



Monetary Authority of Singapore

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# **SECURITIES AND FUTURES ACT (CAP. 289)**

## **GUIDELINES ON CANCELLATION PERIOD FOR UNLISTED DEBENTURES**

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**Guideline No : SFA 13-G12**  
**Issue Date : 19 April 2011**

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### **1 Purpose and Scope of these Guidelines**

1.1 These Guidelines are issued by the Monetary Authority of Singapore (the "Authority") pursuant to section 321 of the Securities and Futures Act (Cap. 289) ["SFA"]. They aim to provide guidance on the obligations of persons making an offer of unlisted debentures in relation to a cancellation of purchase of an unlisted debenture by an investor.

1.2 These Guidelines do not apply to the following:

- (a) unlisted debentures with tenures of three months or shorter;
- (b) unlisted debentures which are exempt from prospectus requirements under the SFA; and
- (c) purchases of unlisted debentures where the investor is not an individual.

1.3 These Guidelines provide general guidance and are not intended to replace or override any legislative provisions or written directions.

### **2 Definition**

For the purposes of these Guidelines:

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

"offeror" means the person making the offer of unlisted debentures.

### **3 Right to Cancel**

3.1 An offeror should give an investor a right to cancel an agreement to purchase an unlisted debenture (referred to in these Guidelines as the "purchase agreement").

3.2 Subject to paragraph 3.3, where an investor has been given a right to cancel, the investor should be able to exercise that right within 7 calendar days from the date the investor signs the purchase agreement (referred to in these Guidelines as the "cancellation period"). Where the last day of the cancellation period falls on a Sunday or a public holiday, the cancellation period should be extended to the next calendar day, not being a Sunday or a public holiday.

**Example**

If an investor enters into a purchase agreement on Tuesday, he should exercise his right to cancel no later than Monday of the following week. In the event the 7th day falls on a Sunday or a public holiday, the cancellation period is extended to the next calendar day (assuming it is not a public holiday).

3.3 The offeror may give the investor a longer cancellation period (i.e. more than 7 days) and it should disclose in the purchase agreement the investor's rights for the extended period (i.e. for the period after the 7th day).

**4 Giving the Investor Notice of the Right to Cancel**

4.1 Before the purchase agreement is concluded, the offeror should give the investor, in writing, clear and prominent notice of his right to cancel.

4.2 The notice should state –

- (a) that the investor has a right to cancel the purchase agreement;
- (b) the duration of the cancellation period, including the point in time where the cancellation period begins;
- (c) the steps the investor has to take to cancel the purchase agreement, including details of how and where he can exercise his cancellation right;
- (d) that the amount to be refunded may be adjusted to reflect the change in market value, if any, following the receipt of the cancellation request by the offeror, as determined by the offeror's time-stamp or any other reasonable means;
- (e) the effect of cancelling the purchase agreement, including any adjustment to the amount to be repaid; and
- (f) the possibility that the investor may not be able to receive a full refund of the principal amount invested,

and be accompanied by a form to enable the investor to effect the cancellation request.

**Guidance**

Clear and prominent notice of the investor's right to cancel (referred to in paragraph 4.1 of these Guidelines) can be given in or together with the relevant application form for the purchase of an unlisted debenture. However, the application form should prominently feature words like: "**IMPORTANT:** information about your right to cancel this agreement is enclosed."

**5 Exercising the Right to Cancel**

5.1 The offeror should specify reasonable means by which the investor may exercise his right to cancel. In the case where the cancellation request is to be sent by post, the relevant day for determining whether the right to cancel has been exercised within the cancellation period is the date on which such request is posted by the investor (i.e. as determined by the postmark). The investor should be entitled to send the cancellation request by ordinary post.

5.2 A cancellation request is valid only when it is served on the offeror or any agent of the offeror with authority to accept notice on the offeror's behalf.

**6 Calculation of the Amount to be Repaid**

6.1 In determining the amount repayable to the investor, the offeror should be entitled to an adjustment to the principal amount to reflect the change in market value, if any, of the unlisted debenture held by the investor.

6.2 Where the market value of the unlisted debenture held by the investor is greater than the **original amount** paid by the investor, the offeror should not be obliged to pay the excess amount to the investor.

**7 Recovery of Expenses Incurred by the Offeror**

7.1 The offeror is entitled to recover any expense it incurred by reducing the amount to be repaid to the customer, provided that such expense is –

- (a) reasonably related to the original purchase and subsequent cancellation of the purchase by the investor. The adjustment should not contain any profit margin for the offeror; and
- (b) disclosed, in writing, to the investor before the purchase agreement is concluded.

7.2 For the avoidance of doubt, where an investor exercises his right to cancel, any sales charge or equivalent charges imposed by the offeror in respect of any purchase agreement should not be chargeable to the investor. In addition, the offeror should not impose any penalty on the investor for the termination of the purchase agreement.