

PRACTICE NOTE ON DIGITAL ASSET CUSTODIAN SPECIFIED AS CUSTODIAN UNDER SECTION 121(g) OF THE CAPITAL MARKETS AND SERVICES ACT 2007

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1st Issued: 26 August 2024

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| Effective Date upon 1 st Issuance | 26 August 2024 |
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Introduction

1. This Practice Note is issued pursuant to section 377 of the *Capital Markets and Services Act 2007* (CMSA 2007).
2. The *Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019* (Prescription Order 2019) prescribed digital currency and digital token that fulfil the relevant criteria as securities for the purposes of securities laws.
3. For avoidance of doubt, digital currency and digital token that has been prescribed as securities under the Prescription Order 2019 shall herein be collectively referred to as 'digital assets'.
4. To facilitate trading in digital assets that has been prescribed as securities, the Securities Commission Malaysia (SC) has introduced the regulatory framework for digital asset custodians (DAC). Any person who provides the services of safekeeping, storing, holding or maintaining custody of digital assets for the account of another person is required to be registered as a DAC with the SC pursuant to section 76A of the CMSA 2007.
5. Pursuant to section 121(g) of the CMSA 2007, a DAC registered with the SC is specified to be a 'custodian'. In this regard, the relevant Capital Markets Services Licence (CMSL) holder may deposit their client's digital assets with a DAC.
6. Such DAC must also ensure compliance with the relevant requirements under the relevant securities laws and guidelines including but not limited to the *Guidelines on Compliance Function for Fund Management Companies* in relation to client assets protection.