- 7. Regulation**
- √ To describe the functions of the National Consumer Agency in relation to the regulation of credit intermediaries.
 - √ To explain the main regulatory requirements which directly apply to arranging credit for a consumer:
 - the European Communities (Consumer Credit Agreements) Regulations, 2010;
 - the authorisation requirements of credit intermediaries, under Part XI Consumer Credit Act 1995;

Appendix 3 – Minimum Competencies for Retail Financial Products

Retail Financial Product: Consumer Credit Agreements and Associated Insurances

- the role of the Central Bank of Ireland 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 agreements which are subject to Parts 2 to 7 of the European Communities (Consumer Credit Agreements) Regulations, 2010;
 - the European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004;
 - the provisions of relevant Codes of Conduct and Regulations, issued by the Central Bank of Ireland applying to credit providers;
 - Consumer Protection (Regulation of Credit Servicing Firms) Act 2015
 - obligations on credit institutions as *designated persons* under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010;
 - the details of the Financial Services Ombudsman Scheme, and how a *consumer* can access the Scheme;
- √ the provisions of the Data Protection Acts, 1988 and 2003 related to the maintenance, disclosure and use of personal data and the Equal Status Acts 2000-2015

Appendix 3 – Minimum Competencies: Providing Debt Management Services

SUBJECT MATTER	COMPETENCIES
1. The concept of debt management	<ul style="list-style-type: none">√ To explain the concept of debt management and the benefits it can provide to consumers.√ To explain the role of a debt advisor and the letter of engagement.
2. Legal principles	<ul style="list-style-type: none">√ To explain the main elements of a valid contract, how a contract is discharged and the remedies for breach of contract.√ To understand the covenants given by borrowers as part of the terms of a loan agreement and the potential consequences arising from the breach of a covenant.√ To understand the responsibilities and potential liability of a professional when providing advice to a consumer.
3. Consumer debt	<ul style="list-style-type: none">√ To understand the most common causes of consumer debt.√ To assess different types of creditors and credit arrangements.√ To understand the different types of debt, including secured and unsecured loans, loans with and without recourse, taxation, utilities and other debts such as household, education or medical debts, and debts arising from domestic support order of a court.√ To understand contingent liabilities, such as guarantee liabilities.√ To understand the cost of credit and the components of that cost.√ To understand the impact of rent arrears and tenant rights.√ To understand the impact of mortgage arrears and the options of recourse available to the creditor, and the rights of the debtor.
4. Mortgage arrears	<ul style="list-style-type: none">√ To understand the background to the causes of the mortgage debt crisis.√ To understand the short-and long-term solutions that are available for those in arrears.√ To explain the different types of mortgages, including tracker, interest only, fixed interest, variable interest, capital and interest, and Local Authority mortgages.√ To understand the repossession process for private dwellings and buy-to-let properties and the rights of the mortgagee.
5. Budgeting	<ul style="list-style-type: none">√ To explain the importance of an effective budget for consumers.√ To identify ways that consumers could reduce their expenditure.√ To identify ways that consumers could maximise their income.

Appendix 3 – Minimum Competencies: Providing Debt Management Services

- √ To be able to prioritise consumer debts, including credit, taxation, utilities and other debts such as household, education or medical debts.
- √ To understand the potential impact on access to arrangements under the Personal Insolvency Act 2012 (Personal Insolvency Arrangements and Debt Settlement Arrangements) of giving preference to a creditor that substantially reduces the amount available to the debtor to pay debts to other creditors.
- √ To identify the variety of payment tools available to the consumer and appropriate to the circumstances.
- √ To understand relevant welfare entitlements and appeals.

6. The process by which appropriate advice is given to the consumer about debt management services

- √ To recognise the financial needs of various types of consumers at different stages in the debt management process, in particular the needs of distressed debtors.
- √ To recognise the psycho-social impact on consumers of being in debt and to understand how to deal with distressed consumers, including knowledge of referral options.
- √ To identify the main items of information that should be sought before providing advice to the consumer on his or her debt management needs.
- √ To understand the purpose and content of the Standard Financial Statement and a Prescribed Financial Statement.
- √ To be able to analyse information about a consumer's debt in order to accurately identify, quantify and prioritise his or her debt management needs.
- √ To be able to assess the extent of consumer debt.
- √ To understand different types of security and assess the value of security.
- √ To compare and contrast the different debt management solutions so as to be able to recommend to a consumer a solution appropriate to that consumer's financial situation.
- √ To compose a statement of suitability for a consumer setting out in clear terms the reasons underlying any recommendation made to the consumer by the firm, an explanation of the options available and the risks and consequences for the consumer of accepting any of those options.
- √ To explain the role of the Money Advice and Budgeting Service (MABS) in the provision of debt management services.

Appendix 3 – Minimum Competencies: Providing Debt Management Services

- 7. Debt management solutions**
- √ To explain, compare and contrast the main features, benefits, limitations and risks of the different debt management solutions for individual and corporate consumers, both statutory and non-statutory, including insolvency, bankruptcy, rescheduling and restructuring options, examinership, receivership and liquidation.
 - √ To explain the impact of debt management solutions for the consumer in different circumstances.
 - √ To identify the circumstances in which each debt management solution is appropriate.
 - √ To explain the role of the Courts in debt management and debt enforcement.
 - √ To explain the debt collection and debt enforcement process.
- 8. Personal taxation**
- √ To understand the main schedules under which Income Tax is assessed and identify the types of income which fall under each schedule.
 - √ To understand the main Income Tax reliefs and credits that can be claimed by a consumer.
 - √ To understand a consumer's Income Tax liability, given details of his or her earnings and reliefs.
 - √ To understand when an Inheritance Tax liability could arise on the inheritance of an asset.
 - √ To understand when a Capital Gains Tax liability could arise on the disposal of an asset.
 - √ To assess liability for Local Property Tax.
- 9. Negotiation**
- √ To understand the various types of creditors and their rights.
 - √ To assess the approach of the different types of creditors and their possible approach to debt management solutions.
 - √ To understand how to prepare for negotiating with the different types of creditors.
 - √ To be able to negotiate effectively with creditors on behalf of the consumer.
- 10. Best practice**
- √ To be able to identify conflicts of interest and manage them appropriately.
 - √ To describe the importance of confidentiality in relation to the collection, maintenance and processing of personal data related to consumers.
 - √ To understand responsibilities under data protection legislation.
 - √ To recognise the ethical issues arising in relation to the conduct of business.
 - √ To advise a consumer in relation to the procedures involved in complaints handling and the use of alternative dispute resolution channels.
 - √ To explain the management and protection of consumer funds put in place by the Payment Services Directive II.

11. Legislation, regulation and compliance

- √ To discuss why Governments seek to regulate financial services companies.
- √ To distinguish between structural, systemic, prudential and consumer protection regulation.
- √ To describe the main functions of the Central Bank of Ireland, including its enforcement powers.
- √ To describe the main functions of the Competition and Consumer Protection Commission in relation to the provision of financial services to consumers.
- √ To describe the main functions of other regulatory bodies, including the Commission for Energy Regulation (CER) and the Commission for Communications Regulation (ComReg).
- √ To describe the main functions of the Financial Services Ombudsman.
- √ To explain the main regulatory requirements which directly apply to the activity of providing *debt management services* to consumers, including in particular:
 - The Authorisation Requirements and Standards for Debt Management Firms, as amended from time to time, issued by the Central Bank;
 - relevant provisions of the Central Bank Act 1997 in relation to *debt management services*;
 - the relevant provisions of the Central Bank Reform Act 2010 in relation to fitness and probity;
 - the provisions of relevant Codes of Conduct and Regulations, issued by the Central Bank, including the Consumer Protection Code 2012 and the Code of Conduct on Mortgage Arrears 2013, as amended from time to time;
 - the provisions of the Minimum Competency Code 2011, as amended from time to time, issued by the Central Bank;
 - Consumer Protection (Regulation of Credit Servicing Firms) Act 2015
 - the provisions of relevant codes of conduct issued by the Commission for Energy Regulation (CER), the Commission for Communications Regulation (ComReg) and Local Authorities.
 - the details of the Financial Services Ombudsman Scheme, and how a *consumer* can access the Scheme;
 - the provisions of the Data Protection Acts 1988 and 2003 related to the maintenance, disclosure and use of personal data and the Equal Status Acts 2000-2015.

Appendix 4 – Recognised Qualifications

The qualifications listed in Part 1 of Appendix 4 have been recognised in respect of the retail financial products and the specified functions associated with those retail financial products. For example, the qualifications listed in respect of advising on or arranging life assurance are also recognised in respect of specified functions relating to life assurance, such as assisting consumers in the making of a claim under contracts of life assurance.

PART 1 Category of retail financial product	Qualifications which are recognised in respect of retail financial products and associated specified functions
1 Life Assurance	<ul style="list-style-type: none"> • Qualified Financial Adviser (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Member, Associate or Fellow of the Irish Institute of Pensions Management (post 2006 syllabus) • Accredited Product Adviser (Life Assurance) (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Certificate in Personal Financial Planning with the Personal Financial Planner designation as provided by the <i>National College of Ireland</i> • Accredited Product Professional (Life Assurance) (<i>National College of Ireland</i>)
2 Pensions	<ul style="list-style-type: none"> • Qualified Financial Adviser (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Member, Associate or Fellow of the Irish Institute of Pensions Management (post 2006 syllabus) • Accredited Product Adviser (Pensions) (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Certificate in Personal Financial Planning with the Personal Financial Planner designation as provided by the <i>National College of Ireland</i> • Accredited Product Professional (Retirement Benefits) (<i>National College of Ireland</i>)
3 Savings and Investment	<ul style="list-style-type: none"> • Qualified Financial Adviser (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Member, Associate or Fellow of the Irish Institute of Pensions Management (post 2006 syllabus) • Registered Stockbroker (<i>Institute of Bankers School of Professional Finance</i>) • Accredited Product Adviser (Savings and Investments) (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Certificate in Personal Financial Planning with the Personal Financial Planner designation as provided by the <i>National College of Ireland</i> • Accredited Product Professional (Savings and Investment) (<i>National College of Ireland</i>)

Appendix 4 – Recognised Qualifications

4	Personal General Insurance	<ul style="list-style-type: none"> • Certified Insurance Practitioner (<i>The Insurance Institute of Ireland</i>) • Associate or Fellow of the Chartered Insurance Institute • Accredited Product Adviser (Personal General Insurance) (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Accredited Product Professional (Personal General Insurance) (<i>National College of Ireland</i>)
5	Commercial General Insurance	<ul style="list-style-type: none"> • Certified Insurance Practitioner (<i>The Insurance Institute of Ireland</i>) • Associate or Fellow of the Chartered Insurance Institute • Accredited Product Adviser (Commercial General Insurance) (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Accredited Product Professional (Commercial General Insurance) (<i>National College of Ireland</i>)
6	Private Medical Insurance and Associated Insurances	<ul style="list-style-type: none"> • Certified Insurance Practitioner (<i>The Insurance Institute of Ireland</i>) • Associate or Fellow of the Chartered Insurance Institute • Diploma in Private Medical Insurance (<i>The Insurance Institute of Ireland</i>) • Accredited Product Adviser (Personal General Insurance) (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Accredited Product Adviser (Private Medical Insurance) (<i>Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Accredited Product Professional (Private Medical Insurance) (<i>National College of Ireland</i>) • Accredited Product Professional (Personal General Insurance) (<i>National College of Ireland</i>)
7	Mortgage Credit Agreements, Housing Loans, Home Reversion Agreements and Associated Insurances	<ul style="list-style-type: none"> • Qualified Financial Adviser (Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland) • Accredited Product Adviser (Loans) (Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland) • Certificate in Personal Financial Planning with the Personal Financial Planner designation as provided by the National College of Ireland • Accredited Product Professional (Loans) (National College of Ireland)

Appendix 4 – Recognised Qualifications

8 Consumer Credit and Associated Insurances	<ul style="list-style-type: none"> • Qualified Financial Adviser (Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland) • Accredited Product Adviser (Loans) (Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland) • Accredited Product Adviser (Consumer Credit) (Institute of Bankers School of Professional Finance, LIA and The Insurance Institute of Ireland) • Certificate in Personal Financial Planning with the Personal Financial Planner designation as provided by the National College of Ireland • Accredited Product Professional (Loans) (National College of Ireland)
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PART 2 - In addition to the qualifications recognised in respect of the retail financial products and associated specified functions, listed in Part 1, a number of other qualifications have been recognised in respect of credit unions acting as insurance intermediaries and arranging amendments to life assurance policies. Other qualifications have also been recognised in respect of the specified functions. These qualifications are set out below.

Additional Qualifications recognised by the Central Bank in respect of retail financial products and associated specified functions	
Credit Union acting as an insurance intermediary	<ul style="list-style-type: none"> • Credit Union Adviser (<i>LIA</i> and Credit Union Development Association) • Advanced Certificate in Credit Union Practice (<i>University of Ulster</i> and Irish League of Credit Unions) • Diploma in Credit Union Operations (University College Cork and Irish League of Credit Unions)
Arranging amendments to life assurance policies and pensions	<ul style="list-style-type: none"> • Associate or Fellow of the Chartered Insurance Institute • Diploma in Life Administration (The Insurance Institute of Ireland)

Appendix 4 – Recognised Qualifications

Category of <i>specified function</i>	Additional qualifications recognised by the Central Bank in respect of <i>specified functions</i>
<p>1 Assisting consumers in the making of a claim under contracts of life assurance or Determining the outcome of claims by consumers arising under contracts of life assurance</p>	<ul style="list-style-type: none"> • Associate or Fellow of the Chartered Insurance Institute • Associate or Fellow of the Society of Actuaries in Ireland • Diploma in Life and Disability Underwriting (<i>The Insurance Institute of Ireland</i>) • Diploma in Life and Disability Claims (<i>The Insurance Institute of Ireland</i>) • Solicitor Member of the Law Society of Ireland • Barrister-at-Law called to the Bar of Ireland
<p>2 Assisting consumers in the making of a claim under contracts of general insurance or Determining the outcome of claims by consumers arising under contracts of general insurance</p>	<ul style="list-style-type: none"> • Associate or Fellow of the Chartered Institute of Loss Adjusters • Associate or Fellow of the Society of Actuaries in Ireland • Certified Diploma in Loss Adjusting (<i>The Insurance Institute of Ireland</i>) • Diploma in Loss Adjusting (<i>The Insurance Institute of Ireland</i>) • Solicitor Member of the Law Society of Ireland • Barrister-at-Law called to the Bar of Ireland
<p>3 Providing <i>debt management services</i>, as defined in Part V of the Central Bank Act 1997.</p>	<ul style="list-style-type: none"> • Accredited Product Adviser (Debt Management Services) (<i>Institute of Banking School of Professional Finance, LIA and The Insurance Institute of Ireland</i>) • Accredited Product Professional (Debt Management Services) (<i>National College of Ireland</i>)
<p>4 Adjudicating on any complaint communicated to a regulated firm by a <i>consumer</i> which relates to <i>advice</i> about a <i>retail financial product</i> provided to that <i>consumer</i> or the arranging of a <i>retail financial product</i> for that <i>consumer</i> or the activities at 1, 2 or 3 above</p>	<ul style="list-style-type: none"> • Licentiate of the Association of Compliance Officers in Ireland • Solicitor Member of the Law Society of Ireland • Barrister-at-Law called to the Bar of Ireland

Annex II

[DRAFT]

STATUTORY INSTRUMENTS.

S.I. No. of 20[]

**CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013 (SECTION
48(1))**

MINIMUM COMPETENCY REGULATIONS 201[]

S.I. No. of 20[]

[CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013 (SECTION 48(1))

MINIMUM COMPETENCY REGULATIONS 201[]

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S.I. No. of 20[]

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013 (SECTION 48(1))

MINIMUM COMPETENCY REGULATIONS 201[]

In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 48 of the Central Bank (Supervision and Enforcement) Act 2013 (the “Act”) (No.26 of 2013), the Bank, having consulted with the Minister for Finance in accordance with section 49(1) of the Act, hereby makes the following regulations:

[Part 1

PRELIMINARY AND GENERAL]

Citation and commencement

1. These Regulations may be cited as the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) Minimum Competency Regulations 201[].
2. These Regulations come into operation on [day in numeral] [month in words] [year in numeral].

Interpretation

3. In these Regulations –

“accredited person” means a person who satisfies the standards set out in the Minimum Competency Code;

“advice” means the provision of a personal recommendation or information to a person, whether at the person’s request or at the initiative of the firm, in the course of performing a relevant function. This does not include any of the following:

- a) the provision of a brochure or booklet or other information to a person, without the provision of advice to that person;
- b) information given in a newspaper, journal, magazine or other publication, including electronic publications, where the principal purpose of the publication taken as a whole is not to lead a person to use any specific retail financial product or any specific provider of such products;
- c) information given in a lecture, seminar or similar event or series of such events, where the principal purpose of the event or events taken as a whole is not to lead a person to use a specific retail financial product or any specific provider of such products and where persons engaged in the organisation or presentation of such events will earn no remuneration, commission, fee or other reward as a result of any particular decision, by a person attending such event and arising out of such attendance, to use any particular retail financial product or any specific provider of such products;
- d) information given in sound or television broadcasts where the principal purpose of such broadcasts taken as a whole is not to lead a person to use any specific retail financial product or any specific provider of such products;
- e) providing information on an incidental basis in conjunction with some other professional activity (which professional activity is not subject to the Minimum Competency Code), so long as the purpose of the activity is not to assist a person to enter into or to become entitled to benefit under, terminate, exercise any right or option under, or take any benefit from one or more retail financial products;

“certified person” has the meaning assigned to it by section 55 of the Investment Intermediaries Act 1995 (No. 11 of 1995);

“consumer” means any of the following:

- a) a person or group of persons, but not an incorporated body with an annual turnover in excess of €3,000,000 (for the avoidance of doubt, a group of persons includes partnerships and other unincorporated bodies such as clubs, charities and trusts, not consisting entirely of bodies corporate);
- b) incorporated bodies having an annual turnover of €3,000,000 or less in the previous financial year (provided that such body shall not be a member of a group of companies having a combined turnover greater than the said €3,000,000);
- c) a person to whom the regulated entity distributes insurance in accordance with Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution.

and includes, where appropriate, a potential ‘consumer’ (within the meaning above);

“controlled function” means a function prescribed as a controlled function under the Central Bank Reform Act 2010 (Sections 20 and 22) Regulations 2011 (S.I. No. 437 of 2011);

“grandfathered person” has the meaning assigned to it under Section 1.5 of the Minimum Competency Code;

“Minimum Competency Code” means the standards issued pursuant to section 50 of the Central Bank Reform Act 2010 (No. 23 of 2010);

“new entrant” means:

- a) an individual who wishes to act for the first time in a controlled function the exercise of which includes any of the *relevant functions* but who does not hold a *recognised qualification* or have at least 6 months’ experience in respect of the function to be undertaken; or
- b) an individual who is already a *qualified person* with at least 6 months’ experience, or a *grandfathered person*, in respect of a relevant function but who wishes to undertake a new relevant function in respect of which the individual does not hold a *relevant recognised qualification* or have at least 6 months’ experience or is not a *grandfathered person*;

“person” means a natural person or legal person;

“prescribed script function” means exercising a controlled function within a narrow and rigid set of criteria and according to a prescribed script and routine;

“professional designation” means a designation conferred by a professional educational body to indicate that the holder has specified qualifications, training or expertise;

“pro-rata adjustment” means an adjustment to the number of CPD hours required to be completed under the Minimum Competency Code in accordance with Section 1.4 (e)(ii) of the Minimum Competency Code;

“qualified person” means a person with one or more recognised qualifications, as set out the Minimum Competency Code, which are relevant to the function to be exercised;

“recognised qualification” means a qualification listed at Appendix 4 of the Minimum Competency Code;

“register” means a register of accredited persons established and maintained pursuant to Regulation [7];

“regulated firm” means any of the following:

- a) a financial services provider authorised, licensed or registered by the Central Bank (except moneylenders licensed under the Consumer Credit Act 1995 (No. 24 of 1995));

- b) a certified person;
- c) a financial services provider authorised, licensed or registered in another EU or EEA Member State when providing services into the State on a branch or cross-border basis, except where responsibility for requirements in relation to the provision of such services into the State is reserved to that provider's home state regulator by a provision of EU law;

“relevant function” means any function specified in Section 1.2 of the Minimum Competency Code;

“retail financial product” means those products listed at Appendix 1 of the Minimum Competency Code;

[Part 2

GENERAL REQUIREMENTS]

- 4. A regulated firm shall ensure that a person performing a relevant function on its behalf, including but not limited to a third party performing outsourced activities on its behalf, complies with the standards set out in the Minimum Competency Code.

Internet

- 5. A regulated firm providing services [on an online platform] shall ensure that the process for the selection of products and any advice provided on foot of that selection process are approved in writing by a person who meets the standards set out in Section 1.3(a) of the Minimum Competency Code.

Prescribed script function

- 6. A regulated firm shall ensure that the following conditions are satisfied where a prescribed script function is performed on their behalf:
 - a) the criteria, script and routine are devised by a person who meets the standards set out in Section 1.3(a) of the Minimum Competency Code;
 - b) the person performing the prescribed script function is:
 - i) supervised by a person who meets the standards set out in Section 1.3(a) of the Minimum Competency Code;
 - ii) monitored to ensure that there is no breach of the requirements set out in Section 1.6 of the Minimum Competency Code;

- c) the person has completed a training programme organised by the regulated firm which is relevant to the function to be exercised, or have obtained part of a relevant recognised qualification;
- d) the person completes additional training on an ongoing basis, which is relevant to the function to be exercised, to keep the person's knowledge up to date;
- e) the regulated firm maintains records to demonstrate compliance with the requirements set out in Section 1.6 of the Minimum Competency Code.

Register of Accredited Persons

- 7(1) A regulated firm shall establish and maintain a register which shall record the following information:
- (a) the name of the accredited person performing a relevant function;
 - (b) qualification, grandfathered status, transitional status, new entrant, or prescribed script function;
 - (c) the relevant function and related retail financial product in respect of which the person is an accredited person;
 - (d) the date the person obtained a recognised qualification and completed relevant experience, or was grandfathered;
 - (e) if the person is a new entrant specify the following:
 - (i) the date of commencement of the function;
 - (ii) the qualification being pursued.
- 7(2) A regulated firm shall ensure that each branch office has a register of all accredited persons working in that branch.
- 7(3) A regulated firm shall remove the following persons from its register:
- a) a person whose professional designation has been removed or otherwise suspended for failure to comply with the CPD requirements; or
 - b) a grandfathered person, or a holder of a recognised qualification the ongoing maintenance of which is not dependent on the completion of CPD, who has failed to complete 15 formal hours of CPD, as required by the Minimum Competency Code, more than once in any 5 year period.
- 7(4) A regulated firm shall restore promptly to its register any person who has been removed from the register for non-compliance with the CPD requirements but who otherwise has complied with the Minimum Competency Code, once he or she is again in compliance with the CPD requirements.

Confirmation of competency

- 8(1) A regulated firm shall provide a consumer, upon request, with a certificate, on the firm's headed stationery in the format prescribed in the [Schedule of these Regulations], confirming that the person performing a relevant function meets the Standards set out in Part 1 of the Minimum Competency Code.
- 8(2) A regulated firm shall ensure that the certificate is signed by an appropriate person within the regulated firm.
- 8(3) A regulated firm shall maintain a record of the certificates issued and carry out an annual review to ensure they are accurate and up to date.

Part 3

NEW ENTRANTS

Supervision of new entrants

- 9(1) A regulated firm shall –
- a) inform a new entrant, before the new entrant commences performing a relevant function, of the requirement to obtain –
 - i. a relevant recognised qualification, and
 - ii. at least 6 months' relevant experience,within 4 years of commencing the performance of such a relevant function;
 - b) agree a plan for obtaining a recognised qualification and relevant experience with a new entrant immediately upon commencing a relevant function and monitor the new entrant's progress in adhering to this plan; and
 - c) ensure the new entrant undergoes a training programme organised by the regulated firm which is relevant to the function to be exercised, or has obtained part of a relevant recognised qualification for that particular function prior to dealing with consumers.
- 9(2) A regulated firm shall establish, maintain and adhere to procedures to ensure that new entrants are adequately supervised and such procedures shall include at least the following:
- (a) until the new entrant obtains relevant experience and a qualification recognised in respect of the function carried out, all documentation relating to the performance of a relevant function are checked and approved in writing by a person who meets the standards set out in Section 1.3 (a) of the Minimum Competency Code for that function;

- (b) when a new entrant is performing a relevant function, an initial period shall be specified during which the new entrant must be accompanied at all times by a person who meets the standards set out in Section 1.3 (a) of the Minimum Competency Code;
 - (c) following the initial period referred to in subparagraph (b), the regulated firm may reduce incrementally the level of accompaniment for a new entrant;
 - (d) there shall be regular meetings and contact between the supervisor and the new entrant;
 - (e) each supervisor shall supervise no more than 7 new entrants.
- 9(3) A regulated firm shall, within 2 months of a new entrant commencing performance of a relevant function, carry out an assessment of the performance of a new entrant to determine the following:
- (a) the length of the initial period referred to in paragraph (2)(b);
 - (b) the frequency of meetings and contact with the new entrant referred to in paragraph (2)(d).
- 9(4) For the purposes of paragraph (2)(c), a regulated firm shall carry out an assessment for each incremental reduction in supervision to determine the appropriate level of supervision for a new entrant.
- 9(5) The assessment referred to in paragraph (3) shall be documented and take the following into account:
- (a) the nature and complexity of the functions undertaken by the new entrant;
 - (b) the quality of the advice and services provided by the new entrant to consumers;
 - (c) the new entrant's knowledge of and compliance with regulatory and legislative requirements relevant to the new entrant's role;
 - (d) any complaints in relation to the new entrant;
 - (e) the ethics and behaviour of the new entrant.
- 9(6) In the case of a tied agent that is a new entrant –
- (a) supervision may be by a regulated firm provided the tied agent is tied only to that regulated firm, and
 - (b) in such cases, supervision must be by a person who is a qualified person or a grandfathered person for the function being performed by the tied agent and who is –

- (i) an employee of the regulated firm, or
- (ii) a tied agent of the regulated firm provided:
 - (I) that tied agent is tied only to that regulated firm and the regulated firm takes full responsibility for the activities of that tied agent; and
 - (II) the regulated firm has entered into a formal written arrangement with the tied agent which sets out the criteria for the supervision of the new entrant and specifies the arrangements for reporting to the regulated firm on the new entrant's performance.

9(7) Regulations [9(2) to 9(5)] above shall not apply in the case of an individual who commences a function in the State but who has at least 4 years' recent relevant experience, evidenced by supporting documentation, in another jurisdiction.

Records – New Entrants

10. A regulated firm shall ensure that the following written records are maintained in respect of new entrants:
- (a) the date the individual commenced the function;
 - (b) details of the training or part of a recognised qualification completed by the new entrant prior to dealing with a consumer;
 - (c) the qualification being obtained and details of relevant experience completed;
 - (d) details of the arrangements for supervision by a person who meets the standards set out in Section 1.3(a) of the Minimum Competency Code, including name of supervisor, date supervision commenced and level of supervision;
 - (e) the length of the initial period during which the new entrant was accompanied at all times;
 - (f) for each incremental reduction in supervision –
 - (i) the assessment of the performance of the new entrant,
 - (ii) the criteria for reducing the level of supervision, and
 - (iii) the level of reduced supervision;
 - (g) records of meetings between the supervisor and the new entrant;
 - (h) records of each instance in which a new entrant does not avail of an opportunity to sit an examination and the reason for same;
 - (i) in relation to any pro-rata adjustments to the 4-year timeframe –

- i) the extent of adjustment,
 - ii) the reason for adjustment, and
 - iii) where appropriate, medical certification of illness;
- (j) in relation to Regulation 9(7), supporting documentation to confirm the relevance and level of a person's experience
- (k) any other relevant documentation.

Part 4

GRANDFATHERING REQUIREMENTS

Statement of Grandfathered Status

11. A regulated firm shall provide a Statement of Grandfathered Status to a grandfathered person when that person ceases employment with a regulated firm or at any other time if requested by the grandfathered person.

Records – Grandfathered Status

12. Where a regulated firm completed Statements of Grandfathered Status in accordance with Section 2.6.2 of the Minimum Competency Code, it shall retain -
- a) Statements of Grandfathered Status, and
 - b) associated supporting documentation to confirm a person's grandfathered status
- for as long as a grandfathered person may require a duplicate.

Part 5

MONITORING BY REGULATED FIRMS

Annual Review

- 13(1) A regulated firm shall carry out an internal annual review of -
- a) an employee's qualifications to ensure that:
 - i. where the function falls within the scope of Part 1 of the Minimum Competency Code, the recognised qualification held by an employee is appropriate to the function carried out by that employee; and
 - ii. where the function falls within the scope of Part 2 of the Minimum Competency Code, the qualification meets the criteria specified in Section 2.2 of that Code; and

- b) an employee's development and experience needs, taking account of regulatory developments and any new retail financial products offered by the firm.
- 13(2) A regulated firm shall ensure that an employee is aware of, understands and applies the firm's internal policies and procedures designed to ensure compliance with the relevant regulatory requirements.

Continuing Professional Development

- 14(1) A regulated firm shall establish, maintain and adhere to procedures to ensure that a qualified person and a grandfathered person complies with the CPD requirements of the Minimum Competency Code on an ongoing basis.
- 14(2) A regulated firm shall ensure that such procedures include, at a minimum, the following:
- (a) regular monitoring, which must be carried out at least once within the first 9 months and once no later than 6 weeks after the end of each calendar year, to check -
 - (i) the number of hours of CPD completed and planned to be completed, and
 - (ii) the relevance of the content of CPD completed or planned to be completed;
 - (b) the action to be taken by the regulated firm in respect of suspected breaches of CPD requirements.
 - (c) how the regulated firm will obtain information from professional educational bodies regarding an employee's compliance with the requirements of the educational body's CPD scheme, where an employee is a member of a professional educational body's CPD scheme.
- 14(3) Where an employee of a regulated firm is a member of a CPD scheme administered by an external professional educational body that provides a qualification that meets the relevant competency standards, a regulated firm may, subject to the regulated firm remaining responsible at all times for compliance with CPD requirements, rely on information provided by the educational body regarding the compliance of those employees with the requirements of the CPD scheme.

Records – Continuing Professional Development

15. A regulated firm shall ensure that it retains the following written records on file in respect of CPD requirements:
- (a) records of all monitoring by the regulated firm of qualified persons' and grandfathered persons' compliance with the CPD requirements;
 - (b) records demonstrating compliance by qualified persons and grandfathered persons with the CPD requirements;

- (c) records of all breaches of the CPD requirements by qualified persons and grandfathered persons.
- (d) in relation to any pro-rata adjustments to the 4-year timeframe -
 - i) the extent of the adjustment,
 - ii) the reason for the adjustment, and
 - iii) where appropriate a medical certification of illness;
- (e) any other relevant documentation.

Part 6

MISCELLANEOUS PROVISIONS

Transitional arrangements

- 16. A regulated firm shall -
 - (a) monitor compliance with the transitional requirements set out in Sections 1.8 and 1.9 of the Minimum Competency Code, and
 - (b) where an opportunity to sit an examination is not availed of by a person availing of the transitional arrangements, the regulated firm shall document the reasons why.

Obligation to retain records

- 17. Other than the records specified in Regulation 12, a regulated firm shall retain those records -
 - (a) which are required to be maintained pursuant to these Regulations, and
 - (b) demonstrating a person's compliance with the Minimum Competency Code,for a period of at least 6 years after the date the person ceases to perform a relevant function.

Revocations and Saving Provisions

- 18. The [Minimum Competency Code 2011] is revoked on the coming into operation of these Regulations.
- 19. The revocation of the [Minimum Competency Code 2011] by these Regulations-

- a) does not affect any investigation undertaken, or disciplinary or enforcement action undertaken by the Bank or any other person, in respect of any matter in existence at, or before, the time of the revocation; and
- b) does not preclude the taking of any legal proceedings, or undertaking of any investigation, or disciplinary or enforcement action by the Bank or any other person, in respect of any contravention of an enactment (including anything revoked by these Regulations) or any misconduct which may have been committed before the time of the revocation.

SCHEDULE

CERTIFICATE OF COMPETENCY

I, _____(name)_____ (job title) certify that the undermentioned

_____ (name of *accredited person*)

meets the Minimum Competency Standards and is deemed competent in respect of the following products/functions:

Example:

- *providing advice on and arranging:*
 - *housing loans*
 - *private medical insurance*
 - *pension products*
- *dealing with claims.*

This Certificate is valid from [insert date]

Signed by: _____

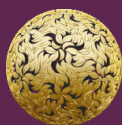
Job Title: _____

Date of signing: _____

This Certificate remains the property of [the *regulated firm*].

Signed for and on behalf of the
CENTRAL BANK OF IRELAND
on this the day of 201[]

CYRIL ROUX
Deputy Governor (Financial Regulation)



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

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