

# SECURITIES INDUSTRY ACT 1983

## SECURITIES INDUSTRY (DEPOSIT) REGULATIONS 1997

IN exercise of the powers conferred by section 127 of the Securities Industry Act 1983, the Minister makes the following regulations: *Act 280.*

1. These regulations may be cited as the **Securities Industry (Deposit) Regulations 1997** and shall come into force on 30 January 1997. *Citation and commencement.*
2. In these Regulations, unless the context otherwise requires, "dealer" has the same meaning as is assigned to that expression under section 2 of the Act but excludes a person who is a member company. *Interpretation.*
3. (1) Subject to these Regulations, where a provision of the Act or of these Regulations is specified in the first column of the First Schedule to these Regulations, the form set out in the Second Schedule to these Regulations the number of which is specified in the third column of the First Schedule opposite to that provision is prescribed as the form to be used for the purposes of that provision in relation to the matter or thing described in the second column of the First Schedule opposite to the provision. *Forms, First Schedule and Second Schedule.*

(2) Where a form prescribed by these Regulations requires—

(a) the lodging of a document; or

(b) the giving of information—

(i) by the completion of the form in the prescribed manner; or

(ii) by the supply or completion of another document,

that document or information shall be taken to be the document or information required under the Act or these Regulations for the purposes of which that form is prescribed.

(3) The Commission may require further information to be given in addition to the information required by the prescribed form.

(4) A form prescribed by these Regulations containing any direction for its completion, shall be completed in accordance with those directions.

(5) Where a form prescribed by these Regulations requires the insertion of the name of an individual person, it shall—

(a) in the case of a Malaysian citizen, be the name as it appears in the identity card; or

(b) in the case of a non-Malaysian citizen, be the name as it appears in the passport, of that person.

4. Unless the Commission approves otherwise, a document to be lodged with the Commission in pursuance of the Act or these Regulations shall comply with the following requirements:

(a) the document shall be on white or light-coloured paper—

(i) of medium weight and good quality; and

(ii) of international A4 size (297 millimetres by 210 millimetres);

(b) the document shall be printed or typewritten and shall be clearly legible;

(c) the document shall not be a carbon copy;

(d) the document shall have margins of not less than 25 millimetres on each side;

(e) where the document comprises two or more sheets—

(i) the sheets shall be bound together securely; and

(ii) each sheet shall have a margin of not less than 25 millimetres on the side on which it is bound in addition to any space required for binding;

(f) the document shall have endorsed on the first sheet—

- (i) the name;
- (ii) the address; and
- (iii) the telephone number,

of the person by whom or on whose behalf the document is lodged; and

(g) the document shall be in the national language or in the English language.

5. A deposit lodged with the Commission pursuant to section 23 of the Act shall be accompanied by the prescribed form. Lodgement of deposit.

6. (1) The amount of deposit shall be one hundred and fifty thousand ringgit. Amount of deposit.

(2) Where the amount of deposit lodged by a dealer or fund manager is reduced to below one hundred and fifty thousand ringgit, the relevant dealer or fund manager shall lodge such additional sum as deposit so that the total deposit lodged is one hundred and fifty thousand ringgit at the time of an application for renewal of the relevant licence is made.

7. (1) The deposit shall be paid— Form of deposit.

- (a) in cash or in the form of a bank draft made payable to the Commission;
- (b) by lodgement of a fixed deposit certificate in the name of the Commission for the account of the dealer or fund manager; or
- (c) by lodgement of a bank guarantee which is issued by a licensed institution upon terms and conditions as may be approved by the Commission.

(2) The Commission shall open and maintain one or more accounts at a licensed institution into which it shall pay all monies received as deposit.

(3) The Commission may pay all monies which form the deposits and is not immediately required for any other purposes under these Regulations into a fixed deposit account.

(4) Where the Commission has invested the deposits under subregulation (3), it shall as soon as practicable after the end of the year, by notice in writing to the relevant dealers or fund managers—

- (a) declare a rate of interest to be paid for that year in respect of the deposit;
- (b) specify in writing the manner and time of payment of that interest; and

- (c) specify in writing an amount to be charged for administrative expenses incurred by the Commission in administering that deposit.

(5) As soon as practicable after the notification under subregulation (4), the Commission shall, after deducting the appropriate amount chargeable in respect of its administrative expenses, pay to each relevant dealer or fund manager, the appropriate amount of interest due in respect of the deposit for the year in question.

8. (1) A deposit lodged with the Commission shall be applied for the purposes of compensating a person who suffers monetary loss by reason of—

- (a) a defalcation or fraudulent misuse of monies or other property, by any director, officer, employee or representative; or  
(b) insolvency,

of the dealer or fund manager, as the case may be:

Provided that in the case of an insolvency of a dealer or a fund manager, the Commission shall apply the deposit in accordance with subregulation (6).

(2) The monetary loss referred to in subregulation (1) is suffered in respect of monies or other property that was entrusted to or received by—

- (a) the dealer, in connection with a business of dealing in securities;  
(b) the fund manager, in connection with a business of a fund manager, or  
(c) any director, officer, employee or representative of the dealer or fund manager,

for or on behalf of the person suffering the loss or another person or because the dealer or fund manager, as the case may be, was trustee of the monies or other property.

(3) Subject to these Regulations, every person who suffers monetary loss as provided in subregulation (1) shall be entitled to claim as compensation in relation to the relevant deposit of one hundred and fifty thousand ringgit lodged with the Commission.

(4) Subject to subregulation 9(5), the amount which any claimant shall be entitled to claim as compensation under these Regulations shall be the amount of actual monetary loss suffered by him and any reasonable costs of and disbursements incidental to the making and proof of his claim less the value of all monies or other benefits received or receivable by him from any source other than the deposits under these Regulations in deduction of the loss.

(5) The Commission, if satisfied that the defalcation or fraudulent misuse of monies or other property on which the claim is founded is actually committed, may allow the claim and act accordingly notwithstanding that—

- (a) the person who committed the defalcation or fraudulent misuse of monies or other property has not been convicted or prosecuted therefor; or
- (b) the evidence which is presented in respect of the claim and acted upon by the Commission would not be sufficient to establish the guilt of that person upon a trial in respect of such defalcation or fraudulent misuse of monies or other property.

(6) The Commission shall pay the deposit together with interest, if applicable, less any administrative expenses as may be notified in writing by the Commission to—

- (a) a trustee in bankruptcy appointed in respect of the dealer or fund manager which is bankrupt; or
- (b) a liquidator appointed in respect of the dealer or fund manager which is insolvent.

9. (1) The Commission may cause to be published in two daily newspapers published and circulating generally in Malaysia, one in the national language and one in the English language, a notice in the prescribed form, specifying a date, not being earlier than three months after the publication of the notice, on or before which claims for compensation in relation to the deposit lodged by the person specified in the notice may be made.

Procedure for  
claiming the  
compensation.

(2) Where a notice under subregulation (1) has been published, a claim for compensation shall be made in writing to the Commission on or before the date specified in the notice and any claim which is not so made shall be barred unless otherwise allowed by the Commission.

(3) Where no notice under subregulation (1) has been published, a claim shall be made in writing to the Commission within six months after the claimant became aware of the—

- (a) defalcation or fraudulent misuse of monies or other property by any director, officer, employee or representative; or
- (b) insolvency,

and any claim which is not so made shall be barred unless otherwise allowed by the Commission.

(4) The Commission shall forthwith publish a notice under subregulation (1) upon the receipt of a claim under subregulation (3).

(5) The Commission shall, subject to these Regulations and after such inquiry as it thinks fit, allow or disallow any claim.

(6) Where the Commission allows any claim, it shall—

- (a) determine the amount of claim payable;
- (b) the time of payment of the amount referred to in paragraph (a); and
- (c) authorise the payments of the amount from the relevant dealer's or fund manager's deposit to the persons whose claims have been allowed.

(7) In authorising payment under paragraph (6)(c), the Commission shall have regard to the following provisions:

- (a) where only one amount is determined under subregulation (6) and that amount does not exceed the deposit—the amount shall be payable in full;
- (b) where two or more amounts are so determined and those amounts do not exceed in the aggregate the deposit—those amounts shall be payable in full;
- (c) where only one amount is so determined and that amount exceeds the deposit—only so much of the amount as does not exceed the deposit shall be payable; and
- (d) where two or more amounts are so determined and those amounts exceed in the aggregate the deposit—only so much of each such amount as bears to that amount the same proportion as that amount bears to the deposit shall be paid.

10. (1) Subject to subregulation (2), the Commission shall—

- (a) return the deposit together with interest, if applicable, less any administrative expenses;
- (b) where any part thereof has previously been paid under subregulation 9(5) or where a claim in respect thereof has previously been allowed, return the balance of the deposit together with interest, if applicable, less any administrative expenses,

as may be specified in writing to the dealer or fund manager by the Commission.

(2) The Commission shall return deposits paid by any dealer or fund manager who has lodged with the Commission as deposit under these Regulations—

- (a) in the case of a revocation of a licence under section 27 of the Act or refusal to renew a licence under section 17—
  - (i) on the expiration of three months after service on the Commission of a notice in the prescribed form

duly signed by or on behalf of the dealer or fund manager stating that it has ceased to carry on in Malaysia a business of dealing in securities, in the case of a dealer or a business of a fund manager, in the case of a fund manager;

(ii) on the Commission being satisfied that the dealer or fund manager has not from the date of service of the notice carried on such business in Malaysia; and

(iii) on the Commission being satisfied that adequate arrangements have been made to meet all the liabilities and obligations of the dealer or fund manager, as the case may be, that are outstanding at the time of the notice given by the person; or

(b) in the case of a surrender of a licence under section 28A of the Act, after the Commission is satisfied that adequate arrangements have been made to meet all the liabilities and obligations of the dealer or fund manager, as the case may be, that are outstanding at the time when the notice of surrender was given by the dealer or fund manager.

(3) The Commission shall cause every notice served on it under this regulation, and also its decision with regard to the proposed release, to be published at the cost of the applicant in such manner as the Commission thinks fit.

11. Regulations 12 and 13 and Form 19 of the Securities Industry Regulations 1987 are deleted.

Deletion of  
regulations 12 and  
13 and Form 19.  
P.U. (A) 314/87.

#### FIRST SCHEDULE

(Regulation 3)

#### LIST OF FORMS

(1) <i>Provision of Regulation for which Form is prescribed</i>	(2) <i>Description of Form</i>	(3) <i>Number of Form in Second Schedule</i>
5	Lodgement Of Deposit	1
9(1)	Notice Calling For Claims Against Deposit Lodged With The Commission	2
10(1)	Application For Return Of Deposit	3

SECOND SCHEDULE

(Regulation 3)

Form 1

SECURITIES INDUSTRY ACT 1983

SECURITIES INDUSTRY (DEPOSIT) REGULATIONS 1997

(Regulation 5)

LODGEMENT OF DEPOSIT

1. The name of the corporation making this application is (including former name [if any] and the date of change) and the dealer's or fund manager's licence number:

2. Registered office:

3. Full address of the principal place of business:

Telephone No.:

Facsimile No.:

4. Type of deposit:

Cash / Bank Draft

(tick the appropriate box)

Fixed Deposit Certificate

Bank Guarantee


5. Where the deposit is in the form of a bank draft, specify—

(a) the name, address and telephone number of the issuing licensed institution; and

(b) the bank draft number.

6. Where the deposit is by lodgement of a fixed deposit certificate or a bank guarantee, specify—

(a) the name, address and telephone number of the issuing licensed institution; and

(b) the fixed deposit certificate or bank guarantee number.

We.....and.....  
(director)

.....declare that all the  
(secretary)

information given in this application and in the annexures (if any) is true and correct.

Dated.....19.....

Signed: .....  
(Director)

.....  
(Secretary)

**Form 2**

**SECURITIES INDUSTRY ACT 1983**

**SECURITIES INDUSTRY (DEPOSIT) REGULATIONS 1997**

(Regulation 9(1))

***NOTICE CALLING FOR CLAIMS AGAINST  
DEPOSIT LODGED WITH THE COMMISSION***

In the matter of .....  
*(name of dealer/ fund manager\*)*

of .....  
*(address)*

Notice is given that all persons claiming to have suffered monetary loss from—

- (a) defalcation or fraudulent misuse of monies or other property, by any director, officer, employee or representative; or
- (b) insolvency,

of the abovementioned dealer / fund manager \* in respect of monies or other property that was—

- (c) in connection with a business of dealing in securities, in the case of a dealer; or
- (d) in connection with a business of a fund manager, in the case of a fund manager,

entrusted to or received by the dealer, fund manager, or by any director, officer, employee or representative of the dealer or fund manager—

- (e) for or on behalf of the person suffering the loss or another person; or
- (f) because the dealer or fund manager was trustee of the monies or other property,

are required to deliver to the Commission particulars of their claim, in writing, on or before  
19 .....

Claims not received by the Commission on or before such date shall not be admitted and no payment in respect thereof shall be made.

Dated.....19.....

.....  
*Chairman,  
Securities Commission*

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\*Delete whichever is not applicable.

**Form 3**

**SECURITIES INDUSTRY ACT 1983**

**SECURITIES INDUSTRY (DEPOSIT) REGULATIONS 1997**

(Regulation 10(1))

***APPLICATION FOR RETURN OF DEPOSIT***

1. The name of the corporation making this application is (including former name [if any] and the date of change) and dealer's or fund manager's licence number:

