

# APPENDIX J [dated 3 August 2015]

## Investments

*Note: This Appendix supersedes the earlier versions of Appendix J.*

### 1. Preamble

- 1.1 The ASAS Council has observed an increase in advertising of investments, including investment in overseas properties, and investment services such as wealth management seminars and seminars teaching trading strategies. Such advertisements may promise high or guaranteed returns or results. However, they do not always provide sufficient warnings against any financial, legal or regulatory risks of such investments (e.g. restrictions on sale of properties by foreign citizens, potential tax liabilities). Consumers responding to such advertisements may not be aware of the risks of limited legal redress, risks of the investment, or the possibility of losing some or all of their capital investment.

This Appendix sets out to minimise the scope for advertisers to make claims that are speculative, misleading or which are not and cannot be substantiated.

- 1.2 Advertisements on investments and investment services should ensure that members of the public are fully aware of the true nature of any financial commitment that they may enter into as a result of responding to the advertisement.

### 2. Definitions

- 2.1 “Advertisement(s)”, in this Appendix shall have the same meaning as defined in and is to be read in conjunction with and in addition to any other clauses in the Code, and is to be taken in its broadest sense to embrace any form of advertising, across any media platforms (including Internet and company-owned websites and interactive mobile applications) and includes advertising which promotes the interest of any person, product or service, impart of information, educates or advocates an idea, belief or opportunity.
- 2.2 “Investment” is to be broadly interpreted to include investment in immovable and moveable properties (located in Singapore or overseas), any product or service, instrument, in whatever form or nature, that a consumer is offered or invited to purchase or invest in, with the expectation of generating future profit, benefit, capital appreciation and/ or gains. Some investments are

regulated, for example, by the Monetary Authority of Singapore (MAS) (e.g. securities, insurance policies)<sup>1</sup> and some are not (e.g. purchase of real estate).

- 2.3 “Investment seminar” refers to a talk, seminar or training course conducted in respect of “Investment”. This includes any talk, seminar or training course that purports to educate consumers on features of a particular investment, growing their wealth as well as on a device, product, book, material of any nature or strategy that would enable or to purport to enable consumers to make investment decisions or to purport to equip them with investment information, knowledge or strategy.
- 2.4 “Investment service(s)” should be broadly interpreted to include any services rendered in respect of an “Investment”, including an “Investment seminar”.

### **3. Warnings, disclaimers and qualifications**

- 3.1 Advertisers of investments or investment services should clearly state whether or not they are regulated by other agencies in Singapore, e.g. MAS, CEA etc., or if they have any tie-ups with entities regulated by such agencies.
- 3.2 Disclaimers alone may not necessarily be effective in reducing the misleading or deceptive nature of an advertisement. It is the overall impression created by the advertisement that matters. Qualifications should not be used to change the meaning of a misleading headline statement. Some headline claims are so strong that even a separate qualification will not correct the misleading impression.
- 3.3 Warnings, disclaimers and qualifications in print advertisements or television commercials have to be clearly laid out and legible to the unaided eye of the viewer. As a general rule of thumb, warnings, disclaimers and qualifications should not be in a font size smaller than the smallest font used to make affirmative claims in an advertisement, subject to a minimum font size of 10<sup>2</sup>-point Times New Roman (or font type and size that is visually equivalent) for print advertisements and a minimum font size of 14-point Times New Roman (or font type and size that is visually equivalent) for television commercials.
- 3.4 As all forms of investment carry risk, and may not be suitable for everyone, any form of return or performance-related claim in any advertisement across all media platforms has to include this warning prominently:

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<sup>1</sup> For investments regulated by the MAS, additional advertising rules may apply.

<sup>2</sup> Minimum font size of 10 is in accordance to guidelines for MAS-regulated products and advertisements.

*“All forms of investments carry risks, including the risk of losing all of the invested amount<sup>3</sup>. Such activities may not be suitable for everyone.”*

- 3.5 For overseas investments, the following additional statements must be included in any advertisement across all media platforms:

*“This is an overseas investment. As overseas investments carry additional financial, regulatory and legal risks, investors are advised to do the necessary checks and research on the investment beforehand.”*

#### **4. Use of testimonials/ endorsements**

- 4.1 Testimonials and endorsements must be representative of the average consumer.
- 4.2 The endorser should be a bona fide user of the investment or investment service. The endorsement or opinion expressed should continue to be held by the endorser at the time the advertisement is run. The advertiser should take steps to obtain the endorser’s confirmation in this regard, and keep relevant records.
- 4.3 ASAS may contact endorsers to verify the authenticity of their testimonies. ASAS may direct the advertiser to remove unverified testimonials from its advertisements.
- 4.4 Where there exists a connection between the endorser and the seller of the advertised investment or investment service that may materially affect the weight or credibility of the endorsement (i.e. the connection is not reasonably expected by the audience), such a connection must be fully disclosed.
- 4.5 The above sub-clauses in this Section are to be read in conjunction with and in addition to, without affecting or limiting the interpretation and applicability of the other provisions of the Code.

#### **5. Details of benefits**

- 5.1 Advertisements that contain details, including those given by way of example, of the benefits that may accrue through investing in a given investment or subscribing to an investment service should be understood easily and must not take advantage of the consumer’s inexperience or gullibility.

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<sup>3</sup> If the Investment carries the risk of an investor losing more than the invested amount, the warning should reflect this accordingly.

## 6. Investments – General

- 6.1 Advertisements should not contain claims that give the impression that an investment is “safe”, “low-risk” or “risk-free”, or able to generate “quick”, “easy” or “high” profits with little or no risk.
- 6.2 Advertisements should also not contain claims that any amount invested will be repaid or rates of return on an investment are guaranteed.
- 6.3 Where an advertisement contains any forecast or projection of a specific growth rate, or a specific rate of return, it should make clear the basis and assumptions upon which the forecast or projection is made. Any factors that would negatively affect the forecast or projection should be clearly disclosed.
- 6.4 Where growth or return is indicated through the use of money equivalents, the net annual rate that is assumed should be cited in effective percentage terms, and should be calculated upon the same basis as any quoted in the support of the claim.
- 6.5 When an advertisement quotes past experience in support of a forecast or projected growth rate, it should include a prominent caveat that past experience is not necessarily a guide to future performance. It should also indicate the circumstances and the period of such experience in such a way that the reliability of the forecast or the projected growth rate can be fairly assessed. This is to ensure that past experiences are not extrapolated to give misleading projections of future performance.
- 6.6 Where rates of return are expressed in gross terms, the tax implications (if any) should be clearly explained.
- 6.7 Where an advertiser reserves the right under certain circumstances to defer requests for repayment of any sum invested, this right and the maximum period during which repayment may be withheld should be stated in the advertisement.
- 6.8 Where investors are offered planned withdrawal of capital as an income equivalent, e.g. by cashing in unit trusts, the advertiser should ensure that the effect of such withdrawals upon capital invested is clearly explained.
- 6.9 Unspecified advertisements, i.e. those which indicate in general terms the availability of investment opportunities, will not be accepted unless explanatory material concerning the facilities or opportunities available is provided free of charge for those who request them.
- 6.10 All claims made must be able to be substantiated.

- 6.11 All factsheets and documentary evidence must be ready and made available for verification, upon request.

## **7. Investments – Real estate**

- 7.1 Advertisements involving overseas property-related investments should clearly state:

7.1.1 Whether or not investors are acquiring an interest in the land, the building to be built on it and/ or the property within the building which is available for acquisition and, if so, state the nature and description of the interest to be acquired including whether the investor can enter into possession of the land, the building and/ or the property, if not, what they are acquiring, e.g. chose in action, right of use etc..

7.1.2 If the property is still being developed, the development or building permit or building approval numbers and identity of the relevant authorities or agency who issued the permit or approval.

7.1.3 If there is a description of the site location, the actual site location, infrastructure development and accessibility.

7.1.4 Whether there is any form of restriction(s) to foreign ownership or subsequent sale of the land, the building and/ or property, and if so, to state the nature of such restrictions.

7.1.5 Whether there are any potential tax liabilities, rates and other costs involved.

- 7.2 Advertisements for real property located abroad, whether for sale, investment or owner-occupation, should not mislead or exaggerate on such matters as:

7.2.1 the land itself and any buildings erected or to be erected thereon;

7.2.2 the actual site location, infrastructure development and accessibility;

7.2.3 the physical nature – including furnishings and amenities – and appearance of buildings and flats, and their surroundings;

7.2.4 the legal title and formalities;

7.2.5 the legal or equitable ownership of the land on which the development is to be made, the permitted/ approved land use, and/ or development permits;

- 7.2.6 the financial position of the developer;
- 7.2.7 rights and easement of any kind;
- 7.2.8 planning, building and sanitary requirements; and
- 7.2.9 the price, terms of payment and loan facilities.

## **8. Investment seminar**

### **8.1 Potential results or benefits of an investment seminar**

- 8.1.1 Advertisements should not exaggerate the potential results or benefits of participating in the seminar. Claims made should be realistic<sup>4</sup>, practical, and representative of the average participant.
- 8.1.2 Advertisements on investment strategies should not give the impression that the strategy is “fool-proof” or “fail-proof”, or will quickly, always or consistently generate positive results or benefits for the participant with little or no risks or regard to individual aptitude.
- 8.1.3 Any investment advertised in connection with the investment seminar should comply with the standards set out in this Appendix.

### **8.2 “Free” (and/ or similar term) product/ service**

- 8.2.1 Advertisers must exercise special care when advertising any investment, investment service or any other product or service in connection with the investment or investment service as free or as a special bargain if that is not the case (collectively referred to as “free product or service” in this section). This is to avoid misleading or deceiving consumers.
- 8.2.2 All terms and conditions associated with the redemption of the free product or service must be clearly stated in the advertisement. If the free product or service can only be redeemed with a subsequent purchase or subscription, the information has to be made known. If the free product or service offered varies in feature or usage from the normal product or service, the information also has to be made known.

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<sup>4</sup> Claims that participants of an investment seminar can learn the “secrets/ proven methods to be a millionaire” (or similar claims) will not be considered realistic.

8.2.3 The above sub-clauses in this Section, are to be read in conjunction with and in addition to, without affecting or limiting the interpretation of and application of all other provisions of this Code.

### **8.3 Qualifications of speaker/ trainer**

8.3.1 Advertisements should not make inaccurate, misleading or exaggerated claims about the qualifications of the speaker/ trainer.

8.3.2 Advertisements should not exploit the speaker/ trainer's past investment experience as a qualification for providing training to other consumers as it may create unrealistic expectations. Advertisers must be able to substantiate claims about a speaker/ trainer's qualifications. Where a trainer's past performance is cited, it should always be accompanied by a disclaimer stating that past performance is not necessarily indicative of future performance, even if the same strategies are adopted.

8.3.3 Advertisements relating to property-related investments or investment strategies should clearly state whether or not the speaker/ trainer is regulated by the Council for Estate Agencies (CEA), or whether they have any tie-ups with entities regulated by the CEA.

### **8.4 Investment seminar relating to property**

8.4.1 If the investment seminar will be followed by or involve any booking, sale or transaction related activity, advertisers must so indicate in their advertisements, and further specify whether or not investors will be acquiring an interest in property and, if so, state the nature of the interest to be acquired including whether the investor can enter into possession of the property. Advertisers must also fulfill all other requirements under 7.1 and 7.2 of this Appendix.

## **9. The nature of the contract**

9.1 The type of contract forming the basis of the product or service advertised (and especially any charges, expenses or penalties) should be made clear.

9.2 Wherever the nature of the investments underlying the contract or to which it is linked is material to its choice, a fair description of investment objectives and of such investments should be given.

## **10. Tax**

10.1 Where a claim is made in an advertisement as to the return offered by a given investment, and the achievement or maintenance of the return quoted is

dependent in part upon the assumed effects of tax or duty, the advertisement should make it clear that no undertaking can be given that the fiscal system may not be revised with consequent effect upon the return offered.

- 10.2 The phrases tax-free, tax-paid and others making similar claims, should not be used without qualifications as to the particular tax(es) and/ or duties involved. In particular the advertiser should state as clearly as possible what liabilities may arise and by whom they will be paid.