

# The Reporter

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## Executive Summary

Raising Awareness  
on Investment Scams;  
Enhancing CG Initiatives;  
and Alternative Fundraising  
and Investing through  
SPACs

The Securities Commission Malaysia (SC) continuously strives to safeguard the interests of investors. Through its gate-keeping and rule-making functions, the SC hopes to promote good conduct and governance among capital market intermediaries and listed corporations. In an effort to modernise and encourage a more dynamic capital market, the SC also endeavours to provide robust and flexible regulatory frameworks to facilitate alternative methods of capital-raising and investment opportunities.

In recent times, there has been a great deal of concern about the rising number of scams and unlicensed activities in the capital market. The first article in this issue of *The Reporter* seeks to alert investors of the different types of scams (including investment scams) and unlicensed activities that the SC has observed of late, and expose the tactics or *modus operandi* used to prey on investors. The article also sets out the measures taken by the SC to address such concerns.

The second article serves to highlight the SC's efforts and progress in its corporate governance initiatives since 2017 and provides a glimpse into corporate governance initiatives that have been prioritised and implemented for the benefit of investors as well as companies which are listed corporations and capital market intermediaries.

In line with the growing popularity of special purpose acquisition companies (SPACs) in various foreign securities markets, the third article explains how SPACs generally work and delves into the regulatory framework for SPACs in Malaysia as well as associated inherent risks and considerations investors should note before investing in SPACs. The article also features the SC's observations on the application of the framework since it was first introduced in 2009 and the purpose for the revisions in 2021.

Please share with us your comments, feedback or ideas for future editions via email to the Editorial Team at [reporter@seccom.com.my](mailto:reporter@seccom.com.my).

## Contents

<b>Investment Scams and Unlicensed Activities</b>	<b>2</b>
<b>The SC's Corporate Governance Initiatives</b>	<b>16</b>
<b>Understanding Special Purpose Acquisition Companies and Their Inherent Risks</b>	<b>21</b>
<b>Enforcement, Administrative and Supervisory Actions</b>	<b>32</b>
<b>Criminal Prosecutions and Outcomes, Civil Enforcement and Regulatory Settlements</b>	<b>34</b>
<b>Administrative Actions and Supervisory Engagements</b>	<b>43</b>

# Investment Scams and Unlicensed Activities

## Introduction

In recent times, more and more people have had the unpleasant experience of being told, “You’ve been scammed!”. This article seeks to alert investors against dealing with unlicensed persons and educate investors on how to identify scams, besides sharing the latest common *modus operandi* employed by the scammers.

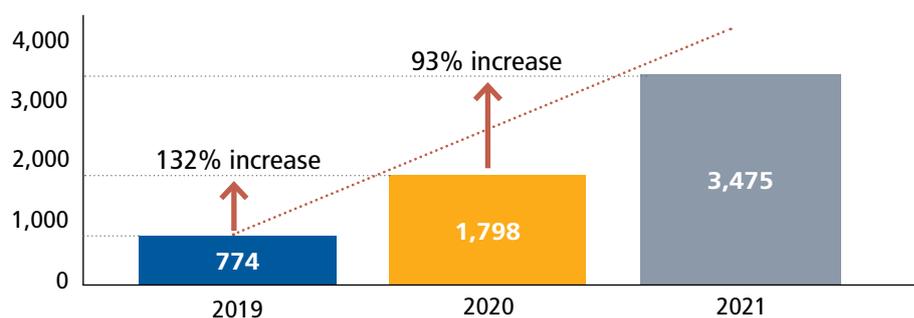
## Growing Trends

The SC has in recent years, and particularly since the COVID-19 pandemic, received an increasing number of complaints and enquiries on scams and unlicensed activities.

In 2021, the SC received 3,475 complaints and enquiries on scams and unlicensed activities.<sup>1</sup> This represents an increase of 93% from 2020 to 2021, and a huge 132% increase from 2019 to 2020<sup>2</sup>.

Chart 1

Number of Complaints and Enquiries Received on Scams and Unlicensed Activities



Complaints and enquiries related to scams and unlicensed activities from 2019 to 2021 represent about 50% or more of the total complaints and enquiries received by the SC in each of these years.

<sup>1</sup> SC Annual Report 2021 – <https://www.sc.com.my/annual-report-2021>.

<sup>2</sup> SC Annual Report 2019 – <https://www.sc.com.my/resources/publications-and-research/sc-ar2019>.

## Categories/Types of Complaints Received

The types of complaints and enquiries received by the SC from the public under this category can be broadly grouped as follows:

- a **Scams** – These would include investment scams involving the promotion of fake investment products; and
- b **Unlicensed activities** – These would entail persons carrying on the business of regulated activities without a licence or being registered with the SC.

### a. Scams

There are various types of known scams perpetrated in Malaysia. Examples of such scams include those relating to e-commerce, purported loans, employment and investments opportunities, tax matters, and catphishing.

These scams are commonly promoted online through social media channels such as Facebook, Instagram, Telegram, WhatsApp, and various dating apps.

In most instances, the scams are perpetrated by the scammers using mule bank accounts. A mule bank account is a bank account belonging to an individual or company that allows his or its bank account to be used and controlled by others, usually for a small fee. The account holders will typically hand over their automatic teller machine (ATM) card and pin number or provide their online banking security details to another person, who may be the middleman to the scammers. The bank account will then be used by the scammers to receive, transfer and transact funds acquired illegally<sup>3</sup>.



### Investment Scams

The SC is one of the authorities concerned with and responsible for handling investment-related scams as they may involve one or more potential breaches of securities laws which are administered by the SC.

<sup>3</sup> The Commercial Crime Investigation Department (CCID) of the Royal Malaysia Police has set up a portal (<https://semakmule.rmp.gov.my/>) where members of the public can search a bank account or telephone number that has been reported to the police for possible scam.

Investment scams involve the promotion of non-existent investment products. This occurs where scammers make false claims that the investment will be made into capital market products such as shares or cryptocurrencies, when in fact there are no such investment opportunities or products.

The fraudulent investment would, in most cases, offer unusually extraordinary returns. In this regard, it is not uncommon, for example, for such investment schemes to promise up to 1,000% returns within 24 hours or even within a few hours.

Investment scams are usually designed to also offer various investment packages which can start from as low as RM300 to about RM1,000 only. In addition to the offer being seemingly legitimate, the low investment entry enables the scammers to defraud a wider pool of potential victims, including those from the low-income bracket. Further, given that the investment would generally be seen to be less risky with their relatively small investment amount, the target victims may unfortunately also tend to be less risk averse.

An interested person may be asked to click on a WhatsApp link in a Facebook advertisement. This will redirect the target victim to communicate with an 'agent' or 'broker' via WhatsApp. In the case of Telegram, those interested may be asked to click on a link that will redirect them from the public Telegram group to an 'admin' within the app.

The 'agent', 'broker', or 'admin' who is a scammer will then entice and persuade the victim to invest in the scheme by sharing untrue information and making false promises. In doing so, the scammers may use the following tactics to deceive the victims:

- a Misuse of the SC, Bank Negara Malaysia (BNM) or other authorities' name and logo on their promotional materials;
- b Provide false certificates purportedly issued by the SC or BNM stating that their investment company is authorised or licensed by the authorities;
- c Claim that the investment is 'Shariah-compliant'. This is to make the investment appear legitimate and to appeal to Muslims. Sometimes the postings of such scams are accompanied by pictures and fake testimonies of well-known Malaysian religious personalities;

“...given that the investment would generally be seen to be less risky with their relatively small investment amount, the target victims may unfortunately also tend to be less risk averse.”



Tactics commonly used by scammers posing as "agents"

- d Use fake testimonies of past successful investors with accompanying pictures of expensive items (e.g. gold, designer bags, luxury cars or smartphones) that were allegedly purchased from the profits that they had purportedly generated from the investment;
- e Provide victims with 'profits' for their initial investments and lure them to make subsequent investments with higher capital.

Once the victim decides to invest, the scammer will provide details of a mule bank account for the investment to be made into and notify the victim very soon thereafter that his investment has made a 'profit'. However, when the victim decides to withdraw the 'profits', the victim will be asked to make further payments disguised as BNM charges, income tax charges, administrative fees, upfront deposits, etc. The victim would typically then be asked to make such further payments through a different mule bank account.

Normally, the victims will realise that they have been scammed when something is amiss i.e. when the victim does not receive any returns despite making a number of payments to different bank accounts. By this time, the scammer would have successfully made off with a decent sum of money.

The SC's investigations show that the monies in the mule bank accounts will be transacted almost immediately after being deposited. The deposited sum is either withdrawn or transferred out to other mule bank accounts. The purpose for the transfer will usually be described as not related to any investment to avoid suspicion e.g. remarks will be made of famous brand and merchandise names, etc. Also, it is notable that most of the mule bank accounts will only be used by the scammers for a short span of time (a few months at most) and after that, the account will either be closed or left inactive. This is a deliberate tactic to impede or frustrate the successful tracing of the money trail or investigations by the authorities.

# MODUS OPERANDI

1.



## PROMOTION THROUGH SOCIAL MEDIA

Most of these scams are proliferated by bait advertisement through social media, which promise high returns with little to no risk.

2.



## REDIRECTED TO CONTACT AGENT

Upon clicking on such advertisement, the victims would be redirected to contact the agent through WhatsApp or Telegram.

3.



## AGENT

Victims would be introduced to investment schemes where the agent would make overblown promises of lucrative profits. The agent would typically share fictitious or forged documents containing a regulator's name and logo in order to lend credence to the scheme.

4.



## TRADER/BROKER

The agent would then provide the victim with the trader's/broker's bank account details where the investment sum would need to be deposited into.

5.



## ADDITIONAL PAYMENTS TO WITHDRAW "PROFITS"

Victims are then requested to pay more money guised as tax payment, currency conversion fee, or even regulator's fee or penalty in order to withdraw the alleged investment profits.

# Red Flags of Investment Scams

1



Illegal investment schemes are advertised via social media platforms like Facebook, WhatsApp and Telegram

2



Investors are lured with lucrative investment packages, e.g. "Basic, Silver, Gold and Platinum" promising very attractive and risk-free returns within a short span of time

3



Use of fake testimonies from "successful investors" and photos of luxury items such as gold, designer bags, fancy cars or even money stacks to lure investors

4



Scammers use high pressure tactics and "once in a lifetime deal" to lure investors to act immediately

5



Request for money to be deposited into a personal bank account

6



Scammers become defensive when addressing the victims concerns/doubts.

7



Scammers may impersonate or clone licensed capital market intermediaries by using names, logos, credentials, websites and other details of legitimate entities to promote the illegal scheme

8



Get victims to part with more money on the pretext of "advance fee" such as "processing fees", "currency conversion fee" or "tax payment"

9



Use of forged certificates and documents from local and foreign authorities

## Clone Firm Scams

There have also been cases where investment scams were perpetrated by the scammers impersonating:

- a The SC's licensed or registered intermediaries;
- b Legitimate entities licensed or authorised by other local or foreign authorities/regulators; or
- c Companies incorporated locally or overseas.

These types of scams are known as clone firm scams. Their *modus operandi* is similar to investment scams, with the additional feature of the scammer impersonating a legitimate entity to lend credence to their illegal enterprise.

If a fraudulent company wants to set itself up to look like a capital market intermediary that is licensed by or registered with the SC, the fraudsters will use the names, logos, credentials, websites, and other details of a legitimate capital market intermediary to promote bogus investment schemes via social media channels, promising extraordinarily high returns with minimal to no risks.

**LATEST SCAM**

# BEWARE OF CLONE FIRM SCAMS

**Suruhanjaya Sekuriti**  
Securities Commission  
Malaysia

**invest smart**  
A Securities Commission Malaysia Initiative

## HOW DO THEY OPERATE?

-  **Pose** as representatives of **firms licensed by or registered with the SC** using lookalike firm names and
-  Promote bogus investment schemes with **extraordinary high returns** and **little risk**
-  Products are marketed via **WhatsApp and social media platforms**
-  Request deposit **payments** into bank accounts of **individuals or unrelated licensed entities** that they claim to represent

## HOW TO PROTECT YOURSELF?

-  Contact, **verify and confirm directly** with the **SC licensed/registered firms**
-  **Refer** to the SC's website to check on licensed/registered firms and alert list at **www.sc.com.my**
-  **Ensure** payments are made to **official bank account** of licensed firms

IN SUPPORT OF  **FEN** FINANCIAL EDUCATION NETWORK

For more information and to report on scams:

 +603 6204 8999  [aduan@seccom.com.my](mailto:aduan@seccom.com.my)  [www.investsmartsc.my](http://www.investsmartsc.my)

## b. Unlicensed Activities

Unlicensed activities are regulated activities carried out by persons in Malaysia without the requisite licence or registration. Subsection 58(1) of the *Capital Markets and Services Act 2007* (CMSA) requires a person to hold a CMSL or be a registered person to carry on a business in any regulated activity or hold himself out as carrying on such business.

There are eight types of regulated activities, and they are contained in Schedule 2 of the CMSA which includes dealing in securities, dealing in derivatives, fund management and investment advice.

Subsection 58(4) of the CMSA further provides that any person who carries on the business of a regulated activity without a licence or registration commits an offence and shall, on conviction, be liable to a fine not exceeding RM10 million or to imprisonment for a term not exceeding 10 years or to both.

Separately, those who engage in operating a peer-to-peer financing platform, equities crowdfunding, digital asset exchange (DAX) or initial exchange offering, must be registered as a recognised market operator with the SC under section 34 of the CMSA.

The SC regularly receives complaints and enquiries on various types of unlicensed activities which may not necessarily be scams. While some of the unlicensed activities are carried out locally by Malaysians with local presence, there are also foreign entities carrying on unlicensed activities in Malaysia. These foreign entities may be properly licensed or regulated by foreign regulators. However, they would still be breaching Malaysian laws if they carry out their activities in Malaysia, solicit clients in Malaysia or have a local presence in Malaysia without the requisite licence from or registration with the SC.

### Attributes of Local Presence

- 01 Presence of local office
- 02 Local support line or contact number
- 03 Marketing that targets local investors
- 04 Availability to transact with Ringgit denomination

## Common Complaints

Some of the more notable complaints and enquiries received by the SC on unlicensed activities are set out below.

### *Unlicensed Investment Advice*

Throughout 2019 to 2021, the SC received 104 complaints and enquiries on unlicensed investment advice and had subsequently made various interventions including enforcement actions.

## Operating a Recognised Market Without Registration

Following the coming into force of the *Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019* (Prescription Order) in January 2019, digital assets have been prescribed as securities. Pursuant to this, the SC began regulating the offering and trading of digital assets. Consequently, any person who wishes to operate a market, namely a DAX, to facilitate the trading of digital assets, must be registered with the SC. To date, only four DAX operators have been registered with the SC. To this end, the SC took appropriate measures against any person who was operating a DAX in Malaysia without registration with the SC.



## Platform Offering Multiple Products through MetaTrader 4/ MetaTrader 5 Software

The SC also regularly receives complaints and enquiries about foreign entities carrying on unlicensed activities in Malaysia. It was observed that most of these foreign entities operate online trading platforms using the MetaTrader 4 or MetaTrader 5 software to facilitate trades, among others, in multi asset products including stocks, indices, contract for differences, commodities, etc. The entities offering trading via such platforms are usually licensed or registered in jurisdictions by regulators with less stringent regulatory requirements such as the Financial Service Authority (FSA) of Saint Vincent and the Grenadines, Financial Services Commission of Belize and Cyprus Securities and Exchange Commission.

The United States Department of State had issued a report entitled, *2020 Investment Climate Statement: Saint Vincent and the Grenadines* that highlighted the flexibilities of opening a business in the country.<sup>4</sup> This report referred to the World Bank's *2020 Doing Business Report* which ranked Saint Vincent and the Grenadines at 93<sup>rd</sup> of 190 countries for ease of starting a business. This ranking was due to the minimal set up requirement, having only seven procedures that can be completed in 10 days.

<sup>4</sup> <https://www.state.gov/reports/2020-investment-climate-statements/saint-vincent-and-the-grenadines/>.

The FSA of Saint Vincent and the Grenadines had also adopted a lax risk-based supervision framework which was a departure from the existing practice of conducting annual full scope onsite inspections for regulated institutions. The leniency provided by less stringent regulators are deemed ideal for these unlicensed activities operators.

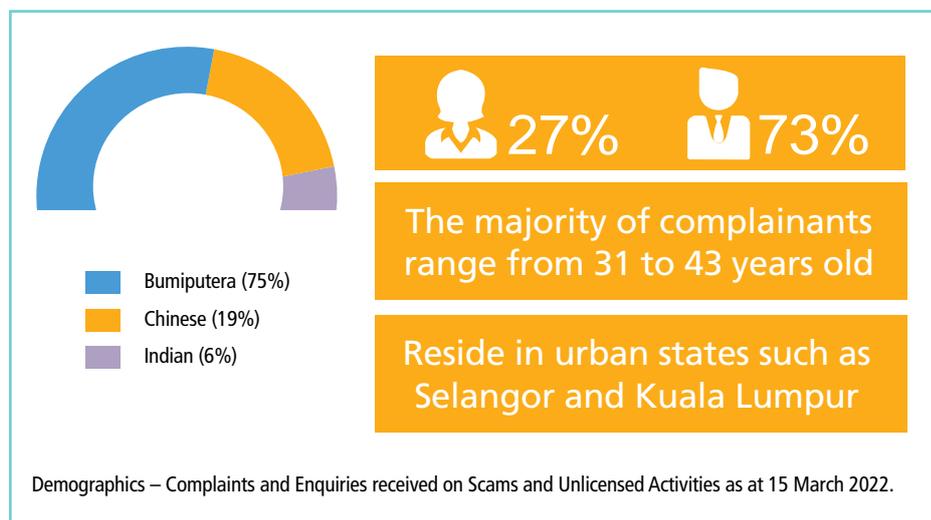
Therefore, even if an entity is properly licensed or regulated in another jurisdiction, it will not be allowed to carry on its business by targeting Malaysians unless it has been licensed by or registered with the SC.

The SC had received multiple complaints involving monetary losses/disputes from investors who invested through such unlicensed operators. Based on the information shared by complainants, most of these unlicensed operators were not responsive to the emails or calls made by the complainants seeking explanation. In these cases, such persons investing with these operators would not have the requisite protection that would otherwise have been available if such operators were licensed, and consequently may only have limited recourse in the event of any dispute.

## Findings of Study by the SC on Scams and Unlicensed Activities

Based on a study carried out by the SC in 2022, the following was observed based on the complainants and enquirers to the SC on unlicensed activities and scams:

The study showed that 28% of the survey respondents were vulnerable to scams.<sup>5</sup>



Factors related to uncertainties, economic hardships, and sheer boredom faced by the public during the pandemic and the various movement controls presented an opportunity for such scams and unlicensed activities to thrive. The advent of social media also allowed these scams to flourish due to its increased use by the public.

<sup>5</sup> SC's 2019-2020 Trend Analysis Report on Malaysians' Perspective of The Capital Markets.

## Interventions by the SC

In view of the growing concerns of investment scams and unlicensed activities, the SC has taken the measures outlined below.



### Enforcement Actions

In 2021, 41% of completed investigations belonged to offences in relation to unlicensed activities. The SC also established a taskforce to investigate investment scams and clone firms which reviewed 159 bank accounts that identified 32 persons of interest. Additionally, five enforcement actions were also taken against operators of unlicensed activities.



### Placement on the SC Investor Alert List

From January 2021 to December 2021, 275 entities were placed on the SC's Investor Alert List<sup>6</sup> for carrying out investment scams or unlicensed activities. This amounts to a total of 680 entities/ individuals placed on the SC's Investor Alert List as at 31 December 2021.



### Issuance of Cease and Desist Directive

The SC issued 25 notices of cease and desist to unlicensed operators, directing them to cease their offering in Malaysia.



### Blocking of Websites

The assistance of the Malaysian Communication and Multimedia Commission (MCMC) was sought to block 143 websites found to be involved in scams or unlicensed activities.



### Reporting to Social Media Platforms

The SC has also consistently written to several social media platforms such as Facebook, Instagram, and Telegram to report the page/group used by scammers or unlicensed operators to promote their services.



<sup>6</sup> <https://www.sc.com.my/regulation/enforcement/investor-alerts/sc-investor-alerts/investor-alert-list>



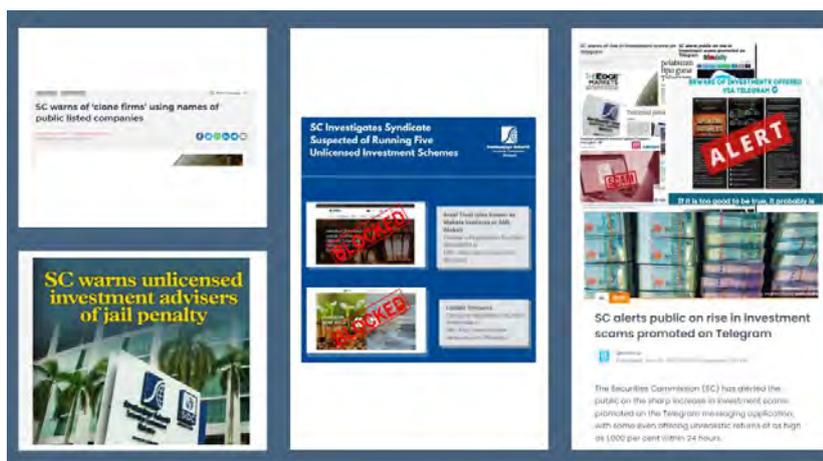
### Police Report

A total of 53 police reports were lodged for the misuse of the SC's name or logo in the marketing materials or websites involving investment scams.



### Media Release

Periodically, the SC issues media releases to warn the public of any emerging concerns on scams and unlicensed activities such as the media releases warning the public on clone scams<sup>7</sup> and those perpetrated through Telegram.<sup>8</sup>



### Referral to Local and Foreign Regulatory Agencies

A total of 149 cases involving investment scams and unlicensed activities operators were referred to local and foreign regulatory agencies.



### Social Media Intervention

The SC adopted a social media intervention strategy to publicly post messages or caution statements on the social media pages of investment scams and unlicensed activities operators. These postings are made in reference to the SC's licensing requirements and the punishment for breach of securities laws.



### Investor Education

The SC's investor empowerment initiative, InvestSmart®, carried out various activities to promote investment literacy and awareness on unlicensed activities and scams to members of the public. Amid the COVID-19 pandemic, InvestSmart® continued to utilise various

<sup>7</sup> <https://www.sc.com.my/resources/media/media-release/sc-discloses-findings-on-clone-firm-scams>.

<sup>8</sup> <https://www.sc.com.my/resources/media/media-release/sc-alerts-public-on-rising-scams-promoted-on-telegram>.

digital and online tools including social media channels like Facebook, Instagram, Twitter, and YouTube to reach out to the Malaysian public with timely alerts, reminders, and guidance to avoid unlicensed activities and scams.

Various anti-scam awareness initiatives were carried out in 2021 which includes the following:

- ✓ Daily postings on social media platforms e.g. LinkedIn, Facebook, Instagram and Twitter;
- ✓ Monthly InvestSmart® webinars;
- ✓ Anti-scam video entitled, '*Berwaspada Dengan Peluang Pelaburan Yang Ditawarkan Di Platform Media Sosial*';
- ✓ Facebook Malaysia *#taknakscam* campaign;
- ✓ Virtual ScamBuster Treasure Hunt 2021;
- ✓ InvestSmart® Youth Public Speaking Competition 2021; and
- ✓ Media releases on anti-scam/unlicensed activities/enforcement, speaking engagements on anti-scam/unlicensed activities related topics and InvestSmart® posters.

## Conclusion

While the SC will continue to play its part, including monitoring and undertaking robust measures to detect, prevent and tackle investment scams and unlicensed activities, the public should also take responsibility and exercise judgment and caution. This includes being vigilant and cautious of scams and unlicensed activities so as to avoid falling victim to these unscrupulous parties.

## Message to Investment Scammers and Operators of Unlicensed Activities

1. Cease such investment scams and unlicensed activities immediately.
2. The act of carrying out regulated activities without a licence is an offence under the securities laws. If in doubt as to whether the activity being carried out constitutes a regulated activity, please refer to the CMSA or seek legal advice.
3. Those engaging in regulated activities without a licence or without being registered with the SC may refer to the SC's *Licensing Handbook* or *Guidelines on Recognized Markets* for the steps, requirements and criteria to be licensed or registered with the SC.

## Message to Investors

1. Deal only with individuals or entities that are licensed by or registered by the SC. Always check the SC's Public Registry of Licence Holders and Investor Alert List before making an investment.  
SC's Public Registry of Licence Holders:  
<https://www.sc.com.my/regulation/licensing/licensed-and-registered-persons>  
SC's Investor Alert List:  
<https://www.sc.com.my/regulation/enforcement/investor-alerts/sc-investor-alerts/investor-alert-list>
2. When making an investment, do not deposit your monies into someone else's (i.e an individual's) personal bank account.
3. Always be reminded of the red flags of investment scams (as updated by the SC from time to time through InvestSmart®'s social media pages) and the consequences of investing with operators of unlicensed activities.
4. Reach out to the SC if you have any queries or complaints by calling 03-6204 8999 or email at [aduan@seccom.com.my](mailto:aduan@seccom.com.my).



# The SC's Corporate Governance Initiatives

## Introduction

Businesses which have embedded good corporate governance (CG) practices into their DNA have not only seen better run businesses but also improved shareholder value. The focus on corporate governance extends beyond boardroom responsibility and compliance culture to also ensure long-term sustainability.<sup>1</sup>

In line with this, the SC has stepped up its efforts to promote among others, board leadership and oversight of sustainability issues by issuing the *Corporate Governance Strategic Priorities for 2021-2023* (CG Strategic Priorities 2021-2023) in November 2021.<sup>2</sup> The CG Strategic Priorities 2021-2023 is built upon the SC's earlier plan for 2017 to 2020, where 90% of the initiatives have been implemented.

## The SC's CG Strategic Priorities 2021-2023

The CG Strategic Priorities 2021-2023, which are based on five thrusts comprise 11 strategic initiatives. A snapshot of the CG Strategic Priorities 2021-2023 is provided in Figure 1.

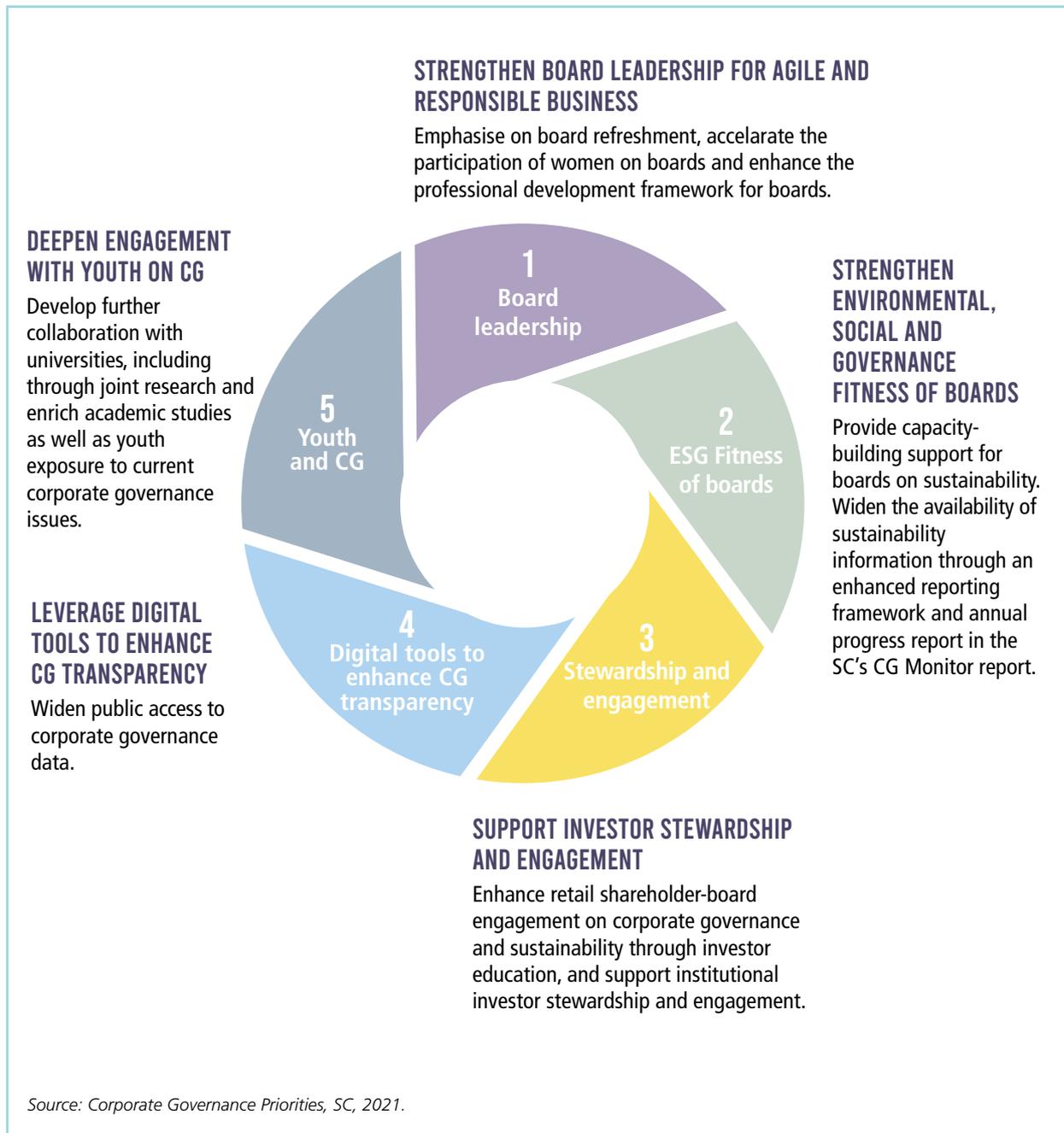
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<sup>1</sup> Paragraph 4.1.1 of the *Malaysian Code on Corporate Governance* (MCGG) (first issued in 2000, and reviewed and updated as at 2021).

<sup>2</sup> The SC Corporate Governance Regulation - <https://www.sc.com.my/regulation/corporate-governance>.

Figure 1

### The SC's CG Strategic Priorities 2021-2023



One of the initiatives that is in the pipeline includes the development of a new onboarding programme for directors of listed companies known as the Leading for Impact Programme (LIP). The LIP is designed to provide directors of listed companies with the foundational knowledge and practices to address sustainability issues effectively, with a focus on climate action and transition.

## The SC's Other CG Initiatives

The ongoing CG Strategic Priorities 2021-2023 represent the SC's continued commitment in ensuring that corporate governance measures address new issues, and build on the initiatives from the preceding set of priorities identified for 2017-2020.

### Listed Corporations

The 2017-2020 priorities focused on addressing, among others, the need for better co-ordination among key stakeholders to promote good corporate governance in Malaysia and to enhance the corporate governance regulatory framework, including ensuring the framework is effective in promoting and reinforcing the proper discharge of directors' fiduciary duties. Thus, in July 2020, the SC issued the *Guidelines on Conduct of Directors of Listed Corporations and Their Subsidiaries* (Guidelines on Conduct of Directors)<sup>3</sup> which set out requirements and guidance on directors' conduct in company group structures, record-keeping, and a group-wide framework encompassing group governance arrangements to enable, among others, oversight of group performance.

### Licensed Intermediaries

In addition, the SC corporate governance priorities for 2017-2020 also identified the need to address corporate governance practices of capital market intermediaries as a means to strengthen corporate governance standards in all segments of the capital market. To this end, the SC had, on 31 December 2021, issued the *Guidelines on Corporate Governance for Capital Market Intermediaries* (CG CMI Guidelines)<sup>4</sup> which provides the baseline of corporate governance requirements applicable to companies which hold a Capital Markets Services Licence (CMSL) in relation to, among others, the role and conduct of their board and senior management, board composition, risk management, compliance, and internal audit function.

The corporate governance's requirements under the CG CMI Guidelines were essentially introduced to mitigate the risk of unethical conduct, mismanagement and fraudulent activities among corporate CMSL holders.<sup>5</sup> Key requirements on board composition that were introduced under the CG CMI Guidelines which took effect on 1 July 2022 include the prohibition of a director of a CMSL holder from being an active politician<sup>6</sup> and the need for a CMSL holder to undertake necessary measures to ensure that its board comprises at least 30% women directors.<sup>7</sup>

“Good corporate governance is about ‘intellectual honesty’ and not just sticking to rules and regulations, capital flows towards companies that practice this type of good governance. It is clear that good corporate governance makes good sense. The name of the game for a company in the 21<sup>st</sup> century will be – to conform while it performs.”

– Professor Mervyn King,  
King Report on  
Corporate Governance

<sup>3</sup> <https://www.sc.com.my/regulation/guidelines/conduct-of-directors>.

<sup>4</sup> <https://www.sc.com.my/regulation/guidelines/corporate-governance-for-capital-market-intermediaries>.

<sup>5</sup> Paragraph 1.03 of the CG CMI Guidelines.

<sup>6</sup> Paragraph 5.07 of the CG CMI Guidelines defines ‘active politician’ as a person who is a Member of Parliament, State Assemblyman, or holds a position at the Supreme Council, or division level in a political party.

<sup>7</sup> Paragraph 5.06 of the CG CMI Guidelines.

The requirements under the CG CMI Guidelines apply to all corporate CMSL holders, regardless of their listing status, or whether they are public or private companies.

Along with the CG CMI Guidelines, the SC also issued the *Guidelines on Conduct for Capital Market Intermediaries* (Conduct Guidelines).<sup>8</sup> The Conduct Guidelines set out the minimum standards of conduct to be adhered to by capital market intermediaries and their representatives in undertaking capital market-related services. The Conduct Guidelines which came into effect on 1 April 2022 are aimed at fostering good business conduct and a corporate culture centred on the fair treatment of clients within capital market intermediaries and are intended to promote trust in capital market intermediaries.

Frequently asked questions to all the guidelines stated above were also issued to facilitate better understanding of some of the requirements.

## Conclusion

Good behaviour cannot be legislated. Companies must prioritise putting the requisite corporate governance policies into effect. Compliance with corporate governance requirements should not be treated merely as a box-ticking exercise. On the contrary, capital market intermediaries and listed corporations are urged to implement and apply corporate governance policies, measures and controls in the spirit of the outcomes they are meant to achieve.

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<sup>8</sup> <https://www.sc.com.my/regulation/guidelines/conduct-for-capital-market-intermediaries>.

## Message to Listed Corporations and Capital Market Intermediaries

1. Directors of capital market intermediaries (CMI) are reminded to discharge their fiduciary duties diligently and effectively as required under the *Companies Act 2016*, as well as the Conduct Guidelines which is available at: <https://www.sc.com.my/api/documentms/download.ashx?id=31d20d96-5403-4187-8d84-1861bb442b60>
2. CMIs should take the necessary measures and ensure compliance with the requirements under the applicable guidelines, in form and substance.
3. Listed corporations and CMIs must take steps to strengthen the capacity of their boards in addressing sustainability risks and opportunities.
4. CMIs are encouraged to engage entities such as the Institute of Corporate Directors Malaysia (ICDM)<sup>9</sup> in relation to their board's professional development needs. ICDM is a professional institution dedicated to enhancing the professionalism and effectiveness of corporate directors in Malaysia.

<sup>9</sup> <https://icdm.com.my/>.



# Understanding Special Purpose Acquisition Companies and Their Inherent Risks

Special purpose acquisition companies (SPACs) have grown in popularity in recent times in various securities markets around the world. This article provides an understanding of how SPACs work while highlighting their inherent risks. It also sheds light on the regulatory framework for SPACs in the Malaysian context.

## What is a SPAC?

A SPAC is a shell company incorporated to raise public funds with the intention of acquiring a target business within a stipulated timeframe (qualifying acquisition (QA)). The QA is intended to increase value for the SPAC's shareholders.

Since a SPAC has no commercial operations at the point of the initial public offering (IPO), investors are relying solely on the ability of the SPAC's management team to source for a quality target business and complete the QA within a period of up to 36 months from its listing.

Once a potential target business has been identified, the SPAC's management team will initiate the negotiation process with the target's vendors. Thereafter, approvals for the transaction are sought from relevant authorities and the SPAC's shareholders. Upon successful completion of the QA, the SPAC becomes a public-listed company (PLC) that carries on the target's operating business.

If a SPAC is unable to complete its QA within the specified timeframe, the SPAC will be liquidated and the shareholders will receive their pro-rated shares of their cash proceeds.

“SPACs, often referred to as blank-cheque companies, have no operations or income-generating businesses at the time of IPO or listing. This key feature distinguishes SPACs from normal operating companies that have prior financial history before going public through the traditional IPO route.”

## KNOW THE KEY DIFFERENCES BETWEEN A TRADITIONAL IPO VS A SPAC

### Traditional IPO

*New securities of a private operating company are publicly offered to raise funds for existing business or expansion*



**Operating company** with existing underlying business



**No defined time** to go public – depends on company's readiness and market condition



IPO valuation is subject to **market condition and sentiment**

### SPAC

*New securities of a SPAC are publicly offered to raise funds for acquisition of or merger with an existing operating company*



**Shell company** with no underlying business operations



Qualifying acquisition must be completed **within 36 months** of a SPAC's listing



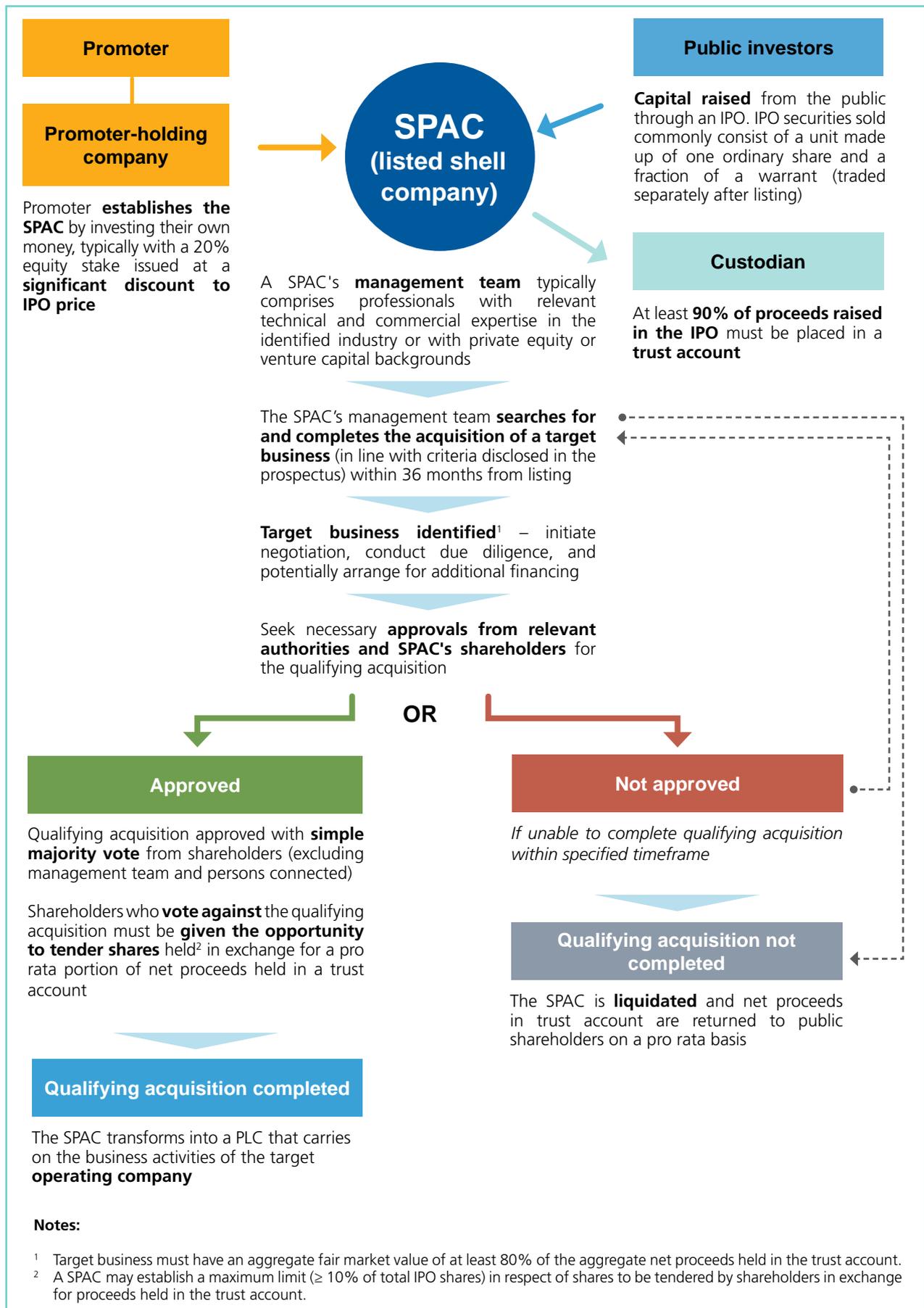
Target valuation is **negotiated privately** between the SPAC's management team and vendors

**UNDERLYING BUSINESS**

**TIMING**

**VALUATION**

## Understanding the Lifecycle of a SPAC



## Three Main Stages of a SPAC Lifecycle

The lifecycle of a SPAC has three main stages. Investors and issuers alike should understand these stages when evaluating a SPAC as an investment or setting up a SPAC as an alternative capital-raising vehicle:

- 1 IPO and listing, where the SPAC's securities are admitted for trading;
- 2 Search for target business, where the SPAC's management team pursues potential targets within the identified industries or sectors as disclosed in the IPO prospectus; and
- 3 Qualifying acquisition, where the SPAC acquires or merges with the target business.

## Areas of Focus and Why it Matters

SPACs are highly complex capital market products. While structures of SPACs are largely similar to meet the minimum listing requirements, it is important to understand that each SPAC has its own distinct and varied set of terms. Investors should also be aware that it is often hard to understand all aspects of a SPAC's long-term value proposition at the point of IPO as there are no operations beyond the SPAC's plans to search for a target business within certain specified industries or sectors.

“It is important to understand the lifecycle of a SPAC, as it moves through the stages from a shell company upon listing, to the time of pursuing a target business, and following its qualifying acquisition i.e. when the SPAC acquires or merges with an operating company.”

### 1 SPAC STRUCTURE

#### ✓ Percentage of IPO proceeds placed in a trust account

At least 90% of proceeds raised from a SPAC's IPO must be held in a trust account. Although shareholders are entitled to the pro rata share of net proceeds in the trust account, the percentage level of IPO proceeds placed into the trust account would determine the amount received by shareholders in the event the SPAC is liquidated or upon shareholders choosing to exercise their rights to tender shares upon completion of the QA. If less than 100% of IPO proceeds are held in a trust account, the amount to be received by shareholders in circumstances mentioned above will be less than the invested amount at IPO.

#### ✓ Timeframe to complete a SPAC's QA

- The completion of a SPAC's QA can take up to three years after listing, which leads to invested monies being tied up for that period unless sold off.

- Some SPACs may not find suitable target businesses or complete their QAs within the specified period. A shorter timeframe opted by a SPAC may therefore put more pressure on the SPAC's management team to consummate a deal.

### Share price of a SPAC

- Unlike a traditional IPO company, a SPAC's IPO price is not based on the valuation of an existing operating business. The fluctuation of share prices has more to do with speculation or skepticism of finding a value-add target business rather than the economic value of the SPAC.
- Rises in prices of SPAC shares may be driven by promising deals or expectations of a successful QA completion. Such SPAC shares purchased on the open market at premium pricing will not tie to their underlying cash value in the trust account.

### Warrants issued as part of a SPAC's listing scheme

- Where warrants are issued accompanying a SPAC's shares as an incentive to investors, the terms of such warrants vary greatly across SPACs. These include the detachability from the SPAC unit, number of shares investors have the right to purchase, price and period at which shares may be purchased, terms of redemption, and expiration.
- The greater the number of warrants issued, the higher the perceived dilution risk of the SPAC.
- Warrants are generally subject to more volatility than the underlying SPAC shares.
- There could be significant dilution to shareholders who remain invested after completion of a SPAC's QA and do not exercise their warrants.

## 2

## MANAGEMENT TEAM

### Background of a SPAC's management team

A SPAC is based on the strength of its management team. It is essential that the individual and collective requisite experience and track record of the management team demonstrates that the SPAC will be capable of achieving its business objectives and strategies as outlined in the IPO prospectus.

### ✓ Interests and compensation of a SPAC's management team

Conflicts are inherently present in SPACs due to the potential significant upside enjoyed by a SPAC's management team. For example:

- The level of discount to IPO price applied to securities issued to the management team may not commensurate with the SPAC's business strategy and expected return to the SPAC;
- The reward structure including financial incentives to be enjoyed by the SPAC's management team may be disproportionate to the expected value creation to shareholders; and
- The length of the lockup i.e moratorium on the securities held by the SPAC's management team may not necessarily ensure that the timing of realisation of rewards corresponds with the value creation to shareholders.

## 3 QUALIFYING ACQUISITION

### ✓ Additional equity or debt financing for the QA

A SPAC may raise additional funding from existing or new investors. Dilutive impact would increase through new issuances of equity or convertible securities, either to vendors of the target business as part of the purchase consideration or through private placements. This is likely to be amplified further if there is a significant proportion of shares tendered by the shareholders exercising their rights to exit the SPAC.

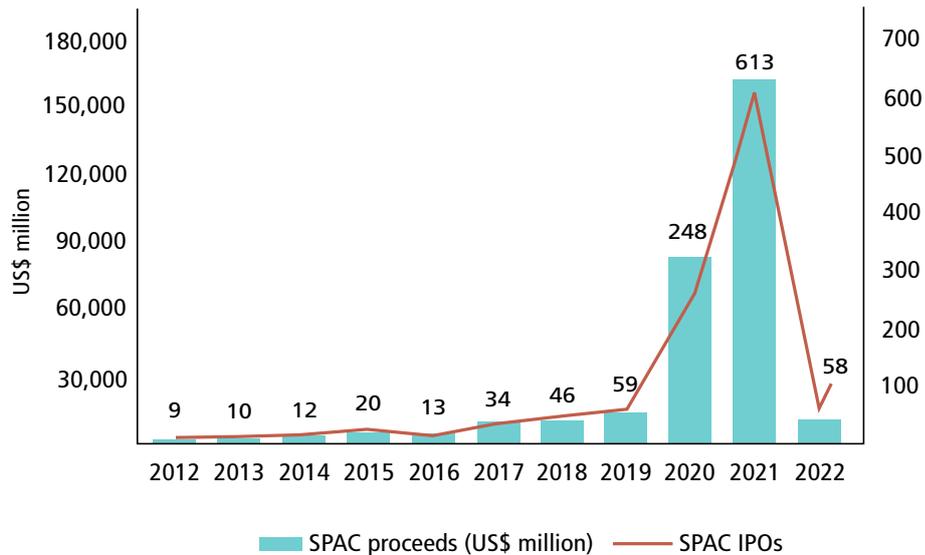
### ✓ Shareholders' vote for the QA

- A SPAC's QA is subject to shareholders' vote. Shareholders can vote against the QA after an extensive and costly negotiation and due diligence process.
- Not all SPAC investors are interested in the QA. Some seek opportunistic use of the SPAC structure to obtain a guaranteed yield in the form of interest accrued and sale of warrants, as well as employ 'greenmail' tactics to pressure a SPAC's management team.
- Excessive tender of shares by shareholders wishing to exit a SPAC could also put the deal at risk as this could drastically reduce the cash available for the future operations of the target business.

## The SPACs Boom

SPACs attracted worldwide attention as an alternative listing vehicle with the unprecedented surge of SPAC IPOs in the United States (US) during 2020.

Chart 1  
SPAC IPOs in the US



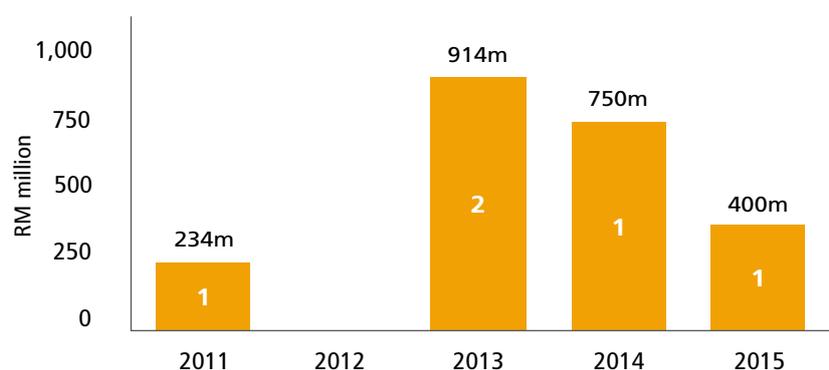
Until recent years, SPACs had remained a relatively niche investment vehicle. However, with favourable market conditions at play and higher-quality promoters of SPACs (typically referred to as sponsors or founders) coming into the scene, SPAC IPOs surged in popularity in the US during 2020.

According to data from SPAC Analytics, US SPACs in 2021 have raised more than US\$162.5 billion – nearly double the total IPO funds raised in 2020 of US\$83.4 billion. Since then, SPACs have steadily gained traction globally with many markets having issued new or revised rules to permit or facilitate SPAC listings in their home jurisdictions.

## The SPAC Framework in Malaysia

The framework for the listing of SPACs in Malaysia was first introduced in 2009 to promote private equity activities, spur corporate transformation and encourage mergers and acquisitions. Hibiscus Petroleum Bhd became the first SPAC to be listed in Malaysia on 25 July 2011. To enhance investor protection, additional safeguards were introduced in 2013 to strengthen the alignment of interest between a SPAC's management team and public shareholders.

Chart 2  
SPAC Listings and Total IPO Funds Raised in Malaysia



Since 2009, there have been five successful listings of SPACs in Malaysia, raising a total of RM2.3 billion in IPO proceeds. However, only two out of the five listed SPACs managed to successfully complete their QA.

As observed in Malaysia, SPACs faced difficulties in completing their QAs due to the following key issues–

- 1 transparency of available funds in the SPAC's trust account for its QA, giving more leverage to vendors in negotiating the terms of the deal;
- 2 tactics employed by arbitrage investors to greenmail promoters in order to secure higher returns for themselves; and
- 3 lack of deal-making experience by the SPAC's management team, creating a risk that the target business to be acquired may not be in the best interest of the SPAC.

“The main problem for Malaysia's experience in SPAC involves the inability of the SPAC to complete its QA.”

## Revision of the SPAC Framework

SPACs offer an alternative way for private companies to go public with better market and price certainty. Opportunities are provided to investors to co-invest with experienced promoters with demonstrated track records and experience.

In December 2021, the SC announced revisions to its SPAC framework aimed to create more flexibility to spur interest in listings and deals involving SPACs, and thus provide greater access to the capital market for issuers. The revised framework seeks to alleviate some of the difficulties faced by SPACs in completing their QA.

## Advantages of the Revised Framework



### Facilitate growth of small and medium enterprises (SMEs) in Malaysia

- Allowed business combination including merger, as an avenue for SPACs to undertake its qualifying acquisition, other than by way of cash acquisition; and
- Reduced the minimum amount of funds required to be raised by a SPAC through its IPO from RM150 million to RM100 million.



### Facilitate professionals with extensive experience in private equity and venture capital to steer SPACs



### Increase chances of SPAC deals being approved by shareholders

- Reduced the QA approval threshold by shareholders from 75% majority to simple majority; and
- Allowed option for SPACs to set a limit ( $\geq 10\%$  of total IPO shares) in respect of shares that can be tendered by shareholders in exchange for cash.



### Reflect the risks inherent in SPACs

- Raised the minimum IPO price from RM0.50 to RM2.00.



### Limit dilution to existing shareholders of SPACs

- New shares issued from the exercise of warrants restricted to not more than 50% of the SPAC's total issued shares.

## Conclusion

The enhanced SPAC framework seeks to facilitate greater access to fundraising in the Malaysian capital market. Investors are also reminded that SPACs are an alternative capital market investment option that may carry higher investment risk when compared with shares of listed corporations with operating businesses. Investors should familiarise themselves with the nature of SPACs and consider whether the investment meets their respective objectives and risk profile.

## Key Message to Issuers and Principal Advisers

### Issuers

1. Ensure the interests of the SPAC's management team is closely aligned with the interests of the investors through more innovative SPAC structures, which include reduced promoter interests or the provision of alternative incentives such as setting performance targets or earn-out arrangements.
2. Assemble a strong management team which will be more likely to attract sophisticated long-term investors and invite more interests of quality target businesses.
3. Ensure clear disclosures, including any conflicts of interest between the interests and incentives of the SPAC's management team and the interests of the shareholders. Risk factors such as the risk of losing shareholders' invested capital if a successful QA does not occur should also be disclosed.
4. The SPAC's management can consider the following global market practices to promote higher-quality SPACs—
  - deposit 100% of gross proceeds from IPO into the trust account. This offers increased protection to investors that shareholders will at least receive the full IPO price paid (exclusive of interest or dividend).
  - seek credible anchor investors to endorse the SPAC and undertake private placement to raise additional capital for purposes of the SPAC's QA which could also provide validation on the valuation of the target business.
5. Be aware of the associated risks and potential dilutive effect of warrants on investors. Consider different methods to stabilise the trading price of SPAC units over a certain period or reduce the dilution impact by issuing smaller fractional warrants with each unit.
6. Ensure valuation negotiated with vendors of the target business is in the best interest of shareholders.
7. Assess the quality of a target business's management team.

### Principal Advisers

1. Conduct a detailed assessment on the adequacy of a SPAC structure and ensure the suitability of the management team. Conduct assessment beyond the tick-box approach to meet the minimum SPAC requirements.

## Key Message to Public Investors

1. Understand the features and risks associated with investing in SPACs.
2. Exercise critical assessment on the structure of the SPAC including terms of any warrants or other convertible securities, management team's compensation and incentives, and the valuation of the target business. Seek professional advice when in doubt.
3. Understand that warrants will not be issued in fractions. If warrants are detachable, ensure that you hold enough SPAC units that upon separation from the traded shares, it will result in whole warrants being issued. For example, if a SPAC unit consists of one share and half of a warrant, you need to subscribe for two units in order to own a whole warrant.
4. Carefully assess the background of the SPAC's management team and promoter. Consider if these professionals have the necessary experience and track record in finding profitable target businesses.
5. Understand the financial interests and motivations of the SPAC's management team and promoter. As these parties have substantial financial incentives or stand to lose their invested capital upon liquidation, it may lead to a misalignment of interests when evaluating potential target businesses.
6. Be forewarned that buying SPAC shares on the open market at a premium may result in you receiving less than your invested amount in the event the SPAC does not complete its QA and is liquidated.
7. Consult a professional adviser to advise you on the significant risks related to SPACs including dilution of ownership.
8. Understand that your money may be tied up for a period of up to 36 months and subject to the associated opportunity cost of capital. Selling your shares on the open market will be subject to market conditions.

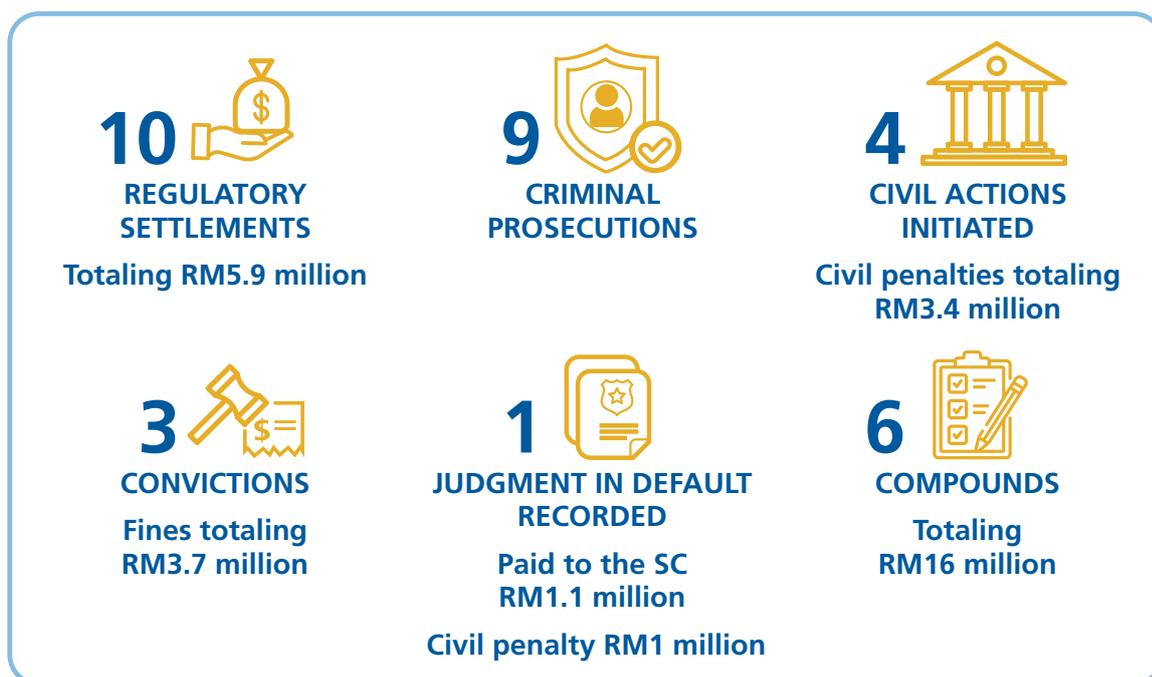


# Enforcement, Administrative and Supervisory Actions

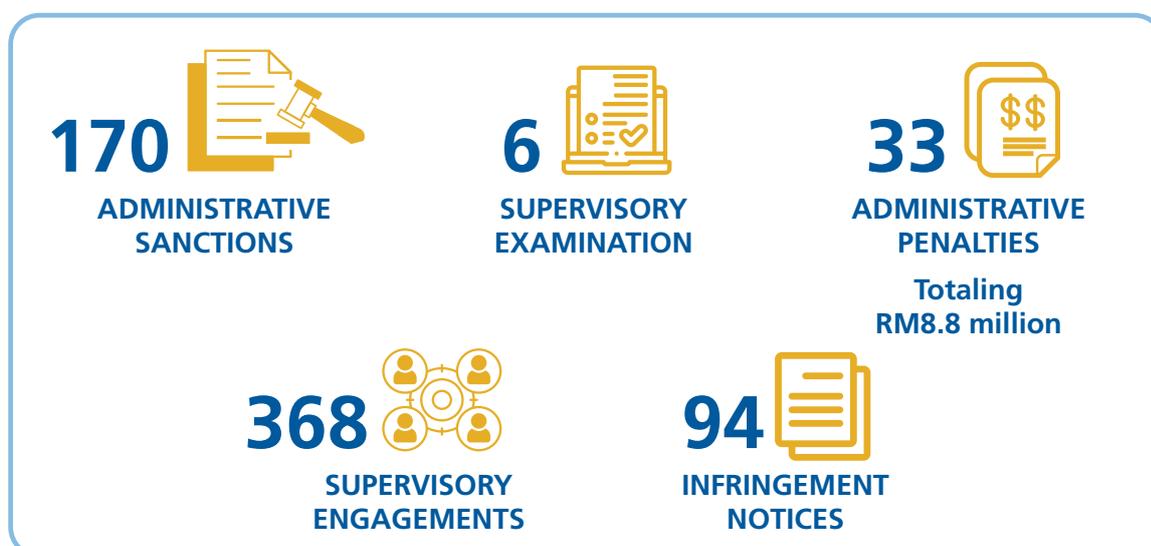
## SC'S ENFORCEMENT ACTIVITIES AND SUPERVISORY OUTCOMES

The SC has dedicated significant time and resources in responding to various challenges arising from the global pandemic in an effort to deter market misconduct and instil investor confidence in the SC. In this regard, the SC continues to vigorously enforce the securities laws to protect investors. This section of *The Reporter* encapsulates the major accomplishments and key priorities and actions of the SC between 1 July 2021 to 30 June 2022.

### (I) Summary of Enforcement Activities and Outcomes



### (II) Summary of Administrative and Supervisory Actions



Details relating to the above diagrams can be found in the following articles.



# Criminal Prosecutions and Outcomes, Civil Enforcement and Regulatory Settlements

## INTRODUCTION

A crucial area of enforcement undertaken by the SC involves criminal prosecution and civil enforcement of securities laws offences. Between 1 July 2021 to 30 June 2022, the SC initiated criminal and civil enforcement actions against 13 individuals and one company who were involved in a wide range of alleged securities laws breaches, including insider trading, fraud involving securities and derivatives, conducting unlicensed activities, furnishing false statements to Bursa Malaysia Securities Bhd (Bursa Malaysia), and falsifications of records under the *Securities Industry Act 1983* (SIA) and the CMSA.

Additionally, the SC compounded four individuals and one company, and entered into 10 regulatory settlements amounting to RM5,914,339.57.

Despite the difficulties posed by the pandemic, the SC managed to secure meaningful remedies to protect the interests of investors and preserve the integrity of the capital market.

## CRIMINAL PROSECUTION

While the SC continues to hold companies responsible for any wrongdoing committed, there has been a greater focus on individual accountability in the SC's enforcement work, which has resulted in several significant criminal prosecutions, as illustrated below.

No.	Offence	Offender(s)	Details
1.	Securities fraud [Section 179(b) CMSA].	Chua Yi Fuan (Charles Chua) (formerly Vice President of Debt Markets at Hong Leong Investment Bank Bhd)	<ul style="list-style-type: none"> <li>In June 2022, Charles Chua was charged at two separate Sessions Courts in Kuala Lumpur with four counts of securities fraud for deceiving four individuals who suffered losses amounting to RM76,000.</li> <li>In the same month, Charles Chua was also charged at two separate Sessions Courts in Melaka with 13 counts of securities fraud for deceiving seven investors who suffered losses amounting to nearly RM1.7 million.</li> </ul>
2.	<ul style="list-style-type: none"> <li>Derivatives fraud [Section 206(b) CMSA].</li> <li>Unlicensed activities [Section 59(1) CMSA].</li> <li>Failure to appear before the SC's investigating officer [Section 134(5) (a) of the <i>Securities Commission Malaysia Act 1993</i> (SCMA)].</li> </ul>	Mohd Azhidi bin Laili (Azhidi)	<p>In February 2022, Azhidi was charged at the Kuala Lumpur Sessions Court with the following charges:</p> <ul style="list-style-type: none"> <li>Nine counts of offences for engaging in an act which operated as a deception on nine individuals;</li> <li>One count for holding himself out as a representative of AmFutures Sdn Bhd when he is not licensed by the SC; and</li> <li>One count for failing to comply with a notice issued by an SC investigating officer in 2018.</li> </ul>
3.	Knowingly causing the furnishing of a false statement to Bursa Malaysia [Section 369(b)(B) read together with Section	Ong Kar Kian (Ong)	In September 2021, Ong was charged at the Kuala Lumpur Sessions Court for knowingly causing the furnishing of a false statement relating to the revenue of Asia Media Group Bhd to Bursa Malaysia.

The detailed excerpts of the above can be found at:

<https://www.sc.com.my/regulation/enforcement/actions/criminal-prosecution/updates-on-criminal-prosecution-in-2022>

<https://www.sc.com.my/regulation/enforcement/actions/criminal-prosecution/updates-on-criminal-prosecution-in-2021>

## Outcomes of Criminal Prosecutions and Appeals

Despite the challenges brought about by the COVID-19 pandemic, the SC continues to work efficiently and diligently to safeguard the interest of investors through their enforcement actions. The SC's success in delivering vital criminal enforcement outcomes includes the following:

No.	Offence	Offender(s)	Outcome
1.	Abetting the furnishing of a false statement to Bursa Malaysia [Section 122C(c) read together with Section 122B(a)(bb) SIA].	Lee Koon Huat (Lee)	<ul style="list-style-type: none"> <li>In April 2022, after a full trial, the Kuala Lumpur Sessions Court convicted Lee of four charges of the offence against him. He was sentenced to six months' imprisonment and a fine of RM200,000 for each of the four charges.</li> <li>The court ordered that the imprisonment terms be served concurrently. The court also ordered a stay of execution of the jail term pending Lee's appeal to the High Court.</li> </ul>
2.	Failing to appear before an investigating officer of the SC in connection with an investigation [Section 134(5)(a) of the SCMA].	Ong Kar Kian (Ong)	<ul style="list-style-type: none"> <li>In December 2020, the Sessions Court convicted Ong on three charges of the offence and sentenced him to a one-day imprisonment for each charge and a fine of RM1,084,500. Ong's imprisonment terms are to run concurrently.</li> <li>In January 2021, the High Court rejected Ong's stay application for the payment of his fine pending the results of his appeal and directed him to pay the fine within 14 days of the decision.</li> <li>In December 2021, the High Court affirmed Ong's conviction and sentence on the three charges, but set aside the daily fine of RM1,500 for the 673 days he had failed to appear before an investigating officer of the Public Prosecutor as had been required (amounting to RM1,009,500).</li> <li>In January 2022, the Attorney General's Chambers filed an appeal against the decision of the High Court to set aside the daily fine imposed by the Sessions Court.</li> </ul>
3.	Furnishing a misleading statement to Bursa Malaysia with intent to deceive [Section 122B(a) (bb) read together with Section 122(1) SIA].	Gan Boon Aun (Gan)	<ul style="list-style-type: none"> <li>In August 2020, the Sessions Court convicted Gan for the offence and sentenced Gan to a fine of RM2.5 million and one-day imprisonment.</li> <li>In October 2021, the High Court dismissed Gan's appeal against the conviction, and affirmed the conviction.</li> <li>In January 2022, the High Court allowed the SC's appeal against the sentence and maintained the RM2.5 million fine but set aside and substituted the one-day imprisonment term with 24 months.</li> </ul>

A detailed excerpt of the above cases can be found at:

<https://www.sc.com.my/regulation/enforcement/actions/criminal-prosecution/updates-on-criminal-prosecution-in-2022>

<https://www.sc.com.my/regulation/enforcement/actions/criminal-prosecution/updates-on-criminal-prosecution-in-2021>

## REGULATORY SETTLEMENTS AND OUTCOMES OF CIVIL ENFORCEMENT ACTIONS

### Regulatory Settlements

The SC will only settle in cases where it deems it appropriate to do so, and in particular where the settlement would amount to a fair, reasonable and adequate action by the SC. More importantly, the SC will also ensure that the settlement terms are in the interest of the public. The SC gives a great deal of consideration to its statutory objectives and the need to send transparent and consistent messages through such regulatory settlements.

No.	Offence	Offender(s)	Settlement
1.	Insider trading in the shares of Focal Aims Holdings Bhd.	<ul style="list-style-type: none"> <li>Dr Loh Khee Feei (Dr Loh)</li> <li>Quah Joo Leng (Janet Quah)</li> </ul>	In January 2022, Dr Loh and Janet Quah entered into a settlement for the sum of RM329,940.
		Loh Chiek Fei (Alison Loh)	In January 2022, Alison Loh entered into a settlement for the sum of RM827,093.56.
2.	Insider trading in the shares of Supercomnet Technologies Bhd.	Datuk Teo Tiew (Datuk Teo)	In December 2021, Datuk Teo entered into a settlement for the sum of RM122,346.
3.	Insider trading in the shares of Perak Corporations Bhd.	Dato' Jamal Bin Mohd Aris (Dato' Jamal)	In November 2021, Dato' Jamal entered into a settlement for the sum of RM1,644,152.80.
4.	Insider trading in the shares of the following: <ul style="list-style-type: none"> <li>Sime Darby Bhd;</li> <li>Maxis Communications Bhd;</li> <li>UEM World Bhd; and</li> <li>VADS Bhd.</li> </ul>	Dato' Sreesanthan a/l Eliathamby (Dato' Sreesanthan)	In October 2021, Dato' Sreesanthan entered into a settlement for the sum of RM900,000.
5.	Insider trading in the shares of HPI Resources Bhd.	Chan Choo Sing (Chan)	In October 2021, Chan entered into a settlement for the sum of RM1,011,157.20.
6.	Insider trading in the shares of INS Bioscience Bhd.	Jasmine Chin Yong Shya (Jasmine)	In September 2021, Jasmine entered into a settlement for the sum of RM45,976.18.
		Oh Kok Boon (Oh)	In July 2021, Oh entered into a settlement for the sum of RM354,358.62.
		Wong Seng Tong (Wong)	In July 2021, Wong entered into a settlement for the sum of RM413,469.53.
		Yeat Siaw Ping (Yeat)	In July 2021, Yeat entered into a settlement for the sum of RM265,845.68.

Further details of the above cases can be found in the links at:

<https://www.sc.com.my/regulation/enforcement/actions/civil-actions-and-regulatory-settlements/regulatory-settlements-in-2022>

<https://www.sc.com.my/regulation/enforcement/actions/civil-actions-and-regulatory-settlements/regulatory-settlements-in-2021>

## Civil Actions Initiated by the SC

During the period under review, the SC commenced court actions for breaches of the insider trading provisions, as highlighted below.

No.	Breach	Defendant(s)	Date
1.	Insider trading in the shares of Perak Corporation Bhd [Section 188(2)(a) CMSA or in the alternative Section 188(2)(b) CMSA].	Dato' Aminuddin Bin Md Desa	31 December 2021
2.	Insider trading in the shares of R&A Telecommunication Sdn Bhd [Section 188(2)(a) CMSA].	Francis Tan Hock Leong	11 October 2021
3.	Insider trading in the shares of HPI Resources Bhd [Section 188(2)(a) CMSA]	Toh Kai Fatt	13 September 2021
4.	Insider trading in the shares of Transocean Holdings Bhd [Section 188(2)(a) CMSA].	<ul style="list-style-type: none"><li>• Tan Swee Hock</li><li>• Chan Sze Yeng</li><li>• Cheng Seng Chow</li></ul>	22 July 2021

Further details of the above cases can be found in the link at:

<https://www.sc.com.my/regulation/enforcement/actions/civil-actions-and-regulatory-settlements/civil-action-in-2021>

## Outcomes of Civil Enforcement Actions

In an effort to protect investors and the integrity of the capital market, the SC strives to ensure that individuals are held accountable for their misconduct, which includes the following:

No.	Breach	Defendant(s)	Outcome
1.	Insider Trading in the shares of R&A Telecommunication Sdn Bhd [Section 188(2)(a) CMSA].	Francis Tan Hock Leong (Francis)	<p>In June 2022, the Kuala Lumpur High Court allowed the SC's application for a judgment in default against Francis following his failure to enter a defence to the civil action, and awarded all the orders sought by the SC including, among others, that Francis:</p> <ul style="list-style-type: none"> <li>• pay a sum of RM1,135,665 to the SC, being an amount equal to three times the difference between the price at which he had disposed of his shares in R&amp;A Telecommunication Sdn Bhd and the price they would have been likely to have been disposed of, if the inside information had been generally available;</li> <li>• pay RM1 million in civil penalty to the SC; and</li> <li>• be barred from being a director of any public company for a period of 10 years from the date of the order.</li> </ul>
2.	Insider trading in the shares of Patimas Computers Bhd [Section 188(2)(a) and (b) CMSA].	Dato' Raymond Yap Wee Hin (Dato' Raymond Yap)	<p>In April 2022, after a full trial, the Kuala Lumpur High Court declared that the SC had successfully proven its claim against Dato' Raymond Yap, and ordered, among others, that Dato' Raymond Yap:</p> <ul style="list-style-type: none"> <li>• pay a sum of RM3,286,770 being an amount equal to three times the losses avoided;</li> <li>• pay the SC a civil penalty of RM1 million; and</li> <li>• be barred from being a director of any public listed company for a period of five years starting from 7 April 2022.</li> </ul>
3.	<ul style="list-style-type: none"> <li>• Use of manipulative and deceptive devices [Section 179 of CMSA].</li> <li>• Causing wrongful loss to a listed corporation [Section 317A of CMSA].</li> <li>• Attempt, Abetment and Conspiracy [Section 370 of CMSA].</li> </ul>	Datin Chan Chui Mei (Datin Chan)	<p>In March 2022, the Court of Appeal dismissed Datin Chan's appeal and affirmed the High Court's decision to grant, among others, the following orders sought by the SC:</p> <ul style="list-style-type: none"> <li>• that Datin Chan pay the SC a sum of RM11.54 million to be held by the SC on trust for Stone Master Corporation Bhd;</li> <li>• an account and inquiry be made for the sum of RM11.54 million and all profits earned from this sum by Datin Chan from the time that it was deposited into her personal bank accounts;</li> </ul>

No.	Breach	Defendant(s)	Outcome
			<ul style="list-style-type: none"> <li>that all sums awarded and to be paid to the SC by Datin Chan be vested in the SC pursuant to section 360(1) of the CMSA;</li> <li>that Datin Chan be barred from being a director or being involved in the management, whether directly or indirectly, of any public company for a term of five years from the date of the judgment; and</li> <li>that Datin Chan pay the SC a civil penalty of RM1 million.</li> </ul>
4.	Insider trading in the shares of Transocean Holdings Bhd [Section 188(2)(a) CMSA].	<ul style="list-style-type: none"> <li>Tan Swee Hock</li> <li>Chan Sze Yeng</li> <li>Cheng Seng Chow</li> </ul>	<p>In October 2021, the High Court recorded a consent judgment between the SC and the Defendants granting all the orders sought by the SC, including among others:</p> <ul style="list-style-type: none"> <li>that the Defendants jointly and severally pay the sum of RM755,718;</li> <li>that Tan Swee Hock pays a civil penalty of RM200,000;</li> <li>that Chan Sze Yeng and Cheng Seng Chow pay a civil penalty of RM100,000 each;</li> <li>that the Defendants be barred from becoming a chief executive officer or director of any PLC and/or any subsidiary of a PLC for a period of five years from the date of the order;</li> <li>that the Defendants be barred from being involved in the management of any PLC and/or any subsidiary of a PLC whether directly or indirectly, for a period of five years from the date of the order; and</li> <li>an injunction to restrain each of the Defendants, whether by himself, his agent or otherwise, from trading in any counter on Bursa Malaysia for a period of five years from the date of the order.</li> </ul>

A detailed excerpt of the above cases can be found at:

<https://www.sc.com.my/regulation/enforcement/actions/civil-actions-and-regulatory-settlements/civil-action-in-2022>

<https://www.sc.com.my/regulation/enforcement/actions/civil-actions-and-regulatory-settlements/civil-action-in-2021>

## CASES COMPOUNDED

The SC remains focused on its primary duty as a regulatory authority to ensure public investor protection, particularly in addressing the effects of malpractice by capital market intermediaries and listed corporations on investors. In this regard, a total of RM16 million was collected by the SC through payments of compounds for the offences of furnishing false statements to Bursa Malaysia as well as falsification of records, as shown in the table below.

No.	Offence	Offender(s)	Settlement
1.	Furnishing a false statement to Bursa Malaysia with intent to deceive [Section 369(a)(B) CMSA].	Serba Dinamik Holdings Bhd (Serba Dinamik)	<ul style="list-style-type: none"> <li>In December 2021, Serba Dinamik was charged at the Kuala Lumpur Sessions Court for furnishing a false statement relating to the revenue of Serba Dinamik to Bursa Malaysia.</li> <li>In April 2022, the SC with the consent of the Public Prosecutor and pursuant to its powers under section 373(1) CMSA, issued a compound notice to Serba Dinamik.</li> <li>In May 2022, Serba Dinamik paid the compound sum of RM3 million.</li> </ul>
2.	Furnishing a false statement to Bursa Malaysia with intent to deceive [Section 369(a)(B) read together with Section 367(1) CMSA].	Dato' Dr Ir Ts Abdul Karim bin Abdullah (Dato' Karim)	<ul style="list-style-type: none"> <li>In December 2021, Dato' Karim was charged at the Kuala Lumpur Sessions Court for furnishing a false statement relating to the revenue of Serba Dinamik to Bursa Malaysia.</li> <li>In April 2022, the SC with the consent of the Public Prosecutor and pursuant to its powers under section 373(1) CMSA, issued a compound notice to Dato' Karim.</li> <li>In May 2022, Dato' Karim paid the compound sum of RM3 million.</li> </ul>
		Datuk Syed Nazim bin Syed Faisal (Datuk Syed Nazim)	<ul style="list-style-type: none"> <li>In December 2021, Datuk Syed Nazim was charged at the Kuala Lumpur Sessions Court for furnishing a false statement relating to the revenue of Serba Dinamik to Bursa Malaysia.</li> <li>In April 2022, the SC with the consent of the Public Prosecutor and pursuant to its powers under section 373(1) CMSA, issued a compound notice to Datuk Syed Nazim.</li> <li>In May 2022, Datuk Syed Nazim paid the compound sum of RM3 million.</li> </ul>

No.	Offence	Offender(s)	Settlement
		Azhan bin Azmi (Azhan)	<ul style="list-style-type: none"> <li>In December 2021, Azhan was charged at the Kuala Lumpur Sessions Court for furnishing a false statement relating to the revenue of Serba Dinamik to Bursa Malaysia.</li> <li>In April 2022, the SC with the consent of the Public Prosecutor and pursuant to its powers under section 373(1) CMSA, issued a compound notice to Azhan.</li> <li>In May 2022, Azhan paid the compound sum of RM3 million.</li> </ul>
		Muhammad Hafiz bin Othman (Hafiz)	<ul style="list-style-type: none"> <li>In December 2021, Hafiz was charged at the Kuala Lumpur Sessions Court for furnishing a false statement relating to the revenue of Serba Dinamik to Bursa Malaysia.</li> <li>In April 2022, the SC with the consent of the Public Prosecutor and pursuant to its powers under section 373(1) CMSA, issued a compound notice to Hafiz.</li> <li>In May 2022, Hafiz paid the compound sum of RM3 million.</li> </ul>
3.	Falsification of records [Section 368(1)(b)(i) CMSA].	Hafiz	<ul style="list-style-type: none"> <li>In December 2021, Hafiz was charged at the Shah Alam Sessions Court for causing the books of Serba Dinamik Sdn Bhd, a related corporation of Serba Dinamik to be falsified.</li> <li>In April 2022, the SC with the consent of the Public Prosecutor and pursuant to its powers under section 373(1) CMSA, issued a compound notice to Hafiz.</li> <li>In May 2022, Hafiz paid the compound sum of RM1,000,000.</li> </ul>

Further details of the compounded cases can be found at:

<https://www.sc.com.my/regulation/enforcement/actions/cases-compounded/cases-compounded-in-2022>

# Administrative Actions and Supervisory Engagements

## ADMINISTRATIVE ACTIONS

From 1 July 2021 to 30 June 2022, the SC imposed a total of 170 administrative sanctions as illustrated in the table below.

### Administrative actions from 1 July 2021 to 30 June 2022 by type of sanction and parties in breach

Parties in Breach	Type of Sanctions					
	Directive	Reprimand	Penalty*	Restitution	Public Statement	Refusal to accept submission
Licensed persons						
Licensed entities	-	-	4	-	-	-
Licensed individuals	-	30	5	1	-	-
Directors of PLC	-	31	10	-	2	-
PLCs	-	6	-	-	-	-
Entities/individuals relating to take-overs and mergers	1	26	2	-	-	-
Other entities	4	5	-	-	-	-
Other individuals	1	29	12	1	-	-
<b>TOTAL</b>	<b>6</b>	<b>127</b>	<b>33</b>	<b>2</b>	<b>2</b>	<b>0</b>

\* A total of RM 8,822,500.00 in penalties were imposed.

## Penalties imposed from 1 July 2021 to 30 June 2022

Parties in Breach	Amount (RM)
Hong Leong Asset Management Bhd	3,000
Jamilulailjamiludin Kamarodin	20,000
Sharifah Syafeeqah Binti Syed Ahmad Amir Feisal Al-Idrus	270,000
Aiza Binti Aziz	270,000
Siti Rahayu Binti Abu Bakar	450,000
Suhana Binti Sa'adon	450,000
OCBC Bank (Malaysia) Bhd	1,000
OCBC Al-Amin Bank Bhd	2,000
Choong Chee Mun	280,000
Boo Chin Liong	224,000
Chin Chew Mun	224,000
Khadmudin Bin Mohamed Rafik	224,000
Lau Mong Fah	224,000
Lau Mong Ying	224,000
W Norma Binti W Daud	224,000
Lim Yong Lee	224,000
Ahmad Mustapha Ghazali	224,000
Cheah Yew Keat	2,730,000
Kenanga Investors Bhd	3,000
Nabihah Binti Shafiee	472,500
David Lim Chee Siang	27,000
Coco Li Heng	27,000
Abd Aziz Bin Bahari	225,000
Cheah Pui San	225,000
Haree Narayanan All Money	225,000
Mohammed Shukri bin Yaacob	225,000
Ahmad Firdaus Bin Mohamad	225,000
Choy Mun Kin	225,000
Muhammad Amirul Hakim Bin Mohd Nizam	225,000
Muhammad bin Mohd Yunos	225,000
Saluna Binti Tusok @ Salinah Binti Abdullah	225,000
<b>TOTAL</b>	<b>8,822,500</b>

## Furnishing False Financial Statements to Authorities

The CMSA requires that all disclosure documents relating to a corporate exercise contain, among others, information that is true, complete and accurate and does not contain any material omission.

In January 2013, China Automobile Parts Holdings Limited (CAP) had completed an initial public offering (IPO) in Malaysia. The listing prospectus that was submitted to the SC for approval and later issued however, contained financial statements that were false or misleading, in that the cash and cash equivalents disclosed (Disclosed CCE) in the Statements of Financial Position of CAP's wholly-owned subsidiary, QuanZhou FenSun Automobile Parts Co., Ltd (FenSun) were in fact, significantly overstated.

Further, as part of its listing obligations, CAP, who was required to submit its quarterly and annual reports to Bursa Malaysia, had also furnished false or misleading financial statements to Bursa Malaysia as these financial statements contained overstatements of FenSun's bank balances and did not contain the requisite disclosure of litigation and outstanding liabilities.

Following the above and as illustrated in the table below, the SC had in July 2021 imposed various sanctions against CAP and several of its directors for breach of their disclosure duties. In March 2022, the SC had also imposed sanctions on Cheah Yew Keat for a similar offence.

As the information submitted in a disclosure document would directly affect an investor's decision-making process and market confidence, it is vital for all parties involved in the preparation and submission of these documents to the SC or Bursa Malaysia to play a proactive role in carrying out their due diligence to ensure that the information disclosed is true, accurate, complete and does not contain any material omission. Where required, the relevant parties must also undertake any continuing disclosure obligations with the same degree of care and diligence.

Breach	Person Sanctioned	Outcome
<ul style="list-style-type: none"> <li>Submitting the CAP Prospectus that contained financial statements that were false or misleading, in particular the Disclosed CCE to the SC (Breach 1);</li> <li>Causing the issuance of the CAP Prospectus that contained financial statements that were false or misleading, in particular the Disclosed CCE (Breach 2);</li> <li>Knowingly permitting the furnishing of CAP's financial statements that were false or misleading due to an overstatement of bank balances, to Bursa Malaysia (Breach 3); and</li> <li>Knowingly permitting the furnishing of CAP's financial statements that were false or misleading due to non-disclosure of litigation and non-recognition of outstanding liabilities, to Bursa Malaysia (Breach 4).</li> </ul>	CAP	The SC issued a reprimand for each breach.

Breach	Person Sanctioned	Outcome
<ul style="list-style-type: none"> <li>Causing the submission of the CAP Prospectus that contained financial statements that were false or misleading, in particular the Disclosed CCE to the SC;</li> <li>Authorising the issuance of the CAP Prospectus that contained financial statements that were false or misleading, in particular the Disclosed CCE; and</li> <li>As directors of CAP at the material time, pursuant to section 367(1) of the CMSA, Wang Yu Yun and Li Guo Qing were deemed to have committed Breach 3 and Breach 4.</li> </ul>	<ul style="list-style-type: none"> <li>Wang Yu Yun (Executive Chairperson of CAP)</li> <li>Li Guo Qing (former Managing Director of CAP)</li> </ul>	<p>The SC issued:</p> <ul style="list-style-type: none"> <li>a reprimand for each breach; and</li> <li>a public statement, in relation to Wang Yu Yun, to the effect that in the SC's opinion, the retention of office by Wang Yu Yun as an Executive Chairperson of CAP was prejudicial to public interest.</li> </ul>
<ul style="list-style-type: none"> <li>Causing the submission of the CAP Prospectus that contained financial statements that were false or misleading, in particular the Disclosed CCE to the SC;</li> <li>Authorising the issuance of the CAP Prospectus that contained financial statements that were false or misleading, in particular the Disclosed CCE; and</li> <li>As the NINEVC at the material time, pursuant to section 367(1) of the CMSA, Ong Juan Tee was deemed to have committed Breach 3.</li> </ul>	Ong Juan Tee (former Non-Independent Non-Executive Vice Chairman (NINEVC) of CAP)	The SC issued a reprimand for each breach.
As the director and CFO respectively of CAP at the material time, pursuant to section 367(1) of the CMSA, Chen Xunze and Lai Fong Ling were deemed to have committed Breach 3 and Breach 4.	<ul style="list-style-type: none"> <li>Chen Xunze (Executive Director of CAP)</li> <li>Lai Fong Ling (former Chief Financial Officer (CFO) of CAP)</li> </ul>	<p>The SC issued:</p> <ul style="list-style-type: none"> <li>a reprimand for each breach; and</li> <li>a public statement, in relation to Chen Xunze, to the effect that in the SC's opinion, the retention of office by Chen Xunze as an Executive Director of CAP was prejudicial to public interest.</li> </ul>
As the CFO of CAP at the material time, pursuant to section 367(1) of the CMSA, Chai Wai Teck was deemed to have committed Breach 3.	Chai Wai Teck (former CFO of CAP)	The SC issued a reprimand.
Knowingly caused the furnishing of six financial statements of DIS Technology Holdings Bhd (DISTHB) that were false to Bursa Malaysia in relation to the affairs of DISTHB while in the capacity of DISTHB Group Managing Director.	Cheah Yew Keat	<p>The SC:</p> <ul style="list-style-type: none"> <li>issued a reprimand for each breach; and</li> <li>imposed a penalty of RM2,730,000, comprising RM455,000 for each of the six breaches.</li> </ul>

## Misconduct by Unit Trust Consultants

Unit trust consultants (UTCs) in Malaysia are required to uphold and adhere to the ethical standards and professional conduct requirements as set out in the *Federation of Investment Managers Malaysia's Code of Ethics and Rules of Professional Conduct* (FIMM Code).

As exemplified by the administrative actions taken in the cases set out in the table below, the SC wishes to remind UTCs that the SC takes the breach of any obligation under the FIMM Code very seriously and will not hesitate to take action against any UTC for his/her breach of these requirements.

Breach	Person sanctioned	Outcome
<ul style="list-style-type: none"> <li>Executing multiple unauthorised transactions through various clients' unit trust accounts;</li> <li>Forging clients' signatures on documents submitted to Bank Kerjasama Rakyat Bhd (Bank Rakyat); and</li> <li>Knowingly providing false or misleading statements to Bank Rakyat's clients.</li> </ul>	Suhana Binti Sa'adon	The SC: <ul style="list-style-type: none"> <li>issued a reprimand for each breach; and</li> <li>imposed a penalty of RM450,000.</li> </ul>
	Siti Rahayu Binti Abu Bakar	The SC: <ul style="list-style-type: none"> <li>issued a reprimand for each breach; and</li> <li>imposed a penalty of RM450,000.</li> </ul>
<ul style="list-style-type: none"> <li>Executing multiple unauthorised transactions through various clients' unit trust accounts; and</li> <li>Knowingly providing false or misleading statements to Bank Rakyat's clients.</li> </ul>	Sharifah Syafeeqah Binti Syed Ahmad Amir Feisal Al-Idrus	The SC: <ul style="list-style-type: none"> <li>issued a reprimand for each breach; and</li> <li>imposed a penalty of RM270,000.</li> </ul>
	Aiza Binti Aziz	The SC: <ul style="list-style-type: none"> <li>issued a reprimand for each breach; and</li> <li>imposed a penalty of RM270,000.</li> </ul>

## Prohibiting Unlicensed Digital Asset Exchanges from Operating Stock Markets in Malaysia

Digital assets have become an attractive form of securities worldwide, including in Malaysia. The advent of digital assets has unsurprisingly been met with an increasing number of DAXs being set up for the purposes of buying, selling and trading of digital assets.

It should be noted that DAXs are ‘stock markets’ within the meaning of Sections 2 and 7 of the CMSA and that the operation of DAXs in Malaysia constitutes a regulated activity. Accordingly, the operators of such DAXs will need to be registered with the SC as a recognised market operator (RMO) under Section 34(1) of the CMSA.

Binance is one of the largest DAXes in the world and was found by the SC to be operating a stock market in Malaysia as it was actively targeting Malaysian investors. In this regard, on 26 July 2021, the SC took administrative action against the entities related to Binance and its founder, Zhao Changpeng for operating its DAX in Malaysia without the requisite registration as an RMO.

The sanctions imposed by the SC, with which Binance has substantially complied, are set out in the table below:

Breach	Person Sanctioned	Outcome
Operating a recognised market (DAX) without registering with the SC under Section 34 of the CMSA via website and mobile applications [Breach of section 354(1)(a) of the CMSA read together with section 7(1) of the CMSA and Order 3(1) of the <i>Capital Market and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 (CMSA Order)</i> ].	<ul style="list-style-type: none"> <li>Binance Holdings Limited</li> <li>Binance Digital Limited</li> <li>Binance UAB</li> <li>Binance Asia Services Pte Ltd</li> </ul>	<p>The SC issued:</p> <ul style="list-style-type: none"> <li>a reprimand for each breach; and</li> <li>directives for the persons sanctioned to carry out the following:               <ol style="list-style-type: none"> <li>disable Binance’s website and applications (in Apple Store, Google Play or any other digital application platform) in Malaysia within 14 business days from 26 July 2021, being 16 August 2021;</li> <li>immediately cease circulating, publishing or sending any advertisements, whether in email or otherwise, to Malaysian investors; and</li> <li>immediately restrict Malaysian investors from accessing Binance’s Telegram group and any other messaging platform operated by Binance.</li> </ol> </li> </ul>
Operating a recognised market (DAX) through Binance Holdings Ltd and Binance Asia Services Pte Ltd (where Zhao Changpeng is the Chief Executive Officer and is a director) without registering with the SC under Section 34 of the CMSA via website and mobile applications [Breach of section 354(1)(a) of the CMSA read together with sections 7(1) and 367(1) of the CMSA and Order 3(1) of the CMSA Order].	Zhao Changpeng	

## Ensuring Compliance with Trading Regulations

The *Securities Industry (Central Depositories) Act 1991* (SICDA) requires an individual who opens a trading account to ensure that his/her Central Depository System (CDS) account is not, at any time, used to deposit securities belonging to anyone else other than the individual himself/herself (named accountholder) or an authorised nominee. Individuals must not carry out trading activities for anyone else or receive funds from other individuals for the purpose of purchasing shares on behalf of such individuals.

As illustrated in the table below, the SC wishes to highlight that the SC takes the breach of any provision under SICDA very seriously and will accordingly take action against any person who breaches such requirements.

Breach	Person Sanctioned	Outcome
<ul style="list-style-type: none"> <li>Found to be the beneficial owner of the deposited securities in the CDS account in the name of David Lim Chee Siang.</li> <li>Funding the purchase of the shares.</li> </ul>	Coco Li Heng	The SC: <ul style="list-style-type: none"> <li>issued a reprimand; and</li> <li>imposed a penalty of RM27,000.</li> </ul>
<ul style="list-style-type: none"> <li>Effecting the disposal of shares in his CDS account when he was not the beneficial owner of the said shares.</li> </ul>	David Lim Chee Siang	The SC: <ul style="list-style-type: none"> <li>issued a reprimand; and</li> <li>imposed a penalty of RM27,000.</li> </ul>

## Failure to Make a Mandatory Take-over Offer by Persons Acting in Concert

The SC considers the failure to make a mandatory take-over offer to be a serious breach. Generally, the obligation to make a mandatory take-over offer for the remaining voting shares in a company will not only apply to a person who has acquired more than 33% of voting shares in that company, it will also be extended to a person who acquires more than 2% of voting shares in a company in any period of six months if that person already holds between 33% to 50% of voting shares in that company prior to such an acquisition.

The concept of a 'concert party' relationship has long been introduced in Malaysian take-over laws. Its objective is to prevent a person or group of persons acting in concert from stealthily acquiring control in a company through acquisitions or series of acquisitions designed not to trigger the mandatory offer obligation. While a concert party relationship would generally arise from an agreement, arrangement, or understanding between a group of persons to co-operate to acquire voting shares in a company for the purpose of acquiring or exercising control in that company, the law also automatically presumes certain relationships to be concert party relationships unless the contrary is established.

Examples of such presumed concert party relationships include relationships between a person and his/her spouse or close relatives as well as between a corporation and its directors or the spouse or close relative of any of its directors. 'Close relative' refers to a person's mother, father, child, brother, sister, adopted child, or stepchild.

It is vital for offerors and advisers to undertake a comprehensive review at the outset of any proposed take-over offer to identify presumed concert party relationships therein.

Between July 2021 – June 2022, the SC imposed three administrative actions against persons acting in concert for failure to make a mandatory take-over offer as follows:

Breach	Person Sanctioned	Outcome
<p>The persons sanctioned (collectively, the Koon Group) were found by the SC to be acting in concert pursuant to paragraph 216(3)(h) of the CMSA, and accordingly in breach of section 218(2) of the CMSA read together with paragraph 4.01(a) of the <i>Rules on Take-overs, Mergers and Compulsory Acquisitions</i> (Rules), when they failed to make a take-over offer for the remaining voting shares in JAKS Resources Bhd (JAKS) after the collective shareholdings of the Koon Group in JAKS increased from 32.99% to 33.05% as a result of Koon acquiring additional shares in JAKS in November 2017.</p>	<ul style="list-style-type: none"> <li>• Koon Yew Yin (Koon)</li> <li>• Tan Kit Pheng</li> <li>• David Chew @ Chew Hooi Boon</li> <li>• Yap Sung Pang</li> </ul>	<p>The SC:</p> <ul style="list-style-type: none"> <li>• issued a reprimand to each person sanctioned; and</li> <li>• imposed a penalty of RM520,000 against all of the persons sanctioned, collectively.</li> </ul>
<p>The persons sanctioned (collectively, the YKC Group) were found by the SC to be acting in concert by virtue of being close relatives pursuant to section 216(3) of the CMSA, and accordingly in breach of section 218(2) of the CMSA read together with subparagraph 4.01(a) of the Rules when they failed to make a take-over offer for the remaining voting shares in Rapid Synergy Bhd (RSB) when YKC Group's collective shareholding in RSB increased from 32.65% to 33.02% in April 2019 arising from the acquisitions of RSB shares by Dato' Dr Yu Kuan Chon and his spouse, Datin Chan Sow Keng.</p>	<ul style="list-style-type: none"> <li>• Dato' Dr Yu Kuan Chon (Dato' Dr YKC)</li> <li>• Datin Chan Sow Keng (Datin Chan Sow Keng)</li> <li>• Dato' Yu Kuan Huat</li> <li>• Datin Teh Nai Sim</li> <li>• Dr Yu Chong Choo</li> <li>• Dr Yu Choon Geok</li> <li>• Ng Choon Hua</li> </ul>	<p>The SC:</p> <ul style="list-style-type: none"> <li>• issued a reprimand to each person; and</li> <li>• imposed a penalty of RM130,000 against all of the persons sanctioned, collectively.</li> </ul>

Breach	Person Sanctioned	Outcome
<ul style="list-style-type: none"> <li>• TTSE had, in February 2020, acquired 16.89% voting shares in Subur Tiasa Holdings Bhd (STHB) which increased TTSE Group's (excluding Amat Abadi Sdn Bhd (Amat Abadi)) collective shareholding in STHB from 40.74% to 57.62%.</li> <li>• TTSE's 16.89% shareholding in STHB was subsequently disposed to Amat Abadi later in the month.</li> <li>• Amat Abadi was found by the SC to have received financial assistance from Tiong Toh Siong Holdings Sdn Bhd (TTSH) for the purchase of the 16.89% in voting shares in STHB. As TTSH is a person acting in concert with TTSE, Amat Abadi was deemed to be a person acting in concert with the TTSE Group pursuant to section 216(3)(i) of the CMSA.</li> <li>• As the TTSE Group had failed to undertake a mandatory take-over offer for the remaining voting shares in STHB after the increase in its collective shareholding therein of more than 2% within a 6-month period, all members of the TTSE Group were found by the SC to have breached section 218(3) of the CMSA read together with subparagraph 4.01(b) of the Rules.</li> </ul>	<ul style="list-style-type: none"> <li>• Tiong Toh Siong Enterprises Sdn Bhd (TTSE)</li> <li>• Teck Sing Lik Enterprise Sdn Bhd</li> <li>• Tan Sri Datuk Sir Diong Hiew King @ Tiong Hiew King</li> <li>• Tiong Kiong King</li> <li>• Datuk Tiong Thai King</li> <li>• Puan Sri Datin Ngu Yii Chuo</li> <li>• Tiong Chiong Ong</li> <li>• Dato' Tiong Ing</li> <li>• Law Cheng King</li> <li>• TTSH</li> <li>• Tiong Toh Siong &amp; Sons Sdn Bhd</li> <li>• Pertumbuhan Abadi Asia Sdn Bhd</li> <li>• Unique Wood Sdn Bhd</li> <li>• ETI Blessed Holdings Sdn Bhd</li> <li>• Amat Abadi Sdn Bhd (Amat Abadi)</li> </ul> <p>(collectively, TTSE Group)</p>	<p>The SC issued:</p> <ul style="list-style-type: none"> <li>• a reprimand; and</li> <li>• directives for the TTSE Group to undertake the following: <ul style="list-style-type: none"> <li>(i) a cash offer for all remaining shares not held by the TTSE Group at RM0.48 per share or at the highest offer price as may be required pursuant to Paragraph 6.03 of the Rules, to be determined (Offer Price); and</li> <li>(ii) a compensation scheme to shareholders of STHB as at 20 February 2020 (the date of the breach), who had subsequently disposed their STHB shares at prices below the Offer Price whereby such shareholders would be compensated in cash on the difference per share between the Offer Price and their disposal price.</li> </ul> </li> </ul>

## INFRINGEMENT NOTICES

Between 1 July 2021 and 30 June 2022, the SC issued 94 infringement notices in relation to, among others:

- (a) the carrying out of regulated activities without the requisite licences;
- (b) lapses in statutorily-required control measures in entities; and
- (c) failure to obtain the required approvals from the respective authorities.

### Infringement Notices Issued from 1 July 2021 to 30 June 2022

Types of Infringement Notices	July 2021	Aug 2021	Sept 2021	Oct 2021	Nov 2021	Dec 2021	Jan 2022	Feb 2022	Mar 2022	Apr 2022	May 2022	June 2022
Supervisory Letter	5	-	3	2	3	8	2	2	1	-	1	7
Warning Letter	2	5	5	2	-	1	-	1	-	1	1	1
Non-Compliance Letter	1	8	2	1	-	1	7	1	5	-	1	-
Cease and Desist Letter	1	1	-	5	-	2	4	-	-	1	-	-
<b>TOTAL</b>	<b>9</b>	<b>14</b>	<b>10</b>	<b>10</b>	<b>3</b>	<b>12</b>	<b>13</b>	<b>4</b>	<b>6</b>	<b>2</b>	<b>3</b>	<b>8</b>

## SUPERVISORY EXAMINATIONS AND ENGAGEMENTS

The SC leverages supervisory engagements to ensure that policies and rules governing markets, governance and risk management practices as well as regulatory duties of market institutions and self-regulatory organisations (SROs) are aligned to its regulatory objectives and expectations. While the SC largely leveraged digital platforms to engage with market institutions during the first few phases of the MCO, the SC has, since the country entered the endemic stage, begun physical meetings (with strict adherence to relevant SOPs) with its regulatees.

The SC's supervisory focus continues to be directed at ensuring that the regulated entities are able to function effectively under the current working environment. In this regard, significant focus was placed on:

- (a) whether trading and other market infrastructure systems' capacities are able to cope with market activities and volumes;

- (b) the adequacy of financial resources and financial safeguards of financial market infrastructures;
- (c) ensuring the trends of defaults in the investment notes hosted on P2P financing platforms are monitored to facilitate rescheduling and restructuring of such investment notes; and
- (d) ensuring that SROs continue to monitor the conduct and practice of unit trust consultants and sales agents amid a lower yield environment and potential risk of increased illegal investment activities.

In carrying out the SC's gatekeeping function, active engagements and consultations were also held to communicate the SC's regulatory expectations to new entrants and existing players in the market, as well as to keep pace with market changes.

### Number of Supervisory Examinations and Engagements conducted by the SC from 1 July 2021 to 30 June 2022

Entity	Number of Examinations Conducted	Number of Engagements Conducted
Bursa		
FIMM	2	75
PPA		
RMO	4	148
Investment Banks	-	41
FMCs/UTMCs/REITs	-	34
SBC/DBC	-	33
PLCs	-	20
Auditors	-	10
VCPE	-	7

#### FOR MORE INFORMATION

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