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INSIGHTS FROM CFA SOCIETY SINGAPORE

## Ethics issue: Failure to maintain knowledge of the law

By CFA Society Singapore Advocacy Team

ON July 15, the Singapore court convicted a woman for managing funds without a licence. In a media release on enforcement actions published on Monetary Authority of Singapore website, the woman pleaded guilty to the charge under section 82 of the Securities and Futures Act (SFA) for managing her clients' portfolio without a capital markets services licence. In providing the fund managing service, the woman agreed to an equal share of profits generated from trades, but with losses borne by her clients.

Section 82(1) of the SFA indicates that no person shall carry on a fund management business without a capital markets services licence issued by the MAS. Doing so is a clear violation of the law, an area finance professionals should know before rendering services to investors. Finance professionals should also possess knowledge of the law and keep abreast of changes to the law.

### The Knowledge of the Law Standard

CFA Institute, a global professional body for investment management professionals, provides guidance on understanding applicable laws and regulations of the countries and jurisdictions where they engage in professional activities. These activities may include, but are not limited to, trading of securities or other financial instruments, providing investment advice, con-

ducting research, or performing other investment services. On the basis of their reasonable and good faith understanding, finance professionals must comply with the laws and regulations that directly govern their professional activities and resulting outcomes and that protect the interests of the clients.

When questions arise, finance professionals should know their firm's policies and procedures for compliance. This standard does not require finance professionals to become experts, however, in compliance.

Additionally, finance professionals are not required to have detailed knowledge of or to be experts on all the laws that could potentially govern their activities.

### Changing regulations

During times of changing regulations, finance professionals must remain vigilant in maintaining their knowledge of the requirements for their professional activities. New financial products and processes, along with uncovered ethical missteps, create an environment for recurring and potentially wide-ranging regulatory changes.

Finance professionals are also continually provided improved and enhanced methods of communicating with both clients and potential clients, such as mobile applications and Web-based social networking platforms.

As new local, regional, and global requirements are updated to address these and other changes, finance professionals and their

firms must adjust their procedures and practices to remain in compliance.

### CFA Institute standards and applicable law

"Applicable law" is the law that governs the finance professionals' conduct. Which law applies will depend on the particular facts and circumstances of each case. The "stricter" law or regulation is the law or regulation that imposes greater restrictions on the action of the finance professionals, or calls for the finance professionals to exert a greater degree of action that protects the interests of investors.

For example, applicable law or regulation may not require finance professionals to disclose referral fees received from or paid to others for the recommendation of investment products or services. Because the CFA Institute Code and Standards impose this obligation, finance professionals who are charterholders must disclose the existence of such fees.

### Recommended procedures

Singapore is a finance hub. Many finance companies establish their regional offices in the city state and conduct finance business in the region and globally. Finance professionals in Singapore should acquire and maintain understanding of applicable laws, rules, and regulations by:

- Staying informed. Finance professionals should establish or encourage their employers to establish a procedure by which employees are regularly informed about



Finance professionals are not required to be experts on all the laws that govern their activities but they must be vigilant in maintaining their knowledge of the requirements. PHOTO: PXABAY

changes in applicable laws, rules, regulations, and case law. In many instances, the employer's compliance department or legal counsel can provide such information in the form of memorandums distributed to employees. Also, participation in an internal or external continuing education programme is a practical method of staying current.

- Making reasonable efforts to understand the applicable laws of the countries and regions where their investment products are developed and are most likely to be distributed to clients.

- Seeking the advice of compliance personnel or legal counsel concerning legal requirements when in doubt. If a potential violation is being committed by a fellow employee, it may also be prudent for the finance professionals to seek the advice of the firm's compliance department or legal counsel.

### Ethics in action

Here is a case based on and adapt-

ed from content by CFA Institute. As a guide, the desired ethical behaviour is based on the CFA Institute Code of Ethics and Standards of Professional Conduct (Code and Standards).

Colleen Veasna is excited to use new technology to communicate with current and potential clients in an emerging market in Southeast Asia. She recently began posting investment information, including performance report, investment opinions and recommendations, to her Facebook page, including her Telegram account.

In addition, she sends out brief announcements, opinions, and thoughts via her Twitter account (for example, "Prospects for future growth of XYZ company look good! #makingmoney4U").

Prior to Veasna's use of these social media platforms, the local regulator had issued new requirements and guidance governing online electronic communication. Veasna's communications appear to conflict with the recent regulatory announcements. Veasna is in vi-

olation of the Knowledge of the Law Standard because her communications do not comply with the existing guidance and regulation governing use of social media. Veasna must be aware of the evolving legal requirements pertaining to new and dynamic areas of the financial services industry that are applicable to her.

She should seek guidance from appropriate, knowledgeable, and reliable sources, such as her firm's compliance department, external service providers, or outside counsel, unless she diligently follows legal and regulatory trends affecting her professional responsibilities.

This column has been adapted from content by CFA Institute and is printed here with permission from CFA Institute. The writers are CFA charterholders who volunteer with the Singapore chapter on advocacy issues with a view towards promoting financial literacy among retail investors and improving overall standards and integrity in the industry.