Monetary Authority of Singapore

FINANCIAL ADVISERS ACT (CAP. 110)

NOTICE ON RECOMMENDATIONS ON INVESTMENT PRODUCTS

CANCELLED

Notice No : FAA-N01
Issue Date : 1 October 2002 (Last revised on 26 November 2010)

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"].

2 Subject to paragraph 2A, 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.

[FAA-N01 (Amendment) 2010]

2A This Notice shall not apply to –

(a) 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;

[FAA-N01 (Amendment) 2005]

(b) persons exempt from holding a financial adviser's licence under section 23(1)(a), (b), (d), or (e) of the Act and their representatives only in respect of their carrying on the business of providing execution-related advice;

[FAA-N01 (Amendment) 2004]

(c) persons specified in regulation 4 of the Financial Advisers (Structured Deposits - Prescribed Investment Products and Exemption) Regulations 2005 in relation to the provision of

CANCELLED

any financial advisory service relating to any structured deposit as defined in those Regulations;

[FAA-N01 (Amendment) 2010]

(d) persons specified in regulation 3 of the Financial Advisers (Exemption from Sections 25 to 29 and 36) Regulations 2004 in respect of the provision of any financial advisory service relating to the investment products referred to in regulation 3 of those Regulations.

[FAA-N01 (Amendment) 2005]

3 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 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.

[FAA-N01 (Amendment) 2010]

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

[FAA-N01 (Amendment) 2010]

CANCELLED

5 Deleted by FAA-N01 (Amendment) 2005

5A Deleted by FAA-N01 (Amendment) 2004

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];

"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);

[FAA-N01 (Amendment02) 2004]

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

[FAA-N01 (Amendment) 2010]

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

[FAA-N01 (Amendment02) 2004]
[FAA-N01 (Amendment) 2005]

"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) quoted on a securities exchange, overseas securities exchange or recognised market operator;
(b) trading in futures contracts;
(c) foreign exchange trading;
(d) leveraged foreign exchange trading."

[FAA-N01 (Amendment) 2004]
[FAA-N01 (Amendment) 2005]

CANCELLED

"execution-related advice" means advice provided which is solely incidental to the execution activities of the persons specified in paragraph 2A(b) with no discrete fee charged by these persons for the advice rendered;

[FAA-N01 (Amendment) 2004]

"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;

[FAA-N01 (Amendment) 2005]

"financial adviser" means a licensed financial adviser or an exempt financial adviser;

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

[FAA-N01 (Amendment02) 2003]

"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 Insurers as a Product Provider [Notice No. MAS 318];

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

[FAA-N01 (Amendment02) 2003]

"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

[FAA-N01 (Amendment02) 2004]

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

[FAA-N01 (Amendment02) 2004]

CANCELLED

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.

[FAA-N01 (Amendment02) 2003]

8 Deleted by FAA-N01 (Amendment02) 2003

Recommendations on Investment Products

9 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 recommendation[1]. In particular, the licensed financial adviser should give due consideration to the person's investment objectives, financial situation and particular needs.

[FAA-N01 (Amendment) 2010]

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;

(b) needs analysis; and

(c) documentation and record keeping.

CANCELLED

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;

---

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

(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.

[FAA-N01 (Amendment) 2010]

11A 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.

[FAA-N01 (Amendment) 2010]

12 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.

CANCELLED

Needs Analysis

13 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.

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

15 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.

[FAA-N01 (Amendment) 2010]

16 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 purchase 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-N01 (Amendment) 2010]

17 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.

18 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.

[FAA-N01 (Amendment) Notice 2010]

CANCELLED

Documentation and Record Keeping

19 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 (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.

[FAA-N01 (Amendment) 2010]

(b) in the case of a life policy, a copy of the Product Summary and Benefit Illustration in respect of that policy (where a Product Summary and Benefit Illustration are available in respect of that policy).

20 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 purchase another investment product which is not recommended by the financial adviser; or

(iii) receive any recommendation from the financial adviser,

CANCELLED

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-N01 (Amendment) 2010]

20A The financial adviser shall make reasonable efforts to document the basis for the recommendation referred to in paragraph 20(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.

21 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 20. 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.

[FAA-N01 (Amendment) 2010]

22 For recommendations on investment products other than designated investment products, the financial adviser shall maintain proper records to demonstrate the basis of the recommendation made to the client.

Switching of Designated Investment Products

23 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;

CANCELLED

(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.

24 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.

25 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.

[FAA-N01 (Amendment) 2010]

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.

CANCELLED

* Notes on History of Amendments
1. FAA-N01 (Amendment) 2003 with effect from 20 March 2003
2. FAA-N01 (Amendment02) 2003 with effect from 22 December 2003
3. FAA-N01 (Amendment) 2004 with effect from 18 February 2004
4. FAA-N01 (Amendment02) 2004 with effect from 26 October 2004
5. FAA-N01 (Amendment) 2005 with effect from 1 July 2005
6. FAA-N01 (Amendment) 2010 with effect from 26 November 2010