

ESMA
Consultation Paper
Draft guidelines for the assessment of knowledge and competence
Date: 07/09/2015 ; ESMA/2015/753
Comments by the French Society of Financial Analysts

The adoption of Mifid II (Directive 2014 / 65 / EU of the Parliament and the Council of May 15th, 2014) has led ESMA to address the issue of evaluating the knowledge and skills required for professionals working in regulated companies giving advice and information about financial instruments, financial services or related services to clients. The intent being to build a minimum common base of skills and competence to ensure the protection of investors as required by article 25 (9) of MIFID II.

SFAF, the French Society of Financial Analysts(<http://sfaf.com/>) thanks ESMA for the opportunity to take part in this consultation and to represent its 1 600 registered members, all of whom are finance professionals practicing with Investment services providers, assets management firms and brokers or independent financial advisers.

The members of SFAF are analysts (sell-side, buy-side, ESG, Intangibles), asset managers or advisers in M&A, fund raising, asset allocations.

SFAF is one of eleven establishments authorized by the French Financial Markets Authority (AMF) to deliver the AMF certified examination within the framework of article 313-7-3 of its General Regulation.

SFAF is a member of EFFAS, the European Federation of Financial Analysts Societies (<http://effas.net/>), which includes 16 000 members in 26 national societies. The members of these European societies are part of the framework of ACIIA ([http:// www.aciia.org/](http://www.aciia.org/)), the international association responsible for awarding the CIIA professional qualification which is recognized in 35 countries throughout the world, representing more than 100 000 professionals.

SFAF wholly supports the goal of homogenizing practices based on the framework of countries with existing rules already in place and extending them to countries which as yet have no rules in this matter.

SFAF also supports the rule of proportionality as specified in article 5 and which must be applied in this matter.

Furthermore, the consultative document suggests that the criteria that must be used to evaluate the knowledge and competence of natural persons are set according to a level of "appropriate qualification" and "appropriate experience" and specify the domains of knowledge and competence which must be verified to supply advice of investment or information to the customers. The document also proposes that the competent national authorities set the list of qualifications or the criteria allowing the evaluation of the qualifications.

SFAF regrets the semantic drift which appears in paragraph 8 when stating that "ESMA considers that compliance with knowledge and competence requirements under MIFID II requires acquiring an "appropriate qualification" and "appropriate experience" in order to provide relevant services in accordance with the Directive". We note that this is a step away from the notions of competence and knowledge.

Q1: 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.

The period of 5 consecutive years of appropriate competence seems too long for the implementation of these Regulations. The members of SFAF are practicing professionals with high-level responsibility and it seems necessary to also take into account their degree of qualifications before entering professional life as well as the in-house training they receive. Changes of Employers and career moves should not be a limiting factor in the acquisition of 3 years (rather than 5) of professional experience which we support.

Knowledge and competence go hand in hand and cannot be separated. Employers look for competence as well as working and theoretical knowledge. Employers also require relations with clients to be effective without delay.

Experience can also be acquired by practicing in positions other than those with direct customer contact. Learning the notions of responsibility, customer knowledge and adequacy of advice and services to customer needs can be achieved without necessarily being in a position of offering advice or information about financial instruments, financial services or related services. For example, this can be achieved by practicing in the compliance department. It is the responsibility of the employer to ascertain the adequacy of employee experience.

SFAF consequently proposes that the natural person should have three years documented experience in the general field of finance including regulation and compliance and also that this experience can be acquired with either one or several different employers. But, in any case it should not be less than one year in one employer.

For employees demonstrating these three years' experience, a period of 6 months should be allowed to obtain the required qualification such as is presently the case in France.

Q2 : 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 ?

SFAF considers that the specific exam named "certification AMF" is the best reference. In fact this minimum program for all employees working within regulated entities or banks is sufficient to ensure that a minimum level knowledge and competence is acquired.

Q3 : What is your view on the knowledge and competence requirements proposed in the draft guidelines set out in Annex IV?

SFAF considers that a minimal level of knowledge and competence should be required based on a set of points such as listed in appendix IV. This knowledge is general in nature. SFAF suggests that the employer should be responsible for defining the necessary requirements according to their adequacy to professional activity and their knowledge of the employee.



la SOCIÉTÉ FRANÇAISE
des ANALYSTES FINANCIERS

Le Délégué général

Q4 : Are there, in your opinion, other knowledge or competence requirements that need to be covered in the draft guidelines set out in Annex IV ?

Another time in reference with the “certification AMF exam” it would be interesting to add some competence requirements about European rules and about non-disclosure agreements.

SFAF supports the position of our European society, EFFAS, about the duty for ethical behaviour should be much more emphasised. It is not more than reasonable to propose that all professionals assume a code of professional conduct and sign it.

Q5 : What additional one – off costs would firms encounter as a result of the proposed guidelines?

For France, no additional cost as the existing exam is an eLearning one, not so expensive.

Q6 : What additional ongoing costs will firms face a result of these proposed guidelines ?

If the knowledge and competence requirements can match with our French proper rules about on going training, no additional cost will be added.