

**Application of the Banking and Financial Institutions Act 1989
or the Islamic Banking Act 1983**

83. (1) The Corporation in invoking any of its powers under this Part against a member institution licensed under the Banking and Financial Institutions Act 1989 or under the Islamic Banking Act 1983, as the case may be, shall be subject to the provisions of those Acts in addition to the provisions of this Act and shall not be in derogation of those Acts.

(2) Where there is any conflict or inconsistency between the provisions of the Banking and Financial Institutions Act 1989 or under the Islamic Banking Act 1983 and this Act, those Acts shall prevail.

PART VII**OFFENCES****Holding out as member institution**

84. (1) No person shall hold itself out to be a member institution, or represent that it or any other person is insured under the deposit insurance system unless such other person is a member institution.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five million ringgit or to imprisonment not exceeding a term of five years or to both and shall, in addition, be liable to a daily fine not exceeding fifty thousand ringgit for every day the offence continues after conviction.

False statements

85. Any person who prepares, signs, approves or concurs in any—

(a) account, statement, return, report or other document required to be submitted to the Corporation under this Act that he knows or has reason to believe is false, or contains false or misleading information; or

(b) return that does not present fairly information required to be submitted to the Corporation under this Act,

commits an offence and shall, on conviction, be liable to a fine not exceeding three million ringgit or to imprisonment not exceeding a term of three years or to both and shall, in addition, be liable to a daily fine not exceeding thirty thousand ringgit for every day the offence continues after conviction.

Failure to provide information, etc.

86. Every member institution that fails or neglects—

- (a) within the time specified for so doing, to provide the Corporation with any account, record, statement, return, report or other document respecting the business or affairs of a member institution that is required to be submitted to the Corporation under this Act; or
- (b) to respond, within the time specified in the notice, to a request for information or explanations respecting a member institution made by or on behalf of the Corporation under this Act,

commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment not exceeding a term of one year or to both and shall, in addition, be liable to a daily fine not exceeding ten thousand ringgit for every day the offence continues after conviction.

General offence

87. Unless otherwise provided in this Act, any person, other than the Corporation, who commits an offence under this Act, contravenes or does not comply with any provision of this Act or any specification or requirement made, or any order in writing, direction, instruction, or notice given, or any limit, term, condition or restriction imposed, or any other thing howsoever done, in the exercise of any power conferred under, pursuant to or by virtue of, any provision of this Act commits an offence and shall, on conviction—

- (a) in the case of a natural person, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment not exceeding a term of six months or to both and shall, in addition, be liable to a daily fine not exceeding five thousand ringgit for every day the offence continues after conviction; or

(b) in any other case, be liable to a fine not exceeding one million ringgit.

Offences by body corporate or unincorporate or by director, officer, controller, etc.

88. (1) Where an offence has been committed by any body corporate or unincorporate under this Act, any person who at the time of the commission of the offence was a director, officer or controller of the body corporate or unincorporate or was purporting to act in any such capacity, or was in any manner or to any extent responsible for the carrying on of any business or for the management of any assets, liabilities or affairs of such body corporate or unincorporate, or was assisting in such management, commits that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person (hereinafter in this subsection referred to as the “principal”) would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any clerk, servant or agent of his, or of the clerk or servant of such agent.

(3) Subsection (2) shall be applicable where such act, omission, neglect or default was committed by the clerk or servant of the principal in the course of his employment, or by the agent when acting on behalf of the principal, or by the clerk or servant of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

(4) For the purpose of this section, “controller” shall have the meaning assigned to it under subsection 2(1) of the Banking and Financial Institutions Act 1989.

Power of Corporation to compound offences

89. (1) The Corporation, with the concurrence of the Public Prosecutor, may in the case where it deems fit and proper to do so, compound any offence committed by any person which is punishable under this Act, by making a written offer to such

person to compound the offence by paying to the Corporation within such time as may be specified in the offer such sum of money as may be specified in the offer which shall not exceed fifty per centum of the amount of the maximum fine, including the daily fine, if any, in the case of a continuing offence, to which that person would have been liable if he had been convicted of the offence.

(2) Any money paid to the Corporation pursuant to the provisions of subsection (1) shall be paid into and form part of the Consolidated Fund.

(3) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or any extension of it which the Corporation may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound was made.

Court may order compliance

90. Where a person has been convicted of an offence under this Act, the court may, in addition to any fine or term of imprisonment that may be imposed, order such person to rectify the contravention of this Act in respect of which the person was convicted.

Additional monetary punishment

91. Where a person has been convicted of an offence under this Act, the court may, where it is satisfied that as a result of the commission of the offence the convicted person acquired a monetary benefit or that monetary benefit accrued to the benefit of such person, order the convicted person to pay, notwithstanding the maximum amount of any fine that may otherwise be imposed under this Act, an additional fine in an amount equal to the court's estimation of the amount of the monetary benefit.

Compliance or restraining order

92. If a person does not comply with any provision of this Act that apply in respect of such person, the Corporation may apply to a High Court for an order directing such person to comply with or restraining such person from acting in breach of the provision and, on the application, the court may so order and make any further order it thinks fit.

Recovery of fines

93. All fines payable under this Act are recoverable and enforceable, with costs, at the suit of the Corporation, instituted by the Corporation and, when recovered, to be paid into and form part of the Consolidated Fund.

PART VIII

GENERAL PROVISIONS

Submission of information to Corporation

94. (1) Unless expressly provided for in this Act to the contrary, if, for the purpose of the exercise of any of its powers, the performance of any of its functions, or the discharge of any of its duties, under this Act, the Corporation requires any information from any member institution or from any related corporation of any of the member institution, on any matter relating to the business or affairs of such a member institution or related corporation, such member institution or related corporation shall, notwithstanding subsection 97(1) of the Banking and Financial Institutions Act 1989 or subsection 34(1) of the Islamic Banking Act 1983, submit such information to the Corporation.

(2) Any officer or agent of the member institution or related corporation or any other person having access or holding or in possession of the books, records, accounts or other documents of a member institution or related corporation shall, if at any time called upon in writing by the Corporation to do so, produce the same to the Corporation as it may require.