

# **Code of Conduct for Notified Bodies**

**under Directives**

**90/385/EEC and 93/42/EEC**

**"Improving implementation of the European CE certification  
of medical devices through harmonization of quality and  
competence of Notified Bodies"**

Version: 2.7

Date: 25 February 2011

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Review: Incorporating feedback Team-NB: LRQA; SGS

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## General Statement

The work of Notified Bodies (“NBS”) in the Conformity Assessment and Certification of Medical Devices is a key corner stone of the EU legislative system to safeguard public health. This role creates a strong interest in public opinion as well as among other stakeholders, such as European and national authorities.

Established in the early 1990’s to replace the nationally existing systems in the Member States, the legal framework follows the principles of the New Approach Directives to ensure the safety of Medical Devices on the European market and to contribute to public health. The system has proven to meet its objectives in this regard but needs improvements in its implementation.

Since its adoption several changes took effect such as the increased number of Member States and with that the number of Notified Bodies almost doubled since the beginning. Also new and more complex technologies have been introduced.

Many items which bear an improvement potential are already addressed in Directive 2007/47/EC and the undersigning Notified Bodies believe that this Code of Conduct (“CoC”) (which sets out defined rules on qualification of work and personnel, the conduct of our work and guidelines on how to harmonize that work) will support this improvement of the current system, strengthen it and will make obsolete the need for more drastic change to the legislative system.

The undersigning Notified Bodies believe that with our experience over the last two decades with the system, current weaknesses in the harmonization of work of Notified Bodies will be reduced significantly once Notified Bodies follow this Code of Conduct.

Although adoption of this Code of Conduct is voluntary to Notified Bodies at this time, it gives a clear signal that signatory Notified Bodies declare to be fully aware of their responsibility to ensure that certification of Medical Devices complies with the Directives.

Any party with recognized Notified Body status is entitled to sign up to the Code of Conduct. The procedure to enable Notified Bodies to sign up will be transparent, fair and non-discriminatory.

The signatory Notified Bodies aim to ensure a harmonized quality of work amongst the participating Notified Bodies, to gain trust in this work in public perception as well as from political and policy stakeholders, to contribute to ensure the trustworthiness of the system amongst international partners of the European Union and to support the reputation of the participating Notified Bodies.

By signing this **CoC**, the participating Notified Body commits to a high quality of work by education and training of staff involved, and depth and diligence of the work carried out.

The signatory Notified Bodies recognize that the strength of the medical device sector over the previous decades has been largely due to the very high level of innovation in technology and the short product life cycles. This has greatly advanced possibilities for diagnosis and treatment, quality of life for many patient populations and has enhanced the patient safety. The current EU legislative system is well suited to support this dynamic innovation level while safeguarding patient safety. Notified Bodies are well suited and motivated to adapt rapidly to the ever changing technological needs, hiring sufficient competent staff and help make new technologies quickly available to patients through efficient and robust approval processes.

By signing this **CoC**, the participating Notified Body ensures its executives will lead by example and will actively live out and communicate the principles set forth in this Code of Conduct and all staff

shall be responsible for ensuring their business conduct complies with it. We will not tolerate any violation and will apply appropriate measures to ensure the application of this Code of Conduct.

Date: .....

**NOTIFIED BODY:** .....

**NB number:** .....

Signature: .....

Name: .....

Title: .....

## General principles of conduct

This Code of Conduct is characterized by loyalty and integrity to patient safety, the requirements of our accreditation and designation as well as the support of our customers, which is reflected in the following core principles:

- We operate in compliance with recognized directives and standards, and observe all relevant local and international laws and regulations wherever we conduct business.
- We are accountable for our actions to the Competent Authorities and stand by them. Staff are continuously informed and trained to raise their awareness on how to address upcoming issues.
- We are committed to continuous improvement.
- We maintain integrity and build confidence. Management of the participating Notified Bodies encourages an open atmosphere among their staff and subcontractors to report any potential violations to this Code.
- We are compliant to the core principles of the accreditation standards for certification bodies EN ISO 17021 and EN ISO 17025 and may only deviate where the European Directives and associated guidance documents or national designation rules dictate otherwise.
- We provide our services independently and professionally in compliance with the relevant directives and in line with the methods, standards, and processes applicable for Notified Bodies and set by accreditors and designating authorities.
- We commit to an active participation of our organization in the NB-MED meetings and related working groups and committees to work on continuing harmonization between Notified Bodies, maintaining state-of-the-art knowledge of and contributing to ongoing regulatory developments and strengthening implementation of the legal framework for medical devices in the European Union.

There are a number of elements that were addressed in earlier drafts of this CoC but were taken out in this version. This is mainly due to ensure the CoC is issued to a broader public in a timely manner. We realize therefore it is not covering all aspects of the work of Notified Bodies. It is our intention to add to this CoC in later stages following engagement with and feedback from various stakeholders. Topics that still need to be addressed include but may not be limited to:

- Incorporating of the IVD Directive
- Defining requirements for review of devices incorporating material from animal / human origin
- Covering the Conformity Assessments defined in MDD Annex III or AIMD Annex 3 (Type Examination) as well as MDD Annex IV or AIMD Annex 4 (Batch Verification)
- Differences between Notified Bodies in review of clinical evaluations according to MEDDEV 2.7.1
- Requirements for Own Brand Labeling (OBL) manufacturers.

# Implementation and monitoring of the Code of Conduct

## Commitment

The Quality Management System and business practise of the Signatories with respect to their medical device Notified Body activities shall be in compliance with this Code of Conduct. The Code is a set of rules to which all Signatories and their employees have pledged their commitment. It is signed by an authorized representative within the participating Notified Body.

## Enforcement

This **CoC** shall be fully implemented by the signatory Notified Body within six (6) months following signature. The **CoC** does not require retrospective implementation for all existing contracts. It shall apply for all new contracts, applications and re-certifications within six (6) months following signature.

This Code of Conduct can only fulfill its purpose effectively if it is enforced strongly among all Signatories and adequate remedies are taken in case of structural non-compliance. All Signatories are committed to find ways of implementation and enforcement that are effective, transparent and will lead to structural harmonization and securing of the quality level of Notified Bodies.

A Board of Compliance will be established on behalf of all Signatories to ensure that enforcement takes place.

The exact nature of enforcement measures and the management thereof depends on the way in which this Code of Conduct is implemented. Various options can be foreseen:

- Implementation through adoption of this text in formal guidance documents issued by Competent Authorities or the European Commission
- Implementation through adoption of (part of) this text in EU legislation with respect to Notified Bodies
- Implementation through the association of Notified Bodies in Europe, Team-NB where this text will be incorporated in its constitution and transparent enforcement will be conducted through its management structure
- Implementation through another voluntary association of Notified Bodies yet to be developed.

By signing this Code of Conduct, the participating Notified Bodies commit to adoption and publication of detailed and transparent enforcement measures for this CoC based on the principles and options defined in this chapter, no later than 1 January 2012.

## Qualification and Assignment of Notified Body Assessment Personnel

A model for qualification of Notified Body assessment personnel is described in this chapter. This relates to key assessment personnel involved in Conformity Assessments as defined in the Directives. We realize that in addition specific experts may be invited as part of an assessment team, but their qualification is based on specific technical or clinical expertise and is not included in this base set of qualification requirements. Also qualifications of staff involved in the independent final certification decision are not included here.

Where a Notified Body adopts this harmonized model of qualification into its Quality Management System, the Notified Body is assumed to be compliant with this Code. Where a Notified Body has implemented a different qualification model, it must ensure that this model at least guarantees an equal or higher level of quality of its assessment staff.

This section of the code is based on the following key requirements in the MD Directives amended by MDD 2007/47/EC – requirements from Annexes related to quality systems, and Annex XI:

- The notified body and its staff must carry out the assessment and verification operations with ..... the requisite competence in the field of medical devices ...
- In particular, it must have the necessary staff ..... to perform properly the technical ..... tasks entailed in assessment and verification. This presupposes the availability of sufficient scientific staff within the organisation who possess experience and knowledge sufficient to assess the medical functionality and performance of devices for which it has been notified, .....
- The notified body must have ..... satisfactory knowledge of the rules on the inspections which they carry out and adequate experience of such inspections, .....
- The assessment team must include at least one member with past experience of assessments of the technology concerned.

We identify the following qualifications that have a role in the Conformity Assessments:

Qualified role	Qualified for	Scope of qualification
MDD-QMS auditor	EN ISO 13485 + Directive <sup>1</sup>	IAF code technology based or equivalent
Product assessor	Directive <sup>1</sup> + review of Technical Files (and/or Product related Technology Auditing)	Product subcategories as defined in NBOG document 2009-3 (e.g. MD 0201)
Product Specialist	Directive + examination of design dossier	Product subcategories as defined in NBOG document 2009-3 (e.g. MD 0201), Technical, natural or clinical science <sup>2</sup>

1 Qualified to the relevant Directive, associated Directives if applicable and the relevant regulatory guidance documents (e.g. MEDDEV documents).

2 A Product Specialist can be qualified for a generic device group and/or also for a specific technical or clinical specialism such as biocompatibility, EtO sterilization or animal tissue, based on his scientific background and competence.

The Notified Body shall define special qualification requirements for auditing of specific technologies e.g.

- for sterile devices – knowledge of design & monitoring of controlled manufacturing environments, packaging of sterile devices, aseptic production, validation and process control of sterilisation processes.
- for software – knowledge of the principles of development life cycle , risk management, validation and verification according to the state of the art for software development.

Notified Body staff can be qualified to 1 or more of these roles simultaneously.

In order to be qualified and maintain qualification on an annual basis for the roles defined in this Code, the minimum requirements apply as identified further in this chapter.

It is recognised that the requirements specified in this CoC may not fully apply to all national / personnel situations. Flexibility in application of the requirements must therefore be recognised. The Notified body must have a process for duly substantiating exceptions, the rationale must be documented and available in the assessor records.

It is expected that such deviations would only be applied to a maximum of 10% of qualified staff.

Note: this should not be interpreted as up to 10% of staff may be used for activities for which they cannot be appropriately justified, all assessment staff must have a documented decision by the NB detailing the scope of activities for which they have been approved”

The aspects to be covered in a conformity assessment and the roles to be assigned are structured in below table.

Aspect to be covered	Audit on-site	Technical file	Design dossier
<b>Assessment of quality management system</b>	MDD-QMS Auditor	n/a	n/a
<b>assessment of product related technology aspects during audit e.g. sterilisation</b>	Product Assessor <sup>(2)</sup>	n/a	n/a
<b>Assessment of product (Technical File or Design Dossier)</b>	MDD-QMS Auditor <sup>(3)</sup>	Product Assessor	Product Specialist
<b>Assessment of regulations</b>	MDD-QMS Auditor or Product Assessor <sup>(1)</sup>	Product Assessor	Product Specialist

<sup>(1)</sup>: Whoever is trained and qualified to the requirements of the Directives, depending on how the Notified Body has organized it.

<sup>(2)</sup>: With technical expertise and qualification in sterile aspects.

<sup>(3)</sup>: Can be done on-site as well

The main tasks of a Conformity Assessment are:

#	Assessment task	Required role(s)	Remark(s)
I	On-site audit of the manufacturer's quality management system and that of subcontractors where applicable, to the requirements of the harmonized standard EN-ISO 13485 and the Directive(s).	MDD-QMS auditor + Product assessor (for product related technology auditing)	<input checked="" type="checkbox"/> A MDD-QMS audit must take place once a year as a minimum. <input checked="" type="checkbox"/> At a frequency of minimally every 2 years, a Product assessor needs to take part of the assessment
II	Assessment of technical documentation of MDD	Product assessor	<input checked="" type="checkbox"/> Technical files need to be reviewed on a sampling basis, either on-site as part of the audit or off-site as a desk review. <input checked="" type="checkbox"/> Further reference is made to NBOG 2009-4 guidance and further in this Code of Conduct
III	Examination of the design dossier	Product Specialist	<input checked="" type="checkbox"/> Product Specialists with qualifications for the relevant product category as defined in this CoC shall take part in the design dossier reviews. Also relevant technical scientific and medical aspects shall be covered by specialists (e.g. biocompatibility). <input checked="" type="checkbox"/> Particular experts without a formal qualification (e.g. an interventional cardiologist as clinical specialist for the review of a drug eluting stent design dossier) can be added to the review team to ensure sufficient competence in the review.

In case of devices provided in a *sterile* state, the Notified Body shall ensure in its planning of the Conformity Assessment cycle, that the following roles are part of the assessment team:

- In each audit team for all audits (initial, surveillance, renewal), at least one QMS Auditor shall have basic understanding of sterile device manufacturing aspects.
- In the case of initial audits and subsequently once every 3 years, or in case of significant changes to the sterilisation process a Product Assessor with special qualification for sterile device manufacturing aspects shall be part of the audit team, focusing on the specific processes in relation to sterile device manufacture.

1. MDD-QMS auditor

Entry requirements	Qualifications are based on technology as defined by IAF / EAC coding (e.g. a technology based QMS qualification would be for IAF/EAC code 14, plastic and rubber products) or equivalent
	Standard requirements for a MDD-QMS auditor as defined in relevant IAF guidance documents and ISO standards
	BSc degree in the relevant technology or equivalent, for one or several technologies used in the medical device sector.
	4 Years working experience in the relevant production technology for which the auditor wishes to be qualified. A master’s degree or PhD in a relevant subject e.g. including device design, clinical/performance requirements may be used to substitute 1 or up to 3 years working experience, respectively.. The total substitution together cannot exceed 3 years. Regular auditing in the relevant production technology may count as work experience.
Training	40 Hours of class room training in the ISO 9001 standard, of which minimum 8 hours can be dedicated to EN ISO 13485. In case of already qualified ISO 9001 auditors, minimum 8 hours of ISO 13485 class room training separate. These requirements can be substituted by evidence of competence obtained otherwise.
	32 Hours of training in medical devices, the Medical Device Directive(s) – regulations, and auditing to the regulations or equivalent
	The Notified Body shall ensure that an auditor to be qualified obtains adequate training in the relevant procedures of the Notified Body’s quality management system and is taken through a training plan consisting of sufficient audits witnessed, under supervision and observed before doing a qualification audit. Evidence of relevant audits with another Notified Body may replace this.
Qualification requirements	Demonstration of capability/competence of conducting an audit to the requirements of the Directive(s) and where applicable EN ISO 13485. As a minimum have 1 fully observed audit to the applicable Directive (and where applicable EN ISO 13485) successfully concluded.
	Persons authorized to monitor training and approve, suspend or withdraw qualifications must have adequate seniority / experience in Conformity Assessments for medical devices as defined below for Notified Body staff that is involved in the certification decision process.
Renewal of qualification	On an annual basis conducting 10 on-site audit days to the Directive(s) (and where applicable EN ISO 13485) or show equivalent work experience for equivalent length of time in the medical device industry through providing training or (in case of external auditors) as a consultant relevant to regulatory requirements for quality systems and Directive(s) / EN ISO 13485. At all times A minimum of 5 days on site audit days per annum to the Directive (averaged over 3 years) must be performed to maintain qualification, in case the other part of the minimum 10 on-site audits is evidenced through equivalent work experience.
	8 Hours of maintenance training on ISO 13485 and regulatory update of relevant guidance documents pertaining to the Directives, or equivalent.
	Take into account evidence of satisfactory continual auditor’s performance (report analysis, client feedback, etc) and significant negative feedback.
	If the requirements for renewal of qualification are not met, the qualification will be suspended. Then in the first upcoming audit, the auditor needs to be observed again during the full audit and successfully conclude the observation in order to have his qualification re-instated.
	The NB shall have a procedure to review renewal of qualification on an annual basis. This procedure should take into account the principles above. In the event of an assessor not meeting any of the requirements the NB shall identify and document an action plan in order to maintain qualification. In the event that qualification is suspended requalification should include observation during an appropriate audit.

## 2. Product assessor

Entry requirements	Qualifications are based on the product categorization as defined in NBOG guidance document 2009-03. E.g. a product category based qualification would be MD0202, Non-active orthopaedic implants for technical file review and MD0200 for product related technology auditing. In parallel to that qualifications are set on specific “horizontal” technologies, relevant for certain product categories, such as sterilisation.
	BSc degree in the relevant product or medical area for one or several technologies used in the medical sector (educational requirement), or equivalent. The educational requirement shall remain a strong basis for product categories qualified for. E.g. it is highly unlikely that somebody with a degree in electronics can be qualified for MD 0204 Non-active soft tissue implants. Typically product assessors can obtain qualifications in either active medical device product categories or non-active medical device product categories, but not in both. This is directly related to their educational background. Typical educational backgrounds for qualification in active product categories are electro-technology, electronics, software, or (clinical) physics. Typical educational backgrounds for qualification in non-active product categories are chemistry, (medical) biology, biotechnology, (bio)-materials or pharmacy. In parallel the Notified Body can maintain qualifications in “horizontal” production technology areas such as sterilisation. Also here a strong link to educational background should exist.
	For a maximum of 10% of the assessor base qualification may be demonstrated deviating from the educational requirement, based on detailed written justifications.
	4 Years working experience with practical experience in the medical sector (medical device or pharmaceutical industry, relevant test laboratory, notified body, medical institution). A master’s degree can substitute 1 year of working experience and a PhD in a relevant medical area can substitute 3 years of working experience. The total substitution together cannot exceed 3 years.
Training	32 Hours of training together in medical devices, the Medical Device Directive(s) – regulations, and audit techniques to the regulations or equivalent (if not covered by training as MDD-QMS Auditor).
	The Notified Body shall ensure that a Product Assessor to be qualified obtains adequate training in the relevant procedures of the Notified Body’s quality management system and is taken through a training plan consisting of sufficient Technical File reviews witnessed, under supervision and peer reviewed before doing a qualifying full independent review. Evidence of relevant Technical File reviews for another Notified Body may replace this. This training must ensure that the trainee learns how to perform an assessment of a Technical File.
	For each product category for which qualification is sought, the Product Assessor shall obtain auditing training on how to apply product related competence in an audit environment.
Qualification requirements	For each product category for which qualification is sought, irrespective of whether this is the first or later categories to be qualified to, the Notified Body must show evidence of appropriate knowledge in the product category. This can be in the form of training to applicable product standards, training to the products, product technology and clinical indications of the product category, etc.
	For the first product category (e.g. MD 1106) for which qualification is sought, having completed successfully (approved by certification management) 3 technical file reviews. Reviews of design dossiers in the relevant product category can count toward this requirement as substitute. Already approved Technical Files can be used for qualification purposes.
	For qualification to any subsequent product category within the same Directive, provide evidence of adequate product training, knowledge and/or experience.
	Persons authorized to monitor training and approve, suspend or withdraw qualifications must have adequate seniority / experience in Technical File assessments as defined below for Notified Body staff that is involved in the certification decision process.
	Qualification under NBOG code MDS 7006 of Product Assessors authorized to review detailed aspects of sterile medical devices, shall be based on:
	<ol style="list-style-type: none"> <li>1) Specialized competence obtained either through special training programs or professional experience in the areas for which qualification is granted: each sterilization validation method, sterile packaging validation, bio burden and residual determination, controlled environments. The relevant international and/or European standards for these topics shall be part of the competence requirements.</li> <li>2) Qualifications shall be defined and training records kept for each aspect of sterile manufacture separately (controlled environments, sterilization, aseptic processing, sterile packaging).</li> </ol>

Renewal of qualification	On an annual basis show evidence of having done 5 Technical File reviews, independent of the number of product categories qualified for. Reviews of significant changes to the product range count for 50%. Up to 50% evidence may be shown through review of design dossiers. Verification of this requirement shall be done at minimum on a 3 year basis, where the requirement of having done 5 Technical Files can be interpreted as the average value of 3 consecutive years.
	Show ongoing competence in the product categories for which qualification is established.
	On annual basis show evidence that the Notified Body has provided to qualified persons update training / information with regard to latest status of Directives, harmonized standards and MEDDEV's, clinical evaluation requirements and other relevant requirements, or equivalent.
	If the requirements for renewal of qualification are not met, the qualification will be suspended. Then the first upcoming Technical File review shall be done under supervision, and re-qualification confirmed by Certification Management based on the outcome of this review.
	The Notified Body shall have a procedure to review renewal of qualification on an annual basis based on above principles. In case the Product Assessor has auditor qualification, monitoring on-site (observed audit) at least once every 3 years shall occur.

### 3. Product Specialist

Entry requirements	Qualifications are based on the product categorization as defined in NBOG guidance document 2009-03. E.g. a product category based qualification would be MD0202, Non-active orthopaedic implants. In addition qualifications are based on technical or scientific specialisms such as sterilization, biocompatibility, animal tissue, software, functional safety, clinical evaluation, electrical safety, packaging, stability, in-vitro mechanical, chemical or physical verification testing.
	BSc degree or equivalent in the relevant product or medical area for which the Product Specialist wishes to be qualified (educational requirement), typically more specifically defined as for Product Assessors. The educational requirement shall remain a strong basis for product categories qualified for. E.g. it is highly unlikely that somebody with a degree in electronics can be qualified for MD 0204 Non-active soft tissue implants. Typically Product Specialists can obtain qualifications in either active medical device product categories or non-active medical device product categories, but not in both. This is directly related to their educational background. Typical educational backgrounds for qualification in active product categories are electro-technology, electronics, software, or (clinical) physics. Typical educational backgrounds for qualification in non-active product categories are chemistry, (medical) biology, biotechnology, (bio)materials or pharmacy.
	For a maximum of 10% of the assessor base qualification may be demonstrated deviating from the educational requirement, based on detailed written justifications.
	The qualification as Product Specialist for technical / scientific specialism should be based on a sound relevant scientific education combined with sufficient working experience in that particular topic.
	4 Years working experience with practical experience in the medical sector. Half of the working experience in R&D, production or quality control with medical devices or drugs in the medical device industry, a test laboratory, pharmaceutical industry, a hospital or a notified body. A master's degree in a relevant area for medical devices can substitute 1 year of working experience and a PhD in a relevant area for medical devices can substitute 3 years of working experience. The total substitution together cannot exceed 3 years.
Training	4 Days of training in medical devices, the Medical Device Directive(s) – regulations, and assessment and certification principles or equivalent.
	The Notified Body shall ensure that a Product Specialist to be qualified obtains adequate training in the relevant procedures of the Notified Body's quality management system and is taken through a training plan consisting of sufficient Design Dossier reviews witnessed, under supervision and peer reviewed before doing a qualifying full independent review. Evidence of relevant Design Dossier reviews for another Notified Body may replace this. This training must ensure that the trainee learns how to perform a Design Examination.
	For each product category for which qualification is sought, irrespective of whether this is the first or later categories to be qualified to, the Notified Body must show evidence of appropriate knowledge in the product category. This can be in the form of training to applicable product standards, training to the products, product technology and clinical indications of the product category, etc.

Qualification requirements	For the first product category in a given Directive for which qualification is sought, having completed successfully (approved by certification management) 4 design dossiers (at least 2 of them shall be initial applications or significant extensions of certification).
	For qualification to any subsequent product category within the same directive or technical / scientific specialism, provide evidence of adequate product knowledge and experience.
	Qualification for a technical/scientific specialism must be based on a sound combination of relevant scientific education and/or relevant working experience (e.g. design work in this specialism) in combination with relevant training. As guidance we give the following examples: <input checked="" type="checkbox"/> A biologist has been involved in biocompatibility testing in industry and has been trained to the biocompatibility standards series ISO 10993. This qualifies for Product Specialist for biocompatibility. <input checked="" type="checkbox"/> An electrical engineer has gained work experience in software verification and be trained to EN 62304 and qualified as software Product Specialist. <input checked="" type="checkbox"/> An electrical engineer that receives a 10-day training in sterilization standards does not qualify as Product Specialist for sterilization.
	Persons authorized to monitor training and approve, suspend or withdraw qualifications must have adequate seniority / experience in Design Examinations as defined below for Notified Body staff that is involved in the certification decision process.
Renewal of qualification	On an annual basis show evidence of having done 3 Design Dossier reviews, independent of the number of product categories qualified for. Reviews of significant changes to the approved design (not full design examinations) count for 50%. Verification of this requirement shall be done at minimum on a 3 year basis, where the requirement of having done 3 Design Dossiers can be interpreted as the average value of 3 consecutive years.
	On an ongoing basis, show evidence of state-of-art product knowledge / review experience in each product category for which qualification exists.
	On annual basis show evidence that the Notified Body has provided to qualified persons update training / information with regard to latest status of Directives, harmonized standards and MEDDEV's, clinical evaluation requirements and other relevant requirements, or equivalent.
	If the requirements for renewal of qualification are not met, the qualification will be suspended. Then the first upcoming Design Dossier review shall be done under supervision, and re-qualification confirmed by Certification Management based on the outcome of this review.
	The Notified Body shall have a procedure to review renewal of qualification on an annual basis based on above principles.

As an equivalent to a degree in the relevant product or medical area a lower level of tertiary qualification or a non related degree supported by a minimum of 8 years experience in the technological area or by a minimum of 5 years experience in the technological area when combined with further independently examined technical training is accepted.

For design dossier reviews, specific technical or clinical expertise may need to be assigned to the review team (e.g. specialist on TSE / viral inactivation, orthopaedic surgeon as clinical expert). These experts are added to the review team and may not have any formal qualification, but are rather used based on their scientific expertise in a certain field. They never conduct a full review, but are only added for specific specialized aspects. The Notified Body must have a process to select, review and accept these experts to take part in design dossier reviews. It shall have a documented justification for the expertise of the expert. Records must be kept on selection, review, acceptance and justifications.

The Notified Body must have a system implemented that ensures effective and frequent updating of their qualified personnel with respect to state-of-the-art (ensuring use of latest standards) and developments in EU regulations (update on MEDDEV's, NB-MED documents, NBOG documents, GHTF documents). Evidence must be available to show qualified staff has been updated regularly on technical and regulatory developments.

## Minimum time for Notified Body assessments

This part of the Code of Conduct provides guidance for NBs to develop their own documented procedures for determining the amount of time required for the auditing of clients of different sizes and complexity over a broad spectrum of activities. It is intended that this will lead to consistency of audit duration between NBs, as well as between similar clients of the same NB.

NBs shall identify the audit duration for the stage 1 and stage 2 initial audit, surveillance audits, and re-certification audits for each applicant and certified client.

This part of the document does not stipulate minimum/maximum times but provides a framework that shall be utilized within a NB's documented procedures to determine appropriate audit duration, taking into account the specifics of the client to be audited.

Time needed for technical file reviews shall be calculated separately. This time may be added to the onsite audit time or used for offsite reviews.

### Application

#### Audit Duration

Audit duration for all types of audits includes on site time at a client's premises and time spent off-site carrying out planning, document review, interacting with client personnel and report writing. The time spent for these off-site activities are calculated independently from the onsite audit duration time. At least 90% of the minimum audit time as specified in document IAF MD5:2009 shall be spent on-site. This applies to initial, surveillance and recertification audits. Where additional time is required for planning and/or report writing, this will not be accepted for justification to reduce on site audit duration for any audit. Each participating body has the liberty to define needed off-site time based on its own rules. This Code of Conduct only defines minimum criteria for on-site time.

#### Auditor Day

The various rules and tables present audit durations calculated in auditor days on the basis of 8 hours per day. National adjustments on the number of days may be needed to comply with local legislation for travel, lunch breaks and working hours, to achieve the same total number of hours of auditing. The number of auditor days allocated should not be reduced at the planning stages by programming longer hours per working day.

Extension of an auditor day up to 10 hours is allowed in duly substantiated cases based on difficult travel situations.

#### Effective Number of Personnel

The effective number of personnel at the manufacturer is used as a basis for calculation of audit duration following guidelines in IAF MD5:2009 guidance document. Dependent upon the hours worked, part time personnel numbers may be reduced and converted to the number of full time equivalent (FTE) personnel. Specific consideration may be given to those operations where the majority of employees are not located on site (e.g. sales and technical service personnel), working in multiple shift operation (24 hours a day / 7 days a week) or performing identical tasks.

### Methodology for determining audit duration

- The basis for calculation of required audit time is the table in Annex A of IAF MD5:2009, which is designed for voluntary QMS auditing. When performing a regulatory audit to ISO 13485 and potentially additional other schemes such as Medical Device Directives certification and Canadian Medical Device Regulations certification, time needs to be added to cover all required clauses. Various other criteria may apply for adding or subtracting time which are defined in this Code of Conduct.

- Calculation of time for surveillance and recertification audit time shall follow the standard principles of IAF MD5:2009.
- All rules of IAF MD5:2009 apply unless specified differently in this Code of Conduct. Examples are rules around situations where the manufacturer operates in shifts.
- It is appropriate to base audit duration on the effective number of personnel of the organization and the complexity of the processes within the organization. The audit duration should then be adjusted based on any significant factors that uniquely apply to the organization to be audited. The NB should exercise discretion to ensure that any variation in audit duration does not lead to a compromise on the effectiveness of audits.
- The starting point for determining audit duration shall be identified based on the effective number of personnel, then adjusted for the significant factors applying to the client to be audited, and attributing to each factor an additive or subtractive weighting to modify the base figure. In every situation the basis for the establishment of audit duration including adjustments made shall be recorded.
- Audit duration determinations as specified in this section shall not include the time of “auditors-in-training” or the technical file reviews.
- Where a NB has applied a reduction to the times established in the IAF MD5:2009 table, it shall document the justification.
- Conformity Assessment auditing should not include remote auditing techniques such as interactive web-based collaboration; web meetings, teleconferences and/or electronic verification of the client’s processes (see IAF MD4). Exceptions should be duly substantiated.
- It is unlikely that duration of Stage 2 audit will be less than 1 auditor/day.
- The locations identified in the audit plan shall be physically visited at least annually. As an exception to this condition, the requirements for Own Brand Labelling (OBL) manufacturers may be set by each Notified Body separately in their quality system.

### **Factors for adjustment of audit duration**

#### Increase in audit duration:

- ISO 13485 regulatory auditing requires more time than ISO 9001 auditing. As a minimum 15% audit time shall be added to the IAF MD5:2009 table.
- In case of ISO 13485 and CE auditing, as a minimum 35% audit time is added to the IAF MD5:2009 table.
- Complicated logistics involving more than one building or location where work is carried out. e.g., a separate design centre must be audited;
- Staff speaking in more than one language (requiring interpreter(s) or preventing individual auditors from working independently);
- Very large site for the number of personnel;
- System covers highly complex processes or relatively high number of unique activities;
- Activities that require visiting temporary sites to confirm the activities of the permanent site(s) whose management system is subject to certification.

#### Decrease in audit duration:

- Client is not "design responsible" or other standard elements are not covered in the scope (QMS only);
- Low risk products or simple processes;
- Very small site for number of personnel (e.g. office complex only);
- Maturity of management system;
- Combined audit of an integrated system of two or more compatible management systems;

- Prior knowledge of the client management system (e.g., already certified to another standard by the same NB);
- Client preparedness for certification (e.g., already certified or recognized by another 3<sup>rd</sup> party scheme);
- Low complexity activities,
- Processes involve a single generic activity (e.g., service only);
- Identical activities performed on all shifts with appropriate evidence of equivalence performance on all shifts based on prior audits (internal audits and NB audits);
- Where a significant proportion of staff carry out a similar simple function.
- Where staff include a number of people who work “off location” e.g. sales persons, drivers, service personnel, etc. and where it is possible to substantially audit compliance of their activities with the system through review of records.

Appropriate reduction should be made to the temporary unskilled personnel who may be employed in considerable numbers in some countries due to low level of technology and automation. Appropriate reduction of number of personnel also should be made where significant proportion of staff carry out a similar simple function for instance: transport, line work, assembly lines, etc.

All attributes of the client’s system, processes, and products/services should be considered and a fair adjustment made for those factors that could justify more or less auditor time for an effective audit. Additive factors may be off-set by subtractive factors.

In any case, the total amount of audit days, QMS + Directive, calculated shall not be below 100% of days defined in the IAF MD5:2009 table.

### **Multi-site audit scheme**

Certification of Multiple Sites under one Quality Management System based on sampling as defined in IAF MD1 guidance document (Multi-site auditing) is in principle not an option for Conformity Assessments. Rare exceptions must be substantiated. For stand-alone ISO 13485 certifications which do not form a basis for a Conformity Assessment and that are outside the primary processes of the manufacturer from design to final inspection of medical devices, the Multi-site audit scheme per IAF MD1:2007 may be applied.

Example 1: A multi-national medical device company has a separate division of sales and service organisations in many countries. These country organisations are local sales organisations that also provide local service support for the products of the multi-national. The division runs its own global quality management system and wishes to be certified to ISO 13485. As their scope of activities (sales, services) is outside of the CE Conformity Assessment (either design, manufacturing or final inspection), this is an example of a voluntary quality system certification scheme where a sampling audit regime may apply under the normal conditions as stipulated in IAF MD1.

Example 2: A multi-national medical device company runs one global quality system for all its business units. Each business unit is active with a different clinical / product scope, but has to implement corporate procedures from the global quality system. In this case manufacturing sites under this global quality system need to be audited as part of the Conformity Assessment and a sample audit regime cannot be applied.

## **Sampling of class IIa and IIb technical files**

In this section, the minimum requirement for the number of technical files/dossiers that must be assessed is described.

Technical file sampling may have different implications in relation to initial assessment of manufacturers, product line extension, changes through addition of new product categories or generic device group to a certificate, renewal of certification and transfer of certificates to other Notified Bodies.

The review of technical files shall be executed by product assessors with sufficient medical device product competence as specified under the section Qualification of NB personnel earlier in this Code of Conduct. Different experts may be involved depending on the complexity and risk of the devices in question. Therefore, Notified Bodies may not be able to perform the complete assessment on site.

Product Assessors conducting technical file reviews are qualified and assigned on the basis of subcategory level (e.g. MD 0202 – non-active orthopaedic implants) as specified in NBOG document 2009-3. They can either be internal staff or external resources.

### **New clients – Initial review and subsequent audits**

2007/47/EC has added requirements for the required number of technical files to be sampled in Class IIa (device subcategory) and IIb (generic device group). Under defined circumstances NBOG 2009-4 allows sampling of files.

In line with the NBOG guidance, technical files in class I sterile and class I measurement may be subject to sampling per subcategory, similar to class IIa files, with review limited to aspects of manufacture concerned with securing and maintaining sterile conditions or metrological requirements.

In the case of sampling the remaining files reviewed during subsequent audits, where possible, samples chosen should reflect the period in which a specific file has not been reviewed by the Notified Body. There are different interpretations of NBOG document 2009-4 with respect to sampling. Either of these interpretations as directed by Competent Authorities are acceptable as long as NBOG document 2009-4 is adhered to as a minimum.

### **Product line additions**

Products added to the portfolio by a manufacturer, should be added to the sampling plan where appropriate. New Generic Device Groups and/or device subcategories shall require a review of the technical file before they can be added to a certificate. Products of already certified generic device groups and/or device subcategories representing already certified technologies do not require prior review and approval by a Notified Body. However it is recommended to prioritize the respective technical files during sampling.

### **Re-certification process - State of the art and Technical File Maintenance**

During the certification period the Notified Body should focus during its audits on the manufacturer's processes and their effectiveness to maintain the technical files and ensure devices currently CE marked continue to be "state-of-the-art".

### **Assumed clients – Initial review and subsequent audits**

If there is a valid certification based on a sampling plan that meets the requirements, then there is – in case of certificate transfer -no need for a technical review until the next audit, unless there are existing concerns. The need for review of additional technical files during the next audit will be based upon the NB assessment of the technical files already reviewed by the previous NB. Appropriate objective evidence, e.g. the sampling plan from the previous NB and/or the reports of technical files reviewed, should be made available. A Notified Body may choose to review a limited number of files for verification purposes during the transfer process.

### **Depth of assessment**

The aspects to be reviewed in a technical file shall be compliant with the elements specified in the NBOG 2009-4 guidance document. The time spent on the review of one technical file should be proportionate to the risk and complexity of the devices in question.

Medical devices may be categorized into three complexity levels, to aid in determining the time needed to complete the technical file review

#### High

Devices that are complex in level of technology and different technologies and materials used (e.g. MRI equipment with complex functionalities, technologies and software, minimal invasive peripheral stent delivery system)

#### Medium

Devices of medium complexity and risk in terms of materials and technology and typically not novel (e.g., orthopaedic screw, blood pressure measuring equipment)

#### Low

Well established products of low complexity (e.g. hypodermic needle, urinary catheter)

In order to address all elements as specified in the NBOG 2009-4 guidance document with sufficient depth, it is expected that for devices with a low level of complexity, the minimum time spent per technical file is 4 hours and for devices with a high level of complexity, the minimum time spent per technical file is 8 hours.

## Design Dossier Reviews

The scope of this section includes reviews according to MDD class III under Annex II.4 or AIMD Annex 2.4. When performing design examinations, the Notified Body should follow a documented procedure for review, using appropriate expertise to all technical and regulatory aspects covered by the review, allowing sufficient time for the reviewers to come to justified conclusions on the compliance of the design to all essential requirements of the appropriate directive.

Design dossiers should be assigned for review to a Product Specialist qualified for the product category that the design belongs to, as defined in the chapter “Qualification requirements for NB personnel”. The Product Specialist may add particular experts without a formal qualification (e.g. an interventional cardiologist as clinical specialist for the review of a drug eluting stent design dossier) to the review team to ensure sufficient competence in the review. The product specialist has to document the required competences and the choice for the expert used.

A procedure must be implemented to assign and qualify external experts on a project basis. When using external resources for review of part of the design dossier, particular attention should be given to expertise level and impartiality of these experts.

The assessor should take account of EU Commission, NBOG, NB-MED, GHTF and other guidance documents as appropriate, recognizing them to represent the state of art regulatory interpretation of the medical device directives. Particular account should be taken of NBOG guidance document 2009-1 on “Guidance on Design Dossier Examination and Report Content”.

The dossier is reviewed in detail by the review team to establish that the essential requirements and aspects of the device performance have been adequately addressed, referencing suitable (harmonised) standards, specifications, verifications, tests and/or other evidence of compliance. Strong focus should be on clinical data, risk management and a selection of other essential requirements.

Suitable evidence of performance of similar predecessor devices may be taken into consideration, noting substantial equivalence to a competitor’s product is not considered suitable evidence, as European regulations require manufacturers to demonstrate for individual devices to conform to all essential requirements.

The table below supports the expectations on the expertise that should be involved in these reviews. It is intended as guidance to further support the requirements set forth in this Code of Conduct and should not be seen as specific requirements.

Aspect	Reviewer
General aspects (risk management file, labelling, ER checklist, design specifications, etc), in-vitro test reports, validations and related data	Product Specialist qualified for the product category that the design belongs too
Sterilization validation	Product Specialist qualified for sterile aspects in particular the relevant sterilization method
Biocompatibility data	A Product Specialist qualified in one of these aspects or an external expert in one of these fields. The Product Specialist may also have one of these particular expertises.
Medical device utilizing animal tissue, human blood derivatives, medicinal substances	
Software validation (e.g. AIMD)	
Clinical evaluation report	Either the Product Specialist with sufficient specific experience with this product group to assess clinical aspects or an external expert in this field. This also depends on the clinical complexity. If the Product Specialist (typically somebody with an engineering background) covers this aspect, his sufficient clinical experience should be duly substantiated.

The review is finalized by an independent certification reviewer or certification board.

All changes effecting the design examination must be reported by the manufacturer to the Notified Body. An examination of the changes is carried out using an abbreviated review, focussing on the changes. The Product Specialist shall verify that the manufacturer has identified those essential requirements that have been affected, and ensure that the manufacturer has reviewed the risk analysis.

A full design examination for any product needs in principle a minimum of 5 man days in order to cover all aspects per the NBOG guidance documents with a sufficient level of detail and competence. Deviations should be duly substantiated. Design changes which effect only part of the essential requirements most likely only take a percentage of the time needed for a full design examination.

## Rules for subcontracting

Notified bodies are at all times responsible for the granting, maintaining, renewing, extending, reducing, suspending or withdrawing of EC certificates. In order to fulfil this responsibility, they are responsible for the execution of the whole certification process (including all the technical aspects of the commercial proposals), as outlined in section 6.5 of the blue guide. It is not possible to delegate any of these tasks to external organisations!

If necessary, notified bodies may outsource or subcontract some stages of the assessment process through contracts or agreements. Procedures with criteria for selection of experts and assessors shall be in place for any outsourced part of the assessment.

The requirements for any subcontracted tasks are at the same level as what is expected for personnel who works within the Notified Bodies organizations. Policies pertaining to outsourced work should include details on:

- Competence and experience;
- Confidentiality;
- Conflict of interests;
- Control of the subcontracted/outsourced services.

Recognising that separate notification (accreditation or designation) for subcontractors is not necessary, external personnel and external laboratories working on behalf of a Notified Body must comply with the requirements of the annex XI of 93/42/EEC, or Annex 8 of 90/385/EC, MEDDEV 2.10-2 and EN ISO 17021. This is also applicable for employees of affiliated companies. The outsourced work must be carried out following identical or equivalent procedures as those from the Notified Body.

Subcontracted parties are not allowed to subcontract parts of the contract to other subcontractors.

Records of the qualification of external personnel and external laboratories must be kept by the Notified Body, as well as evidence on regular monitoring on this established competence and the correct fulfillment of the outsourced work. A register of all subcontracting activities should be kept.

The qualification of personnel involved in the Conformity Assessment cannot be outsourced. Decisions on qualification, suspension, withdrawal and renewal of qualifications must be taken by senior staff of the Notified Body meeting the same requirements as staff taking certification decisions. For qualification requirements of staff that take such qualification decisions, please see the chapter on QUALIFICATIONS.

## Rules for Certification Decisions

Outsourcing of certification decisions to an external organization is not allowed.

Notified Body staff involved in certification decisions shall not have been involved in the Conformity Assessment on which a certification decision needs to be taken.

The Notified Body should demonstrate having own staff with sufficient technical competence to supervise and approve the outsourced work and to take certification decisions. Sufficient technical competence of own staff must be related to the scope designation of the Notified Body based on NBOG product categorization.

Notified Body staff that is involved in the certification decision process shall be a person or a group of persons meeting the following criteria:

- Adequate technical and/or clinical experience under the medical device directives (93/42/EEC and/or 90/385/EEC) during at least 5 years within the medical device industry or relevant service organizations (e.g. consultant organizations, CRO's, NB's).
- Adequate seniority / experience in Conformity Assessments under the Medical Device Directive and/or Active Implantable Medical Device Directive during at least 3 years within a Notified Body.
- For QM related conformity assessment procedures (e.g. MDD, Annex II excluding (4)):
  - Having clear competence as MDD-QMS auditor and as Product Assessor in a Notified Body, authorized as Product Assessor for one or more of the Product Subcategories (e.g. MD 0203 as identified in NBOG guidance document 2009-3 for the related EC directive)
  - Qualification for personnel who takes certification decisions should be set at a level of the EC directive, for general medical devices (MDD), qualification should be limited to non-active or active medical devices
  - Rules for specific qualifications needed (e.g. MDS 7001) should be defined.
- For product related conformity assessment procedures (e.g. MDD, Annex II.4):
  - Having worked as Product Specialist in a Notified Body, authorized for one or more of the Product Subcategories (e.g. MD 0203) as identified in NBOG guidance document 2009-3 for the related EC directive
  - Qualification for personnel who takes certification decisions should be set at a level of Product Category (e.g. MD 1100) as a minimum. A general qualification like "Active medical devices" is not adequate.
  - In cases where the certification decision maker is qualified under another Product Category (e.g. MD 0300) than the Product Category in which the device falls (e.g. MD 0200), he is required to obtain input for his decision from an internal staff member who holds Product Specialist qualification for the same Product Category as where the device belongs to and who has not been involved in the assessment.
  - Rules for specific qualifications needed (e.g. MDD 7001) should be defined within the qualify system of the Notified Body.
- A maximum of 10% the Notified Body staff involved in certification decisions can be qualified deviating from the educational requirement, based on a written justification.

To ensure that the Notified Body has sufficient internal competence among its own staff to take certification decision and not rely solely on external expertise for certain product categories, the following requirement applies also. This competence shall be related to the scope of designation of

the Notified Body for the product categories as defined in NBOG document 2009-3 (e.g. MD 0200 Non-active implants).

- For each product category (e.g. MD 1100) for which the Notified Body is designated, there shall be in-house product expertise by having at least one qualified Product Assessor or Product Specialist in that product category.

For Notified Bodies operating in multiple countries and having multiple legal entities, the requirements as specified in this chapter apply across legal entities. These requirements should be interpreted on a group / corporation level as long as various entities are wholly owned subsidiaries in relation to the legal entity that holds the designation as a Notified Body.

## ANNEX A - REFERENCES

The intent of this Code of Conduct is to provide requirements for Notified Bodies that adhere to this Code, in addition and while adhering to existing requirements and guidance. Some of these existing requirements and guidance documents are referenced below:

1. Active Implantable Medical Devices Directive 90/385/EEC, Annex 8 (Minimum criteria to be met when designating inspection bodies to be notified)
2. Medical Device Directive 93/42/EEC, Annex XI (Criteria to be met for the designation of Notified Bodies)
3. MEDDEV 2.10-2 Rev 1 (April 2001), Designation and monitoring of Notified Bodies within the framework of EC Directives on Medical Devices
4. IAF MD 5:2009, Mandatory document for duration of QMS and EMS audits
5. Designating Authorities Handbook
6. ISO/IEC 17021:2006, Conformity Assessment – Requirements for bodies providing audit and certification of management systems
7. NBOG guidance 2009-3, Guideline for designating authorities to define the notification scope of a Notified Body conducting medical devices assessments
8. NBOG guidance 2009-1, Guidance on design-dossier examination and report content
9. NBOG guidance 2009-4, Guidance on Notified Body's tasks of technical documentation assessment on a representative basis
10. NBOG CL 2010-1 Checklist for audit of Notified Body's review of Clinical Data/Clinical Evaluation

In addition, there are many applicable guidance documents and standards that apply to the work of Notified Bodies in practise. These are issued by the European Commission (MEDDEV documents), IAF, NBOG, GHTF, NB-MED, etc. All these documents are deemed to be applicable for the Notified Bodies who undersign this Code of Conduct.