



Draft Guidelines for the assessment of knowledge and competence

Finance Norway welcomes the opportunity to provide comments on ESMA's draft guidelines for the assessment of knowledge and competence. The MiFiD requirements on knowledge and competence are important to safeguard consumer interests throughout the internal market.

Finance Norway considers the knowledge and competence of staff giving advice and information to consumers and investors to be of fundamental importance to maintaining trust in the financial industry, and thereby in the functioning of the economy.

Background

Finance Norway is the central industry organisation for the financial industry in Norway. We represent about 230 financial companies with around 50,000 employees. Banks and insurance companies comprise a central infrastructure in the Norwegian economy. Through focus on the financial sector's role in society and on a regulatory framework that enables the fulfilment of this role, Finance Norway promotes industry positions to different groups in society; politicians, public administration, consumer governments, international partners and decision-makers and consumers. Fundamentally, financial services are based on the rule of law and on trust, thus Finance Norway engages in measures that enhance trust in the sector's ability to fill its societal role in an efficient and ethical manner.

The concept of authorization of financial advisers is well established in the Norwegian market. In 2009 Finance Norway established a scheme for financial advisers in cooperation with the Norwegian Mutual Fund Association and the Financial Sector Union. Scoping all parts of the Norwegian market, 6500 financial advisers have gained their authorization and approximately 1500 more are preparing for their tests. As part of this industry-wide drive to

raise the skills of financial advisers, an online directory was launched in April 2011, making it possible for consumers to check whether their financial adviser is authorized or not.

Finance Norway has been deeply engaged in the development of this high quality authorization scheme. The scheme as such targets the company's demand for competence as well as assurance towards society that this competence is relevant and of a sufficient quality.

The knowledge of the individual adviser is important, but needs to be seen as a part of a bigger picture where company culture is the main ingredient. To put internal processes in place to develop organizational competence and leadership is a crucial part of this. The holistic approach outlined in the European rules and legislation addresses this as they cover as diverse parts as remuneration systems and internal control mechanisms. However, we would like to emphasize that knowledge must be combined with ethics. And the ethics of the individual adviser must be supported by company culture.

Autorisasjonsordningen for finansielle rådgivere (AFR)¹ issues authorization of financial advisers based on necessary knowledge, abilities and attitudes. The AFR is the national competent authority (NCA) in this regard in Norway. The system is self regulation, based on a Code of Conduct for Financial Advisors that was developed in 2003 (revised 2012). The authorization is based on one year relevant experience together with a knowledge test and a comprehensive practical test.

A general description of the AFR is found here: http://www.savings-banks-events.org/csr/case.aspx?case_id=214.

Finance Norway supports that specification of requirements on competence and experience applicable in the individual Member States is left to NCAs in the draft guidelines. No Member State should, as a result of these new rules, be forced to lower their standards - regardless if such standards follow from national legislation or self-regulation. A self-regulatory organisation providing licensing etc. must also be able to set up other more restrictive rules. This should be clarified in the guidelines.

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

¹ Autorisasjonsordningen for finansielle rådgivere = Authorization scheme for financial advisers.

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.

Finance Norway does not believe that a consecutive number of years of relevant experience sufficiently ensures that incumbent advisers meet the relevant demands for knowledge and competence. Neither does investment firm assessment of this level of competence suffice. When establishing the scheme in Norway AFR experienced that many advisers did not pass the exam despite having had company internal certification (spring 2009 when AFR was established).

Thus, both knowledge and experience is important. Experience cannot compensate knowledge.

The industry's legitimacy and credibility is best served when all advisers are tested in the same way, i.e. based on requirements set by NCA. It is essential that this is a system that is independent of individual companies. However, it is necessary to draw on the expertise that exists in companies in order to create a curriculum that has contact with the practical reality advisers are going to face.

Development and control of a system of assessment is a challenging and cumbersome exercise. Furthermore, control of such a system is challenging. Testing is straightforward, easy to develop in order to account for developments. Control is a natural part of this methodology, and does not require a separate system.

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?

The individual adviser's role and responsibility is a good starting point for crafting the knowledge requirements. Finance Norway therefore finds your proposal for differentiating levels of competence relative to the actual needs of the relevant role interesting. Indeed, we are currently discussing whether to develop a two tier system and how this would be constructed under the auspices of AFR.

With regards to employees providing information we find that the knowledge requirements put forward in your proposal are very high. We therefore question whether they should be applied to the full width of personnel having contacts with customers. Finance Norway would welcome further discussions on what staff should be required to have these qualifications and further guidance on how to identify these people.

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

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?

Finance Norway supports the text as it is formulated in V.I General. However, we think it is important to include an emphasis on ethics. Several components related to the theme of ethics are put forward, but it is important to link this to the fundamental concept of ethics.

Finance Norway ascribes three dimensions to the concept of competence. Theoretical knowledge is one, and ability is another. The third dimension is attitude.

The AFR caters to the environment that the adviser will meet in practice. Knowledge crucial, but learning how to use this knowledge in practice, bridging theoretical knowledge and the reality of the individual consumer, is equally important. The AFR therefore requires a comprehensive test of this ability. Attitude is difficult to test, and is highly dependent on the culture and ethics of the company.

However, in order to offer some guidance on ethical matters, the comprehensive online test needed for authorization through AFR requires the adviser to:

- Identify the ethical dilemma in a presented case.
- Identify and discuss two different ways of dealing with the dilemma, both within the limits of the law.
- Make a decision and justify it.

Finance Norway strongly supports the proposed guidelines on the role of the competent authorities, compliance and organisational requirements. On maintenance and updating, we support the guidelines as presented in part V.V. The Norwegian system of building competence and subsequent maintenance, and updating of the authorization is cohesive. This aspect is crucial for the system to be able to fulfil its role of securing state of the art financial advice throughout the Norwegian financial sector.

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

As there is a system very similar to the one you propose in place in the Norwegian market, we do not foresee any significant one off costs in relation to this, provided there is a high degree of national flexibility in detailed requirements going forward. However, this would also depend on the definition of the group of employees that would be required to be authorized as information providers.

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

Additional ongoing costs would depend on the definition of the group of employees that would be required to be authorized as information providers.

Yours sincerely
Finance Norway



Ellen Bramness Arvidsson
Director
International Coordination