



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 #0711-P Request for Comments on the Development of Continuing Education Requirements

On January 12, 2017, the MFDA published, for a 106-day public comment period, a second consultation paper on the development and implementation of continuing education (“CE”) requirements for MFDA Members and their Approved Persons. This consultation paper was drafted after consideration of the comments received in the initial consultation completed in 2015. The paper specifically sought comment on the content of an exploratory new Rule and Policy proposal. The public comment period expired on April 28, 2017.

The MFDA received 24 submissions from Members, Approved Persons, industry associations, education service providers, investor advocates and other stakeholders. A summary of comments received is attached as Schedule “A”.

MFDA staff will consider the comments received in developing the proposed new draft Rules and a companion Policy. The proposed new policy instruments will then be published for public comment in accordance with the MFDA’s regular policy development process.

DOCs#539337

SCHEDULE "A"

MFDA Bulletin #0711-P Request for Comments on the Development of Continuing Education Requirements

Summary of Comments

The majority of comment letters expressed general support for the development and implementation of CE requirements for MFDA Members and their Approved Persons. No major themes emerged from comments received. Specific comments made by one or more commenters are summarized below:

Credits

- MFDA Compliance Credits should be incorporated into the Business Conduct category
- CCOs, UDPs and Branch Managers should be required to complete the same requirements as Dealing Representatives
- The total number of MFDA CE credits should be lower than the total number of credits required by IIROC's CE requirements because IIROC salespeople are able to sell products that have greater complexity and risk
- The total number of credits should be 12 per year
- Newly registered Approved Persons should be given credit for satisfying the MFDA 90-day training requirement
- Satisfying the 90-day training requirement should be the only requirement for a newly registered Approved Person's first CE cycle
- Permit the carry forward of credits from one cycle to the next. No commenters proposed a specific number of credits that may be carried forward
- Approved Persons adhering to the CE requirements of other organizations (e.g. Advocis, FPSC or the CLU) should be either exempt from the MFDA CE requirements or receive some form of automatic credit towards the MFDA CE requirements

MFDA Response

The purpose of requiring MFDA Compliance Credits each cycle is to ensure that all participants receive an update on regulatory matters from the MFDA. The MFDA Compliance Credit topics would include training on regulatory developments such as recent findings from MFDA

compliance reviews, enforcement cases and regulatory policy updates (including new or proposed policy initiatives). As the MFDA Compliance Credit content may not be the same as the topics covered under the Business Conduct category, the MFDA Compliance Credits should remain a separate component. However, we are considering reducing the number of Business Conduct credits from 10 to 8 to offset the MFDA Compliance Credits.

We are considering revisions to require CCOs, UDPs, and Branch Managers to obtain the Business Conduct credits in addition to the MFDA Compliance Credits to better align with the requirements of other industry CE programs.

The proposed CE requirements are intended to establish minimum standards for individuals to keep their industry knowledge current and maintain a high standard of professionalism. In proposing the total number of credits for each CE component, MFDA staff reviewed the requirements of several other CE programs administered by other industry organizations including the CSF, IIROC, Advocis and the FPSC. The number of credits required for Dealing Representatives under the proposed Rules is consistent with the requirements of other existing industry standards and should be harmonized to promote a consistent level of industry knowledge and professionalism in the financial services industry.

Consideration is being given to making the 90-day New Registrant Training and Supervision eligible for accreditation.

We are considering revisions to permit a limited number of credits to be carried forward to the next cycle.

Continuing education activities completed by Approved Persons to satisfy the CE requirements of other organizations may also be eligible to meet proposed MFDA CE requirements. In an effort to limit duplication of effort on the part of Approved Persons, Members and course providers, we have been in discussions with educational providers and are currently exploring opportunities to coordinate our resources respecting accreditation, tracking, and reporting of CE credits.

Content and Delivery

- Further detail is requested on the various topics that would and would not qualify under each content category
- Place an emphasis on courses (versus conferences/seminars/workshops) and require examinations in order to earn CE credits which would result in improved comprehension of the subject matter
- Place a limit on the number of internal (or non-independent) course providers
- Make the MFDA webcast an option for satisfying the MFDA Compliance Credits and permit firms to offer training tailored to their own business model that would meet the MFDA Compliance Credit standard

- The MFDA should be the educational provider for the MFDA Compliance Credit
- The MFDA should not provide educational content
- The MFDA should provide educational content but should not charge a fee per Approved Person

MFDA Response

We intend to provide further guidance on the topics that would qualify under each content category.

Courses, seminars, conferences and workshops, provided by both internal and external sources, can be an effective means for delivering on-going education to Approved Persons.

Topics addressed under the MFDA Compliance Credit will be applicable to all Members. We are committed to working with Members to deliver such content in a manner that is effective and relevant to each Member's business model.

The concerns raised regarding the MFDA providing educational content essentially stemmed from certain for-profit educational providers who have an economic interest in selling services to the MFDA's 83,000 Approved Persons. In establishing a CE requirement, one of the MFDA's key objectives is to develop a program that is efficient, cost effective and relevant to every Member's business model. The MFDA is a non-profit organization and is the only subject matter expert on MFDA regulatory activities. Further, the MFDA is already providing educational services to its Members and Approved Persons through its existing operations. Providing education relating to MFDA regulatory matters supports Members with their compliance and supervisory activities and directly contributes to meeting our regulatory and investor protection mandates. We also note that it is common for other non-profit regulatory bodies (including IIROC, FINRA, CSF, the Law Society of Upper Canada, CPA Canada, etc.) to provide educational material for CE purposes.

Given the additional administration required in calculating and collecting fees on a per-Approved Person basis, the MFDA is reconsidering this proposal.

Accreditation

- Permit self-accreditation of education materials and activities. Generally, commenters asked that the MFDA set out the requirements and then audit to these requirements
- Do not permit self-accreditation
- Only a third-party should be permitted to accredit CE material

- Accept the accreditation completed by other organizations
- Pre-approve education providers or have the education providers apply for standing accreditation
- Publish a list of approved courses or education providers and highlight where a course is mutually acceptable to both IIROC and the MFDA
- Consider accrediting foreign (e.g. FINRA) educational activities
- Concern was expressed regarding the possibility that the content of accredited educational activities could be altered by the provider after accreditation has been received and the conflict of interest inherent in situations where “educational activities” are primarily sales pitches.

MFDA Response

We are considering revisions to permit self-accreditation by Members for CE materials and activities developed in-house.

We intend to provide accreditation services for Members and other course providers. We are also actively exploring opportunities to work with other accreditors to reduce the burden on course providers to obtain accreditation for multiple programs.

We intend to publish a list of accredited materials and courses, and where feasible, have the list indicate if the specific activity is also accredited under another CE program.

Foreign educational activities may be submitted for MFDA accreditation. However, such activities may be less likely to meet the accreditation standards prescribed by the MFDA.

Content of accredited educational activities will be assessed through our CE auditing process. Under this process, a sample of educational activities would be selected for post-accreditation assessment to ensure that the content of the activity submitted as being delivered to the Approved Person was substantially similar to that which was actually delivered.

Tracking and Reporting

- Concern was expressed regarding the amount of effort required for an individual to obtain information that evidences compliance with various CE programs
- Approved Persons should be responsible for maintaining proof of compliance
- Concern was expressed regarding the requirement to report CE compliance through an MFDA tracking and reporting system. Specifically, Members were concerned that this

process would be different from their existing processes for tracking CE compliance for advisors of their other related registrants

- The MFDA should permit other firms to use the MFDA tracking system to maintain CE information for other registrants that are not Members of the MFDA
- Several educational providers promoted their own tracking system to be used by the MFDA

MFDA Response

The proposed requirements are structured so that the filer of the CE credit information would be responsible for maintaining proper records. In reviewing system requirements, the MFDA is considering a reporting system that would permit a filer to upload evidence of completion at the time of reporting, rather than having to maintain evidence of such completion.

If the MFDA develops a CE system, additional consultations will be undertaken with Members and their Approved Persons. It is not known at this time whether or not the MFDA system could be used to track CE credits for non-MFDA Approved Persons.

MFDA staff has received several offers from other organizations to use their system for tracking CE compliance. Staff has reviewed these systems which have been customized to meet the needs of each provider's respective CE programs. In all instances the third party systems are designed with a focus on individual access and none of the educational provider systems have the functionality necessary to meet the MFDA's regulatory purposes.

Non-compliance

- The proposed fine amounts are too high
- Only Approved Persons should be subject to fines for non-compliance
- Members and Approved Persons should be given time (e.g. 10 business days) after the MFDA's notification of non-compliance to investigate and rectify any errors
- Clarification was sought regarding how fines would be levied in situations where the non-compliant Approved Person was registered with multiple Members during the CE cycle

MFDA Response

The proposed fine amounts are consistent with fine amounts under other industry CE programs.

In the most recent proposal, Members would be responsible for ensuring compliance by Approved Persons. Members would have access to the MFDA system to view current reports on

the compliance status for each of its Approved Persons. Members would also receive, prior to the end of a cycle, a notice which identifies Approved Persons who have not yet satisfied CE requirements for that cycle. Approved Persons would also receive this notification where contact information has been provided. Further, the proposal includes sufficient notice and time for Members and Approved Persons to review their status and to address any potential errors or omissions prior to the end of each cycle.

An Approved Person, while registered with a Member and for a limited time after leaving the Member, would be able to access and generate reports regarding their compliance with MFDA CE requirements. Members could incorporate confirmation of an individual's compliance with MFDA CE requirements as part of the hiring process. MFDA staff is aware that, in certain situations, Approved Persons who are out of compliance with MFDA CE requirements may be registered with more than one Member during the CE cycle in question. We intend to provide clarification of how fines will be levied in such cases.

Implementation

- Have a one year transition period to allow Members and Approved Persons to familiarize themselves with the new requirements
- Have an implementation date of December 1, 2019 to align with the next CSF cycle

MFDA Response

We intend to provide an appropriate transition period for the proposed CE requirements. In the event that the initial cycle is not a full cycle, the requirements under the initial cycle may be pro-rated.

Other Comments

- Permit voluntary participation in the program to avoid lapses in education for inactive Approved Persons

MFDA Response

We are not considering revisions to permit voluntary participation in the CE program for the sole purpose of extending the validity of the inactive Approved Person's proficiency. An Approved Person who ceases to be registered with a Member would have a limited period of time after de-registration to access, update and generate reports regarding their compliance status with the CE requirements.