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Amendments to the Capital Markets and Services Act 2007

The Securities Commission Malaysia (**SC**) has announced several amendments to the Capital Markets and Services Act 2007 (**CMSA**), which came into force on 1 July 2021.¹

Enlarged categories of sophisticated investors

A significant change is the amendments made to Schedule 6 and Schedule 7 of the CMSA to widen the categories of a sophisticated investor. We have set out below the entities and individuals considered as accredited investors prior to and after the amendment for comparison:

Prior to amendment	After amendment
(a) A unit trust scheme, prescribed investment scheme or private retirement scheme	(a) A unit trust scheme, prescribed investment scheme or private retirement scheme
(b) Bank Negara Malaysia	(b) Bank Negara Malaysia
(c) A holder of a Capital Market Services Licence	(c) A licensed person² or a registered person³
	(d) An exchange holding company, a stock exchange, a derivatives exchange, an approved clearing house, a central depository or a recognized market operator

¹ The amendments are effected through the Capital Markets and Services (Amendment of Schedules 5, 6 and 7) Order 2021 (**Amendment**).
² "Licensed Person" is defined under the CMSA to mean a person holding a Capital Markets Services Licence and includes a person holding a Capital Markets Services Representative's Licence.
³ "Registered Person" is defined under the CMSA to mean a person registered under s 76 of the CMSA. This includes: (a) those entities prescribed in Schedule 4 of the CMSA; (b) those registered by the SC for the purpose of regulated activities; (c) those registered with a recognised self-regulatory organisation under s 323 of the CMSA; or (d) those registered with a body that is approved by the SC.

	(e) A corporation that is licensed, registered or approved to carry on any regulated activity or capital market services by an authority in Labuan or outside Malaysia which exercises functions corresponding to the functions of the SC
(d) A bank licensee or insurance licensee as defined under the Labuan Financial Services and Securities Act 2010	(f) A bank licensee or an insurance licensee as defined under the Labuan Financial Services and Securities Act 2010
(e) Licensed institution as defined in the Banking and Financial Institutions Act 1989 or an Islamic bank as defined in the Islamic Banking Act 1983 ⁴	(g) An Islamic bank licensee or a takaful licensee as defined under the Labuan Islamic Financial Services and Securities Act 2010
(f) Insurance company registered under the Insurance Act 1996 or a takaful operator registered under the Takaful Act 1984 ⁵	(h) A chief executive officer or a director of any person referred to in paragraphs (c) to (g) above
(g) Executive director or a chief executive director of a holder of a Capital Market Services Licence	(i) A closed-end fund approved by the SC
(h) A closed-end fund approved by the SC	

High-net-worth entities are expanded to include a corporation that is carrying on the regulated activity of fund management solely for the benefit of its related corporations and has assets under its management exceeding RM10 million or its equivalent in foreign currencies.

A new element is also included in the definition of high-net-worth

⁴ The Islamic banks and all licensed institutions as defined in the Banking and Financial Institutions Act 1989 (which is now a repealed Act and substituted by the Financial Services Act 2013) fall within the category of registered person. As such, these entities are still considered as accredited investors despite the Amendment and the omission of references to them.

⁵ They fall within the category of registered person. As such, these entities are still considered as accredited investors despite the Amendment and the omission of references to them.

individuals, being an individual with total net investment exceeding RM1 million or its equivalent in foreign currencies in any capital market products, either on his or her own or through a joint account with the spouse.

The amendments will allow investors to widen their range of investment portfolio and for the issuers to reach out to a wider pool of sophisticated investors.

Bursa Malaysia to undertake registration of ACE Market prospectuses

At present, prospectuses for the ACE Market are subject to review and registration⁶ by the SC pursuant to ss 232 and 237 of the CMSA.

The amendment made to Schedule 6 and Schedule 7 of the CMSA to include an offer, invitation or initial public offering of shares of corporation on the alternative market of Bursa Malaysia, provided that they are accompanied with a prospectus which is registered by Bursa Malaysia, effectively transfers the registration function for ACE Market prospectuses from the SC to Bursa Malaysia.⁷

Transfer of the registration function of the ACE Market prospectuses from the SC will enable Bursa Malaysia to become the one-stop centre for all approvals in relation to ACE Market listing.

Increased categories of corporate proposal that do not require SC's approval

Corporate proposal specified under Schedule 5 of the CMSA has also been extended to include the following:

- (a) An initial exchange offering of the digital assets (**IEO**) through a recognised market operator.
- (b) An initial public offering or cross-listing of the shares of a public company or listed corporation on a stock exchange outside Malaysia.

Following from the above, approval or authorisation by the SC is no longer required for these proposals.⁸ Notwithstanding this, please note that the IEO is still subject to the assessment and approval of a market operator which has been registered with the SC.

⁶ The requirement to review and register the prospectuses by the SC does not apply to an excluded offer or excluded issue under Schedule 6 and Schedule 7 of the CMSA.

⁷ This amendment will only be effective from 1 January 2022.

⁸ Section 212(8) of the CMSA states that the requirement of the approval or authorisation of the SC is not applicable to the corporate proposal specified under Schedule 5 of the CMSA.

Conclusion

The amendments made to the CMSA demonstrate the SC's efforts in constantly promoting developments in the capital market and assessing the needs of its participants.

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