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Datuk Muhamad Umar Swift
Chief Executive Officer
Bursa Malaysia Bhd

Safeguarding Investor Confidence

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& Empathy

An Iron Fist
with a Velvet Glove

Planning Well
to Live Better

Amidst
the Angst

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Sharmila Sharma
Chief Executive Officer, SIDREC

Extraordinary Measures for Unprecedented Times

The COVID-19 pandemic has certainly challenged the way we live, work, think, act and react. On the capital market front, key players and institutions – investors, capital market intermediaries and regulators – have had to operate under unprecedented conditions following the imposition of the Movement Control Order (MCO) and other measures that promote social distancing in the quest to contain the spread of the virus.

It is in times like this i.e. where the capital market is experiencing unparalleled shifts towards “new normals” such as sharp swings in market movements and the rapid rise of online stock trading, that investor protection and empowerment cannot be over-emphasised. We are thus fortunate that, in this edition of **dr**, we are able to spotlight the actions undertaken by Bursa Malaysia to safeguard investor confidence through a written interview with Datuk Muhamad Umar Swift, the Chief Executive Officer (CEO) of the local bourse. At the same time, Linnet Lee, the CEO of the Financial Planning Association of Malaysia (FPAM) shares some of her views on saving for a rainy day and what to look out for when engaging a professional financial planner.

Also in this edition of **dr**, we welcome the thoughts of leaders in the alternative dispute resolution (ADR) industry on the key factors that contribute towards the success of ADR bodies and for ADR to thrive. Marina Baharuddin, the CEO of the Ombudsman for Financial Services (OFS), Shanti Abraham, a mediator extraordinaire and a member of SIDREC’s panel of mediators and adjudicators and SIDREC’s Head of Dispute Resolution, Hong Siew Lai, all highlight the need for highly skilled case managers and mediators who are good listeners and empathisers and yet, are able to objectively reflect on issues and ask hard questions of the disputing parties as a form of reality check.

All contributors brought to fore the need to precipitate going online for most things. At SIDREC, we could not agree more. During the MCO period, we were unable to accept walk-in claims and enquiries. However, we remain steadfast in our commitment to continue to deliver our highest standard of service as an independent and impartial dispute resolution centre for the capital market. We continue to be hard at work to resolve monetary disputes that investors and capital market intermediaries who are our Members may have between them. We are also in constant touch with our stakeholders to keep them informed of our operations and developments. All these are done via the phone, email, video conferencing facilities and social media platforms and with the ultimate aim of contributing towards maintaining and enhancing confidence in the capital market to the benefit of all participants in these extraordinary times.

We hope you find this edition of **dr** an interesting read. We welcome feedback and do follow us on Facebook and LinkedIn. Meanwhile, stay healthy, stay safe! **dr**

Of Good Listeners & Empathy

Where dispute resolution is concerned, Marina Baharuddin believes the success of an alternative dispute resolution (ADR) body is dependent on two things: quality human capital and a robust dispute resolution process. Therefore, it is important to have well-trained staff who are able to perform their duties effectively, she pointed out.

That's not all. "Providing good customer service is also vital to all ADR bodies," the newly minted Chief Executive Officer (CEO) of the Ombudsman for Financial Services (OFS) said matter-of-factly. "Most complainants who come to us are aggrieved and want to be heard. It is important, therefore, for customer service officers and case handlers to listen to their grievances and show empathy.

"Managing emotions and the expectations of complainants are crucial aspects of good and effective customer service. As such, the frontliners and case handlers must be equipped with good communication skills, knowledge and the ability to make informed decisions," she added.

Marina knows exactly what she is saying. She started her career in the banking industry and progressed into dispute resolution with the Banking Mediation Bureau (BMB) as Assistant Mediator in 1998. She continued her service at the Financial Mediation Bureau (FMB) and assumed the post of Mediator in 2010.

Prior to becoming CEO of OFS, she held the position of an Ombudsman under Banking and Payment Systems at OFS from October 2016 until December 2019. And with over 20 years of experience in dispute resolution, she brings to the table in-depth and practical



understanding of financial consumer protection especially in areas of banking and financial services. She holds a Bachelor of Business degree with a major in finance from Western Australia's Edith Cowan University and Bachelor of Laws (Hons) from Britain's University of Hertfordshire. She is also an Accredited Mediator and an Affiliate Member of the Financial Services Institute of Australasia.

dr caught up with Marina via a written interview.

The predecessor of OFS was the FMB, which started operations in August 2004. More than 12 years thereafter, on 1 October 2016, the Financial Ombudsman Scheme (FOS) was launched and the FMB was appointed as the Scheme's operator by Bank Negara Malaysia (BNM). FMB thus changed its name to the OFS. What led to the transformation of the FMB to the OFS? In your view, what is OFS' greatest impact since the launch of the FOS in October 2016?

Firstly, I would like to share the history on the formation of FMB and then its transformation to the operator of the FOS. Prior to the establishment of FMB, there were two separate bureaus handling disputes relating to insurance and banking disputes, namely, the Insurance Mediation Bureau (IMB) and the BMB.

As part of BNM's efforts to strengthen the complaints resolution redress mechanism under the Financial Consumer Protection Framework in its Financial Sector Masterplan in 2004, IMB and BMB were merged into a one-stop alternative dispute resolution centre for the convenience of the financial consumers. The merged entity – FMB – was incorporated as a company limited by guarantee on 30 August 2004 and commenced operations on 20 January 2005.

FMB has resolved over 22,000 cases and its track record represents an important milestone and growth in the financial consumer protection framework for financial consumers in Malaysia.

The Financial Services Act 2013 (FSA) and the Islamic Financial Services Act 2013 (IFSA) provide for the approval of the FOS to ensure effective and fair handling of complaints and for the resolution of disputes with the financial service providers (FSPs) in connection with financial services or products.

This is in line with BNM's strategy to further enhance the financial dispute resolution arrangements for the consumers as well as strengthening consumer confidence and market discipline in the financial sector. OFS was appointed by BNM as the operator of the FOS which was operationalised in October 2016.

The framework of the FOS was formulated based on six underlying principles namely, independence, fairness and impartiality, accessibility, accountability, transparency and effectiveness. Since the operationalisation of the FOS, the significant impact which we have seen thus far is the improvement in the complaint management and market conduct by the FSPs.

“The framework of the FOS was formulated based on six underlying principles namely, independence, fairness and impartiality, accessibility, accountability, transparency and effectiveness.”

What, in your view, are some of the notable achievements of and challenges faced by OFS since its inception? How do you intend to take OFS forward?

OFS plays a vital role in building consumers' trust and confidence in the financial system. Through constant engagement with our member FSPs, we share our observation and feedback derived from the disputes we handled with the aim to improve market conduct in the financial services industry. And I must say there is a notable improvement in the complaint management and market conduct by the FSPs.

With rapid technological shifts and innovation in financial products and services, the nature and circumstances surrounding the disputes handled by OFS have become increasingly more complex. In this regard, we continue to empower our staff through various training programmes to develop skills so that they are fully equipped in handling such disputes.

OFS endeavours to continue providing independent, fair and effective resolutions for financial disputes in Malaysia. We will focus on enhancing staff capacity, improving efficiency in dispute resolution and increasing visibility of OFS. There is much more that needs to be done to create awareness on the services of OFS and to reach out to the underserved communities.

We will continue to work with our members and other key stakeholders including our regulator and consumer associations by mutually exchanging ideas to further improve the standards of our dispute resolution processes and complaint management practices by the FSPs.

We intend to leverage on technology and various modern means of communication to further elevate consumers' accessibility to our services.

What are some of the common disputes banking and insurance customers lodge with the OFS? On average, how long does it typically take to resolve a dispute? What approach does OFS take to resolve disputes lodged with it?

The common disputes handled by OFS are related to life insurance or family takaful, motor and non-motor insurance as well as credit card issues.

Disputes relating to life insurance and family takaful account for 39% of the complaints and they were mainly medical or hospitalisation claims repudiated due to non-conformance of policy terms or fell under exclusion clauses and non-disclosure or misrepresentation of material facts during application.

For motor insurance or takaful cases, most of the disputes are related to repudiation of claims due to late notification or late submission of claims. For non-motor insurance cases, more than 50% were related to travel policy claims repudiated due to no coverage.

“ We anticipate an increase in the number of enquiries and complaints this year especially on travel and medical related claims relating to the COVID-19 pandemic. ”

There is a significant number of disputes relating to credit cards in 2019. In most instances, cardholders were tricked into revealing their personal banking information such as credit card details and / or the one-time password which enabled transactions to be performed by third parties.

The timeframe taken to resolve cases are between three to six months depending on the complexity of the subject matter and how fast the parties involved respond to our requests for information or acceptance of settlement.

The FOS scheme adopts a two-stage dispute resolution process namely, case management and adjudication.

At the case management stage, the dispute will be managed by a case manager who, at the same time, takes on the role of a mediator as well as facilitator to encourage mutual settlement of the dispute. If the parties to the dispute fail to reach an amicable agreement, the case manager would then make a recommendation on how the dispute should be resolved. If either party is dissatisfied with the case manager's recommendation, they can refer the matter to the ombudsman for adjudication within a stipulated time frame.

The recommendations and / or decisions are made after taking into account the terms and conditions of any contract, any applicable law, standards and / or guidance issued by BNM, industry best practice as well as what we opine to be fair, just and reasonable in all circumstances.

The complainant is not bound by the recommendations or decisions of OFS and is free to pursue his or her rights against the financial services providers through any other means including legal proceedings.

OFS saw a 16% surge in the number of enquiries and complaints from the public handled by it between 2017 and 2018 (2017: 8,797; 2018: 10,178). What, in your opinion, was the cause of this surge? Was there a similar surge in 2019? Do you anticipate further surges of enquiries and complaints in the future?

The surge in the number of enquiries and complaints between 2017 and 2018 were mainly attributed to the increased awareness of OFS. However in 2019, we attended to 9,923 complaints which is a slight decrease of 2.5% from the previous year. A total of 1,047 complaints fell within OFS' jurisdiction and were registered last year. The rest were general enquiries relating to service issues, cancellation of policies,

computation of surrender values, request for loan statements, cases which are time-barred or referred to court and incomplete documentations.

We anticipate an increase in the number of enquiries and complaints this year especially on travel and medical related claims relating to the COVID-19 pandemic.

OFS and SIDREC both serve as ADR platforms within the financial markets or services ecosystem. What are your views on the collaboration efforts of both these organisations to date and what more can be done in this regard?

The level of collaboration between OFS and SIDREC is very healthy indeed. Both organisations have been working together on several projects such as the organisation of an international conference and the conduct of a feasibility assessment on an integrated dispute resolution scheme for the financial and capital market sectors. Last year, a joint training workshop for the ombudsmen, adjudicators, case managers and mediators with ombudsman scheme from other jurisdiction was organised.

Further collaboration can be made in exchanging views on the approach to resolve disputes effectively for benefit of financial consumers.

“ *To achieve a wider reach to the communities at large, a more robust awareness programme strategised through digital platform as well as on-ground outreach programmes needs to be implemented.* ”

Do you think there is general market acceptance of dispute resolution organisations such as OFS among consumers of financial services? In your view, how should ADR be promoted more effectively in the marketplace?

Currently, consumers who have financial disputes use the services of OFS. The financial services providers are required to refer consumers who are dissatisfied with the rejection or repudiation of their claims to OFS.

It is vital that our services are known to the general public. To achieve a wider reach to the communities at large, a more robust awareness programme strategised through digital platform as well as on-ground outreach programmes needs to be implemented.

With the advent of fintech, what kind of online dispute resolution (ODR) platform do you envisage being set-up in the coming days as technology continue to drive almost every aspect of human existence?

ODR will definitely provide a faster, easier and cheaper mode of dispute resolution for all concerned. Consumers are able to file their disputes online at any time and communicate with the facilitator online, through phone or video-conference. This saves time and provides greater accessibility to consumers.

Certain ODR platform utilises artificial intelligence technology in place of human in developing a range of resolution options where disputants can choose a mutually agreeable outcome. Such platform is suitable for simple and straightforward disputes. However, to embark on the use of ODR, much research is needed to be done to ascertain a suitable platform and the desired outcome based on the present set-up.

What are your aspirations for ADR in Malaysia and the region?

ADR is increasingly adopted by many countries and societies as an alternative to the courts. However, the general level of understanding and receptiveness of ADR among the Malaysian public is still lacking as people prefer to go to court. More awareness is needed to educate and encourage the public on the use of ADR. We would like to see different segments of industry within Malaysia to also set up ADR bodies as an avenue to resolve disputes for the benefit of their customers. [dr](#)



By Shanti Abraham Mathew

An Iron Fist in a Velvet Glove

I have said this in public spaces before and I am pleased to say it again in print. The Securities Industry Dispute Resolution Center (SIDREC) is a mediation institution success story. SIDREC is Malaysia's specialist in capital market disputes and there aren't many organisations that so adeptly support the practice of formal mediation in Malaysia.

That said, I would first like to briefly share the role of a mediator in a dispute and some of the trials and tribulations of being a mediator.

Back to the Basics of Mediation

Mediators, unlike arbitrators and adjudicators, facilitate the discussion between disputants to assist the parties to identify the issues in dispute and to then explore solutions to resolving them.

The final decision belongs entirely to the parties and when a solution is reached, the parties ought to ideally know or accept (through the process of mediation) why the solution they are agreeing to is to be preferred over keeping the problem alive. This is why mediation is called a voluntary process and one notable feature is that the rate of compliance of final mediated agreements is anecdotally very high, globally; and this is despite nothing being imposed.

This is unlike an adjudication, arbitration or litigation where both parties are inflicted with an outcome invariably with one declared a winner and the other, the loser.

The mediation process is a flexible one and the mediator is privileged to speak with the disputing parties privately as well as jointly. The entire process is protected by confidentiality and there is an additional layer of confidentiality for parties in private sessions where they can be assured that what is shared in the private session remains confidential unless the party authorises the mediator to disclose or communicate the same. There are, of course, some limitations to confidentiality and these would include matters relating to any illegal activity, for example, insider trading admissions or admission to criminal conduct.

The mediator uses various techniques to understand the facts which have brought the parties into dispute, to explore why earlier attempts to resolve were not successful (invariably parties would have tried to resolve the problems on their own) and to understand the issues that continue to affect the parties in dispute. The engagement between the mediator and parties serves to build rapport and mediators are trained to actively listen to what the real issues in a dispute are. It is, therefore, crucial that the mediator refrains from judgement or trivialisation to undermine either party's genuine belief in their own "case".

The next step would be to help the parties put the issues into context and to recognise their own key interests. This is where the real work of a mediator is done. A mediator has to remain the most positive and optimistic person in the room with more patience and stamina than anyone else to plough through

the invariable impasses that will be presented by the parties. This is a process where showing irritability or disdain will derail the proceedings immediately.

Mediators are listeners, reflectors, questioners, reality checkers and empathisers. Mediators take the disputing parties on the journey on how they got to the room, what the problem really is and where the parties want to head.

With time and experience, each mediator will inevitably come up with his or her own personal metaphor of his or her own style. Mine is an "iron fist in a velvet glove".

Trials and Tribulations

One of the key trials and tribulations in the mediation landscape is the perception that mediation is a soft process.

It is not.

Mediation requires the marshalling of every ounce of one's temperament, ability to deal with impasses, stamina, alertness, creativity and conflict management skills every single time one is invited to "hold the room". There is no break or letting up as all eyes and ears are on the mediator for guidance and impasse-overcoming strategies. A true professional mediator must be able to resist the temptation to worry about his or her own key performance index (KPI) of achieving successful mediations as this invariably leads to the other "m" word – manipulation – which parties will often quickly catch on and if the mediator is unlucky – call out.

Even though formal mediation has been a known process for the last two decades, it really has only surfaced as a utilised form of dispute resolution in the last decade. One of the key reasons is that the usual gatekeepers of disputes (lawyers) have not been given a respected place at the table. Early mediators were not lawyers or legally trained and perhaps out of their own fears and lack of skills, framed lawyers as obstructive to a resolution process. Lawyers (like disputing parties) can be difficult and obstructive at times, but therein lies why mediators have to be sensibly trained to manage all personalities.

SIDREC has opened the door to the presence of lawyers in matters where the value of the claim is more than RM250,000 under its Voluntary Scheme. I was privileged to mediate the first such case at SIDREC and while it was a high stake mediation with plenty of money involved, the parties and their lawyers were all equally instrumental to address the issues in contention. This

“ Mediators, unlike arbitrators and adjudicators, facilitate the discussion between disputants to assist the parties to identify the issues in dispute and to then explore solutions to resolving them. ”

helped to build the proverbial “bridge” that inevitably led to a resolution the same day, ending close to 9:00PM with the hardworking case managers at SIDREC staying on to keep watch. The lawyers in this case, kept both parties motivated to explore and tweak options even though the going got tough. The magic of a mediation at SIDREC was that legal advisers and mediator all spoke the same “language” and managed to get both parties to understand the issues in a legal context which assisted both parties to resolve their dispute.

Determining the Outcome of a Mediation

Parties have made the first choice to walk into the mediation chamber with their problem. It is entirely up to the disputing parties if they choose to walk out of the mediation chamber with a solution. More precisely, a solution they both can live with.

All parties have an idea of what they want and why they want it. A mediator’s role is to discover the “why” and to respectfully explore alternatives.

In my teaching of mediators, I eschew trivialising concepts like “it’s only a matter of dollars and cents” or “both must compromise”.

The solution may drill down to dollars and cents, but mediators will be mistaken if they commence mediation on that perception. The mediation will become a horse-trade affair with the mediator playing messenger or referee – which is not the role of a professional mediator.

SIDREC can vouch that there has been 100% compliance with the mediated settlement agreements its Members and claimants have reached. The parties in each settled

matter have reached the point where they understood the value of a swift resolution to the problem they had and have chosen to agree to a course of action they can all live with.

There are many reasons why some mediations do not result in a resolution. In some cases, there is insufficient data for the parties to decide or the parties require more time to consider the issues. Alternatively, the parties may find themselves hemmed in by personal fears or family demands or rigid board mandates or policies. In such situations, the parties are hopeful that *the other side* will bend or back off. If this does not happen, then an adjudicator is needed to come in to break the impasse by calling out a winner and declaring a loser.

Handling a Demanding Claimant

It is often helpful to be given the heads-up on whether a party will be demanding prior to the mediation. The case managers who are the frontliners for SIDREC are instrumental to this data. However, it is also important to be mindful that the perception of a party being demanding can be obstructive to a mediator.

The first thing a mediator must embrace is the understanding that the parties will appear to be demanding on matters that are important to them or out of insecurity or being defensive.

To illustrate this, claimants may come across as demanding as the whole aspect of coming to a formal setting such as SIDREC may give them the impression that they need to channel their “inner lawyer”. Mediators must not flinch, but make the claimant comfortable. SIDREC Members similarly portray demanding personalities due to backroom pressure to get rid of problems as cheaply as possible.



“Mediation requires the marshalling of every ounce of one’s temperament, ability to deal with impasses, stamina, alertness, creativity and conflict management skills every single time one is invited to “hold the room”.”

A mediator would best approach any difficult or assertive person by not reacting or reciprocating in the same tone, but at the same time not flinching from any aggression demonstrated. It is important for mediators to possess just the right measure of gravitas to maintain the command of the room and hold fast to the adage “respond, do not react.”

At the end of the day, personalities aside, the mediator’s goal is to mine for data to identify why parties missed early settlement opportunities. A strategic refocus from personalities in the room to the problem itself is often the best way forward.

Dealing with Diversity

Every claimant is different. Every dispute is different.

A mediator has to be adequately, if not fully, appraised of the background to the dispute including the minor issues that may have laid the foundation for resistance to a solution subsequently. At SIDREC, the different cultural backgrounds of the claimants have not posed a challenge for mediation. If anything, it has underscored the importance of pre-mediation preparation where translators are arranged and the case manager is briefly interviewed for their impression of what has driven the dispute deeper. Often it has nothing to do with the dollars and cents that parties assume the dispute is about.

I would like to share two anecdotes:

The first involved two Chinese women who came

from different cultural backgrounds. The claimant spoke in plain English and the representative of the SIDREC Member spoke in polished English. At one point, the SIDREC Member’s representative inflected her statement firmly to make a point and the claimant balked taking it as an egregious slight. She threatened to end the mediation accusing her counterparty of utter rudeness. Mediation 101 teaches that mediation is voluntary and the party can end mediation at any time. A trained mediator does not flinch with threats, but calmly presents the options. With a non-judgemental tone, I assured the claimant that she also had the option of taking a break given that both the case manager and I had allocated the day to help her. The final choice was hers. She softened. She continued. The polished speaker was perplexed, but did not allow the outburst to derail her as she was given a chance to vent in private session and was able to reframe the outburst as the claimant’s own insecurity. The parties achieved resolution by lunchtime.

In another mediation where the claimant claimed to not understand English, a Chinese translator was arranged, but as the natural dynamic of discussions go, inevitably most of the mediation was then carried on in broken Bahasa Malaysia. A solution was reached. The final agreement was drafted in English and explained by the translator to the claimant in Chinese.

Conclusion

This is a watershed year for mediation where we hopefully will see robust changes to the Mediation Act and the relevant regulations, thereby strengthening this mode of problem solving. SIDREC already has success stories on cross-border tech- supported mediation.

With the scourge of COVID-19 tipping lives upside down, parties and administrators will have to consider and prepare themselves for dispute resolution online and if so, mediation would be an excellent place to start. [dr](#)

The author runs her own practice at Messrs Shanti Abraham & Associates. She is a SIMI Certified Mediator (Highest-Level 4) with a public mediator profile on the SIMI website. She is also an Accredited Mediator on the panel of the Malaysian Mediation Centre and an Associate Mediator with the Singapore Mediation Centre. She has trained in both Mediation and Advanced Mediation in Harvard Law School in their Programme on Negotiation. She graduated with an LLB (Hons) degree from the National University of Singapore and has been called to both the Malaysian and Singapore Bars.



By Linnet Lee, CFP CERT TM, IFP®

Planning Well to Live Better

Planning your financial life is of paramount importance, but knowing what you are doing is equally critical. If you are not sure, seek help from a financial planner.

The world has recently been confronted with multiple public health challenges that have invariably impacted businesses and ultimately, the man in the street. These challenges have brought to fore the double-edged sword of globalisation.

In good times, the blurring of global boundaries has been lauded as a boon to trade and mobility, with people being able to travel relatively freely for work and leisure. However, as the effects of public health challenges cross borders and trickle down to you and me, it is the smaller companies that tend to be badly hit and people that tend to either lose their jobs or have to take pay cuts as our experiences with SARS (Severe Acute Respiratory Syndrome) and now, COVID-19 have demonstrated.

The performance of the capital market too has tended to be adversely impacted by public health challenges. As a result of the COVID-19 pandemic, we have witnessed the share market sliding downwards amidst unprecedented market volatility, with dividend yields heading in the same direction. So, if you depend on capital gains and dividends from shares as a source of income, you may need to brace yourself for a bumpy ride.

No one is able to accurately predict how long before the dust finally settles where the COVID-19 pandemic is concerned. However, if you have managed your personal finances well and have been stashing away money for emergencies, you would be thankful you did – even more so if you are someone who depends

on commission and fees for your livelihood or a small business owner who is experiencing a slowdown in revenue. What you have saved may just tide you over until things get better.

Saving for a Rainy Day

Most Malaysians are generally familiar with the concept of saving for a rainy day. In 2015, the Financial Planning Standards Board (FPSB) and the Financial Planning Association of Malaysia (FPAM) conducted a survey on the awareness of consumers on financial planning and the Certified Financial Planner (CFP) certification. It was a global effort which encompassed country specific questions. Consumers the world over, Malaysians included, responded that being prepared for financial emergencies was the second most important focus in their financial lives. And rightly so, given the current challenging economic environment.

“ Consumers the world over, Malaysians included, responded that being prepared for financial emergencies was the second most important focus in their financial lives. ”

It is also quite heartening to note that in a recent employee financial wellness pilot programme which FPAM ran in collaboration with the BFM89.9 radio station, it was revealed that more than 50% of the radio station's employees have started some form of personal savings programme. It was thus easy for us to help them determine the amount they needed to put aside as emergency savings and how to ensure that such savings are used for the right reasons.

While Malaysians are generally aware of the need to be prepared for financial emergencies, few actually know how to do it strategically. As such, many do find themselves in a bind when an emergency crops up. The rule of thumb is to have savings that amount to cover at least three to six months of expenses or income for those who are gainfully employed and six to 12 months of expenses or revenue for those running a small business.



Source: Financial Planning Association of Malaysia

Small business owners require a higher savings buffer because they face higher risks. Many small businesses today are facing declines in revenue as a result of the Movement Control Order (MCO) and other precautionary measures that are necessary to contain the spread of COVID-19. Yet, operating expenses and overheads still have to be met.

Planning Your Financial Life

If you have been working on your savings, you may have some money invested in the different capital market products that are available in the marketplace. These include unit trusts, shares, exchange traded funds (ETFs), real estate investment trusts (REITs), crowdfunding and peer-to-peer (P2P) lending opportunities or maybe even futures, derivatives, or commodities for those in the know and have the risk appetite for such investments.

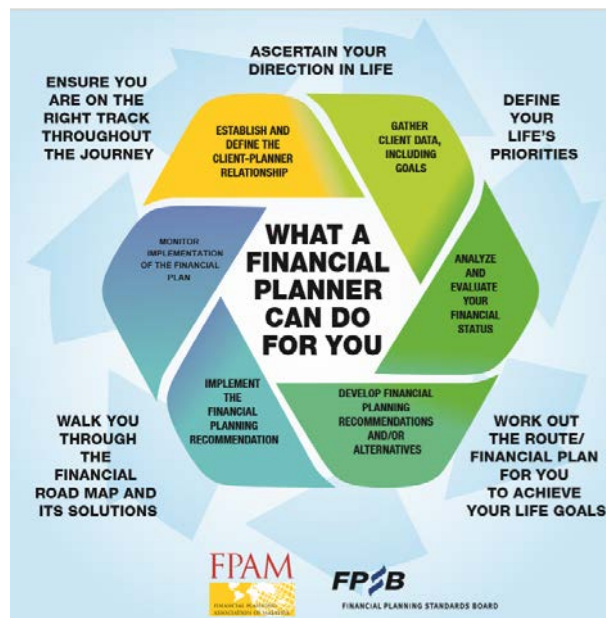
Did you know that these capital market products are regulated by the Securities Commission Malaysia (SC)? So too are financial planning services.

The SC issues licenses for financial planners and the firms to which they are attached. Therefore, be sure to confirm that the person who have approached you with an offer to draw up a financial plan has been licensed by the SC to do so. You can check whether they are licensed through the SC website at www.sc.com.my by keying in their names as stated in their National Registration Identification Card (NRIC) or their identification number.

If you are wondering what a Licensed Financial Planner (LFP) does, the LFP helps you to crystallise and prioritise your life's financial goals. The LFP will begin by gathering the relevant information about your personal finance to enable an analysis of your current financial situation i.e. whether you have any gaps between where you are now and what you want to achieve in terms of your financial goals and then, if necessary, recommend strategies to get you there. In other words, the LFP will help you chart the route to your goals. This information will be presented to you in the form of a financial plan and only when you have agreed to the recommendations, will the LFP offer solutions in the form of strategic actions to be taken, including financial products and services to be picked up, to achieve those goals.

If you decide that you want the complete service of the LFP, the LFP will then build a mutually agreed periodic review of your financial plan into the plan. The periodic review is to ensure that you are on track to achieve

your financial goals. Even though the LFP is managing your financial plan, you still have the option of working with other product specialists such as insurance or unit trust agents or remisiers. Below is chart to show what a financial planner can do for you.



In the event of unforeseen challenging circumstances, the LFP will assess the existing situation, review the goals that you have set earlier and propose appropriate actions to navigate through these challenges in order to get you back on track.

Understanding the Financial Product or Service on Offer

Remember that actions and strategies may not always mean the need to invest in a financial product. It may be as simple as adjusting your expenses and making lifestyle changes. In the event that you are required to pick up a financial product or service that is regulated by the SC, you must ensure that the LFP has clearly explained the details of the product or service that is on offer to you and you not only fully understand their details but also the risks involved.

Over time, due to work and other time commitments, you may forget what product you have invested in and why. This is when you refresh your memory by checking with your LFP at your periodic review. Also remember to keep your financial plan, receipts, forms, statements, analyses and correspondence in a safe place for your easy reference. If you have decided to pick up some of the recommended financial products from another

product specialist other than your LFP, you must also have a clear understanding of the decisions you have taken when investing in those products.

In all dealings, always read the fine prints carefully before signing any document. Your LFP or product specialist is there to explain the contents of the document upon which you will be signing. Please ask questions to clear all doubts. When you sign a document, you confirm your agreement to its contents and their implementation.

“ Ignorance is not bliss when it comes to financial matters and your personal well-being. ”

Here is a real case scenario for your better understanding.

An investor had read in a newspaper advertisement about a capital guaranteed fund. He then approached a unit trust consultant (UTC) as he wanted to invest in it. The UTC did the necessary due diligence on the investor and explained the nature of the fund to him. The UTC also informed him that only the capital is guaranteed and the return of five percent on investment is only a target based on favourable market conditions.

The UTC then went on to recommend a more suitable fund instead for the investor. However, the investor had already made up his mind and insisted on investing in the capital guaranteed fund that needed him to hold on to his investment until it matures five years later.

The economic situation was volatile in those five years, resulting in market conditions that were not suitable for the fund to attain the targeted return. At maturity, the fund manager returned to all investors their capital as stipulated in the prospectus. The investor was naturally unhappy when he calculated how much he would have gained had he kept the money in a fixed deposit instead of the capital guaranteed fund.

He went back to the UTC and demanded an explanation. The UTC gently asked the investor what was on his mind when he decided he wanted to invest in the capital guaranteed fund. The reply was that the investment returns were guaranteed. The UTC then

reviewed the prospectus with the investor and showed him the part where it was written that only the capital will be guaranteed. The UTC reminded him that he had already made up his mind to invest in the capital guaranteed fund when he approached the UTC with the newspaper advertisement.

It is only natural for the investor to be unhappy with low investment returns when he expects his investment to yield a better return than the prevailing fixed deposit rate. Anticipating a dispute looming, the UTC reminded the investor of the dispute platform made available to him should he decide to pursue the matter further.

Should the investor decide that he wanted to take the matter further, he would first need to write to the unit trust management company to lodge his complaint. If he is still dissatisfied with the reply, he can then take his case to the Securities Industry Dispute Resolution Center (SIDREC) who will facilitate the resolution of the dispute for free provided that the amount involved is not more than RM250,000. The outcome of the case at SIDREC can go either way.

The investor took a few days to deliberate over the information provided by the UTC and decided not to take any further action. He realised that he had indeed misunderstood the capital guaranteed fund as a returns guaranteed fund. Furthermore, he had willingly signed the Account Opening Form as well as the Form for Investment. The UTC had also properly documented all recommendations made and followed up with emails to recap the points discussed during their meetings. The sincerity in recommending SIDREC to the investor proved that the UTC acted in good faith.

It was most fortunate that this case went well for both parties with the UTC following proper procedures and the investor being reasonable and taking ownership for his own decision.

It is important to note at this juncture that the importance of organising your personal finances cannot be overemphasised. Without the orderly management of your finances, you can get caught in a quandary that is similar to that faced by many Malaysians today following the escalation of the COVID-19 outbreak that ultimately led to the enforcement of the MCO. But more than saving and investing systematically and regularly, you must also save and invest intelligently. If you are unsure, seek help. Ignorance is not bliss when it comes to financial matters and your personal well-being. [dr](#)

The author is the CEO of the Financial Planning Association of Malaysia.



Safeguarding Investor Confidence

Slightly more than a year ago, he took office as the Chief Executive Officer (CEO) of Bursa Malaysia. He was tasked to continue the transformational initiatives that were spearheaded by his predecessor, Datuk Seri Tajuddin Atan, to make the local bourse a trusted partner and a platform for long-term wealth and value creation. That's not all. He was also mandated to deliver a robust, dynamic and efficient capital market.

Fast forward a little more than a year later. The year 2020 is proving to be a challenging one for the global economy and the capital market. Confronted with an unprecedented health crisis and a sharp decline and volatile shifts in crude oil prices, global growth is expected to contract and the global capital market, anticipated to be increasingly volatile.

According to Bank Negara Malaysia's 3 April 2020 press release: "Malaysia will not be spared. Malaysia's growth is projected to be -2.0% and +0.5% in 2020, affected by global demand, supply chain disruptions and COVID-19 containment measures both abroad and domestic." However, the Bank's press release goes on to say that the Government's stimulus measures, the Bank's financial measures, ongoing large-scale infrastructure projects and other factors that have enabled Malaysia to weather past episodes of shocks such as a diversified and flexible economy and a strong financial system that have been built over the years will all help cushion the economic fallout and support economic growth.

On the capital market front, both the Securities Commission Malaysia (SC) and Bursa Malaysia have

rolled out a series of proactive measures to ensure that the market continues to operate in an orderly manner amidst the unprecedented and volatile market conditions arising from the COVID-19 pandemic, facilitate greater access to finance particularly for smaller companies, maintain market confidence and investor protection and accelerate digitisation of the capital market. Thus, the SC, through its 16 April 2020 press release assured that capital market players and institutions are better equipped to face the onslaught of challenges arising from the pandemic having withstood many crises in the past. The press release further elaborates that collaborative efforts between the regulator and industry have served to strengthen the capital markets and address systemic weaknesses over the years.

dr caught up with Datuk Muhamad Umar Swift via a written interview just prior to the implementation of the Movement Control Order (MCO) in March 2020. Since then, on 10 April, Bursa Malaysia decided to accelerate the launch of a new feature on its Bursa Anywhere Mobile App referred to in his interview. The new feature allows central depository services (CDS) account holders to reactivate dormant and inactive CDS accounts online without the need to physically visit their brokers. This, according to Datuk Umar, was done, to give Bursa investors "greater access and convenience during this trying time" and "to ensure our services remain available and accessible to our investors at all times with minimal or no disruption, keeping in mind their health and safety". The Monash University economics graduate and chartered accountant has certainly been kept busy these past 14 plus months.

What were your thoughts on how the market performed last year?

Overall, 2019 was a challenging year. Persistent uncertainties in both the global and domestic environments, had contributed to the volatile and relatively more subdued market performance. Despite the weaker performance in the key benchmark index, there were also pockets of growth in other sectors, which reflect the diversity of opportunities we have on the Exchange.

Notwithstanding the performance of the FTSE Bursa Malaysia KLCI (FBMKLCI), Malaysia's equity market has proven to be a place of resilience, supported by a strong domestic economy, diverse and well-balanced market participants and robust governance framework. While the FBMKLCI which represents the performance of our 30 stocks registered a decline, our broader market, actually performed well in 2019. Both the FBM MidS and FBM Small Cap indices gained 32% and 25.4%, respectively.

Bursa's sustainable growth initiatives implemented over the years continue to show progress. Last year, retail participation in our marketplace stood at 24.5%, the highest since 2014. This is an indication that our retail investor outreach has been gradually bearing fruit. Trading of Bursa Malaysia Derivative's Crude Palm Oil Futures contract (FCPO) reached a new high.

Most recently on 13 February 2020, the FCPO's total daily trading volume reached a new record of over 113,000 contracts from the previous record high registered on 28 January 2020. There is a growing recognition and confidence among market participants in our derivative products in managing their price and risk exposures.

Bursa Malaysia also welcomed 30 new listings in 2019, the highest since 2006. Bursa Malaysia emerged second in ASEAN for the number of initial public offerings (IPOs), excluding REITs (real estate investment trusts) and ETFs (exchange traded funds). This is a testimony to our strong fund-raising capability as one of the preferred exchanges in the region among domestic and international investors.

Your appointment as the CEO for Bursa took effect on 11 February 2019. Any reflections on your first year as Bursa's CEO?

Reflecting my first year at Bursa Malaysia, I initially sought to review our businesses and the operational processes – to understand the pulse and address the needs of all our stakeholders. In doing so, we identified areas for optimisation, and where greater focus can produce results in the shorter-term and in the long-run. These include identifying areas for Bursa Malaysia to strive to improve our cost structures and where investments in technology and our digital touchpoints can better serve investors. I am pleased to say that we have made several meaningful strides in this space, with the launch of our Bursa Anywhere Mobile App for investors' convenience in managing Central Depository System (CDS) accounts, a refresh of our corporate website, expansion of our suite of virtual education programmes, and making the Bursa Marketplace website also available in the Malay language.

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Reflecting my first year at Bursa Malaysia, I initially sought to review our businesses and the operational processes – to understand the pulse and address the needs of all our stakeholders.

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In 2019, we also began reshaping the organisation, shifting the work culture, and relooking at HR policies – all with the primary aim of ensuring our talent can be agile, are empowered, engaged and accountable to drive outcomes. We realised that we need to be more nimble in serving market needs. We also need to

bring in and develop the necessary talent to explore new opportunities in the constantly evolving industry landscape.

Moving forward, we will continue to proactively make the necessary investments in our people, systems, and processes to put in place the required building blocks that will future-proof the Exchange:

- elevating our organisational effectiveness
- leveraging on technology and innovation
- forming collaborations with international players through strategic partnerships to widen our reach and offerings.

These efforts will create the necessary efficiencies and agility that will allow us to pursue new growth opportunities to support a vibrant and resilient capital market.

Getting retail investors into the market has always been a priority for Bursa Malaysia as it adds velocity of trades and generates wealth for Malaysians. Has Bursa Malaysia seen an increase in the overall retail participation rate in trading activity in recent times?

Despite the challenging market environment in 2019, retail participation at Bursa Malaysia stood at 24.5%, a level not seen since 2014. Retail investors were also net buyers for the last two consecutive years, posting a net buy of RM3.84 billion in 2018 and RM2.45 billion in 2019, respectively. This indicates to us that the retail investment community in Malaysia is growing and becoming increasingly more financially literate and having the ability to take advantage of various market cycles.

How did Bursa Malaysia drive interest and participation among retail investors?

Our retail investor outreach initiatives have been gradually bearing fruit. Our collaborations with our broker partners have helped drive interest and participation from the public. Through this successful

collaboration, a total of 74 stock awareness and promotion programmes were conducted in 2019, which were attended by over 20,000 individuals. Last year also marked our first designated Retail Invest Year, carrying the theme “Invest Bursa, Invest in You”. Throughout the year, a variety of retail investor programmes comprising investment fairs, educational workshops, inter-varsity debate challenges and incentives schemes were organised to encourage Malaysians to consider share investment as part of their financial planning.

“ We will maintain our focus to make Malaysia a financially literate nation with an informed, investing society. ”

We also pursued a stronger focus on digital marketing and social media to engage and educate the new generation of investors, reaching out to over one million Malaysians. We leveraged on Bursa Marketplace, our one-stop online platform for investors to learn about all things on share investment. In November 2019, we launched “Mirror, Learn & Trade” a first-of-its-kind interactive virtual education platform that uses the concept of ‘mirroring’ to educate investors on how licensed investment analysts trade in the market.

We will continue to build on this and maintain our focus to make Malaysia a financially literate nation with an informed, investing society.

Malaysia has consistently ranked highly in terms of protection of minority investors in reputable publications. For instance, in the 2020 Doing Business Report, Malaysia ranked second out of 190 economies in this regard. What are some of the



key minority investor protection initiatives carried out by Bursa Malaysia in 2019, and what are Bursa Malaysia's key initiatives in this area in 2020?

Our efforts in building investor protection are focused on three areas, namely, strengthening corporate governance, board effectiveness and investor education. The combination of these efforts is designed to build trust and empowerment, creating better efficiencies and encouraging productive behaviours.

“ Our efforts in building investor protection are focused on three areas, namely, strengthening corporate governance, board effectiveness and investor education. ”

Strengthening corporate governance develops trust through carefully selected principles that serve as a foundation for building ethical behaviour. We do this by elevating the level of disclosures and practices, strengthening foundations in risk management, internal controls and effectiveness of boards.

Last year, we introduced anti-corruption and whistle-blowing measures for our listed issuers as part of our commitment to anti-corruption and in-line with the National Anti-Corruption Plan 2019-2023. These amendments, which will take effect from 1 June 2020, require listed issuers to establish and maintain policies and procedures on anti-corruption and whistle-blowing for themselves and their subsidiaries. Through these changes, we seek to promote better governance culture and ethical behaviour within our listed companies.

We will also continue to enhance disclosure obligation of our listed issuers, primarily on disclosures in announcements and circulars for transactions, to improve the readability of these documents. We want to make information clearer, more coherent and easier to understand for investors to make decisions. To support this, we also issued our Reader-Friendly Guide as guidance for listed issuers to refer to when preparing disclosure documents under our Listing Requirements.

Other gaps that we have addressed to strengthen investor protection include the requirement for a listed

“Ultimately, the best form of investor protection is through investor empowerment – the investor having the ability to ask the right questions and make informed decisions.”

issuer to publish interim audited financial statements in the event it extends its financial year-end to more than 18 months if required by the Exchange.

How does this initiative protect the minority investor?

This initiative seeks to promote the timely release of financial information to shareholders notwithstanding a change in the listed issuer's financial year-end. For initial public offerings or new issue of securities, more power is given to shareholders where the listed issuers now require their approval if there is a material change in the utilisation of proceeds for the said exercise.

Ultimately though, the best form of investor protection is through investor empowerment – the investor having the ability to ask the right questions and make informed decisions. We aim to achieve this through various awareness and education initiatives. Last year, we organised over 190 investor education initiatives catering to investors at all levels through various workshops, webinars and luncheon sessions.

Moving forward, we will continue to address other gaps and issues in our marketplace. The long-term game is to see an entire nation which benefits through collective responsibility.

SIDREC was established by the SC to provide a specialist dispute resolution service for the capital market. We do so through two primary methods of alternative dispute resolution (ADR), namely, mediation and if necessary, adjudication. In your view, should ADR be promoted among retail investors as a means to seek redress should they have a monetary dispute involving capital market products and services such as unit trusts or private retirement schemes as an alternative to them seeking redress through the courts?

Yes indeed, as this will create the necessary awareness amongst retail investors on the availability of such a platform for dispute resolution. Some of the benefits of ADR could include saving time and costs. Disputes can also be resolved in confidence.

We will continue to support SIDREC and increase awareness of SIDREC, where in the past, we have invited SIDREC to give briefings in many of our on-the-ground education initiatives.

Bursa Malaysia has provided SIDREC with tremendous support in raising awareness of our key services amongst retail investors since our inception in December 2010. A key initiative is the inclusion of a simple alert informing account holders about SIDREC in its periodic CDS statements since 2011. What is the current age profile of Bursa's CDS account holders? Has the age profile changed over the years? SIDREC is currently considering increasing its efforts to raise awareness of its services among the younger generation. Any views on this?

Although Gen-X investors (46 years and older) are our primary individual CDS account holders, millennial investors (18 to 35 years old) has been growing fast. In terms of new accounts opened over the last four years (2016 – 2019), the millennial investor has been the largest segment growing at a compounded annual growth rate (CAGR) of 9.7% while making up the majority of accounts opened (>50%) over the same period.

The increase in the millennials' participation and interest in the capital market can be attributed to the



shift in the approach adopted by both Bursa Malaysia and industry players. To inculcate financial literacy and investing culture, we have increased our focus to attract and educate the new generation of investors through a mix of on-the-ground and digital initiatives such as BursaMarketplace.com.

Any final thoughts on the capital markets and investor protection in 2020?

It would definitely be positioning the Malaysian capital market as an attractive place to raise funds, trade and invest. This will continue to be a top priority for us, without compromising on investor protection. Investors are naturally attracted to venues which are well-regulated.

Why is this critical?

Being a well-regulated market provides investors with comfort and value-propositions to trade and invest. Hence, through our role as a front-line regulator, we will strive to strike the balance that is just right for our capital market, i.e. one that continues to serve the needs of our various stakeholders. We will continue to focus on inculcating high standards of conduct among market participants, as well as ensure market integrity, transparency and investor protection while being

“ We will continue to support SIDREC and increase awareness of SIDREC, where in the past, we have invited SIDREC to give briefings in many of our on-the-ground education initiatives. ”

mindful of the need not to stifle capital market growth and innovations.

And what is the ultimate objective?

At the end of the day, we want to have in place a regulatory framework that allows our listed issuers to grow sustainably and investors to participate confidently. This remains Bursa Malaysia's key principle behind our efforts to develop a vibrant and attractive marketplace that remains conducive and competitive for fund-raising and listings. [dr](#)

Amidst the Angst

When the Securities Industry Dispute Resolution Center (SIDREC) opened its doors for business a decade back, Hong Siew Lai was employee number two. For the function it was mandated to undertake by the Securities Commission Malaysia (SC) i.e. alternative dispute resolution (ADR), SIDREC needed a mediator. Under SIDREC's old Terms of Reference, the mediator had to undertake the functions of case manager, mediator as well as adjudicator.

"In the early days of SIDREC, I was the head of a one-man team, undertaking case management, mediation and adjudication," Hong, SIDREC's Head of Dispute Resolution told *dr*. "I'm now leading a five-member team, and we also have the support of a panel of mediators and adjudicators," Hong added. "I was initially only involved in dispute resolution work. But now, in addition to overseeing dispute resolution, I'm also assuming the role of SIDREC's in-house legal counsel, and involved in research and policy decision making. The expansion of my scope of work enabled me to grow alongside the growth of the depth and breadth of my job function over the last nine years."

Hong practised as an advocate and solicitor prior to moving into the financial services industry. So what made her switch to ADR?

"It all started with a friend who told me that there was a vacancy at SIDREC," she said. "I was told it is a job for a good cause. Coincidentally, I had attended the briefing by the SC to the industry in relation to the establishment of SIDREC earlier, and I knew my legal and capital market knowledge would be put to good use."

"Knowing how stressful it can be for one who is involved in a court case, not to mention the legal cost, I see great value in the services offered by SIDREC," she pointed out.



"Furthermore, the experience of working for a new start-up dealing with external dispute resolution would be an interesting addition to my professional career, even though it could be a challenging one. Without thinking too much, I decided to apply for the job."

The rest as they say is history. *dr* caught up with Hong recently to find out more about SIDREC's dispute resolution process as well as a more candid behind-the-scenes look into the efforts of case managers, mediators and adjudicators when dealing with the emotions of disputing parties.

When investors are in distress having suffered monetary losses they can be emotional. How does SIDREC's case managers, mediators and adjudicators handle such investors?

SIDREC's case managers would first listen to them and let them vent their frustrations or anger to calm them down. The case managers would then ask them the relevant questions to draw out the salient facts which are relevant to the issue at hand. Thereafter, the case managers would explain SIDREC's functions, its processes (which comprise case management, mediation and adjudication) and its timeline. When conversing with the claimants, the case managers need to be very tactful, patient and show empathy, where necessary.

More often than not, when investors first come to us, they are angry and frustrated. They would have already complained to the relevant capital market intermediary and perhaps even the regulators, but felt that their complaints were either pushed from pillar to post or brushed aside by the capital market intermediary without proper consideration or justification.

Generally, claimants appreciate it if the case managers demonstrate to them that SIDREC is taking their complaint seriously and that it has a fair dispute resolution process. The case managers would also explain to them that we would not advocate for them. SIDREC would deal with their complaints as an 'independent voice of reason' – reviewing their complaint as an independent third party without any attachment to the outcome. However, if we note that there is something not right, our job is to help to put it right. We find that regular updates or communication with the claimants help to assure them we are taking the issues raised by them seriously.

I recalled a case we handled in the early years – the claim was dismissed by the adjudicator. Thereafter, the claimant came to the office to meet us. After the case manager explained the decision to him, he was very emotional as a huge sum of investment loss was involved. Although he was very sad that his claim was dismissed, he thanked SIDREC for taking his claim seriously. He told us that through the process he understood why his claim was dismissed and he accepted it.

It needs to be highlighted that in this particular case, the remiser was initially hesitant to attend the mediation and adjudication as he was concerned for his own safety. However, he eventually attended the proceedings because the claimant had trusted our process and the parties adhered to our process. As

such, nothing untoward happened during the dispute resolution process.

If a matter can be easily resolved – due to misunderstanding or delay in services on the part of the capital market intermediaries – we would call the relevant capital market intermediaries to ask them to quickly address the complaints before they escalate into bigger issues or being dragged on. Our case managers would then try to facilitate an amicable resolution between the parties.

When a dispute progresses to mediation and adjudication, the investors would have already calmed down. The reason: during case management, SIDREC's case managers would have done the needful to prepare the disputing parties for mediation and adjudication. That said, there are some who could still be very emotional, as the disputes involved their life savings.

“ As different personalities and different issues are involved, our dispute resolution process has to be flexible enough in order for it to be effective. ”

As different personalities and different issues are involved, our dispute resolution process has to be flexible enough in order for it to be effective. For example, we have encountered a scenario whereupon being told that the claim lodged was found by us to be an excluded claim, the claimant shouted and screamed at us on the phone. Dealing with emotions is among the responsibilities our case managers have to undertake. We would ask the claimant to calm down; otherwise we would not be able to continue the conversation. If that does not work, we would tell the claimants that we would call them back at another time or they could call us anytime when they were ready to talk.

We have also encountered cases where the claimants threatened to lodge a complaint against SIDREC to various agencies if they do not get what they want within a quick turnaround time. In such circumstances, we would brief these claimants on our role as an

independent and impartial third party reviewing the issues at hand. We would also brief them on our process and timeline. If they still wish to use SIDREC's services, we would be happy to assist them. If they think that SIDREC's services and timeline do not meet their expectation and the dispute resolution services do not suit their need, they are free to pursue their claims through other avenues.

The objective here is for us to set the ground rules from the onset; it helps to manage the dispute resolution process. Only then can we proceed with the technicalities of the case.

And sometimes, escalating the matter to a more senior person of the team could also help address the concerns of infuriated claimants. As the Head of Dispute Resolution at SIDREC, I do have to intervene from time to time. The claimant is more amenable to accept it when a senior case manager has also reviewed the matter and reached the same conclusion as the case manager. Normally, the more complicated cases, whether in terms of issues or the personalities involved, will be assigned to senior case managers.

Did you ever experience a situation where tempers flared and a shouting match ensued between a claimant and a SIDREC Member? How did you handle such a situation?

Yes, we do see instances where tempers flared and shouting matches ensued between the disputing parties. Generally, during our process, parties only meet each other during mediation or adjudication.

But before the commencement of a mediation or adjudication, the mediators or adjudicators would lay down some ground rules like 'only one person to speak at a time,' exercise common courtesy, everyone is assured of an opportunity to be heard, and explain the process to the parties. Should a shouting match happen, the disputing parties would generally tone down after the mediator or adjudicator intervenes. More often than not, the mediator or adjudicator would call for a break to let the parties cool down, and remind the disputing parties of the purpose of the mediation or adjudication.

In our experience, disputing parties may be more defensive when they are tensed up or unsure of the process. To circumvent this, case managers would brief the disputing parties on the process, in particular the claimants, so that they would know what to expect during the mediation and adjudication process and can be better prepared. The case manager handling

the case would join the mediation or adjudication because from our experience, the claimants will be more at ease knowing that the case manager handling the case with whom they are familiar, would be present during the process.

Briefly, can you describe the SIDREC dispute resolution process?

As a matter of practice, our case manager would first determine the eligibility of a claim. He or she would then look into the merits of the claim based on the feedback received from the claimant. Often, claimants would appreciate if the case manager could give them an early assessment as to the challenges they need to overcome in order to make an informed decision whether to proceed or progress with the claim.

To do this, the case manager would first collate relevant information and supporting documents from the claimant and then identify the salient issues. This would be followed by the confirmation of the case manager's understanding of the issues raised by the claimant. Thereafter, the case manager would seek clarification from the capital market intermediary and hear them out on their justification on the rejection of the claim.

We would then engage the disputing parties to highlight our observations on the challenges or issues they may encounter or fail to justify and ask them to forward any additional documents that support their position. The case manager would also be asking the disputing parties some 'reality test' questions to manage their expectations. Many disputes are resolved at this stage as the claimant may decide to withdraw the claim or the capital market intermediary concerned may decide to explore the option of early amicable settlement. The case managers would then assist to facilitate the communication if the disputing parties wish to communicate through them.

Also, depending on the nature of a claim, especially in cases where the claimant is unable to articulate his or her claim, SIDREC's case manager would invite him or her to the office to meet in person where it is possible for the claimant to do so.

If the claim cannot be resolved at this stage, it would then progress to mediation where a mediator would facilitate the discussion between the disputing parties to help them find a mutually agreeable resolution. If the mediation is successful, the disputing parties would enter into a settlement agreement, and upon compliance with the settlement agreement, SIDREC would close the case. If the mediation is unsuccessful

SIDREC's Dispute Resolution is Available in Two Schemes



Mandatory Scheme

A SIDREC Member is obligated to participate in SIDREC's Mandatory Scheme, if the dispute meets the following criteria:



Dispute against a SIDREC Member



Claimant is an individual investor or sole proprietor



Capital Market Product / Service from SIDREC Member or representative



Claims up to RM250,000



Service is free to the investor



If mediation succeeds, both parties are bound by settlement agreement



If mediation fails, case proceeds to adjudication unless investor withdraws claim



Member must participate in adjudication



Member is bound by adjudicator's decision if claimant accepts outcome

The claimant has the choice to reject the adjudicator's decision and pursue other legal recourse. However, once the claimant accepts the decision and enters into a settlement agreement, the claimant is bound by the decision.



Voluntary Scheme

SIDREC may also mediate and / or adjudicate disputes for claims under its Voluntary Scheme. Unlike the Mandatory Scheme, the Member is not required to participate unless they wish to. SIDREC will only accept a case under this Scheme if both the claimant and Member agree to seek SIDREC's help.

Prerequisites



Dispute involving claims exceeding RM250,000

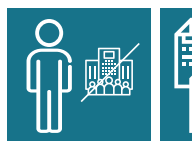


Court-referred mediation for any claim amount

+



Dispute against a SIDREC Member



Claimant is an individual investor or sole proprietor



Capital Market Product / Service from SIDREC Member or representative



If parties agree to SIDREC's mediation process, they will be bound by the agreement



If mediation fails, parties in a court-referred mediation will be referred back to court. In other instances, both parties must agree to proceed to adjudication.



Both parties are bound by adjudicator's decision



Both parties will be required to pay a reasonable fee for SIDREC's service

and the claimant does not withdraw the claim, the case would then progress to adjudication.

During the adjudication process, the disputing parties will be given an opportunity to present any evidence (including the calling of witnesses) to support their case; seek clarification from the other party and / or their witnesses; and submit their respective cases. The adjudicator may also seek further clarification and documents from the disputing parties or their witnesses. After taking into account the evidence presented, facts involved, the conduct of the disputing parties, relevant laws, rules and regulations, best industry practices and SIDREC's precedents, the adjudicator would then make a decision by applying the principle of what is fair and reasonable under the circumstances.

Do you have any guidance for the disputing parties on how to achieve a successful mediation?

During the mediation process, our mediators would manage the expectations of the parties on the outcome, and get them to consider potential solutions to resolve their dispute. The disputing parties are encouraged to share their proposals for a resolution with the mediator during a private session or with the case manager before the mediation. Another important aspect to note is that the representatives of SIDREC's Members who attend the mediation are given the mandate and have the authority to negotiate and sign the settlement agreement on behalf of their respective companies. We have seen parties changing their minds after Members have informed us that they would need to go back to the office to seek their respective higher management's final approval for the proposed final settlement terms before signing the settlement agreement. At SIDREC, we would strongly encourage the disputing parties to sign off on the settlement agreement at the conclusion of the mediation session.

It needs to be stressed here that the success of a mediation session has nothing to do with the number of representatives present, but rather the 'quality' of the representatives – whether they are tactful, know their facts and are able to explain the issues in an open and logical manner. Claimants generally appreciate when capital market intermediaries are willing to listen and have an open discussion.

More often than not, by looking at the facts and supporting documents made available to us, we would be able to gauge whether the case has the 'right ingredients' for mediation. As an independent third party, we do sometimes feel that it is a pity that a claim is not resolved just because of the personalities involved



or when the disputing parties are in denial that they have somehow contributed to the monetary loss. In such instances, mediation works best when both parties are willing to acknowledge their contribution to the loss and are willing to deal with the issues constructively. As often said by one of our panel mediators, "It is not about what you say; it is all about how you say it."

It needs to be pointed out here that the disputing parties are in control of the outcome during the mediation. They are the ones who would finally decide on the terms of settlement. If a mediation session is unsuccessful and the claimant wishes to escalate the claim to adjudication, SIDREC would follow its process to progress the claim to adjudication. In such a case, the adjudicator would make the final decision. So, when we say we have no attachment to the outcome, we mean it. There should not be any doubt that we are an independent third party throughout the process. Have trust in our process. We are here to help all parties to resolve their disputes.

Is the quantum of monetary losses always the main concern of claimants who lodge a claim with SIDREC?

There are times where monetary loss is not what matters most to claimants. There are other underlying issues that may bother them; issues that our case managers would need to keep a lookout for.

To give context to what I am trying to say here, I will share an example. We had a claim involving an unauthorised withdrawal of unit trust funds. We looked at all the redemption forms and the processes that were put in place by the SIDREC Member involved. It was very clear to us that the claimant would not have been able to substantiate the allegation of an unauthorised withdrawal. It was during case management that we discovered that the claimant was holding the unit trust investment on behalf of his parents.

The claimant had to lodge a claim of an unauthorised withdrawal to appease the parents in order to justify the missing units in the statement that the parents received. Upon discovery of the salient facts, we talked to the claimant and explained to him the challenges surrounding his claim to ensure he understood that even if the matter were to progress all the way up to adjudication, it would not address the underlying issue. The claim was withdrawn after our engagement with him.

We have seen a few instances where claimants lodged their respective claims mainly because they felt that they were being 'bullied' by SIDREC Members and all they were really looking for was just an apology.

What is your take on the public's perception that SIDREC is pro-Members and Members' perception that SIDREC is pro-investors? How has SIDREC managed this perception over the years?

From the Members' perspective, because of the functions and the mandate given to us, they are of the view that we are pro-investors. As I have said before, SIDREC is not here to ensure that investors always get what they want by filing a claim with us. We are only here to provide an independent and impartial redress avenue for investors who have suffered monetary losses resulting from an investment that they have made. We hope our Members observe fair practices when dealing with investors. If a claimant does not have a valid claim, the claim would be ultimately dismissed. However, if the claim is valid, the Member concerned should step up to put things right.

To manage this pro-investor perception, we have shared our data on how eligible disputes are decided and resolved by SIDREC with our members during our Members Briefings and Annual General Meetings. Based on SIDREC's historical data (from 2011 until 2019), 90% of the claims that went through its dispute resolution process were resolved during case management and mediation. It also shows that the majority of the eligible disputes received by SIDREC were either settled between the disputing parties, withdrawn by the claimants or deemed withdrawn by the claimants as they were not contactable after we requested for further information or clarification from them.

Only 10% of SIDREC's eligible claims (equivalent to 29 claims) have proceeded to adjudication, of which 21% were full awards and 55% were partial awards. The remaining 24% were dismissed.

Meanwhile, when claimants get to know that the capital market intermediary against whom they have

lodged a complaint is a SIDREC Member, it is only natural they have a perception that we are Member-biased. Our case manager would then explain to them that the reason SIDREC handles complaints against its members is to avoid any adjudication award against them (Members) to become a paper judgment. The reason: if a claimant accepts an adjudication award under the Mandatory Scheme, the award is binding on the Member, and the said Member has to comply with it, failing which it will be in breach of the Capital Markets and Services (Dispute Resolution) Regulations 2010 and SIDREC's Terms of Reference. This would take away the stress of the claimant having to initiate another legal proceeding to enforce the adjudication award, for example, insolvency proceedings.

“Have trust in our process. We are here to help all parties to resolve their disputes.”

Further, we have designed our processes to ensure procedural fairness. A fair process, as we all know, creates trust. The case managers would brief the claimants of our processes and timeline as I have explained earlier. Hence, from the onset, we tell the claimants that we are not here to advocate for them; we only review their complaints as an independent third party. If they think they need legal assistance, they are free to consult with lawyers outside of our dispute resolution process. This is because under our Mandatory Scheme, a scheme for claims below RM250,000, legal representation is not allowed in the dispute resolution process. However, we note that there are cases where the claimant is unable to articulate his or her claim or is illiterate. As such, our case manager would investigate the pertinent issues raised by the disputing parties, so no party is put at a disadvantageous position due to lack of ability to put forward his or her case.

We always keep the claimant updated on the progress and share with them some of our observations and industry practices, so that they can make an informed decision on their own case.

SIDREC follows an inquisitorial system where our adjudicator would ask the disputing parties all the pertinent questions, to ensure that all relevant information is put on the table. All these measures are taken to help us level the playing field between the disputing parties.

What, in your opinion, are SIDREC's notable achievements to date?

For starters, SIDREC expanded its maximum claim limit from RM100,000 to RM250,000 in December 2015 for claims under the Mandatory Scheme where the participation of its Members is compulsory if the claimant wishes to use SIDREC's services. This immediately made SIDREC's free services more accessible to a broader base of small retail investors.

Secondly, the expansion of its mediation and adjudication services for claims exceeding RM250,000 under its Voluntary Scheme, whereby, the disputing parties have to agree to engage SIDREC to resolve their disputes. Prior to the rolling out of this scheme, parties with claims in excess of RM250,000 only had the option of going to the courts or an arbitral tribunal to have their disputes resolved.

Investment products are becoming increasingly complex. SIDREC being the ADR scheme that specialises in capital market disputes has the requisite expertise to handle complex disputes. For claims, especially those that involve complex products, the claimants who come to SIDREC are usually relieved to know that we understand their issues.

SIDREC has also expanded its mediation services to handle court-referred mediation under its Voluntary Scheme. Also, its purview now covers all financial institutions and two specified developmental financial institutions (DFIs) that provide capital market products and services.

The net effect is that so long as an investor has a dispute relating to dealing in securities, derivatives, private retirement scheme (PRS) or fund management services, he or she can now file a claim against a capital market intermediary who is a SIDREC Member. The claims against these intermediaries were not under SIDREC's

purview previously and investors had to file a claim with the Ombudsman for Financial Services (OFS). With these claims now coming under SIDREC's purview, all the aforementioned capital market intermediaries are held to the same service standards and expectations. This also provides greater clarity to SIDREC Members as there is now a consistency of approach to resolve capital market related disputes across the board.

SIDREC's continuous enhancement of its processes has also contributed to greater efficiency and effectiveness. In 2019, 91% of the eligible disputes were resolved at the mediation and case management stages, without having to progress to adjudication. Our data for the past few years also showed we are on the right track. As I mentioned earlier, SIDREC's historical data since its inception till 2019 shows that 90% of the eligible disputes were resolved at case management and mediation stages without having to progress to adjudication. This clearly shows the effectiveness of the SIDREC mediative approach.

SIDREC's Members have also enhanced their processes as a result of the issues highlighted to them during the dispute resolution process. This also goes to show that we have been an effective nudge to our Members and hence improve the overall standard of the industry to the benefit of the capital market.

Over the years, SIDREC has also contributed to industry best practices through the sharing of experience with our counterparts in Indonesia, Cambodia and Thailand.

What do you think is SIDREC's greatest value to the capital market?

As mentioned before, many SIDREC Members have enhanced their processes as a result of the issues highlighted during SIDREC's dispute resolution process. This has improved the overall standard of the industry to the benefit of the capital market.

We have also helped to educate retail investors through our media and on-ground engagements. Even though investors may not always get what they want when they come to us, we are heartened that at the end of the day, when they walk away, they would have a better understanding of what had gone wrong with regard to their investment and decision-making process, learnt some lessons and be a better investor in the future.

I believe the avenue for redress provided by SIDREC contributes significantly to investor empowerment and enhances investors' confidence to participate in the capital market. [dr](#)



SIDREC Board Matters



SIDREC is pleased to announce the appointment of Dato' Halipah Esa as its new Chairman following the retirement of its Founding Chairman, Dato' Ranita Mohd Hussein.

Dato' Halipah is a founding member of the SIDREC Board, serving as an Independent Director. She has demonstrated a high level of commitment to the work of SIDREC and has impeccable credentials in the accounting and finance fields.

She currently serves as an Independent Non-Executive Director of several public-listed companies, including Malaysia Marine and Heavy Engineering Holdings Berhad and SP Setia Berhad. She also serves on the Boards of Cagamas Berhad and Malaysian Maritime Academy Sdn Bhd

Dato' Halipah was previously a consultant to the World Bank and the United Nations Development Programme

(UNDP), advising the Royal Kingdom of Saudi Arabia on economic planning and providing technical advice to planning agencies in Vietnam, Cambodia, Indonesia and several African countries.

She started her career with the Administrative and Diplomatic Services in 1973 in the Economic Planning Unit (EPU) of the Prime Minister's Department and has held various senior positions in the civil service. Prior to her retirement from the civil service in 2006, she served as Deputy Secretary General at the Ministry of Finance.

Dato' Halipah holds a Bachelor of Arts (Hons) degree in Economics as well as a Master of Economics degree from the University of Malaya.



SIDREC
Securities Industry Dispute Resolution Center
would like to wish its retired
Chairman and Directors of the Board a tremendous

"Thank You"

for their tireless stewardship in helping to shape it into an
independent and impartial alternative dispute resolution centre
for the capital market

SIDREC expresses its heartfelt gratitude to its recently retired Founding Chairman, Dato' Ranita Mohd Hussein and Directors of the Board, the late Dato' Karam Chand Vohrah and Mr Raymond Tang for their steadfast commitment to SIDREC and its cause.

Dato' Ranita, the late Dato' Vohrah and Mr Tang have brought a wealth of knowledge and practical experience that helped shape SIDREC into an independent and impartial alternative dispute

resolution centre for the capital market. Dato' Ranita and Mr Tang retired from the SIDREC Board on 11 April 2020, whilst the late Dato' K C Vohrah retired on 8 April 2020.



welcomes

Dato' Mohd Nizam Zainordin
and
Mahadzir Azizan
to its Board of Directors

SIDREC would like to warmly welcome two new Board members – Dato' Mohd Nizam Zainordin (industry director) and Encik Mahadzir Azizan (independent director) – to its Board of Directors.

Dato' Mohd Nizam Zainordin has over 30 years of professional experience in the finance industry. He is currently the Deputy President and Group Chief Financial Officer of Permodalan Nasional Bhd (PNB).

Since joining PNB, he has also held several portfolios including Senior Manager of Operations, Assistant Vice President of Unit Trust Operations, Senior Vice President of Finance & Investment Processing and Chief Financial Officer of Finance & Information Technology Division. He is also a director in several subsidiaries within the PNB Group of Companies.

Dato' Nizam is a Fellow of the Association of Chartered Certified Accountants, member of the Malaysian Institute of Accountants and Certified Financial Planner. He holds an Executive Master of Business Administration degree from the Asian Institute of Management and has attended Huddersfield Polytechnic in the UK.

Mahadzir Azizan has held key positions both in the private and public sectors. He joined the Judicial and Legal Service of the Malaysian Government as a Deputy Public Prosecutor and Federal Counsel upon completing his legal training as a Barrister-at-Law from Lincoln's Inn in London, and was called to the English Bar in 1978.

He subsequently ventured into the private sector and served Malaysian International Shipping Corporation Bhd and Island & Peninsular Bhd, the property arm of Permodalan Nasional Bhd for the next 24 years. Whilst in the private sector, he also served as a MARA Council Member in addition to various other directorships in government-linked companies.

In addition to sitting on the SIDREC Board, Mahadzir is currently the Chairman of AmanahRaya REIT and also sits on the Boards of ECM Libra Group Bhd, RCE Capital Bhd, Syarikat Takaful Malaysia Keluarga Bhd and Syarikat Takaful Malaysia Am Bhd.

He has also previously held directorships in Asian Healthcare Group Bhd (2014 to 2016) and Libra Invest Bhd (2007 to 2019). [dr](#)

SIDREC Works Off-Site

Announcement

Following the Government of Malaysia's Movement Control Order, SIDREC will be temporarily operating offsite from 18-31 March 2020. This is in line with the precautionary measures by the Malaysian Government to mitigate the spread of COVID-19 and safeguard the health of our staff and the public.

During this period, SIDREC will operate as usual within normal business hours. Please contact SIDREC via the following channels:

E-mail: info@sidrec.com.my
Tel: +60-16-620 5698

SIDREC is actively monitoring the situation and will continue to provide updates. Please stay safe and healthy. Thank you.

WE'RE STILL HARD AT WORK TO RESOLVE YOUR DISPUTES

We are unable to accept walk-in claims and enquiries between 18 and 31 March 2020. However, please reach out to us between 9:00AM and 6:00PM (Monday to Friday) at:

info@sidrec.com.my
+60-16-620 5698

You may also lodge a complaint through our website at sidrec.com.my or connect with us through our social media platforms.

Please stay safe and healthy. Thank you.

KEEP CALM AND CALL SIDREC

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You may also lodge a complaint through our website at sidrec.com.my or connect with us through our social media platforms. Stay safe, stay healthy. Thank you.

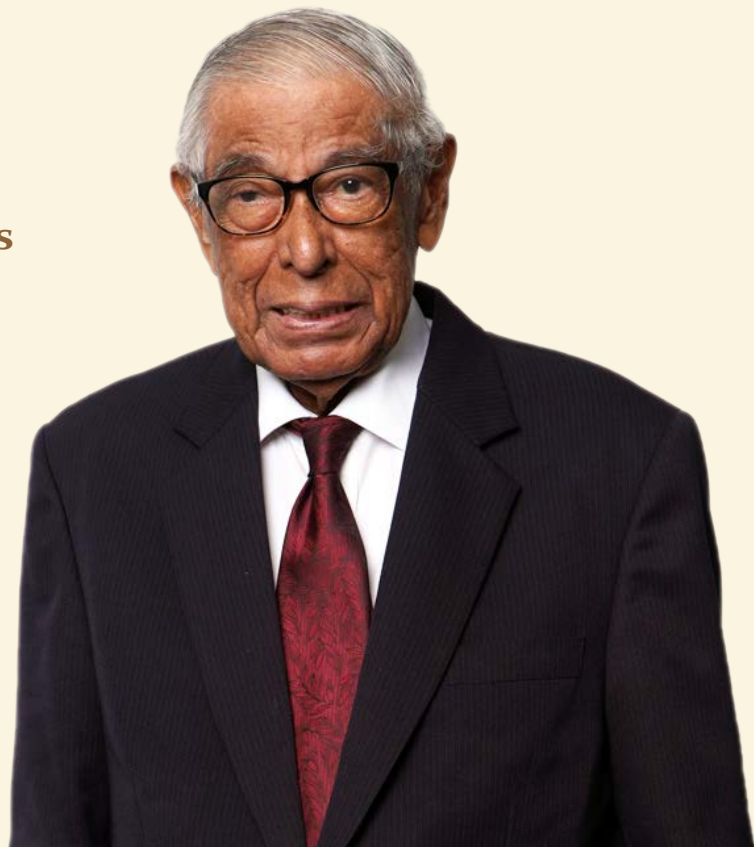
In Memoriam: Dato' Karam Chand Vohrah

With Deepest Sympathies

SIDREC wishes to express its heartfelt condolences to the family and friends of

Dato' K C Vohrah

We would like to thank the late Dato' Vohrah for his steadfast commitment to SIDREC and its cause.



It is with great sadness that we inform you of the passing of our recently retired member of the Board, Dato' Karam Chand Vohrah, on 12 April 2020. He was 83.

Dato' K C Vohrah served on the Board of SIDREC for six years between 30 April 2014 and 8 April 2020 with dedication and distinction. He was an invaluable source of wisdom and knowledge and was the epitome of kindness.

Dato' Vohrah had a long and illustrious career in public service. He joined the Judicial and Legal Service in 1965 and retired as a judge of the Court of Appeal in 2002. Upon his retirement, he served as a commissioner of the Human Rights Commission of Malaysia (SUHAKAM) from July 2002 up to April 2008 and was Chairman of the Malaysian Corporate Law Reform Committee.

In 2018, he was appointed Chairman of the Institutional Reforms Committee.

Until recently, Dato' Vohrah was active in both domestic and international arbitration. He also served as a consultant with Lee Hishamuddin Allen & Gledhill from 2002 until 2016.

Dato' Vohrah is survived by his wife, Datin Beatrix Vohrah, a retired law professor, two children and four grandchildren.

He will be sorely missed by the SIDREC team. May his soul rest in eternal peace. [dr](#)

International Women's Day 2020



SIDREC supported International Women's Day this year by uploading promotional posts on its social media platforms. The posts which were uploaded from 6 to 8 March 2020, also aimed to encourage more women to understand their rights when investing in the capital market. [dr](#)

Release of SIDREC's 2019 Annual Report

Pursuant to Regulation 9 of the Capital Markets and Services (Dispute Resolution) Regulations 2010, SIDREC released the 2019 Annual Report on 17 March 2020.

The report included claims and enquiries received by SIDREC for the year as well as its audited accounts for the FYE 31 December 2019.

The digital copy of the report is available on SIDREC's official website. [dr](#)



The SIDREC
Annual Report 2019
is now available

We help to resolve eligible disputes between retail investors and capital market service providers

Our service to the investor is free for claims of up to RM250,000



Disputes against any capital market service providers who are SIDREC members



Claimant is an individual investor or sole proprietor



Capital market products or services provided by SIDREC members or their representatives

RM250,000
↑

Monetary claims of up to RM250,000

Visit sidrec.com.my to find out more on how we can help you