

# **Financial Advisers Act**

**Section 24-34  
Conduct of Business**

**COE  
Section (5)**

**PART III**  
**CONDUCT OF BUSINESS**  
**Division 1 — General**

**Restriction on granting unsecured advances, loans or credit facilities to director, etc., of licensed financial adviser**

**24.** —(1) *(Deleted by Act 2 of 2005)*

(2) *(Deleted by Act 2 of 2005)*

(3) No licensed financial adviser shall grant any unsecured advance, unsecured loan or unsecured credit facility —

(a) to a director of the licensed financial adviser, other than a director who is its employee; or

(b) to any other officer or an employee of the licensed financial adviser (including a director who is its employee) or any of its representatives which, in the aggregate and outstanding at any one time, exceeds \$3,000 or such other amount as may be prescribed.

(4) For the purposes of this section —

(a) “director” includes the spouse, father, step-father, mother, step-mother, son, adopted son, step-son, daughter, adopted daughter, step-daughter, brother, step-brother, sister or step-sister, of a director; and

(b) the Authority may prescribe the items which constitute “unsecured advance”, “unsecured loan” or “unsecured credit facility”.

[2/2005]

(5) Any licensed financial adviser which contravenes this section shall be guilty of an offence.

(6) This section shall have effect without prejudice to section 162 of the Companies Act (Cap. 50).  
[FTA, s. 37D; SIA, s. 53; SIR, reg. 19; Insurance Intermediaries, s. 27]

**Obligation to disclose product information to clients**

**25.** —(1) A licensee shall disclose, to every client and prospective client, all material information relating to any designated investment product that the licensee recommends to such person, including —

(a) the terms and conditions of the designated investment product;

(b) the benefits to be, or likely to be, derived from the designated investment product, and the risks that may arise from the designated investment product;

(c) the premium, costs, expenses, fees or other charges that may be imposed in respect of the designated investment product;

(d) where the designated investment product is a unit in a collective investment scheme, the name of the manager of the scheme and the relationship between the licensee and the manager;

(e) where the designated investment product is a life policy, the name of the registered insurer under the life policy and the relationship between the licensee and the insurer; and

(f) such other information as the Authority may prescribe.

(2) The Authority may specify, in written directions, the information required to be disclosed under subsection (1) (a), (b) or (c), and the form or manner in which information relating to any designated investment product may be disclosed to any client of a licensee.

(3) The Authority may, in writing, require a licensee to submit to it —

(a) all written communication which sets out information relating to any designated investment product for the time being in use by the licensee; and

(b) where any written communication referred to in paragraph (a) is not in English, a translation of such written communication in English.

(4) If it appears to the Authority, after affording the licensee an opportunity to make representations orally or in writing, that any written communication submitted under subsection (3) contravenes any provision of this Act, or is in any respect likely to mislead, the Authority may, in writing, direct the licensee to discontinue the use, in Singapore, of the written communication immediately or from a specified date.

(5) Any licensee who —

(a) contravenes subsection (1);

(b) fails to comply with a requirement imposed by the Authority under subsection (3); or

(c) fails to comply with a direction of the Authority under subsection (4),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) In this section —

"client" , in relation to a designated investment product which is a group life policy under which any person insured is liable to pay the premium, includes every person insured under the group life policy;

"designated investment product" means a unit in a collective investment scheme, a life policy (including a group life policy), or such other investment product as the Authority may prescribe;

"written communication" includes a brochure, a leaflet, a circular or an advertising matter, whether in electronic, print or other form.

*[Insurance Intermediaries, ss. 5, 9; SIA, s. 50]*

### **Statements by licensees**

**26.** —(1) No licensee shall, with intent to deceive, make a false or misleading statement as to —

(a) any amount that would be payable in respect of a proposed contract in respect of any investment product; or

(b) the effect of any provision of a contract or a proposed contract in respect of any investment product.

(2) A reference in subsection (1) to the making of a misleading statement includes a reference to omitting to disclose any matter that is material to the statement.

(3) Any licensee who contravenes subsection (1) shall, notwithstanding that a contract does not come into being, be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both.

*[Insurance Intermediaries, s. 6 (1), (2) and (5)]*

### **Recommendations by licensees**

**27.** —(1) No licensee shall make a recommendation with respect to any investment product to a person who may reasonably be expected to rely on the recommendation if the licensee does not have a reasonable basis for making the recommendation to the person.

(2) For the purposes of subsection (1), a licensee does not have a reasonable basis for making a recommendation to a person unless —

(a) he has, for the purposes of ascertaining that the recommendation is appropriate, having regard to the information possessed by him concerning the investment objectives, financial situation and particular needs of the person, given such consideration to, and conducted such investigation of, the subject-matter of the recommendation as is reasonable in all the circumstances; and

(b) the recommendation is based on the consideration and investigation referred to in paragraph (a).

(3) Where —

(a) a licensee, in making a recommendation to a person, contravenes subsection (1);

(b) the person, in reliance on the recommendation, does a particular act, or refrains from doing a particular act;

(c) it is reasonable, having regard to the recommendation and all other relevant circumstances, for the person to do that act, or to refrain from doing that act, as the case may be, in reliance on the recommendation; and

(d) the person suffers loss or damage as a result of doing that act, or refraining from doing that act, as the case may be,

then, without prejudice to any other remedy available to that person, the licensee is liable to pay damages to that person in respect of that loss or damage.

(4) In this section, a reference to the making of a recommendation is a reference to the making of a recommendation expressly or by implication.

(5) This section shall not apply to any licensee or class of licensees in such circumstances or under such conditions as may be prescribed.

[2/2005]

[SF Bill, Clause 121]

#### **Receipt of client's money or property**

**28.** —(1) Without prejudice to the generality of section 104 (1), the Authority may, by regulations —

(a) determine the manner in which a licensee may receive or deal with client's money or property; or

(b) prohibit licensees from receiving or dealing with client's money or property in specified circumstances or in relation to specified activities.

(2) A lien or claim on client's money or property in any account, which may be required to be established by any licensee under regulations made under subsection (1), shall be void unless the moneys in the account are for fees due and owing to the licensee.

(3) A charge or mortgage on client's money or property in any account, which may be required to be established by any licensee under regulations made under subsection (1), shall be void.

(4) In this section, "client's money or property" means money received or retained by, or property deposited with, a licensee in the course of his business as such for which he is liable to account to another person.

[Insurance Intermediaries, s. 28 (8) and (9)]

#### **Obligation to furnish information to Authority**

**29.** —(1) The Authority may, in writing, require —

(a) any licensed financial adviser to furnish it with information about any matter related to its business whether carried on in Singapore or elsewhere; or

(b) any licensed representative to furnish it with information about any matter related to the business of the financial adviser of which he is a representative, whether carried on in Singapore or elsewhere,

if, in the opinion of the Authority, it requires the information for the discharge of its functions under this Act.

(2) A licensed financial adviser which, or a licensed representative who, has been required to furnish information to the Authority under subsection (1) shall comply with such requirement.

(3) Any person who, without reasonable excuse, contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

*[Insurance Intermediaries, s. 10]*

### **Saving for validity of transactions**

**30.** —(1) Subject to subsection (3), a contravention of any requirement of this Act (including requirements in regulations made for the purposes of this Act) does not affect the validity or enforceability of any agreement, transaction or arrangement.

(2) Failure to comply with any code, guideline, policy statement or practice note issued under section 64 does not affect the validity of any agreement, transaction or arrangement.

(3) Subsection (1) has effect subject to any express provision to the contrary in this Act or in any regulations made for the purposes of another provision of this Act.

(4) Without prejudice to the generality of section 104 (1), the regulations referred to in subsection (3) may provide that a contravention of any requirement of this Act has a specified effect on the validity or enforceability of any agreement, transaction or arrangement.

*[Aust. Corporations 2001, s. 1101H]*

### **Division 2 — Life Insurance**

#### **Application of this Division**

**31.** This Division shall apply to licensees who provide any financial advisory service in respect of life policies.

#### **Insurance broking premium accounts**

**32.** —(1) Every licensed financial adviser which receives any money —

(a) from or on behalf of an insured or intending insured for or on account of an insurer in connection with a contract of insurance or a proposed contract of insurance; or

(b) from or on behalf of an insurer for or on account of an insured or intending insured, shall, for the purposes of this section, establish and maintain a separate account with a bank licensed under the Banking Act (Cap. 19).

*[15/2003]*

(2) The Authority may prescribe, in relation to an account established under subsection (1) —

(a) the types of moneys that must be paid into or withdrawn from such account;

(b) the manner in which moneys should be paid into or withdrawn from such account;

(c) the manner in which moneys held in such account are to be invested;

(d) the manner in which the proceeds from the investment of moneys held in such account are to be distributed;

(e) the rights and obligations of any party in relation to moneys held in such account; and

(f) any other matter which the Authority considers to be incidental to or necessary for this section.

(3) A lien or claim on the moneys in any account established by any licensed financial adviser under subsection (1) shall be void unless the moneys in the account are for fees due and owing to the licensed financial adviser.

(4) A charge or mortgage on the moneys in any account established by any licensed financial adviser under subsection (1) shall be void.

(5) In this section, “moneys” means any sum received by a licensed financial adviser as agent for an insured or intending insured, including policy moneys, premiums and claims payments.

(6) Any licensed financial adviser which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

*[Insurance Intermediaries, s. 22]*

### **Negotiation and placement of risk with unregistered insurer**

**33.** —(1) Subject to subsection (4), no licensee shall, in the course of his business as such, negotiate any contract of insurance with an insurer (directly or indirectly) except with a registered insurer acting in the course of his business as such.

(2) The reference in subsection (1) to a contract of insurance shall not apply to —

- (a) reinsurance;
- (b) business relating to risks outside Singapore; or
- (c) such other risks as may be prescribed.

(3) In subsection (2) (b), “risks outside Singapore” means any risk which would be classified as an offshore policy as defined in the First Schedule to the Insurance Act (Cap. 142) had the risk been underwritten by a registered insurer in Singapore.

(4) Where in any particular case the Authority is satisfied that, by reason of the exceptional nature of the risk or other exceptional circumstances, it is not reasonably practicable to comply with subsection (1), the Authority may permit any licensee —

- (a) to negotiate the contract of insurance with such insurer as the licensee sees fit; and
- (b) if in the opinion of the Authority the case requires it, to effect the contract of insurance and receive the premium in Singapore on behalf of such insurer.

(5) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 3 years or to both.

*[Insurance Intermediaries, s. 23]*

### **Representations by licensees**

**34.** —(1) No licensee shall, with intent to deceive, in relation to a proposed contract of insurance

- (a) write on a form, being a form that is given or sent to an insurer, any matter that is material to the contract and is false or misleading in a material particular;
- (b) omit to disclose to the insurer any matter that is material to the proposed contract;
- (c) advise or induce the intending insured to write on a form, being a form that is given or sent to the insurer, any matter that is false or misleading in a material particular; or
- (d) advise or induce the intending insured to omit to disclose to the insurer any matter that is material to the proposed contract.

(2) No licensee shall, with intent to deceive, in relation to a claim under a contract of insurance —

- (a) fill up, in whole or in part, a form, being a form that is given or sent to an insurer, in such a way that the form is false or misleading in a material particular;
- (b) omit to disclose to the insurer any matter that is material to the claim;
- (c) induce the insured to fill up, in whole or in part, a form, being a form that is given or sent to the insurer, in such a way that the form is false or misleading in a material particular; or
- (d) advise or induce the insured to omit to disclose to the insurer any matter that is material to the claim.

(3) Any licensee who contravenes this section shall, notwithstanding that a contract of insurance does not come into being, be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both.  
[Insurance Intermediaries, s. 6 (3), (4) and (5)]

### **Division 3 — Securities**

#### **Application of this Division**

**35.** This Division shall apply to licensees who provide any financial advisory service in respect of securities.

#### **Licensee to disclose certain interests in securities**

**36.** —(1) Where a licensee sends a circular or other similar written communication in which he makes a recommendation, whether expressly or by implication, with respect to any securities, he shall include in the circular or other communication, in type not less legible than that used in the remainder of the circular or other communication, a concise statement of the nature of any interest in, or any interest in the acquisition or disposal of, the securities that he, or a person associated with or connected to him, has at the date on which the circular or other communication is sent.

(2) Where a licensee is charged with an offence in respect of a contravention of subsection (1), it shall be a defence for the licensee to prove that, at the time the circular or other communication was sent, he was not aware and could not reasonably be expected to have been aware —

(a) that he had an interest in, or an interest in the acquisition or disposal of, the securities; or  
(b) that the person associated with or connected to him had an interest in, or an interest in the acquisition or disposal of, the securities,  
as the case may be.

(3) For the purposes of subsections (1) and (2) —

(a) an interest of a person in the disposal of any securities includes any financial benefit or advantage that will, or is likely to, accrue directly or indirectly to the person, upon or arising out of the disposal of the securities;

(b) without limiting the generality of paragraph (a), a person who has entered into an underwriting agreement in respect of any securities shall be deemed to have an interest in the acquisition or disposal of the securities; and

(c) notwithstanding section 2 (1) or 3, a person is not connected to or associated with another person unless the person and the other person are acting jointly, or otherwise acting under or in accordance with an arrangement made between them, in relation to the sending of the circular or other communication.

(4) *(Deleted by Act 15 of 2003)*

(5) When a licensee sends to a person a circular or other communication to which subsection (1) applies, the licensee shall preserve a copy of the circular or other communication for 5 years.

[15/2003;2/2007]

(6) For the purposes of this section, a circular or other communication sent to a person shall, if it is signed by an officer of a licensed financial adviser, be deemed to have been sent by the financial adviser.

(7) The Authority may, by regulations, exempt any person or class of persons, or any securities or class of securities, from the application of this section, subject to such terms or conditions as the Authority considers appropriate.

(8) Any licensee who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both.

*[SF Bill, Clause 120]*

#### **Division 4 — Register of Interests in Securities**

##### **Application of this Division**

**37.** —(1) This Division shall apply to —

- (a) relevant persons; and
- (b) financial journalists.

(2) In this Division —

- (a) “financial journalist” means a person who contributes advice concerning securities, or prepares analyses or reports concerning securities, for publication in a newspaper, but does not include such person or a person belonging to such class of persons as may be prescribed;
- (b) “relevant person” means any licensee who provides any financial advisory service in respect of securities and, for the purposes of section 39 (1) and (2) (a), any applicant for a licence to provide such a service; and
- (c) a reference to securities is a reference to securities which are listed for quotation, or quoted, on a securities exchange or recognised market operator.

*[2/2005]*

*[SF Bill, Clause 130]*

##### **Register of interests in securities**

**38.** —(1) A relevant person shall —

- (a) maintain in the prescribed form a register of his interests in securities;
- (b) enter in the register, within 7 days after the date that he acquires any interest in securities, particulars of the securities in which he has an interest and particulars of his interest in those securities; and
- (c) retain that entry in an easily accessible form for a period of not less than 5 years after the date on which such entry was first made.

*[2/2007]*

(2) Where there is a change (not being a prescribed change) in any interest in securities of a relevant person, he shall —

- (a) enter in the register, within 7 days after the date of the change, particulars of the change, including the date of the change and the circumstances by reason of which that change has occurred; and
- (b) retain that entry in an easily accessible form for a period of not less than 5 years after the date on which that entry was first made.

*[15/2003;2/2007]*

(3) Any relevant person who contravenes this section shall be guilty of an offence.

*[SF Bill, Clause 131]*

##### **Notice of particulars to Authority**

**39.** —(1) A relevant person shall give notice to the Authority in the prescribed form of —

- (a) the place at which he will keep the register of his interests in securities or, if the register is in electronic form, the place at which full access to the register may be gained; and
- (b) such other particulars as may be prescribed.
- (2) The notice under subsection (1) shall be given —
  - (a) in the case of a person who is required by this Act to hold a licence, as part of his application for the licence; or
  - (b) in any other case, within 14 days after he becomes a relevant person.
- (3) The notice under subsection (1) shall be given by a person notwithstanding that he has ceased to be a relevant person before the expiry of the period referred to in subsection (2) (b).
- (4) A person who ceases to be a relevant person shall, within 14 days of his so ceasing, notify the Authority.
- (5) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

*[SF Bill, Clause 132]*

#### **Place at which register is kept**

- 40.** —(1) A relevant person shall keep the register of his interests in securities —
- (a) in the case of an individual, at his principal place of business; or
  - (b) in the case of a body corporate, at any of its places of business.
- (2) Where a register of interests in securities is kept in electronic form, a relevant person shall be deemed to be in compliance with subsection (1) if he ensures that full access to the register in electronic form may be gained by the Authority at the place referred to in subsection (1) (a) or (b), as the case may be.
- (3) Any relevant person who contravenes this section shall be guilty of an offence.

*[SF Bill, Clause 133]*

#### **Defence to prosecution**

- 41.** —(1) Where a person is charged with an offence under section 38 or 39, it shall be a defence for the person to prove —
- (a) that his contravention was due to his not being aware of a fact or occurrence, the existence of which was necessary to constitute the offence; and
  - (b) that —
    - (i) he was not so aware on the date of the summons; or
    - (ii) he became so aware before the date of the summons and complied with the relevant section within 14 days after becoming so aware.
- (2) For the purposes of subsection (1), a person shall, in the absence of proof to the contrary, be conclusively presumed to have been aware of a fact or occurrence at a particular time which an employee or agent of the person, being an employee or agent having duties or acting in relation to his employer's or principal's interest or interests in the securities concerned, was aware of at that time.

*[SF Bill, Clause 134]*

#### **Production of register**

- 42.** —(1) The Authority may require any relevant person to produce for its inspection the register of his interests in securities, and the Authority may make a copy of or take extracts from the register.

- (2) Any relevant person who —  
(a) fails to produce the register of his interests in securities for inspection by the Authority; or  
(b) fails to allow the Authority to make a copy of or take extracts from the register,  
shall be guilty of an offence.  
*[SF Bill, Clause 135]*

**Particulars of financial journalists**

- 43.** —(1) The Authority may, by notice in writing, require the proprietor or publisher of a newspaper to supply the Authority with the name and address of any financial journalist who has contributed any advice, analysis or report concerning securities that has been published in the newspaper, within such period as may be specified in the notice.  
(2) Any proprietor or publisher of a newspaper who, without reasonable excuse, contravenes a notice under subsection (1), shall be guilty of an offence.  
*[SIA, s. 46]*

**Extract of register**

- 44.** The Authority may supply a copy of an extract of a register obtained under section 42 to any person who, in the opinion of the Authority, should in the public interest be informed of the dealing in securities disclosed in the register.

CODE OF ETHICS WORKSHOP