



Monetary Authority of Singapore

**FINANCIAL ADVISERS ACT
(ACT 43 OF 2001)**

GUIDELINE ON FIT AND PROPER CRITERIA

CANCELLED

Guideline No : FAA-G02
Issue Date : 1 October 2002 (Cancelled on 1 July 2005)

GUIDELINES ON FIT AND PROPER CRITERIA

Persons to whom the Guidelines on Fit and Proper Criteria (“these Guidelines”) Apply

1 These Guidelines are issued pursuant to section 64 of the Financial Advisers Act (Act 43 of 2001) [“the Act”]. They set out the fit and proper criteria for financial advisers and their representatives in respect of the provision of financial advisory services under the Act.

Purpose of these Guidelines

2 The Monetary Authority of Singapore (“the Authority”) expects all financial advisers and their representatives to adhere to these Guidelines so as to give confidence to the public that participants in the financial advisory services industry are competent, efficient, honest, have sound financial standing and are persons of integrity. Financial advisers should set up adequate internal control systems and procedures to ensure that the persons they employ or appoint to act on their behalf satisfy these Guidelines.

3 These Guidelines are meant to provide general guidance, and are not intended to replace or override any legislative provision. They should be read in conjunction with the provisions of the Act, the regulations made under the Act, as well as written directions, notices, codes and other guidelines that the Authority may issue from time to time.

Definitions

4 For the purposes of these Guidelines:

“financial adviser” means a licensed financial adviser or a person exempt from holding a financial adviser’s licence under section 23(1)(a) to (e) of the Act;

“financial advisory service” means all or any of the services specified in the Second Schedule to the Act;

“officer” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“substantial shareholder” has the same meaning as in Division 4 of Part IV of the Companies Act; and

“representative” has the same meaning as in section 2(1) of the Act.

Fit and Proper Test

5 The Authority will have regard to a number of factors when assessing if a financial adviser or representative is fit and proper, key among which are

- (a) honesty, integrity and reputation;
- (b) financial soundness; and
- (c) competence and capability

6 Failure to meet a specific criterion may not necessarily render a financial adviser or representative not fit and proper. The Authority will consider the significance and relevance of the failure to meet a specific criterion, having regard to the duties to be performed and responsibilities to be assumed by the financial adviser or representative. In general, the Authority will regard an offence involving fraud or dishonesty as a serious offence.

7 In assessing whether a financial adviser is fit and proper, the Authority will take into consideration whether the substantial shareholders, officers and employees of the financial adviser satisfy the fit and proper criteria stated in paragraphs 8, 9 and 10 of these Guidelines, where relevant.

Honesty, Integrity and Reputation

8 In determining the honesty, integrity and reputation of a financial adviser or representative, the Authority will consider, among others, whether the financial adviser or representative:

- (a) has been convicted of any offence, in Singapore or elsewhere, or is being subject to any pending proceedings which may lead to such a conviction;
- (b) has been issued a prohibition order under any Act administered by the Authority or has been prohibited by other regulatory bodies from operating in other financial services markets;
- (c) has not performed, or has led the Authority to believe that it or he will likely not perform, the function of a financial adviser or representative efficiently, honestly or fairly;
- (d) has not acted, or has led the Authority to believe that it or he may not act, in the best interests of the client, having regard to its or his reputation, character, financial integrity and reliability;
- (e) has been, or is involved with a corporation which has been, censured, disciplined, suspended or refused membership or registration by a securities exchange, futures exchange, securities market, futures market, or regulatory authority of any business or profession;
- (f) has knowingly or negligently aided or abetted other persons in breach of any laws or regulations, exchange rules or codes of conduct;
- (g) has been the subject of any investigations or disciplinary proceedings or been issued a warning by the Authority, other regulatory authorities, exchanges, professional bodies or government agencies;
- (h) has not been truthful or cooperative in any of its or his dealings with any regulatory authority;

- (i) has not demonstrated a willingness to comply with regulatory requirements or to uphold professional and ethical standards;
- (j) has had any judgment (including a finding of fraud, misrepresentation or dishonesty) given against it or him in any civil proceedings in Singapore or elsewhere or is a party to any pending proceedings which may lead to such a judgment; and
- (k) has failed to satisfy the Authority that its or his conduct of business as a financial adviser or representative, as the case may be, would not be contrary to the public interest, having regard to its or his reputation, character, financial integrity and reliability.

Financial Soundness

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9 In determining the financial soundness of a financial adviser or representative, the Authority will consider, among others, whether the financial adviser or representative:

- (a) has unsatisfactory financial standing;
- (b) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with it or his creditors, being a compromise or scheme of arrangement that is still in operation;
- (c) is the subject of a judgment debt which has been returned unsatisfied, either in whole or in part;
- (d) in the case of a financial adviser:
 - (i) is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
 - (ii) a receiver, receiver and manager, judicial manager, or such other person having the powers and duties of a receiver, receiver and manager, or judicial manager, has been appointed, whether in Singapore or

elsewhere, in relation to, or in respect of any property of, the financial adviser; and

- (e) in the case of a representative, is an undischarged bankrupt in Singapore or elsewhere.

Competence and Capability

10 In determining the competence and capability of a financial adviser or representative, the Authority will consider, among others:

- (a) in the case of a representative, whether the representative has satisfactory educational qualification or experience, having regard to the nature of the duties he is to perform, and has satisfied the requirements stipulated in the Notice on Minimum Entry and Examination Requirements for Representatives of Licensed Financial Advisers and Exempt Financial Advisers (Notice No. AA-01) issued by the Authority, and
- (b) in the case of a licensed financial adviser, whether its officers and employees, who perform duties in connection with the financial adviser's licence, have satisfactory educational qualification or experience; and
- (c) whether the financial adviser or representative has satisfactory records of past performance or expertise, having regard to the nature of the financial adviser's business or the duties of the representative, as the case may be.