Suruhanjaya Sekuriti
Securities Commission
Malaysia

GUIDELINES ON MARKET CONDUCT AND BUSINESS PRACTICES FOR STOCKBROKING COMPANIES AND LICENSED REPRESENTATIVES

SC-GL/SBC-2008 (R6-2023)

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GUIDELINES ON MARKET CONDUCT AND BUSINESS PRACTICES FOR STOCKBROKING COMPANIES AND LICENSED REPRESENTATIVES

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PART I

1.0 DEFINITIONS

1.01 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-

AMLATFA	means the *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001*;
AML/CFT	means Anti-Money Laundering and Counter Financing of Terrorism;
AML/CFT Guidelines	means *Guidelines on Prevention of Money Laundering and Terrorism Financing for Capital Market Intermediaries*;
Bursa's Rules	means the Rules of Bursa Securities and Directives issued thereunder;
Bursa Securities	means Bursa Malaysia Securities Berhad;
CMSA	means the *Capital Markets and Services Act 2007*;
CMSL	means the Capital Markets Services Licence referred to in the CMSA;
CMSRL	means the Capital Markets Services Representative's Licence referred to in the CMSA. It is a licence issued to a representative of the holder of CMSL;
employee	means an employee of a stockbroking company;
guidelines	means the *Guidelines on Market Conduct and Business Practices for Stockbroking Companies and Licensed Representatives*;
licensed person	means a holder of CMSL or CMSRL for the regulated activity of dealing in securities;
licensed representative	means a holder of CMSRL of a stockbroking company;

SC	means the Securities Commission Malaysia established under the *Securities Commission Malaysia Act 1993*;
stockbroking company	means a holder of a CMSL for the regulated activity of dealing in securities.

1.02 References to ‘days’ in these Guidelines will be taken to mean calendar days unless otherwise stated.

2.0 INTRODUCTION

2.01 The *Guidelines on Market Conduct and Business Practices for Stockbroking Companies and Licensed Representatives* is issued by the SC pursuant to section 377 of the CMSA.

2.02 These Guidelines set out the core principles of supervision under the SC's principles-based regulation and the requirement to comply with the AML/CFT Guidelines.

2.03 These Guidelines also set forth the standards for market and business conduct. As a matter of guidance, these Guidelines provide several examples and scenarios to illustrate conducts and activities which in the SC's opinion constitute market abuses and unethical business conduct.

2.04 The SC will be guided by these Guidelines in considering whether any stockbroking companies and their licensed representatives have taken reasonable steps to organise and manage their business affairs responsibly. The SC views any breach of the Guidelines as serious misconduct as breaches reflect adversely on the fit and properness of the licensed persons, which may result in the SC taking regulatory or other appropriate actions against them.

Applicability

2.05 These Guidelines are applicable to stockbroking companies and their licensed representatives and where applicable, their employees.

2.06 The SC may, upon application, grant an exemption from or a variation to the requirements of these Guidelines, subject to any terms and conditions as it deems necessary if the SC is satisfied that-

(a) such variation is not contrary to the intended purpose of the relevant requirements in these Guidelines; or

(b) there are mitigating factors which justify the said exemption or variation.

Related Provisions

2.07 These Guidelines are in addition to and not in derogation of any requirements provided for under the securities laws or any other guidelines issued by the SC.

2.08 These Guidelines must be read with the AML/CFT Guidelines.

PART II

3.0 CORE PRINCIPLES OF SUPERVISION

3.01 The SC is actively promoting a culture of compliance, professionalism, ethical standards and responsible conduct among stockbroking companies and their licensed representatives and employees. Towards this end, the SC has adopted principles-based regulation in supervision and set out below are the core principles which apply to stockbroking companies:

Core Principles	
1. Integrity	**A licensed person must conduct its business with integrity.** (Example: Act in a fair and consistent manner, and treat all customers fairly, equitably and equally.)
2. Skill, care and diligence	**A licensed person must conduct its business with due skill, care, and diligence.** (Example: Ensure employees are suitably qualified for the positions in which they are employed, and there are sufficient resources to manage business activities and accommodate temporary absence of key personnel.)
3. Supervision and control	**A licensed person must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management and supervisory system.** (Example: Ensure key duties and functions are properly segregated. Establish a system of follow-up and review for delegated authority and responsibility. Ensure proper assessment and management of risks, and provision of timely and adequate information to senior management.)

4. Financial requirements	**A licensed person must maintain adequate financial requirements.** (Example: Level of risk assumed by the stockbroking company must commensurate with its level of capital.)
5. Market conduct	**A licensed person must conduct its business activities in a manner which contributes to the maintenance of a fair and orderly market.** (Example: Implement policies and procedures to detect and prevent fraud, market rigging, and other improper activities.)
6. Priority to customer's interests	**A licensed person must give priority to the customer's interest.** (Example: Refrain from dealing for own account ahead of customers' orders.)
7. Communication with customers	**A licensed person must pay due regard to the information needs of its customers and communicate information to them in a way which is clear, fair, and not misleading.** (Example: Must not deliberately mislead or attempt to mislead a customer.)
8. Conflict of interests	**A licensed person must manage conflict of interests fairly, both between itself and its customers, and between a customer and another customer.** (Example: Ensure proper Chinese Wall policies and procedures are put in place to prevent the company or its employees from taking advantage of confidential price sensitive information.)

9. Safeguarding customers' assets	**A licensed person must arrange adequate protection for customers' assets.** (Example: Ensure customers' monies and properties are credited into a trust account, and conduct reconciliation of trust account balance as per company's records with bank statements.)
10. Compliance culture	**A licensed person must inculcate good compliance culture.** (Example: Board of Directors must establish clear compliance policies and procedures that extend to all operations of the company.)
11. Dealing with regulators	**A licensed person must deal with its regulators in an open and co-operative way.** (Example: To promptly report information that is of material significance to the SC, and supply the SC with documents and information when requested and within the time limits of request.)
12. Data governance	**A licensed person must ensure that it establishes sound data governance framework.** (Example: Have in place data security policies and standards.)

4.0 PRIMARY ACCOUNTABILITY AND RESPONSIBILITY FOR COMPLIANCE

4.01 The core principles set the level of regulatory standards in supervision that the SC seeks to achieve for licensed persons. Under principles-based approach, the SC will focus on the desired level of regulatory outcomes, instead of any specific process and procedure that a stockbroking company should undertake.

4.02 The SC will hold the Board of Directors and senior management of the stockbroking company primarily accountable and responsible in ensuring adequate policies and procedures, and resources are put in place to meet the core principles.

4.03 Being organised, ready and willing to abide by the core principles will be a critical factor in the SC's examination and assessment of the stockbroking company's level of compliance with the core principles.

4.04 The compliance function must report directly to the Board of Directors and/or board committee as well as submit monthly reports to the Board of Directors and/or board committee on all matters pertaining to compliance with the securities laws, any guidelines issued by the SC or Bursa's Rules.

5.0 CUSTOMER DUE DILIGENCE

5.01 Customer Due Diligence (CDD) is a set of policies, procedures, processes, and controls to assist a stockbroking company evaluate, with reasonable certainty, the identity and risk profile of customers. CDD is crucial, as proper adherence to its processes would assist the stockbroking companies in–

(a) detecting and reporting unusual transactions that would potentially expose the company to financial loss and reputation risk; and

(b) minimising unscrupulous persons from using or attempting to use the company's products and services for illicit purposes.

5.02 Key areas for compliance under CDD processes are:

(a) *Adherence to AML/CFT Guidelines on CDD*

A stockbroking company is required to fully comply with the CDD procedures set out in the AML/CFT Guidelines.

(b) *Adherence to Bursa's Rules on opening of accounts*

A stockbroking company should ensure that adequate procedures in place for opening customer accounts are in accordance with relevant Bursa's Rules. A stockbroking company and its licensed representatives should not effect any transaction on behalf of a customer unless the required CDD is conducted on the customer.

5.03 Enhanced CDD

A stockbroking company and its licensed representatives must undertake enhanced CDD measures on the customer and where applicable, the beneficial owner, upon determining a customer as 'high risk'. Customers that may pose higher risk and the measures to conduct enhanced CDD are stated in the AML/CFT Guidelines.

5.04 A stockbroking company and its licensed representatives are required to conduct ongoing monitoring of customer's activity, either through manual procedures or computerised systems, upon the opening of customer's account.

5.05 Examples of suspicious transactions which a stockbroking company and its licensed representatives must look into are published on the SC's website. The list is non exhaustive and only provides examples of ways in which money may be laundered through the capital market.

6.0 INFORMATION TO CUSTOMERS

6.01 Having regard to the information acquired about a customer through the CDD process, the stockbroking company and its licensed representatives should ensure–

(a) that the advice, recommendation, or trading limit approval given to the customer is suitable and reasonable, in accordance with the customer's financial circumstances and risk profiles; and

(b) that all necessary information is given to customers so they can understand the nature and risks of derivative products, including futures contracts and options.

7.0 DISCRETIONARY TRADES

7.01 A dealer's representative of a stockbroking company may carry out discretionary trading on behalf of his customers provided that the dealer's representative–

(a) has obtained prior approval from senior management of the stockbroking company;

(b) maintains a record of discretionary trades carried out on behalf of his customer; and

(c) must report details of the discretionary transactions to their customers on a quarterly basis.

7.02 The stockbroking company must ensure that–

(a) records of approvals and transactions are maintained at all times by dealer's representative; and

(b) there are adequate internal control procedures to ensure proper supervision of the operation of the discretionary trades.

8.0 CUSTOMERS' ACCOUNTS AND ONLINE TRADING

Customers' accounts

8.01 Unauthorised access or use of customers' trading accounts is not permitted.

8.02 Notwithstanding 8.01, no person is allowed to access or use a customer's online trading account in whatever circumstances.

8.03 A stockbroking company must–

(a) ensure that adequate policies and procedures are in place to safeguard against–

(i) unauthorised access or use of customers' accounts by any person; and

(ii) access or use of any customer's online trading accounts by any person for trading other than the customer who is the account owner;

(b) ensure there are adequate policies and procedures in place for changes to customer's data. In particular, any request for change on a customer's address and instructions on payments must be in writing, and all reasonable effort must be made (e.g. writing to both the old and new addresses to confirm the requests for changes, follow-up with the customer, etc.) to ensure that such requests for changes are genuine;

(c) ensure all sale proceeds and any amount payable are issued to seller or customer directly and not to any other person(s);

(d) monitor and aggregate, for risk profiling purposes, all the accounts where settlements for outstanding purchases are made or originate from one singular source; and

(e) constantly remind customers to make cheques in the <name of the stockbroking company> for <name of the customer>, when issuing cheques to the company.

8.04 A stockbroking company is prohibited from issuing cash cheques for payment of sale proceeds to the seller-customers.

Handling of Customer Data

8.05 A stockbroking company must have in place adequate policies and procedures for the management of customer data that covers collection, storage, use, transmission, sharing, disclosure and disposal of customer information, and must include the following:

(a) Handling and safeguarding of customer data at all levels of the stock broking company;

(b) Protection of confidentiality and security of customer data;

(c) Governance structure to ensure effective implementation of the policies and procedures, and clear delineation of accountability and reporting; and

(d) Managing third-party service provider who has access to customer data and safeguarding customer data.

9.0 HANDLING ERROR TRADES

9.01 Error account should be used solely for the purpose of amending a bona fide trading error.

9.02 Error accounts must not be abused by stockbroking companies and their licensed representatives to camouflage unlawful, illegitimate, or unauthorised transactions.

9.03 The stockbroking company must put in place adequate internal procedures on handling error trades, which must include–

(a) justification to book trades into an error account;

(b) written approval from senior executive for using an error account;

(c) maintaining proper documentation on handling error trades; and

(d) monitoring requirements on frequency of error trades by any customer or stockbroking company's licensed representatives.

9A.0 INVESTMENT ADVICE BY DEALER'S REPRESENTATIVE

9A.01 Subject to the conditions set out in this section, a licensed representative of a stockbroking company may offer investment advice only on listed securities to any person in his capacity as a licensed representative of the stockbroking company.

9A.02 The licensed representative must-

(a) obtain prior approval of the senior management of the stockbroking company to undertake the activity described in paragraph 9A.01;

(b) maintain a record of such activity and related materials including, but not limited to, presentation materials; and

(c) comply with any other terms or conditions that may be set out by the stockbroking company.

9A.03 The licensed representative must not charge or collect any fees in relation to the activity described in paragraph 9A.01 including for any related materials.

9A.04 The stockbroking company, in approving the licensed representative under paragraph 9A.02 and in continuing to allow the licensed representative to undertake the activity described in paragraph 9A.01, must ensure the following:

(a) Its licensed representative is competent and has the necessary skills and expertise reasonably expected of a person carrying on such activity;

(b) Its licensed representative complies with securities laws and the relevant guidelines in carrying out the activity; and

(c) Its licensed representative maintains records of relevant approvals and investment advice-related materials.

9A.05 The stockbroking company must have in place adequate policies and procedures to ensure that the licensed representative complies with paragraph 9A.04.

9B.0 PROVISION OF FRACTIONAL SHARE TRADING SERVICE

9B.01 This section is only applicable where a stockbroking company provides fractional share trading service on shares listed on Bursa Securities.

9B.02 A stockbroking company that intends to provide fractional share trading service must notify the SC in writing at least 14 days prior to the commencement of such service.

9B.03 The stockbroking company must—

(a) disclose to its customers the procedures on order execution and cancellation and ensure they are applied fairly to all its customers;

(b) have in place mechanisms to help ensure the resiliency, reliability and integrity of the system used in relation the fractional share trading service;

(c) ensure there is no matching of a customer’s buy or sell order with another customer’s order;

(d) put in place adequate system to ensure price transparency with reference to the bid or ask price of the listed shares;

(e) execute all customers’ orders for listed shares at the prevailing market price;

(f) ensure price transparency and customers’ orders are executed at the prevailing market price including through regular monitoring on price display;

(g) provide clear and adequate disclosures to the customers relating to fractional share trading service including but not limited to fees payable, entitlement to participate in corporate actions, dividend payment, voting rights and others; and

(h) ensure there are adequate policies and procedures for proper supervision of the fractional share trading service and trades undertaken.

9B.04 The stockbroking company must submit the information as specified by the SC via Common Reporting (ComRep) portal, on a monthly basis not later than 14 days after the end of reporting month.

9B.05 Notwithstanding the above, the SC may at any time, where it deems necessary, impose any terms and conditions on the stockbroking company in relation to the fractional share trading service.

9B.06 Submission of notification must be in hard copies and addressed to:

Chairman
Securities Commission Malaysia
3 Persiaran Bukit Kiara Bukit Kiara
50490 Kuala Lumpur

(Attention: Supervision Department)

10.0 MANAGING CONFLICT OF INTEREST

10.01 A stockbroking company and its licensed representatives must ensure that–

(a) they disclose all potential conflict of interests to the customers; and

(b) they do not provide rumours, or information that has no reasonable basis, or speculative statements concerning any securities to the customers.

10.02 A stockbroking company must put in place adequate supervisory and internal controls, procedures and systems to ensure that–

(a) analysts' research and recommendations are not compromised or subject to undue influence of issuers, institutional investors or other parties.

(b) non-public information is not shared with unauthorised persons who stand in a conflict position, e.g. personnel in the dealing department.

11.0 REPORTING BREACHES

11.01 A stockbroking company must–

(a) monitor and review the company's operations to ensure compliance with securities laws, any guidelines issued by the SC or Bursa's Rules;

(b) maintain efficient disciplinary processes, and apply them fairly and consistently, in accordance with principles of due process;

(c) upon becoming aware of possible occurrences of breaches of securities laws, any guidelines issued by the SC or Bursa's Rules, the Head of Compliance must immediately commence internal investigations and report the outcome of the investigations to the Board of Directors for further actions. He must notify the SC as soon as possible; and

(d) extend full co-operation to regulatory authorities.

12. MARKET ABUSES AND UNETHICAL BUSINESS CONDUCT

12.01 A stockbroking company and its licensed representatives must not carry out or facilitate any transactions that would affect the fair and orderly operation of the market.

12.02 A stockbroking company and its licensed representatives must not directly or indirectly assist or abet customers in activities which would lead to market abuse or unethical business conduct and/or breaches of securities laws, any guidelines issued by the SC or Bursa's Rules. The following are examples of these activities:

(a) Execute orders which would potentially manipulate the price of a particular security;

(b) Execute purchase orders at or near the close of market at successively higher prices;

(c) Execute sell orders at or near the close of market at successively lower prices;

(d) Execute 'Contango trades', where the transfer of trades takes place between two or more parties acting in concert;

(e) Key-in buy orders at prices lower than the previous offers and withdrawing the orders before they are matched;

(f) Key in sell orders successively at prices higher than previous bids and withdrawing the orders before they are matched;

(g) Execute an order ahead of house research reports that would influence investors' view on a security in anticipation of the issuance of the research reports; and

(h) Post rumours or information recklessly about corporate activity on Internet bulletin board or chat room without a care on the truth of such information or rumours.

12.03 Please see Part III for further illustrations on activities and conduct which in the SC's opinion constitute market abuses and unethical business conduct.

PART III

APPENDIX

EXAMPLES OF MARKET ABUSES AND UNETHICAL BUSINESS CONDUCT

Illustration 1 – Action based manipulation

Company A engages PLC B to undertake certain projects. Company A then short sells securities of PLC B and subsequently cancels the contract with PLC B, causing the security price to drop significantly.

Illustration 2 – Trade-based manipulation

Mr X hires Mr Y as consultant to provide public relations and assist his company in realising the value of its stocks. As compensation Mr X pays Mr Y RM50,000 cash per month and gives him a warrant to purchase 100,000 shares from the company at RM1 per share.

Mr Y along with three other accomplices, i.e. the brother-in-law, secretary, and a clerk opens 10 separate margin accounts at 10 different brokers. Accounts are opened under a variety of names including dormant companies that Mr Y controlled in order to hide Mr Y's identity.

Mr Y and his accomplices engage in an aggressive series of wash trades and match orders. Trading is done between the accomplices at successively higher price to move the market price up. Mr Y is also personally touting the securities to stockbroking companies and other investors.

The security which now carries an inflated price is utilised to secure additional margin facility. The cycle is repeated several times. At a certain stage, Mr Y dumps or sells all securities under his control, causing the price of the securities to plummet.

Illustration 3 – Painting the tape

Stockbroking Company A issues false trade reports for immediate publication to give an impression of activity or active trading in a counter to encourage investors to participate in order for Stockbroking Company A to offset an unprofitable risk position.

Illustration 4 – Unethical trades

'Arrangers or Introducers', were verbally engaged by Stockbroking Company C (SBC C) to assist and facilitate SBC C in obtaining pre-placement bond trades, with SBC C seen ostensibly as facilitating the bond transactions between different companies or financial institutions.

Four parties were involved, namely Company A, Company B, SBC C and Company D. Company A sold bonds to Company B, who then sold them to SBC C. SBC C then sold them to Company D, who finally sold them back to Company A. The transactions were carried out at the same value date but at different price levels.

The bond transactions mentioned above would result in Company A incurring an 'opportunity loss', which accrued to the other parties involved. In other words, the other parties profited at the expense of Company A.

Profits from the bond trades would then be shared between SBC C and the 'Introducers', where the 'Introducers' received significant profits from the bond trades.

In this case, SBC C is used as a conduit or 'middle person' to take advantage of opaque two-way quotes in bond trades to benefit its customers by executing the deals at the expense of the initial bond buyer/seller where the latter did not get the best price.

Illustration 5 – Rollover

Stockbroking Company A executed several married deals where the purchase and sale of securities did not involve any change in the beneficial ownership. The married deals were performed to give customers a deferment on settlement time for outstanding purchases (roll-over).

The quantity and price of the securities transacted would be similar to the initial contract. However, the settlement period (due date) had been extended and additional brokerage was charged on customers for each rollover executed by the company.

Hence, the deals were transacted through the sales and purchases of securities without any change in beneficial ownership of the said securities.

Illustration 6 – Third-party payment

(i) Stockbroking Company A was instructed by Customer A to purchase 10 million units of PLC P's securities on behalf of Customer B from Customer C. At settlement, Customer A instructed Stockbroking Company A to utilise Customer C's sales proceed to set-off against the purchases made by Customer B.

The sale of PLC P's securities may not have involved a change in beneficial ownership of securities, as Customer A had an interest in the securities before the purchase, and Customer A had control over or was able to exert influence on Customer B and/or Customer C over the securities.

(ii) Stockbroking Company A received instruction for trading of 10 million units of PLC P's securities from Customer B and Customer C. At settlement, Customer C instructed Stockbroking Company A to utilise Customer C's sales proceed to set- off against the purchases made by Customer B.

The sale of PLC P's securities may not have involved a change in beneficial ownership of securities, as Customer B could have an interest in the securities before the purchase as Customer C is willing to dispose of the securities to Customer B free of payment.

Illustration 7 – Marking the close

A dealer's representative of Stockbroking Company A assisted several customers by placing orders at the close of trading day, which caused the price of securities to move higher than the prior sales price. Simultaneously, orders at prices which are higher than the previous bid or lower than the previous offer were entered, and withdrawn before they could be executed, in order to give a misleading impression that there was demand for or supply of the securities at that price.

Illustration 8 – Front running

Dealer's representatives handling accounts of several big institutions/retail customers executed trades for their individual customers or accounts of related persons prior to the execution of trades of the big institutions/retail customers, with the view to front run and make quick profits.

Illustration 9 – Conflicts

A person with knowledge of a favourable or unfavourable research report purchases or sells securities in advance of the report being released.

Illustration 10 – Scalping

The people trading is also responsible for giving buy or sell recommendations, e.g. purchases a security before recommending the security, and then sells the security at a profit upon the rise in the market price following the recommendation.

Illustration 11 – Spoofing

A person submits a large but not marketable limit order that raises bid price of a security and/or greatly increases the quoted size at or around the current best bid price. The large order causes market participants to match or better the price of the order. The person then cancels the large order and enters (virtually at the same time) a sell order that matches the buy order of other investors at a higher price.

This is manipulation by 'spoofing'. By temporarily manipulating the bid price upward and causing other bids and trading interest at that level, the person receives a better price for his security than what would have been the prevailing market price and/or volume if the person's large order had not been entered.

Spoofing is also used to manipulate the opening price of a security; e.g., via entry and immediate cancellation of lower priced sell orders with the objective of creating a more favourable buying opportunity for the manipulator.

Illustration 12 – Pump and dump

A person takes a long position in a security and disseminates misleading information about the security to inflate its price then disposes it at a higher price.

Illustration 13 – Trash and cash

A person takes a short position in a security and disseminates misleading negative information about the security to depress its price and to buy it at a lower price.