

Fairness Code

Undertaking

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



Preamble



The members of the Deutscher Derivate Verband (DDV), the German Derivatives Association, are to apply this Fairness Code in 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 that are offered publicly to private individuals in Germany.

Issuer

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

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 is to 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 is to disclose the relationship with the issuer, for example in terms of collateralisation of the product, on the Internet.

Underlying

The underlying asset is to be presented transparently.

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

The underlying assets are to be clearly designated. Where possible, payouts are to 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 is to be made only to those sources that are considered reliable and are suitable for the investor to form an appropriate, independent opinion.

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Product

Structured products are to be designed fairly and clearly described.

Members are to undertake to design fairly the structured products they issue:

The revised European Markets in Financial Instruments Directive (MiFID II), which entered into force at the start of 2018, contains extensive provisions on product design and distribution, so as to protect the interests of investors. Of particular importance are provisions on identifying a target market, on product approval and product governance processes, as well as on cost transparency in the distribution of financial products. Members are to develop the organisation and technology of their processes and systems in order to ensure compliance with these requirements as of January 2018. As such, they are to possess the required information on the target markets and costs of their products, which they are to make available to their distribution partners.

As part of the prescribed product approval process, members are to determine a transparent cost structure, distribution strategy, and target market for their products. As issuers, they are to work with their distribution partners to ensure the responsible distribution of these products.

Members are to ensure that a corresponding Key Information Document (KID), with all required data and facts, is prepared for structured products that are subject to the European PRIIPs Regulation and that are made available to retail investors.

Above and beyond the regulatory requirements of the Key Information Document, members are to meet investors' needs for information and clarification, and commit them-

selves to a comprehensible description of the structured products they issue.

Members are to present the potential profits and risks of their products in a transparent manner and thus facilitate their comparability with other products.

Members shall not accentuate positive scenarios that only occur in improbable situations, and are to use clear and unambiguous terms when describing their products. This practice shall also assist in avoiding improper incentives that might influence an investor's investment decision.

If members issue a type of structured product that is new for them, they are to use one of the product categories that are already established in the market, where possible.

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

Members are to 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.

Credit-linked notes intended for distribution to retail clients are to be issued only when in compliance with the "Principles for the issuance of credit-linked notes for distribution to retail clients in Germany" paper adopted by the Deutscher Derivate Verband and the Deutsche Kreditwirtschaft (DK). Members

Costs

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

are to use a separate base prospectus for the issuance of credit-linked notes.

Members shall not issue for sale to the public any structured products that 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).

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

Members are to inform investors of the costs of structured products (product costs) in the respective Key Information Document or product information sheet.

Members are to disclose product costs in the product information sheet at the time the product conditions are determined. In accordance with the regulatory provisions of the revised European Markets in Financial Instruments Directive, these product costs include the entry charges, the ongoing charges, and the exit charges. They also contain 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 pricing on the exchange and over the counter) and settlement of the respective structured product. The costs also include the expected profit for the issuer.

Members are to provide the information on product costs to distribution partners.

Trading

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

In the interest of investors, members are to organise the trading of their products in the secondary market themselves or appoint a third party to act as market maker.

They are to publish in advance the times when trading is possible. During these periods, they are to 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.

Members are to publish indicative, current bid and ask prices on the Internet and, where appropriate, disclose up to what volume they quote prices. Members are to publish any changes and restrictions immediately.

Outside the normal trading times of the underlying asset, members are to quote prices for a structured product, taking into account the current developments and market correlations.

Members are to ensure that, during exchange trading hours, comparable conditions apply for a financial instrument in over-the-counter trading as well. In the event of market disruptions or exceptional circumstances, members may suspend trading of their structured products. They shall, 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.

Services

Members are to provide comprehensive service to investors.

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

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

Members are to 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 is to be available to the investors on easily accessible sites on the Internet.

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

Members are to 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.

7 Compliance

Members shall agree to observe the Fairness Code.

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 are to adopt suitable organisational measures to deal with conflicts of interest, for example in market making, and for the observance of the internally defined maximum rates for the expected issuer margins and sales commissions, which is to be monitored by an office that is independent of trading and sales, such as compliance or risk controlling departments.

In particular, members are to 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 came into effect on 1 November 2013 and was last updated on 13 March 2018.

The Fairness Code Advisory Board is to monitor compliance with the Fairness Code at regular intervals. The Code shall 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 shall take the decision as to appropriate measures, which could result in exclusion from Deutscher Derivate Verband.



Deutscher Derivate Verband

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