

P.U. (A) 474/2012

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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 payable to Commission

8. (1) The following fees shall be payable to the Commission:
- (a) the fees in respect of a stock exchange, derivatives exchange or clearing house as specified in Schedule 2;
 - (b) the fees in respect of a recognized market operator as specified in Schedule 3;
 - (c) the fees in respect of—
 - (i) Capital Markets Services Licence;
 - (ii) Capital Markets Services Representative's Licence;
 - (iii) registration of persons providing capital markets services;
 - (iv) registration of persons determined by the Commission in the guidelines; or
 - (v) any other fees payable under Part III of the Act,as specified in Schedule 4.

(2) For the purposes of paragraph 1 (c), 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, where the prescribed fee is not paid by the date on which such fee is due for the following activities:

- (a) paragraphs 3, 4 and 5 of Part I;
- (b) paragraphs 3 and 4 of Part II;
- (c) paragraph 2 of Part III;
- (d) paragraph 2 under the heading of "Marketing Representative" and paragraph 3 under the heading of "Trading Representative" of Part IV; and
- (e) paragraphs 1 and 5 of Part V.

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
[Paragraph 8(1)(a)]

Fees in respect of a stock exchange, derivatives exchange or clearing house

No.	Activity (1)	Fees (2)
1.	Application for approval of a body corporate as a stock exchange or derivatives exchange under section 8 of the Act	RM1,000.00
2.	Approval of the application of a body corporate as a stock exchange or derivatives exchange under section 8 of the Act	RM10,000.00
3.	Application for the approval to establish or operate a clearing house under section 38 of the Act	RM1,000.00
4.	Approval of the application to establish or operate a clearing house under section 38 of the Act	RM10,000.00

SCHEDULE 3

[Paragraph 8 (1)(b)]

Fees in respect of a recognized market operator

No.	Activity (1)	Fees (2)
General		
1.	Application for registration as a recognized market operator under subsection 34(1) of the Act	RM5,000.00
2.	Annual fees payable by a recognized market operator	RM50,000.00 payable on a date determined by the Commission
Fund-raising Exercise		
3.	Fees in respect of fund-raising exercise through an initial exchange offering	RM20,000.00 + 0.05% of the total amount to be raised
4.	Fees in respect of fund-raising exercise other than an initial exchange offering	0.05% of the total amount raised or financed through the platform during the year
5.	Lodgement of white paper	RM500.00
Trading		
6.	Fees in respect of trading of securities or derivatives in a recognized market	0.01% of the total amount of sale and purchase of securities or derivatives transactions effected on the platform operated by the recognized market operator for that year

SCHEDULE 4
[Paragraph 8(1)(c)]

PART I

Fees in respect of Capital Markets Services Licence under section 58 of the Act

No.	Activity (1)	Fees (2)
1.	Application for— (a) a licence; or (b) variation of a licence	RM50.00
2.	Approval of the application for a variation of a licence	RM100.00
3.	Submission of Annual Reporting for Authorization of Activity	RM50.00
4.	Fees payable by a licence holder which is a company on the anniversary date of the licence for a period of twelve months or any part thereof for— (a) any first regulated activity; (b) each subsequent regulated activity*	RM2,000.00 RM1,000.00
5.	Fees payable by a licence holder who is an individual on the anniversary date of the licence for a period of twelve months or any part thereof for a regulated activity	RM1,000.00

* Where at any time during the validity of the Capital Markets Services Licence, the licence holder makes an application to vary the licence or 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 commences upon obtaining the approval of such subsequent regulated activity.

PART II

Fees in respect of Capital Markets Services Representative's Licence under section 59
of the Act

No.	Activity (1)	Fees (2)
1.	Application for— (a) a licence; or (b) variation of a licence	RM50.00
2.	Approval of the application for a variation of a licence	RM100.00
3.	Submission of Annual Reporting for Authorization of Activity	RM50.00
4.	Fees payable by a licence holder on the anniversary date of licence for a period of twelve months or any part thereof for any number of regulated activity	RM200.00

* Where at any time during the validity of the Capital Markets Services Licence, the licence holder makes an application to vary the licence or 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 commences upon obtaining the approval of such subsequent regulated activity.

PART III

Fees in respect of registration of persons providing capital markets services under section 76A of the Act

No.	Activity (1)	Fees (2)
1.	Application for registration as a capital market service provider	RM10,000.00
2.	Annual fees payable by a capital markets service provider	RM5,000.00 payable on a date determined by the Commission

PART IV

Fees in respect of registration of persons determined by the Commission in the guidelines

No.	Activity (1)	Fees (2)
Marketing Representative		
1.	Notification to the Commission on any individual who has registered with a principal	RM250.00 for each individual
2.	Fees payable on the anniversary date of the registration of an individual with his principal for a period of twelve months or any part thereof	RM200.00 for each individual
Trading Representative		
1.	Application for registration	RM50.00
2.	Approval of an application for registration	RM200.00
3.	Fees payable on the anniversary date of registration for a period of twelve months or any part thereof	RM200.00

PART V

Fees in respect of any other fees payable under Part III of the Act

No.	Activity (1)	Fees (2)
1.	Lodgement or deposit of documents	RM20.00 for each lodgement or deposit
2.	Copy of an extract of the register required to be kept by the Commission under section 77 of the Act	RM10.00 for each copy
3.	Copy of an extract of the register supplied by the Commission under section 88 of the Act	RM10.00 for each copy
4.	Certified copy of a licence	RM50.00 for each copy
5.	Lodgement of any other documents to the Commission where no fees are specifically provided	RM50.00 for each document