

**Comments on the Consultation Paper „Draft guidelines for the assessment of knowledge and competence“ by DVFA**

**Preliminary note:**

DVFA wholeheartedly supports ESMA's intention to define within MiFID II regulation that assures a common level of knowledge and competence for individuals working within MiFID firms.

Professionalism, in fact safeguarding professional quality, has been a goal of DVFA as the Society of Investment Professionals in Germany since its foundation in 1960. Enclosed herewith there is our new "DVFA Code of Professional Discipline" which describes essential requirements for members of the professional association with regards to continuing education and engagement on behalf of the finance profession .

Continuing education and certification of successful graduates has been part of our remit for over a quarter century. So far, nearly 5.000 people have a designation of one of DVFA's training programs.

**Question 1:**

Do you think that not less than five consecutive years of appropriate experience of providing the same relevant services at the date of application of these guidelines would be sufficient to meet the requirement under knowledge and competence, provided that the firm has assessed their knowledge and competence? If yes, please explain what factors should be taken into account and what assessment should be performed by the Investment firm. Please also specify whether five consecutive years of experience should be made in the same firm or whether documented experience in more than one firm could be considered.

**Answer:**

First of all, five years of experience seems a reasonable assumption. However, from our point of view work experience does not necessarily have to be acquired in the same firm, but in any case within the same or comparable relevant services. To ensure the documentation of qualification (knowledge) and experience (competence) a third party certification is deemed most useful such as membership in a professional body that has strict criteria for membership, particularly with respect to a continuous personal development.

That said, our concept of membership within our organization as a professional body requires specific activities and commitments from investment professionals: 1. endorsement of an ethical code of conduct, 2. commitment to self-disclosure of activities in education and engagement, 3. endorsement of a curriculum for life-long learning.

Specifically:

Ad 1: our members must accept and endorse a code of ethics which is enforced by a Professional Conduct Board.

Ad 2: Members must disclose their activities in terms of continuing education and engagements e.g. which seminars and events aimed at keeping their knowledge up-to-date they have visited within the last 24 months prior to the disclosure, or which bodies (committees) they were members in

Ad 3: In terms of guiding its members DVFA has also defined the Continuous Development Curriculum (CDC, see exhibits to this comment letter) which specifies the relevant areas of continuous learning investment professionals should engage in. The CDC contains the following modules: Risk Management, Regulation, Ethics, Products & Innovation, Technics in Finance.

#### **Question 2:**

ESMA proposes that the level and intensity of the knowledge and competence requirements should be differentiated between investment advisors and other staff giving information on financial instruments, structured deposits and services to clients, taking into account their specific role and responsibilities. In particular, the level of knowledge and competence expected for those providing advice should be of a higher standard than that those providing Information. Do you agree with the proposed approach?

#### **Answer:**

From our perspective in day-to-day business there is very little difference between giving advice and providing information when assessing which knowledge and competence comes to bear. Typically, advisors need to understand not only the nature and traits of products but also underlying information and data, specifically which assumptions guided the person who provided the information. Likewise, those whose remit it is to gather and process information must possess sufficient understanding as to which premises, assumptions and factors determine the process of advice, and also the client's needs. Therefore, it is very common to find individuals with similar degrees such as the Certified International Investment Analyst (CIIA) or the Chartered Financial Analyst (CFA) both in advice and information provision (e.g. research, analysis).

#### **Question 3:**

What is your view on the knowledge and competence requirements proposed in the draft guidelines set out in Annex IV?

#### **Answer:**

The set of topics in the draft guidelines seems to be suitable from a thematic point of view. However, the guidelines do not state any level for the knowledge and competences; e.g. a benchmark like the

European Qualification Framework (EQF). We would suggest to include a benchmark in the regulation as national competent authorities (NCAs) publishing an exhaustive list of the types of qualifications, courses or tests or publishing the criteria against which an appropriate qualification needs to be assessed will not be sufficient to maintain comparability and ultimately a proper enforcement of the regulation.

As we pointed out in our answer to question 1 we firmly believe that knowledge and competence need to be constantly monitored as new products enter the markets and the requirements for investment professionals are in constant flux. As a professional association we provide tools for self-assessment to our members (self-disclosure, CDC, online self-assessment, see above). As a professional body we believe that investment professionals themselves should strive for more knowledge and higher levels of competence, as it is in their own interest to maintain "employability". However, as part of maintaining competitiveness and rigorous compliance with regulation it is in the interest of firms to invest in continuing education. Therefore, encouraging employees to be members of professional associations is a "safe haven" for firms as the professional association specifies and assesses level of knowledge. We will also make our self-assessment tools available to firms.

**Question 4:**

Are there, in your opinion, other knowledge or competence requirements that need to be covered in the draft guidelines set out in Annex IV?

**Answer:**

There is in our view one important topic that should be addressed as well: professional conduct. Apart from "technical" knowhow on how markets and products work, an inevitable part to regain respectively ensure trust in financial services is sound and ethical behavior of all market participants. We encourage investment professional to reflect and deliberate on ethical issues and have published a statement paper on Ethics in Financial Markets that speaks to this point. We have made Ethics an integral part of our investment professional education and Ethics is also one of the essential building blocks within our Continuous Development Curriculum as was mentioned above.

**Questions 5:**

What additional one-off costs would firms encounter as a result of the proposed guidelines?

**Answer:**

This is difficult to answer as it depends on the entry level of the firms' employees. A self-assessment as was pointed out in our answer to question 4 would help to define which modules and topics the individual firm might want to invest in. However, the current preparedness of firms to invest in human capital and have employees educated e.g. in seminars or post-graduate programs is somewhat limited. Approx. ⅓ of candidates in our training school make the investment in knowledge

themselves i.e. they pay for the program, not their employer. The industry will certainly indicate as to additional cost they may incur when this piece of regulation is in effect. However, other comparable industries such as Auditing or Business Consulting invest much more in continuous education than the finance sector i.e. there is a perceived need for Finance to catch up.

**Questions 6:**

What additional ongoing costs will firms face a result of these proposed guidelines?

**Answer:**

Again difficult to answer. The cost of membership in our professional association is currently EUR 250,— p.a. As we pointed out firms could, by encouraging their employees to sign up for membership in a professional association, significantly decrease their costs for in-house training and at the same time guide their investment professionals towards a safe haven of state-of-the-art knowledge and competence.

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## EXHIBIT

# DVFA Code of Professional Discipline

By resolution of the Board of DVFA on dd mmm 2015 in Frankfurt based on article 5 (4) of the association statutes.

## **§1 Preamble**

The DVFA Code of Professional Discipline (below "CPD") describes essential requirements for members of the professional association with regards to continuing education and engagement on behalf of the finance profession. The CPD is an integral part of DVFA's understanding of professionals' duties towards the general public, legislators and regulators to show that the association's members strive to continuously adapt their level of competence and knowledge to changing markets and increasingly complex requirements. The association's members must commit to enhancing the level of professionalism in the field, as well as enhancing market standards and promoting market integrity by engaging voluntarily. Moreover, and as a matter of course, members must demonstrate achievement of credit points within each two-year period (below "period").

Thus, the CPD serves to effectively increase confidence in DVFA's members and document these efforts publicly. Every member of DVFA has to comply with the CPD to maintain membership within the association.

The requirement for continuing education which derives from the CPD does not mean that members only achieve credit points for educational programs and seminars offered by DVFA's training school, nor that engagement within DVFA as a professional association is solely eligible for credit points.

The rules below describe all requirements for the association's members to fulfill duties for continuing education and engagement in the spirit of DVFA's statutes.

## **§2 Obligations for Continuing Education and Engagement**

- 2.1. Every regular member of DVFA has to provide evidence of credit points achieved per period.
  - a) The obligation begins with admission of the professional to the association.
  - b) The period begins on 01 Jan of the subsequent year.
  - c) Allocation of credit points for seminars, events and engagement is governed by DVFA's Admission Committee.
- 2.2. Credit points have to be acquired for continuing education as well as engagement.
- 2.3. Awarding of credit points for continuing education - i.e. offerings of DVFA's training school as well as offerings of third parties - is aligned to DVFA's Continuous Development Curriculum ("CDC", see exhibit 1). It is recommended that members acquire at least 1 credit point per module of the CDC per year.
- 2.4. It is not permissible to transfer credit points from one period to the next.
- 2.5. Overachievement in one period does not qualify for set-offs in the next period.
- 2.6. Credit points are only valid in the period in which acquired. Carryover into the next period is not permitted

### **§3 Criteria for the Recognition of Educational Programs**

- 3.1. Educational programs as defined within the CPD are:
  - a) Programs offered by DVFA e.g. CIIA, CCrA, CRM, CREA
  - b) Programs of other parties e.g. CFA
  - c) Seminars offered by DVFA and third parties
  - d) Symposia, conferences, forums, insights, webinars, eSeminars of DVFA and similar offerings of third parties
  - e) Investor meetings of DVFA and third parties
- 3.2. Every member can decide individually which educational program is best suited to their needs.
- 3.3. DVFA recommends that its members, when selecting educational programs, orient towards DVFA's Continuous Development Curriculum
- 3.4. Educational programs can be registered with DVFA to become eligible for credit points and to become well-established among members. With registration, members are given certainty that the requirements of CPD are fulfilled when participating in the program.
- 3.5. Any educational program, irrespective of whether it has been registered or not, that fulfills the following criteria, will be accepted. If the program has not been registered already, it is the responsibility of the participating member to make sure that the educational program fulfills the following conditions:
  - a) Educational programs have to be offered and carried out by
    1. Universities, universities of applied sciences, other educational institutions
    2. Not-for-profit organizations
    3. Commercial suppliers or
    4. in-house educational units
  - b) Only subjects included under §2.3 of the CPD and linked to the CDC are eligible.
  - c) The program must have a duration of at least 60 min.
- 3.6. Product demonstrations, sales or distribution pitches do not fulfill the preconditions under §3.5.
- 3.7. Non-registered programs can be registered for credit points based on agenda, syllabus. DVFA reserves the right, also ex post, to validate non-registered programs for conformity with the CPD and, if necessary, to reject programs as substandard.

## **§4 Criteria for the Recognition of Engagement**

4.1. Engagement within the CPD is defined as:

- a) Pro bono and voluntary participation in professional bodies at
  - i. DVFA
  - ii. other associations and organizations
  - iii. legislators, regulators
  - iv. standard-setters
  - v. industrial associations, chambers of commerce
  - vi. marketplaces and stock exchanges
- b) Teaching of investment professionals at educational institutions, commercial providers of training, universities, universities of applied sciences, business schools
- c) Academic activities, research
- d) Publication of scientific papers and articles in the trade press

4.2. Every member can decide which form of engagement they wish to commit to.

4.3. Organizations, associations, professional bodies, educational institutions pursuant §4.1. lit. b), as well as periodicals and publishing houses are asked to register with DVFA. With registration members are given certainty that the requirements of CPD are fulfilled when committing to engagement in the particular activity.

4.4. Engagement by members as part of their employment, and which cannot be regarded as extra-curricular, does not fulfill the preconditions of §4.1.

4.5. Speeches, presentations to a wider non-finance audience are not eligible for credit points.

4.6. Non-registered forms of engagement will be considered for credit points within the CPD based on their subject nature. DVFA reserves the rights, also ex post, to validate such engagement for conformity with the CPD and, if necessary, to reject the engagement.

## **§5 Verification of Credit Points**

5.1. Recording of credit points is by principle voucherless, within the process of self-assessment pursuant to §5.4 of the DVFA statutes via an online application. The application allows the user to

- a) Authenticate with login and password
- b) Enter attended educational programs and completed engagement by means of preconfigured drop-down boxes
- c) Define individual entries not contained in the drop-down boxes
- d) Print the list of educational programs and engagement activities, as well as the sum of the scored credit points ("DVFA Grade")

5.2. The DVFA Admission Committee sets a benchmark which defines the minimum necessary credit points for education and engagement of DVFA members within the framework of the CPD within a given period.

5.3. DVFA checks entries of members at random and on specific occasions. Pursuant §3.7 and §4.6 of the CPD, DVFA can revoke individual entries of members, in which case the member would be given notice.

5.4. For analysis purposes, DVFA will use aggregated data (anonymized), esp. DVFA Grades.



## **§6 Non-Compliance with Obligations for Continuing Education and Engagement**

- 6.1. It is the duty of the member of the association to provide evidence of fulfilling the obligations for continuing education and engagement.
- 6.2. Non-compliance with the obligation for continuing education and engagement is assumed when members do not participate in the self-assessment or when the minimum score has not been reached.
- 6.3. Unspecified, wrong or fraudulent declaration are an infringement of the CPD and can lead to expulsion of the member from the association. See §13 of the DVFA statutes for details on the DVFA Disciplinary Committee.

## **§7 Validity and Updating**

[...]

## Exhibit 1

### Continuous Development Curriculum

No	Subject area	Formats	Examples
1	Ethics/Integrity	Seminars Conferences Insights Webinars Speeches Subscriptions	Case studies, ESG/sustainability, corporate governance
2	Products & innovations		ABS/securitization, HFT/algo trading Investment analysts/Asset & fund managers: structured products, options/futures Risk managers: product innovations, credit derivatives Real estate analysts: market development, business model development
3	Professional skills		Investment analysts/Asset & fund managers: asset allocation, total return, risk parity Credit analysts: rating analysis Risk managers: total bank management, credit/counterparty risk
4	Regulation		MiFID II, planned regulatory measures Risk managers: bank union development
5	Risk management		Methodology, e.g. VaR vs. expected loss, behavioral finance, own risk profile analysis