

GUIDELINES ON ADVERTISING FOR CAPITAL MARKET PRODUCTS AND RELATED SERVICES

SC-GL/ADV-2020 (R1-2025)

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GUIDELINES ON ADVERTISING FOR CAPITAL MARKET PRODUCTS AND RELATED SERVICES

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PART A: GENERAL

Chapter 1

INTRODUCTION

- 1.01 The *Guidelines on Advertising for Capital Market Products and Related Services* (Guidelines) is issued by the Securities Commission Malaysia (SC) pursuant to section 377 of the *Capital Markets and Services Act 2007* (CMSA).
- 1.02 Advertising activity forms an integral part of the developmental effort within the capital market. However, investors are especially susceptible to false or misleading information or deceptive conduct regarding advertising activity as it is one of the direct channels for investors to obtain information about a capital market product or a capital market-related service.
- 1.03 Recognising the importance of advertising activity and the risks it may pose to the investors, the Guidelines seeks to provide a general framework for advertising activity within the capital market to promote responsible advertising while allowing for greater flexibility in conducting such activity.

Chapter 2

APPLICABILITY

- 2.01 The Guidelines applies to all advertisers as defined in paragraph 4.01 who disseminate any information that seeks to promote a capital market product or capital market-related service, through a printed, electronic, digital or any other mode or channel of communication, but shall not include a disclosure document (**advertisement**).

Guidance to paragraph 2.01

The Guidelines is not intended to apply to dissemination of factual information relating to a capital market product that is intended solely for educational purposes and such information provided is not a recommendation, advice or opinion that has the effect of inducing or likely to induce a person to take any action or position (e.g. buy, sell or hold) with respect to the product.

Thus, the Guidelines would not apply to training providers, lecturers or teachers who share factual information relating to a capital market product for educational purposes and such sharing of information does not have the effect of inducing or likely to induce a person to take any action or position.

Whether information shared is for educational purposes and does not have the effect of inducing or likely to induce a person to take any action or position shall be assessed on a case-to-case basis.

- 2.02 A disclosure document is not regarded as an advertisement.
- 2.03 Advertisement may be carried out through various communications or engagements including any of the following means:
- (a) Magazines and newspapers;
 - (b) Broadcasts (e.g. radio, television and cinema);
 - (c) Display-only materials (e.g. outdoor advertising, including billboards, signs at public venues, posters, exhibition panels and transit advertising);
 - (d) The internet, including webpages, banner advertisements, video streaming platforms (e.g. YouTube), and social networking platforms (e.g. Facebook, LinkedIn) and microblogging platforms (e.g. X, Threads);
 - (e) Social media and internet discussion sites;

- (f) Mobile phone messages or messaging applications (e.g. SMS, MMS, text messages, WhatsApp messages);
- (g) Product or service brochures and promotional fact sheets (e.g. fund fact sheets);
- (h) Promotional activities;
- (i) Direct mail (e.g. by post, facsimile or email);
- (j) Telemarketing activities and audio messages for telephone callers on hold; and
- (k) Presentations, seminars and advertorials.

2.04 Guidance on the application of the Guidelines is provided in the appendices herein. Any departure from the Guidance will be taken into consideration in the SC's assessment on whether a breach of the Guidelines had occurred.

2.05 The SC may, upon application, grant an exemption from or a variation to the requirements of the Guidelines if the SC is satisfied that–

- (a) such variation is not contrary to the intended purpose of the relevant requirements in the Guidelines; or
- (b) there are mitigating factors which justify the said exemption or variation.

Chapter 3

RELATED PROVISIONS

- 3.01 The Guidelines is in addition to and not in derogation of any requirements provided for under securities laws or any other guidelines issued by the SC.

- 3.02 For avoidance of doubt, compliance with the Guidelines does not relieve advertisers from other legal obligations which may be imposed on them by the relevant regulators or agencies.

Chapter 4

DEFINITIONS

4.01 Unless otherwise defined, all words used in the Guidelines shall have the meaning assigned to them in the CMSA. In the Guidelines, unless the context otherwise requires:

advertiser	means the following persons who issue or authorise an advertisement, in respect of a capital market product or capital market-related service: <ul style="list-style-type: none">(a) An issuer of a capital market product;(b) A capital market intermediary;(c) A person who operates or maintains a recognised market; or(d) A person who is not engaged by any of the persons referred to under paragraphs (a) to (c) and who on his own accord issues or authorises such advertisement (voluntary advertiser);
capital market intermediary	means— <ul style="list-style-type: none">(a) a person holding a Capital Markets Services Licence;(b) a person holding a Capital Markets Services Representative’s Licence;(c) a registered person under section 76 of the CMSA who carries on a regulated activity; or(d) a person registered under section 76A of the CMSA to provide any capital market service;
capital market-related service	includes the carrying out of any regulated activity, capital market service, or the operating and maintaining of a recognised market, as the case may be;
disclosure document	means any document that is issued for the purpose of inviting investment in a capital market product and includes a prospectus, product highlights sheet and information memorandum;

endorsement means any advertising message in relation to a capital market product or capital market-related service that investors are likely to believe reflects the opinions, beliefs, findings, or experiences of a party other than the advertiser;

investor means any person who—

- (a) invests or may invest in a capital market product; or
- (b) uses or may use a capital market-related service.

PART B: REQUIREMENTS FOR ADVERTISING

Chapter 5

GENERAL REQUIREMENTS

- 5.01 In relation to an advertisement regarding a capital market product or capital market-related service (hereinafter referred to as product or service), an advertiser must—
- (a) ensure that the advertisement provides clear, relevant and balanced information regarding the product or service; and
 - (b) in so far as reasonably practicable, ensure that information in the advertisement is current and accurate.
- 5.02 An advertiser must ensure that the advertisement must not contain any messaging that is likely to mislead or deceive an investor, such as an exaggerated, flamboyant, overstated, or over-zealous messaging.
- 5.03 An advertiser must ensure that investors are treated fairly at all times. An advertiser must not in any way attempt to exploit an investor's vulnerability including his behavioural traits, financial status, lack of expertise, experience or knowledge.
- 5.04 An advertiser must ensure that its advertisements are fit for its investors. In preparing an advertisement, an advertiser must have due regard to the vulnerable segment of the investors such as the elderly or person with disability, and must ensure that the advertisement can be easily understood by the investors.
- 5.05 An advertiser must ensure advertisements are presented in a manner that allows the intended target audience to immediately identify it as an advertisement.
- 5.06 An advertiser must not issue or authorise any advertisement relating to a capital market-related service offered by a person that is not licensed, registered or otherwise authorised by the SC.

Chapter 6

BOARD RESPONSIBILITIES

- 6.01 The advertiser's board of directors must ensure that effective control, policies and procedures (CPP) are in place to ensure compliance with the Guidelines.
- 6.02 The advertiser's board of directors must ensure that the CPP are observed and reviewed on a regular basis to ensure the CPP remain relevant and effective.

Chapter 7

THIRD-PARTY PROVIDERS

- 7.01 An advertiser who relies on a third-party provider to advertise its product or service must remain responsible for the third-party provider's conduct in relation to the advertisement.
- 7.02 An advertiser engaging a third-party provider to advertise its product or service must—
- (a) ensure that the third-party provider complies with the Guidelines; and
 - (b) have effective oversight over the third-party provider and the advertising activity carried out by the third-party provider.

Chapter 8

CONTENT OF ADVERTISEMENT

Target audience

- 8.01 If a particular product or service is intended to be made available to a particular group of investors, an advertiser must clearly indicate that the advertisement is only intended for the particular group of investors and must use their best endeavours to ensure that the advertisement is only accessed by the particular group of investors.

Consistency with disclosure document etc.

- 8.02 An advertiser must ensure that the content of advertisements is consistent with—
- (a) the information contained in disclosure document; or
 - (b) the terms or conditions set out in any relevant agreement or contract provided to an investor in relation to the product or service.
- 8.03 An advertiser, where relevant, must ensure advertisements direct investors to refer to the disclosure document or any relevant agreement or contract. In this regard, the advertisement must state where the disclosure document can be found or accessed and the issuance date of the disclosure document.
- 8.04 An advertiser, where relevant, must ensure the disclosure document or any relevant agreement or contract is readily available and easily accessible.

Conflict of interest

- 8.05 An advertiser must ensure that any testimonial or endorsement included in an advertisement is by a person who has invested in the advertised product or has used the advertised service, and it must be accompanied with a statement stating whether such person is being compensated in any manner by the advertiser.
- 8.06 A voluntary advertiser and any third-party provider engaged by an advertiser, must disclose in the advertisement any direct or indirect benefits they may receive or have received in relation to the advertisement.
- 8.07 An advertiser must take necessary steps to ensure that its third-party provider complies with the requirements in paragraph 8.06 above.

Returns, features, benefits and risks

- 8.08 In the case where the principal sum or rate of returns from investment in a product is not guaranteed, an advertiser must ensure that the advertisement does not state that—
- (a) the risk of investors losing their principal sum invested is low or nil; or
 - (b) the risk of investors not achieving the stated, target or expected rate of returns is low or nil.
- 8.09 Where returns are referred to in an advertisement, an advertiser must—
- (a) ensure that the returns stated are net of relevant fees, charges or costs; and
 - (b) clarify the effect that the relevant fees, charges or costs may have on the returns over time and is not hidden or presented in a manner that is difficult to understand.
- 8.10 In the case where the returns to investors are stated in foreign currency, it must be highlighted to the investors.

Fees, charges and costs

- 8.11 Where fees, charges or costs are referred to in an advertisement, an advertiser must ensure that the advertisement—
- (a) gives an accurate representation of the overall level of fees, charges or costs an investor is likely to pay;
 - (b) discloses the effect of the relevant fees, charges or costs may have on returns to investors;
 - (c) discloses any specific or additional fees, charges or costs that are payable by investors to receive any attractive feature of a product or service, if such feature is mentioned in an advertisement; and
 - (d) does not suggest a product or service is 'free' or 'low cost' if, in fact, investors would pay indirectly through other ancillary fees, charges or costs associated with the product or service.
- 8.12 In the case where the fees, charges or costs are stated in foreign currency, it must be highlighted to investors.

Warnings, disclaimers, qualifications or terms and conditions

- 8.13 An advertiser must take such measures as may be reasonable to inform investors that an advertisement, or a product or service that is advertised, is subject to any relevant

warning, disclaimer, qualification or term and condition.

Forecast

- 8.14 An advertiser may, if not prohibited by any other relevant laws or requirements that may be imposed by the SC or other relevant regulators, include a forward-looking or forecast statement in an advertisement provided it is both relevant and there is reasonable basis for its inclusion. Further, such statements must comply with any other relevant requirements that may be imposed by the SC or other relevant regulators.

Comparisons

- 8.15 An advertiser must ensure that any comparison, including comparison of benefits or returns, is accurate and balanced, and has a reasonable basis.

Use of names or logos of authorities and regulators

- 8.16 An advertiser must clearly state that an advertisement has not been reviewed by the SC.
- 8.17 An advertiser must not use the name or logo of the SC or include any such information or presentation in an advertisement that may give the impression or imply that the SC recommends, endorses or is in any way associated with the product, service or the advertiser, or any of its advertising activity.
- 8.18 If a product or service is described in an advertisement as having been approved or otherwise authorised by the SC, or the disclosure document or any relevant agreement or contract is described in the advertisement as having been registered by, lodged with or otherwise submitted to the SC, an advertiser must ensure that the advertisement also states that the SC's approval or authorisation, or the registration, lodgement or submission of the disclosure document or any relevant agreement or contract to the SC does not amount to nor indicate that the SC has recommended or endorsed the product or service.

Appropriate mode or channel of communication

- 8.19 An advertiser must use an appropriate mode or channel of communication for its advertising activity.
- 8.20 An advertiser may use social media to advertise a product or service provided that the advertiser—
- (a) has considered the appropriateness of using social media to advertise the

product or service;

- (b) has assessed the specificities and limitations of such social media; and
- (c) has addressed the risks associated with its use.

GUIDANCE IN RELATION TO SPECIFIC COMPONENTS

The Guidance provided herein serves to provide further clarification in ensuring compliance with the requirements of the Guidelines with respect to certain aspects and components in an advertisement. Specific references to the requirements are provided in the Guidance for clarity but the Guidance may also be applicable to requirements other than those stated.

A. Target audience

A1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraph 8.01, an advertisement should not state or imply that a product or service is suitable for a particular group of investors unless the advertiser has actually assessed the suitability of the product or service for the particular group of investors targeted by the advertisement. For example:

- (a) Advertisement for offering of a product under the SC's Lodge and Launch Framework should only be made accessible to sophisticated investors.
- (b) Advertisement for offering of a product under Schedule 5 of the CMSA should only be made accessible in accordance with the circumstances as set out in the Schedule.
- (c) Where an advertisement of a product or service is intended for sophisticated investors, the advertiser should state in the advertisement that such advertisement is not intended for non-sophisticated investors. In addition, the advertiser should also take necessary steps to control who has access to the advertisement e.g. not publishing such advertisement via social media if it is difficult to guard against the advertisement from being communicated beyond sophisticated investors.

B. Timeliness

B1. Since an advertisement can run for a specific period, the information in the advertisement may become outdated or no longer accurate over time. As such, pursuant to paragraph 5.01(b) of the Guidelines, an advertiser should take appropriate steps to address the outdated advertisement such as informing investors of any material changes in a timely manner via an announcement on its website or informing the advertising channel to stop publishing the advertisement. If an advertiser uses a QR code, the advertiser should deactivate the link under the QR code. An advertiser should also consider dating the advertisement and stating the validity period of the advertisement.

C. Third-party providers

- C1. In ensuring compliance with paragraphs 7.01 and 7.02 of the Guidelines, an advertiser should, among other things, take necessary steps to ensure the third-party provider—
- (a) is fit and proper;
 - (b) understands the product or service that is to be advertised; and
 - (b) is aware of the relevant legal requirements for example, requirements relating to the content of the advertisement and any conduct obligation.
- C2. Effective oversight over third-party providers as stated in paragraph 7.02(b) of the Guidelines may include maintaining records of the identity of the third-party provider, the types of social media used and the account username where the third-party provider uses social media, reviewing the content of the advertisement before it is published by the third-party provider, and regularly monitoring the manner in which the advertising activity is conducted.

D. Appropriate mode or channel of communication

- D1. The more complex a product (e.g. the structure of the product or the sector) or a service is, the more important it is for the advertiser to assess the compliance with the relevant requirements as set out in the Guidelines including paragraph 8.19.
- D2. Among others, advertising a complex product or service through a channel of limited nature like signs in public venues or character-limited media, or a platform with some other restriction on the information that can be communicated may be less appropriate.

E. Balanced messaging

- E1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraphs 5.01(a) and 5.02, where returns or benefits are referred to in an advertisement, the advertisement should not overstate the potential returns or benefits, or create unrealistic expectations by giving undue prominence to the benefits compared with the risks.

F. Fees, charges and costs

- F1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraph 8.11, an advertisement that discloses information relating to fees, charges or costs should—
- (a) indicate clearly and prominently if there is any exclusion, qualification or condition

applicable to such fees, charges or costs;

- (b) be specific and unambiguous in the context of how the fees, charges or costs are referred to in the advertisement, for example, which product or service package it refers to; and
- (c) not give prominence to any aspect of the fees, charges or costs that may mislead investors into believing there is only one fee, charge or cost payable, or downplay any other fees, charges or costs associated with the product or service that will be incurred or recurred.

G. Warning, disclaimers, qualifications or terms and conditions

G1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraph 8.13, when a warning, disclaimer, qualification or term and condition is included in an advertisement, the advertiser should ensure that the warning, disclaimer, qualification or term and condition–

- (a) is presented as closely as possible to the main message of the advertisement;
- (b) is highlighted with sufficient prominence, which commensurate with the significance it carries in an investor’s decision making process;
- (c) can be easily understood by the investors; and
- (d) draws investors’ attention to the fact that they should–
 - (i) read and understand the contents of the disclosure document or any relevant agreement or contract before investing;
 - (ii) understand the risks involved in relation to the product or service;
 - (iii) compare and consider the fees, charges and costs involved; and
 - (iv) make their own risk assessment and seek professional advice, where necessary.

G2. Any warning, disclaimer, qualification or term and condition in an advertisement should not be inconsistent with other contents in or related to the advertisement.

H. Past performance and forecasts

Past performance

- H1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraphs 5.01(a) and 5.02, an advertisement for a product or service with information about past performance should draw attention to the fact that the past performance is not indicative of future performance.
- H2. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraphs 5.01(a), 5.02 and 8.15, 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.
- H3. When comparing the past performance of a product or service against a benchmark,—
- (a) the comparison should be relevant to the context of the product or service that is being advertised; and
 - (b) the basis for making the comparison should be disclosed in the advertisement.

Forecast

- H4. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraph 8.14, when information about future performance or a forecast is used in an advertisement, the relevant assumptions should be made readily available to the investors.

I. Comparisons

Comparisons between products or services

- I1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraph 8.15, when comparing products or services in an advertisement—
- (a) the products or services should have sufficiently similar features and context to make the comparison relevant and not misleading. The differences between products or services should be carefully assessed for its appropriateness and clearly disclosed;
 - (b) the advertisement should not give prominence to any feature of the product or service that may mislead investors into downplaying other relevant features of the comparative product or service; and

- (c) any limitation or qualification of the comparison should be clearly disclosed in the advertisement, for example, if a comparison of the said products or services was made over a short period of time, that fact should be disclosed in the advertisement.

Comparison of benefits or returns

- I2. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraph 8.15, the information used for any comparison or contrast of benefits or returns should be verified, and any relevant assumptions should be made readily available to the investors.

Rating and ranking

- I3. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraphs 5.01(a) and 5.02, an advertiser should only include rankings from credible sources, whereas ratings may include credit ratings issued by credit rating agencies as well as ratings, recommendations and opinions produced by established research houses.
- I4. When ratings or rankings are used, the advertisement should–
 - (a) properly explain in the advertisement the meaning, the context (where relevant), the scale and the source of the ratings or rankings, or provide details where such information may be obtained by an investor;
 - (b) state that ratings or rankings provided should not be solely relied upon by an investor in an investment decision; and
 - (c) refer to the current ratings or rankings. If the ratings or rankings are likely to change, the advertiser should insert a qualifying statement stating so.

Awards

- I5. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraphs 5.01(a) and 5.02, where awards received by an advertiser are included in an advertisement for a product or service, the grantor of the awards should be clearly identified and the awards explained. An advertisement should disclose if the awards are granted by someone related to the advertiser.

J. Photographs, diagrams, images and examples

- J1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraphs 5.01(a) and 5.02, an advertiser should not use photographs,

diagrams, images, examples or other forms of illustration which—

- (a) contradict, detract from or reduce the prominence of qualifications; or
- (b) are likely to misrepresent the nature or scale of the product or service, regardless of the inclusion of a disclaimer.

J2. Illustration should be accompanied by a clear explanation about the purpose for which it is included and the assumptions on which it is based. Where an illustration is used to show an increase or upward change due to specific assumptions, it should also reflect a decrease or downward shift if the assumptions change (and vice versa).

K. Use of certain terms and phrases

K1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraphs 5.01(a) and 5.02, an advertiser should not use terms and phrases that—

- (a) may create expectations that cannot be met;
- (b) imply certain features which do not exist; or
- (c) make assertions that are not verified (e.g. the best, most popular).

L. Technical language and industry jargon

L1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraphs 5.01(a) and 5.02, the use of technical language or industry jargons in the advertisement is discouraged. If the use of such language or jargons cannot be avoided, it should be accompanied by the appropriate explanation.

M. Terms of Promotion

M1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraph 8.13, if a promotional activity (e.g. limited period discounts) forms part of an advertising campaign, the warnings, disclaimers, qualifications, and material terms and conditions of such promotions should be clearly stated.

M2. An advertisement notifying investors of a new promotion should clearly indicate the duration of the promotional period, and the warnings, disclaimers, qualifications, and material terms and conditions which apply to that particular promotion.

N. Use of names or logos of authorities and regulators

- N1. In ensuring compliance with the relevant requirements as set out in the Guidelines including paragraph 8.16, other than on the advertisement itself, an advertiser may choose appropriate platforms to notify investors that the advertisement has not been reviewed by the SC, including on the advertiser's website or social media home pages.

GUIDANCE IN RELATION TO MEDIA PLATFORMS

A. Audio advertisements

- A1. Where warnings, disclaimers, qualifications or terms and conditions are included in audio advertisements, they should be read at a speed that is easy for an average listener to understand.
- A2. Telemarketing and messages on hold are also forms of advertising. Statements made over the telephone about a product or service are subject to the same regulation as advertisements in other media. Similarly, our Guidance also applies to advertising through podcasts.

B. Film and video advertisements

- B1. The combination of images and sounds in film and video advertisements can make it particularly easy for investors to be distracted from important information regarding the product or service such as information about risks.
- B2. Where warnings, disclaimers, qualifications or terms and conditions are used in film and video advertisements, they should be prominent despite the distractions. An average viewer should easily understand any warnings, disclaimers, qualifications or terms and conditions on the first viewing of an advertisement.

C. Internet advertising

- C1. Internet advertising can take a variety of forms, including webpages, banner advertisements, video streaming (e.g. YouTube), social networking (e.g. Instagram) and microblogging (e.g. X), and internet discussion sites.
- C2. Advertisers should, wherever appropriate, provide a facility for investors to access additional information (e.g. via hyperlink). However, providing a facility for investors to access additional information cannot be used to correct a misleading overall impression in the advertisement.
- C3. Advertisers should carefully consider the appropriateness of using certain channels (e.g. X, TikTok, Instagram) to deliver advertisements, where such channels may impose content limitations that may limit the provision of balanced information about a product or service to investors.

- C4. Some internet sites provide lengthy warnings, disclaimers, qualifications or terms and conditions that scroll quickly. Similar to the issues with radio and television, any information should be comprehensible to an average investor on the first viewing of the advertisement.

D. Outdoor advertising

- D1. Outdoor advertising includes media such as billboards, posters, signs in public venues and aerial displays. These types of media pose challenges in communicating an accurate and balanced message because the advertisements are often not able to be scrutinised closely by an investor, for example, if viewed from a distance or from a moving vehicle.
- D2. Outdoor advertising may be better suited to advertise brand or product recognition, rather than conveying more complex information about a product or a service.