

**FUTURES INDUSTRY (AMENDMENT)  
ACT 2003**

Date of Royal Assent ... 30 December 2003

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## FUTURES INDUSTRY (AMENDMENT) ACT 2003

An Act to amend the Futures Industry Act 1993.

**ENACTED** by the Parliament of Malaysia as follows:

### Short title and commencement

1. (1) This Act may be cited as the Futures Industry (Amendment) Act 2003.
- (2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of different provisions of this Act or in respect of different classes or categories of persons or futures contracts.

### Amendment of section 2

2. The Futures Industry Act 1993 [*Act 499*], which is referred to as the "principal Act" in this Act, is amended in section 2—

(a) by renumbering the existing provisions as subsection (1) of that section;

(b) in subsection (1)—

(i) in the definition of "business rules"—

(A) by renumbering paragraphs (a) and (b) as paragraphs (b) and (c) respectively;

(B) by inserting before paragraph (b) as renumbered the following paragraph:

"(a) in relation to an exchange holding company, the constitution of the exchange holding company, including rules regulating the activities and conduct of the company in its capacity as an exchange holding company,"; and

(C) by inserting after the words "made by the" the words "exchange holding company,";

(ii) by inserting after the definition of "property" the following definition:

' "public interest directors" has the same meaning as in the Securities Industry Act 1983;';

(iii) by inserting after the definition of "exchange company" the following definition:

' "exchange holding company" has the same meaning as in the Securities Industry Act 1983;'; and

(iv) by inserting after the definition of "representative's licence" the following definition:

' "securities laws" has the same meaning as in the Securities Commission Act 1993;'; and

(c) by inserting after subsection (1) the following subsection:

"(2) Any reference in this Act to "this Act" or a "securities law" shall, unless otherwise expressly stated, include a reference to any regulations, rules, orders, notifications or other subsidiary legislation made under this Act or a securities law, as the case may be."

#### **Amendment of section 4**

**3.** Section 4 of the principal Act is amended—

(a) in subsection (1), by inserting after the words "The Minister may," the words "on the recommendation of the Commission,";

(b) by inserting after subsection (1) the following subsection:

"(1A) An application under subsection (1) shall be sent to the Commission, whereupon the Commission shall submit such application, together with its recommendation, to the Minister.";

(c) in subsection (2), by substituting for paragraph (b) the following paragraph:

"(b) such information as the Minister or the Commission considers necessary in relation to the application."; and

(d) by substituting for subsection (4) the following subsection:

"(4) The Minister may in writing, on the recommendation of the Commission, amend, revoke or impose new terms and conditions, if the Minister is satisfied that it is appropriate to do so for the protection of investors or in the public interest or for the proper regulation of the futures market."

#### **New section 4A**

4. The principal Act is amended by inserting after section 4 the following section:

**"Arrangements as to the discharge of duties of exchange holding company, exchange company and clearing house**

**4A.** The relevant provisions of sections 11D and 11J of the Securities Industry Act 1983 shall apply to an exchange holding company and to an exchange company or clearing house that is a subsidiary of an exchange holding company."

#### **Amendment of section 5**

5. The principal Act is amended by substituting for section 5 the following section:

**"Appointment of directors of exchange holding company and exchange company**

5. (1) In relation to an exchange holding company or an exchange company other than an exchange company that is referred to in subsection (2)—

(a) one third of the number of directors on the Board of such exchange holding company or exchange company, as the case may be, shall be appointed by the Minister, in consultation with the Commission, to be public interest directors of the exchange holding company or exchange company and, notwithstanding the provision of any other written law, such public interest directors so appointed—

(i) shall have the same rights, powers, duties and obligations, liberties and privileges as any director of the exchange holding company or exchange company; and

(ii) shall hold office for a period specified by the Minister who may at any time revoke such an appointment; and

(b) no person other than a public interest director referred to in paragraph (a) shall accept appointment or election as a director of the exchange holding company or exchange company unless the concurrence of the Commission is obtained.

(2) Notwithstanding the provisions of subsection (1), in relation to the Board of an exchange company that is a subsidiary of the exchange holding company, no person shall accept appointment or election as a director of

such exchange company unless the concurrence of the Commission is obtained.

- (3) The Minister shall, in consultation with the Commission, appoint one person from amongst the public interest directors appointed under subsection (1) to be the non-executive Chairman of the Board of the exchange holding company or exchange company, as the case may be, whose remuneration shall be determined by the Board of the exchange holding company or exchange company, as the case may be.
- (4) Where the concurrence of the Commission is required under subsection (1) or (2), the Commission may refuse to concur if—
  - (a) any proposed director is an undischarged bankrupt, whether in Malaysia or elsewhere;
  - (b) a judgment debt of the proposed director has not been satisfied in whole or in part;
  - (c) the proposed director has, whether in Malaysia or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;
  - (d) the proposed director—
    - (i) has been convicted, whether in Malaysia or elsewhere, of an offence, involving fraud or dishonesty or the conviction for which involved a finding that he acted fraudulently or dishonestly; or
    - (ii) has been convicted for an offence under any of the securities laws; or
  - (e) the Commission is not satisfied that the proposed director is a person of integrity and is fit and proper to be a director.
- (5) For the purposes of subsection (1)—
  - (a) the Minister may, on the recommendation of the Commission, reduce the number of public interest directors on the Board of the exchange holding company or the exchange company, as the case may be; and
  - (b) all public interest directors appointed under subsection (1) shall retire after a term of three years or on the expiry of the term specified by the Minister under subparagraph (1)(a)(ii) and are eligible for reappointment.”.

### **Amendment of section 6B**

6. The principal Act is amended in section 6B—

- (a) in subsection (1), by inserting after the words “may in writing” the words “, on the recommendation of the Commission,”;
- (b) in subparagraph (2)(b), by inserting after the words “the Minister” the words “or the Commission”; and
- (c) in subsection (3), by inserting after the words “as the Minister” the words “, on the recommendation of the Commission,”.

### **Deletion of section 6C**

7. The principal Act is amended by deleting section 6C.

### **Amendment of section 7**

8. The principal Act is amended by substituting for section 7 the following section:

#### **“Withdrawal of approval of exchange company**

- 7. (1) The Minister may, on the recommendation of the Commission, by notice published in the *Gazette*, and by such other means as the Commission considers appropriate—
  - (a) withdraw an approval granted under section 4 to the exchange company with effect from the date specified in the notice; or
  - (b) direct the exchange company to cease to provide or operate such facilities, or provide such services, as are specified in the notice, with effect from the date specified in the notice.
- (2) The Minister shall not withdraw an approval or issue a direction under subsection (1) unless the Minister, on the recommendation of the Commission, is satisfied that it is appropriate to do so for the protection of investors, or in the public interest, or for the proper regulation of the futures market, where any of the following circumstances occurs:
  - (a) the exchange company ceases to operate a futures market;
  - (b) the exchange company is being wound up or otherwise dissolved, whether in Malaysia or elsewhere;

- (c)* the exchange company has contravened any term or condition of its approval or is charged with any offence under any of the securities laws;
  - (d)* the exchange company has failed to comply with a condition, requirement or direction given under section 10 of this Act or section 11L of the Securities Industry Act 1983;
  - (e)* any information provided for the purposes of section 4 was false or misleading in a material particular;
  - (f)* a judgment debt of the exchange company has not been satisfied in whole or in part;
  - (g)* a receiver, a receiver and manager, or an equivalent person has been appointed, whether in Malaysia or elsewhere, in relation to or in respect of any property of the exchange company;
  - (h)* the exchange company has, whether in Malaysia or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or
  - (i)* the exchange company, on its own accord, applies to the Minister to withdraw the approval granted to it under section 4 and the Minister, on the recommendation of the Commission, deems it fit to do so.
- (3) For the purposes of paragraph (2) *(a)*, an exchange company shall be deemed to have ceased to operate its futures market if it has ceased to operate its futures market for a period of one month unless it has obtained the prior approval of the Minister to do so.
- (4) Notwithstanding the withdrawal of an approval or the issuance of a direction under subsection (1), the Minister may permit the exchange company to continue, on or after the date on which the withdrawal or direction is to take effect, to carry on such activities affected by the withdrawal or direction as the Minister may specify in the notice published under that subsection for the purpose of—
  - (a)* closing down the operations of the exchange company or ceasing to provide the services specified in the notice; or
  - (b)* protecting the interest of investors or the public interest.
- (5) Where the Minister has granted permission to an exchange company under subsection (4), the exchange company shall not, by reason of its carrying on the activities in accordance with the permission, be regarded as having contravened section 3.

- (6) The Minister shall not take any action under subsection (1) without giving an opportunity to be heard.”.

### **Amendment of section 7A**

9. The principal Act is amended by substituting for section 7A the following sections:

#### **“Withdrawal of approval of clearing house**

**7A.** (1) The Minister may, on the recommendation of the Commission, by notice published in the *Gazette*, and by such other means as the Commission considers appropriate—

- (a) withdraw the approval granted under section 6B to a clearing house with effect from the date specified in the notice; or
- (b) direct the clearing house to cease to provide or operate such facilities, or to cease to provide such services, as specified in such notice, with effect from the date specified in the notice.

(2) The Minister shall not withdraw an approval or issue a direction under subsection (1) unless the Minister, on the recommendation of the Commission, is satisfied that it is appropriate to do so for the protection of investors, or in the public interest or for the proper regulation of the futures market, where any of the following circumstances occurs:

- (a) the clearing house ceases to provide clearing house facilities;
- (b) the clearing house is being wound up or otherwise dissolved, whether in Malaysia or elsewhere;
- (c) the clearing house has contravened any of the terms or conditions of its approval or the provisions of section 6D or is charged with any offence under any of the securities laws;
- (d) the clearing house has failed to comply with a condition, requirement or direction given under section 10 of this Act or section 11L of the Securities Industry Act 1983;
- (e) any information provided for the purposes of section 6B was false or misleading in a material particular;
- (f) a judgment debt of the clearing house has not been satisfied in whole or in part;
- (g) a receiver, a receiver and manager, or equivalent person has been appointed, whether in Malaysia or elsewhere, in relation to or in respect

of any property of the clearing house;

(h) the clearing house has, whether in Malaysia or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or

(i) the clearing house, on its own accord, applies to the Minister to withdraw the approval granted to it under section 6B and the Minister, on the recommendation of the Commission, deems it fit to do so.

(3) For the purposes of paragraph (2) (a), a clearing house shall be deemed to have ceased to provide clearing house facilities if it has ceased to provide such facilities for a period of one month unless it has obtained the prior approval of the Minister to do so.

(4) Notwithstanding the withdrawal of an approval or issuance of a direction under subsection (1), the Minister may permit the clearing house to continue, on or after the date on which the withdrawal or direction is to take effect, to carry on such activities affected by the withdrawal or direction as the Minister may specify in the notice published under that subsection for the purpose of—

(a) closing down the operations of the clearing house or ceasing to provide the facilities specified in the notice; or

(b) protecting the interest of investors or the public interest.

(5) Where the Minister has granted permission to a clearinghouse under subsection (4), the clearing house shall not, by reason of its carrying on the activities in accordance with the permission, be regarded as having contravened section 6A.

(6) The Minister shall not take any action under subsection (1) without giving an opportunity to be heard.”.

## **New section 7B**

**10.** The principal Act is amended by inserting after section 7A the following section:

### **Effect of withdrawal of approval**

**7B.** (1) Any withdrawal of approval or direction issued under section 7 shall not operate so as to—

(a) avoid or affect any agreement, transaction or arrangement entered into on the futures market operated by the exchange company, whether the agreement, transaction or arrangement was entered into

before or, where subsection 7(4) applies, after, the withdrawal of the approval or issuance of the direction under subsection 7(1); or

(b) affect any right, obligation or liability arising under such agreement, transaction or arrangement.

(2) Any withdrawal of approval or direction issued under section 7A shall not operate so as to—

(a) avoid or affect any agreement, transaction or arrangement entered into through the clearing house facilities operated by the clearing house, whether the agreement, transaction or arrangement was entered into before or, where subsection 7A(4) applies, after, the withdrawal of the approval or issuance of the direction under subsection 7A(1); or

(b) affect any right, obligation or liability arising under such agreement, transaction or arrangement.”.

### **Amendment of section 8**

**11.** Section 8 of the principal Act is amended—

(a) in the shoulder note, by substituting for the word “revocation” the word “withdrawal”; and

(b) in subsection (1), by substituting for the word “revoking” the word “withdrawing”.

### **Amendment of section 10**

**12.** Section 10 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for paragraph (a) the following paragraph:

“(a) an exchange holding company, exchange company or clearing house, as the case may be, has failed to comply with, observe, enforce or give effect to the business rules of an exchange company or a clearing house, as the case may be; or”;

(ii) in paragraph (b)—

(A) by substituting for the words “the exchange company or clearing house, any director of their respective Boards, any officer of the”

the words "an exchange holding company, exchange company or clearing house or any director on the Board of the exchange holding company, exchange company or clearing house, or any officer of the exchange holding company,"; and

(B) by substituting for the comma at the end of the paragraph the words "; or";

(iii) by inserting after paragraph (b) the following paragraph:

"(c) an exchange holding company, exchange company, clearing house or any director on the Board of an exchange holding company, exchange company or clearing house or any officer of the exchange holding company, exchange company or clearing house, or any affiliate of the exchange company or clearing house or any other person upon whom an obligation has been imposed under the provisions of this Act—

(i) has contravened any provision of this Act; or

(ii) has failed to comply with, observe, enforce or give effect to any directions given by the Commission under this Act,";

(iv) in paragraph (aa), by substituting for the words "exchange company" the words "exchange holding company or exchange company, as the case may be";

(v) in paragraph (bb)—

(A) by inserting after the words "direct the" the words "exchange holding company,"; and

(B) by deleting the words "of the Board";

(vi) by substituting for paragraph (cc) the following paragraph:

"(cc) in respect of the exchange holding company, exchange company or clearing house, impose a penalty in proportion to the severity and gravity of the breach, but which in any event shall not exceed five hundred thousand ringgit,";

(vii) by substituting for paragraph (dd) the following paragraph:

"(dd) in respect of—

(i) a director on the Board of the exchange holding company, exchange company or clearing house;

(ii) an officer of the exchange holding company, exchange company or clearing house;

(iii) a director on the Board of an affiliate of an exchange company or clearing house; or

(iv) an officer of an affiliate of an exchange company or clearing house,

impose a penalty in proportion to the severity and gravity of the breach, but which in any event shall not exceed two hundred and fifty thousand ringgit;";

(viii) in paragraph *(ee)*—

(A) by inserting after the words "reprimand the" the words "exchange holding company,"; and

(B) by substituting for the full stop at the end of that paragraph the word "; and";

(ix) by inserting after paragraph *(ee)* the following paragraph:

" *(ff)* require the exchange holding company, exchange company, clearing house, director, officer or affiliate concerned or any other person concerned, to take such steps as the Commission may direct to remedy or mitigate the effect of such breach, including making restitution to any other person aggrieved by such breach.";

*(b)* in subsection (2), by inserting after the words "shall give the" the words "exchange holding company,";

*(c)* in subsection (3), by inserting after the words "thereafter, the" the words "exchange holding company,"; and

*(d)* by inserting after subsection (5) the following subsections:

"(6) For the purposes of paragraph (1) *(ff)*, in determining whether or not restitution is to be made by an exchange holding company, exchange company, clearing house, director, officer or affiliate concerned, or any other person concerned, the Commission shall have regard to—

*(a)* the profits that have accrued to such exchange holding company, exchange company, clearing house, director, officer or affiliate concerned or any other person concerned; or

*(b)* whether any person has suffered loss or been otherwise adversely affected as a result of the breach.

(7) The Commission shall not take any action under subsection (1) without giving an opportunity to be heard.

- (8) Where an action taken by the Commission under subsection (1) is against any person other than the exchange holding company, exchange company or clearing house, the Commission shall serve a written notice on the exchange holding company, exchange company or clearing house, as the case may be, of the grounds and the proposed action to be taken by the Commission.
- (9) Nothing in this section shall preclude—
- (a) the Commission from taking any of the actions that it is empowered to take under this Act or any securities laws against the person in breach; and
- (b) the exchange holding company, exchange company or clearing house, as the case may be, from taking any action under its business rules.
- (10) For the purposes of this section, “breach” means—
- (a) a failure to comply with, observe, enforce or give effect to—
- (i) the business rules of an exchange, company or clearing house;
- (ii) the provisions of this Act; or
- (iii) any direction given by the Commission under this Act, whilst under an obligation to do so; or
- (b) any act referred to in paragraph (1)(b).”.

#### **Amendment of section 12**

**13.** The principal Act is amended by substituting for section 12 the following section:

#### **“Publication of notice of suspension of trading or closure**

**12.** Where an action is taken by the Minister or the Commission under section 8, 9, 10 or 15, the Commission shall publish a notice of the action taken in such manner as it considers appropriate.”.

#### **Amendment of section 20**

**14.** Subsection 20(1) of the principal Act is amended by substituting for the words “Sections 16, 16A, 17, 18, 18A and 19” the words “Section 16, 16A, 17, 18, 18A or 19”.

### **Amendment of section 22**

15. Subsection 22(2) of the principal Act is amended by substituting for the words "A licence" the words "Unless otherwise specified by the Commission with the consent of the applicant, a licence".

### **Amendment of section 25**

16. Paragraph 25(4)(a) of the principal Act is amended by inserting after the words "last renewed" the words "unless otherwise specified by the Commission with the consent of the licensed person".

### **Amendment of section 28**

17. Section 28 of the principal Act is amended—

(a) in subsection (1), by substituting for the words "The Commission" the words "Without prejudice to section 10, the Commission";

(b) in subsection (2)—

(i) by substituting for the words "may—" the words " may take one or more of the following actions:";

(ii) in paragraph (c), by deleting the word "or" after the semicolon;

(iii) by substituting for paragraph (d) the following paragraph:

"(d) direct such person to comply with, observe, enforce or give effect to any requirement or provision of this Act, any regulation made under this Act, any condition imposed under or pursuant to this Act or any requirement or condition of the business rules of an exchange company or a clearing house;" and

(iv) by inserting after paragraph (d) the following paragraphs:

"(e) require such person to take such steps as the Commission may direct to remedy the misconduct or mitigate the effect of such misconduct, including making restitution to any other person aggrieved by such misconduct;

(f) impose a penalty in proportion to the severity and the gravity of the misconduct, but which in any event shall not exceed five hundred thousand ringgit.";

(c) by inserting after subsection (3) the following subsections:

“(3A) For the purposes of paragraph (2)(e), in determining whether or not restitution is to be made by a person, the Commission shall have regard to—

(a) the profits that have accrued to such person; or

(b) whether any person has suffered loss or been otherwise adversely affected as a result of the misconduct.

(3B) Nothing in this section shall preclude the Commission from taking any of the actions that it is empowered to take under this Act or any securities laws against a licensed person guilty of misconduct.”; and

(d) in subsection (7), by substituting for paragraph (a) the following paragraph:

“(a) any failure to comply with, observe, enforce or give effect to any requirement or provision of this Act, any regulation made under this Act, any condition imposed under or pursuant to this Act, or any requirement of, or condition imposed by, the business rules of an exchange company or a clearing house, in the circumstances where the licensed person is under an obligation to comply with, observe, enforce or give effect to such requirement; or”.

### **Amendment of section 35**

**18.** Section 35 of the principal Act is amended—

(a) in the shoulder note, by inserting after the word “Exchange” the words “holding company, exchange”;

(b) in subsection (1), by substituting for the words “An exchange company” the words “An exchange holding company and an exchange company”; and

(c) in subsection (2), by substituting for the words “exchange company” the words “exchange holding company, exchange company”.

### **New section 36A**

**19.** The principal Act is amended by inserting after section 36 the following section:

#### **“Exchange company, clearing house, futures broker, futures fund manager to lodge auditor’s report**

**36A.** (1) An exchange company, a clearing house, a futures broker or a futures fund manager shall, within three months after the close of each

financial year, or such further period as the Commission may permit under subsection (2), lodge with the Commission the auditor's report containing information on such matters as may be prescribed.

- (2) Where an application for the extension of the period of three months specified in subsection (1) is made by an exchange company, a clearing house, a futures broker or a futures fund manager to the Commission and if the Commission is satisfied that there are special reasons for requiring the extension, the Commission may extend that period by a further period not exceeding three months subject to such conditions as the Commission thinks fit to impose.
- (3) An exchange company, a clearing house, a futures broker or a futures fund manager who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding three years or to both.
- (4) For the purposes of subsection (1), "financial year" in relation to an exchange company, a clearing house, a futures broker or a futures fund manager, has the same meaning as in the Companies Act 1965."

#### **Amendment of section 106C**

**20.** Section 106C of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

"(1) A High Court may make such order as it thinks fit where—

(a) on an application by the Commission, it appears to the High Court that—

- (i) there is reasonable likelihood that any person will contravene a relevant requirement;
- (ii) any person has contravened a relevant requirement; or
- (iii) any person has contravened a relevant requirement and that there are steps which could be taken to remedy the contravention, or to mitigate the effect of such contravention, including making restitution to any other person aggrieved by such contravention,

whether or not that person has been charged with an offence in respect of the contravention or whether or not a contravention has been proved in a prosecution;

(b) on an application by an exchange holding company, an exchange company or a clearing house, as the case may be, it appears to the High Court that—

- (i) any person has contravened a relevant requirement; or
  - (ii) any person has contravened a relevant requirement and that there are steps which could be taken to remedy the contravention or to mitigate the effect of such contravention; or
- (c) on an application by any person aggrieved by an alleged contravention by another person of a relevant requirement, it appears to the High Court that—
- (i) the other person has contravened the relevant requirement; and
  - (ii) the applicant is aggrieved by the contravention.”;

(b) in subsection (2)—

- (i) by substituting for paragraph (a) the following paragraph:

“(a) an order restraining or requiring the cessation of the contravention;”;  
and

- (ii) by inserting after paragraph (c) the following paragraphs:

“(ca) an order restraining the person from acquiring, disposing of or otherwise dealing with, assets which the High Court is satisfied that such person is reasonably likely to dispose of or otherwise deal with;

(cb) an order requiring the person, or any other person who appears to have been knowingly involved in the contravention, to take such steps as the High Court may direct to remedy it or to mitigate its effect including making restitution to any other person aggrieved by such contravention;”;

(c) by inserting after subsection (6) the following subsections:

“(7) For the purposes of this section, “relevant requirement”—

(a) in relation to an application under this section by the Commission, means a requirement—

- (i) which is imposed by or under this Act;
- (ii) which is imposed as a condition or restriction of any licence or an approval that is given or issued under or pursuant to this Act;
- (iii) which is imposed by or under the business rules of an exchange

company or a clearing house; or

(iv) which is imposed by or under any other law and whose contravention constitutes an offence which the Commission has power to prosecute with the consent in writing of the Public Prosecutor;

(b) in relation to an application by the exchange holding company, the exchange company or the clearing house, means a requirement which is imposed by or under the business rules of the exchange company or the clearing house, as the case may be; and

(c) in relation to an application by any person aggrieved by an alleged contravention, means a requirement—

(i) which is imposed by or under this Act;

(ii) which is imposed as a condition or restriction of any approval or licence that is given or issued under or pursuant to this Act; or

(iii) which is imposed by or under the business rules of an exchange company or a clearing house.

(8) An application made pursuant to this section shall not prejudice any other action that may be taken by the Commission, exchange holding company, exchange company, clearing house or aggrieved person, as the case may be, under any of the securities laws, any other law or any business rules.”.

## **New section 106D**

**21.** The principal Act is amended by inserting after section 106C the following section:

### **“Indemnity**

**106D.** No civil liability shall be incurred by—

(a) an exchange holding company, an exchange company or a clearing house;

(b) any person acting on behalf of an exchange holding company, an exchange company or a clearing house, including—

(i) any member of the Board of the exchange holding company, exchange company or clearing house, or any member of any committee established by any such Board;

(ii) any officer of the exchange holding company, exchange company

or clearing house; and

- (iii) any agent of, or any person acting under the direction of the exchange holding company, exchange company or clearinghouse,

for, on account of, in respect of anything done or any statement made or omitted to be done or made, in connection with the discharge or performance or purported discharge or performance of any duties under this Act or in the exercise or intended exercise of any power under the business rules or constituent documents, where such act, statement or omission was done in good faith.”.

### **Amendment of the Futures Industry (Licensing) Regulations 1995 and the Futures Industry (Variation of Board Composition) Order 1998**

- 22. (1) The Futures Industry (Licensing) Regulations 1995 [*P.U. (A) 413/1995*] is amended by deleting paragraph 8(b)(ii) and regulation 9.
- (2) The Futures Industry (Variation of Board Composition) Order 1998 [*P.U. (A) 139/1998*] is revoked.

### **Position of directors of exchange company and clearing house**

- 23. The directors of the Board of any exchange company and clearing house, approved under sections 5 and 6C of the principal Act respectively, shall, on the coming into operation of sections 5 and 7 of this Act, be deemed to have resigned.

### **Savings and transitional**

- 24. (1) All regulations, rules, orders, directions, notifications, approvals, decisions, guidelines, actions and other executive acts, made, given, taken or done under, or in accordance with, or by virtue of the principal Act before the commencement of this Act, to the extent that they are affected by this Act shall be deemed to have been made, given, taken or done under, or in accordance with, or by virtue of, the corresponding provision introduced or amended by this Act, and shall continue to remain in full force and effect in relation to any person to whom they apply until amended, revoked, repealed or rescinded under, in accordance with, or by virtue of, the corresponding provision introduced or amended by this Act.
- (2) Nothing in the principal Act or this Act shall affect any person's liability to be prosecuted or punished for offences committed under the principal Act before the commencement of this Act or any proceeding brought or sentence imposed before that day in respect of such offence.

- (3) Any right, privilege, obligation or liability acquired, accrued or incurred before the commencement of this Act or any legal proceedings, remedy or investigation in respect of such right, privilege, obligation or liability shall, in so far as it is not inconsistent with the provisions of this Act, continue to remain in force unless amended, revoked or rescinded under, in accordance with or pursuant to the provisions of the principal Act as amended by this Act, the Demutualisation (Kuala Lumpur Stock Exchange) Act 2003 [*Act 632*] or any regulations made under the principal Act or the Demutualisation (Kuala Lumpur Stock Exchange) Act 2003, pursuant to the coming into operation of this Act.

### **Prevention of anomalies**

25. If any difficulty arises with respect to the application of any one or more of the provisions introduced or amended by this Act and the savings and transitional provisions, the Minister may, by order published in the *Gazette*, make such modifications in any one or more of those provisions as may appear to him to be necessary to prevent anomalies.