



GUIDELINES ON UNIT TRUST ADVERTISEMENTS AND PROMOTIONAL MATERIALS

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1.0 INTRODUCTION

- 1.01 The *Guidelines on Unit Trust Advertisements and Promotional Materials* is issued by the Securities Commission (SC) under section 377 of the *Capital Markets and Services Act 2007 (CMSA)*. These guidelines set out the requirements to be complied with by any person who issues advertisements, promotional materials, releases, statements and reports for unlisted unit trust funds in Malaysia.
- 1.02 These guidelines aim to provide a regulatory environment that protects the interests of the investing public.
- 1.03 The principles in these guidelines are not to be regarded as rigid rules, and the issuers of advertisements or promotional materials are expected to be guided by the spirit, as well as the content, of these guidelines. In addition, while the notes and examples are primarily intended for illustrative purposes, they should not be departed from without sufficient cause.
- 1.04 For the purpose of these guidelines, “advertisement and promotional material” refers to a notice which–
- (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 of any unit trust fund or prescribed investment scheme, as the case may be;
 - (c) refers, whether directly or indirectly, to an issue, intended issue, offer, intended offer, invitation or intended invitation for 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 for units of a unit trust fund.
- 1.05 Notices include any notice published in a document, newspaper or periodical, or on any medium capable of suggesting words and ideas, and any material disseminated, intended or apparently intended, to advertise or promote a unit trust scheme. Examples of publication medium include, but are not limited to, the following:
- (a) Published materials (e.g. magazines, journals or periodicals);
 - (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.

- 1.06 These guidelines do not apply to a corporate advertisement. A corporate advertisement refers to an advertisement and/or promotional material which advertises expertise or services of the management company or its delegates.
- 1.07 Where a corporate advertisement refers, whether directly or indirectly, to a unit trust fund, its prospectus, or carry any marketing or promotional elements for a unit trust fund which could be construed as a product advertisement, the issuer must comply with these guidelines.
- 1.08 The SC may take action against persons who fail to comply with or observe any of the provisions in these guidelines, as are permitted under section 354 of the CMSA and/or other relevant provisions under the CMSA.
- 1.09 The SC may exempt, where it deems appropriate or upon application, grant exemptions or variations from compliance with any of the requirements in these guidelines.
- 1.10 The SC may from time to time, issue practice notes to further provide greater clarity and guidance on any of the provisions in these guidelines. The practice notes must be complied with in the same manner as these guidelines.
- 1.11 These guidelines (including practice notes) may be reviewed as and when necessary.

2.0 CONTENTS OF ADVERTISEMENTS AND PROMOTIONAL MATERIALS

General Principles

- 2.01 An advertisement or promotional material should be issued based on the principles of good faith and fair dealing.
- 2.02 An advertisement or promotional material should not in any way mislead or deceive a prospective investor.

Guidance

- 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.
- 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.
- 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.
- Issuers should also note that different levels of explanation or detail may be necessary for different investors with varying knowledge of unit trust funds.

- Issuers should present the most up-to-date information, e.g. Net Asset Value (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.

Incidental Features

- 2.03 As the exaggeration of certain incidental features may distort the scheme 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 should be given to any incidental feature (e.g. free insurance coverage, free consumer goods or free trips, etc.) in any advertisement and/or promotional material. An advertisement and/or promotional material should stress on fund information and not the incidental feature;
 - (b) The offer should 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 on investors with such promotions.
- 2.04 The principles of honesty and greatest possible accuracy should 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.

Guidance

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 “counter-balanced” with associated risks/limitations.

- 2.05 Care and attention should always be paid to the overall impression of the advertisement and/or promotional material.

Language and Graphics

- 2.06 The use of ambiguous or industry terms, not explained in simple language and readily understood by the public at large, should be avoided wherever possible.

Guidance

Issuers of advertisements 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. A complex or overly technical explanation may be worse than too little communication.

- 2.07 A statement of opinion regarding a unit trust fund or a management company should be reasonable and, where possible, can be verified. 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 date of testimonial quoted or referred to should also be disclosed.

Guidance

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 verification.

- 2.08 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 a rate of return is certain, unless appropriate. It should also not imply that an investor could profit without risk. (Please refer to clauses 2.25 and 2.26 for guaranteed funds and capital protected funds).

Guidance

- Words such as "secure", "guaranteed", "safe", "risk-free", "protected", "warranty", "likely" and "promise" should not be used in an advertisement and/or promotional material, unless appropriate.
- The terms "low risk" or "minimal risk" should only be used relative to an alternative form of investment. For example, "investing in income funds might be considered low risk compared to direct investment in the stock market."
- The statement that "ABC Fund is backed by XYZ" should not be used unless XYZ actually guarantees the fund against losses.

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

Guidance

- "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.
- 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.
- 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.
- "Hurry, the fund will be paying out distributions by end of..." should be avoided.

- 2.10 An advertisement or promotional material should not use definitive or unreasonably promising language in its representation of the outcome of investing in the fund.

Guidance

The following statements or promising language are not permissible:

- "You will reap returns"
- "You become a winner"
- "You gain every advantage from investing"
- "High rewards await you"
- "You will more likely than not to make gains from your investment."

- 2.11 Direct forecasts or projections of 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 uncertainty in the market and must not be made in certain terms.

Guidance

The following statements are not permissible:

- "ABC Fund is expected to achieve 8% growth this year"
- "ABC Fund will achieve good/excellent/attractive results for you at minimal risk"
- "With our fund management expertise, ABC Fund is expected to outperform the FTSE Bursa Malaysia Large 30 Index and other major indices"
- "ABC Fund will provide an excellent hedge against inflation"

- "ABC Fund will offer investors a rate of return better than that of fixed deposit savings."

The following statements are permissible:

- "Our fund managers will seek to maximise your returns"
- "ABC Fund aims to provide you with the opportunity to outperform the FTSE Bursa Malaysia Large 30 Index"
- "ABC Fund hopes to provide you with a reasonable hedge against inflation"
- "ABC Fund seeks to present you with the opportunity to earn attractive returns at an acceptable level of risk."

- 2.12 An advertisement and/or promotional material should not use language or graphics considered to be in poor taste by a reasonable person.
- 2.13 Involvement of regulatory authorities in the industry should only be stated in a factual manner and not 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 scheme or of the management company, or that the authorities recommend the unit, or that statements and opinions expressed are true/accurate.

Comparison

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

Guidance

- It is essential that a comparison be as complete as is practicable and that no fact be omitted which, if disclosed, would likely alter the conclusions reasonably drawn or implied by the comparison.
- Comparisons with alternative investments or savings vehicles should explain clearly any relevant difference in guarantees, fluctuation of principal and/or return, insurance, and any other factor necessary to make such comparisons fair and not misleading.
- Any performance comparison should be based on reports published by an independent organisation or independently commissioned. Sources and dates of reports should be disclosed in the advertisement and/or promotional material. Where only extracts of the report is highlighted, that which is highlighted should not be unfair nor misleading. The excluded information should not cause the included information to appear exaggerated.

- 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.

Investment Performance

- 2.15 Performance figures quoted (which include, but is not limited to, awards and rankings) or referred to in an advertisement and/or promotional material should be factual information, sourced independently or verified independently, 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 unsure of the status of the reporting service may consult the SC.
- 2.16 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.

Guidance

- 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.
- Investment performance data should be up-to-date and no more than six months old. For example, as at 31 December 2006, the promotional materials should not contain performance data covering periods which end before 30 June 2006. However, data should be updated if more recent data is significantly different. (A variation of 10% or more from last published statistics would be considered significant).

Performance Awards

- Annual performance awards can be advertised for one year at most after the announcement date of the awards.

Performance Rankings

- The ranking of a fund should not be advertised unless the ranking relates to a period of one year or more. 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 because the short time frame and the lead time to publishing the said promotional materials may confuse the public. Monthly or quarterly rankings are too fluid compared to performance rankings based on a longer time period.

- 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 ranking is based on a meaningful number of funds. Alternatively, the number of funds which were considered in the ranking category should be disclosed. Where the advertisement and/or promotional materials contain ranking, the advertisement and/or promotional materials should include the fund category and the number of funds considered in the ranking.

Performance Benchmarks

- Performance benchmarks used in promotional materials should be relevant, appropriate and consistent with the benchmark disclosed in the fund's prospectus.

- 2.17 Performance figures displayed should 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.

Guidance

- 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.
- Back testing data/results are not allowed to be used.

- 2.18 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.

Guidance

- 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.
- 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.

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

Disclosure Statements

- 2.20 The following statements should be clearly displayed in all advertisements and/or promotional materials:
- (a) A prospectus for 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 units to which the prospectus relates will only be made on receipt of an application form referred to and accompanying a copy of the prospectus.
- 2.21 For media advertisement (e.g. television, cinema and radio) only part (a)–(c) of clause 2.20 is required to be read out/displayed.

Warning Statements

- 2.22 Warning statements (where relevant and excludes media advertisements) 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 NAV 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 will remain unchanged after the distribution of the additional units.
- 2.23 In addition to warning statements set out in clause 2.22, issuers should highlight any special risk of investing in a particular fund (e.g. interest rate fluctuation risk, foreign exchange risk, country and political risk, etc.).

- 2.24 Warning statements must be highlighted and generally printed in the same font size as the rest of the advertisement and/or promotional material or can be 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.

Guidance

- 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 a magnifying glass, or squinting to read the text.

- 2.25 Guaranteed funds should disclose the following statements in addition to the warning statements set out in clause 2.22:

- (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 investments until maturity date or until the date specified in the guarantee. Any redemption before the maturity/specified date will be based on the NAV of the scheme on that day and will 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) Investors are advised to read the prospectus and guarantee documents for further details of the guarantee.

- 2.26 Capital-protected funds should disclose the following statements in addition to the warning statements set out in clause 2.22:

- (a) The fund is not guaranteed and subject to investment risks;
- (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 investments until maturity date or until the date specified in the

prospectus. Any redemption before the maturity/specified date will 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) That there may be dilution of performance due to the capital protection structure being put in place, compared to a conventional fund without capital protection; and
- (d) Investors are advised to read the prospectus for further details of the capital protection structure.

2.27 Sufficient prominence should be given to any necessary qualification or condition for investing in a particular unit trust fund.

Advertisements with Reference to Loan Financing

2.28 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 financing should only contain factual information, without any persuasive element.

Advertisements by Way of Computer Transmission

2.29 Any person wishing to advertise by way of computer transmission should observe and comply with the requirements of these guidelines and the *Guidelines on Online Transactions of and Online Activities in Relation to Unit Trusts*.

Advertising Delegates

2.30 *This clause is intentionally omitted.*

2.31 Where a delegate is advertised, his limited role must be made clear. The advertisement and/or promotional material cannot imply that the scheme performance is due to the expertise/efforts of a 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).

2.32 Where a delegate's performance is quoted (for example, the fund manager's performance), the management company must adhere to the provisions of these guidelines on the representation of performance data.

3.0 SUBMISSION TO THE SECURITIES COMMISSION

3.01 Issuers are required to deliver to the SC, the following:

- (a) For printed advertisements or promotional materials – one copy of the advertisement or promotional materials;
- (b) For media advertisement – scripts and storyboards of commercials. In the case of oversized or odd-shaped material, issuers are required to submit mock-ups of the artwork for the material;
- (c) For non-English and non-Bahasa Malaysia advertisements or promotional materials) – a confirmation from the designated person responsible for compliance in respect of the translation; and
- (d) For advertisements or promotional materials that include performance data, including awards and rankings – supporting information to substantiate the information or calculation.

3.02 In the case of a change in medium of publication without any change to the content, issuers are not required to submit the advertisement or promotional materials.

3.03 Submissions should be accompanied with a cover letter, signed by an authorised signatory and designated person responsible for compliance (where applicable) stating the date of the first issuance of the advertisement or promotional materials and must be submitted within two weeks from the date of initial issuance or first publication.