



# The Reporter

September 2016–March 2017 | Vol 7 | No 4

## Executive Summary

This issue of *The Reporter* highlights the concerns of sales practices in the unit trust industry. Such practices influence the trust and confidence of investors, which may in turn, affect the continuing growth of the industry.

As part of our regulatory efforts, SC has initiated measures to address some of these concerns. We have also set out specific expectations of roles and efforts to be taken by the unit trust management companies, unit trust schemes consultants and investors to ensure a cohesive ecosystem for the continuous development of good sales practices in the industry.

In the publication dated September 2015 to March 2016, *The Reporter* featured an article on the Equity Crowdfunding Framework (ECF). Following the success of ECF, the SC has launched the Peer-to-Peer Financing Framework (P2P Financing) to nurture and facilitate market-based innovation in FinTech under the aFINity@SC initiative. To provide further understanding on P2P Financing, we share in this issue, an overview of the regulatory framework of P2P Financing, drawing a comparison with ECF and key factors for investors to bear in mind when investing.

We hope you will find our sharing in *The Reporter* helpful. The SC will continue to communicate our expectations as part of our transparency principle to promote and encourage good market conduct and drive changes to culture.

As always, we would like to hear from you. Please send your feedback and ideas for future editions to the Editorial Team at [reporter@seccom.com.my](mailto:reporter@seccom.com.my).

Good sales practices  
in the unit trust  
industry – building  
trust and confidence

## Contents

|   |           |
|---|-----------|
| <b>Sales Practices:<br/>Building Trust and<br/>Confidence in the<br/>Unit Trust Industry</b>                                | <b>2</b>  |
| <b>Peer-to-Peer (P2P)<br/>Financing – Greater<br/>Access to Market-Based<br/>Financing Through<br/>Electronic Platforms</b> | <b>12</b> |
| <b>Administrative Actions 17<br/>and Supervisory<br/>Engagements</b>  |           |
| <b>Criminal Prosecutions, 22<br/>Civil Actions and<br/>Regulatory Settlements</b>   |           |

# Sales Practices: Building Trust and Confidence in the Unit Trust Industry

The unit trust industry in Malaysia has experienced steady growth since the establishment of the first unit trust company in 1959 to what it is today. As at April 2017, it has a total net asset value of RM405.1 billion constituting 22.01% of the Bursa Malaysia market capitalisation. The foundation for growth was laid after 1993 with the establishment of a robust regulatory framework to protect investors and the expansion of distribution channels of unit trust funds, in line with the approach of 'growth with governance' advocated by the SC.

Unit Trust Schemes Consultants are agents (Agents)<sup>1</sup> of unit trust management companies. They have played a key role in building the industry. The Agents are an important conduit in enhancing financial literacy and improving financial inclusiveness, and educating investors on the long-term benefits of unit trust schemes. As at July 2017, there are 60,432 Agents in the industry.

To ensure continuous growth, we recognise that investors' trust and confidence in the unit trust industry has to be enhanced. Towards that end, strengthening sales and business practices of institutions that market and distribute unit trust funds (Distributors) and their Agents is of paramount importance. The conduct of Agents is critical as they are the first, and sometimes, the only point of contact with investors. Unethical sales and business practices, including mis-selling of products, erode trust where an investor who has had bad experiences with Agents, will more likely than not, refrain from investing further in unit trust funds.

In 2012, SC issued the *Guidelines on Sales Practices of Unlisted Capital Market Products* (SPG) with the primary aim to instil good sales ethics among the Distributors and their Agents for fair treatment of investors. The principles of the SPG are reflected in FIMM's *Code of Ethics and Rules of Professional Conduct (Unit Trust Funds)* [FIMM's Code]. These requirements are of particular importance given the availability of various types of unit trust funds where investors rely on Agents' advice to help them decide which types of funds best meet their needs.

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<sup>1</sup> Agents are required to be registered with the Federation of Investment Managers Malaysia (FIMM).

## The three key components of the SPG

|   |  |
|---|--|
| <b>Treating Investors Fairly</b>                                      | Agents must consider the interests of investors when marketing or selling products.  |
| <b>Suitability of Investment Products for Investors</b>               | <p>Prior to recommending a product, an Agent must assess that the product suits the needs of the investor.</p> <p>The Agent must conduct a suitability assessment to obtain information such as the investor's financial position, investment objectives, expectations and risks tolerance level<sup>2</sup>. Such information provides a basis for and supports the Agent's recommendation.</p>           |
| <b>Complete and Sufficient Disclosure of Information to Investors</b> | <p>Investors must be given:</p> <ul style="list-style-type: none"> <li>• A Product Highlights Sheet (PHS)<sup>3</sup> containing important information on the product, together with the application forms; and</li> <li>• Sufficient explanation on the nature, characteristic and risks of the product.</li> </ul> <p>All these are aimed at guiding the investor in making his investment decision.</p> |

Below is an illustration where a product sold is not suitable for an investor and the information given to the investor prior to investment was incomplete and insufficient.

*Ms. A, a 60-year-old retiree, invested her savings of RM100,000 in a unit trust fund which is high-growth without reading the prospectus or PHS. She relied on her Agent for information.*

*The Agent did not conduct an assessment of her financial position, investment objectives and expectations or determine her risk-tolerance level. The Agent also did not even consider that high-growth funds are not suitable for Ms. A, a senior investor who is elderly, retired and has limited savings.*

*Typically, high-growth funds are for investors willing to accept high risk in return for high profits.<sup>4</sup> During an economic downturn, the fund performed poorly, resulting in substantial loss of Ms. A's investment.*

Investor failed to understand the nature and characteristics of the product. The high-growth fund does not suit her needs and circumstances.

The Agent did not treat Ms. A fairly. He did not take time to assess Ms. A's needs and recommended a product which was unsuitable.

<sup>2</sup> Part 4 of the SPG.

<sup>3</sup> This is required under Para 3.03 of the SPG. A PHS contains all information relating to a unit trust fund that an investor needs to decide on investment such as the key features, risks, the fund performance and relevant fees and charges imposed.

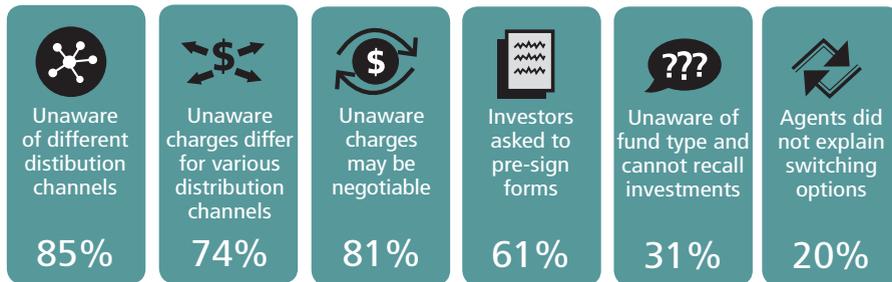
<sup>4</sup> Such funds attempt to achieve high capital gains and typically invests in companies that demonstrate high growth potential or shares with significant price volatility. Such funds tend to perform very well in economic upswings and very poorly in economic downturns.

## SC's Observations on an Investor Experience Survey

In 2016, SC conducted a unit trust investor experience survey to assess compliance with the SPG and gauge the awareness of investors in the unit trust industry. Below are some of the concerns noted by the SC.

### CONCERNS NOTED BY THE SC

#### UNIT TRUST INVESTOR EXPERIENCE SURVEY\*



### Actions to Address Concerns

1. Together with FIMM, SC will study systems and controls of Distributors relating to their oversight of Agents' conduct which includes compliance with the SPG and FIMM's Code.
2. Together with FIMM, SC will conduct mystery shoppings to gauge the level of compliance by Agents.
3. SC will intensify supervision efforts to ensure effective oversight by Distributors of Agents' conduct.
4. Carry out continuous investor education efforts to build awareness in the form of unit trust seminars, InvestSmart® activities, articles and distribution of leaflets.

Notes:

\* Undertaken between May to July 2016 involving 2019 respondents nationwide.

## Enforcement Action Against Agents

Agents have to comply with FIMM's Code and are expected to act honestly and ethically, and to treat investors fairly as they hold a position of trust. Where an Agent is found to have breached FIMM's Code, FIMM takes a strict approach when considering the appropriate sanctions. Some of these breaches relate to Agents having:

- (a) Accepted cash or requested for monies to be credited into personal bank account and subsequently, failed to invest clients' monies as instructed;
- (b) Misappropriated clients' monies for investment purposes;
- (c) Misrepresented fund's performance;
- (d) Allowed unregistered persons to market and distribute unit trust funds using the Agent's identity;
- (e) Requested clients to pre-sign transaction forms; and
- (f) Submitted transaction forms without consent of clients.

“ Agents have to comply with FIMM's Code and are expected to act honestly and ethically, and to treat investors fairly as they hold a position of trust. ”

Table 1

### Statistics of actions taken by FIMM from 2015 to 2017

| Type of actions                      | 2015 | 2016 | 2017 <sup>5</sup> |
|--------------------------------------|------|------|-------------------|
| Private reprimand                    | 5    | 1    | 5                 |
| Public reprimand                     | 5    | 8    | 4                 |
| Revocation of registration with FIMM | 8    | 4    | 2                 |
| Suspension of registration           | –    | –    | 2                 |
| Penalty                              | –    | –    | 1                 |
| Requirement to attend training       | –    | –    | 4                 |

<sup>5</sup> As at May 2017.

## Sales Practices Matter

The conduct of Distributors in creating a culture which emphasises on good sales practices among their Agents is important. Good sales practices help build trust of investors and maintain good reputation of the Distributors.

### Message to Distributors

Trust is the most valuable business commodity. Sales profits alone do not guarantee long-term success, thus it is more advisable to build long-term business relationships through ethical sales culture.

1. Re-examine in-house sales targets and reward structures to reinforce sales ethics among Agents. When setting reward and incentive structures, Distributors should take into account factors such as customer-experience scores, results of independent customer-call-back verifications and the number, and nature of complaints received.
2. Distributors should not tolerate any misconducts. If there are occurrences of unethical sales practices even with one Agent, Distributors must take swift action to identify the root cause practices and assess how lapses of institutional controls and individual action contributed to the breach.
3. Board must have oversight of mis-selling and conduct risk. As part of oversight, Board must require reporting on gaps in sales practices and overall sales culture.
4. There is a need to carry out independent assessment (e.g. customer-call-back verifications, surveys on customer's experience, mystery shopping) on Agents' sales practices to ascertain compliance and service level.
5. Distributors must be vigilant to ensure excessive switching of funds does not happen<sup>6</sup>.
6. Distributors to carry out regular training for Agents to reinforce sales ethics and to ensure that Agents are kept abreast on the development of new products.
7. Distributors to ensure that Agents do not take a box-ticking approach when carrying out suitability assessment on their clients.

In one instance, a Distributor has taken a commendable proactive step in suspending onboarding of new clients until its anti-money laundering and counter-terrorism financing framework is fully strengthened after realising that it has breached the *Guidelines on Prevention of Money Laundering and Terrorism Financing for Capital Market Intermediaries*. The breach arose from the Distributor's failure to lodge Suspicious Transactions Reports (STRs) concerning transactions in four unitholders' accounts. Good practices including taking voluntary and immediate remedial actions are always encouraged by SC. The proactive step in suspending further onboarding of new clients was taken into account by the SC in considering the appropriate administrative action against the Distributor.

<sup>6</sup> Refer to FIMM's Circular I&SP/AL/NO-KOH-jw/040-15 dated 14 July 2015.

## Message to Agents

Investors place their trust in you. Take time to understand their needs and carry out a suitability assessment. This will build credibility and long-term business relationships.

1. Always act in the best interest of your clients. Exercise care, skill and diligence. Know your client, understand the products recommended and ensure investment recommendation is suitable for clients.
2. Do not omit important information. Below are some of the important information you should provide to your client:
  - Prospectus and PHS of funds;
  - Investment objective, strategies and risks of the products recommended;
  - Charges and fees imposed (including the sales charges and exit fees for switching); and
  - Free switching options.

**Note:** *Different clients have different needs (e.g. a less sophisticated investor may require more explanation)*
3. Do not make statements which are exaggerated, misleading or without any basis (e.g. giving “estimated, targeted or projected” returns of funds during product recommendation)

**Note:** *Past performance is not an indication of future performance. You must advise your client NOT to rely solely on past performance.*
4. Get complete documentation and instructions of transactions from clients.
5. Do not switch funds purely to earn sales commission. Switch funds only when it is in the best interest of your clients.
6. Do not get your clients to pre-sign or pre-thumbprint blank forms.

## Message to Investors

You have rights and can influence sales ethics. Understand the product and be satisfied that it suits your investment needs before parting with your hard earned money, just like how you would before purchasing a house or car. You have to take effort to safeguard your own interests, even if the Agent is a friend or relative.

1. Ask for the Agent's authorisation card. You can check if the Agent is registered with FIMM at <https://www.fimm.com.my/investor/is-my-consultant-authorized/>.

2. Make/Issue payments directly to the Distributor. Do not pay cash to the Agent or bank monies directly into the Agent's personal or other individual or another company's account.

**Note:** Always ask for official receipt for all payments made that the Distributor is obliged to issue. If any detail or information in the receipt is inaccurate, please check with the Distributor directly.

3. Know that various distribution channels of unit trust funds are available. Besides Agents, you may purchase unit trust funds through:

- Banks
- Fund management companies
- Financial planners
- Online platforms

## Message to Investors *(Continued)*

4. Fees will eat into your returns. Enquire and shop around for funds with the best fees. Do note that sale charges or upfront fees may be negotiable. Check the prospectus on fees and charges.
5. Ensure the Agent conduct a suitability assessment prior to recommending a product. Check that the product recommended is what you want and is suitable for your needs. Make comparison between products, fees and charges.
6. Be very truthful with your risk profile during your suitability assessment.
7. Report unethical sales practices to FIMM and the Distributor whom the Agent represents.

## Red flags to look out for:

-  Agent reluctant to provide authorisation card.
-  Agent is not registered with FIMM.
-  Agent requests for payments in cash or direct credit to the Agent's or another person's bank account.
-  Agent failed or is reluctant to conduct a suitability assessment prior to product recommendation.
-  Agent requests for pre-signing or pre-thumbprint of blank forms.
-  Agent promises returns of investment or gives 'estimated, targeted or projected' returns of funds.
-  Agent claims he could issue "temporary receipt".

If any of these red flags appear, contact SC, FIMM or the Distributor whom your Agent is attached to immediately.

## Questions to ask before investing

Whether you are a first-time investor or have been investing for many years, there are some basic questions you should always ask before you commit your hard-earned money to an investment.



### Important to Note:

- ▶ Greater returns come with greater risk.
- ▶ If you do not understand the information given by your Agent, do seek help from another Agent. If you are still confused, you should think twice about investing in the particular unit trust fund.

<sup>1</sup> This will help you decide if you need a short, medium or long-term unit trust fund.

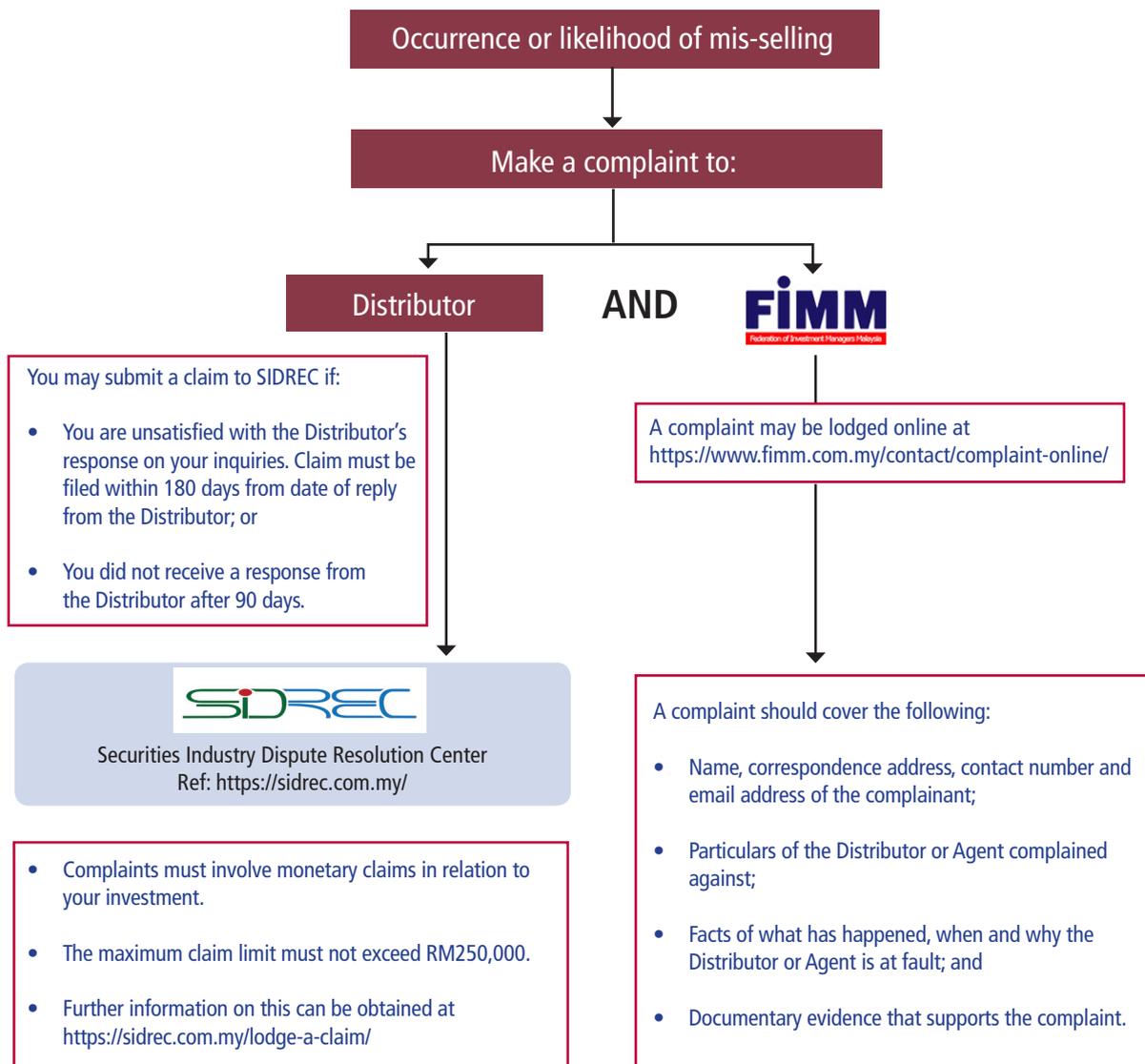
<sup>2</sup> You must make sure you have funds for daily needs and savings for emergencies.

<sup>3</sup> You must be comfortable with the level of risks that comes with the investment product.

<sup>4</sup> You can get all the information from the Agent and the fund's prospectus or PHS.

<sup>5</sup> Different funds may have different charges imposed and may be negotiable.

## What to do if you suspect a mis-selling has occurred?



### Important to Note:

- ▶ Mis-selling can occur if you have not been given complete and sufficient information prior to making an investment or you have been sold a fund that does not suit your needs.
- ▶ Mis-selling is not just about whether you have lost money. You may still lodge a complaint if you think that the fund sold is not suitable for you (e.g. where your risk tolerance is low and you have been sold a high-risk fund or you were not told about the risk).
- ▶ On the other hand, complaints cannot be lodged just because a fund has performed badly. By its very nature, investments have an element of risk where its value can fall as well as rise. (e.g. if the fund has halved in value, this in itself is not a ground for a complaint.)

# Peer-to-Peer (P2P) Financing – Greater Access to Market- Based Financing Through Electronic Platforms

P2P Financing is a relatively new technology-enabled, market-based financing solution in the capital market. It offers alternative access to funding particularly for businesses and provides retail investors another investment option.

P2P Financing is a type of crowdfunding, which generally means a form of fundraising where multiple individuals pool together money, usually on an online platform, to fund a business venture, project or a cause. Crowdfunding can generally be categorised as investment-based (e.g. Equity Crowdfunding (ECF) and P2P Financing) or non-investment-based (e.g. charity or reward-based crowdfunding).

As at end 2015<sup>1</sup>, the global market for online alternative finance has seen an overall 159% growth with P2P Business Financing recording a market size of US\$44.7 billion. ECF on the other hand recorded a market size of US\$2.19 billion.

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SC announced  
six registered  
P2P Financing  
platforms at  
the SCxSC  
2016.  
”

## Important to Note:

- ▶ SC does NOT regulate charity or reward-based crowdfunding activities.
- ▶ If any platform claims itself as having been registered, approved, licensed, authorised or otherwise regulated by SC, you should **always confirm** with SC at [https://www.sc.com.my/digital/list\\_rmo/](https://www.sc.com.my/digital/list_rmo/) or call us at 603-6204 8000.

Building on the success of our ECF framework and in line with our effort to democratise finance in the Malaysian capital market, SC introduced a regulatory framework for P2P Financing in April 2016<sup>2</sup>.

Subsequently, SC announced six registered P2P Financing platforms at the Synergy and Crowdfunding Forum (SCxSC) in November 2016. They are **B2B FinPAL**, **Ethis Kapital**, **FundedByMe Malaysia**, **ManagePay Services**, **Modalku Ventures (Funding Societies)** and **Peoplender (Fundaztic)**. To date, **B2B FinPal**, **Funding Societies**, and **Fundaztic** are fully operational, with the rest expected to be fully operationalised by end 2017.

<sup>1</sup> Cambridge Judge Business School Center for Alternative Finance, 2016.

<sup>2</sup> The regulatory framework for P2P Financing can be found in the *Guidelines on Recognized Markets* at <http://www.sc.com.my/legislation-guidelines/recognisedmarkets/>

## What is P2P Financing?

P2P Financing is essentially a lending and borrowing activity between **businesses** and **investors**, facilitated through an online marketplace i.e. a P2P Financing **platform operator**. It operates very similarly to the issuance and subscription of corporate bonds or even a bank lending activity, **except** that the funding needs are met by a group of investors putting in small amounts of money, and the business' risk scoring<sup>3</sup> (or rating) is carried out by a P2P Financing platform operator instead of a traditional credit rating agency.

## What is the role of a platform operator?

**A P2P Financing platform operator must be registered with SC.** The platform typically undertakes the role of a marketplace provider, and both businesses and investors utilising the platform will be subjected to its rules.

**As P2P Financing has debt-like features, and the fund-seeking business' ability to repay is very important.** A platform operator will conduct a background check on a fund-seeking business and assign a risk-score accordingly. Overall, the fund-seeking business will be imposed a higher financing rate if the platform operator's assessment shows the business has a higher risk of default. However, the financing rate should not exceed 18% per annum without prior consultation with SC.

The platform operator is subjected to other regulatory requirements such as maintaining trust accounts for funds raised on its platform and repayments to investors. Further, the platform operator needs to ensure adequate disclosure to investors and establish processes to manage payment default, debt collection and complaints, among others.

## What does it mean for businesses?

P2P Financing offers great funding opportunity to business owners with more stable cash-flow that do not wish to surrender control over their business operations.

In Malaysia, the regulatory framework for P2P financing is only allowed for businesses. It gives businesses access to alternative funding sources at a relatively lower cost compared to traditional sources such as banks, to spur the growth of commerce.

There is no funding cap imposed on businesses utilising P2P Financing platforms. However, a business will need to raise at least 80% of its target financing amount before the funds are released, but it will not be able to keep any amount exceeding the target financing amount. The platform operator will return the monies in excess of the target amount or reject the additional offers, as the case may be, in accordance with its rules.

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<sup>3</sup> Refers to the likelihood of default by a business.

## What does it mean for investors?

P2P Financing offers a new investment opportunity for investors looking to diversify their investments to suit their goals and risk profiles. Unlike ECF which is a long-term investment, investors in P2P Financing receive fixed amount of periodic repayments according to the predetermined payment schedule. Some repayments may be done on a monthly basis, others on a quarterly basis.

As mentioned, P2P Financing investment need not be assessed and assigned an investment grade by traditional credit rating agency. Each platform operator has its own risk assessment criteria. Investors therefore must understand how the risk scoring works, what the criteria are and what level of risk the investor is comfortable taking. A higher rate of return typically means higher default rate; hence such investment may be riskier.

Further, investors should understand the ways in which a platform operator manages a repayment delay or a default. There is no investment limit imposed on the investors, but it is highly encouraged for retail investors to limit their P2P investment exposure at RM50,000 at any given time.

Table 1

### Comparison between P2P Financing and ECF

| Details  | P2P Financing  | ECF  |
|--|--|--|
| <b>Investment instruments</b>                    | Investment notes.  | Shares.  |
| <b>Nature of investment</b>                      | Debt-like features; fixed amount of periodic repayments of capital and interest (or profit).   | Equity; dividends will be declared when profits are made.  |
| <b>Rights of investors in case of insolvency</b> | Creditor.  | Shareholder.   |
| <b>Who can invest</b>                            | Everyone.  | Everyone.  |
| <b>Limits on investment</b>                      | <p><b>Sophisticated investor<sup>4</sup></b><br/>No limit.</p> <p><b>Angel investors<sup>5</sup></b><br/>No limit.</p> <p><b>Retail investors<sup>6</sup></b><br/>Encouraged to limit investments on any P2P platform to maximum RM50,000 at any period of time.</p> | <p><b>Sophisticated investor</b><br/>No limit.</p> <p><b>Angel investors</b><br/>Maximum of RM500,000 within 12 months.</p> <p><b>Retail investors</b><br/>Maximum RM5,000 per company with total amount of not more than RM50,000 within 12 months.</p> |

<sup>4</sup> Persons referred to in Part I of Schedules 6 and 7 of the CMSA, and venture capital management/corporation and private equity management/corporation registered with SC.

<sup>5</sup> For the purpose of SC's P2P Financing framework, 'angel investor' is defined in the *Guidelines on Recognized Markets* as 'an investor that is accredited by the Malaysian Business Angels Network as an 'angel investor'.'

<sup>6</sup> Persons who are not sophisticated investors.

Table 1 (continued)

## Comparison between P2P Financing and ECF

| Details   | P2P Financing   | ECF  |
|---|---|--|
| <b>Who can raise funds</b>  | <p><b>Locally registered</b></p> <ul style="list-style-type: none"> <li>– sole proprietorships; and</li> <li>– partnerships.</li> </ul> <p><b>Locally incorporated</b></p> <ul style="list-style-type: none"> <li>– limited liability; partnerships;</li> <li>– private companies; and</li> <li>– unlisted public companies.</li> </ul> | <b>Locally incorporated private companies</b> <sup>7</sup>   |
| <b>Limits on fundraising</b>  | No limit on fundraising.  | <p>RM3 million within a 12-month period.</p> <p>On top of that, a company can only utilise the ECF platform to raise a maximum of RM5 million in capital, after which it can no longer seek further funding on any ECF platform.</p> |
| <b>Minimum amount to be raised to constitute successful campaigns</b> | <p>At least <b>80%</b> of the target amount must be raised.</p> <p>Any amount exceeding target amount shall not be kept.</p>  | Target amount must be <b>fully met</b> in order for fund raised to be released to companies seeking funding.   |
| <b>Who can operate platforms</b>                                      | Only SC-registered operators can operate P2P Financing platforms.   | Only SC-registered operators can operate ECF platforms.  |
| <b>What are some of the inherent risks</b>                            | <ul style="list-style-type: none"> <li>– Default.</li> <li>– Lack of liquidity.</li> <li>– Fraud.</li> </ul>  | <ul style="list-style-type: none"> <li>– Business failure.</li> <li>– Lack of liquidity.</li> <li>– Fraud.</li> </ul>  |

<sup>7</sup> Companies incorporated under the *Companies Act 1965* (and subsequently *Companies Act 2016*).

## Message to Investors

### 1. Check if a P2P Financing operator is registered with SC

- Only SC registered persons can operate a P2P Financing platform. You should always confirm their registration status with SC at [https://www.sc.com.my/digital/list\\_rmo/](https://www.sc.com.my/digital/list_rmo/) and only deal with a SC-registered P2P Financing operator.

### 2. Know the risks of your investments

- Bear in mind that P2P Financing is subject to default risk i.e. risks of businesses defaulting on their repayments. As such, you may see occasional delays in repayment, or worse, lose part or all of the monies you have invested.
- Given that the return of your invested capital and profit are fixed over a period of time, you may not be able to recoup your investment within a short period.
- There is also the risk of fraud. The law cannot completely eliminate the risk of fraud. You must always stay vigilant.

### 3. Know your rights

- The money you have invested will be placed in a trust account and should be returned to you in the following circumstances:
  - At the end of the fundraising period when the company fails to raise 80% of the targeted amount. This means that if the company seeks to raise an amount of RM10,000 within 30 days but only managed to raise RM5,000, the fundraising exercise would be considered to have failed. In this situation, the entire RM5,000 must be returned to investors; and
  - During the fundraising period where there is a material adverse change<sup>8</sup> affecting the company or the project for which funding is sought.
- You are entitled to obtain all relevant information pertaining to the company or the project such as key characteristics of the company, purpose of fundraising, business plan of the company and its financial information.
- The platform operator is required to disclose to you all fees, charges and other expenses relating to your investment. In particular, check if there will be extra expenses incurred for debt collection services. Understand all the changes imposed for your investment before you invest.
- If you have any complaints regarding your investment, you may refer the matter to the platform operator or SC.

<sup>8</sup> For example, discovery of a false or misleading statement submitted by the company, or material change in the circumstances relating to the company.

# Administrative Actions and Supervisory Engagements

## ADMINISTRATIVE ACTIONS

From 1 September 2016 to 31 March 2017, SC had imposed a total of 11 administrative sanctions against:

- 2 licensed entities;
- 7 licensed individuals; and
- 2 individuals<sup>1</sup>.

These sanctions were imposed for breaches relating to SC's guidelines and licensing conditions, as well as non-compliance with approved accounting standards.

Table 1

Administrative actions from 1 September 2016 to 31 March 2017 by types of sanction and parties in breach

| Parties in breach  | Types of sanction |           |          |   |
|--------------------|-------------------|-----------|----------|---|
|                    | Directive         | Reprimand | *Penalty | Suspension/<br>Revocation of<br>licence |
| Licensed persons   | –                 | –         | –        | 7                                       |
| Licensed entities  | –                 | –         | 2        | –                                       |
| Directors of a PLC | –                 | 2         | 2        | –                                       |
| <b>TOTAL</b>       | –                 | 2         | 4        | 7                                       |

\* A total of RM421,400 penalty was imposed.

<sup>1</sup> The two individuals are directors of a public-listed company (PLC).

Table 2

## Penalties imposed from 1 September 2016 to 31 March 2017

| Party in breach                     | Amount (RM)    |
|-------------------------------------|----------------|
| United Overseas Bank (Malaysia) Bhd | 1,400          |
| Yong Poh Yow                        | 200,000        |
| Lee, Hui Ta @ Li Hui Ta             | 150,000        |
| Kenanga Investors Bhd               | 70,000         |
| <b>TOTAL</b>                        | <b>421,400</b> |

### Addressing conduct of PLC directors

Directors have a fiduciary duty to act in the best interest of the corporation. In light of this, the *Capital Markets and Services Act 2007* (CMSA) makes it an offence for directors to do anything with the intention of causing wrongful loss to its corporation irrespective of whether the conduct in question causes actual wrongful loss.

On 24 September 2016, an administrative action was taken against Yong Poh Yow (Yong), a Chief Executive Officer (CEO) and Executive Director of Dufu Technology Corp Bhd (DTC) for breach of section 317A of the CMSA when he caused wrongful loss to DTC. Yong had made remittances (amounting to US\$1,010,041) to foreign parties in the US without prior authorisation and resolution from DTC's board to purchase assets which were eventually registered under his name. He was reprimanded and imposed a penalty of RM200,000 by SC.

Administrative action was also taken against Lee Hui Ta @ Li Hui Ta (Lee), a Chief Financial Officer (CFO) and Executive Director of DTC for abetting Yong in the abovementioned misconduct when Lee had, together with Yong, approved the payment vouchers and forms for the remittances (amounting to US\$950,041). Lee was reprimanded and imposed a penalty of RM150,000 by SC.

The unauthorised remittances have since been refunded to DTC.

## Addressing conduct risk of licensed persons

Conduct requirements are imposed on licensed persons under the CMSA to ensure that they treat investors fairly and always act in a manner that promotes a fair and orderly market. Licensed persons who engage themselves in business practices which are deceitful and improper, such as market manipulation, and who have been charged for a criminal offence in breaching securities laws are considered no longer fit and proper to continue to hold a Capital Markets Services Representative's Licence (CMSRL).

From 1 September 2016 to 31 March 2017, we had revoked the CMSRLs of the following persons:

- ▶ Ong Kok Aun for engaging in manipulative activities when trading in shares of ETI Corporation Bhd;
- ▶ Ling Chen Yew, Tiong Siew Ngaik and Yew Hock Ming for engaging in manipulative activities when trading in shares of Rapid Synergy Bhd and YNH Property Bhd;
- ▶ Theng Boon Cheng @ Tan Boon Cheng and Cheng Seng Chow who were charged for abetting in the commission of the offence of insider trading.

To be fit and proper, a CMSRL holder must also demonstrate that he is able to remain solvent. On 18 November 2016, we revoked the CMSRL of Ravindran Nair Vasudevan Nair when he was declared a bankrupt.

## Enforcing requirements under the Lodge and Launch Framework

The *Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework* (LOLA Guidelines) requires an issuer of a structured product to submit to SC a monthly post-issuance report within the prescribed period following the lodgement of a structured product programme with the SC<sup>2</sup>. On 5 December 2016, United Overseas Bank (Malaysia) Bhd was imposed a penalty of RM1,400 due to their delay of two business days in the submission of the monthly post-issuance report for the Structured Investment Programme 1 to the SC.

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<sup>2</sup> Para 4.04 and 4.05 of the LOLA Guidelines.

## Ensuring compliance with conditions of licence

On 26 January 2017, SC took an administrative action against Kenanga Investors Bhd (KIB) for failure in supervising their business which resulted in two Agents from Apex Investment Services Sdn Bhd Agents soliciting purchases of KIB's unit trust products under the identities of KIB's Agents. The purchases were then attributed to KIB's Agents. SC imposed a penalty of RM70,000 on KIB for breaching section 61(4) of the CMSA when it contravened the conditions of its licence as provided under the *Licensing Handbook* which requires KIB to carry on its business efficiently, honestly and fairly, and to ensure that its business complies with the provisions of *FIMM's Code*.

## Infringement Notices

During this period, SC issued 74 Infringement Notices<sup>3</sup> in relation to, among others:

- ▶ non-compliances with approved accounting standards;
- ▶ non-compliances with licensing conditions;
- ▶ weaknesses in compliance, risk and audit functions; and
- ▶ weaknesses in the process and procedures for the prevention of anti-money laundering and countering financing of terrorism.

Table 3

### Infringement Notices issued from 1 September 2016 to 31 March 2017

| Type of infringement notices | Sept      | Oct      | Nov       | Dec       | Jan      | Feb      | Mar       | Total     |
|------------------------------|-----------|----------|-----------|-----------|----------|----------|-----------|-----------|
| Supervisory Letter           | 1         | –        | 2         | 1         | 1        | 1        | –         | 6         |
| Warning Letter               | –         | 1        | –         | –         | 1        | 1        | 3         | 6         |
| Non-compliance Letter        | 14        | 7        | 16        | 12        | 1        | 3        | 9         | 62        |
| <b>TOTAL</b>                 | <b>15</b> | <b>8</b> | <b>18</b> | <b>13</b> | <b>3</b> | <b>5</b> | <b>12</b> | <b>74</b> |

<sup>3</sup> Non-statutory enforcement tools issued where the breaches of securities law detected do not warrant the initiation of a formal enforcement action or imposition of administrative action.

## Supervisory examinations and engagements

In carrying out our duty in providing oversight and supervising the activities of intermediaries and market institutions, we rely on a variety of supervisory tools for detection of risks and market irregularities. Besides carrying out on-site examinations, SC also relies on engagements with market participants to address concerns, supervisory findings and communicate regulatory expectations.

Table 4

### Number of supervisory examinations and engagements<sup>4</sup> conducted by SC from 1 September 2016 to 31 March 2017

| Entity  | Number of examinations conducted | Number of engagements conducted |
|---|----------------------------------|---------------------------------|
| Firms (securities, derivatives and fund management) | 95                               | –                               |
| Bond market service providers <sup>5</sup>          | 2                                | 4                               |
| Market institutions <sup>6</sup>                    | 1                                | 61                              |
| PLCs  | –                                | 26                              |
| Auditors  | –                                | 22                              |
| Other stakeholders                                  | –                                | 27                              |

Note:

<sup>4</sup> These statistics are exclusive of engagements conducted by the Authorisation and Licensing department.

<sup>5</sup> Rating agencies, bond pricing agency and trustees.

<sup>6</sup> Bursa Malaysia Bhd, FIMM and Private Pension Administrator Malaysia.

# Criminal Prosecutions, Civil Actions and Regulatory Settlements

From 1 September 2016 to 31 March 2017, we preferred criminal charges against 10 individuals for various securities offences (Table 1). Four individuals were charged for causing wrongful loss to a listed corporation. Another six individuals were charged for insider trading.

The SC also filed three separate civil suits against five individuals for various breaches of the securities laws (Table 2). One individual was sued for using manipulative and deceptive devices in relation to acquisition of securities as well as causing wrongful loss to a listed corporation. The other four individuals were sued for insider trading.

A testament of SC's active enforcement efforts is also demonstrated in the decisions of the High Court and Court of Appeal which had affirmed convictions and sentences meted out by the Sessions Court. See Table 3 for details.

During this period, a landmark decision was handed down in SC's favour by the Federal Court upholding the validity of section 122(1) of the *Securities Industry Act 1983* (SIA). The provision was challenged for alleged inconsistency with Article 5(1) and Article 8(1) of the Federal Constitution on the basis that it abrogates, among others, the fundamental right of an accused person to be presumed innocent until proven guilty. A full copy of the grounds of judgment can be found at <http://www.kehakiman.gov.my/directory/judgment/file/06-2-05-2016.pdf>

Table 1

## Details of criminal prosecution from 1 September 2016 to 31 March 2017

| No. | Nature of offence                             | Offender(s)  | Description of charge(s)  | Date charged      |
|-----|---|--|---|-------------------|
| 1.  | Causing wrongful loss to a listed corporation | Datin Law Siew Ngoh (Law SN)<br><br>Robert Daniel Tan Kim Leng (Tan KL)<br><br>Dato' Ng Back Heang (Ng BH)<br><br>Dato' Yap Wee Hin (Yap WH) | Datin Law SN, Tan KL, Dato' Ng BH and Dato' Yap WH were jointly charged with 10 charges of causing wrongful loss to Patimas Computers Bhd (Patimas). The SC alleged that they had made payments totalling RM5.1 million between July 2010 and December 2010, for purported development of various software for Patimas when in fact the payments were not used for such purpose.<br><br>At the time of the alleged offence, Datin Law SN was the Managing Director, Dato' Yap WH was the Deputy Executive Chairman, while Tan KL and Dato' Ng BH were executive directors of Patimas.<br><br>All four claimed trial to the charges preferred against them. Datin Law SN, Tan KL, Dato' Ng BH and Dato' Yap WH were imposed a bail of RM200,000 with one surety and ordered to surrender their passports.  | 29 September 2016 |
| 2.  | Insider trading                               | Fong Chiew Hean (Fong CH)<br><br>Fang Siew Yee (Fang SY)<br><br>Fang Chew Ham (Fang CH)  | Fong CH was charged with nine counts of insider trading when he was alleged to have acquired 891,000 units of Three-A Resources Bhd (3A) shares while in possession of material non-public information through two accounts between 7 September 2009 and 5 October 2009.<br><br>Fang SY, the Administrative and Purchasing Head of 3A and Fang CH, founder and Managing Director of 3A at the material time were charged with one count each of communicating material non-public information to Fong on 5 September 2009.<br><br>The SC alleged that the inside information referred to in the charges related to a proposed collective venture between the businesses of 3A and Wilmar International Ltd.<br><br>All three accused claimed trial to the respective charges preferred against them. Fong was granted bail of RM250,000 with one surety while Fang SY and Fang CH were each granted bail of RM200,000 with one surety. All three were ordered to surrender their passports. | 25 October 2016   |

Table 1 (Continued)

| No. | Nature of offence | Offender(s)   | Description of charge(s)   | Date charged    |
|-----|-------------------|---|--|-----------------|
| 3.  | Insider trading   | Fang Siew Yee (Fang SY)<br><br>Fang Chew Ham (Fang CH)<br><br>Tan Bee Geok (Tan BG)<br><br>Chew Lian Foon (Chew LF)<br><br>Ong Kok Aun (Ong KA) | <p>Fang SY was further charged with acquiring 2,720,000 units of 3A shares between 27 August 2009 and 5 October 2009 while in possession of material non-public information.</p> <p>The SC alleged that the inside information referred to in the charges related to a proposed collective venture between the businesses of 3A and Wilmar and information relating to a proposed private placement of up to 20% of the issued and paid-up share capital of 3A to Wilmar.</p> <p>Fang SY is alleged to have acquired the shares through the account of Tan maintained at OSK Investment Bank Bhd (OSK).</p> <p>Fang CH, Tan BG and two OSK dealers at the material time, Chew LF and Ong KA were charged with abetting Fang SY in the commission of the offence.</p> <p>All five claimed trial to the charges preferred against them. Fang SY was granted bail of RM250,000 with one surety. Fang CH, Chew LF and Ong KA were each granted bail of RM150,000 with one surety while Tan BG was granted bail of RM150,000 with two sureties. All were ordered to surrender their passports except for Tan BG, who did not own one.</p> | 25 October 2016 |

Table 2

## Details of civil enforcement from 1 September 2016 to 31 March 2017

| No. | Nature of breach   | Offender(s)                                      | Description  |
|-----|--|--|--|
| 1.  | Insider trading  | Dato' Sreesanthan Eliathamby (Dato' Sreesanthan) | <p>On 12 October 2016, SC filed a civil suit against Dato' Sreesanthan. The SC is seeking, among others:</p> <ul style="list-style-type: none"> <li>• A declaration that Dato's Sreesanthan had engaged in insider trading in respect of Worldwide Holdings Bhd shares between 7 June 2006 and 11 July 2006;</li> <li>• A payment in the sum of RM1,989,402 which is equivalent to three times the amount of RM663,134 being the difference between the price at which the shares had been acquired by Dato' Sreesanthan and the price at which the shares would have been likely to have been acquired at the time of the acquisition, if the material non-public information had been generally available;</li> <li>• Civil penalty of RM1 million for the breach of section 89E of the SIA 1983;</li> <li>• An order that Dato' Sreesanthan be barred from being a director of any PLC for a period of 10 years.</li> </ul> |
| 2.  | <ul style="list-style-type: none"> <li>• Use of manipulative and deceptive devices</li> <li>• Causing wrongful loss to a listed corporation</li> </ul> | Datin Chan Chui Mei (Datin Chan CM)              | <p>On 26 September 2016, SC filed a civil suit against Datin Chan CM. The SC is seeking among others:</p> <ul style="list-style-type: none"> <li>• A declaration that Datin Chan CM had contravened sections 179 and 317A of the CMSA;</li> <li>• An order that Datin Chan CM makes restitution to persons aggrieved by the contravention;</li> <li>• An order that Datin Chan CM pays the SC the sum of RM11.54 million, to be held in trust for Stone Master Corporation Bhd;</li> <li>• An order that Datin Chan CM be barred from being a director of a PLC for a period of five years; and</li> <li>• Civil penalty of RM1 million for the contravention.</li> </ul>  |

Table 2 (Continued)

| No. | Nature of breach | Offender(s)  | Description   |
|-----|------------------|--|---|
| 3.  | Insider trading  | Koh Tee Jin (Koh TJ)<br>Koh Thiam Seong (Koh TS)<br>Koh Hui Sim (Koh HS) | <p>On 13 March 2017, the SC filed a civil suit against Koh TJ, Koh TS and Koh HS. The SC is seeking, among others:</p> <ul style="list-style-type: none"> <li>• A declaration that Koh TJ had communicated material non-public information to Koh TS and Koh HS who both had thereafter disposed Axis Incorporation Bhd (Axis) shares between 9 July 2008 and 30 July 2008;</li> <li>• A declaration that Koh TS and Koh HS had engaged in insider trading in respect of Axis shares between 9 July 2008 and 30 July 2008;</li> <li>• An order that Koh TJ, Koh TS and Koh HS be barred from being a director of any PLC for a period of five years;</li> <li>• A payment in the sum of RM3,546,477 from Koh TJ which is equivalent to three times the amount of RM1,182,159 being the difference between the price at which the shares had been disposed by Koh TS and Koh HS, and the price at which the shares would have been likely to have been disposed at the time of the disposal, if the material non-public information had been generally available;</li> <li>• A payment in the sum of RM739,389 and RM2,807,088 from Koh TS and Koh HS respectively which is equivalent to three times the difference between the price at which the shares had been disposed by Koh TS and Koh HS, and the price at which the shares would have been likely to have been disposed at the time of the disposal, if the material non-public information had been generally available;</li> <li>• Civil penalty of RM1 million for the breach of section 188(3) of the CMSA for Koh TJ;</li> <li>• Civil penalty of RM1 million for the breach of section 188(2) of the CMSA for Koh TS and Koh HS;</li> <li>• General and/ or aggravated and/ or exemplary damages.</li> </ul> |

Table 3

## Outcome of criminal appeals from 1 September 2016 to 31 March 2017

| No. | Nature of offence   | Offender(s)   | Description  | Punishment  |
|-----|---|---|--|---|
| 1.  | Knowingly permitting the submission of false information to Bursa Malaysia Securities Bhd       | Alan Rajendram<br>Jeya Rajendram<br>(Alan Rajendram)                | <p>On 10 October 2012, the Sessions Court convicted Alan Rajendram, former director of LFE Corporation Bhd (LFE) of two charges under section 122B(b)(bb) of the SIA 1983 and two charges under section 369(b)(B) of the CMSA 2007 for knowingly permitting the furnishing of false statements to Bursa Malaysia Securities Bhd in relation to LFE's unaudited financial results for four quarters of the financial year ended 31 December 2007.</p> <p>On 28 November 2016, the Kuala Lumpur High Court dismissed Alan Rajendram's appeal and affirmed the sentence for all the four charges against him. Alan Rajendram has since appealed to the Court of Appeal against the decision of the High Court.</p>  | <p>One year imprisonment and RM300,000 fine for each charge.</p> <p>The imprisonment terms were ordered to be served concurrently.</p> <p>The High Court in the meantime has stayed the execution of the sentence pending Alan Rajendram's appeal to the Court of Appeal.</p> |
| 2.  | Knowingly authorising the furnishing of a misleading statement to Bursa Malaysia Securities Bhd | Chin Keem Feung (Chin KF)<br><br>Shukri Sheikh Abdul Tawab (Shukri) | <p>Chin KF and Shukri, former independent non-executive Directors and Audit Committee members of Transmile Group Bhd (Transmile) were charged on 14 November 2007 for knowingly authorising the furnishing of a misleading statement to Bursa Malaysia Securities Bhd.</p> <p>The misleading statement was with respect to the unaudited revenue figures which were reported to Bursa Malaysia Securities Bhd for both the fourth quarter of 2006 as well as the cumulative period for 2006.</p> <p>On 28 October 2011, the Sessions Court found Chin KF and Shukri guilty and they were sentenced to one year imprisonment and fine of RM300,000.</p> <p>On 17 September 2015, the High Court affirmed the convictions and sentences imposed by the Sessions Court.</p> | <p>One year imprisonment and RM300,000 fine.</p>  |

Table 3 (Continued)

| No. | Nature of offence  | Offender(s)            | Description  | Punishment  |
|-----|--|------------------------|--|---|
|     |  |                        | On 19 January 2017, the Court of Appeal unanimously dismissed the appeal by Chin KF and Shukri and affirmed their convictions and sentences.   |   |
| 3.  | Carrying on a business in regulated activity, namely trading in futures contract, without holding a Capital Markets Services Licence | Zamani Hamdan (Zamani) | <p>On 28 October 2011, Zamani Hamdan, former director of Rantau Simfoni Sdn Bhd (Rantau) was charged for holding himself out as a representative of an investment bank to trade in future contracts. Zamani was also charged in the alternative for carrying on the business of trading futures contracts without a license through his company, Rantau.</p> <p>On 30 April 2013, the Sessions Court found Zamani guilty under the alternative charge and sentenced him to a fine of RM1 million.</p> <p>On 19 January 2017, the High Court dismissed the appeal against conviction. The appeal against the sentence was however partly allowed.</p> | <p>A fine of RM215,000, a reduction from the previous fine of RM1 million imposed by the Sessions Court.</p> <p>The SC has filed an appeal to the Court of Appeal against the sentence.</p> |

## Enforcement Highlights

Ongoing trials at the Sessions Court for the period from 1 September 2016 to 31 March 2017.

### September 2016

#### PP v Dato' Goh Hock Choy and Siow Chung Peng

On 4 September 2012, SC charged Dato' David Goh Hock Choy under section 84(1) of the SIA 1983 for manipulating the shares of Lii Hen Industries Bhd (Lii Hen) between March and October 2004. He was alleged to have been indirectly concerned in the sale and purchase of Lii Hen shares that did not involve any change in the beneficial ownership of the said shares. Siow Chung Peng was charged under section 84(1) read together with section 122C(c) of the SIA 1983 for abetting Dato' Goh in the commission of the offence. The trial continued in the months of September and October 2016, February and March 2017, and is scheduled to continue in April 2017.

## September 2016

### PP v Ramesh Rajaratnam

On 29 April 2015, SC charged Dato' Ramesh Rajaratnam with three counts of insider trading in the shares of Malaysian Merchant Marine Bhd (MMM), an offence under section 188(2) of the CMSA. Dato' Ramesh was at the material time the Executive Deputy Chairman of MMM. The trial against Dato' Ramesh continued in September, October and November 2016, and is scheduled to continue in May and June 2017.

### PP v Dato' Seri Stanley Thai Kim Sim and Tiong Kiong Choon

In December 2014, SC charged Dato' Seri Stanley Thai Kim Sim with one count of communicating material non-public information, an offence under section 188(3) of the CMSA 2007. Dato' Seri Thai was said to have communicated the information to Tiong Kiong Choon who was at the material time, a remisier with Inter-Pacific Securities Sdn Bhd. Dato' Seri Thai was at the material time, the CEO of APL Industries Bhd (APLI). The SC also charged Tiong for disposing APLI shares while in possession of the material non-public information. Trial against both individuals continued in the months of September, October, November and December 2016, and January 2017. The Prosecution closed its case on 24 February 2017. Parties are to make oral submissions at the end of the Prosecution's case before the Sessions Court on 30 March 2017.

### PP v Ang Pok Hong and Wendy Wong Soon Soon

In February 2015, SC charged Ang Pok Hong with four counts of insider trading for having purchased 204,000 units of TH Group Bhd (TH Group) shares while in possession of material non-public information, an offence under section 188(2) of the CMSA. Wendy Wong was charged with three counts of abetting Ang by allowing Ang to use her trading account for the purpose of acquiring the said shares. In the charges preferred, SC alleged that the non-public information referred to a proposed privatisation of TH Group via a Selective Capital Repayment exercise which was announced on 29 September 2008. The trial against both individuals continued in September 2016. In October 2016, the Sessions Court stayed the proceedings to allow the defence to refer several constitutional questions to the High Court pursuant to section 30 *Courts of Judicature Act 1964*.

### PP v Tan Han Kook and Ching Siew Cheong

On 11 September 2013, SC charged Tan Han Kook and Ching Siew Cheong, with seven and eight counts respectively, of furnishing false statements to Bursa Malaysia Securities Bhd under section 369(b)(B) CMSA. The false statements were alleged to have been made in Silver Bird Group Bhd (Silver Bird)'s eight unaudited quarterly financial accounts for the financial years ended 31 October 2010 and 31 October 2011. At the material time, Tan Han Kook and Ching Siew Cheong were directors of Silver Bird. The trial against both individuals commenced in the month of September 2016 and continued in October and November 2016 and March 2017. Trial is scheduled to continue in April and May 2017.

#### PP v Tan Bee Hong and Tan Bee Geok

On 15 December 2014, SC charged Datin Seri Tan Bee Geok with one count of communicating material non-public information, an offence under section 188(3) of the CMSA. Datin Seri Tan Bee Geok was said to have communicated the information to her sister Tan Bee Hong. Datin Seri Tan Bee Geok was at the material time, the Group Executive Director of APLI. The SC also charged Tan Bee Hong for disposing APLI shares while in possession of the material non-public information. Trial against both individuals continued in the months of September, November and December 2016, and February and March 2017. The Prosecution closed its case on 1 March 2017. On 17 March 2017, the Sessions Court called both individuals to enter their defence against the charges preferred against them. The trial continues in June 2017.

### October 2016

#### PP v Alan Rajendram (Linear Corportion Bhd)

On 9 July 2015, SC charged Alan Rajendram under section 369(b)(B) CMSA with one count of authorising the furnishing of a false statement to Bursa Malaysia Securities Bhd. The false statement was alleged to have been made in an announcement dated 29 December 2009. At the material time, Alan Rajendram was a director of Linear. The trial against Alan Rajendram commenced in the month of October 2016 and continued in December 2016, and January 2017. Trial is scheduled to continue in April 2017.

#### PP v Fong Chiew Hean, Fang Siew Yee and Fang Chew Ham

On 25 October 2016, SC charged Fang Siew Yee and Fang Chew Ham with one count of communicating material non-public information each, an offence under section 188(3) of the CMSA. They were said to have communicated the information to Fong Chiew Hean. The SC also charged Fong Chiew Hean for acquiring 3A shares while in possession of the material non-public information. (Please refer to Table 1 above for further details)

#### PP v Fang Siew Yee, Fang Chew Ham, Tan Bee Geok, Chew Lian Foon and Ong Kok Aun

On 25 October 2016, SC charged Fang Siew Yee for insider trading. Fang Chew Ham, Tan Bee Geok, Chew Lian Foon and Ong Kok Aun were charged for abetting Fang Siew Yee in committing the said offence. (Please refer to Table 1 above for further details)

### November 2016

#### PP v Koh Tee Jin, Saipuddin Lim and Lee Han Boon

In March 2013, SC charged Koh Tee Jin, Saipuddin Lim, Lee Han Boon and Lee Koon Huat for knowingly authorising the furnishing of false statements contained in unaudited financial statements of Axis Incorporation Bhd (Axis) to Bursa Malaysia for the financial years of 2007 and 2008. The trial against the four accused continued in November 2016 and February 2017, and is scheduled to continue in April 2017.

## December 2016

### PP v Datuk Ishak Ismail

On 13 June 2016, SC charged Datuk Ishak Ismail with one count of making a statement that is misleading in a material particular and two counts of insider trading. Trial against Datuk Ishak commenced in December 2016, and is scheduled to continue in May 2017.

## January 2017

### PP v Raja Samsul Bahri Raja Muhammad, Abdul Malek Yusof and Noor Aida Abdullah

On 1 June 2016, SC charged Raja Samsul Bahri Raja Muhammad, Abdul Malek Yusof and Noor Aida Abdullah for abetting a company known as Astana Resources Bhd (formerly known as JPG Holdings Bhd) in the offering and issuing of more than 6.9 million shares between 30 April 2010 and 19 November 2012 without registering a prospectus with SC. Trial against all three individuals commenced in the month of January 2017. On 5 January 2017, all three accused persons made an application under section 173(g) of the *Criminal Procedure Code* to discharge the charges against them on the basis that the charges were groundless. On 16 January 2017, the Sessions Court allowed the application. The SC has since filed an appeal to the High Court against the Sessions Court's decision.

### PP v Cheng Seng Chow, Chang Sze Yeng, and Tan Swee Hock

On 8 December 2015, the SC charged Tan Swee Hock for acquiring Transocean Holdings Bhd (Transocean) shares between 20 August 2009 and 6 November 2009 while in possession of material non-public information. Cheng Seng Chow and Chang Sze Yeng were charged for abetting Tan Swee Hock in committing the said offence. The non-public information alleged related to the proposed take-over offer by Kumpulan Kenderaan Malaysia Bhd of Transocean shares. The trial against all three individuals commenced in January 2017, and is scheduled to continue in April, May, June, July, August, September and October 2017.

## February 2017

### PP v Alice Poh Gaik Lye and Goh Bak Ming

On 14 June 2010, SC charged Alice Poh Gaik Lye, former business co-ordinator of Liqua Health Corporation Bhd (Liqua), under section 87A(a) of the SIA for allegedly using a scheme to defraud Liqua between 23 February and 31 July 2007 in connection with the purchase of Liqua shares. Goh Bak Ming, former director of Liqua was charged for abetting Poh in committing the offence. The Prosecution closed its case on 5 October 2016. On 14 February 2017, the Sessions Court called both individuals to enter their defence against the charges preferred against them. The trial is to continue in May, June and July 2017.

## Appeals and Applications

### High Court

#### November 2016

##### PP v Dato' Ch'ng Poh @ Ch'ng Chong Poh

Dato' Ch'ng Poh (Dato' Ch'ng) was charged on 10 January 2014 with 58 counts of insider trading for acquiring Malaysian Pacific Corporation Bhd (MPAC) shares while in possession of material non-public information, an offence under section 188(2)(a) of the CMSA. On 27 July 2015, Dato' Ch'ng filed an application in the Sessions Court seeking a declaration that he is not fit to be tried and for an order that the trial be adjourned until he is certified otherwise. On 12 April 2016, the Sessions Court dismissed the accused's application on the basis that the Sessions Court did not have the power to make such a declaration. Dato' Ch'ng then appealed to the High Court against the Sessions Court's decision, and on 28 November 2016, the High Court dismissed the appeal. The defence then filed an appeal to the Court of Appeal against the decision of the High Court and an application to stay the trial pending the disposal of the appeal. The Court of Appeal has fixed 13 April 2017 to hear the appeal. In the meantime, the Court of Appeal has allowed a stay of the trial until the disposal of the appeal on the issue of fitness to be tried.

##### PP v Alan Rajendram Jeya Rajendram and Eswaramoorthy Pillay Amuther

Alan Rajendram was charged on 24 June 2010 with two counts of criminal breach of trust (CBT) under section 409 of the *Penal Code*. The CBT alleged involved the use of RM9 million and RM9.9 million of LFE's monies which were alleged to have been committed on 4, 11 and 16 January 2007. Eswaramoorthy Pillay was charged on 29 June 2010 with two counts of abetting Alan Rajendram to commit the CBT offences. At the end of the Prosecution's case, the Sessions Court acquitted Alan Rajendram and Eswaramoorthy Pillay. The Prosecution had then appealed to the High Court which on 21 January 2016, affirmed the acquittals by the Sessions Court. The Prosecution then appealed to the Court of Appeal. On 3 November 2016, the Court of Appeal overturned the acquittal and ordered Alan Rajendram to enter his defence on the CBT charges. The case was reverted to the Sessions Court and the defence case is fixed for 20 April 2017. The Court of Appeal however affirmed the acquittal of Eswaramoorthy Pillay.

#### February 2017

##### PP v Lim Kim Ming, Lim Kim Hai, Lee Sin Teck and Tan Siok Wan

In April and May 2007, SC charged Lim Kim Ming, Lim Kim Hai, Lee Sin Teck and Tan Siok Wan, former directors of GP Ocean Food Bhd (GP Ocean) for submitting misleading information to SC in connection with GP Ocean's proposal for listing on the Main Board of Bursa Malaysia Securities Bhd. On 6 January 2011, the Sessions Court acquitted the accused persons at the end of the Prosecution case. The SC then filed an appeal to the High Court against the acquittal and on 14 February 2017, the High Court reversed the acquittal and ordered the accused persons to enter their defence.

The case is now fixed for trial in the Sessions Court in October and November 2017.

## Federal Court

### January 2017

#### PP v Dato' Sreesanthan Eliathamby

On 20 July 2012, the SC charged Dato' Sreesanthan Eliathamby with seven counts of insider trading. On 20 December 2012, the Sessions Court allowed the accused's application to refer various constitutional issues for determination by the High Court and stayed the trial pending the determination of the said issues. On 27 November 2013, the High Court ruled in SC's favour and dismissed the accused's application to strike out the charges against him. The accused filed an appeal to the Court of Appeal against the decision of the High Court. On 16 January 2017, the Federal Court remitted the matter to the High Court to determine whether there are any constitutional questions to be referred to the Federal Court for determination in accordance with the decision of the Federal Court in *Gan Boon Aun v Public Prosecutor* [2016] 4 MLJ 265. The Federal Court also set aside the decision of the High Court dated 27 November 2013 which had determined the constitutional issues raised earlier. The High Court has fixed 31 March 2017 for hearing as to whether there are any constitutional questions to be referred to the Federal Court under section 84 of the *Courts of Judicature Act 1964*.

### March 2017

#### PP v Gan Boon Aun

In July 2007, Gan Boon Aun, former Chief Executive Officer of Transmile Group Bhd (Transmile), and Khiudin Mohd, former Executive Director of Transmile, were charged before the Sessions Court under section 86(b) read together with section 122C(c) of the SIA for abetting Transmile in making a statement that was misleading in a material particular relating to Transmile's revenue in the company's Quarterly Report on Unaudited Consolidated Results for the Financial Year ended 31 December 2006. An alternative charge was also preferred against both of them under section 122B (a)(bb) read together with section 122(1) of the SIA for furnishing a misleading statement to Bursa Malaysia Securities Bhd in the same financial statement.

In March 2011, the Sessions Court ordered Gan and Khiudin to enter their defence on the alternative charge. In June 2011, both the accused filed an application in the High Court to challenge the validity of section 122(1) of the SIA. In November 2011, the High Court upheld the challenge and ruled that the provision was unconstitutional. The SC then filed an appeal to the Court of Appeal against the decision of the High Court. On 28 September 2015, the Court of Appeal overturned the decision of the High Court and held the provision to be valid and constitutional. The parties' submissions on the constitutional questions were heard by the Federal Court on 30 August 2016, 22 September 2016 and 17 October 2016. On 15 March 2017, the Federal Court upheld the validity of section 122(1) of the SIA and Gan was called to enter his defence on the alternative charge. The grounds of judgment of the Federal Court are available at <http://www.kehakiman.gov.my/directory/judgment/file/06-2-05-2016.pdf>

## Civil Trials

### October 2016

#### Securities Commission Malaysia v Chan Soon Huat

In May 2015, SC filed a civil suit against Chan Soon Huat (Chan) at the Kuala Lumpur High Court for insider trading in the shares of WCT Bhd (WCT). The SC alleged that Chan had breached the insider trading provision under the CMSA by disposing a total of 2,414,600 shares and 1,236,700 warrants in WCT between 30 December 2008 and 5 January 2009 while in possession of material non-public information. The trades were said to have been made in his account and the accounts of two other individuals, namely, Chan Choon Chew and Leong Weng Wah.

In its suit, SC alleged that the material non-public information related to the cancellation of a contract for the proposed construction of the Nad Al Sheba Dubai Racecourse in Dubai, United Arab Emirates which was awarded to a joint-venture company set up by WCT and one Arabtec Construction L.L.C. The announcement relating to the material information was only made public on 6 January 2009. The SC is seeking disgorgement of three times the losses avoided by the defendant from the insider trading. The SC is also claiming for a civil penalty of RM1 million from the defendant and for him to be barred from being a director of any PLC for a period of 5 years. Trial against Chan continued in October 2016 and January 2017. The trial is scheduled to continue in April 2017.

#### Securities Commission Malaysia v Lim Chiew

In August 2005, SC filed a civil suit against Lim Chiew at the Kuala Lumpur High Court for insider trading in the shares of Bolton Bhd (Bolton). The SC alleged that Lim had breached the insider trading provisions under section 89E(2) of the SIA by acquiring 590,000 shares of Bolton on 12 July 1999.

Lim who was at the material time, an independent non-executive director of Magnum Corporation Bhd (Magnum), is alleged to have possessed the inside information relating to the proposed disposal of Magnum to Bolton. The SC is seeking disgorgement of three times the profit gained by him from the insider trading. The SC is also claiming for a civil penalty of an amount not more than RM500,000. Trial against Lim commenced in October 2016 and continued in March 2017.

### November 2016

#### Securities Commission Malaysia v Aeneas Capital Management L.P. and eight others

In April 2008, SC filed a civil suit against Aeneas Capital Management L.P. and eight others at the Kuala Lumpur High Court for manipulation, market rigging and fraud of Iris Corporation Bhd (Iris) shares. The civil suit is against eight foreign defendants and a local individual.

The SC is seeking the following:

- A declaration that all defendants conspired to manipulate the market and share price of Iris, and defrauded investors;
- A declaration that all profits earned by the defendants are held in constructive trust for the benefit of the affected investors;
- An order that all assets and properties of each of the defendant be traced and followed, and then paid to SC for the purpose of compensating the affected investors;
- A permanent injunction to restrain each of the defendant from trading in Iris shares;
- A permanent injunction to restrain each of the defendant from trading in any counter on Bursa Malaysia or MESDAQ; and
- General and exemplary damages.

The trial against the defendants commenced and completed in November 2016. The Kuala Lumpur High Court is yet to set a date to deliver its decision.

#### Securities Commission Malaysia v RBTR Asset Management and seven others

In February 2013, SC filed a civil suit at the Kuala Lumpur High Court against RBTR Asset Management (RBTR) and seven other defendants for various breaches of securities laws which include breaching the *Guidelines on Compliance Function for Fund Managers*, fraudulently inducing persons to deal in securities and carrying out a regulated activity without licence.

The SC is seeking, among others:

- An order that the defendants make restitution of RM13.35 million to the Euro Deposit Investment (EDI) scheme investors who had not been repaid their investments;
- An order that the defendants' assets be traced and paid over to SC for purposes of compensating the EDI scheme investors;
- An order that two of the defendants, Al Alim Mohd Ibrahim and Valentine Khoo be barred from being a director of any PLC for a period of 10 years.

The trial against the defendants commenced in November 2016 and continued in December 2016 and February 2017. The trial is scheduled to continue in April 2017.

## February 2017

### Securities Commission Malaysia v Goh Ching Liong and Leong Ah Chai

In May 2015, SC filed a civil suit against Goh Ching Liong and Leong Ah Chai at the Kuala Lumpur High Court for insider trading in the shares of WCT Bhd (WCT). The SC alleged that Leong had breached the insider trading provisions under the CMSA by disposing a total of 1,640,000 shares in WCT between 2 January 2009 and 5 January 2009 while in possession of material non-public information. Goh, who at the material time was and still is currently the Deputy Managing Director of WCT is alleged to have communicated the material non-public information, in breach of section 188(3) of the CMSA, to Leong who thereafter disposed the said WCT shares.

In its suit, SC alleged that the material non-public information related to the cancellation of a contract for the proposed construction of the Nad Al Sheba Dubai Racecourse in Dubai, United Arab Emirates which was awarded to a joint-venture company set up by WCT and one Arabtec Construction L.L.C. The announcement relating to the material information was only made public on 6 January 2009. The SC is seeking disgorgement from both defendants, three times the losses avoided by Leong from the insider trading. The SC is also claiming for a civil penalty of RM1 million from each of the defendant, and for them to be barred from being a director of any PLC for a period of five years. Trial against Goh and Leong commenced in February 2017 and continued in March 2017. The trial is scheduled to continue in April, July and October 2017.

### Securities Commission Malaysia v Dato' Sreesanthan Eliathamby

In October 2016, SC filed a civil suit against Dato' Sreesanthan at the Kuala Lumpur High Court for insider trading in the shares of Worldwide Holdings Bhd (Worldwide). The SC alleged that Dato' Sreesanthan had breached the insider trading provisions under the CMSA by acquiring a total of 600,000 of Worldwide shares between 7 June 2006 and 11 July 2006, while in possession of material non-public information. In its suit, the SC alleged that the material non-public information related to a proposed privatisation of Worldwide by way of a member's scheme of arrangement under section 176 of the *Companies Act 1965* undertaken by Perbadanan Kemajuan Negeri Selangor. On 23 August 2006, Worldwide announced the proposed privatisation to Bursa Malaysia. The SC is seeking, among others, a disgorgement of RM1,989,402, which is three times the profits alleged to have been made by the defendant as a result of the breach, a civil penalty of RM1 million and an order to bar the defendant from being appointed as a director in any PLC for a period of 10 years. Dato' Sreesanthan had filed a stay of the proceedings in this civil suit pending the determination of the criminal prosecution against him for seven counts of insider trading in four other securities of PLCs. The application was heard by the High Court on 8 February 2017 and the decision is fixed for 12 May 2017.

## Criminal Prosecutions and Civil Actions – Ongoing Trial Calendar

| Trial date        | Accused/<br>Defendants             | Offence  |
|-------------------|------------------------------------|--|
| <b>APRIL 2017</b> |                                    |  |
| 3–5               | Dato' Goh Hock Choy                | <ul style="list-style-type: none"> <li>• s. 84(1) SIA 1983</li> </ul>  |
| 17–19             | Siow Chung Peng                    | <ul style="list-style-type: none"> <li>• s. 84(1) rtw s.122C(c) SIA 1983</li> </ul>  |
| 3-6               | Goh Ching Liong                    | <ul style="list-style-type: none"> <li>• s. 188(3)(a) CMSA 2007</li> </ul>   |
|                   | Leong Ah Chai                      | <ul style="list-style-type: none"> <li>• s. 188(2)(a) CMSA 2007</li> </ul>   |
| 6-7               | Dato' Jackson Tan Han Kook         | <ul style="list-style-type: none"> <li>• s. 369(b)(B) CMSA 2007</li> </ul>   |
|                   | Derec Ching Siew Cheong            | <ul style="list-style-type: none"> <li>• s. 369(b)(B) CMSA 2007</li> </ul>   |
| 7                 | Lee Lin Thai                       | <ul style="list-style-type: none"> <li>• s. 188(2)(a) CMSA 2007</li> </ul>   |
| 24–26             |                                    |  |
| 10–11             | RBTR Asset Management Bhd          | <ul style="list-style-type: none"> <li>• s. 360 CMSA 2007</li> </ul>   |
|                   | Al-Alim Mohd Ibrahim               | <ul style="list-style-type: none"> <li>• s. 360 CMSA 2007</li> </ul>   |
|                   | Valentine Khoo                     | <ul style="list-style-type: none"> <li>• s. 360 CMSA 2007</li> </ul>   |
|                   | Locke Guaranty Trust (NZ) Ltd      | <ul style="list-style-type: none"> <li>• s. 87(1) SIA 1983/ s. 178(1) CMSA 2007</li> <li>• s. 15A SIA 1983/ s. 58 CMSA 2007</li> <li>• s. 15B SIA 1983/ s. 59 CMSA 2007</li> </ul> |
|                   | Locke Capital Investment (BVI) Ltd | <ul style="list-style-type: none"> <li>• s. 87(1) SIA 1983/ s. 178(1) CMSA 2007</li> <li>• s. 15A SIA 1983/ s. 58 CMSA 2007</li> <li>• s. 15B SIA 1983/ s. 59 CMSA 2007</li> </ul> |
|                   | Isaac Paul Ratnam                  | <ul style="list-style-type: none"> <li>• s. 87(1) SIA 1983/ s. 178(1) CMSA 2007</li> <li>• s. 15A SIA 1983/ s. 58 CMSA 2007</li> <li>• s. 15B SIA 1983/ s. 59 CMSA 2007</li> </ul> |
|                   | Joseph Lee Chee Hock               | <ul style="list-style-type: none"> <li>• s. 87(1) SIA 1983/ s. 178(1) CMSA 2007</li> <li>• s. 15A SIA 1983/ s. 58 CMSA 2007</li> <li>• s. 15B SIA 1983/ s. 59 CMSA 2007</li> </ul> |
|                   | Nicholas Chan Weng Sun             | <ul style="list-style-type: none"> <li>• s. 87(1) SIA 1983/ s. 178(1) CMSA 2007</li> <li>• s. 15A SIA 1983/ s. 58 CMSA 2007</li> <li>• s. 15B SIA 1983/ s. 59 CMSA 2007</li> </ul> |
|                   | Koh Tee Jin                        | <ul style="list-style-type: none"> <li>• s. 122B(b)(bb) SIA 1983</li> <li>• s. 369(b)(B) CMSA 2007</li> </ul>  |
|                   | Lee Han Boon                       | <ul style="list-style-type: none"> <li>• s. 122B(b)(bb) SIA 1983</li> <li>• s. 369(b)(B) CMSA 2007</li> </ul>  |
|                   | Saipuddin Lim                      | <ul style="list-style-type: none"> <li>• s. 122B(b)(bb) SIA 1983</li> <li>• s. 369(b)(B) CMSA 2007</li> </ul>  |
|                   | Lee Koon Huat                      | <ul style="list-style-type: none"> <li>• s. 122C(c) rtw s. 122B(b)(bb) SIA 1983</li> </ul>   |
|                   | 10-14                              | Chan Soon Huat   |
| 12-13             | Dato' Ch'ng Poh @ Ch'ng Chong Poh  | <ul style="list-style-type: none"> <li>• s. 188(2)(a) CMSA 2007</li> </ul>   |

| Trial date          | Accused/<br>Defendants            | Offence                                  |
|---------------------|-----------------------------------|--|
| <b>APRIL 2017</b>   |                                   |  |
| 14                  | Cheng Seng Chow                   | • s. 370(c) r.t.w s. 188(2)(a) CMSA 2007 |
| 28                  | Chang Sze Yeng                    | • s. 370(c) r.t.w s. 188(2)(a) CMSA 2007 |
|                     | Tan Swee Hock                     | • s. 188(2)(a) CMSA 2007                 |
| 17–18               | Tiong Kiong Choon                 | • s. 188(2)(a) CMSA 2007                 |
|                     | Dato' Seri Thai Kim Sim           | • s. 188(3)(a) CMSA 2007                 |
| 17–19               | Chong Yuk Ming                    | • s. 232(1) CMSA 2007                    |
|                     | Balachandran A. Shanmugam         | • s. 232(1) CMSA 2007                    |
| 19<br>24–26         | Mohd Adam                         | • S.122B SIA 1983                        |
| 20–21               | Lim Kim Chuan                     | • s. 188(2)(a) CMSA 2007                 |
|                     | Tay Hup Choon                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007   |
|                     | Theng Boon Cheng @ Tan Boon Cheng | • s. 370(c) rtw s. 188(2)(a) CMSA 2007   |
|                     | Alan Rajendram Jeya Rajendram     | • s. 409 <i>Penal Code</i>               |
| 21                  | Fang Siew Yee                     | • s. 188(2)(a) CMSA 2007                 |
|                     | Fang Chew Ham                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007   |
|                     | Tan Bee Geok                      | • s. 370(c) rtw s. 188(2)(a) CMSA 2007   |
|                     | Chew Lian Foon                    | • s. 370(c) rtw s. 188(2)(a) CMSA 2007   |
|                     | Ong Kok Aun                       | • s. 370(c) rtw s. 188(2)(a) CMSA 2007   |
|                     | Tiong Kiong Choon                 | • s. 188(2)(a) CMSA 2007                 |
|                     | Dato' Seri Thai Kim Sim           | • s. 188(3)(a) CMSA 2007                 |
| 24–28               | Alan Rajendram (Linear)           | • s. 369(b)(B) CMSA 2007                 |
| 24–27               | Fong Chiew Hean                   | • s. 188(2)(a) CMSA 2007                 |
|                     | Fang Siew Yee                     | • s. 188(3)(a) CMSA 2007                 |
|                     | Fang Chew Ham                     | • s. 188(3)(a) CMSA 2007                 |
| <b>MAY 2017</b>     |                                   |  |
| 2–3                 | Yeow Kheng Chew*                  | • s. 188(2)(a) CMSA 2007                 |
| 25–26               | Paulene Chee Yuet Fang*           | • s. 370(c) rtw s. 188(2)(a) CMSA 2007   |
| 29–31               | Tan Yee Chee*                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007   |
| 2–3<br>8–9          | Alan Rajendram (LFE)              | • s. 409 <i>Penal Code</i>               |
| 4–5                 | Tiong Kiong Choon                 | • s. 188(2)(a) CMSA 2007                 |
|                     | Dato' Seri Thai Kim Sim           | • s. 188(3)(a) CMSA 2007                 |
| 4<br>15–17<br>22–23 | Lee Lin Thai                      | • s. 188(2)(a) CMSA 2007                 |

\* All charges against these individuals were withdrawn on the instructions of the Attorney-General on 20 July 2017. On 26 July 2017, SC filed a civil suit against these individuals. On 15 August 2017, the High Court recorded a consent judgment between SC and the individuals granting the orders sought by the SC.

| Trial date            | Accused/<br>Defendants            | Offence   |
|-----------------------|-----------------------------------|---|
| <b>MAY 2017</b>       |                                   |   |
| 5                     | Fang Siew Yee                     | • s. 188(2)(a) CMSA 2007                              |
| 19                    | Fang Chew Ham                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
|                       | Tan Bee Geok                      | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
|                       | Chew Lian Foon                    | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
|                       | Ong Kok Aun                       | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
|                       |                                   |   |
| 8–9<br>11–12<br>18–19 | Ramesh Rajaratnam                 | • s. 188(2)(a) CMSA 2007                              |
| 15–18                 | Dato' Jackson Tan Han Kook        | • s. 369(b)(B) CMSA 2007                              |
|                       | Derec Ching Siew Cheong           | • s. 369(b)(B) CMSA 2007                              |
| 15–18                 | Alice Poh Gaik Lye                | • s. 87A(a) SIA 1983                                  |
|                       | Goh Bak Ming                      | • s. 87A(a) rtw s.122B(c) SIA 1983                    |
| 15–16                 | Koh Tee Jin                       | • s. 122B(b)(bb) SIA 1983<br>• s. 369(b)(B) CMSA 2007 |
|                       | Lee Han Boon                      | • s. 122B(b)(bb) SIA 1983<br>• s. 369(b)(B) CMSA 2007 |
|                       | Saipuddin Lim                     | • s. 122B(b)(bb) SIA 1983<br>• s. 369(b)(B) CMSA 2007 |
|                       | Lee Koon Huat                     | • s. 122C(c) rtw s. 122B(b)(bb) SIA 1983              |
| 17–18                 | Dato' Goh Hock Choy               | • s. 84(1) SIA 1983                                   |
|                       | Siow Chung Peng                   | • s. 84(1) rtw s.122C(c) SIA 1983                     |
| 19                    | Cheng Seng Chow                   | • s. 370(c) r.t.w s. 188(2)(a) CMSA 2007              |
|                       | Chang Sze Yeng                    | • s. 370(c) r.t.w s. 188(2)(a) CMSA 2007              |
|                       | Tan Swee Hock                     | • s. 188(2)(a) CMSA 2007                              |
| 24–25                 | Dato' Ch'ng Poh @ Ch'ng Chong Poh | • s. 188(2)(a) CMSA 2007                              |
| <b>JUNE 2017</b>      |                                   |   |
| 1–2                   | Tan Bee Hong                      | • s. 188(2)(a) CMSA 2007                              |
| 5–9                   | Datin Seri Tan Bee Geok           | • s. 188(3)(a) CMSA 2007                              |
| 1–2                   | Fang Siew Yee                     | • s. 188(2)(a) CMSA 2007                              |
|                       | Fang Chew Ham                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
|                       | Tan Bee Geok                      | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
|                       | Chew Lian Foon                    | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
|                       | Ong Kok Aun                       | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
| 5–7                   | Yeow Kheng Chew*                  | • s. 188(2)(a) CMSA 2007                              |
|                       | Paulene Chee Yuet Fang*           | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
|                       | Tan Yee Chee*                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |

\* All charges against these individuals were withdrawn on the instructions of the Attorney-General on 20 July 2017. On 26 July 2017, SC filed a civil suit against these individuals. On 15 August 2017, the High Court recorded a consent judgment between SC and the individuals granting the orders sought by the SC.

| Trial date       | Accused/ Defendants               | Offence   |
|------------------|-----------------------------------|---|
| <b>JUNE 2017</b> |                                   |   |
| 5–7              | Alice Poh Gaik Lye                | • s. 87A(a) SIA 1983                                  |
| 14–15            | Goh Bak Ming                      | • s. 87A(a) rtw s.122B(c) SIA 1983                    |
| 8                | Ramesh Rajaratnam                 | • s. 188(2)(a) CMSA 2007                              |
| 13–14            | Fong Chiew Hean                   | • s. 188(2)(a) CMSA 2007                              |
|                  | Fang Siew Yee                     | • s. 188(3)(a) CMSA 2007                              |
|                  | Fang Chew Ham                     | • s. 188(3)(a) CMSA 2007                              |
| 13–14            | Koh Tee Jin                       | • s. 122B(b)(bb) SIA 1983<br>• s. 369(b)(B) CMSA 2007 |
|                  | Lee Han Boon                      | • s. 122B(b)(bb) SIA 1983<br>• s. 369(b)(B) CMSA 2007 |
|                  | Saipuddin Lim                     | • s. 122B(b)(bb) SIA 1983<br>• s. 369(b)(B) CMSA 2007 |
|                  | Lee Koon Huat                     | • s. 122C(c) rtw s. 122B(b)(bb) SIA 1983              |
| 15–16            | Lim Kim Chuan                     | • s. 188(2)(a) CMSA 2007                              |
|                  | Tay Hup Choon                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
|                  | Theng Boon Cheng @ Tan Boon Cheng | • s. 370(c) rtw s. 188(2)(a) CMSA 2007                |
| 19–20            | Lee Lin Thai                      | • s. 188(2)(a) CMSA 2007                              |
| 19–22            | Chong Yuk Ming                    | • s. 232(1) CMSA 2007                                 |
|                  | Balachandran A. Shanmugam         | • s. 232(1) CMSA 2007                                 |
| 19–22            | Cheng Seng Chow                   | • s. 370(c) r.t.w s. 188(2)(a) CMSA 2007              |
|                  | Chang Sze Yeng                    | • s. 370(c) r.t.w s. 188(2)(a) CMSA 2007              |
|                  | Tan Swee Hock                     | • s. 188(2)(a) CMSA 2007                              |
| <b>JULY 2017</b> |                                   |   |
| 10–12            | Koh Tee Jin                       | • s. 122B(b)(bb) SIA 1983<br>• s. 369(b)(B) CMSA 2007 |
|                  | Lee Han Boon                      | • s. 122B(b)(bb) SIA 1983<br>• s. 369(b)(B) CMSA 2007 |
| 17–19            | Saipuddin Lim                     | • s. 122B(b)(bb) SIA 1983<br>• s. 369(b)(B) CMSA 2007 |
|                  | Lee Koon Huat                     | • s. 122C(c) rtw s. 122B(b)(bb) SIA 1983              |
| 12–13            | Fong Chiew Hean                   | • s. 188(2)(a) CMSA 2007                              |
|                  | Fang Siew Yee                     | • s. 188(3)(a) CMSA 2007                              |
|                  | Fang Chew Ham                     | • s. 188(3)(a) CMSA 2007a                             |
| 12–13            | Alice Poh Gaik Lye                | • s. 87A(a) SIA 1983                                  |
| 18–20            | Goh Bak Ming                      | • s. 87A(a) rtw s.122B(c) SIA 1983                    |
| 14               | Cheng Seng Chow                   | • s. 370(c) r.t.w s. 188(2)(a) CMSA 2007              |
| 21               | Chang Sze Yeng                    | • s. 370(c) r.t.w s. 188(2)(a) CMSA 2007              |
|                  | Tan Swee Hock                     | • s. 188(2)(a) CMSA 2007                              |

| Trial date         | Accused/<br>Defendants            | Offence   |
|--------------------|-----------------------------------|---|
| <b>JULY 2017</b>   |                                   |   |
| 21                 | Fang Siew Yee                     | • s. 188(2)(a) CMSA 2007                          |
| 28                 | Fang Chew Ham                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Tan Bee Geok                      | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Chew Lian Foon                    | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Ong Kok Aun                       | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
| 24–25              | Lim Kim Chuan                     | • s. 188(2)(a) CMSA 2007                          |
|                    | Tay Hup Choon                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Theng Boon Cheng @ Tan Boon Cheng | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
| 26–27              | Datuk Ishak Ismail                | • s. 177(b) CMSA 2007<br>• s. 188(2)(a) CMSA 2007 |
| <b>AUGUST 2017</b> |                                   |   |
| 1–3                | Lim Kim Chuan                     | • s. 188(2)(a) CMSA 2007                          |
|                    | Tay Hup Choon                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Theng Boon Cheng @ Tan Boon Cheng | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
| 2–4                | Datuk Ishak Ismail                | • s. 177(b) CMSA 2007<br>• s. 188(2)(a) CMSA 2007 |
| 7–9                | Fong Chiew Hean                   | • s. 188(2)(a) CMSA 2007                          |
|                    | Fang Siew Yee                     | • s. 188(3)(a) CMSA 2007                          |
|                    | Fang Chew Ham                     | • s. 188(3)(a) CMSA 2007                          |
| 14–17              | Tan Swee Hock                     | • s. 188(2)(a) CMSA 2007                          |
|                    | Chan Sze Yeng                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Cheng Seng Chow                   | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
| 22–24              | Fang Siew Yee                     | • s. 188(2)(a) CMSA 2007                          |
|                    | Fang Chew Ham                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Tan Bee Geok                      | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Chew Lian Foon                    | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Ong Kok Aun                       | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
| 18–30              | Yeow Kheng Chew*                  | • s. 188(2)(a) CMSA 2007                          |
|                    | Paulene Chee Yuet Fang*           | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |
|                    | Tan Yee Chee*                     | • s. 370(c) rtw s. 188(2)(a) CMSA 2007            |

\* All charges against these individuals were withdrawn on the instructions of the Attorney-General on 20 July 2017. On 26 July 2017, SC filed a civil suit against these individuals. On 15 August 2017, the High Court recorded a consent judgment between SC and the individuals granting the orders sought by the SC.



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