

CAPITAL MARKETS AND SERVICES ACT 2007 (Act 671)

An Act to consolidate the Securities Industry Act 1983 [Act 280] and Futures Industry Act 1993 [Act 499], to regulate and to provide for matters relating to the activities, markets and intermediaries in the capital markets, and for matters consequential and incidental thereto.

Section 64 of the CMSA

Grounds for refusal for the grant of Capital Markets Services Licence

64. (1) Where an application is made for the grant of a Capital Markets Services Licence under section 60, the Commission may refuse the application on any of the following grounds

- (a) the application was not made in accordance with section 60;
- (b) the applicant has failed to comply with any other requirement of this Act or any guidelines made under this Act;
- (c) any information or document that is furnished by the applicant to the Commission is false or misleading or from which there is a material omission;
- (d) the applicant is in the course of being wound up or otherwise dissolved;
- (e) execution against the applicant in respect of a judgment debt has been returned unsatisfied in whole or in part;
- (f) a receiver, a receiver and manager or an equivalent person has been appointed within or outside Malaysia, or in respect of any property of the applicant;
- (g) the applicant has, whether within or outside Malaysia, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation;
- (h) the applicant or any of its directors, chief executive, managers or controller—
 - (i) has been convicted, whether within or outside Malaysia, of an offence involving fraud or other dishonesty or violence or the conviction of which involved a finding that it or he acted fraudulently or dishonestly;
 - (ii) has been convicted of an offence under the securities laws or any law outside Malaysia relating to capital market;
 - (iia) has been subjected to any action taken by the Commission under section 354, 355 or 356;
 - (iii) has contravened any provision made by or under any written law whether within or outside Malaysia appearing to the Commission to be enacted for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies;
 - (iv) has engaged in any business practices appearing to the Commission to be deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise reflect discredit on its or his method of conducting business;
 - (v) has engaged in or has been associated with any other business practices or otherwise conducted itself or himself in such a way as to cast doubt on its or his competence and soundness of judgment; or
 - (vi) is an undischarged bankrupt whether within or outside Malaysia;

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(i) the Commission has reason to believe that **the applicant or any of its directors, chief executive, managers or controller may not be able to act in the best interest of its clients having regard to their reputation, character, financial integrity and reliability;**

(j) **the Commission is not satisfied as to the financial standing of the applicant or the manner in which the applicant's business is to be conducted;**

(k) **the Commission is not satisfied as to the record of past performance or expertise of the applicant having regard to the nature of the business** which the applicant may carry on in connection with the holding of the licence;

(l) **there are other circumstances which are likely to—**

(i) lead to the improper conduct of business by the applicant or by any of its directors, chief executive, managers or controller; or

(ii) reflect discredit on the manner of conducting the business of the applicant or its controller;

(m) **the Commission has reason to believe that** the applicant or any of its directors, chief executive or managers will not carry on the regulated activity efficiently, honestly or fairly;
or

(n) **the Commission is of the opinion that it would be contrary** to the interests of the public to grant the licence.

(2) [Deleted]

(3) [Deleted]

