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Prof. dr Tatjana Jovanić[1]

IZAZOVI REGULISANJA PLANIRANJA LIČNIH FINANSIJA KAO PROFESIJE

PREGLEDNI RAD

Sažetak

Planiranje ličnih finansija kao nova profesija vezuje se uglavnom za razvijene zemlje, čijem razvoju doprinosi postojanje razvijenog tržišta kapitala i sve većeg broja finansijskih usluga dostupnih potrošačima koji ne raspolažu neophodnim znanjima. U zemljama u kojima postoje posebni zakonski zahtevi ili sertifikacione šeme, profesionalno zvanje „finansijski planer" u pravnom prometu mogu koristiti samo finansijski savetnici koji su zadovoljili takve posebne zahteve, budući da je finansijski planer, a time i planer ličnih finansija, po pravilu najviši nivo u hijerarhiji sertifikacije finansijskih savetnika. U većini zemalja s razvijenim finansijskim tržištima uslovi za pružanje različitih usluga finansijskog savetovanja nisu homogeni, pa se postavlja pitanje da li je dovoljna posebna licenca za pružanje određenih finansijskih usluga ili finansijski savetnici moraju pohađati posebnu edukaciju i imati posebnu kvalifikaciju. U nedostatku jasno definisanih pravila i standarda, u radu se ukazuje na transnacionalnu privatnu regulaciju planiranja ličnih finansija kroz primere sertifikacionih šema. Analiza pravnog okvira EU u vezi sa investicionim savetovanjem i distribucijom osiguranja takođe ukazuje na propuste u definisanju standarda za određivanje „znanja i stručnosti" i odgovarajućih obuka. Najzad, poslovanje malog broja finansijskih savetnika u Srbiji regulisano je propisima u zavisnosti od vrste usluge koju pružaju, ali se može zaključiti da su upravo u oblasti posredovanja i zastupanja u osiguranju zahtevi koji se postavljaju u pogledu stručnosti i znanja detaljnije uređeni u poređenju sa ostalim finansijskim uslugama.

[1] Redovni profesor, Univerzitet u Beogradu – Pravni fakultet: imejl: tanja@ius.bg.ac.rs. Rad je nastao u okviru Strateškog projekta Pravnog fakulteta Univerziteta u Beogradu: *Problemi stvaranja, tumačenja i primene prava* u 2024. godini. ORCID ID 0000-0002-9986-4858
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I Uvod

Planiranje ličnih finansija predstavlja skup aktivnosti, tehnika i postupaka čiji je cilj iznalaženje najboljeg načina za ostvarivanje finansijskih ciljeva pojedinaca, koji bi trebalo da rezultira dobro promišljenim odlukama o daljim postupcima i izboru adekvatnih finansijskih usluga u skladu sa individualnim okolnostima, uverenjima i preferencijama pojedinca.[2] Planiranje ličnih finansija kao proces u najvećoj meri podrazumeva finansijsko savetovanje zasnovano na pažljivoj analizi ciljeva i potreba klijenata koji se, u nedostatku potrebnih znanja, oslanjaju na stručnu pomoć koja će im omogućiti što efikasnije ostvarenje finansijskih ciljeva uz što niže troškove. Povećanje broja finansijskih usluga i njihova složenost zahtevaju posebne kompetencije, znanja, stručnost i profesionalno iskustvo u različitim oblastima finansijskih tržišta, pa se opravdano postavlja pitanje standardizacije poslovanja finansijskih savetnika u procesu planiranja ličnih finansija.

Razvoj finansijskog planiranja kao profesije, pa time i planiranja ličnih finansija kao njegove podvrste, još uvek je na samom početku, a pred regulatorima je dug put ka razvoju adekvatnog regulatornog okvira. S obzirom na složenost i obuhvat usluga koje pružaju finansijski savetnici, a koje se odnose na različita finansijska tržišta i usluge različitog nivoa kompleksnosti, donošenje posebnog zakona kojim bi se uredilo njihovo poslovanje predstavljalo bi veliki izazov. U ovom radu ukazuje se, u najkraćim crtama, na retke primere kada se zakonom zahtevaju posebni uslovi za dobijanje licence za profesionalno zvanje finansijski planer. Budući da je finansijsko savetovanje u domenu kako korporativnih tako i ličnih finansija osnov finansijskog planiranja, poslovanje lica koja pružaju usluge planiranja ličnih finansija u sistemima gde se za upotrebu kvalifikacije „finansijski planer" ne zahteva provera posebnih znanja i veština može biti uslovljeno posedovanjem licence za finansijskog savetnika. Kao barijera za ulazak u sektor, licenca je slična drugim mehanizmima autorizacije kojima se ograničava pristup tržištu, kao što su registracija, sertifikacija i akreditacija, ali se od njih razlikuje po nivou uspostavljanja profesionalnih standarda, ovlašćenjima organa nadzora i posledicama kršenja uslova za sticanje licence i profesionalnih obaveza. Dobijanje licence podrazumeva i poštovanje profesionalnih standarda finansijskog savetovanja. Uporedno posmatrano, najčešće je reč o posebnim licencama za obavljanje poslova investicionog savetovanja, posredovanja u osiguranju, kao i u domenu poreskog planiranja i računovodstvenih usluga. U nedostatku državne regulacije, u radu se ukazuje na samoregulatorne mehanizme razvijene pod okriljem profesionalnih udruženja i značaj transnacionalne privatne regulacije profesija.

[2] Jonquil Lowe, *Be Your Own Financial Adviser: The comprehensive guide to wealth and financial planning*, Pearson Education, 2010, 3-4.

Pored nekoliko istaknutih primera sertifikacionih šema profesionalnih kvalifikacija finansijskih planera, naročito je značajan međunarodni standard ISO 22222:2005 Planiranje ličnih finansija (*Personal financial planning – Requirements for personal financial planners*)[3], koji predstavlja solidan osnov za utvrđivanje bitnih elemenata potrebnih veština, stručnih znanja i iskustva.

U toku poslednje decenije i u našoj zemlji sve češće se, pogotovo na društvenim mrežama, može primetiti oglašavanje usluga edukacije i/ili savetovanja o planiranju ličnih finansija od strane lica koja više podsećaju na motivacione govornike i „influensere" nego na profesionalne finansijske savetnike. U situacijama kada njihov savet prevazilazi edukaciju i može uticati na izbor potrošača kao korisnika finansijskih usluga, postavlja se pitanje adekvatnosti zaštite potrošača. Propisi Republike Srbije u oblasti tržišta kapitala i osiguranja u velikoj meri usklađeni su sa zahtevima Direktive 2014/65/EU o tržištu finansijskih instrumenata (dalje u tekstu: Direktiva MiFID II)[4] i Direktive EU o distribuciji osiguranja,[5] uključujući tu i zahteve koji se odnose na obezbeđenje transparentnosti, nezavisnosti i zaštite potrošača u oblasti investicionih saveta, odnosno razlikovanje između savetovanja i informisanja.[6] Međutim, potrebno je pratiti aktivnosti u EU koje su usmerene ka realizaciji Strategije za investiranje potrošača, kojom se najavljuje izmena odredaba pomenutih direktiva u cilju unapređenja profesionalnih kvalifikacija finansijskih savetnika u EU.[7] U tom smislu, u ovom radu su detaljno razmotreni ne samo izazovi normiranja finansijskog planiranja kao profesije, već i nedoumice u definisanju „kompetencija", kao i zahtevi koji se postavljaju u pogledu profesionalnih kvalifikacija i kontinuiranog obrazovanja finansijskih savetnika.

II Pojam, nastanak i razvoj planiranja ličnih finansija

1. Pojam i značaj planiranja ličnih finansija

Kao disciplinarna oblast, izučavanje ličnih finansija (*personal finance*) podrazumeva analizu i primenu koncepata, alata i tehnika povezanih s planiranjem

[3] International Organization for Standardization, ISO 22222:2005, *Personal financial planning* – Requirements for personal financial planners.

[4] 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, *OJ L 173*, 12. 6. 2014, 349–496.

[5] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast), *OJ L 26*, 02/02/2016, 19–59.

[6] O razlici između obaveze informisanja i savetovanja u slučaju kada potrošači zaključuju ugovor sa osiguravačem vid. Nataša Petrović Tomić, *Zaštita potrošača usluga osiguranja, analiza i predlog unapređenja regulatornog okvira*, Beograd, 2015, 214.

[7] European Commission, *Retail Investment Strategy – Empowering Retail Investors on EU capital markets*, May 2023, *https://finance.ec.europa.eu/document/download/ce290ee2-1f05-41f6-9540-84c3605ccb0f_en?filename=230524-retail-investment-strategy-factsheet_en.pdf,* pristupljeno 15. 10. 2024.

i upravljanjem ličnim finansijskim aktivnostima i finansijskim aktivnostima domaćinstva, uključujući ostvarivanje prihoda, upravljanje potrošnjom i dûgom, štednju, ulaganje i zaštitu izvora prihoda i imovine, u cilju identifikacije praksi i politika čiji je cilj da poboljšaju dobrobit pojedinaca, porodica i domaćinstava. U najširem teorijskom smislu, lične finansije obuhvataju finansijsko planiranje, finansijsko savetovanje, finansijsku psihologiju i finansijsku terapiju.[8] Lične finansije podrazumevaju primenu principa finansija, upravljanja resursima, edukacije potrošača i sociologije i psihologije odlučivanja na proučavanje načina na koje pojedinci, porodice i domaćinstva stiču, razvijaju i alociraju novčana sredstva kako bi ispunili svoje sadašnje i buduće finansijske potrebe.[9]

Iako bi se, na prvi pogled, moglo pretpostaviti da se planiranje ličnih finansija vezuje za imućniji sloj stanovništva koji raspolaže viškom sredstava, njegov značaj se ogleda i u smanjenju rizika od negativnih posledica u slučaju promena spoljašnjih okolnosti (npr. finansijske krize) i ličnih okolnosti pojedinaca.[10] U tom smislu, planiranje ličnih finansija doprinosi ne samo poboljšanju upravljanja ličnim finansijama i uvećanju bogatstva pojedinaca, to jest podizanju životnog standarda, već i smanjenju rizika od individualnog bankrotstva i postizanju finansijske sigurnosti i stabilnosti. To, s druge strane, pozitivno utiče na važne makroekonomske ciljeve, kao što su privredni rast i održanje finansijske stabilnosti.

Finansijsko planiranje uključuje veliki broj oblasti pružanja finansijskih saveta. Kao segment finansijskog planiranja, planiranje ličnih finansija je zaokruženi proces koji obuhvata različite aktivnosti, tehnike i postupke koji za cilj imaju pronalaženje optimalnog načina ostvarivanja finansijskih ciljeva pojedinaca. Postoje dva modela pružanja usluga ličnog finansijskog planiranja: (a) specijalizovani model, gde klijent može individualno da radi s više finansijskih profesionalaca; i (b) model planera, gde klijent često radi sa finansijskim planerom koji služi kao posrednik između klijenta i drugih finansijskih stručnjaka.[11] Planiranje ličnih finansija obuhvata različite oblasti interesovanja klijenata kao što su: poresko planiranje odnosno ostvarivanje poreskih ušteda; upravljanje ličnim budžetom kao planiranje prihoda i rashoda, to jest odnosa između štednje i potrošnje; ulaganje sredstava, to jest njihovu upotrebu radi ostvarivanja budućih dobiti; upravljanje rizikom kroz različite vrste osiguranja; planiranje penzijskog osiguranja i obezbeđenje nadoknade gubitka prihoda od zaposlenja, planiranje zaostavštine i dr.

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[8] John E. Grable, Swarn Chatterjee, „Defining Personal Finance", *De Gruyter Handbook of Personal Finance* (eds. John E. Grable, Swarn Chatterjee), De Gruyter, 2022, 3–17, 3.

[9] Jane Schuchardt et al., „Personal finance: An interdisciplinary profession", *Journal of Financial Counseling and Planning*, Vol. 18, No. 1. 2007, 61–69, 67.

[10] Lewis Altfest „Personal financial planning: origins, developments and a plan for future direction", *The American Economist*, Vol. 48, No. 2. 2004, 54.

[11] Kenneth Black, Konrad Ciccotello, Harold Skipper, „Issues in comprehensive personal financial planning", *Financial Services Review*, 11(1), 2002, 1–9.

S obzirom na to da je opseg usluga koje klijenti mogu očekivati od finansijskih savetnika širok, zbog različitosti u nacionalnim regulatornim sistemima pojavila se potreba za usaglašavanjem praksi i pravila poslovanja i na globalnom nivou. U tom smislu, najznačajniju inicijativu predstavlja donošenje međunarodnog standarda za planiranje ličnih finansija pod okriljem Međunarodne organizacije za standardizaciju. Međunarodni standard ISO 22222:2005 definisao je proces planiranja ličnih finansija kroz šest faza odnosno koraka i postavio zahteve u pogledu etičkog ponašanja, kompetentnosti i neophodnih iskustava ličnih finansijskih savetnika, bez obzira na njihov radnopravni status, kao i načine za proveru usklađenosti poslovanja.

Prvi korak procesa planiranja ličnih finansija jeste uspostavljanje profesionalnog odnosa između finansijskog savetnika i klijenta. Pored razumevanja njegovih prava i obaveza, obaveza finansijskog savetnika i karakteristika usluga koje pruža, pomenuti standard postavlja i zahtev za informisanjem klijenata o formalnim kvalifikacijama, stručnosti i iskustvu finansijskog savetnika, pored opisa usluga koje pruža i uslova angažovanja, odnosno cene usluge i ostalih zahteva koji se odnose na izvršenje ugovora. Cilj standardizacije tih zahteva jeste uspostavljanje dugoročnog odnosa zasnovanog na transparentnosti i poverenju.[12] Druga faza podrazumeva prikupljanje kvalitativnih i kvantitativnih podataka o finansijskom statusu i sklonostima klijenta i definisanje njegovih ciljeva i očekivanja, odnosno strategija koje će klijentu omogućiti realizaciju finansijskih ciljeva. Osnovna uloga planera ličnih finansija u ovoj fazi je da, kroz specifična pitanja, uopštene odgovore klijenata pretoči u tačno određene i merljive finansijske ciljeve i prioritete. Međutim, konkretan finansijski plan zavisiće od ciljeva klijenata, tačnije od njihovih prioriteta.[13]

Pošto su prikupljene neophodne informacije i definisani ciljevi i prioriteti klijenata, sledeća, treća faza, predstavlja analizu prikupljenih podataka i ocenu finansijskog položaja klijenta. Ishod procesa analize je odgovor na pitanje da li je realizacija postavljenih ciljeva klijenata izvesna. Ukoliko jeste, pristupa se formulisanju strategije. Formulisanje strategije podrazumeva izradu i prezentaciju finansijskog plana odnosno plana ličnih finansija, što prema pomenutom međunarodnom standardu predstavlja četvrti korak procesa planiranja ličnih finansija. Upravo zbog značaja predstavljanja finansijskog plana, neki autori smatraju da se taj korak zapravo sastoji iz dve odvojene faze: izrade finansijskog plana odnosno formulisanja preporuka i prezentacije preporuka klijentu.[14]

Poslednje dve faze odnose se na sprovođenje u delo finansijskih preporuka i praćenje finansijskog plana i odnosa u finansijskom planiranju. Finansijski savetnik može, neposredno ili posredno, učestvovati u primeni preporučene strategije za koju se klijent opredeli, što dalje može podrazumevati i koordinaciju procesom

[12] Gordana Stojanović, „Standardizovani zahtevi za planere ličnih finansija", *Bankarstvo*, br. 5/6, 2006, 56–57.
[13] Lawrence Gitman, Michael Joehnk, Randy Billingsley, *Personal Financial Planning*, South-Western, 2014, 2–7.
[14] Allen McLellan, *Foundations of Financial Planning: An Overview*, The American College Press, 2012, 32.

sprovođenja preporuka u postupku u kome bi učestvovala i druga stručna lica kao što su investicioni savetnici tržišta kapitala, poreski savetnici, advokati i dr. U toj fazi neophodno je da finansijski savetnik bude upoznat sa svim pravnim pitanjima i procedurama u sprovođenju finansijskog plana.[15] Najzad, proces planiranja ličnih finansija obično se ne svodi samo na izradu preporuka sadržanih u planu ličnih finansija, već na uspostavljanje dugoročnog profesionalnog odnosa, koji prevazilazi puku primenu preporuka i prerasta u praćenje napretka u realizaciji finansijskog plana. Prilikom promena realnih i ličnih okolnosti i izmena u finansijskoj situaciji klijenta, finansijski savetnik može revidirati finansijski plan.

II Uloga profesionalnih udruženja u nastanku i razvoju finansijskog planiranja

Kao deo šire celine finansijskog planiranja, planiranje ličnih finansija predstavlja relativno mladu delatnost koja se kontinuirano razvija, počev od šezdesetih godina prošlog veka, kada se pojavila u Sjedinjenim Američkim Državama (SAD). Prvi korak u nastanku modernog finansijskog planiranja bila je stručna konferencija održana u Čikagu 1969. godine, nakon koje je usledilo osnivanje prvih organizacija: Međunarodnog udruženja finansijskih savetnika (*International Association of Financial Counselors* (IAFC)), koje kasnije prerasta u Međunarodno udruženje za finansijsko planiranje (*International Association for Financial Planning* (IAFP)) i Međunarodnog koledža za finansijsko savetovanje (*International College for Financial Counseling*). Drugopomenuto udruženje je od sredine sedamdesetih godina prošlog veka veoma aktivno na polju pružanja edukacije, pa je razvilo sistem sertifikacije profesionalnih finansijskih planera (*Certified Financial Planner* (CFP)). Iz redova polaznika njegovih edukacija nastalo je novo udruženje pod nazivom Institut sertifikovanih finansijskih planera (*Institute of Certified Financial Planners* (ICFP)). To udruženje se 2000. godine spaja sa IAFP i tako nastaje novo Udruženje finansijskih planera (*Financial Planning Association* (FPA)).[16]

Kako profesionalno udruženje koje je pružalo usluge obrazovanja nije uspelo da nametne etičke standarde, u cilju jačanja profesionalnosti i etičkog poslovanja, 1985. godine osniva se Međunarodni odbor za standarde i praksu sertifikovanih finansijskih planera (*International Board of Standards and Practices for Certified Financial Planners* (IBCFP)), koji potom prerasta u Odbor za standarde sertifikovanih finansijskih planera (*Certified Financial Planner Board of Standards* (*CFP Board*)). To telo potom dobija nadležnost za sertifikaciju i izdavanje sertifikata o dobijanju zvanja sertifikovanog finansijskog planera – CFP sertifikat.[17]

[15] Antony Young, *Financial Planning in Practice*, Melbourne, 2013, 134.

[16] Više o istorijskom razvoju: Denby E. Brandon, Oliver H. Welch, *The History of Financial Planning: The Transformation of Financial Services,* John Wiley & Sons, 2009.

[17] CFP Board, *CFP Board Financial Planning Competency Handbook,* John Wiley & Sons, 2015.

Globalna ekspanzija finansijskog planiranja počinje 90-ih godina prošlog veka formiranjem Međunarodnog saveta sertifikovanih finansijskih planera (*International CFP Council*). Savet je nastojao da okupi srodna profesionalna udruženja širom sveta u cilju uspostavljanja standarda poslovanja i razvoja profesije. Pristupanjem Međunarodnog udruženja za finansijsko planiranje, osnovanog u Australiji, Australija postaje prva zemlja posle SAD koja dobija ovlašćenje za izdavanje CFP sertifikata. Potom se pridružuju profesionalna udruženja iz Japana, Velike Britanije, sa Novog Zelanda, iz Kanade, Nemačke, Francuske i dr. To je dovelo do priznavanja zvanja sertifikovanog finansijskog planera na globalnom nivou, koje je postalo sinonim za profesionalno i etičko obavljanje delatnosti finansijskog planiranja. Globalnom razvoju finansijskog planiranja naročito je doprinelo prenošenje nadležnosti za upravljanje sertifikacionim programom van granica SAD na udruženje koje se osniva 2004. godine, pod nazivom Odbor za standarde finansijskog planiranja (*Financial Planning Standards Board* (FPSB)), koje od svog osnivanja aktivno lobira za priznavanje finansijskog planiranja kao posebne delatnosti i regulisanje ove profesije.[18]

Nezavisno od navedenih međunarodnih udruženja, finansijsko planiranje razvijalo se i u zemljama Evrope, van okvira sertifikacionog programa CFP. Najvažniju ulogu u razvoju finansijskog planiranja na teritoriji evropskog kontinenta ima Evropsko udruženje za finansijsko planiranje (*European Financial Planning Association* (EFPA)), kao ključna profesionalna asocijacija koja razvija profesionalne standarde, promoviše stručnost, integritet i rukovodi procesom sertifikacije u okviru nekoliko nivoa profesionalnih sertifikata, a predstavlja i stožer Etičkog kodeksa. Pod okriljem te institucije intenzivno se lobira za unapređenje ne samo sistema profesionalnih standarda i panevropske sertifikacije finansijskih savetnika u EU već i regulative koja se odnosi na različite oblike finansijskog savetovanja u pravu EU, na šta se u ovom radu posebno ukazuje.[19]

III Regulisana profesija i zahtevi kompetencije (znanje, stručnost i iskustvo) u domenu planiranja ličnih finansija

1. Pojam regulisane profesije

U sociološkom smislu, profesija podrazumeva zanimanje koje ima monopol nad nekim kompleksnim delom znanja i praktičnih veština, za koje je potrebno školovanje odnosno određeni stepen obrazovanja, što je čini prepoznatljivom

[18] D. E. Brandon, O. H. Welch, 113.

[19] Fernando Zunzunegui, Paloma Corbal, Mariola Szymanska, Maria Debora Braga, Patrick Levaldaur, Emanuele Maria Carluccio, *Improving Qualifications for Financial Advisors in EU: Policy Proposals*, EFPA, Brussels, 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4466821, 10. 09. 2024.

u društvu.[20] Pojam profesije širi je od pojma zanimanja, koje podrazumeva skup poslova koji su u pogledu sadržaja, organizacije ili tehnologije srodni i međusobno povezani. Kao statistička jedinica, kvalifikacija je sposobnost obavljanja zadataka i dužnosti jednog zadatog posla i ima dve dimenzije a) nivo (stepen) kvalifikacije – koji se odnosi na složenost i obim zadataka i b) vrstu kvalifikacije – koju definiše oblast potrebnog znanja, kao i vrste proizvoda i usluga.[21] Koncept „profesije" predstavlja nadgradnju koncepta „zanimanje", jer podrazumeva određenu stručnost, odnosno znanja i praktične veštine, kontinuitet i stalnost obavljanja nekog zanimanja. Stručni autoritet podrazumeva da nosilac profesije pruža usluge onima koji ne poseduju adekvatna znanja u pogledu samog kvaliteta pružene usluge.[22] Da bi jedno zanimanje moglo da se smatra profesijom, neophodno je da budu zadovoljeni određeni uslovi: a) sistematičnost znanja; b) stručni autoritet; c) regulatorni okvir i nadzor nad obavljanjem delatnosti; d) etički standardi; e) postojanje specifične potkulture koja se temelji na dostizanju znanja, statusa, vrednosti, obrazaca ponašanja i posvećenosti nosilaca profesije.[23]

Prema Direktivi 2005/36/EC o priznavanju profesionalnih kvalifikacija[24] regulisanom profesijom smatra se profesionalna delatnost ili skup profesionalnih delatnosti kod kojih je pristup i obavljanje, odnosno način obavljanja delatnosti, na osnovu zakonskih, podzakonskih ili drugih akata donetih na osnovu zakonskih ovlašćenja, neposredno ili posredno uslovljen posedovanjem određenih profesionalnih kvalifikacija. Regulisanom profesijom smatra se i profesionalna delatnost ili skup profesionalnih delatnosti kojima se bave članovi stručnih organizacija s profesionalnim nazivom.[25]

Dakle, profesija se načelno smatra regulisanom ako je preduslov za rad u toj profesiji posedovanje određene diplome, položen poseban ispit, kao što je državni ispit, i/ili registracija pri strukovnom telu. Pritom je neophodno praviti razliku između obrazovne i stručne kvalifikacije.[26] Pod stručnom kvalifikacijom ne podrazumeva se samo stepen obrazovanja, već i kvalifikacije stečene nakon obrazovanja (radno iskustvo, licenca i dr.). Dakle, pojam profesije širi je od obrazovne (formalne) kvalifikacije koja se stiče završetkom formalnog obrazovanja, a dokazuje diplomom, sertifikatom ili drugom javnom ispravom koju izdaje nadležna obrazovna ustanova. Profesionalna kvalifikacija često podrazumeva i postojanje profesionalnog iskustva,

[20] Josip Županov, Željka Šporer, „Profesija sociolog", *Revija za sociologiju*, Vol. 14, No. 1-2, 1984, 15.

[21] Republički zavod za statistiku, *Klasifikacija zanimanja*, Beograd, 2011, 7.

[22] Jon A. Schmidt, „What Is a Profession?", *The Structure Magazine,* November 2008, 9.

[23] Ernest Greenwood, „Attributes of a Profession", *Social Work*, Vol. 2., No. 3. 1957, 45-55.

[24] Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, *OJ L 255*, 30.9.2005, 22–142.

[25] Čl. 4 st. 5 Zakona o regulisanim profesijama i priznavanju profesionalnih kvalifikacija, *Službeni glasnik RS*, br. 66/2019.

[26] Tatjana Jovanić, *Uvod u ekonomsko pravo*, Beograd, 2024, 150.

a pre svega se zasniva na posedovanju određenih kompetencija. Kompetencije često predstavljaju posebne uslove za rad jer se odnose na određena znanja, sposobnosti, a ponekad i osobine ličnosti. Znanja predstavljaju sadržaje koji se stiču obrazovanjem ili praktičnim radom, a odnose se na poznavanje činjenica neophodnih za izvršavanje određenog posla.[27]

2. Izazovi obuhvata finansijskog planiranja i finansijsko savetovanje kao polazni okvir

Budući da je već ukazano da je planiranje ličnih finansija proces u čijoj je osnovi finansijsko savetovanje, valjalo bi definisati oba koncepta. Finansijsko planiranje je „proces saradnje koji pomaže da se maksimira potencijal klijenta za postizanje životnih ciljeva kroz finansijske savete koji integrišu relevantne elemente njegovih ličnih i finansijskih okolnosti".[28]

S druge strane, finansijsko savetovanje je profesija koja pomaže klijentima kroz usluge „prevencije i intervencije" kako bi im pomogla da ostvare svoje ciljeve. Praksa finansijskog savetovanja integriše veštine i znanja u interakcijama i odnosima između klijenta i savetnika i utiče na ishode procesa savetovanja.[29] Recipročna veza, između ostalog, podrazumeva i promene u praksi finansijskog planiranja usled izmena regulatornog okvira koji se odnosi na finansijsko savetovanje, a naročito odredaba koje se tiču unapređenja transparentnosti poslovanja, jačanja zahteva u pogledu profesionalnih obaveza učesnika na finansijskim tržištima i standarda zaštite ulagača.[30]

Jedna od mogućih karakteristika regulisanih profesija jeste postojanje barijera za ulazak u sektor u formi licenci, odnosno dozvole za obavljanje delatnosti koje najčešće daje nadležno regulatorno telo. U oblasti planiranja ličnih finansija, obaveza dobijanja licence uglavnom se ne vezuje za obavljanje poslova planiranja ličnih finansija kao procesa, već se, po pravilu, postavljaju zahtevi za dobijanje licence za pojedinačne finansijske usluge, naročito investiciono savetovanje i posredovanje i zastupanje u osiguranju. Po pravilu, poslovanje finansijskih savetnika u oblasti planiranja ličnih finansija nije jednim propisom regulisano sveobuhvatno, već posredno, propisima koji se primenjuju na različite oblike finansijskih usluga

[27] Borivoje Šunderić, Ljubinka Kovačević, *Radno pravo – priručnik za polaganje pravosudnog ispita*, Beograd, 2019, 117.

[28] Certified Financial Planner Board of Standards, *Side-by-side comparison of code of ethics and standards of conduct to current standards of professional conduct*, 2018, 34. *https://www.cfp.net/-/media/files/cfp-board/standards-and-ethics/compliance-resources/cfp-board-code-and-standards-side-by-side-comparison.pdf*, pristupljeno 15. 11. 2024.

[29] Dorothy B. Durband, Marie Bell Carlson, Cherie Stueve, „The financial counseling profession", *Financial counseling* (eds. Dorothy B. Durband, Ryan Law, and Angela K. Mazzolini), Springer, 2019, 1 – 16, 1.

[30] Robert Van Beek, „Personal Finance: A Practice Perspective", *De Gruyter Handbook of Personal Finance* (eds. John E. Grable, Swarn Chatterjee), De Gruyter, 2022, 35 – 49.

kao što su brokersko-dilerski poslovi, investiciono savetovanje, životna i neživotna osiguranja, poresko savetovanje i dr.

Kako se može uočiti u malobrojnim zahtevima za polaganje ispita za planera ličnih finansija, investiciono savetovanje predstavlja prvu oblast zahteva u pogledu znanja i stručnosti. U najširem smislu, investiciono savetovanje odnosi se na finansijske instrumente i strategije ulaganja. Ovde bi bilo korisno ukazati na razliku između investicionog i finansijskog savetovanja u pravu SAD, gde su investicioni savetnici prvi put uklopljeni u regulativu. Finansijski savetnik može istovremeno biti i investicioni savetnik, ali svaki investicioni savetnik ne može uvek biti i finansijski savetnik.[31] Poslovanje investicionih savetnika regulisano je Zakonom o investicionim savetnicima iz 1940. godine,[32] poslovanje brokera i dilera Zakonom o prometu hartija od vrednosti iz 1934. godine,[33] a poslovanje posrednika i zastupnika u osiguranju regulisano je propisima saveznih država. Razlika između investicionih savetnika i onih što obavljaju brokersko-dilerske poslove s vremenom se smanjila, iako postoje dve odvojene licence.[34] Ipak, uprkos modernizaciji regulative, zbog različitih zahteva u pogledu različitih domena finansijskog savetovanja, neki autori smatraju da bi trebalo doneti poseban zakon o finansijskom savetovanju.[35] Jedna od zemalja u kojoj je uspostavljen sistem dozvole za finansijske savetnike jeste Australija, gde su izmene Zakona o korporacijama,[36] Zakona o profesionalnim standardima finansijskih posrednika[37] i donošenje Zakona o boljem savetovanju[38] dovele do redefinisanja obaveza finansijskih savetnika i jačanje uloge Komisije za hartije od vrednosti u pogledu licenciranja finansijskih savetnika.

Na nivou EU, pomenuta MiFID direktiva unapredila je sistem zaštite malih ulagača kroz uvođenje zabrane primanja novčanih kompenzacija od trećih lica, od strane pružalaca nezavisnih investicionih saveta ili onih što imaju ulogu portfolio menadžera. Direktiva MiFID II je značajna i po tome što je investicioni savet definisan kao posebna investiciona usluga. Pod investicionim savetom podrazumeva se pružanje ličnih preporuka klijentu, bilo na njegovu ili na inicijativu investicionog društva,

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[31] U.S. Securities and Exchange Commission, *Investment Advisers: What You Need to Know Before Choosing One*, *https://www.sec.gov/investor/pubs/invadvisers.htm*, 6. 5. 2016.

[32] Sec 202 (11), Investment Advisers Act of 1940.

[33] Securities Exchange Act of 1934.

[34] Christine Lazaro, „The Future of Financial Advice: Eliminating The False Distinction Between Brokers and Investment Advisers“, *St. John's Law Review*, Vol. 87. 2013, 381.

[35] C. Lazaro, 386.

[36] Corporations Amendment (*Future of Financial Advice*) Act 2012, kao i Corporations Amendment (*Further Future of Financial Advice Measures*) Act 2012.

[37] Australian Securities and Investments Commission, *Overview of the FOFA reforms*, *http://asic.gov.au/regulatory-resources/financial-services/future-of-financial-advice-reforms/fofa-background-and-implementation/*, pristupljeno 10. 10. 2024.

[38] *Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Act 2021* (Better Advice Act).

a u vezi s jednom ili više transakcija finansijskim instrumentima.[39] Investicioni savetnici su u obavezi da investitorima pruže sve neophodne informacije, uključujući i troškove savetodavne usluge, osnovama na kojima se zasniva investicioni savet, a pre svega proizvodima koji su u procesu formulisanja preporuka za klijenta bili predmet razmatranja. Bez obzira na to da li je reč o nezavisnom investicionom savetu ili ne, Direktiva MiFID II uvodi obavezu investicionih savetnika da svoje preporuke zasnivaju u najboljem interesu klijenta,[40] na principu adekvatnosti, koji podrazumeva upoznavanje klijenta i formulisanje personalizovane preporuke, koja će biti u skladu sa individualnom sklonošću klijenta ka riziku.[41] Za pružanje investicionih saveta na komercijalnoj osnovi ili u meri koja zahteva komercijalno organizovano poslovanje, MiFID direktiva zahteva postojanje licence nadležnog nacionalnog nadzornog organa. Namera da se ostvari profit, bilo direktan bilo indirektan, određuje aktivnost kao komercijalnu. Čak i savetodavne usluge koje se nude besplatno u promotivne svrhe, koje indirektno podržavaju prodaju usluga što se naplaćuju, zahtevaju licencu.

U nedostatku jasno definisanih pravila koja se isključivo primenjuju na planere ličnih finansija, brojni aspekti planiranja ličnih finansija su neregulisani, usled čega se pojavio veći broj savetnika bez adekvatnih znanja i stručnog iskustva. To su prepoznala profesionalna udruženja finansijskih planera, a kao odgovor, usledilo je uvođenje akreditovanih sertifikacija. U tom smislu naročito je značajan pomenuti sertifikat *Certified Financial Planner* (CFP) Odbora za standarde sertifikovanih finansijskih planera za koji finansijski savetnici moraju ispuniti brojne uslove poput kontinuirane edukacije, sticanje određenog radnog iskustva, ispunjavanje zahteva za kontinuiranim profesionalnim usavršavanjem, polaganje odgovarajućih testova za ocenu kompetentnosti, poslovanje u skladu sa etičkim kodeksima.[42]

Još neka iskustva iz zemalja anglosaksonskog prava vredelo bi spomenuti kao ilustraciju kompleksnosti pitanja regulisanja kompleksnosti finansijskog planiranja kao nadgradnje finansijskog savetovanja i primer proliferacije državne kontrole nad samoregulatornim sistemima i kao njihovo prepoznavanje u regulativi. Svaki finansijski savetnik u Velikoj Britaniji mora biti upisan u registar koji vodi Agencija za nadzor nad poslovanjem finansijskih posrednika (*Financial Conduct Authority*). Agencija je preuzela i nadogradila sistem ocene obrazovnih programa koje i akredituje, a svaki savetnik koji pruža preporuke u vezi sa izborom finansijskog proizvoda mora posedovati i poseban sertifikat (*Statement of Professional Standing*), kao dokaz kontinuiranog usavršavanja i poslovanja u skladu sa etičkim kodeksom.[43] Velika Britanija

[39] Odeljak 1, Čl. 4. 1 (4) Direktive MiFID II.
[40] Čl. 24.1. Direktive MiFID II.
[41] Niamh Moloney, *EU securities and financial markets regulation,* Oxford University Press, United Kingdom 2014, 804.
[42] L. Altfest, 56.
[43] Financial Conduct Authority, https://www.fca.org.uk/firms/professional-standards-advisers

je dobar primer koregulacije u oblasti edukacije finansijskih planera. Supervizor je od Saveta za veštine finansijskih usluga (*Financial Services Skills Council*), kao profesionalnog tela, preuzeo i nadogradio sistem ocene obrazovnih programa, koji se razlikuju u zavisnosti od vrsta finansijskih usluga,[44] a takođe postavlja i standarde u pogledu kontinuiranog obrazovanja finansijskih savetnika. Slično britanskom primeru, Australijska komisija za hartije od vrednosti i investicije (*Australian Securities and Investment Commission*) precizno definiše konkretni sadržaj „specijalizovanog znanja finansijskih savetnika".[45]

Ipak, najbolji primer posebnog regulatornog režima za profesiju finansijskih planera jeste Kanada, tačnije Kvebek kao prva pokrajina gde je još 1998. godine donet Zakon o poštovanju distribucije finansijskih proizvoda i usluga.[46] Prema tom zakonu, naziv „finansijski planer" mogu da koriste samo lica koja su zadovoljila striktno navedene zahteve. U tom smislu, finansijski planer predstavlja više od „finansijskog savetnika", kao posebna kvalifikacija. Stožer sistema licenciranja je Agencija za finansijska tržišta, koja sertifikatom priznaje kvalifikaciju odobrenu od strane Kvebečkog instituta za finansijsko planiranje,[47] dok je nadležnost za davanje licenci za obavljanje drugih poslova (npr. investiciono savetovanje) po pravilu poverena samoregulatornoj organizaciji koja se naziva Kanadska regulatorna organizacija za investicionu industriju.[48] Pomenuti Kvebečki institut akredituje univerzitetske kurikulume za obrazovanje iz oblasti finansijskog planiranja i sprovodi profesionalnu obuku, na osnovu čega se polaže poseban ispit za finansijskog planera. Institut, takođe, vodi evidenciju o obavezama kontinuiranog obrazovanja finansijskih savetnika, poštovanju etičkog kodeksa i etičkim zahtevima.

3. Nedoumice definisanja „kompetencije" u propisima EU i uloga Evropskog udruženja za finansijsko planiranje u sertifikaciji finansijskih savetnika i planera

Profesionalna kvalifikacija obuhvata završeno formalno obrazovanje i dodatno stručno osposobljavanje i usavršavanje koje se obavlja tokom ili nakon završetka formalnog obrazovanja, a dokazuje se diplomom ili drugom javnom ispravom koju je izdala nadležna obrazovna ustanova, na osnovu čega je nosilac

[44] Financial Conduct Authority, *The FCA Handbook*, Appendix 4 – Appropriate Qualifications Table https://www.handbook.fca.org.uk/handbook/TC/App/4/1.pdf, 15. 10. 2024.

[45] Table A2.1., ASIC, *Regulatory Guide 146* – Licensing: Training of financial products advisers, July 2012. https://download.asic.gov.au/media/1240766/rg146-published-26-september-2012.pdf, pristupljeno 17. 10. 2024.

[46] Legisquebec 1998, *Act respecting the distribution of financial products and services*, http://legisquebec.gouv.qc.ca/en/showdoc/cs/D-9.2, pristupljeno 15. 10. 2024.

[47] Institut québécois de planification financière (IQPF) 2016, *Becoming a Financial Planner*, <https://www.iqpf.org/en/becoming-a-financial-planner>., 15. 10. 2024.

[48] Investment Industry Regulatory Organization of Canada, https://www.iiroc.ca/

profesionalne kvalifikacije stekao pravo obavljanja određene regulisane profesije. Ona, pored formalnog obrazovanja, podrazumeva postojanje „kompetentnosti" to jest „kompetencije" kao integrisanog skupa znanja, veština, sposobnosti i stavova, koji omogućuje pojedincu efikasno obavljanje aktivnosti u datoj profesiji.[49]

Evropska agencija za hartije od vrednosti i tržišta (ESMA) pod „znanjem i stručnošću" podrazumeva sticanje „odgovarajuće kvalifikacije" i „odgovarajućeg iskustva", kako bi se pri davanju saveta i informacija ispunile zakonske obaveze koje se odnose na informisanje klijenata, procenu da li su finansijski proizvodi podesni za konkretnog ulagača, kao i izveštavanje klijenata.[50] „Odgovarajuća kvalifikacija" je formalna kvalifikacija ili drugi oblik testiranja, odnosno obuke koji zadovoljava kriterijume predviđene Smernicama za ocenjivanje znanja i stručnosti Evropskog nadzornog tela za hartije od vrednosti i finansijska tržišta (dalje u tekstu: Smernice).[51] „Odgovarajuće iskustvo" podrazumeva da je zaposleni na poslovima pružanja finansijskih saveta uspešno pokazao sposobnosti u toku posla koji je obavljao, puno radno vreme, u periodu od najmanje šest meseci. S druge strane, Direktiva o distribuciji osiguranja ne pominje izraz „kvalifikacija", već „znanje i sposobnost", odnosno „znanje i kompetentnost", ali ih ne definiše.

Deluje da se u oba slučaja nastoji postići balans između potrebe za minimalnom harmonizacijom i neophodne fleksibilnosti za prilagođavanje postojećih praksi u zemljama članicama. Međutim, obe direktive, a naročito Direktiva MiFID II, propustile su da definišu standard minimalnog nivoa za određivanje „znanja i kompetencija". Ako je zamišljeno da cilj Smernica predstavlja harmonizacija znanja i kompetencija u oblasti finansijskog savetovanja, važno je razumeti fundamentalnu razliku između zahteva za sticanje kvalifikacije i zahteva za učestvovanje u programu obuke, tačnije treninga. Ukoliko su zahtevi različiti, postojaće različiti standardi i različiti nivoi znanja i kompetentnosti finansijskih savetnika. Dakle, kvalifikacija nije isto što i obuka jer se zasniva na potvrdi znanja i sposobnosti, a ne na pohađanju obuke za sticanje znanja i sposobnosti, koje se kroz kompetenciju verifikuje.[52]

Sam pojam „kvalifikacije" koja predstavlja formalni izraz procesa ocenjivanja i validacije od strane nadležnog organa, na osnovu čega se utvrđuje da je određeno lice ostvarilo ishod učenja prema datim standardima, podrazumeva upravo postavljanje standarda u pogledu ishoda. Evropski okvir za kvalifikacije i celoživotno učenje (EQF),[53] koji predstavlja primer uspostavljanja standarda kojima se nastoje uskladiti

[49] Definicija iz čl. 4, tačke 6) i 12) Zakona o regulisanim profesijama i priznavanju profesionalnih kvalifikacija.

[50] Čl. 24 i 25 Direktive MiFID II.

[51] European Securities and Markets Authority, *Guideliness for the Assessment of Knowledge and Competence*, No. 2015/1886, 3 January 2017.

[52] F. Zunzunegui et al., 18–22.

[53] Council Recommendation of 22 May 2017 on the European Qualifications Framework for lifelong learning and repealing the recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning, *OJ C 189, 15.6.2017*, 15–28.

interesi različitih sistema kvalifikacija u različitim oblastima stručnog obrazovanja prepoznaje pojam kvalifikaciju kao formalni izraz procesa ocene i validacije rezultata učenja (*learning outcomes*). U oblasti bankarstva i finansijskih usluga, taj sistem usklađen je sa Evropskim kreditnim sistemom za stručno obrazovanje i obuke (ECVET),[54] Evropskim referentnim okvirom za osiguranje kvaliteta za stručno obrazovanje i obuku (EQAVET)[55] i Evropskom trening mrežom za bankarstvo i finansijske usluge (EBTN).[56] Evropska trening mreža za bankarstvo i finansijske usluge predstavlja nevladinu organizaciju čiji je cilj postavljanje standarda za akreditaciju, sertifikaciju i kvalifikaciju znanja, veština i kompetencija u oblasti finansijskih usluga u EU. Pod njenim okriljem razvijen je tzv. „Trostruki E standard", koji se pretežno odnosi na bankarski sektor i predstavlja sistem priznavanja kvalifikacija akreditovanih institucija.

U nedostatku harmonizovanih pravila za finansijske savetnike koji pružaju nezavisne savete u pogledu različitih vrsta finansijskih usluga, a u cilju podrške njihovom usavršavanju i profesionalnom napredovanju, pod okriljem Evropskog udruženja za finansijsko planiranje (EPFA) razvijen je sistem sertifikacije finansijskih savetnika u različitim fazama i profesionalnim ulogama koji je u potpunosti usklađen sa gorenavedenim zahtevima Evropskog okvira kvalifikacija (EQF), ECVET i EQUAVET. Svaki od tih sertifikata ne samo da je upodobljen jednom od osam nivoa kvalifikacija prema EQF, već ga prati i zahtev za kontinuiranim profesionalnim razvojem, dok Etički kodeks EPFA predstavlja integralni deo standarda za dodelu svakog sertifikata. Najviši nivo EFPA sertifikata je „Evropski finansijski planer", što potvrđuje tvrdnju da je finansijsko planiranje proces koji obuhvata različite aktivnosti.[57] Kako je naglašeno, taj sertifikat odnosi se na „aktivnost finansijskog planiranja kao celinu" i podrazumeva validaciju znanja i veština u integrisanoj praksi finansijskog planiranja koje obuhvata upravljanje individualnim portfeljom, planiranje imovine, oporezivanje, penzijske planove i usluge osiguranja.

Tabela 1. EPFA sertifikacija

Vrsta EPFA sertifikata	Nivo EQF	Namena sertifikata i zahtevi koji se postavljaju za akreditovane programe obuke
The European Investment Assistant® Certificate (EIA)	3	Pružanje informacija o finansijskim proizvodima. Minimalno pet dana ili četrdeset časova (ili ekvivalent) obuke.

[54] Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Credit System for Vocational Education and Training, Official Journal of the European Union, *OJ C 155, 8.7.2009,* p. 11–18.

[55] Recommendation of the European Parliament and the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training, *HL C 155., 2009.7.8*, p. 1–10.

[56] http://www.ebtn-association.eu

[57] https://efpa-eu.org/index.php/standards-qualifications/, 10. 10. 2024.

Vrsta EPFA sertifikata	Nivo EQF	Namena sertifikata i zahtevi koji se postavljaju za akreditovane programe obuke
The European Investment Practitioner® Certificate (EIP)	4	Aktivnosti osnovnih usluga savetovanja. Minimalno 10 dana ili 80 časova (ili ekvivalent) ili pet dana dodatne obuke za imaoce EIA sertifikata.
The European Financial Advisor® Certificate (EFA)	5	Prošireni obuhvat usluga finansijskog savetovanja, što podrazumeva i procenu potreba klijenata i portfolio menadžment.
The European Financial Planner® (EFP)	6	Sve aktivnosti finansijskog planiranja, kako za individualne tako i za poslovne korisnike. Minimalno 40 dana obuke ili 320 časova (ili ekvivalent) ili 20 dana dodatne obuke za imaoce EFA sertifikata).

IV Zahtevi kompetentnosti u oblasti planiranja ličnih finansija prema propisima EU iz oblasti tržišta kapitala i osiguranja

Planiranje ličnih finansija kao profesija na nivou EU nije regulisano jedinstvenim propisima, iako se finansijsko planiranje, pod različitim nazivima, nalazi na spisku regulisanih profesija u nekim zemljama članicama.[58] Najznačajniji propisi koji se odnose na oblasti koje obuhvata finansijsko savetovanje jesu Direktiva 2014/65/EU o tržištu finansijskih instrumenata (MIFID II), kao i Uredba (EU) br. 600/2014 o tržištu finansijskih instrumenata (MiFIR).[59] U oblasti osiguranja, od najvećeg značaja je Direktiva o distribuciji osiguranja. Pored toga, od značaja su, naročito u oblasti informisanja potrošača, i propisi kao što su Direktiva 200/48/EC o ugovorima o kreditu za potrošače,[60] Direktiva 2014/17/EU o ugovorima o kreditima za kupovinu nepokretnosti,[61] Uredba (EU) br. 1286/2014 o dokumentima sa ključnim informacijama za pakete investicionih proizvoda za male ulagače i proizvode osiguranja[62] i sl.

[58] Primera radi, u Danskoj, finansijski savetnik (*Finansiel rådgiver*) pruža savete u oblasti kredita, depozita, osiguranja, penzijskih fondova i investicionih usluga. Finansijski savetnici su priznata profesija u Velikoj Britaniji, (*Chartered Financial Planner*), Austriji, Francuskoj (*Conseiller en investissements financiers*), Slovačkoj (*Finančný poradca*) itd. European Commission, *Regulated professions by country, with competent authorities*, http://ec.europa.eu/growth/tools-databases/regprof/index.cfm, pristupljeno 10. 10. 2024.

[59] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, *OJ L 173*, 12.6.2014, 84–148.

[60] Directive 2008/48/EC Of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, *OJ L 133*, 22.5.2008, 66–92.

[61] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, *OJ L 60*, 28. 2. 2014, 34–85.

[62] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) *OJ L 352*, 9.12.2014, 1–23.

Članom 25(1) Direktive MiFID II uvedena je obaveza država članica da objave kriterijume na osnovu kojih će se procenjivati znanje i kompetentnost fizičkih lica koja daju investicione savete ili informacije o finansijskim instrumentima, investicionim uslugama ili pomoćnim uslugama klijentima u ime investicionog društva, a pomenute Smernice za ocenjivanje znanja i stručnosti predstavljaju dodatno uputstvo. Međutim, važno je napomenuti da čl. 3(1) te direktive omogućava zemljama članicama da za specifične usluge, uključujući i investiciono savetovanje, primene drugačije kriterijume od onih koji važe za druge usluge što se pružaju prekogranično. U tom smislu, pravila o stručnosti i kvalifikacijama koje se odnose na investicione savetnike lokalnog karaktera ne moraju zadovoljavati kriterijume postavljene za investicione savetnike koji usluge pružaju prekogranično. Smernice za ocenjivanje znanja i stručnosti nude različite opcije primene: objavljivanje od strane nadležnog regulatornog organa ili drugog nacionalnog tela karakteristika koje bi odgovarajuća kvalifikacija trebalo da ispuni; objavljivanje liste specifičnih odgovarajućih kvalifikacija za koje se smatra da ispunjavaju kriterijume Smernica;[63] ili putem objavljivanja i kriterijuma i liste specifičnih kvalifikacija. Važno je napomenuti da Smernice uspostavljaju minimalne standarde, tako da nacionalna tela mogu zahtevati viši nivo znanja i stručnosti za zaposlene koji daju savete ili informišu klijente. Tako široka margina delovanja uticala je na pojavu značajnijih razlika između zemalja članica.[64]

Direktiva o distribuciji osiguranja u čl. 10, kao i Aneksu I, uspostavila je minimalne kriterijume u pogledu znanja i kompetencija savetnika u oblasti usluga osiguranja. U smislu institucionalne arhitekture supervizije finansijskih institucija u EU (tzv. Lamfalussy),[65] taj aspekt poslovanja osiguravajućih društava regulisan je na prvom nivou (*Level 1*), odnosno kroz direktivu kao sekundarni izvor prava EU, dok su kvalifikacije za savetovanje u oblasti tržišta hartija od vrednosti regulisana kroz treći nivo (*Level 3*). Dakle, Direktiva o distribuciji osiguranja nije ostavila prostor Evropskom nadzornom telu za osiguranje i strukovno penzijsko osiguranje da detaljnije uređuje kriterijume u pogledu znanja i stručnosti, već je obaveza zemalja članica EU da transponuju odredbe ove direktive. Kako je reč o direktivi kojom se predviđa minimalna harmonizacija, zemlje članice mogu da predvide detaljnije i strože zahteve, što je dovelo do višestrukih odstupanja u pogledu regulisanja zahteva što se tiče znanja i stručnosti ne samo posrednika u distribuciji osiguravajućih usluga već i savetnika u oblasti ličnih finansija.

Najzad, valjalo bi ukazati i na neke razlike u regulisanju zahteva za znanjem i stručnošću, odnosno kompetencijama između sektora osiguranja i tržišta kapitala.[66]

[63] Ovo predstavlja izbor manjeg broja zemalja, poput Luksemburga (Circular CSSF 17/670 of 13 October 2017) i Španije (Guía Técnica 4/2017 de la Comisión Nacional del Mercado de Valores, para la evaluación de los conocimientos y competencias del personal que informa y que asesora, de 27 de junio de 2017). Izvor: F. Zunzunegui, et al.

[64] Vid naročito F. Zunzunegui, et al.

[65] https://finance.ec.europa.eu/regulation-and-supervision/regulatory-process-financial-services_en

[66] F. Zunzunegui et al., European Insurance and Occupational Pensios Authority, *Annexes I-VIII to the Report on the application of the Insurance Distribution Directive* (IDD), EIOPA-BoS-21/582, 6 January 2022.

Iako obe direktive, Direktiva MiFID II i Direktiva o distribuciji osiguranja, postavljaju opšti zahtev da lica koja pružaju informacije ili savete moraju imati neophodna znanja i stručnost, Smernice Evropskog nadzornog tela za hartije od vrednosti i tržišta kapitala više pažnje posvećuju sticanju kvalifikacije, dok je u pogledu osiguranja veći fokus na održavanju nivoa stručnosti, odnosno kvalifikacije, kroz kontinuirano stručno usavršavanje. Pored toga, Smernicama je definisan zahtev za znanjem i kompetencijama u smislu kvalifikacije koju treba obnavljati („kvalifikacija ili drugi test ili kurs obuke.. seminar, samostalne studije ili učenje")[67], odnosno ažurirati, dok Direktiva o distribuciji osiguranja predviđa program obuke koji odgovara zahtevu „kontinuiranog profesionalnog usavršavanja" (*Continuous Professional Development*).

Kriterijumi u pogledu znanja i kompetentnost za zaposlene koji klijentima daju informacije ili savete o investicionim proizvodima, investicionim uslugama ili pomoćnim uslugama predviđeni su Smernicama (čl. 17 i 18). Međutim, široko određenje ishoda učenja („razumevanje" odnosno „osnovno znanje") i praktičnih veština („proceniti", „ispuniti obaveze"), bez uvođenja merila i odabira jednog od osam nivoa kvalifikacija prema Evropskom okviru kvalifikacija, svakako ne podstiču harmonizaciju nacionalnih okvira. Štaviše, kriterijumi iz Smernica ne pružaju informacije o karakteristikama koje kvalifikacija mora zadovoljiti, npr. da li je predviđena nastava u učionicama ili na daljinu; trajanje obuke odnosno broj časova obuke za davanje saveta i davanje informacija; trening na nivou organizacije ili od strane eksternog tela, kao i uslovi koji se postavljaju za institucije koje pružaju usluge edukacije i obuka i polaganje ispita za dobijanje licence.[68]

U određenom broju zemalja organ nadzora propisuje pravila i standarde koje moraju primenjivati institucije koje su ovlašćene ili akreditovane da organizuju obuke i polaganje standardizovanih ispita. Međutim, nivo detalja se razlikuje jer u nekim zemljama organi nadzora imaju veće ingerencije.[69] Naročito se uočava nepostojanje standarda u pogledu održavanja obuka u smislu izbora između internih ili eksternih. Jedan od retkih primera normiranja tog kriterijuma jeste Luksemburg, gde postoji sloboda izbora finansijskih posrednika da sami procenjuju minimalno znanje i kompetentnost posrednika u skladu s formalnim procesom verifikacije od strane Komisije za nadzor nad finansijskim sektorom. Druga mogućnost je učestvovanje u eksternim programima obuka koje je Komisija sertifikovala.[70]

67 Smernice, 15.

68 European Commission, Staff Working Document „Report on the current framework for qualification of financial advisors in the EU and assessment of possible ways forward", Brussels, 30.6.2022 SWD(2022) 184 final, https://finance.ec.europa.eu/system/files/2022-07/220630-report-qualification-financial-advisors-framework_en.pdf, pristupljeno 17. 10. 2024. F. Zunzunegui et al, 32.

69 Jedan od najboljih primera je nadležnost Češke narodne banke, koja je posebnom uredbom propisala detaljna pravila za obuke i polaganje ispita u oblasti tržišta kapitala (Decree No. 319/2017 of 21 September 2017 on professional qualification for distribution on the capital market), dok je u oblasti osiguranja to predviđeno zakonom (Law on the distribution of insurance and reinsurance July 26, 2018).

70 Commission de Surveillance du Secteur Financier, *Circular CCSF* 17/665 – ESMA Guidelines for the Assessment of Knowledge and Competence, https://www.cssf.lu/en/Document/circular-cssf-17-665/,

S druge strane, Direktiva o distribuciji osiguranja jasnije određuje šta se smatra „minimalnim zahtevima profesionalnog znanja i kompetencija", navodeći u Aneksu i konkretne oblasti: (a) minimalno neophodno poznavanje odredaba i uslova ponuđenih polisa, uključujući i rizike, minimalno neophodno poznavanje proizvoda, premija i beneficija, kao i prednosti i nedostataka različitih investicionih opcija i finansijskih rizika za investicione proizvode zasnovane na osiguranju (uključujući rizike povezane sa štednjom, penzijskim planovima i sl.); (b) minimalno neophodno poznavanje važećih zakona koji regulišu distribuciju usluga osiguranja, propisa o zaštiti potrošača, sprečavanju pranja novca, zaštiti podataka, relevantnih poreskih propisa i relevantnog socijalnog i radnog prava i dr; (c) minimalno neophodno znanje o rešavanju pritužbi klijenata i postupanju sa žalbama; (d) minimalno neophodno znanje o proceni potreba kupaca; (e) minimalno neophodno znanje o osiguranju i, eventualno, drugim finansijskim tržištima; (f) minimalno neophodno poznavanje standarda poslovne etike; i (g) minimalna neophodna finansijska kompetencija.

Međutim, ni Smernice ESMA ni Direktiva o distribuciji osiguranja ne sadrže standarde u pogledu formata i organizacije i trajanja različitih pojavnih oblika kontinuiranog profesionalnog razvoja. Dok se u nekim zemljama ta mogućnost odnosno obaveza finansijskih savetnika uopšte ne predviđa, u oblasti osiguranja većina zemalja je prihvatila 15 časova na godišnjem nivou, koliko propisuje Direktiva o distribuciji osiguranja.[71]

Tabela 2.

Određeni kriterijumi u pogledu kvalifikacija	**Direktiva MiFID II i Uputstvo za ocenu znanja i kompetencija**	**Direktiva o distribuciji osiguranja**
Minimalni zahtevi u pogledu formalnog obrazovanja	/	/
Zahtev u pogledu kvalifikacije	Test ili obuka	Sertifikat kao opcija
Oblik profesionalne kvalifikacije	/	/
Broj časova obuke	/	/
Oblik kontinuiranog profesionalnog usavršavanja	/	/
Broj potrebnih časova kontinuiranog profesionalnog usavršavanja	/	15
Minimalni period potrebnog radnog iskustva za sticanje kvalifikacije	6 meseci	/

pristupljeno 10. 10. 2024.

71 F. Zunzunegui et al., 44.

Određeni kriterijumi u pogledu kvalifikacija	**Direktiva MiFID II i Uputstvo za ocenu znanja i kompetencija**	**Direktiva o distribuciji osiguranja**
Maksimalni period za rad pod supervizijom	4 godine	/
Provera kvalifikacije	Unutrašnja ili spoljna, na godišnjem nivou	/

V Ka unapređenju i unifikaciji standarda profesionalnih kvalifikacija planera ličnih finansija i finansijskog savetovanja u EU

Evropska komisija je septembra 2020. godine usvojila Akcioni plan Unije tržišta kapitala,[72] a u okviru toga i Strategiju za investiranje malih ulagača (*Retail Investment Strategy*). Cilj te strategije je da obezbedi da mali investitori mogu u potpunosti iskoristiti prednosti tržišta kapitala i da pravila budu koherentna u svim pravnim instrumentima. Između ostalog, predviđa se da bi pojedinačni investitor trebalo da ima koristi od adekvatne zaštite, nepristrasnih saveta i poštenog tretmana. Aktivnost br. 8, predviđena Akcionim planom, predviđa da Komisija predloži moguće načine za unapređenje nivoa profesionalnih kvalifikacija finansijskih savetnika u EU, kroz izmene odredaba Direktive MiFID II i Direktive o distribuciji osiguranja, kao i uvođenje panevropske oznake za finansijske savetnike. Između ostalog, predviđa se da će Komisija predložiti da savetnici dobiju sertifikat koji dokazuje da je njihov nivo znanja i kvalifikacija dovoljan za pristup profesiji, a koji takođe pokazuje da kontinuirano učestvuju u adekvatnim oblicima kontinuiranog obrazovanja. U cilju pripreme aktivnosti usmerenih ka usklađivanju zahteva obe direktive, Evropsko nadzorno telo za osiguranje i strukovno penzijsko osiguranje sprovelo je analizu uslova koji su u zemljama članicama predviđeni kao osnov za dokazivanje znanja i kompetentnosti u finansijskom savetovanju o distribuciji investicionih proizvoda zasnovanih na proizvodima osiguranja, iz kojeg se vidi postojanje niza razlika na nivou zemalja članica.[73]

Na osnovu izveštaja evropskih tela za nadzor nad tržištem kapitala i osiguranja, Evropska komisija objavila je poseban radni dokument koji se odnosi na

[72] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *A Capital Markets Union for people and businesses-new action plan*, Brussels, 24.9.2020, COM(2020) 590 final. https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/capital-markets-union/capital-markets-union-2020-action-plan/action-8-building-retail-investors-trust-capital-markets_en, 30. 09. 2024.

[73] EIOPA, Report on the application of the Insurance Distribution Directive (IDD), EIOPA-BoS-21/581, January 2022; EIOPA, Annexes I-VIII to the Report on the application of the Insurance Distribution Directive (IDD), EIOPA-BoS-21/582, 6 January 2022.

kvalifikacije finansijskih savetnika u EU.[74] Iako je reč o radnom dokumentu, kao neformalnom izvoru koji nema obavezujući karakter, može se zaključiti da je analiza i upoređivanje zahteva u pogledu sticanja profesionalnih kvalifikacija finansijskih savetnika usmerena ne samo ka izmenama pomenutih direktiva u cilju harmonizacije uslova za dobijanje panevropske oznake, već i ka uvođenju dodatnog zahteva koji se odnose na stručna znanja finansijskih savetnika radi integrisanja preferenci investitora koje se odnose na održivost. U tom smislu, Evropsko nadzorno telo za hartije od vrednosti i tržišta kapitala usvojilo je posebne smernice još 2018. godine,[75] dok je Evropsko nadzorno telo za osiguranje i strukovno penzijsko osiguranje posebne smernice usvojilo 2022. godine.[76]

VI Umesto zaključka – osvrt na domaći okvir za sticanje zvanja i usavršavanje finansijskih savetnika

Planiranje ličnih finansija kao nova profesija vezuje se uglavnom za razvijene zemlje, a njenom razvitku doprinosi postojanje razvijenog tržišta kapitala i većeg broja finansijskih proizvoda dostupnih potrošačima koji ne raspolažu neophodnim znanjima. Međutim, ni u zemljama s razvijenim finansijskim tržištima uslovi za obavljanje poslova finansijskog savetovanja i planiranja ličnih finansija nisu homogeni. Jedan od glavnih razloga što planiranje ličnih finansija još uvek nije prepoznato kao profesija jeste upravo nedostatak adekvatno postavljenih zahteva u pogledu nivoa obrazovanja finansijskih savetnika. Napred navedena analiza pravnog okvira u EU jasno ukazuje na nedostatak harmonizacije, naročito u pogledu zahteva Direktive MiFID II o profesionalnim kvalifikacijama, s tim što je Direktiva o distribuciji osiguranja nešto jasnije definisala konkretan obuhvat minimalnih stručnih kompetencija u oblasti osiguranja. U tom smislu, na nivou EU identifikovana je potreba da se razvije jedinstvena taksonomija zahteva u pogledu kvalifikacija te da se usaglasi značenje i obuhvat termina „znanje“, „kompetentnost“, „kvalifikacija“, „obuka“ i sličnih izraza, kako bi bilo jasno da kompetentnost podrazumeva sticanje odgovarajuće kvalifikacije, a ne samo učešće u programu obuke.

Nerazvijenost i nestabilnost finansijskog tržišta u našoj zemlji, kao i u zemljama u okruženju i nedovoljno poverenje klijenata u finansijski sistem, sužavaju mogućnosti za profilisanje ove profesije, odnosno umanjuju potrebu za različitim aspektima finansijskog savetovanja. Niti u jednoj zemlji u okruženju planiranje

[74] European Commission, Staff Working Document „Report on the current framework for qualification of financial advisors in the EU and assessment of possible ways forward“, Brussels, 30.6.2022, SWD(2022) 184 final.

[75] ESMA, *Guidelines on certain aspects of the MiFID II suitability requirements*, ESMA35-43-1163, 06/11/2018.

[76] EIOPA, *Guidance on the integration of sustainability preferences in the suitability assessment under the Insurance Distribution Directive (IDD)*, EIOPA-BOS-22-391, 20 July 2022.

ličnih finansija ne nalazi se na spisku regulisanih profesija, a zbog skromne ponude finansijskih proizvoda ne postoji velika tražnja za ovim profilom stručnjaka. Ipak, primetna je tendencija porasta broja lica koja sebe nazivaju finansijskim savetnicima i planerima ličnih finansija, a koji nude usluge edukacije i savetovanja.

U situacijama kada se finansijski savet odnosi na prodaju, posredovanje, upravljanje imovinom korisnika finansijskih usluga, investicioni savetnici su dužni, na osnovu Zakona o tržištu kapitala,[77] da se ponašaju u skladu s pravilima i standardima struke i ne smeju klijentima preporučivati kupovinu ili prodaju određenih finansijskih instrumenata samo radi ostvarivanja provizije. Zakonom je propisana obaveza investicionih savetnika da deluju u najboljem interesu klijenta i razmotre da li je finansijska transakcija primerena za klijenta, uzimajući u obzir ciljeve klijenta, njegovu mogućnost da podnese rizike iz preporučene transakcije, znanje i iskustvo klijenta i njegovu sposobnost da razume rizike u vezi sa uslugom koja mu se pruža. U skladu sa Zakonom o tržištu kapitala, kao i posebnim Pravilnikom,[78] Komisija za hartije od vrednosti Republike Srbije organizuje tri kursa za pohađanje nastave, polaganje ispita i dobijanje dozvole za obavljanje poslova odnosno sticanje zvanja brokera, portfolio menadžera i investicionog savetnika. Pravilnikom su, između ostalog, regulisani uslovi za pohađanje nastave, nastavne oblasti, organizacija ispita, postupak priznavanja strane školske isprave odnosno sertifikata o zvanjima stečenim u inostranstvu. Nastavni program, predavači i ispitivači određuju se aktom Komisije, a za sva tri zvanja posebno je predviđen broj časova nastave, kao i plan nastave i ispitne oblasti. Dakle, uslovi za dodelu sertifikata koji dobijaju investicioni savetnici od Komisije, kao osnov za dobijanje dozvole i upis u poseban Registar investicionih savetnika, detaljno je regulisan podzakonskim aktom, kao uostalom i zahtevi koji se posebno odnose na izdavanje dozvole. Zvanje investicionog savetnika jeste osnov za izdavanje dozvole, koja podrazumeva i zadovoljenje posebnih zahteva u pogledu radnog iskustva i zahteva koji se odnosi na neosuđivanost.

Na osnovu odredaba Zakona o osiguranju,[79] ovlašćeni posrednik odnosno zastupnik u osiguranju ne može obavljati poslove posredovanja odnosno zastupanja u osiguranju ako se nije profesionalno usavršio, ako se ne nalazi u registru aktivnih ovlašćenih posrednika/zastupnika u osiguranju, koji je javno dostupan na internet portalu NBS. Narodna banka Srbije je, na osnovu posebne Odluke o izmenama i dopunama Odluke o sticanju zvanja i usavršavanju ovlašćenih posrednika i ovlašćenih zastupnika u osiguranju,[80] zaključila Sporazum sa Privrednom komorom Srbije, koja je na osnovu ovog sporazuma ovlašćena ne samo za sprovođenje obuka za polaganje

[77] Videti naročito članove 179–181 Zakona o tržištu kapitala, *Sl. glasnik RS*, br. 129/2021.

[78] Pravilnik o sticanju zvanja i davanju dozvole za obavljanje poslova brokera, investicionog savetnika i portfolio menadžera, *Sl. glasnik RS*, br. 115/2023.

[79] Čl. 86 st. 1 i čl. 98 st. 1 i 2 Zakona o osiguranju, *Sl. glasnik RS*, br. 139/2014 i 44/2021.

[80] *Sl. glasnik RS*, br. 11/2017.

ispita za sticanje zvanja ovlašćenog posrednika i ovlašćenog zastupnika u osiguranju[81] već i za njihovo kontinuirano usavršavanje, što kao obaveza nije predviđeno propisima o tržištu kapitala. Naime, pomenutom Odlukom predviđena je obaveza ovlašćenih posrednika i ovlašćenih zastupnika u osiguranju da se profesionalno usavršavaju, i to najmanje 15 časova u kalendarskoj godini u kojoj obavljaju poslove posredovanja u osiguranju, odnosno zastupanja u osiguranju.

Van okvira finansijskih usluga, valjalo bi ukratko sagledati i zahteve za sticanje profesionalnog zvanja kao uslov za dobijanje dozvola za obavljanje poslova računovodstva i revizije, kao i posredovanja u prometu i zakupu nepokretnosti. U oblasti računovodstvenih usluga, prema Zakonu o računovodstvu,[82] zakonska obaveza obuke, polaganje ispita i kontinuirano usavršavanje postoji samo za računovođe koji se profesionalno bave pružanjem računovodstvenih usluga. Budući da ni pravna lica ni preduzetnici koji se ne bave pružanjem računovodstvenih usluga za vođenje poslovnih knjiga ne moraju angažovati lice s profesionalnim zvanjem računovođe, obaveza licence u domenu planiranja ličnih finansija zavisi od svrhe finansijskog savetovanja. Prema Zakonu o reviziji,[83] revizori mogu biti licencirani ovlašćeni revizori ukoliko su položili ispit za sticanje zvanja ovlašćeni (interni) revizor i imaju važeću licencu za obavljanje revizije; dok je samostalni revizor licencirani ovlašćeni revizor koji ima važeću dozvolu da obavlja reviziju kao preduzetnik. Profesionalno zvanje iz oblasti računovodstva mora biti stečeno kod organizacije koja je članica Međunarodne federacije računovođa (*International Federation of Accountants* – IFAC). U Srbiji status članice te organizacije imaju Savez računovođa i revizora i Komora ovlašćenih revizora. Te profesionalne organizacije, u skladu s pomenutim propisima, sprovode obuke za polaganje ispita, organizuju polaganje ispita i vode registre ovlašćenih računovođa i ovlašćenih javnih računovođa, odnosno ovlašćenih revizora i ovlašćenih internih revizora. Najzad, Zakonom o posredovanju u prometu i zakupu nepokretnosti[84] uređuju se uslovi i način obavljanja posredovanja u prometu i zakupu nepokretnosti i ustanovljava obaveza polaganja stručnog ispita. Program i način polaganja stručnog ispita, kao i vođenje evidencije o izdatim uverenjima, koji predstavlja jedan od osnova za upis u Registar posrednika, uređen je Pravilnikom o stručnom ispitu za posrednike u prometu i zakupu nepokretnosti.[85]

[81] U tom smislu, pohvalno je istaći i standardizaciju Priručnika za polaganje ispita, koji je javno dostupan. Privredna komora Srbije, *Priručnik za obuku za polaganje ispita i sticanje zvanja ovlašćenog posrednika i ovlašćenog zastupnika u osiguranju*, Beograd, februar 2024. Značajno je istaći da je u toj publikaciji vidno istaknuta obaveza posrednika i zastupnika u osiguranju da pružaju informacije u cilju zaštite prava i interesa ugovarača, obaveza kontinuiranog profesionalnog usavršavanja, zatim obaveza adekvatne procene potreba potrošača, standardi poslovne etike i dr.

[82] *Sl. glasnik RS*, br. 73/2019 i 44/2021 - dr. zakon.

[83] *Sl. glasnik RS*, br. 73/2019.

[84] *Sl. glasnik RS*, br. 95/2013, 41/2018 i 91/2019.

[85] *Sl. glasnik RS*, br. 75/2014 i 135/2022.

Poslovanje finansijskih savetnika u našoj zemlji regulisano je propisima iz oblasti tržišta kapitala i osiguranja, a u pogledu definisanja zahteva čini se da je u oblasti posredovanja i zastupanja u osiguranju nivo stručnosti i znanja detaljnije uređen. Pored primene postojećih propisa i nadležnosti Komisije za hartije od vrednosti i Narodne banke Srbije, kao kompetentnih tela, a u zavisnosti od ishoda inicijativa pod okriljem Akcionog plana Unije tržišta kapitala unutar EU što se tiče jedinstvenih kriterijuma za kvalifikacije i panevropske oznake finansijskog savetnika, pažnju bi trebalo usmeriti i na opciju u vidu formiranja profesionalnih udruženja, eventualno u obliku komore finansijskih savetnika sa obaveznim članstvom i zakonom poverenim nadležnostima, naročito u oblasti donošenja etičkih kodeksa i zahtevā u pogledu kontinuiranog usavršavanja finansijskih savetnika.

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Professor Tatjana Jovanić, PhD[1]

CHALLENGES OF REGULATING PERSONAL FINANCIAL PLANNING AS A PROFESSION

REVIEW PAPER

Abstract

Personal financial planning, as a new profession, is primarily associated with developed countries, where the development is supported by a strong capital market and an increasing number of financial services available to consumers who lack the necessary knowledge. In countries with specific legal requirements or certification schemes, the professional title of "financial planner" can only be utilized by financial advisors who have met these specific criteria, as the financial planner, and thus the personal finance planner, typically represents the highest level in the certification hierarchy of financial advisors. In most countries with developed financial markets, the conditions for providing various financial advisory services are not homogeneous, which raises the question of whether a specific license for providing certain financial services is sufficient, or whether financial advisors must undergo specialized education and possess particular qualifications. In the absence of clearly defined rules and standards, the paper highlights the transnational private regulation of personal financial planning through examples of certification schemes. The analysis of the EU legal framework concerning investment advice and insurance distribution also indicates shortcomings in defining standards for determining "knowledge and expertise" and the corresponding training. Finally, the operations of a small number of financial advisors in Serbia are regulated by regulations depending on the type of service they provide. Still, it can be concluded that, particularly in the area of mediation and representation in insurance, the requirements regarding

[1] Full-time professor at University of Belgrade, Faculty of Law: E-mail: tanja@ius.bg.ac.rs.
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expertise and knowledge are more comprehensively regulated compared to other financial services.

Keywords: financial advising, personal finance, investing, insurance, knowledge and expertise, professional qualifications

I Introduction

Personal financial planning encompasses a set of activities, techniques, and procedures aimed at finding the best way to achieve individuals' financial goals. This should result in well-considered decisions regarding further actions and the choice of appropriate financial services in accordance with the individual's circumstances, beliefs, and preferences.[2] The process of personal financial planning mainly involves financial advisory services based on a careful analysis of the client's goals and needs. In the absence of the necessary knowledge, clients rely on expert assistance that enables them to efficiently achieve their financial objectives while minimizing costs. The increasing number of financial services and their complexity demand specific competencies, knowledge, expertise, and professional experience in various areas of financial markets, which raises the legitimate question of standardizing financial advisors' practices in personal financial planning.

The development of financial planning as a profession, and thus personal financial planning as its sub-field, is still at its beginning, and regulators face a long road ahead in establishing an adequate regulatory framework. Given the complexity and scope of services provided by financial advisors, which relate to various financial markets and services of differing levels of complexity, enacting specific legislation to regulate their operations would pose a significant challenge. This paper briefly highlights the rare examples in which the law mandates specific conditions for obtaining a license to practice as a financial planner. Since financial consulting in both corporate and personal finance is the basis of financial planning, the operations of individuals offering personal financial planning services in systems where the use of the title "financial planner" does not require verification of specific knowledge and skills may depend on holding a financial advisor license.

As a barrier to entry into the sector, such a license is similar to other authorization mechanisms that restrict market access, such as registration, certification, and accreditation. However, it differs in terms of the level of professional standards established, the powers of supervisory bodies, and the consequences of violating licensing conditions and professional obligations. Obtaining a license also implies

[2] Jonquil Lowe, *Be Your Own Financial Adviser: The comprehensive guide to wealth and financial planning,* Pearson Education, 2010, 3–4.

adherence to professional standards of financial consulting. In comparative terms, this often involves specific licenses for performing investment advisory services, insurance brokerage, as well as in the fields of tax planning and accounting services. In the absence of state regulation, this paper points to self-regulatory mechanisms developed under the auspices of professional associations and emphasizes the significance of transnational private regulation of professions. Among several notable examples of certification schemes for the professional qualifications of financial planners, the international standard ISO 22222:2005 *Personal financial planning – Requirements for personal financial planners*[3] is particularly significant, as it provides a solid foundation for establishing essential elements of the required skills, expertise, and experience.

Over the past decade, advertisements for education and/or advisory services related to personal financial planning have increasingly appeared in our country, particularly on social media. These services are often offered by individuals who resemble motivational speakers and "influencers" more than professional financial advisors. In situations where their advice goes beyond education and has the potential to influence consumers' choices as users of financial services, the question of adequate consumer protection arises. The regulations of the Republic of Serbia in the areas of capital markets and insurance are largely aligned with the requirements of Directive 2014/65/EU on Markets in Financial Instruments (hereinafter: MiFID II Directive)[4] and the EU Insurance Distribution Directive,[5] including provisions ensuring transparency, independence, and consumer protection in investment advisory services, as well as the distinction between advising and providing information.[6] However, it is necessary to monitor ongoing developments in the EU aimed at implementing the Retail Investment Strategy, which announces amendments to the provisions of the aforementioned directives to enhance the professional qualifications of financial advisors in the EU.[7] In this context, this paper examines not only the challenges of regulating financial planning as a profession but also the ambiguities in defining "competencies" and the requirements concerning professional qualifications and continuous education for financial advisors.

[3] International Organization for Standardization, ISO 22222:2005, *Personal financial planning* – Requirements for personal financial planners.

[4] 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, *OJ L 173*, 12. 6. 2014, 349–496.

[5] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast), *OJ L 26*, 02/02/2016, 19–59.

[6] For a discussion on the difference between the duty to provide information and advisory obligations when consumers enter into contracts with insurers, see: Nataša Petrović Tomić, *Zaštita potrošača usluga osiguranja, analiza i predlog unapređenja regulatornog okvira*, Belgrade, 2015, 214.

[7] European Commission, *Retail Investment Strategy – Empowering Retail Investors on EU capital markets*, May 2023, *https://finance.ec.europa.eu/document/download/ce290ee2-1f05-41f6-9540-84c3605ccb0f_en?filename=230524-retail-investment-strategy-factsheet_en.pdf,* 15. 10. 2024.

II The Concept, Emergence, and Development of Personal Financial Planning

1. The Concept and Importance of Personal Financial Planning

As a disciplinary field, personal finance entails the analysis and application of concepts, tools, and techniques related to planning and managing personal and household financial activities. These activities include generating income, managing consumption and debt, saving, investing, and protecting income sources and assets. The ultimate goal is to identify practices and policies aimed at improving the well-being of individuals, families, and households. In its broadest theoretical sense, personal finance encompasses financial planning, financial advising, financial psychology, and financial therapy.[8] Personal finance involves applying principles of finance, resource management, consumer education, as well as sociology and decision-making psychology, to examine how individuals, families, and households acquire, grow, and allocate financial resources to meet their present and future financial needs.[9]

Although, at first glance, personal financial planning may seem relevant only to the wealthier category of the population that has surplus funds, its importance also lies in reducing the risks of negative consequences arising from changes in external circumstances (e.g. financial crises) and personal situations of individuals.[10] In this sense, personal financial planning contributes not only to improving financial management and wealth accumulation, that is, enhancing the standard of living, but also to reducing the risk of individual bankruptcy and achieving financial security and stability. This, in turn, has positive effects on key macroeconomic goals, such as economic growth and maintaining financial stability.

Financial planning encompasses a wide range of financial advisory services. As a segment of financial planning, personal financial planning is a comprehensive process involving various activities, techniques, and procedures to identify the optimal way to achieve an individual's financial goals. There are two primary models for delivering personal financial planning services: (a) the specialized model, in which the client works individually with multiple financial professionals, and (b) the planner model, where the client typically collaborates with a financial planner who acts as an intermediary between the client and other financial experts.[11] Personal financial

[8] John E. Grable, Swarn Chatterjee, „Defining Personal Finance", *De Gruyter Handbook of Personal Finance* (eds. John E. Grable, Swarn Chatterjee), De Gruyter, Berlin, 2022, 3–17, 3.

[9] Jane Schuchardt *et al*., „Personal finance: An interdisciplinary profession", *Journal of Financial Counseling and Planning* 1/2007, vol. 18, 67.

[10] Lewis Altfest „Personal financial planning: origins, developments and a plan for future direction", *The American Economist* 2/2004, vol. 48, 54.

[11] Kenneth Black, Konrad Ciccotello, Harold Skipper, „Issues in comprehensive personal financial planning", *Financial Services Review* 1/2002, 1–9.

planning covers various areas of client interest, including tax planning, i.e. achieving tax savings; personal budgeting, which involves planning income and expenses, that is, balancing saving and spending; investment planning, or the allocation of funds to generate future returns; risk management through different types of insurance; retirement planning and securing compensation for loss of employment income; estate planning, and more.

Given the broad range of services that clients may expect from financial advisors, the diversity of national regulatory systems has created a need for harmonizing business practices and business rules on a global level. In this regard, one of the most significant initiatives has been the adoption of an international standard for personal financial planning under the auspices of the International Organization for Standardization (ISO). The ISO 22222:2005 International Standard defines the personal financial planning process through six phases or steps, and establishes requirements for ethical conduct, competency, and necessary experience of personal financial advisors, regardless of their employment status, as well as methods for ensuring compliance with business standards.

The first step in the personal financial planning process is establishing a professional relationship between the financial advisor and the client. In addition to understanding their rights and obligations, the duties of the financial advisor, and the characteristics of the services provided, the mentioned standard also requires informing clients about the advisor's formal qualifications, expertise, and experience, along with a description of the services offered and the terms of engagement, including service fees and other contractual requirements. Standardising these requirements aims to establish a long-term relationship based on transparency and trust.[12] The second phase involves collecting qualitative and quantitative data on the client's financial status and preferences, as well as defining their goals, expectations, and strategies that will enable them to achieve their financial objectives. The primary role of a personal financial planner at this stage is to articulate the client's general responses into specific, measurable financial goals and priorities through targeted questions. However, the specific financial plan will ultimately depend on the client's goals, particularly their priorities.[13]

Once the necessary information has been gathered and the clients' goals and priorities have been defined, the next, third phase involves analyzing the collected data and assessing the client's financial position. The result of the analysis process answers the question of whether achieving the clients' set goals is feasible. If so, the next step is strategy formulation. Strategy formulation includes the development and presentation of a financial plan, that is, personal finance plan, which, according to the aforementioned international standard, represents the fourth step

[12] Gordana Stojanović, „Standardizovani zahtevi za planere ličnih finansija", *Bankarstvo* 5-6/2006, 56–57.
[13] Lawrence Gitman, Michael Joehnk, Randy Billingsley, *Personal Financial Planning*, South-Western, 2014, 2–7.

in the financial planning process. Due to the significance of presenting the financial plan, some authors argue that this step actually consists of two separate phases: the development of the financial plan, or formulation of recommendations, and the presentation of recommendations to the client.[14]

The final two phases relate to the implementation of financial recommendations and the monitoring of the financial plan and financial planning relationships. The financial advisor may participate directly or indirectly in implementing the chosen strategy, which may further involve coordinating the implementation process with other professionals, such as capital market investment advisors, tax consultants, lawyers, and others. At this stage, the financial advisor must be familiar with all legal matters and procedures related to executing the financial plan.[15]

Finally, the financial planning process is typically not limited to merely developing the recommendations contained in the personal finance plan, but also involves establishing a long-term professional relationship that goes beyond the simple application of recommendations and evolves into monitoring progress in the implementation of the financial plan. In the event of changes in real and personal circumstances, or modifications in the client's financial situation, the financial advisor may revise the financial plan.

2. The Role of Professional Associations in the Emergence and Development of Financial Planning

As a part of the broader field of financial planning, personal financial planning is a relatively young profession that has been continuously evolving since the 1960s when it first emerged in the United States (USA). The first step in the development of modern financial planning was a professional conference held in Chicago in 1969, which led to the establishment of the first organizations: the International Association of Financial Counselors (IAFC), which later became the International Association for Financial Planning (IAFP), and the International College for Financial Counseling.

The latter association became highly active in providing financial education from the mid-1970s onward, developing a certification system for professional financial planners - *Certified Financial Planner* (CFP). From among the participants of its educational programs, a new organization emerged, named the *Institute of Certified Financial Planners* (ICFP). In the year 2000, this association merged with the IAFP, resulting in the creation of a new organization, the *Financial Planning Association* (FPA).[16]

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14 Allen McLellan, *Foundations of Financial Planning: An Overview*, The American College Press, 2012, 32.

15 Antony Young, *Financial Planning in Practice*, Melbourne, 2013, 134.

16 For more on historical developments, see: Denby E. Brandon, Oliver H. Welch, *The History of Financial Planning: The Transformation of Financial Services*, John Wiley & Sons, 2009.

As the professional association, which provided educational services, was unable to enforce ethical standards, the *International Board of Standards and Practices for Certified Financial Planners* (IBCFP) was established in 1985 to enhance professionalism and ethical conduct. This organization later evolved into the *Certified Financial Planner Board of Standards* (CFP Board), which then obtained the authority to certify and issue certificates for the Certified Financial Planner designation – the CFP certification.[17]

The global expansion of financial planning began in the 1990s with the formation of the *International CFP Council*. The Council aimed to unite similar professional associations worldwide to establish business standards and develop the profession. By joining the International Association for Financial Planning, founded in Australia, Australia became the first country after the U.S. to be authorized to issue the CFP certification. Following that, professional associations from Japan, the United Kingdom, New Zealand, Canada, Germany, France, and others joined. This led to the global recognition of the Certified Financial Planner designation, which has become synonymous with the professional and ethical practice of financial planning. The global development of financial planning was particularly supported by the transfer of authority for managing the certification program outside the U.S. to an association established in 2004, the *Financial Planning Standards Board* (FPSB). Since its establishment, the FPSB has actively advocated for the recognition of financial planning as a distinct profession and for its regulation.[18]

Independent of the aforementioned international associations, financial planning has also developed in European countries outside the framework of the CFP certification program. The most significant role in the development of financial planning on the European continent is played by the *European Financial Planning Association* (EFPA), as a key professional association that develops professional standards, promotes expertise and integrity, and conducts the certification process across several levels of professional certificates, as well as serving as the foundation for the Ethical Code. Under this institution, there is an intensive lobbying effort aimed at improving not only the system of professional standards and pan-European certification of financial advisors in the EU but also the regulations related to various forms of financial advice in EU law, which is particularly emphasized in this paper.[19]

[17] CFP Board, *CFP Board Financial Planning Competency Handbook,* John Wiley & Sons, 2015.

[18] D. E. Brandon, O. H. Welch, 113.

[19] Fernando Zunzunegui *et al., Improving Qualifications for Financial Advisors in EU: Policy Proposals*, EFPA, Brussels, 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4466821, 10. 09. 2024.

III Regulated Profession and Competency Requirements (Knowledge, Expertise, and Experience) in the Domain of Personal Financial Planning

1. The Concept of a Regulated Profession

In a sociological sense, a profession refers to an occupation that holds a monopoly over a complex segment of knowledge and practical skills, which requires education or a certain level of education, making it recognizable within society.[20] The term profession is broader than the term occupation, which refers to a set of related and interconnected jobs in terms of content, organization, or technology. As a statistical unit, qualification refers to the ability to perform the tasks and duties of a specific job and has two dimensions: a) the level (degree) of qualification – which relates to the complexity and scope of tasks, and b) the type of qualification – defined by the area of required knowledge, as well as the types of products and services.[21] The concept of a "profession" builds upon the concept of "occupation," as it entails specific expertise - knowledge and practical skills, along with continuity and long-term commitment to the field. Professional authority implies that the practitioner provides services to those who lack the necessary knowledge to assess the quality of the service itself.[22] For an occupation to be considered a profession, certain conditions must be met: a) systematic knowledge; b) professional authority; c) a regulatory framework and oversight of the practice; d) ethical standards; e) the existence of a specific subculture rooted in the pursuit of knowledge, status, values, behavioral patterns, and dedication among its practitioners.[23]

According to Directive 2005/36/EC on the recognition of professional qualifications,[24] a regulated profession is defined as a professional activity or a set of professional activities for which access, practice, or the manner of practice is directly or indirectly conditional upon possessing specific professional qualifications, as stipulated by legal, regulatory, or administrative provisions adopted under statutory authority. A profession is also considered regulated if it is practiced by members of professional organizations that grant a professional title.[25]

Thus, a profession is generally regarded as regulated if practicing it requires a specific degree, passing a qualifying exam (such as a state exam), and/or

[20] Josip Županov, Željka Šporer, „Profesija sociolog", *Revija za sociologiju* 1-2/1984, vol. 14, 15.

[21] Republic Statistical Office, Classification of Occupations, Belgrade, 2011, 7.

[22] Jon A. Schmidt, „What Is a Profession?", *The Structure Magazine,* November 2008, 9.

[23] Ernest Greenwood, „Attributes of a Profession", *Social Work* 3/1957, 45–55.

[24] Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, *OJ L 255*, 30.9.2005, 22–142.

[25] Art. 4, para. 5 of the Law on Regulated Professions and Recognition of Professional Qualifications, *Official Gazette of the Republic of Serbia*, No. 66/2019.

registration with a professional body. In this context, it is essential to distinguish between educational and professional qualifications.[26] A professional qualification is not limited to formal education but also includes qualifications acquired after education, such as work experience, licensing, and other credentials. The concept of a profession extends beyond formal educational qualifications, which are obtained through formal education and verified by diplomas, certificates, or other official documents issued by relevant educational institutions. Professional qualifications often imply practical experience and are primarily based on the possession of specific competencies. These competencies frequently represent particular conditions for employment, encompassing specific knowledge, skills, and sometimes personal traits. Knowledge refers to the theoretical and practical understanding required to perform a particular job, acquired through education or practical work.[27]

2. Challenges of Financial Planning and Financial Advising as a Starting Framework

As previously mentioned, personal finance planning is a process fundamentally rooted in financial counseling, so it is essential to define both concepts. Financial planning is "a collaborative process that helps maximize a client's potential to achieve life goals through financial advice that integrates relevant elements of their personal and financial circumstances".[28]

On the other hand, financial advising is a profession that assists clients through "prevention and intervention" services to help them achieve their goals. The practice of financial advising integrates skills and knowledge in the interactions and relationships between the client and the counselor, influencing the outcomes of the counseling process.[29] The reciprocal relationship includes changes in the practice of financial planning due to modifications in the regulatory framework relating to financial counseling, particularly provisions concerning the enhancement of business transparency, strengthening requirements regarding the professional obligations of participants in financial markets, and standards for investor protection.[30]

[26] Tatjana Jovanić, *Uvod u ekonomsko pravo*, Belgrade, 2024, 150.

[27] Borivoje Šunderić, Ljubinka Kovačević, *Radno pravo – priručnik za polaganje pravosudnog ispita*, Belgrade, 2019, 117.

[28] Certified Financial Planner Board of Standards, *Side-by-side comparison of code of ethics and standards of conduct to current standards of professional conduct*, 2018, 34. *https://www.cfp.net/-/media/files/cfp-board/standards-and-ethics/compliance-resources/cfp-board-code-and-standards-side-by-side-comparison.pdf*, accessed: 15. 11. 2024.

[29] Dorothy B. Durband, Marie Bell Carlson, Cherie Stueve, „The financial counseling profession", *Financial counseling* (eds. Dorothy B. Durband, Ryan Law, and Angela K. Mazzolini), Springer, 2019, 1.

[30] Robert Van Beek, „Personal Finance: A Practice Perspective", *De Gruyter Handbook of Personal Finance* (eds. John E. Grable, Swarn Chatterjee), De Gruyter, Berlin, 2022, 35–49.

One possible characteristic of regulated professions is the existence of entry barriers to the sector in the form of licenses or permits to perform activities, typically granted by the relevant regulatory body. In the field of personal finance planning, the obligation to obtain a license is generally not tied to the performance of personal finance planning as a process; instead, requirements are usually set for obtaining licenses for individual financial services, particularly investment counseling, brokerage, and insurance representation. Typically, the operations of financial counselors in the area of personal finance planning are not comprehensively regulated by a single statute but are instead indirectly governed by regulations applicable to various forms of financial services, such as brokerage and dealer transactions, investment advising, life and non-life insurance, tax counseling, etc.

As can be observed in the few existing requirements for certification exams for personal financial planners, investment advising represents the primary area of knowledge and expertise requirements. In the broadest sense, investment advising pertains to financial instruments and investment strategies. Here, it is useful to highlight the distinction between investment advising and financial advising in U.S. law, where investment advisors were first incorporated into regulation. A financial advisor may also be an investment advisor, but not every investment advisor can necessarily be a financial advisor.[31] The operations of investment advisors are regulated under the Investment Advisers Act of 1940,[32] while broker-dealer activities are governed by the Securities Exchange Act of 1934.[33] Meanwhile, the activities of insurance intermediaries and agents are regulated at the state level. Over time, the distinction between investment advisors and broker-dealers has diminished, despite the existence of separate licensing requirements.[34] However, despite modernization in regulations, due to differing requirements across various domains of financial advising, some authors argue that a dedicated Financial Advising Act should be enacted.[35] One country that has established a licensing system for financial advisors is Australia, where amendments to the Corporations Act,[36] the Financial Advisers Professional Standards Act,[37] and the introduction of the Better Advice Act[38] have

[31] U.S. Securities and Exchange Commission, Investment Advisers: *Investment Advisers: What You Need to Know Before Choosing One*, *https://www.sec.gov/investor/pubs/invadvisers.htm*, 6. 5. 2016.

[32] Sec 202 (11), Investment Advisers Act of 1940.

[33] Securities Exchange Act of 1934.

[34] Christine Lazaro, „The Future of Financial Advice: Eliminating The False Distinction Between Brokers and Investment Advisers", *St. John's Law Review*, 2013, vol. 87, 381.

[35] *Ibid*., 386.

[36] Corporations Amendment (*Future of Financial Advice*) Act 2012, and Corporations Amendment (*Further Future of Financial Advice Measures*) Act 2012.

[37] Australian Securities and Investments Commission, *Overview of the FOFA reforms*, *http://asic.gov.au/regulatory-resources/financial-services/future-of-financial-advice-reforms/fofa-background-and-implementation/*, accessed: 10. 10. 2024.

[38] *Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Act 2021* (Better Advice Act).

redefined the obligations of financial advisors and strengthened the role of the Securities and Investments Commission in the licensing process.

At the EU level, the aforementioned MiFID Directive has enhanced retail investor protection by introducing a ban on financial incentives from third parties for providers of independent investment advice or portfolio management services. MiFID II is particularly significant as it defines investment advice as a distinct investment service. Investment advice refers to providing personalized recommendations to a client, either at their request or at the initiative of the investment company, concerning one or more financial instrument transactions.[39] Investment advisors are required to provide investors with all necessary information, including the costs of advisory services and the basis on which the investment advice is formulated, primarily the financial products considered during the recommendation process. Regardless of whether it pertains to independent investment advice or not, the MiFID II Directive establishes an obligation for investment advisors to base their recommendations on the best interest of the client[40] and adhere to the suitability principle, which entails understanding the client and formulating personalized recommendations aligned with their individual risk tolerance.[41] To provide investment advice on a commercial basis or at a scale requiring commercial organization, MiFID requires licensing from the relevant national supervisory authority. The intent to generate profit, whether directly or indirectly, determines whether an activity is classified as commercial. Even advisory services offered free of charge for promotional purposes, which indirectly support the sale of fee-based services, require a license.

In the absence of clearly defined rules specifically applicable to personal financial planners, many aspects of personal financial planning remain unregulated, resulting in a rise in the number of advisors lacking adequate knowledge and professional experience. This was recognized by professional associations of financial planners, which have responded by introducing accredited certifications. In this context, it is particularly significant to mention the *Certified Financial Planner* (CFP) certification from the Certified Financial Planner Board, for which financial advisors must meet numerous requirements, such as ongoing education, acquiring specific work experience, fulfilling continuous professional development requirements, and passing appropriate competency assessment tests, all while conducting their business in accordance with ethical codes.[42]

Some experiences from countries with Anglo-Saxon legal systems are worth mentioning to illustrate the complexity of regulating financial planning as an enhancement

39 Section 1, art. 4.1(4) MiFID II Directive.

40 Art. 24.1 MiFID II Directive.

41 Niamh Moloney, *EU securities and financial markets regulation*, Oxford University Press, United Kingdom, Oxford, 2014, 804.

42 L. Altfest, 56.

of financial advising and as an example of the proliferation of state control over self-regulatory systems and their recognition in regulation. Every financial advisor in the United Kingdom must be registered with the *Financial Conduct Authority* (FCA), the agency responsible for overseeing financial intermediary businesses. The FCA has adopted and enhanced a system for evaluating educational programs that it also accredits, and every advisor providing recommendations regarding the selection of financial products must possess a specific certificate (*Statement of Professional Standing*) as proof of ongoing development and compliance with ethical codes.[43] The UK serves as a good example of co-regulation in the domain of financial planners' education. The supervisor has adopted and enhanced the system for evaluating educational programs from the *Financial Services Skills Council*, a professional body which varies depending on the types of financial services.[44] Furthermore, it sets standards for the ongoing education of financial advisors. Similarly to the British example, the *Australian Securities and Investments Commission* (ASIC) precisely defines the specific content of "specialized knowledge for financial advisors".[45]

However, the best example of a specific regulatory regime for the profession of financial planners is Canada, specifically Quebec, which was the first province to enact the Act respecting the distribution of financial products and services back in 1998.[46] According to this law, only individuals who meet strictly defined requirements can use the title "financial planner". In this sense, a financial planner represents more than just a "financial advisor", as it requires a specific qualification. The cornerstone of the licensing system is the Financial Markets Authority, which certifies qualifications approved by the Quebec Institute of Financial Planning.[47] The authority responsible for granting licenses for other activities (e.g. investment advising) is typically entrusted to a self-regulatory organization known as the Investment Industry Regulatory Organization of Canada.[48] The Quebec Institute also accredits university curricula for financial planning education and conducts professional training, culminating in a special examination for financial planners. Additionally, the Institute maintains records of financial advisors' continuing education requirements, adherence to the ethical code, and ethical standards.

43 Financial Conduct Authority, https://www.fca.org.uk/firms/professional-standards-advisers

44 Financial Conduct Authority, *The FCA Handbook*, Appendix 4 – Appropriate Qualifications Table, https://www.handbook.fca.org.uk/handbook/TC/App/4/1.pdf, 15. 10. 2024.

45 Table A2.1., ASIC, *Regulatory Guide 146* – Licensing: Training of financial products advisers, July 2012.https://download.asic.gov.au/media/1240766/rg146-published-26-september-2012.pdf, acessed: 17. 10. 2024.

46 Legisquebec 1998, *Act respecting the distribution of financial products and services*, http://legisquebec.gouv.qc.ca/en/showdoc/cs/D-9.2, accessed: 15. 10. 2024.

47 Institut québécois de planification financière (IQPF) 2016, *Becoming a Financial Planner*, <https://www.iqpf.org/en/becoming-a-financial-planner>., 15. 10. 2024.

48 Investment Industry Regulatory Organization of Canada, https://www.iiroc.ca/

3. Ambiguities in Defining "Competence" in EU Regulations and the Role of the European Association for Financial Planning in the Certification of Financial Advisors and Planners

A professional qualification encompasses completed formal education and additional professional training and development that takes place during or after the completion formal education, validated by a diploma or other public document issued by an authorized educational institution, granting the qualification holder the right to practice a specific regulated profession. In addition to formal education, professional qualification implies the existence of "competence" as an integrated set of knowledge, skills, abilities, and attitudes that enable an individual to effectively perform activities within a given profession.[49]

The European Securities and Markets Authority (ESMA) defines "knowledge and expertise" as the acquisition of "appropriate qualifications" and "relevant experience" in order to fulfill legal obligations regarding the provision of advice and information to clients, assessing whether financial products are suitable for a specific investor, as well as client reporting.[50] "Appropriate qualification" refers to formal qualifications or other forms of testing or training that meet the criteria outlined in the Guidelines for Assessing Knowledge and Competence issued by the European Supervisory Authority for Securities and Markets (hereinafter: the Guidelines).[51] "Relevant experience" means that the employee providing financial advice has successfully demonstrated their competencies in a full-time professional capacity for at least six months. On the other hand, the Insurance Distribution Directive does not mention the term "qualification," but rather refers to "knowledge and ability" or "knowledge and competence," without providing a clear definition.

It appears that both directives aim to make a balance between the need for minimal harmonization and the necessary flexibility to adjust existing practices in EU member states. However, both directives, particularly MiFID II, have failed to establish a minimum standard for defining "knowledge and competence". If the Guidelines are intended to harmonize knowledge and competencies in the field of financial advisory services, it is crucial to understand the fundamental difference between the requirements for obtaining a qualification and the requirements for participating in a training program. If these requirements differ, there will be varying standards and different levels of knowledge and competence among financial advisors. Hence, a qualification is not the same as training, as it is based on validating knowledge

[49] Definition from art. 4, points 6) and 12) of the Law on Regulated Professions and the Recognition of Professional Qualifications.

[50] Art. 24 and 25 of the MiFID II Directive.

[51] European Securities and Markets Authority, *Guidelines for the Assessment of Knowledge and Competence*, No. 2015/1886, 3 January 2017.

and skills rather than attending training to acquire knowledge and skills, which are verified through competency assessment.[52]

The very concept of "qualification", which represents the formal expression of an assessment and validation process conducted by a competent authority to determine whether an individual has achieved a learning outcome based on established standards, inherently involves the establishment of outcome-based standards. The European Qualifications Framework for Lifelong Learning (EQF)[53] serves as an example of a framework aimed at aligning the interests of different qualification systems across various fields of vocational education, defines qualification as a formal expression of the process of assessment and validation of learning outcomes. In the field of banking and financial services, this system is aligned with the European Credit System for Vocational Education and Training (ECVET),[54] the European Quality Assurance Reference Framework for Vocational Education and Training (EQAVET),[55] and the European Banking & Financial Services Training Network (EBTN).[56] The European Banking & Financial Services Training Network is a non-governmental organization that aims to set standards for accreditation, certification, and qualification of knowledge, skills, and competencies in the financial services sector within the EU. Under its framework, the so-called "Triple E Standard" was developed, primarily focusing on the banking sector as a system for recognizing qualifications granted by accredited institutions.

In the absence of harmonized rules for financial advisors who provide independent advice regarding various types of financial services, and to support their advancement and professional development, the European Financial Planning Association (EFPA) has developed a certification system for financial advisors across different stages and professional roles that is fully aligned with the aforementioned requirements of the European Qualifications Framework (EQF), ECVET, and EQAVET. Each of these certifications not only corresponds to one of the eight qualification levels according to the EQF but is also accompanied by a requirement for continuous professional development. Furthermore, the EPFA Ethical Code constitutes an integral part of the standards for the issuance of each certificate. The highest level of EFPA certification is the "European Financial Planner", which confirms the claim that

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[52] F. Zunzunegui *et al.* (2023), 18–22.

[53] Council Recommendation of 22 May 2017 on the European Qualifications Framework for lifelong learning and repealing the recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning, *OJ C 189, 15.6.2017*, 15–28.

[54] Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Credit System for Vocational Education and Training, Official Journal of the European Union, *OJ C 155, 8.7.2009*, 11–18.

[55] Recommendation of the European Parliament and the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training, *HL C 155., 2009.7.8*, 1–10.

[56] http://www.ebtn-association.eu, 10. 10. 2024.

financial planning is a process encompassing various activities.[57] As highlighted, this certification relates to "the activity of financial planning as a whole" and involves the validation of knowledge and skills in the integrated practice of financial planning, which encompasses managing individual portfolios, estate planning, taxation, pension plans, and insurance services.

Table 1. EPFA Certification

Type of EPFA Certificate	EQF Level	Purpose of the Certificate and Requirements for Accredited Training Programs
The European Investment Assistant® Certificate (EIA)	3	Providing information about financial products. Minimum of five days or forty hours (or equivalent) of training.
The European Investment Practitioner® Certificate (EIP)	4	Activities related to basic advisory services. Minimum of 10 days or 80 hours (or equivalent) or five additional days of training for EIA certificate holders.
The European Financial Advisor® Certificate (EFA)	5	Expanded scope of financial advisory services, including client needs assessment and portfolio management.
The European Financial Planner® (EFP)	6	All activities related to financial planning, for both individual and business clients. Minimum of 40 days of training or 320 hours (or equivalent) or 20 additional days of training for EFA certificate holders.

IV Competency Requirements in Personal Financial Planning According to EU Regulations in the Areas of Capital Markets and Insurance

Personal financial planning as a profession at the EU level is not regulated by uniform regulations, although financial planning, under various names, is included in the list of regulated professions in some member states.[58] The most significant regulations concerning the areas covered by financial advising are Directive 2014/65/EU on financial instruments markets (MiFID II), as well as Regulation (EU) No. 600/2014 on financial instruments markets (MiFIR).[59] In the field of insurance, the Insurance Distribution Directive is of utmost importance. In addition, regulations that are

[57] https://efpa-eu.org/index.php/standards-qualifications/, 10. 10. 2024.

[58] For example, in Denmark, a financial advisor (*Finansiel rådgiver*) provides advice on loans, deposits, insurance, pension funds, and investment services. Financial advisors are a recognized profession in the United Kingdom (*Chartered Financial Planner*), Austria, France (*Conseiller en investissements financiers*), Slovakia (*Finančný poradca*), etc. European Commission, *Regulated professions by country, with competent authorities*, http://ec.europa.eu/growth/tools-databases/regprof/index.cfm, accessed: 10. 10. 2024.

[59] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, *OJ L 173*, 12.6.2014, 84–148.

particularly significant in the area of consumer information include Directive 200/48/EC on consumer credit agreements[60] and Directive 2014/17/EU on credit agreements for the purchase of real estate[61] as well as Regulation (EU) No. 1286/2014 on key information documents for packaged investment products for retail investors and insurance products[62] and others.

Article 25(1) of the MiFID II Directive introduced the obligation for member states to publish the criteria based on which the knowledge and competence of individuals providing investment advice or information on financial instruments, investment services, or ancillary services to clients on behalf of an investment firm will be assessed. The mentioned Guidelines for the Assessment of Knowledge and Competence serve as additional guidance in this regard. However, it is important to note that Article 3(1) of the directive allows member states to apply different criteria for specific services, including investment advice, than those applicable to other cross-border services. In this context, the rules on expertise and qualifications for locally operating investment advisors do not necessarily have to meet the same criteria set for investment advisors providing services across borders. The Guidelines for the Assessment of Knowledge and Competence offer different implementation options: the competent regulatory authority or another national body may publish the characteristics that an appropriate qualification should fulfill; a list of specific relevant qualifications considered to meet the criteria of the Guidelines may be published;[63] a combination of both criteria publication and a list of specific qualifications may be used.

It is important to note that the Guidelines establish minimum standards, meaning that national authorities can require a higher level of knowledge and competence for employees who provide advice or inform clients. This broad regulatory discretion has led to significant differences between member states.[64]

The Insurance Distribution Directive (IDD), in Article 10 and Annex I, established minimum criteria regarding the knowledge and competence of advisors in the field of insurance services. Within the framework of the institutional architecture for

[60] Directive 2008/48/EC Of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, *OJ L 133,* 22.5.2008, 66–92.

[61] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, *OJ L 60,* 28. 2. 2014, 34–85.

[62] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) *OJ L 352,* 9.12.2014, 1–23.

[63] This option has been chosen by a smaller number of countries, such as Luxembourg (Circular CSSF 17/670 of 13 October 2017) and Spain (Guía Técnica 4/2017 de la Comisión Nacional del Mercado de Valores, para la evaluación de los conocimientos y competencias del personal que informa y que asesora, of June 27, 2017). Source: F. Zunzunegui *et al*. (2023).

[64] See in particular: F. Zunzunegui *et al*. (2023).

the supervision of financial institutions in the EU (the so-called Lamfalussy process),[65] this aspect of insurance companies' operations is regulated at *Level 1*, meaning through a directive as a secondary source of EU law. In contrast, qualifications for advising in the securities market are regulated at *Level 3*. Thus, the Insurance Distribution Directive did not grant the European Insurance and Occupational Pensions Authority (EIOPA) the power to further regulate criteria for knowledge and expertise. Instead, it is the responsibility of EU member states to transpose the provisions of this directive into their national legislation. Since this directive prescribes minimum harmonization, member states may impose more detailed and stricter requirements. This has resulted in multiple divergences in how knowledge and expertise requirements are regulated, not only for intermediaries in insurance distribution services but also for personal finance advisors.

Finally, it is worth highlighting some differences in the regulation of knowledge and competence requirements between the insurance and capital markets sectors.[66] While both MiFID II and the Insurance Distribution Directive require that individuals who provide information or advice must possess the necessary knowledge and expertise, the Guidelines of the European Securities and Markets Authority (ESMA) place greater emphasis on obtaining a qualification. In contrast, in the insurance sector, the focus is more on maintaining a level of expertise and qualification through continuous professional development (CPD). Additionally, the Guidelines define knowledge and competence requirements in terms of a qualification that should be renewed or update ("qualification or another test or training course... seminar, self-study, or learning")[67], whereas the Insurance Distribution Directive prescribes a training program aligned with the "continuous professional development" (CPD) requirement.

The criteria regarding knowledge and competence for employees who provide clients with information or advice on investment products, investment services, or ancillary services are set out in the Guidelines (Articles 17 and 18). However, the broad definition of learning outcomes ("understanding" or "basic knowledge") and practical skills ("assess" "fulfill obligations"), without introducing referent points or selecting one of the eight qualification levels according to the European Qualifications Framework (EQF), do not contribute to the harmonization of national frameworks. Moreover, the Guidelines' criteria do not specify the characteristics that a qualification must meet, such as whether the training is conducted in classrooms or remotely; the duration of training or the number of hours required for providing advice and information; whether the training is organized at the company level or

[65] https://finance.ec.europa.eu/regulation-and-supervision/regulatory-process-financial-services_en

[66] Fernando Zunzunegui *et al*., European Insurance and Occupational Pensios Authority, *Annexes I-VIII to the Report on the application of the Insurance Distribution Directive* (IDD), EIOPA-BoS-21/582, 6 January 2022.

[67] Guidelines, 15.

by an external body; and the requirements imposed on institutions that provide education, training, and examination services for licensing.[68]

In certain countries, the supervisory authority prescribes rules and standards that must be followed by institutions authorized or accredited to organize training and standardized examinations. However, the level of detail varies, as in some countries, supervisory bodies have broader powers.[69] Particularly, there is a lack of standards regarding the conduct of training between internal or external training. One of the few examples of regulating this criterion is Luxembourg, where financial intermediaries are given the freedom to assess intermediaries' minimum knowledge and competence, following a formal verification process by the Commission de Surveillance du Secteur Financier (CSSF). Another option is to participate in external training programs that have been certified by the Commission.[70]

On the other hand, the Insurance Distribution Directive more clearly defines what is considered "minimum requirements for professional knowledge and competence", specifying in the Annex concrete areas: (a) the minimum necessary understanding of the terms and conditions of the offered policies, including risks, the minimum necessary knowledge of products, premiums and benefits, as well as the advantages and disadvantages of different investment options and financial risks for insurance-based investment products (including risks related to savings, pension plans, etc.); (b) the minimum necessary knowledge of applicable laws regulating the distribution of insurance services, consumer protection regulations, anti-money laundering laws, data protection, relevant tax regulations, and relevant social and labor law, etc.; (c) the minimum necessary knowledge of handling customer complaints and dealing with grievances; (d) the minimum necessary knowledge of assessing customer needs; (e) the minimum necessary knowledge of insurance and, possibly, other financial markets; (f) the minimum necessary understanding of business ethics standards; and (g) the minimum required financial competence.

However, neither the ESMA Guidelines nor the Insurance Distribution Directive contains standards regarding the format, organization, and duration of various forms of continuous professional development. While in some countries,

[68] European Commission, Staff Working Document „Report on the current framework for qualification of financial advisors in the EU and assessment of possible ways forward", Brussels, 30. 6.2022 SWD(2022) 184 final, https://finance.ec.europa.eu/system/files/2022-07/220630-report-qualification-financial-advisors-framework_en.pdf, accessed: 17. 10. 2024. F. Zunzunegui *et al.* (2023), 32.

[69] One of the best examples is the Czech National Bank, which has established detailed regulations for training and examinations in the capital markets sector through a special decree (Decree No. 319/2017 of 21 September 2017 on professional qualification for distribution on the capital market), while in the insurance sector, these requirements are defined by law (Law on the distribution of insurance and reinsurance, July 26, 2018).

[70] Commission de Surveillance du Secteur Financier, *Circular CCSF* 17/665 – ESMA Guidelines for the Assessment of Knowledge and Competence, https://www.cssf.lu/en/Document/circular-cssf-17-665/, 10. 10. 2024.

this option or obligation for financial advisors is not foreseen at all, in the field of insurance, most countries have accepted 15 hours annually, as stipulated by the Insurance Distribution Directive.[71]

Table 2.

Criteria Regarding Qualifications	MiFID II Directive and Guidelines for Knowledge and Competence Assessment	Insurance Distribution Directive
Minimum Requirements Regarding Formal Education	/	/
Qualification Requirement	Test or Training	Certificate as an Option
Form of Professional Qualification	/	/
Number of Training Hours	/	/
Form of Continuous Professional Development	/	/
Number of Required Hours of Continuous Professional Development	/	15
Minimum Required Work Experience for Qualification	6 months	/
Maximum Supervision Period	4 years	/
Qualification Verification	Internal or external, annually	/

V Towards the Improvement and Unification of Standards for Professional Qualifications of Personal Finance Planners and Financial Advisors in the EU

The European Commission adopted the Capital Markets Union Action Plan in September 2020,[72] which includes the *Retail Investment Strategy*. This strategy aims to ensure that retail investors can fully benefit from capital markets and that the rules are coherent across all legal instruments. Among other things, it is anticipated that individual investors should benefit from adequate protection, unbiased

[71] F. Zunzunegui *et al.*, p. 44.

[72] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *A Capital Markets Union for people and businesses-new action plan*, Brussels, 24.9.2020, COM(2020) 590 final. https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/capital-markets-union/capital-markets-union-2020-action-plan/action-8-building-retail-investors-trust-capital-markets_en, 30. 09. 2024.

advice, and fair treatment. Activity No. 8, as outlined in the Action Plan, proposes that the Commission suggest possible ways to improve the level of professional qualifications for financial advisors in the EU through amendments to the provisions of the MiFID II Directive and the Insurance Distribution Directive, as well as the introduction of a pan-European label for financial advisors. It is also expected that the Commission will propose that advisors receive a certificate proving that their level of knowledge and qualifications is sufficient for access to the profession, which will also demonstrate that they continuously participate in appropriate forms of continuing education.

To prepare activities aimed at aligning the requirements of both directives, the European Supervisory Authority for Insurance and Occupational Pensions conducted an analysis of the conditions that are set in member states as the basis for demonstrating knowledge and competence in financial advisory related to the distribution of investment products based on insurance products, revealing a range of differences at the level of member states.[73]

Based on reports from European supervisory bodies for capital markets and insurance, the European Commission published a special working document regarding the qualifications of financial advisors in the EU.[74] Although this is a working document, as an informal source that is not binding, it can be concluded that the analysis and comparison of requirements regarding the obtaining of professional qualifications for financial advisors is aimed not only at amending the aforementioned directives to harmonize the conditions for obtaining a pan-European label but also at introducing an additional requirement related to the professional knowledge of financial advisors to integrate investors' preferences concerning sustainability. In this context, the European Securities and Markets Authority adopted specific guidelines as far back as 2018,[75] while the European Supervisory Authority for Insurance and Occupational Pensions adopted specific guidelines in 2022.[76]

[73] IOPA, Report on the application of the Insurance Distribution Directive (IDD), EIOPA-BoS-21/581, January 2022; EIOPA, Annexes I-VIII to the Report on the application of the Insurance Distribution Directive (IDD), EIOPA-BoS-21/582, 6 January 2022.

[74] European Commission, Staff Working Document „Report on the current framework for qualification of financial advisors in the EU and assessment of possible ways forward“, Brussels, 30.6.2022, SWD(2022) 184 final.

[75] ESMA, *Guidelines on certain aspects of the MiFID II suitability requirements*, ESMA35-43-1163, 06/11/2018.

[76] EIOPA, *Guidance on the integration of sustainability preferences in the suitability assessment under the Insurance Distribution Directive (IDD)*, EIOPA-BOS-22-391, 20 July 2022.

VI Instead of a Conclusion – Reflection on the National Framework for Obtaining Titles and Improving Financial Advisors Qualifications

As an emerging profession, personal financial planning is primarily associated with developed countries, where its growth is driven by a well-developed capital market and a wider range of financial products available to consumers who often lack the necessary knowledge. However, even in countries with developed financial markets, the conditions for providing financial advisory and personal financial planning services remain inconsistent. One of the main reasons personal financial planning has not yet been fully recognized as a profession is the lack of well-defined educational requirements for financial advisors. The previously mentioned analysis of the EU legal framework clearly highlights the lack of harmonization, particularly concerning the MiFID II Directive's requirements for professional qualifications. In contrast, the Insurance Distribution Directive provides a somewhat more precise definition of the minimum professional competencies in the insurance field. In this regard, at the EU level, there is a recognized need to develop a unified taxonomy of qualification requirements and to standardize the meaning and scope of terms such as "knowledge", "competence", "qualification", "training" and similar concepts. The goal is to ensure a clear understanding that competence implies obtaining an appropriate qualification rather than merely participating in a training program.

The underdevelopment and instability of the financial market in our country and neighboring countries, along with a general lack of trust in the financial system, limit the potential for this profession to take shape and reduce the demand for various aspects of financial advisory services. In none of the surrounding countries is personal financial planning recognized as a regulated profession, and due to the limited availability of financial products, there is little demand for specialists in this field. However, there has been a noticeable increase in individuals referring to themselves as financial advisors and personal finance planners who offer educational and advisory services.

In cases where financial advice involves selling, mediation, or asset management for financial service users, investment advisors are legally required, under the Capital Market Law,[77] to adhere to professional rules and standards. They are prohibited from recommending the purchase or sale of financial instruments solely to earn a commission. The law mandates that investment advisors act in the best interest of their clients, ensuring that financial transactions are suitable by taking into account the client's goals, risk tolerance, financial knowledge and experience, and ability to understand the risks associated with the service provided.

[77] See in particular art. 179–181 of the Capital Market Law, *Službeni glasnik RS*, No. 129/2021.

In accordance with the Capital Market Law and a specific Rulebook,[78] the Securities Commission of the Republic of Serbia organizes three courses for attending training, taking exams, and obtaining licenses for brokers, portfolio managers, and investment advisors. The Rulebook regulates various aspects, including eligibility requirements, subject areas, exam organization, and the process for recognizing foreign diplomas or certificates earned abroad. The curriculum, instructors, and examiners are determined by the Commission's official act, with specific course hours and exam content outlined for each of the three professional titles. Thus, the certification requirements for investment advisors, issued by the Commission as a prerequisite for obtaining a license and registration in the Investment Advisors Registry, are strictly regulated by secondary legislation. This also applies to the licensing requirements, including specific work experience conditions and a clean criminal record. Holding the title of investment advisor is a fundamental requirement for obtaining a license, which also entails meeting additional professional and ethical standards.

According to the provisions of the Insurance Law,[79] an authorized insurance broker or agent cannot engage in insurance mediation or representation activities without undergoing professional training and being listed in the publicly available Register of Active Authorized Brokers/Agents, on the National Bank of Serbia (NBS) online portal. Based on a Decision on Amendments to the Decision on Obtaining Titles and Professional Development for Authorized Insurance Brokers and Agents,[80] the National Bank of Serbia signed an Agreement with the Serbian Chamber of Commerce, granting it the authority not only to conduct training programs for the certification of authorized insurance brokers and agents,[81] but also to oversee their ongoing professional development, which is not mandated by capital market regulations.

Specifically, the mentioned Decision requires authorized brokers and agents to undergo at least 15 hours of professional training annually in any calendar year they engage in insurance mediation or representation.

Beyond the scope of financial services, it is worth briefly examining the professional qualification requirements for obtaining licenses in accounting, auditing, and real estate mediation. In the field of accounting services, the Accounting Law[82]

[78] Rulebook on Obtaining Titles and Licensing for Brokers, Investment Advisors, and Portfolio Managers, *Službeni glasnik RS*, No. 115/2023.

[79] Art. 86(1) and 98(1,2) of the Insurance Law, *Službeni glasnik RS*, No. 139/2014 and 44/2021.

[80] *Službeni glasnik RS,* No. 11/2017.

[81] In this regard, it is commendable that the Training Manual for Certification, which is publicly available, has been standardized. The Serbian Chamber of Commerce, *Training Manual for Certification of Authorized Insurance Brokers and Agents*, Belgrade, February 2024. Notably, this publication prominently highlights key obligations, including the duty of brokers and agents to provide information that protects policyholders' rights and interests, the requirement for continuous professional development, the necessity of assessing consumer needs appropriately, adherence to ethical business standards, and more.

[82] *Službeni glasnik RS*, No. 73/2019 and 44/2021 - other law.

mandates training, examination, and continuous professional development only for accountants who provide professional accounting services. Since neither legal entities nor entrepreneurs who do not engage in accounting services are required to employ a certified accountant for bookkeeping, the licensing requirement in personal financial planning depends on the purpose of financial advisory services. According to the Audit Law,[83] auditors can obtain licensed certified auditor status if they pass the certification exam for a certified (internal) auditor and hold a valid license to practice auditing. A self-employed auditor is a certified auditor with a valid permit to operate as an independent entrepreneur. A professional qualification in accounting must be obtained from an organization that is a member of the *International Federation of Accountants* (IFAC). In Serbia, this membership is held by the Association of Accountants and Auditors and the Chamber of Certified Auditors. These professional organizations, in accordance with the relevant regulations, conduct training for certification exams, organize examinations, and maintain official registers of certified accountants, certified public accountants, certified auditors, and certified internal auditors.

Finally, the Law on Mediation in Real Estate Transactions and Leasing[84] regulates the conditions and procedures for conducting real estate mediation and leasing services, establishing the mandatory professional examination requirement. The program and examination procedure, as well as the record-keeping of issued certificates, one of the prerequisites for registration in the Real Estate Brokers Register, are governed by the Rulebook on the Professional Examination for Real Estate Brokers.[85]

The regulation of financial advisors in our country falls under the legal framework of capital markets and insurance. When it comes to defining professional requirements, it appears that the field of insurance mediation and representation has a more structured and detailed approach to expertise and knowledge standards. In addition to enforcing existing regulations and the supervisory role of the Securities Commission and the National Bank of Serbia, as the competent authorities, attention should also be directed toward further developments within the EU's Capital Markets Union Action Plan, particularly regarding the harmonization of qualification criteria and the introduction of a pan-European financial advisor designation. Considering these regulatory trends, an additional step could involve establishing professional associations, potentially in the form of a financial advisors chamber with mandatory membership and legally assigned responsibilities, particularly in areas such as setting ethical standards and enforcing continuous professional development requirements for financial advisors.

83 *Službeni glasnik RS*, No. 73/2019.
84 *Službeni glasnik RS*, No. 95/2013, 41/2018, and 91/2019.
85 *Službeni glasnik RS*, No. 75/2014 ... 135/2022.

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Translated by: ***Tijana Đekić***