

SECURITIES COMMISSION MALAYSIA ACT 1993

An Act to establish the Securities Commission Malaysia and to provide for matters connected therewith and incidental thereto.

Section 323 of the SCA 1993

PART VIII SELF-REGULATORY ORGANIZATIONS

Recognition of a self-regulatory organization

323.

(1) The Commission may, with the concurrence of the Minister, where it thinks appropriate in the public interest or for the protection of investors by notice published in the Gazette, declare a person to be a recognized self-regulatory organization, subject to such terms and conditions as the Commission thinks fit, if it is satisfied that—

(a) the person in discharging its obligation under section 324 will not act contrary to the public interest and in particular the interest of investors;

(b) the person shall be able to take appropriate action against its members and any person to whom the rules apply to;

(c) the person has sufficient financial, human and other resources to carry out its functions;

(d) the person is fit and proper and satisfies the criteria or standards referred to in section 64, or any rules of the stock exchange or derivatives exchange, as the case may be;

(e) the person is managed by officers who are fit and proper and who satisfy the criteria or standards referred to in section 65, or any rules of the stock exchange or derivatives exchange or any applicable guidelines, as the case may be;

(f) the person has competent personnel for the carrying out of its functions; and

(g) the rules of the person make satisfactory provision—

(i) to promote investor protection;

(ii) to promote fair treatment of its members and any person who applies for membership;

(iii) to exclude a person who is not fit and proper from being its member or being appointed as its chief executive, director or officer;

(iv) to promote proper regulation and supervision of its members;

(v) to promote appropriate standards of conduct of its members;

(vi) to manage any conflict of interest that may arise between its interest and the interest referred to in subsection 324(1);

(vii) to ensure that there is a fair representation of members in its governing body;

(viii) to ensure that its members and officers duly comply with the securities laws, regulations and guidelines issued by the Commission and where relevant, the rules of the stock exchange, derivatives exchange, approved clearing house or central depository;

(ix) to prevent the usage of any information by its members or officers that may result in such member or officer making an unfair gain;

(x) for the expulsion, suspension, disciplining or sanctioning of a member in the event a member contravenes the securities laws, regulations and guidelines issued by the Commission and where relevant, the rules of the stock exchange, derivatives exchange, approved clearing house or central depository; and

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(xi) to allow an aggrieved member to appeal against any decision of the recognized self-regulatory organization.

(2) The Commission may, in declaring a person to be a recognized self-regulatory organization, require such person to provide any information to the Commission as the Commission considers necessary.

(3) A person who—

(a) with intent to deceive, makes or furnishes; or

(b) knowingly authorizes or permits the making or furnishing of,

any false or misleading statement or report with respect to the information submitted to the Commission referred to in subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding three million ringgit or to imprisonment for a term not exceeding ten years or to both.

