

FSC Guidance Note No. 10.00



Soft Dollar Dealing

July 1999

Main features of this Guidance Note are:

- **to specify the principles to be adopted in relation to the conduct of Soft Dollar transactions;**
- **to provide guidance in the interpretation and application of those principles;**
- **to standardise the practices and procedures relating to the conduct of Soft Dollar Dealing; and**
- **to specify the basis of proper disclosure of such Soft Dollar transactions.**

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1 Title

1.1 This Guidance Note may be cited as FSC Guidance Note No. 10.00 'Soft Dollar Dealing'.

2 Guidance Note and Commentary

2.1 The guidelines set out in this Guidance Note are shown in bold print. Commentary is shown in normal print immediately after the guideline to which it relates, as an aid to interpretation of the guidelines.

3 Date of Issue

3.1 19 July 1999

4 Effective Date

4.1 This Guidance Note should be applied in relation to an FSC Member's operations on or after 1 August 2000. Earlier application of this Guidance Note is permitted and encouraged.

5 Application

5.1 This Guidance Note should be applied by the Investment Manager.

5.2 Where there is a conflict between the requirements of this Guidance Note, applicable legislation, and the Constitution of a Scheme, the requirements of this Guidance Note should, having regard to the purpose of the Guidance Note, be modified appropriately so that, as far as is practicable, the Operator complies with the requirements of this Guidance Note.

6 Statement of Purpose

6.1 **The purpose of this Guidance Note is:**

- **to specify the principles to be adopted in relation to the conduct of Soft Dollar Dealing;**
- **to provide guidance in the interpretation and application of those principles;**
- **to standardise the practices and procedures relating to the conduct of Soft Dollar Dealing; and**
- **to specify the basis of proper disclosure of such Soft Dollar transactions.**

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7 Application of Materiality

7.1 Failure by an Investment Manager to adopt or implement this Guidance Note is material if such failure has the potential to adversely affect the confidence of Investors, prospective Investors, other Scheme Operators, and other interested parties involved in the Investment and Financial Services Industry.

8 Definitions

- ‘Broker’ refers to an agent who handle the orders of investors to purchase and sell securities, commodities, insurance policies, or other property. The provision of this service attracts a brokerage commission;
- ‘Commission’ or ‘Brokerage’ refers to the fee levied by the broker as their payment for transacting purchases or sales of securities as an agent. This fee can be negotiated;
- ‘Constitution’ has the same meaning as defined in FSC Guidance Note No. 5.00 ‘Industry Terms and Definitions’;
- ‘Investment Manager’ has the same meaning as defined in FSC Guidance Note No. 5.00 ‘Industry Terms and Definitions’;
- ‘Investors’ has the same meaning as defined in FSC Guidance Note No. 5.00 ‘Industry Terms and Definitions’;
- ‘Member’ refers to a ‘Full Member’ as defined in FSC’s Articles of Association.
- ‘Operator’, in relation to a Scheme has the same meaning as in FSC Guidance Note No. 5.00 ‘Industry Terms and Definitions’;
- ‘Performance Measurement’ refers to a form of analysis that attempts to measure the percentage return generated by an investment;
- ‘Research’ refers to the careful study or investigation into something usually for the purpose of finding out new information.
- ‘Scheme’ has the same meaning as in FSC Guidance Note No. 5.00 ‘Industry Terms and Definitions’;
- ‘Soft Dollar Broker’ refers to a Broker who passes on, at the direction of the Investor, certain Commissions or part thereof to nominated third party providers of investment services;
- ‘Soft Dollar Dealing’ refers to the allocation of Commissions, arising from share trading, toward the acquisition of goods and services that will assist in the provision of investment services to Investors; and

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- **‘Traditional Broker’ refers to a Broker who retains the Brokerage charged and may or may not provide additional services to their clients such as research and other portfolio related services.**

9 General Principles

An Investment Manager may enter into a Soft Dollar arrangement on behalf of an Investor providing the following principles are adhered to.

9.1 Appropriate Goods and Services

The goods or services acquired can be reasonably expected to assist in the provision of investment services to the Investors of the Investment Manager and/or provide demonstrable assistance to the Investment Manager in the performance of their investment decision making. Examples of goods and services that FSC typically regard as appropriate for acquisition through a Soft Dollar arrangement include:

- **performance measurement;**
- **third party research;**
- **fundamental databases;**
- **technical analysis software;**
- **market research; and**
- **political or economic analysis.**

9.2 Inappropriate Goods and Services

Examples of goods and services that FSC typically regard as inappropriate for acquisition through soft Commissions are:

- **subscriptions for publications;**
- **office administrative computer software;**
- **computer hardware not associated either with investment decision-making, advice, research or analysis;**
- **the purchase or rental of any other items of office equipment;**
- **travel; and**
- **accommodation or entertainment costs.**

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9.3 Equability of dealing

9.3.1 Benefits to Investors will in the Investment Manager's opinion, outweigh any difference in the cost of dealing compared with similar dealings otherwise than under the Soft Dollar arrangement.

9.3.2 When a Broker acting under Soft Dollar arrangements acts as principal, the notional Brokerage charged should be at the same rate as a similar size transaction on an agency basis.

9.3.3 There are no cash or money rebates involved which could be construed to be secret Commission.

9.4 Reasonable Commission limits

9.4.1 Soft Dollar dealing is not a replacement for full service broking but an adjunct to it. Consideration must be given to the level of Commission allocated to traditional and Soft Dollar Brokers given the needs of the fund being managed.

9.4.2 The total commitment made on behalf of all Investors of the Investment Manager for such arrangements does not jeopardise the Investment Manager's ability to continue to maintain adequate financial resources. This Brokerage limit should be prudent and reflect the nature of the Investment Manager's business, its level of capital and reasonable changes in market circumstances, which could be expected. The Investment Manager's policy towards its limit should be expressed as a maximum percentage of the total Brokerage generated on each of its Investor's funds and stated in submissions.

9.5 Disclosure

9.5.1 No finite set of guidelines can cover all potential situations or anticipated future developments concerning the types of investment research available to Investment Managers. However, meeting the objective of full and fair disclosure and ensuring that the Investor comes first obligates the Investment Manager to fully and clearly disclose to its Investor the Investment Manager's practice when addressing any potential conflict concerning the payment methods for investment research.

9.5.2 Details of the Investment Manager's policy regarding Soft Dollars should be contained in all submissions and management mandates. A statement of compliance with the stated

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policy should be contained in all reports to Investors on an annual basis or as required by the Investors.

- 9.5.3 On request, any information relating to how the Investment Manager’s Soft Dollar policy affects Investors individually should be made available to the Investor. The Investment Manager must maintain records to support the information supplied to Investors.**

- 9.5.4 A written agreement should exist between the Investment Manager and Soft Dollar Broker, which discloses the goods or services provided and the rate at which those goods or services will be credited to the Investment Manager (expressed in terms of a “multiple”).**