

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 183 184 185 186 187 & 188 of the CMSA

Division 1

Prohibited conduct – Securities

Subdivision 2 – Insider trading

Information

183.

For the purposes of this Subdivision, “information” includes—

- (a) matters of supposition and other matters that are insufficiently definite to warrant being made known to the public;
- (b) matters relating to the intentions, or likely intentions, of a person; (c) matters relating to negotiations or proposals with respect to—
 - (i) commercial dealings; or
 - (ii) dealing in securities;
- (d) information relating to the financial performance of a corporation;
- (e) information that a person proposes to enter into, or has previously entered into one or more transactions or agreements in relation to securities or has prepared or proposes to issue a statement relating to such securities; and
- (f) matters relating to the future.

Information generally available

184.

(1) For the purposes of this Subdivision, information is generally available if the information has been made known in a manner that would, or would tend to, bring it to the attention of reasonable persons who invest in securities of a kind whose price or value might be affected by the information, and since it was so made known, a reasonable period for it to be disseminated among, and assimilated by, such persons has elapsed.

(2) The information referred to in subsection (1) includes information that consists of deductions or conclusions made or drawn from such information. Material effect on price or value of securities 185. For the purposes of this Subdivision, an information that on becoming generally available would or would tend to have a material effect on the price or value of securities, refers to such information which would or would tend to, on becoming generally available, influence reasonable persons who invest in securities in deciding whether or not to acquire or dispose of such securities, or enter into an agreement with a view to acquire or dispose of such securities.

Trading in securities

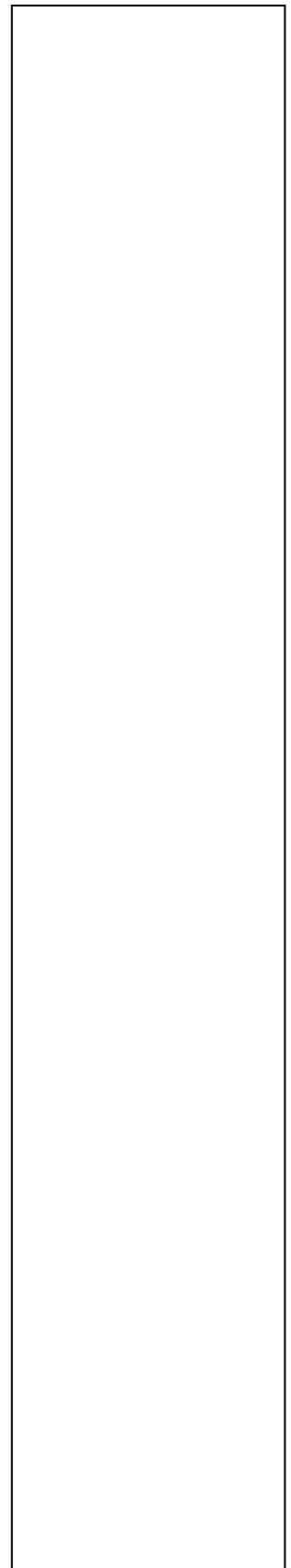
186.

For the purposes of this Subdivision, trading in securities that is ordinarily permitted on the stock market of a stock exchange is to be taken to be permitted on that stock market even though trading in any such securities on that stock market is suspended.

Reference to “procure”

187.

For the purposes of this Subdivision and section 201 but without limiting the meaning of the term “procure” as provided in this section, if a person incites, induces, encourages or directs an act



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.

or omission by another person, the first-mentioned person is deemed to procure the act or omission by the other person.

Prohibited conduct of person in possession of inside information

188.

(1) A person is an “insider” if that person—

(a) possesses information that is not generally available which on becoming generally available a reasonable person would expect it to have a material effect on the price or the value of securities; and

(b) knows or ought reasonably to know that the information is not generally available.

(2) An insider shall not, whether as principal or agent, in respect of any securities to which information in subsection (1) relates—

(a) acquire or dispose of, or enter into an agreement for or with a view to the acquisition or disposal of such securities; or

(b) procure, directly or indirectly, an acquisition or disposal of, or the entering into an agreement for or with a view to the acquisition or disposal of such securities.

(3) Where trading in the securities to which the information in subsection (1) relates is permitted on a stock market of a stock exchange, the insider shall not, directly or indirectly, communicate the information referred to in subsection (1), or cause such information to be communicated, to another person, if the insider knows, or ought reasonably to know, that the other person would or would tend to—

(a) acquire, dispose of, or enter into an agreement with a view to the acquisition or disposal of, any securities to which the information in subsection (1) relates; or

(b) procure a third person to acquire, dispose of or enter into an agreement with a view to the acquisition or disposal of, any securities to which the information in subsection (1) relates.

(4) A person who contravenes subsection (2) or (3) commits an offence and shall be punished on conviction to imprisonment for a term not exceeding ten years and to a fine of not less than one million ringgit.

(5) The Minister may make regulations in respect of any particular class, category or description of persons or any particular class, category or description of transactions, relating to securities, to whom or which this section does not apply.

Proof of contravention of section 188

189.

In a prosecution of an offence under subsection 188(2) or (3), it is not necessary for the prosecution to prove the non-existence of facts or circumstances which if they existed would, by virtue of section 190, 191, 192, 193, 194, 195, 196, 197 or 198, or any regulations made under subsection 188(5), preclude the act from constituting a contravention of subsection 188(2) or (3).