



Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

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MFDA Bulletin

Policy

For Distribution to Relevant Parties within your Firm

Summary of Comments – MFDA Bulletin #0644-P Request for Comments on the Development of Continuing Education Requirements

On June 22, 2015 the MFDA published, for a 90-day public comment period, a Discussion Paper on the Development of Continuing Education Requirements (“Discussion Paper”). The public comment period ended on September 21, 2015.

The MFDA received 17 comment letters that provided specific responses to the questions raised in the Discussion Paper and 4 comment letters that provided general support for the development of continuing education requirements. A summary of comments received is attached as Schedule “A”.

MFDA Staff will consider the comments received in the development of draft policy instruments which will be issued for public comment and consultation as part of our normal course policy development process.

DOCs#449514

SCHEDULE "A"

MFDA Bulletin #0644-P Request for Comments on the Development of Continuing Education Requirements

Summary of Comments

- 1. Who should a CE requirement apply to? Are there Approved Persons who should be excluded from the CE requirement and why? Please specifically comment on whether the CE requirement should apply to the Ultimate Designated Person ("UDP"), Chief Compliance Officer ("CCO") and Branch Managers ("BMs").**

All commenters agreed that the CE requirement should apply to Dealing Representatives who deal directly with clients.

There was no consistent view on whether the CE requirement should apply to the UDP, CCO and BMs. Most stated that the CE requirement should apply to Branch Managers ("BMs") because they should have at least the same proficiencies as the Dealing Representatives they supervise. Some expressed the view that the CE requirement should apply to UDPs and CCOs on the basis that UDPs and CCOs have key compliance roles and set the tone for compliance culture at the firm. Some commenters did not think a CE requirement should apply to UDPs or CCOs citing that their knowledge remains current based on their roles and because there is no minimum proficiency requirement for the UDP registration category.

- 2. Should there be different CE requirements for Approved Persons based on their role at the Member?**

A majority of commenters suggested that BMs, CCOs, UDPs and other Approved Persons and compliance officers that are non-client facing should be subject to reduced CE requirements (or not be subject to any CE requirements based on the response to Question 1). A few commenters stated that the CE requirements should be the same for all Approved Persons, regardless of their role or registration category. One commenter suggested that CE requirements should be based on registration category rather than the role within the Member.

- 3. Which category labels do you prefer?**

A majority of commenters preferred the two-category structure and labels outlined in the Discussion Paper citing that a two-category structure provides balance and flexibility that will allow for CE materials that suit the various business and training needs. Many commenters provided alternate suggestions for the category labels.

4. Do you have comments on the above proposed content outline?

Most commenters agreed with the proposed content outline in the Discussion Paper. Several noted that the topics need to be flexible in order to account for the different business models across Members. One commenter suggested that there should be harmonization with other industry organizations with respect to acceptable continuing education topics and activities.

5. Should Ethics be a separate content category or included in Business Conduct?

Most commenters expressed the view that it is not necessary to structure Ethics as a separate content category. One other commenter stated that minimum credits should be assigned to Ethics, but did not have a preference as to it being under a separate category.

6. What cycle length do you prefer and why?

There was no majority view in respect of a preferred cycle length. Some commenters preferred a 2-year cycle citing alignment with the Chambre de la Sécurité Financière (“CSF”) as their rationale and some preferred an annual cycle to align with registration renewal. One commenter recommended a 3-year cycle to align with the Investment Industry Regulatory Organization of Canada.

7. What cycle period do you recommend and why?

There was no majority view in respect of a preferred cycle period. Several commenters suggested December 1 to November 30 to align with the CSF. Several others preferred a calendar year cycle. Other suggestions included November 1 to October 31 and October 1 to September 30 citing that these cycle end dates would allow for necessary administrative processes prior to registration renewal.

8. What number of CE credits/year do you recommend and why?

The number of credits/year preferred by commenters ranged from 10/year to 30/year with the most common being 15/year. The most common reason provided for selecting the number of credits/year was to align with the number of credits required under other CE programs.

9. What allocation of CE credits do you recommend for each content category and why?

In general, commenters preferred a higher allocation of credits to the Professional Development category versus the Business Conduct category. Some commenters suggested approximately 60-75% of credits be allocated to Professional Development, and a few suggested a 50-50 split. A few commenters recommended allocating 2 credits to a separate Ethics category.

10. Do you believe that a minimum number of credits should be allocated to Ethics content either through a separate category or through a minimum number of credits requirement? Please state your preference and why.

Most commenters stated that a minimum number of credits do not need to be allocated to Ethics since this material is intertwined with the broader Business Conduct category. Others suggested a range of 1 to 3 credits.

11. What activities and delivery methods do you believe should and should not qualify? Please specifically identify the activity/delivery method and why it should/should not qualify.

Most commenters stated that qualified activities should be verifiable, auditable, accredited or otherwise formalized and structured. One commenter stated that if unstructured activities are allowed, there should be a maximum number of credits per cycle permitted.

Regarding delivery methods, many commenters expressed the view that both traditional and e-learning activities and delivery methods should be acceptable. Examples of e-learning activities include participating in a webinar or watching an educational video where attendance/completion can be verified.

12. Who should perform the accreditation (Members, MFDA or either) and why?

Most commenters expressed the view that Members and third parties could perform the accreditation function. A few commenters thought the MFDA could perform accreditation. A couple of commenters specifically stated that Members should not be permitted to perform accreditation of their own education materials.

13. Who should be responsible for maintaining evidence and reporting CE compliance? Individual participants or Member firms? Please explain how would tracking and reporting would work under your recommended approach.

Most commenters believed that Approved Persons should be responsible for maintaining evidence of CE credits. The majority of these commenters stated that the Approved Person should annually attest to the Member their compliance with CE requirements and Members would perform audits on a periodic basis. Some commenters believed that Members should be responsible for maintaining evidence of CE credits and some commenters expressed the view that the MFDA should provide access to a central tracking system for Approved Persons or Members to log and track CE credits.

14. Should a CE requirement permit exemptions for special circumstances? If yes, please describe the circumstances and type of exemptions.

All commenters who responded to this question agreed that exemptions should be permitted in limited circumstances including, for example, maternity/parental leave, long-term disability, military service, or cases of hardship.

15. How long (e.g. 25%, 50%, 75%) into a new CE cycle would a new registrant be exempt from the CE requirements of their initial cycle?

There were varying views regarding exemptions for new registrants with suggestions including a full exemption from the initial cycle, an exemption from the 1st half of the cycle, and a pro-rated exemption based on the registration date.

16. How long would a leave of absence have to be before you would allow for a full or partial exemption?

There were varying views regarding exemptions due to leaves of absences with suggestions including full or partial exemptions determined on a case-by-case basis and pro-rated exemptions based on the amount of time registered. Some commenters added that exemptions should not apply to leaves of absences less than 60 to 120 days in length.

17. Do you recommend that CE credits obtained, but not used, in one reporting period be permitted to be carried forward to the next reporting period and why? If yes, please specifically comment on how many credits should be permitted to be carried forward and if there are any categories where credit carry-forward should not be permitted.

Most commenters did not support any carry-forward of credits. Some commenters believed that individuals should be permitted to carry forward credits with views on the number of credits that could be carried forward ranging from a maximum of 5 credits to no limit.

18. What should the consequences be for the varying degrees of non-compliance and why? Please specifically comment on length of time that should be given to remediate, amount of fines and when they would apply, and under what circumstances suspensions, terminations or terms and conditions would apply.

All commenters were in favor of an escalating discipline process that takes into account the nature and severity of the non-compliance. The majority of commenters thought that the MFDA should be responsible for discipline and others thought that Members should be responsible.

Many commenters believed that individuals should be given a period of time after the cycle period to obtain the missing credits where minimal consequences would apply, such as a warning letter or small fine. Suggestions for this period of time ranged from 60 days to 6 months.

Other actions suggested by commenters included monthly fines of up to \$500 and suspension after 6 months of non-compliance.

19. Are there other consequences for non-compliance that should be considered other than those listed above?

One commenter suggested that a list of individuals with non-compliance be made available to the general public.

20. Do you have recommendations regarding a potential implementation date and transition period for a CE standard? If yes, please explain and state your reasons.

Several commenters suggested the implementation date coincide with the CSF CE cycle.

Other commenters thought that the implementation date should allow for a transition period to prepare for full implementation.

21. Do you have any other areas of concern or considerations that have not been addressed above? If yes, please explain.

The most common comments given were that the MFDA CE requirement framework should strive for simplicity, avoid duplication with other CE requirements, coordinate with other CE programs and not be overly costly for Members and Approved Persons.