

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 93 & 97 of the CMSA

Division 3

Conduct of business

Subdivision 1 – General

Priority given to client's order

93.

(1) Except as permitted by subsection (2)—

(a) the holder of a Capital Markets Services Licence who carries on the business of dealing in securities or fund management when acting as principal or on behalf of a person associated with or connected to the holder; or

(b) a representative of a holder of a Capital Markets Services Licence when acting for his own account or on behalf of a person associated with or connected to the representative, shall not enter into a transaction of purchase or sale of securities that are permitted to be traded on the stock market of a stock exchange if a client of that holder or representative who is not associated with or connected to the holder or representative, has instructed the holder or representative to purchase or sell, respectively, securities of the same class and the holder or representative has not complied with the instruction.

(2) Subsection (1) shall not apply in relation to the entering into of a transaction by the holder of a Capital Markets Services Licence who carries on the business of dealing in securities or fund management as principal or on behalf of a person associated with or connected to the holder, or by a representative of such a holder for his own account or on behalf of a person associated with or connected to the representative, if—

(a) the instructions from the client of such holder required the purchase or sale of securities on behalf of the client to be effected only on specified conditions relating to the price at which the securities were to be purchased or sold and the holder or a representative of the holder has been unable to purchase or sell the securities by reason of those conditions; or

(b) the transaction is entered into in prescribed circumstances.

(3) A person who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both.

Dealings as principal

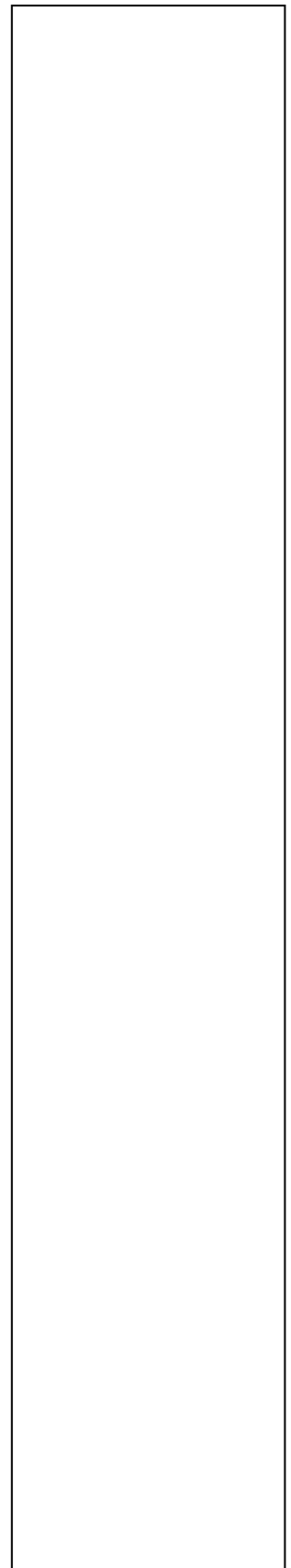
97.

(1) Subject to subsection (4), a holder of a Capital Markets Services License who carries on the business of dealing in securities shall not, as principal, deal in any securities with a person who is not such a holder unless the holder first informs such person that the holder is acting in the transaction as principal and not as agent.

(2) A reference in this section to a holder of a Capital Markets Services License who carries on the business of dealing in securities as principal includes a reference to a person—

(a) dealing or entering into a transaction on behalf of a person associated with such holder;

(b) dealing in securities on behalf of a corporation in which it has a controlling interest; or



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(c) where it carries on a business of dealing in securities on behalf of a corporation in which its interest and the interests of its directors together constitute a controlling interest.

(3) A holder of a Capital Markets Services Licence who carries on the business of dealing in securities, who as principal, deals in securities with a person who is not such a holder shall state in the contract note that the holder is acting in the transaction as principal and not as agent.

(4) Subsection (1) shall not apply to a transaction of sale or purchase of an odd lot of securities entered into by a holder of a Capital Markets Services Licence who is a participating organization and specializes in transactions relating to odd lots of securities.

(5) Where a holder of a Capital Markets Services Licence who carries on the business of dealing in securities contravenes subsection (1) or (3) in respect of a contract—

(a) for the sale of securities by the holder, the purchaser of the securities may, if he has not disposed of them, rescind the contract by a notice of rescission in writing given to the holder not later than fourteen days after the receipt of the contract note or on becoming aware of the contravention of subsection (1) or (3), whichever is the later; or

(b) for a purchase of securities by the holder, the vendor of the securities may rescind the contract by a notice of rescission in writing given to the holder not later than fourteen days after the receipt of the contract note or on becoming aware of the contravention of subsection (1) or (3), whichever is the later.

(6) Any right of action that is conferred on a purchaser or vendor under subsection (5) is in addition to any right that such purchaser or vendor has under any other law.

(7) A person who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.