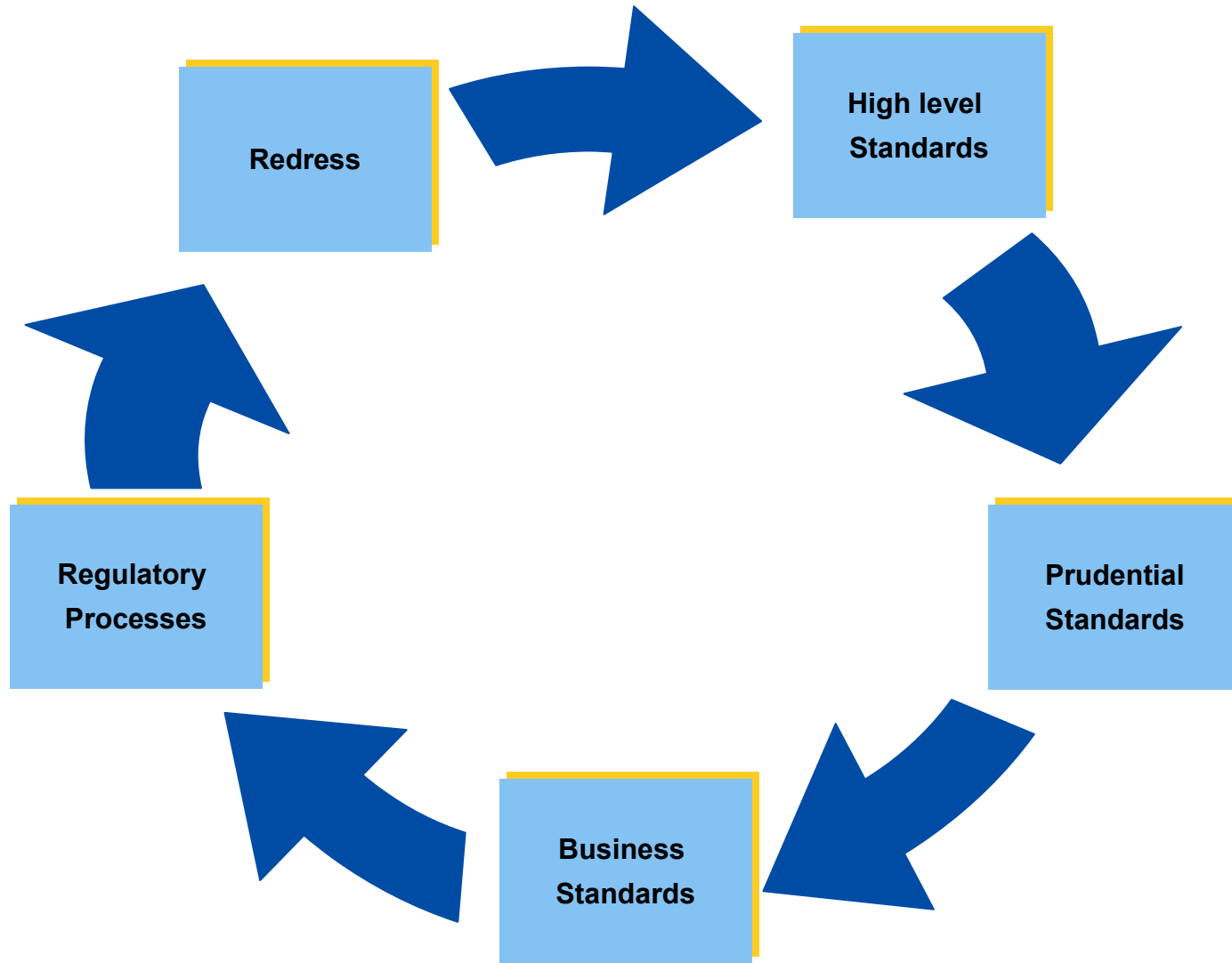


Training and Competence - A Regulatory Update

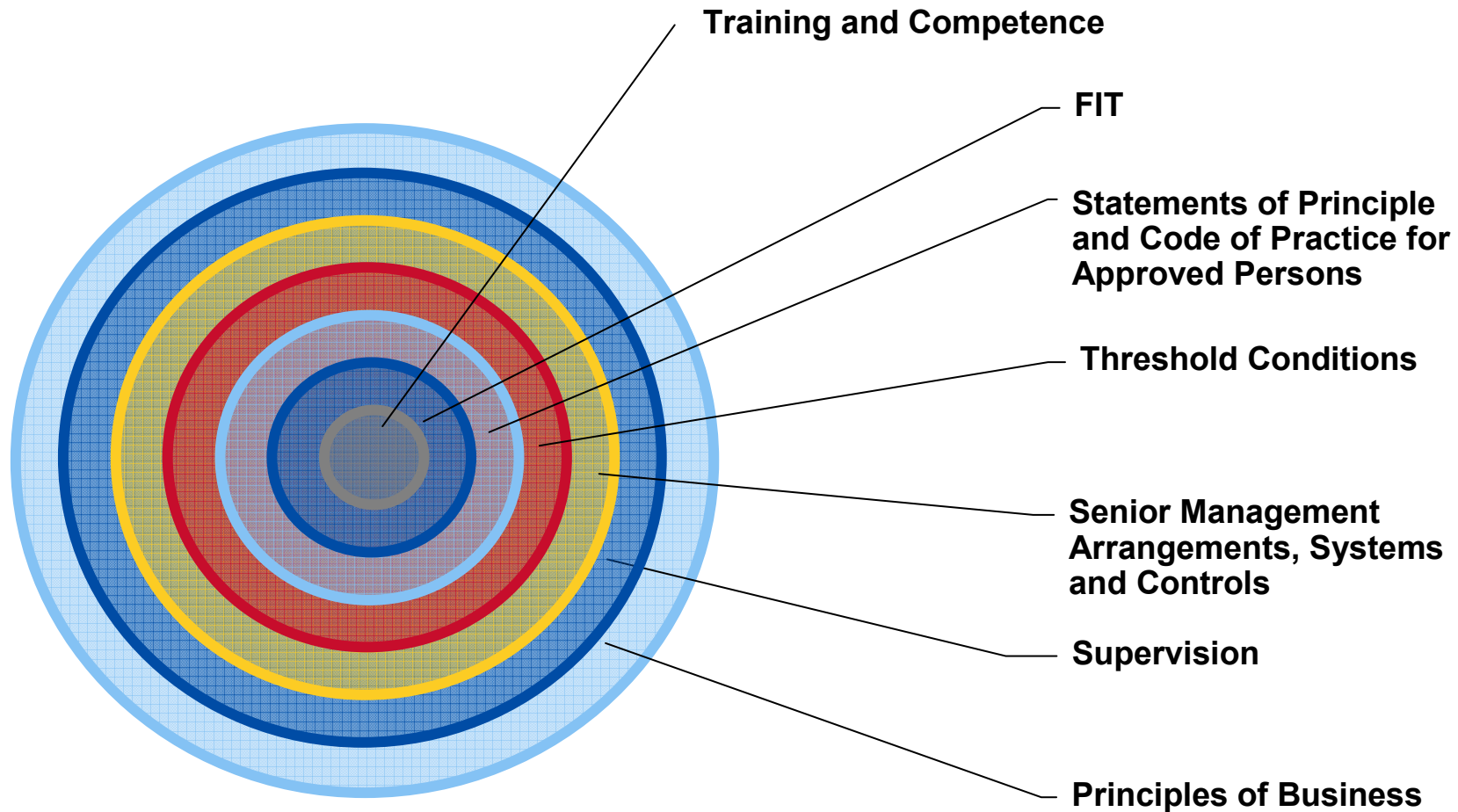
Rod Hepple-Wilson
Regulatory Advisory Practice

15 May 2008

Regulatory Landscape



Regulatory Landscape



Regulatory Requirements

- **Principle 3**

- Firms must take reasonable care to organise and control their affairs responsibly and effectively. This includes making proper arrangements for any employee associated with a regulated activity carried on by the firm to achieve, maintain and enhance competence.

- **Threshold Condition 5 (Suitability)**

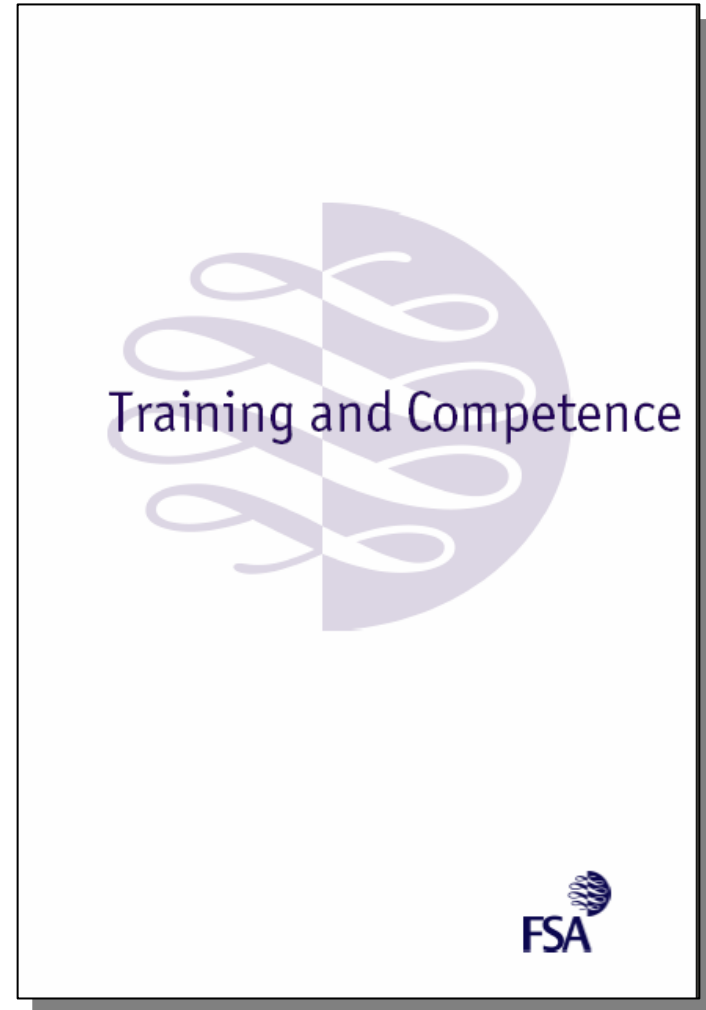
- Firms are required to satisfy the FSA that they are fit and proper persons having regard to all the circumstances including, the nature of the regulated activity the firm carries on or is seeking to carry on and the need to ensure that the firm's affairs are conducted soundly and prudently. This involves an assessment of the competence of management and staff as a whole. The suitability of a member of staff who performs a controlled function is assessed under FIT.

- **Senior Management Arrangements, Systems and Controls 3.2.13(G)**

- Firms' systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it.

Training & Competence Requirements

- November 2007 – Amendments made to the Training & Competence (TC) sourcebook
- Greater flexibility to demonstrate competence
- Qualification requirements for specific services provided to retail clients – reduced to the activities in TC Appendix 1
- Reordering of the TC sourcebook
 - New chapter specific to Record Keeping (TC3)
 - Amended list of roles requiring specific qualifications



A Firm's TC Regime

Where to start?

- TC Policy statement – approved at Board level
- Agree responsibilities - HR, compliance, training, the business.....
- Communication between stakeholders

A Firm's T&C Regime

Taking an integrated approach - Identify key stakeholders

- Senior Management
- Human Resources
- Compliance
- Training
- The business:
 - Line Managers
 - Approved Persons

The Commitments

The firm's commitments to training and competence should be that:

- its employees are competent;
- its employees remain competent for the work they do;
- its employees are appropriately supervised;
- its employees' competence is regularly reviewed; and
- the level of competence is appropriate to the nature of the business

TC Rules & Guidance

An end to end process

- Recruitment
- Training
- Attaining competence
- Approved examinations
- Maintaining competence
- Supervising
- Record keeping

Declaration of Firm

Knowingly or recklessly giving the *FSA* information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). *SUP* 15.6.1R and *SUP* 15.6.4R require an *authorised person* to take reasonable steps to ensure the accuracy and completeness of information given to the *FSA* and to notify the *FSA* immediately if materially inaccurate information has been provided. *APER* 4.4.6E provides that, where an *approved person* is responsible for reporting matters to the *FSA*, failure to inform the *FSA* of materially significant information of which he is aware is a breach of *Statement of Principle* 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the *FSA*. It should not be assumed that information is known to the *FSA* merely because it is in the public domain or has previously been disclosed to the *FSA* or another regulatory body. If there is any doubt about the relevance of information, it should be included.

In making this application the firm believes on the basis of due and diligent enquiry that the candidate is a fit and proper person to perform the controlled function(s) listed in section 3. The firm also believes, on the basis of due and diligent enquiry, that the candidate is competent to fulfil the duties required of such function(s).

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this Form.

I confirm that I have authority to make this application, and sign this Form, on behalf of each firm identified in section 3.05. I also confirm that a copy of this Form, as submitted to the FSA, will be sent to each of those firms at the same time as submitting the Form to the FSA.

Name of the firm submitting the application

Name of person signing on behalf of the firm

Why Competence Matters

- Business objectives
- Delivered through employees
- Their performance makes the difference
- Ensuring their competence guarantees their performance

Staff Impacts

Key Messages from the FSA

- What individuals do in a job matters
- How a job is done affects the individual, the firm and its customers
- FSA want individuals to do their job as well as they can
- Individuals can influence what happens if they take an interest in their own personal development

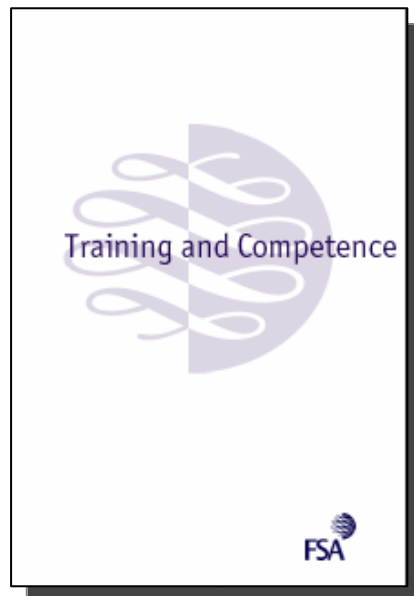
Considerations for all

And the FSA explains..... the big picture

- What they mean by competence as well as how competence can be attained and maintained
- That exams are only part of the picture
- That training and competence is part of the broader framework of regulation

Competence – a Definition

“...competence is not just about examinations. It is about skills, knowledge, expertise, ethical behaviour and the application and maintenance of all of these.”



“...competence means having the skills, knowledge and expertise needed to discharge the responsibilities of an employee’s role. This includes achieving a good standard of ethical behaviour.” (TC 1.1.4G)

Assessing Competence

TC Rules & Guidance	New TC Reference	Old TC Reference
<ul style="list-style-type: none"> • Assessment of competence and supervision • Supervisors • Examinations before starting activities • Exemptions 	<p>TC 2.1.1 R (1) and (2)</p> <p>TC 2.1.4G and TC 2.1.5R</p> <p>TC 2.1.6R and TC 2.1.7R; 2.1.10E</p> <p>TC 2.1.9R</p>	<p>TC 2.4</p> <p>TC 2.7.5 and 2.7.6</p> <p>TC 2.5</p> <p>TC 2.5.5</p>

Maintaining Competence

TC Rules & Guidance	New TC Reference	Old TC Reference
<ul style="list-style-type: none"> • Appropriate arrangements to ensure training needs are met 	TC 2.1.12R	TC 2.6.3
<ul style="list-style-type: none"> • Taking into account <ul style="list-style-type: none"> (1) technical knowledge and its application (2) skills - their application and development (3) changes in the market, products, legislation and regulation 	TC 2.1.13G	TC 2.6.2
<ul style="list-style-type: none"> • Firms must review on a regular and frequent basis employees' competence 	TC 2.1.12R	TC 2.6.1 R
<ul style="list-style-type: none"> • Recordkeeping 	TC 3	TC 2.8

TC Appendix 1 - Qualifications

Activity	Products/Sectors	Is there an appropriate examination requirement?
<i>Designated Investment business carried on for a retail client</i>		
Providing basic advice	1. <i>Stakeholder products excluding a deposit-based stakeholder product</i>	No
Advising	2. <i>Securities which are not stakeholder pension schemes or broker funds</i>	Yes
	3. <i>Derivatives</i>	Yes
	4. <i>Packaged products which are not broker funds</i>	Yes
	5. <i>Friendly Society life policies where the employee is not reasonably expected to receive a remuneration of greater than £1000 a year in respect of such sales</i>	No
	6. <i>Friendly Society tax-exempt policies</i>	Yes
	7. <i>Long-term care insurance contracts</i>	Yes
	8. <i>Investments in the course of corporate finance business</i>	Yes
	9. <i>Advising on syndicate participation at Lloyd's</i>	Yes

Activity	Products/Sectors	Is there an appropriate examination requirement?
Undertaking the activity in column 2	10. <i>Broker fund adviser</i>	Yes
	11. <i>Pension transfer specialists</i>	Yes
Advising and dealing	12. <i>Securities which are not stakeholder pension schemes or broker funds</i>	Yes
	13. <i>Derivatives</i>	Yes
Managing	14. <i>Investments</i>	Yes
Overseeing on a day-to-day basis	15. <i>Operating a collective investment scheme or undertaking the activities of a trustee or depositary of a collective investment scheme</i>	Yes
	16. <i>Safeguarding and administering investments or holding client money</i>	Yes
	17. <i>Administrative functions in relation to managing investments</i>	Yes
	18. <i>Administrative functions in relation to effecting or carrying out contracts of insurance which are life policies</i>	Yes
	19. <i>Administrative functions in relation to the operation of stakeholder pension schemes</i>	Yes
<i>Regulated mortgage activity and reversion activity carried on for a customer</i>		
Advising	20. <i>Regulated mortgage contracts for a non-business purpose</i>	Yes
	21. <i>Equity release transactions</i>	Yes
Designing scripted questions for non-advised sales	22. <i>Equity release transactions</i>	Yes
	23. <i>Equity release transactions</i>	Yes
Overseeing non-advised sales on a day-to-day basis		
<i>Non-investment insurance business carried on for a consumer</i>		
Advising	24. <i>Non-investment insurance contracts</i>	No

Notes:

Approved Persons Regime

- FIT: The Fit and Proper Test for Approved Persons
 - Honesty, integrity and reputation
 - Competence and capability
 - Financial soundness
- APER: Statement of Principles and Code of Practice for Approved Persons Principles

Statements of Principle issued under section 64 of the Act

Statement of Principle 1 An <i>approved person</i> must act with integrity in carrying out his <i>controlled function</i> .
Statement of Principle 2 An <i>approved person</i> must act with due skill, care and diligence in carrying out his <i>controlled function</i> .
Statement of Principle 3 An <i>approved person</i> must observe proper standards of market conduct in carrying out his <i>controlled function</i> .
Statement of Principle 4 An <i>approved person</i> must deal with the <i>FSA</i> and with other regulators in an open and cooperative way and must disclose appropriately any information of which the <i>FSA</i> would reasonably expect notice.
Statement of Principle 5 An <i>approved person</i> performing a <i>significant influence function</i> must take reasonable steps to ensure that the business of the <i>firm</i> for which he is responsible in his <i>controlled function</i> is organised so that it can be controlled effectively.
Statement of Principle 6 An <i>approved person</i> performing a <i>significant influence function</i> must exercise due skill, care and diligence in managing the business of the <i>firm</i> for which he is responsible in his <i>controlled function</i> .
Statement of Principle 7 An <i>approved person</i> performing a <i>significant influence function</i> must take reasonable steps to ensure that the business of the <i>firm</i> for which he is responsible in his <i>controlled function</i> complies with the relevant requirements and standards of the <i>regulatory system</i> .

Systems and Controls

- General Organisation
- Compliance
- Risk Assessment
- Management Information
- Employees and Agents
- Audit Committee
- Internal Audit
- Business Strategy
- Remuneration Policy
- Business Continuity

Implications

- Ensure your Approved Persons understand the TC Requirements applicable to Friendly Societies – and are themselves all competent.
- Corporate Governance Framework needs to be appropriate and there needs to be evidence of periodic review which must be recorded
- Staff competency framework, role profiles, training programmes and scorecards must be aligned and managed – especially following business changes
- ARROW 2 visits, ARROW-lite follow through, thematic contact and RDR review will all challenge your TC arrangements

BE PREPARED TO EXPLAIN BOTH APPROPRIATENESS AND REBUSTNESS AT ANY TIME

F is for Finally...

- FOCUS – on what matters
- FREEDOM - to choose appropriate responses
- FORWARD LOOKING – to keep ahead of the competition

- ... TO ACHIEVE...
- What is best for your business

Important Information

The information provided during this presentation is intended to provide only a general outline of the subjects covered. It should not be regarded as comprehensive or sufficient for making decisions, nor should it be used in place of professional advice.

Accordingly, Mazars LLP accepts no responsibility for loss arising from any action taken or not taken by anyone attending this presentation.

The information in these slides will have been supplemented by matters arising from the oral presentation by us, and should be considered in the light of this additional information.

If you require any further information or explanations, or specific advice, please contact us and we will be happy to discuss matters further.

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