



FINANCIAL REGULATOR
Rialtóir Airgeadais

Application for Authorisation as a Mortgage Intermediary

February 2010

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Introduction

PLEASE ENSURE THAT YOU READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETION.

An incorrectly completed form may cause delays for your application.

Please note that all applications should be typed or completed in **BLOCK CAPITALS**.

All questions must be completed before the application can be considered. If a question does not apply, please write 'not applicable (N/A)' or 'none' as appropriate. **Do not leave any blank spaces.** If you are unable to submit any of the documentation requested below please provide an explanation as to why this is so.

If insufficient space has been provided for a reply or if the answer is requested on a separate sheet, please provide that information on a separate sheet and refer to it in the space provided for your answer. **Please ensure that any separate sheets are clearly marked with your name/name of the firm and referenced to the appropriate question.**

Any questions that have a YES and a NO box should be ticked as appropriate.

Please ensure that all required signatures are provided (Parts D & E). An unsigned application form will be immediately returned to the Applicant.

A checklist of all attachments required for a complete application is contained in Part F.

If you have any queries in relation to this application, please address them to: retailintermediaries@financialregulator.ie

PLEASE RETURN THIS APPLICATION FORM (INCLUDING ALL SUPPORTING DOCUMENTATION – see Section F) to:

**Retail Intermediaries Section
Financial Institutions & Funds Authorisation
Financial Regulator
PO Box 9138
College Green
Dublin 2**

Please note that if an application is regarded as incomplete **6 months** after the initial date of application, it will be considered out of date. The file will be closed and the application will be destroyed. A new application with the relevant attachments will have to be submitted.

REGULATORY REQUIREMENTS/GUIDANCE

A mortgage intermediary firm intending to provide services to Irish consumers must be authorised in accordance with Section 116 of the **Consumer Credit Act, 1995** (as amended).

It is an **offence** for a person to engage in the business of being a mortgage intermediary unless:

- An authorisation has been granted for that purpose by the Financial Regulator and
- The sole trader/firm holds at least one letter of appointment.

Applicants must be familiar with the requirements placed on Mortgage Intermediaries by the Consumer Credit Act, 1995 (as amended). A link to the legislation is available on our website: www.financialregulator.ie in the Mortgage **Intermediaries** section.

The **Regulatory Requirements/Guidance** for Mortgage Intermediaries are outlined on our website: www.financialregulator.ie. These give details of the requirements that will be imposed on applicants once they are authorised. Applicants should be aware of the provisions of the **Consumer Protection Code** and the **Minimum Competency Requirements**.

The **Consumer Protection Code** (the Code) sets out the principles, rules and standards that financial services firms must meet when they:

- provide financial products and services to the consumer
- give financial information or advice
- advertise financial products and services
- handle consumer complaints.

Regulated entities are required to comply with the Code as a matter of law. Each applicant must include details of the resources and internal procedures that will be in place to ensure that it complies with the Code (see Part C: Professional Requirements).

The **Minimum Competency Requirements** (the Requirements), which came into force on 1 January 2007, introduced a competency framework that is designed to establish minimum standards for regulated entities. Sole traders and firms are required to ensure that individuals who provide advice on or sell retail financial products or who undertake certain specified activities on their behalf have acquired the competencies set out in the Requirements. In addition, individuals will be required to undertake a programme of Continuing Professional Development on an ongoing basis (see Part C: Professional Requirements).

INDUSTRY FUNDING LEVY

Mortgage Intermediaries are subject to an **annual regulatory levy** by the Financial Regulator.

There is a Guide to the Industry Funding Levy, available from www.financialregulator.ie, under the 'Industry Funding Levy' section. The Guide includes a breakdown of the applicable levy, which is applied according to various categories of financial services firms. Mortgage intermediaries fall under Category C.

Any queries regarding the Industry Funding Levy should be addressed to the Financial Regulator's Planning & Finance Department at funding.pfd@financialregulator.ie.

Authorisation stands until revoked. Please note that a decision taken by the firm to cease trading does not affect its regulatory status until the firm **notifies the Financial Regulator** and follows the revocation procedure. Unless an authorization is revoked, the firm remains authorised and is subject to paying funding levies. The procedures for revoking authorisations are set out in 'Revocations' on our website. Queries on the revocation process can also be sent to revoke@financialregulator.ie

CONTRIBUTION TO OTHER INDEPENDENT AGENCIES

Mortgage Intermediaries are also required to make a contribution to the Financial Services Ombudsman. **The Financial Services Ombudsman should be contacted to ascertain the costs involved.** More information on these schemes is available on their website. The contact details are as follows:

Financial Services Ombudsman

3rd Floor, Lincoln House
Lincoln Place
Dublin 2

lo call: 1890 88 20 90

telephone: +353 1 6620899

fax: +353 1 6620890

e-mail: enquiries@financialombudsman.ie

web: www.financialombudsman.ie

Part A: Details of Applicant

1. Full legal name of Applicant (sole trader or limited company or partners as applicable)

If the applicant is a limited company, the certificate of incorporation should be included with this application.

2. As part of the Financial Regulator's fit and proper test, **Individual Questionnaires** (IQs) must be completed by sole traders, and in a limited company or partnership by senior individuals in the firm. Each individual must submit the name of two referees. The completed IQs must accompany this application.

The Financial Regulator carries out **Garda checks** on individuals who have submitted IQs (and who have not been previously vetted). On receipt of the application and IQ, the Financial Regulator will provide the applicant with a Garda Vetting Application form for completion. The vetting process takes 6-8 weeks to be completed by the Gardai Siochana and is outside the control of the Financial Regulator.

The Individual Questionnaire and our Fit and Proper Requirements are available on our website www.financialregulator.ie.

3. Business/trading name(s)

All business/trading names must be registered with the Companies Registration Office. Please include a certificate of registration of trading name in respect of each business/trading name that you wish to use.

4. Business address(es) (please include all business addresses from which you intend acting as a mortgage intermediary, on a separate sheet if necessary)

5. Contact Details

5.1 Telephone number

5.2 Mobile number

5.3 Fax number

5.4 e-mail address

5.5 website address

6. Registered office address (if different to 4 above)

7. Description of Business. Please tick one or more of the following categories as applicable

FINANCIAL SERVICES

- 1. Insurance (intermediary/agent)
- 2. Mortgage (intermediary)
- 3. Auctioneer/Estate Agent
- 4. General Credit
- 5. Legal/Accounting
- 6. Other Services*

* Other Services (describe briefly)

7.1 Where, in addition to acting as a Mortgage Intermediary, the applicant acts in any other capacity, be aware that potential conflicts of interest must be avoided. Where conflicts of interest arise and cannot be reasonably avoided, a regulated entity may undertake business with or on behalf of a consumer with whom it has directly or indirectly a conflicting interest, only where that consumer has acknowledged, in writing, that he/she is aware of the conflict of interest and that he/she still wants to proceed.

I confirm all conflicts of interest will be avoided or notified to clients:

Yes No

8. Are you or the firm a member of any relevant trade or professional association in connection with the business described above. If so, please state the name of the organisation:

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9. Please provide the names of all directors (if the applicant is a limited company) or all partners (if the applicant is a partnership) and the names of all principals (i.e. secretary, manager, compliance officer etc.) involved in running the business and any other persons in positions of control or influence of the business.

Title (Mr/Mrs/Ms etc)	Forename	Surname	Position Held

10. If the applicant is a limited company, please provide names and home addresses of shareholders if not previously named under 9 above (please copy this page if necessary).

Title (Mr/Mrs/Ms etc)

Forename

Surname

--	--	--

Home Address

--

Title (Mr/Mrs/Ms etc)

Forename

Surname

--	--	--

Home Address

--

Part B: Background of Applicant

PLEASE READ ALL QUESTIONS CAREFULLY BEFORE RESPONDING

If necessary (where the answer is YES) provide full details on a separate sheet.

Please ensure that all additional sheets contain the applicant's name and the number of the relevant question.

The reference to PERSON below also includes the applicant firm as relevant.

- | | | | |
|-----|---|---------------------------------|--------------------------------|
| 11. | Is any person mentioned in this form currently engaged in, or the subject of, any criminal or civil proceedings or arbitration (other than as an expert witness or member of a jury), or has any unsatisfied judgement debt or award outstanding against them? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| 12. | Has any person mentioned in this form or, to your knowledge their employer, ever resigned from such an organisation or decided after making an application not to proceed with that application? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| 13. | Has any person mentioned in this form or, to your knowledge their employer, been publicly censured or disciplined by any regulatory body in the State or elsewhere because of their or their employer's business or professional activities? Is any person mentioned in this form or, to your knowledge their employer, currently undergoing any investigation or disciplinary procedure? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| 14. | Has any company, partnership or other business venture of which you, or any person mentioned on this form, are, or have been, a significant shareholder, director or partner, ever, to your knowledge, been refused or had revoked membership of any professional body or any regulatory body, or been censured, disciplined, suspended, expelled, fined or been subject to any other disciplinary action by any such body whether in the State or elsewhere? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| 15. | Has any company, partnership or other business venture, of which you, or any person mentioned in this form, are or have been a significant shareholder, director, or partner, to your knowledge, ever resigned from any body referred to in 14 above or decided not to proceed with an application to any such body after making one? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| 16. | Has any person mentioned in this form ever to your knowledge been the subject of an investigation into allegations of misconduct or malpractice in connection with any financial services business or is any person mentioned in this form currently undergoing such an investigation? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| 17. | Has any person mentioned in this form ever been concerned with the management or conduct of affairs of any company which, by reason of any matter relating to a time when they | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |

were so concerned, has been convicted of any criminal offence in the State or elsewhere, censured, disciplined or publicly criticised, by any enquiry, by any governmental or statutory authority, or by a similar body overseas, which has resulted in a finding against the company by a court?

18. Do you have any other information that would reasonably be considered relevant in the context of the Financial Regulator forming an opinion as to the fitness and probity of the applicant or any person mentioned on this form? Yes No

19. Has any person mentioned in this form, in connection with the formation or management of any company, partnership or unincorporated association been adjudged by a court in the State or elsewhere civilly liable for any fraud, wrong trading or other misconduct towards such an entity or towards any members or creditors of such an entity? Yes No

20. Is the applicant (whether a natural or legal person) the holder of any of the following? If so, please provide details of licence(s) held.

- (a) Bookmakers licence
- (b) Licence for the sale of intoxicating liquor
- (c) Gaming licence
- (d) Moneylender's licence
- (e) Pawnbroker's licence

Details

21. Has the applicant any other application(s) currently being considered by the Financial Regulator (including any other applications submitted at the same time as this application)? YES NO

If **YES**, please provide details of the application(s) currently being considered by the Financial Regulator (i.e. the type of authorisation/registration being applied for, for example, insurance intermediary, investment intermediary, etc. and date of application)

Part C: Professional Requirements

Minimum Competency Requirements

The Minimum Competency Requirements (the "Requirements") are effective from 1 January 2007. The Requirements are available from the 'Minimum Competency Requirements' section of www.financialregulator.ie.

Please confirm that the individuals in the firm who will:

- (a) provide advice to consumers on retail financial products, and/or
- (b) arrange, or offer to arrange retail financial products for consumers, and/or
- (c) undertake certain specified activities (as set out in the Minimum Competency Requirements issued in July 2006),
- (d) only refer or introduce consumers to regulated firms

comply with the Minimum Competency Requirements.

Yes No

Please confirm that the relevant individuals in the firm will comply with the minimum standards as set out in the Minimum Competency Requirements on an ongoing basis.

Yes No

Please provide copies of all relevant certificates.

Please confirm that the relevant individuals in the Applicant firm consent to the Financial Regulator reserving the right to independently verify the qualifications of the relevant individuals.

Yes No

Any queries regarding the Financial Regulator's Minimum Competency Requirements should be addressed to competency@financialregulator.ie

Consumer Protection Code

Please confirm that the Applicant's internal procedures set out a description of the arrangements the Applicant will have in place to ensure its compliance with the provisions of the **Consumer Protection Code**, which is available from the Regulatory Requirements/Guidance section for Mortgage Intermediaries on www.financialregulator.ie.

Yes No

Please enclose a copy of the internal procedures and controls that will be in place. Any queries regarding the Financial Regulator's Consumer Protection Code should be addressed to code@financialregulator.ie

Part D: Declaration

PLEASE READ THIS DECLARATION CAREFULLY BEFORE SIGNING

Please note that this section must be completed by ALL applicants without exception

I, (name of individual)

declare that:

(i) To the best of my/our knowledge, I have truthfully and fully answered each question in this questionnaire, and have disclosed any other information which might reasonably be considered relevant to the purpose of furnishing this form as set out above, and

(ii) I will promptly notify the Irish Financial Services Regulatory Authority ('Financial Regulator') of any changes in the information which I have provided and will supply any other relevant information of which I may become aware at any time after the date of this Declaration,

Full name

Signature

Position in Applicant Firm

Date

Please Note:

Section 116 (6) of the Consumer Credit Act, 1995 requires that "A person shall not wilfully give any information which is false or misleading in respect of an application for an authorisation".

Part E: Permissions

Please note that this section must be completed by ALL applicants without exception

If the applicant is a Limited Company or a partnership this permission is to be completed by each of the persons listed in response to Question 9 (i.e. the directors, partners, managers and/or other principals of the applicant). If necessary, copies should be made and attached.

If the applicant is a Sole Trader it should be completed by the sole trader and any other person involved in running the business or in a position of control or influence of the business. If necessary, copies should be made and attached.

As mentioned on page 5, as part of our Fitness and Probity tests, the Financial Regulator will carry out garda checks and reference checks. In any case, the permissions below must be signed by all persons listed.

I hereby authorise the Financial Regulator to make enquiries with the Garda Síochána as to any convictions that may or may not be recorded against me. I authorise the Garda Síochána to furnish to the Financial Regulator a statement that there are no convictions recorded against me in the Republic of Ireland or elsewhere, or a statement of all prosecutions successful or not, pending or completed in the State or elsewhere as the case may be; and,

I hereby authorise

- *the Revenue Commissioners,*
- *the Office of the Director of Corporate Enforcement,*
- *the Companies Registration Office,*
- *all former employers*
- *all credit agencies*

to release information which they may have about me to the Financial Regulator and I release them from any liability or responsibility from doing so.

Name (BLOCK CAPITALS)

Signature

Part E: Attachments – Checklist

Please provide **original documents only** in respect of all supporting documentation. All supporting documentation will be returned to the applicant as soon as possible. If you are unable to provide the original document of any of the required attachments, please provide a written explanation of why this is so.

If this application is being submitted to renew a previously held mortgage intermediary authorisation, it may not be necessary to submit all of the listed documentation. If you are unsure in this regard, please contact the Financial Regulator at: retailintermediaries@financialregulator.ie.

1. Appointment in writing from an undertaking

Please provide an appointment in writing (“letter of appointment”) in respect of all undertakings (i.e. mortgage lenders or mortgage intermediaries) for which the applicant wishes to act as a mortgage intermediary.

Please note that the applicant may provide as many letters of appointment as it wishes; however, **the application must include at least one appointment.**

Please note that appointments issued conditional on the applicant being authorised by the Financial Regulator will not be acceptable.

2. Current (i.e. recently issued) Revenue tax clearance certificate

This certificate must be issued to the applicant. If the applicant is a sole trader it should be issued to the individual. If the applicant is a limited company, it should be issued to the company. If the applicant is a partnership, the certificate can be issued either to the partnership as a single entity or each partner can be issued a separate certificate. An application for the tax clearance certificate is available from www.revenue.ie

3. Certificate of Incorporation

If the applicant is a limited company, a certificate of incorporation issued by the Companies Registration Office must be provided. Please contact the Companies Registration Office (www.cro.ie) if you have any queries in relation to your certificate of incorporation.

4. Partnership Agreement

If applicable. Please advise the Financial Regulator in writing if the applicant does not hold a formal partnership agreement.

5. Business Name Registration Certificate

If applicable, a business name registration certificate issued by the Companies Registration Office must be supplied in relation to all trading names (different to the legal name) that the applicant wishes to use in relation to its mortgage intermediary business. Please contact the Companies Registration Office (www.cro.ie) if you have any queries in relation to your business name registration certificate.

6. Signatures under Part D (Declaration) of the application form

If the application does not include all required signatures, it will be returned to the applicant immediately.

If the applicant is a sole trader Part D should be signed by the sole trader. If the applicant is a limited company, Part D should be signed by one of the directors of the company. If the applicant is a partnership, Part D should be signed by one of the partners.

7. Individual Questionnaire

Please provide a completed Individual Questionnaire for a sole trader, for all directors (where applicant is a limited company) for all partners (where applicant is a partnership) and for all other persons in positions of control or influence of the business (i.e. compliance officer, manager etc).

8. Certificates of Qualifications

Please provide all certificates of qualifications relevant to the Minimum Competency Requirements

9. Consumer Protection Code (page 11)

Please set out a description of how the applicant's compliance function will operate including details of the resources and internal procedures that are in place to ensure that it complies with all the legislative and regulatory requirements.



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