

# **Achieving Efficiency through Self Regulation - SC experience**

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19 October 2011

# SC established in March 1993

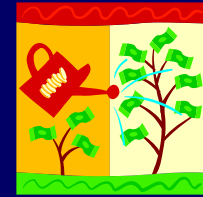
*“Promote and maintain fair, efficient, secure and transparent securities and futures markets and to facilitate the orderly development of an innovative and competitive capital market”*



Licensing and supervising all licensed persons



Supervising exchanges, clearing houses and central depositories



Development of the capital market



Approving all matters relating to issuance of securities, unit trust, prospectus



Regulating all matters relating to securities and derivatives



Regulating take-over and mergers of companies

# Role of the Capital Market

The capital market is a vital engine for growth and resource allocation

Allocates financial resources for **economic growth**

- Promotes and mobilises savings
- Provides a means for capital formation
- Provides investment opportunities for investors

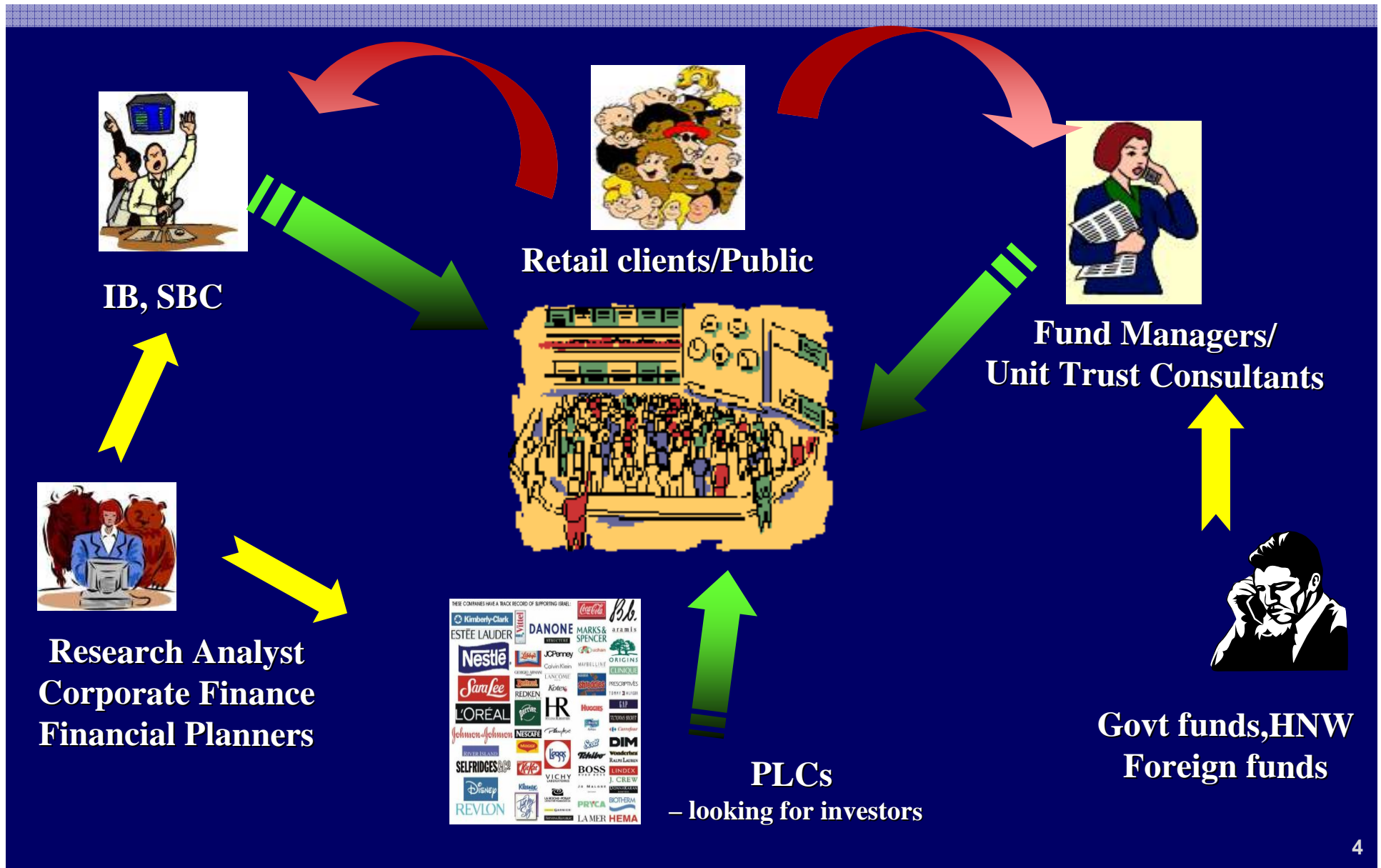
Offers **liquidity** for investors

Facilitates the transfer and management of **financial risk**

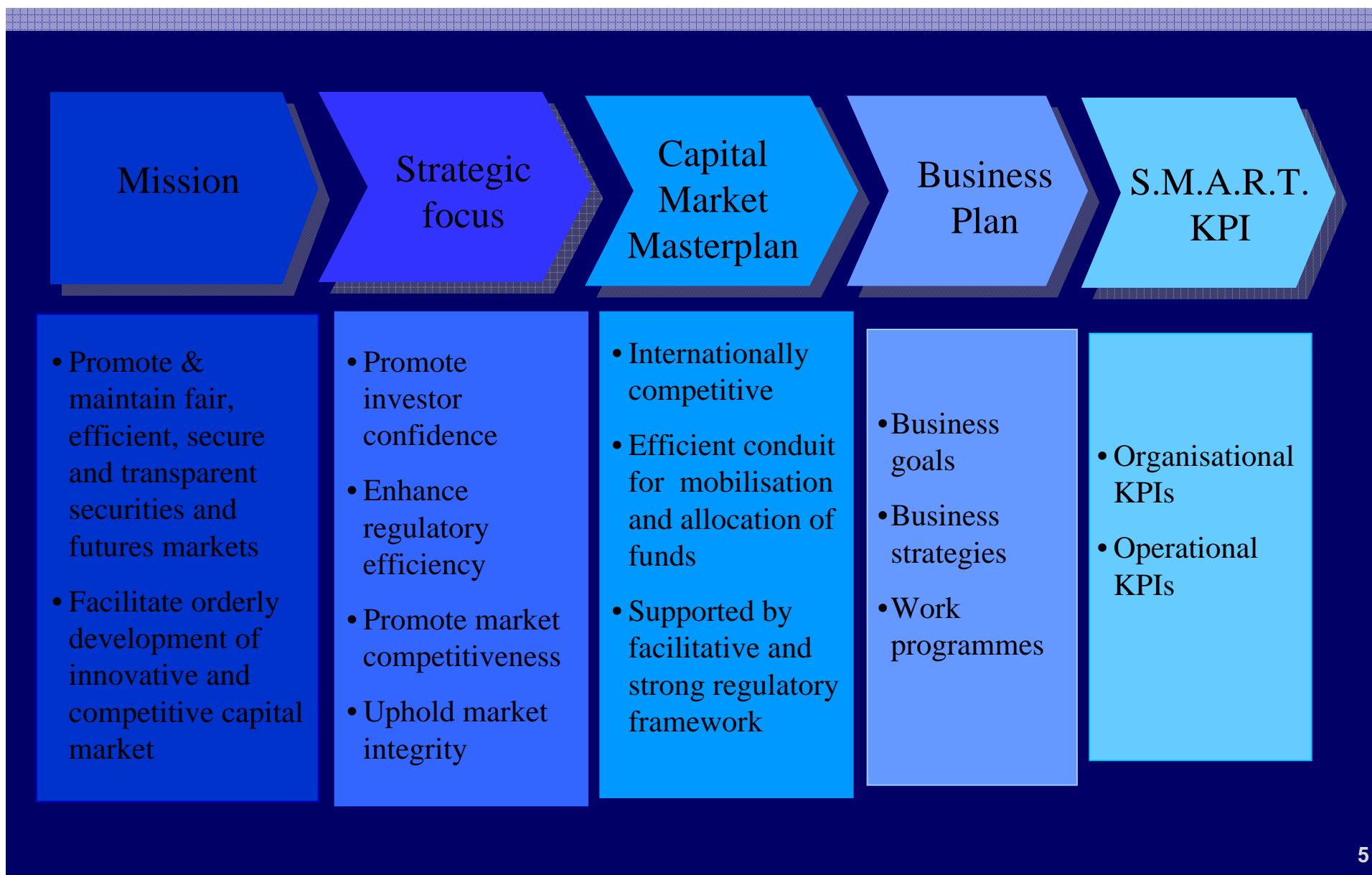
Contributes to overall **economic activity**

- Generates activity in financial services sector, boosting GDP growth

# Regulated Activities in Market Place



# Line of sight to identify & deliver goals



# Continuous improvements

## Processes to promote efficiency, transparency & accountability

### Efficiency

- Timelines/client charter
- Robust monitoring mechanism
- Electronic processing of applications
- Regular process review

### Transparency

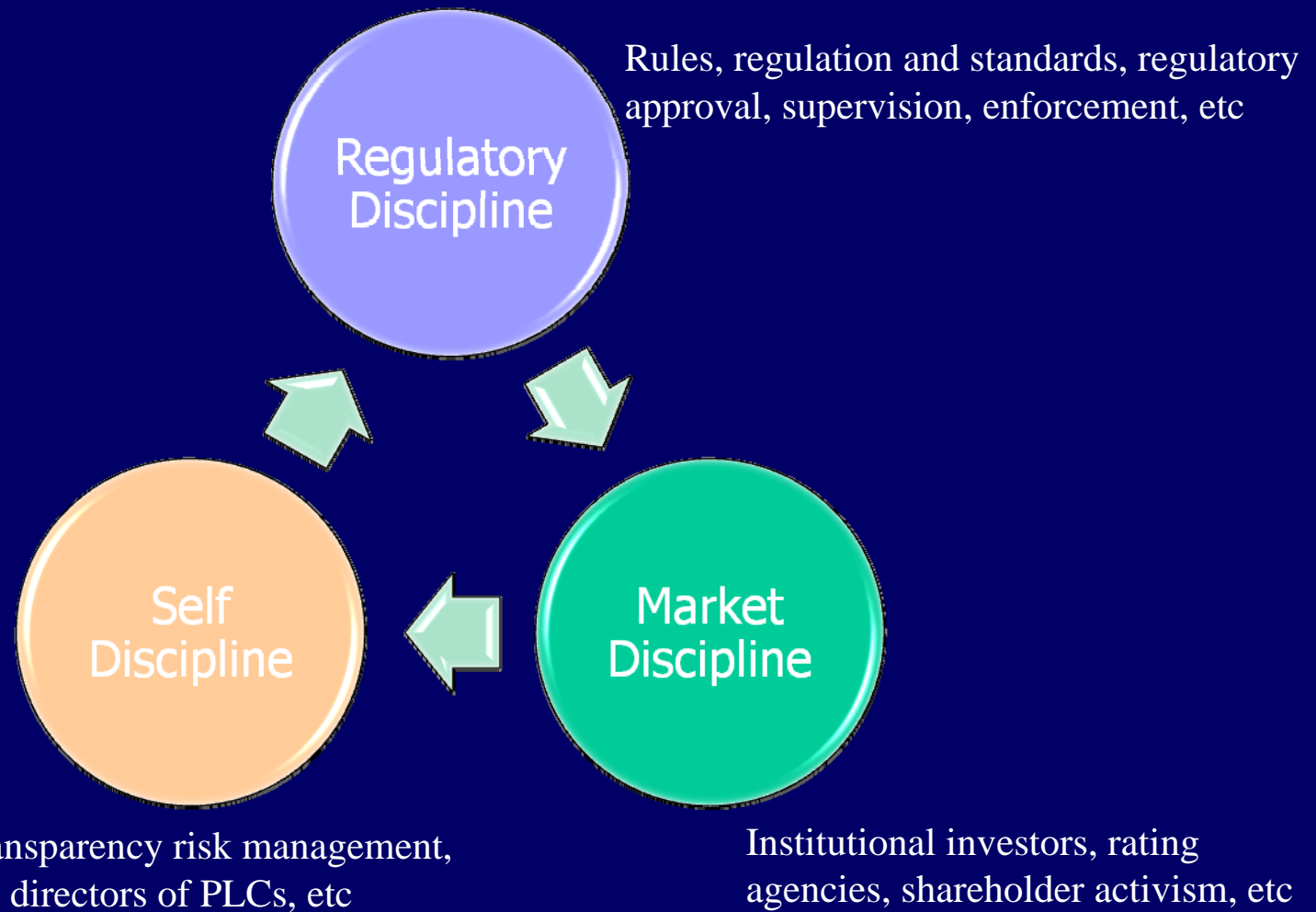
- Process maps on the SC website
- Pre and post consultation
- Decisions published
- Stakeholder engagement and public consultations

### Accountability

- Scorecard
- Remuneration system based on performance
- KPIs and line of sight

# Promoting Good Conduct

Through:



# Licensing as example

## Guiding Documents for Licensing:

- IOSCO Core Objectives of Securities Regulation
  - Recommends need for “licensing” rather than registration or certification
  - Principle 21: regulation should provide minimum entry standards for market intermediaries
- Basel Core Principles for Effective Banking Supervision
  - Recommends comprehensive rules for licensing, permitting of new major activities & ownership changes
- ERDB\* defined 10 core principles for securities market framework
  - Principle 7: market professionals should be subjected to specific licensing & ongoing supervision. Regulation should address entry criteria, capital adequacy, prudential requirements & on going supervision



# Licensing as a regulatory tool

## Objectives of licensing

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graph LR; A[Objectives of licensing] --> B[Protect integrity of financial market]; A --> C[Instill confidence among investors]; A --> D[Ensure investors protection]; A --> E[Champion public interest];
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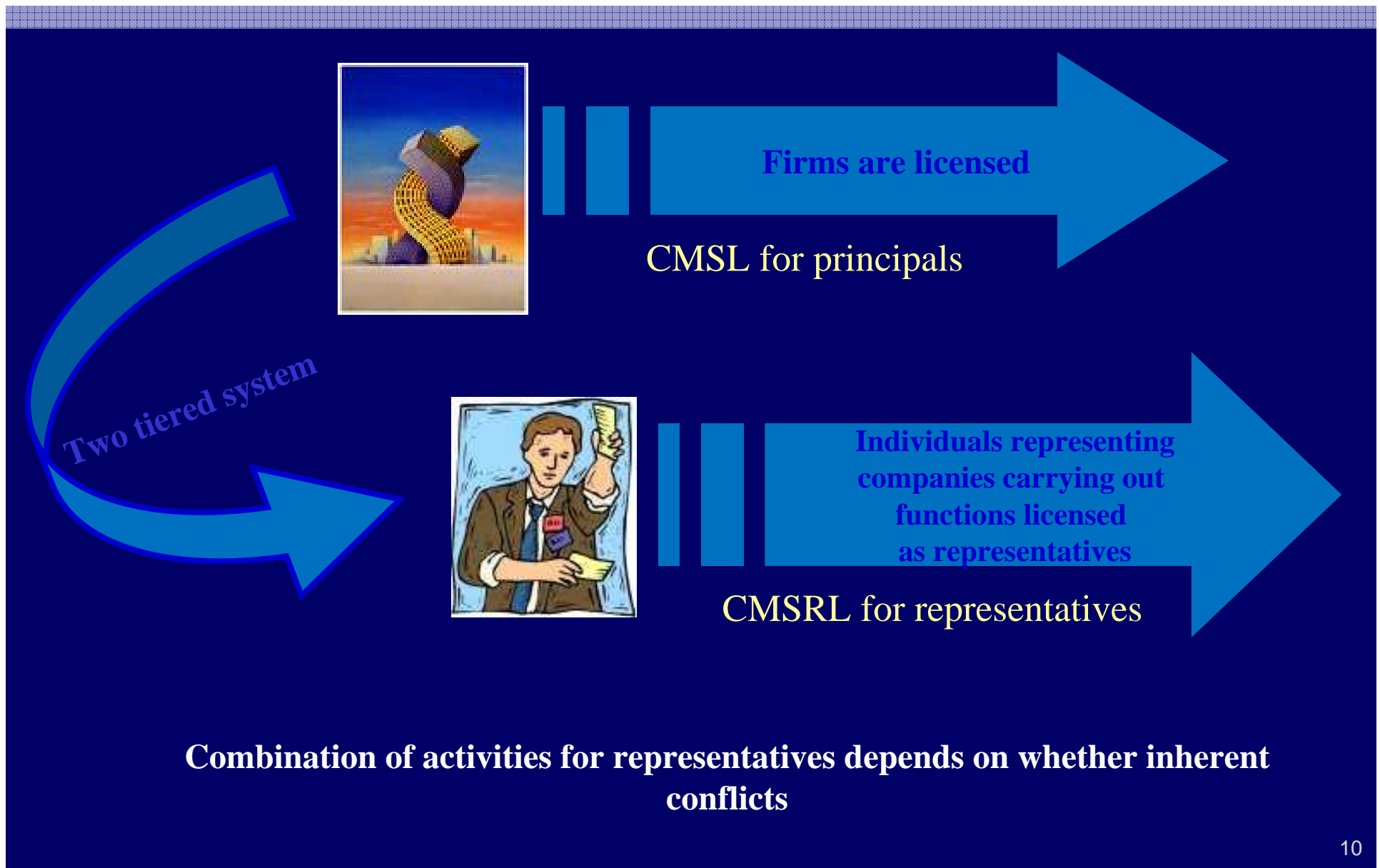
**Protect integrity of financial market**

**Instill confidence among investors**

**Ensure investors protection**

**Champion public interest**

# Two-tier Licensing System

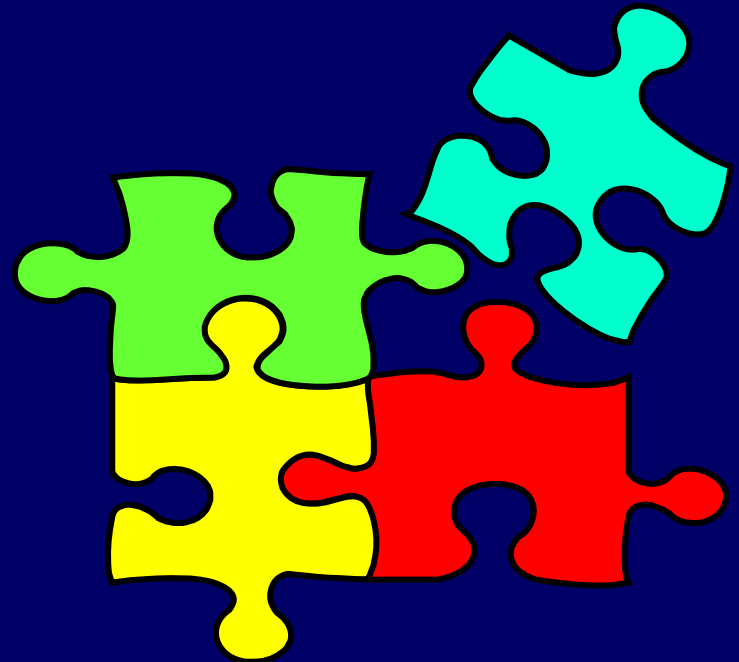


# Regulated Activities under CMSA

## Intermediation services regulated through licensing

S58 &  
s59  
CMSA  
-  
CMSL  
&  
CMSRL

- Dealers
- Futures
- Fund Management
- Investment Advisory
- Corporate Finance
- Financial Planning



# Obligations of licensed entities

Licensed entities must comply with entry requirements and continuing obligations

## Prudential

- Maintain capital adequacy requirement of 1.8
- Lodge deposit with SC & contribute to compensation fund (fraud, defalcation or insolvency)
- Segregate accounts, maintain trust accounts or with custodian (for fund managers)

## Conduct

- Be fit and proper
- Conduct business efficiently, honestly and fairly
- Issue contract notes
- Disclose interest in securities
- Deal as principal only with another dealer
- Know-your-client
- No short-selling and front running
- Terms and conditions of licence

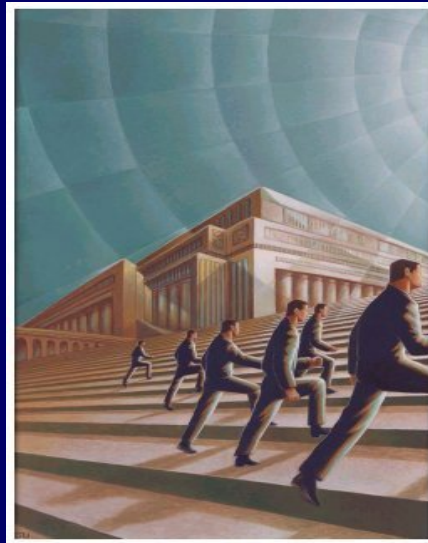
## Records & reporting

- Maintain register of securities
- Keep proper accounts
- Auditor to report on breaches, irregularities and inability to meet obligations

# Fit & Proper Test

## Applied to:

- Firm
- Substantial shareholders
- Principal officers
- Representatives



## Fit and Proper Test

- Financial Integrity and Reliability
- Conviction/Adverse Records
- Competency
- Reputation & Character
- Efficiency, Honesty and Fairness

# Clients' Charter

**Licensing Dept is a certified ISO 9001:2000**

## **Licensing Department's Client Charter**

**New Company Licence - 6 weeks**

**New Representative Licence - 2 weeks**



**Subject to applications  
being complete upon  
submission and meets the  
SC's fit and proper  
criteria**

## Longer license period introduced in 2007

- Licenses were for a year period to be renewed annually
- Tenure of licence may be extended for qualified holders who display good governance and market conduct
  - CMSL up to 36 months
  - CMSRL up to 24 months
- SC retain the right to impose conditions on license
- Right to suspend, revoke license, subject to right to be heard
- Majority of companies granted 2 year license, with exceptions given 3 year license





















# Ongoing supervision

- **Fitness and Propriety should apply on a continuous basis and not confine merely at time of initial application**
- **Comply with requirements to submit periodic reports for continuous assessments**
- **Continuous monitoring for:**
  - **Capital adequacy**
  - **Internal risk management/stress testing**
  - **Strong supervisory review process**
  - **Review of market conduct**
- **Profiling and risk assessment conducted on all licensed intermediaries**
  - **Outcome used to decide on regulatory oversight i.e. higher likely hood of non compliance with higher impact result in audits**

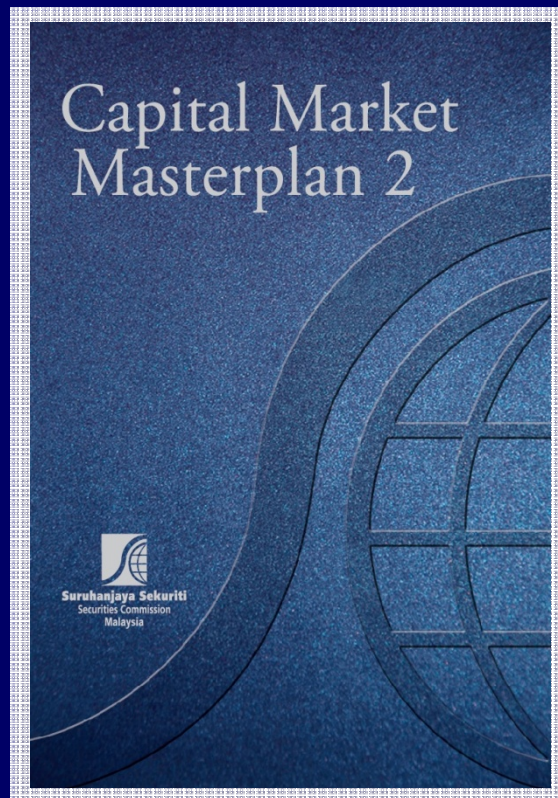


# Sample of Scope of Profiling

## ILLUSTRATION ONLY

	High	Med-high	Med-low	Low	Direction
• Conduct of business by fund managers					
• Due diligence and controls by custodians and trustees					
• Financial soundness of brokers					
• Compliance by brokers					

# Capital Market Master Plan 2



## *Growth with Governance*

*"... describes the challenge for our capital market to expand its role in invigorating national economic growth while addressing concerns about the efficacy of markets in the aftermath of the global financial crisis."*

# Main Thrusts

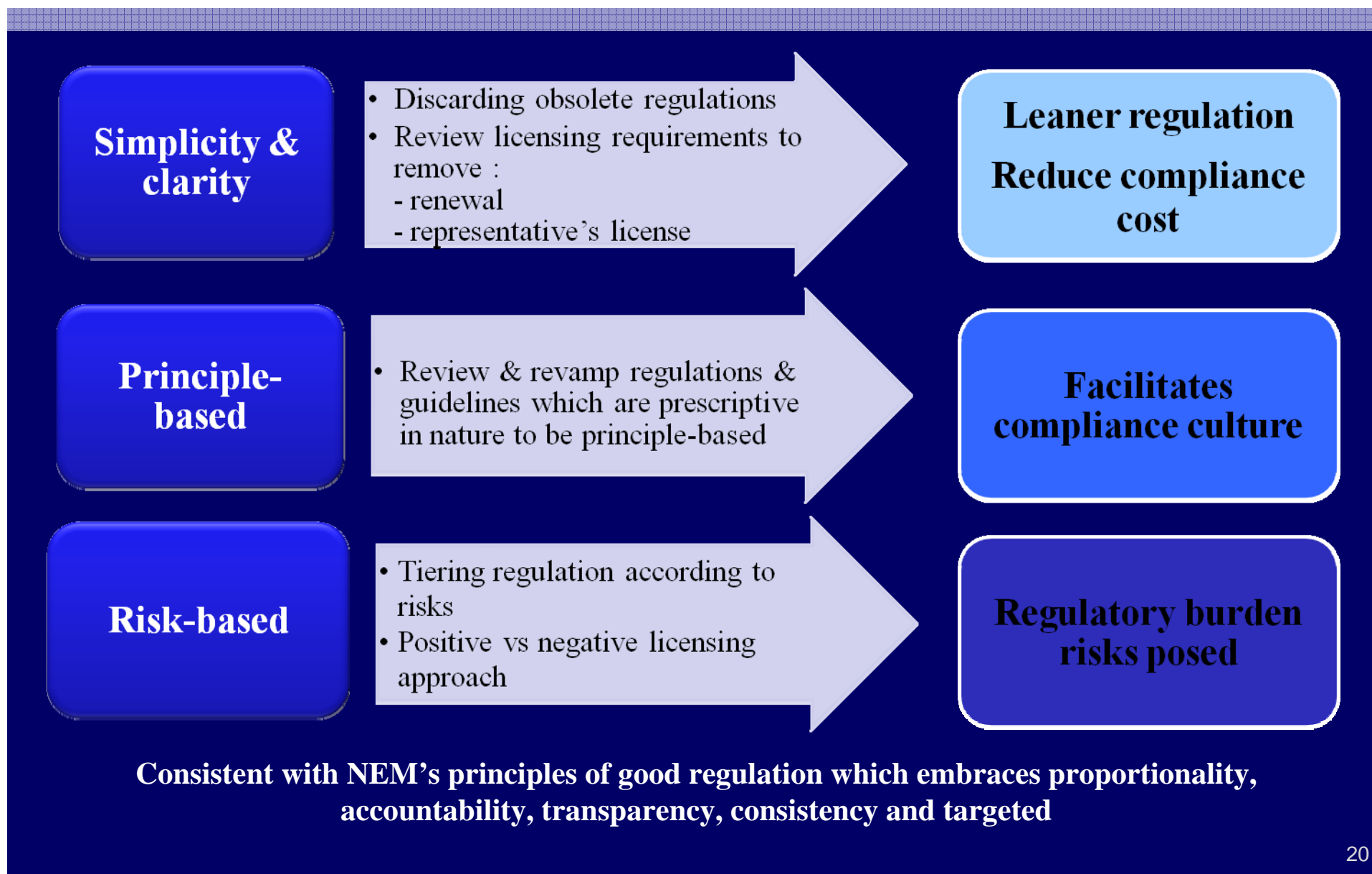
## GROWTH

- Promote capital formation
- Expand intermediation efficiency and scope
- Deepen liquidity and risk intermediation
- Facilitate internationalisation
- Build capacity and strengthen information infrastructure

## GOVERNANCE

- Enhance product regulation to manage risks
- Expand accountabilities as intermediation scope widens
- Robust regulatory framework for a changing market landscape
- Effective oversight of risks
- Strengthen corporate governance
- Broaden participation in governance

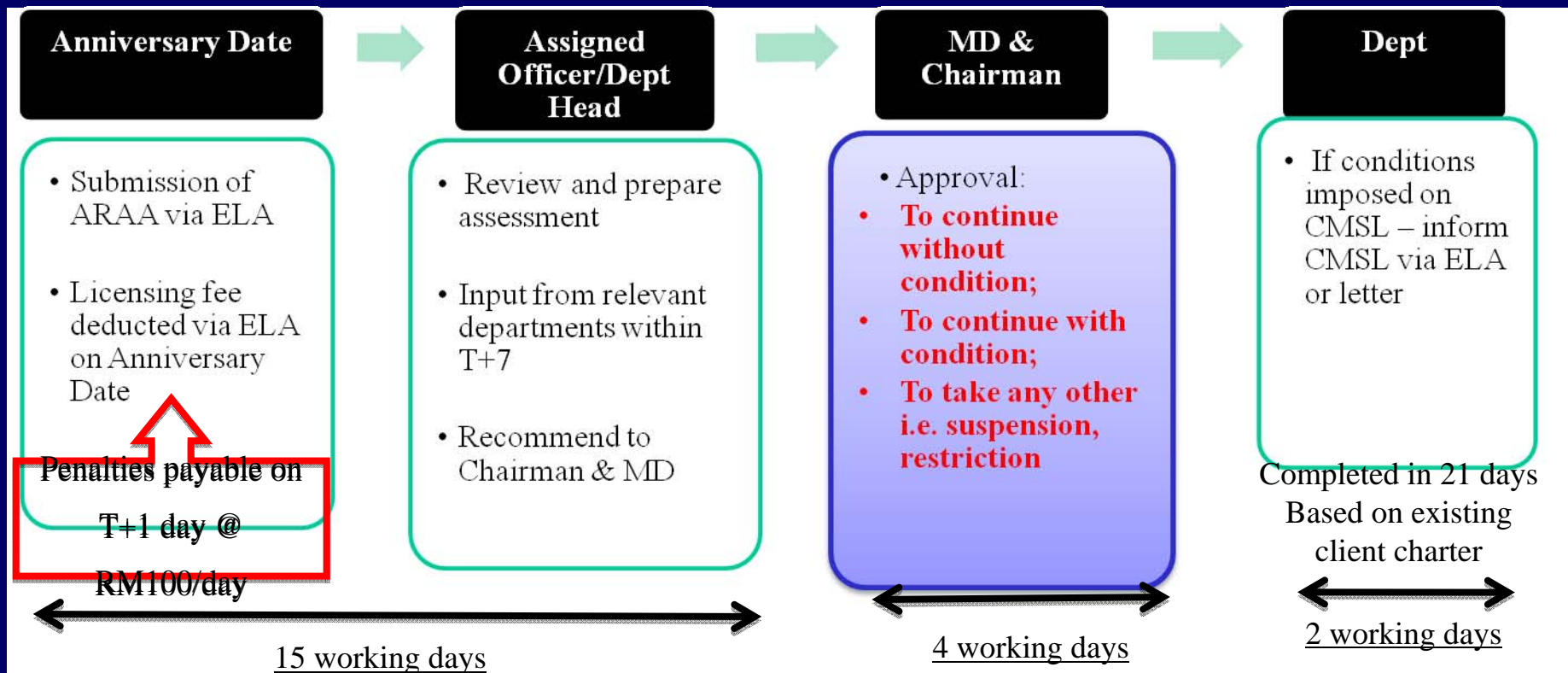
# Redesigning regulation to promote



# Process to replace license renewal

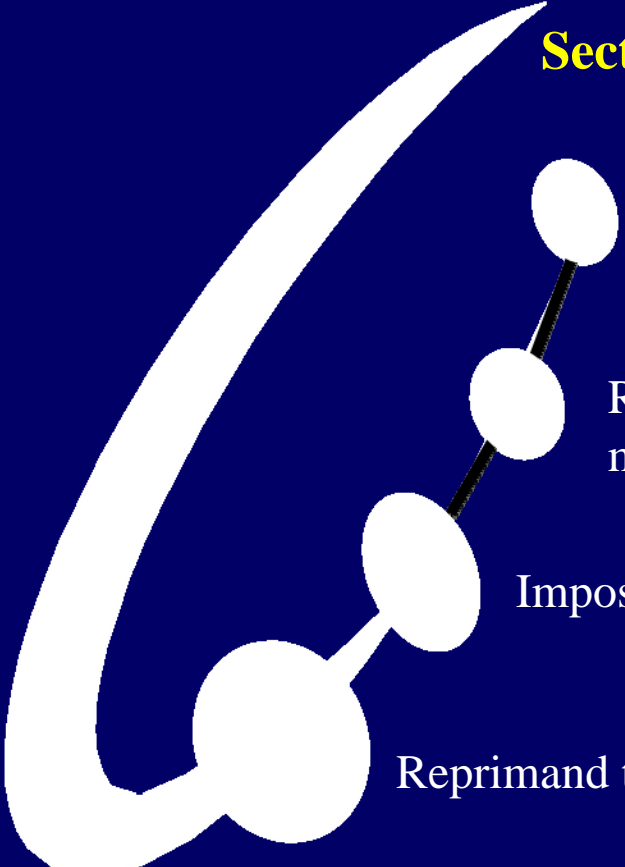
Require submission of annual reporting on anniversary of entry for desktop assessment:

1. Review information disclosed
2. Initiate engagement with licensees
3. Identify stress points/red flag
4. Alert Supervision on substantive issues found



# Administrative Action

## Section 356 CMSA empowers the SC to:



Direct licensed person to comply, observe or give effect to a requirement of securities laws, condition of license or rules of exchange

Require the licensed person to remedy breach including making restitution to an aggrieved person

Impose a penalty up to RM1 million

Reprimand the licensed person

Due process must be observed – licensed persons will be given the opportunity to be heard

# Encouraging Self Regulation

- Transparent entry requirement and obligations
- Establish internal process and procedures for approval
- Set clear, measurable approval charters
- Monitor compliance of the charter!
- Open engagement with industry on overall compliance
- Set clear measurable goals with defined timelines
- Risk based profiling of intermediaries – develop a set of criteria based on qualitative, quantitative and self assessments
- Shift resources to monitoring compliance through supervision, surveillance, especially those who have high likelihood of non compliance and high impact from failures
- Take appropriate action for compliance failures, guided by impact, public interest and deterrence principles

# Regulatory Thought Process

To encourage self regulation, evolve -

From

To

Laws & Regulations

Guidelines

Best Practice,  
Standards,  
Codes

MANDATORY

VOLUNTARY





Thank you

# Fit & Proper Criteria

## Financial Integrity & Reliability

- Sufficient financial resource, financially sound
- Bankrupt or liquidation - review accounts, vetting with Dept of Insolvency

## Competency

- Applicant's competency & experience to undertake proposed business
- Educational or professional background
- Experience & track record with regard to nature of duties to be performed
- Passed relevant examination

# Fit & Proper Criteria

## No adverse records

- Subject to criminal proceedings
- Found criminally liable for fraud
- Disqualified from being a company director
- Other adverse findings after vetting with Police, local & foreign agencies

## Reputation & Character

The following may disqualify a person:

- refusals made in respect of any trade, business or profession
- subject of any investigation into allegations of misconduct or malpractice
- subject of any adverse findings from any professional body

# Fit & Proper Criteria

## Efficiency, Honesty & Fairness

Ability & Readiness of person to carry on regulated activities competently, efficiently, honestly & fairly, focusing on:

- appropriate management and organisational structure
- reporting principles and procedures
- internal audit procedures
- risk management policies and policies for compliance to securities laws
- adequate internal control systems
- control procedures to address conflict of interest