

# E-ADVICE

## STEADFAST GROUP

e-Advice no. 76

Current 22 November 2016

### INFORMATION REQUIRED ON MARKETING MATERIAL AND WEBSITES

#### OUTLINE

Chapter 7 of the Corporations Act requires certain information to be disclosed in advertising and promotional material, including websites.

In addition, the Australian Securities and Investments Commission (**ASIC**) provides detailed guidance around the advertising of financial products and services in Regulatory Guide 234.

This e-Advice provides details of the information that must be included by Steadfast Network Brokers in their marketing material (including websites) to comply with their obligations.

The information that needs to be included in the marketing material will depend on what is being advertised (as set out in Attachment 1 to this document).

This advice is applicable to circumstances where Steadfast Network Brokers, acting in their capacity as insurance brokers, advertise their financial services and financial products issued by product issuers. Different obligations may apply if Steadfast Network Brokers are acting as underwriting agents.

#### GENERAL OBLIGATIONS

In addition to including the correct disclaimers and licensing information (as set out below), Steadfast Network Brokers must ensure their marketing material complies with the general standards that

ASIC expects for the advertising of financial products and services.

The overarching obligation is to ensure the advertisement is **not misleading or deceptive**.

Steadfast Network Brokers must be able to support every statement made in the marketing material.

Regulatory Guide 234 contains examples of what ASIC considers would be misleading or deceptive advertising.

When preparing marketing material, there are a number of factors which should be taken into account:

- The advertisement must give balanced information about the risks, it should be clear and the tone of the advertisement should not undermine the importance of the risks.
- Warnings, disclaimers and qualifications should not be inconsistent with the other information in the advertisement and have sufficient prominence to effectively convey key information on first viewing. Particular care should be taken when using fine print, as it is less likely to be noticed and understood.
- Comparisons should only be made between products which have sufficiently similar features and the differences between the products should also be made clear.

- Certain terms and phrases should be used with care, such as "free", "guaranteed" and "low cost".
- The advertisement must be able to be clearly understood by the target audience.
- When advertising a product, the advertisement should be consistent with the disclosure document to which the product relates (for example, the Product Disclosure Statement (PDS)).
- Care should be taken when using photographs, diagrams, images and examples to ensure they do not contradict or detract from warnings, qualifications or disclaimers.

The advertising medium is also a relevant consideration, for example:

- For internet advertising (such as social media, webpages and banner advertisements): consideration must be given to the overall impression, particularly as such advertisements can often be quite short. Providing an option for the consumer to click through to additional information (for example, another website) cannot be used to correct a misleading impression in the advertisement itself.
- For audio advertisements: warnings or disclaimers should be read at a speed that an average listener can easily understand.
- For video advertisements: care should be taken to ensure the warning or disclaimer has sufficient prominence - as the images and sound in video advertisements can make it easier for consumers to be distracted.

Steadfast Network Brokers should keep a record of any marketing material, including any disclaimers or warnings, in case of any future dispute regarding the marketing material.

## DOES THE ADVERTISING INCLUDE ADVICE?

If the marketing material includes advice, it is necessary to ensure that it is clear that the advice is general in nature.

### What is advice?

Advice means information that is '*intended to influence a person or persons in making a decision about a particular financial product or class of financial products, or an interest in a particular financial product or class of financial products, or could reasonably be regarded as being intended to have such an influence.*'

### General advice v personal advice

General advice does not take into account the consumer's particular circumstances, such as their objectives, financial situation and needs.

If the advice gives the impression that the consumer's particular circumstances have been taken into account, it is at risk of being perceived as personal advice.

Where the marketing material includes general advice, a general advice warning must be given.

A general advice warning must warn the client that:

- the advice has been prepared without taking into account their objectives, financial situation or needs;
- the client should therefore consider the appropriateness of the advice before acting on it, taking into account their objectives, financial situation and needs; and
- if the advice relates to the acquisition, or possible acquisition of a particular financial product, the client should obtain the product's PDS and consider this before making a decision to acquire the product.

If the marketing material includes general advice, a general advice warning should be combined with the advertising disclaimer.

### Exception to requirement for general advice warning

A general advice warning is not required in the following circumstances:

- the advice is provided in circumstances where an advertising disclaimer (as outlined below) is required to be given;
- the advice is contained in an advertisement on a billboard or poster or is in the 'media'; and

- the advertisement indicates that a person should consider whether or not the product is appropriate for them.

'Media' means any of the following:

- a newspaper, magazine, journal or other periodical;
- a radio or television broadcasting service; or
- an electronic service (including a service provided by the internet) that is operated on a commercial basis and similar to a newspaper, magazine, radio broadcast or television broadcast.

## DISCLAIMERS FOR MARKETING MATERIAL

### Advertising financial products

If you are advertising a specific financial product or a type of financial product, the marketing material must refer the consumer to the PDS.

The marketing material must:

- identify the issuer of the product (this should include the issuer's Australian Financial Services Licence number (**AFSL**));
- indicate that a PDS is available and set out where the PDS can be obtained; and

- indicate that a person should consider the PDS in deciding whether to acquire, or continue to hold the product.

## WEBSITE INFORMATION

In addition to providing the relevant disclaimers and/or warnings for advertising financial services, Steadfast Network Brokers should also ensure that the following is included on their website:

- the legal name of the brokerage and the brokerage's AFSL or AR details eg ABC Pty Ltd and the entity's ACN/ABN;
- a link to your privacy statement;
- copyright information (where appropriate); and
- details of how to obtain further information.

## OTHER INFORMATION

It also necessary and/or recommended to include certain company and AFSL information on public documents including websites.

E-advice 50 sets out these additional requirements.

## MORE INFORMATION

For further information, please contact:

Sophie Devitt, Partner

+61 7 3246 4058

sophie.devitt@dlapiper.com

[www.dlapiper.com](http://www.dlapiper.com)

DLA Piper is a global law firm operating through various separate and distinct legal entities.

For further information, please refer to [www.dlapiper.com](http://www.dlapiper.com)

Copyright © 2016 DLA Piper. All rights reserved.

### BRISBANE

Level 9,  
480 Queen Street  
Brisbane QLD 4000  
T +61 7 3246 4000  
F +61 7 3229 4077  
brisbane@dlapiper.com

### CANBERRA

Level 3  
55 Wentworth Avenue  
Kingston ACT 2604  
T +61 2 6201 8787  
F +61 2 6230 7848  
canberra@dlapiper.com

### MELBOURNE

Level 21  
140 William Street  
Melbourne VIC 3000  
T +61 3 9274 5000  
F +61 3 9274 5111  
melbourne@dlapiper.com

### PERTH

Level 31, Central Park  
152–158 St Georges Terrace  
Perth WA 6000  
T +61 8 6467 6000  
F +61 8 6467 6001  
perth@dlapiper.com

### SYDNEY

Level 22  
1 Martin Place  
Sydney NSW 2000  
T +61 2 9286 8000  
F +61 2 9286 4144  
sydney@dlapiper.com

## ATTACHMENT 1

Type of advertisement	Examples of disclaimers/warnings to use	
	No Advice	General Advice
<p><b>Web based advertising (including advertising in web banners and on websites) or printed brochures/flyers - advertising insurance broking services <i>only</i> with no references to specific product information</b></p>	<p>No specific disclaimer or warning required.</p>	<p><i>"The information provided here is general advice only and has been prepared without taking into account your objectives, financial situation or needs."</i></p>
<p><b>Web based advertising (including advertising in web banners and on websites) or printed brochures/flyers- advertising insurance broking services and specific product information</b></p>	<p>Specific Product:  <i>"[Insert product] is issued by [insert issuer name and AFSL]. You should consider the Product Disclosure Statement, available by calling us on [insert phone number], before deciding to acquire, or continue to hold, this product."</i></p> <p>Multiple products:  <i>"Terms, conditions, limits and exclusions apply to the products referred to above. You should consider the relevant Product Disclosure Statement, available by calling us on [insert phone number], before deciding to acquire, or continue to hold, this product."</i></p>	<p>Specific Product:  <i>"[Insert product] is issued by [insert issuer name and AFSL]. Terms, conditions, limits and exclusions apply. The information provided here is general advice only and has been prepared without taking into account your objectives, financial situation or needs. You should consider these, having regard to the appropriateness of this advice, and the Product Disclosure Statement, available by calling us on [insert phone number], before deciding to acquire, or to continue to hold, this product."</i></p> <p>Multiple products:  <i>"Terms, conditions, limits and exclusions apply to the products referred to above. The information provided here is general advice only and has been prepared without taking into account your objectives, financial situation or needs. You should consider these, having regard to the appropriateness of this advice, and the relevant Product Disclosure</i></p>

		<i>Statement, available by calling us on [insert phone number], before deciding to acquire, or to continue to hold, this product."</i>
<b>Advertising in the media (eg newspapers, magazines) - advertising insurance broking services only with no references to specific product information</b>	No specific disclaimer or warning required.	<i>"The information provided here is general advice only and has been prepared without taking into account your objectives, financial situation or needs."</i>
<b>Advertising in the media (eg newspapers, magazines) - advertising insurance broking services and specific product information</b>	<p>Specific Product:  <i>"[Insert product] is issued by [insert issuer name and AFSL]. You should consider the Product Disclosure Statement, available by calling us on [insert phone number], before deciding to acquire, or continue to hold, this product."</i></p> <p>Multiple products:  <i>"Terms, conditions, limits and exclusions apply to the products referred to above. You should consider the relevant Product Disclosure Statement, available by calling us on [insert phone number], before deciding to acquire, or continue to hold, this product."</i></p>	<p>Specific Product:  <i>"[Insert product] is issued by [insert issuer name and AFSL]. Terms, conditions, limits and exclusions apply. You should consider the Product Disclosure Statement, available by calling us on [insert phone number], and whether this product is appropriate for you, before deciding to acquire, or to continue to hold, this product."</i></p> <p>Multiple products:  <i>"Terms, conditions, limits and exclusions apply to the products referred to above. You should consider the Product Disclosure Statement, available by calling us on [insert phone number], and whether this product is appropriate for you, before deciding to acquire, or to continue to hold, this product."</i></p>