



***ASDAA***

**Association of Securities & Derivatives  
Advisers of Australia**

**Code of Conduct and Ethical Standards**

**JANUARY 2016**

The public and the business community have the right to rely on sound financial advice from financial professionals that maintain high standards of service backed by honest and ethical conduct, technical competence and fair dealing.

The Code of Conduct and Ethical Standards reflects the commitment of ASDAA members to deliver the services expected in a competitive environment whilst maintaining a high level integrity.

ASDAA may also issue Code Guidance Notes from time to time, which will serve as explanatory notes for members so that they can have a better understanding of the application of the Code of Conduct and Ethical Standards in their day to day operations.

The Code Guidance Notes are not enforceable, but may be used to assess alleged breaches of professional standards.

The Code of Conduct and Ethical Standards has been developed in consultation with stakeholders and is reviewed periodically to ensure it remains effective and deals with current issues.

Members of ASDAA should inform their clients of the Code of Conduct and Ethical Standards and of their right to report a breach of the Code of Conduct and Ethical Standards to ASDAA.

Breaches of the Code of Conduct and Ethical Standards will be dealt with through the ASDAA Complaints and Disciplinary Program. It is intended that the complaints and disciplinary program is accessible, independent, fair, effective and accountable.

A breach of the Code of Conduct and Ethical Standards includes noncompliance with the rules and guidance of the Code of Conduct and Ethical Standards and for unsatisfactory professional conduct and professional misconduct not specified in the code.

“Professional misconduct” is generally known to be any form of conduct, such as the following:

- conduct in breach of the Financial Services Laws or AFS Licensee’s Internal Policies and Procedures;
- dishonest, fraudulent or corrupt conduct (including offering or accepting bribes etc);
- illegal conduct (including theft, drug sale/use, violence or threatened violence and criminal damage against property etc);
- unethical conduct, or conduct which represents a breach of the standard expected to be upheld by the AFS Licensee generally;
- other improper conduct; and
- any unsafe work-practice.

## **Code of Conduct and Ethical Standards**

The Code of Conduct and Ethical Standards applies to both Full Members and Associate Members of ASDAA. Compliance with the Code of Conduct and Ethical Standards is of a mandatory and enforceable nature.

The Code of Conduct and Ethical Standards is administered by the ASDAA complaints and disciplinary program.

### **1. Observe the Law**

The first priority of members is to obey the law and comply with the ASDAA Code of Conduct and Ethical Standards.

### **2. Honesty and Integrity**

Members shall at all times, promote honest and ethical conduct, including fair dealing and ethical handling of conflicts of interest.

### **3. Compliance**

Members shall at all times, promote compliance with applicable laws, rules and regulations, including the Code of Conduct and Ethical Standards of ASDAA.

Members should disclose to their employer the members' obligation to comply with the Code of Conduct and Ethical Standards.

### **4. Confidentiality and Privacy**

Members shall not disclose any confidential information without the consent of the provider of the information unless required by law.

Members shall at all times maintain the confidentiality of the information where required.

Unless compelled to by law, or as required to fulfil a legal obligation, any person who by reason of their membership in ASDAA or connection with ASDAA is exposed to, learns of or has access to information and knowledge concerning ASDAA and/or members must keep confidential all such information and knowledge and is not entitled to communicate or divulge that information or knowledge or any part thereof.

### **5. Objective**

Members shall at all times, disclose to the client any limitations on the advice they are able to provide and provide adequate information to clients that will allow them to make informed decisions about the advice provided.

### **6. Public interest**

Members shall at all times, act in the interests of their clients, employers and the public. Members must be honest and otherwise not engage in conduct that would bring the profession into disrepute.

## **7. Competence**

Members shall at all times, maintain the knowledge and skills to competently provide the authorised financial services and financial advice.

Members shall take reasonable action to comply with ASDAA Training Standards, including the continuing professional development requirements.

Members must not claim to be competent in areas they are not.

## **8. Provision of advice**

Members shall offer advice only in those areas in which the member is competent. In areas where the member is not professionally competent, the member shall refer clients to other parties competent to provide such advice.

## **9. Conduct**

Members must not engage in misleading, deceptive, dishonest or fraudulent conduct or induce another person to engage in misleading, deceptive, dishonest or fraudulent conduct.

## **10. Representing ASDAA**

Members shall not misstate their authority to represent ASDAA. Specifically a member shall not write, speak or act in such a way as to lead another to believe that the member is officially representing ASDAA, unless the member has been duly authorised to do so by the officers, directors or regulations of ASDAA.

## **11. Acting in the clients' best interest**

Members shall at all times, when providing personal advice to retail clients, act in the best interests of their clients, provide appropriate advice, warn the client if advice is based on incomplete or inaccurate information, and prioritise the client's interests.

## **12. Duty to Follow Client Instructions and Order records**

Members shall at all times carry out their client's lawful instructions exactly. Members shall at all times maintain sufficient records demonstrating the audit trail.

## **13. Disclosure Statements**

Members shall at all times ensure that they provide to clients all disclosure documents (including, as applicable, the Financial Services Guide, Statement of Advice and Product Disclosure Statement) as required by law and such documents must meet the minimum requirements defined in the law.

Members shall at all times promote full, fair, accurate, timely and understandable disclosure.

#### **14. Remuneration**

Members shall at all times disclose any commission and fee arrangements to clients prior to providing services.

Members shall at all times comply with the conflicted remuneration requirements and seek client authorisation (if required by law) for commission and fee arrangements.

#### **15. Conflicts of Interest**

Members shall at all times ensure that they have identified all actual, apparent and potential conflicts of interest and have appropriate systems and processes in place to manage the identified conflicts of interest.

Members shall ensure that they either avoid or disclose the conflict of interest that may affect the advice provided to the client or affect the manner in which the client acts on that advice.

When making a disclosure, the member should reasonably ensure that the client is adequately informed about the conflict of interest. Disclosure should not reveal “inside information” or other commercially sensitive or confidential information.

#### **16. Marketing activity**

Members who engage in unsolicited contact must ensure that the client knows the identity of the person making the approach.

Members must ensure that advertising and marketing material is not false, misleading or deceptive. ASIC [RG234](#) defines good practice guidance which Members must adopt when promoting their business.

#### **17. Breach reporting requirement**

Members shall assist with the identification and addressing of wrongdoing and incompetence in the profession and agree to co-operate with ASDAA and/or any regulatory authority as required by law.

Members shall work together to maintain the reputation of ASDAA by actively reporting any potential or actual wrongdoing or illegal conduct to the appropriate regulatory authority and/or to ASDAA.

Members shall report to ASDAA details of any investigation into their activities commenced by a regulatory body or any other professional body that it is a member of.

Members shall co-operate with ASDAA in all aspects of any investigation or compliance review as authorised pursuant to the Constitution and regulations of ASDAA.

## **18. General reporting requirement**

Members shall at all times co-operate to serve the objectives of the Code of Conduct and Ethical Standards. Members must ensure all reports and returns required by ASDAA are produced accurately, honestly and when required, and that the reports and returns are true and correct.

## **19. Complaints**

Members shall at all times ensure that they comply with the complaints handling policies and procedures defined by the AFS Licensee that has authorised them, including but not limited to the AFS Licensee's internal dispute resolution system and external dispute resolution scheme.

## **20. Money Laundering and Terrorist Financing**

Members must comply with the lawful policies and procedures of the AFS Licensee that has authorised them and the laws for the prevention and detection of money laundering and terrorist financing.

Members should only accept a person or legal entity as a client where their identity is known and the appropriate legal and compliance checks have been performed.

## **21. Record keeping and inspection**

Members shall ensure that information and relevant documents given to or gathered by the member are securely stored at all times and are available for inspection by the client, an ASDAA representative or any person as required by law, when required. Such records shall be retained for seven years (or longer if required by law) from the date the document was last acted upon.

## **22. Discrimination**

Members must not discriminate or take other adverse action against a person who discloses illegal conduct or a breach of the code.

## **23. Material Changes**

Members shall advise ASDAA within two business days of any material change to the authorisation given to them by an AFS Licensee.

## **24. Entertainment and Gifts**

Members must not offer or seek inducement for business. However, infrequent and low value gifts and entertainment may be offered or accepted where inducement is not intended or unlikely to be perceived to be an inducement.

## **25. Professional Indemnity Insurance**

Members must annually confirm that either they or the AFS Licensee that has authorised them hold and maintain professional indemnity insurance as prescribed by the law.