

RESPONSIBILITIES OF PRIVATE RETIREMENT SCHEME PROVIDERS UNDER THE CAPITAL MARKETS AND SERVICES LAW IN MALAYSIA

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Private Retirement Scheme (PRS) is a private pension scheme which is an alternative to the compulsory Public Pension Scheme and Employment Provident Fund in Malaysia. The objective of the scheme is to supplement the employed or self-employed employees' retirement savings under a well-structured and regulated environment. The PRS providers play an important role in ensuring the success of the government agenda besides other main players such as Securities Commission, PRS Administrator and the contributors. Therefore, the aim of the paper is to discuss the responsibilities of the PRS providers which are stipulated under the law of capital markets and services. This paper is based on a legal doctrinal research and qualitative research. The doctrinal analysis is based on the statutory provisions and judgement of courts (cases) and data of thematic analysis is gathered from the interview with five providers. It is recommended that protection of PRS contributors' rights and welfare must also be the primary objective in designing the law, regulation and guideline. Encouraging the employer to participate and join the scheme and offer a meaningful tax relief to the contributors and participating employers will boost up the interest of investors among individuals and organization.

Keywords: Private Retirement Scheme, providers, administrator, responsibilities, capital markets

I. INTRODUCTION

The introduction of the Private Retirement Scheme (PRS) framework was a result of recommendations made by the Securities Commission Malaysia (SC) to the Government to accelerate development of the private pension industry in Malaysia. PRS which are an integral feature of the private pension industry, seek to enhance choices available for all Malaysians, whether employed or self-employed, to supplement their retirement savings under a well-structured and regulated environment (Securities Commission, 2012). The Capital Markets and Services Act 2007 (CMSA, 2007) is the main Act which regulates and provides provisions related to the PRS in Malaysia. The robust amendment to the CMSA in 2012 focuses on the insertion of the new provision of PRS and other matters. This is in line with the objective of the Malaysian Capital Markets Master Plan II (CMMP II) after the great achievement of the CMMP I 1998-2010. In 2011, the CMSA has been amended where new provisions pertaining the Private Retirement Scheme Industry has been inserted under Part IIIA of the principal Act. The amendment came in force effectively on 3rd October 2011.

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The role and responsibilities of PRS providers are significant in the sense that this scheme is established to aid or support contributors during their pension life and as a tool to promote investors to save money and facilitate accumulation of monies by individuals for their retirement need besides other compulsory retirement scheme. Simultaneously, the scheme can create business and boost the economy of providers as business entity and other players of the industry and our country indirectly. It is crucial to analyse to what extent the statutory responsibilities of PRS providers supported the scheme and its participant as a whole. For this reason, the aim of the paper is to discuss the responsibilities of PRS providers under the capital markets and services law in Malaysia.

II. LITERATURE REVIEW

The governance of private pension plans and funds involves the managerial control of the organizations and how they are regulated, including the accountability of management and how they supervised. According to Steward & Juan (2008), the basic goal of pension fund governance regulation is to minimize the potential agency problems, or conflicts of interest that can arise between the fund members and those responsible for the fund's management and which can arise between the fund members and those responsible for fund management and which can adversely affect the security of pensions savings and promises. Ambachtsheer et al. (2007) identify the main governance weaknesses as poor selection processes for members of the governing board, a lack of self-evaluation of board effectiveness and weak oversight by the board.

In the United States and United Kingdom show that consequences of voluntary provision are that aggregate coverage is only around 50% and coverage being focused on men, unionist, high income workers, white collar workers etc. Coverage of low income workers may have a more powerful effect on national saving than voluntary coverage which leaves them out (Philip, 1995). Meaning that the mandatory pensions scheme is more favourable as given the beliefs that individual may not voluntarily save for old age, and in order to durably reduce future government liabilities, mandatory schemes are often favoured (Vittas, 1994). However, it is hoped that through this research may be we will discover the contradicting view or confirming the above research findings amongst the PRS providers in Malaysia in relation to this issue.

Unlike the Employment Provident Fund (EPF), where the contributors' money is protected, the savings in the PRS may or may not bear fruit, depending on how the fund performs. The PRS is an investment scheme, so investors need to be aware of the quality of the funds assets, the management experience and quality of service offered by fund providers. They need to have knowledge about investments (EPF, 2014). Therefore, a research amongst the providers of the PRS in Malaysia

is needed in order to know the advantages and disadvantages of the products offered by the providers.

Since PRS is an investment, the rule of investment apply that is when a person chooses a product that aims for high returns, he is exposing himself to high return that is the risk of not seeing profitable returns or perhaps even losing money. Like any other investments in the market, the gains of PRS are not guaranteed. Though all PRS plans are set out to reap maximum returns based on their investment criteria, there is no stopping the Net Value Asset of a PRS plan from plunging (or skyrocketing) due to market conditions. So, despite the best efforts of PRS providers and regulators to safeguard investor interest, one should always consider the possibility of not reaping any returns from his hard-earned cash and what those implications are. Not only the returns of PRS are not guaranteed but the capitals or contributions made to a PRS plan are not protected too. There is always that chance to lose the money contributed all those years in the event of adverse market conditions. In order to mitigate these risks, a person needs to educate himself and keep track of his PRS plans carefully (Ching, 2012).

Tejvan (2008) found out that the private sector is thought to be more efficient and has profit motives to gain best return for investors or otherwise people will look elsewhere. Further, the good thing about private pensions scheme where it will reduce the burden of the government in order to overcome the problem of ageing population in Malaysia. According to Tejvan (2008), a real problem the government faces is the percentage of people over 65 years old is going to increase. This means an increase in the dependency ratio where there will be more people receiving pension compared to the number of people working and paying income tax. This scenario will be the problem in government finances, therefore relying on private pensions would avoid this matter.

III. RESEARCH METHODOLOGY

This paper is based on a mixed method i.e. legal doctrinal research and qualitative research. The legal doctrinal analysis is based on the statutory provisions for example CMSA 2007, Regulation on PRS 2012 and SC Guidelines of PRS and judgement of courts (cases) from various jurisdictions. Data of thematic analysis is gathered from the interview with five PRS providers from the list in Table 1 below. All five providers offered the PRS conventional and Shariah products.

IV. PRS PROVIDERS, PRODUCTS AND LEGAL FRAMEWORK

Table 1 below describes the list of PRS providers in Malaysia and their products. There are six providers offered both conventional and Shariah-Based Product where as two providers just offered the conventional product shown below.

TABLE I: LIST OF PRS PROVIDERS AND PRODUCTS OFFERED

<i>No.</i>	<i>PRS Providers in Malaysia</i>	<i>Conventional Products</i>	<i>Shariah-Based Products</i>
1	Affin Hwang Asset Management Berhad	Affin Hwang PRS Conservative Fund Affin Hwang PRS Moderate Fund Affin Hwang PRS Growth Fund	Affin Hwang Aiiiman PRS Shariah Growth Fund Affin Hwang Aiiiman PRS Shariah Moderate Fund
2	AIA Pension and Asset Management Sdn. Bhd.	AIA PAM – Conservative Fund AIA PAM – Moderate Fund AIA PAM – Growth Fund	AIA PAM – Islamic Moderate Fund
3	AmFunds Management Berhad	AmPRS-Conservative Fund AmPRS-Moderate Fund AmPRS-Growth Fund AmPRS-Asia Pacific REITs	AmPRS-Dynamic Sukuk AmPRS-Tactical Bond AmPRS-Islamic Fixed Income Bond AmPRS-Islamic Balanced Fund AmPRS-Islamic Equity Fund
4	CIMB-Principal Asset Management Bhd	CIMB-Principal PRS Plus Conservative CIMB-Principal PRS Plus Moderate CIMB-Principal PRS Plus Growth CIMB-Principal PRS Plus Equity CIMB-Principal PRS Plus Asia Pacific Ex Japan Equity	CIMB Islamic PRS Plus Conservative CIMB Islamic PRS Plus Moderate CIMB Islamic PRS Plus Growth CIMB Islamic PRS Plus Equity CIMB Islamic PRS Plus Asia Pacific Ex Japan Equity
5	Kenanga Investors Berhad	Kenanga One PRS Conservative Fund Kenanga One PRS Moderate Fund Kenanga One PRS Growth Fund	Kenanga One PRS Shariah Equity Fund
6	Manulife Asset Management Services Bhd	Manulife PRS-Conservative Fund Manulife PRS-Moderate Fund Manulife PRS-Growth Fund	Manulife Shariah PRS-Conservative Fund Manulife Shariah PRS-Moderate Fund Manulife Shariah PRS-Growth Fund
PRS Legal Framework	PRS Legal Framework	PRS Legal Framework	PRS Legal Framework

contd table 1

No.	PRS Providers in Malaysia	Conventional Products	Shariah-Based Products
8	RHB Investment Management Sdn. Bhd.	RHB Retirement Series – Growth Fund RHB Retirement Series – Moderate Fund RHB Retirement Series–Conservative Fund	

^a Source: Website of the PRS Providers

The regulatory framework of PRS are govern by the CMSA, the Capital Markets and Services (Private Retirement Scheme Industry) Regulations 2012 (PRS Regulations) and the SC Guidelines of PRS. These legal documents must be read together. The Guidelines on Private Retirement Schemes (guidelines) are issued by the SC pursuant to section 377 of the CMSA. These guidelines are to be complied with by any person intending to act as a private retirement scheme provider (PRS Provider) in establishing, offering or providing a private retirement scheme or to hold himself as establishing, offering or providing a Scheme as well as the requirements to be complied with by a Scheme Trustee. These guidelines are aimed at providing the regulatory and operational requirements that would safeguard the interests of contributors to the Scheme.



Figure 1: PRS Legal Framework

It is prescribed under subsection 139P (1) of the CMSA, only a PRS provider approved by the SC under subsection 139Q (3) of the CMSA can establish, offer or provide a private retirement scheme or hold himself out as establishing, offering or providing a private retirement scheme. As an operating requirements a PRS Provider must at all times–

- a) be an entity incorporated in Malaysia;
- b) be a holder of a Capital Markets Services Licence who carries on the business of fund management;
- c) have a minimum paid up capital of RM5 million; and
- d) have minimum shareholders' funds of RM20 million.

The authors are of opinion that the financial requirement and stability is indispensable as a protection to the contributors in case of business downfall of particular providers.

V. ROLES AND RESPONSIBILITIES OF PRS PROVIDERS

The roles and responsibilities of PRS providers is not mentioned specifically in the CMSA 2007, however it is stated in the PRS Regulation and SC Guidelines on PRS. According to paragraph 3.16 of the Guidelines in addition to the duties stipulated under the PRS Regulations, a PRS Provider must operate the scheme, manage the funds and exercise its responsibilities according to the deed, disclosure document, securities laws, these guidelines, and investment management standards set by the self-regulatory organisation approved by the SC unless exemption is given by the SC.

In relation to fiduciaries duties, the PRS Regulations 2012 requires providers of PRS, (a) at all times exercise its powers for a proper purpose and in good faith in the best interest of the members as a whole; (b) exercise the degree of care and diligence that a reasonable man would exercise if he was in the PRS provider's position; (c) in the performance of its function and the management and operation of the PRS, act in accordance with the provisions and covenants of the deed, the provisions of the CMSA 2007, these Regulations and any guidelines issued by the Commission; (d) give priority to the interest of members as a whole over its own interest in the event of a conflict between the interest of members as a whole and its own interest (Azlin, Asmah & Azam, 2016).

A fiduciary relationship is the relationship between a person in a position of trust, the fiduciary, and the person for whose benefit the fiduciary acts. A fiduciary's powers are exercised on behalf of others who are in a position of dependence. There are numerous relationships which can be categorized as fiduciary. In *R v Comber* [1911] 1 Ch 723, Fletcher Moulton LJ stated: "Fiduciary relations are of many different types; they extend from the relation of myself to an errand boy who is bound to bring me back my change up to the most intimate and confidential

relations which can possibly exist between one party and another where the one is wholly in the hands of the other because of his infinite trust in him. All these are cases of fiduciary relations, and the courts have again and again, in cases where there has been a fiduciary relation, interfered and set aside acts which, between persons in a wholly independent positions, would have been perfectly valid.”

The duty of good faith in corporate law has been illustrated by Eisenberg (2005) is consists of a general baseline conception and specific obligations that instantiate that conception. The baseline conception consists of four elements: Subjective honesty, or sincerity; non violation of generally accepted standards of decency applicable to the conduct of business; non violation of generally accepted basic corporate norms; and fidelity to office. Among the specific obligations that instantiate the baseline conception are the obligation not to knowingly cause the corporation to disobey the law and the obligation of candor even in non-self-interested contexts.

As provided by the law and regulation, PRS provider must (a) observe high standards of integrity and fair dealing in administering the Scheme and managing the funds to the best interest of members as a whole; (b) ensure that the fund’s property is (i) clearly identified as the fund’s property; and (ii) held separately from the property of the PRS Provider, other funds under the Scheme and any other fund managed by the PRS Provider; and (c) comply with any other duty that is conferred on the PRS provider by the deed in so far as it is not inconsistent with the securities laws and these guidelines.

It is a requirement that the PRS provider must, among others, (a) establish an organisational structure with clear lines of responsibility and authority; (b) establish and maintain risk management systems and controls to enable it to identify, assess, mitigate, control and monitor risks in relation to the Scheme it operates and funds it manages; (c) have adequate human resources with the necessary qualification, expertise and experience to carry on business as a PRS provider; and (d) have adequate and appropriate systems, procedures and processes to undertake the business in a proper and efficient manner.

Moreover, PRS provider must account to the Scheme Trustee for any loss suffered by a fund as a result of the PRS provider’s failure to exercise the degree of care and diligence required in operating the private retirement scheme and managing the fund.

In ensuring good governance are implemented by PRS providers paragraph 3.21 of the Guideline states that a PRS provider must ensure that its officers and delegates–

- (a) do not make improper use of information acquired through being such an officer or delegate of the PRS provider to– (i) gain an advantage for himself or another person; or (ii) cause detriment to members in the private retirement scheme;

- (b) do not make improper use of their position as such officers or delegates to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to members in the private retirement scheme; and
- (c) comply with any other duty or obligation as may be prescribed under the securities laws, trust laws or these guidelines.

If we refer to the court cases in other jurisdiction such as United States, failure to perform the duties and responsibilities, the liability and accountability is on the provider. This is illustrated in the following cases. In relation to breach of duty of provider, the liability is on the provider if it failed to perform their duties and responsibilities. The U.S. Supreme Court delivered its opinion in *LaRue v. DeWolff, Boberg & Associates* on Wednesday, February 20, 2008, reversing a decision by the U.S. Court of Appeals for the Fourth Circuit. In this case, James LaRue calculated that he lost approximately \$150,000 when the administrator of his 401(k) plan failed to carry out investment instructions he gave in 2001 and 2002. In 2004 Mr. LaRue sued the plan administrator, arguing that the plan administrator committed a breach of fiduciary duty — a failure to act in the best interest of plan participants — by not following Mr. LaRue’s instructions. In the lawsuit, Mr. LaRue requested that the plan compensate him for the \$150,000 he lost. The principal issue in the case was whether a plan participant could sue a plan administrator to recover losses that did not affect all or a large number of plan participants. The lower court had ruled that the Employee Retirement Income Security Act of 1974 (ERISA, the law that governs most private pensions), provides monetary damages for “the benefit of the plan as a whole, not to particular persons with rights under the plan.” On this matter, the lower court sided with the plan administrator. It ruled that Mr. LaRue could not sue, since the money he sought was for his own individual account’s losses and not to recover losses on behalf of the entire plan. The Supreme Court decided in favour of Mr. LaRue stating that the issue is the same, “whether [Mr. LaRue’s] account includes 1% or 99% of the total assets in the plan.” Writing for the majority, Justice Stevens found that the alleged misconduct of the plan administrator fell squarely within the wrongdoings described in ERISA, and thus ERISA “authorize[s] recovery for fiduciary breaches that impair the value of plan assets in a participant’s individual account.” A concurring opinion by Justice Thomas and joined by Justice Scalia emphasized that the plain meaning of the law has always been that individuals like Mr. LaRue have a right to sue when their plan administrators breach their fiduciary duties. Chief Justice Roberts wrote a concurring opinion in which Justice Kennedy joined. In his opinion, the Chief Justice invited lower courts to determine whether similar cases would be more appropriately litigated under another section of ERISA. Mr. LaRue sued the plan administrator under a section that makes plan administrators and other plan fiduciaries personally liable for losses incurred by the plan due to their misconduct.

The Chief Justice suggested that instead of suing the individual plan fiduciaries, people with similar types of cases should sue the plan for benefits owed under the terms of the plan.

However, in Mr. LaRue's case, the terms of the plan would not have provided him with the money he lost due to the plan administrator's failure to follow his instructions. The court did not address a second issue raised by the plaintiff – namely, whether the reimbursement Mr. LaRue sought qualifies as the “appropriate equitable relief” that ERISA allows participants to recover when a plan administrator breaches a fiduciary duty. The lower court had ruled that the \$150,000 did not qualify as the equitable relief that ERISA is intended to provide. The court made its ruling based on a Supreme Court case holding that monetary relief against a non-fiduciary to make a participant whole does not constitute equitable relief. With this ruling Mr. LaRue is now free to pursue his case against the plan administrator in the District Court where he originally filed his lawsuit.

The important issue here is the protection of contributors and integrity of the industry must be the main aim of the PRS providers. As what Ambachtsheer et al. (2007) identify the main governance weaknesses as poor selection processes for members of the governing board, a lack of self-evaluation of board effectiveness and weak oversight by the board. Other specific problems include lack of delegation clarity between board and management responsibilities, board micro-management and non-competitive compensation policies in pensions fund. Even though under CMSA 2007 has prescribed the general principles of law in relation to PRS and the SC also published the PRS Guidelines 2012 but in terms of the process and procedures, specification of terms of contract between PRS providers and contributors is different amongst PRS providers and determination of the investment objective and its achievement is the discretion of the PRS providers.

The findings of the interview with the PRS providers shows that the main sources of law which are referred to by all five PRS providers are the CMSA 2007, the PRS Regulations, the SC Guideline. This is said by the R1 (a); “*We refer to the CMSA 2007 and also SC guidelines*”. This statement is supported by the other officers from the R2, R3 (a), R4 and R5. In addition, all providers agreed that their organization refer to the internal PRS policy which is developed by their own company and also known as the standard operating procedure (SOP). This SOP is the company internal guideline that is in line with the CMSA 2007. This is admitted by the officer of R3 (a); “*Oh, yes we have our internal policy is for example our SOP. I think every company has its own SOP on how we operate*”. It is also supported by the R1 (a); “*Basically we will follow the guidelines and legal provisions*”. In contrast, the R5 added that they do not have an internal policy that guide them in managing the PRS instead their organisation referred to CMSA 2007 and the guideline that issued by the SC. R5 states that; “*If you are talking about internal*

guideline, we do not have such written document. We follow straightly to the guideline issued by the Securities Commission (SC)”.

Three PRS providers have their own internal policy and guideline in managing PRS, but the other two providers did not have their own internal guideline or policy. The researchers are of opinion all PRS providers should have their own internal guideline or policy as an additional written document to manage the scheme. Internal guideline and control will promote best practice in governance of an organization. This is the spirit of the Malaysian Code of Governance 2012 and it should be implemented by all companies in Malaysia.

Further, the appointment of compliance officer by the PRS providers is another element in strengthening the governance of PRS where paragraph 3.10 of the Guideline asserts that a PRS provider must appoint a compliance officer to ensure compliance with the deed, PRS disclosure document, securities laws and these guidelines. The compliance officer must report to the audit committee and compliance committee and where a PRS Provider manages or offers a fund under the private retirement scheme expressed to be managed and administered in accordance with Shariah principles, the compliance officer must have a basic knowledge of Shariah laws and principles.

In ensuring Shariah compliance for PRS Shariah-based, it seems that the PRS providers do not have specific Shariah officer to handle the Shariah-based product. Due to that, they need to hire Shariah consultant as their Shariah adviser. All of seven respondents from five PRS providers agreed that they are doing a multi-tasking work, but they still have the specific task to do. R5 commented that; *“No, if you are talking about funds manager for Shariah compliance, I don’t think so we have. I would say it control by Shariah adviser, or not maybe we are not complied with the Shariah. Yes, I know specific ustaz. I don’t think that we have.”* The Shariah adviser is appointed from Consultant Companies to review all PRS Shariah-based to ensure that the products offered by PRS Providers comply with Shariah ruling especially in choosing the investment tools. For the R4, they had appointed the Shariah adviser from Consultant Company 1 and the R3(a), they appointed Consultant Company 2 in this regard.

Referring to the duties and functions of a compliance officer include, but are not limited to, as the following according to the Guideline:

- (a) Prepare and table compliance reviews regularly (i.e. at every audit committee meeting and compliance committee meeting, if any). The compliance review must examine the compliance issues relating to each area of the PRS Provider’s operations;
- (b) Examine and investigate any irregularity in the PRS Provider’s operations. All findings must be properly documented. Where necessary, the compliance officer must notify or consult the Scheme Trustee or the SC or both;

- (c) Be responsible for the compliance manual and the code of conduct for employees of the PRS Provider, including liaising with the human resource department in briefing employees on compliance matters, regulatory requirements and PRS Provider's policies and procedures. The compliance officer together with the respective departments must continuously review and update the compliance manual and code of conduct to reflect new conditions;
- (d) Liaise with the human resource department or training unit to provide training, updates, and advise on compliance matters, industry and regulatory developments. In this regard, the training may be extended to the members of the board of directors, investment committee and audit committee, as well as any Shariah adviser or panel of advisers;
- (e) Monitor and resolve conflict of interest situations between all funds managed and administered by the PRS Provider in its capacity as a PRS Provider, and within the PRS Provider itself. Where appropriate, the compliance officer must advise the audit committee, or compliance committee (if any) of the PRS Provider, as well as the investment committee, and any Shariah adviser or panel of advisers of the fund(s) concerned accordingly;
- (f) Report to the audit committee or the compliance committee (if any) and Shariah adviser (where applicable) on whether dealings in the fund's property are appropriate to the fund, and in accordance with Shariah principles (where applicable); and
- (g) Be responsible to advise on any matter relating to compliance with the applicable requirements, including on fund management and on dealings by employees and directors of the PRS Providers, audit committee members, investment committee members and compliance committee members (if any).

From the above list, it is concluded, the responsibilities of the compliance officer are not similar to that of Shariah adviser. Therefore, it is unjustified not to appoint the compliance officer who had knowledge in Shariah law and principles if the PRS providers had offered PRS Shariah-based products.

Another aspect of strengthening good corporate governance is establishment of internal audit. Therefore, a PRS provider must maintain an internal audit function independent from its operations to report directly to the audit committee on the adequacy, effectiveness and efficiency of the management, operations, risk management and internal controls. The five PRS providers admitted that they have their internal auditors and even the SC plays their role in monitoring and surveillance of the PRS providers.

The PRS providers have the power of delegation given by the law. In paragraph 5.01 of the Guideline a PRS provider can delegate its fund management function and/or outsource its back office functions to external parties but a PRS provider remains responsible for the actions and omissions of its delegate or service provider as though they were its own actions and omissions. A PRS provider must ensure that— (a) adequate procedures are in place to monitor the conduct of its delegate or service provider and to ensure that the function delegated or outsourced is performed in a proper and efficient manner; and (b) there are controls in place to ensure compliance with the deed, disclosure document, these guidelines and securities laws. This provision is in line with the principle of law in relation to relationship between the principal and its agent as specified in the Malaysia Contract Act 1950.

Additionally, a PRS provider must ensure that its delegate or service provider is suitable to undertake the particular functions, including that the delegate or service provider (a) is duly licensed or authorized by the relevant authority (where applicable); (b) has adequate financial resources; (c) has an adequate track record in the performance of the functions; and (d) has adequate and appropriate human resources, systems, compliance, internal controls, procedures and processes to carry out the function. Further, the service agreement between the PRS provider and its delegate or service provider must, among others, contain clear provisions on the services to be provided, the fees, remuneration and other charges of the delegate or service provider and any restriction or prohibition regarding the performance of the function to be delegated or outsourced and reporting requirements, including the line of reporting between the delegate or service provider, and the PRS Provider, and means of evaluating the performance of the delegate or service provider.

VI. CONCLUSION

From the above discussion, it is recommended that provision concerning the main duties and responsibilities of PRS providers should be inserted in the CMSA 2007. They are the key player of the scheme together with the PRS Administrator. It is clearly stated in section 139H of the CMSA 2007, the list of PRS Administrator responsibilities but none of PRS providers as it is in the Regulation of PRS 2012 and the SC Guideline on PRS. The second recommendation is the appointment of PRS Shariah Officer by the PRS provider which offered the Shariah PRS products. It is essential to comply with the SC Guideline on this matter because fully depending on the PRS Shariah Adviser on PRS Shariah Products is not a noble solution. They are not the person who executed day to day works. They just deliver their expert opinion on the Shariah product whether it is according to the Shariah principles. The most critical stage of best practice implementation is the role of internal permanent staff who will look after the development of Shariah products, monitor and do surveillance process and it must be the Shariah Officer which is employed by the provider. As a final point, the issue of appointment of an agent by

the provider must be executed prudently. Undoubtedly, it is permissible by law, nonetheless the PRS providers must have their own policy and guidelines on this matter and evaluation process on the performance of agents must be continuously put into practice.

In a nutshell, the alternative private pension scheme such as PRS which is initiated by the Government of Malaysia is an impressive idea and agenda. Nevertheless, protection of PRS contributors' rights and welfare must also be the primary objective in designing the law, regulation and guideline. Encouraging the employer to participate and join the scheme and offer a meaningful tax relief to the contributors and participating employers will boost up the interest of investors among individuals and organization.

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