

## CAPITAL MARKETS AND SERVICES ACT 2007

(Act 671)

Incorporating latest amendment up to 28 December 2012

Application for grant of licence

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#### Application for grant of licence

**60. (1) An application for the grant of a licence shall be made to the Commission in such form and manner as the Commission may specify.**

(2) The Commission may at any time after receiving an application for the grant of the licence, conduct such inquiry as it may deem necessary to satisfy itself that none of the grounds under subsection 64(1), 65(1) or in any regulation or guideline for the refusal to grant the licence applies, including financial, criminal and professional background checks of the applicant, directors, managers and the controller of the applicant, where relevant.

**(3) The Commission may require an applicant to furnish it with such information or documents as the Commission considers necessary in relation to the application.**

(4) An application for the grant of a licence shall be accompanied by a non-refundable prescribed fee which shall be paid in such manner as may be specified by the Commission.

(5) [Deleted]

(6) In the case of an application for the grant of a Capital Markets Services Representative's Licence, such application shall be—

(a) supported by a holder of a Capital Markets Services Licence or a person who has applied for a Capital Markets Services Licence for that regulated activity, in such manner as may be specified by the Commission; and

(b) deemed to be withdrawn with effect from the date on which the holder of a Capital Markets Services Licence who supported the application—

(i) withdraws its support in writing;

(ii) withdraws its application for a Capital Markets Services Licence in respect of that regulated activity; or

(iii) has its application for a Capital Markets Services Licence in respect of that regulated activity refused by the Commission.

(7) For the purposes of this section, sections 64, 66 and 72, the word "controller", in relation to a holder of a Capital Markets Services Licence, means a person who—

(a) is entitled to exercise, or control the exercise of, not less than fifteen per centum of the votes attached to the voting shares in the holder;

(b) has the power to appoint or cause to be appointed a majority of the directors of such holder; or

(c) has the power to make or cause to be made, decisions in respect of the business or administration of such holder, and to give effect to such decisions or cause them to be given effect to.

(8) For the purposes of this section, sections 64, 66 and 72, "manager", in relation to a body corporate, means a person who is appointed by the body corporate to manage any part of its business and includes an employee of the body corporate (other than the chief executive) who, under the immediate authority of a director or chief executive of the body corporate, exercises managerial functions or is responsible for maintaining accounts or other records of the body corporate.

### **Variation or transfer of licence**

#### **69. (1) The Commission may, on the application of–**

- (a) a holder of a Capital Markets Services Licence, vary its licence by adding or removing a regulated activity to or from those already specified in the licence;
- (b) a holder of a Capital Markets Services Representative's Licence, vary the name of his principal, on whose behalf he may act and the regulated activity to which the licence relates or;
- (c) a holder of a Capital Markets Services Licence, transfer its licence to any other person, after the holder has obtained a court order under subsection 139(3).

(2) The Commission may require an applicant to supply the Commission with such information or documents as it considers necessary in relation to the application.

(3) An application under subsection (1) shall be accompanied by a prescribed application fee which shall be paid in such manner as may be specified by the Commission.

(4) The Commission may–

- (a) approve the application subject to such conditions or restrictions as it thinks fit; or
- (b) refuse the application on any of the grounds set out in subsection 64(1) or 65(1) or on any other grounds as may be specified by the Commission.

(5) The Commission shall not refuse an application under subsection (1) without giving the applicant an opportunity to be heard.

### **Revocation and suspension of licence**

#### **72. (1) A licence shall be deemed to be revoked–**

- (a) in the case of a holder of a Capital Markets Services Licence, if the holder is wound up or otherwise dissolved, whether within or outside Malaysia; and
- (b) in the case of a holder of a Capital Markets Services Representative's Licence, if the representative dies.

#### **(2) The Commission may revoke a licence–**

(a) in the case of a holder of a Capital Markets Services Licence, if–

- (i) there exists a ground on which the Commission may refuse an application under subsection 64(1);
- (ii) the holder fails or ceases to carry on the business in all or any of the regulated activities for which it was licensed for a consecutive period of three months;
- (iii) the holder contravenes any condition or restriction in respect of its licence or any direction issued to it by the Commission under this Act;
- (iv) the holder contravenes any of the rules of the stock exchange, derivatives exchange, approved clearing house or central depository which is binding upon it; or;
- (v) the holder fails to pay any fee as provided for under section 63; or;

(b) in the case of a holder of a Capital Markets Services Representative's Licence, if–

- (i) there exists a ground on which the Commission may refuse an application under subsection 65(1);
- (ii) he fails or ceases to act as a representative in respect of all or any of the regulated activities for which he was licensed;
- (iii) [Deleted]
- (iv) the holder contravenes any condition or restriction in respect of his licence or any direction issued to him by the Commission under this Act; or;
- (v) the holder fails to pay any fee as provided for under section 63;

#### **(3) Where subsection (2) applies, the Commission may, if it considers it desirable to do so–**

- (a) suspend a licence for a specific period instead of revoking it under subsection (2); and
- (b) at any time extend or revoke the suspension.

**(4) Subject to subsection (5), the Commission shall not revoke or suspend a licence under subsection (2) or (3) without giving the licensed person an opportunity to be heard.**

**(5) The Commission may revoke or suspend a licence without giving the licensed person an opportunity to be heard–**

(a) in the case of a holder of a Capital Markets Services Licence, on any of the following grounds:

- (i) the holder is in the course of being wound up or otherwise dissolved, whether within or outside Malaysia;

(ii) a receiver, receiver and manager or an equivalent person has been appointed, whether within or outside Malaysia in respect of any property of the holder; or

(iii) the holder or any of its directors, chief executive, managers or controller has been convicted of any offence described in subparagraph 64(1)(h)(i) or (ii); or

(b) in the case of a holder of a Capital Markets Services Representative's Licence, on any of the following grounds:

(i) the holder is an undischarged bankrupt, whether within or outside Malaysia; or (ii) the holder has been convicted of any offence described in subparagraph 65(1)(g)(i) or (ii).

**(6) Without prejudice to subsections (2) and (3), the Commission may, on any ground described in subsection (2), impose any restriction on the activities of a licensed person to which its licence relates and such restriction may be permanent or be made for such period as may be determined by the Commission.**

**(7) [Deleted]**

**(8) Where the Commission has revoked or suspended a Capital Markets Services Licence or imposed restrictions on a holder of a Capital Markets Services Licence, such holder shall immediately inform all its representatives by notice in writing of such revocation, suspension or imposition of a restriction.**

**(8A) Where the Commission has revoked or suspended a Capital Markets Services Licence, the representatives of the licence holder shall cease to be a holder of a Capital Markets Services Representative's Licence for that Capital Markets Services Licence holder.**

**(8B) A holder of a Capital Markets Services Representative's Licence who cease to hold a licence under subsection (8A) may make an application under paragraph 69(1)(b) to vary his licence.**

**(9) A person whose licence is revoked or suspended under this section shall, for the purposes of this Division, be deemed not to be licensed from the date that the revocation or suspension takes effect, as the case may be.**

**(10) A person who—**

(a) carries on a regulated activity after its licence has been revoked or has ceased;

(b) carries on a regulated activity while its licence has been suspended or is in breach of a restriction imposed under subsection (6); or

(c) contravenes subsection (8),

commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding ten years or to both, and in the case of a continuing offence, to a further fine not exceeding five thousand ringgit for every day or part thereof during which the offence continues after conviction.

## **Register of licence holders**

**77. (1) The Commission shall keep in such form as it thinks fit a register of the holders of current licences, specifying—**

*(a) in relation to each holder of a Capital Markets Services Licence—*

(i) its name;

(ii) where the holder is a corporation, the names of the directors and the secretary of the corporation;

(iii) the address of the principal place of business and any branch at which it carries on the business; and

(iv) where the business is carried on under a name or style other than the name of the holder of the licence, the name or style under which the business is carried on; and

*(b) in relation to a holder of a Capital Markets Services Representative's Licence—*

(i) his name;

(ii) the name of the holder of the Capital Markets Services Licence in relation to whom the Capital Markets Services Representative's Licence was issued; and

(iii) where the business of that holder of the Capital Markets Services Licence is carried on under a name or style other than the name of the holder of the Capital Markets Services Licence, the name or style under which that business is carried on; and

*(c) such other information as the Commission thinks relevant.*

**(2) The Commission shall remove from the register every entry relating to any person who ceases to be licensed under this Division.**

**(3) A person may, upon payment of the prescribed fee, inspect and take extracts from the register kept under subsection (1).**

**Notification of change of particulars**

**78. (1) Where—**

(a) the holder of a Capital Markets Services Licence ceases to carry on all or any of the regulated activities to which the licence relates;

(b) the holder of a Capital Markets Services Representative's Licence ceases to be a representative of the Capital Markets Services Licence holder in relation to whom the Capital Markets Services Representative's Licence was issued, and the licence has not been varied under section 69;

(c) a change occurs in any information required to be entered in the register of licence holders under section 77; or

(d) a change occurs in the information submitted to the Commission in accordance with subsection 60(1) or 60(3),

the holder of the licence shall, not later than fourteen days after the occurrence of the event concerned, give to the Commission, in the specified form, particulars in writing of the event concerned.

**(2) Where a licensed person ceases to carry on the business in all or any of the regulated activities to which the licence relates, it shall return the licence to the Commission within fourteen days of the date of the cessation.**