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MFDA Bulletin

Policy

For Distribution to Relevant Parties within your Firm

MFDA Bulletin #0788-P – Continuing Education (CE) Accreditation Process - Summary of Comments

On July 19, 2019, the MFDA published, for a 60-day public comment period, a Discussion Paper on the MFDA Continuing Education (CE) Accreditation Process, the purpose of which was to solicit feedback from all stakeholders on the MFDA's proposed accreditation process pursuant to requirements under Proposed MFDA Rule 1.2.6 and Policy No. 9 (see Bulletin [#0788-P](#)). The 2019 Discussion Paper follows up on the proposed MFDA Continuing Education (CE) requirements published by the CSA on March 22, 2018 for a 60-day public comment period (see MFDA Bulletin [#0743-P](#)). These proposals were developed and refined based on prior work and public consultations done between 2014 and 2017 (see MFDA Bulletins [#0619-M](#), [#0666-P](#) and [#0730-P](#)).

The MFDA received 17 submissions in response to the request for comments. A summary of comments received, MFDA comments and next steps is attached as Schedule "A" to this Bulletin.

DOCs#712008v3.

SCHEDULE “A”

Summary of Comments Respecting MFDA Consultation on the Continuing Education (CE) Accreditation Process

Roles and Responsibilities

To assist in understanding the comments and MFDA responses summarized below, the following outlines the roles and responsibilities of various parties involved in the CE process:

MFDA – The MFDA will administer the CE reporting and tracking system (CERTS), assess accreditor and Member compliance with accreditation standards, and monitor Member and Approved Person compliance with the CE requirements.

MFDA Delegate – an accreditor appointed by the MFDA to perform an assessment of CE activity (e.g. courses, education or training sessions) on behalf of the MFDA.

Third Party Accредитор – a non-profit professional association that administers established proficiency requirements for a certification or designation related to the financial services industry, and has a code of ethics and an enforcement regime which includes a formal, transparent disciplinary process. Third Party Accreditors will be recognized by the MFDA to perform assessments of CE activity against standards established by the MFDA.

Providers – any individual or entity offering CE activity to Approved Persons. Providers will have to obtain accreditation for their CE activity from an accreditor that has been recognized by the MFDA.

Investment Industry Regulatory Organization of Canada (IIROC) and the Chambre de la sécurité financière (CSF) – securities regulators who will be automatically recognized by the MFDA to perform accreditation.

Summary of Comments

The following is a summary of the comments received, together with the MFDA’s responses.

I. GENERAL COMMENTS

Commenters expressed general support for the development of mandatory CE requirements for Approved Persons and for the proposed accreditation process. There were divergent views on aspects of the proposals, which are outlined below.

II. ACCREDITATION PROCESS

1. Should the MFDA directly accredit CE activity or delegate the task in the manner suggested? Why or why not?

Some commenters advised that direct MFDA accreditation and accreditation by an MFDA Delegate were equally acceptable.

One commenter expressed the view that it would be optimal for the MFDA to be the sole accreditation authority for its CE program, but this commenter also acknowledged that this model would not be practical due to the related administrative and resource burden. As a result, this commenter suggested that it was supportive of the MFDA's consideration to outsource its accreditation authority.

Several commenters expressed concern that the third party accreditation process would introduce conflicts of interest and suggested that the MFDA should prohibit the Delegate from also being a Third Party Accreditor or from being associated with an education provider. Other commenters expressed disagreement with the MFDA's intention to prohibit an MFDA Delegate from also being a Third Party Accreditor. One commenter recommended that to avoid potential conflict, the MFDA could require the Third Party Accreditor to provide a detailed explanation of how they will mitigate the conflict.

Numerous commenters expressed support for delegating CE accreditation and suggested that benefits of this delegation include cost efficiencies and minimal disruption to current practices. One commenter suggested that they support the proposed delegation provided the MFDA maintains final decision-making authority. However, another commenter recommended that the Delegate should be able make final accreditation decisions on the content it reviews and that the proposal to necessitate that the Delegate obtain final approval from the MFDA is inefficient and may cause delays.

Some commenters agreed that the MFDA should assign Delegates provided that they have existing, established accreditation methods and industry knowledge and experience. In addition, commenters recommended that qualifications included in the criteria to be a Delegate, and the fees charged, should be consistent with other securities regulators such as IIROC and the AMF.

In addition, several commenters expressed support for the MFDA proposal to permit Members to accredit their own CE activities provided the Member is subject to standards and assessments by the MFDA or the MFDA Delegate to ensure the quality of the activity.

MFDA Comment

The comments did not provide a clear consensus of opinion regarding accreditation by the MFDA. As a result, MFDA staff propose to eliminate the MFDA as an accreditor and eliminate the concept of an MFDA Delegate. Given the proposal allows for Third Party Accreditors, the MFDA is effectively delegating accreditation to other qualified organizations, so the designation of an MFDA Delegate appears to be unnecessary.

2. Please provide details of alternatives we should consider.

Commenters did not propose alternative suggestions.

Third Parties Recognized by the Corporation

3. Are there any specific entities, or type of third parties that should or should not be considered for recognition? Please provide details.

Some commenters expressed general support for standards the MFDA has set for Third Party Accreditors. One commenter suggested that the MFDA should use recognized course providers as Third Party Accreditors. Several commenters also advised of their support to grant automatic recognition to the CSF in Quebec as a Third Party Accreditor.

Comments with respect to the proposed criteria for a Third Party Accreditor to operate on a non-profit basis were varied. Comments ranged from expressly supporting this proposal to advising that it is an unnecessary limitation that would prevent highly qualified organizations from participating in the assessment process.

With respect to the proposed criteria for a Third Party Accreditor that includes “acting as a non-profit professional body which administers established proficiency requirements for a certification or designation related to the securities industry...”, several commenters suggested that the term “securities industry” be changed to “financial services industry” to provide clarity to professional bodies associated with certifications or designations that have a broader scope within the financial services industry.

MFDA Comment

MFDA staff reviewed other continuing education regimes in the industry to understand the parties that are currently performing accreditation. Current accreditors are either securities regulators or non-profit professional associations that have CE programs.

For-profit Providers may not be able to objectively assess their CE activity against MFDA accreditation standards. Further, if all Providers were able to accredit their own CE activity, it would overburden the MFDA as the MFDA would require additional resources to monitor the numerous Providers to ensure compliance with the accreditation standards.

MFDA staff is of the view that the proposed accreditation standards should be developed to reflect those parties who are currently performing accreditation in the industry (i.e. securities regulators and established non-profit professional associations). We believe this approach works within the existing accreditation systems and strikes the right balance as it allows for multiple accrediting bodies (vs reliance on one third party accreditor) while at the same time it can be effectively overseen without creating additional burden for the MFDA.

4. Do you agree with the standards proposed for Third Party Accreditors?

Several commenters advised that they generally support the proposed standards and advised that they do not have concerns in this area. Some commenters also advised that they support the proposal to require the Third Party Accreditor to demonstrate that they have at least five years of experience in the provided capacity.

Other commenters expressed concern with respect to this five-year experience aspect of the proposal and suggested that this experience requirement would eliminate new entrants in this space and discourage capable entrants from applying to the MFDA as Third Party Accreditors.

MFDA Comment

The 5 year requirement is meant to ensure a Third Party Accreditor has a track record as a recognized or credible professional association that grants meaningful certification or designations to its members and promotes ethical standards of conduct.

Fees

5. Do you agree with the fees explained above? Why or why not?

A number of commenters expressed the view that the proposed fees are reasonable. Some of these commenters also advised that the fees should cover the accreditation by both CSF and MFDA to avoid a duplication of fees.

Several commenters expressed agreement with the proposal not to charge MFDA Members a fee to self-accredit a CE activity. However, other commenters advised of their concern with this aspect of the proposed fees, which they suggested would create a barrier for existing providers, as there would seem to be little motivation for advisors to pay for CE outside of their dealer firm.

Several commenters expressed concern with the proposed fees and suggested that the fees, as proposed, are higher than other current accreditation costs for the industry. Recommendations from these commenters include the following measures for the MFDA to consider:

- a fee per credit-hour activity fee
- alternative to flat per-use fee could be to consider bulk annual or biennial upload fees for Providers or fees that are scaled based on some combination of credit hours offered or actual activity availability period
- eliminate fees for a bundle of five hours since many CE activities grant minimal credits to a small number of participants or are one-time events
- consideration should be given to not charging or discounting fees for not-for-profit organizations

MFDA Comment

As noted earlier, the MFDA is not proposing to perform accreditation. As a result, MFDA Accreditation fees would no longer apply. Based on our extensive consultation on this initiative, we understand that there will be many Members who will expect their Approved Persons to meet their CE requirements through external Providers.

We considered the various suggestions relating to fees. We proposed a flat fee structure because it was easy to administer and apply consistently. We do recognize that this structure may be more advantageous for certain types of CE activities than others. In examining the various costs structures proposed by commenters, we note that these would also set up advantages to certain types of CE activities or Providers over others and would be more complicated to administer.

III. CE PROCESS CONSIDERATIONS

Accreditation Workflows

1. Do these workflows appear reasonable? If not, please provide alternatives.

The majority of commenters expressed the view that the workflows are reasonable. One commenter advised that the MFDA's proposal with respect to outflows are in line with the CSF's accreditation processes.

Commenters also expressed concerns that include that the CERTS would make the MFDA the de facto CE distributor for all registrants and put the MFDA in competition with industry participants and that this element of CE should be considered to be outside the scope of the MFDA's mandate.

One commenter suggested that the MFDA should consider allowing Third Party Accreditors to file accredited activities on behalf of Providers directly on the CERTS.

MFDA Comment

With the possible exception of the MFDA Compliance Credit, CERTS will not be a platform to deliver CE activity. CERTS is only the database where course details and attendance records can be recorded and tracked.

Additional functionality for Third Party Accreditors may be considered in future system developments.

The CERTS

2. Should standards be set for Members and Providers to update the CERTS on a regular basis? Why or why not?

Several commenters agreed that minimum standards should be set for Members and Providers to update the CERTS on a regular basis. These commenters advised that mandating regular updating would ensure that the information is current which would enable Participants to accurately track their progress towards satisfying their CE obligations. Commenters suggested that Members should be permitted to upload CE completion reports on an ongoing basis throughout the cycle with the only mandatory upload period to remain at the end of the cycle.

Several commenters also agreed with end of cycle reporting since most Participants complete their credits at the end of each CE cycle and reporting at that time would be less burdensome than quarterly reporting.

Other commenters expressed the view that Participants should be given flexibility in reporting CE activity and that it should be the decision of the Member, Provider or Approved Person to determine how best to allocate time and resources required to report.

Additional comments with respect to reporting include the following suggestions:

- reporting should be the responsibility of the Approved Person and/or the Provider rather than the Member and Provider
 - the MFDA should consider setting the CE cycle so that it falls in a different year from the IIROC CE cycle to minimize the impact on Members that have multiple reporting obligations
3. If yes, please advise if you prefer a fixed, regular calendar date or a date relating to the date the activity was taken.

Several commenters favored reporting based on the completion date of the CE activity. Suggestions in this area included 30 and 60 days within completion. However, other commenters expressed concern that reporting based on a date relating to the completion of the activity necessitates more frequent information uploads that will cause operational and compliance challenges given the variety of CE activities that will be available to Approved Persons.

Several commenters favored a fixed, regular calendar date with quarterly reporting for reasons that include that it may be easier for organizations to allocate resources to complete the task based on a pre-established date. Another commenter suggested that the fixed calendar date of November 30th would be the preferred deadline as such a date would give Members a month to review the data reported as well as ensure that CE requirements have been met before applying for the Approved Persons' year-end license renewals on the NRD.

In addition, several commenters suggested that Members and Providers should have flexibility in reporting CE activity and should be able to submit information throughout the CE cycle within a reasonable deadline following the end of the cycle.

One commenter recommended that the MFDA develop a mechanism to address errors, omissions and oversights and suggested a 60 days grace period in this respect.

MFDA Comment

There were a variety of diverging opinions in this area. Although it is best if CERTS is updated on a timely and ongoing basis, we recognize stakeholders have different views or preferences. To preserve maximum flexibility, CERTS can be updated at any time but must be updated no later than 10 days following the end of the cycle.

Ongoing Reporting

4. Do you have any suggestions regarding user reporting?

Several commenters expressed support for the MFDA's reporting proposals with some commenters who specifically advised that the reporting proposed appears to be comprehensive, reasonable and fair.

One commenter recommended that the responsibility for tracking, reporting and proving compliance should rest with the individual Approved Person. Another commenter suggested that

Members should be responsible to report completion of CE courses since fines are imputed on firms for their Approved Persons' non-compliance with CE requirements. In addition, one commenter recommended that such fines should be applied against the individual Approved Person.

Several other commenters expressed support for the proposal that permits Members to have the capability to see the progress of their Approved Persons. One of these commenters suggested that the CERTS should have an alert feature to notify both the Approved Person and the Member as to the status of the Approved Person's completion of their CE requirements.

Additional comments with respect to reporting include the following suggestions: the MFDA should implement a grace period for non-compliance; and relating to mandatory compliance credits, the MFDA and CSF should allow each other to accept the other's compliance courses as Business Conduct credits.

MFDA Comment

With respect to the responsibility of reporting credits and satisfying the MFDA CE requirements, the obligation rests on both Members and Approved Persons to ensure they meet their regulatory obligations. It is up to the Members to determine how they wish to administer the CE program. CERTS will be built to allow Providers, Approved Persons and Members the ability to enter attendance records. However a Member may decide to enter attendance records on behalf of their Approved Persons and limit their Approved Persons to read-only access.

With respect to non-compliance, reporting will be available on CERTS on an ongoing basis, showing how many credits have been entered for each Approved Person and Members can use this to identify potential concerns. If there is non-material non-compliance with the requirements by a participant at the end of the cycle (e.g. the Approved Person is only a few credits short), Members will be required to submit a reasonable action plan to address the issue. Where the issue is material in nature or the Approved Person does not satisfy the action plan, there will be an escalation process as is currently set in proposed Policy No. 9. .

Fines would be assessed against a Member where the Member's conduct resulted in material non-compliance with the CE standards. For example, a fine may be assessed if a Member created false records or did not comply with MFDA notification to effectively suspend a non-compliant Approved Person. .

The CSF compliance courses will be recognized as Business Conduct Credits.

Approved Person CERTS Access

5. Do you think that Members should be able to control the access of their Participants (Approved Persons) to the CERTS to be read-only access?

Comments on the Approved Person's access to the CERTS were varied. One commenter articulated the gamut of opinion on this issue by suggesting that it would be ideal for the MFDA to provide maximum flexibility for Members and their Approved Persons with respect to access to the CERTS. This commenter advised that some Members might wish to restrict their Approved

Persons from entering their CE activity while other Members might wish to vest responsibility for reporting with their Approved Persons.

Several commenters expressed the view that Members should be able to control the access of their Approved Persons for managing CE requirements and choose either to grant restricted read-only access or full access with the Approved Person entering their information. Where Members develop their own internal CE tracking processes, several commenters suggested that such Members should have the capability to limit the Approved Person's access to CERTS to read only.

Several other commenters expressed the view that Approved Persons and/or Providers should be responsible for updating the CERTS and therefore, would require the ability to input CE completion activity. Commenters provided the following reasons for supporting this view: Approved Persons should take responsibility for declaring that they have legitimately completed the CE activity or course; and MFDA Members do not want the administrative burden of manually entering CE credits for numerous representatives.

MFDA Comment

As noted in the previous section, Members, Providers and Approved Persons will be able to enter attendance records. However, Members can decide to enter this information on behalf of their Approved Persons and limit Approved Persons to read-only access.

6. Do you have an internal CE tracking system? If yes, do you plan on using this system to upload information to the CERTS?

Several commenters advised that they do not have internal CE tracking systems. Other commenters advised that while they do have internal tracking systems they would like to use, they require further technical information on the CERTS requirements in order to provide definitive comment in this area.

One commenter suggested that adherence to the MFDA's CE requirements should be included in the firm's MFDA sales compliance audit.

MFDA Comment

We have been in contact with Members that have their own CE tracking and reporting systems to discuss file formats and methods of uploading information to the MFDA site. If you wish to discuss these issues further, please contact Brett Konyu at 416-943-4609 or bkonyu@mfda.ca.

IV. ADDITIONAL COMMENTS

In addition to the comments outlined above, commenters also suggested the following recommendations for the MFDA to consider:

- allow for an open architecture and two-way data flow between CERTS, firms and their service providers in a single CE tracking system

MFDA Comment

CERTS will not currently allow direct flow of data between it and Member CE systems due to the variety of systems with which it would need to communicate and the need for information to be produced in a uniform, specific format. However, Members will be able to upload files (such as a file containing attendance records for multiple Participants and CE activities) in a format specified by the MFDA which can then be processed by CERTS. Members can also produce reporting from CERTS.

- clarify whether the MFDA would allow Third Party Accreditors to advertise their MFDA-Approved status

MFDA Comment

We would propose to allow Third Party Accreditors to advertise that they have been recognized by the MFDA as long as that recognition is current. Further, Third Party Accreditors will be listed within the CERTS system.

- permit Approved Persons to apply for equivalency recognition of courses they must take to satisfy other regulatory or licensing requirements where the ethics or professionalism content is equally applicable to registrants that are required to meet MFDA CE requirements

MFDA Comment

A course taken to obtain entry into the securities industry would not qualify for CE credits as CE requirements apply after an individual obtains securities licensing or registration. Courses taken once the Approved Person is registered, including courses taken to obtain additional licensing or registration in other financial service sectors, are eligible to be accredited.

- automatically accredit educational sessions where financial service regulators or government officials are presenting without cost for accreditation, and

MFDA Comment

While the MFDA can accredit certain activity that we deliver (e.g. MFDA Member Regulation Forums), we cannot keep track of every presentation or event delivered by all financial service regulators. We believe these sessions would, however, be relatively simple for Members to self-accredit.

- clarify when a change in CE materials is considered to be a material change, which would require material to be re-accredited

MFDA Comment

Material changes would include a change in the number of credits, a change in the category of credits, or the removal of a testing component. There are other changes that might constitute a material change, depending on the circumstances and extent, including changes in CE activity content, subjects or method of presenting the CE activity.

V. NEXT STEPS

Policy

MFDA staff are considering the comments received in this consultation to develop an accreditation process and amend Policy 9. The amended Policy will be issued for public comment.

CERTS

The MFDA is continuing to develop CERTS and will be performing user testing. Once testing is complete, guidance and training will be made available to all potential users.

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