

P.U.(A) 233/2016

## CAPITAL MARKETS AND SERVICES ACT 2007

### CAPITAL MARKETS AND SERVICES (DISPUTE RESOLUTION)(AMENDMENT) REGULATIONS 2016

IN exercise of the powers conferred under subsection 378(1) and subsection 379(5) of the Capital Markets and Services Act 2007 [*Act 671*], the Commission, with the approval of the Minister, makes the following regulations:

#### **Citation and commencement**

1. (1) These regulations may be cited as the **Capital Markets and Services (Dispute Resolution)(Amendment) Regulations 2016**.

(2) These Regulations come into operation on 5 September 2016.

#### **General amendment**

2. The Capital Markets and Services (Dispute Resolution) Regulations 2010 [*P.U. (A) 437/2010*], which are referred to as the “principal Regulations” in these Regulations, are amended in the national language text, by substituting for the words “pertubuhan perbadanan yang diluluskan” wherever appearing, including in the shoulder notes, except in the definition of “pertubuhan perbadanan yang diluluskan” in regulation 2, subregulation 5(1) and subregulation 8(2), the words “pertubuhan perbadanan diluluskan”.

#### **Amendment of regulation 2**

3. The principal Regulations are amended in regulation 2—

- (a) in the definition of “member”, by substituting for the words “subregulation 5(2)” the words “subregulations 5(2) and (3)”;
- (b) in the definition of “award”, by inserting after the words “an award granted” the words “or a decision made”;
- (c) by substituting for the definition of “approved body corporate” the following definition:

“approved body corporate” means a body corporate that is approved by the Commission pursuant to section 379 of the Act;’; and
- (d) in the definition of “terms of reference”, by substituting for the words “a set of terms” the words “the rules put in place in pursuance of paragraph 379(3)(b) of the Act”.

### **Amendment of regulation 3**

- 4. Regulation 3 of the principal Regulations is amended—
  - (a) by deleting subregulation (1); and
  - (b) in subregulation (2), by substituting for the words “shall not grant the approval under subregulation (1) unless” the words “may approve a body corporate to be an approved body corporate if”.

### **Amendment of regulation 4**

- 5. Subregulation 4(2) of the principal Regulations is amended by substituting for the words “a body corporate” the words “the body corporate who makes an application under subregulation (1)”.

### **Amendment of regulation 5**

6. Regulation 5 of the principal Regulations is amended—

(a) by substituting for subregulation (1) the following subregulation:

“(1) The approved body corporate shall be as set out in Schedule 1.”; and

(b) by inserting after subregulation (2) the following subregulation:

“(3) Notwithstanding subregulation (2), the Commission may direct any licensed person or registered person to be a member of the approved body corporate.”.

### **Amendment of regulation 6**

7. Regulation 6 of the principal Regulations is amended—

(a) by deleting subregulations (1) and (2);

(b) in subregulation (3), by substituting for the words “on an Internet site that is publicly available” the words “on the approved body corporate’s website”;

(c) in subregulation (4)—

(i) by inserting after paragraph (d) the following paragraph:

“(da) the scope, criteria and process for an appeal against a decision made by the approved body corporate pursuant to an adjudication, which is to be heard by an appeal committee as determined by the Commission;”

(ii) in paragraph (e)—

- (A) in the national language text, by substituting for the words “fi lain atau bayaran” the words “fi atau bayaran lain”;
  - (B) by inserting after the words “class of its members” the words “, or by any person referred to in subregulation 8(3),”; and
  - (C) by inserting after the words “different class of members” the words “or different class of person referred to in subregulation 8(3)”; and
- (iii) in paragraph (j), by substituting for the words “and the relevant member” the words “, the relevant member and the person referred to in subregulation 8(3)”.

#### **Amendment of regulation 7**

8. Paragraph 7(1)(h) of the principal Regulations is amended by substituting for the words “under subregulations 4(1) and (2)” the words “for the purposes of these Regulations”.

#### **Amendment of regulation 8**

9. Regulation 8 of the principal Regulations is amended—

(a) by substituting for subregulation (2) the following subregulation:

“(2) An approved body corporate shall immediately notify the Commission—

(a) of any matter that may be adversely affect or is likely to affect its ability to carry out its duties provided under subregulation (1); and

(b) of any dispute or claim—

(i) that may result in erosion of public confidence in the integrity of the capital market; or

- (ii) that involves serious misconduct or breach of the securities laws.”;and

(b) in the national language text, in subparagraph (3), by substituting for the word “is” the word “ia”.

### **Amendment of regulation 9**

10. Subregulations 9(1) and (3) of the principal Regulations are amended by substituting for the words “an Internet site that is publicly available” the words “the approved body corporate’s website”, respectively.

### **Deletion of regulation 10**

11. The principal Regulations are amended by deleting regulation 10.

### **New regulation 13A**

12. The principal Regulations are amended by inserting after regulation 13 the following regulation:

#### **“Failure to comply with rules of approved body corporate**

13A. (1) A member or a person referred to in subregulation 8(3) shall comply with the rules of the approved body corporate.

(2) The approved body corporate shall notify the Commission of any failure to comply with the rules of the approved body corporate by any member or person referred to in subregulation 8(3).

(3) The Commission may, upon being notified of the failure to comply with the rules of the approved body corporate by any member or person referred to in subregulation 8(3), give any direction as it considers fit to the approved body corporate.

(4) The approved body corporate shall take such action as the Commission may direct under subregulation (3).”.

#### **Amendment of regulation 14**

13. Regulation 14 of the principal Regulations is amended—

(a) in subregulation (1)—

- (i) in the national language text, by substituting for the word “memasuki” the word “membuat”;
- (ii) by inserting after words “any other dispute resolution body” the words “or body”; and
- (iii) by substituting for the words “with such dispute resolution body” the words “with such other dispute resolution body or body”; and

(b) in subregulation (2)—

- (i) by inserting after the words “cooperation to the Commission” the words “or any other regulatory authority as directed by the Commission”; and
- (ii) by inserting after the words “assistance to the Commission” the words “or the regulatory authority”.

## **New regulation 15**

14. The principal Regulations are amended by inserting after regulation 14 the following regulation:

### **“Confidentiality**

15. No person who has access to any information or document relating to any dispute or claim referred to an approved body corporate may disclose such information or document unless—

- (a) the disclosure is made with the consent of the person who provides the information or document;
- (b) the disclosure is required or permitted under the Act or these Regulations;
- (c) the disclosure is required or directed by any court or the Commission;
- (d) the disclosure is required for the purposes of the implementation or enforcement of an award under these Regulations;
- (e) the disclosure is for the purpose of the enforcement of any civil or criminal action under any written law;
- (f) the disclosure is for the purpose of a judicial review against the approved body corporate; or
- (g) the information or document is already in the public domain.”.

## **Substitution of Schedule 2**

15. The principal Regulations are amended by substituting for Schedule 2 the following schedule:

### “SCHEDULE 2

[Subregulation 5(2)]

#### *List of Capital Markets Services Licence holders*

Unless otherwise specified by the Commission, holders of the Capital Markets Services Licence or Islamic Bank and licensed bank as provided under Part 1 of Schedule 4 to the Act for the following regulated activities shall be deemed to be a member of an approved body corporate:

1. dealing in securities;
2. dealing in derivatives;
3. fund management;
4. dealing in private retirement scheme.”.

Made 26 August 2016

[ SC/GC(R&R)/Subsidiary-CMCF Exemption/2015(201)-1;PN(PU2)662/XIII]

TAN SRI DATO' SERI RANJIT AJIT SINGH

*Chairman*

*Securities Commission Malaysia*

Approved 30 August 2016

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DATUK JOHARI BIN ABDUL GHANI

*Second Minister of Finance*