

# Fairness Code

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## Voluntary undertaking

by issuers to observe standards with respect to the structuring, issuing, marketing and trading of structured products





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The members of the Deutscher Derivate Verband (DDV), the German Derivatives Association, are to apply this Fairness Code as a voluntary undertaking for their business conduct with respect to the structuring, issuing, marketing and trading of structured products.

Structured products combine the legal form of debt instruments with different opportunity and risk profiles. They relate to one or more underlying instruments and can create profit and risk structures that markedly differ from the development of the underlying instrument.

Using the statutory provisions as a basis, the Code sets out guidelines for responsible conduct regarding the capital and trust of the investor. It governs structured products which are offered publicly to private individuals in Germany.

# 1

## Issuer

The creditworthiness of the issuer should be openly disclosed at all times.

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Structured products are issued as debt instruments. In principle this involves a credit risk for the investor.

The up-to-date securities prospectus containing the information on the issuer and the available information on ratings and rating adjustments should be provided in an appropriate and comprehensible form on an easily accessible website on the Internet.

In this context, on trading days the DDV publishes the credit spreads, where available, of all the important issuers of structured products in Germany.

If a member is not the issuer of the structured product, it must disclose the relationship with the issuer, for example in terms of collateralisation of the product, on the Internet.

# Underlying

# 2

The underlying asset should be presented transparently.

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Structured products are based on existing underlying instruments or underlyings specifically created for an issue.

The underlying assets must be clearly designated. Payouts should as far as possible be calculated on the basis of verifiable reference prices in liquid markets.

If information concerning an underlying instrument is provided which is over and above the statutory requirements, reference should only be made to those sources which are considered reliable and are suitable for the investor to form an appropriate, independent opinion.

If underlying assets are created specifically to issue a structured product (baskets, indices etc.), the information displayed on the Internet concerning these assets and their composition must always be as up-to-date and transparent as possible. The current situation must be shown, particularly in the case of self-created indices.

# 3

## Product

Structured products should be designed fairly and clearly described.

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The members must undertake to design fairly the structured products they issue:

Every pay-off profile of a structured product is associated with a specific market expectation. The members should ensure that there is no imbalance between potential returns and risk as concerns this market expectation.

The members must ensure that on the date when the product conditions are determined the maximum return on the respective structured product is greater than the return on a government bond with a comparable term.

Where investment products with full capital protection are concerned which have a minimum and a maximum interest yield, the members must indicate the respective probabilities of occurrence as at the date when the product conditions are determined in the relevant product information sheet so as to help investors make a better estimate of the potential returns for the respective investment product.

The members also recommend their sales partners to disclose the probabilities of occurrence to the customers in their product information sheets.

The members must not issue for sale to the public any structured products which relate to individual investment funds as underlying instruments if such investment funds cannot be approved for sale in Germany (e.g. single hedge funds), if their current valuation is not published or only at long intervals (e.g. private equity funds) or if their repurchase is subject to substantial restrictions (e.g. closed-end funds).

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The members should work together with selected independent academic institutions designated by the DDV to facilitate calculation of the value at risk (VAR), and thus to enable an independent risk assessment for their structured products. By doing so, the members help make the risk linked to a structured product transparent to the investor.

The members strive to meet the investors' need for information and disclosure, and they are committed to a comprehensible description of the structured products they issue:

The members must describe the potential risk and returns in a transparent manner, thus facilitating comparison with other products.

The members must not promote any positive product features which only occur under unlikely circumstances, and when designating the products they must use clear, unambiguous terms. This is also to prevent potential false incentives for an investor's investment decision.

If the members issue certain types of structured products for the first time, they should adopt securities class designations that are already established on the market.

As issuers, the members must support their sales partners in working towards the responsible sale of these securities.

# 4

## Price

Structured products are characterised by a high degree of cost transparency.

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The prices of structured products should be determined in free competition among the issuers using the criteria of modern financial markets theory and be based on a number of different factors of influence.

The members should state the issuer estimated value (IEV) of the investment product in the relevant product information sheet as a percentage or in euro or in the respective currency of the structured product.

The issuer estimated value must be calculated on the date when the product conditions are determined and reflect the market price of the product among professional market participants.

The difference between the issue price of the product plus a front-end load fee, where applicable, and the issuer estimated value should include the expected issuer margin and, where applicable, a sales commission. The expected issuer margin covers, inter alia, the operational costs incurred by the issuer for structuring (e. g. costs of drawing up the securities prospectuses, costs of admission of the structured products to listing), market making (i. e. costs of continuous price fixing on the exchange and over the counter) and settlement of the respective structured product, and it also includes the expected profit for the issuer.

The members should furthermore recommend that their sales partners also disclose the issuer estimated value to the customers in their product information sheets. This also applies to structured products sold within the context of a fixed-price transaction. The sales commission should be shown separately in a commission-based transaction.

# Trading

# 5

Each member must ensure that trading is possible in principle for their own structured products.

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Investors are only able to achieve their individual investment objectives with structured products if the products are tradable and, above all, can also be sold again.

The members should organise the trading of their products in the secondary market themselves or appoint a third party to act as market maker.

They must publish in advance the times when trading is possible. During these periods, they should provide a liquid market, thus making it possible for the investor to trade the products concerned under normal market conditions, unless the securities prospectus for the individual instrument expressly stipulates otherwise.

The members must publish indicative, current bid and ask prices on the Internet and, where appropriate, disclose up to what volume they quote prices. The members must publish any changes and restrictions immediately. Outside the normal trading times of the underlying asset, they should quote prices for a structured product taking into account the current developments and market correlations.

Members must ensure that during exchange trading hours comparable conditions apply for a financial instrument also in over-the-counter trading. In the event of market disruptions or exceptional circumstances, the members may suspend trading of their structured products. They must, however, make every effort to resume trading as soon as possible and, if necessary, set up telephone trading.

This applies in particular in the event of malfunctions in members' technical systems and/or those of the service providers contracted by them.

# 6

## Services

The members must provide a comprehensive service for the investors.

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The members must provide balanced information in language that is comprehensible. For a better understanding of the structured products, the members should provide detailed information, such as product descriptions or term sheets. The opportunities and risks for different scenarios should be compared in a balanced way without giving rise to any misleading expectations regarding returns.

In order to ensure the equal treatment of all investors, during the public offering the members should provide securities prospectuses, brochures and any other marketing information free of charge and on the Internet where it is easily accessible.

They should offer investors the possibility of tracking the price development of the individual instrument on the Internet using charts that start on the issue date. All the relevant information about the structured products to which this Code applies must be available to the investors on easily accessible sites on the Internet.

The members must guarantee good service for the investors. This should include, for example, providing a telephone hotline and the possibility to ask questions online using a contact form. There should normally be a contact person available for the investors between 9:00 and 18:00 (CET) on exchange trading days.

The members must provide the DDV with all the data necessary for publication of the market volume and the market shares, thereby making an important contribution to the transparency of the German structured products market.

# Compliance

The members must agree to observe the Fairness Code.

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Acceptance of this Code is contingent upon compliance with it and with regular reviews and updates.

The statutory framework conditions form the basis for the internal organisation of transactions with structured products. Members must adopt suitable organisational measures to deal with conflicts of interest, for example in market making, and for observance of the internally defined maximum rates for the expected issuer margins and sales commissions, which must be monitored by an office which is independent of trading and sales, such as compliance or risk controlling departments.

In particular they should draw up internal rules to deal with the question of the circumstances under which their employees are prohibited from making their own acquisition of structured products.

Members may publicly acknowledge that they apply the provisions of the Code to their structured products.

The Fairness Code comes into effect on 1 November 2013 and applies to structured products offered publicly for the first time on that date and thereafter. The issuer estimated value and the probabilities for the minimum and maximum interest yield for investment products with full capital protection will be published at the latest as from 1 May 2014 in the product information sheets of the products offered publicly for the first time on or after this date.

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The Fairness Code Advisory Board should monitor compliance with the Fairness Code at regular intervals. The Code will also be revised at regular intervals to reflect changes in national and international market conditions.

In the event of breach of the Fairness Code by a member, the Board of Directors will take the decision as to appropriate measures, which could result in exclusion from Deutscher Derivate Verband.





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