



Monetary Authority of Singapore

FINANCIAL ADVISERS ACT
(CAP. 110)

**NOTICE ON REPORTING OF MISCONDUCT OF
REPRESENTATIVES BY FINANCIAL ADVISERS**

Notice No : FAA-N09

Issue Date : 1 July 2005

NOTICE ON REPORTING OF MISCONDUCT OF REPRESENTATIVES BY FINANCIAL ADVISERS

Introduction

1 This Notice is issued pursuant to section 58 of the Financial Advisers Act (Cap. 110) ["the Act"]. Notice No. FAA-N05 issued on 1 October 2002 is cancelled.

2 This Notice shall apply to all licensed financial advisers and persons who are exempt from holding a financial adviser's licence under section 23(1)(a) to (e) of the Act. It sets out the responsibilities and reporting requirements of financial advisers for the misconduct of their representatives.

Definitions

3 For the purposes of this Notice —

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

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

“quarter” means any period of 3 months beginning on 1 January, 1 April, 1 July or 1 October; and

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

Disciplinary Action

4 A financial adviser is responsible for the conduct of its representatives. It should take appropriate disciplinary action against its representatives for any misconduct committed by them in relation to the provision of financial advisory service and ensure consistency in its application of disciplinary action.

5 The type of disciplinary action that a financial adviser may take against its representatives in respect of any misconduct committed depends on the severity of the case and includes, but is not limited to, any one or more of the following —

- (a) suspension from providing financial advisory service;
- (b) restitution of misappropriated monies;
- (c) fine;
- (d) formal warning;
- (e) demotion; and
- (f) termination of the representative's employment or arrangement with the financial adviser.

6 A financial adviser should have an internal process for addressing the appeals made by its representatives for any disciplinary action taken against them.

Quarterly Report

7 A financial adviser shall report to the Authority, in the manner specified in paragraph 9, any disciplinary action it has taken against any of its representatives for the following types of misconduct committed by its representatives —

- (a) Acts Involving Fraud, Dishonesty or Other Offences of a Similar Nature: cases where the financial adviser has reason to suspect that its representative has committed any offence

involving cheating, dishonesty, fraud, forgery, misappropriation of monies or criminal breach of trust. For such cases, the financial adviser is expected to lodge a police report and submit to the Authority a copy of the police report, together with information (where available) relating to —

- (i) the name of the police officer investigating the case; and
- (ii) an update on the progress of the police investigation and result of the criminal proceeding (if any).

Where a financial adviser has not lodged a police report, it should notify the Authority of the reasons for its decision;

- (b) Acts Involving Inappropriate Advice, Misrepresentation or Inadequate Disclosure of Information: cases where its representative —
 - (i) made recommendations to a client without due consideration to his investment objectives, financial situation or particular needs;
 - (ii) made deceptive, false or misleading statements to a client; or
 - (iii) failed to disclose to a client all material information relating to any designated investment product recommended by him, as specified in Notice No. FAA-N03, Notice on Information to Clients and Product Information Disclosure;
- (c) Failure to Satisfy the Guidelines on Fit and Proper Criteria [“Guideline No. MCG-G01”]: cases where its representative failed to satisfy the fit and proper criteria set out in Guideline No. MCG-G01; and
- (d) Other Misconduct: any type of misconduct other than those set out in sub-paragraphs (a) to (c), resulting in —

- (i) a non-compliance with any regulatory requirement relating to the provision of any financial advisory service under the Act; or
- (ii) a serious breach of the financial adviser's internal policy or code of conduct which would render the representative liable to demotion, suspension or termination of the representative's employment or arrangement with the financial adviser.

8 A financial adviser shall also report to the Authority, in the manner specified in paragraph 9, any type of misconduct set out in paragraph 7 that is committed by any of its representatives for which —

- (a) disciplinary action has been decided upon but not yet taken because the implementation of the decision is pending an internal appeals process; or
- (b) disciplinary action had not been decided upon or taken because the representative concerned ceased to be a representative of the financial adviser —
 - (i) before the misconduct was discovered; or
 - (ii) before any disciplinary action was decided upon or taken.

9 A financial adviser shall submit to the Authority, not later than 14 days after the end of each quarter —

- (a) a report for that quarter, in the form set out at Appendix 1 ["Quarterly Report"], of the information required under paragraphs 7, 8 and 12; or
- (b) a nil return if there is no misconduct for which the financial adviser is required to report under sub-paragraph (a).

10 A financial adviser is not required to include in the Quarterly Report, disciplinary action taken against its representatives for failing to meet the continuing education requirements.

Special Report

11 In addition to the Quarterly Report to be submitted in accordance with paragraph 9, where a financial adviser discovers that any of its representatives has committed any misconduct of the type referred to in paragraph 7(a), the financial adviser shall submit to the Authority, not later than 14 days from the date of discovery of the misconduct committed, a report in the form set out at Appendix 2 [“Special Report”].

12 Where the Special Report referred to in paragraph 11 is submitted by a financial adviser in any quarter, the financial adviser shall set out in the Quarterly Report for the same quarter, all information contained in the Special Report, including any developments after the submission of the Special Report.

Investigations

13 For the purpose of complying with the requirements set out in paragraphs 7 to 9 and 11 to 12, a financial adviser is expected to conduct internal investigations and keep proper records of the following —

- (a) a summary of the facts of the case;
- (b) interviews with relevant parties such as the representative, his supervisor and the client;
- (c) documentary evidence of the alleged misconduct;
- (d) the investigator’s assessment and recommendation; and
- (e) disciplinary action taken against the representative, if any.

14 Where an investigation has been carried out by a financial adviser in respect of any misconduct committed by any of its representatives, the financial adviser shall, at the request of the Authority, furnish the records set out in paragraph 13.

Use of Information in Report

15 The Authority may take into account any information contained in any report that is submitted by a financial adviser under this Notice in exercising its powers or performing its functions under the Act.

16 This Notice shall take effect on 1 July 2005 and shall apply to the quarter commencing on 1 July 2005.

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.

Appendix 1

QUARTERLY REPORT OF MISCONDUCT OF REPRESENTATIVES BY A FINANCIAL ADVISER FOR THE QUARTER ENDING _____

Name of Representative	NRIC No. of Representative	Licence No. of Representative (if applicable)	Description of Misconduct	Disciplinary Action Taken Against the Representative (if applicable)	Other Remarks
(a) Acts Involving Fraud, Dishonesty or Other Offences of a Similar Nature					
(b) Acts Involving Inappropriate Advice, Misrepresentation or Inadequate Disclosure of Information					
(c) Failure to Satisfy the Guidelines on Fit and Proper Criteria [Guideline No. MCG-G01]					
(d) Other Misconduct					

Other Remarks: _____

Name of Financial Adviser:

Details of Reporting Officer:

Name :

Designation :

Signature :

Date :

Appendix 2

**SPECIAL REPORT OF MISCONDUCT OF REPRESENTATIVES BY
A FINANCIAL ADVISER FOR THE QUARTER ENDING**

Name of Representative	NRIC No. of Representative	Licence No. of Representative (if applicable)	Description of Misconduct	Disciplinary Action Taken Against the Representative (if applicable)	Other Remarks
Acts Involving Fraud, Dishonesty or Other Offences of a Similar Nature					

Other Remarks: _____

Name of Financial Adviser:

Details of Reporting Officer:

Name :

Designation :

Signature :

Date :