

P.U. (A) 439/2008

CAPITAL MARKETS AND SERVICES ACT 2007

**CAPITAL MARKETS AND SERVICES (NON-APPLICATION OF DIVISION 5 OF
PART VI) (FUND MANAGEMENT) ORDER 2008**

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) (Fund Management) Order 2008**.

(2) This Order comes into operation on 5 December 2008.

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 this 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 unit trust scheme that is made by a holder of a Capital Markets Services Licence carrying on the business of fund management to the following investors:

- (a) an individual whose total net personal assets exceed three million ringgit or its equivalent in foreign currencies;
- (b) a corporation with total net assets exceeding ten million ringgit or its equivalent in foreign currencies based on the last audited accounts;
- (c) a unit trust scheme or prescribed investment scheme;

- (d) a company registered as a trust company under the Trust Companies Act 1949 [Act 100] which has discretion in the investment of the trust assets of a trust with total net assets exceeding ten million ringgit or its equivalent in foreign currencies;
- (e) a corporation that is a public company under the Companies Act 1965 [Act 125] or under the laws of any other country, which has been allowed by the Commission to be a trustee for the purposes of this Act and has discretion in the investment of the trust assets of a trust with total net assets exceeding ten million ringgit or its equivalent in foreign currencies;
- (f) a pension fund approved by the Director General of Inland Revenue under section 150 of the Income Tax Act 1967 [Act 53];
- (g) a holder of a Capital Markets Services Licence carrying on the business of dealing in securities;
- (h) any other holder of a Capital Markets Services Licence carrying on the business of fund management;
- (i) a person who acquires securities pursuant to an offer, as principal, if the aggregate consideration for the acquisition is not less than two hundred and fifty thousand ringgit or its equivalent in foreign currencies for each acquisition whether such amount is paid for in cash or otherwise;
- (j) a licensed institution;
- (k) an Islamic bank; and

(l) an insurance company licensed under the Insurance Act 1996 [Act 553].

(2) A holder of a Capital Markets Services Licence carrying on the business of fund management 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 (l) shall comply with any guidelines issued by the Commission under subsection 377(1) of this Act.

Revocation

3. The Securities Commission (Disapplication of Division 5 of Part IV) Order 2005 [*P.U. (A) 469/2005*] is revoked.

Made 3 December 2008

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

TAN SRI NOR MD BIN YAKCOP
Second Minister of Finance