

Ethics for Exempt Market Dealers


Presented by Andre Fok Kam, CA, MBA

British Columbia Securities Commission
Registrant Outreach Workshop
March 7, 2013





Agenda

- What is Ethics?
- Ethical Conduct and Conflicts of Interest
- Case Study – Selling Securities of Related Issuers



What is Ethics?

- Ethics and Proper Conduct
- Ethics and Values
- Ethics and Laws
- Ethical Conduct in the Securities Industry



Why Does Ethics Matter?

- Precondition for being allowed to work in the securities industry – the integrity requirement
- A business imperative



IFSE

Statutory Standard of Conduct for Dealers

- (1) A registrant must deal **fairly, honestly and in good faith** with the clients of the registrant.
- (2) A registered
 - (a) dealing representative, or
 - (b) advising representative,of a dealer or adviser must deal **fairly, honestly and in good faith** with the clients of the dealer or adviser.

Securities Rules (British Columbia), section 14

IFSE

SROs' Standard of Conduct

Dealer members of SROs must:

- deal **fairly, honestly and in good faith** with clients
- observe high standards of ethics and conduct in the transaction of business
- not engage in any business conduct or practice which is unbecoming
- not engage in any business conduct or practice which is detrimental to the public interest
- be of proper character and have proper business repute
- have appropriate experience and training

IFSE

Examples of Proper Conduct

- ✓ Understanding the financial circumstances of clients
- ✓ Always making recommendations which are suitable to the client
- ✓ Presenting all investment recommendations fairly and without false or misleading statements
- ✓ Clearly distinguishing fact from comment when making recommendations
- ✓ Protecting the confidentiality of client information



Examples of Improper Conduct

- ✗ Trading in securities without being registered
- ✗ Failing to observe know-your-client and know-your-product requirements
- ✗ Selling products under the accredited investor exemption to clients who do not qualify
- ✗ Handling conflicts of interest inadequately, e.g. not making proper disclosures
- ✗ Not making adequate disclosure when recommending the securities of related issuers
- ✗ Using improper marketing materials



Fiduciary Duty at Common Law

“The courts have consistently shown a willingness to enforce a fiduciary duty in the investment advice aspect of many kinds of financial service relationships.”



Hodgkinson v. Simms (1994) 3, S.C.R. 377



What is a Conflict of Interest?

When your interests are inconsistent with or diverge from those of the client

- Remuneration
- Personal financial dealings with clients, e.g. lending and borrowing
- Complex products
- Selling shares or debt instruments issued by a related company
- Outside business activities



How to Respond to a Conflict of Interest

1. Avoid it.
2. Disclose it.
3. Disclose it and take steps to control it.



Avoiding a Conflict of Interest

How?

- By not doing it

When prohibited by law

- Lending to clients

When very contrary to the interests of the client

- Complex products
- Borrowing from clients



Disclosing a Conflict of Interest

In what circumstances?

- Whenever the client would reasonably expect to be informed

What?

- Nature and extent

When?

- Before or at the time of providing the service
- Give the client enough time to decide knowledgeably whether to go ahead with the transaction



Disclosing and Controlling a Conflict of Interest

Depending on the nature of the conflict, disclosure on its own may be sufficient

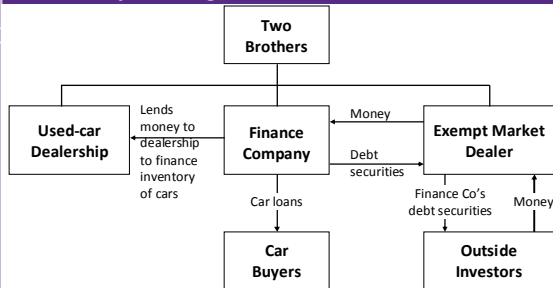
- Remuneration

In more complex cases, disclosure must be accompanied by measures to control the conflict

- Assigning another representative to service the client



Case Study – Selling Securities of Related Issuers



"all one organization... getting cars, leasing cars and financing the leasing of those cars"



For More Information

This presentation is based on *Ethics for EMD Representatives*, a course offered by the IFSE Institute.

Special Price: **\$99 + tax** (until April 30, 2013)
Register at **www.ifse.ca**
Contract: **C-8397**
Password: **bccethics**



Thank you.