



Monetary Authority of Singapore

**FINANCIAL ADVISERS ACT
(CAP. 110)**

**NOTICE ON RECOMMENDATIONS ON INVESTMENT
PRODUCTS**

Notice No : FAA-N16
Issue Date : 28 July 2011 (last updated on 1 January 2012)

NOTICE ON RECOMMENDATIONS ON INVESTMENT PRODUCTS

Introduction

1 This Notice is issued pursuant to section 58 of the Financial Advisers Act (Cap. 110) ["the Act"]. The earlier notice ("FAA-N01") issued on 1 October 2002 and last updated on 19 April 2011 on the same subject is cancelled.

2 Subject to paragraph 3, this Notice shall apply to -

- (a) licensed financial advisers;
- (b) exempt financial advisers;
- (c) representatives of financial advisers;
- (d) persons who are exempt under regulation 29 of the Financial Advisers Regulations (Rg 2) ["FAR"]; and
- (e) representatives of persons who are exempt under regulation 29 of the FAR.

3 This Notice shall not apply to persons specified in paragraph 2 who are exempted from complying with section 27 of the Act under regulations 18A, 27A, 28, 31(4), 31(5), 31(7), 31(8), 32B, 34 and 36 of the FAR only in respect of the activities for which they are exempt under these regulations.

4 This Notice shall not apply:

- (a) to any recommendation made with respect to simple life policies sold as an ancillary product to loans with a simple payment basis for the insurance cover. These include policies that cover outstanding loans through personal loans, car loans

and credit card balances, but exclude mortgage reducing term assurance plans; and

- (b) to any transaction where –
 - (i) only factual information is provided with respect to any Excluded Investment Product, including the marketing of any designated investment products through the use of direct response advertising communications through any medium, including mail, print, TV, radio, and electronic media referred to in paragraph 29 of the Notice on Information to Clients and Product Information Disclosure [Notice No. FAA-N03], and
 - (ii) prior to such transaction no advice or recommendation is made by the licensed financial adviser, exempt financial adviser or their representatives to the client.

5 This Notice sets out the standards to be maintained by financial advisers and their representatives with respect to recommendations made on investment products.

Definitions

6 For the purposes of this Notice:

“Benefit Illustration” means a benefit illustration prepared by an insurer registered to carry on direct life insurance business under the Insurance Act (Cap. 142) pursuant to the Notice on Market Conduct Standards for Direct Life Insurer as a Product Provider [Notice No. MAS 318];

“capital markets products” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);

“client” includes a prospective client;

“collective investment scheme” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);

“connected person” has the same meaning as in section 2(1) of the Act;

“Customer Knowledge Assessment” means a review of a client’s knowledge and experience in a Specified Investment Product which is neither listed nor quoted on a securities market or a futures market;

“dealer” means a person exempt from holding a financial adviser’s licence under section 23(1)(a), (b) or (d) of the Act and its representatives in respect of their carrying on business of providing execution-related advice;

“debenture” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);

“designated investment product” has the same meaning as in section 25(6) of the Act;

“Excluded Investment Product” means any investment product set out in Annex 1 to this Notice;

“execution activities” means any or all of the following activities as defined in section 2(1) of the Securities and Futures Act (Cap. 289):

- (a) dealing in securities (other than collective investment schemes) that is listed for quotation or quoted on a securities exchange, overseas securities exchange or recognised market operator; and
- (b) trading in futures contracts;

“execution-related advice” means advice provided which is solely incidental to the execution activities of a dealer with no discrete fee charged by the dealer for the advice rendered;

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

“financial adviser” means a licensed financial adviser or an exempt financial adviser;

“futures market” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);

“investment product” has the same meaning as in section 2(1) of the Act;

“Product Highlights Sheet” means a product highlights sheet prepared by issuers in accordance with the MAS Guidelines on the Product Highlights Sheet (SFA 13-G10);

“product manufacturer” means, in relation to an offer of investment products, the entity that issued or will be issuing the investment product being offered;

“Product Summary” means a product summary prepared by an insurer registered to carry on direct life insurance business under the Insurance Act (Cap. 142) pursuant to the Notice on Market Conduct Standards for Direct Life Insurer as a Product Provider [Notice No. MAS 318];

“recognised securities exchange” means a corporation which has been declared by the Authority, by order published in the *Gazette*, to be a recognised securities exchange for the purposes of Divisions 1, 1A and 2 of Part XIII of the Securities and Futures Act (Cap.289);

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

“securities exchange” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap.289);

“securities market” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);

“senior management” means any person holding the office of chief executive officer, or executive director in the financial adviser;

“Specified Investment Product” means any investment product other than an Excluded Investment Product;

“Switching” includes a situation where a client disposes of, or reduces his interest in, all or part of an investment product to acquire, or increase his interest in, all or part of another investment product, and “switch” shall be construed accordingly; and

“unit” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289).

Representatives of Financial Advisers

7 Unless otherwise specified, a representative shall comply with any requirement imposed on a financial adviser in this Notice when acting on its behalf.

Recommendations on Investment Products

8 Section 27 of the Act requires licensed financial advisers to have a reasonable basis for any recommendation made, with respect to any investment product, to a person who may reasonably be expected to rely on the recommendation¹. In particular, the licensed financial adviser shall give due consideration to the person's investment objectives, financial situation and particular needs.

9 Where the investment product recommended is a Specified Investment Product, the financial adviser shall also give due consideration to the person's knowledge or experience in the Specified Investment Product.

10 A financial adviser that is involved in making recommendations on investment products to clients shall comply with the requirements set out in this Notice in relation to the following aspects:

- (a) know your client;

¹

Sections 23(4) and 37 of the Act provides that section 27 also applies to exempt financial advisers, appointed and provisional representatives.

- (b) needs analysis; and
- (c) documentation and record keeping.

Know Your Client

11 In order for a financial adviser to make a recommendation that takes into account a client's investment objectives, financial situation and particular needs, the financial adviser shall take reasonable steps to collect and document the following information from the client:

- (a) the financial objectives of the client;
- (b) the risk tolerance of the client;
- (c) the employment status of the client;
- (d) the financial situation of the client, including assets, liabilities, cash flow and income;
- (e) the source and amount of the client's regular income;
- (f) the financial commitments of the client;
- (g) the current investment portfolio of the client, including any life policy;
- (h) whether the amount to be invested is a substantial portion of the client's assets; and
- (i) for any recommendation made in respect of life policies, the number of dependants of the client and the extent and duration of financial support required for each of the dependants.

12 For the purpose of collecting and documenting information referred to in paragraph 11, a financial adviser may rely on information previously provided by the client to the financial adviser only if the client confirms at the time of the transaction that there are no material changes to the information.

13 Paragraph 11 does not apply to a financial adviser who is also a dealer in respect of his carrying on the business of providing execution-related advice, provided that –

- (a) the information referred to in paragraph 11 shall already have been collected from the client and documented by the financial adviser at the time when the relationship was first established with the client; and
- (b) the financial adviser shall update the client’s profile in respect of the information referred to in paragraph 11 at least on an annual basis or as and when informed by the client of any change in the client’s profile.

14 A financial adviser shall highlight the following in writing to its client:

- (a) the information provided by the client will be the basis on which the recommendation will be made; and
- (b) any inaccurate or incomplete information provided by the client may affect the suitability of the recommendation.

Customer Knowledge Assessment

15 A financial adviser shall ensure that it has been informed by the product manufacturer of an investment product which is neither listed nor quoted on a securities market or a futures market, as to whether the investment product is a Specified Investment Product, before making any recommendation on that investment product. The financial adviser shall keep proper records of such information and shall accordingly convey this information to a client who intends to transact in that investment product.

16 Where the investment product is a Specified Investment Product that is neither listed nor quoted on a securities market or futures market (referred to as an “unlisted Specified Investment Product”), a financial adviser shall conduct a Customer Knowledge Assessment based on the criteria set out in Annex 2 to this Notice before making a recommendation on the unlisted Specified Investment Product concerned to a client.

17 For the purpose of the Customer Knowledge Assessment, a financial adviser shall take into consideration information on a client's educational qualifications, investment experience and work experience. Where a client does not provide information on his educational qualifications, investment experience or work experience, the financial adviser shall deem the client not to possess knowledge or experience in the unlisted Specified Investment Product concerned.

18 A financial adviser shall highlight in writing to the client that any inaccurate or incomplete information provided by the client may affect the outcome of the Customer Knowledge Assessment.

19 Subject to paragraph 24, a financial adviser shall not allow a client to transact in an unlisted Specified Investment Product unless it is satisfied, on the basis of the outcome of the Customer Knowledge Assessment referred to in paragraph 16, that the client has knowledge or experience in the unlisted Specified Investment Product, as set out in Annex 2 to this Notice.

20 Notwithstanding a positive outcome of the Customer Knowledge Assessment, the financial adviser shall offer to provide advice concerning the unlisted Specified Investment Product to the client.

21 Where the client does not wish to receive advice concerning the unlisted Specified Investment Product from the financial adviser, the financial adviser shall document the decision of the client and highlight to the client in writing that it is the client's responsibility to ensure the suitability of the unlisted Specified Investment Product selected. The financial adviser shall also warn the client in writing that the client has chosen not to receive advice and will therefore not be able to rely on section 27 of the Act to file a civil claim in the event he alleges he has suffered a loss, and confirm in writing if the client wishes to proceed without advice.

[FAA-N16 (Amendment) 2011]

22 Where a financial adviser assesses a client not to possess knowledge or experience in an unlisted Specified Investment Product pursuant to the Customer Knowledge Assessment, it shall inform the client of the outcome of the Customer Knowledge Assessment.

23 Where a client, after being informed of the outcome of the Customer Knowledge Assessment in accordance with paragraph 22, nevertheless intends to proceed with the transaction in the unlisted Specified Investment Product, the financial adviser shall provide advice to the client, taking into account the client's investment objectives, financial situation and particular needs, as well as the outcome of the Customer Knowledge Assessment.

[FAA-N16 (Amendment) 2011]

24 If a client, who is assessed as not possessing the knowledge or experience in the unlisted Specified Investment Product pursuant to the Customer Knowledge Assessment, nevertheless chooses to transact in an unlisted Specified Investment Product which is not recommended by the financial adviser, the financial adviser shall:

- (a) inform the client in writing of the outcome of the Customer Knowledge Assessment;
- (b) obtain the client's written confirmation that the client still intends to proceed with the transaction in the product despite the outcome of the Customer Knowledge Assessment; and

inform the client in writing that it is the client's responsibility to ensure the suitability of the product selected.

[FAA-N16 (Amendment) 2011]

25 In respect of such a client as referred to in paragraph 24 who has confirmed that he intends to proceed with the transaction, the financial adviser shall not allow the transaction unless its senior management, who is not involved in that particular sales transaction and is not a connected person to the client:

- (a) has confirmed with the client that the client has been properly informed of all relevant facts as required under paragraphs 22 and 24, and that the client is aware of the implications and consequences of proceeding with the transaction;
- (b) is satisfied that the financial adviser has complied with the requirements set out in paragraphs 22 and 24; and

- (c) has given approval for the financial adviser to proceed with the client's request.

26 Where a client is assessed to have the knowledge or experience to transact in an unlisted Specified Investment Product, the financial adviser may allow the client to transact in such unlisted Specified Investment Product for a period of one year from the date of the Customer Knowledge Assessment. After a year has elapsed, the financial adviser shall conduct a new Customer Knowledge Assessment on the client before it provides any recommendation on any unlisted Specified Investment Product to the client.

27 For avoidance of doubt, paragraphs 15 to 26 shall apply in respect of every first transaction relating to an unlisted Specified Investment Product with the current financial adviser, even where a client has been assessed by another financial adviser to possess knowledge or experience in the unlisted Specified Investment Product concerned.

[FAA-N16 (Amendment) 2011]

27A For the purposes of conducting the Customer Knowledge Assessment provided in paragraphs 15 to 26, the reference to a "client" in those paragraphs only refers to a natural person.

[FAA-N16 (Amendment) 2011]

Needs Analysis

28 Section 27 of the Act requires a financial adviser to analyse the information provided by the client and identify the product that is suitable for the client based on the information obtained from the client.

[FAA-N16 (Amendment) 2011]

29 A financial adviser shall put in place systems and processes for its representatives to determine whether the product recommended is suitable for the client based on the information obtained from the client. The financial adviser shall take into consideration the nature of the product, key risks and other features including the investment tenor, fees and liquidity required.

30 Where the financial adviser is unable to identify a suitable product, it shall inform the client accordingly.

31 A financial adviser shall explain to its client the basis for its recommendation. The basis on which the financial adviser is making the recommendation to the client shall be documented.

32 Where a client does not want:

- (a) to provide any information requested by the financial adviser in accordance with paragraph 11; or
- (b) to accept the recommendation of the financial adviser and chooses to transact in another investment product which is not recommended by the financial adviser,

the financial adviser may proceed with the client's request, but it shall document the decision of the client and highlight to the client in writing that it is the client's responsibility to ensure the suitability of the product selected.

[FAA-N16 (Amendment) 2011]

33 Where a client chooses not to receive any recommendation from a financial adviser, the financial adviser shall ensure that there is proper documentation to demonstrate that this is so.

34 Where a financial adviser is:

- (a) making a recommendation on life policies;
- (b) arranging contracts of insurance in respect of life policies; or
- (c) carrying out both of the above activities,

it is expected to comply with the LIA Minimum Standard for Life Insurance Advisory Process issued by the Life Insurance Association of Singapore.

Documentation and Record Keeping

35 The financial adviser shall make reasonable efforts to document the basis for the recommendation referred to in paragraph 36(b), and such documentation shall include the following:

- (a) the client's statement of his investment objectives, financial situation and particular needs;
- (b) the financial adviser's reasonable basis for making the recommendation to the client having regard to the information obtained from the client; and
- (c) the financial adviser's assessment of the disadvantages of the investment product based on circumstances of the client.

36 A financial adviser shall furnish to its client a document containing the following when making a recommendation in respect of an investment product to the client:

- (a) a summary of the information gathered by the financial adviser pursuant to paragraph 11; and
- (b) any recommendation made to the client by the financial adviser and the basis for the recommendation,

and, where applicable, also furnish to its client a statement that the client does not want to:

- (i) provide any information requested by the financial adviser in accordance with paragraph 11;
- (ii) accept the recommendation of the financial adviser and has chosen to transact in another investment product which is not recommended by the financial adviser; or
- (iii) receive any recommendation from the financial adviser,

before the client signs on the application form for the purchase of an investment product or gives his consent to dispose of an investment product.

[FAA-N16 (Amendment) 2011]

37 A financial adviser shall furnish the following documents to a client when making a recommendation:

- (a) in the case of a collective investment scheme or a debenture, a copy of the prospectus or profile statement and Product Highlights Sheet (if applicable) issued in respect of the collective investment scheme or the debenture, and/or any other offer document as may be prescribed by the relevant laws, including:
 - (i) a supplementary prospectus or supplementary profile statement issued in respect of the collective investment scheme or the debenture; and
 - (ii) a replacement prospectus or replacement profile statement issued in respect of the collective investment scheme or the debenture.
- (b) in the case of a life policy, a copy of the Product Summary, Benefit Illustration, and Product Highlights Sheet in respect of that policy (where a Product Summary, Benefit Illustration, and Product Highlights Sheet are available in respect of that policy).

38 The financial adviser may, with the client's written consent, give the client an abridged version of the document or statement referred to in paragraph 36. The financial adviser shall also maintain a copy of this document or statement and the abridged version of the document or statement, where applicable, for record keeping purposes.

39 A financial adviser who is also a dealer is not required to furnish to its client the document referred to in paragraph 36 when making recommendation in respect of an investment product to the client.

40 A financial adviser shall document the Customer Knowledge Assessment conducted for its clients. Such documentation shall include the following:

- (a) information collected from a client on his educational qualification, work experience and investment experience;
- (b) an assessment of the client's knowledge and experience in unlisted Specified Investment Products, as the case may be;

- (c) the outcome of the Customer Knowledge Assessment; and
- (d) the approval of its senior management for the financial adviser to proceed with the client's request.

41 A financial adviser shall maintain records of all communication between the financial adviser and the client relating to the provision of financial advisory in respect of a Specified Investment Product which is listed or quoted on a securities market or a futures market, including a record in the form of a file note or a tape recording of the telephone conversation.

Switching of Designated Investment Products

42 A financial adviser shall not make a recommendation to a client to switch from one designated investment product (referred to as "original product") to another designated investment product (referred to as "replacement product") in a manner that would be detrimental to the client. In considering whether a switch is detrimental, the Authority may have regard to a number of factors, including:

- (a) whether the client suffers any penalty for terminating the original product;
- (b) whether the client will incur any transaction cost without gaining any real benefit from such a switch;
- (c) whether the replacement product confers a lower level of benefit at a higher cost or same cost to the client, or the same level of benefit at a higher cost; and
- (d) whether the replacement product is less suitable for the client.

43 A financial adviser which makes a recommendation to a client to switch from one designated investment product to another designated investment product shall comply with the requirements set out in this Notice.

44 A financial adviser shall disclose, in writing, to a client any fee or charge the client would have to bear if he were to switch from one

designated investment product to another, in order to ensure that the client is able to make an informed decision on whether to switch.

45 This Notice shall take effect on 1 January 2012.

Note:

Under section 58(5) of the Act, any person who contravenes any requirement specified in a written direction issued by the Authority (which would include this Notice), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

*Notes on History of Amendments:

1. FAA-N16 (Amendment) 2011 with effect from 1 January 2012

ANNEX 1 – EXCLUDED INVESTMENT PRODUCTS

Unless otherwise provided here, the terms used or referred to in this Annex shall have the same meanings assigned to them in section 2 of the Act or section 2 of the Securities and Futures Act (Cap. 289), where applicable.

“Excluded Investment Product” means:

- (a) any stocks or shares issued or proposed to be issued by a corporation or body unincorporate, other than where such corporation or body unincorporate is a collective investment scheme;
- (b) any unit of a share which represents ownership of the underlying share, where the underlying share is held on trust for the unit-holder by a custodian, and where –
 - (i) the units of shares have been previously issued, are listed for quotation or quoted on a securities exchange, and are traded on the exchange or an application has been or will be made for permission for the units of shares to be listed for quotation or quoted on a securities exchange or recognised securities exchange and the shares have been previously issued and are listed for quotation on a securities exchange or a recognised securities exchange; and
 - (ii) no additional consideration (other than administrative fees) is payable by the unit-holder in the event that he converts the unit of share into the underlying share;
- (c) any right, option or derivative issued or proposed to be issued by a corporation or body unincorporate in respect of its own stocks or shares;
- (d) any unit in a business trust;
- (e) any unit in a collective investment scheme, such collective investment scheme being an arrangement:

- (i) that is a trust;
 - (ii) that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and
 - (iii) all or any units of which are listed for quotation on a securities exchange;
- (f) any debenture other than:
- (i) asset-backed securities as defined in section 262(3) of the Securities and Futures Act (Cap.289); or
 - (ii) structured notes as defined in regulation 2(1) of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005;
- (g) any life insurance policy other than investment-linked life insurance policies as defined in the First Schedule to the Insurance Act (Cap. 142); or
- (h) any contract or arrangement the effect of which is that one party agrees to exchange currency at an agreed rate of exchange with another party, where such currency exchange is effected immediately,

but does not include any product specified in items (a) to (h) above that is listed for quotation or quoted only on a securities market or a futures market that is not operated by an approved exchange.

ANNEX 2 – CRITERIA FOR THE SATISFACTION OF THE CUSTOMER KNOWLEDGE ASSESSMENT

1. A client who satisfies any of the following may be assessed as possessing the knowledge or experience in an unlisted Specified Investment Product for the purpose of the satisfaction of the Customer Knowledge Assessment in the Specified Investment Product concerned:
 - (a) The client holds a diploma or has higher qualifications in accountancy, actuarial science, business/business administration/business management/business studies, capital markets, commerce, economics, finance, financial engineering, financial planning, computational finance and insurance;
 - (b) The client has a professional finance-related qualification²;
 - (c) The client has invested in the following unlisted Specified Investment Products:
 - (i) For transactions in collective investment schemes (referred to as “CIS”) and investment-linked life insurance policies (referred to as “ILPs”), the client has transacted in CIS or ILPs at least 6 times in the preceding 3 years; or
 - (ii) For transactions in Specified Investment Products which are neither listed nor quoted on a securities market or a futures market (excluding CIS and ILPs), the client has transacted in any Specified Investment Products which are neither listed nor quoted on a securities market or a futures market (excluding CIS and ILPs) at least 6 times in the preceding 3 years;
 - (d) The client has a minimum of 3 consecutive years of working experience³ in the past 10 years in the development of,

² Examples of this would include the Chartered Financial Analyst Examination conducted by the CFA Institute, USA and the Association of Chartered Certified Accountants (ACCA) Qualifications.

³ Such working experience would also include the provision of legal advice or possession of legal expertise on the relevant areas listed in limb (d).

structuring of, management of, sale of, trading of, research on and analysis of investment products or the provision of training in investment products. Work experience in accountancy, actuarial science, treasury or financial risk management activities will also be considered relevant experience.

2. Where a client is assessed to not possess knowledge or experience in an unlisted Specified Investment Product, but subsequently demonstrates sufficient understanding of the features and risks of that Specified Investment Product through a learning module provided by an independent body as set out in the Practice Note on Recommendations on Investment Products [FAA PN-02], the client may be deemed to possess the knowledge to transact in that unlisted Specified Investment Product.

[FAA-N16 (Amendment) 2011]