

FREQUENTLY-ASKED-QUESTIONS

GUIDELINES ON ADVERTISING FOR CAPITAL MARKET PRODUCTS AND RELATED SERVICES

(Issued: 4 May 2020)

(Revised: 27 March 2025)

1. Why was the Guidelines on Advertising for Capital Market Products and Related Services (existing Guidelines) introduced?

The Guidelines was first introduced on 4 May 2020 to facilitate responsible advertising by capital market product issuers and capital market service providers of their products and services through a medium that best suits their needs. Advertisers can now take advantage of social media, messaging applications and video streaming sites, to promote their products and services.

2. What are the changes introduced under the Guidelines on Advertising for Capital Market Products and Related Services which is issued on 27 March 2025 (revised Guidelines)?

The revised Guidelines, among others, addresses latest developments such as the use of social media and the role of financial influencers (finfluencers) as channels for advertising.

The revised Guidelines recognises the involvement of finfluencers including those that may not be engaged by any product issuer or service provider but would on their own accord still advertise the product or service to the public. Such finfluencers are also subject to the revised Guidelines and would have to adhere to the principle of responsible advertising as advocated by the revised Guidelines.

3. When will the revised Guidelines come into effect?

The revised Guidelines will come into effect on 1 November 2025 for all advertisers who issue or authorise advertisements on or after the date.

This is to provide advertisers sufficient time to ensure compliance with the revised Guidelines.

In the meantime (before 1 November 2025), the existing Guidelines will continue to apply and must be complied with.

However, early adoption of the revised Guidelines by advertisers is encouraged as this will enable advertisers to assess and identify any issues or clarification

required *vis-a-vis* implementation of the revised Guidelines and to communicate the same to the SC prior to the effective date.

4. To whom does the revised Guidelines apply to?

The revised Guidelines will apply to advertisers who are any of the following persons:

- (a) An issuer of a capital market product (for example, a management company that advertises its funds, an issuer of structured products, an issuer seeking to list capital market products such as shares, corporate bonds, real estate investment trusts, exchange traded funds and structured warrants on the exchange);
- (b) A person carrying out a regulated activity (for example, a licensed holder or registered person who advertises about the regulated activity that he carries out);
- (c) A person who provides a capital market service that is specified under the CMSA (for example, a trustee or digital asset custodian who advertises its services);
- (d) A person who operates or maintains a recognized market (for example, a digital exchange operator or equity crowdfunding platform who advertises about the market that it provides);
- (e) A person who is not engaged by any of the persons above and who voluntarily issues or authorises an advertisement with respect to a capital market product or capital market related service such as influencers who undertake advertising on their own accord.

As an illustration of paragraph (e) above, X, who is a famous YouTuber and TikTok influencer, voluntarily advertises the investment products of Company B on his social media account without being engaged by Company B. The revised Guidelines will apply to X as he will qualify as an advertiser under paragraph (e) above.

5. I have prepared and issued an advertisement prior to the issuance of the revised Guidelines and the advertisement will continue to be available after the revised Guidelines comes into force. My advertisement does not comply fully with the new requirements imposed by the revised Guidelines, will I be in breach of the revised Guidelines?

As mentioned above, the revised Guidelines is issued on 27 March 2025 and will only come into effect on 1 November 2025.

In this scenario, you are required to cease the advertisement on or after 1 November 2025 as otherwise, you would be in breach of the revised Guidelines.

Ample time has been provided to advertisers to ensure compliance with the revised Guidelines and thus it is in your interest to ensure that your advertisement is in compliance with the revised Guidelines.

6. The definition of voluntary advertiser under the revised Guidelines is very wide. Am I caught as a voluntary advertiser if I merely share factual information about a particular product?

The Guidelines is not intended to apply to the dissemination of factual information relating to a capital market product that is intended solely for educational purposes and the information disseminated has no effect of inducing nor likely to induce a person to take any action or position (e.g. buy, sell or hold) with respect to a specific capital market product.

Example 1

Mr. X is a university lecturer for finance and in one of his modules for the course, he lectures on "fund raising through capital market". The slides contain real life examples of companies undertaking initial public offerings and information on existing listed corporations for ease of understanding of his students. His presentation slides will not be subject to the Guidelines given that the information disseminated through the slides is solely for educational purposes and the information is not disseminated with the purpose to induce a person to take any action or position (e.g. buy, sell or hold) with respect to a specific capital market product.

Example 2

Mr. Y is a training provider accredited by a recognised institution in Malaysia and he is invited to share general information on private retirement schemes in Malaysia. In the course of his training, he shares a summary of factual information on a few schemes (e.g. price, ratings, performance) but he does not disclose to the training participants the names of the schemes and at the same time does not recommend the training participants to participate in any of the referred schemes nor provide an opinion with regards to the performance of such schemes. The information disseminated by Mr. Y will not be subject to the Guidelines as he has only provided factual information for educational purpose and the information he provided is not for the purposes of inducing a participant to take any action or position (e.g. buy, sell or hold) with respect to any specific scheme.

Example 3

Company C invites Mr. Z who is a finfluencer to share his knowledge about financial market in general to educate Company C's staff. Mr. Z shares his knowledge regarding the financial market by generally discussing about the different types of licensed persons who can carry on licensed activities and the types of products available for investment without naming any specific licensed person or product. Such information disseminated will not be subject to the Guidelines given that he only provides factual information for educational purpose and the information he provided is not for the

purposes of inducing a staff member to take any action or position with respect to any specific product that is provided by a licensed person.

Note:

The examples above are only for illustration purposes. Ultimately, the outcome of any situation is dependent on the facts of that situation. The facts will have to be examined to determine whether information disseminated in that situation is in fact disseminated solely for educational purposes and whether recipients of the information are in fact induced or likely to be induced to take a specific action or position with respect to any specific product.

7. Does the revised Guidelines apply to fund fact sheets used by the unit trust fund or private retirement scheme industry?

The revised Guidelines sets out clearly that fund fact sheets is an example of advertisement and thus would need to comply with the requirements under the revised Guidelines.

In this regard, issuers and distributors of unit trust fund and private retirement scheme should assess their existing policies and procedures as well as advertisements issued and which continue to be available, *vis-a-vis* compliance with the revised Guidelines on or after the effective date of the revised Guidelines.

8. Is an issuer or distributor of unit trust fund or private retirement scheme required to state all the fees, charges and costs in their fund fact sheets?

The Guidelines requires an advertiser to give an accurate representation of the overall level of fees, charges or costs an investor is likely to pay and make clear the “effect” of all relevant fees, charges or costs on investors’ returns. For example, overall level of fees may be stated based on categories and the effect may be explained on a qualitative basis (e.g. a statement explaining that sales charge is deducted upfront and directly reduces the amount of the initial investment that is allocated to the fund which in turn can have the effect of lowering returns to investors in the long run).

The objective of such requirement is to ensure that an advertisement clearly sets out as to how fees, charges or costs can affect an investor’s returns so that the investor can make an informed investment decision. Notwithstanding that advertisers are not required to provide a detailed breakdown of all fees, charges and costs, they are encouraged to do so.

9. Can advertisements be disseminated through any media or channels for example X, LinkedIn, Instagram and WhatsApp?

Yes, advertisers can choose any medium which suits their needs and this includes using X, LinkedIn, Instagram, WhatsApp, etc, so long as the advertisers comply with the Guidelines. One key question that should be considered by an advertiser before using this medium is the appropriateness of this medium for advertising. For example, consider the suitability of using this medium to advertise a complex product given that this medium may have word and format restrictions.

10. **Assuming a CMSL holder appoints an advertising agency to assist in the preparation of its advertisement, would the advertising agency be subject to the Guidelines?**

Service providers such as advertising agency that designs or prepares an advertisement at the request of the advertiser will not be subject to the Guidelines. However, the CMSL holder who is the advertiser has an obligation to ensure that the advertisement designed or prepared by the advertising agency complies with the requirements of the Guidelines.

11. **Assuming an advertiser engages a third party such as a celebrity to advertise its products or services, what are the obligations of the advertiser and the third party under the Guidelines?**

Under the Guidelines, the advertiser is accountable for the conduct of the third party e.g. the celebrity. This is why it is in the interest of the advertiser to have effective oversight over the third party's advertising activity to ensure that the activity is in compliance with the Guidelines.

The third party e.g. celebrity is also required to disclose in the advertisement any direct or indirect benefits he or she may receive or has received in relation to the advertisement.

12. **Assuming a CMSL holder appoints a marketing representative (MR) to introduce clients to the CMSL holder and the MR in doing so promotes the services provided by the CMSL holder, is the MR subject to the Guidelines?**

In the case where the MR merely introduces or refers a client to the CMSL holder but does not carry out any advertising activity in relation to the services of CMSL holder, the Guidelines shall not apply. However, where the MR also carries out advertising activity in relation to the services offered by the CMSL holder, the CMSL and the MR shall be subject to the Guidelines. As discussed above, the Guidelines imposes a positive obligation on advertisers to ensure that any third party appointed must be able to comply with the Guidelines as the advertisers can be held accountable for the third party's non-compliance. This includes the MR's non-compliance. Thus, it would be in the interest of the CMSL holder to inform the MR and ensure that the MR understands and complies with the requirements provided in the Guidelines.

13. **Do advertisers need to refer to documents other than the Guidelines on Advertising for Capital Market Products and Related Services?**

The Guidelines provides minimum standards for all advertisers of capital market products and services. Advertisers should also refer to relevant guidelines in relation to specific advertising requirements and restrictions for certain products and services. For example, the Guidelines on Digital Assets states that an issuer must not engage any third-party individual(s) or entity, other than an Initial Exchange Offering (IEO) operator, to endorse or represent the issuer with the intended purpose of marketing, promoting, gaining publicity or soliciting funds for its digital token offering. As such, the stricter requirement in the Guidelines on Digital Assets will apply in this case.

14. **The Guidelines requires that policies and procedures be put in place to ensure compliance with the Guidelines. What is expected for advertisers to include in its policies and procedures?**

Written internal policies and procedures should include, amongst other things:

- (a) internal approval and reporting processes;
- (b) assessment criteria to ensure compliance with the Guidelines; and
- (c) record keeping.

15. **What are some examples of advertisements that will not comply with the Guidelines?**

Example 1

A stockbroking company advertises itself as having the first algorithm-based digital platform in the region. However, in actual fact, the company does not have an algorithm-based platform but merely provides an online trading platform. In such circumstances, the advertisement will not be in compliance with the Guidelines as the stockbroking company's advertisement gives rise to false or misleading impression about its services.

Example 2

A management company advertises and labels its fund as a "green" fund when only 10% of its funds are invested in environmentally conscious stocks. This advertisement would not be in compliance with the Guidelines as it is misleading investors to believe that the fund is primarily invested in environmentally conscious companies.

Example 3

A private retirement scheme provider using gifts and prizes to promote its schemes. The advertisement showcases a luxury car to be won by investors. There is no indicator placed near the picture of the car to alert readers that the

prize is subject to terms and conditions. Furthermore, the statement to alert readers to the terms and conditions applicable to the prize is printed in a relatively small font and in non-contrasting colours such that it is not easily seen by the readers. This advertisement will not be in compliance with the Guidelines as some investors may not be aware that the prize is subject to the terms and conditions.

Example 4

An Exchange Traded Fund (ETF) provider is promoting its funds by stating in its advertisement, *"Now is the best time to invest with the following ETFs as the economy is going south. Invest now before it's too late"*. This advertisement will not be in compliance with the Guidelines as it uses overzealous and flamboyant messaging which may attempt to exploit the vulnerability of investors, thus causing investors to not have due consideration to the risks involved in such investment.

Example 5

An Equity Crowdfunding (ECF) Platform Operator is promoting its services at an exhibition. The promotional materials distributed to visitors contain warnings and qualified statements which are written in small, unclear fonts, and include the use of technical industry jargons which cannot be easily understood by investors. This advertisement will not be in compliance with the Guidelines. Advertisers must ensure that their advertisement is fit for investors by considering the wider demographics of potential investors who would be viewing the advertisements, for example, the elderly or investors who are new to ECF and likely to not be familiar with certain technical terms.

Example 6

A financial planner is advertising an event to encourage investors to use its services. He has distributed some promotional materials to the general public. The SC's logo has been inserted in the promotional material. The use of the SC's logo in the promotional materials will not be in compliance with the Guidelines for being misleading as it gives the impression that the SC endorses or is associated with the event when it is not.

Example 7

Ahmad is a social media influencer who has been engaged by a registered trading platform in Malaysia to promote the services of the trading platform. Ahmad includes all the benefits of using the trading platform within his short-form video content (e.g. TikTok), but he makes no mention of the risks of using the trading platform in the video. He, however, discloses the risks in the accompanying caption which is outside of the main body of his video. He will not be in compliance with the Guidelines as some readers may not be aware that use of the trading platform is subject to risks. Ahmad should ensure that the risks are highlighted with sufficient prominence and are presented as closely as possible to the main message of his advertisement.

Example 8

A stock trading platform shares a post promoting its services on Instagram. However, the key risks as well as terms and conditions of using its services are

obscured by an ellipsis (i.e. '...more') in the Instagram post. This Instagram post will not be in compliance with the Guidelines as truncation or omission of important information can cause the advertisement to be misleading or providing an unbalanced view. In the circumstances, the trading platform must consider whether Instagram is an appropriate medium given it is a character-limited medium.

Example 9

Ah Hock is a popular social media influencer in Malaysia. He advertises the services of an online stock trading platform which is only licensed in Singapore but is not licensed by the SC in Malaysia. Ah Hock will be in breach of the Guidelines as the Guidelines clearly prohibits the advertising for services of persons who are not licensed, registered or otherwise authorised by the SC. Further, Ah Hock may also be prosecuted for the offence for abetting another in carrying on an activity that requires authorisation under the CMSA.

16. **If a piece of information in an advertisement is no longer accurate over a period of time, should I amend the advertisement immediately to comply with the Guidelines?**

Yes, you should amend the advertisement to ensure compliance with the Guidelines. The actions that you are expected to take should be reasonably practicable with the circumstances. For example, if you are aware that information in your advertisement is no longer accurate, then you should amend the information in the advertisement to ensure that it is accurate. If that is not practicable, you should remove the advertisement.

17. **What is the SC's expectation on inclusion of warnings, disclaimers, qualifications or terms and conditions in the advertisement given that the warnings, disclaimers, qualifications or terms and conditions are usually lengthy?**

The Guidelines does not prescribe that advertisements must include warnings, disclaimers, qualifications or terms and conditions. The Guidelines does require advertisers to take reasonable measures to inform investors that the advertisement, or the product or service that is advertised, is subject to relevant warnings, disclaimers, qualifications or terms and conditions. However, it should be noted that any warnings, disclaimers, qualifications or terms and conditions does not absolve the advertisers from their compliance of the Guidelines including ensuring that the advertisement is clear, relevant and balanced in order to not mislead the target audience.

18. **Does the Guidelines prohibit the use of past performances in an advertisement?**

The Guidelines does not prohibit the use of past performances in an advertisement. However, advertisers who include past performances should draw

the investors' attention to the fact that past performance is not a reliable indicator of future performance. An advertisement containing past performances can be misleading if it encourages investors to believe that the past performance of the product is a reliable indicator of its future performance.

Furthermore, any historical period used for comparison or relating to past performance should not be chosen solely to present a favourable impression on the advertised product or service. For example, the historical period used should not be an odd period (e.g. 5 years and 2 months) for the sole purpose of capturing a positive period.

19. I am licensed by the SC. Can I include a statement in my advertisement stating that I am licensed by the SC?

Yes, you may. However, you are required to state that the SC's licence does not mean the SC endorses or recommends the service advertised.

20. Would an advertisement with a one-liner statement or a picture, accompanied by a hyperlink to say "click here for more information" be permissible under the Guidelines?

The Guidelines does not prescribe the method in which advertisements must be presented. However, the use of a one-liner advertisement or picture should be avoided depending on the purpose of the advertisement.

In the case where the one-liner advertisement or picture is about bringing attention of the public to an ongoing promotion via hyperlinks, the use of the one-liner advertisement or picture may be suitable. However, before the advertiser does this, he must consider whether the method used is suitable for the message.

In the case where the one-liner advertisement or picture is used to invite the public to invest in a product or subscribe to a service, then the advertisement will not be in compliance with the Guidelines as it does not provide a clear, relevant and balanced messaging.

21. The Guidelines require an advertisement to be presented in a manner that allows the investors to immediately identify it as an advertisement. Can the use of hashtags, for example, "#advertisement", satisfy this purpose?

The use of hashtags can be used to clearly identify a content as an advertisement, especially if the advertisement is in the form of sponsored content such as an article written to educate readers on a type of product or service.

22. The Guidelines requires any direct or indirect benefits to be disclosed

by a voluntary advertiser or a third-party provider. Can the use of hashtags, for example, “#sponsored” or “#paidpartnership”, satisfy this purpose?

Using labels or hashtags in the advertisement is permissible provided it is clear and easily understood by the target audience that the advertiser is paid to advertise the said products or services.

23. **If an affiliate marketer is posting an advertisement containing a firm’s referral link without the firm having developed, created, or controlled the content of that advertisement, would the firm be liable for the compliance of that advertisement with the Guidelines?**

Yes, the firm would be liable as we have discussed in the question 11 above. The Guidelines imposes responsibilities on an advertiser *vis-a-vis* its third-party providers in ensuring compliance with the Guidelines.

24. **Am I required to comply with the Guidelines if I just re-post or share a social media post related to a capital market product or capital market-related service?**

Yes, re-posting or sharing content that seeks to promote a capital market product or capital market-related service constitutes an advertisement and such advertisement must comply with the Guidelines.

25. **If an advertisement is designed only for a target market segment e.g. sophisticated investors or non-Malaysians, is it sufficient if the advertisement on social media platforms includes a disclaimer to the effect that the advertisement is ‘for sophisticated investors only’ or ‘for non-Malaysians only’?**

It should be noted that any disclaimer does not absolve the advertisers from the responsibility to use their best endeavours to ensure that the advertisement is only accessed by the target audience. The use of a disclaimer alone is not sufficient and as such the disclaimer should be used together with other measures e.g. geo-blocking to restrict non-target audience from having access to the advertisement, inserting a prompt to warn the non-target audience that the advertisement is not intended for them, etc. Further, the advertiser should also consider whether social media is an appropriate platform for such advertisement if there is a limitation on the part of the advertiser to control who has access to the advertisement.

26. **Where an advertiser and its other overseas group entities are advertising on a shared social media channel, is the advertiser expected to take steps to restrict the Malaysian audience from having access to the advertisements of the other overseas group entities which only**

target non-Malaysians?

Yes, the advertiser is expected to have in place proper systems and controls (e.g. geo-blocking or creating a Malaysia-specific social media account) to mitigate the risk of Malaysian investors being directed to advertisements of the other unregulated group entities. This is to avoid causing Malaysian investors to mistakenly believe that they are still engaging with the entity regulated by the SC and assuming that they would benefit from a similar level of regulatory protection.

27. **Under the Guidelines, advertisers are required to ensure the disclosure document or any relevant agreement or contract is readily available and easily accessible. If I am a voluntary advertiser, how am I supposed to comply with this requirement?**

As a voluntary advertiser, it is in your interest to ensure that your target audience should be able to access the relevant disclosure document or the relevant agreement or contract pertaining to the products or services that you have advertised. For this purpose, you are, at the very least, expected to inform your target audience where to access such documents. You are also expected to have read such documents and have an understanding of the products or services before you carry out any advertising activity.