

A BILL

*i n t i t u l e d*

An Act to amend the Securities Commission Malaysia Act 1993.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

**1.** (1) This Act may be cited as the Securities Commission Malaysia (Amendment) Act 2017.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

**Amendment of section 31A**

**2.** The Securities Commission Malaysia Act 1993 [Act 498], which is referred to as the “principal Act” in this Act, is amended in section 31A—

(a) in the shoulder note, by inserting after the words “**Part IIIA**” the words “, **Schedule 1 and Schedule 2**”;

(b) by inserting after the words “In this Part” the words “, Schedule 1 and Schedule 2”;

(c) by inserting after the definition of “auditor” the following definition:

‘ “executive officer” refers to the executive officer of the Audit Oversight Board appointed under section 31c;’;

(d) by deleting the definition of “executive chairman”; and

(e) by inserting after the definition of “Malaysian Institute of Accountants” the following definition:

‘ “non-executive chairman” refers to the non-executive chairman of the Audit Oversight Board appointed under section 31c;’.

### **Amendment of section 31B**

**3.** Section 31B of the principal Act is amended by substituting for paragraph (d) the following paragraph:

“(d) to exercise oversight over any person who prepares a report in relation to financial information, required to be submitted under the securities laws, guidelines issued by the Commission or the rules of a stock exchange, of a—

- (i) public interest entity or schedule fund;
- (ii) non-public interest entity seeking approval to become a public listed company or a corporation listed on the stock exchange; or
- (iii) non-schedule fund seeking approval to become a schedule fund.”.

### **Amendment of section 31c**

**4.** Section 31c of the principal Act is amended—

(a) by substituting for subsection (2) the following subsection:

“(2) The Audit Oversight Board shall consist of the following members who shall be appointed by the Board:

- (a) a non-executive chairman;
- (b) an executive officer; and
- (c) five non-executive members.”;

(b) by substituting for subsection (4) the following subsection:

“(4) The non-executive chairman and executive officer shall not—

- (a) be a full-time officer or controlling shareholder of any public interest entity or schedule fund, its related corporation or associate company;
- (b) have any share in any of the profits of an accounting or auditing firm, or any of its affiliate; and
- (c) receive payment from any accounting or auditing firm, or from any other person as may be specified by the Commission, other than fixed continuing payments under standard arrangements for retirement from an accounting or auditing firm subject to such conditions as the Commission may impose.”;

(c) in subsection (6)—

- (i) by substituting for the word “two” the word “three”; and
- (ii) by substituting for the words “a chartered accountant, a licensed accountant or an associate member” the words “a chartered accountant or a licensed accountant”;

(d) by inserting after subsection (6) the following subsection:

“(6A) Notwithstanding subsection (6), no member of the Audit Oversight Board shall—

(a) be an approved company auditor under the Companies Act 2016; or

(b) be employed on a full-time or contractual basis, in any capacity, by a firm which—

(i) acts as an auditor for any public interest entity or schedule fund; or

(ii) prepares for or on behalf of any public interest entity or schedule fund, any report required by the Companies Act 2016 to be prepared by an approved auditor,

or any of the firm’s affiliates.”; and

(e) in subsection (7), by substituting for the words “executive chairman” the words “executive officer”.

#### **Amendment of section 31EA**

5. Subsection 31EA(9) of the principal Act is amended by substituting for the words “executive chairman” the words “non-executive chairman”.

#### **Amendment of section 31H**

6. Subsection 31H(3) of the principal Act is amended—

(a) in paragraph (c), by deleting the word “registration”; and

(b) in the English language text, in paragraph (e), by substituting for the words “fees or other charges” the words “other fees or charges”.

**Amendment of section 31o**

7. Section 31o of the principal Act is amended by inserting after subsection (4) the following subsections:

“(4A) An auditor registered or recognised under this Part shall pay such prescribed fee on a yearly basis and on such date as the Commission may specify.

(4B) Where a registered or a recognised auditor fails to pay the prescribed fee by the date on which such fee is due, the Commission may impose a late payment fee of a prescribed amount for every day that the payment is late, and such fees shall be recoverable by the Commission as a debt due to the Commission.”.

**Amendment of section 31q**

8. Subsection 31q(1) of the principal Act is amended by substituting for subparagraph (C) the following subparagraph:

“(C) the auditor fails to pay any fees or charges imposed under this Part.”.

**Amendment of section 159**

9. Section 159 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for—

- (a) forms for the purposes of the securities laws;
- (b) fees to be paid for the purposes of the securities laws; or
- (c) the exemption of any specified person or any person who is a member of a specified class of persons from any of the provisions of the securities laws, subject to terms and conditions.”.

**Transitional provision**

**10.** Notwithstanding the provision of this Act, the non-executive members of the Audit Oversight Board appointed under the principal Act immediately before the commencement of this Act shall, upon the commencement of this Act, continue to hold office and remain appointed until the expiry of their appointments.

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**EXPLANATORY STATEMENT**

This Bill seeks to amend the Securities Commission Malaysia Act 1993 (“Act 498”).

2. *Clause 1* contains the short title of the proposed Act and the power of the Minister to appoint the commencement date of the proposed Act.

3. *Clause 2* seeks to amend section 31A of Act 498 to introduce new definitions which are “executive officer” and “non-executive chairman” into Act 498 and to delete the definition of “executive chairman”.

4. *Clause 3* seeks to amend section 31B of Act 498 to widen the scope of the Audit Oversight Board in relation to the oversight over any person who prepares reports in relation to financial information of a public interest entity or schedule fund, a non-public interest entity seeking approval to become a public listed company or a corporation listed on the stock exchange or a non-schedule fund seeking approval to become a schedule fund.

5. *Clause 4* seeks to amend section 31C of Act 498 to replace the existing provision in relation to the composition of the Audit Oversight Board and the prohibition imposed on a non-executive chairman and an executive officer. *Clause 4* also seeks to introduce a new subsection 31C(6A) into Act 498 which provides that no member of the Audit Oversight Board shall be an approved company auditor under the Companies Act 2016 or be employed by a firm which provides services for public interest entities or schedule funds or any of its affiliates. The amendment also seeks to provide that day-to-day administration of the Audit Oversight Board will be the responsibilities of the executive officer.

6. *Clause 5* seeks to amend section 31EA of Act 498 as a consequence to the introduction of the definition of “non-executive chairman”.

7. *Clause 6* seeks to amend section 31H of Act 498 to clarify the Audit Oversight Board Fund in relation to other fees and charges.

8. *Clause 7* seeks to amend section 31O of Act 498 to introduce new subsections 31O(4A) and (4B) into Act 498. The new subsection (4A) provides that an auditor registered or recognised by the Audit Oversight Board

shall pay such prescribed fee on a yearly basis. Meanwhile, the new subsection (4B) provides that the Commission may impose a late payment fee on any registered or recognised auditor if he fails to pay such fee within the stipulated time.

9. *Clause 8* seeks to amend section 31Q of Act 498 to clarify that the registration of an auditor can be revoked or suspended, or the recognition can be withdrawn or suspended where there is a failure to pay any fee or charge imposed.

10. *Clause 9* seeks to amend section 159 of Act 498 to elaborate the Commission's power to make regulations in relation to forms, fees and exemptions.

11. *Clause 10* seeks to provide the transitional provision in relation to the tenure of the existing non-executive members.

*FINANCIAL IMPLICATIONS*

This Bill will not involve the Government in any extra financial expenditure.

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