

# Code of Qualification and Conduct for Registered Service Providers of MUFAP

## 1. Introduction

The following are mandatory requirements issued by Mutual Funds Association of Pakistan ("MUFAP") for those interested in registering as Distributors for the marketing and distribution of mutual funds in accordance with Regulation 38(k)(i) of the Non-Banking Finance Companies and Notified Entities Regulations, 2008 as amended from time to time. MUFAP may also make changes to these requirements as and when necessary. This Code is binding on all asset management companies and distributors.

## 2. Definitions

Unless the context requires otherwise, words or expressions contained in this document shall have the following meaning assigned to them. Words in the singular shall include the plural and vice versa; words importing the masculine gender shall include the feminine gender and words importing persons shall include bodies corporate.

- i. "Asset Management Company" or "AMC" means an NBFC licensed by the Commission to provide asset management services (i.e. to undertake, on behalf of a person or group of person(s) the management of a portfolio of securities for the purposes of investment); An AMC can also be referred to as "Management Company" "MC";
- ii. "Associated Companies" and "Associated Undertakings" means any two or more companies or undertakings, or a company and an undertaking, interconnected with each other in the following manner, namely:-
  - If a person who is the owner or a partner or director of a company or undertaking, who, directly or indirectly, holds or controls shares carrying not less than twenty per cent of the voting power in such company or undertaking, is also the owner or partner or director of another company or undertaking, who directly or indirectly, holds or controls shares carrying not less than twenty per cent of the voting power in that company or undertaking; or
  - If the companies or undertakings are under common management or control or one is the subsidiary of another; or
  - If the undertaking is a modarba managed by the company; and a person who is the owner of or a partner or non-independent director in a company or undertaking or, who so holds or controls shares carrying not less than ten per cent of the voting power in a company or undertakings, shall be deemed to be an "associated person" of every such other person and of the person who is the owner of or a partner or non-independent director in such other company or undertaking, or who so holds or controls such shares in such other company or undertaking;

Provided that shares shall be deemed to be owned, held or controlled by a person if they are owned, held or controlled by that person or by the spouse or minor children of the person:

Provided further that-

- Directorship of a person or persons by virtue of nomination by the Federal Government or a Provincial Government or a financial institution directly or indirectly owned or controlled by such Government; or
- Shares owned by NIT or a financial institution directly or indirectly owned or controlled by the Federal Government or a Provincial Government [or shares registered in the name of a central depository where such shares are beneficially owned by the depository];

shall not be taken into account for determining the status of a company or undertaking as an associated company or associated undertaking;

- iii. "Client" means investor in the mutual funds and voluntary pension schemes;
- iv. "Code" means the Code of Ethics and Standards of Professional Conduct for the mutual fund industry and voluntary pension schemes issued by MUFAP and includes this Code of Qualification and Conduct for Registered Service Providers;
- v. "Collective Investment Scheme" or "CIS" means a Closed End Fund and an Open End Scheme;
- vi. "Commission" means the Securities and Exchange Commission of Pakistan established under the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);
- vii. "Dealing in mutual funds" or "distribution of mutual fund units" means marketing and distribution of mutual fund units, voluntary pension scheme units, investment plans, income payment plans and the like;
- viii. "Distribution Company/ Institutional Distributor" means a company, firm or a bank registered with MUFAP as Registered Service Provider for performing the distribution function;
- ix. "Distribution Point" means any registered branch, registered outlet or any other registered premise of the Distributor used as a distribution channel for the purpose of marketing and distribution of mutual fund units;
- x. "Eligible Persons" for the purposes of determining eligibility to be registered as Distributor include eligible individuals, firms and institutions as mentioned in Clause 3 of these Guidelines and "Eligible Person" shall mean any one of them.
- xi. "Individual Distributor" means individuals, who have passed the requisite certification examination conducted by an organization approved by the Commission for this purpose and who are duly registered with MUFAP as Registered Service Providers;
- xii. "Pension Fund" as defined under Voluntary Pension System Rules, 2005 means a fund made up of sub-funds created from the contributions paid by the participants and would consist of all the assets for the time being held or deemed to be held by sub-funds and includes all income or investment returns thereon but excludes fees, charges and expenses related to the management of the investments of sub- funds;
- xiii. "Pension Fund Manager" as defined under Voluntary Pension System Rules, 2005 means an asset management company or a life insurance company duly authorized by the Commission

to efficaciously manage the contributions made by or on behalf of participants in pension fund and meet such other conditions as may be prescribed from time to time by the Commission;

- xiv. "Registered Service Provider" or "Distributor" means Distribution Company/ Institutional Distributor and Individual Distributor(s) as defined in Clause viii and xi above which apply for and are registered as Registered Service Providers with MUFAP.
- xv. "Related Party" means Associated Companies and Associated Undertakings of the Registered Service Provider.
- xvi. "Restricted List" means the category of clients on which the Registered Service Providers shall not be entitled to receive any management fee sharing or any other compensation. This List shall be updated from time to time by MUFAP with the approval of its Board of Directors.

### **3. Eligibility**

- i. The following persons, institutions, corporations and organizations are considered as "Eligible Persons" by MUFAP:
  - a. An individual as mentioned in Clause 2(xi) above;
  - b. a bank or development finance institutions (DFIs) licensed or deemed to be licensed under the Banking Companies Ordinance, 1962;
  - c. a dealer registered under the Brokers and Agents Registration Rules, 2001;
  - d. a NBFC registered under the Non Banking Finance Companies & Notified Entities (NBFC & NE) Regulations, 2008;
  - e. any other firm registered as sole proprietorship, partnership or company with a valid NTN number and a registered office.
- ii. The Eligible Persons which intend to market and distribute mutual fund units on behalf of an "AMC" or a "CIS", must first register as a Registered Service Provider with MUFAP, prior to signing of the distribution agreements with the AMC/CIS.
- iii. All existing distributors (both Institutional and Individuals) working for AMCs who haven't registered, must register with MUFAP immediately after the notification of this Code and all AMCs must ensure that their Distributors are registered with MUFAP.
- iv. They must meet the fit and proper criteria prescribed by MUFAP, which is listed below, and which may be amended from time to time.
- v. They must provide an undertaking that they will follow this Code and the Code of Ethics of prescribed by MUFAP from time to time (given as Annexure – II to the Code of MUFAP's website). The current code of ethics for this purpose is listed below.
- vi. They will ensure that they (for individuals) and/or their staff (for institutions) designated to perform the distribution function have received proper certification to undertake selling activity by clearing the required certification exam. All existing Registered Service Providers must ensure that compliance with Circular 35 of 2009 of the Commission is achieved latest by December 31, 2012.

- vii. They must conduct appropriate background checks of their employees and ensure:
  - a. Two satisfactory references are received,
  - b. They have not been removed from the service for misconduct, and
  - c. No past criminal record of the employee.
- viii. They must provide an undertaking that they are not prohibited under law from carrying out the business of distribution and selling.

#### **4. Fit and Proper Criteria**

The onus is on each relevant institution/ individual to establish that it or he/she is a fit and proper person as defined in this Code. Each Registered Service Provider shall submit an annual Fit and Proper Criteria Questionnaire along with the annual renewal form, certifying that they are meeting the fit and proper criteria.

The existing Registered Services Providers must ensure compliance with the Fit and Proper Criteria by December 31, 2012.

At the time of registration process and annual renewal thereof, MUFAP shall undertake a due diligence process to satisfy 'fit and proper' criteria that incorporate, amongst others, the following factors:

For Institutions:

1. Experience and proficiency in the business.
2. Record of regulatory/ statutory levies, fines and penalties, legal suits, customer compensations made; causes for these and resultant corrective actions taken.
3. The company is not in default of payment of dues owed to any financial institution (as per latest Credit Information Bureau report and/or declared by a court of competent jurisdiction as defaulter in repayment of loan) and/or has not been declared as defaulter in payment of any taxes as an organization.
4. The CEO/ Head of Distribution Function to have at least five (5) years of relevant experience in the financial markets.
5. Key personnel: In compliance with Circular 35 of 2009 as amended from time to time, entities should have at least two persons or 20 percent of their employees (whichever is higher) who have acquired the required certification from such organization as approved by Commission for this purpose.
6. The applicant must have adequate infrastructure to enable it to discharge its functions as a Distribution Company.

For Individuals (and CEOs/Head of Distribution Function for Institutions):

1. Competence and Capability;

- i. He/She must have adequate professional qualification and at least 5 years of relevant experience in the financial markets and have received proper certification to undertake selling activity by clearing the required certification examination from such organizations as approved by Commission for this purpose and have minimum qualification as prescribed.
- ii. He/She should have their names borne on the register of national tax payers (i.e. have a valid NTN number).

## 2. Honesty, Integrity and Reputation;

- i. He/She has not been convicted of any criminal offence, particularly offences of dishonesty, fraud/forgery, financial crime, embezzlement, money laundering, or other offences under legislation relating to banking, NBFCs and financial services;
- ii. He/She has not been subject of any adverse findings or any settlement in civil/criminal proceedings particularly with regard to investments, financial/business, misconduct, fraud, formation or management of a body corporate etc. by the Commission or any other regulatory or professional body or government agency;
- iii. He/She has not contravened any of the requirements and standards of regulatory system or the equivalent standards of requirements of other regulatory authorities, which would adversely reflect on the above areas.
- iv. He/She has not has entered into a plea bargain arrangement with the National Accountability Bureau;
- v. He/She has not been removed/ dismissed in the capacity of an employee, director/ chairman on account of financial frauds, moral turpitude, misconduct and misappropriation of funds.
- vi. No material adverse reports, from past employers of the person, if applicable.

## 3. Financial Soundness

- i. He/She has not been in default of payment of dues owed to any financial institution (as per latest Credit Information Bureau report and/or declared by a court of competent jurisdiction as defaulter in repayment of loan) and/or has not been declared as defaulter in payment of any taxes in individual capacity or as proprietary concern.
- ii. He/She has not applied to be adjudicated as an insolvent and his application is pending;
- iii. He/She has not been declared a defaulter by a stock exchange.

## 5. Application Submission

The requisite forms (given as Annexure – I to the Code of MUFAP's website) need to be filled by the Individual Distributor(s) and Distribution Company(s) / Institutional Distributor(s) at the time of submission of application to MUFAP to be approved as a Registered Service Provider.

## 6. Restrictions

While the scope of work shall be a part of the distribution agreement between every Registered Service Provider and the respective AMC, the following clauses shall be applicable to all Registered Service Providers and mandatory to be implemented by the AMCs.

- i. The Registered Service Providers will not share directly or indirectly commission/management fee in any form with their clients (unit holders of CIS) including through temptation of rebates/ gifts, kick backs with clients or any Related Party(s) etc.
- ii. The Registered Service Providers shall not be entitled to receive any management fee sharing or any other compensation on its own investments in any CIS.
- iii. The Registered Service Providers shall not be entitled to receive any management fee sharing or any other compensation, in case of category of clients that are stated in *Restricted List* which is listed below. This List shall be updated from time to time by MUFAP with the approval of its Board of Directors.

## 7. Restricted List

- a) Banks;
- b) Development Finance Institutions (DFIs); and
- c) Related Party(s) of Registered Service Providers.

The above Restricted List does not include the retirement funds of the entity and excludes all individuals (namely employees, directors, sponsors of the RSPs) and are pertaining to the corporate investments only. The Restricted List shall become applicable from July 1, 2012 and all AMCs and Registered Service Providers must comply with the same.

## 8. Annual Renewal & Undertaking

- i. MUFAP's approval as a Registered Service Provider will be subject to annual renewal. The first registration period shall be from the date of approval/date of notification of this Code upto December 31 of that year and subsequently shall be from January 1 to December 31.
- ii. The application form for renewal must (given as Annexure – I to the Code and available on MUFAP's website) be submitted along with the undertaking as required in point 7 (iii) below (given as Annexure - II to the Code and available on MUFAP's website), fit and proper criteria questionnaire as required in point 7 (iv) below and prescribed processing fee (given as Annexure – III to the Code and available on MUFAP's website).
- iii. The Registered Service Provider shall submit on an annual basis an undertaking to MUFAP for the first period at the time of notification of this Code and subsequently along with the application for renewal, confirming that it has not shared and will not share any commission/ fee received from AMCs with its clients (unit holder of the CIS), that it has not claimed or received and will not claim any management fee sharing or remuneration from any asset management company in respect of issue of units to its Related Party and it is observing the Code of Qualification and Conduct for Registered Service Providers, Code of Ethics and Commission's directive issued in this respect in letter and spirit. Such undertaking

may also be provided to the AMCs. This undertaking is required to be certified/ verified by its Auditor (except in case of partnership firms, individuals, Banks, companies licensed by the Commission for example NBFCs). (Please see in Annexure II, template and text for the undertaking).

- iv. Each Registered Service Provider shall submit an annual Fit and Proper Criteria Questionnaire along with the annual renewal form, certifying that they are meeting the fit and proper criteria. For Institutional Distributors, the fit and proper criteria shall also be submitted by the CEO/Head of Distribution.

## **9. Reporting and Disclosure of Information**

- i. Registered Service Provider are required to provide other information, in addition to the list specified herein, as requested by MUFAP from time to time which may include but is not limited to the following:
  - a. full statistical information on mutual fund units marketed, including but not limited to the sales, redemptions, and holding of units;
  - b. amount distributed to retail and corporate investors;
  - c. any other matter relating to the Registered Service Provider's business whether carried out locally or elsewhere as MUFAP may require from time to time;
- ii. It is the responsibility of the Registered Service Provider to notify MUFAP within (10) ten working days of any such changes occurring.

## **10. Complaints and Non-Compliance**

- i. MUFAP reserves the right to impose any or combination of the actions specified below for any repeated abuse of this Code or for reasons mentioned further in this section.
  - a. Private reprimand (between MUFAP and Registered Service Provider);
  - b. Public reprimand (Communication of misconduct to all member institutions of MUFAP and disclosed on MUFAP's website);
  - c. Suspension of membership; or
  - d. Revocation of membership.
- ii. If an AMC has an issue or some concerns with a third party research report, the AMC can report the matter to the MUFAP secretariat who will then take up the issue with the concerned entity and try to address the issue. The information in such reports about the returns of the respective funds shall strictly be taken from MUFAP's website and no other source. In case a Fund has not provided its Net Asset Value (NAV) to MUFAP for calculation of its returns, the Registered Service Provider will not look for other source but will request such fund manager to post its returns on MUFAP's website.

If the AMC becomes aware that the Registered Service Provider is sharing/ has shared commission received from AMCs with its clients (any unit holder of any CIS), or claimed management fee sharing or remuneration on issue of units to Related Party or any non - compliance by any Registered Service Provider of the Codes herein, the AMC shall immediately report the same to MUFAP.

- iii. On its own or on receipt of the written complaint from the AMC, MUFAP will take the following actions:

- iv. The MUFAP secretariat will analyze the complaint
  - a. In case of a Minor infraction, MUFAP will write a letter to the Registered Service Provider for rectification of the infraction.
  - b. In case of a Major infraction, MUFAP will provide a chance to the concerned entity to have its side of the story heard, and if found unsatisfactory, it will immediately suspend the registration and proceed to de-register the entity, which will require approval of the Board of Directors of MUFAP.
- v. In case the Registered Service Provider fails to submit an undertaking as required in point 7 (iii) and/or fit and proper criteria questionnaire as required in point 7 (iv), MUFAP may provide one chance to the concerned entity to rectify the same and if Registered Service Provider fails to provide the same, MUFAP will immediately suspend the registration and proceed to de-register the entity.
- vi. When a Registered Service Provider is de-registered, the Registered Service Provider shall have the right to appeal for reconsideration to the Board of Directors against the de-registration.
- vii. When a Registered Service Provider is de-registered, MUFAP will place a notice of de-registration on its website and will also send a notification to all AMCs informing them of the deregistration of the said entity as a MUFAP Registered Service Provider.
- viii. In addition to the above, automatic suspension or expulsion can also be imposed if:
  - a) the Registered Service Provider has been found guilty for any offences by the court of law;
  - b) It is under liquidation;
  - c) It has wrongfully declared information in the application for registration as Registered Service Provider; or
  - d) any other circumstances which require MUFAP to act to protect the interest of the unit holders and/ or to protect the integrity of the industry, subject to MUFAP Board approval.

## **11. Rejection of Application**

- i. An application by any potential entity to be approved as a Registered Service Provider will be rejected in the event that the applicant does not satisfy any of the requirements as provided under this Code or failure of the applicant to furnish other supporting documents as may be required by MUFAP to support such application or for any other reason that MUFAP Secretariat may consider appropriate.
- ii. Appeals against rejection of application:  
In the event that the application by any potential entity to be approved as a Registered Service Provider has been rejected by MUFAP Secretariat, the concerned applicant can submit a request to MUFAP Board of Directors for reconsideration.

## **12. Disclaimer**



MUFAP, its Board of Directors or any of its staff shall not be responsible for any loss, damage, cost and expenses incurred by entities due to any reason whatsoever who either wish to be approved as Registered Service Providers by MUFAP as well as those are already approved as such by MUFAP, including but not limited to the following:

- a) the registration, renewal of registration, non-registration, non-renewal of registration or de-registration with MUFAP;
- b) failure to obtain any approval from Commission or other relevant authorities and
- c) delay in the processing of any application form submitted to or by MUFAP for itself or on behalf of any third party.

The registration of a Registered Service Provider by MUFAP does not make MUFAP, its Board of Directors or any of its staff liable for any action or wrongdoing by Registered Service Provider or loss to the investors as a result of any action / inaction of Registered Service Provider.

# Code of Ethics for Registered Service Providers of MUFAP

## A. The Codes

### i. Professionalism

Registered Service Providers ('RSP') shall conduct their business in a professional manner, ensuring that, where applicable, they themselves and their staff are thoroughly knowledgeable in all areas and aspects of the mutual fund industry

### ii. Integrity

RSP and their staff, in the conduct of their business shall observe high standards of integrity and fairness in all dealings with investors, issuers, market intermediaries, other members, and regulatory and other government authorities.

### iii. Confidentiality

RSP shall respect and preserve the confidentiality of their investors or clients and the different AMCs with whom they form any contractual agreement. However in the event where a relevant authority requests the agreement to be disclosed, the parties may do so or where such disclosure has been expressly authorized in writing by such investors or clients or AMCs.

### iv. Dignity

RSP shall not make any defamatory, derogatory or disparaging statements against the mutual funds, officers or practices of another AMC or RSP.

RSP shall ensure that complaints and criticism, if any, are forwarded to the Commission, MUFAP or any other relevant authority in a professional manner.

### v. Objectivity

RSP shall be objective in providing advice to investors and clients on the mutual funds and pension funds. Objectivity requires honesty and impartiality. RSP shall not denigrate any mutual funds directly or by implications. Their advice should be based on client's financial needs and goals and should not be commission driven.

### vi. Fiduciary Duties

RSP who take custody of all or any part of an investor's assets for investment purpose, shall do so with the degree of care required of a fiduciary.

## **B. Standards of Professional Conduct**

### i. Compliance with Laws

RSP shall establish and maintain written policies and procedures for the effective control and conduct of its business and the activities of their officers and to ensure compliance with the rules, regulations, directives issued by the Commission, the Code and all other relevant laws, guidelines, orders, directives and policies issued, drawn up or imposed by any relevant authority including, but not limited to the Commission and MUFAP.

They must obtain and at all times maintain all authorization, licenses and registrations necessary for the purpose of marketing and distribution of mutual funds.

### ii. Co-operation with Governmental Bodies

RSP shall be bound by MUFAP's Code of Conduct and shall comply with all the directions and rulings on ethics and standards issued by the MUFAP and the Commission from time to time.

### iii. Professional Selling Practices

RSP shall endeavour to:

- i. Provide full and latest information of schemes to investors in the form of offer documents, performance reports, fact sheets, portfolio disclosures and brochures, and recommend mutual funds appropriate for the client's situation and needs;
- ii. Highlight risk factors of each mutual fund, avoid misrepresentation and exaggeration, and urge investors to go through offer documents/ key information memorandum before deciding to make investments;
- iii. Disclose all material information related to the product in prospecting new deals;
- iv. Abstain from indicating or assuring returns in any type of scheme, unless the offer document is explicit in this regard;
- v. avoid commission driven malpractices such as encouraging over transaction or churning to earn higher commissions.

## **Annexure I - Application and Renewal Forms**

As available on MUFAP's website.

**Annexure II - Text of undertaking required to be submitted by Registered Service Provider**

As available on MUFAP's website.

**Annexure III - Prescribed Processing Fee - for first time application and annual renewals**

As available on MUFAP's website.