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**COMMISSION STAFF WORKING DOCUMENT**

**Report on the current framework for qualification of financial advisors in the EU and  
assessment of possible ways forward**

## Table of contents

1. Introduction.....	2
2. Analysis of the current framework for financial advisors.....	5
2.1. Legal framework for qualifications of advisors under MiFID II and IDD .....	6
2.2. National requirements regarding knowledge and competence for individuals providing advice .....	7
2.3. Market characteristics .....	10
3. Rationale for improving quality of financial advice at eu level.....	11
3.1. Possible ways forward .....	12
4. Conclusion .....	14

## 1. INTRODUCTION

As announced under Action 8 of the Capital Market Union Action Plan adopted on 24 September 2020<sup>1</sup>, this report examines the feasibility of possible improvements to the quality of financial advice in the EU, as well as the feasibility of setting up a pan-EU label for financial advisors. In this regard, it is important to note that under Action 8(C), the Commission also announced that it would seek to improve the level of professional qualifications for advisors in the EU by amending the rules on qualifications of financial advisors in MiFID II<sup>2</sup> and IDD<sup>3</sup>. This is currently being assessed as part of ongoing work on the future Retail Investment Strategy<sup>4</sup>.

**Higher retail investor participation in capital markets is crucial to help EU capital markets grow and offer individuals more opportunities to manage their financial situation.** As highlighted in the new CMU Action Plan,<sup>5</sup> the low level of retail investor participation in capital markets deprives EU companies, and the EU economy in general, of much needed long-term investments. It also fails to serve the interests of people whose savings generate low or even negative real interest rates. There is a strong need to facilitate retail investments that offer the potential of a higher return over the long-term and are suitable for providing a complementary income for retirement. This is all the more relevant in the post Covid-19 context when individual savings have gone up<sup>6</sup> and against the background of the currently high inflation rate, in particular, the increasing energy and food prices, largely triggered by the Russian aggression against Ukraine. There is also need for better protection of retail investors with low financial literacy against mis-selling of overly risky and complex products.

**There are several reasons for the limited participation of retail investors in capital markets.** Households often refrain from investments because they do not trust or understand financial markets. The Final Report of the High Level Forum on the CMU underlined **a widespread perception in the EU that financial markets are not serving citizens well enough and that it is mainly wealthy individuals that benefit from capital markets.**<sup>7</sup> Besides a lack of risk appetite, retail investors face complex investment decisions and often lack the financial knowledge to make well-informed decisions. Feedback to the public consultation on a retail investment strategy launched on 11 May 2021 confirmed the lack of understanding of products as a factor that currently discourages retail investors to invest<sup>8</sup>. Investors could improve their financial decision-making by increasing their

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<sup>1</sup> Action 8C “Building retail investors’ trust in capital markets”: A Capital Markets Union for people and businesses - new action plan, COM/2020/590 final, <https://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=COM:2020:590:FIN>

<sup>2</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU Text with EEA relevance

<sup>3</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast)Text with EEA relevance

<sup>4</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12755-Retail-Investment-Strategy/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12755-Retail-Investment-Strategy/public-consultation_en)

<sup>5</sup> A Capital Markets Union for people and businesses - new action plan, COM/2020/590 final, p. 9, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:590:FIN>.

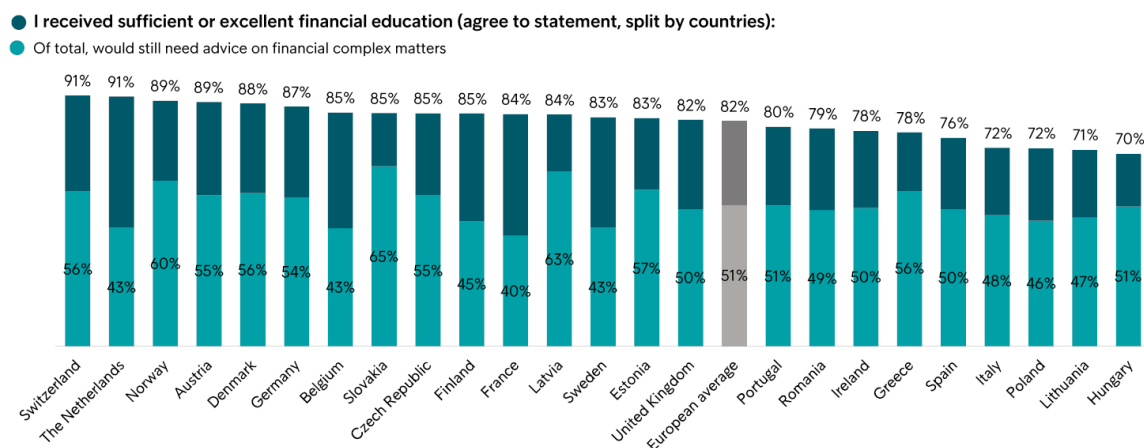
<sup>6</sup> See the [ECB Economic Bulletin](#), Issue 5/2021, for an analysis of the increase in euro area household savings since the start of the coronavirus (COVID-19) crisis.

<sup>7</sup> High Level Forum on the Capital Markets Union, A new vision for Europe’s Capital Markets. Final Report, 10 June 2020, p. 18, [https://ec.europa.eu/info/sites/info/files/business\\_economy\\_euro/growth\\_and\\_investment/documents/2006\\_10-cmu-high-level-forum-final-report\\_en.pdf](https://ec.europa.eu/info/sites/info/files/business_economy_euro/growth_and_investment/documents/2006_10-cmu-high-level-forum-final-report_en.pdf).

<sup>8</sup> [EU strategy for retail investors \(europa.eu\)](#)

financial literacy and by seeking qualified financial advice, and even those who consider themselves financially literate may still require advice<sup>9</sup> (see Figure 1).

**Figure 1: Interaction between financial education and advice**



Source: Intrum, [European Consumer Payment Report 2021](#)

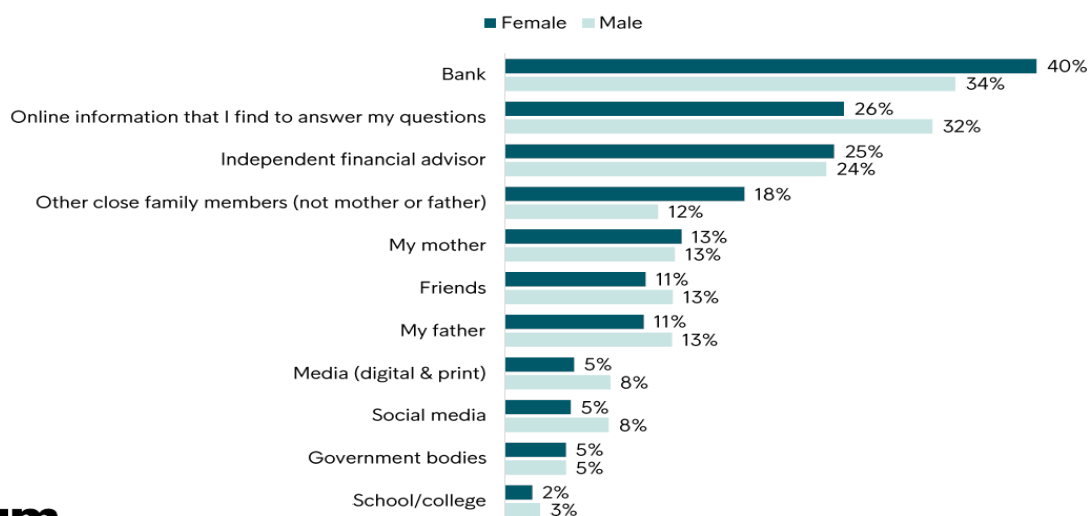
**Investment products are distributed through a variety of channels**, including traditional bank and insurance channels, insurance intermediaries such as agents and brokers, on-line investment supermarkets and discount brokers, automated advisors or portfolio management services. Below are the sources of financial advice as reported by respondents to a survey conducted by a credit management company Intrum in 2021<sup>10</sup>.

<sup>9</sup> A substantial amount of research has focused on the relationship between investors’ financial literacy and their likelihood of seeking financial advice and suggested that financial literacy is positively associated with seeking financial advice across multiple domains, including investing, saving, and debt management. Feedback to the [public consultation on a retail investment strategy](#) showed a strong consensus that increased financial literacy is overall beneficial to retail investors and that, in particular, it helps retail investors to better understand financial advice.

<sup>10</sup> Financial advice being understood broadly and not necessarily falling under the definition of advice as set out in Directive 2014/65/EU of 15 May 2014 on markets in financial instruments.

**Figure 2: Sources of financial advice.**

Q: When you look for financial advice, which of the following sources do you trust the most?



**intrum**

Source: Intrum, [European Consumer Payment Report 2021](#)

New technologies are increasingly changing the structure of retail financial services markets and the way in which products are distributed. Innovative market entrants, such as FinTech companies, are gradually contesting incumbents' market shares and traditional distribution channels by offering more specifically tailored products and services. Despite the fast-paced evolution of technology, retail investors in the EU continue to largely rely on human advice, mostly through traditional channels, i.e. banks and insurance intermediaries.

**Financial advisors play a key role as gatekeepers to the financial system.** The quality and reliability of financial advice therefore directly influence the way retail investors perceive and interact with capital markets. The divergence in qualification requirements for investment advisors is largely due to the fact that the regulatory framework does not set out detailed requirements and in some cases follows a principle-based approach, allowing certain discretion to Member States on how to implement them in national laws. Several stakeholders consider it insufficient and suggested that it could contribute to clients receiving inappropriate advice and being victims of mis-selling of financial products and services.<sup>11</sup>

An increase in the level of qualification of advisors would contribute to improving their professionalism, knowledge and skills. It would also help reduce mis-selling and thus increase the confidence and trust of individuals (and the authorities) in the financial advice. Furthermore, to support the uptake of sustainable investment products and encourage greater retail investor engagement in sustainable finance related activities, the level of sustainability expertise of financial advisors would need to be improved.

<sup>11</sup> A new Vision for Europe's capital markets, Final Report of the High Level Forum on the Capital Markets Union June 2020, 200610-cmu-high-level-forum-final-report\_en.pdf (europa.eu). The lack of high standards of professionalism among advisors has been cited by some of the respondents to the public consultation on a retail investment strategy to support the introduction of a pan EU-label for financial advisors.

This report seeks to assess various considerations related to the feasibility of a pan-EU label for financial advisors. It will review the existing regulatory requirements for financial advisors<sup>12</sup> and the economic and market situation in the area of financial advice for investment and insurance-based investment products<sup>13</sup>. Furthermore, the potential demand for a pan-EU label and its likely uptake will be taken into consideration. It should be noted however that this document mainly presents the state of play of qualification requirements of financial advisors and explores possible ways forward, but does not constitute or seek to constitute a formal impact assessment, as governed by ‘better regulation’ standards.<sup>14</sup> Consequently, it should not be considered as a document presenting new envisaged policy avenues that would engage the Commission.

## 2. ANALYSIS OF THE CURRENT FRAMEWORK FOR FINANCIAL ADVISORS

European financial markets are characterised by the significant role that intermediaries play in the distribution of financial products and the vast variety of products available to investors. Many individuals acquire their products through intermediated channels which simultaneously provide financial advice, investment recommendations and may support the management of one’s personal finances more broadly.

Investment advice is provided in a number of ways:

1. Advice provided by a human advisor, either with physical presence (face-to-face) or over the phone or other means of telecommunication (e.g. Zoom or Skype);
2. Automated advice provided through a website/application, using software algorithms to issue recommendations for acquiring individual products or managing a portfolio of assets (e.g. roboadvisors);
3. Hybrid models which use a combination of 1) and 2), with parts of the process being automated/provided by algorithms, while granting access to a human advisor as needed or contractually agreed between client and service provider.

The different types of advice and the delineation between the areas of expertise, competence and service offered by advisors differs between Member States and are often shaped by the national educational system and specific professional requirements.

According to the European financial services legislation relating to investment products, advisors can be categorised into: (i) investment firms providing advice (subject to Directive 2014/65/EU of 15 May 2014 on markets in financial instruments, “MiFID II”); (ii) firms providing advice under national rules (exemption for national advice regimes under Article 3 of MiFID II); (iii) insurance distributors providing advice on insurance-based investment products (subject to Directive (EU) 2016/97 of 20 January 2016 on insurance distribution, “IDD”).

The definition of ‘investment advice’ under MiFID II encompasses the provision of a ‘personal recommendation’ to a client of the investment firm, in respect of one or more transactions relating to financial instruments (Article 4(1)(4) of MiFID II). According to Article 9 of Commission Delegated Regulation (EU) 2017/565, in order to qualify as investment advice, a recommendation must be:

- i) made to a person in their capacity as an investor or potential investor, or in their capacity as an agent for an investor or potential investor;

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<sup>12</sup> Other possibly related elements, such as the functioning of Directive 2005/36/EC on recognition of professional qualifications, are outside the scope of this assessment.

<sup>13</sup> Other types of advisory services, such as those relating to mortgage credit and insurance (i.e. beyond insurance based investment products), are outside the scope of this assessment.

<sup>14</sup> See: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2021:219:FIN>;

- ii) presented as suitable for that person or based on a consideration of the circumstances of that person;
- iii) personal (e.g. not issued to the general public).

Similarly, Article 2(1)(15) of IDD defines “advice” as “*the provision of a personal recommendation to a customer, either upon request or at the initiative of the insurance distributors, in respect of one or more insurance contracts*”.

IDD provides a set of specific conduct of business rules for the distribution of insurance-based investment products. These rules are broadly (but not entirely) aligned with MiFID II, in particular for the provisions on advice<sup>15</sup> (suitability and appropriateness assessment, execution-only sales) and disclosures but to a lesser extent for inducements.

There are differences between MiFID II and IDD as far as professional qualifications for advisors are concerned. While MiFID II contains only a general requirement on the need for investment firms to employ personnel with adequate skills, knowledge and expertise, entrusting it to Member States to verify whether advisors are sufficiently proficient to fulfil their duties<sup>16</sup>, IDD contains a list of minimum continuing professional training and development requirements (see more on this in the next section).

## **2.1. LEGAL FRAMEWORK FOR QUALIFICATIONS OF ADVISORS UNDER MiFID II AND IDD**

**MiFID II and IDD leave the Member States a considerable degree of discretion as to the appropriate qualification requirements for advisors.**

Under Article 25(1) of MiFID II, “*Member States shall require investment firms to 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 under Article 24 and this Article. Member States shall publish the criteria to be used for assessing such knowledge and competence*”. Under Article 25(9) of MiFID II, ESMA is required to adopt guidelines specifying criteria for the assessment of knowledge and competence required under paragraph 1.

In December 2015, **ESMA issued a set of guidelines for the assessment of knowledge and competence of staff giving information about investment products, investment services or ancillary services and of staff giving investment advice (“ESMA Guidelines”)**<sup>17</sup>. The ESMA guidelines, however, only provide principle-based criteria and, in light of the differences among national qualification regimes, leave a considerable degree of discretion to national regulators in relation to some aspects<sup>18</sup>.

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<sup>15</sup> IDD, however, does not include a concept of independent advice.

<sup>16</sup> See Article 25 of MiFID II and Article 21 of Commission Delegated Regulation (EU) 2017/565.

<sup>17</sup> ESMA, Guidelines for the assessment of knowledge and competence, 3 January 2017 | ESMA71-1154262120-153 EN (rev), [Final report on the Guidelines for the assessment of knowledge ad competence \(europa.eu\)](#).

<sup>18</sup> In accordance with the ESMA guidelines, knowledge and competence should be based on the acquisition of appropriate qualification and experience by staff members, in order to fulfil the MiFID obligations regulating the provision of services to clients. With reference to the “appropriate qualification”, the ESMA Final Report on the guidelines recognises that there is a lack of common qualification systems across the EU. In light of the above, the ESMA guidelines clarify that NCAs (or other national bodies identified in the Member State) should

Furthermore, **Article 3 of MiFID II allows Member States to exempt some (legal or natural) persons providing specific investment services from the application of MiFID II.** Persons providing investment advice may be covered by this optional exemption (“local advisors”) **provided that some conditions are fulfilled** (e.g. the services provided in this case cannot be passported, local advisors are not allowed to hold client funds or client securities). Article 3(2) of MiFID II states that Member States, when activating this option, shall establish national regulatory regimes and shall submit these persons to requirements which are at least analogous to a requirement for authorisation, conduct of business rules and organisational requirements established for investment firms under MiFID II and listed under Article 3(2), points (a), (b) and (c). Article 25(1) of MiFID II is however not included among the requirements listed under Article 3(2) meaning that knowledge and competence requirements for local advisors are left to the full discretion of Member States.

Similarly to MiFID II, under Article 10(1) IDD, ‘home’ Member States shall ensure that insurance and reinsurance distributors and employees of insurance and reinsurance undertakings carrying out insurance or reinsurance distribution activities possess appropriate knowledge and ability in order to complete their tasks and perform their duties adequately.

In contrast to MiFID II, **IDD also requires Member States to ensure that insurance and reinsurance distributors comply with continuing professional training and development (CPD)** requirements in order to maintain an adequate level of performance corresponding to the role they perform and the relevant market. According to Article 10 (2) subparagraph 2 of IDD, CPD requirements should contain at least 15 hours of professional training or development per year, taking into account the nature of the products sold, the type of distributor, the role they perform, and the activity carried out within the insurance or reinsurance distributor. In addition, home Member States retain a discretion whether to require a certificate to prove the successful completion of CPD. CPD requirements are further detailed in Annex I point II of IDD for insurance-based investment products.

Since IDD is a minimum harmonisation directive, Member States may nevertheless impose stricter requirements at national level, including by introducing knowledge and competence requirements for natural persons wishing to enter the profession. This gives rise to a range of different national approaches.

## **2.2. NATIONAL REQUIREMENTS REGARDING KNOWLEDGE AND COMPETENCE FOR INDIVIDUALS PROVIDING ADVICE**

For the purpose of the preparation of this feasibility report the Commission services sought ESMA’s and EIOPA’s input on:

- a mapping of the existing requirements regarding knowledge and competence at national level for individuals providing advice;

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publish the list of the specific qualifications that meet the criteria of the “appropriate qualifications” indicated in the guidelines or the characteristics that a qualification needs to meet in order to comply with those criteria. NCAs should also publish:

1. information on the period of time required to staff to obtain the appropriate experience (6 months full time or more, depending on the CA’s choice);
2. the maximum period of time under which a staff member lacking appropriate qualification or appropriate experience is allowed to work under supervision; and
3. whether the periodic review of staff member’s qualification should be carried out by the firm itself or an external body.



- an assessment of the existing market practices to understand how the qualification requirements are currently fulfilled by market participants (including the types of certificates that are used, the training requirements and their set-up, etc.)<sup>19</sup>.

### National requirements for individuals providing investment advice under MiFID II

According to the ESMA Guidelines, ‘Knowledge and competence’ means having acquired an appropriate qualification and appropriate experience to fulfil the obligations in Article 24 and 25 of MiFID II in order to provide the relevant services.

An ‘appropriate qualification’ means a qualification or other test or training course that meets the criteria set out in the guidelines. Since it was not possible to provide a pan-EU list of qualifications, given the lack of common qualification systems across the EU, the ESMA guidelines stipulate that NCAs should publish either a list of qualifications that are accepted as proof of appropriate qualification in their Member State or, instead, the characteristics that a qualification should have to meet the expectations of the ESMA guidelines. While most Member States have published a list of criteria and/or a list of professional requirements or recognised qualifications, a few Member States have not provided any specific qualification requirements, other than the criteria listed in the ESMA Guidelines.

Based on the ESMA Guidelines, some Member States put in place additional detailed requirements for staff members, although again with noticeable differences amongst the national approaches. While several Member States opted to rely entirely on an internal assessment made by an investment firm, others put in place specific rules as to how the appropriate qualification of staff members providing advice should be assessed. For example, some Member States required that staff members achieve a recognised qualification or undergo a dedicated examination, organised by the NCA or by a private body supervised by the NCA.

As a result, absent legally binding requirements in this area, qualifications accepted as proof of “appropriate qualification” continue to vary across the EU, with some Member States requiring the achievement of a university and/or professional degree and others relying on specialised national or international certification schemes. The approaches vary also in relation to the specific competences, skills and knowledge tested and the provision of minimum training requirements.

National requirements appear more aligned in relation to the period of time required for acquiring the appropriate experience, with the large majority of Member States following the ESMA Guidelines and therefore requiring a minimum period of six months<sup>20</sup>. In certain cases, Member States nevertheless depart from the ESMA Guidelines, notably where justified by the nature of advice, such as in the case of advice on complex instruments where Member States may require a longer minimum period of experience. Disparities, however, exist as regards the maximum period during which staff members lacking appropriate qualification or experience are allowed to work under supervision.<sup>21</sup> While some Member States have aligned their national requirements with the ESMA Guidelines<sup>22</sup>,

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<sup>19</sup> ESMA distributed a survey to IPISC Members; 26 NCAs replied to the survey, 24 EU Member States and 2 EEA States. EIOPA distributed a survey to CCPFI Members; 24 NCAs replied to the survey, 23 EU Member States and 1 EEA State.

<sup>20</sup> According to ESMA Guidelines, ‘Appropriate experience’ means that a member of staff has successfully demonstrated the ability to perform the relevant services through previous work. This work must have been performed, on a full time equivalent basis, for a minimum period of 6 months.

<sup>21</sup> ‘Under supervision’ means providing the relevant services to clients under the responsibility of a staff member who has both an appropriate qualification and appropriate experience.

<sup>22</sup> According to the ESMA guidelines (paragraph 20(d)), where a member of staff has not acquired the appropriate qualification and/or the appropriate experience to provide the relevant services, s/he can only

others do not allow staff members to work under supervision at all, or, in contrast, established a shorter time period (varying from 6 months to 3 years).

Rules vary also in relation to *continuing* education requirements for staff giving advice.

According to the ESMA guidelines (paragraph 20(b)), firms should carry out an internal or external review, at least on annual basis, of staff members' development and experience needs, assess regulatory developments and take action necessary to comply with these requirements. This review should also ensure that staff members possess an appropriate qualification and maintain and update their knowledge and competence by undertaking continuous professional development or training for the appropriate qualification as well as specific training required in advance of any new investment products being offered by the firm. The Annex to the ESMA guidelines clarifies that continuous or on-going professional development is required in order for staff to hold the "appropriate qualification".

While in most jurisdictions it is possible to identify continuing education requirements or practices used by a significant number of market players for staff giving advice, divergences exist in relation to the assessment procedures, with some Member States requiring firms to test their staff on an annual basis, others obliging advisors to renew the certificate, or putting the responsibility on a firm to verify that the diplomas of the staff members are updated whenever necessary.

Divergent approaches across Member States in relation to advisors' qualifications may impair the ability of national advisors to scale up activity in more than one Member State. Most jurisdictions accept certificates/qualifications issued in other Member States. However, there are Member States that subject the appropriateness of a certificate/qualification acquired in another Member State to a number of conditions, requiring e.g. advisors to sit an additional test or assessment before being able to provide advice in that Member State<sup>23</sup>. Only few qualifications are explicitly recognised as appropriate (i.e. no requirement to sit additional tests) by more than one Member State across the EU<sup>24</sup>.

#### National requirements for "local advisors" (Article 3 exemption under MiFID II)

ESMA gathered information also on national arrangements and market practices with regard to the qualification requirements applicable to investment advice when provided outside the MiFID framework (i.e. in accordance with the exemption laid down in Article 3 of MiFID II).

More than half of NCAs stated that the discretion under Article 3 of MiFID II with regard to the so-called "local advisors" was exercised in their jurisdiction. However, the impact of the provision varies from one Member State to another, depending on how many "local advisors" are falling under the exemption in each Member State and their respective market shares. For example, in Lithuania only 3 advisors operate under the "local advisor" status, serving an insignificant part of the market, while in Germany, there are 37 871 local advisors. Almost a third of all NCAs reported that specific qualification requirements were not provided in their respective jurisdiction for "local advisors". In those jurisdictions where specific requirements exist, these may differ from the relevant provisions of MiFID II.

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provide the relevant services under supervision. The staff member can work under supervision for a maximum period of 4 years except where a shorter period is determined by the NCA (ESMA guidelines, paragraph 4(j)).

<sup>23</sup> For further details please see Annex II.

<sup>24</sup> Some (international) qualifications are recognised by more than one NCA. For example, the Chartered Financial Analyst (CFA) certification is accepted in three Member States. Chartered Institute for Securities and Investment (CISI) certifications are accepted in two Member States.

### National requirements for individuals providing advice on insurance-based investment products

Whilst IDD contains a list of minimum professional knowledge and competence requirements for continuous training and development, it does not include any specific competence and/or experience requirements for taking up the profession. Article 10(1) IDD only requires home Member States to ensure that distributors possess appropriate knowledge and ability to complete their tasks and perform their duties adequately, thus leaving home Member States wide discretion as to the specific requirements applying to individuals before taking up the profession.

Almost every Member State requires natural persons providing advice on insurance-based investment products to possess certain qualifications before taking up the profession. While the substance of these requirements is in most cases aligned with the requirements provided by the IDD for the continuous training and development, the means and requirements for demonstrating adequate professional competence vary across the EU. For example, some Member States require the achievement of a secondary education degree, while others demand a university degree. Divergences exist also in relation to the type of assessment that is conducted to verify the knowledge and competence of natural persons providing advice on insurance-based investment products. While some Member States rely exclusively on examination procedures, other provide for a combination of exams and training, or check the conformity of qualifications by assessing documents.

As regards continuing training and development requirements, some Member States have introduced requirements, which are more detailed and more stringent than those laid down in IDD. In contrast, other Member States simply aligned national requirements with the IDD standards.

### **2.3. MARKET CHARACTERISTICS**

The size of the advice market is difficult to estimate given that these figures are not reported.

The 2018 study on “Distribution systems of retail investment products across the European Union”<sup>25</sup>, found that seeking advice from non-independent advisors (at banks and insurers) remained the norm for the average investor, except in the UK and the Netherlands. It further observed that, concerning the distribution of investment funds, institutions providing advice (i.e. banks, insurance, independent financial advisors and robo-advisors) usually have teams of investment experts constructing, on an ex-ante basis, a rather limited portfolio of products that, to a large extent, are considered suitable to cover the different needs of many retail investors, in terms of knowledge and experience, financial situation, investment horizon, objectives and risk tolerance. The main role of the advisor/algorithm merely consists in choosing the product(s) out of this limited portfolio which is/are deemed as the most suitable for the specific investor depending on the outcome of the discussion with the retail client and the suitability checks.

EIOPA’s 2022 report on the application of the IDD<sup>26</sup> reported 815 219 registered intermediaries in the 25 Member States covered by the report at the end of 2020. This number includes both natural persons registered as insurance intermediaries and registered legal entities that for their part may employ natural persons as advisors/intermediaries. As EIOPA explained in an earlier overview of the

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<sup>25</sup> See: [https://ec.europa.eu/info/sites/default/files/180425-retail-investment-products-distribution-systems\\_en.pdf](https://ec.europa.eu/info/sites/default/files/180425-retail-investment-products-distribution-systems_en.pdf)

<sup>26</sup> “Report on the application of the Insurance Distribution Directive”, available at: [https://www.eiopa.europa.eu/sites/default/files/working\\_groups/reports/eiopa-bos-21-581-report-on-the-application-of-the-idd.pdf](https://www.eiopa.europa.eu/sites/default/files/working_groups/reports/eiopa-bos-21-581-report-on-the-application-of-the-idd.pdf)

structure of **insurance intermediaries markets** in Europe, covering data from 2013 to 2017<sup>27</sup>, conducting an accurate analysis of the size of the European insurance intermediaries market and relevant developments at the European level was difficult, given significant differences in the way NCAs required intermediaries to be registered, different categories of insurers present in different markets, and differences in the data collected by NCAs.

Notwithstanding these differences, it can be noticed that, in 2020, the average European insurance intermediary was a natural person, which acted on behalf of one or more insurance undertakings, exclusively sold insurance and was paid in relation to the insurance contract on the basis of a commission. The amount of online sales, although currently relatively low based on available data (ranging from 0.2% to 2% in most Member States), seems to be increasing on a yearly basis.<sup>28</sup>

It should, however, be kept in mind that not all insurance intermediaries are distributing insurance-based investment products and that not all insurance intermediaries serve the retail segment. In fact, life insurance products (which include all insurance-based investment products) are in most Member States predominantly distributed by credit institutions acting as insurance intermediaries (“bancassurers”) while insurance intermediaries other than credit institutions distribute mainly non-life insurance products.<sup>29</sup> It is therefore difficult to say how many natural persons act as advisors distributing insurance-based investment products under the IDD framework.

### **3. RATIONALE FOR IMPROVING QUALITY OF FINANCIAL ADVICE AT EU LEVEL**

As it was demonstrated in the previous sections, some Member States apply much higher requirements on qualifications of financial advisors than others. Furthermore, there are considerable differences in requirements for advisors operating under the MiFID II and the IDD frameworks. These differences are even larger for those advisors who are exempted from the EU legislation and operate under national rules. Even in the Member States, where national rules exist, the focus of requirements may differ, for example with some advisors being subject to rigorous and monitored examination procedures and others subject to self-assessment. These divergences in standards of the qualification, knowledge and skills ultimately mean that financial advisors in different Member States provide advice of varying quality to retail investors and may therefore, at least partially, account for the lack of trust and confidence of retail investors in capital markets.

The diverging standards across Member States is likely to be further contributing to mistrust in cross-border services. This limits the choice of retail investors, who may abstain from using services and/or acquiring investment products, or do so from a smaller selection of service providers and/or products, whilst potentially better and more favourable alternatives exist in the market.

Finally, these divergences may create an uneven playing field for advisors depending on their location and hinder their ability to perform their services cross-border and to scale-up their activities at EU-level. Whilst the MiFID II and IDD frameworks facilitate passporting of insurance and investment services (including investment advice and advice on insurance-based investment products), the need for individuals providing the service (i.e. advice) on behalf of investment and/or insurance firms to

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<sup>27</sup> “Insurance Distribution Directive – Evaluation of the Structure of Insurance Intermediaries Markets in Europe”, available at: [https://www.eiopa.europa.eu/media/news/eiopa-evaluates-european-insurance-intermediaries-markets\\_en](https://www.eiopa.europa.eu/media/news/eiopa-evaluates-european-insurance-intermediaries-markets_en)

<sup>28</sup> See “Report on the application of the Insurance Distribution Directive”, p. 4.

<sup>29</sup> See “Report on the application of the Insurance Distribution Directive”, p. 21.

comply with a heterogeneous set of national rules (i.e. country-specific qualification requirements<sup>30</sup>) may act as a barrier to entry. In order to increase the quality of financial advice in the EU and to ensure a level playing field among financial advisors, Action 8 C of the Capital Markets Union Action Plan provides that the Commission “*will seek to improve the level of professional qualifications for advisors in the EU and assess the feasibility of setting up a pan-EU label for financial advisors*”.

The general objective pursued by this action is therefore to raise the standards for qualifications of advisors across the single market, thereby increasing the quality of advice and help reduce inappropriate advice, protect and encourage retail investors to seek out quality financial advice (and thereby acquire suitable investment products) on a cross-border basis and level the playing field for advisors.

The specific objectives can be described as follows:

- 1) Increase the level of qualification of financial advisors in the EU, including in relation to sustainability;
- 2) Align standards across Member States and across sectorial legislation in order to ensure consistency;
- 3) Facilitate cross-border provision of services and recognition of standards.

### **3.1. POSSIBLE WAYS FORWARD**

The ideas set out in this section could contribute to the objectives specified above. Should it be decided to pursue any of these ideas at a future point in time, they would have to be made subject to a dedicated impact assessment.

- Strengthening existing standards and harmonising further requirements set out in MiFID II/IDD

As indicated in the 2020 CMU Action Plan, it could be considered to improve the requirements for qualifications of financial advisors currently set out in MiFID II/IDD, for example, by specifying some elements around the examination and evaluation of competences of advisors (e.g. introduction of a mandatory requirement for certification). Consideration could also be given to transfer some elements from the existing guidelines (e.g. the non-binding ESMA guidelines<sup>31</sup>) into the level 1 legislative framework of MiFID II to ensure more harmonised application and its extension to the IDD framework, where appropriate. Furthermore, the possibility to extend the IDD requirements on continuous training to also apply for entry into the profession could be considered as well as the possibility to include certain sustainability aspects as part of the training of financial advisors. This could also potentially involve the introduction of additional necessary conditions for Member States to apply the Article 3 exemption under MiFID II (e.g. requiring Member States to ensure that equivalent competence standards as regards knowledge and competence are applicable to advisors operating outside the MiFID II framework). However, even if those measures were to be considered and adopted after an appropriate impact assessment, Member States would, nevertheless, continue to determine the specific requirements on knowledge and competence as well as certification, based on national specificities.

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<sup>30</sup> Whilst some Member States have confirmed the existence of mutual recognition schemes for certificates issued in other Member States, the admissibility is not automatic and is often subject to a further validation process and a case-by-case assessment by the respective National Competent Authorities.

<sup>31</sup> ESMA, Guidelines for the assessment of knowledge and competence, 3 January 2017 | ESMA71-1154262120-153 EN (rev), Final report on the Guidelines for the assessment of knowledge ad competence (europa.eu).

If the above set out elements were to be considered, the level of minimum harmonised requirements would likely be higher and more aligned across sectorial legislation as well as across the Member States. It should, however, still need to be reflected on (i) to what extent such elements would raise the standards for individuals qualifying as advisors across the EU and, as a result, increase the overall level of qualifications and competence of financial advisors and, thus, the trust investors place in them and (ii) to what extent it would increase the cost for investment firms and insurance distributors to provide advice. Proportionality of any new possible standards in EU law would have to be further assessed.

➤ A voluntary pan-EU label for financial advisors

A voluntary pan-EU label for financial advisors could set out specific standards and the level of qualification that is required from those individuals that wish to receive the pan-EU advisor label. The voluntary feature would mean that it could exist in parallel to the frameworks out in MiFID II, IDD and at national level and advisors could choose to apply for it on their own initiative (would function as a “28<sup>th</sup> regime”).

Such a label could cover detailed knowledge requirements (such as knowledge on how to best select securities portfolios tailored to the circumstances and needs of different clients) as well as detailed training requirements (both in terms of number of hours as well as modalities of the specific competences and curricula). Any such measure could also set out the specific contents and governance arrangements for managing and issuing the label to advisors, including detailed requirements in relation to the ways competences would be tested for the issuance of the label and for its renewal, thus including requirements for maintaining and updating knowledge and competence skills. Holders of the label could be deemed to comply with national requirements on education and qualification, in which case the requirements would have to be set at a sufficiently high level not to risk lowering existing high standards in some Member States. An individual who was granted a pan-EU advisor label could automatically be recognised as compliant with qualification requirements in other Member States.

Under such a label, advisors could be able to choose whether to continue complying with the relevant national provisions on education and continuous training or to seek approval under the EU-label certification, which would be designed to represent a high standard. Such a label would thus have the potential of creating competitive peer-pressure amongst advisors. If the competitive pressure were to be increased, the label could drive up the level of qualifications of advisors operating in Member States with less stringent standards (the main objective). The label, however, would not be expected to affect Member States with already high standards.

The pan-EU label could ultimately develop into an EU-wide easily identifiable quality mark that retail investors from any Member State could rely on. Assuming that the uptake and recognition of the label would be a success, it could further create informal pressure on all market participants (not only those active on a cross-border basis) to go beyond what is required at national level, notably where national rules are less stringent than those set in the EU label. Ensuring a level playing field among all advisors using the same EU label could empower them to more easily scale up their activity across several Member States.

The potential market demand for a pan-EU label for advisors would be largely determined by the quality standard perceived to be associated with it. It should be noted however that the pan-EU label would compete with a number of well-established international certifications that currently exist in the market (e.g. Chartered Financial Analyst) as well as those established at the national level. This could present an opportunity to develop a European equivalent of a certification framework which is currently dominated by US counterparts.

The costs of setting up such a label are, however, likely to be significant. In fact, setting up and maintaining a pan-EU label governed by the ESAs (if chosen), would likely be associated with fairly high one-off and ongoing administrative costs to the EU budget. Given that the ESAs currently do not hold competence in this area, a number of additional members of staff would have to be hired. Furthermore, ESAs would have to invest significant resources to constantly monitor developments within the profession and ensure that the requirements of the label are up-to-date, including with regard to national education systems. The management of the applications for the label as well as supervision/monitoring of quality and ethical standards across the EU would also represent very significant costs/administrative burden. Designation of National Competent Authorities by the Member States for the governance of the label may be less burdensome for administrations, as national authorities could utilise their existing expertise and staff dealing with national certifications.

Nevertheless, it is likely that a pan-EU label would still overall be more burdensome than reinforcing the MiFiD/IDD requirements as it would increase the complexity of the system and require national authorities to manage several qualification systems – existing national labels and the pan-EU label which would co-exist. This would require additional administrative resources.

This analysis does not consider the legal feasibility of a voluntary label for advisors, which would need to be further assessed, notably against the confines of Union competence and ability to put in place hard requirements in terms of qualifications.

#### **4. CONCLUSION**

Despite requirements introduced at EU level, the level of qualifications, knowledge and skills of financial advisors continues to differ across Member States.

In this regard, possibilities to further strengthen the requirements and standards for advisors at EU Level could be further explored, notably as part of the future Retail Investment Strategy. However, the feasibility of a pan-EU label for advisors may appear uncertain, notably due to concerns regarding its successful uptake and the likely high administrative costs.

## Annex I – Stakeholder consultation

### Public consultation on the retail investment strategy

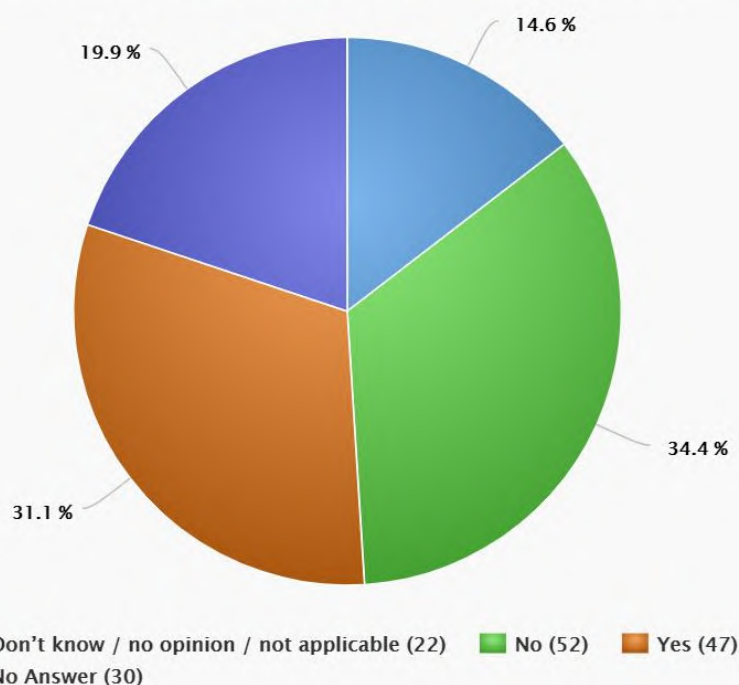
#### Question 8.8 on the possible development of a voluntary pan-EU label for financial advisors

**Q 8.8:** *Would you see merit in developing a voluntary pan-EU label for financial advisors to promote high-level common standards across the EU?*

*Please explain your answer to question 8.8 and indicate what would be the main advantages and disadvantages.*

*If you would see merit in developing that voluntary pan-EU label, what would you consider the essential characteristics of such a label and how should it be similar to or different from those that already exist in the market?*

Question 8.8 Would you see merit in developing a voluntary pan-EU label for financial advisors to promote high-level common standards across the EU?



### 1. Synthesis

**The views on this question seem to be split with 31.1% of overall respondents seeing merit in developing a voluntary pan-EU label for financial advisors, as opposed to 34.4% who do not see such merit.**

**The percentage of respondents who do not see merit in developing the label increases to 42.9 among public authorities as well as business associations and company/business organisations.**

**45.7% of the remaining respondents (citizens, NGOs, trade unions, consumer organisations and other) are of the view that there would be merit in developing a label.**

**Respondents who replied in the negative gave the following reasons:**



- **pan-EU standards would be too difficult to set out and implement**, due to the great differences existing between Member States in terms of products universe, use of investment products, tax legislation etc. In order to assure high-quality advice, advisors would need to be tested on all these specific elements in each Member States, thus making the label neither necessary nor possible to achieve;
- the **existing requirements** on knowledge and competence (K&C) **already assure high standards**. An EU quality label is therefore not necessary and would only generate additional costs;
- **National certification systems have proved to work well and bear the advantage of being tailored to national contexts**. Moreover, **the current rules do not preclude quality labels to emerge naturally**, i.e. on the initiative of providers, as happens in some Member States (e.g. “gut beraten” in Germany);
- **the multiplication of labels could blur investors’ comprehension of the objectives and features** of the different labels;
- the voluntary nature of the label would not allow to efficiently establish common K&C standards for advisors.

One respondent argued that the label would be a distortion of competition in favour of large and financially stronger suppliers who can and want to bear the burdens and costs of a certification process.

**Respondents in favour of the development a pan-EU label argued that:**

- **the current system is not conducive to high standards of professionalism among advisors** and therefore needs to be complemented by a system of voluntary certification;
- **the label would ensure a level playing field among different Member States and, at the same time, increase investors’ trust** as it would help them identifying and choosing their advisor(s) on the basis of reliable and comparable standards across the EU;
- **the label could raise sustainable finance literacy among finance professionals**;
- if widely recognised, the label could decrease the costs of advice and could be leveraged by producers in different Member States;
- **the label could improve the mobility of financial advisors**.

Some of the respondents who see merit in developing a pan-EU label however specified that the label should in any case leave each Member State free to set higher standards. A few respondents also warned that investment advice inevitably includes assessing national tax regimes, and therefore a portion of national certification will need to remain in place as a complement to any push to develop pan-European standards or certification, and that the implementation of the label could be difficult in those countries that currently don’t have any certification system in place.

**Some respondents pointed out that there would be more appropriate ways to address the Knowledge and Competence issue:**

- a few respondents suggested to include minimum common mandatory standards directly into legislation;
- one public authority supported the idea of a European framework for the certification of advisors through the definition of common themes subject to testing, provided that this framework is linked to national certification systems, in order to allow for the specificities of national regulations and of local markets to be taken into account;
- one respondent supported the development of EU-wide standards for the assessment of K&C of advisors in line with ESMA Guidelines, insofar as it allows NCAs to impose higher standards and leaves investment firms the flexibility to adapt these standards to their organisational structure;

- one respondent argued that the label could be developed by leveraging on already existing EU instruments (e.g. the European Qualifications Framework which is already implemented in all EU countries);
- one respondent would welcome the introduction of a mutual recognition mechanism between Member States by way of a European passport for staff providing advice. Along similar lines, another respondent argued that it would be advisable for the legislator to consider at this stage a clarification on the passporting requirements for existing national certifications;
- one respondent suggested to introduce a European system of accreditation of knowledge and competences based on a EU certification to ensure that advisors can exercise their profession across the EU provided that they are registered into a European register.

**As to the essential characteristics of the label:**

- a few respondents stressed that **the label should work as a European passport allowing advisors to exercise the profession across the EU**;
- **sustainability expertise has been identified as a key area to be covered**;
- one respondent argued that, to take account of the differences in Member State financial advice markets, the requirements for obtaining a pan-EU label should be calibrated against **competency metrics for financial advisors**, including their level of education and qualifications, through a tiered labelling framework (e.g., core, intermediate, advanced designations). Another respondent stressed that understanding of markets and market instruments would need to be complemented by understanding of the broad economic environment, sustainability issues, regulation and relevant regulatory obligations as well as customer focus and service.
- a few respondents stressed that **the label should focus also on continuing professional development**;
- one respondent argued that the label should be set-up and managed by the professionals themselves;
- one respondent stressed that a grandfathering clause should apply to current employees of investment service providers whose knowledge and competence have been certified.

Eventually, one respondent suggested that common standards, in line with those already defined by ESMA in its Guidelines, could be introduced through a Delegated Regulation, and that investment firms could be entrusted with the responsibility of defining the most suitable ways to assure compliance with those standards.

**2. Response statistics**

<b>Overview</b>	
Total respondents to this question	151
No answer	30
<b>Replying as</b>	
Business association	35
Company/business organisation	34
Consumer organisation	4
EU citizen	22
Non-EU citizen	0
Non-governmental organisation (NGO)	6
Public authority	13
Trade union	3
Other	4

## **Annex II – extract of selected summarised responses to NCA survey conducted by ESMA**

### **Requirements for access to the profession**

#### *Qualification requirements established in the Member States to allow natural persons to give advice*

- 26 National Competent Authorities (NCAs) provided a summary of the regime applied in their Member State with regard to the requirement of appropriate qualification considered in the ESMA guidelines.
- The large majority of NCAs have published a list of criteria and/or a list of professional requirements or recognised qualifications or certifications.
- Almost all NCAs usually require a minimum education (entry) requirement (secondary school).
- Beyond the secondary school requirement, 15 NCAs consider that the “appropriate qualification” is assessed through:
  - The achievement of a recognised qualification (1 NCA).
  - A successful examination organised by the NCA (4 NCAs) or by private bodies (2 NCAs) supervised by the NCA (1 NCA).
  - The achievement of a qualification or, alternatively, an examination recognised by the NCA (6 NCAs) or organised by the NCA (1 NCA).
- 8 NCAs rely on an assessment made by the firm. However, some of them (5) offer also the possibility to demonstrate the appropriate qualification through recognised qualifications (3 NCAs) or through an exam (organised, directly or indirectly, by the NCA – 2 NCAs).
- 3 NCAs did not mention specific qualification requirements other than the criteria listed in the ESMA guidelines.
- 6 NCAs mentioned that also good repute requirements have to be fulfilled.

#### *Minimum training hour requirement*

- Among the 8 NCAs that provided a list of qualifications:
  - 5 NCAs replied that there is no minimum of training hours.
  - Qualifications recognised by the NCA can have different training hours:
    - 1 NCA with qualifications of 750 or 900 hours,
    - 1 NCA with 33 hours for the preparation to the exam or 70 training hours for qualifications organised by private bodies,
    - 1 NCA with 150 hours (although firms may narrow down the threshold on the basis of specified proportionality criteria).

#### *Competences, skills, knowledge tested*

- Among the 8 NCAs that provided a list of qualifications:
  - 4 NCAs provided a list of specific competences, skills and knowledge tested. 1 NCA noted that the competencies and the skills assessed depend on the type of qualification ,
  - 4 NCAs stated that a test/exam is envisaged,
  - 2 NCA stated that a test/exam is not mandatory and not always organised.

#### *Period of time for the appropriate experience*

- The majority of NCAs (13) reported that a 6-month period is needed to gain the appropriate experience.
- 4 NCAs indicated 1 year.
- 2 NCAs stated that it depends on the type of instruments advised:
  - 1 NCA indicated 18 months for sovereign bonds and non-complex instruments and 24 months for other products,
  - 1 NCA indicated 1 year for non-complex instruments and 3 years for complex ones.
- 1 NCA requires a minimum period of 6 months of experience if the candidate holds a university degree and 7 year if the candidates holds a secondary education diploma or certificate.
- 1 NCA stated that the period of time for gaining the appropriate experience varies on the basis of the qualification held by the candidate (and it is inversely proportionate to the qualification held).
- 1 NCA requires 10 years of experience.
- 1 NCA reported that the NCA considers the combination of the existence of a pre-existing qualification and completion of the additional 26-hour training (mandatory for the new entry) as appropriate experience.

#### *Maximum period of time under which a staff member lacking appropriate qualification or appropriate experience is allowed to work under supervision*

- 13 NCAs replied that the maximum period of time under which a staff member lacking appropriate qualification or appropriate experience is allowed to work under supervision is four years, as stated in the ESMA guidelines.
- Other NCAs reported the following maximum period of time:
  - 3 NCAs do not allow staff member to work under supervision,
  - 2 NCAs reported a 6-month period,
  - 2 NCAs established a 1-year limit (in one of which in particular is required only to gain the appropriate theoretical knowledge whereas a 6 month-period applies to gain the required experience),
  - 4 NCAs allow for 2 years,
  - 1 NCA allows for 3 years if the advice is in connection with complex instruments and 1 year if in connection with non-complex instruments.

#### *Admissibility of certificates/qualifications from other Member States*

- Almost all NCAs (22) declared that certificates/qualifications from other Member States are accepted.
- Nevertheless, the following additional requirements/conditions apply:
  - 1 NCA indicated that the foreign certification is accepted if it is considered equivalent under the national legislation.

- 1 NCA indicated that the holder of a foreign certification has to: (1) demonstrate they are fit & proper and (2) pass a test on the national capital market legislation.
- 1 NCA indicated that similarly, qualifications shall comply with the national arrangements on the appropriate qualification.
- 1 NCA indicated that the holder of a foreign qualification shall be subject to an assessment by the person in charge of the control of the knowledge and competence of staff within the firm.
- 1 NCA indicated that the assessment of the appropriateness of the foreign certificate has to be made by the firm that can however rely on the opinion of an external institute.
- 1 NCA indicated that the appropriateness of the foreign qualification is assessed by the NCA on a case-by-case basis and, where needed, the holder of the qualification may be asked to sit a competency test or complete an internship.
- 1 NCA indicated that foreign qualifications are admitted as long as they belong to a list made by the NCA.
- 1 NCA indicated that an automatic equivalence is established for the Level III CFA, while the other foreign qualifications are subject to the opinion of the national body responsible for the examination of candidates .
- 3 NCAs do not admit qualifications issued in other Member State as proof of the appropriate qualification.

### **Continuous training requirements**

#### *Continuing professional development (CPD) requirements or practices*

- 5 NCAs stated that, in their jurisdiction, there are no specific continuing education requirements or practices used by a consistent number of market player for staff giving advice.
- 20 NCAs replied that these requirements or practices exist in their jurisdiction, while one NCA did not reply.
- Among the NCAs that replied positively:
  - 1 NCA clarified that the continuity of the education requirements is considered to be ensured by the (national) provisions requiring the renewal of the certificates.
  - 1 NCA stated that each firm has the responsibility to verify that the diplomas presented by the staff members are updated whenever necessary, i.e. for example when the person concerned exercises new functions or changes department. Moreover, the entity should list the continuing education followed by staff members.

## **Annex III – extract of selected summarised responses to NCA survey conducted by EIOPA**

### **Requirements for access to the profession**

#### *Requirements established in the Member States to allow natural persons to give advice*

Almost all National Competent Authorities (NCAs) (23) noted that it is a requirement for the natural persons providing advice on IBIPs to have certain qualifications and/or experience:

- Some Member States (9) provided that the qualifications should not be lower than a certificate of advanced secondary education.
- In some cases, Member States (3) also require university degrees or master degrees depending on the type of education and/or the role they perform in the undertaking.
- One Member State noted that qualifications must be included on the National Framework of Qualifications at Level 7 or higher (equivalent to Level 6 on the European Qualifications Framework).
- One Member State mentioned that there are no additional requirements established in the Insurance Code for qualification and/or experience beyond those for provided for in the persons involved in insurance distribution activities”

#### *Competences, skills, knowledge tested*

- An overarching majority of NCAs responded that their respective Member States requires an assessment of knowledge and competences before taking up the profession.
- Two NCAs answered negatively to this question.
- 10 Member States have mostly an examination procedure.
- 8 Member States have a combination of exams, designations, trainings or an alternative depending on the conditions provided in their national legislation.
- 1 Member State conducts a questionnaire.
- 2 NCAs stated that the conformity of qualifications is checked by assessing documents provided.

#### *Higher requirements for access to the profession than requirements for continuous training (as per IDD)*

- The majority of Member States (14) do not have higher requirements for access to the profession than for continuous training under IDD.
- Only 6 NCAs indicated that their Member States have higher requirements for access to the profession.

#### *Admissibility of certificates/qualifications from other Member States*

- 12 Member States do not accept certifications/qualifications issued by other Member States.
- 10 Member States, on the contrary, accept certifications/qualifications issued by other Member States.
- Those Member States, which admit certifications of other Member States in addition indicated:

- The respective bodies (QFA Board and The Insurance Institute of Ireland) publish comprehensive schedules of exemptions from their examinations which cover various qualifications available in Ireland, UK and other international qualifications,
- In 3 MS, the recognition of certificates from other Member States is laid out in national law,
- In case of an education/university degree, a public body has to deliver a comparability attestation (4 Member States),
- Assessment is conducted on a case-by-case basis (1 Member State).

### **Continuous training requirements**

#### *Higher minimum than in the IDD of training hours required*

- Only 4 Member States provided positive response or noted that it could depend on the program or/and the provider.
- Other Member States either responded negatively or did not provide a specific response to this question.

#### *Admissibility of certificates/qualifications from other Member States*

- Only 6 Member States responded positively.
- Other Member State either responded negatively or did not provide a specific response to this question.