

BY-LAWS RELATING TO THE PROCEDURE FOR DISCIPLINARY PROCEEDINGS

The revised By-laws relating to the Procedure for Disciplinary Proceedings (“By-laws”) issued by FMUTM, which came into effect on 3 September 2007, supersedes the earlier By-laws related to the Disciplinary Proceedings.

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The By-laws strengthens the disciplinary processes and enhance quicker disposal of complaints and grievances arising from any misconduct or non-compliance by the Registered Persons consisting of Unit Trust Management Companies (“UTMC”), Institutional Unit Trust Advisers

(“IUTA”), Corporate Unit Trust Advisers (“CUTA”) and Unit Trust Consultants (“UTC”). This provides a wider recourse for investors against Registered Persons, making the By-laws more responsive and effective in dealing with public complaints.

Among others, the issuance of the By-laws is timely as FMUTM is likely to become a self regulatory organisation in the near future. Further, it forms part of FMUTM’s objectives in ensuring high integrity and professionalism of persons involved in the industry in the interest of the investors.

Effects of the key provisions to the By-laws are as follows:

- **Speedier process of evaluating complaints by the Secretariat**

Under the By-laws new provisions are introduced to enable FMUTM’s Secretariat to play an important role in evaluating complaints, whether the complaints warrant further investigation and imposing sanctions where there are vivid instances of misconduct, thus expediting the disciplinary processes and in resolving the complaints.

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■ Formation of Sub-Committees

In addition, two sub-committees namely, the Disciplinary Sub Committee and the Appeal Sub Committee are independent of the Council with the sub-committee members representing a spectrum from the unit trust industry. The independent sub-committee members are composed of seven members.

■ Representation by an advocate and solicitor

Another vital aspect in the By-laws is the provision for appearance of advocate and solicitor in the disciplinary and appeal hearings, providing a fair hearing to all parties concerned.

■ FMUTM can independently institute proceedings

Another important aspect of the By-laws is where FMUTM is empowered to institute disciplinary proceeding against Registered Person despite the complaint against the Registered Person has been withdrawn by the complainant. Further, provisions also allow FMUTM to initiate proceeding on its own accord where any act of misconduct or non-compliance is brought to FMUTM’s attention.

■ Effect of Court Proceedings

Compliance and Disciplinary Committee shall recommend to the Council the termination of membership or revocation of registration of a Registered Person if the Registered Person is found guilty of an offence under the criminal law, under the securities law or is declared bankrupt or insolvent by the Court of Law.

■ Public Notification

Additional provisions under the By-laws allow the Secretariat - in extreme cases -to publicise the name of the Registered Person against whom an action has been taken in the major dailies to protect investors and potential investors. The provisions on sanctions under the revised By-laws are on the premise that it would curb misconduct or non-compliance by Registered Persons.

■ Additional Penalties

Outcome of the penalties meted out after the proceedings now include imposing a fine, suspension and issuing a written reprimand to the Registered Person.

■ A guide for imposing penalties

Pursuant to the By-laws, Guidelines For Imposition Of Penalties Under The By-laws Relating To The Procedure For Disciplinary Proceedings (“Guidelines”) forms a guide for the sub-committees in deciding on the mode of penalty imposed on the outcome of the proceedings.

The Guidelines illustrates the type of misconduct or non-compliance, the type of penalty and level of severity the sub-committees should consider when imposing any sanctions. Further, the Guidelines also provides example of acts of misconduct or non-compliance. It also states the considerations and circumstances when determining the degree of penalty to be imposed.

The By-Laws are posted on FMUTM’s website: www.fmutm.com.my ☒