

MEMO# 12188

July 7, 2000

MALAYSIA REVISES GUIDELINES ON THE ESTABLISHMENT OF FOREIGN FUND MANAGEMENT COMPANIES

[12188] July 7, 2000 TO: INTERNATIONAL COMMITTEE No. 21-00 RE: MALAYSIA REVISES GUIDELINES ON THE ESTABLISHMENT OF FOREIGN FUND MANAGEMENT COMPANIES The Malaysian Securities Commission recently released revised guidelines on the establishment of foreign fund management companies in Malaysia.¹ A copy of the guidelines is attached.² As under the prior version of the guidelines, foreign asset management firms have two options to establish a commercial presence in Malaysia, depending upon whether the foreign firm provides services to clients within Malaysia. A foreign firm that provides services to clients in Malaysia may establish a local affiliate in Malaysia, subject to three conditions: (1) at least 30% of the affiliate's shares are owned by Malaysian shareholders; (2) the local affiliate must have at least \$100 million in assets under management sourced from outside Malaysia; and (3) each fund sourced within Malaysia managed by the affiliate must have at least 10 million ringgit (about \$2.63 million) in assets. A foreign firm that provides services only to clients outside Malaysia is not subject to these conditions. In either case, the firm must be incorporated in Malaysia, must conduct all of its activities from an office in Malaysia, and must have paid-up capital of at least 2 million ringgit (\$526,330). Last summer, the Institute provided comments to the Malaysian Securities Commission on these guidelines. The Institute pointed out that several features of the rules, including the restrictions on providing services to local investors and the capital requirements, served as market barriers effectively discouraging foreign investment management firms from entering the Malaysian market. None of the specific rules that the Institute commented on were substantially changed in the July 1, 2000 revisions. However, the revised regulations added an exception to the \$100 million requirement noted above³ and a provision allowing foreign firms 1 The guidelines were established in 1996 as part of Malaysia's offer in the WTO financial services negotiations that concluded in December, 1997. See Memorandum to International Committee 42-97 dated December 1, 1997. 2 The guidelines also are available on the Malaysian Securities Commission web site at www.sc.com.my. 3 See section 2.4 of the guidelines. 2to hire expatriate staff.⁴ A copy of our comment memorandum is attached. Robert C. Grohowski Assistant Counsel Attachments Attachment no. 1 (in .pdf format) 4 See section 4.1 of the guidelines.