

**PART X**  
**DISCLOSURE OF INFORMATION**

**DIVISION 1**

**Application**

**Application of this Part**

- 347.** (1) This Part shall not apply to a licensed institution and an Islamic bank other than a licensed institution that holds a Capital Markets Services Licence.
- (2) Except as may be provided under subsection (3), this Part does not authorise any investigation into the affairs of a customer of a licensed institution or Islamic bank other than a licensed institution that holds a Capital Markets Services Licence.
- (3) The Commission shall seek the assistance of Bank Negara where it appears to the Commission that it is necessary to examine the books of a licensed institution or Islamic bank other than a licensed institution that holds a Capital Markets Services Licence, relating to the affairs of a customer of the licensed institution or Islamic bank for the purpose of investigating the affairs of the customer.

**DIVISION 2**

**Disclosure of Information**

**Power of Commission to require production of books**

- 348.** (1) The Commission may, at any time, if it considers there is sufficient reason to do so, by writing—
- (a) give a direction to—
- (i) an exchange holding company, a stock exchange or a futures exchange;
- (ii) a member of the board of an exchange holding company, a stock exchange or a futures exchange;
- (iii) a person who is or has been either alone or together with another person or other persons, a holder of a Capital Markets Services License;
- (iv) a nominee controlled by a person referred to in subparagraph (iii) or jointly controlled by two or more persons at least one of whom is a person referred to in that subparagraph; or

- (v) a person who is or has been an officer or employee of, or an agent, advocate and solicitor, auditor or other person acting in any capacity for or on behalf of, an exchange holding company, a stock exchange, a futures exchange or a person referred to in subparagraph (ii), (iii) or (iv),

requiring the production, to the Commission, of such books as are so specified, being books relating to—

- (A) the business or affairs of an exchange holding company, a stock exchange or of a futures exchange, as the case may be;
  - (B) any dealing in securities or trading in futures contracts;
  - (C) any advice concerning any securities or futures contracts or the issuing or publication of a report or analysis concerning any securities or futures contracts;
  - (D) the character or financial position of, or any business carried on by, a person referred to in subparagraph (iii) or (iv); or
  - (E) an audit of, or any report of an auditor concerning, a dealing in securities or any accounts or records of the holder of a Capital Markets Services License; or
- (b) give a direction to any person requiring the production, to the Commission, of any books relating to matters mentioned in subparagraph (a)(A), (B), (C), (D) or (E) that are in the custody or under the control of that person:

Provided that the books shall not be required to be produced at such times and at such places as shall interfere with the proper conduct of the normal daily business of that person.

- (2) A reference in subsection (1) to a dealing in securities or to a business carried on by a person includes a reference to a dealing in securities by a person as trustee or to a business carried on by a person as a trustee, as the case may be.
- (3) Where the Commission requires the production of any books under this section and a person has a lien on the books, the production of the books does not prejudice the lien.
- (4) Where the Commission exercises a power under this section to require another person to produce books—
  - (a) if the books are produced, the Commission—
    - (i) may take possession of the books and make copies of, or take extracts from, the books;
    - (ii) may require the other person or any person who was party to the

- compilation of the books to make a statement providing an explanation of any of the books;
- (iii) may retain possession of the books for as long as the Commission may consider necessary; and
  - (iv) shall permit the other person, upon giving a reasonable notice and specifications of the books, to have access to such books which are in the possession of the Commission; or
- (b) if the books are not produced, the Commission may require the other person–
- (i) to state, to the best of his knowledge and belief, where the books may be found; and
  - (ii) to identify the person who, to the best of his knowledge and belief, last had custody of the books and to state, to the best of his knowledge and belief, where that last-mentioned person may be found.
- (5) A power conferred by this section to make a requirement of a person extends, if the person is a body corporate, including a body corporate that is in the course of being wound up, or was a body corporate, being a body corporate that has been dissolved, to making that requirement of any person who is or has been an officer of the body corporate.
- (6) If it appears to a Magistrate, upon written information on oath and after any enquiry he considers necessary, that there are reasonable cause to believe that there are books on particular premises, the production of which has been required by virtue of this section, and which have not been produced in compliance with that requirement, the Magistrate may issue a warrant authorising the Commission or any person named in the warrant, with or without assistance–
- (a) to search the premises, to break open and search any cupboard, drawer, chest, box, package or other receptacle, whether a fixture or not, in the premises; and
  - (b) to take possession of, or secure against interference, any books that appear to be books, the production of which was required.
- (7) The powers conferred under subsection (6) are in addition to, and not in derogation of, any other powers conferred by law.
- (8) In this section, “premises” includes any structure, building, aircraft, vehicle, vessel or place.

## Offences

- 349.** (1) A person who contravenes a requirement made under section 348 commits an

offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.

- (2) A person who furnishes information or makes a statement pursuant to section 348 that is false or misleading in a material particular commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.
- (3) A person who obstructs or hinders the Commission or other person in the exercise of any power under section 348 commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.

### **Power to specify form and manner of submission**

**350.** (1) Where under any provision of this Act—

(a) any person is required to; or

(b) power is given to the Commission to require any person to,

submit to the Commission any information, returns or documents, the Commission, may specify that such information, returns or documents be submitted in such form or manner and within such period or at such intervals as the Commission may specify.

(2) The information, returns or documents referred to in subsection (1) may be submitted—

(a) in writing;

(b) by means of a visual recording (whether stills or moving images);

(c) by means of sound recordings; or

(d) by means of any electronic, magnetic, mechanical or other recording whatsoever,

on any substance, material, thing or article.

### **Privileges**

**351.** (1) Where—

(a) the Commission makes a requirement under section 348 of an advocate and solicitor in respect of a book; and

(b) the book contains a privileged communication made by or on behalf of or to the advocate and solicitor in his capacity as an advocate and solicitor,

the advocate and solicitor is entitled to refuse to comply with the requirement unless the person to whom or by or on behalf of whom the communication was made or, if the person is a body corporate that is under receivership or is in the course of being wound up, the receiver or the liquidator, as the case may be, agrees to the advocate and solicitor complying with the requirement, but the advocate and solicitor refuses to comply with the requirement, the advocate and solicitor shall forthwith furnish in writing to the Commission the name and address of the person to whom or by whom the communication was made.

- (2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.

## **Disclosure to Commission**

- 352.** (1) The Commission may require a holder of a Capital Markets Services Licence who carries on the business of dealing in securities to disclose to the Commission in relation to any acquisition or disposal of securities, any information including the name of the person from or through whom or on whose behalf the securities were acquired or to or through whom or on whose behalf the securities were disposed of, and the nature of the instructions given to such holder in respect of the acquisition or disposal.
- (2) The Commission may require a holder of a Capital Markets Services License who carries on the business of trading in futures contracts to disclose to the Commission in relation to any futures contracts, any information including the name of the person from or through whom or on whose behalf the futures contract was traded, and the nature of the instructions given to such holder.
  - (3) The Commission may require a person who has acquired or disposed of securities or futures contracts to disclose to the Commission, whether he acquired or disposed of those securities or futures contracts, as the case may be, as trustee for, or for or on behalf of, another person and, if he acquired or disposed of those securities or futures contracts as trustee for, or for or on behalf of, another person, to disclose the name of that other person and the nature of any instructions given to the first-mentioned person in respect of the acquisition or disposal.
  - (4) The Commission may require—
    - (a) a stock exchange to disclose to the Commission, in relation to an acquisition or disposal of securities on the stock market of that stock exchange, the names of the participating organisations who acted in the acquisition or disposal; or
    - (b) a futures exchange to disclose to the Commission, in relation to trading in a futures contract on the futures exchange, the names of the affiliates who carried out the trading.
  - (5) A person who contravenes a requirement of the Commission under this section

commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.

### **Disclosure of information relating to dealing in securities or trading in futures contracts**

- 353.** (1) The Commission may require a person to disclose to the Commission, in relation to any dealing in securities or trading in futures contracts whether or not the dealing or trading was carried out on another person's behalf—
- (a) the name of, and particulars sufficient to identify the person from whom, through whom or on whose behalf the securities or futures contracts were dealt with, as the case may be;
  - (b) the nature of the instructions given to that person in relation to the dealing in securities or trading in futures contracts;
  - (c) the particulars of the dealing in securities, including—
    - (i) particulars of the securities that were dealt with; and
    - (ii) particulars of consideration given or received for the dealing in securities or any other transaction related to the dealing in securities; and
  - (d) the particulars of the trading in futures contracts, including—
    - (i) particulars of the futures contracts that were dealt with; and
    - (ii) particulars of consideration given or received for the trading in futures contracts or any other transaction related to the trading in futures contracts; and
  - (e) any other information in the possession of the person as the Commission may specify as it thinks expedient for the due administration of this Act.
- (2) A person who contravenes a requirement of the Commission under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.