



Suruhanjaya Sekuriti
Securities Commission

GUIDELINES ON UNIT TRUST FUNDS

GUIDELINES ON UNIT TRUST ADVERTISEMENTS AND PROMOTIONAL MATERIALS

**GUIDELINES ON UNIT TRUST
ADVERTISEMENTS AND PROMOTIONAL
MATERIALS**

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Chapter 1

INTRODUCTION

- 1.01 Pursuant to the power under the *Securities Commission Act 1993* (SCA), the SC has drawn up the *Guidelines on Unit Trust Advertisements and Promotional Materials* (A & P Guidelines) to govern the issuance of advertisements, releases, statements and reports in relation to unit trust funds.
- 1.02 The principles contained in the A & P Guidelines are not to be regarded as rigid rules, and the issuers of advertisements and/or promotional materials are expected to be guided by the spirit, as well as the content, of the following requirements. In addition, while the notes and examples are primarily intended for illustrative purposes, they should not be departed from without sufficient cause.
- 1.03 For the purposes of the A & P Guidelines, “advertisement and promotional material” refers to a “notice” that–
- (a) issues, offers for subscription or purchase, or makes invitations to subscribe for or purchase, units of a unit trust fund;
 - (b) refers whether directly or indirectly, to a prospectus in respect of any unit trust fund or prescribed investment fund, as the case may be;
 - (c) refers whether directly or indirectly, to an issue, intended issue, offer, intended offer, invitation or intended invitation in respect of units of a unit trust fund; or
 - (d) refers whether directly or indirectly, to another notice that refers to a prospectus in relation to an issue, intended issue, offer, intended offer, invitation or intended invitation in respect of units of a unit trust fund.

- 1.04 Notices include any notice published in a document, newspaper or periodical, or on any medium capable of suggesting words and ideas and any materials disseminated, intended or apparently intended, to advertise or promote a unit trust fund. Examples of publication medium include, but not be limited to, the following:
- (a) Published materials (e.g. magazine, journal, periodical);
 - (b) Display of posters, notices, signs or billboards;
 - (c) Letters, circulars, newsletters, brochures or pamphlets;
 - (d) Sound broadcasting, film or television; and
 - (e) Telephone, facsimile, telex, computer transmission or other electronic transmission.

Chapter 2

SUBMISSION TO THE SECURITIES COMMISSION

- 2.01 The cover letter should be signed by the authorised signatory and designated person responsible for compliance, containing information on dates and details of the publication and advertising medium (i.e. whether it is a pamphlet, advertorial or leaflet, the name of the newspaper or magazine).
- 2.02 Issuers are required to deliver to the SC for post-vetting purposes:
- (a) One copy of the printed advertisements and/or promotional materials within two weeks from date of initial issuance or first publication;
 - (b) In the case of media advertisements, issuers are required to submit scripts and storyboards and not the video or audio tapes of commercials. In the case of oversized material, issuers are merely required to submit the mock-ups of the artwork on the material;
 - (c) In the case of non-English and non-Bahasa Melayu advertisements and/or promotional materials, submit a confirmation from the designated person responsible for compliance in respect of the translation;
 - (d) In the case of a change in medium of publication, without any changes to the content, issuers need not resubmit the advertisement and/or promotional materials; and
 - (e) For those advertisements and/or promotional materials that include performance data (including awards and rankings) for the unit trust fund, supporting information should be submitted to the SC to substantiate the information or calculation.

- 2.03 It is the responsibility of issuers to ensure that the advertisement and/or promotional material comply with all other relevant laws and regulations.
- 2.04 The SC may impose any of the penalties specified under the SCA and the *Guidelines on Unit Trust Funds* for any non-compliance with the A & P Guidelines in the interests of investor protection.

Chapter 3

COMPLIANCE AND PROCEDURES

- 3.01 Issuers are advised to adhere to the spirit of the A & P Guidelines and the standards set out. It should also be noted that issuers are not limited to management companies only, but extends to *any* person or institution wishing to issue or publish an advertisement and/or promotional material. Non-compliance with the provisions of the A & P Guidelines will attract penalties stipulated under the *Guidelines on Unit Trust Funds*.
- 3.02 The perusal of advertisements and promotional materials will be on a post-vetting approach. Issuers are advised to be mindful of the requirements for advertisements and promotional materials as set out in the SCA, the A & P Guidelines and any other relevant laws or regulations.

Chapter 4

THE CONTENTS OF ADVERTISEMENTS AND PROMOTIONAL MATERIALS

4.01 General Principles

- (1) The advertisement and/or promotional material should be based on the principles of good faith and fair dealing. As such, the advertisement and/or promotional material *must not in any way mislead or deceive* a prospective investor.

Note

- (a) In applying this principle, issuers should note that a prospective investor cannot be expected to have any special understanding of the matters contained in the advertisement and/or promotional material.
- (b) Issuers should be aware that the validity of a statement will depend on its contextual setting – a statement made in one context may be misleading even though the same statement may be appropriate in another context.
- (c) Issuers should be aware that the exaggeration of certain incidental features of the unit trust fund (e.g. insurance coverage) may distort the fund and mislead investors.
- (d) Issuers should also note that different levels of explanation or detail may be necessary for different “classes” of investors.
- (e) Issuers should present the most up-to-date information (e.g. NAV or interest rate figures). For example, a disclosure of NAV of the fund which is five months old (at date of publication), with the intention of presenting a more favourable level of NAV, could result in investors being misinformed.

4.02 Incidental Features

- (1) As the exaggeration of certain incidental features may distort the fund and mislead investors, issuers are required to present incidental features in all advertisements and/or promotional materials according to the following principles:
 - (a) No due prominence shall be given to any incidental feature (e.g. free insurance coverage, free consumer goods or free trips, etc.) that is featured in any advertisement and/or promotional material (e.g. the advertisement and/or promotional material should stress the fund and not the incidental feature);
 - (b) The offer shall be featured subject to relevant disclosure, for example, value of the item offered, the length of the offer period, conditions attached, whether certain categories of investors are excluded, etc.; and
 - (c) There should be no hidden or additional costs imposed upon investors with such promotions.
- (2) The principles of *honesty and greatest possible accuracy* must underpin all advertisements and/or promotional materials. In this regard, dishonesty or inaccuracy can result from exaggerations, omissions or implications of certain statements contained in the advertisement and/or promotional material. Issuers should also note that selective emphasis of certain features may create a certain bias towards the presentation of the material which may be misleading.

Note

- (a) In preparing an advertisement and/or promotional material, issuers should bear in mind that inherent in investments are the risks of fluctuating prices and the uncertainty of distributions, rates of return and yield.

Accordingly, statements about possible benefits connected with investing should be “counterbalanced” with the risks/limitations associated therewith.

- (3) Care and attention must always be paid to the *overall* impression of the advertisement and/or promotional material.

4.03 Language and Graphics

- (1) The use of ambiguous terms, or industry terms which are not explained in ordinary simple language that are not readily understood by the public at large, should be avoided wherever possible.

Note

- (a) Issuers of advertisements and/or promotional materials should be aware that a statement made in an unclear manner can result in a lack of understanding or even a serious misunderstanding. It should be noted that a complex or overly technical explanation may be worse than too little communication.
- (2) A statement of opinion regarding a unit trust fund or a management company must be reasonable and, where appropriate, capable of verification. In this regard, any testimonial quoted or referred to in an advertisement and/or promotional material should be relevant, factual and attributable to an independent source. The source and the date of the testimonial quoted or referred to in the advertisement and/or promotional material should be disclosed in the advertisement and/or promotional material.

Example

- (a) Phrases such as “ best performing” or “ first” may only be used if attributable to an independent source and the document and/or source of information concerned is readily available to investors for purposes of verification.
- (3) An advertisement and/or promotional material should not give an investor the impression that his capital is secure or his income/profits guaranteed or that such rate of return is certain, unless otherwise appropriate. It should also not imply that an investor could profit without risk. (Please refer to sub-clauses 4.07(4) and 4.07(5) on requirements for guaranteed funds and capital protected funds.)

Examples

- (a) Words such as “ secure” , “ guaranteed” , “ safe” , “ risk-free” , “ protected” , “ warranty” and “ promise” should not be used in an advertisement and/or promotional material, unless otherwise appropriate.
- (b) The terms “ low risk” or “ minimal risk” should not be used on its own, but should be used relative to an alternative form of investment. To illustrate this, “ Investing in income funds might be considered low risk compared to direct investment in the stock market.”
- (c) The statement that “ ABC Fund is backed by XYZ” should not be used unless XYZ actually guarantees the fund against losses.
- (4) An advertisement and/or promotional statement should not give an investor the impression that his investment will always increase in value. In addition, the language should avoid implying urgency or emergency. The words and the context

should not pressurise the reader into investing within a certain time frame or by a certain time.

Examples

- (a) "Get rich quick" statements such as, "Your investment will grow from strength to strength", "Greater wealth awaits you", "You too can be rich" and "Best way to invest" should be avoided.
 - (b) Statements such as, "Invest now before it is too late", "This is the right time to buy" or "Buy now before it's too late" or variations of such phrases should not be used.
 - (c) The statement, "Hurry, offer period ends on..." or "Hurry before the special promotion (with respect to incidental features) ends on..." should be avoided. Care must be taken to explain that units can be purchased after the offer period closes.
 - (d) "Hurry, the fund will be paying out distributions by end of..."
- (5) An advertisement and/or promotional material should not use definitive or unreasonably promising language in the representation of the outcome of investing in the fund.

Not permissible

- (a) "You will reap returns."
- (b) "You become a winner."
- (c) "You gain every advantage from investing."
- (d) "High rewards await you."

- (e) "You will more likely than not to make gains from your investment."
- (6) Direct forecasts or projections of the future performance of a unit trust fund should not be made. Any statement that indirectly relates to the future performance of a fund must allow for the vicissitudes of the market and must not be made in certain terms.

Examples

Not Permissible

- (a) "ABC Fund is expected to achieve 8% growth this year."
- (b) "ABC Fund will achieve good/excellent/attractive results for you at minimal risk."
- (c) "With our fund management expertise, ABC Fund is expected to outperform the KLSE Composite Index (KLCI) and other major indices."
- (d) "ABC Fund will provide an excellent hedge against inflation."
- (e) "ABC Fund will offer investors a rate of return better than that of fixed deposit savings."

Permissible

- (f) "Our fund managers will seek to maximise your returns."
- (g) "ABC Fund aims to provide you with the opportunity to outperform the KLSE Composite Index (KLCI)."
- (h) "ABC Fund hopes to provide you with a reasonable hedge against inflation."

- (i) "ABC Fund seeks to present you with the opportunity to earn attractive returns at an acceptable level of risk."
- (7) An advertisement and/or promotional material should not use language or graphics that would be considered by a reasonable person to be in poor taste.
- (8) The participation and involvement of the regulatory authorities in the industry should only be stated in a factual manner and should not be intended to give investors the impression that their investments are safe/secure. In particular, an advertisement and/or promotional material should not imply that the authorities have taken responsibility for the financial soundness of the unit trust fund or of the management company, or that the authorities recommend the unit, or that statements and opinions expressed are true/accurate.

4.04 Comparison

- (1) Comparisons made between two or more unit trust funds, or between two or more alternative investments, should be fair, reasonable, accurate and be based on similar time periods. Material differences between the subjects of comparison should be highlighted.

Note

- (a) It is essential that a comparison be as complete as it is practicable and that no fact be omitted which, if disclosed, would likely alter the conclusions reasonably drawn or implied by the comparison.
- (b) Issuers should note that comparisons with alternative investments or savings vehicles should explain clearly any relevant differences in guarantees, fluctuation of

principal and/or return, insurance, and any other factors necessary to make such comparisons fair and not misleading.

- (c) Any performance comparison between funds, or between alternative investments, should be fairly and accurately based on reports published by an independent organisation or independently commissioned. Any external source of such material must be identified. The source and the date of the report quoted should be disclosed in the advertisement and/or promotional material. Where the whole of the information is not set out, that which is included should be neither unfair nor misleading, nor should the exclusion of certain material have the effect of exaggerating the material that is included.
- (d) Only the investment performance of funds with similar investment objectives, investment policies and risk profiles can be compared in order to ensure that there is a “like with like” comparison.

4.05 Investment Performance

- (1) Performance figures quoted (which include, but is not limited to awards and rankings of unit trust funds) or referred to in an advertisement and/or promotional material should be factual information, independently sourced or independently verified, and published (where applicable) by a *recognised financial and statistical reporting service*. The source of information and/or the verifying party should be disclosed. Issuers may consult with the SC if unsure about the status of the reporting service.
- (2) Performance figures for periods of less than one year should not be used unless accompanied by the most recent figure of one year's duration for comparison purposes.

Note

- (a) In general, the appropriate time periods for illustration of results are those which are of sufficient duration that the data can be meaningfully appreciated. The selection of a specific time period, solely for the purpose of illustrating performance " at its best " , is likely to mislead or provide bias to the presentation of the information and would therefore not be appropriate as this would result in an investment decision made on incomplete information.
- (b) Investment performance data should be up-to-date and no more than six months old. For example, as at 31 December 1999, the promotional materials should not contain performance data covering periods which end before 30 June 1999. However, data should be updated if more recent data is significantly different. (A variation of 10% or more from that last published statistics to the current performance figures would be considered significant).

Performance Awards

- (c) However, for annual performance awards, the award can be advertised for at most one year after the announcement date of the award.

Performance Rankings

- (d) The ranking of a fund should not be advertised unless the ranking relates to a period of one year or more. Therefore, rankings for a period of less than one year (e.g. monthly or quarterly rankings) should not be used in advertisements and/or promotional materials as the short time frame and the lead time to publication of the said promotional materials may serve to confuse

the public as monthly or quarterly rankings are too fluid compared to performance rankings based on a longer time period.

- (e) Where the ranking of a fund in a certain category is being advertised, the number of funds within that category should be at least five. This is to ensure that any published rankings are based on a meaningful number of funds. Alternatively, the number of funds that were considered in the ranking category should be disclosed. Where the advertisement and/or promotional material contains ranking, the advertisement and/or promotional material should include the fund category and the number of funds considered in the ranking.

Performance Benchmarks

- (f) Performance benchmarks used in promotional materials should be relevant, appropriate and consistent.
- (g) Performance benchmarks should not be a moving target and should be appropriate to the investment objective and policy of the fund. For example, the Emas Index would be more suitable for an equity fund that has diversified holdings in investments listed on the Main Board of the KLSE, whereas the KLCI Index would be more suitable for an equity fund with holdings in mainly blue-chip counters. The performance of a fixed income or bond fund or a fund that substantially invests in fixed income securities if compared with the Emas Index or KLCI would be considered irrelevant or inappropriate. Where a performance benchmark has been selected as comparison to a particular fund, the usage of such a benchmark should be consistent over time and should not be changed merely to show the fund in better light.

- (3) Performance figures displayed must be actual rather than hypothetical/simulated results. Annualised returns are generally only acceptable if the actual returns for all the individual years are shown in addition.

Note

- (a) Issuers should endeavour to present performance results in a manner which is clear and shows that within the longer periods illustrated, there have been short-term fluctuations. No single period of any length is to be taken as “ typical ” of what may be expected in future periods.
- (4) Graphs, tables and other diagrams used should be to scale and presented without distortion. Figures shown on graphs must be a fair representation of the position.

Note

- (a) In selecting a format for the presentation of performance results, consideration should be given, not only to the completeness and accuracy of the data, but also to the clarity and meaningfulness of the overall presentation. Careful consideration should be given to the visual impact of the data presented, as the reader may not go beyond a scanning of the “ trends ” depicted.
- (b) Furthermore, while a summary of investment results is often necessary in order to make the advertisement and/ or promotional material readable and understandable, it must be recognised that the reader may not look beyond the summary data presented. Consequently issuers should take into account that the summary data must be fair in all respects and not likely to mislead, either directly or by distracting the reader from other necessary information.

- (5) The basis of computation of investment figures should be disclosed, for example, NAV vs. NAV or offer vs. offer.

4.06 Disclosure Statements

- (1) Disclosure statements should be clearly displayed in all advertisements and/or promotional material, to the following effect:
 - (a) A prospectus in relation to the fund has been registered with the SC;
 - (b) Date of the prospectus;
 - (c) Specifies where a copy of the prospectus can be obtained; and
 - (d) States that any issue of securities/units to which the prospectus relates will only be made on receipt of a form of application referred to and accompanying a copy of the prospectus.
- (2) Media advertisement and/or promotional materials (e.g. television, cinema, radio, computer transmission) will require the above disclosure statements to be *read out/displayed*.

4.07 Warning Statements

- (1) Warning statements *where relevant* should be clearly displayed in all advertisements and/or promotional materials, to the following effect:
 - (a) Investors are advised to read and understand the contents of the prospectus before investing. Among others, investors should consider the fees and charges involved;

- (b) The price of units and distributions payable, if any, may go down as well as up;
 - (c) Where past performance is quoted, the past performance of a fund should not be taken as indicative of its future performance;
 - (d) Where unit trust loan financing is available, investors are advised to read and understand the contents of the unit trust loan financing risk disclosure statement before deciding to borrow to purchase units;
 - (e) Where a unit split/distribution is declared, investors are advised that following the issue of additional units/distribution, the net asset value per unit will be reduced from pre-unit split NAV/cum-distribution NAV to post-unit split NAV/ex-distribution NAV; and
 - (f) Where a unit split is declared, investors should be highlighted of the fact that the value of their investment in Malaysian ringgit terms will remain unchanged after the distribution of the additional units.
- (2) In addition to the warning statements in 4.07(1), issuers should highlight any special risks of investing in the particular fund (e.g. interest rate fluctuation risk, foreign exchange risks, country and political risks, etc.).
- (3) Warning statements should be highlighted and generally printed in the same type size as the rest of the advertisement and/or promotional material or at least must be capable of being read with reasonable ease by anyone scanning the advertisement. Furthermore, where the warning statements are submerged by the preponderance of written text, warning statements may be boxed.

Note

- (a) Reasonable ease would mean that a person with reasonable eyesight would notice the warning statement and be able to read the message without any reading aids such as magnifying glasses, or squinting to read the text, etc.
- (4) Guaranteed funds are required to disclose the following warning statements in addition to the warning statements set out in sub-clause 4.07(1):
- (a) Name and credit rating of the guarantor;
 - (b) A statement on the material terms of the guarantee;

Example

Where applicable, disclose that the guarantee only applies to unit holders who hold their investment until maturity date or until the date specified in the guarantee. Any redemption before the maturity/ specified date would be based on the NAV of the fund on that day and would be charged an exit fee, if any, and that the guarantee does not apply in this case.

- (c) A statement to the effect that there may be dilution of performance due to the guarantee structure being in place, compared to a non-guaranteed conventional fund;
- (d) The guarantee is subject to the credit risk of the guarantor and it does not give any assurance to the future solvency of the guarantor;
- (e) The guarantee may be terminated under certain circumstances as described in the prospectus; and

- (f) A statement directing investors to read the prospectus and guarantee documents for further details of the guarantee.
- (5) Capital-protected funds are required to disclose the following warning statements in addition to the warning statements set out in sub-clause 4.07(1):
- (a) The fund is not guaranteed and is subject to investment risk;
 - (b) A statement on the specific terms of the capital protection;

Example

Where applicable, disclose that the capital protection only applies to unit holders who hold their investment until maturity date or until the date specified in the prospectus. Any redemption before the maturity/ specified date would be based on the NAV of the fund on that day and would be charged an exit fee, if any, and that the protection does not apply in this case.

- (c) A statement to the effect that there may be dilution of performance due to the capital protection structure being in place, compared to a conventional fund, without capital protection; and
 - (d) A statement directing investors to read the prospectus for further details of the capital protection structure.
- (6) Sufficient prominence should be given to any necessary qualifications or conditions for investing in the particular unit trust fund.

4.08 Advertisements with Reference to Loan Financing

- (1) Loan plans should be disassociated from the sale of units. Accordingly, advertisements and/or promotional materials should not contain any projection of returns based on loan financing plans. Advertisements and/or promotional materials which contain references to loan funds should only contain factual information, without any persuasive element.

4.09 Advertisements by Way of Computer Transmission

- (1) The A & P Guidelines apply to advertisements issued by way of computer transmission. Among others, such advertisements should draw attention to the prospectus of the unit trust fund. Furthermore, the advertisements should not offer units for sale or purchase, and should not allow for transactions to be conducted via computer transmission (investors are, however, permitted to ask for further information and/or application form provided the form is accompanied with the prospectus).

Note

- (a) With respect to foreign jurisdictions, Malaysian companies posting prospectuses on their websites might be considered as making an offer of securities in foreign jurisdictions. Therefore, companies are advised to seek legal advice on the use of disclaimers on their websites with regard to this issue.

4.10 Advertising of Delegates

- (1) Where the delegate is advertised, the limited role of the delegate must be made clear, the advertisement and/or promotional material cannot imply that performance is due

to the expertise/efforts of the delegate alone, as the management company's investment committee is given the authority to formulate, implement and monitor the investment strategy of the fund(s).

- (2) Where the performance of the delegate is quoted (for example, the fund manager's performance) the management company must adhere to the provisions of the A & P Guidelines on the representation of performance data.

4.11 Corporate Advertisements

- (1) For the purpose of the A & P Guidelines, corporate advertisement refers to advertisements and promotional materials that advertise expertise or services of the management company or its delegates and do not make reference whether directly or indirectly, to a prospectus of a fund or carry any marketing or promotional elements of a fund that could be construed as a product advertisement.
- (2) Where corporate advertisements refer whether directly or indirectly, to a prospectus of a fund or carry any marketing or promotional elements of a fund that could be construed as a product advertisement, the issuer must adhere to the requirement of the A & P Guidelines.

