FREQUENTLY ASKED QUESTIONS
GUIDELINES ON CONDUCT FOR CAPITAL MARKET INTERMEDIARIES

1. Why did the SC issue the *Guidelines on Conduct for Capital Market Intermediaries* (Conduct Guidelines)?

The Conduct Guidelines was introduced to set out general conduct requirements that the SC expects from its capital market intermediaries (CMIs) with an aim to foster good business conduct and a good corporate culture within all CMIs.

2. Why did the SC revise the Conduct Guidelines on 1 October 2024?

The SC revised the Conduct Guidelines to provide better guidance to CMIs and their representatives in raising their standards in cultivating a corporate culture and business conduct which is focused on delivering the outcomes set out in paragraph 1.02 of the Conduct Guidelines (Outcomes), to clients.

The Conduct Guidelines was revised, among others, to include new provisions in relation to the following:

(a) CMI's treatment of vulnerable clients;

(b) Provision of personal advice to clients; and

(c) Provision of a capital market related service on or through an online platform.

In addition, the Conduct Guidelines was also revised to clarify and enhance certain existing requirements, including:

(a) The role of a CMI's board and senior management in promoting the Outcomes;

(b) The SC's expectations on a CMI's treatment of clients; and

(c) Situations in which a CMI is expected to exercise reasonable care, skill and diligence.

3. Who do the Conduct Guidelines apply to?

The Conduct Guidelines apply to CMIs and their representatives. For the purposes of the Conduct Guidelines, CMIs refer to-

(a) any person who is licensed or registered with the SC to carry on a regulated activity. Licensed and registered persons include principal advisers who are licensed to advise on corporate finance and commercial banks carrying on regulated activities under Part 1 of Schedule 4 of the CMSA, venture capital corporation, venture capital management corporation, credit rating agencies and bond rating agencies; and

(b) persons registered under section 76A of the CMSA to provide capital market services such as trustees and issuing houses.

4. Is the Conduct Guidelines applicable to a CMI who provides a capital market related service to a client solely at the request of the client?

Yes. A CMI and its representatives must comply with the Conduct Guidelines in the above situation.

5. Is the Conduct Guidelines applicable to a CMI providing a capital market related service to a client who is a sophisticated investor?

As discussed above, the purpose of the Conduct Guidelines is to ensure the delivery of the Outcomes to all clients, including clients who are sophisticated investors. As such, the conduct requirements in the Conduct Guidelines will also apply to a CMI providing a capital market related service to a client who is a sophisticated investor, unless stated otherwise.

6. Where a CMI does not deal with client's assets, does the CMI still need to comply with the Conduct Guidelines?

The extent of application of the requirements under the Conduct Guidelines is dependent on, among others, the type of capital market related service the CMI carries on. As such, CMIs are expected to make a reasonable assessment on the extent of application of these requirements. If, for example, the CMI does not deal with clients' assets, then it follows that the requirements pertaining to client's assets would not apply to that CMI.

7. What should a CMI consider in designing controls, policies and procedures (CPP) to ensure compliance with the Conduct Guidelines?

Pursuant to paragraph 5.01 of the Conduct Guidelines, a CMI must establish CPP that enable the CMI to comply with the requirements imposed under the Conduct Guidelines. In designing the CPP, a CMI must take into account the risk arising from the type of activity it carries on and the nature and scale of its business. Controls put in place can include preventive, detective, and corrective controls.

Preventive controls are put in place to prevent negative outcomes, detective controls are usually processes put in place to identify potential issues arising from the activity carried out while corrective controls are measures that are implemented to correct problems or issues after they have been identified.

A CMI's CPP should be reviewed regularly to ensure that they remain relevant and effective. In reviewing its CPP, a CMI should take into account any feedback on its services received from its clients.

8. Where a CMI is subject to more than one guideline that imposes conduct requirements, which guideline should the CMI comply with?

The requirements set out under the Conduct Guidelines are general conduct requirements which are in addition to and not in derogation of any other requirements. A CMI is expected to comply with the general conduct requirements where the requirements are relevant to the activity that the CMI is carrying on. Where however, the CMI is subject to other guidelines that impose specific or stricter requirements on the relevant activity, the CMI must also comply with the stricter requirements in addition to the general conduct requirements.

Examples of situations where a CMI may be subject to more than one guideline which imposes conduct requirements are set out below:

(a) Management of conflict of interest

Conduct Guidelines	*Guidelines on Market Conduct and Business Practices for Stockbroking Companies and Licensed Representatives* **(Stockbroking Guidelines)**
Sets out general requirements for a CMI to identify and manage conflicts of interests.	Sets out a specific requirement that a stockbroking company having knowledge of a research report must not purchase or sell securities in advance of the release of that research report as it would amount to a conflict of interest.

In this instance, a CMI who is a stockbroking company having knowledge of a research report, must comply with the specific requirements under the Stockbroking Guidelines in addition to the general requirements under the Conduct Guidelines.

(b) Protection of clients' assets

Conduct Guidelines	*Guidelines on Compliance Function for Fund Management Companies (FMC Guidelines)*
Sets out general requirements for a CMI to ensure that there are appropriate safeguards in	Sets out specific requirements for a fund management company (FMC) to:

place to protect clients' assets.	(i) appoint a custodian to maintain a trust account for its clients' assets; and (ii) ensure that its clients' assets are transferred to the trust account maintained by the custodian no later than the next business day after it receives clients' assets through its own account.

In this instance, a CMI who is an FMC, must comply with the specific requirements in respect of the protection of clients' assets under the FMC Guidelines in addition to the general requirements for the same under the Conduct Guidelines.

(c) Duty to exercise reasonable care, skill and diligence

Conduct Guidelines	**FMC Guidelines**
Sets out general requirements for a CMI to exercise reasonable care, skill and diligence when giving advice to its clients, among others, to ensure that the CMI has reasonable basis for that advice.	Sets out specific requirements which require a portfolio manager to have a reasonable and adequate basis in setting the investment policy and making investment recommendation for a client. Before implementing the investment policy or investment recommendation, the portfolio manager must establish and understand the risk profile, investment objectives, limitations, restrictions and instructions of the client.

In this instance, a CMI who is a portfolio manager giving advice, must comply with the specific requirements under the FMC Guidelines in addition to the general requirements under the Conduct Guidelines.

9. What is the SC's expectation regarding 'honesty'?

Pursuant to paragraphs 6.01 and 6.02 of the Conduct Guidelines, a CMI and its representatives are expected to act honestly at all times when dealing with clients. This includes that a CMI should not intentionally or recklessly mislead or deceive its clients at any stage of its relationship with its clients.

For example, a CMI should not represent a fund to a client as being a sustainable and responsible investment (SRI) fund if the CMI is aware or ought to have been aware that the fund is not structured in the manner required, or no longer complies with the requirements, under the *Guidelines on Sustainable and Responsible Investment Funds*. To do otherwise would result in the CMI misleading the client and thus, not acting honestly.

10. What is the SC's expectation regarding 'fairness'?

Pursuant to paragraphs 6.01 and 6.02 of the Conduct Guidelines, a CMI and its representatives are expected to treat clients with fairness when carrying on or providing a capital market related service. Acting with 'fairness' entails, among others, a CMI–

(a) giving due consideration to a client's circumstances including any vulnerabilities that the client may have. This is to ensure that a CMI does not disadvantage a client because of the client's circumstances and that the CMI delivers the Outcomes to all clients;

(b) communicating information to a client in a manner that enables the client to understand the product and its associated risks, as well as the related fees and charges. In this respect, a CMI should use simple and clear language and avoid using technical language or terms;

(c) demonstrating that it has explained to the client, the implications of any non-negotiable provisions, terms or clauses which affect the client's rights and obligations contained in a contract or document, as required under paragraph 6.04 of the Conduct Guidelines;

(d) notifying its client, where it is an execution-only transaction, that no personal advice will be given and that the client is responsible in making its own investment decision; and

(e) not relying on any provision, term or clause to claim that no personal advice has been given, where personal advice is given.

11. In relation to paragraph 6.02(f) of the Conduct Guidelines, which requires the CMI and its representatives to disclose to clients all fees and charges payable by the client and the basis for such fees and charges including any charges that may be payable in the future and which amount is not known at the time of the transaction–

(a) When should disclosure be made to clients?

All fees and charges should be disclosed to clients at the time of onboarding the client. The client must also be informed at the time of onboarding if any fees or charges imposed on the client is subject to any change. However, where there are changes or new fees or charges are imposed (e.g. arising from new tax imposed by government, charges on error trades and the corresponding settlement fees), the clients should be informed of such changes or new fees or charges prior to the change or new fees or charges being imposed.

(b) What is the nature and standard of disclosure required with regard to fees and charges for a capital market related service provided to clients?

There should be full disclosure of any fees or charges to be paid by the client. In this regard, the CMI must provide to its prospective clients a breakdown of all fees and charges that would have to be paid by the client. This includes any indirect fees that may be passed on by the CMI to its clients. The disclosure should also include any fees and charges which are not immediately payable or quantifiable. The breakdown of the fees and charges should result in the client knowing what the client is paying for and how much. Examples are brokerage fees, commission received from product issuers and fees payable by clients for advice.

Where fees or charges are disclosed in percentages or ranges (e.g. from 0.5% to 1.5% per annum), the CMI must disclose how such percentages or ranges would apply in relation to the transaction including what the percentage or range is charged against. However, clients must be informed of the exact fee or amount upon being charged.

12. Can a contract or document, for purposes of paragraph 6.04 of the Conduct Guidelines, include provisions, clauses or terms that restrict the rights of the client?

Yes. The Conduct Guidelines does not prohibit a contract or document from including provisions, clauses or terms that restrict the client's rights. However, as set out in question 9, where not negotiable, the CMI must explain the implications of such provisions, clauses or terms to the client.

Therefore, it is in the interest of the CMI to take steps to identify non-negotiable provisions, clauses or terms which would affect the client's rights and obligations. Examples of such provisions, clauses or terms are set out in paragraph 6.04 of the Conduct Guidelines.

13. What is the standard expected of a CMI and its representatives when exercising care, skill and diligence in its dealings with clients?

Pursuant to paragraph 8.01 of the Conduct Guidelines, the standard expected is 'reasonable' care, skill and diligence. The 'reasonable' standard is an objective standard. It is based on how a hypothetical reasonable person with similar skills and expertise, would act in the given circumstances. Consideration will be given to factors such as the nature of and circumstances surrounding the conduct in question, the knowledge and expertise of the reasonable person, whether any industrial or professional standards apply to the reasonable person, and the relationship between the reasonable person and the person who is wronged.

14. Why has the SC introduced requirements in relation to the treatment of vulnerable clients under the Conduct Guidelines?

Chapter 7 of the Conduct Guidelines sets out requirements in relation to the treatment of vulnerable clients. Chapter 7 also provides guidance to CMIs on how to identify and respond appropriately to vulnerable clients, whether they are sophisticated investors or not. This is to ensure that vulnerable clients are not disadvantaged by their circumstances and that all clients, including vulnerable clients, are treated fairly.

Therefore, a CMI who is aware of its client's vulnerability must not exploit the client's vulnerability to the CMI's own advantage. Further, the CMI should also take steps to ensure that the client's vulnerability does not impede the client's ability to make an informed investment decision.

15. Is a CMI who is using an online platform to provide a capital market related service required to identify a vulnerable client each time a transaction is carried out through the online platform?

The Conduct Guidelines requires CMIs who are providing capital market related services to have in place CPP to enable the CMI to identify and respond appropriately to vulnerable clients. As such, it is expected that a CMI using an online platform has in place CPP which enables the CMI to identify a client as a vulnerable client at the onboarding stage.

Thereafter, in recognition of the fact that a client's vulnerability may manifest at any time (i.e. at a later stage), it is in the interest of the CMI to have in place a process which would enable the CMI to be informed of any material change in the information provided by the client at the on-boarding stage which would include information on the client's vulnerability.

16. If a client fails to disclose his vulnerability, would the CMI be held responsible for failing to identify the client as vulnerable?

The SC would not hold a CMI responsible for failing to identify a client as vulnerable if the CMI is able to show that it has exercised reasonable care in identifying a vulnerable client.

For example, the CMI would not be held responsible where the client has chosen not to inform the CMI of his vulnerability despite the CMI having explained to the client towards the client's understanding of vulnerabilities and asked if the client has any vulnerabilities as well as the importance of disclosing such information to the CMI.

17. What is the SC's expectation regarding the provision of information to clients?

A CMI and its representatives must provide information to its clients in accordance with paragraphs 6.02(c) and (d) of the Conduct Guidelines. Information which is factual in nature is not considered to be 'advice' for purposes of the Conduct Guidelines. Therefore, the requirements under Chapter 9 of the Conduct Guidelines do not apply to the provision of factual information, provided that the CMI explains to the client that it is only providing factual information and not personal advice.

For the avoidance of doubt, factual information refers to information which is objective and ascertainable, the accuracy of which cannot be reasonably questioned. Unlike the giving of advice, the provision of factual information does not involve an assessment of either the features of the capital market product or the particular circumstances of the client.

In complying with the requirements under paragraphs 6.02(c) and (d), a CMI and its representatives should ensure that any information provided to clients (whether on or through an online platform, or otherwise) promotes the clients' understanding of the features, terms, price and risks of the capital market product or service.

18. Can a person registered under section 76A of the CMSA give personal advice?

No, a person registered under section 76A of the CMSA cannot give personal advice as such person is not permitted to give investment advice, whether as a principal activity or incidental activity.

19. What are the key differences between the suitability assessment requirements under Part 4 of the previous *Guidelines on Sales Practices of Unlisted Capital Market Products* (Sales Practices Guidelines) and the specific requirements in relation to personal advice under Chapter 9 of the Conduct Guidelines?

Both the Sales Practices Guidelines and Conduct Guidelines require that there is a reasonable basis for making a recommendation or giving personal advice to a client, the basis of which must be documented.

In this regard, the Conduct Guidelines have largely adopted the suitability requirements applicable to recommendations given on a face-to-face basis under the Sales Practices Guidelines. In addition, the Conduct Guidelines set out new areas such as requirements pertaining to personal advice given on or through online platforms.

The table below sets out a comparison of the key requirements under both guidelines:

Requirements	Sales Practices Guidelines	Conduct Guidelines
Information and risk warnings prior to gathering client information	✕	✓
Gather client information	✓	✓
Review information gathered and product	✓	✓
Take steps to benefit the client	✕	✓
Match suitable product to client	✓	✓ (with additional requirements and Guidance on matching)
Make recommendation of suitable product	✓	✓
Document client information and recommendation	✓	✓
Requirements for recommendations given on or through an online platforms	✕	✓

20. What steps must be taken to comply with the requirements in relation to giving personal advice under Chapter 9 of the Conduct Guidelines?

The Conduct Guidelines sets out specific requirements in relation to the giving of personal advice under paragraphs 9.07 – 9.10. Where personal advice is given on or through an online platform, a CMI may comply with the modified requirements under paragraph 9.11.

The diagram below sets out the requirements to be complied with.

Specific requirements in relation to personal advice

1. Prior risk warnings

CMI to explain to the client:

- Purpose of gathering the client's information
- That providing inaccurate or incomplete information will affect quality of personal advice for which CMI will not be held accountable
- Risk of investing all or large amounts of available funds

2. Reasonable basis

CMI to ensure suitability of personal advice by:

- Gathering sufficient information from the client
- Ascertaining accuracy and completeness of information
- Reviewing the client's information and products
- Matching & recommending suitable product to client

3. Steps to benefit client

Steps may include:

- Ensuring that it has the expertise to give personal advice on a product
- Responding appropriately to a client that has been identified as vulnerable

4. Documentation

CMI to document, among others:

- Prior risk warnings
- Client information collected
- Personal advice given together with basis
- Any other steps taken for the benefit of the client

Where personal advice is given on or through an online platform, a CMI is deemed to have complied with steps 2 and 3, provided it complies with the modified requirements below.

Modified requirements

- Client information collected is not limited to 'customer due diligence' purposes;
- Online platform is entirely automated and programmed with compulsory questions to filter out or warn clients whose circumstances would render him unsuitable for the product;
- Online platform is programmed to detect inconsistent responses; and
- Client is alerted that the advice given only takes into account the information collected.

21. Are CMIs expected to use a specified form in gathering information from their clients for purposes of giving personal advice?

CMIs are encouraged to come up with a form to gather sufficient information that enables them to carry out a meaningful assessment and form a reasonable basis in giving personal advice to their clients. While taking into account the type of capital market product being offered, CMIs should ensure that the form enables them to comply with the requirements in relation to giving personal advice set out under Chapter 9 of the Conduct Guidelines.

22. Is a CMI required to comply with the specific requirements in relation to giving personal advice set out under Chapter 9 of the Conduct Guidelines, each time personal advice is given to a client?

A CMI may dispense with complying with the specific requirements in relation to giving personal advice where the CMI has previously complied with such specific requirements in relation to–

(a) a client who tops-up his investment in an existing capital market product with the same CMI (paragraph 9.04(d) of the Conduct Guidelines); or

(b) a client who has been recommended a range of capital market products and the client then seeks to invest in a capital market product which is within the range of capital market products that has been recommended (paragraph 9.04(e) of the Conduct Guidelines).

Paragraphs 9.04(d) and (e) must be read together with paragraph 9.05 of the Conduct Guidelines which emphasises that a CMI may only rely on information previously provided by the client provided the client confirms at the time of the transaction that there are no material changes to the information.

23. Pursuant to paragraph 12.02(a) of the Conduct Guidelines, a CMI is required to be accessible to clients during its business or operation hours. What are the SC's expectations, for instance, where derivatives brokers carry on night trading?

It is up to the CMI to decide its own business or operation hours, during which time, clients must be able to contact the CMI or its representatives for any queries or complaints.

With regard to night trading, which has been introduced for derivatives brokers, the SC expects them to allocate resources effectively to ensure that the necessary support is provided to clients during these "night trading sessions", should any issues arise.

24. In the event of CMIs becoming aware of breaches, what constitutes prompt reporting to the SC?

In this regard, CMIs should make reference to the *SC's Guidance Note on Co-Operation and Self-Reporting*, which is available on the SC's website.