



LAWS OF MALAYSIA

Act A1040

SECURITIES INDUSTRY (AMENDMENT)
(NO. 2) ACT 1998

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LAWS OF MALAYSIA

Act A1040

**SECURITIES INDUSTRY (AMENDMENT)
(NO. 2) ACT 1998**

An Act to amend the Securities Industry Act 1983.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Securities Industry (Amendment) (No. 2) Act 1998.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of long title

2. The Securities Industry Act 1983 [*Act 280*], which in this Act is referred to as the "principal Act", is amended in the long title by deleting the word "other" appearing after the word "and".

Amendment of section 4

3. Subsection 4(8) of the principal Act is amended by deleting paragraph (a).

Substitution of section 11

4. The principal Act is amended by substituting for section 11 the following section:

- "Powers concerning compliance with and enforcement of rules or listing requirements of stock exchange or recognised clearing house.
11. (1) Where any person who is under an obligation to comply with, observe, enforce or give effect to the rules or listing requirements of a stock exchange or the rules of a recognised clearing house fails to comply with, observe, enforce or give effect to such rules or listing requirements (the "person in default"), the stock exchange or the recognised clearing house, as the case may be, may, in addition to or in lieu of any action which it may take under such rules or listing requirements, take any one or more of the following actions:
- (a) direct the person in default to comply with, observe, enforce or give effect to such rules or listing requirements;
 - (b) impose a penalty the quantum of which shall be in proportion to the severity or gravity of the failure to comply, observe, enforce or give effect to such rules or listing requirements but such penalty shall not exceed one million ringgit; or
 - (c) reprimand the person in default.
- (2) For the purpose of subsection (1) the following persons shall be deemed to be under an obligation to comply with, observe, enforce or give effect to the rules or listing requirements of a stock exchange or the rules of a recognised clearing house, to the extent to which such rules or listing requirements purport to apply in relation to those persons:
- (a) a member of the stock exchange;
 - (b) a member company;
 - (c) a participant;
 - (d) a body corporate that has been admitted to the official list of a stock exchange and has not been removed from that official list or the person associated with the body corporate;

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- (e) a person to whom the rules or listing requirements of the stock exchange or the rules of the clearing house, as the case may be, are directed;
- (f) the directors or officers of the persons referred to in paragraphs (a) to (d); and
- (g) the advisers of the body corporate referred to in paragraph (d) in relation to any corporate proposals or transactions.

(3) Before a stock exchange or a recognised clearing house takes any action under subsection (1), it shall follow such procedures as may be specified in the rules or listing requirements of the stock exchange or the rules of the recognised clearing house, as the case may be.

(4) A direction given by a stock exchange or a recognised clearing house to a person in default shall remain in force until it is revoked.

(5) An action of a stock exchange or a recognised clearing house shall be final unless, within fourteen days after it is taken, the person in default appeals in writing to the Commission.

(6) On an appeal under subsection (5), the Commission may—

- (a) affirm the action of the stock exchange or the recognised clearing house;
- (b) set aside the action of the stock exchange or the recognised clearing house; or
- (c) substitute for the action of the stock exchange or the recognised clearing house any other action referred to in subsection (1).

(7) The decision of the Commission under subsection (6) shall be final.



(8) Nothing in this section shall preclude the Commission in any case from itself taking any of the actions referred to in subsection (1) against a person in default but a stock exchange or a recognised clearing house shall not take any action under this section in the event that the Commission takes an action under this subsection."

Amendment of section 28

5. Subsection 28(1) of the principal Act is amended by inserting after the word "A" the word "licensed".

Amendment of section 85

6. Subsection 85(1) of the principal Act is amended by inserting after the word "which" the word "may".

New section 88c

7. Part IX of the principal Act is amended in Division 1 by inserting after section 88B the following section:

"Acts and omission within and outside Malaysia relating to prohibited conduct under Division 1. 88c. This Division applies to—

- (a) acts and omission occurring within Malaysia in relation to securities of any body corporate which is formed or is carrying on business or is listed within or outside Malaysia; and
- (b) acts and omission occurring outside Malaysia in relation to securities of any body corporate which is formed or is carrying on business or is listed within Malaysia."

Amendment of section 89H

8. Section 89H of the principal Act is amended by renumbering subsection (2) appearing after subsection (3) as subsection (4).



Amendment of section 89o

9. Paragraph 89o(2)(a) of the principal Act is amended by substituting for the word "and" at the end of the paragraph the word "or".

New section 89p

10. Part IX of the principal Act is amended in Division 2 by inserting after section 89o the following section:

89p. This Division applies to—

"Acts and omission within and outside Malaysia relating to insider trading.

(a) acts and omission occurring within Malaysia in relation to securities of any body corporate which is formed or is carrying on business or is listed within or outside Malaysia; and

(b) acts and omission occurring outside Malaysia in relation to securities of any body corporate which is formed or is carrying on business or is listed within Malaysia."

Amendment of section 100

11. Section 100 of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (a), by inserting after the word "exchange" the words "or of the rules of a recognised clearing house";

(ii) by deleting the word "or" at the end of paragraph (b);

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

"(ba) on the application of a recognised clearing house, it appears to the High Court that a person has contravened the rules of the recognised clearing house; or";

(iv) in paragraph (aa), by inserting after the words "exchange," the words "or of the rules of a recognised clearing house,"; and

(v) by inserting after paragraph (ii) the following paragraphs:

"(jj) in a case of a contravention by a person of the rules or listing requirements of a stock exchange or the rules of a recognised clearing house, an order giving directions concerning compliance with or enforcement of those rules or listing requirements to—

(i) the person; and

(ii) if the person is a body corporate, the directors of the body corporate;

(kk) in a case where the person is a director, an order removing him from office and that he be barred from becoming a director of any other public company for such period of time as may be determined by the High Court;"

(b) by renumbering the existing paragraphs (jj) and (kk) as paragraphs (ll) and (mm); and

(c) in subsection (2B)—

(i) by inserting after the words "Commission," the words "or a stock exchange, or a recognised clearing house,"; and

(ii) by inserting before the full stop at the end of the subsection the words ", stock exchange or recognised clearing house".

New section 100A

12. The principal Act is amended by inserting after section 100 the following section:

"Application for winding up Act 125. 100A. (1) Notwithstanding the provisions of the Companies Act 1965, if a person referred to in subsection (1) of section 100 is a company, whether or not the company is being wound up voluntarily, the person may be wound up under an order of the Court on the petition of the Commission, a stock exchange or a recognised clearing house, in accordance with the provisions of the Companies Act 1965.

(2) The Court may order the winding up on a petition made under subsection (1) if the person referred to in subsection (1) of section 100—

- (a) has held a licence under this Act, and that licence has been revoked or surrendered; or
- (b) has contravened any rules or listing requirements of the stock exchange or rules of the recognised clearing house or has contravened a provision of a securities law, whether or not that person has been charged with an offence in respect of the contravention, or whether or not the contravention has been proved in prosecution."

Amendment of section 122b

13. Paragraph 122b(dd) of the principal Act is amended by substituting for the words "of a stock exchange or" the words "or listing requirements of a stock exchange or the rules of".



New section 122d

14. The principal Act is amended by inserting after section 122c the following section:

"Destruction, 122D. A person who—

concealment,
mutilation
and
alteration of
records.

(a) destroys, conceals, mutilates or alters; or

(b) sends or attempts to send or conspires with any other person to remove from its premises or send out of Malaysia,

any record or account required to be kept or maintained under this Act with intent to defraud any person, or to prevent, delay or obstruct the carrying out of an examination, investigation or audit, or the exercise of any power under this Act commits an offence and is liable on conviction to a fine not exceeding ten million ringgit or to imprisonment for a term not exceeding ten years or to both."

Amendment of section 123

15. Subsection 123(1) of the principal Act is amended by substituting for the words "five hundred thousand" the words "one million".