



Monetary Authority of Singapore

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

**GUIDELINES ON CONDUCT OF BUSINESS FOR
EXECUTION-RELATED ADVICE**

Guideline No : FAA-G08
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GUIDELINES ON CONDUCT OF BUSINESS FOR EXECUTION-RELATED ADVICE

Purpose of the Guidelines on Conduct of Business for Execution-Related Advice [“these Guidelines”]

[Amended on 1 July 2005]

1 These Guidelines are issued pursuant to section 64 of the Financial Advisers Act (Cap. 110) [“the Act”].

2 They set out standards to be maintained by dealers when they provide execution-related advice. They do not apply in circumstances where a dealer merely carries out instructions by a client to buy or sell a specific product without the dealer making any recommendation or giving any advice in relation to that product.

3 These standards are consistent with the business conduct requirements imposed on financial advisers which provide standalone investment advice. However, taking into account the business model and modus operandi of dealers which provide execution-related advice, the Monetary Authority of Singapore [“the Authority”] has adopted a principle-based approach rather than a detailed prescriptive approach in these Guidelines. The Authority expects dealers to adhere to these standards and introduce other practices, processes and procedures, where appropriate, to safeguard the interests of their clients.

[Amended on 1 July 2005]

Definitions

4 For the purpose of these Guidelines:

“capital markets products” means any securities (other than collective investment schemes), futures contracts, contracts or arrangements for the purposes of foreign exchange trading, contracts or arrangements for the purposes of leveraged foreign

exchange trading, and such other products as the Authority may specify as capital markets products;

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

[Amended on 1 July 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 trading system provider;
- (b) trading in futures contracts;
- (c) foreign exchange trading;
- (d) leveraged foreign exchange trading; and

“execution-related advice” means advice provided by persons who are exempt from holding a financial adviser’s licence under section 23(1)(a), (b), (d), or (e) of the Act and their representatives which is solely incidental to the execution activities of such person and where no discrete fee is charged for the advice rendered;

[Amended on 1 July 2005]

Recommendations on Capital Markets Products

5 Section 27 of the Act requires a financial adviser 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. In particular, a financial adviser should give due consideration to the person’s investment objectives, financial situation and particular needs.

6 A dealer should put in place adequate systems and processes that commensurate with the size and complexity of its business to ensure compliance with the requirements stipulated under section 27.

[Amended on 1 July 2005]

7 A dealer is expected to have sufficient knowledge of the client's investment objectives, financial situation and needs before it advises on sales or purchases of capital markets products suitable for the client. Thus it is normally not possible for a dealer to offer such advice to a new client before the relevant information is obtained.

8 Obtaining relevant information about the client is usually done at the time when relationship is first established with the client. Where execution-related advice is provided on an on-going basis, a dealer should update the client profile and conduct a needs analysis at a reasonable interval, at least once a year. This is consistent with good business practice of reviewing customers' profiles and needs on a regular basis.

9 Where a client does not want to provide any of the information requested, a dealer may proceed with the client's request. However, it should document the decision of the client and give a warning to the client that any recommendation made or advice given will not take into account his particular investment objectives, financial situation and particular needs and that it is the client's responsibility to ensure the suitability of the product recommended.

10 Where products are traded on a margin basis, a dealer should highlight the risk of such products to the clients.

Documentation and Record Keeping

11 A dealer is expected to maintain proper records to be able to demonstrate the basis of the recommendation made to the client and warnings provided either in the form of a file note or tapes of the telephone conversation. The keeping of these details is also sensible protection for the dealer and part and parcel of maintaining good customer relations.

12 The nature of the records to be kept is best determined by the dealer, taking into account the nature of its business and the likelihood of a particular client subsequently disputing that advice was rendered without due consideration of his investment objectives, financial situation and

needs. As a best practice, a dealer should keep such records for at least 6 years.

[Amended on 1 July 2005]

Disclosure of Conflicts of Interest

13 With regard to the disclosure of conflicts of interest, a dealer should disclose to its clients any actual or potential conflict of interest either orally or in writing or both, before or at the time advice is rendered.

14 A dealer is not required to repeat such disclosure of conflict of interest each time an execution-related advice is rendered under the following circumstances:

- (a) the previous disclosure remains up-to-date, comprehensive and accurate; and
- (b) it can reasonably expect the client to be fully aware of the previous disclosure. A dealer should take into account the following when considering whether a client may reasonably be expected to be fully aware of a previous disclosure:
 - (i) whether or not there is a long lapse of time between the previous disclosure and the current recommendation or advice; and
 - (ii) whether the client is reasonably likely to draw an inference that the previous disclosure no longer applies in the context of the current recommendation or advice.

[Amended on 1 July 2005]

Disclaimer

15 Some dealers include formal disclaimers in documents to their clients to the effect that they are in the business of providing “execution only” services or they do not provide advice to clients. If such disclaimers are made, the dealers should put in place appropriate systems, procedures, and training to ensure that they do not provide any advice to clients.

16 Notwithstanding any formal disclaimers to the contrary, the dealers will be subject to statutory provisions if they provide advice to clients. In addition, any disclaimers to the effect that advice given by dealers should not be assumed to have taken into account the investment objectives, financial situation and needs of the clients, or that clients should independently assess whether the advice is appropriate for them will not absolve dealers of the statutory obligations and liabilities imposed under the Act. The Authority will enforce the provisions of the Act to ensure that clients enjoy the protection accorded to them under the Act.

[Amended on 1 July 2005]