

CAPITAL MARKETS AND SERVICES ACT 2007

CAPITAL MARKETS AND SERVICES (AMENDMENT OF SCHEDULES 5, 6 AND 7)
ORDER 2024

IN exercise of the powers conferred by subsection 380(1) of the Capital Markets and Services Act 2007 [*Act 671*], the Minister, on the recommendation of the Commission, makes the following order:

Citation and commencement

1. (1) This order may be cited as the **Capital Markets and Services (Amendment of Schedules 5, 6 and 7) Order 2024**.

(2) This Order comes into operation on 5 February 2024.

Amendment of Schedule 5

2. The Capital Markets and Services Act 2007, which is referred to as the “principal Act” in this Order, is amended in Schedule 5—

- (a) in subparagraph 1(a), by substituting for the words “specified in Part I of Schedule 6 or Part I of Schedule 7” the words “determined by the Commission in any guidelines issued under section 377”;
- (b) in subparagraph 14(a), by substituting for the words “specified in Part I of Schedule 6 or Part I of Schedule 7” the words “determined by the Commission in any guidelines issued under section 377”; and
- (c) in paragraph 27, by substituting for the words “specified in Part I of Schedule 6 or Schedule 7” the words “determined by the Commission in any guidelines issued under section 377”.

Substitution of Schedule 6

3. The principal Act is amended by substituting for Schedule 6 the following schedule:

“SCHEDULE 6

[Section 229]

Excluded offers or excluded invitations

For the purposes of paragraph 229(1)(a), an excluded offer or excluded invitation shall be—

- (a) an offer or invitation to a sophisticated investor as determined by the Commission in any guidelines issued under section 377; and
- (b) any other type of offer or invitation as specified in Part I and Part II.

Part I

Other types of excluded offers or excluded invitations

1. An offer or invitation made in respect of any sale of units in a unit trust scheme, private retirement scheme or prescribed investment scheme by a personal representative, liquidator, receiver or trustee in bankruptcy or liquidation, as the case may be, in the normal course of realization of assets.
2. All secondary trades in securities effected on a stock market of a stock exchange or such other securities exchange in Labuan or outside Malaysia as may be determined by the Commission.
3. An offer or invitation of securities made or guaranteed by the Federal Government, any State Government or Bank Negara.

4. An offer or invitation made pursuant to a take-over offer which complies with the relevant law applicable to such offers.
5. (1) Subject to subparagraph (2), all secondary trades in debentures or sukuk.

(2) In the case of secondary trade in debentures or sukuk involving retail investors, subparagraph (1) shall only apply if—
 - (a) a prospectus has been issued at the primary issuance; or
 - (b) the debenture or sukuk complies with the requirements of the guidelines issued by the Commission in relation to the Seasoned Bond Framework.
6. An offer or invitation in respect of debentures or sukuk that complies with the requirements of the guidelines issued by the Commission in relation to the Qualified Issuer Framework.
7. An offer or invitation made to employees or directors of a corporation or its related corporation pursuant to an employee share scheme or employee share option scheme.
8. An offer or invitation made to any creditor or holder of securities of a company undergoing a scheme of arrangement or compromise under the Companies Act 2016 or a restructuring scheme under the Pengurusan Danaharta Nasional Berhad Act 1998 which may not be renounced to any person other than a creditor or holder of securities of the company.
9. An offer or invitation made exclusively to persons in Labuan or outside Malaysia.
10. An offer or invitation to enter into an underwriting or subunderwriting agreement or an offer or invitation made to an underwriter under such agreement.

11. An offer or invitation made to a person who acquires securities pursuant to a private placement where the consideration for the acquisition is not less than two hundred and fifty thousand ringgit or its equivalent in foreign currencies for each transaction whether such amount is paid for in cash or otherwise.
12. An offer or invitation made by or to the Corporation as defined in the International Islamic Liquidity Management Corporation Act 2011.
13. An offer or invitation made by or to Danamodal Nasional Berhad.
14. An offer or invitation in respect of securities of a corporation made to existing members of a company within the meaning under section 457 of the Companies Act 2016.
15. An offer or invitation in respect of securities of a corporation or unit trust scheme having gained admission on a securities exchange in Labuan or outside Malaysia as determined by the Commission, made to existing securities holders of such corporation or unit trust scheme by means of a rights issue, provided that, in the case of a renounceable rights issue, such offer or invitation has been accompanied by a prospectus or disclosure document approved or registered by or lodged with the authority in Labuan or outside Malaysia, as the case may be, which exercises functions corresponding to the functions of the Commission.
16. An offer or invitation in respect of securities of a corporation made to existing securities holders of the corporation by means of a non-renounceable rights issue or a rights issue which is renounceable in favour of the existing members or securities holders only.
17. An offer or invitation in respect of shares of a private company.
18. An offer or invitation where no consideration, whether in cash or otherwise, is or will be given for the offer or invitation.

Part II

Alternative market

19. An offer or invitation in respect of shares of a corporation that are listed or approved for listing and quotation on the alternative market of a stock exchange, provided that—
 - (a) the offer or invitation is accompanied with a prospectus which is registered by the stock exchange, and the prospectus shall not be considered as an information memorandum for purposes of this Act; and
 - (b) the offer or invitation complies with any other requirements as may be specified in the listing requirements.

20. An initial listing of shares of a corporation on the alternative market of a stock exchange, provided that—
 - (a) the initial listing is accompanied with a prospectus which is registered by the stock exchange, and the prospectus shall not be considered as an information memorandum for the purposes of this Act; and
 - (b) the initial listing complies with any other requirements as may be specified in the listing requirements.

Part III

Non-application

21. Sections 232, 233, 234, 235, 236, 237, 238, 239, 240, 241 and 244 shall not apply to an excluded offer or excluded invitation to a sophisticated investor as determined by the Commission in any guidelines issued under section 377 and an excluded offer or excluded invitation under Part I of this Schedule.

22. Sections 232, 233, 234, 235, 237, 238, 239, 240, 241 and 244 shall not apply to an excluded offer or excluded invitation under Part II of this Schedule.”.

Substitution of Schedule 7

4. The principal Act is amended by substituting for Schedule 7 the following schedule:

“SCHEDULE 7

[Section 230]

Excluded issues

For the purposes of paragraph 230(1)(a), an excluded issue shall be—

- (a) an issue to a sophisticated investor as determined by the Commission in any guidelines issued under section 377; and
- (b) any other type of issue as specified in Part I and Part II.

Part I

Other types of excluded issue

1. An issue made in respect of any sale of units in a unit trust scheme, private retirement scheme or prescribed investment scheme by a personal representative, liquidator, receiver or trustee in bankruptcy or liquidation, as the case may be, in the normal course of realization of assets.
2. All secondary trades in securities effected on a stock market of a stock exchange or such other securities exchange in Labuan or outside Malaysia as may be determined by the Commission.
3. An issue of securities made or guaranteed by the Federal Government, any State Government or Bank Negara.

4. An issue in respect of securities which are acquired pursuant to a take-over offer which complies with the relevant law applicable to such offers.
5.
 - (1) Subject to subparagraph (2), all secondary trades in debentures or sukuk.
 - (2) In the case of secondary trade in debentures or sukuk involving retail investors, subparagraph (1) shall only apply if—
 - (a) a prospectus has been issued at the primary issuance; or
 - (b) the debenture or sukuk complies with the requirements of the guidelines issued by the Commission in relation to the Seasoned Bond Framework.
6. An issue of debentures or sukuk that complies with the requirements of the guidelines issued by the Commission in relation to the Qualified Issuer Framework.
7. An issue in respect of securities which are acquired by employees or directors of a corporation or its related corporation pursuant to an employee share scheme or employee share option scheme.
8. An issue made to any creditor or holder of securities of a company undergoing a scheme of arrangement or compromise under the Companies Act 2016 or a restructuring scheme under the Pengurusan Danaharta Nasional Berhad Act 1998 which may not be renounced to any person other than a creditor or holder of securities of the company.
9. An issue made exclusively to persons in Labuan or outside Malaysia.
10. An issue made to an underwriter under an underwriting or subunderwriting agreement.

11. An issue made to a person who acquires securities pursuant to a private placement where the consideration for the acquisition is not less than two hundred and fifty thousand ringgit or its equivalent in foreign currencies for each transaction whether such amount is paid for in cash or otherwise.
12. An issue made by or to the Corporation as defined in the International Islamic Liquidity Management Corporation Act 2011.
13. An issue made by or to Danamodal Nasional Berhad.
14. An issue of securities of a corporation made to existing members of a company within the meaning of section 457 of the Companies Act 2016.
15. An issue in respect of securities of a corporation or unit trust scheme having gained admission on a securities exchange in Labuan or outside Malaysia as may be determined by the Commission, made to existing securities holders of such corporation or unit trust scheme by means of a rights issue, provided that, in the case of a renounceable rights issue, such issue has been accompanied by a prospectus or disclosure document approved or registered by or lodged with the authority in Labuan or outside Malaysia, as the case may be, which exercises functions corresponding to the functions of the Commission.
16. An issue in respect of securities of a corporation made to existing securities holders of the corporation by means of a non-renounceable rights issue or a rights issue which is renounceable in favour of the existing securities holders only.
17. An issue in respect of shares of a private company.
18. An issue of securities where no consideration, whether in cash or otherwise, is or will be given for the issue of such securities.

19. An issue of securities by a corporation pursuant to the exercise of an option, a warrant or a transferable subscription right, in respect of which a prospectus has been registered under this Act or in respect of which the securities to which the option, warrant or transferable subscription right converts into are listed securities.
20. An issue of shares by a corporation pursuant to a provision contained in a convertible note, whether the note was issued by that corporation or by another corporation, in respect of which a prospectus has been registered under this Act or in respect of which the shares to which the note converts into are listed shares.
21. An issue in respect of shares or units in a unit trust scheme or prescribed investment scheme, whether inside or outside Malaysia, which are issued in satisfaction of dividends or distributions payable by the issuer to the holders of existing shares or units that were issued pursuant to a prospectus.
22. A bonus issue of securities made by a corporation, unit trust scheme or prescribed investment scheme.

Part II

Alternative market

23. An issue in respect of shares of a corporation that are listed or approved for listing and quotation on the alternative market of a stock exchange, provided that—
 - (a) the issue is accompanied with a prospectus which is registered by the stock exchange, and the prospectus shall not be considered as an information memorandum for the purposes of this Act; and
 - (b) the issue complies with any other requirements as may be specified in the listing requirements.

24. An initial listing of shares of a corporation on the alternative market of a stock exchange, provided that—
- (a) the initial listing is accompanied with a prospectus which is registered by the stock exchange, and the prospectus shall not be considered as an information memorandum for the purposes of this Act; and
 - (b) the initial listing complies with any other requirements as may be specified in the listing requirements.

Part III

Non-application

25. Sections 232, 233, 234, 235, 236, 237, 238, 239, 240, 241 and 244 shall not apply to an excluded issue to a sophisticated investor as determined by the Commission in any guidelines issued under section 377 and an excluded issue under Part I of this Schedule.
26. Sections 232, 233, 234, 235, 237, 238, 239, 240, 241 and 244 shall not apply to an excluded issue under Part II of this Schedule.”.

Made 2 February 2024

[GC(LR)1/2024 (290) CMSA(A) of Schedules 5, 6 and 7) Order 2024; PN(PU2) 662/JLD.15]

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Second Minister of Finance