



**PART**

**03**

# **MAINTAINING MARKET INTEGRITY AND GOOD GOVERNANCE**



# PART 03 MAINTAINING MARKET INTEGRITY AND GOOD GOVERNANCE

## INTRODUCTION

Maintaining market integrity and good governance remains a priority for the SC as it continues to drive high standards of governance and accountability among all market participants.

In 2020, the SC continued to strengthen its supervision and surveillance approach as well as capabilities, to ensure that the capital market operates in a fair and orderly manner while responding to the COVID-19 pandemic.

The SC also undertook regulatory reforms and initiatives to facilitate digitisation in the capital market, strengthen accountability and integrity, and accelerate the adoption of good corporate governance (CG) practices.

## PROMOTING GOOD GOVERNANCE AND CONDUCT

### Monitoring Adoption of Corporate Governance Best Practices

The SC released the annual *Corporate Governance Monitor 2020* (CG Monitor 2020) report that highlighted, among others, an increase in the adoption of the *Malaysian Code on Corporate Governance* (MCCG). This includes the Step Up practices, the two-tier voting process and board practices to determine the remuneration of directors and senior management.

The CG Monitor 2020 also presented observations on three thematic reviews in relation to the adoption of two-tier voting, board remuneration of listed companies on the FTSE Bursa Malaysia Top 100 Index and the conduct of fully virtual general meetings by listed issuers since the MCO.

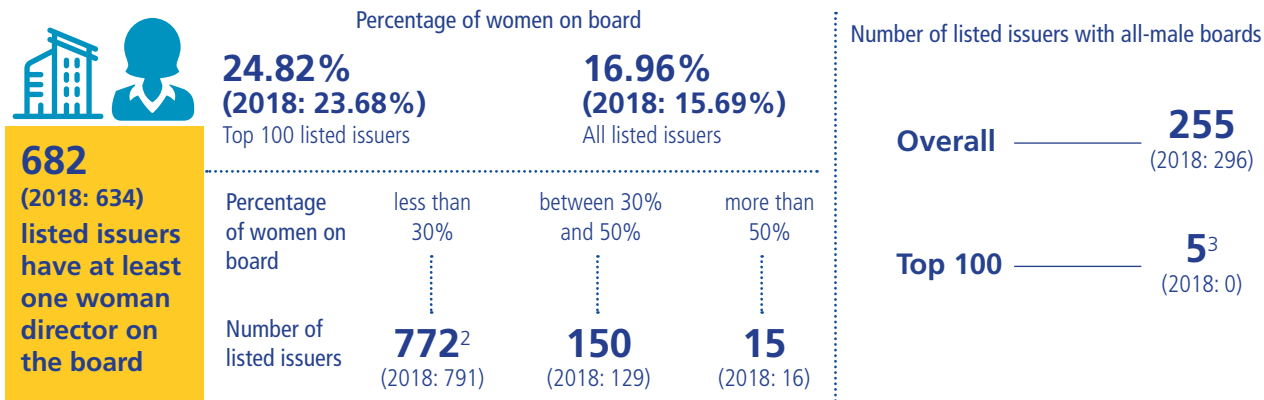
The review on board remuneration shows that the total board remuneration in 2019 decreased by 11.7% compared to 2018 largely driven by the decrease in executive directors' remuneration by 14.5%, while non-executive directors' remuneration increased by 6.2% in 2019.

The report also provided an update in relation to gender diversity on boards. As of 31 August 2020, minor improvements were observed in the participation of women on boards with women holding 24.82% of board positions on the top 100 listed companies, and 16.96% across all listed companies. There were also five companies with all-male boards on the top 100 listed companies, namely Comfort Glove Bhd, Focus Dynamics Group Bhd, Frontken Corporation Bhd, Guan Chong Bhd, and Pentamaster Corporation Bhd. As at 31 December 2020, Guan Chong Bhd had appointed two women directors on its board while the remaining four companies still had all-male boards.

# HIGHLIGHTS FROM THE CG MONITOR 2020

The *Corporate Governance Monitor 2020* reports on the adoption of the MCCG by listed companies based on the disclosures made in their Corporate Governance Reports 2019.

## Gender diversity on boards<sup>1</sup>



## MCCG adoption

**27**  
(2018: 27)  
MCCG best practices were adopted by more than 70% of listed companies

**78%**  
(2018: 74%)  
of listed companies adopted at least one Step Up practice

**37**  
(2018: 12)  
listed companies have adopted at least three Step Up practices

## Best practices with the most improved level of adoption

**↑ 11.6%**  
**Practice 8.2**

Audit Committee policy requiring former key audit partner<sup>4</sup> to observe cooling off period of at least two years before being appointed as a member of the Audit Committee.

**↑ 9.8%**  
**Practice 6.1**

The board has policies and procedures to determine the remuneration of directors and senior management.

**↑ 9.1%**  
**Practice 4.5**

The board discloses its gender diversity policy, targets and measures. For Large Companies, the board comprises 30% women directors.

### Note:

- <sup>1</sup> Data as at 31 August 2020.
- <sup>2</sup> 772 inclusive of listed issuers with all-male boards.
- <sup>3</sup> Comfort Glove Bhd, Focus Dynamics Group Bhd, Frontken Corporation Bhd, Guan Chong Bhd and Pentamaster Corporation Bhd.
- <sup>4</sup> The engagement partner, the individual responsible for the engagement of quality control review, and other audit partners, if any, in the engagement team who make key decisions or judgments on significant matters with respect to the audit of the financial statements, which the audit will express an opinion.

## Two-tier voting

498 <sup>6</sup> Independent directors with tenure of more than 12 years	Tenure	Number of directors	Reappointment using <sup>5</sup>	
			Two-tier	Simple majority
	between 13 and 20 years	416	218	148
	between 21 and 30 years	77	50	20
	between 31 and 40 years	3	0	2
	more than 40 years	2	0	2

**41**  
(Total 2018: 164; 2019: 181)  
listed companies used the two-tier voting process for the first time in 2019

**268**  
(2018: 242)  
resolutions were voted using the two-tier voting process

## Board remuneration of FTSE Bursa Malaysia Top 100 Index (FBM 100) companies



Total board remuneration decreased by **11.7%**

### Total remuneration received by

Executive directors

↓ **14.5%**

Non-executive directors

↑ **6.2%**

### Median board remuneration

Overall  
**RM7.4 million**

Industrial Products & Services  
**RM11.0 million**

Telecommunications & Media  
**RM10.8 million**

Property & Plantation  
**RM8.5 million**

Note:

<sup>5</sup> Latest available data as at 31 December 2019.

<sup>6</sup> As at 1 January 2019.

## Implementation of the SC's Corporate Governance Strategic Priorities

The SC continued to implement initiatives identified in the SC's *Corporate Governance Strategic Priorities 2017-2020* (CG Priorities). In 2020, measures were undertaken to strengthen the CG ecosystem and promote shareholder activism.

### Priority I: Strengthening the corporate governance ecosystem

The Corporate Governance Council (Council) was formed to co-ordinate and align CG initiatives among members of the Council and relevant stakeholders. Chaired by the SC, the Council comprises representatives from Bursa Malaysia, Institute of Corporate Directors Malaysia, Institutional Investors Council, Malaysian Institute of Corporate Governance and the Minority Shareholders Watch Group (MSWG). The inaugural meeting of the Council was held in April 2020, and the Council's priorities for 2020/2021 were identified. The Council also formed a sub-working group to review and streamline existing CG assessments and awards for listed companies.

### Priority II: Promoting shareholder activism

An *Annual General Meeting Corporate Governance Checklist for Shareholders* (AGM CG Checklist) was introduced to promote meaningful dialogue between shareholders and the board of directors at AGMs. The AGM CG Checklist was developed in collaboration with the Institutional Investors Council and the MSWG. It guides shareholders on key issues that they may need to consider or raise at an AGM before exercising their voting rights. These relate primarily to resolutions commonly tabled at AGMs such as the appointment of directors, approval of directors' fees and the appointment of auditors.

The AGM CG Checklist also reminds shareholders to engage boards on other critical issues including sustainability and anti-corruption measures.

## Strengthening Board Governance and Oversight in Listed Issuers and Their Subsidiaries

The SC issued the *Guidelines on Conduct of Directors of Listed Corporations and Their Subsidiaries* (Guidelines) to strengthen board governance and oversight in listed issuers and their subsidiaries. The issuance of these Guidelines is in line with the SC's CG Priorities, which seeks to, among others, promote the proper discharge of directors' fiduciary duties among corporate Malaysia. The introduction of these Guidelines is one of the measures approved by the Special Cabinet Committee on Anti-Corruption (JKKMAR) in 2019.

The Guidelines also set out guidance on duties and responsibilities of boards in company group structures and requirements for the establishment of a group-wide framework to enable, among others, oversight of group performance and the implementation of CG policies.

## Corporate Governance Watch 2020

The SC held its biennial engagement with the Asian Corporate Governance Association<sup>6</sup> (ACGA) from 14 to 16 July 2020 for purposes of the *Corporate Governance Watch 2020* assessment. It is a regional assessment that evaluates the macro CG quality in 12 Asia-Pacific markets. The SC shared key measures that were implemented to drive good governance in the capital market since the last assessment held in July 2018.

In November, the ACGA announced the outcomes of the *Corporate Governance Watch 2020* assessment at its annual conference, held virtually in Hong Kong. Out of the 12 Asian markets<sup>7</sup> included in the assessment,

<sup>6</sup> The ACGA is an independent non-profit membership organisation based in Hong Kong, which monitors the CG framework and practices of the markets on behalf of its members that comprise leading pension and investment funds, with AUM of more than US\$30 trillion globally.

<sup>7</sup> Australia, China, Hong Kong, India, Indonesia, Japan, Korea, Malaysia, Philippines, Singapore, Taiwan and Thailand.

Malaysia ranked fifth (2018: fourth) jointly with Japan. Australia continued to rank first followed by Hong Kong and Singapore at joint second. Despite the drop in ranking, which was largely due to concerns on public governance, Malaysia's total scores increased in 2020, from 58% (2018) to 59.5%, and out of the seven assessment categories<sup>8</sup>, Malaysia recorded improvements in four categories – 'Corporate Governance Rules', 'Listed Companies', 'Investors' and 'Auditors and Audit Regulators'. Further, in three categories, 'Auditors and Audit Regulators', 'Corporate Governance Rules' and 'Listed Companies' Malaysia ranked top two in the region, after Australia.

### Strengthening of Anti-Corruption Policies and Procedures

As part of the SC's support in the implementation of the National Anti-Corruption Plan (2019-2023), several guidelines governing licensed and registered persons were amended to strengthen the anti-corruption measures of intermediaries and registered persons. The amended guidelines include *Licensing Handbook*, *Guidelines on the Registration and Conduct of Capital Market Services Providers*; *Guidelines on*

*the Registration of Venture Capital and Private Equity Corporations and Management Corporations*; *Guidelines on the Registration of Credit Rating Agencies*; *Guidelines on the Registration of Bond Pricing Agencies*; and *Guidelines on Recognised Markets*.

These guidelines were amended in light of the corporate liability provision under section 17A of the *Malaysian Anti-Corruption Commission Act 2009* (MACC Act), which came into operation on 1 June 2020. The provision on corporate liability under the MACC Act establishes a new corporate liability offence of corruption by a commercial organisation. It also deems any director, controller, officer, partner or manager of a commercial organisation to be personally responsible for the same offence if the commercial organisation is found liable.

Pursuant to the amendments, licensed intermediaries and registered persons must have in place policies and procedures on anti-corruption and whistleblowing by 1 June 2020. The policies and procedures should be guided by the *Guidelines on Adequate Procedures* issued under section 17A(5) of the MACC Act.

<sup>8</sup> 'Auditors and Audit Regulation', 'Corporate Governance Rules', 'Civil Society and Media', 'Government and Public Governance', 'Investors', 'Regulators' and 'Listed Companies'.

## THEMATIC REVIEW ON COMPLIANCE WITH ANTI-CORRUPTION POLICIES AND PROCEDURES

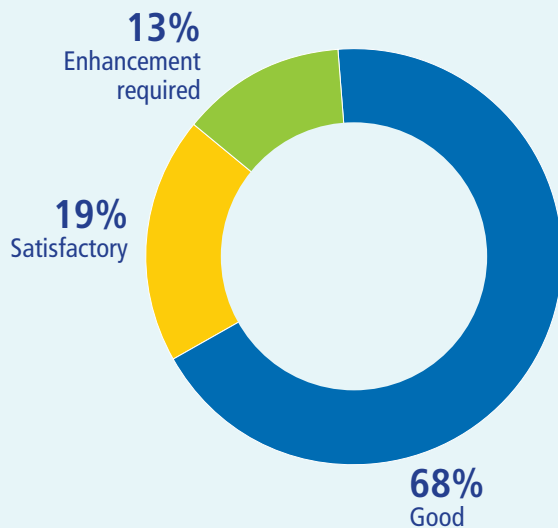
### SCOPE OF REVIEW

The SC undertook a thematic review to assess the level of intermediaries' compliance with requirements on anti-corruption policies and procedures, which was introduced in light of the corporate liability provision under section 17A of the MACC Act, which came into force on 1 June 2020.

The thematic review covered 255 intermediaries supervised by the SC and was conducted via a questionnaire.

CHART 1

Level of overall compliance by intermediaries to s17A MACC Act



### OBSERVATIONS

While the SC's review found that the majority of intermediaries had anti-corruption policies and frameworks in place, there was still room for improvement. These include the adequacy and comprehensiveness of policies and procedures, risk assessment, monitoring and training.

The SC noted that 68% of intermediaries had displayed a good overall level of compliance, having an adequate anti-corruption framework. Meanwhile, 19% of intermediaries had a satisfactory level of compliance and 13% requiring enhancements to their anti-corruption framework.

Following the thematic review, the SC will be taking the following steps in order to communicate the observations to the intermediaries and the industry:

- Issuance of Supervisory Letters to intermediaries, requiring significant enhancements to the framework to ensure relevant gaps are addressed;
- Issuance of communication to the senior management of intermediaries (by regulated activity) to share the specific observations noted from the thematic review; and
- Publication of specific observations and good practices noted from thematic review in the SC's newsletter, *The Reporter*.



## Monitoring Compliance and Resilience of Intermediaries

The SC adopts a multi-pronged strategy to align intermediaries' culture, governance and conduct with its supervisory expectations. In 2020, the SC intensified its supervisory efforts, focusing on governance framework, compliance and risk culture, conduct as well as ensuring that intermediaries were well positioned and remained resilient. Stress testing on operational resilience was conducted to ascertain intermediaries' financial strength and capital adequacy position to absorb potential market stress.

## Increased Use of Off-Site Monitoring Techniques

With the implementation of the MCO, an off-site supervision approach was adopted, with touchpoints achieved through frequent high-level engagements and assurances obtained from intermediaries on key matters in the SC's supervisory checklists. Targeted monitoring of intermediaries had also enabled the SC to obtain current information and data to identify potential risk build-ups.

## Compliance with Anti-Money Laundering / Counter Financing of Terrorism / Proliferation Financing (AML/CFT/PF)

As part of the SC's effort to ensure reporting institutions' compliance with the *Guidelines on Implementation of Targeted Financial Sanctions Relating to Proliferation for Capital Market Intermediaries* (TFS-PF Guidelines), it conducted 14 workshops with Compliance Officers from 113 reporting institutions to convey its expectations on the adoption of best practices by the industry. In view of the updated recommendations<sup>9</sup> issued by the Financial Action Task Force (FATF) on assessment of proliferation financing risk and application of risk-based approach, the SC will provide further guidance and organise continuous awareness programmes focused on supervision and compliance with counter-proliferation financing requirements.

In 2020, the SC also worked with BNM on the National Risk Assessment on Proliferation Financing and the National Risk Assessment on Money Laundering / Terrorism Financing.

## SC's multi-pronged strategy in monitoring intermediaries' compliance and resilience



<sup>9</sup> FATF International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation.



## Supervisory Assessments and Thematic Reviews

In 2020, the SC carried out 416 assessments comprising 56 targeted pre-emptive assessments and three thematic reviews involving 282 intermediaries on identified areas of risk. Additionally, the SC carried out 78 assessments arising from concerns, complaints and referrals received on misconduct. Where instances of poor control environment in the intermediary were identified in the assessment and thematic reviews, the SC took supervisory actions to ensure adequate measures were put in place to rectify the gaps.

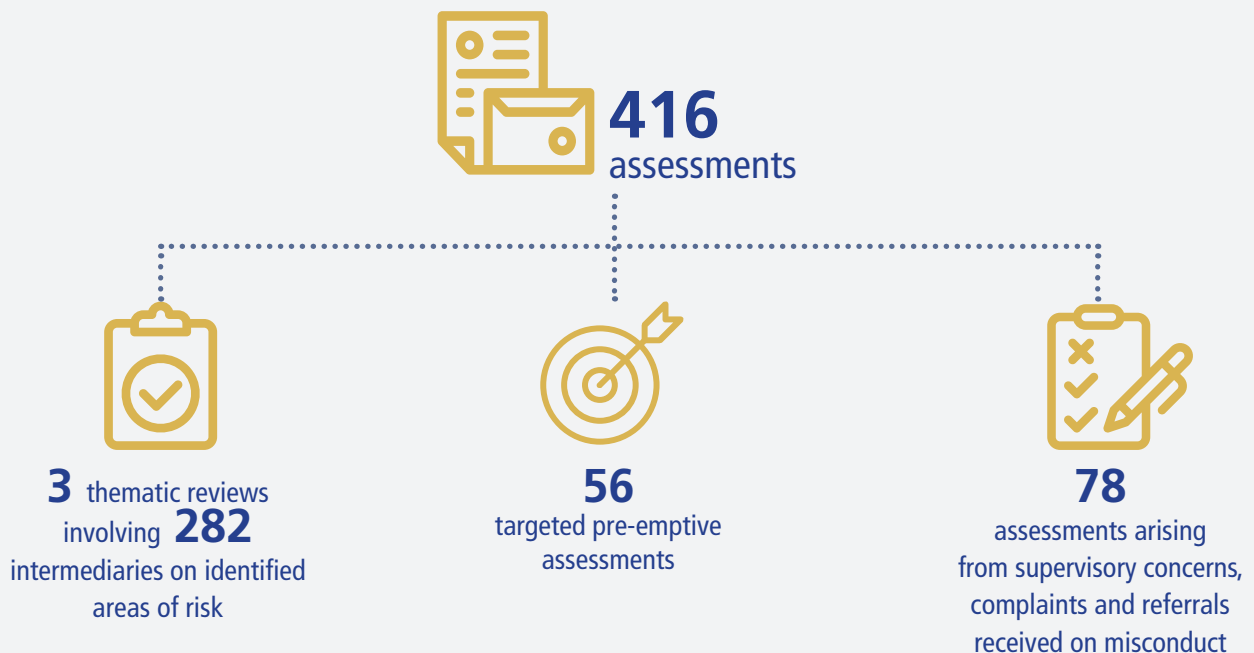
Thematic reviews enable the SC to assess trends, emerging risks and compliance lapses across intermediaries. The thematic review conducted by the SC in 2020 included the reviews of intermediaries' compliance with anti-corruption policies and procedures requirements, and oversight of their licensed representatives.

## Strengthening the Effectiveness of FIMM's Enforcement, Surveillance and Investor Protection

The supervision of FIMM as an industry self-regulatory organisation (SRO) continues to be a vital supervisory emphasis for the SC.

In 2020, FIMM's supervision focused on strengthening the effectiveness of its enforcement, surveillance and investor protection efforts to deter the possibility of increased misconduct during the prevailing challenging conditions. In particular, FIMM is expected to leverage its digital marketing efforts, and intensify its investor education and awareness programmes to educate vulnerable investors on the possibility of increased misconduct during the current conditions and promote ethical industry practices.

# SUPERVISORY ASSESSMENTS AND THEMATIC REVIEWS



## Capacity Building in Upholding Audit Quality

Given the importance of continuous professional education to build capacity and uphold audit quality, the SC introduced a one-off training subsidy for Small and Medium Practices (namely existing registered audit firms of the AOB with less than 10 audit partners), of up to RM30,000 per firm for Approved Training Programmes conducted by the Malaysian Institute of Certified Public Accountants (MICPA).

## Clarifying Regulatory Parameters on Investment Advice Activities

The MCO period saw an increase in trading activity by retail investors. The situation also gave rise to dissemination of investment advice by members of the public on various social media platforms. As the provision of investment advice is a regulated activity under the CMSA, the SC issued the *Guidance Note on Provision of Investment Advice* on 30 December 2020, to clarify the types of activities that may amount to investment advice, and thus require a licence from the SC.

## ENSURING MARKET INTEGRITY AND TRANSPARENCY

### Reinforcing Bursa Malaysia's Regulatory Independence, Governance and Operational Resiliency

In 2020, the SC continued its efforts to facilitate the establishment of an independent wholly-owned Bursa Regulatory Subsidiary (Bursa RegSub) to assume the regulatory functions currently undertaken by Bursa Malaysia. The establishment of the Bursa RegSub was announced in February 2020. Efforts were made to put in place the necessary governance structure and regulations, and facilitate amendments to Bursa Malaysia's rules to support the function at the Bursa RegSub.

The clear segregation of the regulatory function from the commercial or business objectives of Bursa Malaysia will address the perception of potential conflicts of interest between these two competing objectives. A board of directors, a majority of whom will be independent of Bursa Malaysia, will govern the Bursa RegSub and the Chairman of Bursa RegSub will be appointed from among the independent board members. In this regard, Bursa Malaysia remains accountable to the SC to ensure that Bursa RegSub is sufficiently funded and resourced, to enable its regulatory functions to be discharged effectively. The SC will continue to regulate Bursa Malaysia directly as a PLC as well as a market operator and a central counterparty while maintaining oversight of the regulatory functions performed by Bursa RegSub. The target schedule for Bursa RegSub to be operational is in 2021.

Additionally, the SC's oversight and supervision of Bursa Malaysia, as an integrated exchange operator, is aimed at ensuring continued functioning of the equity and derivatives markets to support the real economy. These markets provide access to funding and the ability to hedge risks.

To meet these objectives, the SC's supervision on Bursa Malaysia is focused on:



Strengthening the management of perceived conflicts of interest in the discharge of its regulatory obligations;



Operational and financial resilience of its market infrastructures, namely Bursa Clearing Houses; and



Operations of its markets with continued flow of information to these markets.

Given the significant dependence of Bursa Malaysia's operations on IT systems, network, infrastructure and connectivity as well as third-party service providers, the Exchange is exposed to the risks of application systems integrity, cyber security threats, data loss, compromised data integrity, technology obsolescence and business disruptions. The SC takes the occurrences of technical glitches of market operations at Bursa Malaysia seriously in view of the critical role it plays in the market. To ensure systems integrity and reliability, the SC has initiated a review of Bursa Malaysia's IT systems and infrastructure.

### Assessment of Bursa Malaysia's ACE Market Functions

In July 2020, the SC announced that under the enhanced IPO framework, Bursa Malaysia is responsible for the registration of prospectuses of ACE market IPO, in addition to the existing ACE market IPO approval. The migration of the entire ACE market framework including registration of prospectuses to Bursa Malaysia will streamline and provide greater efficiency in the ACE market listings.

Consequently, the SC carried out an annual regulatory assessment on Bursa Malaysia that focused on assessing the adequacy of its systems, processes, controls and resources to assume the role of the frontline regulator for ACE market listings, including its supervision of sponsors. The assessments included the effectiveness and consistency of Bursa Malaysia's assessment of listed companies' applications for relief from compliance with Listing Requirements on the extension of time, modification, waiver and exemption, shareholding spread requirements and effectiveness of the unusual market activity (UMA) query framework.

### Heightened Monitoring of Trading Activities

To ensure that the capital market operates in a fair and orderly manner, the SC remains vigilant in addressing trading irregularities that pose potential risks to market integrity. The SC continues to work closely with Bursa Malaysia to monitor, detect and respond to suspected market abuses relating to prevailing areas of concern.

In 2020, the SC observed a growing trend of listed companies announcing possible ventures into health-related businesses such as gloves, facemasks and COVID-19 vaccines. Such developments tend to garner exceptionally high trading interest in the shares of those companies. As a result, there were increased risks of market abuse such as insider trading and price manipulation surrounding these announcements and related news flows.

Trading irregularities were promptly detected and prioritised for further analysis. Where elements of possible market abuse are established, such cases were identified for further investigation to be conducted. Surveillance observations in relation to trading activities by capital market intermediaries also facilitated the SC's supervision over the intermediaries' controls and governance standards.

### Surveillance of Corporate Activities

An important aspect of the SC's surveillance and supervisory function involves the monitoring of announcements and disclosures by listed companies, and financial reporting developments affecting the capital market.

Proactive and strategic surveillance activities were carried out to detect corporate transgressions and instances of non-compliance with accounting standards. Thematic reviews were also conducted to assess risks in specific sectors and where necessary, engagements with corporate directors were held.

Based on the identified risks and focus for 2020, the SC conducted surveillance reviews into the activities of 229 listed companies. In the course of these reviews, 174 engagements, including physical and virtual meetings, were undertaken with directors, statutory auditors and other parties related to the affairs of the listed companies such as advisers, company secretaries and forensic investigators.

Corporate transgressions detected in 2020 included:

- Using fictitious documents to drawdown on banking facilities;
- Channeling of company's asset to another party;
- Issuing misleading announcement to induce share trading;
- Issuing shares to related parties at a price, which was unfavourable to the listed company;
- Entering into asset acquisition agreements at inflated prices;
- Recording fictitious revenue; and
- Failure to disclose material litigation.

### Strengthening Supervisory Oversight on New Market Structures

Under the SC's approach in regulating the markets, the level of supervision imposed on a type of market will correspond with its characteristics, including the size and structure, nature of services, products hosted or traded, sophistication of the users and rights of access and risks posed by such market. In this regard, the SC took the approach of a 'right touch' level of supervision on recognised market operators (RMOs) such as the equity crowdfunding (ECF), peer-to-peer financing (P2P financing), DAX and electronic service providers (eSP). It focused on monitoring areas of governance, risk management, client/issuer onboarding and due diligence, client asset protection,

cyber security and systems integrity through reporting requirements, periodic review and assessment, and continued frequent engagements with these operators.

During the first quarter of 2020, the SC conducted one-on-one assessment engagement sessions with eight ECF operators and seven P2P financing operators. The engagements focused on the RMOs' annual compliance reporting, business plan for 2020 and discussed issues relating to their respective markets. These sessions also allowed the SC to raise supervisory concerns relating to weaknesses and gaps in practices for further process to be strengthened by the RMOs.

The SC had facilitated Go-Live of three new ECF operators and five P2P financing platform operators following the registration approval given in 2019. The concurrence to operationalise Go-Live was granted after the review and assessment of the *Rulebook*, and documented process and procedures for governance, risk management, user onboarding, client asset protection arrangement, and cyber security and systems integrity. By end of 2020, all 10 ECF and 11 P2P financing operators are fully operational.

Following the introduction of the regulatory framework governing DAXs and subsequent registration of three DAXs in 2019, the SC continued to facilitate the operationalisation of these DAXs by reviewing their *Rulebook*, policies and procedures before they were allowed to operationalise their platforms. In this process, particular attention was given by the the SC in the areas of governance, risk management, client onboarding, cyber security, system integrity and asset protection arrangement. All three DAXs operationalised their respective platforms within the first half of 2020.

One of the main concerns associated with digital assets is the risk of these assets being a conduit for money laundering, terrorism and proliferation financing. In this regard, the SC initiated its first regulatory assessment on DAXs in the fourth quarter of 2020, with completion targeted in the first quarter of 2021. Under the assessment, the SC scrutinises the

DAXs’ Know Your Client (KYC) onboarding processes, ongoing Anti-Money Laundering (AML) due diligence and transaction monitoring policies to ensure consistency and alignment with the SC’s *Guidelines on Prevention of Money Laundering and Terrorism Financing* and *Guidelines on Implementation of Targeted Financial Sanctions Relating to Proliferation Financing* as well as updated recommendations issued by FATF. The SC will continue its broad push towards digitisation by supporting and propagating the use of technology enhancements by DAX to support its Anti Money Laundering and Counter Financing of Terrorism (AMLCFT) compliance objectives.

The scope of the regulatory assessment on DAXs was also expanded to include a review of the DAXs’ IT governance framework and cyber security risk management and controls given the high dependence on technology and IT infrastructures to operate the markets.

### Promoting Responsible Advertising Using Digital Channels

On 4 May 2020, the SC issued the *Guidelines on Advertising for Capital Market Products and Related Services* to promote responsible advertising using

digital channels. The guidelines allow intermediaries greater flexibility in leveraging advertising platforms, including social media, messaging applications and video streaming to promote their products and services.

## GREATER INVESTOR EMPOWERMENT

### Understanding Investors’ Behaviour and Motivation

During 2019 and 2020, the SC conducted several investors’ surveys across different segments of society to gain better insight on, among others, investors’ level of awareness on the different capital market products, their behaviours and motivations. The surveys also covered factors that may have influenced investors from participating in the capital market. General observations from the surveys are as follows:

#### Low level of investor awareness of capital market product types

Of the respondents, only 13% (2019) and 8% (2020) were able to accurately identify capital market products. The study shows a greater level of awareness of unit trust, listed shares and PRS (Chart 2).

CHART 2

Greater level of awareness of unit trust, listed shares and PRS

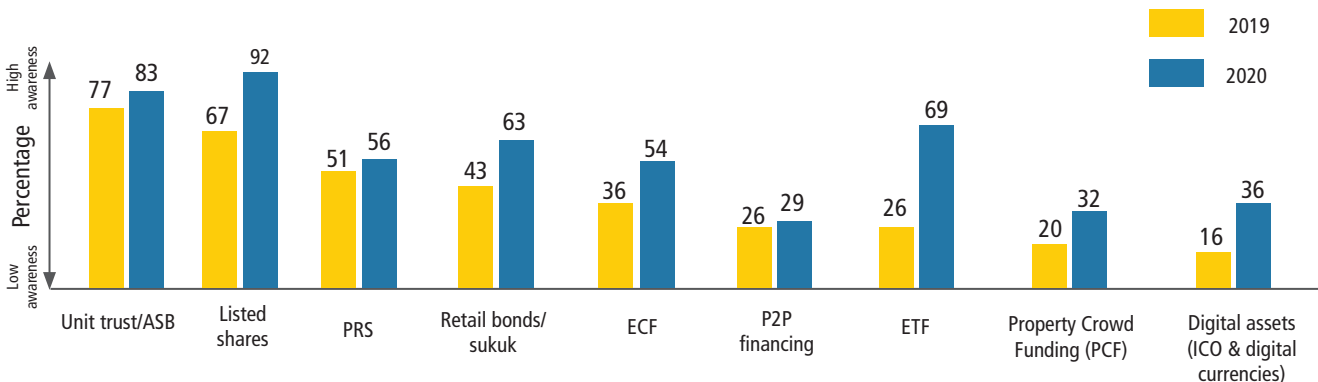
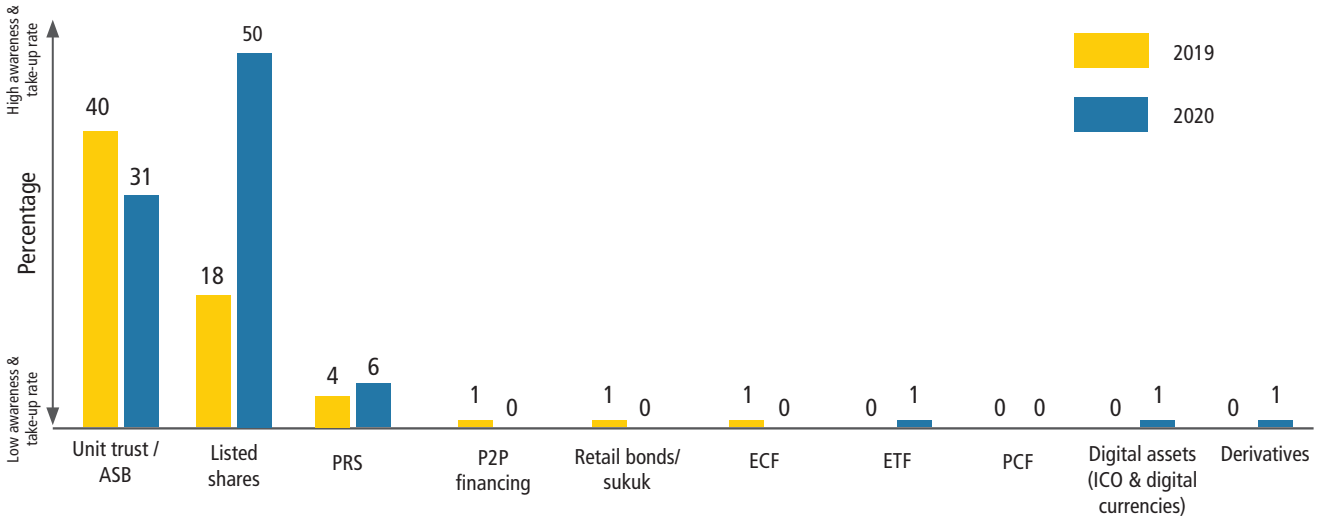


CHART 3

Survey on correlation between awareness and knowledge in a product and its take-up rate



The survey also established a correlation between awareness and knowledge in a product and its take-up rate. Between 2019 and 2020, unit trust and listed shares, which investors are most familiar with, showed the highest take-up compared to other capital market products (Chart 3). This result underscores the importance of efforts to embed investor awareness in new product design and distribution.

The SC’s surveys also revealed that the general investing public has a pronounced tendency to focus on potential returns when making their investment decision with very little consideration of the risks involved.

Unrealistic expectation of returns from investment

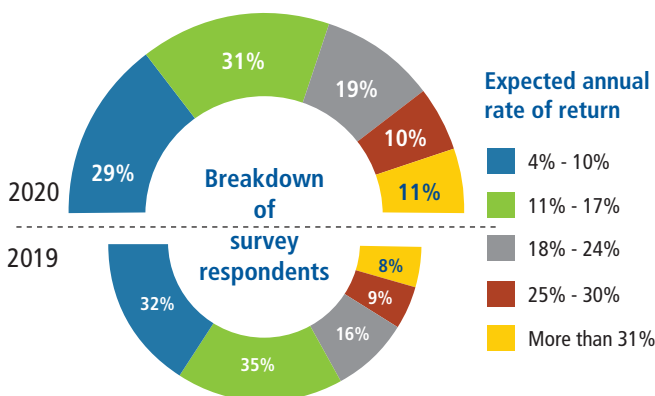
Chart 4 shows that a sizeable number of survey respondents have an unrealistic expectation of returns as high as 24% to more than 31% per annum. Such unrealistic expectation of returns makes them susceptible to scams, which thrive on the promise of high returns, with little or no risk involved.

Some barriers prevent investors from investing in the capital market

- Lack of product awareness and negative peer influence;
- Concern for frauds/scams and low returns; and
- Insufficient money and complicated process of investing.

CHART 4

Survey of investors’ expected annual rate of return



In view of the observations, the SC continues to prioritise investors’ empowerment initiatives to ensure that investors are making informed financial and investment decisions while safeguarding their interests.



## Empowering Investors Against Scams

In 2020, the SC observed a 70% increase in investors' complaints and enquiries compared to the year before. Illegal investment schemes form 37% of all complaints handled by the SC.

The SC observed that the *modus operandi* of scammers have evolved over the years. Scams are now perpetrated predominantly through social media channels and messaging tools. To lure investors into the scheme, scammers have resorted to cloning legitimate firms, using the licensed firm's name and logo.

## Anti-Scam Awareness Measures

Through InvestSmart®, the SC undertakes various initiatives to promote investment literacy and anti-scam awareness to the Malaysian public. Given the restriction imposed on physical events during the COVID-19 outbreak, InvestSmart® continued to utilise various tools such as digital and social media to reach out to members of the public. In 2020, InvestSmart® rolled out investor education initiatives through television and radio channels as well as Facebook, Instagram, Twitter and YouTube.

### Anti-scam awareness television campaign



Recognising the potential rise in scams during the current economic uncertainties due to the COVID-19 crisis, InvestSmart® carried out a TV campaign on anti-scam awareness for three weeks from 10 to 30 April 2020 via four Media Prima TV channels - TV3, TV9, NTV7 and 8TV, to spread anti-scam awareness messages to the public.

The 15-second message was screened 504 times throughout the 3-week period, reminding the public to exercise extra caution and remember the InvestSmart® T.I.P.U formula before investing. These four channels have monthly viewership ranging from 4 million to 15 million, which gave InvestSmart® a very good reach, particularly when Malaysians were required to stay at home during that period.

### Investor Alert List

A total of 134 new entries were made in the Investor Alert list in 2020 to warn the public against dealing or investing with such entities. These entities were involved in unlicensed activities and clone firm scams. To widen the reach and create better visibility of the Investor Alert List, new postings are regularly updated on the SC and InvestSmart® social media platforms and websites, every time a new entity is included in the Investor Alert List.



Media release and issuance of cease and desist directives

Several media releases were issued to warn investors against investment scams, clone firms and investing through unauthorised digital asset exchanges. These media releases serve as a communication tool for the SC to inform investors of the new *modus operandi* of scammers and also to alert them of red flags that they should be aware of, to identify these scams.

On 5 August 2020, the SC also issued cease and desist orders on two entities operating crypto ATMs, namely Miningpuppets Sdn Bhd and Occasin Sdn Bhd.

Establishment of an internal taskforce

In response to the increased incidences of scams and clone firms, the SC established an internal task force to investigate and take enforcement action against the perpetrators of such investment scams.

Blocking of websites

With the collaboration from the Malaysian Communications and Multimedia Commission (MCMC), the SC has blocked 78 websites found to be carrying unlicensed regulated activities, scams and misusing the SC’s name and logo.

Collaboration with the Ministry of Communications and Multimedia on public service announcements in the form of anti-scam awareness videos on all television channels and public transportation operated by Prasarana, television news crawlers and announcements on all radio stations.

Through the monthly InvestSmart® online series, basic information on capital market products and services are shared, as well as tutorials on how to invest.



“Did You Know” and “Capital Market Knowledge” series of postings on InvestSmart® social media platforms.



## InvestSmart® Fest 2020

InvestSmart® Fest 2020 is an annual flagship investor education event, which forms part of InvestSmart® investor education initiatives to create more informed investors who are self-reliant and able to make





investment decisions that are right for them. The event aimed to reach out to a wide spectrum of the public throughout the nation. It is an avenue to educate the public on a range of investment-related topics and promote anti-scam awareness.

# VIRTUAL INVESTSMART® FEST 2020

## 23 - 25 OCTOBER 2020

In October 2020, InvestSmart® organised its seventh instalment of the InvestSmart® Fest virtually for the first time. InvestSmart® Fest 2020 with the theme, 'Silap Labur Duit Lebur' was also held in support of the Financial Education Network's (FEN) inaugural Financial Literacy Month held throughout October 2020.



 <p><b>9,000+ VISITORS</b></p> <ul style="list-style-type: none"> <li>• Over 50% reside outside Klang Valley</li> <li>• 30% are between the ages of 18-30</li> </ul>	 <p><b>37 EXHIBITORS</b></p> <ul style="list-style-type: none"> <li>• Capital Market Intermediaries</li> <li>• Associations</li> <li>• Regulatory and Government Agencies</li> </ul>
 <p><b>40 SPEAKERS</b></p>	 <p><b>460</b> Slots of free consultation with licensed financial planners offered at #FinPlan4U service desk</p>

## FEATURED SPEAKERS



## Strengthening Redress Mechanisms for Investor Protection

The SC's efforts to strengthen accountability and market integrity are complemented by the resolution of investors' claims through a dispute resolution mechanism. The Securities Industry Dispute Resolution Center (SIDREC) provides retail investors with a specialist independent and impartial avenue to resolve claims that they may have against a SIDREC member in an accessible, efficient and effective

manner based on the principle of fairness and reasonableness.

In 2020, SIDREC received 259 claims and enquiries (2019: 290), out of which 103 were eligible disputes<sup>10</sup>. In line with past trends, 90% of the eligible disputes in 2020 were resolved through case management and mediation. The year 2020 witnessed SIDREC spearheading the conduct of mediations and adjudications either fully virtual or on a hybrid basis for claimants.

## ACHIEVING SWIFT AND TARGETED ENFORCEMENT ACTION

### Swift and Effective Enforcement Outcomes Through Utilisation of Available Enforcement Tools

The SC continuously seeks to pursue an enforcement strategy that is proportionate, and yields the most efficient and effective outcomes for each case.

In 2020, the SC recalibrated its enforcement strategy to focus on cases that have caused significant harm involving vulnerable investors, namely fraud, misconduct and unlicensed activities.

A snapshot of some of the SC's key enforcement achievements in 2020 is presented in the *Enforcement Actions 2020*.

<sup>10</sup> Dispute under SIDREC's purview as set out in its Terms of References.

# ENFORCEMENT ACTIONS 2020

## CRIMINAL ACTIONS

In 2020, a total of 10 charges were laid against three individuals for securities fraud and failure to appear before an Investigating Officer. Additionally, convictions were secured against three individuals for cases involving securities fraud and submission of false information.



**3**  
Individuals  
charged



**10**  
Criminal  
charges  
laid



**5**  
Convictions  
obtained



**6 months**  
Custodial  
Sentences



**RM5,884,500.00**  
Fine

## OUTCOME OF CRIMINAL ACTION ON FALSE AND MISLEADING INFORMATION AND SECURITIES FRAUD

### FURNISHING FALSE AND MISLEADING INFORMATION

Former Chief Executive Officer and Executive Director of Transmile Group Bhd (Transmile) Gan Boon Aun (Gan BA) was convicted by the Sessions Court for furnishing a misleading statement to Bursa Malaysia in relation to Transmile's revenue as reported in the company's Quarterly Report on Unaudited Consolidated Results for the Financial Year ended 31 December 2006. Gan BA was sentenced to a fine of RM2.5 million (in default, 18 months imprisonment) and 1-day imprisonment.

Dato' Dr Haji Mohd Adam Che Harun, former Executive Chairman of Megan Media Holdings Bhd (MMHB) had his conviction affirmed by the Court of Appeal for an offence of furnishing false information to Bursa Malaysia. The false information was in relation to the revenue in MMHB's Quarterly Report on Consolidated Results for the Financial Period ended 31 January 2007. The Court of Appeal also reinstated the 18 months imprisonment term, which was imposed by the Sessions Court and maintained the RM300,000 fine.

### SECURITIES FRAUD

Afkariah Md Noraini (Afkariah), a former unit trust consultant pleaded guilty to four charges of securities fraud and was sentenced to 6 months imprisonment and RM1 million fine (in default 1-month imprisonment) for each charge by the Sessions Court. Afkariah was charged with securities fraud for deceiving four individuals in relation to a purported investment scheme with RHB Investment Bank Bhd amounting to RM50,000.

## CIVIL ACTIONS

The SC's civil actions in 2020 are as follows:

### Civil actions



**6 cases**

Civil actions  
filed



**1**

Full judgement obtained  
after full trial

**RM3,318,154.00**

Amount  
disgorged



**14**

No. of individuals  
/entities involved



**4 Individuals**

Consent judgment  
recorded

**RM2.2 million**

Civil penalties  
imposed

### Regulatory settlements

**3 cases**

Regulatory settlements  
entered

**18**

No. of individuals/  
entities involved

**RM11,955,894.63**

Amount  
disgorged

## RESTITUTION



**RM3,868,679.24**

Amount  
restituted



**533**

No. of investors  
restituted



**RM4,339,821.62**

Amount earmarked for  
further restitution



**1,205**

No. of investors  
earmarked for  
further restitution

## CIVIL ACTION ON SECURITIES FRAUD, MARKET MANIPULATION AND INSIDER TRADING

### SECURITIES FRAUD

A civil action was initiated by the SC on 5 May 2020 against Wong Shee Kai (Ricky Wong), Teh Sew Wan and Wong SK Holdings Sdn Bhd. The defendants were involved in several schemes to defraud Bright Packaging Industry Bhd (Bright Packaging) through its rights issue, private placement and ESOS exercises.

Arising from this civil action, the SC managed to obtain an *ex parte* injunction against the defendants on 5 May 2020. The *ex parte* injunction prohibits the defendants from dealing with their assets and properties to the value of approximately RM169 million. The order also requires the defendants to disclose a full, complete and accurate account of their respective assets within and outside Malaysia.

The Public Prosecutor also filed a Notice of Motion for an asset forfeiture against Wong SK Holdings Sdn Bhd and Ricky Wong under section 56 of the *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001* (AMLATFPUAA) to forfeit 5,792,000 units of Bright Packaging shares held in RHB Investment Bank equity account, belonging to Wong SK Holdings Sdn Bhd.

### MARKET MANIPULATION

On 8 May 2020, the SC filed a civil suit against Toh Lean Seng, Tham Yoke Sing, Lee Ai Peng, Yap Wai Fong and Lee Beng Huat in connection with an alleged false trading and market rigging transaction involving the trading of Reliance Pacific Bhd (RPB) shares. In carrying out the market manipulation activity, the SC contended that the Defendants solely and/or jointly with another group of individuals have colluded and/or participated in carrying out the market manipulation activity through 38 CDS accounts maintained at various stock brocking companies.

### INSIDER TRADING

On 4 November 2020, the High Court found in favour of the SC, that Dato' Sreesanthan Eliathamby (Sreesanthan) had acquired 600,000 shares in Worldwide Holdings Bhd (Worldwide) between 7 June 2006 and 11 July 2006 while in possession of material non-public information.

The High Court had found that Sreesanthan, a senior partner in a law firm that served as a legal adviser for the proposed privatisation of Worldwide, was in possession of material non-public information in relation to the exercise by Perbadanan Kemajuan Negeri Selangor, by way of a member's scheme of arrangement under Section 176 of the *Companies Act 1965*. The privatisation was announced to Bursa Malaysia on 23 August 2006.

Sreesanthan was ordered to pay RM1.99 million to the SC, which is three times the profits gained because of insider trading. He was also ordered to pay the regulator a civil penalty of RM1 million and is barred from being a director of any listed company for 10 years starting from 18 November 2020.

## RESTRAINING ORDER FROM TRADING ON BURSA MALAYSIA FOR A PERIOD OF UP TO 5 YEARS



**5**  
Directors of  
PLCs



**3**  
Licensed  
persons



**7**  
Private  
individuals

## INDIVIDUALS BARRED AS DIRECTOR



**6**  
Directors of  
PLCs



**2**  
Licensed  
persons

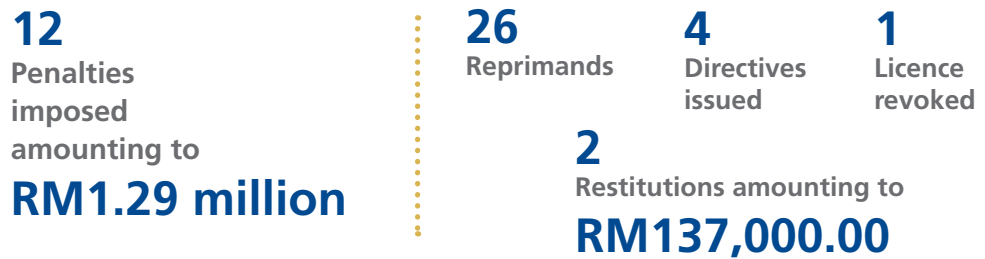


**8**  
Private  
individuals



## ADMINISTRATIVE ACTIONS

Various types of administrative sanctions were imposed against capital market intermediaries, professional advisors, listed companies and their directors for various breaches of securities laws and guidelines:



### SANCTIONS WERE IMPOSED FOR, AMONG OTHERS:

#### FRAUD AND MISREPRESENTATION

- Failure to supervise and monitor its marketing representatives and ensure compliance with various SC's guidelines, resulting in misrepresentation to investors



**45**  
ADMINISTRATIVE  
SANCTIONS  
IMPOSED



The SC reprimanded BIMB Investment Management Sdn Bhd (BIMB) and issued a directive against BIMB for breach of provisions in various SC's guidelines, such as the *Licensing Handbook*, *Guidelines for Marketing Representatives*, *Guidelines on Unit Trust Funds* and *Guidelines on Sales Practices of Unlisted Capital Market Products*.

BIMB's misconduct included failure to supervise and ensure compliance with relevant guidelines, failure to exercise reasonable care and diligence, failure to ensure actions by referrers or marketing representatives are within permitted referral and marketing activities, and failure to have proper policies and procedures to monitor its referrers or marketing representatives.

- Fraudulent sale and purchase of securities and derivatives by a licensed individual



The SC reprimanded Muhamad Nur Syafiq Mat Sari and required him to make restitution to his victim as well as imposed a penalty on him for engaging in an act, practice or course of business, which operated as a fraud in relation to sale and purchase of securities and derivatives.

#### MATERIAL OMISSION OF INFORMATION TO INVESTORS

The SC sanctioned Pasdec Holdings Bhd (Pasdec) together with its board of directors for authorising the issuance of an abridged prospectus containing material omission of information. Pasdec and the directors were reprimanded, while some of its directors were imposed penalties. The SC also reprimanded, imposed a penalty and a directive against RHB Investment Bank, the principal adviser of Pasdec for causing the issuance of the said abridged prospectus.



## SC's Investigation on the Goldman Sachs Group, Inc. (GSG) Entities

The SC completed its investigation on Goldman Sachs International, Goldman Sachs (Asia) L.L.C. and Goldman Sachs (Singapore) Pte for engaging in a scheme to defraud the Government of Malaysia (GOM) and 1Malaysia Development Bhd (1MDB) in the issuance of three bonds namely:

- US\$1.75 billion 5.99% Guaranteed Notes due in 2022 issued by 1MDB Energy Ltd;
- US\$1.75 billion 5.75% Guaranteed Notes due in 2022 issued by 1MDB Energy (Langat) Ltd; and
- US\$3 billion 4.40% Notes due in 2023 issued by 1MDB Global Investments Ltd.

Following Tim Leissner's plea of guilt on 28 August 2018 for conspiring to commit money laundering and conspiring to violate the U.S. *Foreign Corrupt Practices Act* by both paying bribes to various officials and circumventing internal accounting controls of GSG's entities before the U.S. District Court, Eastern District of New York, Goldman Sachs Malaysia Sdn Bhd was also queried by the SC as Tim Leissner was a director on its board during the material time.

As the SC's investigation forms part of GOM's settlement negotiation with GSG, the SC's team provided input and support to the Attorney-General throughout the negotiation leading to US\$3.9 billion settlement with GSG. The settlement agreement comprised among others, GSG making a cash payment of US\$2.5 billion and providing an asset recovery guarantee of US\$1.4 billion to the GOM.

## Sanctions Against Errant Registrants

The AOB has taken six separate administrative actions in 2020 on errant registrants to reinforce the importance for the AOB registered audit firms to uphold the quality of their audit engagements. The actions consist of

one prohibition, three monetary penalties and two prohibitions with monetary penalties. Enforcement actions imposed against audit firms and auditors were based on the level of severity and impact of the deficiencies found from the AOB's inspection findings.

## Infringement Notices

Apart from administrative actions under its statutory powers, the SC also utilises other forms of non-statutory enforcement tools in the exercise of its monitoring, gate-keeping and supervisory functions.

Infringement notices are issued where breaches of securities laws or guidelines do not warrant the initiation of a formal enforcement action, or the imposition of an administrative sanction.

Infringement notices issued by the SC include the following:

- **Supervisory letters involving infringement** – issued pursuant to the exercise of a supervisory function or the conduct of an examination under section 126 of the *Securities Commission Malaysia Act 1993* (SCMA).
- **Warning letters** – issued pursuant to the discharge of the SC's gate-keeping function such as the issuance of licences, approval of corporate proposals and review of prospectuses. Warning letters may be issued to licensed, registered persons or other professionals and experts.
- **Non-compliance letters** – issued pursuant to the discharge of the SC's gate-keeping function for minor breaches.
- **Cease and desist letters** – issued to stop or prevent violation of securities laws. Cease and desist letters may be issued to a person who is committing or about to commit an infringing act. Failure to comply with the cease and desist order may attract formal enforcement action by the SC.

In 2020, a total of 71 infringement notices were issued by the SC as detailed below:

Type	Total
Supervisory letter involving infringement	22
Warning letter	7
Non-compliance letter	40
Cease and Desist letter	2
<b>Total</b>	<b>71</b>

### The High Court Upholds the SC's Decision to Impose Penalties Upon Deloitte PLT (Deloitte)

On 24 December 2020, the High Court dismissed Deloitte's judicial review application to set aside the SC's sanctions against Deloitte for its failure to discharge its reporting obligations under the CMSA, which consists of reprimands and penalties of RM2.2 million. The High Court also awarded costs in the sum of RM20,000 to be paid by Deloitte to the SC.

In 2019, the SC imposed sanctions upon Deloitte for its failure to immediately report to the SC on irregularities, which may have a material effect on the ability of Bandar Malaysia Sdn Bhd to fulfil its obligations in repaying its sukukholders under the *Sukuk Murabahah* Programme.

Deloitte has filed an appeal to the Court of Appeal to challenge the High Court's decision.

### Collaboration with Other Law Enforcement Agencies and Cross-Border Investigations

In various efforts to ensure successful outcome of the SC's investigations, collaboration and sharing of information with other law enforcement agencies locally and outside of Malaysia is crucial. In this regard, the SC continues to have regular dialogues with its foreign counterparts on enforcement and supervisory matters while providing assistance and information-sharing via the IOSCO's Multilateral Memorandum of Understanding (IOSCO MMoU). The SC's enforcement team works closely with fellow regulators under the IOSCO MMoU Concerning Consultation and Cooperation and the Exchange of Information.

Strong enforcement co-operation through this global information-sharing network has strengthened the SC's enforcement capabilities to deal with cross-border market misconduct. In 2020, the SC liaised with eight jurisdictions under the IOSCO MMoU in pursuit of cross-border investigations and enforcement of securities laws.

# MAINTAINING MARKET INTEGRITY AND GOOD GOVERNANCE

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Maintaining market integrity and good governance remains a priority for the SC as it continues to drive high standards of governance and accountability among all market participants.