Suruhanjaya Sekuriti
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Executive Summary

Highlights on dispute resolution in the capital market and insider trading

This issue of *The Reporter* offers an insight into how the Securities Industry Dispute Resolution Center (SIDREC) resolves monetary disputes between investors in the capital market and SIDREC members. SIDREC's effectiveness in handling disputes has resulted in an expansion of its mandatory scheme for claims below RM250,000 to a voluntary scheme where parties can agree to utilise SIDREC's mediation services to settle disputes above the RM250,000 limit. In 2017, SIDREC launched a court-referred mediation scheme allowing parties of court cases involving capital market products and services access to its mediation services. The article provides useful advices to investors and SIDREC members alike on what to do when they approach SIDREC to ensure speedy resolution of disputes.

Another highlight of this issue is the prohibition against insider trading. This issue seeks to create awareness on the often-asked questions relating to insider trading:

- Why is insider trading regarded as a serious offence?
- Who is an "insider"?
- What constitutes "inside information"?
- How does one determine whether the information is material?
- What conduct are prohibited under insider trading laws?
- How should companies safeguard inside information?

We hope you will find the articles in this issue informative and helpful. The SC is committed to being transparent and will continue to communicate our expectations to promote and encourage better market conduct and standards in the capital market.

As always, we would like to hear from you. Please send your feedback and ideas for future editions to the Editorial Team at reporter@seccom.com.my

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SIDREC – Providing Impartial, Efficient and Effective Dispute Resolution in the Malaysian Capital Market

Background

The Securities Industry Dispute Resolution Center (SIDREC) was established by the SC in 2010 for efficient and effective settlement of disputes between investors and SIDREC members. Access to mediation and adjudication feeds into SC's larger investor protection framework and builds confidence in the market. All capital market intermediaries licensed by the SC such as stockbrokers, derivatives brokers, unit trust management companies, fund managers and providers and distributors of private retirement schemes are required to be members of SIDREC.

Six years later, in 2016, SIDREC became a one stop centre for the settlement of claims in relation to capital market products and services when its membership expanded to include 43 commercial and Islamic banks, which are entities under the purview of Bank Negara Malaysia. Previously, investors who encountered disputes while dealing with such entities were referred to the Financial Mediation Bureau.

> "Compared to the courts and arbitration, SIDREC's processes are more flexible."

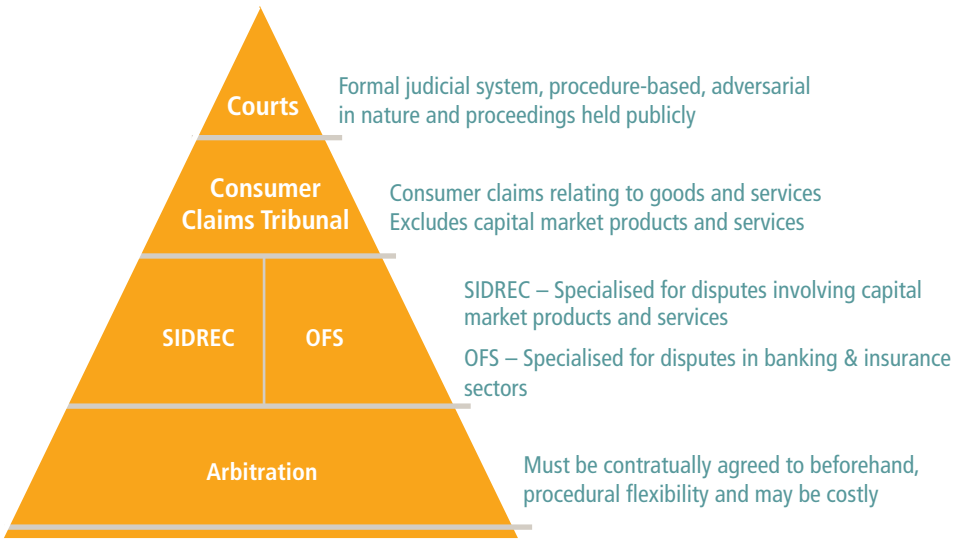
Filling a Gap in the Dispute Resolution Landscape in Malaysia

Without SIDREC, the dispute resolution landscape in Malaysia which is largely provided by court system, is procedurally more formal and adversarial in nature. The other alternative is arbitration, which must be contractually agreed upon by the parties beforehand and is usually costly.

Compared to the courts and arbitration, SIDREC's processes are more flexible. For example, SIDREC's mediation and adjudication process accepts a variety of supporting documents including WhatsApp messages between the investor and the intermediary to establish communications made between them as it is not bound by the *Evidence Act 1950*. SIDREC's approach is to give a fair and reasonable outcome by focusing on the interest of the parties and not the rights of the parties per se.

There were other specialised tribunals and alternative dispute resolution bodies that existed before the establishment of SIDREC but they did not cover capital market products and services. These include the Ombudsman for Financial Services (OFS) which covers the banking and insurance sectors and the Tribunal for Consumer Claims Malaysia under the auspices of the Ministry of Domestic Trade, Co-operatives and Consumerism.

DISPUTE RESOLUTION LANDSCAPE IN MALAYSIA



Mandatory Scheme for Dispute Resolution in the Capital Market

SIDREC operates three types of dispute resolution schemes:

- Mandatory Scheme;
- Voluntary Scheme; and
- Court-referred Mediation Scheme.

When an investor has a dispute with his bank, broker, unit trust management company, PRS distributor or provider, or fund manager, he needs to file a complaint with SIDREC members.

If the investor is unable to settle the dispute with the SIDREC member, the investor can file a claim with SIDREC under the mandatory scheme. SIDREC's dispute resolution services are provided free to the investors for claims up to RM250,000 (or in foreign currency which is equivalent to RM250,000). Investors whose claims are above RM250,000 can opt to limit their claims to RM250,000 if they wish to be eligible under the mandatory scheme. While SIDREC may allow other persons to attend the dispute resolution process subject to signing the

confidentiality agreement, legal representation is not allowed in the mandatory scheme. The summary of the dispute resolution process is as follows:

- When a claim is filed, a case officer will be appointed to manage the case to first ascertain whether the claim falls within 'eligible dispute'. Otherwise, it will be dismissed.

- If the case has merit, the parties would go through a process of mediation to see if a settlement can be reached.

- If the matter cannot be resolved through mediation, it would then be sent for adjudication where the adjudicator will make a decision/award after hearing evidence from both parties.

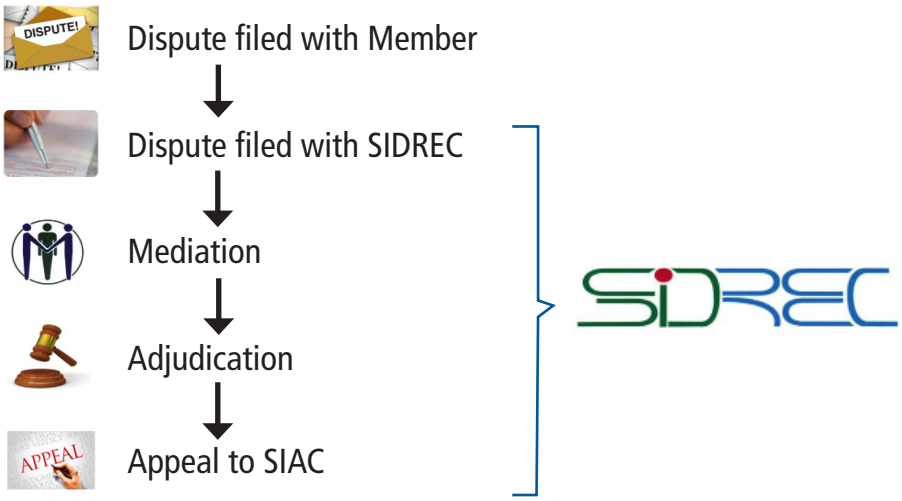
- During adjudication, both parties can present any evidence, call any witnesses in support of their position, and seek clarifications from the other party.

- The adjudicator's decision/award will be binding on SIDREC members. As for the investor, he has the option to accept the decision/award or pursue the claims elsewhere.

- Both parties may appeal against the decision/award to SIDREC's Appeal Committee (SIAC) only in the circumstances below if it materially affects the decision/award–

  (a) Serious error of law or fact in the award; or
  (b) Production of new evidence.

DISPUTE RESOLUTION PROCESS UNDER VOLUNTARY SCHEME IN THE CAPITAL MARKET



SIDREC Provides an Efficient and Effective Avenue for Dispute Resolution

In 2016, SIDREC managed to resolve 90% of the cases within the timeframe of 90 working days from the receipt of complete documentation and information of the dispute. SIDREC effectiveness is largely due to its combined capital market knowledge and dispute resolution expertise and skills.

SIDREC takes a mediative approach, aimed at obtaining a fair and reasonable outcome in each case. The process is confidential. The mediative process is proven to be effective as 92% of all disputes are resolved through mediation.

Besides the investor, SIDREC members too benefited through the quick and amicable settlement of disputes through SIDREC. The quick settlement enables them to focus on core business activities and not be burdened and disrupted by the disputes with clients.

In addition, SIDREC members also gain as a dispute is an opportunity for members to discover more about valid issues of concern or challenges faced by their clients. Sometimes the issues involve practical processes, products or system issues that may not have been apparent to SIDREC members until the arising of the dispute which SIDREC members can then use to address issues for their internal risk management purposes. Furthermore, resolving investors' concern speedily and on reasonable and acceptable terms also contributes to investor loyalty and enable SIDREC members to retain clients in the long run.

> "Mediator not only made a difference but was instrumental in the process, without whom, we undoubtedly would not have reached a resolution."
>
> – Investor A

Voluntary Dispute Resolution Scheme for Claims above RM250,000

In 2015, SIDREC's Terms of Reference were expanded to allow disputing parties who have claims above RM250,000 to have access to SIDREC's dispute resolution services.

Under the voluntary scheme, both parties will enter into a Dispute Resolution Agreement where they agree to accept SIDREC's decision/award and to pay its fees. While legal representation is allowed in this instance, even in voluntary schemes SIDREC's approach to dispute resolution focuses on 'resolution' rather than 'adversarial'. Therefore, any legal representatives who participate in the process will need to abide by this approach and will be subject to SIDREC's Rules. The idea is to give parties in dispute the opportunity to work through disputes with the help of a neutral and impartial third party like SIDREC. The fact that SIDREC has capital market and dispute resolution expertise and skills will certainly help in the matter.

> "With the presence of a neutral person, parties involved are assured that the outcome is fair for both parties."
>
> – SIDREC member

Court-Referred Mediation

Following a Practice Direction issued by the Chief Justice in 2016 which requires judges to direct the parties of court cases to consider settlement of matters through mediation before proceeding through the court process, SIDREC introduced the Court-Referred Mediation Scheme in April 2017.

Given the specialised dispute resolution services SIDREC provides, parties who have commenced litigation in courts on disputes involving capital market products and services can now refer to SIDREC for mediation and in accordance with any condition which the court may impose. This enables the parties to pursue their claims in an amicable and more flexible manner with a view of coming to a resolution of the dispute, without the costs and anxiety of litigation.

Like the voluntary scheme, lawyers are allowed in the process but will be subject to SIDREC's Rules and fees would be charged on both parties.

MODES OF ACCESS TO SIDREC

Mandatory scheme	Voluntary scheme	Court-referred mediation
• Disputes <RM250,000 • Involves mediation or adjudication by SIDREC • Lawyers not allowed • SIDREC's decision binding on member but not on the investor • Fees charged on member • Free for investor • Both parties may appeal against SIDREC's decision	• Disputes > RM250,000 • Involves mediation or adjudication by SIDREC • Parties agree to submit to SIDREC's jurisdiction • Lawyers may be allowed • SIDREC's decision binding on both parties • Fees charged on both parties	• Any dispute before the courts regardless of amount • Parties agree with court to refer matter for mediation • Involves mediation by SIDREC • Lawyers may be allowed • SIDREC's decision binding on both parties • Fees charged on both parties

SIDREC's Role in Improving Standards in the Market

Apart from providing an independent and fair dispute resolution mechanism, SIDREC has an important role to play in improving the overall standards in the capital market. By virtue of handling disputes, SIDREC is able to use its unique position to identify issues and make recommendations to the SC relating to any trends or recurring misconduct while maintaining case confidentiality.

Eligible Disputes

Claims by individual investors or sole proprietors relating to a capital market transaction or services which involve a SIDREC member.

Ineligible Disputes

1. Disputes which involve a Member who is unable to meet its financial obligations because it has been wound up or declared to be financially insolvent by the courts, or been declared to have triggered an event of default under the Capital Market Compensation Fund Corporation Rules

2. Disputes arising from commercial decisions, e.g. with regard to product pricing, fees and charges, or rejection of credit/margin applications, made by the Member

3. Disputes concerning the performance of a product or investment (except in respect of any alleged nondisclosure/misrepresentation by the Member in relation to such product or investment)

4. Disputes which have been referred by the Claimant or the Member to a court or arbitration and the case–

   (a) has been decided in the court or arbitration; or

   (b) is pending in the court or arbitration unless the matter is stayed for the purposes of referral of the dispute to SIDREC;

5. Disputes involving matters under investigation by the SC or any other Government enforcement authority where the SC has issued a direction under the Regulations to SIDREC not to proceed with the Dispute Resolution Process; and

6. Any claim, which is time barred under the law at the time it is submitted to SIDREC for resolution.

Message to SIDREC Members

1. Practice and maintain good client relations.
2. Be attentive to the client's complaints and try to resolve disputes early.
3. Be facilitative and committed to resolving disputes. Refer the client to SIDREC if you are unable to resolve the matter with your client.
4. Be open and constructive during mediation/adjudication process.
5. Obtain and understand all the facts of the case - do your homework before going to the mediation process or adjudication hearing.
6. Understand how the issues have affected your client.
7. Client should be given a reasonable opportunity to present their case.
8. Listen to client's side of the story with an open mind.
9. Mediation should not be approached with a combative mindset.
10. Come with a mandate to resolve the dispute and make sure that your representative has the authority to negotiate and enter into a settlement agreement.
11. Pay up when an award is made against you by SIDREC.
12. Use complaints and disputes as a feedback loop to continuously improve your internal systems, controls and processes.
13. You should improve conduct supervision of representatives and agents to avoid claims which may be filed against them for losses and against you as principal for failure to supervise.
14. Remember this: When you resolve disputes amicably with your client, it goes a long way in enhancing your reputation and building a long standing business relationship with clients.

Message to Investors

1. Make sure you invest in legal and licensed schemes as SIDREC's dispute resolution services would not be available if you invest in illegal schemes or unlicensed activities.

2. Know your rights – You have the right to complain and seek redress if you have a monetary dispute as a result of an action or inaction of a SIDREC member or their agents/representatives. Resolve it with the member, if this fails then bring the dispute to SIDREC.

3. Don't wait. Complain to your Broker/Unit Trust Management Company etc. as soon as you have a concern and seek redress.

4. Be prepared to substantiate your claim/dispute by keeping a record of all communications and transactions. Put important instructions or mutual agreements in writing e.g. details of dates, instructions, communications, documents that support your case.

5. Understand the product and exercise informed judgment – i.e. do your homework before you invest.

6. Come to SIDREC with clean hands. The information provided to SIDREC must be true and accurate. SIDREC is here to help but it will not hesitate to terminate a process if information provided is false.

7. Be fair and reasonable in making and pursuing your claims.

8. If you are not satisfied with SIDREC's decision/award, you may appeal to SIDREC's Appellate Committee if you fulfil the criteria in SIDREC's Terms of Reference.

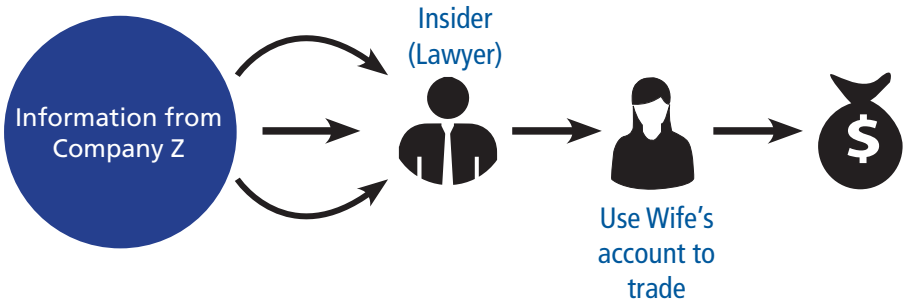
9. You may also pursue other alternatives such as taking the matter to court if SIDREC's decision /award is not in your favour.

Prohibition Against Insider Trading

Are you aware that insider trading is an offence?

Insider trading often occurs even without most people realising it. It can happen at golf courses, coffee shops or other social settings where people casually pass on material non-public information concerning securities to friends, relatives and associates, without realising they are committing insider trading. People who do know about the prohibition of insider trading but still proceed to take the risk often think that the possibility of them getting caught is remote.

Imagine a scenario where you are a lawyer acting for company Z who is involved in a negotiation to acquire a competitor. In your mind you know that once the deal is concluded the share price of Company Z would likely go up. Thinking that you might not be caught for buying a small amount of company Z's shares with this information, you proceed to buy 10 lots of company Z's shares under your wife's name before the official announcement of the news. Company Z's share price surges by RM0.50 per share immediately after the announcement resulting in you making a profit.



After some time, you would probably have forgotten about the purchase but don't be surprised that one day the SC might appear at your doorstep and charge you for committing insider trading. The SC might also add on a civil enforcement action against you for disgorgement of three times the amount of profit that you have made.

The above scenario is a classic illustration on how insider trading is committed i.e. when someone who is in possession of material non-public information buys or sells shares based on that information. It is also an example how certain people could easily fall into the temptation of profiting from material non-public information.

Who is an insider?

The definition of an insider under *Capital Markets and Services Act 2007* (CMSA) is very wide to include any person who comes into possession of material non-public information relating to securities.

As far as the law is concerned, so long as a person is in possession of "information" and that person knows that the said information is not generally available, which upon becoming generally available would have a material effect on the price or the value of securities, that person becomes an insider.

How do you determine whether the information is material or not?

The test in determining whether or not the information is material is a rather straightforward test i.e. would the information influence a reasonable investor in deciding whether or not to buy or sell securities based on the information he possesses.

What constitutes 'information' for the purpose of insider trading?

It is important to know what constitute as 'information' under the context of insider trading. The definition of 'information' according to the law is wide and covers various instances. The CMSA has defined and included the following as "information":

(i) matters of supposition and other matters that are insufficiently definite to warrant being made known to the public;

(ii) matters relating to intentions or likely intentions of a person;

(iii) matters relating to negotiations or proposals with respect to commercial dealings or dealing in securities;

(iv) information relating to financial performance of a corporation;

(v) information that a person proposes to enter into, or has previously entered into one or more transactions or agreements in relation to securities or has prepared or proposes to issue a statement relating to such securities; and

(vi) matters relating to the future.

In addition to the wide scope of definition of 'information' as illustrated above, the court has also in several cases included the following instances as 'information' within the context of insider trading:

- information in the form of management accounts of subsidiaries and associates to a listed company which indicated that the financial performance of the company was in decline has been held by a Malaysian court to be 'specific confidential information'. *Public Prosecutor v Chua Seng Huat [1999]*;

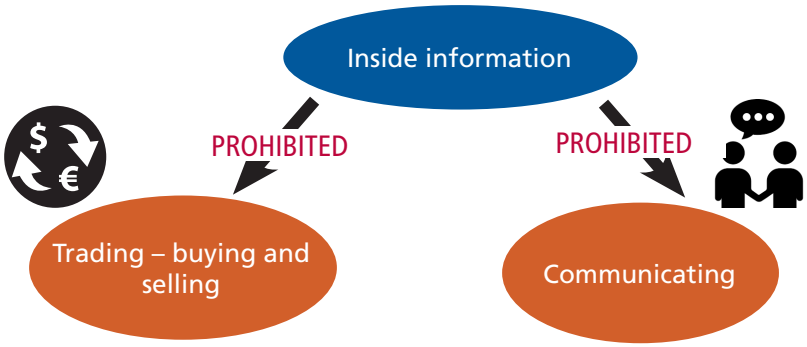
- information concerning a loss forecast and a possible impairment charge over a loss-making subsidiary discussed in a management meeting was held by a Singapore court to be material information. *Lew Chee Fai Kevin v Monetary Authority of Singapore (MAS)[2012]*; and

- information relating to possible findings of copper and zinc deposits by a mining company on a piece of land it acquired was held by a US Court to be inside information. *SEC v Texas Gulf Sulphur Co [1968].*

What are prohibited conducts for an insider?

Essentially a person who is an insider is prohibited from committing the following two acts:

(i) Buy or sell securities; and
(ii) Communicating the inside information.



It is important to note that apart from the prohibition against the act of buying and selling shares using inside information, another equally important element of insider trading law in Malaysia is the prohibition against the act of communicating inside information to another person if he knows or ought reasonably to know that the other person would trade based on the information.

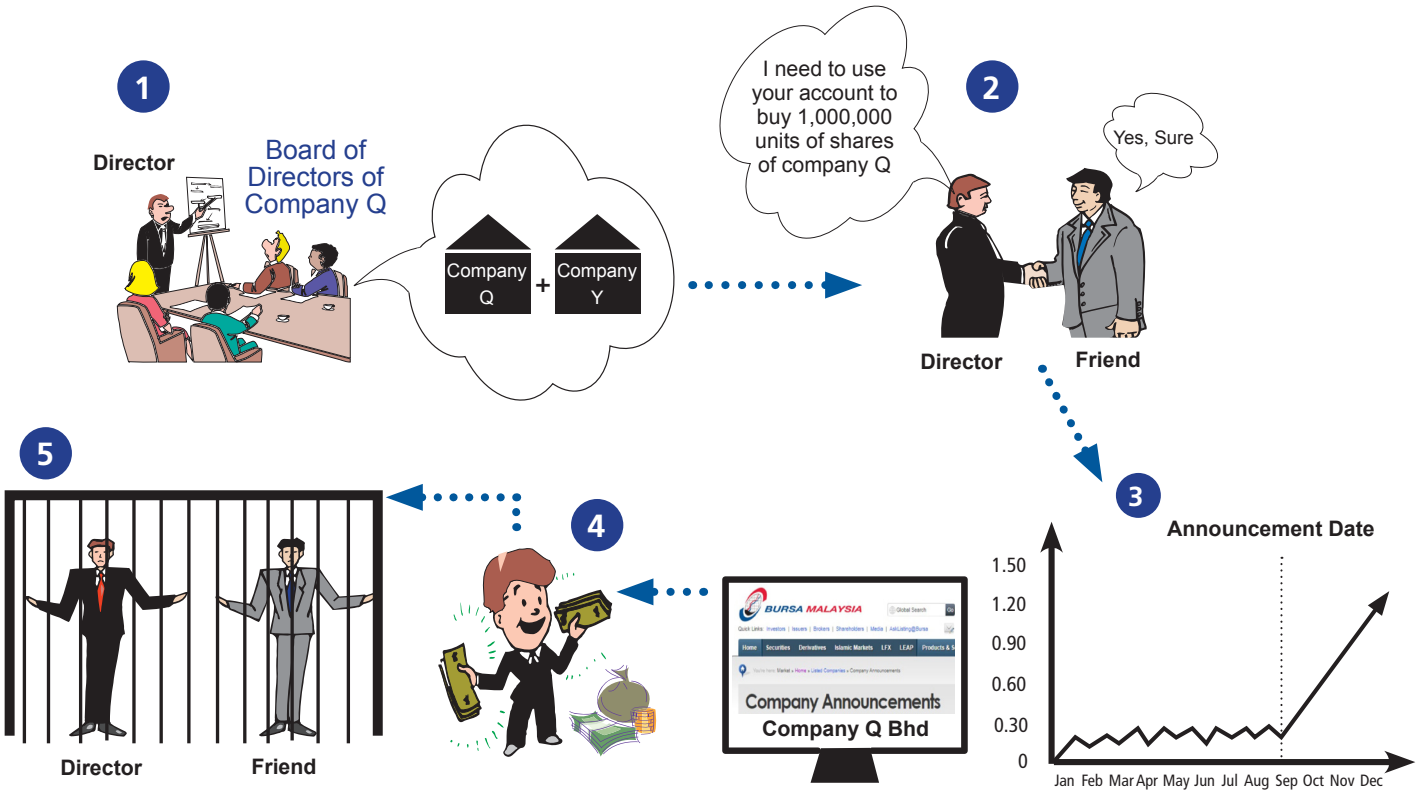
The penalties for committing insider trading in Malaysia are severe: a person could face a jail term of up to 10 years and pay a fine of not less than one million ringgit. It is also important to note that a person who communicates inside information is equally liable for insider trading under the law regardless whether he derives any direct economic benefit.

Here are some examples of insider trading:

(i) A public-listed company Q was in a discussion for a merger with company Y. A director of company Q was actively involved in the merger exercise. Before public announcement of the merger, the director bought 1,000,000 company Q shares through a friend's trading account and made a profit in the process.

Offences committed:

- Director – Insider trading of company Q shares.
- Friend – Abetting with the director.



(ii) A professional who acted for a public-listed company X was advising on the proposed acquisition of its shares by company Y. The professional then bought 1,000,000 company X shares before the announcement of the proposed acquisition and benefitted from the mandatory general offer made to company X.

Offence committed:

- Professional – Insider trading of company X shares.

(iii) A corporate finance (CF) adviser was advising company P on a take-over of the company by company S. The CF adviser communicated the information on the take-over to his friend J who acquired 1,000,000 company P shares through an account belonging to K.

Offences committed:

- CF adviser – Communicating inside information.
- J – Insider trading of company P shares.
- K – Abetting with J.

Why insider trading is regarded as a serious offence?

Insider trading is considered a serious offence because:

- It involves misappropriation and the taking advantage of inside information which should rightly belong to the company;
- The insider unjustly enriches himself to the detriment of others based on the inside information;
- It is unfair to the other market participants who are not in the position to gain access to similar inside information; and
- Lastly, insider trading injures the overall market confidence of our stock market.

Conclusion

To date insider trading enforcement continues to be the focus of SC's enforcement action given our commitment in ensuring a transparent and fair stock market in Malaysia. In the last 4 years from 2014 to 2017, the SC has filed as many as 370 criminal charges against 38 individuals for insider trading and 6 civil cases against 19 individuals by way of civil enforcement actions.

The SC has also successfully disgorged a sum of RM7,926,039.29 through regulatory settlements process against 23 individuals where a sum of RM1,981,209.10 has been restituted to 525 investors.

If you come into possession of inside information...

- Do not trade securities based on inside information.
- Do not communicate such information to anyone including your spouse, relatives, friends and business associates.
- A person can only use inside information when the information has been made public through a proper channel and sufficient time have elapsed to allow investors to digest and understand the implication of the information – typically 24 hours for simple information and 48 hours for more complex information.
- Advisers (lawyers, accountants, valuers, consultants etc.) who come into possession of inside information in the course of carrying out their work should not share the inside information with anyone, including their colleagues who are not involved in the work at hand. When you are caught, not only will your professional career would be affected, you could also face a criminal charge.

How a company should safeguard inside information

- A company must make sure that it steps up its governance system and controls to safeguard material non-public information concerning the company.
- A company must manage flows of inside information by putting in place "Chinese Wall" to prevent leakages.
- A company must continuously create awareness among its employees on the importance of managing flows of inside information.

Administrative Actions and Supervisory Engagements

ADMINISTRATIVE ACTIONS

For the period of 1 April 2017 to 31 October 2017, SC has imposed a total of 10 administrative sanctions against:

- 4 licensed entities;
- 2 licensed individuals;
- 1 public-listed companies (PLC); and
- 3 individuals[1].

The sanctions were imposed for breaches relating to SC's guidelines and licensing conditions, as well as non-compliances with approved accounting standards.

Table 1

Administrative actions from 1 April 2017 to 31 October 2017 by types of sanction and parties in breach

Parties in breach	Types of sanction			
	Directive	Reprimand	*Penalty	Suspension/ Revocation of licence
Licensed persons	–	–	–	2
Licensed entities	–	–	4	–
PLCs	–	1	–	–
Individuals	1	2[2]	–	–
TOTAL	**1**	**3**	**4**	**2**

[1] The two individuals are promoters of a company and one is a non-licensed individual.
[2] Sanctions imposed were a reprimand together with permanent moratorium.

Table 2

Penalties imposed from 1 April 2017 to 31 October 2017

Party in breach	Amount (RM)
Affin Hwang Asset Management Bhd	1,000
Fortress Capital Asset Management (M) Sdn Bhd	1,000
OCBC Bank (Malaysia) Bhd	6,000
TA Investment Management Bhd	180,000
TOTAL	**188,000**

Enforcing Requirements Under the LOLA Framework

The *Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework* (LOLA Guidelines) require an issuer of wholesale fund to submit to the SC monthly statistical returns of the wholesale fund within the prescribed period following the lodgement of a wholesale fund with the SC[3]. For this period, we have imposed a penalty of RM1,000 each to the following fund management companies for their failure to submit monthly statistical returns of wholesale fund as required under the LOLA Guidelines:

- Affin Hwang Asset Management Bhd; and
- Fortress Capital Asset Management (M) Sdn Bhd.

The LOLA Guidelines also require an issuer of a structured product to submit to the SC a monthly post-issuance report within the guidelines' prescribed period. On this matter, United OCBC Bank (Malaysia) Bhd was imposed a penalty of RM6,000 due to three business days' delay in the submission of the monthly post-issuance reports to the SC.

Licensed Persons to Remain Fit and Proper

In continuing to be licensed as a CMSRL, the licence holder must continuously demonstrate that he is fit and proper to hold the licence. Among others, the licence holder must demonstrate that he is able to remain solvent.

[3] Para 4.17, Section B, Part 1 of the LOLA Guidelines.

On 6 July 2017 and 18 April 2017 respectively, SC took administrative action by revoking the CMSRLs of Chin Wai Thoe and Abd Malik Abu Bakar as they were declared bankrupts by the courts.

Safeguarding Investor's Trust in the Capital Market

The SC has always been relentless in its effort in protecting investor's interest and safeguarding their trust in the capital market. As part of SC's drive on this matter, a strong emphasis is placed on the submission of accurate information to the SC in a timely manner. The law makes it an offence for the submission of any false or misleading information to the SC.

On 21 July 2017, the SC reprimanded a China-based sports equipment company, Telent Outdoor (Hong Kong) Technology Co., Ltd (Telent) and its promoters Hui Chi Keung and Hui Tang Tat for submitting false information to the SC in relation to the proposed listing of Telent on Bursa Malaysia Securities Bhd. In addition, the SC also imposed a permanent moratorium on the promoters from–

- becoming a promoter for any corporate proposal; and
- being involved in any corporate proposals submitted to the SC where they would emerge as major shareholders of a listed company in Malaysia.

The CMSA requires all capital market participants to be licensed by the SC before they can carry out any regulated activity. In this regard, SC took administrative action against Mohd Faizal Jamaluddin (Faizal) on 9 October 2017 for operating as a fund manager without holding a CMSRL when he accepted monies from third parties and traded shares and futures on behalf of the third parties. Faizal was ordered to restitute investors who had deposited monies which he had accepted without authorization as he was not licensed.

Ensuring Full Co-operation with Law Enforcement Agencies

The SC places importance on the need for capital market intermediaries to provide full and timely co-operation with all law enforcement agencies as part of their responsibilities to uphold the law.

In 2015, TA Investment Management Bhd (TAIM) failed to respond in a timely manner on 48 orders issued by the law enforcement agencies pursuant to section 48(1) of the *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001*. In this regard, the SC imposed a penalty of RM180,000 against TAIM for the breach.

Infringement Notices

During this period, SC issued 47 Infringement Notices[4] in relation to, among others–

- non-compliances with approved accounting standards;
- non-compliances with licensing conditions;
- weaknesses in compliance, risk and audit functions; and
- weaknesses in the process and procedures for the prevention of anti-money laundering and countering financing of terrorism.

Table 3

Infringement Notices issued from 1 April 2017 to 31 October 2017

Type of infringement notices	Apr	May	Jun	Jul	Aug	Sept	Oct	Total
Supervisory Letter	1	4	–	2	–	1	1	9
Warning Letter	–	3	3	1	–	1	–	8
Non-compliance Letter	7	18	–	1	1	2	1	30
TOTAL	**8**	**25**	**3**	**4**	**1**	**4**	**2**	**47**

4 Non-statutory enforcement tools issued where the breaches of securities law detected do not warrant the initiation of a formal enforcement action or imposition of administrative action.

Supervisory Examinations and Engagements

In carrying out our oversight and supervisory functions on intermediaries and market institutions, we rely on a variety of supervisory tools for detection of risks and market irregularities. Besides carrying out on-site examinations, SC also relies on engagements with market participants to address concerns, supervisory findings as well as communicate regulatory expectations of the SC.

Table 4

Number of supervisory examinations and engagements[5] conducted by the SC from 1 April 2017 to 31 October 2017

Entity	Number of examinations conducted	Number of engagements conducted
Firms[6] (securities, derivatives and fund management)	45	23
Bond market service providers[7]	–	–
Market institutions[8]	2	61
PLCs	–	30
Auditors	–	16
Other stakeholders (recognised market operators)	–	14

Note:

5 These statistics are exclusive of engagements conducted by the Authorisation and Licensing Department.
6 Firms involved in regulated activities including dealing in securities and derivatives, fund management and investment advice.
7 Rating agencies, bond pricing agency and trustees.
8 Bursa Malaysia Bhd, Federation of Investment Managers Malaysia and Private Pension Administrator Malaysia.

Criminal Prosecutions, Civil Actions and Regulatory Settlements

From mid-March to 31 October 2017, we preferred criminal charges against 10 individuals for various securities offences. Prosecution for insider trading continued to form the largest proportion of new charges preferred, with seven individuals charged for this offence out of the total 10 individuals.

In March 2017, Ewe Lay Peng, Lim Bun Hwa and Lim Boon Cheng were charged for insider trading involving the shares of PacificMas Bhd. At the material time, Ewe Lay Peng and Lim Bun Hwa were Senior Managers at the Corporate Finance Department of CIMB Investment Bank Bhd.

In May 2017, Dato' Vincent Leong Jee Wai and Datuk Leong Wye Keong were charged for insider trading involving the shares of Maxbiz Corporation Berhad (Maxbiz). At the material time, Dato' Vincent Leong was the Managing Director of Maxbiz while Datuk Leong Wye Keong was the substantial shareholder of Maxbiz.

In October 2017, husband and wife Goh Keng Huat and Wee Siew Ling were charged for insider trading involving the shares of Road Builder Holdings (M) Bhd.

In addition to insider trading offences, the SC also charged 2 individuals, Su Eng Koi and Yap Choong Seong in July 2017 for carrying on a business of dealing in derivatives without holding a Capital Markets Services Licence (CMSL). Su and Yap who were at the material time, officers of Jalatama Management Sdn Bhd (JMSB), were said to have carried on a business of dealing in derivatives without holding a CMSL for a period between July 2011 and September 2013.

In October 2017, we charged Chok Chew Lan for failing to appear before an Investigating Officer of the SC to be examined orally and to assist in an ongoing investigation.

This period also saw some notable enforcement outcomes where we continued to seek deterrent sentences against those who commit serious capital market offences such as furnishing false information to Bursa Malaysia Securities Bhd. The seriousness of these capital market offences was recognised by the courts where recently an executive chairman and two executive directors who had breached securities offences were sentenced to prison terms ranging between 7 months to 18 months in addition to fines.

- Dato' Dr Haji Mohd Adam Che Harun, a former Executive Chairman and director of Megan Media Holdings Berhad was sentenced to 18 months imprisonment and fined RM300,000 (in default 1 year imprisonment) for furnishing false information to Bursa Malaysia.

- Ang Su Beng, a former Managing Director of Welli Multi Corporation Bhd (WMCB) and Ang Soon An, the former director and Audit Committee member of WMCB's had their sentence enhanced by the Court of Appeal to six months imprisonment in addition to the fine of RM400,000 for furnishing misleading statements to the SC and Bursa Malaysia respectively. The High Court had earlier sentenced the two directors to one day imprisonment and a fine of RM400,000 respectively.

- Lee Han Boon and Saipuddin Lim Abdullah, both former executive directors of Axis Incorporation Berhad were sentenced to imprisonment of seven months imprisonment and a fine of RM200,000 while Saipuddin was sentenced to 12 months imprisonment for furnishing false statements to Bursa Malaysia.

A detailed excerpt of the above cases can be found at:
https://www.sc.com.my/post_archive/updates-on-criminal-prosecution-in-2017/

The SC had also utilised its civil enforcement powers through the filing of three civil suits at the Kuala Lumpur High Court against 14 individuals. Out of the 14 individuals, seven were sued for insider trading. The other seven individuals were sued for market manipulation.

In May 2017, the SC filed a civil suit against Low Siew Moi, Tan Cheng Teik, Hoi Main Seng, Liaw Huat Hin and Chua Keng Hong for insider trading breaches involving the shares of Worldwide Holdings Bhd.

In September 2017, the SC filed a civil suit against Lim Kok Boon and Cheah Mean Har for insider trading breaches involving the shares of GW Plastics Holdings Bhd.

In the same month, the SC filed a civil suit against Ng Wai Hong, Lo Ga Lung, Toh Pik Chai, Ling Pik Ngieh, Ng Soo Tian, Chan Kok and Chai Shou Wei for market manipulation breaches involving the shares of APL Industries Bhd.

During this period, the SC also succeeded in its claim against 11 individuals for breaches in market manipulation and insider trading. In June and August 2017, the High Court had held in favour of the SC against Aeneas Capital Management LP, Thomas R. Grossman, Richard Cohen, John Suglia, Priam Holdings Ltd, Aeneas Portfolio Company LP and Acadian Worldwide Inc for their role in manipulating Iris Corporation Bhd shares.

In September 2017, the High Court held in favour of the SC against Lim Chiew, a former independent non-executive director of Magnum Corporation Bhd for insider trading breaches in the shares of Bolton Bhd. This was the first case that the SC had taken civil enforcement action for insider trading.

In October 2017, the High Court held in favour of the SC against Koh Tee Jin, Koh Thiam Seong and Koh Hui Sim for insider trading breaches in the shares of Axis Incorporation Bhd.

A detailed excerpt of the above cases can be found at:
https://www.sc.com.my/post_archive/civil-action-in-2017/

For the period between April and October 2017, six individuals entered into regulatory settlements with the SC amounting to RM779,213 over insider trading breaches. The details of the regulatory settlements can be found at:
https://www.sc.com.my/post_archive/regulatory-settlements-in-2017/

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