

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 121 of the CMSA 2007

Division 4

Books, client's assets protection and audit

Subdivision 4

Treatment of client's assets in respect of fund management

Interpretation

121. For the purposes of this Subdivision, unless the context otherwise require –

“a holder of a Capital Markets Services Licence” means a holder of a Capital Markets Services Licence who carries on the business of fund management;

“client's assets” includes monies or other property received or retained by, or deposited with a holder of a Capital Markets Services Licence received in the course of his business for which the holder is liable to account to its client, and includes, monies received or property deposited with or held by a custodian or by any other person as may be permitted by the Commission under this Subdivision for which it is liable to account or deliver to the client;

“**custodian**”, in relation to a client of a holder of a Capital Markets Services Licence, means –

(a) a licensed bank as defined in the Banking and Financial Institutions Act 1989 appointed by the fund manager with the prior written consent of the client;

(b) a licensed merchant bank as defined in the Banking and Financial Institutions Act 1989 appointed by a fund manager with the prior written consent of the client;

(c) a trust company registered under the Trust Companies Act 1949 [Act 100];

(d) Amanah Raya Berhad;

(e) a participating organization;

(f) a wholly owned subsidiary of any institution specified under paragraphs (a), (b) and (e) that provides nominee services;

(fa) any institution licensed or authorized to provide custodian services outside Malaysia; or;

(g) any other person as may be specified in writing by the Commission;

“trust account”, means a current, deposit or property account which–

(a) is kept with a custodian; or

(b) is kept by any person as may be permitted by the Commission under subsection 122(2).

