

Regulatory News Alert

MiFID II - CSSF Circular 17/665

implementing ESMA Guidelines on the assessment of knowledge and competence

11 August 2017

Background

On 3 August 2017, the *Commission de Surveillance du Secteur Financier* (CSSF) published Circular 17/665 aiming to implement ESMA's guidelines on the assessment of knowledge and competence of 22 March 2016.

The CSSF clarifies the objectives of the assessment of knowledge and competence as stated under Article 25.1 of Directive 2014/65/EU (MiFID II):

"Ensure and demonstrate to competent authorities on request that natural persons giving investment advice or information about financial instruments, investment services or ancillary services to clients on behalf of the investment firm possess the necessary knowledge and competence to fulfil their obligations."

Key provisions

1. The CSSF defines three areas for the application of the ESMA guidelines to assess the knowledge and competence of financial advisers:
 - Criteria for the assessment of the staff **providing information on investment services or products** or ancillary services (e.g., understanding of the products, the risk associated, total costs, suitability, impact of external factors on the financial markets)
 - Criteria for the assessment of the staff **providing investment advice** (e.g., understanding of the products, the risk associated, total costs, suitability, impact of external factors on the financial markets)
 - **Organizational requirements** (e.g., ensure the assessment of their staff on a yearly basis; submit the documentation related to the assessment to the supervisor upon request).

The CSSF circular **requires** employees providing information or advice on investment services or products to have sufficient **knowledge and competence** before being able to provide these services.

2. Following ESMA guidelines, the CSSF provides that:
 - The maximum period during which an employee, without the qualification or experience required by the circular, is authorized to work under supervision is fixed at **four years**.
 - The period required for obtaining an appropriate experience is fixed at a minimum of **one-year full-time job experience**.
3. The **verification of knowledge** and minimum competence can be done through either:
 - An **internal evaluation**, by all means at the professional's disposal, in line with an internal formal procedure which the CSSF can verify *a posteriori*, or
 - An external professional training certified by the CSSF.

Next step

The circular will be applicable from 3 January 2018 along the dispositions of MIFID II (Directive 2014/65/EU on markets in financial instruments) and MIFIR (the Regulation 600/2014/EU).

How can Deloitte help?

Deloitte has developed a host of MIFID II training programs that can be tailored to your needs and help you meet CSSF requirements, from online training at your desk (Deloitte D.Learn) to on-site personalized sessions.

Deloitte actively monitors MiFID II developments and subsequent publications on an ongoing basis. We analyze all relevant published documents in order to identify any changes and to provide the most updated view to our clients.

We offer to organize an informal workshop in your offices to answer your questions, and discuss the latest regulatory updates as well as potential operational impacts and remediation scenarios for your firm.

Please do not hesitate to contact the Deloitte MIFID II task force to prepare a workshop tailored to your requirements.

Your contacts

Simon Ramos

Partner

Tel : +352 45145 2702

siramos@deloitte.lu

Pascal Martino

Partner

Tel : +352 45145 2119

pamartino@deloitte.lu

Annick Elias

Partner

Tel : +352 45145 4386

aalias@deloitte.lu

Lou Kiesch

Partner

Tel : +352 45145 2456

lkiesch@deloitte.lu

François-Kim Hugé

Partner

Tel : +352 45145 2483

fkhuge@deloitte.lu

Laurent Collet

Partner

Tel : +352 45145 2112

lacollet@deloitte.lu

Benoit Sauvage

Senior Manager

Tel : +352 45145 4220

bsauvage@deloitte.lu

Deloitte Luxembourg

560, rue de Neudorf

L-2220 Luxembourg

Tel: +352 451 451

Fax: +352 451 452 401

www.deloitte.lu

Deloitte is a multidisciplinary service organisation which is subject to certain regulatory and professional restrictions on the types of services we can provide to our clients, particularly where an audit relationship exists, as independence issues and other conflicts of interest may arise. Any services we commit to deliver to you will comply fully with applicable restrictions.

Due to the constant changes and amendments to Luxembourg legislation, Deloitte cannot assume any liability for the content of this leaflet. It shall only serve as general information and shall not replace the need to consult your Deloitte advisor.

About Deloitte Touche Tohmatsu Limited:

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/lu/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and deep local expertise to help clients succeed wherever they operate. Deloitte has in the region of 200,000 professionals, all committed to becoming the standard of excellence.

© 2017 Deloitte General Services

Designed and produced by MarCom at Deloitte Luxembourg