



Setting the global standard for investment professionals

European Commission
Directorate-General Internal Market and Services
B-1049 Brussels
Belgium

15 March 2011

Consultation Paper by DG Internal Market and Services on the Professional Qualifications Directive

Register of Interest Representatives ID # 89854211497-57

CFA Institute is pleased to comment on the European Commission's consultation paper on the Professional Qualifications Directive (the "Consultation").

CFA Institute, through its members' experience in international markets and different investment disciplines, represents the interests of investors and investment professionals to standard setters, regulatory authorities, and legislative bodies worldwide.

The CFA Institute mission is to lead the investment profession globally by setting the highest standards of ethics, education, and professional excellence. In advancing our mission, we strive to be a leading voice on issues of fairness, efficiency, and investor protection in the global capital markets.

Philosophically, CFA Institute advocates for the free movement of qualified professionals and the right to exercise one's profession in all Member States. If qualification requirements are established independent of country-to-country nuances, a person who is fully qualified for his/her profession in one country should be considered fully qualified in another.

Because knowledge of local laws and regulations is part of our code of ethics and standards of practice, CFA charterholders can rely on the knowledge, skills, and abilities demonstrated by their charterholder status and should be able to take full advantage of the potential of the Single Market without any adaptation periods or aptitude tests.



We attach our response that addresses the questions of the Consultation. Please do not hesitate to contact us should you wish to discuss any of the points raised.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Ed Bace', written in a cursive style.

Ed Bace, CFA
Head, Education – Europe, Middle East and Africa
CFA Institute

+44 (0)20 7531 0756
ed.bace@cfainstitute.org



CFA Institute is a global, not-for-profit professional association of more than 102,000 investment analysts, portfolio managers, investment advisors, and other investment professionals in 135 countries, of whom more than 92,000 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 135 member societies in 58 countries and territories. We have close to 13,000 members resident in the European Union.

CFA Institute develops, promulgates, and maintains the highest ethical standards for the investment community, including the CFA Institute Code of Ethics and Standards of Professional Conduct, Global Investment Performance Standards (“GIPS®”), and the Asset Manager Code of Professional Conduct (“AMC”). CFA Institute is best known for developing and administering the Chartered Financial Analyst® curriculum and examinations and issuing the CFA Charter.

Our specific comments follow the order of the questions in the Consultation.

Section 2: A Call for Simplification		
Question 1: Do you have any suggestions for further improving citizen's access to information on the recognition processes for their professional qualification in another Member State?		
1	Citizens' access to information on recognition processes for professional qualifications in other Member States should be as widely available as possible, freely posted on internet sites, for instance, and stated as clearly as possible, offering the most up-to-date information with as much standardisation as feasible. In the case of the CFA designation, all of this information is consistently presented and freely available on CFA Institute's website and through its offices.	
Question 2: Do you have any suggestions for the simplification of the current recognition procedures? If so, please provide suggestions with supporting evidence.		

2	<p>Current recognition procedures could be simplified by adapting everything to a common pan-European platform. A point of single contact is a sensible idea in this respect. In the case of CFA Institute for example, CFA UK members can become members of the German CFA Society automatically because they have achieved the same standard. Members of CFA Institute and other constituencies can contact the organisation centrally, via phone or email, or through a regional office. Recognition procedures are globally standardised, to ensure as level a playing field as possible. Promoting pan-European professional associations which provide professional education and qualifications would help cross-recognition among Member States and thereby support greater labour mobility.</p>	
<p>Question 3: Should the Code of Conduct become enforceable? Is there a need to amend the contents of the Code of Conduct? Please specify and provide the reasons for your suggestions.</p>		
3	CFA Institute does not have an opinion on this question.	
<p>Question 4: Do you have any experience of compensation measures? Do you consider that they could have a deterrent effect, for example as regards the three years duration of an adaptation period?</p>		
4	<p>CFA Institute supports the concept that a professional fully qualified in one Member State should have full access to the profession in any other Member State. If the professional qualification is sufficiently broad, the need for partial access should not arise. In the investment management profession, there are no differences between fields of activity so large that they cannot be compensated by continuing education provided that the broad professional qualification is in place.</p> <p>CFA Institute's experience has been that our global technical standards include generic versions of local issues such as taxes, and we make it easy for charterholders to adapt to the local country through our continuing education program. Nevertheless, the effect of country-specific compensation measures can be ameliorated provided that appropriate waivers/exemptions are granted for coverage of topics so that the practitioner is not required to face redundant aptitude tests, and CFA Institute recognizes that some jurisdictions may require compensation measures.</p>	

	<p>For example, compensation measures are required in the UK, home of our largest European society, CFA UK. To this point, automatic recognition of professional qualifications between Member States has not been in place in UK financial services. A key principle in UK financial regulation is that professionals must have been assessed on the UK regulatory and taxation system; including details that are specific to the UK and which would not be found in qualification programmes in other Member States. The combination of ‘technical/generic’ + ‘regulatory/nation specific’ qualification requirements for finance professionals has underpinned accredited finance qualifications since the 1990s.</p> <p>Some recent attempts have been made to recognise international qualifications of reasonable equivalence for advising on investments under the Financial Services Authority’s Retail Distribution Review (RDR). However, there remains a requirement (even within the new RDR rules) that all investment advisors must have passed examinations that meet the FSA’s detailed ‘Examination Standards’ (curriculum). A small number of qualifications from outside the UK have been recognised by the FSA in combination with UK qualifications ensuring that both technical and UK-specific content has been assessed.</p> <p>In the event that automatic recognition of professional qualifications was introduced for finance professionals, it is very likely that UK and other Member States would need to insist on a form of ‘compensation measure’ that ensured professionals moving between Member States were qualified to work within the specific regulatory and taxation regimes of the host state.</p>	
<p>Question 5: Do you support the idea of developing Europe-wide codes of conduct on aptitude tests or adaptation periods?</p>		
5	<p>Once an appropriate qualification has been achieved in a Member State, the qualification should be acceptable in other Member States and should require no additional aptitude test. If, however, an aptitude test is put in place by another Member State, such a test should follow best practice.</p> <p>A successful aptitude test must determine whether the candidate possesses the knowledge, skills, and abilities needed to succeed in a given profession.</p>	



	<p>To follow best practices, an aptitude test must be driven by a practice analysis that results in clearly expressed learning objectives. The examination development process should follow best practices, including an extensive review process to ensure fairness to candidates and faithfulness to the learning objectives and practice analysis. The test should determine whether candidates can function at an appropriate order of knowledge (recall, application, synthesis, etc.). Post-examination analysis should determine whether the results are valid (measure what is intended).</p> <p>To the extent that a code of conduct for aptitude tests embodied such practices, CFA Institute would support such a code.</p>	
<p>Question 6: Do you see a need to include the case law on “partial access” into the Directive? Under what conditions could a professional who received “partial access” acquire full access?</p>		
6	<p>Because CFA Institute views qualified investment professionals as having a broad qualifications base, we do not think that partial access in one Member State is appropriate if a professional has been fully qualified in another Member State. Full access should be available to those who hold a recognised professional qualification in any Member State.</p>	
<p>Question 7: Do you consider it important to facilitate mobility for graduates who are not yet fully qualified professionals and who seek access to a remunerated traineeship or supervised practice in another Member State? Do you have any suggestions? Please be specific in your reasons.</p>		
7	<p>CFA Institute supports mobility for graduates. This is important for career development, and it would seem to make sense for such individuals to benefit from employer sponsorship in this regard. If a graduate in one Member State is offered an internship in another Member State, this should be on the basis of merit and/or particular skills valued by the employer, who has a vested interest in that intern. For example, those aspiring to the CFA charter must gain successful investment management experience before earning the charter and so CFA Institute considers it important for candidates to have the mobility to pass levels of the CFA Program in one Member State and move easily to another.</p>	
<p>Question 8: How should the home Member State proceed in case the professional wishes to return after a supervised practice in another Member</p>		



State? Please be specific in your reasons.		
8	It is difficult to envision why there should be obstacles to a professional's return home after practicing in another Member State. Enhanced mobility should benefit all participants.	
Question 9: To which extent has the requirement of two years of professional experience become a barrier to accessing a profession where mobility across many Member States in Europe is vital? Please be specific in your reasons.		
9	This could be a barrier, but in the case of the CFA designation, where 4 years' professional experience is required, it is less a matter of mobility than achieving the designation itself. Nevertheless, our candidates who have passed one or more levels of our program should have met the minimum entry-level qualification requirements necessary for mobility without a two-year professional experience requirement.	
Question 10: How could the concept of "regulated education" be better used in the interest of consumers? If such education is not specifically geared to a given profession could a minimum list of relevant competences attested by a home Member State be a way forward?		
10	<p>CFA Institute views education and experience as both being important.</p> <p>The consumers most relevant to CFA Institute are investors: the end users of investment products. A formal framework for recognising professional education and certifications for practising certain professions would likely protect investors by ensuring high quality standards. Since 1963, CFA Institute has been administering the CFA Program to serve their interests by producing a breed of investment professionals – CFA charterholders – with firm ethical grounding and demonstrated competence. We are continually engaged in the process of practice analysis: a study of what serious investment professionals with high ethical standards need to be able to do “in practice” around the world. The results of these analyses are contained within our Global Body of Investment Knowledge (GBIK), a comprehensive outline of knowledge for the investment profession. From topics in the GBIK, CFA Institute compiles the tools our analysis has indicated to be most useful in a “generalist” setting into a Candidate Body of Knowledge (CBOK). In order to become a CFA charterholder, a candidate must demonstrate his mastery of these topics by passing three levels of exams, have four years of relevant work experience, and submit a professional conduct statement annually.</p>	

Section 3: Integrating Professionals into the Single Market

Question 11: What are your views about the objectives of a European professional card? Should such a card speed up the recognition process? Should it increase transparency for consumers and employers? Should it enhance confidence and forge closer cooperation between a home and a host Member State?

11	<p>The basic objective of improving mobility and reducing bureaucracy for professionals seeking to move between Member States appears laudable but would introduce significant risk to any of the high stakes professions. Only if the content and assessment rigour of the qualification programme represented by the card was absolutely transparent and respected would the card itself have validity. Risk would be introduced if a Professional Card led to vague assumptions of qualification status. If the card masks the fact that a lower level qualification programme has been accepted by a particular home Member State, then it will not gain credibility in host Member States. The first response of regulators and employers would be to question where the Professional Card had been issued and what qualification processes were in place there.</p> <p>A system of listing and recognising appropriate qualifications available in different Member States seems a more direct and transparent approach. Some qualifications (including the CFA Program) are established and accredited in Member States across the European Union. This presents the ideal scenario that a credential recognised in one Member State is identical to that held in another. In this regard, a European Qualifications Framework for Investment Management would be very beneficial.</p>	
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Question 12: Do you agree with the proposed features of the card?

12	<p>The Professional Card proposal appears to introduce notable risk and the likelihood of lowering standards. However, if a card were introduced it would logically have most of the features listed. It should certainly be voluntary and acceptance should not be binding on Member States. The card would only work if the underpinning standards were uniform and fully accepted. There would be advantages in avoiding the ‘case by case recognition’ process but the Professional Card does not seem to be the answer (for reasons outlined above).</p> <p>The implications of an automated electronic recognition system should be very carefully reviewed in terms of the Data Protection Act and the potential impact of error. This would need detailed further investigation.</p>	
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Question 13: What information would be essential on the card? How could a timely update of such information be organised?		
13	We have doubts (outlined above) about the introduction of a Professional Card. If it were introduced, logically such a card would include the standard personal details, the basis of qualification, country of issuance, and duration dates. The card would need to reflect the fact that many professions include compulsory annual continuous professional development (CPD) and renewal of qualification status and therefore the validity of the card would need to have stated duration.	
Question 14: Do you think that the title professional card is appropriate? Would the title professional passport, with its connotation of mobility, be more appropriate?		
14	If the Professional Card were introduced ‘Card’ seems a better term than ‘Passport’ (having multiple other implications).	
Question 15: What are your views about introducing the concept of a European curriculum – a kind of 28 th regime applicable in addition to national requirements? What conditions could be foreseen for its development?		
15	<p>Within the investment industry (and potentially other industries) in the European Union, we see potential benefits for a common “28th regime”:</p> <ul style="list-style-type: none"> • Broad consensus and understanding of requirements to practice. • Accepted minimum standard of professional competence. • Increased mobility for investment professionals. <p>Potential problems with a common “28th regime” within the investment industry in the European Union are:</p> <ul style="list-style-type: none"> • In some countries, there may be imposed new regulatory hurdles/obstacles for holders of professional qualifications where none currently exist. <p>With respect to the investment profession, CFA Institute encourages the development of a “28th regime” that would</p>	

	<p>serve as a common minimum qualification for certain categories of investment industry functions across all European Union Member States. Once a 28th regime gains broad acceptance, the minimum standard would serve to improve mobility for individuals while setting a competency benchmark for all Member States. In the absence of a common global regime for investment industry practitioners, the CFA Program, which began in 1963, has over time attained worldwide acceptance as an informal standard for individuals to demonstrate their industry knowledge, professional competency, and ethical commitment. In implementing a 28th regime for investment industry functions, CFA Institute suggests a structure where common competencies are set forth for respective industry functions, and private organizations are invited to demonstrate their approach to certifying an individual's professional and ethical competence. By approving a variety of programs for certifying minimum professional and ethical competence, private sector competition coupled with appropriate regulatory oversight would ensure that the 28th regime is implemented efficiently and effectively.</p>	
<p>Question 16: To what extent is there a risk of fragmenting markets through excessive numbers of regulated professions? Please give illustrative examples for sectors which get more and more fragmented.</p>		
16	<p>CFA Institute sees a risk of fragmenting as the number of regulated professions increases. A necessary premise to regulate a profession is the definition of that profession. Once the boundaries of the profession have been defined, market participants often times develop business models intended to fall outside the boundaries of the defined profession in an effort to avoid regulation, thereby increasing fragmentation. The CFA qualification is a broad one covering all the major areas needed by serious investment professionals.</p>	
<p>Question 17: Should lighter regimes for professionals be developed who accompany consumers to another Member State?</p>		
17	<p>CFA Institute is in favour of increased mobility. Provided the professional is qualified in the home Member State, nothing additional should be needed when accompanying a consumer to another Member State. We do not see a need for more than one code of professional responsibility in our industry. Our Code of Ethics and Standards of Professional Conduct is sufficiently comprehensive, and applies equally to CFA charterholders wherever they practice. We would encourage the Commission to use its brevity and broad applicability as a model.</p>	

Question 18: How could the current declaration regime be simplified, in order to reduce unnecessary burdens?		
18	The declaration regime could be simplified by allowing immediate mobility upon declaration and by limiting the details needed to the qualification rather than to such details as the time, duration, and type of intended activities. The declaration regime needs to be efficient and effective.	
Question 18A: Is it necessary to require a declaration where the essential part of the services is provided online without declaration?		
18A	In CFA Institute’s opinion, the question shouldn’t be whether the services are provided online or physically within a jurisdiction, but rather, where the recipients of services are located. To truly achieve mobility, there would have to be a more uniform standard across jurisdictions (like the CFA charter, which is the same across boundaries).	
Question 18B: Is it necessary to clarify the terms “temporary or occasional” or should the conditions for professionals to seek recognition of qualifications on a permanent basis be simplified?		
18B	Per the previous point, this could turn on the location of the client instead.	
Question 19: Is there a need for retaining a pro-forma registration system?		
19	It seems sensible to retain a pro-forma registration system. Member states should be allowed to use a pro-forma registration system to ensure a recognised, professional standard amongst all practitioners (home or hosted). Nevertheless, the registration should be done efficiently and cause no delay provided the member is qualified in his/her home Member State.	
Question 20: Should Member States reduce the current scope for prior checks of qualifications and accordingly the scope for derogating from the declaration regime?		
20	A comprehensive European Qualifications Framework for Investment Management against which professional qualifications could obtain appropriate waivers/exemptions would allow the reduction of the current scope for prior checks. Nevertheless, the latitude for competent authorities and employers to apply prior checks of qualifications seems essential in the current situation. Standardised content, levels and rigour of assessment does not exist between	

	<p>qualification regimes in different member states. It would introduce significant risk if competent authorities and employers in the host state were unable to use prior checks on the specific cover of qualifications before approving qualified status of mobile professionals. Again, where a respected qualification programme is available across the European Community this issue is resolved – regulators and employers will have the confidence that the qualifications of both home and hosted professionals are identical.</p>	
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Section 4: Injecting More Confidence into the System		
<p>Question 21: Does the current minimum training harmonisation offer a real access to the profession, in particular for nurses, midwives and pharmacists?</p>		
21	<p>In general, CFA Institute views education and experience as important components of professionalism. We think it would be helpful to our members and convenient to EU member states to have the globally relevant, jurisdictionally neutral CFA charter recognized for financial professionals in a similar fashion across the EU for regulatory purposes.</p>	
<p>Question 22: Do you see a need to modernise the minimum training requirements? Should these requirements also include a limited set of competences? If so what kind of competences should be considered?</p>		
22	<p>In the context of the importance of education and experience, minimum training requirements for finance professionals (institutional and retail) might correspond to the knowledge, skills, and abilities developed in the CFA program (perhaps combined with regional or national gap filling). A common platform would be convenient and effective for EU Member States and desirable for CFA charterholders. (CFA Institute presumes that a necessary condition to recognize the CFA charter across national boundaries within the EU might be a required continuing education program or at least a structured, automated, and auditable mechanism to record professional development credits.)</p>	
<p>Question 23: Should a Member State be obliged to be more transparent and to provide more information to the other Member States about future qualifications which benefit from automatic recognition?</p>		

23	Automatic recognition is not established in financial services as it is in healthcare. In the situation where automatic recognition is implemented, it would be advisable that Member States should be as transparent as possible about current and future qualifications resulting in automatic recognition. There should be regular review to ensure that content, standards and assessment rigour in qualification regimes in individual States do not drift and become inconsistent.	
Question 24: Should the current scheme for notifying new diplomas be overhauled? Should such notifications be made at a much earlier stage? Please be specific in your reasons.		
24	CFA Institute does not have any direct experience with respect to the speed or efficiency of the current scheme for notifying new diplomas. That said, if needed, steps should be taken to improve the speed and ease of notifying new diplomas, assessing new diplomas for compatibility with the requirements of the Directive, and approving training programs for such diplomas. Improved efficiency would presumably encourage participation from more training organisations.	
Question 25: Do you see a need for modernising this regime on automatic recognition, notably the list of activities listed in Annex IV?		
25	Certainly. In the period since the original ISIC listing in 1958, professions have changed beyond recognition. There should certainly be a review and then future reviews timetabled at regular intervals (perhaps every 5 years).	
Question 26: Do you see a need for shortening the number of years of professional experience necessary to qualify for automatic recognition?		
26	<p>Because the CFA designation is global and does not have varying requirements based on location, the questions are not entirely relevant to our organisation.</p> <p>The same set of requirements is upheld for anyone pursuing the CFA designation. There are uniform requirements to enter the CFA Program, to join CFA Institute and earn the CFA charter, and to maintain membership and use of the designation. These uniform requirements follow, and are upheld regardless of the location of the professional:</p> <ol style="list-style-type: none"> 1. Pass all three levels of the CFA exams. A bachelor's degree or equivalent is required for entrance. 	

	<p>2. Join CFA Institute as a regular member. Forty-eight months of qualified work experience and two valid sponsors are required for regular membership. When reviewing work experience to determine an applicant's qualification for membership, we do not consider the applicant's location.</p> <p>3. Maintain membership by submitting dues and a Professional Conduct Statement annually.</p> <p>As a side note, CFA Institute made a conscious decision to establish uniform requirements, as the EU seems to be doing now. For example, at one time the amount and type of sponsors required for membership were set by each society individually and varied greatly. Society A may have required three sponsors from the same company as the applicant, while Society B did not require any sponsors at all. Sponsor requirements were dependent on the applicant's location and the society selected, and transferring membership was not always easy.</p> <p>CFA Institute identified the top three most common combinations of sponsors and gathered society leaders to select one requirement which would apply to all societies (a CFA Institute regular member and a supervisor, one of whom must be a society member).</p>	
Question 27: Do you see a need for taking more account of continuing professional development at EU level? If yes, how could this need be reflected in the Directive?		
27	<p>We have seen the movement towards CPD noted in section 4.2 in many professions. The UK's Financial Services Authority has recently introduced compulsory CPD for investment advisors for the first time and we believe CPD is increasingly an expectation on professionals in all fields. However CPD arrangements, by their nature, are much more difficult than qualifications to rigidly define, measure and report. For example some schemes use credits, others use hours. Self-directed development is a key part of professionalism but difficult to measure. CPD should be taken account of and encouraged at EU level but rigid definitions and requirements should probably be avoided.</p>	
Question 28: Would the extension of IMI to the professions outside the scope of the Services Directive create more confidence between Member States? Should the extension of the mandatory use of IMI include a proactive alert mechanism for cases where such a mechanism currently does not apply, notably health professions?		
28	<p>Extending the Internal Market Information system to professions outside the scope of the Services Directive could</p>	



	provide a benefit to recipients of services, authorities, and professional associations such as CFA Institute. If extended to include financial authorities, the IMI might facilitate the ability of our Professional Conduct Program to identify and contact appropriate partner authorities quickly and effectively in cases involving EU members or candidates.	
Question 29: In which cases should an alert obligation be triggered?		
29	Our understanding is that the criteria for sending an alert include a danger of serious damage to the health or safety of people or to the environment, and thus it is unlikely that the conduct or activity of CFA members or candidates would generate an alert. The Professional Conduct Program of CFA Institute would be affected if the alert obligation were extended to include risk/danger of serious damage to financial health. Such an extension would necessitate significant thought, research, and comment to identify when an alert obligation should be triggered. CFA Institute's view is that someone committing fraud or malpractice in one Member State should not be able to practice in another.	
Question 30: Have you encountered any major problems with the current language regime as foreseen in the Directive?		
30	CFA Institute has not encountered any problem with the current language regime as foreseen in the Directive. The Directive appears to set forth a reasonable and flexible standard.	