

P.U. (A) 474/2012

CAPITAL MARKETS AND SERVICES ACT 2007

CAPITAL MARKETS AND SERVICES REGULATIONS 2012

IN exercise of the powers conferred under subsection 378(1) of the Capital Markets and Services Act 2007 [*Act 671*], the Commission, with the approval of the Minister, makes the following regulations:

Citation and commencement

1. (1) These regulations may be cited as the **Capital Markets and Services Regulations 2012**.

(2) These Regulations come into operation on 28 December 2012.

PART I

CONTRACT NOTES AND RETENTION OF RECORDS

Interpretation

2. (1) In this Part—

“securities account” has the meaning assigned to it in subsection 2(1) of the Securities Industry (Central Depositories) Act 1991 [*Act 453*];

“market day” means the day the stock exchange or derivatives exchange is open for trading;

“transaction” means any transaction for the sale or purchase of securities entered into by the holder of a Capital Markets Services Licence either as principal or on behalf of another person.

(2) A reference in this Part to a holder of a Capital Markets Services Licence dealing in securities or entering into a transaction as principal includes a reference to a person—

- (a) dealing in securities or entering into a transaction on behalf of a person associated with him;
- (b) dealing in securities on behalf of a body corporate in which he has controlling interest; or
- (c) who carries on a business of dealing in securities on behalf of a body corporate in which his interest and the interests of his directors constitute a controlling interest.

(3) For the purposes of subregulation (2), a person is not associated with another person by reason only that he is a director of a body corporate of which the other person is also a director, whether or not the body corporate carries on a business of dealing in securities.

Contract notes issued by a holder of a Capital Markets Services Licence who carries on the business of dealing in standardized derivatives

3. (1) A holder of a Capital Markets Services Licence who carries on the business of dealing in standardized derivatives shall, not later than the end of the next market day after the transaction relating to dealing in standardized derivatives was entered into, give a contract note that complies with this regulation to his client in respect of the transaction.

(2) For the purposes of complying with this regulation, a contract note in respect of a transaction relating to standardized derivatives shall include the following information:

- (a) the name and address of the principal place of business of the holder of a Capital Markets Services Licence;
- (b) the name and address of the client;
- (c) a description of the standardized derivative sufficient to identify the nature of the transaction, including—
 - (i) a description of the underlying instrument;
 - (ii) a description of the state of affairs that is the subject of the standardized derivative;
 - (iii) in the case of a forward or futures contract, the month and year for the performance or settlement of the forward or futures contract; and
 - (iv) in the case of an option,
 - (A) the price or value of the underlying instrument or numerical level of the state of affairs that is the subject of the option at which the buyer of the option may exercise the option; and
 - (B) whether the option is a call option or a put option;
- (d) the name of the derivatives exchange of which the holder of a Capital Markets Services Licence is an affiliate;
- (e) the deposit paid or payable in respect of the transaction;
- (f) the price at which the transaction was effected by the holder of a Capital Markets Services Licence;

- (g) the date of the transaction;
- (h) in the case of an option, the date by or on which the purchaser of the option, in order to exercise the option, shall declare an intention to exercise the option;
- (i) whether the transaction—
 - (i) is to buy standardized derivatives;
 - (ii) is to sell standardized derivatives;
 - (iii) in the case of an option, is to exercise the option; or
 - (iv) consists of a combination of the acts referred to in subparagraph (i), (ii) or (iii);
- (j) the quantity or number of the standardized derivatives;
- (k) whether or not the transaction is a liquidating trade;
- (l) the name, or any other type of identification of the holder's representative who is handling the client's account;
- (m) the client's account number;
- (n) a statement stating that the transaction in the contract note issued shall be subject to the rules of the relevant derivatives exchange;
- (o) the reference number of the contract note; and
- (p) the rate and amount of commission, levies, duties, and other fees and taxes payable in respect of the transaction.

(3) A contract note may contain the particulars of more than one transaction which have been transacted in of one market day in relation to one client.

(4) A holder of a Capital Markets Services Licence who carries on the business of dealing in standardized derivatives, shall not include in a contract note issued under this regulation, a name that he knows or could reasonably be expected to know is not the name by which that client is ordinarily known.

Contract notes issued by a holder of a Capital Markets Services Licence who carries on the business of dealing in securities

4. (1) The holder of a Capital Markets Services Licence who carries on the business of dealing in securities shall, not later than the end of the next market day after the transaction was entered into, give a contract note which complies with this regulation to his client in respect of the transaction.

(2) A contract note given by the holder of a Capital Markets Services Licence who carries on the business of dealing in securities shall include the following information—

- (a) the name and address of the principal place of business of the holder of a Capital Markets Services Licence;
- (b) the name of the stock exchange of which the holder of a Capital Markets Services Licence is a participating organization;
- (c) the name and address of the client;
- (d) the date of the transaction;
- (e) the client's account number;
- (f) the securities account number related to the transaction, where applicable;

- (g) a statement stating that the transaction in the contract note issued shall be subject to the rules of the relevant stock exchange;
- (h) the reference number of the contract note;
- (i) the name, or any other type of identification, of the holder's representatives who is handling the client's account;
- (j) in respect of a transaction where the holder of a Capital Markets Services Licence is acting for a person who is not a holder, a statement whether it is acting as principal in respect of that transaction;
- (k) in respect of a transaction which is not in the ordinary course of business on a stock market of a stock exchange, a statement to that effect;
- (l) the quantity and description of the securities transacted;
- (m) the price per unit of the securities;
- (n) the total amount of consideration for the transaction;
- (o) the reference particulars of the securities such as the code numbers by which the securities are identified by a stock exchange;
- (p) a statement as to whether the price paid for the transaction includes or excludes the benefit of any corporate action which is attached to that transaction such as payment of dividends, rights or bonus issues;
- (q) the rate and amount of commission charged;
- (r) the amount of stamp duty payable;
- (s) the date of the delivery of securities and settlement;

(t) other fees, if any, charged; and

(u) in respect of non-equity securities which has a maturity or expiry date, the maturity or expiry date of such securities.

(3) A contract note may contain the particulars of more than one transaction which has been transacted in one market day in relation to one client and if this is the case, the following shall apply:

(a) there shall be a breakdown of particulars in paragraphs 2(i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s) and (t) for each transaction; and

(b) there shall be a statement to the effect that the invalidity of any one transaction for any reason whatsoever shall not operate as to invalidate all other transactions recorded in that contract note.

(4) A holder of a Capital Markets Services Licence who carries on the business of dealing in securities shall not include in a contract note issued under this regulation a name that he knows or could reasonably be expected to know is not the name by which that client is ordinarily known.

Electronic contract notes

5. A contract note that is issued by the holder of a Capital Markets Services Licence under regulation 3 or 4 may be in electronic form provided that the issuance of such contract notes fully comply with regulations 3 and 4 and the requirements specified by the Commission, if any.

Records of trading

6. (1) A holder of a Capital Markets Services Licence who carries on the business of dealing in standardized derivatives shall keep records which correctly record and explain dealing in standardized derivatives by the holder on the holder's own account.

(2) Without prejudice to the generality of subregulation (1) and subsection 104(7) of the Act, the holder shall keep records of the particulars referred to in subregulation (1) in accordance with the rules of the derivatives exchange.

(3) The records shall be retained for a period of five years except records that are kept in the form of audio magnetic tapes for which the retention period shall be specified in accordance with the rules of the derivatives exchange.

PART II

INCIDENTAL REGULATED ACTIVITY

Incidental regulated activity

7. (1) Subject to subregulation (2), a person who is licensed to carry on a particular regulated activity specified in column (1) of Schedule 1 may carry on other incidental regulated activity as specified in column (2) of Schedule 1.

(2) The incidental regulated activity shall be carried out solely incidental to the licensed regulated activity and shall be deemed to be carried out as such if the licensed person complies with all the requirements specified by the Commission in relation to the incidental regulated activity.

PART III

FEES

Fees

8. The fees payable in respect of—

- (a) an application for the approval of a stock exchange or derivatives exchange under section 8 of the Act;
- (b) an application for the approval to establish or operate a clearing house under section 38 of the Act;
- (c) an application for the registration of an electronic facility under subsection 34(1) of the Act;
- (d) the grant and variation of a Capital Markets Services Licence and Capital Markets Services Representative's Licence under Division 1 of Part III of the Act;
- (e) the registration of a person as a registered person under section 76 of the Act; and
- (f) other fees under Part III of the Act,

shall be as specified in Schedule 2.

PART IV

REVOCATION AND SAVINGS

Revocation and savings

9. (1) The Capital Markets and Services Regulations 2007 [*P.U. (A) 336/2007*] are revoked (“revoked Regulations”).

(2) Notwithstanding subregulation (1) all approvals, directions, decisions, notifications, exemptions, payment and other executive acts, howsoever called, made, given or done under or in accordance with, or pursuant to, the revoked Regulations shall be deemed to have been made, given, or done under, or in accordance with, or pursuant to, the corresponding regulations of these Regulations, and shall continue to remain in full force and effect in relation to the persons to whom they applied until amended, repealed, rescinded, revoked or replaced under, in accordance with or pursuant to, the corresponding regulations of these Regulations.

SCHEDULE 1

[Regulation 7]

Incidental regulated activity

<i>Licensed Regulated Activity</i> (1)	<i>Incidental Regulated Activity</i> (2)
Dealing in securities	Fund management Investment advice
Dealing in securities restricted to unit trust only	Investment advice
Dealing in private retirement schemes	Investment advice
Fund management	Dealing in securities Dealing in standardized derivatives Dealing in private retirement schemes Investment advice
Dealing in standardized derivatives	Fund management Investment advice

SCHEDULE 2

FEES

[Regulation 8]

PART I

The fees payable in respect of an application for the approval of a stock exchange, derivatives exchange, clearing house and electronic facility

<i>Activity</i>	<i>Fees</i>
Approval of a stock exchange or derivatives exchange under section 8 of the Act	RM1,000.00 for the application of an approval RM10,000.00 for the grant of approval
Approval to establish or operate a clearing house under section 38 of the Act	RM1,000.00 for the application of an approval RM10,000.00 for the grant of approval
Registration of an electronic facility under subsection 34(1) of the Act	RM5,000.00 on registration

PART II

Fees payable in respect of the grant and variation of a Capital Markets Services Licence and Capital Markets Services Representative's Licence

Capital Market Services Licence

<i>Activity</i>	<i>Fees</i>
1. Application for a – (a) licence; or (b) variation of a licence	RM50.00
2. Submission of Annual Reporting for Authorization of Activity	RM50.00
3. Anniversary date of licence fee payable by a licence holder which is a company, for a period of 12 months or any part thereof for— (a) any first regulated activity; (b) each subsequent regulated activity*	RM2,000.00 RM1,000.00
4. Anniversary date of licence fee payable by a licence holder who is an individual for a period of 12 months or any part thereof for a regulated activity	RM1,000.00
5. Approval of an application for a variation of a licence	RM100.00

Capital Markets Services Representative's Licence

<i>Activity</i>	<i>Fees</i>
1. Application for a – (a) licence; or (b) variation of a licence	RM50.00
2. Submission of Annual Reporting for Authorization of Activity	RM50.00
3. Anniversary date of licence fee payable by a licence holder for a period of 12 months or any part thereof, for any number of regulated activities	RM200.00
4. Approval of an application for a variation of a licence	RM100.00

* Where at any time during the validity of the Capital Markets Services Licence, the licence holder makes an application to vary the licence to add a subsequent regulated activity, the licence fee payable for that subsequent regulated activity shall be prorated in accordance with the licence period for that subsequent regulated activity which shall commence upon the approval of such subsequent regulated activity.

PART III

The fees payable in respect of the registration of a person as a registered person

<i>Registered persons</i>	<i>Fees</i>
A. Introducing Representative	
1. Application for registration	RM50.00
2. Approval of an application for registration	RM200.00
3. Anniversary date of registration fee payable for a period of 12 months or any part thereof	RM200.00
B. Trading Representative	
1. Application for registration	RM50.00
2. Approval of an application for registration	RM200.00
3. Anniversary date of registration fee payable for a period of 12 months or any part thereof	RM200.00

PART IV

Other fees payable to the Commission in respect of Part III of the Act.

<i>Activity</i>	<i>Fees</i>
1. Lodgement or deposit of documents	RM20.00
2. A copy of the extract of the register maintained under section 77 of the Act or supplied by the Commission under section 88 of the Act	RM10.00
3. A certified copy of a licence	RM50.00
4. Lodgement of any other applications to the Commission where no fees are specifically provided	RM50.00

PART V

Where the licensed person or registered person fails to pay the prescribed fees under this Schedule by the date on which such fee is due, the Commission may impose a late payment fee not exceeding one hundred ringgit for every day or part thereof that the payment is late, subject to a maximum of three thousand ringgit.

Made 24 December 2012

[RS(A&R)/CMSR 2012.1/12(156)-1; PN(PU2)662/VII]

RANJIT AJIT SINGH

Chairman Securities Commission

Approved 27 December 2012

[KK/BPKA/K1/(S)/483/128/1/1; PN(PU2)662/VII]

DATO' SERI AHMAD HUSNI MOHAMAD HANADZLAH

Second Minister of Finance