



# **BERMUDA MONETARY AUTHORITY**

**CONSULTATION PAPER (APPENDIX 1)**

**INVESTMENT BUSINESS ACT 2003**

**GENERAL BUSINESS CONDUCT AND PRACTICE**

**CODE OF CONDUCT**

31 March 2010

THE FOLLOWING CODE IS ISSUED BY THE BERMUDA MONETARY AUTHORITY IN EXERCISE OF THE POWERS CONFERRED ON IT BY SECTION 10 OF THE INVESTMENT BUSINESS ACT 2003.

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# 1 INTRODUCTION

## 1.1 Preliminary

This code replaces the Investment Business Act 2003 General Business Conduct and Practice Code of Conduct issued March 2004.

This code sets out specific standards for the conduct and practice of business by investment providers.

## 1.2 Objectives

The objectives of this Code are to ensure that an investment provider:

- (a) acts with high standards of integrity and fair dealing in the conduct of investment business;
- (b) acts with due skill, care and diligence in providing any services which it provides or indicates a willingness to provide.

This Code shall be interpreted in the light of the above objectives. The Act provides that every investment provider shall in the conduct of its business have regard to any Code of Conduct issued by the Authority. It further provides that a failure to comply with the provisions of such Code shall be taken into account by the Authority in determining whether an investment provider's business is being conducted in a prudent manner as required by paragraph 5 of the minimum licensing criteria.

*Guidance Note: The Authority expects investment providers to comply with the spirit and the letter of this Code. Where the Authority has concerns about compliance with the Code, it will bring its concerns to the attention of the investment provider and take account of the comments and representations of the investment provider as well as, where relevant, his willingness to make appropriate changes to conduct or practice.*

## 1.3 Definitions

For the purposes of this Code:

“execution-only client” means, in relation to the effecting of a transaction by an investment provider, a client with or for whom that transaction is effected in circumstances in which the investment provider can reasonably assume that the client is not relying upon the investment provider for advice or to exercise any judgment on the client's behalf as to the merits of or the suitability of that transaction.

“illiquid” means a security or other asset that cannot easily be sold or exchanged for cash without a substantial loss in value. Illiquid assets also cannot be sold quickly because of a lack of ready and willing investors or speculators to purchase the asset. The lack of ready buyers also leads to larger discrepancies between the asking price (from the seller) and the bidding price (from a buyer) than would be found in an orderly market with daily trading activity.

“market manipulation” means acting in any way or engaging in any course of conduct which creates a false or misleading impression as to the market or in the price or value of an investment when the action or conduct is undertaken for the purpose of creating that impression and of thereby inducing another person to acquire, dispose of, subscribe for or underwrite that investment or to refrain from doing so or to exercise, or refrain from exercising, any rights conferred by the investment.

A false or misleading impression may involve, for example:-

- the effecting of a market transaction when no change in the beneficial ownership of the investment is involved;
- the entry of an order or orders for the purchase of an investment in the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price, for the sale of the same investment has been or will be entered by or for the same or related parties;
- the entry of an order or orders for the sale of an investment with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price, for the purchase of the same investment has been or will be entered by or for the same or related parties; and
- the effecting, alone or with other persons, of a series of transactions in an investment with the effect of creating actual or apparent trading activity in the investment, or raising or depressing the price of the investment for the purpose of inducing its purchase or sale by others.

“material non-public information” means price-sensitive information that is not publicly disseminated.

“private client” means any client other than an execution-only client.

“recognised investment exchange” means an investment exchange in a developed country regulated by a supervisory body that is a member of the International Organisation of Securities Commissions (IOSCO).

The definitions appearing in section 2 of the Investment Business Act 2003 shall apply to the interpretation of this Code.

## **1.4 Application**

This Code applies to all holders of investment business licenses granted under section 17 or issued under section 87(2) of the Investment Business Act 2003.

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## **2 PROFESSIONAL CONDUCT STANDARDS**

### **2.1 Disrepute**

The nature and conduct of an investment provider's business shall be handled in a professional and ethical manner, such that it will not bring Bermuda into disrepute or damage its standing as a financial centre.

### **2.2 Relations with Bermuda Monetary Authority**

An investment provider shall liaise with the Bermuda Monetary Authority in an open and cooperative manner. This will include alerting the Bermuda Monetary Authority promptly to breaches of requirements and expected standards of behavior.

### **2.3 Responsible conduct**

An investment provider shall organise and control its internal affairs in a responsible manner and ensure that it has well-defined procedures to facilitate compliance with any regulatory requirements. Where the investment provider employs staff or is responsible for the conduct of investment business by others, it shall have adequate arrangements to ensure that such people are suitable, adequately trained and properly supervised.

### **2.4 Compliance with non-statutory obligations**

An investment provider is expected to observe the tenets of any Code or set of standards promulgated by any body, whether in Bermuda or elsewhere, which has responsibility in the public interest for the supervision or regulation of investment business or other financial services or for the setting of standards of conduct applicable to business conducted by the investment provider.

Accordingly, unless it can show any good reason for disregarding any such tenet, (such as inconsistency between it and any applicable provision of this Code or any other legal requirement) an investment provider should comply with Codes and accepted standards as part of its policy of observing good market practice.

### **2.5 Compliance procedures**

An investment provider shall establish and maintain compliance procedures with a view to ensuring that:

(a) its officers, employees and other representatives are aware of their obligations under the Investment Business Act 2003, all related Principles, Codes, Regulations, and any other applicable legal provisions;

(b) such persons are in practice complying with the procedures established by the investment provider;

(c) sufficient information is recorded and retained about the conduct of the investment provider's business and its compliance with the Investment Business Act 2003; and

(d) its reporting officer for the purposes of the Proceeds of Crime Act 1997 is aware of his responsibilities under that Act, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 and other related Regulations.

Compliance procedures shall be in writing. An investment provider shall, at least annually, carry out a review of its compliance procedures to ensure that they are appropriate and that they have been complied with.

## **2.6 Manager of funds to observe the terms of fund particulars**

An investment provider which is the manager of a fund within the meaning of the Bermuda Monetary Authority Act 1969 shall take all reasonable steps to comply with every statement in the most recently published prospectus, explanatory memorandum or other documentation describing how the manager will operate the scheme and shall comply with the duties imposed by or under the Investment Funds Act 2006, Fund Rules 2007 or any provision of law amending or replacing such legislation. An investment provider will take similar steps in acting for a fund registered or licensed in any jurisdiction outside Bermuda.

## **2.7 Disclosure of licensing body**

An investment provider shall ensure that the identity of its licensing body is disclosed in all advertisements and correspondence to clients and potential clients.

***Guidance Note - The following wording is suggested: "Licensed to conduct investment business by the Bermuda Monetary Authority."***

## **2.8 Introductions to unauthorised persons or overseas branches**

An investment provider who introduces a client to a person or entity conducting investment business which is not licensed in Bermuda shall disclose to the investor that such business will not be covered by the Investment Business Act 2003 and shall generally inform the client of the system of regulation pertaining to investment business in that jurisdiction.



## **2.9 Complaints procedures**

An investment provider shall ensure that procedures are in place to deal with investor complaints efficiently through a simple and impartial process. These procedures should be clearly disclosed and easily accessible to clients. Client complaints must be properly handled and any remedial action needed should be promptly taken. A record of the details of the complaint, the investment provider's response and any action taken as a result, shall also be made and maintained.

## **2.10 Disciplinary action**

A record shall be maintained of the names of any employees disciplined by an investment provider in connection with any breach of this Code or for any other act or omission which may reasonably be expected to affect the conduct of the investment provider's investment business and of the particulars of:

- (a) the offence for which the employee was disciplined; and
- (b) the steps taken to discipline the employee.

## **2.11 Provision for cessation of business**

An investment provider shall make provision for the protection of its clients in the event of the cessation of the whole or any part of its investment business.

## **2.12 Skill care and diligence**

An investment provider shall act with due skill, care and diligence in the conduct of investment business.

## **2.13 High standards of market conduct**

An investment provider shall meet high standards of market conduct including compliance with relevant statute law and any Code or standard (applying to investment providers) which has been issued or endorsed by any investment exchange on which business is conducted by the investment provider.

## **2.14 Responsible behaviour on the telephone or on visits**

An Investment Provider shall institute procedures stipulating that their employees seeking to obtain business must be civil and considerate, refrain from using any undue pressure, deception or misrepresentation, and make plain their purpose and identity to clients and potential clients.

## **2.15 Unsolicited Calls**

No investment provider shall in the course of an unsolicited call by way of business enter into an investment agreement with the person on whom the call is made or procure or endeavor to procure that person to enter such an agreement.

*Guidance Note: A telephone call made without express invitation is an unsolicited call. Providing one's telephone number does not, on its own, amount to express invitation for this purpose.*

## **2.16 Informed investment decisions**

An investment provider shall take all reasonable steps to enable clients to make informed investment decisions and shall avoid misleading or deceptive representations or practices.

## **2.17 Supervision**

An investment provider shall establish procedures to ensure the adequate supervision of staff in their dealings with clients. Appropriate records relating to the training, experience and qualifications of staff shall be maintained, showing the categories of transaction which the person is competent to conduct.

## **2.18 Responsible behavior in dealings by officers and employees**

An investment provider shall have procedures for ensuring that any business executed by its officers and employees:

- (a) is openly carried out (in that, for example, the officer or employee obtains consent before dealing, or informs the investment provider afterwards, and reveals his status to other investment providers before dealing with or through them);
- (b) is fairly carried out (for example that the officer or employee does not deal if a transaction by the investment provider would be in breach of this Code);
- (c) is carried out in compliance with any applicable rules and regulations relating to investment business in other jurisdictions in which it is operating as far as that can be reasonably ascertained;
- (d) avoids any conflict of interest which is known to the officer or employee (whether with a client of the investment provider or with any business carried on by the investment provider); and

(e) avoids any private benefit to the officer or employee (for example by obtaining credit or special dealing facilities without the knowledge of the investment provider).

The officers and employees of the investment provider shall be made aware of the above requirements.

## **2.19 Inducements**

An investment provider shall not (and shall not permit anyone acting for it to) offer or receive gifts or other direct or indirect benefits if doing so could influence the giving of advice or the exercise of discretion.

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## 3 CLIENT RELATIONSHIPS

### 3.1 Client Risk Profiles

Other than for execution-only clients, an investment provider shall obtain from clients relevant information about their financial circumstances and investment objectives which might reasonably be expected to be relevant in enabling the investment provider to fulfill its responsibilities to its clients. This may best be attained through an exercise known as Risk Profiling.

*Guidance Note* – See Appendix A for a sample risk profile document.

### 3.2 Acting with Agreement

The investment provider shall comply with the terms of the relevant client agreement in all dealings with or on behalf of clients.

### 3.3 General need for a client agreement

Subject to Sections 3.4 and 3.5 below, an investment provider which conducts investment business with any client shall do so by means of a written agreement which shall set out the basis on which its services are to be provided. The agreement shall be easy to understand, not likely to be misunderstood and conform to this Code. Unless the agreement specifies to the contrary, the client will be deemed to be a private investor. If the client is not to be treated as a private client the client shall be informed in writing that the level of protection afforded to him is lower than that offered to a private client.

### 3.4 Exceptions

No client agreement is required for:

- a) The issue of any tip-sheet, broker's circular or other investment publication;
- b) a contract by the operator of a fund as principal to sell or purchase units in that scheme;
- c) advising on and arranging transactions (not involving any element of discretionary management by the adviser or arranger) which are limited to units in funds where the client's requirements are reasonably believed by the investment provider to be confined to that area of activity;
- d) deals effected or arranged on behalf of an execution-only client.

*Guidance Note* - For the avoidance of doubt, investment providers should confirm "execution-only" status in writing, pointing out the consequent reduction of investor protection.

In the case of (b) and (c) above, if the investment provider receives client money (e.g. cash, or cheques which are made payable to the investment provider rather than a fund manager), a separate agreement shall be entered into with the client detailing the arrangements for handling client money, specifying how the money will at all times be separated from the investment provider's own money and stating the arrangements for crediting interest to the client's account.

### **3.5 Dealing while negotiating, etc.**

Deals not involving undue risk may be made on behalf of clients whilst negotiations leading to a client agreement are taking place; and deals may be made after an agreement has expired or been brought to an end solely to complete outstanding obligations.

### **3.6 Penalty on termination**

The client agreement may provide for any additional payment to be made to the investment provider upon the termination of the agreement but this shall be clearly disclosed in the client agreement.

### **3.7 Standard client agreement**

The standard client agreement shall normally include statements on:

- (a) the nature of the services to be provided by the investment provider under it, including, where appropriate, the client's investment objectives and any restrictions on investments or markets in which funds may be invested;
- (b) in respect of any fees payable by the client to the investment provider:
  - i) the basis of calculation. In this regard the investment provider should give clients at least one month's notice of any proposed fee increase;
  - ii) the basis of payment (deduction or billing etc.). In this regard the investment provider should make no deduction from income or capital belonging to a client in respect of its fees unless it has given notice to the client;
  - iii) the frequency of payment; and
  - iv) whether or not any fees payable are to be supplemented or be abated by any remuneration receivable by the investment provider with or for the client;
- (c) the fact that the investment provider is regulated in the conduct of its investment business by the Bermuda Monetary Authority (See also section 2.1);
- (d) the manner in which the instructions may be given by the client for any transaction;
- (e) the arrangements for handling and accounting for client money, specifying how the money is at all times separated from the investment provider's money and stating arrangements for crediting interest to the client account;

- (f) the arrangements for registration and identification of ownership and safe custody of documents of title and the name of any nominee company used;
- (g) the client's rights of inspection of copy contract notes, vouchers and copies of entries in books or electronic recording media relating to the client's transactions together with a statement that such records will be maintained for at least 5 years from the date of the transaction; and
- (h) arrangements for bringing the agreement to an end which should confer the right for the client to terminate the agreement on immediate written notice.
- (i) Where an investment provider is effecting margined transactions on behalf of a client, the agreement shall include a warning that the investment provider in certain circumstances may be required to obtain additional money from the client by way of margin (See section 6.3);
- (j) where the investment provider intends to effect contracts which are not traded on and under a recognised investment exchange, this shall be specified in order that authority may be granted by the client;
- (k) a statement of when a deposit or margin (including the initial and variation margin) may be required and the investment provider's rights on failure to pay; also a warning that failure to meet margin calls, may lead to closing out without reference to the client. (The statement may also include arrangements under which the investment provider lends money to the client to meet margin calls); and
- (l) a statement of the circumstances in which it might be possible for an investment provider to close out without reference to the client.

### **3.8 Discretionary portfolio management agreement**

Where an investment provider is to exercise discretion for a private investor in the management of investments, a greater degree of trust is involved. Hence, in addition to items contained in section 3.7 (the Standard Client Agreement), the investment provider shall include statements specifying the following:

- (a) whether or not there is any restriction on the categories of investment or on the amount or on any proportion of the amount which may be invested in any category of investment or in any one investment and, if so, what those restrictions are;
- (b) the frequency with which the client is to be supplied with a statement of the cash and the investments comprised in the portfolio and valuation thereof and what the basis of valuation is to be;
- (c) if the agreement is to include a measure of portfolio performance then the basis on which that performance is to be measured;

- (d) whether hedging or borrowing powers are to be used, the nature of such powers and limits upon their use (See also section 3.2); and
- (e) where the investment provider is to have powers to lend securities to or borrow securities from third parties or to charge securities to secure borrowings, how such powers are to be exercised and the limits placed upon them.

A statement showing the initial composition of the portfolio, and its initial value (so far as it can be ascertained) shall be provided to the client at the time that the client agreement is signed or as soon as practicable thereafter.

### **3.9 Special provisions in discretionary portfolio management agreements**

Where investment is contemplated in areas involving higher risk investments, the agreement shall specifically state which transactions are permitted and any limits on the category of investment or on the financial commitment involved. It shall also contain the required risk warnings (see section 3.11 and, where applicable (j) (k) and (l) in section 3.7 above).

Examples of such higher risk investments are:

- (a) writing of options and doing business in futures and contracts for differences;
- (b) other margined transactions;
- (c) illiquid investments; and
- (d) participation in the underwriting of securities.

### **3.10 Compliance with Agreement**

The investment provider shall comply with the terms of the relevant client agreement in all dealings with or on behalf of clients.

### **3.11 Understanding of risk**

An investment provider shall not recommend a transaction to a client, or act as a discretionary manager for him, unless it has taken reasonable steps to enable the client to understand the nature of the risks involved.

In particular, an investment provider shall not:

- (a) advise the client to deal or deal with or for the client in futures or options or contracts for differences, unless it has arranged for the client to receive (and the client has, by returning a signed copy, shown that he has understood) a risk disclosure statement which should contain the elements set out in the form specified in Appendix B, or
- (b) advise the client to buy or effect in the exercise of discretion any purchase of an illiquid investment or one which is not readily realisable, unless it has informed the client of the

nature and extent of the risks involved in such investments, including any difficulties in determining their value, and has obtained the client's written consent.

### **3.12 Suitability**

In making recommendations to a client, in exercising discretion, and in advising about the client's instructions, an investment provider shall ensure as far as it can, having taken reasonable steps to inform itself of what is available in the market, that purchases and sales are suitable for the client.

### **3.13 Disclosure and information (includes fees, performance statements, etc)**

An investment provider shall take all reasonable steps to ensure that a client, other than an execution-only client, is given sufficient information, which the client is able to understand, to enable the making of balanced and informed investment decisions.

### **3.14 Disclosure of remuneration and commissions**

Before an investment provider undertakes investment transactions for or advises a client, it shall inform the client of all relevant facts relating to its remuneration (including the remuneration of any intermediary which is payable by the client) attributable to the transaction or advice unless it has been specifically agreed with the client that this is unnecessary or has disclosed a detailed fee schedule in the Standard Client Agreement.

### **3.15 Funds: disclosure of particulars**

An investment provider shall ensure that before or immediately after a recommendation is made to buy units in a fund, a client is given or sent a statement, prepared by the recommender or by the fund, which informs the client of details of the fund, which shall include fees or other amounts payable then and in the future and the factors relevant to the ultimate value of the investment.

*Guidance Note – does not apply where an investment provider is acting under the terms of a discretionary management agreement.*

### **3.16 Pension Services: disclosure of fees**

In accordance amendments to pension plan design and provider arrangements, an investment provider shall ensure that fee disclosure practices are re-evaluated on an on-going basis. Fees disclosed should include:



<b>Plan Administration Related Expenses</b>	<b>Investment Related Fees</b>	<b>Pension Commission Related Fees</b>
Set-up Fee	Front-End Load	Registration Fee
Trustee Fee	Annual Management Fee	Annual Filing Fee
Administration Fee	Back-End Load	Plan Amendment Fee
Change of Investment Fee	Custodian Fee	Other Fees
Termination Fee	Other Fees	
Other Fees		

### **3.17 Overcharging**

An investment provider's charges shall not be unfair in their incidence or unreasonable in their amount. They shall be directly related to the circumstances and nature of the services being provided and the disclosed relationship between the investment provider and the client.

### **3.18 Performance: disclosure of information**

Investment providers should ensure that performance information is disclosed in a manner that represents a fair view and data must be accurate, relevant, timely, and complete. In accordance with the provisions set out in the Codes above relating to professional conduct and client relationships, investment providers must guard against any form of misrepresentation in the performance of individual portfolios. The value of client portfolios must be determined utilising fair market values. Where fair-market values for illiquid securities and any other financial instruments cannot be determined from independent third party sources, an investment provider must disclose the policies and valuation methods that have been used to determine such fair value.

Investment providers are encouraged to adopt a globally recognised standard for performance reporting, such as the CFA Institute's suggested industry standard Global Investment Performance Standards ("GIPS").

Portfolio performance must be disclosed based on actual allocation holdings and not on model allocations. If back-dated performance is used in marketing materials such figures should be easily distinguishable from actual data (e.g. highlighting, font, etc) and the effective date of actual performance must be clearly disclosed. All investment performance statistics and

summaries should be accompanied by a disclosure that any past performance is not necessarily indicative of future results.

### **3.19 Track records**

Investment providers must apply a consistent methodology when constructing and presenting composite portfolios for the purpose of reporting track records in accordance with industry standards on. When presenting performance track records, investment providers must clearly disclose whether performance is presented gross or net of fees, as well as the impact on performance due to fees, trading and administrative costs.

### **3.20 Benchmarks**

A benchmark should be a passive representation of a portfolio manager's investment process and should be consistent with the risk tolerance or preferences outlined in the portfolio or fund objectives. Specifically, benchmarks should be:

- unambiguous
- measurable
- appropriate for the manager
- a reflection of the manager's current investment opinions
- specified in advance, i.e., before the manager's performance review period begins

If no benchmark is utilised, investment providers must clearly disclose why there is no appropriate benchmark and how performance can be evaluated.

Changes to a portfolio's benchmark must be clearly disclosed in advance, including the effective dates of all changes and a clear explanation of why the changes were appropriate.

### **3.21 Periodic information and valuation**

An investment provider shall provide the client with a portfolio statement at least quarterly as to the assets held for the account of the client, stating the current valuations and all transactions effected and carried out on behalf of the client during the period covered by the statement.

An investment provider which is managing a portfolio for a client must additionally provide the client with a report at least quarterly as to the actual investment performance of the portfolio, a suitable comparison with the movement of an appropriate benchmark (or market in absence of a benchmark) and any changes in composition of the portfolio. Additionally, investment providers must clearly disclose whether performance is presented gross or net of fees, and clearly disclose the impact on performance due to fees, trading and administrative costs.

### **3.22 Restriction of confidential information**

An investment provider shall establish procedures that restrict the flow of confidential information to those who "need to know" to perform their duties effectively. This can include keeping client files locked and avoiding having open client files in public areas of the office.

## **4 PORTFOLIO MANAGEMENT**

### **4.1 Independence**

An investment provider shall use reasonable care and judgment to achieve and maintain independence and impartiality in making investment recommendations or taking investment action.

### **4.2 Integrity and fair dealing**

An investment provider shall observe high standards of integrity and fair dealing in the conduct of its investment business and shall avoid conflicts of interest.

### **4.3 Unreasonable recommendations**

An investment provider shall not recommend to a client a transaction if the recommendation is motivated largely by the benefits which it may bring to the investment provider, unless the transaction is demonstrably to the client's advantage.

### **4.4 Churning**

An investment provider shall not effect transactions with unnecessary frequency or in excessive size with or for a client for whom the investment provider exercises discretion as to how the client's funds are invested.

### **4.5 Prompt and timely execution**

An investment provider shall act promptly in accordance with its instructions, unless it has been given discretion as to timing and it uses that discretion in an alert and sensible way. Instructions and decisions to buy or sell shall be recorded as soon as taken, with the date and, whenever possible, the time.

### **4.6 Best execution**

An investment provider shall not transact business for a client on worse terms than it would expect to obtain for itself, making allowances for the size of the transaction, except that where an investment provider effects a transaction through another investment provider or a duly licensed investment provider in a country or territory outside Bermuda it may rely upon that person to obtain best execution provided that the person has accepted such arrangements in writing.

#### **4.7 Investment Policy Statement (“IPS”)**

Each investor’s portfolio should start with and be monitored by an Investment Policy Statement (IPS). This states what an appropriate mix will be for the investor dependent upon the specific investment objectives and concerns of the investor.

The IPS must be written and must be provided before monies are invested on behalf of the investor.

Stages in the oversight of an investment policy include:

- (a) Statement of investment return objectives
- (b) Description of investment constraints
- (c) Review of historical return/volatility/correlation data
- (d) Development and (subsequently once in place) adjustment of allocation model
- (e) Monitoring and reporting process

#### **4.8 Asset allocation**

An investment provider should seek to adequately diversify a client’s portfolio and to achieve overall correlation to market cycles whether acting on an advisory or discretionary basis. By incorporating portfolios of different asset class at varying percentages in a portfolio, the provider can adjust potential volatility, relative level of risk and possible return levels. Investment guidance information should include an allocation to each of the three basic asset classes (stocks, bonds and cash or cash equivalents) at proportions appropriate for the particular client risk profile. (See example Disclosure Template, Appendix D).

#### **4.9 Fairness in allocation**

**Where supply of stock or other investments is inadequate to meet demand, the investment provider shall always allocate what it has fairly and uniformly.**

#### **4.10 Market manipulation**

In any activities relating to trading in investments, investment providers must not engage in any market manipulation or any other conduct directly or indirectly with the aim of manipulating market prices of investments.

#### **4.11 Valuation of investments which are not marketable**

Where an investment provider is a portfolio manager and the amount of any remuneration of the investment provider is dependent upon the value of the assets in the portfolio, the valuation of those assets which are not readily marketable or for which information for determining their current value may not be available shall be on the basis of an arm's length valuation which:

- (a) has been prepared by or confirmed as an arm's length valuation by an independent and competent person; or
- (b) has been agreed expressly with the client at the time that a discretionary management agreement is signed.

#### **4.12 Distributions of transactions among clients**

An investment provider shall not allocate or transfer to any client any deal (or part of a deal) in an investment which it entered into as principal unless allocation or transfer was unconditionally decided upon before the deal was done, or the investment has improved in value since the deal and the investment provider is satisfied that the investment is suitable for the client and obtains the benefit of best execution and of the improvement in value.

## **5 CONFLICTS OF INTEREST**

### **5.1 Conflicts of interest**

An investment provider shall avoid conflicts of interest on any matter that could reasonably be expected to impair its independence or objectivity. If conflicts exist or arise, the investment provider shall make full and fair disclosure, and any such disclosure shall be prominent, delivered in plain language, and communicate the relevant information effectively. (See also section 5.4). The investment provider shall establish internal rules or procedures to ensure fair treatment to all its clients.

An investment provider shall not undertake or recommend an investment transaction in which it has a material interest without the prior knowledge of the client.

### **5.2 Front running**

An investment provider, or any party related to it, shall not transact for its own account ahead of fulfilling a previous customer order.

### **5.3 Fairness with research or analysis**

An investment provider shall not:

- (a) deal for itself or a client ahead of the distribution of its own or its associate's research or analysis and with the advance knowledge of anything that might possibly be price sensitive in it; or
- (b) distribute research or analysis containing recommendations from which an investment provider expects to benefit (for example by way of past or future principal transactions or because of a material interest) unless the anticipated source of benefit is disclosed; or
- (c) otherwise behave unfairly in the way in which it acts upon its research or analysis.

### **5.4 Disclosure of conflicts of interest**

Where conflicts of interest between an investment provider and its client are unavoidable, the investment provider shall disclose them fully to the client. (See example Disclosure Template, Appendix F.)

### **5.5 Disclosure of links with an associate**

An investment provider shall not advise a client to use the services of another person who is an associate of the investment provider without disclosing that relationship.

**5.6 Use of Material Non-Public Information**

An investment provider shall not knowingly trade as principal or for its own account, while in possession of material non-public information or act in any other way, on the basis of this information, for personal gain. An investment provider shall not communicate material non-public information to others to allow them to benefit from such information.

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## **6 FUTURES, OPTIONS AND CONTRACTS FOR DIFFERENCES**

### **6.1 Risk warning**

An investment provider shall ensure, before it enters into any transaction in futures, options and contracts for differences with or for a client that the investor receives, signs and returns to the investment provider a risk disclosure statement which shall contain the elements set out in the form specified in Appendix B. However, this shall not apply if the transaction is effected by the investment provider as a discretionary portfolio manager for a client in accordance with provisions agreed between them. (See sections 3.7, 3.8, 3.9)

### **6.2 Contracts to be on-exchange**

A margined transaction on behalf of a client shall only be undertaken through an intermediate broker if that broker is either:

- (a) another investment provider permitted to conduct such activity; or
- (b) a person carrying on investment business outside Bermuda who is required to hold clients' money received in relation to margined transactions in a segregated bank account for that purpose and in his books to credit the client accordingly.

Except with express permission of the client (See Section 3.7), no investment provider shall effect a margined transaction for a client in contracts other than those traded on a recognised investment exchange.

### **6.3 Liability in respect of margins**

An investment provider shall keep daily track of the amount of margin or other requirements which should be paid for each client and shall ensure that any margin payable is required to be deposited in advance in cash or approved collateral, that any deposit on a limited liability transaction is deposited promptly and in cash, and that margin, whenever properly required to be paid, is deposited in cash or approved collateral. The client shall be made aware of the consequences of not paying a margin. Where an investment provider is effecting margined transactions as an investment manager, it shall take steps to clarify with the investment exchange or intermediate broker whether or not the investment provider is responsible for the fulfilment of its clients' obligations. If there is a shortfall, the relevant investment provider should make up the difference until it obtains more cash or collateral from the relevant client. If the investment provider is proposing to lend money to its client for this purpose, its accounting methods shall be adequate to ensure proper records.



## **7 INVESTMENT BUSINESS OVER THE INTERNET**

### **7.1 Delivery of disclosure documents and other information**

Investment providers who use the internet to communicate with and send offering material to shareholders and potential investors must provide the same disclosure about their operations, financial condition and investments that would be provided in a paper-based medium, so that investors can fully evaluate the risk and value of the investment.

Investment providers may deliver the necessary disclosure documents and other information electronically where an investor has given informed consent to this form of delivery.

### **7.2 Communications and customer orders**

Investment providers must continue to satisfy suitability and general conduct requirements when transacting business over the internet.

Investment providers must ensure that their computer networks have sufficient operational integrity (security, reliability, capacity, backup systems and alternative means of communications) and they have adequate personnel to handle internet communications, including trading instructions.

### **7.3 Record-keeping**

Record keeping requirements applicable to investment providers also apply to internet transactions.

## APPENDIX A SAMPLE DISCLOSURE TEMPLATE

### **Risk Profile Letter**

How we conduct Risk Profiling

A N Other

123 Any Street

Some Town

ST21 7QB

Other contact information including telephone numbers, email, website, etc

### **Meetings:**

Understanding risk is difficult. When meeting for the first time we define risk in a way that you the customer will understand. With this in mind we will identify the following areas of the Know Your Customer (KYC) and Risk Profiling process:

- Customer Hard Facts
- Customer Soft Facts
- Analysis
- Investment Options

Variables on initial investment decisions as well as personal circumstances change over time. An Investment Agreement should be completed and signed by both you and us that documents the agreed investment strategy. We recommend that discussion of your risk profile and performance expectations is reviewed and documented at least annually. Beyond the initial review a further review should be carried out when any material changes are made in the investment recommendations.

### **Information gathering:**

Information gathering can take many forms. To provide structure we utilise in an initial meeting a Risk Profile Questionnaire (RPQ) that we use to record client information and begin the building blocks of KYC. This is the beginning of a process that continues throughout the life of the relationship between we, the organisation, and you, its customer. When using a RPQ it is important to gather as much personal key data as possible. The following should be considered a framework to help us build a profile of you, the client.

#### **1. Customer Hard Facts**

- **Personal Details** – Name, Address, Spouse/Partner/Dependents/Children
- **Current Investment Assets** – Cash, Fixed Interest, Managed Funds, Shares, retirement income streams, investment property, other assets and liabilities, insurance.

- **Financial Resources** -- assets, Income vs. Expenditure, long and short term commitments, emergency fund, existing debt, other investments and savings, protection and pension arrangements.
- **Entities** -- e.g. Trusts, Companies Partnerships etc.
- **Tax Status (if applicable)**
- **Objectives** – i.e. purpose of investment: amount sought, income or capital growth, investment timescale, accessibility.

## 2. Customer Soft Facts

- **Financial goals/aspirations/priorities and timescales** -- e.g. fund dependents through university, care for an elderly or sick relative, early retirement)
- **Financial concerns** – why is the customer seeking advice, Investment preferences, ethics, any expected inheritance
- **Personal goals/ aspirations/priorities and timescales** – e.g. career change, house move, holiday home purchase, will and estate
- **Ability to comprehend investment risk** – physical/mental ability to cope with a potential capital loss, has the customer had previous investment experience, how did they feel about market fluctuations gains/ losses

## 3. Analysis

- **Current and projected economic conditions** – inflation, interest rates, investment returns, exchange rates, global outlook.
- **Current & projected investment returns** -- e.g. types of fund, their underlying portfolios, provider/manager strength and performance.
- **Potential impact on customers circumstances resulting from changes in economy/investment returns**

## 4. Investment options

- Minimal capital risk
- Some capital risk
- High capital risk

## Systems & Controls:

We store information from client meetings electronically and backed up with a physical file. It is important to monitor the investment process closely to check that you, the client, stay within the parameters initially agreed. If any material changes are made, we shall review and document these changes accordingly. All clients' hard and soft facts together with investment options are reviewed at least annually.

**Professionalism of Employees:**

We require all client facing staff to be trained appropriately to carry out the Risk Profiling process. They are required to understand the laws and regulations of the industry and what the meaning of risk represents and will communicate such to you, the client.

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**RISK DISCLOSURE STATEMENT**

**DECLARATION**

I hereby declare and acknowledge that the risk of loss in investing in commodity or financial futures, foreign exchange contracts, investments and index contracts and options thereon and any other investment transaction(s) which I may request you to enter into on my behalf can be substantial and that this fact has been duly brought to my attention. I understand the nature of such investment and I have carefully considered whether such investments are suitable for me in light of my circumstances and financial resources. I confirm to you that I am able, financially and otherwise, to assume the risks of such trading. I recognise that guarantees of profit or freedom from loss are impossible and inappropriate in such trading and I acknowledge that I have received no such guarantees from you or from any of your officers or employees and have not entered into this agreement in consideration of or reliance upon any such guarantees or similar representations.

*Optional paragraph which may be included at the investment provider's discretion in those circumstances where the recommendation to purchase futures and options has been made in order to effect an investment strategy which reduces risk.*

[I understand that it is the intention of my investment adviser/manager that futures and options will be purchased on my behalf only to effect an investment strategy of reducing risk. However, I acknowledge that there are inherent risks in the use of these instruments should the investment strategy fail.]

---

Name of Investment Provider

[on duplicate for signature by client]

I have read and understand the risk disclosure statement set out above.

Signature \_\_\_\_\_ Date \_\_\_\_\_

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**APPENDIX C SAMPLE DISCLOSURE TEMPLATE**

**Performance and Valuation Statement**

Sample Summary Sheet

**Client Name**

**Acct #:**

**Performance return for the period ending XXXX**

<b>Description</b>	<b>Current Period</b>	<b>Previous Period</b>
Beginning Value	xxxxxx	xxxxxx
Contributions/Subscriptions	xx	xx
Withdrawals/Redemptions	(xx)	(xx)
Investment Gain/Loss	xxx	xxx
Fee charged	(x)	(x)
Ending Value	<b>xxxxxx</b>	<b>xxxxxx</b>
Rate of Return	X%	X%
Benchmark Return	X%	X%

**Asset Allocation Models**

The following matrix provides examples of typical asset allocation models. Values stated are absolute but could easily be specified as a range (e.g. Conservative could be 80-100% Money Market; 20% Bonds and so on). Similarly the Objective could be named differently so long as the underlying principles are the same.

<u>Objective/ Asset Class</u>	<u>Money Market</u>	<u>Bonds</u>	<u>Equities</u>
Conservative	100%	0%	0%
Moderate	30%	50%	20%
Balanced	10%	40%	50%
Growth	5%	25%	70%
Aggressive	0%	15%	85%



**APPENDIX E SAMPLE DISCLOSURE TEMPLATE**

**FEES AND EXPENSES DISCLOSURE REPORT**

**(Pension Services Provided)**

**Company Name:** XYZ Corp.

**Reporting Period:** January 1 - December 31, 2010

Investment Provider:	Investment		Pension	Total
	Fund Operating Expenses	Front-End / Back-End Loads	Pension Plan Fees & Expenses	
ABC Strategies Fund - Class A	0.65%	2.00%	1.25%	3.90%
ABC Strategies Fund - Class B	0.55%	2.00%	1.25%	3.80%
ABC Strategies Fund - Class C	0.55%	2.00%	1.25%	3.80%
ABC Strategies Fund - Class D	0.70%	2.00%	1.25%	3.95%
<b>Reporting Period:</b>	0.75%	2.00%	1.25%	4.00%

Schedule of Standalone Fees	
	BMD\$
Change of Investment Fee	50.00
Termination Fee	100.00
PC Plan Amendment Fee	500.00
PC Annual Filing Fee	5.00

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**APPENDIX F SAMPLE DISCLOSURE TEMPLATE**

CONFLICTS OF INTEREST DISCLOSURE REPORT						
(Funds / Pension services)						
Investment Provider:				Reporting Period: January 1 - December 31, 2010		
Related Funds				Unrelated / Third-Party Funds		
Fund Name	Ownership / Control <sup>1</sup>	Trailer Fee Rebate	Performance Fee Rebate <sup>2</sup>	Fund Name	Trailer Fee Rebate	Performance Fee Rebate <sup>2</sup>
Fund A	50%	0.75%	5.00%	Fund C	0.70%	5.00%
Fund B	100%	0.00%	0.00%			

**Notes:**

<sup>1</sup> The fund is managed and controlled by ABC Parent Co., an 80% shareholder of ABC Life & Pension Co.

<sup>2</sup> Performance fees are only rebated during periods of exceptional fund performance on the attainment of high-water mark thresholds. No performance fees were rebated during the reporting period.

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**Terms of Business**

(Company Logo, letterhead, etc)

about our services and costs [Note 1-3]

123 Any Street

Some Town

ST21 7QB

Other contact information including telephone numbers, email, website, etc

**1. The Bermuda Monetary Authority (BMA)**

The BMA is Bermuda’s independent financial services regulator. This document is designed to be given to consumers considering buying certain financial products. Investors are advised to read this important document. It explains the service you are being offered and how you will pay for it.

**2. Whose products do we offer? [Note 4]**

We offer products from the whole market. [Note 5] (Select from the following alternative scenarios making amendments as necessary)

- We offer our own products. You can ask us for a list but our recommendation will be made following an analysis of the whole market. [Note 6]
- We can [Note 8] only offer products from a limited number of companies. These include our own products but our recommendation will be made following an analysis of our entire product range. [Note 9] A list of all the companies’ products that we offer will be provided on request [Note 11].
- We [Note 8] only offer products from a single group of companies, [name of single company]. [Note 10] [Note 12]
- [Note 10] We only offer our own products.
- [explanatory text as needed [Note13]

**3. Which service will we provide you with? [Note 4]**

- We will advise and make a recommendation for you after we have assessed your needs.
- You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.
- We will provide basic advice on a limited range of stakeholder products and in order to do this we will ask some questions about your income, savings and other circumstances but we will not:
  - conduct a full assessment of your needs;
  - offer advice on whether a non stakeholder product may be more suitable.

[other explanatory text as needed [Note 14]]

#### **4. What will you have to pay us for our services? [Note 14]**

You will pay for our services on the basis of [Notes 15/16]. We will discuss your payment options with you and answer any questions you have. We will not charge you until we have agreed with you how we are to be paid. **(Select from the alternatives listed below or construct a new category and describe it below).**

- **Paying by fee [Note17]**
  - [explanatory text [Notes 18/19]]
- **Paying by commission (through product charges) [Note 17]**
  - [explanatory text [Notes 20/21]]
- **Paying by a combination of fee and commission (through product charges) [Note 17]**
  - [explanatory text [Notes 23/24]]

#### **Other benefits we may receive [Note 25]**

[explanatory text – this relates to when the licensed entity receives compensation either in cash or in kind from a third party as a direct result of investing client assets into an investment product of that third party [Note25].

#### **5. Who regulates us?**

[ABC Financial Services] [Address] is licensed to conduct Investment Business and regulated by the Bermuda Monetary Authority. Our permitted business is [as specified in the licence].

## 6. Loans and ownership [Note 26]

[XXX ] owns [YY]% of our share capital. [[XXX ] provides us with loan finance of [YY] per year.]  
[[XXX] (or we) have [YY]% of the voting rights in[ZZZ]. [Notes 27-29].

## 7. What to do if you have a complaint

If you wish to register a complaint, please contact us:

**...in writing** Write to [ABC Investment Company], [Attention: xxxxxx, address]  
**... by phone** Telephone [(441) xxx xxx. [Note 30]

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## NOTES

The following notes do not form part of the Terms of Business document:.

### Section 1: The Bermuda Monetary Authority (BMA)

**Note 1,2** – insert the investment provider’s or *appointed representative’s* or *tied agent’s* name. A corporate logo or logos may be included.

**Note 3** – insert the head office or if more appropriate the principal place of business from which the provider, *appointed representative* or *tied agent* expects to conduct business (this can include a *branch*) with *clients*.

### Sections 2-3: Whose products do we offer?

**Note 4** –the provider should select, for example by ticking, one box which is appropriate for the service which it expects to provide to the *clients*. This needs to be done only in relation to the service it is offering to a particular *client*.

### Section 3:

**Note 5** –if a provider indicates that it will be providing *basic advice on stakeholder products* then the first bullet section 2 does not apply as the company will not be doing so on the basis of *personal recommendations* from the whole market.

**Note 6** –a provider should only include these words if it offers whole of market advice and it owns or operates products that fall within the relevant market. Investment providers that are conducting cross border business and holding themselves out as whole of market, should include such free text as is necessary to explain in a way that meets the *fair, clear and not misleading rule*.

**Note 7** – if the Terms of Business *document* is provided by an *appointed representative* or *tied agent*, the service described should be that offered by the *appointed representative* or *tied agent*.

**Note 8** – insert “can” if the provider’s range of products is determined by any contractual obligation. This does not apply where an investment provider is selling its own products.

**Note 9** –a provider should only include these words if it offers limited range advice and it owns or operates products that fall within the relevant range.

**Note 10** – if the provider selects this bullet, it will be offering the products of only one provider to the *client*. It should therefore follow the format specified in (1) below except when offering its own products, in which case it should follow (2) instead. If the company does not select this box, then the text should follow that set out in Note 12 below.

(1) Insert the name of the provider. For example: “We can only offer products from [name of *product provider*]”. If the provider has only one product, the *firm* should amend the text to the singular – for example: “We can only offer a fund investment alternative from [name of provider]”.

(2) If the provider offers only its own products, or is part of a *product provider* offering only the products sold under that party’s trading name, it should use this alternative text.

**Note 11** –this sentence is required only where a provider selects this service option. The list of products will be the range of *packaged products* that is appropriate having regard to the services that the company is providing, or may provide, to the *client*.

**Note 12** –if the provider does not select this option, it should alter the wording to say “a single group of companies”, for example: “We only offer the products from a single group of companies”

**Note 13** –the explanation of whose products the *firm* offers under this section should be fair, clear and not misleading. A *firm* should therefore enter, as explanatory text, such further explanation as is needed of any additional factors that it considers to be relevant.

### **Section 3: Which service will we provide you with?**

**Note 14** –a provider may include here a list of its services or the products on which advice is offered, but if it chooses to do so the list should be *fair, clear and not misleading* and consist of only a factual description in summary form.

#### **For example:**

“We offer a full financial planning service or alternatively can provide specific advice on: savings and investment, protecting yourself and/or loved ones in the event of death, serious illness or disability, retirement planning.”

### **Section 4: What will you have to pay us for our services?**

**Note 14** any reference in this section to “commission” means *commission* and *commissions* equivalent. Providers that are not proposing to give personal recommendations on packaged products can amend this section accordingly. Those companies need not provide information regarding payment



options but should provide at this section at least a statement explaining that the client will be told how much the provider will be paid before the provider carries out any business for the client and honour that undertaking. For example, “We will tell you how we get paid and the amount before we carryout any business for you.”

**Note 15** investment providers should disclose all of the payment options that they will offer to the *client*, from the alternatives of *fee*, commission and/or a combination of both *fee* and commission.

**Note 16** providers holding themselves out as independent are reminded that they are required to offer the *fee* option.

**Note 17** providers should include the headings: “**Paying by fee**”, “**Paying by commission (through product charges)**” and “**Paying by a combination of fee and commission (through product charges)**” that are relevant to the actual payment options being offered. In addition, in accordance with the reference notes, the company should provide an explanation in its own words relating to each option offered.

#### **Additional text to be included under the heading “Paying by fee”**

**Note 18** the text for describing an investment provider’s fee-charging arrangements is not prescribed, but should be clear and in plain language. This should commence with an explanation of the arrangements relating to the payment of *fees*, including any specific provision as to the timing for the payment of *fees*, the circumstances when *fees* will or will not be payable, and the arrangements for any commission paid in addition to *fees*.

For example:

“Whether you buy a product or not, you will pay us a fee for our advice and services, which will become payable on completion of our work. If we also receive commission from the product provider when you buy a product, we will pass on the full value of that commission to you in one or more ways. For example, we could reduce our fee or reduce your product charges or increase your investment amount or refund the commission to you.”

Example alternative text for the contingent *fee*:

“If you buy a financial product, you will pay us a fee for our advice and services but if you do not buy a financial product, you will not have to pay us anything.”

**Note 19** investment providers should give provide numerical statements of the amount or rate of its *fees* and these should be expressed in Bermuda dollars or another appropriate currency, where relevant. A company may describe actual hourly rates where possible or typical hourly rates. If a company describes typical rates it should undertake to provide the actual rate in writing before providing services (and honour that undertaking).

For example:

**“Hourly Rate**

We will confirm the rate we will charge in writing before beginning work. Our typical charges are: Principal/Director/Partner BD\$[XXYY] per hour; Financial Adviser BD\$[XXYY] per hour; Administration BD\$[XX] per hour.”

**“Lump sum**

We will confirm what we will charge you in writing before beginning work. Our typical charges are: Investments up to BD\$[XX: YY]; Investments above BD\$[XX : ZZ].”

**“Reviews**

We will confirm what we will charge you in writing before beginning work. Our typical charges are: Initial review: BD\$[XX]; Annual review: BD\$[YY].”

**“Other**

“We may charge from BD\$[XX] to advise and arrange a personal pension for you. We will confirm what we will charge you in writing before beginning work.”

**General**

“You may ask us for an estimate of how much in total we might charge. You may also ask us not to exceed a given amount without checking with you first.”

**Additional text to be included under the heading “Paying by commission (through product charges)”.**

**Note 20** the text for describing an investment provider’s commission payment arrangements is not prescribed, but should be clear and in plain language. This should commence with an explanation of the arrangements relating to the payment of commission.

**For example:**

“If you buy a financial product, we will normally receive commission on the sale from the product provider. Although you pay nothing to us up front that does not mean our service is free. You still pay us indirectly through product charges. Product charges pay for the product provider’s own costs and any commission. These charges reduce the amount left for investment. If you buy direct the product charges could be the same as when buying through an adviser, or they could be higher or lower.”

**Note 21** the company should provide details of typical commission that might be received by the *firm* that reflect its actual business, together with an undertaking (which the investment provider should honour) to confirm the actual commission that will be received from any investment before the investment is completed. For example, an investment provider that does not have a significant weighting of business in any one area may provide examples showing commission for lump sum investments, whole life and pensions, whereas a pensions specialist may want to illustrate commission based purely on pensions.

For example:

“The amount of commission we receive will vary depending on the amount you invest and (sometimes) how long you invest or your age.”

For example:

“If you invest BD\$[XX] in an prescribed retirement product (PRP) we would receive commission of [Y]% of the amount invested (BD\$[ZZ]) and [AA]% of the value of the fund (roughly BD\$[BB] every year).

If you pay BD\$[XX] a month into a personal pension (with a term of 25 years) then we would receive commission of BD\$[YY].

If you pay BD\$[XX] towards a whole life policy then we would receive BD\$[YY].

We will tell you how much the commission will be before you complete an investment, but you may ask for this information earlier.”

**Note 22** *firms* should indicate whether the commission includes payment for any on going service such as a periodic or ongoing review.

**\* Additional text to be included under the heading “Paying by a combination of fee and commission (through product charges)”**

**Note 23** the text for describing a firm’s arrangements for paying by a combination of fee and commission is not prescribed, but should be clear and in plain language. This should commence with an explanation of the arrangements relating to the payment of fees, including any specific provision as to the timing for the payment of fees, the circumstances as to when fees will or will not be payable, and the arrangements for any commission paid in addition to fees, together with an undertaking (which the investment provider) to confirm the actual commission that will be received from any investments before the investment is completed.

*For example:*

“We will charge you a combination of fee and commission. The fee will not exceed the rates shown in this document. We will agree the rate we will charge before beginning work. The fee will become payable on completion of our work. You may ask us for an estimate of how much in total we might charge. You may also ask us not to exceed a given amount without checking with you first. We will tell you how much the commission will be before you complete an investment, but you may ask for this information earlier.”

“We charge a consultation fee of up to BD\$[X], and, if you buy a financial product, we will also retain commission within the amounts set out in the section headed “**Paying by commission (through product charges)**”.”

“We will charge you a combination of fees and commission. The actual amounts will depend on the service provided to you, but will be in line with the arrangements set out in the sections headed “**Paying by fee**” and “**Paying by commission (through product charges)**”.

“We charge an annual fee as described in the fee information set out above. If we arrange for you to purchase a financial product then we will also retain commission which will be in line with the arrangements set out in the section headed “**Paying by commission (through product charges)**”.”

**Note 24** if an investment provider offer a combination of fee and commission they can either:

- (a) provide the detailed information relating to fees and commission, in which case *firms* should ensure that the information is provided in accordance with the guidance at the relevant Notes;  
or  
(b) include an appropriate statement that refers the reader to the information provided under the headings of “**Paying by fee**” and “**Paying by commission (through product charges)**”.

**Note 25** Providers receiving non-monetary benefits should disclose such benefits in summary form here under the heading “**Other benefits we may receive**”. If a provider does so, it should provide the undertaking to provide further details on request in writing, in this section and honour that undertaking. However, it is not the purpose of this section to provide significant or extensive explanation of non-monetary benefits such that it distracts from the wider purpose of the document.

For example:

“We advise on a range of products from a variety of firms; some of these firms provide us with annual training, which allows us to offer you a better service. This year we expect to receive in total [XX] hours worth of training from XYZ, ABC and DEF firms, predominantly from ABC. Some of the cost of this training may be passed to you as part of the total charges you pay should you choose a product provided by XYZ, ABC or DEF. Further information regarding these arrangements is available on request.”

“ABC firm provides us with a specialised software CDRom and accompanying [XX] hours worth of training per annum. We use this software in processing your details when you apply for an investment product. Some of the cost of this software maybe passed onto you as part of the total charges you pay ABC firm. Further information regarding this arrangement is available on request.”

## **Section 6: Loans and ownership**

**Note 26** –omit this section where there are no relevant loan or ownership arrangements under the following notes.

**Note 27** – insert, in the investment provider’s own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the company which is held by a provider or *operator* of a *packaged product* or by the parent of the provider or *operator*.

**Note 28** – insert, in the investment provider’s own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of a provider or *operator* of a *packaged product* which is held by the investment provider.

**Note 29** – insert, in the investment provider’s own words, a short description of any *credit* provided to the company by a *product provider* (other than *commission* due to the *firm* in accordance with an indemnity clawback arrangement) or by any *undertaking* in the *immediate group* of the *product provider* where the amount of the *credit* exceeds 10 per cent of the share and loan capital of the company.

## **Section 7: What to do if you have a complaint**

**Note 30** –if different to the address in Note3, give the address and telephone number which is to be used by *client* wishing to complain.

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