



DP – n°4487/Div

ESMA
103 Rue de Grenelle
75007 Paris

Paris, July 10 2015

**AFG response to the ESMA’s consultation paper on
Draft guidelines for the assessment of
knowledge and competence**

The Association Française de la Gestion financière (AFG) is the professional body representing the asset management industry: over 630 asset management companies are based in France. AFG members manage assets with 3,400 billion euros: 1,700 billion euros in the form of investment funds and 1,700 billion euros in the form of discretionary mandates and funds domiciled abroad, making the Paris fund industry a leader in Europe for the financial management of collective investments. AFG main aims are: represent and promote the interests of asset management industry and inform, help and train its members. The association also plays an important role in the definition of rules of conducts by drafting code of ethics, which apply to the whole profession. AFG plays a key role at European and international levels. It participates actively in the works and consultations of European institutions and industry bodies such as the European Fund and Asset Management Association (EFAMA) and Pensions Europe. AFG is also an active member of the International Investment Funds Association (IIFA).

AFG plays a key role in training its members through its subsidiary, AFG Formation, which conducts half, one or two days courses and e-learnings, for instance on anti-money laundering rules, as well as the PRAM – Program asset management, a comprehensive training program specialized in asset management. The program is divided in several modules (regulation, financial management, marketing/sales, post market, accounting, compliance and risks): a certification is obtained after an examination.

Furthermore the French Regulator, the AMF (Financial Markets Authority/Autorité des Marchés Financiers) has mandated since 2010 a compulsory professional certification which concerns nine positions (sales person, compliance and internal control officer, compliance officer for investment services, investment analyst, trader of financial instruments, asset manager, clearer of financial instruments, head of financial instrument clearing, head of post-trade services). AFG Formation, the training entity of the French Asset Management Association and CFPB, the training organization for the banking industry, have been accredited by the French regulator, AMF, to organize that certified examination (they will send their answer separately).

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.

AFG and the asset management industry are very keen on the fact that their staff should be regularly and qualitatively trained to get a good level of knowledge. The companies and their professional association (AFG) develop a lot of professional training activities (e-learning, meetings, website etc.). Furthermore AMF, the French regulator (see above) supervises an examination which aims to ensure that professionals working with the savers and retail investors are all familiar with the regulatory and financial environment in which they operate.

The AMF certification is an exam to ascertain a level of knowledge about the regulatory and financial environment. All the people who enter a financial company must have already passed the AMF certification; if not they have to pass it within six month.

Therefore the period of five consecutive years of appropriate competence seems too long for the implementation of these Regulations. The members of AFG 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.

Professionals are in favor of a two years of appropriate experience at the date of the application of the guidelines. The two years should be spent in the financial sector (investment services, asset management or wealth management) and could include experience in one or several firms and in any of the positions identified in these guidelines. We think that experience in different firms with different approaches helps to gain knowledge and competence. The two consecutive years might discriminate some types of employees like maternity or paternity leave or many staff members who are working part-time. We recommend a less restrictive rule.

A person who has passed the professional certification of the AMF must be considered to fulfill the appropriate knowledge and competence and should be exempted from any other assessment.

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?

We understand that a differentiation in the intensity of the knowledge and competence requirements between investment advisors and other staff giving information could make sense.

In France, the AMF's professional certification does not make any difference between information and advice because it concerns the same staff. This staff informs and advises on investment instruments.

Indeed, a customer service employee who does not provide information or advice on financial instruments or carry out the client's instructions does not come under the definition of a sales person.

Along the same logic, the accountant that provides information on the holdings of a client within an employee savings plan communicates information that is available on the internet and is not involved in

the sales process. These staff should remain out of the scope of MIF Directive and not subject to the knowledge and competence requirements of article 25.

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

AFG agrees with the curriculum of the draft guidelines; we found that the requirements for staff giving information about investment products and those for giving investment advice are relevant. But it seems necessary to clarify some items:

The curriculum

- **21/23 f**: AFG thinks that 21/23 f should refer to basic knowledge on this topic;
- **23 g**: We think that this topic is not relevant because too far from the day-to-day activities of staff giving information or advice. But if it were nevertheless decided to keep it, we recommend limiting it to the fundamentals of portfolio management and benefits of diversification regarding individual investment alternatives.

Assessment, maintenance and updating of knowledge and competence

- **25 b**: French firms must train annually their staff to mandatory training courses especially on compliance and anti-money laundering matters.
So we suggest that ESMA leaves to the NCAs to adjust the periodicity of the assessment.
- **25 c**: French firms have to respect the Labour laws and specific professional requirements: all new employees have a maximum delay of 6 month to get the French AMF certification. Firms must ensure and record that all their new employees have succeeded to this exam otherwise the employees cannot give information or advice to the clients. We think that this rule is sensible and should be maintained in France.

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?

We suggest that ESMA refers to the syllabus published by the AMF in France to get a more detailed view of what is of relevance in the industry (cf. Instruction DOC- 2010-09 “Certification by the AMF of an examination on the professional knowledge of market participants”).

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

French regulation provides a good and complete regulation about the assessment of knowledge and competence. Clearly we feel that the introduction of new requirements would negatively and unnecessarily impact the organization: many existing procedures would have to be reviewed and rewritten, and it would be very onerous.

If the rules evolve, it will mean new costs of adaptation.

The cost of the staff members who will train the inexperienced members of staff should be taken in account in the assessment of the global cost of the guidelines.

The nature of the reporting to address to the NCA’s could have also an influence on the costs.

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

Any evolution of the regulatory architecture for financial advice in France would have an impact on the costs borne by the stakeholders. The asset management industry includes very qualified population. Furthermore The French professional training and information system is well developed.

If you need any further information, please don't hesitate to contact myself, at +33.1.44.94.94.17 (d.pignot@afg.asso.fr).

Sincerely Yours,

Dominique PIGNOT