



September 2017

■ Central Bank Introduces New Minimum Competency Standards

Publication of revised Minimum Competency Code

Following a public consultation on a proposed new minimum competency regime late last year, the Central Bank has published an updated [Minimum Competency Code](#) (“**MCC**”). Together with the new [Minimum Competency Regulations 2017](#) (the “**Regulations**”), the MCC will replace the existing minimum competency rules set down by the Central Bank.

The MCC and Regulations will take effect from 3 January next.

What follows is a brief overview of the impact of the MCC and the Regulations on MiFID firms and those UCITS management companies and AIFM with an extended MiFID licence to provide individual portfolio management services and other non-core activities.

What is the MCC?

The MCC, described by the Central Bank as an important part of its consumer protection framework, sets out the statutory minimum professional standards for staff of financial service providers with particular emphasis on staff where they are dealing with consumers in relation to retail financial products.

The revised MCC now also sets down minimum competency requirements applicable to persons providing MiFID services to non-

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consumers (i.e. per se professional clients within the meaning of MiFID II).

Why the need to revise the former code?

Under MiFID II, specific requirements have been introduced in the area of professional knowledge and competence in order to ensure that staff who advise or sell investment products to clients possess an appropriate level of knowledge and competence in relation to the products offered. Similar “competence and knowledge” requirements have been introduced under other European Directives such as the Insurance Distribution Directive and the Mortgage Credit Regulations.

The MCC and the Regulations also implement the [ESMA Guidelines for the assessment of knowledge and competence](#) which were published in January of this year and apply from 3 January next.

What are the skills and competencies required under the MCC?

This will depend on the functions being discharged by the relevant person:

Part 1 of the MCC sets down the minimum competency requirements applicable to those persons providing advice or information to consumers on retail financial products or certain investment services or arranging or offering to arrange retail financial products or investment services for consumers. “Consumers” in the MiFID context are understood as including “retail clients” and “elective professional clients” (as defined in MiFID II).

Any such person must have obtained one of the qualifications set down in Appendix 4 of the MCC (which remains unchanged from the former code) and must have gained at least 6 months relevant experience by 3 January 2018, unless the person falls within one of the applicable exceptions set down in Part 1 of the MCC such as new entrants etc.

Part 2 of the MCC sets down the minimum competency requirements which must be complied with by those providing information or advice on any MiFID service or activity to “per se professional clients”. These requirements must also be complied with by those who are providing advice or information to retail clients and elective professional clients on those MiFID services not covered by Part 1 of the MCC.

Action to be taken by affected firms

Affected firms will need to

- (i) determine those staff members who fall within the scope of the MCC; and

- (ii) carry out an audit to determine whether those persons meet the standards set down in Part 1 and/or Part 2 of the MCC as applicable or otherwise fall into one of the exceptions outlined therein.

In addition to ensuring that persons performing “in scope” activities have the appropriate qualification and experience, affected firms will also need to ensure that they comply with the other rules set down in the MCC and the Regulations which include the following:

- (i) rules relating to supervision of new entrants;
- (ii) a requirement to establish and maintain an up to date register of accredited persons;
- (iii) an obligation to carry out an annual internal review of those subject to the MCC to ensure that they are appropriately qualified for their role and to establish any training and experience needs of such staff in light of regulatory developments and any new retail financial products being offered by the firm;
- (iv) implementation of appropriate procedures to ensure that the relevant CPD requirements are complied with on an ongoing basis; and
- (v) maintenance of all records necessary to demonstrate that the firm complies with the MCC and the Regulations.

For further assistance in implementing arrangements to comply with the new minimum competency requirements or if you have any questions in relation arising from this briefing, please contact your usual Dillon Eustace contact.

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