



## **CMDA Policy Statement 8/99**

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# **Investment Adviser Licensing**

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### **Subject**

The Authority has considered the matter of 1) clarifying which specific activities require licensing as an investment adviser under the “carrying on the business of advising others concerning securities” provision of the Capital Markets Development Act, 1996 (“Act”), and 2) further clarification of the meaning of “carrying on the business”.

### **Discussion**

The definition of what constitutes an investment adviser in the Act has three parts. Section 2 defines “investment adviser” to mean persons who:

- (a) Carry on the business of advising others concerning securities
- (b) Issue or promulgate analyses or reports concerning securities
- (c) Pursuant to a contract or arrangement with a client, undertake on behalf of the client the management of a portfolio of securities for the purpose of investment.

Part (a) appears to be so broad that it could be interpreted to include the activities of brokers and dealers as well as certain professional experts and advisers and therefore require them to be licensed as investment advisers. However, there are numerous kinds of matters that could involve “advising others concerning securities” not all of which require licensing as an investment adviser under common international standards. Also internationally common is to exempt or not apply the licensing requirement to licensed brokers and dealers and certain professional advisers, i.e. solicitors and accountants, who give investment advice under limited circumstances.

### **Policy**

Accordingly, the Authority has adopted the following policies with respect to investment adviser licensing:

1. “It is the policy of the Capital Markets Development Authority to require all persons who carry on the business of advising others concerning:
  - a) the purchase or sale of securities,
  - b) the exchange of securities,
  - c) the solicitation of offers to purchase, sell, or exchange securities, and
  - d) securities issue management including pricing of securities,

to be licensed as investment advisers.

Persons who carry on the business of issuing or promulgating analyses or reports concerning securities, or undertake on behalf of a client the management of a portfolio of securities for the purpose of investment, pursuant to a contract or arrangement are also required to be licensed.”

2. “It is the policy of the Capital Markets Development Authority to not require licensed brokers and dealers, solicitors and accountants who give investment advice solely incidental to the practice of their professions to be licensed as investment advisers. Solely “incidental” means that the advice provided is an incidental part of their overall services, no separate or distinct fee is charged for the advice, and no commissions or other remuneration is received from issuers of securities or other brokers, dealers or investment advisers relating to the offer, sale, exchange or solicitation of offers to buy, sell or exchange securities.

Solicitors, accountants and other persons who carry on a business of advising others concerning the purchase or sale of securities, the exchange of securities, the solicitation of offers to purchase, sell, or exchange securities, securities issue management including pricing of securities, must be licensed as investment advisers.”

3. “It is the policy of the Capital Markets Development Authority to define ‘carrying on the business’ as it applies to investment advisers and licensing to mean acting for compensation and with systematic repetition and continuity.”

Please contact the Capital Markets Development Authority staff on phone no. 330-4944 if you have questions or need clarification with respect to licensing requirements.

**Capital Markets Development Authority**  
**12 November 1999**