



**PART 2**  
**EVOLVING THE**  
**REGULATORY**  
**APPROACH: SHARED**  
**ACCOUNTABILITY,**  
**EFFICIENCY AND**  
**EMBRACING THE**  
**DIGITAL AGE**

## INTRODUCTION

Capital markets are constantly evolving and innovating, impacted by global and domestic events and shaped by the growth of technological advancement. It is therefore essential for the SC to ensure its regulatory approach remains prudent yet progressive to maintain the integrity and fairness of the capital market, while spurring its progress and development. In 2022, the SC strengthened the surveillance and supervision of markets, intermediaries and regulated individuals. This was done mainly through focusing on a number of strategic priorities to build resilience and trust in our markets by encouraging good conduct through the promotion of responsible businesses, enhancing governance standards as well as cultivating self-regulation and a compliance culture. Effective enforcement actions were also carried out to raise standards of behaviour and deter misconduct, while investor protection initiatives were implemented to further bolster market confidence and stability.

To ensure the SC’s long-term operational and technology resilience, work has commenced towards the development of a centralised data platform and an application architecture to boost the SC’s overall technology adoption. Focus has been on enhancing the overall gatekeeping, surveillance, supervision, and investor protection functions of the SC, as well as greater knowledge sharing.

## ENHANCING RISK MANAGEMENT, SURVEILLANCE AND SUPERVISION

Against a backdrop of a challenging macroeconomic environment, tightening of financial conditions and concerns arising from geopolitical conflicts, the SC remained vigilant of emerging risks and vulnerabilities that may pose a threat to the systemic stability of the domestic capital market.

### Monitoring and Management of Systemic Risks

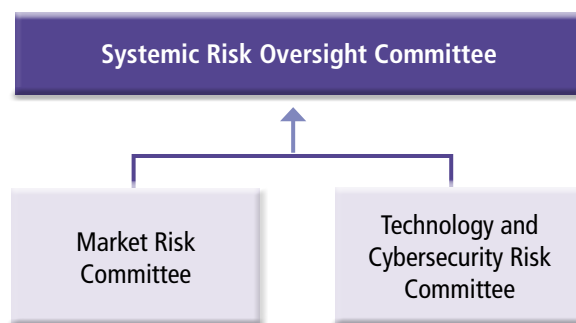
#### **Robust risk governance framework**

In 2022, the SC enhanced its enterprise-wide risk governance framework aimed at further enhancing the effectiveness, including predictability, of its risk surveillance approach. Under the SC’s risk governance framework, the Systemic Risk Oversight Committee (SROC) is supported by the Market Risk Committee (MRC) and Technology and Cybersecurity Risk Committee (TCRC) to monitor, mitigate, and manage systemic risk arising from various segments within the

capital market (Figure 1).<sup>1</sup> This risk governance framework embeds capital market risk surveillance and monitoring within business functions to enable robust management of risks impacting the Malaysian capital market.

The SC also strengthened its framework for managing market crisis through the Capital Market Crisis Management Framework which provides clear operational processes and guidance aimed at better co-ordination within the SC.

**FIGURE 1**  
Systemic Risk Governance Structure



<sup>1</sup> The MRC considers emergence of risks from various segments within the capital market whereas the TCRC considers technology and cyber risks for both the SC and the capital market.

### ***Enhanced engagements and inter-agency discussions***

The SC held frequent discussions and engagements including with regulatory agencies such as Bank Negara Malaysia (BNM) and Labuan Financial Services Authority (Labuan FSA), to identify financial stability and systemic risk concerns within the Malaysian financial and capital markets. Geopolitical tensions, cyber vulnerabilities, digital assets and ESG risks were discussed to ascertain possible impact on the capital market and ensure prompt response and better co-ordination. Domestic equity and bond markets, foreign fund flows and trade participation were also monitored for potential stress points.

### ***Risk assessments outlining capital market resilience***

In 2022, the SC conducted risk assessments on various components of the capital market. The assessments covered the following components namely equity market and infrastructure, bond market, digital assets, investment flows, investment management, stockbroking intermediaries and PLCs.

The SC is also working on its inaugural *Capital Market Stability Review*, to be published in Q1 2023. This report will outline overall risk assessments of the Malaysian capital market and discuss relevant systemic risk drivers.

Read more on the *Capital Market Stability Review* on the website.

 <https://www.sc.com.my/resources/cmsr>

## **Surveillance of the Capital Market**

### ***Preserving market integrity through proactive surveillance of trading activities***

Proactive surveillance of trading activities by the SC as well as Bursa Malaysia ensures that anomalies are promptly addressed by market participants with the common goal of preventing irregular or manipulative trading activities and ensuring a fair and orderly capital market. To this end, regular engagements were conducted with Bursa Malaysia towards ensuring timely and effective action including co-ordinated responses commensurate with the risks and gravity of surveillance

concerns. In addition, the SC and Bursa Malaysia place emphasis on engagements with market intermediaries towards facilitating better and greater understanding as well as collaboration, thus ensuring that the desired outcome of shared accountabilities and objective of a fair and orderly market are achieved.

### ***Prioritising areas of concern towards greater regulatory efficiency***

The SC's surveillance of trading activities continued to focus on prevailing areas of concern and emerging trends relating to market manipulation and insider trading. Where elements of possible trading offences were established, informed decisions were made on strategic enforcement approaches that seek to achieve the highest level of regulatory efficiency and investor protection outcomes.

### ***Utilising data analytics to enhance surveillance analysis and decision-making***

Arising from increasingly complex market abuse techniques involving a large number of participants and datasets, the SC remains committed to initiatives that enhance the quality and efficiency of its surveillance analysis capabilities through the use of technology.

In-house data analytics tools based on quantitative models to support its analyses of voluminous trade data were developed, complementing the SC's core trade surveillance system. This enabled additional insights to be gleaned from the data such as indistinct trading patterns among market participants. As a result, certain aspects of surveillance analysis can now be carried out more objectively and efficiently, leading to speedier operational decision-making.

### ***Heightened monitoring of crude palm oil futures trading precipitated by volatile commodity prices***

During a tumultuous period of high volatility in global commodity prices, the SC heightened its surveillance on crude palm oil futures (FCPO) contract trading activities. Trading disruptions on the London Metal Exchange, precipitated by the extreme and sudden volatility in

nickel prices, increased the urgency for the SC to preserve the integrity and stability of the FCPO market in the event of similar market shocks affecting the commodity.

Key areas of focus included the effectiveness of risk mitigation controls of Bursa Malaysia Derivatives Clearing Bhd (BMDC) as the central counterparty and financial resilience of market intermediaries. BMDC and market intermediaries were found to have in place adequate risk management measures to mitigate potential default events caused by significant volatile market conditions.

### ***Reinforcing fair and orderly trading on digital asset exchanges***

Digital asset exchanges (DAXs) have shared accountability in ensuring that the market operates in a fair and orderly manner. The SC proactively engages with registered DAXs on the effectiveness of their market surveillance functions and trading anomalies detected by the SC. Such engagements reinforce the importance of having adequate control measures that are effective in detecting trading irregularities that pose potential risks to the integrity of the market.

Guidance was provided during engagements with the DAXs, particularly those with nascent operations, to enhance their understanding of the SC's expectations on DAXs' surveillance responsibilities. This is in line with the SC's commitment to enhance regulatory transparency and provide regulated entities with greater clarity on regulatory expectations. As a result, effective remediation actions were taken on a timely basis to prevent recurrence of trading anomalies.

### ***Enhanced monitoring of the corporate bond and sukuk market to support market integrity***

Domestic bond yields trended upwards in 2022 in tandem with rising global bond yields, aggressive tightening of monetary policies by central banks, the Ukraine-Russia war and accelerating inflation coupled with recessionary fears. From the SC's observations, these events did not have any major impact on domestic corporate bond

issuers' ability to service their bond financial obligations promptly.

Adopting enhanced tools to supervise the corporate bond and sukuk market, issuers from identified business sectors that were impacted due to the COVID-19 pandemic were closely monitored. These sectors included, among others, property, infrastructure, and utilities as well as oil and gas. Several corporate bond issuers had requested investors' indulgence for exemptions in either payment of coupon, profit or principal, or extension of time to meet agreed-upon financial ratios as well as other forms of refinancing. These corporate bond issuers, however, make up a very small portion of the corporate bond and sukuk market.

The corporate bond and sukuk market had three issuer defaults in 2022, amounting to RM1.44 billion or 0.18% of total outstanding corporate bonds and sukuk. Seven rating downgrades were also observed in 2022, compared to 10 in 2021. Out of seven rating downgrades, four were from the infrastructure and utilities sector, one from the property sector, one from the trading and services sector, and one from the mining and petroleum sector. As for the rating outlook, there were six downward revisions in the corporate bond rating outlook in 2022 compared to 10 in 2021.

## **Surveillance of Public-Listed Companies**

### ***Promoting trust and confidence through a dynamic and active approach***

A key component to promoting integrity and market confidence is by ensuring PLCs provide full, accurate and timely disclosure of financial results, risk and other information which are material to investors' decisions. This continued to be achieved through proactive surveillance and monitoring of corporate disclosures and practices, and financial reporting of PLCs. Towards ensuring that the SC's surveillance activities remain relevant and effective, in 2022, the SC continuously reviewed and where appropriate, enhanced and refined its approaches taking into consideration, among others, emerging market trends as well as concerns in respect of corporate behaviour and conduct.

Surveillance activities throughout 2022 involved the review and assessment of 442 matters triggered via announcements and news articles, as well as complaints received by the SC in relation to 277 PLCs for possible violations of securities laws. The SC, in the course of its reviews, engaged with the directors, officers, statutory auditors and other professionals involved in the affairs of 23 PLCs.

Thematic reviews were carried out to identify emerging risk areas that may impact the capital market. Due to the spill-over effects of the COVID-19 pandemic, the SC assessed PLCs' financial health for potential increase in credit risks and corresponding impact on the capital market.

Credit risk modelling, pertinent financial data and ratios were applied to determine vulnerable sectors and PLCs with high credit risk as triggers for further assessment. Further, an in-depth review was also conducted on PLCs with low credit risk but large debts.

Overall, while there did not appear to be an alarming sign of deteriorating credit health in PLCs, it was observed that escalating external challenges affecting the capital market, such as the strengthening US dollar, prolonged geopolitical tensions, disrupted global supply chain as well as the rising cost of inputs may put pressure on the liquidity risk for companies with large debt. This situation will continue to be monitored to manage and mitigate any potential risk or impact on the capital market.

Following the introduction of the temporary relief measures which had allowed PLCs to increase the general mandate limit under the Bursa Listing Requirements<sup>2</sup>, matters of concern were identified and corporate surveillance activities in 2022 were accordingly focused on:

- New share issuances by PLCs particularly via private placement exercises; and
- The granting of substantial options under employee share option schemes (ESOS) which resulted in significant issuance of new securities.

The surveillance reviews undertaken highlighted some concerns including the utilisation of funds raised via share issuances and related disclosures made by PLCs.

Where irregularities or possible securities law breaches were detected, such matters were escalated for further investigation and/or enforcement action. Bursa Malaysia was also engaged in matters requiring closer scrutiny on their part as the frontline regulator.

## Supervision of Institutions and Intermediaries

### *Oversight of Bursa Malaysia*

The SC supervises and monitors Bursa Malaysia and its subsidiaries towards ensuring proper discharge of the relevant entities' regulatory and market functions, for a fair and orderly market for securities and derivatives traded through their facilities. To ensure this is done effectively, a proactive and comprehensive supervisory approach is undertaken through annual regulatory assessments, imposition of reporting requirements, and engagements with Bursa Malaysia's board and senior management.

In 2022, the SC intensified its supervisory monitoring efforts over Bursa Malaysia Securities Clearing Sdn Bhd (BMSC) and BMDC through frequent engagements and robust challenge processes to address associated risks arising from heightened uncertainty in the market as a result of geopolitical tension and global supply chain disruptions in 2022.

The SC also continued to monitor the operations and performance of BMSC's and BMDC's risk mitigation measures in accordance with the SC's *Guidelines on Financial Market Infrastructures* requirements through periodic data/report submissions and engagements with the Risk and Compliance Division of Bursa Malaysia.

With aligned interests to promote greater foreign participation in the Malaysian capital market, the SC facilitated BMDC's application to the European Securities and Markets Authority (ESMA) to be recognised as one of the Third-Country Central Counterparties (TC-CCP) in the European Union.

<sup>2</sup> Bursa Listing Requirement's temporary relief measures had allowed listed companies to increase the general mandate limit under the Bursa Listing Requirements to not more than 20% of the total number of issued shares. This measure had provided greater flexibility for PLCs to raise funds from the capital market to manage the impact arising from COVID-19 on their business operations.



As part of the fulfilment of the requirements for BMDC to be recognised as one of the TC-CCP, an equivalence decision regarding the legal and supervisory framework for Central Counterparties in Malaysia was obtained from the European Commission on 8 June 2022. Following that, the SC and ESMA had successfully established co-operation arrangements via the signing of a Memorandum of Understanding (MoU) between the Chairmen of the SC and ESMA on 5 August 2022. Presently, BMDC has fulfilled the required conditions for the application to be recognised as one of the TC-CCP and the application is under ESMA's assessment.

**Assessment on Bursa Malaysia Islamic Commodity Trading Platform**

As part of the SC's oversight on Bursa Malaysia and its other businesses, the SC focused its regulatory assessment in 2022 on Bursa Malaysia Islamic Services Sdn Bhd (BMIS)<sup>3</sup>.

The assessment included a review and evaluation of processes and procedures during the onboarding of participants, adequacy and effectiveness of controls to monitor its participants to continuously adhere to the rules and other applicable Shariah requirements.

**Oversight on the Federation of Investment Managers Malaysia**

In August 2022, the SC completed its regulatory assessment on the Federation of Investment Managers Malaysia's (FIMM) Regulatory Services Division with the objective of determining the effectiveness and efficiency of FIMM's registration, supervision and enforcement framework.

Following this exercise, areas for improvement were identified to allow for a more effective discharge of FIMM's self-regulatory organisation (SRO) duties, including:

- Validation process in ensuring that only qualified companies/individuals are registered with FIMM;
- Supervisory effectiveness in ensuring proportionality on its supervision of distributors and consultants; and

- Strengthening the human resource management for timely and proper discharge of the enforcement function.


It was also noted that FIMM has implemented recommendations from the previous regulatory assessment to strengthen its efforts to build better compliance culture.

**Supervision on recognised market operators**


The SC regulates recognised market operators (RMOs) based on the principles of transparency and proportionality that are commensurate with the risks posed within the recognised market. In line with this, ongoing supervision by the SC is adopted to ensure fair, responsible and proper conduct of the operators facilitating fundraising/trading activities via alternative platforms, as well as to protect the rights and interests of investors.

The SC's oversight of the RMOs includes among others, periodic engagements with the operators, continuous monitoring via the review of reporting submissions and handling of complaints received with respect to areas such as governance, risk management, client/issuer onboarding and due diligence, cyber security and systems integrity.

Considering the growth of the alternative fundraising and trading platforms with increased participation of issuers and investors, the SC has also elevated its supervisory efforts. In 2022, four thematic regulatory assessments were carried out on ECF and P2P financing operators to assess their compliance with the SC's guidelines in the following areas:



**ECF**  
Adequacy and effectiveness of issuers' onboarding and due diligence review, campaign approvals and disclosures.



**P2P financing**  
Adequacy and effectiveness of issuers' due diligence and credit assessment, disbursement to issuers and default management.

<sup>3</sup> BMIS facilitates commodity-based Islamic financing and liquidity management according to the Shariah principles of *murabahah* and *tawarruq*.

The SC observed several gaps and a few non-compliant practices with regard to the areas under assessments that required the operators' attention and corrective measures, which include:



#### **ECF**

Documentation and effectiveness of issuers' onboarding, due diligence review and campaigns' approval, as well as accurate campaign disclosures.



#### **P2P financing**

Documentation and consistency of due diligence and credit assessment practices, disbursements of funds to permitted parties and timely notification to investors concerning overdue/defaulted payments.

As part of ongoing supervision, the SC continued to monitor the progress of the remediation plans implemented by the operators to address the SC's findings.

### ***Supervising intermediaries***

In addition to the SC's scheduled assessment of compliance and risks, oversight function over intermediaries was further strengthened and focus was placed on threats and systemic concerns that pose the greatest risks to investors and the markets. Enhancements to the use of data and information systems within the SC have also facilitated a more effective and efficient

supervisory approach and regulatory outcome. This has contributed towards the SC's objective of promoting good culture and conduct among capital market intermediaries, to advocate self-regulation and to improve the standards of corporate governance, professionalism and ethical behaviour.

To further encourage good culture and conduct, a survey focusing on remuneration practices of licensed SBCs against the *Principles for Sound Compensation Practices* issued by the Financial Stability Board was conducted. The findings will be used to better understand the board of directors (BOD) role in setting remuneration policies, compensation practices, risks, and co-ordinate responses to address areas of common concerns. The information obtained would also provide support in the planned development of guidance to capital market intermediaries on drivers of good culture and conduct.

In 2022, notable supervisory efforts include the carrying out of 41 pre-emptive planned assessments on identified risk areas for each intermediary such as governance frameworks, compliance monitoring and safeguarding of clients' assets. Additionally, 91 for-cause assessments were undertaken arising from complaints and referrals received relating to misconduct. Swift intervention was initiated where lapses were noted in intermediaries' controls and procedures.

The SC also embarked on an initiative to further enhance its use of supervisory technology including greater application of advanced analytics for data consolidation and predictive insights. This is expected to improve the SC's ability to identify risk areas for review and support a more efficient and systematic supervisory function.

## Guidance Note on Managing Environmental, Social and Governance Risks for Fund Management Companies

### Background

On 30 June 2022, the SC issued a *Guidance Note on Managing Environmental, Social and Governance Risks for Fund Management Companies* (ESG Guidance Note), following thematic reviews conducted in 2020/2021 where selected FMCs were assessed on their policies and practices in managing ESG risks when undertaking investment activities.

The ESG Guidance Note aims to assist and guide FMCs in establishing a responsible investment framework by providing clarity and setting out the SC's expectations on the development and implementation of practices, policies and procedures in managing material ESG risks in FMCs' investment portfolios, as well as facilitate meaningful disclosure while driving positive impact and change.

The ESG Guidance Note includes illustrations of practices observed from the thematic reviews conducted and are supplemented with a list of Frequently Asked Questions (FAQ) to further enhance FMCs' understanding and effective implementation of the ESG Guidance Note.

### Salient features of the ESG Guidance Note



#### Governance and Strategy

- BOD to play an active role and set strategic direction in developing and adopting responsible investment, and for senior management to ensure the implementation; and
- ESG-related training and capacity building should be provided to BOD, senior management and staff.



#### Investment Risk Management

- Material ESG risks in investment portfolios should be monitored, assessed, and managed on a continuous basis; and
- FMCs are encouraged to conduct scenario analysis to assess the resilience of their investment portfolios.



#### Investment Process

- FMCs to incorporate ESG factors in research, analysis, investment selection and decision processes.



#### Stewardship

- FMCs to engage and monitor investee companies as well as exercise their voting rights on material ESG issues.



#### Disclosure

- FMCs to disclose their responsible investment related objectives, strategies, practices and activities.

Read more on Guidance Note on Managing Environmental, Social and Governance Risks for Fund Management Companies.

 <https://www.sc.com.my/api/documentms/download.ashx?id=09879b86-6948-4c0c-8d29-559764a09964>



## Survey on Remuneration Practices of Stockbroking Companies

The SC conducted a review to assess the current standards and controls implemented by SBCs in maintaining appropriate remuneration structures with a view to uphold sound business ethics through remuneration practices.

### Scope and findings of the survey



## Strengthening Technology Resilience

The SC noted a significant increase in cyber-attacks globally in 2022, corresponding with the rise of remote working practices and growth in the adoption of digital technology. These cyber-attacks have also shown that any firm can be compromised, regardless of size or scale.

To strengthen the management of technology and cyber risks for the capital markets, the SC released a consultation paper on the regulatory framework for Technology Risk Management (TRM). Preventive measures were also undertaken to support capital market entities in becoming more proactive in managing cyber security incidents. Various programmes were held to improve cyber risk awareness and hygiene in the capital market. Two major events that took place in 2022 were the Capital Market Cyber Simulation (CMCS) and Capital Market Cyber Incident Tabletop Exercise (CMCIT Exercise). Both serve the purpose of ensuring that cyber risk standards are upheld within the capital market. CMCS was targeted for entities which have higher dependencies on technology in their daily business operation while the CMCIT Exercise aided less technology-dependent companies to initiate planning and be more prepared for cyber-attacks.

### Building resilience to cyber risks

- Capital Market Cyber Simulation

The fifth annual cyber simulation for capital market entities was conducted by the SC in collaboration with the National Cyber Security Agency (NACSA) and CyberSecurity Malaysia (CSM).



**110 Entities**  
which have higher dependencies on technology in their daily business operations were invited.



**Themed 'Trust But Verify'**  
with three cyber event scenarios selected to mimic the challenging circumstances in 2022.

Scenarios	Challenges
Supply chain	The SC acknowledges that attackers explore suppliers as new infiltration points into organisations. Resulting from the increased potential for supply chain hacks to penetrate a large number of consumers, these types of attacks are becoming increasingly common. These attacks predominantly target customer data, including Personally Identifiable Information (PII) data and intellectual property.
Data leakage	Employees are the biggest vulnerabilities to a company's data. With large numbers of employees operating outside of secure corporate networks, this vulnerability is growing. Although hackers have developed more sophisticated strategies and tools for stealing data and information, phishing is still common and an inexpensive technique to gain access to organisations' data. Hackers prey on people's fears and manipulate them into handing over data, often via email or website.
Online defacement	The owner of a website that is defaced usually suffers reputational, and in some instances, monetary damage. As a result, trust among customers might be damaged.



#### Primary Objectives

- Simulate the cyber incident response and recovery process by participating organisations;
- Identify potential gaps in technology capabilities;
- Rehearse the ability to maintain smooth market operations under different cyber incidents; and
- Familiarise participants with the SC Vault Portal<sup>4</sup> for escalation and submission of incident reports.



#### Results

- Significant improvement compared to 2021's exercise despite the increased difficulties in the assessment scenarios; and
- Some participants demonstrated maturity in their level of cyber resilience and were better prepared in the event of a cyber-attack.

<sup>4</sup> The Vault is a case management system which allows intermediaries to report on, and facilitates the SC's tracking of, any cyber or technology incidents that occurred within the intermediary. It also functions as a communication platform where advisories or alerts are released by the SC to intermediaries registered on the Vault platform.




- Capital Market Cyber Incident Tabletop Exercise

To help organisations strengthen their capabilities in facing potential cyber threats, the *SC Guidance Note on Management of Cyber Incidents* was rolled out to all capital market entities in 2022 as a base handbook to guide cyber security incident handling and management. In addition, tabletop exercises were organised to intensify the efficacy of capital market entities' incident response procedures through increasing awareness and understanding of cyber threats. Almost 200 capital market participants who have never been involved in the annual SC CMCS event participated in the CMCIT Exercise.



Read more on *Guidance Note on Management of Cyber Incidents*.

 <https://www.sc.com.my/api/documentms/download.ashx?id=272ca944-ede5-42ec-bd9d-e1e04184c39a>

### **Cyber threat landscape report for the capital market**

In 2022, the SC worked with a threat intelligence partner to provide insights on the cyber threat landscape observed globally and in Malaysia. Globally, the top three cyber incidents observed were ransomware, malware stealer and vulnerability exploitation. In contrast, the top three cyber incidents in Malaysia over the same period were stolen credentials, ransomware and phishing attacks.

The SC developed a report on the cyber threat landscape based on an analysis of key financial sector-related cyber incidents reported to the SC via the Vault Portal. The threat report provided:

- Insights and awareness to capital market entities on current and past cyber threats, including a summary of advisories released by the SC through the Vault platform; and
- Outlook of cyber threats, along with fundamentals for incident handling. Both serve to raise capital market entities' awareness on taking proactive measures to address the nature of the potential cyber threats.


### **Technology supervision**

The SC also performed technology and cyber assessment for multiple licensed entities, new applicants as well as third-party service providers to ensure their ability to manage technology and cyber risk. The assessment enabled the SC to determine the operational readiness of capital market entities from a technological and cyber security aspect. This includes the level of cyber governance, risk management, operation management, cyber security management as well as data management of the entities. Following observations for improvement, the SC will continue to supervise the technology and cyber risk of all capital market entities to minimise any technological risk gap.

### **Regulatory Framework on Technology Risk Management Consultation Paper**

On 1 August 2022, the SC issued a public consultation paper on a *Proposed Regulatory Framework on Technology Risk Management* (TRM Framework). The TRM Framework aims to provide principle-based guidelines to support capital market entities to have a robust and sound technology risk framework and ultimately, for the capital market to be cyber resilient.

Responses to the comments (which closed on 19 September 2022) will be taken into consideration prior to the release of a finalised guideline.

Read more on the Consultation Paper on TRM Framework.  
 <https://www.sc.com.my/api/documentms/download.ashx?id=f163d47d-04c7-4c43-923a-b179a3cb94cf>

## **IMPROVING OPERATIONAL EFFICIENCY FOR THE INDUSTRY**

While the SC's primary function is to preserve the integrity of a fair and efficient capital market, efforts continue to be made to ensure that we remain an efficient and effective regulator with a focus on continuous improvement. Following interactions with key market participants, several requirements were streamlined to make the SC's processes and reporting more user-friendly.

### **Enhancing the Licensing Application System**

On 22 March 2022, the SC launched the Electronic Application System (EASy) to replace the Electronic Licensing Application system, which served only Capital Markets Services Licence (CMSL) holders. Targeting both existing industry players and new capital market entrants under the SC's licensing and registration regimes, EASy enables, among others, the automation of the submission and review process. With the new and enhanced features and functionality, EASy is envisaged to benefit both industry and internal users through greater operational efficiency, process simplification, and turnaround time improvement.



## Facilitating Issuance Process Efficiency and Increased Flexibility for Issuance of Corporate Bonds and Sukuk

Effective 1 January 2022, the *Guidelines on Unlisted Capital Market Products Under the Lodge and Launch Framework* (LOLA Guidelines) facilitated an extended implementation time-frame for issuance of corporate bonds or sukuk for the first issuance under a programme or for a one-off issuance from 60 business days to 90 business days from the date of lodgement.

The extended implementation time frame has facilitated issuance process efficiency and provided greater flexibility to issuers to time their corporate bond or sukuk issuance based on market conditions.

## Facilitating Post-Issuance Reporting for Bonds and Sukuk

In June 2022, the SC revised the LOLA Guidelines to enable more facilitative and streamlined post-issuance reporting to the SC for corporate bonds and sukuk. Concurrent with the issuance of the revised requirements under the LOLA Guidelines, the LOLA Online Submission System was enhanced to facilitate this streamlined reporting process.

The streamlined post-issuance reporting for corporate bonds and sukuk has supported principal advisers and the relevant responsible stakeholders in enhancing their operational efficiency.

## PROMOTING RESPONSIBLE BUSINESSES AND SHARED ACCOUNTABILITY

The SC continued to encourage intermediaries and businesses to adopt a broader stakeholder-centric approach in their business strategies and risk management. This is an essential element for firms to reduce the likelihood and impact of misconduct. To reinforce good culture, the SC implemented and supported various initiatives focused on enhancing the understanding of the importance of governance. Regular and open dialogue with key stakeholders were also held, including with government agencies, businesses, firms that the SC regulates and even universities.

<sup>5</sup> *Corporate Governance Strategic Priorities 2021-2023* (CG Strategic Priorities 2021-2023).

<sup>6</sup> *Ibid.*

<sup>7</sup> The MCII 2022 now features seven principles and enhanced guidance for the institutional investors, and a 'Stewardship Spotlight' which highlights what is expected of investee companies in relation to key corporate governance and sustainability issues including the recommended voting decisions associated with the issues. In terms of reporting, signatories of the MCII 2022 are expected to issue an annual Stewardship Statement which provides meaningful information and discussion on the adoption of the Code and the latest developments in relation to the signatories' stewardship activities, actions and outcomes.

## Corporate Governance – Ensuring Board Diversity and ESG Fitness

In 2022, the SC continued efforts to promote the adoption of good corporate governance practices in the capital market and support the Government's initiatives to strengthen the internal governance and stewardship of government-linked investment companies (GLICs) as well as institutional investors in general. Highlights of the SC's efforts are as follows:

### SC supports PERKUKUH governance initiatives

- Launch of the Principles of Good Governance for GLICs<sup>5</sup>

The Principles of Good Governance for GLICs (PGG) was launched on 15 April 2022 by the Minister of Finance, YB Senator Tengku Datuk Seri Utama Zafrul Tengku Abdul Aziz. The PGG is the first deliverable under the Government's PERKUKUH initiatives. It sets out the baseline governance best practices that GLICs are expected to adopt. Led by the Ministry of Finance (MOF), the SC supported the development of the PGG as the subject matter expert, leveraging the SC's experience in developing the *Malaysian Code on Corporate Governance* (MCCG) and advocating as well as monitoring its adoption by PLCs.



- Launch of the Malaysian Code for Institutional Investors 2022<sup>6</sup>

The *Malaysian Code for Institutional Investors 2022* (MCII 2022)<sup>7</sup> that was launched on 23 September 2022 by the Minister of Finance at the Institutional Investors Council



Malaysia – Securities Industry Development Corporation (IIC-SIDC) Corporate Governance Conference 2022 at the SC outlines the broad principles and guidance of effective stewardship by institutional investors on their investee companies. The launch of MCII 2022 was also one of the deliverables under PERKUKUH. It is an update to the first edition of the MCII which was released in 2014. The SC, as the Chair of PERKUKUH Working Group 12, worked closely with the IIC and MOF to support the review and enhancement to the MCII 2022.



**Participation in the 43<sup>rd</sup> Organisation for Economic Co-operation and Development Corporate Governance Committee Meeting**

The 43<sup>rd</sup> Organisation for Economic Co-operation and Development (OECD) Corporate Governance Committee (CGC) meeting was held from 7 to 8 June 2022 at the OECD Headquarters in Paris, and the SC represented Malaysia. The CGC reviewed the first draft revision to the *G20/OECD Principles of Corporate Governance* (Principles), and the SC made several interventions on the revision including on the proposed changes related to the oversight of sustainability risks and opportunities, the use of technology to conduct general meetings and the role of stewardship codes in supporting shareholder activism. Written comments were also submitted by the SC for the OECD’s consideration.

**Collaboration with universities on corporate governance<sup>8</sup>**

In 2022, the SC entered into an MoU with Monash University Malaysia (Monash), Universiti Malaya (UM) and Universiti Sains Malaysia (USM) as a continuation of the effort to promote early understanding and appreciation of good governance among youth and to support their

development as future leaders and agents of positive change. A signing ceremony was also held between the SC, Monash and UM on 18 August 2022 at the SC.

The MoUs formalise collaboration which takes the form of among others, guest lectures by the SC and research collaborations on current corporate governance issues. A guest lecture on ‘The Role of Financial Reporting in the Corporate Governance Landscape’ was conducted on 11 May 2022, and had an attendance of more than 50 students and lecturers from Monash.



Read more on media release ‘SC Inks MoU with Universiti Malaya and Monash University Malaysia to Instil Good Corporate Governance Awareness among Youth’.

<https://www.sc.com.my/resources/media/media-release/sc-inks-mou-with-universiti-malaya-and-monash-university-malaysia-to-instil-good-corporate-governance-awareness-among-youth>

**Enhancement of the Sustainability Reporting Framework for listed issuers<sup>9</sup>**

Taking cognisance of the need to–

- improve the quality and comparability of sustainability disclosures by listed issuers and ensure that such disclosures address the information needs of relevant stakeholders;
- align the disclosure requirements with international best practices; and
- promote the adoption of sustainable business practices by listed issuers;

engagements were carried out with Bursa Malaysia, culminating in the establishment of the enhanced

<sup>8</sup> CG Strategic Priorities 2021-2023.

<sup>9</sup> *Ibid.*

Sustainability Reporting Framework (SRF) on 26 September 2022.

Under the enhanced framework, listed issuers in the Main Market are expected to disclose information on–

- a set of common sustainability matters and indicators deemed material across all sectors;
- climate risks and opportunities which are aligned with the recommendations of the Taskforce on Climate-Related Financial Disclosures (TCFD);
- data and performance targets (if any) on the indicators of at least three years in a prescribed format; and
- whether the Sustainability Statement of the company has been subjected to internal review by internal auditors or independently assured.

For the ACE Market, listed issuers will be required to disclose the above, with the exception of the information on climate risks and opportunities aligned with TCFD recommendations, where listed issuers on the ACE Market are required to disclose a basic transition plan towards a low carbon economy.

The enhanced SRF introduced a phased approach on implementation where listed issuers in the Main Market and ACE Market are accorded with a reasonable grace period to comply with the requirements. The requirements under the enhanced framework will be implemented on a phased approach beginning with the annual report for financial year ending 2023 onwards.

### **Development of the Leading for Impact Programme<sup>10</sup>**

The development of the Leading for Impact Programme (LIP) is in line with the SC's CG Strategic Priorities 2021-2023 aimed at strengthening the ESG fitness of boards. On 6 April 2022, the Institute of Corporate Directors Malaysia (ICDM) was appointed by the SC as the knowledge partner to conduct LIP, in line with their mandate to enhance the overall effectiveness of boards.

LIP will be opened for enrolment by the first quarter of 2023.


### **Establishment of a small and medium enterprises Governance Working Group<sup>11</sup>**

A small and medium enterprises (SME) Governance Working Group (Working Group) was set up to promote early adoption of corporate governance practices by MSMEs. This imperative was highlighted in the *Twelfth Malaysia Plan* as well as the SC's *Corporate Governance Strategic Priorities 2017-2020*. The first meeting was held virtually on 8 March 2022 and attended by members of the Working Group which comprised representatives from the SC, Ministry of Entrepreneur Development and Cooperatives (KUSKOP), SME Corporation Malaysia (SME Corp. Malaysia) and Malaysian Institute of Corporate Governance (MICG). The Working Group is developing a *SME Governance Toolkit for SMEs* which will strengthen their governance culture, framework and practices as well as support the resilience and long-term success of businesses.

### **Release of the Corporate Governance Monitor 2022<sup>12</sup>**

On 1 December 2022 the SC released its *Corporate Governance Monitor 2022* (CG Monitor 2022) which presents updates on the adoption of the 2017 and 2021 editions of the MCCG as well as the quality of corporate governance disclosures. Adoption level across majority of the best practices remained positive, with 30 out of 48 practices recording adoption level of at least 90% (2021: 24 practices). Two thematic reviews were also conducted as part of the CG Monitor 2022, namely on the *Sustainability disclosures of 50 companies in the sectors which are emissions, foreign labour and export intensive (S50 Review)* and the *Demography of Senior Management of the Top 100 Listed Companies*.

Read more on media release 'SC Report: Adoption Levels of Corporate Governance and Sustainability Best Practices by PLCs Remain Positive'.

 <https://www.sc.com.my/resources/media/media-release/cgmonitor2022>

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

## MCCG Adoption and Quality of Disclosures

**30**

(2021:24)  
MCCG best practices  
have an adoption  
level of above 90%

**79%**

Average adoption  
rate for newly  
introduced best  
practices in MCCG  
2021

### WATCHLIST

Practices which companies should avoid:



Mirror  
disclosures



Regress from  
best practices  
adoption



Poor  
explanation  
of departure

## Annual Transparency Reporting by the Audit Firms

In 2022, following the implementation of the AOB's Annual Transparency Reporting framework in 2021<sup>13</sup>, nine audit firms (2021: eight audit firms) registered with the AOB met the criteria set and produced an *Annual Transparency Report* (ATR) based on the audit firms' fiscal year-end. In addition to sharing of the ATR with the Audit Committees (AC) of the audit firms' public-interest entity (PIE) clients in the first year of implementation, their respective ATR's have been uploaded on their websites.

To understand how Audit Committees make use of the ATR and identify any areas for improvement, the AOB conducted a survey with the AC on Transparency Reporting by Audit Firms between April to June 2022. 94% of the AC found that the information disclosed in the transparency reports was useful to facilitate the selection and/or reappointment of the auditors.

## The AOB's Conversation with Audit Committees

One of the AOB's capacity-building initiatives was to continue engaging with the AC of PIEs, keeping them

updated with the development in the audit profession. In 2022, the AOB organised three sessions of the AOB's Conversation with the ACs. It provided a platform for the AOB to share its observation and findings from inspections of audit firms with the AC and guide them on relevant actions to take following the audit findings.

The majority of the AC highlighted that the firm's information and the audit quality indicators disclosed in the Annual Transparency Reports of the audit firms are useful for them to assess the competency and capability of the auditors.

Read more on the *AOB Annual Report 2022 – Stakeholder Engagements and Capacity-Building Initiatives*.

<https://www.sc.com.my/annual-report-2022/audit-oversight>

## Proposed Enactment of Consumer Credit Act to Enhance Consumer Credit Protection

In line with the Government's initiative to strengthen the protection for credit consumers in Malaysia, the Consumer Credit Oversight Board Task Force (CCOB Task Force) was set up in July 2021 to drive the enactment of the new *Consumer Credit Act* (CCA)<sup>14</sup>.

The CCA seeks to provide a comprehensive framework towards regulating the conduct of entities carrying out the business of providing credit or credit services, with an immediate focus on those that are not currently subjected to direct regulation by any authority. This includes the regulation of new forms of credit such as 'Buy Now Pay Later' providers.

The CCA will pave the way for the establishment of the Consumer Credit Oversight Board (CCOB) as an independent competent authority to oversee consumer credit providers and credit service providers. The CCA will adopt a federated regulatory approach modelled after the *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001* (AMLATFPUAA).


The proposed transformation of the consumer credit regulatory architecture will be undertaken in stages and will see the establishment of an independent competent

<sup>13</sup> The AOB's Annual Transparency Reporting which was first introduced in 2019 and implemented in 2021, requires audit firms which meet certain requirements to publish a report containing, among others, information on the firm's legal and governance structure, measures taken by the firm to uphold audit quality and measure risks, and information on the firm's indicators of audit quality.

<sup>14</sup> The CCOB Task Force is led by the MOF, BNM and the SC and works in close collaboration with the Ministry of Domestic Trade and Cost of Living (KPDN), the Ministry of Local Government Development (KPKT), the Ministry of Entrepreneur and Cooperatives Development (KUSKOP) and Malaysia Co-operative Societies Commission (SKM).

authority for consumer credit business, that is the CCOB, which will regulate those entities currently unregulated such as 'Buy Now Pay Later' providers, debt collection agencies and impaired loan buyers as well as complement the oversight role of existing ministries and agencies, referred to as 'Regulatory and Supervisory Authority' (RSA). In this regard, as the RSA for the capital market, the SC will continue to regulate its regulatees in accordance with securities laws while ensuring that they also comply with new regulations and standards issued under the CCA to provide consistent protection to credit consumers.

Read more on media release 'Consumer Credit Oversight Board Task Force Invites Feedback on Proposed Enactment of Consumer Credit Act'.

 <https://www.sc.com.my/resources/media/media-release/consumer-credit-oversight-board-task-force-invites-feedback-on-proposed-enactment-of-consumer-credit-act>

## PRIORITISING SWIFT AND EFFECTIVE OUTCOMES IN ENFORCEMENT

The SC streamlined several enforcement initiatives in 2022, to enhance the effectiveness, efficiency and swiftness of its enforcement actions which involved focusing on breaches of securities law concerning securities fraud, unlicensed activities, and disclosure breaches, as part of the SC's enforcement priorities.

A range of regulatory tools were used including the use of non-formal enforcement tools to address the parties in breach such as the issuance of six Notices of Cease and Desist to immediately halt persons who were found to be providing investment advice to investors without licence.

## Collaboration with Other Law Enforcement Agencies and Cross-Border Authorities

As capital markets and investment schemes become more inter-linked and complex, the SC continued to work in strategic collaboration with other authorities within and outside Malaysia to protect investors. Domestically, the SC continued to work with agencies such as BNM, Royal Malaysia Police (PDRM) and Malaysian Anti-Corruption Commission. Internationally, the SC leverages the IOSCO's Multilateral Memorandum of Understanding to seek as well as assist other member

jurisdictions for investigative assistance, as part of its enforcement strategy.


## Supervisory co-operation MMoU at global regulators meeting



The SC signed the *IOSCO Asia Pacific Regional Committee's (APRC) Multilateral Memorandum Of Understanding For Supervisory Co-operation* (Supervisory MMoU) at the IOSCO Annual Meeting 2022 in Morocco on 17 October 2022. Given the increasing cross-border activities in capital markets within the region, this supervisory MMoU establishes for the first time, a formal framework for regional supervisory co-operation among capital market regulators.

With the signing of this Supervisory MMoU, the SC now has a co-operative arrangement on supervisory matters with its regional regulatory counterparts including in Australia, Hong Kong, Japan, Singapore and Thailand.

Read more on media release 'SC Signs Supervisory Co-operation MMoU at Global Regulators Meeting'.

 <https://www.sc.com.my/resources/media/media-release/sc-signs-supervisory-cooperation-mmou-at-global-regulators-meeting>

## Enhancing regulatory collaboration – MoU with Labuan FSA

The SC entered into an MoU with the Labuan FSA on 23 May 2022 to enhance regulatory, enforcement and supervisory co-operation and collaboration. This MoU builds upon and further strengthens the Memorandum of Co-operation and Mutual Assistance signed between the two agencies in 2004.






The MoU, which covers the development and regulation of capital market activities in Malaysia, reflects both the regulators' commitment to ensure Malaysia's capital market remains relevant and achieves the intended outcomes as this will enable the SC and Labuan FSA to—

- further strengthen collaboration in areas of mutual interest, including monitoring of risks and promoting stability of the capital market; and
- enhance provision of technical assistance, capacity building and exchange of information between

the two regulators which will, among others, better enable the regulators to assess risks to the stability of the capital market to ensure the integrity of the onshore market or Labuan International Business and Financial Centre.

Read more on media release 'SC and Labuan FSA Ink MoU to Strengthen Regulatory Co-operation and Collaboration'.

 <https://www.sc.com.my/resources/media/media-release/sc-and-labuan-fsa-ink-mou-to-strengthen-regulatory-co-operation-and-collaboration>

### Investing in Technology for Cohesive Enforcement Outcome

The SC also worked with Bursa Malaysia as frontline regulators to maintain market integrity and for investor protection. This included implementing a Coordinated Enforcement Repository System (CERS) with Bursa Malaysia in an effort to digitise referrals between the two bodies for better and more timely co-ordination of enforcement efforts concerning overlapping breaches.

#### Highlights in Enforcement Cases by the SC

##### Deceiving investors with non-existent securities

On 16 and 24 June 2022, Chua Yi Fuan (Charles Chua), was charged with a total of 17 counts of securities fraud under section 179(c) of the CMSA for deceiving 14 investors into believing that they were investing in purported investment schemes involving subscription of non-existent securities which caused 14 investors to suffer losses amounting to RM1,738,292. Following joint efforts between the SC, PDRM and Interpol, Charles Chua was arrested and deported from Cambodia.

Read more on media release 'SC Charges Former Investment Banker for Deceiving Investors'.

 <https://www.sc.com.my/resources/media/media-release/sc-charges-former-investment-banker-for-deceivinginvestors>

Read more on media release 'Former Investment Banker Faces 13 New Charges for Deceiving Investors'.


 <https://www.sc.com.my/resources/media/media-release/former-investment-banker-faces-13-new-charges-fordeceiving-investors>



### Deceiving investors with non-existent futures investment scheme

On 14 February 2022, Mohd Azhidi Laili (Azhidi) was charged with nine counts under section 206(b) of the CMSA for deceiving nine investors of RM1,450,000 for investing in a non-existent FCPO investment scheme. Azhidi was also charged for holding himself out as a representative of AmFutures Sdn Bhd without the requisite Capital Markets Services Representative's Licence (CMSRL) issued by the SC at the material time. Additionally, Azhidi was further charged for non-compliance of a notice in connection with an investigation issued by an Investigating Officer of the SC.

Read more on media release 'SC Charges Unlicensed Futures Trader for Defrauding Investors'.


 <https://www.sc.com.my/resources/media/media-release/sc-charges-unlicensed-futures-trader-for-defrauding-investors>

### Furnishing false and misleading information to Bursa Malaysia

On 13 April 2022, the SC imposed the maximum compound on Serba Dinamik Holdings Bhd, its Chief Executive Officer (CEO) and Group Managing Director Dato' Dr. Ir. Ts. Mohd Abdul Karim Abdullah, Executive Director Datuk Syed Nazim Syed Faisal, Group Chief Financial Officer Azhan Azmi and Vice President of Accounts and Finance Muhammad Hafiz Othman (Hafiz) for a sum of RM3 million each for submission of false financial statement in relation to the revenue figure of RM6.01 billion contained in Serba Dinamik's Quarterly *Report on Consolidated Results for the Quarter and Year ended 31 December 2020*.

Hafiz was also issued with the maximum compound of RM1 million for falsifying the accounting records of the company's subsidiary Serba Dinamik Sdn Bhd.

Read more on media release 'SC Imposes Maximum Compound against Serba Dinamik, CEO, Director, and Officers for Submitting False Financial Statement to Bursa Malaysia'.

 <https://www.sc.com.my/resources/media/media-release/sc-imposes-maximum-compound-against-serba-dinamik-ceo-director-and-officers-for-submitting-false-financial-statement-to-bursa-malaysia>

### Insider trading cases

On 5 September 2022, the Court of Appeal dismissed Dato' Sreesanthan Eliathamby's appeal against the High Court decision. The High Court's decision after a full trial in 2020 included a declaration that he had engaged in insider trading in respect of Worldwide Holdings Bhd shares, a payment of the sum of RM1,989,402 which is equivalent to three times the profit made, civil penalty of RM1 million and an order that he be barred from being a director of any PLC for a period of 10 years.

Read more on media release 'Court of Appeal Dismisses Dato' Sreesanthan's Civil Appeal on Insider Trading of Worldwide Holdings Berhad Shares'.

 <https://www.sc.com.my/resources/media/media-release/court-of-appeal-dismisses-dato-sreesanthans-civil-appeal-on-insider-trading-of-worldwide-holdings-berhad-shares>

On 7 April 2022, the SC successfully proved its case in the civil suit against Dato' Raymond Yap Wee Hin, a former Deputy Chairman of Patimas Computers Bhd, for the insider trading. The High Court ordered him to pay a sum of RM3.28 million being an amount equal to three times the losses avoided by him as a result of the insider trading, to pay the SC a civil penalty of RM1 million and barred him from being a director of any PLC for a period of five years.

Read more on media release 'Former Deputy Chairman of Patimas Computers Bhd Found Liable for Insider Trading by High Court'.

 <https://www.sc.com.my/resources/media/media-release/former-deputy-chairman-of-patimas-computers-bhd-found-liable-for-insider-trading-by-high-court>

On 16 November 2022, the SC won its civil suit against Dato' Ng Back Heang, a former executive director of Patimas Computers Bhd, for insider trading. The High Court ordered him to pay the SC a sum of RM1.24 million which is three times the losses he avoided as a result of the insider trading, pay a civil penalty of RM700,000 to the SC and barred him from being appointed as a director of a PLC for a period of five years.

Read more media release 'SC Wins Insider Trading Civil Suit against Patimas Computers Berhad Former Executive Director'.

 <https://www.sc.com.my/resources/media/media-release/sc-wins-insider-trading-civil-suit-against-patimas-computers-berhad-former-executive-director>

### Causing wrongful loss to a PLC

On 7 September 2022, the Federal Court dismissed Datin Chan Chui Mei's leave to appeal against the Court of Appeal's decision which affirmed the High Court's decision in 2019 that she had breached securities laws namely causing wrongful loss to Stone Master Corporation Bhd.

Read more on media release 'Federal Court Rules in SC's Favour, Stone Master Ex-Deputy MD's Leave Application Dismissed'.

 <https://www.sc.com.my/resources/media/media-release/federal-court-rules-in-scs-favour-stone-master-ex-deputy-mds-leave-application-dismissed>

On 29 November 2022, the SC filed a civil suit against five individuals, Tey Por Yee, Lim Chye Guan, See Poh Yee, Francis Tan Hock Leong and Faizatul Ikmi Abdul Razak for scheme to defraud and/or causing wrongful losses totalling RM120.6 million to four PLCs, namely, Nexgram Holdings Bhd, R&A Telecommunication Group Bhd, Asdion Bhd and Ire-Tex Corporation Bhd.

The SC alleged that Tey, Lim, See and Tan, in their capacities as directors and officers of the four PLCs, siphoned out the proceeds of the companies' fundraising exercises, while Faizatul Ikmi abetted or furthered the siphoning.

Read more on media release 'SC Sues Five Individuals for Causing Wrongful Loss Totalling RM120.6 Million to Four Public Listed Companies'.

 <https://www.sc.com.my/resources/media/media-release/sc-sues-five-individuals-for-causing-wrongful-loss-totalling-rm1206-million-to-four-public-listed-companies>

### Non-compliance with anti-money laundering orders

On 14 July 2022, the Sessions Court convicted Amirruddin Nin on all three charges for failing to comply with Orders issued by an SC Investigating Officer in 2017 and 2018 under the AMLATFPUAA. He was sentenced to a fine of RM100,000 and one day imprisonment for each of the three charges, to be served concurrently. Further, he was ordered to pay a daily fine of RM2,000, resulting in a total fine of RM1,958,000, for his continuous failure to comply with the orders to appear for examination issued by the SC for a span of 979 days.


Read more on media release 'Director Jailed, Fined RM2.25 Million for Failing to Appear before SC for Investigation'

 <https://www.sc.com.my/resources/media/media-release/director-jailed-fined-rm225-million-for-failing-to-appear-before-sc-for-investigation>

### Furnishing misleading information to Bursa Malaysia

On 25 January 2022, the High Court allowed the SC's appeal and increased the jail sentence of former Transmile CEO and Executive Director Gan Boon Aun from one day to 24 months. He was convicted by the Sessions Court in 2020 for furnishing a misleading financial statement to Bursa Malaysia and sentenced to a fine of RM2.5 million (in default, 18 months' imprisonment) and one day imprisonment.

Read more on media release 'High Court Imposes 24 Months Imprisonment Term on Former Transmile CEO'.

 <https://www.sc.com.my/resources/media/media-release/high-court-imposes-24-months-imprisonment-term-on-former-transmile-ceo>

### Non-compliance with auditing standards


On 17 August 2022, the Federal Court dismissed the application for leave to appeal by audit firm Afrizan Tarmili Khairul Azhar (AFTAAS) and its partners against the Court of Appeal's decision in 2021 which was in favour of the SC. This relates to an application for judicial review to challenge the enforcement actions by the AOB against them. In 2019, the AOB had taken enforcement action against AFTAAS for non-compliance of auditing standards by barring the firm and its partners from accepting as clients and auditing PIE or schedule funds for a period of 12 months and fined AFTAAS and its partners.

The High Court set aside the AOB's decision in 2020. The AOB was successful in its appeal to the Court of Appeal in 2021 and the High Court's decision was set aside. AFTAAS and its partners sought for leave to appeal to the Federal Court. With the disposal of the case by the Federal Court, the AOB's enforcement decision would take effect from 17 August 2022.

Read more on media release 'Federal Court Rules in SC's Favour Relating to AOB's Enforcement Action against Audit Firm'.

 <https://www.sc.com.my/resources/media/media-release/federal-court-rules-in-scs-favour-relating-to-aobs-enforcement-action-against-audit-firm>


Read more on media release 'Court of Appeal Upholds SC's AOB Enforcement Actions on AFTAAS and its Partners'.

 <https://www.sc.com.my/resources/media/media-release/court-of-appeal-upholds-scs-aob-enforcement-actions-on-aftaas-and-its-partners>

### Unlicensed fund management activities

On 14 November 2022, the Sessions Court convicted Uzir Abd Samad (Uzir), on all three offences relating to unlicensed fund management activities and wrongfully holding himself out as a licensed person under sections 58(1) and 362(3) of the CMSA. He was sentenced to a one-year imprisonment for each of the three charges and the court further ordered that the imprisonment terms be served concurrently. Uzir had pleaded guilty mid-way during the prosecution's case after a plea-bargaining process under section 172C of the *Criminal Procedure Code*.

Read more on media release 'Former Company Director Jailed for Unlicensed Fund Management Activities'.

 <https://www.sc.com.my/resources/media/media-release/former-company-director-jailed-for-unlicensed-fund-management-activities>

### Unlicensed derivatives dealing

On 12 December 2022, the Sessions Court convicted two former officers of Jalatama Management Sdn Bhd (Jalatama) on two charges respectively relating to carrying out a business of dealing in derivatives without a licence under section 58(1) of the CMSA read together with section 367(1) of the same Act. Su Eng Kooi (Su) and Yap Choong Seong (Yap) were convicted by the court after a full trial and sentenced to one-year imprisonment and a fine of RM1 million (in default one-year imprisonment) for each of the two charges respectively. The court ordered that the imprisonment terms be served concurrently.

Read more on media release 'Former Company Officers Jailed, Fined RM2 Million Each for Unlicensed Derivatives Dealing'.


 <https://www.sc.com.my/resources/media/media-release/former-company-officers-jailed-fined-rm2-million-each-for-unlicensed-derivatives-dealing>

### Money laundering involving unlicensed investment advice

On 10 November 2022, Mohamad Afiq Md Isa, and his wife, Natasha Mohamed Taufek, were charged with money laundering offences involving more than RM1.2 million which were committed between May 2020 and October 2021.

Mohamad Afiq was charged at the Kuala Lumpur Sessions Court with eight counts under section 4(1)(b) of the AMLATFPUAA for receiving and transferring proceeds from unlawful activity, namely unlicensed investment advice which was done through a business and a company he owns. Natasha was charged with one count of receiving proceeds of the unlicensed investment advice activity.


Read more on media release 'SC Charges Four Individuals with Money Laundering of Over RM7.2 Million'.

 <https://www.sc.com.my/resources/media/media-release/sc-charges-four-individuals-with-money-laundering-of-over-rm72-million>

On 11 November 2022, Tan Soon Hin, and his wife, Teh An See, were charged with a total of 10 counts of money laundering involving more than RM6 million between January 2020 and November 2021.

Tan was charged at the Kuala Lumpur Sessions Court with eight counts under section 4(1)(a) of the of AMLATFPUAA for engaging in transactions involving proceeds of unlawful activity, namely unlicensed investment advice. Teh, who is the sole owner and shareholder of the business and company used to carry out the unlicensed investment advice, was charged for receiving the proceeds and faced five charges under section 4(1)(b) of the same Act.


Read more on media release 'SC Charges Four Individuals with Money Laundering of Over RM7.2 Million'.

 <https://www.sc.com.my/resources/media/media-release/sc-charges-four-individuals-with-money-laundering-of-over-rm72-million>

### KL Sessions Court's jurisdiction to try cases in any part of peninsular Malaysia

On 20 July 2022, the Court of Appeal in a landmark ruling allowed the SC's appeal and decided that the Sessions Court in Kuala Lumpur can try civil and criminal cases from any part of peninsular Malaysia. The judgment came following the High Court's earlier decision in quashing the conviction of Abul Hasan Mohamed Rashid (Abul), who had been found guilty by the Sessions Court upon full trial for an offence of criminal breach of trust involving RM26 million funds belonging to Multi-code Electronics Industries (M) Bhd. The conviction was quashed following the High Court's decision in allowing a preliminary objection raised by Abul pertaining to the Kuala Lumpur Sessions Court's territorial jurisdiction to try the case. The Court of Appeal set aside the decision of the High Court and further remitted the case to the High Court for merits of the case to be heard before another High Court judge.

Read more on the Court of Appeal's decision of Abul Hasan's criminal breach of trust case.

 <https://www.sc.com.my/regulation/enforcement/actions/criminal-prosecution/updates-on-criminal-prosecution-in-2022>





### What are Scams and Unlicensed Activities?



#### Scams

Include investment scams involving the promotion of fake investment products or clone scams which impersonate legitimate entities.



#### Unlicensed activities

Involve persons carrying on the business of regulated activities without a licence or being registered with the SC.

### What strategies were employed by the SC to combat scams and unlicensed activities?

#### Intervention

- Swift action to stymie these activities.
- Examples: Blocking of websites, Facebook, Telegram and Instagram, Notices of Cease and Desist, social media interventions.

#### Alerts

- Warning the public on scams and unlicensed activities.
- Examples: Media release, Investor Alert List on scams and illegal websites, communication via social media.

#### Enforcement Actions

- Taskforce on Unlicensed Activities to take action for breaches of the securities laws.
- Examples: Criminal, civil and administrative actions, police reports, referrals to other enforcement agencies.

#### Investor Education and Industry Communication

- Monthly communication with market intermediaries on unlicensed activities and scams via the SC’s EASy platform for them to alert their clients.
- Dedicated email channel for the industry to escalate scam-related matters with the SC.
- Public campaigns and targeted efforts to educate investors.
- Examples: Flagship investor education outreach events like InvestSmart® Fest 2022 and Bersama InvestSmart® @ Sarawak 2022, social media postings, monthly webinars and initiatives focusing on targeted group like Urban B40 and rural population.

### What actions were taken by the SC?



**7**  
Commence enforcement



**6**  
Notices of Cease and Desist



**304**  
Investor Alert List inclusions



**88**  
Police reports



**181**  
Referrals to other agencies / foreign regulators



**185**  
Websites blocked



**38**  
Facebook accounts geo-blocked



**114**  
Telegram accounts blocked



**9**  
Instagram accounts blocked



**142**  
Social media interventions

## Focused Efforts on Scams

In order to combat the growth of investment scams and clone firms, the SC set up an internal task force to accelerate investigations and initiation of enforcement actions against potential fraudulent perpetrators.

### *Modus operandi of scams*


The SC's investigation shows that the *modus operandi* typically used by fraudulent perpetrators involved:

- Using names, logos, credentials, website of a legitimate capital market intermediary to promote false investment schemes;
- Targeting PLCs that possess high investor interest such as the medical, glove, and property sectors during the COVID-19 pandemic;
- Putting out advertisements on social media channels such as Telegram, Facebook and WhatsApp to lure investors with investment packages guaranteeing high returns with low risk and seemingly managed by 'licensed intermediaries';
- Using large number of 'agents' to lure potential victims and soliciting investments through social media chats once the victims clicked on the link provided; and
- Requesting victims to deposit monies for the 'investment schemes' into bank accounts held by mule account holders to layer and launder the illegal proceeds received.

The victims were often instructed to provide personal information such as their names, NRIC numbers and bank details, after which they would be directed to


LATEST SCAM

# BEWARE OF CLONE FIRM SCAMS




Suruhanjaya Sekuriti  
Securities Commission  
Malaysia


### HOW DO THEY OPERATE?




Pose as representatives of firms licensed/registered by the SC using lookalike firm names and branding



Promote bogus investment schemes with extraordinary high returns and little risk




Products are marketed via WhatsApp and social media platforms




Request deposit **payments** into bank accounts of **individuals** or **unrelated licensed entities** that they claim to represent


### HOW TO PROTECT YOURSELF?




Contact, verify and **confirm directly** with the **SC licensed/registered firms**




Refer to the SC's website to check on licensed/registered firms and alert list at **www.sc.com.my**





Ensure payments are made to **official bank account** of licensed firms

IN SUPPORT OF  **FEN** FINANCIAL EDUCATION NETWORK

For more information and to report on scams:


+603 6204 8999


aduan@seccom.com.my


www.investsmartsc.my

transfer funds to the personal bank accounts of the fraudulent perpetrators who claim to represent a legitimate licensed entity. Following suit, the perpetrators will induce the victim to part with more money under the guise of pending payments that may include income tax, administrative fees, bank charges, withdrawal fees or exchange rates.

These perpetrators often make use of a mule account where an individual or a company allows their bank account to be used and controlled by other people by handing over an automatic teller machine (ATM) card, PIN number and/or by providing an online banking password to criminals to transfer/receive money from fraudulent activities.

Money mules are people recruited by criminals, often unwittingly, to use their accounts to transfer funds and launder their illicit profits. In most cases, money mules are recruited as part of wider scams including clone firm scams, to complicate the money trail. Money mules serve to add more layers by moving the money further and further away from the original crime/offence. In return for the use of the bank accounts, the mules will receive a certain amount of reward.

## Enforcement Actions Taken on Scams

The SC employed a three-pronged approach including reprimanding, imposing penalty as well as issuing stern warning letters to the individuals involved respectively.


Action was taken against nine mule account holders related to clone firm scams for breaches of section 354(1)(a) of the CMSA read together with section 4(1)(b) of the AMLATFPUAA. Each mule account holder received a reprimand and penalty of RM225,000.

During the SC's investigations, at least 32 mule account holders have been identified to be involved in facilitating the operators of these clone firm scams. As a result, the SC served Show Cause Notices (SCN) to 15 individuals that are believed to have received illegal proceeds from the operations of clone firm scams.


These scam operators have generated a large amount of illegal proceeds. In one of the scams, approximately RM3.6 million had flowed through one mule bank account within a period of six months. Based on the 154 bank statements reviewed, the SC also found that in total, at least RM24.7 million may have flowed to several 'masterminds' of these scams.

Members of the public are reminded that they are responsible for keeping their accounts safe, to always be vigilant and to not fall victim to mule account scams.

Read more on media release 'SC's Discloses Findings on Clone Firm Scams'.

 <https://www.sc.com.my/resources/media/media-release/sc-discloses-findings-on-clone-firm-scams>

Read more on investment scams and unlicensed activities in the *The Reporter*, 2022 edition.

 <https://www.sc.com.my/api/documentms/download.ashx?id=ddcb4a5e-04c8-4c01-9a6e-98e0e28ae138>


## Enforcement Action on Unlicensed Activities

As an enforcement agency, the SC has a wide range of enforcement tools at its disposal and employs them effectively taking into account the seriousness of the offence, impact to investors, possibility of recovery of monies, time and cost involved.


A total of four criminal charges were initiated by the SC relating to unlicensed investment advice activity. Additionally, three convictions were also secured by the SC in relation to unlicensed fund management and dealing in derivatives activities.

Read more on the four criminal charges initiated by the SC:


Media release 'Former Company Director Jailed for Unlicensed Fund Management Activities'.

 <https://www.sc.com.my/resources/media/media-release/former-company-director-jailed-for-unlicensed-fund-management-activities>

Media release 'Former Company Officers Jailed, Fined RM2 Million Each for Unlicensed Derivatives Dealing'.

 <https://www.sc.com.my/resources/media/media-release/former-company-officers-jailed-fined-rm2-million-each-for-unlicensed-derivatives-dealing>

Media release 'SC Charges Four Individuals with Money Laundering of Over RM7.2 Million'.

 <https://www.sc.com.my/resources/media/media-release/sc-charges-four-individuals-with-money-laundering-of-over-rm72-million>

## Investor Education and Awareness Campaigns

The longer-term approach is to educate investors and reach out to various segments of investors – from urban to the rural, young and old alike, through large campaigns and targeted efforts.

### **Investor awareness campaigns**

After a two-year hiatus due to the pandemic, the SC held its flagship investor outreach, InvestSmart® Fest 2022 and Bersama InvestSmart® @ Sarawak, in Kuala Lumpur and Kuching, respectively. Themed ‘*Silap Labur Duit Lebur*’, both events aimed to promote investment literacy and awareness on unlicensed activities and scams to members of the public.

### **Targeted outreach programmes**

The SC curated several targeted programmes for certain segments of the population. One such programme is the roll-out of the *Agen Bijak Labur Desa* (ABJAD) programme to create financially literate rural communities. A two-pronged approach in reaching out to the rural population under the ABJAD programme was adopted.

- Students from 14 rural secondary schools nationwide were trained as ‘Agents of Change’ to gain knowledge on financial and digital literacy modules through computer assisted e-learning platform. Upon completion, these students will guide an identified key family member to also complete the e-learning modules and subsequently impart the knowledge to other family members. Under this approach, teachers from the identified schools will

also go through the same online modules. A total of 12,500 participants comprising students, family members and teachers are expected to go through this programme.

- InvestSmart®’s direct on the ground engagements with rural communities.

Further details on the SC’s investor empowerment initiatives through InvestSmart® are highlighted in *Part 6 – Market Statistics*.

## SIDREC’s Role in Investor Protection

Meanwhile, the Securities Industry Dispute Resolution Center (SIDREC), an independent and impartial dispute resolution body for the capital market, continued to facilitate the resolution of monetary disputes between retail investors and market intermediaries in an accessible, efficient and effective manner. SIDREC enhances investor protection by affording investors access to settlement of disputes through case management, mediation and adjudication, without the need to resort to expensive litigation.

In 2022, SIDREC received 239 claims and enquiries, out of which 72 were eligible disputes (2021: 275 claims and enquiries, of which 47 were eligible disputes). 80.6% (25 out of 31) of the eligible disputes resolved in 2022 were resolved through case management and mediation without having to proceed to adjudication.

For 2022, SIDREC resumed conducting its in-person mediation sessions and adjudication hearings. However, fully virtual or hybrid sessions and hearings were still conducted as and when required.

# SPECIAL FEATURE 1

## TOWARDS GREATER INVESTOR PROTECTION: UNDERSTANDING INVESTORS' VULNERABILITIES

### Responding to the Changing Landscape for Investors

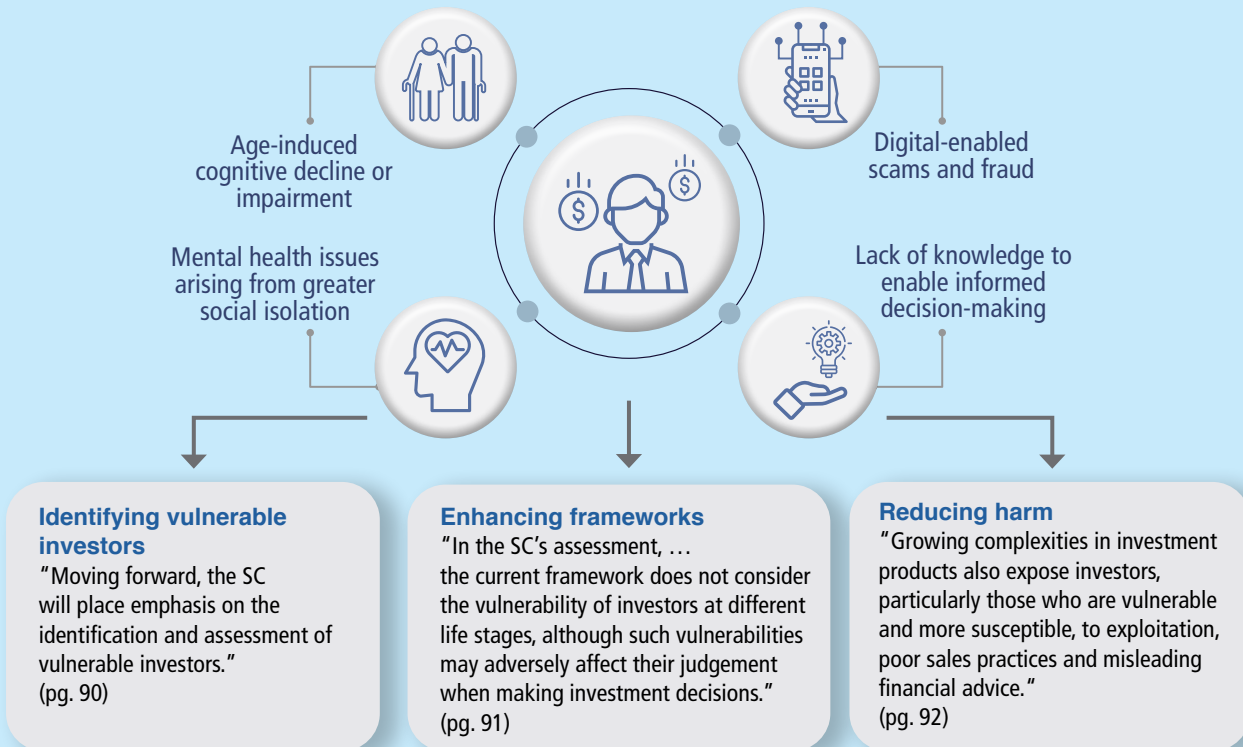
A core goal of capital markets and securities regulators is investor protection. Today's rapid innovations in technology and increasingly complex products and financial services correspond with the evolving nature of access, choice, and information related to investments. This creates opportunities for investors but also increases the risk of becoming victims of fraud, financial exploitation, or the effects of unsuitable investments, particularly for those less equipped to deal with the effects of these challenges and who may be more vulnerable to harm.

As such, the nature of investor protection changes given the changing landscape. As changes in investors' circumstances and the investment environment occur, financial regulators are cognisant of the importance to respond to the evolving needs of individuals, investors, and financial services – including those of vulnerable investors. The *Capital Market Masterplan 3* (CMP3) recognises and sets out the SC's vision for the protection of vulnerable investors in the years to come (Figure 1).

 Read more on the CMP3.  
<https://www.sc.com.my/resources/publications-and-research/capital-market-masterplan-3>

Following the CMP3's articulation, the SC initiated a nationwide study on investor vulnerability, to provide a more in-depth understanding of the area and to inform future work of the SC. This article aims to outline the initial findings from the study and key policy implications in enhancing the protection of vulnerable investors.

**FIGURE 1**  
Capital Market Masterplan 3  
*Sets out the SC's vision for protection of vulnerable investors*



**"The underlying reason for the state of vulnerability can be multifaceted."**

"...financial circumstance of investors, experience, age, education, literacy and socio-economic background, location, changing personal circumstances... can also be determining factors in increasing investors' susceptibility to fraud and malfeasance by unlicensed persons." (pg. 94)

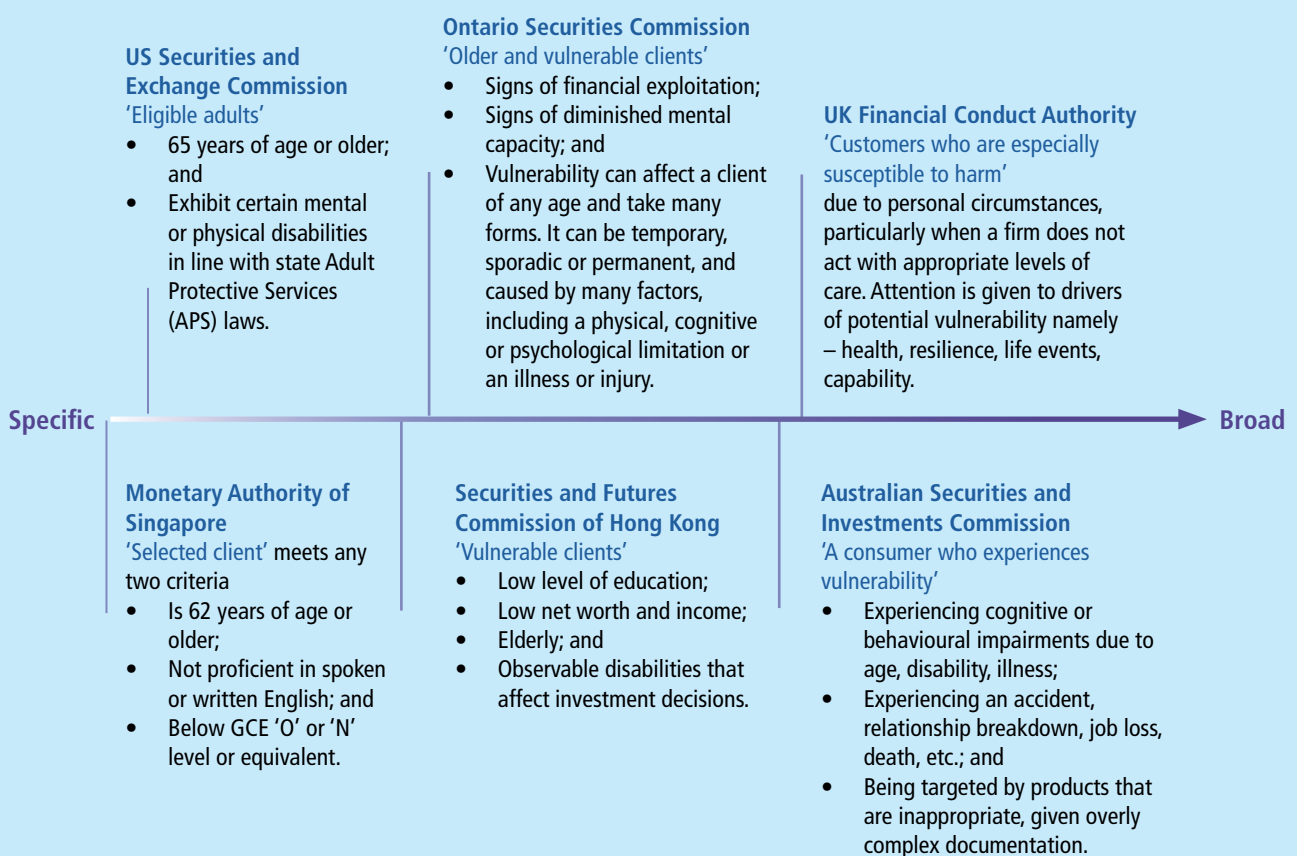


## Investor Vulnerability is Diversely Defined Across Jurisdictions

The definition of a vulnerable investor used by most regulators is similar in essence, in that it typically refers to investors whose personal circumstances make them more susceptible to financial harm or loss. However, precise definitions differ across regulators (Figure 2). Some definitions are intentionally broad – vulnerability is akin to a spectrum of risk, where all customers are at risk of being vulnerable although this risk increases with the presence of certain characteristics. This contrasts with a more specific and targeted approach where certain criteria must be fulfilled for an investor to qualify as vulnerable, such as meeting certain age, education, language, and income thresholds.

**Figure 2**

Definitions of investor vulnerability vary across jurisdictions



## Investor Vulnerability in Malaysia – A Preliminary Assessment

To better understand the nature of investor vulnerability in Malaysia and to do so in an empirically informed manner, an in-depth research study was initiated in collaboration with the Institute for Capital Market Research (ICMR). The study comprised a nationwide, representative survey of Malaysian investors and non-investors alike, and was designed to assess the common challenges and vulnerabilities that may arise during a person's financial and investment journey. In other words, the study aimed to learn – who is a vulnerable investor and what does investor vulnerability look like?

The findings from the ICMR study<sup>1</sup> suggest that vulnerability is indeed multi-faceted. While there are commonalities in respondents' experiences, vulnerability cuts across various segments and shows no simple concentration. The most important characteristics of vulnerability relate to having key characteristics that affect sound investment decision-making – such as having insufficient knowledge or capabilities, cognitive or behavioural impairments, as well as unique circumstances and life events (Figure 3).

Evidently, these factors can cut across demographics such as education level, age group, income class, ethnicity, gender, and so on.

### Figure 3

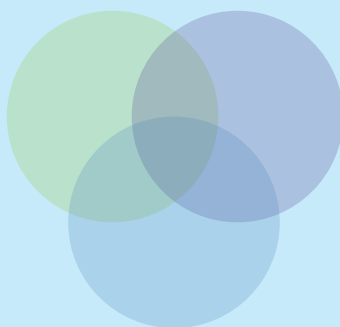
#### Who is a vulnerable investor?

An investor could be vulnerable at varying points throughout one's lifetime due to **individual circumstances**, factors in their **environment**, or even the **actions of financial service providers** who do not provide appropriate levels of care. They might be especially susceptible to harm when they experience or have certain characteristics such as:

#### Insufficient knowledge or capabilities

...in areas necessary for sound investment decision-making

- Limited access to information and understanding of investments;
- Having a low level of financial literacy;
- Having no one to compare information with;
- Not speaking English as a first language; and
- Limited digital capabilities.



#### Cognitive or behavioural impairments

...due to health, life events which affect sound investment decision-making

- Having permanent or temporary impairments or disabilities;
- Experiencing age-induced cognitive decline or illnesses such as Alzheimer's and dementia; and
- Experiencing temporary impairments due to traumatic life events.

#### Unique circumstances and life events

...that could lead an investor to be more susceptible to harm

- Receiving a large sum of money/windfall such as retirement or inheritance;
- Facing negative life events such as income or job loss, bankruptcy;
- Having limited access to financial providers due to location, poor mobility, or connectivity; and
- Having low income or high indebtedness.

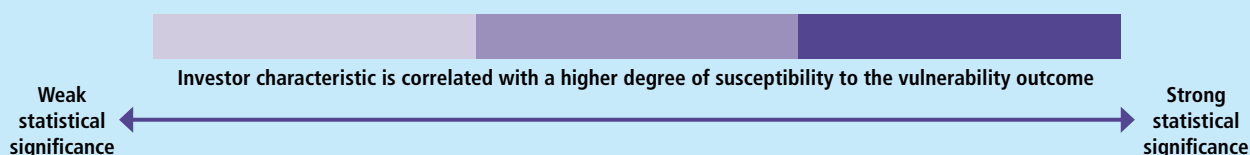
<sup>1</sup> ICMR report forthcoming.

Further empirical analyses of the survey data<sup>2</sup> shows that these characteristics can relate to different outcomes of vulnerability (Figure 4). Being a vulnerable investor could mean that one is more likely to face issues of inaccessibility and exclusion from capital market products and services, such as being unable to invest or experiencing difficulties while investing. It can also lead to poor outcomes outside of the licensed and regulated capital market via susceptibility to scams – whether being solicited for a scam, being unable to differentiate between a scam and a genuine investment opportunity or incurring financial losses due to a scam.

**Figure 4**

How investor characteristics influence outcomes of vulnerability – an empirical assessment

Common characteristics of investor vulnerability	Common Outcomes of Vulnerability		
	Scam Susceptibility Being more likely to fall victim to scams	Inaccessibility and Exclusion Being unable to start investing or face issues while investing	Retirement Inadequacy Being financially unprepared for retirement
<i>Unique circumstances or life events</i>			
Having faced a negative life event			
Having a lower income			
Having an unstable income			
Having a higher level of indebtedness			
Having poorer physical health			
Being more socially isolated			
<i>Insufficient knowledge or capabilities</i>			
Having lower knowledge of capital markets			
Having poorer financial literacy			
Having lower language proficiency			
<i>Cognitive or behavioural impairments</i>			
Having poorer cognitive health			
Being more overconfident in own financial capabilities			



Note:

The list of investor characteristics presented in Figure 4 is not comprehensive and represents a selection of the characteristics examined in the analysis. The purple-shaded cells indicate regression results where the particular investor characteristic is correlated with an increase in susceptibility to the corresponding outcome of vulnerability, with the darkest, middle, and lightest shades representing a statistically significant result at the 0.1%, 1%, and 5% levels respectively. For presentation, results where investor characteristics are negatively correlated with the vulnerability outcome are not shown in the figure.

In addition, the impact of the vulnerability is also apparent for longer-term outcomes such as retirement – besides poor knowledge or life circumstances, individual cognitive or behavioural factors can also affect one's preparedness for retirement. The nature of these characteristics necessitates that the interventions to address them are also multi-faceted and take into account cognitive and behavioural challenges in addition to structural problems. This is in alignment with the SC's other work in the area of retirement adequacy.<sup>3</sup>

<sup>2</sup> Technical paper on vulnerable investors forthcoming.

<sup>3</sup> Paper on behavioural insights forthcoming.

Overall, the empirical findings represent a snapshot of today's landscape of investor vulnerability. While it provides valuable insights into the particular challenges faced by investors today, these findings are not set in stone – they may evolve with time and with underlying changes in the economic environment. As such, effective identification and response to investor vulnerability will require periodic and regular assessments, with new data potentially generating fresh insights to inform the SC's investor protection efforts accordingly.

## Going Forward – Towards the Enhanced Protection of Vulnerable Investors

The nationwide study represents a first and important step towards the SC's assessment of vulnerable investors amid a changing investment landscape. The nature of investor vulnerability as shown in the data suggests the need for a more principles-based definition of vulnerability for Malaysian investors, as opposed to strictly defined thresholds to indicate vulnerability. However, there is certainly more room for further study of investor vulnerability as it is in Malaysia – including ongoing efforts to embed this notion into the SC's other initiatives.

For example, a more nuanced understanding of investor vulnerability serves to inform the enhancement of current frameworks to improve firms' duty of care as it relates to vulnerable investors. These findings also help to inform investor education and broader development-related work by the SC, such as in relation to retirement savings. Overall, an appreciation that investor vulnerability is multi-faceted means that the protection of vulnerable investors, too, requires multi-faceted interventions. Going forward, this will inform the SC's efforts towards the enhanced protection of vulnerable investors (Figure 5).

- 🔊 Read more on enhancing current frameworks in the CMP3, *Chapter 4 – Evolving the Regulatory Approach*. <https://www.sc.com.my/api/documentms/download.ashx?id=f713aa9d-2806-4f21-b127-a83560370cd9>
- 🔊 Read more on protecting and empowering investors in *Part 2 – Evolving the Regulatory Approach: Shared Accountability, Efficiency and Embracing the Digital Age*.
- 🔊 Read more on broader development-related work in the Behavioural Insights Workshop for Retirement article in *Part 3 – Enabling a More Relevant, Efficient and Diversified Market*.

**Figure 5**

Going forward – towards the enhanced protection of vulnerable investors

