

Notice No : FAA-N03
Issue Date : 5 October 2018

NOTICE ON INFORMATION TO CLIENTS AND PRODUCT INFORMATION DISCLOSURE

Introduction

1 For presentational purposes, the amendments in this document are compared against the version of the MAS Notice FAA-N03 on the Information to Clients and Product Information Disclosure [Notice No. FAA-N03] issued on 1 October 2002 and last revised on 20 February 2013.

2 This document shall be interpreted as follows:

- (a) Text which is coloured and struck through represents deletion which will not appear in the untracked version of MAS Notice FAA-N03 revised on 5 October 2018, which is published on MAS' website www.mas.gov.sg ("Published Version"); and
- (b) Text which is coloured and underlined represents insertion which will appear in the Published Version.

3 The amendments reflected in this document shall take effect on 8 October 2018.

4 This document is to be used for reference only. In the event of discrepancies between the amendments in this document and the Published Version, the Published Version shall prevail.



Monetary Authority of Singapore

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

**NOTICE ON INFORMATION TO CLIENTS AND
PRODUCT INFORMATION DISCLOSURE**

Notice No : FAA-N03

Issue Date : 1 October 2002 [Last revised on ~~20 February 2013~~
5 October 2018]

NOTICE ON INFORMATION TO CLIENTS AND PRODUCT INFORMATION DISCLOSURE

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 exempted under regulation 29 of the Financial Advisers Regulation (Rg 2) [“FAR”]; and
 - (e) representatives of persons who are exempted under regulation 29 of the FAR.

[FAA-N03 (Amendment02) 2003]

[FAA-N03 (Amendment) 2005]

[FAA-N03 (Amendment) 2010]

2A This Notice shall not apply to the following categories of persons:

- (a) persons specified in paragraph 2 who are exempted from complying with section 25 of the Act under regulations 27A read with section 23(4) or 23(5) of the Act, 31(4), 31(5), 31(7), 31(8), 32B, 33 and 36 of the FAR only in respect of the activities for which they are exempted under these regulations;

[FAA-N03 (Amendment) 2005]

[FAA-N03 (Amendment) 2010]

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

[FAA-N03 (Amendment) 2004]

[FAA-N03 (Amendment) 2005]

[FAA-N03 (Amendment) 2018]

- (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 any financial advisory service relating to any structured deposits as defined in those Regulations;

[FAA-N03 (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 those Regulations.

[FAA-N03 (Amendment) 2005]

3 This Notice sets out the standards to be maintained by licensed and exempt financial advisers and their representatives with respect to the information they disclose to clients.

[FAA-N03 (Amendment) 2010]

4 Deleted by FAA-N03 (Amendment) 2005.

4A Deleted by FAA-N03 (Amendment) 2004.

5 Section 25 of the Act¹ imposes an obligation on licensed financial advisers to disclose to their clients and prospective clients all material information relating to any designated investment product recommended by the licensed financial advisers, including the form and manner in which the information shall be disclosed. Section 26 of the Act¹ provides that no licensed financial adviser shall, with intent to deceive, make a false or

¹ Section 23(4) and 37 of the Act provide that section 25 and section 26 also apply to exempt financial advisers and appointed and provisional representatives.

misleading statement as to any amount that would be payable in respect of a proposed contract relating to any investment product or the effect of any provision of a contract or proposed contract relating to the investment product.

[FAA-N03 (Amendment) 2010]

6 This Notice sets out the general principles that apply to all disclosures by a financial adviser to its client. It also sets out specific requirements as to the form and manner of disclosure that financial advisers have to comply with in relation to sections 25 and 26 of the Act, as well as to the following matters:

- (a) General information about the financial adviser and status of a representative;
- (b) Remuneration of the financial adviser;
- (c) Conflicts of interest;
- (d) Designated investment products;
- (e) Illustration of past and future performance of designated investment products; and
- (f) Marketing materials.

Definitions

7 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 & Futures Act (Cap. 289);

[FAA-N03 (Amendment) 2005]

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

[FAA-N03 (Amendment) 2005]

~~*Deleted.* “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-N03 (Amendment) 2004]

[FAA-N03 (Amendment) 2005]

[FAA-N03 (Amendment) 20187]

“execution related advice” has the same meaning as in regulation 34A(2) of the FAR;

~~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-N03 (Amendment) 2004]

[FAA-N03 (Amendment) 20187]

“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-N03 (Amendment) 2005]

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

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

[FAA-N03 (Amendment) 2005]

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

Act;

[FAA-N03 (Amendment02) 2003]

“life insurer” means an insurer registered to carry on direct life insurance business under the Insurance Act (Cap. 142);

[FAA-N03 (Amendment) 2005]

“policy illustration”, in relation to a life policy, has the same meaning as in paragraph 2 of the Notice on Market Conduct Standards for Direct Life Insurer as a Product Provider [MAS Notice 318];

[FAA-N03 (Amendment) 2018]

“pProduct sSummary”, in relation to a life policy, has the same meaning as in paragraph 2 of 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 Notice 318];

[FAA-N03 (Amendment) 2018]

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

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

[FAA-N03 (Amendment) 2005]

Representatives of Financial Advisers

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

[FAA-N03 (Amendment02) 2003]

9 Deleted by FAA-N03 (Amendment02) 2003

General Disclosure Principles

10 In addition to the obligations under section 25 of the Act, a financial adviser shall ensure that any statement or representation made to its clients is not false or misleading. It shall also ensure that it does not omit to disclose any matter that is material to the statement or representation made.

11 The general standards which a financial adviser is expected to meet in all product information disclosures and information given to clients are as follows:

(a) Clear

- (i) Information disclosed to clients in any advertisement or publicity material in any media should be presented in plain language, and in a manner that is easy for the client to understand.
- (ii) Jargon or technical terms used should be clearly explained to clients.

(b) Adequate

- (i) Information disclosed to clients should meet regulatory requirements and accord with industry best practices. In addition, the information provided should be sufficient to help clients make an informed decision.
- (ii) Warnings and important information such as the nature and objective of the product, risks of the product, fees and charges, and contractual rights and obligations of clients, should be prominently presented and clearly explained.

(c) Not False or Misleading

- (i) Information disclosed to clients should not be ambiguous in language or presentation.
- (ii) Information relating to investment products should be disclosed in an objective and unbiased manner.

- (iii) Where an opinion is expressed, there should be a reasonable basis for expressing the opinion and it should be unambiguously stated that it is a statement of opinion.
- (iv) Documents to be given to clients should be kept up-to-date and reviewed at least annually.

General Information about the Financial Adviser and Status of a Representative

12 A financial adviser shall disclose the following, in writing, to a client:

- (a) its business name, business address and telephone number;
- (b) the type or types of financial advisory service that it is authorised to provide under the Act;
- (c) the type or types of investment products in respect of which it is authorised to provide financial advisory service;
- (d) any other type of activity carried out by the financial adviser which is not regulated by the Authority, if any; and
- (e) the product providers whose products the financial adviser:
 - (i) procures on behalf of its client;
 - (ii) recommends or markets to its clients; or
 - (iii) markets to its client on behalf of the product providers.

A financial adviser shall inform a client, in writing, of any change to such information in any subsequent dealings with the client.

[FAA-N03 (Amendment02) 2003]

13 A representative shall disclose the following, in writing, to the client:

- (a) his name;
- (b) the financial adviser(s) for which he acts;
- (c) the type or types of financial advisory service that he is authorised to provide under the Act; and
- (d) the type or types of investment products in respect of which he is authorised to provide financial advisory service.

A representative shall also inform the client, in writing, of any change to such information in any subsequent dealings with the client.

[FAA-N03 (Amendment02) 2003]

14 Deleted by FAA-N03 (Amendment02) 2003

15 Deleted by FAA-N03 (Amendment02) 2003

Remuneration of the Financial Adviser

16 A financial adviser shall disclose, in writing, to a client all remuneration, including any commission, fee and other benefits, that it has received or will receive that is directly related to –

- (a) the making of any recommendation in respect of an investment product to the client; or
- (b) executing a purchase or sale contract relating to a designated investment product on the client's behalf.

It is, however, not required to disclose any remuneration that it has received or will receive in respect of any other activity that is unrelated to its provision of financial advisory services.

[FAA-N03 (Amendment02) 2003]

17 If a financial adviser charges a fee, it shall disclose to the client at the outset details of these charges.

18 If a financial adviser receives commissions from a product provider on products sold on behalf of the product provider, it shall disclose to a client the amount of commissions it receives on the investment products it recommends.

19 Where a financial adviser receives a trailer commission, soft commission or such other benefit from a product provider, it shall disclose to a client the amount of such commission and other benefit.

20 Where the amount of remuneration, commission, fee or benefit is not quantifiable, the financial adviser shall furnish its client with a description of how it will be remunerated.

21 If the precise rate of remuneration or value of commission is not known in advance, the financial adviser shall estimate the rate likely to apply in such a description.

22 In the case of a life policy, a financial adviser shall disclose to its client the “distribution cost” item in the policy Benefit-Illustration (where a policy Benefit-Illustration is available in respect of the life policy) and shall not be required to disclose the amount and type of remuneration stated at paragraphs 16 to 21 of this Notice.

[FAA-N03 (Amendment) 2018]

Conflicts of Interest

23 A financial adviser shall disclose, in writing, to its clients any actual or potential conflict of interest arising from any connection to or association with any product provider, including any material information or facts that may compromise its objectivity or independence in its provision of financial advisory services.

Designated Investment Products

24 When making a recommendation on any designated investment product to a client, a financial adviser shall disclose the following information to the client in a form and manner that is clear, adequate and not false or misleading:

(a) Nature and objective of the product

The financial adviser shall disclose and explain to the client the nature and objective of the product, including:

- (i) whether the product is a life policy or units in a collective investment scheme;
- (ii) whether the product is meant for protection, savings or investment; and
- (iii) the investment strategy of the product.

(b) Details of the product provider

The financial adviser shall disclose to the client details relating to:

- (i) the product provider;

- (ii) the relationship between the product provider and the financial adviser; and
- (iii) the business address of the product provider.

(c) Contractual rights

The financial adviser shall disclose and explain to the client the party against which the client may take action to enforce his rights with respect to the product he has purchased.

In the case of a collective investment scheme where the units are held on behalf of the client under a nominee company's name, the financial adviser shall disclose and explain to the client the fact that his rights may only be enforced through the nominee company.

In the case of a life policy, the financial adviser shall disclose and explain to the client that he is responsible for the accuracy and completeness of the information given to the life insurer issuing the life policy:

- (i) in an application for the life policy; and
- (ii) when making a claim under the life policy.

The financial adviser shall also disclose and clearly explain to the client that any mis-statement or non-disclosure of material facts may affect the validity of the policy.

(d) Client profile

The financial adviser shall disclose and explain to the client the intended client profile of the product, including:

- (i) the product's intended investment horizon;
- (ii) the ease of converting the investment in the product to cash; and
- (iii) the expected level of risk tolerance of the client.

(e) Commitment required from the client

The financial adviser shall disclose and explain to the client the amount of, frequency with which, and period over which, payment is to be made in respect of the product. In the case of a life policy, the financial adviser shall disclose and explain to the client whether the premium rate is guaranteed or non-guaranteed.

(f) Benefits of the product

The financial adviser shall disclose and explain to the client the benefits of the product, including the amount and timing for payment of benefits by the product provider to the client and whether the benefits are guaranteed or non-guaranteed.

In the case of a life policy, the financial adviser shall furnish the client with a policy Benefit Illustration in respect of the life policy (where a policy Benefit Illustration is available in respect of the life policy). In such a case, the financial adviser shall also disclose and explain the policy Benefit Illustration to the client as well as any lien imposed on the policy and any benefit excluded by the life insurer in respect of the policy.

In the case of a collective investment scheme which is, or an investment-linked policy invested in, a guaranteed fund, where the guaranteed value is less than 100% of the subscription amount or premiums paid, the financial adviser shall disclose and explain that fact to the client.

[FAA-N03 (Amendment) 2010]

[FAA-N03 (Amendment) 2013]

[FAA-N03 (Amendment) 2018]

(g) Risks of the product

The financial adviser shall disclose and explain to the client the risks to be borne by the client in the purchase of the product. In the case of a life policy, the financial adviser shall:

- (i) disclose and explain the risk factors that may result in the benefits payable to be less than the illustrated values; and

- (ii) explain the alternative scenarios as indicated in the policy Benefit Illustration (where a policy Benefit Illustration is available in respect of the life policy).

In the case of a collective investment scheme, the financial adviser shall disclose and explain to the client all the risks stated in the prospectus or profile statement issued in respect of that scheme.

[FAA-N03 (Amendment) 2018]

(h) Pricing of the product

In the case of a collective investment scheme and an investment-linked policy, the financial adviser shall disclose and explain to the client whether the units will be priced on a historical or forward basis.

The financial adviser shall also disclose and explain to the client:

- (i) in the case of a dual pricing scheme, that the bid and offer prices are the selling and buying prices respectively; and
- (ii) in the case of a single pricing scheme, that the single price does not take into account subscription or realisation fees which may be separately payable by the client upon purchase or redemption respectively.

[FAA-N03 (Amendment) 2013]

(i) Fees and charges to be borne by the client

The financial adviser shall disclose and explain to the client the amount, frequency of payment, and nature, of fees and charges payable under the product. Where the product is subject to a deferred sales load, the financial adviser shall explain this fact and disclose the details of the deferred sales load to the client.

In the case of a collective investment scheme or an investment-linked policy, the financial adviser shall disclose:

- (i) the fees and charges payable by the client;
- (ii) fees and charges that are payable out of the fund; and
- (iii) when such fees and charges are due and payable.

The financial adviser shall also disclose and explain to the client all the fees and charges as stated, in the case of a collective investment scheme, in the prospectus, or in the case of an investment-linked policy, in the policy contract or ~~p~~Product ~~s~~Summary (where a ~~p~~Product ~~s~~Summary is available in respect of the life policy) as well as the reduction in yield in the ~~policy Benefit-I~~llustration (where a ~~policy Benefit-I~~llustration is available in respect of the investment-linked policy), where applicable.

[FAA-N03 (Amendment) 2013]

[FAA-N03 (Amendment) 2018]

(j) Reports to the client

Where regular reports from the product providers to the client are required by the relevant laws, the financial adviser shall disclose and explain to the client the frequency of the reports and the source from which the client could reasonably be expected to receive the reports.

(k) Free-look period for life policies

The financial adviser shall disclose and explain to the client:

- (i) the time frame for the client to reconsider his purchase of a life policy;
- (ii) the terms and procedures for exercising the free-look provision; and
- (iii) in the case of an investment-linked policy, that the risk of any fall in value of the underlying investment during the free-look period may have to be borne by the client.

[FAA-N03 (Amendment) 2013]

(l) Cancellation period for unit trusts

Where the unit trust provides for a cancellation period, the financial adviser shall disclose and explain to the client:

- (i) the time frame for the client to reconsider his purchase of a unit trust;
- (ii) the terms and procedures for exercising his right to cancel his purchase of units in the scheme; and

(iii) that the risk of any fall in value of the units during the cancellation period would have to be borne by the client.

(m) Withdrawal, surrender or claim

The financial adviser shall disclose and explain to the client the procedures, charges and restrictions on withdrawal, surrender or claim of the product.

In the case of a collective investment scheme or an investment-linked policy where the fund is a guaranteed fund and the guarantee is only valid at a certain point in time, the financial adviser shall disclose and explain to the client that the guarantee is not valid on premature withdrawal.

[FAA-N03 (Amendment) 2010]

[FAA-N03 (Amendment) 2013]

(n) Warnings, exclusions and disclaimers

The financial adviser shall disclose and explain to the client all warnings, exclusions and disclaimers in relation to the product it has recommended to the client.

Illustration of Past and Future Performance of Designated Investment Products

25 A financial adviser shall comply with the following with respect to any illustration of past and future performance of any designated investment product:

- (a) subject to paragraph 26, the financial adviser shall not disclose (whether orally or in writing) any matter in respect of the future performance of a collective investment scheme, unless that matter is disclosed in the registered prospectus of the scheme and the prospectus complies with paragraphs 62 to 66 of the Third Schedule to the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005;

[FAA-N03 (Amendment) 2010]

- (b) when using any forecast on the economy, stock market, bond market and economic trends of the markets, it shall advise the client that such a forecast is not necessarily indicative of the future or likely performance of the product;
- (c) when using past performance of the product to illustrate possible returns for that product, it shall advise the client that past performance is not necessarily indicative of future performance. The source of data used in the illustration should be provided by the product provider or an independent agency, and be made known to the client;
- (d) when advising on a life policy, it shall make reference to the policy Benefit Illustration in respect of that life policy (where a policy Benefit Illustration is available in respect of that life policy); and

[FAA-N03 (Amendment) 2018]
- (e) when advising on a collective investment scheme, it shall not make any prediction, projection or forecast on the future or the likely performance of the collective investment scheme, except to the extent permitted under clause 1 of Annex A.

26 When advising on a collective investment scheme:

- (a) a financial adviser may disclose orally to a client any information on past or future performance contained in the registered prospectus of the scheme if and only if such disclosure is made at the same time as a copy of the prospectus is given to the client, and the financial adviser:
 - (i) draws the attention of the client to all assumptions, warning statements and other information relating to the past or future performance that are contained in the prospectus; and
 - (ii) where the last day of the period to which the past performance relates is more than 3 months prior to the date of the financial adviser's disclosure, informs the client of this fact;

[FAA-N03 (Amendment) 2010]

- (b) in all other cases, a financial adviser may disclose orally to its client any matter on past or future performance if and only if the financial adviser provides to the client at the same time a written disclosure of that matter. The financial adviser shall draw the attention of the client to all assumptions, warning statements, and other information relating to the past or future performance that are contained in the written disclosure; and
- (c) any written disclosure by a financial adviser to its client of past or future performance shall comply with the requirements in Annex A.

Marketing Materials

27 A financial adviser shall ensure that all its marketing materials comply with paragraphs 25 and 26 of this Notice. A financial adviser is also expected to comply with the General Disclosure Principles set out at paragraph 11 of this Notice and relevant guidelines issued by the Authority and/or industry associations of which it is a member.

28 A representative shall only use marketing materials approved by the financial adviser for which he acts.

29 Where a financial adviser engages in the marketing of designated investment products using direct response advertising communications through any medium, including mail, print, TV, radio and electronic media, that is designed to solicit and close a sale, it shall include, in all its marketing materials, a prominent warning that:

- (a) the client may wish to seek advice from a financial adviser before making a commitment to purchase the product; and
- (b) in the event that the client chooses not to seek advice from a financial adviser, he should consider whether the product in question is suitable for him.

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.

Annex A

FUTURE AND PAST PERFORMANCE OF COLLECTIVE INVESTMENT SCHEMES (CIS)

Future performance of a CIS

1.--(1) Subject to paragraph (3), any disclosure of information, in relation to a CIS, by a financial adviser to its client shall not:

- (a) include any prediction, projection or forecast as to the future or likely performance of the scheme; and
- (b) use words such as “targeted”, “expected” or any similar words or description in relation to a rate of return.

(2) A financial adviser may disclose to its client a prediction, projection or forecast on the economy, stock market, bond market and the economic trends of the markets which are targeted by the scheme if the disclosure is accompanied by a prominent statement to the effect that the prediction, projection or forecast is not necessarily indicative of the future or likely performance of the scheme.

(3) The financial adviser may only disclose a forecast on any other matter if the prediction, projection or forecast is contained in a prospectus issued in respect of a scheme registered by the Authority under section 296 of the Securities and Futures Act (Cap. 289) and shall draw to the attention of the client all assumptions, warning statements and other information relating to the forecast that are contained in the prospectus.

(4) Where the return on a CIS is guaranteed and such return is contained in a prospectus issued in respect of a scheme registered by the Authority under section 296 of the Securities and Futures Act, the financial adviser may disclose the return set out in the prospectus and shall draw to the attention of the client all material information relating to the guarantee that is contained in the prospectus.

Past performance of a CIS

2.--(1) Where a financial adviser discloses information on the past performance of a CIS to its client, the disclosure shall:

- (a) include a prominent statement that the past performance of the scheme is not necessarily indicative of the future performance of the scheme;
- (b) state the return on the scheme calculated on an offer-to-bid basis illustrated in the Schedule or a single pricing basis (taking into account any subscription fee and realisation fee), and include a statement that the return is calculated on this basis;
- (c) where dividends have been declared or distributions have been made by the scheme, state the return on the scheme calculated on the assumption that all dividends and distributions are reinvested, taking into account all charges which would have been payable upon such reinvestment, and include a statement that the return is calculated on this basis;
- (d) present the return on the scheme in relation to a period of not less than a year;
- (e) where the total return on the scheme is presented for a period exceeding one year, state the average annual compounded return on the scheme over the same period, calculated in the manner illustrated in the Schedule; and
- (f) indicate the period to which the return on the scheme relates, of which –
 - (i) the last day of the period shall not be earlier than 3 months prior to the disclosure; and
 - (ii) the first day and last day of the period shall be based on–
 - 1) the first business day or last business day of a month; or
 - 2) the first dealing day or last dealing day of the scheme in a month.

(2) For the purposes of the calculation referred to in paragraph (1)(b), where the realisation fee for a CIS depends on the duration that a participant owns units in the scheme, the realisation fee taken into account shall be that which applies for the duration for which the return is calculated.

(3) For the purposes of paragraph (1), where a scheme which has been constituted for less than a year invests at least 90% of its funds in another CIS (referred to as the underlying fund) and the underlying fund has a track record of at least one year, the financial adviser may disclose information on the past performance of the underlying fund but not otherwise.

(4) Where a financial adviser discloses any information on the past performance of an underlying scheme, the disclosure shall:

- (a) include an appropriate warning regarding its limitations as a proxy for the past performance of the scheme; and
- (b) comply with paragraph (1) as though the information on the past performance of the underlying fund were information on the past performance of the scheme.

(5) Where any past performance of a CIS is due to exceptional circumstances which may not be sustainable, any disclosure by a financial adviser to its client shall include a prominent warning statement to that effect.

(6) For the purposes of paragraph (5), “exceptional circumstances” include, but are not limited to:

- (a) an investment in an initial public offer of securities which has a large impact on the return on the scheme but where such return is unlikely to be sustained; and
- (b) high annual return for a particular year where the scheme has, or schemes with a similar investment focus have, yielded a much lower historical long term average annual compounded return.

(7) A financial adviser shall not disclose to its clients any information on past performance in relation to a CIS based on the simulated results of a hypothetical CIS.

Comparison of past performance of a CIS with that of another CIS or an index

3.--(1) Where a financial adviser discloses to its client any comparison of the past performance of a CIS with that of another CIS,

- (a) such other CIS shall have investment objectives and an investment focus which are similar to those of the first-mentioned scheme; and
- (b) the comparison shall be made on an offer-to-bid basis and that basis shall be stated in the disclosure.

(2) Where a financial adviser discloses to its client any comparison of the past performance of a CIS with that of an index,

- (a) such index shall be the benchmark for the scheme or an index which reflects the investment focus of the scheme; and
- (b) the comparison shall be made on an offer-to-bid basis or a bid-to-bid basis and the basis on which the comparison is made shall be stated in the disclosure.

(3) Any comparison of the past performance of a CIS with that of another CIS or with an index shall be made using a common currency and where the currencies of the schemes being compared are different, conversion to the common currency must be based on prevailing exchange rates at the relevant time.

(4) The requirements set out in clause 2 shall also apply to the disclosure by the financial adviser.

Comparison of past performance of the CIS with that of other forms of investment

4.--(1) Where a financial adviser discloses to its client any comparison of the past performance of a CIS with that of other forms of investment,

- (a) such other form of investment shall have a risk profile which is similar to that of the scheme; and
- (b) the comparison shall be made on an offer-to-bid basis and that basis shall be disclosed.

(2) The requirements set out in clause 2 shall also apply to the disclosure.

Past performance of the manager or submanager

5.--(1) Where a financial adviser discloses to its client any information on the past or present performance, skills or techniques of the manager for a CIS or a person managing the property of the scheme on behalf of the manager (referred to in this Annex as a submanager), the disclosure shall:

- (a) where the source of such information is a body other than the manager for the scheme, state the source;
- (b) indicate the time period to which such information relates; and
- (c) include a prominent statement that the past performance of the manager or submanager is not necessarily indicative of its future performance.

(2) The disclosure shall not present the information on the past or present performance, skills or techniques of the manager or submanager for the CIS or of any other CIS under the management of the manager or submanager in a selective or biased way, such that any particular success is exaggerated or lack of success is disguised.

Schedule

ILLUSTRATION

Assume the following prices for a unit in a scheme with

- a subscription fee of 2% and
- a realisation fee which starts at 3% in the first year and decreases by 1% every year that an investor holds his units:

	<u>Bid</u>	<u>Offer</u>
T (date of disclosure)	\$1.50	\$1.53
T ₀ (a date no more than 3 months prior to T)	\$1.52	\$1.55
T ₃ (3 years prior to T ₀)	\$1.18	\$1.20
T ₅ (5 years prior to T ₀)	\$0.98	\$1.00

A disclosure made on T could show one of the following:

1) **TOTAL RETURN** over the period from T₃ to T₀

$$= \left[\begin{array}{l} \text{Bid price at } T_0, \\ \text{adjusted for realisation fee} \\ \text{of 1\% in the 3}^{\text{rd}} \text{ year (BP}_1) \end{array} - \begin{array}{l} \text{Offer price at } T_3 \\ \text{(OP}_1) \end{array} \right] \div \text{OP}_1$$

$$= [\$1.50 - \$1.20] \div \$1.20$$

$$= 25\%$$

AVERAGE ANNUAL COMPOUNDED RETURN over the period from T₃ to T₀

$$= (\text{BP}_1 \div \text{OP}_1)^{1/3} - 1$$

$$= (\$1.50 \div \$1.20)^{1/3} - 1$$

$$= 7.7\%$$

OR

2) **TOTAL RETURN** over the period from T₅ to T₀

$$= \left[\begin{array}{l} \text{Bid price at T}_0, \text{ with no adjustment} \\ \text{needed for realisation fee since it} \\ \text{would be 0\% in the 5}^{\text{th}} \text{ year (BP}_2\text{)} \end{array} - \begin{array}{l} \text{Offer price at T}_5 \\ \text{(OP}_2\text{)} \end{array} \right] \div \text{OP}_2$$

$$= [\$1.52 - \$1.00] \div \$1.00$$

$$= 52\%$$

AVERAGE ANNUAL COMPOUNDED RETURN over the period from T₅ to T₀

$$= (\text{BP}_2 \div \text{OP}_2)^{1/5} - 1$$

$$= (\$1.52 \div \$1.00)^{1/5} - 1$$

$$= 8.7\%$$

* Notes on History of Amendments

1. FAA-N03 (Amendment) 2003 with effect from 20 March 2003
2. FAA-N03 (Amendment02) 2003 with effect from 22 December 2003
3. FAA-N03 (Amendment) 2004 with effect from 18 February 2004
4. FAA-N03 (Amendment) 2005 with effect from 1 July 2005
5. FAA-N03 (Amendment) 2010 with effect from 26 November 2010)
6. FAA-N03 (Amendment) 2013 with effect from 20 February 2013
7. FAA-N03 (Amendment) 2017 with effect from 8 October 2018