Continuing Education in the Mutual Fund Industry: MFDA Publishes Proposal for Comment

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- On March 22, 2018, the Mutual Fund Dealers Association of Canada (MFDA) released a **proposed Rule and Policy that will, when implemented, create new continuing education (CE) requirements** for mutual fund dealers, their registered Dealing Representatives and certain other persons employed by dealers.
- This is the **latest step** in a process that the MFDA – the self-regulatory organization of the mutual fund industry in Canada, except Quebec – began in 2014.
- Under the proposal:
  - **Dealing Representatives** must complete 20 professional development (PD) credits, 8 business conduct credits and 2 MFDA compliance credits over each 24-month cycle.
  - Certain other persons who are defined by the MFDA as "Approved Persons" – **Chief Compliance Officers, Ultimate Designated Persons and Branch Managers** (including alternate CCOs and branch managers) – must complete 8 business conduct credits and 2 MFDA compliance credits only.
- The term "Participants" is used below to refer to all of the persons who, as just described, are subject to the proposed CE requirement.
- Comments are invited and, as explained in more detail here, are due on **June 20, 2018**.

Components of Continuing Education

The three components of CE, as set out in the proposed new MFDA Policy 9, are as follows:

Business conduct (8 credits for all Participants)

Business conduct includes instruction on ethical issues as well as on MFDA rules and policies, the internal policies of the dealers, and relevant legislation. Each credit is one hour and, of the 8 that are required per cycle, between 1 and 2 (but no more) must be ethics-related.

The non-ethics component of business conduct could include topics such as privacy, complaint handling, anti-money laundering, conflicts of interest, KYC and suitability standards (among others).

MFDA compliance (2 credits for all Participants)

The third component, MFDA compliance, relates to content created by the MFDA itself that will generally, but not exclusively, involve current MFDA priorities, new rule and policy developments and reviews of MFDA compliance findings. These credits are earned by completing activities **specifically designated by the MFDA** and are not expressly related to time spent.

Professional development (20 credits for Dealing Representatives only)

PD credits are earned for each hour of training that is completed on topics ranging from financial and retirement planning to asset allocation, tax planning, accounting, estate planning and insurance (among others).

If a participant completes more than the required 20 credits in a cycle, he or she may carry forward the excess credits, to a maximum of 5, to the following cycle.

Accreditation and Reporting

To be accredited, CE activities must be **structured events where attendance is taken** and the content is adequately documented.

CE activities may be produced in-house or by third-party providers but in all cases **must be accredited in advance** by one of the following: the MFDA, a third-party recognized by the MFDA or by the MFDA member ("Member") itself. Where the Member itself provides the accreditation ("self-accreditation"), relevant records must be submitted to the MFDA by the last day of the 24-month cycle at latest. (Note that permitting accreditation by third parties and Members is one of the main differences between the MFDA proposal and the CE program that is currently in place at its Quebec counterpart, the **Chambre de la sécurité financière**.)

Generally speaking, **Participants are not required to retain evidence** relating to completion of CE credits, **provided that** the provider of their CE training submits a record of their participation to the MFDA in compliance with requirements. The same is true of Members with respect to programs conducted by third parties. Reports of completed credits must be submitted within 10 days of the end of the cycle to which they apply.

Compliance Reviews and Consequences

The MFDA may review CE records and ask to see supporting documentation, which must be supplied within 15 days. If adequate evidence is not supplied, the MFDA may reject the reported CE credits and the participant may be found non-compliant.

Where non-compliance is found, the MFDA Member will be notified and will be required to provide a plan for the non-compliant participant to become compliant. Should the MFDA deem the Member's response to be inadequate, the Member will be notified that the participant may not perform his or her role until the requirements have been met to the MFDA's satisfaction.

The MFDA may also impose fees of $500 where reporting requirements have not been met, or $2,500 where the credit requirements have not been met.

Other

The 24 month cycles are defined in the new Rule 1.2 as beginning on **December 1 of each odd-numbered year**.

Conclusion

The above is only a brief summary. Readers should carefully consult the **full proposal**, which also considers technical issues such as the effects of the proposal on Participants who join or leave an MFDA member – or who begin or cease to act as a dealing representative – in the midst of a cycle.