

CIRCULAR

Date:	16 August 2021	Ref No.:	LRA/ALL/SM-JG/054-21 (Total No. of Pages: 3)
To:	UTMC, IUTA, CUTA, PRS Provider, IPRA AND CPRA (Distributors)		
Attn:	Authorised Representative / Chief Executive Officer / Compliance Officer		

OBSERVATION OF MISCONDUCTS RELATED TO MARKETING AND DISTRIBUTION OF UNIT TRUST AND PRIVATE RETIREMENT SCHEMES

1. As part of the Federation of Investment Managers Malaysia’s (FIMM) efforts in strengthening marketing and distribution controls, we would like to highlight some of the observations emerging from the complaints cases that were made against Unit Trust Scheme (UTS) and/or Private Retirement Scheme (PRS) Consultants (collectively “Consultants”).

A. Marketing and distribution of UTS and PRS schemes by persons not registered with FIMM.

- It has been observed that there are individuals who have only registered for or just passed the FIMM’s Examination but are actively involved in the marketing and distribution activities of UTS and PRS. These individuals have yet to complete their registration with FIMM as UTS and/or PRS Consultants. Examples of such involvement includes promoting specific UTS/PRS product on social media, sharing of pictures of transaction forms being completed for investors, approaching and offering to meet prospect investors to explain specific UTS/PRS product.
- As stipulated under Rule 3.1.1 of FIMM’s Consolidated Rules (FCR), no person shall market or distribute UTS or PRS or **make any arrangement** to market or distribute UTS or PRS unless such person is registered with FIMM in the relevant category of registration as set out in the first column of Appendices 1-A and 1-B of the FCR. Further, Paragraph 4.3(g) of FIMM’s Code of Ethics, 3rd Edition (FIMM’s COE) prohibits Distributors and Consultants from appointing or allowing non-registered persons to market or distribute UTS and PRS.

B. Use of designation, title, or qualification by Consultants without proper authorisation.

- We have also observed through complaints received, referral by the Securities Commission (SC) Malaysia and our social media surveillance on the use of designation, title or qualification such as financial planner', 'financial advisor', 'investment advisor' or 'investment consultant' by Consultants as part of their background profile despite not being registered or licensed by the relevant regulatory bodies.
- In accordance with Paragraph 4.1(h)(a) of FIMM's COE, a Consultant shall not use, or by inference adopt or display, the said designation, title or qualification unless authorised by the relevant regulatory authorities or professional bodies such as the SC or Bank Negara Malaysia (BNM). Additionally, section 59(1) of the Capital Markets and Services Act 2007 stipulates that no person shall hold himself out as carrying on a regulated activity unless he is appropriately authorised with respect to that regulated activity.

C. Consultants investing in or promoting unauthorised or unrecognised investment schemes.

- It has come to FIMM's attention that some of the Consultants are involved in promoting or investing in unauthorised or unrecognised investment schemes/products. In addition, as individuals who are registered with FIMM, the Consultants are prohibited from investing, dealing, facilitating in any investment schemes/products which are not approved or recognised by regulatory bodies including the SC or BNM for distribution in Malaysia.
- Paragraph 4.2(a) of FIMM's COE stipulates that a Distributor and/or Consultant shall not deal in (including introduce, promote, market, distribute or be involved in any way) any schemes or other investment products which are not authorised or recognised for offer or distribution by the securities law.

2. Based on the identified misconducts, we urge Distributors to take the following action:
 - (a) implement or strengthen present controls to curb and prevent the highlighted misconducts by Consultants;
 - (b) create awareness of such misconducts via training to potential/existing Consultants; and
 - (c) send reminder(s) to the Consultants to abstain or cease from committing such misconducts.

3. Please be informed, pursuant to Paragraph 5.1 of FIMM's COE, Distributors or Consultants who fail to comply with any provision of FIMM rules commits a misconduct, which may result in FIMM taking disciplinary or other appropriate action. FIMM would also like to remind that it is the Distributor's responsibility to monitor compliance of their Consultants on the requirements of FIMM rules, the securities laws, guidelines and other relevant laws, including notifying, explaining and conducting the necessary training to their Consultants pursuant to Paragraph 3.19 of FIMM's COE.

4. Should you have any queries related to this circular, please contact FIMM's Legal and Regulatory Affairs Department at enforcement@fimm.com.my.

Thank you.

Yours sincerely,



SAHLAWATI MUSTAFA

General Manager

Regulatory Services Division