



## **CMDA Policy Statement 3/99**

Amended on 30 July 2001 (26/4/07- This Policy Statement is currently being reviewed. Reviewed version should be available by 31 May 2007)

# **Brokers and Representatives**

## **CMDA Policy Statement 3/99**

### **Brokers and Representatives**

**Subject:**        **MARKET ORDERS**

**Background:**

The Authority has received indications that there may be confusion among brokers and representatives as to the application of CMDA requirements regarding placing and execution of customer buy/sell orders for securities in the market. Accordingly, this Policy Statement is being issued to clarify the Authority's views in respect of the Act, Rules and Regulations thereunder.

**Requirement:**

Under the Broker Conduct Guidelines adopted by the Authority pursuant to Rules 17 and 18 of the CMDA Rules, 1997 and Regulation 22 of the CMDA Regulations, 1997, brokers and their representatives are explicitly required to provide the best execution possible for customer orders to buy and/or sell securities. When a broker and its representative accept a firm order (i.e. specific security, number of shares, and price) from a customer, they are obliged to place the order in the market immediately or at the first opportunity. This generally means no later than the first call market session immediately following acceptance of the order.

**Policy:**

It is the Authority's view that, subject to the exceptions listed in (a) and (b) below, any order withheld from the market beyond the first call market session following acceptance of the customer order constitutes a violation of the Broker Conduct Guidelines. Further, such order withholding, for whatever reason, may raise questions with respect to the anti-fraud provisions of Section 46(5) of the CMDA Act, 1996. The exceptions to this policy are:

- (a) Where the client specifically instructs the broker otherwise; and
- (b) Where the client places a discretionary order and the broker acts on this basis.

In respect of (b), the Authority is of the view that clients must positively and clearly indicate their intention for an order to be discretionary to avoid any confusion or future dispute. Thus, the Authority would view as unacceptable the mere inclusion of a term on the order form that "All orders are discretionary unless otherwise indicated". In this case, the Authority would require that the client specifically indicate acceptance of the term. This could be achieved, for example, by requiring the client to sign in a space, or check an "acceptance" box, next to the term.

Furthermore, the client should clearly indicate on the order form the limits of the discretionary order, for example, by stating the maximum or minimum price for a buy and sell order respectively.

In all cases, due care and diligence in handling customer orders must always be exercised to ensure prompt, best execution and market visibility. Please contact the Capital Markets Development Authority staff on phone no. 3304944 for further information or clarification of any questions you may have regarding this Policy Statement.

**Capital Markets Development Authority**

**7 June 1999**