

Executive Summary

In the last quarter of 2011, equities in Malaysia rose 12% in the fourth quarter, reaffirming the resilience of the domestic stock market despite the bouts of market turbulence, volatility and global uncertainties during the year, while equity indices in the US and eurozone recorded gains of between 6% and 12% respectively.

The SC approved fund-raising proposals amounting to RM49.06 billion, of which 98% was for corporate bonds and sukuk. Among the fund-raising proposals approved, two IPOs for the Main Market had a total potential market capitalisation of RM3.17 billion. These are expected to raise funds amounting to approximately RM820.85 million. In addition, there were three take-overs offers valued at RM665.4 million.

At the end of 2011, the size of the bond market stood at RM841.1 billion. Of this, a total of RM498.7 billion or 59.6%, comprised Government bonds while RM342.4

billion or 40.4%, were corporate bonds.

As part of our ongoing international commitments, the SC hosted the IOSCO Asia-Pacific Regional Committee meeting, the 5th International Islamic Capital Market Forum and participated in the IOSCO Emerging Markets Committee and the ASEAN Capital Market Forum in the fourth quarter of 2011. The SC also continues to participate in several international road shows to promote the Malaysian capital market globally.

In 2012, Malaysia's economy is expected to grow between 4% and 5% and the domestic environment is expected to remain broadly supportive of capital market activities through the various economic transformation initiatives. Earnings outlook remains positive and the FBMKLCI is expected to continue to be a regional outperformer amid cautious sentiment.

contents

SC and regional regulators discuss risks and challenges to capital markets	2
Islamic Capital Market	2
– Leading Islamic finance experts to discuss risk sharing concepts	
– Updated list of Shariah-compliant securities	
Market Development	3
– Significant amendments to securities laws	
– SC releases eligibility requirements for private retirement scheme providers	
Enforcement	4
– INIX's former CEO fined	
– Former Transmile directors sentenced to jail and fined	
– Court of Appeal upheld jail sentence	

Regional ranking of ASEAN PLCs underway to raise CG standards and practices

Led by the Securities Commission Malaysia (SC), ASEAN experts in corporate governance (CG) have been collaborating to develop a CG scorecard to rank public-listed companies (PLCs) in the region. The ASEAN CG Scorecard and the CG Ranking of ASEAN PLCs are among a number of major regional

initiatives under the ASEAN Capital Markets Forum aimed at raising CG standards and practices in ASEAN, and enhancing the visibility and investment profile of quality ASEAN PLCs internationally.

For the pilot year of 2012, the ASEAN CG Scorecard will be used

to rank the top 30 PLCs in each participating countries – Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam. The CG Scorecard is expected to strongly support efforts to establish ASEAN as an asset class and promote ASEAN PLCs as internationally competitive and world class.

SC and regional regulators discuss risks and challenges to capital markets

The SC hosted the International Organization of Securities Commissions (IOSCO) Asia-Pacific Regional Committee (APRC) meeting and a dialogue with industry players on 1–2 December 2011.

The APRC meeting, chaired by the Securities and Exchange Board of India and attended by senior regulators from 17 jurisdictions within the Asia Pacific region, discussed the impact of current developments in the global financial market, including the effects of the



The IOSCO Asia-Pacific Regional Committee Seminar, 2 December 2012

eurozone crisis on regional markets. Regulators were aligned on the need to continue to focus on the potential contagion effects and risks that these developments have for the region, as well as the challenges involved in cross-border enforcement, including the implications of technology-based

trading.

In addition, a dialogue with industry was also organised to discuss the drivers and strategies to promote the growth and development of the investment management industry in the Asia Pacific.

ISLAMIC CAPITAL MARKET

Leading Islamic finance experts discuss risk sharing concepts

On 10 November 2011, the SC hosted the 5th International Islamic Capital Market Forum (IICMF) themed 'Risk Sharing: A Way Forward to Public Good'. The 5th IICMF provided a platform for local and international experts comprising local and international academicians, legal practitioners, Shariah experts and industry players to discuss the current model of Islamic finance, with special

focus on how a risk sharing system can address some of the issues arising from the risk transfer system practised by the conventional financial industry.

The one-day forum featured prominent Islamic finance scholars and practitioners including Dr Abbas Mirakhor (International Centre for Education in Islamic Finance, INCEIF); Professor Volker Nienhaus (Visiting

Professor, Qatar Faculty of Islamic Studies); Professor Mohamad Aslam Haneef (International Islamic University Malaysia); Professor Mohammad Hashim Kamali (International Institute of Advanced Islamic Studies); Omar Sheikh (Islamic Finance Council, UK); Mushtak Parker (Editor, Islamic Banker); and Mohamed Ismail Mohamed Shariff (Mohamed Ismail & Co).

Updated list of Shariah-compliant securities

On the 25 November 2011, the SC released an updated list of Shariah-compliant securities approved by its Shariah Advisory Council (SAC). The updated list features a total of 839 Shariah-compliant securities. These counters constitute 89 per cent of the total 946 listed securities on

Bursa Malaysia. The list includes 15 newly classified Shariah-compliant securities and excludes three from the previous list issued in May 2011. The list also indicates that Shariah-compliant securities are well represented in all sectors industry sectors.

The full list, which is updated twice a year, is available on the SC website at www.sc.com.my. It is also published as a booklet which can be obtained from the SC. The next update will be in May 2012.

MARKET DEVELOPMENT

Significant amendments to securities laws

On 3 October 2011, major amendments to the *Securities Commission Act 1993* (SCA) and the *Capital Markets and Services Act 2007* (CMSA) came into force to promote the development of the capital market in line with global standards pursuant to the strategies outlined in the *Capital Market Masterplan 2*.

The amendments include the following:

Legal framework for the private retirement scheme industry

In line with efforts to enhance the adequacy of savings for retirement needs, the amendments provide for a dedicated regulatory framework for private retirement schemes (PRS).

More efficient licensing framework

The requirement for the annual renewal of CMSA licences has been removed. However the appointment of CEOs for licensed intermediaries will now require the SC's prior approval. Supervision efforts will also be enhanced.

Regulation of OTC derivatives

To promote transparency in the OTC derivatives market, the amendments introduce a framework for the reporting of

OTC derivative contracts to a trade repository, which will be established and operationalised within the next two years.

Oversight of foreign auditors

To enhance the oversight of foreign auditors, the amendments introduce a framework to enable the Audit Oversight Board to grant recognition to foreign auditors who audit the financial statements of foreign corporations listed on Bursa Malaysia.

Managing systemic risk

- Recognising the importance of proper conduct of business within the capital market and its impact on systemic risk, amendments to the CMSA empower the SC to obtain information and issue directions to market intermediaries to take appropriate measures to monitor, mitigate or manage systemic risk.
- The amendments also empower the SC to share information and co-operate with other supervisory authorities both domestic and foreign, who manage systemic risk in the capital market.

The revised SCA and CMSA may be downloaded at www.sc.com.my.

SC releases eligibility requirements for private retirement scheme providers

On 5 December 2011, the SC released the eligibility requirements for private retirement scheme (PRS) providers and eligible firms who can now make submissions to be approved as PRS providers.

The recent enactment of the CMSA provides the regulatory framework for a PRS industry, including empowering the SC to approve PRS providers. A select number of suitably qualified and experienced providers would be approved to offer PRS

schemes with an appropriate range of dedicated retirement funds catering for different investment and risk profiles.

The PRS industry is intended to complement and supplement the existing mandatory schemes of the Employees Provident Fund (EPF). Measures to incentivise participation in PRS had been announced by the Prime Minister in the 2012 Budget speech, whereby a personal tax relief of up to RM3,000 would be given

to contributions by individuals to PRS's approved by the SC, as well as tax deductions to employers for contributions above the statutory rate up to 19% of employees' remuneration. Further, a tax exemption was also announced on income received by funds within the PRS schemes.

More information about the eligibility requirements can be obtained at www.sc.com.my.

ENFORCEMENT

INIX's former CEO fined for authorising false statement in prospectus

On 13 October 2011, the Kuala Lumpur Sessions Court convicted and fined Jimmy Tok Soon Guan, former chief executive officer of Inix Technologies Holdings Bhd (INIX) for authorising the furnishing of false statements in the company's prospectus and quarterly statements to Bursa Malaysia. He pleaded guilty to the offences under section 122B(b) (bb) of the *Securities Industry Act 1983* (SIA) 1983 and section 55(1)(a) of the SCA and was fined RM400,000 (in default two years imprisonment) for the offence under section 55 SCA and a total fine of RM700,000 (in default between 12 to 18 months imprisonment) for the four offences under section 122B SIA.

Earlier on the 7 October 2011, the Kuala Lumpur Sessions Court had convicted and fined two former Accounts Executives of INIX,

Normah Sapar (Normah) and Helen Soon Shiau Yen (Helen), along with Chong Poh Ying (Chong) the sole proprietor of the company said to be a purported supplier of INIX at the time of the offence was committed, for failure to provide their statement to the SC as required under the law.

All three pleaded guilty to charges under section 134(5)(a) SCA for failure to appear before the SC's Investigating Officer to be examined orally as required under section 134 SCA. This is the first time that the SC has pursued an action under this section. Normah was fined RM25,000 for each two offences under section 134(5)(a) SCA, while Helen was fined RM20,000 for the offence under the same section. Chong was fined RM25,000 for the offence.

Former Transmile directors sentenced to jail and fined for misleading disclosures

On the 28 October 2011, the Kuala Lumpur Sessions Court found Jimmy Chin Kim Feung and Shukri Sheikh Abdul Tawab, two former independent directors and members of the Audit Committee of Transmile Group Bhd, guilty under section 122B(b)(bb) SIA, for having authorised the furnishing

of a misleading statement to Bursa Malaysia in Transmile's quarterly report on Unaudited Consolidated Results for the financial year ended 31 December 2006. Both were sentenced to one year imprisonment and fined RM300,000 (in default of six months imprisonment).

Court of Appeal upheld jail sentence on former directors of MEMS Technology

In a landmark decision for securities cases, the Court of Appeal on 8 November 2012 upheld a six months jail term imposed by the High Court on two former directors of MEMS Technology Bhd (MEMS), Ooi Boon Leong and Tan Yeow Teck for authorising the furnishing of a misleading statement to Bursa Malaysia in MEMS's Condensed Consolidated Income Statement for the 12 month period ended 31 July 2007. The two former directors of MEMS, which was delisted in November 2010, were charged in the Sessions Court in Kuala Lumpur in 2009 for the misleading statement which related to the company's reported revenue of RM73.416 million, as it contained over RM30 million of sales that did not take place.

The Court of Appeal on 4 November 2011, agreed with the decision of the High Court judge to impose a six-month jail term as the sentence of a fine was manifestly inadequate and did not adequately reflect the seriousness of the offence. Both are now currently serving their jail term.

Upcoming Capital Market Events

The SC and the Oxford Centre for Islamic Studies (OCIS) will host a closed door high-level Roundtable themed 'Solutions for Liquidity Management' from the 12-13 March 2012 in Kuala Lumpur, Malaysia.

SC will host the first Shariah Advisor Programme (i-Advisor) Seminar Series on 3-9 March 2012 in Kuala Lumpur, Malaysia. For more information please contact Hidayah of SIDC at Tel:+(603) 6204 8667.