

GUIDELINES FOR MARKETING REPRESENTATIVE

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Chapter 1

INTRODUCTION

- 1.01 The *Guidelines for Marketing Representative* (Guidelines) is issued by the SC pursuant to section 377 of the *Capital Markets and Services Act 2007* (CMSA).
- 1.02 These Guidelines provides for a framework that allows a CMSL holder to appoint a marketing representative (MR) subject to the conditions set out in these Guidelines. Under this framework, the MR appointed must comply with the requirements set out in these Guidelines.
- 1.03 These Guidelines set out the requirements in relation to–
- (a) registration of any person as an MR with a principal;
 - (b) qualifying criteria for an individual to be registered as an MR;
 - (c) activities permitted to be carried out by an MR and the obligations of an MR; and
 - (d) duties of the principal for which the MR acts.
- 1.04 The SC may, upon application, grant an exemption from or a variation to the requirements of these Guidelines if the SC is satisfied that–
- (a) such variation is not contrary to the intended purpose of the relevant requirement in these Guidelines; or
 - (b) there are mitigating factors which justify the said exemption or variation.
- 1.05 These Guidelines must be read together with all other relevant regulations, guidelines and notices issued by the SC.

Chapter 2

DEFINITIONS

2.01 Unless otherwise defined, all words used in these Guidelines shall have the same meaning as defined in the CMSA. In these Guidelines, unless the context otherwise requires:

CMSA means the *Capital Markets and Services Act 2007*;

Principal means a Capital Markets Services Licence holder;

Marketing Representative (MR) means a person who acts as an introducer for a principal, undertakes marketing of the services, provides client support services and is registered with the principal under these Guidelines;

SC means the Securities Commission Malaysia

Chapter 3

REGISTRATION BY A PRINCIPAL

- 3.01 A principal carrying out any of the regulated activities pursuant to Schedule 2 of the CMSA may register a person as an MR.
- 3.02 The principal must ensure that the conduct of the MR complies with the requirements set out in these Guidelines.
- 3.03 The board of directors of a principal must be responsible and held accountable for the acts of the principal and the MR registered with the principal.

Chapter 4

PERMITTED ACTIVITIES AND OBLIGATIONS OF A MARKETING REPRESENTATIVE

- 4.01 An MR is prohibited from carrying out any regulated activity. An MR must not hold himself out as a licensed person or a registered person under section 76 of the CMSA.
- 4.02 An MR may act on behalf of multiple principals.
- 4.03 An MR is permitted to carry out referral and marketing activity which includes–
- (a) arranging for the customer to meet with or speak to the principal;
 - (b) forwarding customer's particulars to the principal;
 - (c) providing the customer with factual information relating to products and services offered by the principal including conducting presentations; or
 - (d) provide client support services such as forwarding information on performance of fund to clients.
- 4.04 An MR must make appropriate disclosures to the client which includes the following:
- (a) That he is carrying out referral and marketing activities on behalf of his principal; and
 - (b) Inform the clients that he is not allowed to give advice or provide recommendation in relation to the regulated activity.
- 4.05 An MR is prohibited from carrying out suitability assessment of clients and providing clients with specific recommendation.
- 4.06 An MR must refer a client to a licensed person if the client asks for specific recommendation or advice on a capital market product.
- 4.07 An MR must not take clients' orders, execute trades, handle or accept clients' monies or give transactional advice to clients.
- 4.08 An MR must inform the client of any remuneration scheme and its amount in relation to such marketing activity, if requested by the client.
- 4.09 An MR must conduct his activities efficiently, honestly and fairly.

4.10 An MR must ensure continuous compliance with the fit and proper criteria as set out in Schedule 1 of these Guidelines.

Chapter 5

REQUIREMENTS FOR REGISTRATION

- 5.01 An individual may be registered with any principal as an MR.
- 5.02 The individual must be at least 21 years old and possess the minimum qualification as set out under paragraph 6.01 of these Guidelines.
- 5.03 A principal may only register a person as an MR where it is satisfied that–
- (a) the applicant complies with the requirements set out in these Guidelines;
 - (b) the applicant is fit and proper in accordance with the criteria set out in these Guidelines; and
 - (c) the applicant has satisfied the entry requirements set out in these Guidelines.

Chapter 6

ENTRY REQUIREMENTS

6.01 An MR must satisfy the minimum qualification and experience requirements as set out below:

- (a) Degree or professional qualification or diploma from an institution recognised by the government of Malaysia; and
- (b) Completed a two-day familiarisation programme and passed the required assessment at the end of the familiarisation programme.

Chapter 7

DUTIES OF A PRINCIPAL

Pre-Registration

7.01 A principal must–

- (a) conduct proper screening of the applicant to ensure that the applicant has satisfied the entry requirements and the fit and proper criteria as set out in Schedule 1 of these Guidelines before accepting and registering the applicant as an MR;
- (b) satisfy itself that any information or document that is furnished by an applicant is not false or misleading, including conducting due diligence checks; and
- (c) determine the remuneration structure of an MR.

Post-Registration

7.02 The principal must maintain a register of its MR, which sets out the following details:

- (a) Name, identification card number and contact details of the MR;
- (b) Date of appointment and registration as an MR;
- (c) Scope of the referral and marketing activities conducted;
- (d) List of clients introduced; and
- (e) Any other relevant information as the principal may require for the purpose of monitoring the activities of its MR.

7.03 The principal must submit an updated list of its MR to the SC within five business days after the end of every month. The updated list must include the names and particulars of the–

- (a) current MRs serving the principal;
- (b) new MRs that have been registered by the principal and date of registration; and

- (c) MRs that have been de-registered by the principal and the date of de-registration.
- 7.04 The principal must establish proper policies and controls on the referral and marketing activities.
- 7.05 A principal must conduct on-going supervision over its MR and ensure that they satisfy the training requirement as specified in these Guidelines.
- 7.06 A principal must have proper compliance and oversight framework in place to ensure the MR does not undertake any regulated activity or hold himself out as a licensed representative.
- 7.07 A principal must ensure that its MR undergoes regular training to increase his knowledge and technical know-how and keep abreast with the current development in the industry.
- 7.08 A principal must–
- (a) ensure that the MR attends five days of training every year;
 - (b) ensure that the training attended by its MR is relevant to his functions; and
 - (c) maintain a training register to log in training days completed by each MR.
- 7.9 A principal must ensure that the MR continuously complies with the requirements in these Guidelines at all times including the fit and proper criteria as set out in Schedule 1 of these Guidelines.

Note 1:

If an MR is acting on behalf of multiple principals, the MR must inform his respective principals on the training that he has attended. It is the responsibility of the respective principals to ensure that the said MR has met with the minimum number of training days required.

Illustration

Mr. A is an MR acting on behalf of 3 principals, namely principal X, Y and Z. Mr. A has attended trainings with the respective principals, as follows:

- (i) 1 day training with principal A;
- (ii) 2 days training with principal B; and
- (iii) 2 days training with principal C.

Mr. A is considered to have fulfilled the requirement of attending five days of training. The respective principal will need to confirm and be satisfied with the evidence that Mr. A had met with the requirement.

- 7.10 If a principal has, at any time, finds that an MR has failed to satisfy any of the fit and proper criteria, the principal must, after having done the necessary due process, de-register the said MR and inform the SC immediately. The principal must also inform relevant clients affected that the said MR has been de-registered.

Chapter 8

TRANSITIONAL PROVISION

- 8.01 A person registered with the SC as an Introducing Representative or MR under the *Guidelines for Registered Person (Registered Representatives)* will be deemed to be registered with the respective principal as an MR under these Guidelines on the effective date of these Guidelines.

SCHEDULE 1
Fit and Proper Criteria for Marketing Representatives

The applicant must satisfy the following criteria:

- (a) The application for registration was made in accordance with these Guidelines;
- (b) The applicant has not failed to comply with any other requirements of the Act or any guidelines made under the Act;
- (c) Any information or document furnished to the SC is not false or misleading or from which there is a material omission;
- (d) The applicant is not an undischarged bankrupt whether within or outside Malaysia;
- (e) No execution against the applicant in respect of a judgment debt has been returned unsatisfied in whole or in part;
- (f) The applicant has not, whether within or outside Malaysia, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;
- (g) The applicant has not–
 - (i) been charged for any offence in any court of law;
 - (ii) had any legal action initiated against him in any court of law;
 - (iii) been convicted, whether within or outside Malaysia, of an offence involving fraud or other dishonesty or violence or the conviction of which involved a finding that he acted fraudulently or dishonestly;
 - (iv) been convicted of an offence under the securities laws or any law outside Malaysia relating to capital market;
 - (v) contravened any provision made by or under any written law whether within or outside Malaysia appearing to the SC or the principal to be enacted for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the

- management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts;
- (vi) engaged in any business practice appearing to the SC or the principal to be deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise reflects discredit on his method of conducting business; or
 - (vii) engaged in or has been associated with any other business practices or otherwise conducted himself in such a way that cast doubt on his competence and soundness of judgment;
- (h) The applicant has satisfied the educational or other qualification or experience having regard to the nature of the duties he is to perform in connection with being registered as an MR;
 - (i) The applicant is able to act in the best interest of the clients of a principal having regard to the applicant's reputation, character, financial integrity and reliability;
 - (j) The SC or the principal is satisfied as to the record of past performance or expertise of the applicant having regard to the nature of the duties which he may perform in connection with the holding of the licence;
 - (k) There are no other circumstances which are likely to lead to the improper conduct of business by, or reflect discredit on the manner of conducting the business of, the applicant or any person employed by or associated with him for the purpose of his activities as an MR;
 - (l) The applicant will carry on the activities as an MR efficiently, honestly or fairly; or
 - (m) That it would not be contrary to the interest of the public that the applicant be registered as an MR.