

P.U. (A) 477/2012

CAPITAL MARKETS AND SERVICES ACT 2007

CAPITAL MARKETS AND SERVICES (NON-APPLICATION OF DIVISION 5 OF
PART VI) (WHOLESALE FUND) ORDER 2012

IN exercise of the powers conferred by section 315 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 (Non-application of Division 5 of Part VI) (Wholesale Fund) Order 2012**.

(2) This Order comes into operation on 28 December 2012.

Non-application of Division 5 of Part VI of the Act

2. (1) Subject to subparagraph (2), the provisions of Division 5 of Part VI of the Act shall not be applicable in respect of any issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase, any unit in relation to a wholesale fund approved by the Commission made to the following investors:

(a) an individual whose total net personal assets, or total net joint assets with his or her spouse, exceed three million ringgit or its equivalent in foreign currencies, excluding the value of the individual's primary residence;

(b) an individual who has a gross annual income exceeding three hundred thousand ringgit or its equivalent in foreign currencies per annum in the preceding twelve months;

- (c) an individual who, jointly with his or her spouse, has a gross annual income exceeding four hundred thousand ringgit or its equivalent in foreign currencies in the preceding twelve months;
- (d) a corporation with total net assets exceeding ten million ringgit or its equivalent in foreign currencies based on the last audited accounts;
- (e) a partnership with total net assets exceeding ten million ringgit or its equivalent in foreign currencies;
- (f) a unit trust scheme or prescribed investment scheme;
- (g) a private retirement scheme;
- (h) a closed-end fund;
- (i) a company that is registered as a trust company under the Trust Companies Act 1949 [Act 100] which has assets under management exceeding ten million ringgit or its equivalent in foreign currencies;
- (j) a corporation that is a public company under the Companies Act 1965 [Act 125] which is approved by the Commission to be a trustee under the Act and has assets under management exceeding ten million ringgit or its equivalent in foreign currencies;
- (k) a statutory body established by an Act of Parliament or an enactment of any State;
- (l) a pension fund approved by the Director General of Inland Revenue under section 150 of the Income Tax Act 1967 [Act 53];
- (m) a holder of a Capital Markets Services Licence;
- (n) a licensed institution;
- (o) an Islamic bank;

- (p) an insurance company licensed under the Insurance Act 1996 [Act 553];
- (q) a takaful operator registered under the Takaful Act 1984 [Act 312];
- (r) a bank licensee or insurance licensee as defined under the Labuan Financial Services and Securities Act 2010 [Act 704]; and
- (s) an Islamic bank licensee or takaful licensee as defined under the Labuan Islamic Financial Services and Securities Act 2010 [Act 705].

(2) Any person who is issuing, offering for subscription or purchase, or making an invitation to subscribe for or purchase, any unit to the investors specified in subparagraphs (1)(a) to (s) shall comply with any guidelines issued by the Commission under subsection 377(1) of this Act.

Revocation

3. The Capital Markets and Services (Non-application of Division 5 of Part VI) (Fund Management) Order 2008 [*P.U. (A) 439/2008*] and Capital Markets and Services (Non-application of Division 5 of Part VI) (Islamic Bank) Order 2008 [*P.U. (A) 440/2008*] are revoked.

Made 27 December 2012

[KK/BPKA/K1/(S)/483/128/1/1 Jld.8; PN(PU2)662/VII]

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