

Financial Services

Technical Note No. 1/2022 — Clarification on Licensing Requirements for Persons Offering Digital Investment Advice

The Securities Commission Malaysia (“SC”) on 8 December 2022 issued a technical note to clarify the licensing requirements for persons offering digital investment advice.

In the technical note:

- the SC clarifies that provision of digital investment advice is still “*investment advice*” for purposes of **Capital Markets and Services Act 2007** and therefore triggers a licence from the SC.
- the SC stated that it is working towards finalising a holistic framework which caters for both digital and traditional investment advice models.
- the SC clarifies that, in the interim, applicants who can satisfy the requirements set out in section B of the technical note may apply to the SC for waiver(s) from the following aspects:
 - financial requirements as set out in Table 1 of the SC’s Licensing Handbook provided that the applicant has at all times a minimum paid up capital of RM200,000 and minimum net tangible assets of RM50,000 on admission and throughout the duration of the licence;
 - Bumiputera requirement relating to directors, representatives and employees’ composition; and/or
 - requirement pertaining to a licensed director provided that the applicant has at least a director who has a minimum of five years of relevant experience in investment advice and holds a Capital Markets Services Representative’s Licence (“CMSRL”) for investment advice.

Legal Update

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- however, where the SC grants a waiver, it may also impose other requirements which it deems appropriate.
- existing licence holders which intend to undertake digital investment advisory must seek the SC's prior approval to do so.

Guidelines on Market Conduct and Business Practices for Investment Analysts and Their Analysts

The SC also issued a Guidelines on Market Conduct and Business Practices for Investment Analysts and Their Analysts which:

- are applicable to holders of Capital Markets Services Licence ("CMSL") and CMSRL for the regulated activity of investment advice, either as a sole regulated activity or in addition to other regulated activities, who issues or promulgates analyses or reports concerning securities or derivatives, whether electronically, in print or any other form.
- seeks to outline the core principles and minimum standards to be observed to maintain fair, efficient and transparent markets by ensuring objectivity, quality and transparency of a research and recommendation.

Revision to Guidelines on Digital Assets

The SC has made some housekeeping amendments throughout the Guidelines on Digital Assets, the amendments of which came into effect on 19 December 2022.

One of the changes made by the SC is to the definition set out in limb (a) of "*senior management*" by excluding a director.

Exposure Draft on Capital Adequacy Framework (Basel III — Risk-Weighted Assets) — Exposures to Central Counterparties

Bank Negara Malaysia is inviting feedback by 17 February 2023 to its exposure draft on the Basel III capital adequacy framework which is applicable to a financial institution's exposure to central counterparties.

The "*financial institutions*" which will be subject to these requirements, when it comes into effect, are:

- i. banks licensed under the **Financial Services Act 2013**;
- ii. investment banks licensed under the **Financial Services Act 2013**;
- iii. Islamic banks licensed under the **Islamic Financial Services Act 2013**;

iv. financial holding companies of the entities listed in i to iii above.

Islamic Financial Services (Minimum Amount of Capital Funds) (Approved Person) (Amendment) Order 2022

This amendment order:

- came into operation on 30 December 2023 and amends the Islamic Financial Services (Minimum Amount of Capital Funds) (Approved Person) Order 2013 [P.U. (A) 210/2013].
- affects only electronic money issuers.
- deletes the old categories of “*large electronic money scheme*” and “*small electronic money scheme*”.
- introduces new categories of electronic money issuer, which are “*standard electronic money issuer*” and “*eligible electronic money issuer*”, each of which is as defined therein.
- sets out the minimum amount of capital funds required of a standard electronic money issuer and an eligible electronic money issuer respectively

CONTACT US FOR FURTHER INFORMATION REGARDING FINANCIAL SERVICES MATTERS.

Tax & Revenue

Income tax

The **Income Tax (Relocation of Provision of Services Business Incentive Scheme) Rules 2022** have been gazetted on 28 December 2022 and have effect from year of assessment 2021.

The following public rulings have recently been published on the Inland Revenue Board's official website:

- [Taxation of a Resident Individual Part II — Computation of Total Income and Chargeable Income \(Public Ruling No. 5/2022\)](#) — issued on 9 December 2022.
- [Accelerated Capital Allowance \(Public Ruling No. 6/2022\)](#) — issued on 22 December 2022.
- [Venture Capital Tax Incentives \(Public Ruling No. 7/2022\)](#) — issued on 23 December 2022.
- [Taxation of Limited Liability Partnership \(Public Ruling No. 8/2022\)](#) — issued on 23 December 2022.
- [Property Development \(Public Ruling No. 9/2022\)](#) — issued on 23 December 2022.
- [Reinvestment Allowance Part I — Manufacturing Activity \(Public Ruling No. 10/2022\)](#) — issued on 27 December 2022.
- [Reinvestment Allowance Part II — Agricultural and Integrated Activities \(Public Ruling No. 11/2022\)](#) — issued on 27 December 2022.
- [Commercialisation of Public Resource-Based Research and Development Findings, Part I — Tax Incentive for Investor Company \(Public Ruling No. 12/2022\)](#) — issued on 29 December 2022.
- [Commercialisation of Public Resource-Based Research and Development Findings, Part II — Tax Incentive for Eligible Company \(Public Ruling No. 13/2022\)](#) — issued on 29 December 2022.
- [Garis Panduan Layanan Cukai Atas Perbelanjaan Faedah/Keuntungan Kena Dibayar Kepada Bank Atau Institusi Kewangan Dalam Tempoh Moratorium](#) (presently available in Malay language only) — issued on 28 December 2022.
- [Guidelines on Tax Treatment in Relation to Income Received from Abroad \(Amendment\)](#) — issued on 29 December 2022.

Sales tax

The following Regulations and Orders have been gazetted on 30 December 2022 and will come into operation on 1 January 2023:

- i. [Sales Tax \(Low Value Goods\) Regulations 2022;](#)
- ii. [Sales Tax \(Total Sale Value of Low Value Goods\) Order 2022;](#)
- iii. [Sales Tax \(Rate of Tax for Low Value Goods\) Order 2022;](#)
- iv. [Sales Tax \(Determination of Low Value Goods\) Order 2022.](#)

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