



GUIDELINE NO. CMU/G-6/2019/1

**GUIDELINE ON CONDUCTING THE REGULATED ACTIVITY OF GIVING OR OFFERING
INVESTMENT ADVICE**

1. INTRODUCTION AND APPLICABILITY

- 1.1 This Guideline is issued pursuant to section 32 of the Autoriti Monetari Brunei Darussalam Order, 2010.
- 1.2 The objective of this Guideline is to provide guidance to persons who conduct or intend to conduct the regulated activity of giving or offering investment advice –
 - (a) by clarifying the difference between undertaking the regulated activity as an investment adviser and a financial planner; and
 - (b) by clarifying the boundaries of investment advice.
- 1.3 This Guideline is not legally binding, exhaustive and subject to revision from time to time as deemed necessary by the Authority.
- 1.4 This Guideline is to be read together with the SMO and all applicable rules and regulations made thereunder.
- 1.5 This Guideline shall take effect on 1 November 2019.

2. DEFINITION OF THE TERMS

- 2.1. The terms used in this Guideline shall have the following meanings, except where the context otherwise requires –

Term	Definition
“Authority”	means Autoriti Monetari Brunei Darussalam;
“CMSL”	means capital markets services licence;
“CMSRL”	means capital markets services representative’s licence;
“research report”	means a report or other document containing research or other information recommending or suggesting investment strategy as defined in the SMO;
“Retail Investor”	means any person who is not a Sophisticated Investor;

"SMO"	means the Securities Markets Order, 2013 and any regulations or other subsidiary legislation made thereunder;
"SMR"	means the Securities Markets Regulations, 2015;
"Sophisticated Investor"	means any person who falls within any of the specific classes of investors specified in section 20 of the SMO.

2.2 Unless expressly defined herein, expressions used or where the context requires, has the same meaning as in the SMO.

3. UNDERTAKING THE REGULATED ACTIVITY OF GIVING OR OFFERING INVESTMENT ADVICE AS AN INVESTMENT ADVISER AND A FINANCIAL PLANNER

This part is to clarify the differences between undertaking the regulated activity of giving or offering investment advice as an investment adviser and a financial planner.

- 3.1 A CMSL and CMSRL holder may conduct the regulated activity of giving or offering investment advice, either in his capacity as –
- (a) an investment adviser; or
 - (b) a financial planner.
- 3.2 Paragraph 3.1(a) would apply to a CMSL or CMSRL holder who gives or offers or intends to give or offer investment advice to Sophisticated Investors and Retail Investors.
- 3.3 Paragraph 3.1(b) would apply to a CMSL or CMSRL holder who gives or offers or intends to give or offer investment advice to Retail Investors only.

4. BOUNDARIES OF INVESTMENT ADVICE

This part is to clarify the boundaries of investment advice in terms of what may constitute giving or offering investment advice and the medium of distribution for giving or offering investment advice.

4.1 DEFINITION

4.1.1. The main characteristics of the regulated activity of giving or offering investment advice are that the advice must –

- (a) relate to a specific security;
- (b) be given to a person in his capacity as an investor or potential investor (or in his capacity as agent for an investor or potential investor); and
- (c) relate to the merits of the investor or potential investor (or agent for an investor or potential investor) buying, selling, subscribing for or underwriting (or exercising rights to acquire, dispose of, underwrite or convert) the security.

4.1.2. The following are examples of what may be regarded as giving or offering investment advice –

- (a) providing investment ratings for specific securities;
- (b) producing or disseminating research reports concerning securities or issuers of securities. This includes white-labelling of research reports; or
- (c) any other form that the Authority may determine as investment advice.

4.1.3. Notwithstanding paragraph 4.1.1, a research report that is provided to multiple clients may also be considered investment advice depending on the circumstances.

4.1.4. Notwithstanding the above, the marketing of securities may constitute the regulated activity of dealing or arranging deals in investments. Persons in paragraph 3.1 must ensure that they are appropriately licensed before carrying out such activities.

4.1.5. Those who provides or intends to provide investment advice is required to fulfil the requirement to be fit and proper pursuant to regulation 40, SMR and should also refer to regulation 29, SMR and Guidelines No. FCI/G1/2018/1 - Guideline on Fit and Proper Criteria for Financial Institutions Frontline Staff.

4.1.6. Investment advice given or offered to an investor must comply with the requirements pursuant to section 186, SMO and regulation 44 of the SMR prior to giving or offering the investment advice.

4.2 MEDIUM OF DISTRIBUTION

4.2.1 Investment advice may only be given or offered in Brunei Darussalam by persons in paragraph 3.1, unless otherwise exempted.

4.2.2 Any foreign professional or foreign company is prohibited to give or offer investment advice (including distribution or republication of a research report) to any investor in Brunei Darussalam unless such foreign professional or foreign company partner with a CMSL holder. For the avoidance of doubt, the CMSL holder will be liable and responsible for any investment advice provided by the foreign professional or foreign company during its partnership. In any event, a foreign professional or foreign company intending to give or offer investment advice in Brunei Darussalam should refer to Guideline No. CMU/G-3/2017/3 - Guideline to Persons Seeking for Exemption under Section 158(2)(b) and 159(1)(f), Securities Markets Order, 2013 From Holding a Capital Markets Services Licence and Capital Markets Services Representative's Licence Respectively to Provide Investment Advice Upon Client's Request.

4.2.3 Investment advice may be provided through various modes of communication including, but not limited to, face-to-face, orally, by telephone, by email, published in the newspaper, using a website or through an interactive software system.



MANAGING DIRECTOR
AUTORITI MONETARI BRUNEI DARUSSALAM

Issue Date: 16 Safar 1441/ 15 October 2019