



**Capital Market Refresher  
Programme**  
**ADVISORY SERVICES**  
**(Rules & Regulations)**  
6<sup>th</sup>-7<sup>th</sup> April 2024

With  
Wong Loke Lim  
(i-Biz Concept Sdn Bhd)



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# Reference Materials #1

1. E-Guide - Legal Consideration and Code of Conducts
2. Capital Markets and Services Act 2007
3. Licensing Handbook
4. Guidelines on Prevention of Money Laundering and Terrorism Financing for Reporting Institutions in the Capital Market
5. Guidelines on Implementation of Targeted Financial Sanctions Relating to Proliferation Financing for Capital Market Intermediaries
6. Equity Guidelines
7. Malaysian Code on Take-Over and Mergers/Rules on Takeover, Mergers and Compulsory Acquisitions
8. Prospectus Guidelines
9. Asset Valuation
10. Guidelines on Unlisted Capital Market Products under the Lodge and Launch framework

# Reference Materials #2

11. Guidelines on Issuance of Corporate Bond and Sukuk to Retail Investors
12. Guidelines on Islamic Capital Market Products and Services
13. Issuer Eligibility Guidelines - Structured Warrants
14. Guidelines on Conduct for Capital Market Intermediaries
15. Guidance Note on Provision of Investment Advice
16. Guidelines on Submission of Corporate and Capital Market Product Proposals
17. Bursa Malaysia (Main Market, ACE Market and LEAP Market) Listing Requirements

*#2-16 - can be downloaded from 'www.sc.com.my'*

*#17 - can be downloaded from 'www.bursamalaysia.com.my'*

**Important note:** Candidates sitting for the Module 19 Licensing Examinations are encouraged to read the relevant sections/topics of the above reference/prescribed materials and not to rely solely on this pack of presentation materials, as they are **not meant to be comprehensive.**

# Examination Weightage

<b>Section</b>	<b>Composition (Maximum)</b>	<b>No. of Questions (Maximum)</b>	<b>Topic (Reference Materials)</b>
1	40%	24	Legal Considerations and Code of Conducts (#1-5)
2	80%	48	All others (#6-16)
3	30%	18	Bursa Listing Requirements (MMLR/ACRLR/LEAPLR) (#17)



# Legal Considerations and Code of Conducts



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# Adviser's Liabilities

An adviser can be subjected to:

- **contractual relationship** with customers
- **tort of negligence** - liable for failing to use skill and diligence which a reasonable competent and careful adviser would exercise; and
- **negligence misstatement** - in the issuance of numerous reports and statements

# Contractual Issues

## Principal and Agent

- A contract of agency is formed when one person, **the agent**, has authority to act on behalf of another person, **the principal**.
- The contract of agency is formed by the agreement of the principal and the agent.
- The terms of the instructions are given by the client to the Adviser (Licensed Person) and therefore, the terms of the contract may be express or implied, as the following:
  - Express instructions
  - Implied instructions

# PO and Client Relationship

## CMSA 2007

- S.91 provides that a licensed person must inform its client of any interest which may influence its recommendation to the client.
- S.92 sets out the specific requirements which must be followed when a licensed person provides recommendations to a client.
- S.97 provides that a Capital Markets Services Licence (CMSL) holder must inform the client when it is acting as principal in the transaction with the client.



# Law of contract

- What is a contract?
  - Section 2 Contract Act 1950 - “..an agreement enforceable by law”
  - A promise or set of promise that give rise to legal obligations
  - Need not be in writing

# Elements of a valid contract

To be enforceable, a contract must have:

- Offer & Acceptance



- Consideration
- A "Meeting of the Minds" (Intention)
- Capacity to contract
- No Violation of Public Policy

# Offer

- **An act of signifying** to another the willingness to do or to abstain from doing anything, with a view of obtaining the assent of that other to the act of abstinence.
  - only effective if it is communicated to the acceptor
- **Distinguished from “invitation to treat”** - an attempt to induce another party to make an offer.
  - Pharmaceutical Case
  - Preston Corp Sdn Bhd vs Edward Leong

# Acceptance

- When a person to whom the promise is made signifies his assent thereto, the offer is said to be accepted.
- Acceptance must be communicated/made known
- Acceptance is said to be communicated if it reaches the proposer/offeror
  - communication of acceptance by post is complete when it is put in the course of transmission to him

# The Consideration

- Must be *sufficient (legal)* but need not be *adequate (value)*
- Can be in terms of *natural love and affection* if expressed in writing and registered under the law
- Cannot be *unlawful*
- *Past consideration* void unless there is “*a promise to compensate...*”
- Need not be given by the person to whom the promise was made

# Meeting of the Mind (Intention)

- Consensus ad idem
- Both parties have the same understanding of the terms of the agreement.
- Intention to create a legal relationship

# Other issues (1)

- Certainty - terms of an agreement must be clear and concise
- Capacity to contract - sound mind, minors
- Must be genuine consent, and NOT due to
  - *coercion,*
  - *undue influence,*
  - *fraud,*
  - *misrepresentation,* and
  - *mistake.*

## Other issues (2)

- Lawful purpose
  - *it is forbidden by law;*
  - *it is of such nature that, if permitted, it would defeat any law;*
  - *it is fraudulent;*
  - *it involves or implies injury to the person or property of another; and*
  - *the court regards it as immoral or opposed to public policy*
- Formalities - orally, in writing, or by conduct
- Exclusions and Limitations



# Exclusion & Limitation Clause

- Exclusion clause - to define obligations
- Limitation - to be used as defences
- Must be:
  - expressly seek to rely upon and communicated
  - clear and concise
  - be reasonable

# Remedies for breach of contract

- Rescission of contract
- Damages - courts will not award loss if it is *too remote*
- Specific performance
- Injunction

# Law of Torts & Negligence

- Law of torts - a body of law that
  - addresses, and
  - provides remedies for,civil wrongs not arising out of contractual obligations.
- Persons suffer legal damages may receive compensation from those legally responsible, or liable, for those injuries.
- Negligence - conduct that is culpable because it falls short of what a reasonable person would do to protect another individual from foreseeable risks of harm

# Essential elements of torts

- Plaintiff must prove:
  - Duty of care
  - Breach of duty
  - Existence of damage



*Donohue vs Stevenson - 1928*

# Duty of Care

- Owed by the defendant to the complainant
- Obligation - May arise by law, which requires a person to conform to a certain standard of conduct
- Reasonably foreseeable
  - Actions result in harm or loss
  - Extent of relationship
  - Proximity of the parties.

# Breach of Duty

- Action may be brought if:
  - an act or statement is made carelessly
  - the relationship between the parties is such that it gives rise to a duty of care on the part of the actor/representor.
- Reference cases:
  - Candler Vs Crane Christmas & Co
  - Hedley Byrne vs Heller & Partners
- Res ipsa loquitor - “..*the fact speaks for itself*”
  - applies in circumstances where the cause of the injury was under the control of the defendant and that the incident would not have occurred if they had taken proper care.

# Existence of Damage

- The loss or damage was a direct consequence of the defendant's breach of duty of care.
- The loss itself must not be 'too remote'.
- Defences
  - **Volenti non-fit injuria** - *"...no injury is done to one who consents."*
  - **Contributory negligence** - *to takes part of the blame away from the defendant*

# Damages

- Some direct and consequential loss must have been suffered by the complainant
- Types of damages
  - General damages
  - Special damages
  - Nominal damages.
  - Punitive damages



# Statutory Liability

Remedies for losses arising from misstatement by licensed persons or any other persons.

## CMSA 2007

- S. 199 imposes civil liability on a person who contravenes S.177, 178 and 179, by individual
- S. 200 imposes civil liability on a person who contravenes S.177, 178 and 179 by SC

## CA 2016

- S.167 imposes civil liability on a person for misstatement in prospectus
- S.168 imposes criminal liability on a person for misstatement in prospectus
- S.591, 592 and 594 imposes criminal liability for false and misleading statements, false reports and fraudulently inducing people to invest money.



# LICENSING (Licensing Handbook)



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# Licensing Requirements

A single licence for carrying on **regulated activities**.



Source: Licensing Handbook - Paragraph 2.1 and 2.2 \*Can be individual own

# Exemption from Licensing

- Persons or entities may engage in a regulated activity without having to hold a licence
  - Specified Persons - Schedule 3 (CMSA)
  - Registered Persons - Schedule 4 (CMSA)

## *Accused also charged with misusing title of “unit trust consultant” -*

**SC MEDIA RELEASE** *Kuala Lumpur, 24 January 2024*

The Securities Commission Malaysia (SC) charged Mohd Arif Fadzlee bin Mohd Arifin (Arif), a former bank analyst and business owner, yesterday with two offences relating to unlicensed capital market activities and the misuse of the ‘unit trust consultant’ title.

For the first charge, Arif was charged under section 59(1) of the Capital Markets and Services Act 2007 (CMSA) for holding himself out as a representative of CIMB Wealth Advisors Berhad in dealing in securities without a licence. If convicted, this offence carries a maximum fine of RM5 million or imprisonment for up to five years, or both.

Arif was also charged under section 362(3) of the CMSA for using the title ‘unit trust consultant’, which created the belief that he was licensed to deal in securities when he in fact was not. This offence carries a maximum fine of RM1 million or imprisonment not exceeding five years, or both, if convicted.

The alleged offences took place in 2011 in Petaling Jaya and Nilai.

.....

Dealing in securities is a regulated activity as set out in Schedule 2 of the CMSA and any person carrying out this activity is required to be licensed by the SC.

# Licensing Criteria (CMSL)

Must be “fit and proper” and SC would consider the following criteria:

- Organisational requirements
- Shareholding composition
- Adequacy of financial resources
- Requirements relating to CMSRL competencies

# Licensing Criteria (CMSRL)

- At least 21 years old.
- Fit and proper - not an undischarged bankrupt or convicted of a criminal offence or sanction by SC.
- Provide all relevant information to principal to enable it to undertake the necessary due diligence before supporting application for licence.
- Pass Licensing exams and apply within 2 years of passing.
- Exams valid for two years;
  - ✓ Provided passed while under employment in CMSL and remain being employed by a CMSL; and
  - ✓ Not more than three years if left industry.

# Revocation and Suspension of Licence

## Revocation & Suspension (s72)

- ❖ Revoke a CMSL, if :
  - there exists a ground on which the Commission may refuse an application or renewal - S64(1) CMSA;
  - the holder fails or ceases to carry on the business in all or any of the regulated activities for which it was licensed for a consecutive period of three months;
  - the holder contravenes any condition or restriction in respect of its licence or any direction issued to it;
  - the holder contravenes any of the rules of the stock exchange, futures exchange, approved clearing house or central depository which is binding upon it; or
  - fail to pay fees.



# Revocation and Suspension of Licence

## Revocation & Suspension (s72)

- ❖ Revoke a CMSL, without hearing, if the holder:
  - the holder is in the course of being wound up or otherwise dissolved, whether within or outside Malaysia;
  - a receiver, a receiver and manager or an equivalent person has been appointed, whether within or outside Malaysia in respect of any property of the holder; or
  - the holder or any of its directors, chief executive, managers or controller has been convicted of any offence.

# Revocation and Suspension of Licence

## Revocation & Suspension (s72)

- ❖ Revoke a CMSRL, if the holder:
  - there exists a ground on which the Commission may refuse an application or renewal S65(1) CMSA;
  - he fails or ceases to act as a representative in respect of all or any of the regulated activities for which he was licensed;
  - the holder contravenes any condition or restriction in respect of his licence or any direction issued to him; or
  - fail to pay fees.

# Revocation and Suspension of Licence

## Revocation & Suspension (s72)

- ❖ Revoke a CMSRL, without hearing, if the holder:
  - the holder is an undischarged bankrupt, whether within or outside Malaysia; or
  - the holder has been convicted of any offence.

# Revocation and Suspension of Licence

Appeal  
(s80)

❖ Appeal within 14 days of the decision of the SC.

- Person who–
  - carries on a regulated activity after its licence has been revoked;
  - carries on a regulated activity while its licence has been suspended or is in breach of a restriction imposedliable to a fine = < RM5 million ringgit; or imprisonment for a term = < 10 years or; both
- Continuing offence
  - a further fine = < RM5k for every day or part thereof during which the offence continues after conviction.

# Licence Holders Duties & Obligations

- Immediately inform SC of any disqualifying event (s74 of CMSA).
- Notification of changes (s78 of CMSA), in particulars where:
  - CMSL holder ceases to carry on investment advice
  - CMSRL holder ceases to be a representative of the CMSL holder in relation to whom the CMSRL was issued
  - licence has not been varied under Section 69 of the CMSA, e.g. changing of name or principal, names of the directors and the secretary of the corporation, address of the principal place of business, etc.
- Licence holder should notify SC in the specified form, particulars in writing *not later than 14 days* after the occurrence of the event under S78.

# Register of Securities

- Maintenance of register of securities in which he has an interest.
- S82 of the CMSA - CMSL, financial journalists and ADAs.
- s83 of the CMSA
  - keep the register at a place nominated by the CMSL/CMSRL
  - notify the SC in writing where the register is kept
  - Update register within 7 days after the date of the change in interest.

# Code of Conduct



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# Prohibited Conducts

(CMSA 2007)

- Recommendation with reasonable basis (S.92)
- Give priority to client (S.93)
- Dealing as Principal (S.97)
- False trading and market rigging (S.175)
- Stock market manipulation (S.176)
- False and misleading statements (S.177)
- Fraudulently inducing persons to deal in securities (S.178)
- Use of manipulative and deceptive devices (S.179)
- Disseminating of information about illegal transaction (S.181)
- Insider trading (S.188)



# Remedy of Civil Action

- A person who suffers loss or damage institute proceedings to recover losses even before the contravening party being charged or a contravention has been proved. Also not affect any liability under any laws (S.199).
- SC may institute civil action against such person in contravention (S.200) to:
  - recover an amount which shall not three (3) times the gross amount of pecuniary gain or loss avoided by such person: and
  - claim civil penalty in such amount not exceeding one million ringgit.

SC WINS INSIDER TRADING CIVIL CASE

# *Former PKNP and Perak Corp CEO Ordered to Pay a Total of RM3.56 million*

**SC MEDIA RELEASE**

*Kuala Lumpur, 13 February 2024*

The High Court today ruled that the Securities Commission Malaysia (SC) had successfully proven its claim in an insider trading civil suit filed in 2021 against Dato' Aminuddin Bin Md Desa, former Chief Executive Officer of Perbadanan Kemajuan Negeri Perak (PKNP) and Perak Corporation Bhd (PCB).

High Court Judge Wan Muhammad Amin bin Wan Yahya ordered Dato' Aminuddin to pay the SC RM2.46 million, which is three times the profits gained as a result of the insider trading breach.

Dato' Aminuddin is also required to pay to the SC a civil penalty of RM1 million and costs of RM100,000. Dato' Aminuddin had breached section 188(2)(a) of the Capital Markets and Services Act 2007 (CMSA) by acquiring 1,412,700 PCB shares between October 2013 and January 2014 while in possession of inside information. The inside information was on PKNP's proposed privatisation of PCB.

In addition to the above, the High Court ordered Dato' Aminuddin to be barred from being appointed as a CEO or director or being involved in the management of a public listed company (PLC) and/or a subsidiary of a PLC, for five years beginning from the court judgment on 13 February 2024.

He was also barred from trading in any securities on Bursa Malaysia for five years beginning from the court judgment on 13 February 2024.

Insider trading is a serious misconduct in the capital market. The continuous enforcement by the SC demonstrates its commitment to address misconduct that abuses the integrity of the capital markets.

# Conduct of CMSRL

- Acting in the clients' best interests
- Avoiding conflicts of interest
- Taking all reasonable steps to "know-your-client"
- Exercising due care and diligence before making recommendations to the clients
- Making recommendations that are reasonably suitable to the clients
- Helping the clients make informed decisions
- Having an adequate level of knowledge and skill to provide good advice
- Setting out clearly the terms, obligations and scope of services in the agreements
- Keeping proper records.

*Source: Guidelines on Conduct for Capital Market Intermediaries*



Guidelines on Prevention of Money  
Laundering and Terrorism Financing for  
Reporting Institutions in the Capital  
Market

&

Guidelines on Implementation of  
Targeted Financial Sanctions Relating to  
Proliferation Financing for Capital  
Market Intermediaries



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# SC charges former director, CEO with laundering over RM119mil

The Star – Business Wednesday, 10 Jan 2024

PETALING JAYA: The Securities Commission (SC) has charged Ang Jen Chuen and Syaiful Riezal Ahmad with 11 offences of money laundering worth more than RM119mil.

In a statement, the SC said the two were charged with receiving proceeds of unlawful activity under section 4(1)(b) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities 2001.




Ang, who is former director of Pixelvest Sdn Bhd faces eight charges while Syaiful Reizal who is the former chief executive officer of Infinity Trustee Bhd and faces three charges.

The alleged offences took place between Dec 1, 2020 and Jan 1, 2023 in Kuala Lumpur and Selangor.

# Definition – Money Laundering

- Money laundering generally involves proceeds of unlawful activities that are related directly or indirectly, to any serious offence, that is processed through transactions, concealments, or other similar means, so that they appear to have originated from a legitimate source i.e. drug trafficking, gun smuggling, corruption, etc.
- Examples:
  - *criminals disguise the illegal origins of their wealth and protect their asset bases, so as to avoid the suspicion of law enforcement agencies and prevent leaving a trail of incriminating evidence.*

# Stages of Money Laundering

1. Placement  Placing illegally obtained monies into the financial system or retail economy or are smuggled out of the country - to remove the cash from the location of acquisition to avoid detection from the authorities and to then transform it into other asset forms.
2. Layering  attempt at concealment or disguise of the source of the ownership of the funds by creating complex layers of financial transactions designed to disguise the audit trail and provide anonymity.
3. Intergretion  the money is integrated into the legitimate economic and financial system and is assimilated with all other assets in the system.

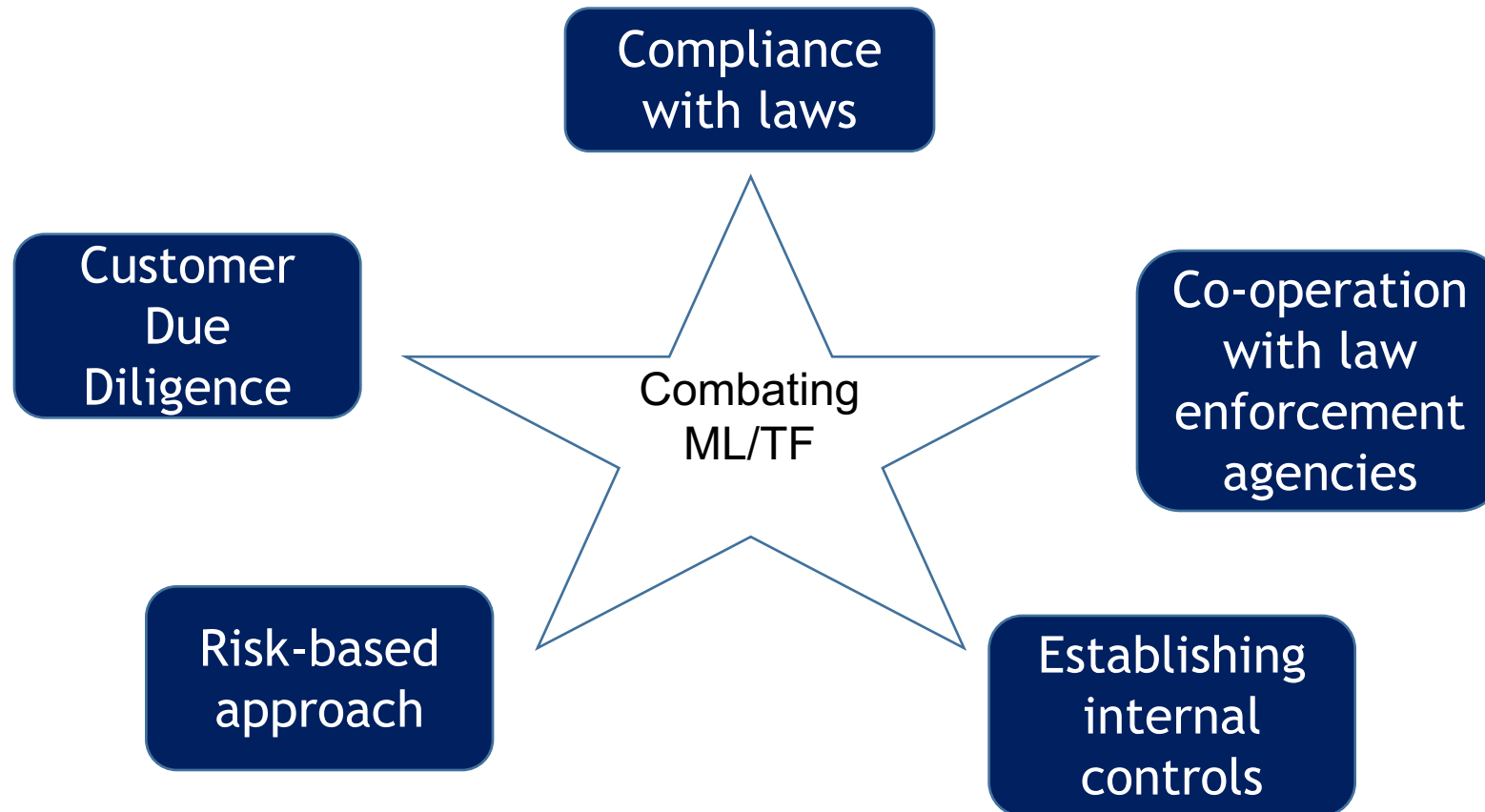
# Definition of Terrorism Financing

*..carrying out transactions involving funds or property, whether from a legitimate or illegitimate source, that may or may not be owned by terrorists, or those have been, or are intended to be used to assist the commission of terrorist acts, and/or the financing of terrorists and terrorist organisations*

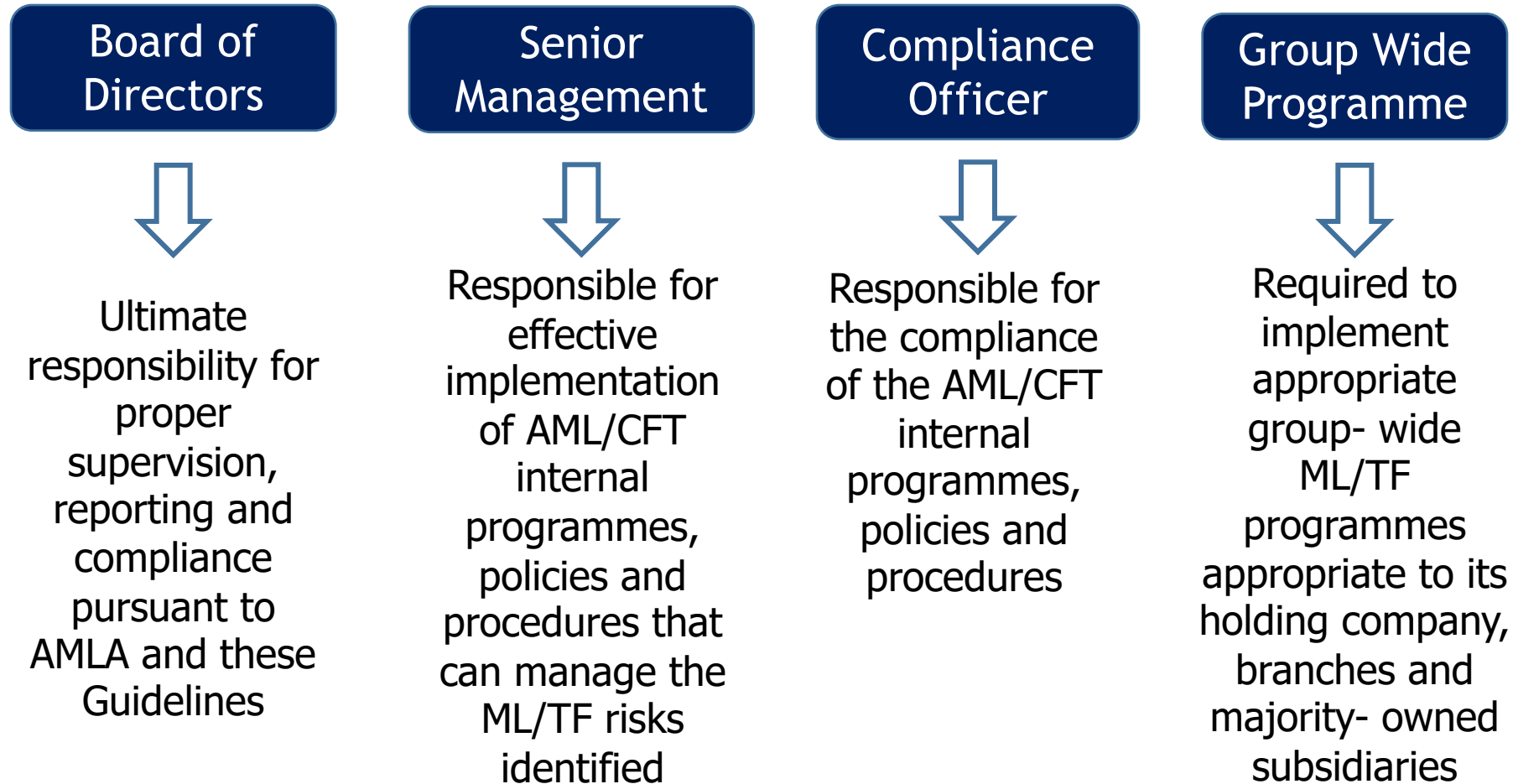
- Providing or collecting property for terrorist acts;
- Providing services for terrorism purposes;
- Arranging for retention or control of terrorist property; or
- Dealing with terrorist property.



# Combating Money Laundering/Terrorism Financing



# Roles and Responsibilities

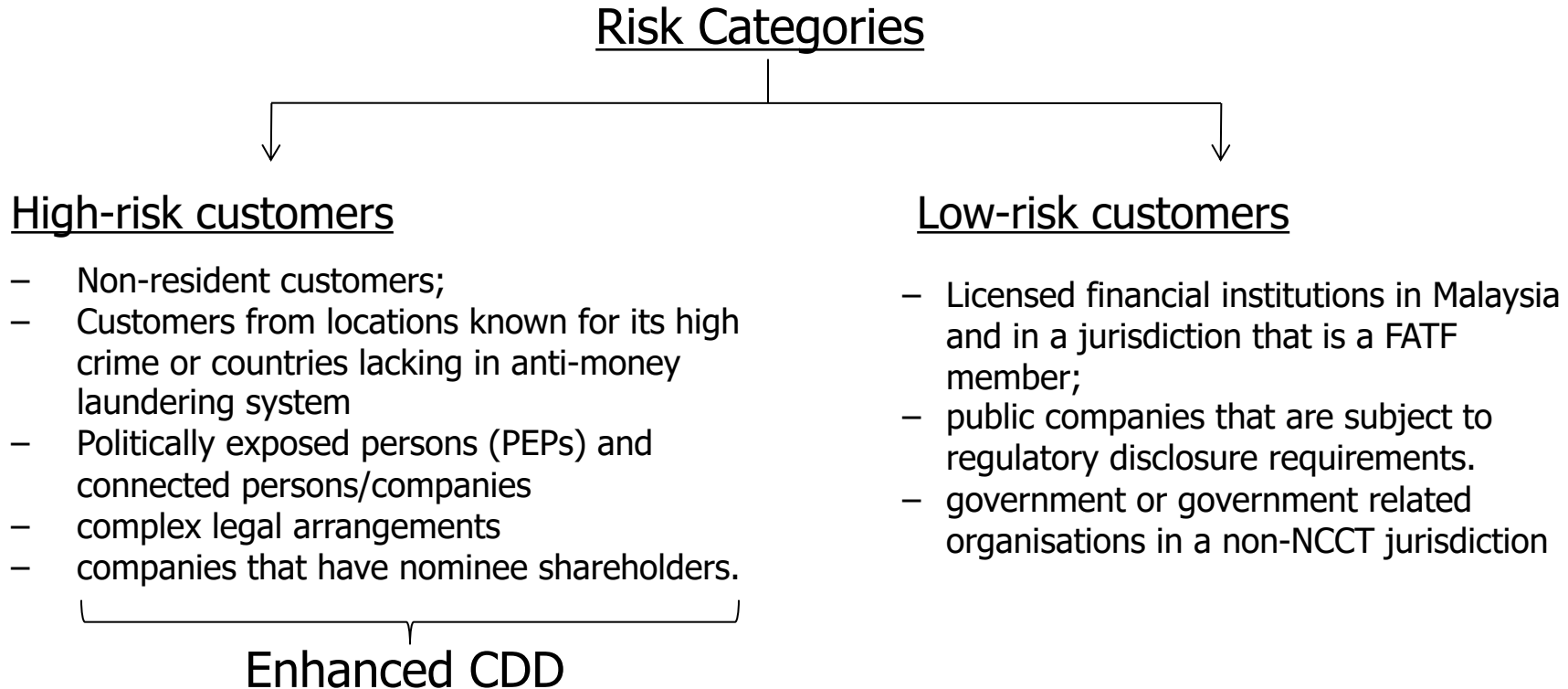


# Customer Identification

- Must obtain satisfactory evidence of the identity and legal existence of the clients before doing business
  - Learning essential facts about clients' backgrounds
  - Determining the risk profile of a particular customer or type of customers
- Avoid keeping anonymous accounts or accounts in fictitious names of their clients.
- Not to enter into business relationship with clients who fail to provide evidence of their identity.

# Customer Due Diligence

- Conduct ongoing due diligence and scrutiny of customers' identity and investment objectives.
- Risk-based approach to CDD



# Wire Transfer of Digital Assets

- Instruction for cross-border wire transfer are accompanied by the following:
  - ✓ Originator name; I/C or passport no.; account /digital wallet no.; and address or date and place of birth
  - ✓ Beneficiary name; I/C or passport no.; and account /digital wallet no.
- Beneficiary institution to identify the transfers that lack the required originator information or required beneficiary information.

# Record Keeping

- Retain up-to-date details of customers
- Keep record of customer's transaction involving the domestic currency or any foreign currency exceeding a specified amount.
- Record retention period:
  - financial transaction documents relating to the opening of an account are to be kept for 6 years after the date of the account is closed;
  - other financial transaction documents are to be kept for 6 years after the date on which the transactions take place or are terminated; and
  - where the records relate to on-going investigations or transactions which have been the subject of a suspicious transaction

# Suspicious Transactions

- Report immediately suspicious transaction.
- Compliance officer to document if there are no reasonable grounds for suspicion.
- Compliance officer maintains a complete file on all internal suspicious transaction reports received and any supportive documentary evidence.
- Report is to be completed as soon as possible but not in the presence of the suspicious character.

# Examples of Suspicious Transactions

- Buying and selling of a security with no discernible purpose or in circumstances which appear unusual.
- Larger or unusual settlements of securities transactions in cash form
- A client for whom verification of identity proves unusually difficult and who is reluctant to provide details
- Unusually large cash deposits made by an individual or company whose apparent business would normally involve cheques and other instruments.



# Definition of Proliferation financing

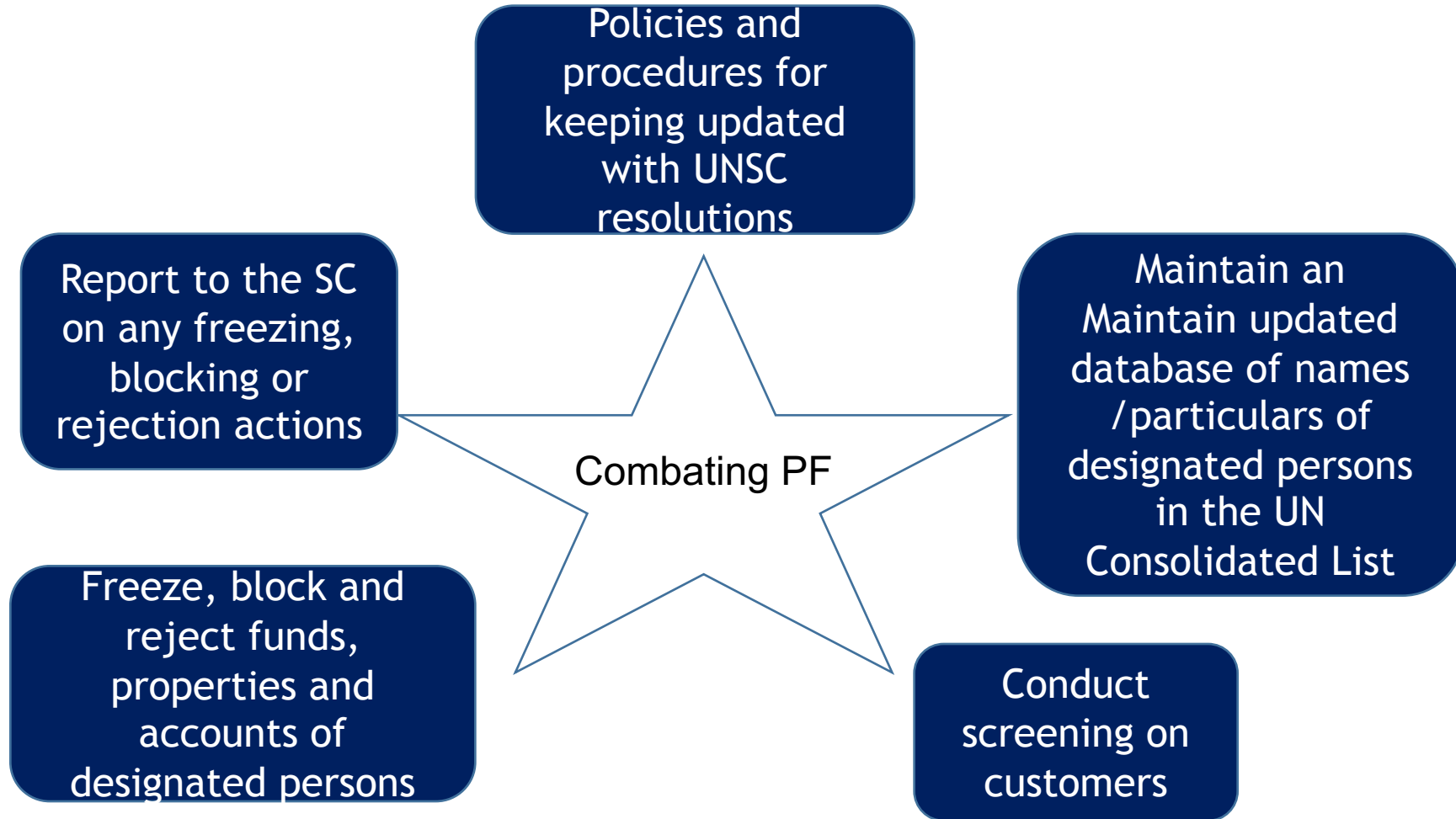
*The act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations.*

# Targeted Financial Sanctions relating to Proliferation Financing

TFS-PF are applicable to persons designated by the UNSC or the relevant committees set up by the UNSC i.e.

- person engaging in or providing support for, including through illicit means, proliferation-sensitive activities and programmes;
- acting on behalf of or at the direction of designated person;
- owned or controlled by designated person; and
- person assisting designated person in evading sanctions, or violating UNSCR provisions.

# Combating PF

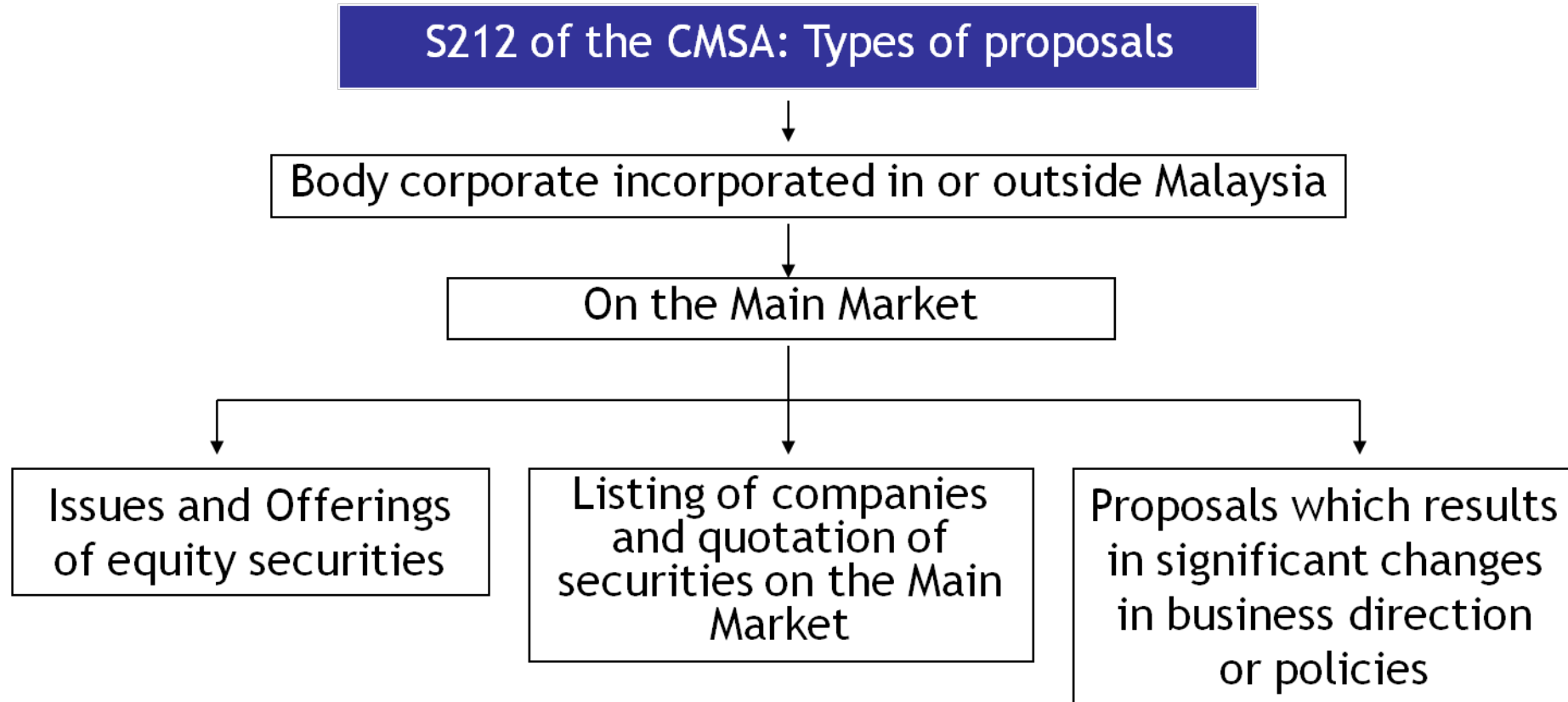


# Equity Guidelines

# Introduction

- Stipulates listing requirements on the MAIN MARKET and issuance of equity in a fund-raising exercise
- S.212(4) of the CMSA:  
*“...no person ..... shall implement or carry out a proposal unless the SC has approved the proposal ...”*

# Introduction



- Failure to comply S212 (SC's approval/registration) -  $\leq 3$ m fine and  $\leq 10$  years imprisonment
- S215 - False/misleading statements - PA, applicant or anyone connected -  $\leq$ RM3m fine and 10 yrs imprisonment

# Significant Changes to Business Direction/Policies (Definition)

- Acquisition of assets NOT similar to core business, resulting in one of the percentage ratios =>100%
- Acquisition of assets which results in a change in the:
  - Controlling shareholders; or
  - Board of directors.
- Acquisition of assets by a 'Cash Company'
- A restructuring exercise involving the transfer of listing status and introduction of new assets
- A qualifying acquisition by a SPAC.

# Calculation of Percentage Ratios

1. NAV of acquired assets / NAV of listed company
2. Revenue of acquired assets / Revenue of listed company
3. After-tax profits of acquired assets / After-tax profits of listed company
4. Value of consideration / market capitalisation of listed company
5. No. of new shares issued by listed company/ No. of shares issued before acquisition.



# Corporate Governance (Chapter 3)

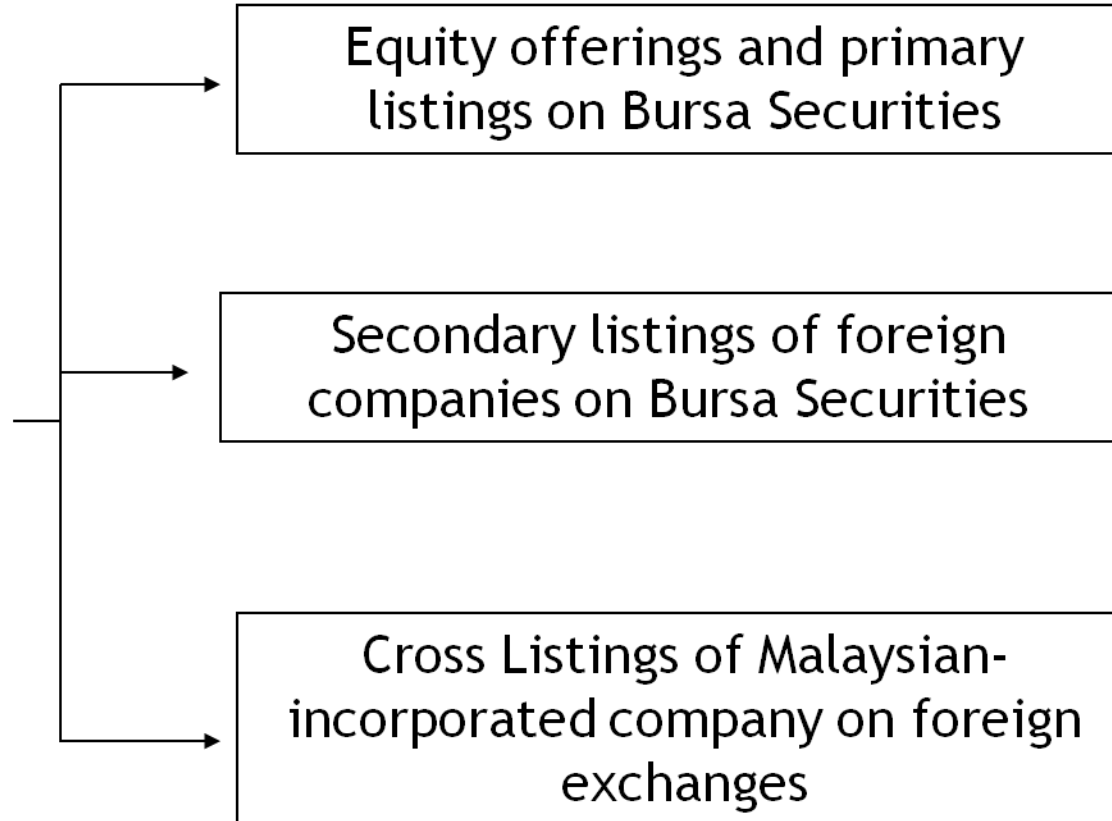
- Declaration by the applicant and its directors
- Examples of corporate governance issues:
  - Breach of laws, guidelines or rules
  - Failure to comply with SC's notice/condition
  - Outstanding issues with IRB
- SC may:
  - Reject the proposal
  - Approve the proposal subject to conditions such as -
    - improvement on governance structure
    - disclosure of past records in relevant public documents
    - director in question to step down
    - prohibition of directors' participation
    - imposition of moratorium/prohibition on trading

# Conflict of Interest (Chapter 4)

- Mitigate or eliminate likely conflict of interest situations such as:
  - Having an interest in a competing business with that of the applicant's or its subsidiaries
  - Conducting or having interest in business transactions linked to the applicant or its subsidiaries
  - Providing/receiving financial aids from the applicant or its subsidiaries
  - Leasing property to/from the applicant/subsidiaries
- Full disclosure of all potential conflict of interest situations in
  - Listing prospectus,
  - Circular to shareholders; or
  - Any other public documents issued in relation to the proposal

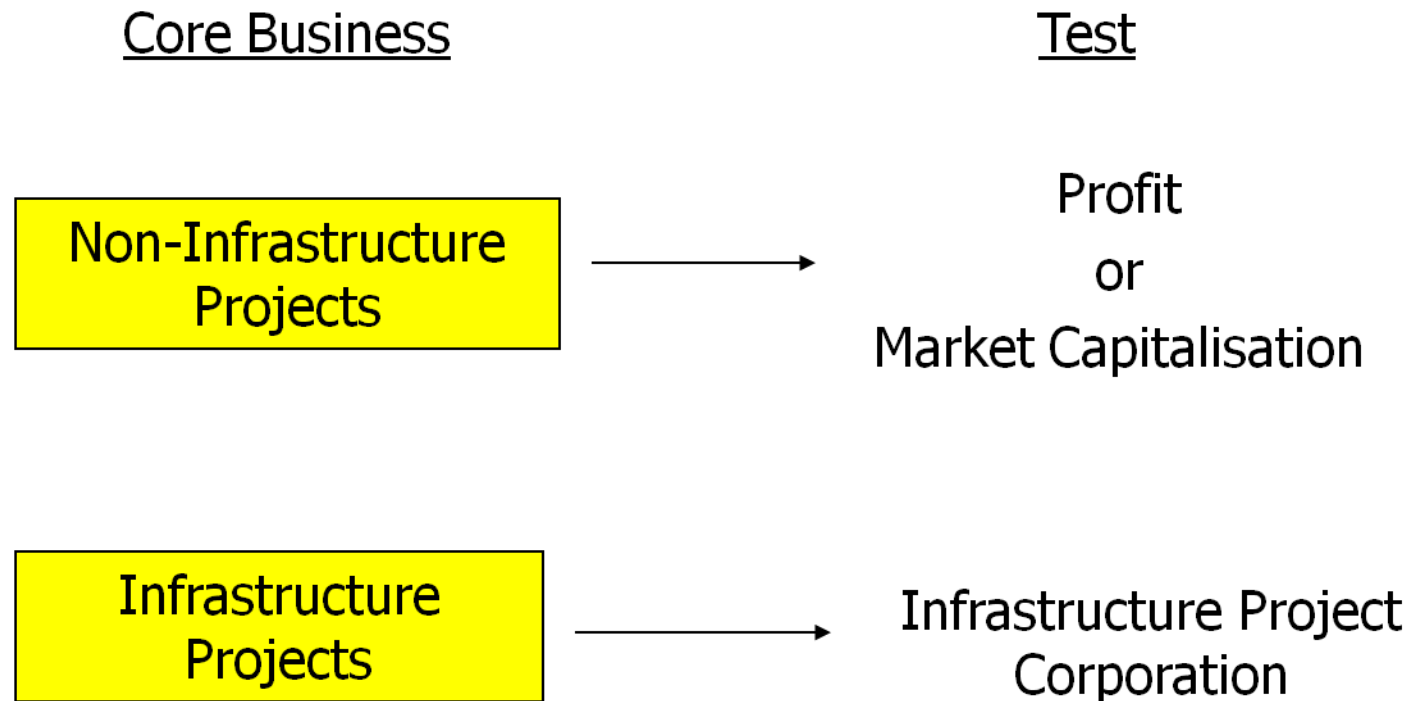
# Equity Offerings and Listings

**Chapter 5**  
**Set-out**  
**Requirements**  
**for**  
**Proposals**



*Excluding SPAC (Chapter 6)*

# Routes for Listing



# Non-IPC (1)

<b>Profit Test*</b> Based on audited financial statement prior to submission to SC	<b>Market Cap. Test</b>
<ul style="list-style-type: none"><li>• PAT <math>\geq</math> RM20 mil for 3-5 years</li><li>• Uninterrupted</li><li>• PAT <math>\geq</math> RM6 mil for most recent FY</li></ul>	At least RM500 mil (based on issue/offer price)

\* Company or Group Level

If Group Level, contributions from associated companies must not exceed those of subsidiary companies.

## Non-IPC (2)

<b>Profit Test</b>	<b>Market Cap Test</b>
<ul style="list-style-type: none"><li>• The largest contributor to the group after-tax profit must be incorporated and operated in same core business for the track record period</li><li>• Contributions from associated companies must not exceed those of subsidiary companies.</li></ul>	<ul style="list-style-type: none"><li>• Core business company must have been incorporated and generating revenue for at least 1 full financial year</li></ul>

# IPC Test

- Must have the right to build and operate an infrastructure project in or outside Malaysia
- Project cost  $\geq$  RM500m
- Concession or licence awarded by a government or state agency
- Remaining concession or licence  $\geq$  15 years from submission
  - less may be considered by SC of fulfils profit test

# Other Requirements

Core business (PN2)	<ul style="list-style-type: none"><li>• Must have majority ownership and management control</li><li>• Must not be holding of investment in other listed company</li><li>• MOG - =/&gt; 50%* activities on MOG activities</li></ul>
Management continuity and capability	<ul style="list-style-type: none"><li>• Same for at least the track record period (Profit test)</li><li>• Since commencement (for market cap/IPC test)</li><li>• EDs and senior management has not be changed materially</li><li>• FD/CFO employed for at least 6 months</li></ul>

*\* of total assets, revenue, operating expenses or after-tax profit based on audited financial statements.*



# Other Requirements (2)

<p>Financial position and liquidity</p>	<ul style="list-style-type: none"><li>• Sufficient working capital for at least 12 months after date of prospectus (18 months for MOG)</li><li>• Positive cash flow from operating activities<ul style="list-style-type: none"><li>- Profit test (during track record period)</li><li>- Market Cap test (most recent year)</li></ul></li><li>• No accumulated losses in latest audited B/S (under Profit test)</li></ul>
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# MOG -Additional Requirements

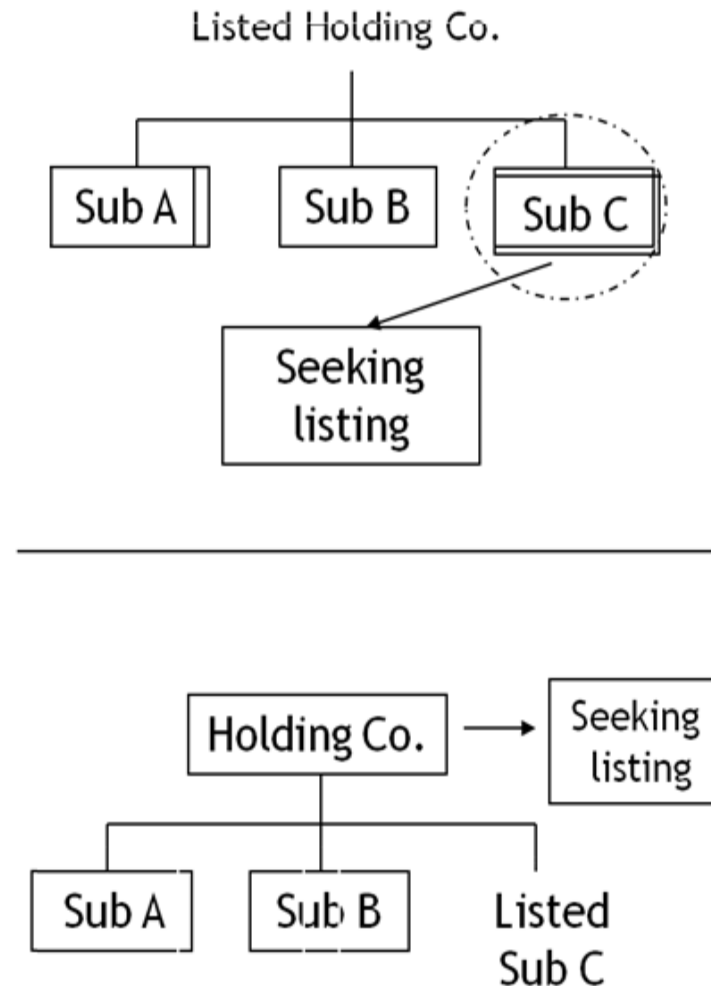
- Possess adequate portfolio of Contingent Resources (O&G) or Indicated Resources (minerals), supported by a competent person.
- Control over or have legal rights for exploration/extraction activities of, the majority of its assets, in value.
- At least one independent director with the appropriate MOG exploration or extraction experience or expertise
- Its external auditor, an audit firm and reporting accounting has relevant MOG exploration or extraction industry expertise

# MOG - Possible Waiver

May undertake the market capitalisation test without one full year of operating revenue and/or positive cash flow if:

- Possess clear plans to advance to commercial production within 2 years
- Has sufficient funding requirements
- Directors and management collectively have sufficient MOG exploration or extraction experience

# Chain Listing



- Be involved in a distinct and viable business of its own, independent of other group companies
- Relationship with all other companies within the holding company's group must not give rise to intra-group competition or conflict-of-interest situations
- Not detrimentally affect the interests of the shareholders of the already-listed company
- If holding company is the applicant, must meet the requirements for listing without taking into account the contributions from its already-listed subsidiary company

# Chain Listing - Already Listed PLC

- Must be able to meet the (i) Profit Test or (ii) Market Capitalisation Test (but must cease control over applicant)
- Possess adequate working capital for 12 months
- Have positive cash flow at the time of submission
- Have continuity of substantially the same management for at least 3 full F/Y years prior to submission
- Shareholders be given an assured entitlement to any offering of shares in new PLC.

# Methods of Offering of Securities

- Comply with shareholding spread
- Through balloting process

Enlarged issued share capital	Minimum offering to the general public
< RM200 million	At least 5% of the enlarged number of shares issued
=>RM200 million	At least 2% of the enlarged number of shares issued

Exempted if:

- Already listed on ACE Market

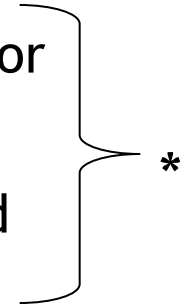
# Share Placements (App 4)

- PA must act as placement/joint placement agent under an IPO

PA/Placement Agent not allow to retain shares for own a/c unless	<ul style="list-style-type: none"> <li>• PA/Agent is an underwriter &amp; shares undersubscribed; or</li> <li>• To meet shareholding spread requirements, retain &lt; 5% of the share capital</li> </ul>
Not place to persons connected to agent unless	<ul style="list-style-type: none"> <li>• Statutory institutions or collective investment scheme managing funds belongs to general public</li> </ul>
For book-running, only can place to connected parties if	<ul style="list-style-type: none"> <li>• Impartial &amp; objectives</li> <li>• Approval from applicant/listed corporation</li> <li>• Full disclosure i.e. bid amount</li> <li>• Not exceeding 25% of total shares available for placement</li> </ul>
Placement of shares not allowed to	<ul style="list-style-type: none"> <li>• Directors, existing shareholders or CEO or persons connected to them (except restricted offer)</li> <li>• Nominee companies unless beneficiaries disclosed</li> </ul>

# Restricted Offers

- Only to:
  - Directors and employees of applicants, its subsidiaries or its holding company
  - Other contributors - suppliers, distributors, dealers and customers
  - Shareholders of its listed holding company
- \*Aggregate must be:
  - < 10% of enlarged share capital, or
  - 25% of the securities offered,
    - whichever is lower





# SkyWorld makes Main Market debut at 80c/share

The Star-Business Monday, 10 Jul 2023

SkyWorld's initial public offering (IPO) entails a public issue of 208 million new shares, representing approximately 20.8 per cent of its enlarged issued share capital upon its listing.

Of these 208 million new shares, 50 million shares will be made available for application by the Malaysian public while 25 million shares will be made available for application by eligible directors, key senior management, employees and persons who have contributed to the success of the group.

The remaining 133 million new shares will be made available through private placements to institutional and selected investors.

The IPO further entails an offer for sale of 192 million existing shares, equivalent to approximately 19.2 per cent of the enlarged issued share capital of the group.

Meanwhile, 150 million existing shares will be made available via private placements to Bumiputera investors approved by the Ministry of Investment, Trade and Industry, while the remaining 42 million existing shares have been earmarked for institutional and selected investors.

# Offer for Sale/Restricted OFS

- Not allowed for IPC test
  - Unless generating 2 consecutive full F/Y of operating revenue
- Not allowed for MOG if given waiver under market cap test

# Pricing of Securities\*

Issue price	$\geq$ RM0.50 each
To related parties	$\geq$ Issue price
Exercise price of warrants/options/convertibles	$\geq$ to IPO price

\* *exclude warrants and convertible securities*

# Underwriting

- Discretionary - applicants and its principal adviser (PA)
- PA must be part of the syndicate of underwriters
- Disclosure in listing prospectus:
  - a) The minimum level of subscription and the basis of determining the minimum level based on factors such as:
    - The level of funding required, and
    - The extent of the shareholding spread needed.
  - b) The level of underwriting arranged with justification
- If minimum level of subscription not meet, terminate offering and return all considerations received.

# Moratorium

(Imposed on Affected Shareholders)

- 6 months after listing
- IPC
  - Affected shareholders must retain their shareholdings amount to 45% of the share capital, if full F/Y operating revenue  $\leq 0$
  - Lifted if after 6 months, generated 1 full F/Y audited operating revenue.
- Including shares arising from conversion or exercise of options during the moratorium
- MOG - after achieving one full year of operating revenue and positive cash flow

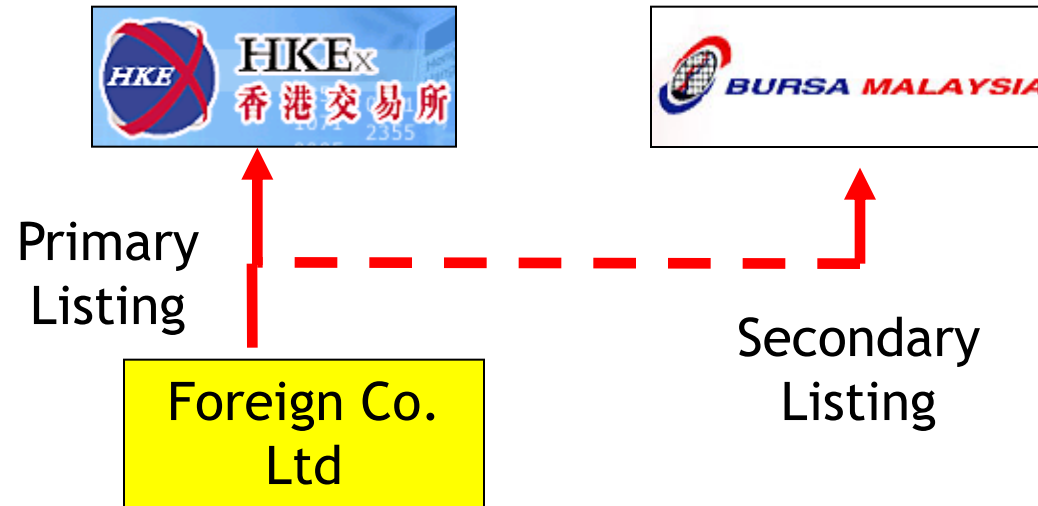
# Shareholders subject to moratorium

- Controlling shareholder
  - holds => 33% of voting shares, or
  - controls the BOD
- Persons connected to a controlling shareholder
- Executive directors who are substantial shareholder
- Any other person specified by the SC

# Foreign-incorporated companies

- Home jurisdiction has standards or laws & rules equivalent to Malaysia.
- Approval of regulatory authorities of foreign jurisdiction
- Registered as a foreign company under CA 2016
- All documents translated into BM or English
- Securities quoted in RM, unless consulted with Bursa Malaysia and approved by BNM
- Approval of controller of Forex
- Resident directors:
  - Malaysian-based operations: majority of board to be Malaysian residents
  - Foreign-based operations: At least 2 directors to be Malaysian resident (one on Audit Committee)

# Public Offerings and Listings: Secondary listings



- Must already be primarily listed on foreign (“home”) exchange
  - Comply with rules of home exchange
  - Home exchange must be WFE member



# SPAC (Chapter 6)

- Incorporated in Malaysia
- IPO must raise minimum RM100 million, no offer for sale
- Minimum price is RM2.00 per share
- Management team at IPO own (in aggregate)  $\geq 10\%$  in equity interest
- 90% of proceeds into a trust a/c, invested in permitted investment\* (balance cannot be used for management's remunerations) - held by a custodian approved by SC.
- MOG SPAC - must comply with Chapter 5 requirements.

*\*investments in securities issued by the Malaysian government, money market instruments and AAA-rated papers*

# Management Team Experience

- Sufficient and relevant technical and commercial experience and expertise i.e.:
  - directors or key management of corporations listed on a stock exchange; or
  - professionals with private equity or venture capital background;
  - positive track record in corporations within the same industry; or
  - ability to locate and develop appropriate merger and acquisition opportunities for corporations.
- For MOG companies - one independent director with appropriate MOG exploration or extraction experience or expertise.

# SPAC - Issue Price & Moratorium

- Effective share price
  - management team - at least 10% of IPO price
  - Pre-IPO Investors - at least 60% of IPO price
- Moratorium for management team, and securities acquired by pre-IPO investors at a price lower than the price offered under IPO - until completion of the qualifying acquisition
- Moratorium also apply to Vendors of Qualifying Acquisitions.
- Additional moratorium for management
  - MOG exploration or extraction assets – commence commercial production & one full year of audited operating revenue
  - Others – one full year audited operating profit & positive operating activities cash flow
  - Maximum 50% p.a. (on a straight line basis)

# SPAC - Qualifying Acquisitions

- Target business
  - Meet profit (waiver for uninterrupted profit and operating history)/market capitalisation test
  - Operating history
  - Sufficient working capital
  - No accumulated losses
  - Shareholding spread
- Must maintain majority control and management control unless in line with regulatory or industry practices
- Must not result in change in BOD/key management, unless business combination
- Must have aggregate fair value  $\geq 80\%$  of amount in trust a/c, net of tax payable (MOG assets  $\geq$  RM500m)
- Approval of shareholders (by simple majority of those present and vote)

# SPAC - Qualifying Acquisitions (2)

- Completed within permitted time frame otherwise liquidate qualifying acquisitions
  - If fail, liquidation, and
  - management team/pre-IPO investor cannot participate in distribution unless shares acquired after IPO.
- No securities based compensation or scheme for management until completion of QAs
- No issue of securities except rights issue prior to completion of QAs.
- Custodian of trust account - resign/terminate with 3 months notice. Inform SC with new appointment.

# Back-Door Listing/RTO (Chapter 7)

- Same Listing Requirements
- Uninterrupted 3-5 years profit requirement waive if it is through acquisition of assets.

# Transfer of Listing (Chapter 8)

- From ACE Market → Main Market
- Profit Test - same listing requirements except no requirement for 'uninterrupted' profit.
- Market Cap Test - at least RM500m
  - in the last one year period ending on the last biz day of the calendar month immediately preceding the date of submission;
  - Based on daily average (daily-volume weighted average price)
- IPC Test - same requirements

# Transfer of Listing (Chapter 8)..continue

- Accelerated transfer process, must comply until approval
  - Before submission - listed in ACE Market => 12 months before submission & market cap =>RM1b in last 6 months
  - Meet Profit Test in most recent 3 full financial year, unmodified auditor report and same core business
  - No adverse opinion by auditor in latest audited reports
  - No 'fit and proper' issues (company, directors and controlling shareholders)
  - Positive operating cash flow



# Submission of Proposals (Chapter 9)

- For IPO/RTO, preliminary application pack - ***at least 1 month*** prior to submission of application for the proposal (with fee of RM50k)
- If application for proposal not submitted within ***3 months***, resubmit preliminary application pack
- Valuation reports/certificate - ***one month*** before submission of application for the proposal
- Where ***six months*** have lapsed from the date of application for any proposal, a new application has to be submitted should the applicant intend to proceed with the proposal.

# Implementation of Proposals (Chapter 10)

- Proposals implementation =< 6 mths
- Involves court proceedings =< 12 months
- Otherwise lapsed - can request for review
- Application for extension of time - by PA => 10 market days before expiry
- Post implementation, submit to SC
  - Dates of completion of all approved proposal
  - A written confirmation of compliance with terms and conditions
  - Actual price and number of securities issued, once determined



# Guidelines on Submission of Corporate and Capital Market Product Proposals



[www.sidc.com.my](http://www.sidc.com.my)



**SIDC**

# Introduction

Submitting Party adheres to the following principles:

Principles	Actions
Integrity	To demonstrate integrity in all professional and business dealings.
Objectivity	To avoid situations of conflict of interest or any situation that compromise or affect professional or business judgments.
Professional competence and due care	To demonstrate and maintain professional knowledge and skill at the level expected and exercise due care and diligence in carrying out its functions.
Confidentiality	To maintain and safeguard confidentiality of information acquired as a result of professional and business dealings, and not disclose such information to any person or use such information, unless there is a legal or professional duty or obligation to do so.

# Applicability

Apply to proposals submitted, deposited or registered with the SC under-

- Listed and unlisted capital market product
- Prospectus
- Debentures
- Unit trust schemes and prescribed investment scheme
- Islamic Securities
- Private Retirement Schemes

# Obligations - Submitting Parties

- Primarily responsible for the proposal.
- Shall not submit or cause to be submitted any statement or information that is false or misleading.
- Make due and careful enquiries that the proposal meets the requirements of the SC/ requirements and will not adversely impact the applicant's ability to continue to comply with requirements.
- Provide all assistance to the SC and deal promptly with all SC's queries and concern.
- Have adequate effective policies and procedures, and directors are apprised of all major concerns and feedbacks from SC.
- Avoid conflict of interest

# Obligations - Submitting Parties (continue)

- Retain documents/records for seven (7) years, whichever is later, of:
  - SC's decision;
  - termination of its engagement;
  - submission to or deposit of documents with the SC.
- Ensure the confidentiality of and protect against unauthorised use of or access to applicant's records and information.
- Ensure minimal influence or involvement from the applicant when conducting interviews with major business stakeholders (e.g. customers, suppliers, creditors and bankers).
- Sufficient competence, experience and qualify personnel, adequate supervision and training.

# Obligations - Submitting Parties (Specific Proposals)

- Must be a Recognised Principal Adviser (RPA) with at least one QP and SO for each specific proposal
- RPA Must have:
  - ✓ at least one QP working full time (and submit annual declaration 7 business of 1 January that QP meet all requirements);
  - ✓ written policies and control procedures relating to submission of specific proposals; and
  - ✓ SC's recognition.



# Specific Proposals

- Listing of equity securities on Main Market
- Prospectus for listing of equity securities on Main Market
- Transfer to listing
- RTO involving Main Market listed companies
- RTO involving ACE Market listed companies

# Qualified Person (QP)

- A CMSRL or ERP, full-time for corporate finance
- Seven (7) years of corporate finance experience in the 9 years preceding appointment
- 5 years immediately preceding his appointment, completed one (approved) of the following:
  - ✓ IPO on the Main Market or ACE Market; or
  - ✓ RTO that requires SC's approval.
- Corporate finance experience include IPOs and M&A/capital market fund raising/restructuring exercises by listed companies in Malaysia, Australia, Hong Kong, Singapore or the United Kingdom
- No conviction, civil enforcement action or disciplinary actions

# QP's Roles

- Supervise a team until implementation of the specific proposal or cessation of engagement
- Determine the scope and extent of due diligence required for such specific proposal in its entirety
- Critically assess the results of the due diligence and overall assessment of the adequacy of the due diligence review
- Identify key risks related to the specific proposal and undertake adequate measures to address the risks
- Ensure that the application meets the relevant requirements of securities laws and listing requirements
- Be fully familiar and knowledgeable with key issues, deal promptly with all SC's queries and concerns

# Senior Officer(SO)

- An individual of higher authority or ranking than the QP or a committee duly constituted.
- Responsible for the supervision and management of a specific proposal which includes-
  - allocating sufficient persons with appropriate levels of knowledge, skills and experience to each specific proposal taking into account the volume, size, complexity and nature of the specific proposal
  - reviewing the performance of the QP and the team
  - deciding on or escalating critical matters in accordance to the policies and procedures of the Submitting Party.

# Obligations of Advisers

- Primarily responsible for due diligence in relation to their specific area of expertise within their agreed Terms Of Reference
- Highlight matters arising from due diligence if, in their professional and reasonable opinion, it is a matter for concern/disclosure
- Take reasonable measures to avoid potential conflict of interest situations - withdraw/decline mandate if cannot be resolved
- Act honestly, fairly and efficiently
- Exercise due care, skill and diligence expected of a reasonably competent member of his profession.
- Be proactive in due diligence - challenge process must be robust

# Obligations of Applicants

- Primary source of information - must ensure information submitted to all parties is not false or misleading and has no material omission
- Must extend co-operation and participation in the due diligence exercise
- Not to frustrate or impede the performance of the roles and responsibilities of a Submitting Party
- Avoid, resolve or adequately mitigate situations of conflict of interest
- Seek the concurrence of a Submitting Party in relation to the appointment of the adviser

# Eligibility of Submission

SUBMITTING PARTY		TYPES OF PROPOSAL (other than specific proposal)
Principal Adviser	Investment bank and universal broker	All proposals.
	1 + 1 broker	All proposals, except for proposals relating to corporate bonds and Islamic securities.
	KAF Investment Bank Bhd	Proposal relating to issue of securities, and take-overs and mergers
	Licensed bank	Proposal relating to- a) corporate bonds and sukuk, except for those issued by Malaysian-incorporated public companies or foreign corporations that are: i. capable of being converted into equity; or ii. issued together with warrants; b) structured warrants/products

# Eligibility of Submission (continue)

SUBMITTING PARTY		TYPES OF PROPOSAL (other than specific proposal)
Principal Adviser	Islamic Bank	Proposal relating to issue of securities, and take-overs and mergers
	Special scheme broker	Proposal relating to- a) equity securities of listed or unlisted foreign issuers to sophisticated investors b) structured warrants.
	Bank Pembangunan Malaysia Bhd	Proposal relating to listing or otherwise of infrastructure project companies as may be specified by the SC.
Eligible Issuer		Proposal in respect of fully-collateralised call warrants and non-collateralised structured warrants.



# Eligibility of Submission (continue)

SUBMITTING PARTY	TYPES OF PROPOSAL (other than specific proposal)
PA	All proposals including those relating to the offering, marketing and distribution of a permitted foreign fund
Management company	<ul style="list-style-type: none"> <li>a) <b>Proposal relating to ETF, unit trust fund and REIT (unlisted)</b></li> <li>b) <b>Proposal relating to REIT (listed)</b> <ul style="list-style-type: none"> <li>1. Registration and lodgement of supplementary or replacement deed; and</li> <li>2. Application involving a management company of a REIT.</li> </ul> </li> </ul>
Funds adviser	Proposal relating to- <ul style="list-style-type: none"> <li>a) unit trust fund; and</li> <li>b) private retirement scheme.</li> </ul>
PRS provider	Proposal relating to- <ul style="list-style-type: none"> <li>a) private retirement scheme; and</li> <li>b) PRS provider.</li> </ul>

# SC's Roles

SC reserves the right to-

- require the appointment of an independent adviser or an independent expert;
- not allow/accept submissions made by a PA or an adviser/expert
- Seek to change the PA, IA or experts

# Prospectus Guidelines



**SIDC**

# Highlights

- Contents of Prospectus (Part II)
  - Equities & Debts (Div 1 & 2)
  - Structured Warrants (Div 3)
  - Business Trust (Div 4)
  - Abridged Prospectus (Div 5)
  - Supplementary/Replacement Prospectus (Div 6)

# Equity - Part II Div 1

- Apply to a corporation where its shares are seeking/not seeking listing on

## Cover Page (1.01)

- Company's particulars - name, business registration number/place of incorporation
- Date of prospectus
- Caution statements i.e.

*"No securities will be allotted or issued based on this prospectus after six months from the date of this prospectus."*

ACE Market – limited history/no track records

# Equity – Part II Div 1

## Inside cover page

- Responsibility statement (by directors)
- Statement of disclaimer (by SC)
- Other statements i.e.
  - ✓ Compliant with CMSA
  - ✓ Shariah compliant
- Indicative Timetable
  - ✓ Opening and closing dates of the offering;
  - ✓ Date for the balloting of share applications;
  - ✓ Date for allotment of shares; and
  - ✓ Listing date.

# Equity – Part II Div 1

## Inside cover page (Continue)

- Corporate directory (1.06)
  - Details of directors- name, address, nationalities, profession
  - Details of corporate office
  - Name and address of advisors and professionals
  - Name and address of stock exchange
- Approval and Conditions - Moratorium (1.10)
  - the name of the shareholder;
  - the authority or any other party which imposed the moratorium;
  - the number of shares under moratorium; and
  - the terms of the moratorium including commencement and expiry of the moratorium.

# Equity - Part II

## Prospective Summary (Chap. 2)

- Overview - Warning statement on prospectus
- Principal details of the listing
- Business model
- Competitive position and business strategies
- Risk factors
- Directors and key senior management
- Promoters and substantial shareholders
- Use of proceeds
- Financial and operational information
- Dividend policy

## Details of offering (Chap. 3)

- No. of shares issued
- Ways the shares are issued
- History of market price
- Distribution plan
- Selling shareholders/dilution
- Use of proceeds

## Shareholders/Promoters/Directors/Management Information (Chap. 4)

- Profile
- Shareholdings in corporation
- Remuneration and benefits
- Adverse records
- Family relationships and associations

## Information on Company (Chap.5)

- Nature of business/licences
- Material contracts
- Property, Plant and Equipment
- Employees
- Major customers
- Major suppliers
- Exchange control



# Equity - Part II (continue)

## Risk Factors (Chap. 6)

Factors that would have a material adverse effect on the:

- corporation's business operations
- financial position and results, and
- shareholders' investments in the corporation

## Related Party Transactions (Chap.7)

- Nature and extent
- Details of loan/financial assistance
- Effect
- Carried out at arm's length

## Conflict of interest (Chap.8)

Details and effect on:

- Directors
- Substantial shareholders
- Other parties

## Financial Information (Chap. 9)

- Audited financial statements
  - Profit test - track record years
  - Others - 3 years or shorter
- Date of the prospectus issuance must not be later than six months after the end of the most recent financial year.
- Factors and trends that are anticipated to have a material effect on the company's financial conditions
- If financial statement change to not 12 months, restated current and preceding years in 12 months
- Foreign financial statements to be translated into RM. Latest rate, highest and lowest in last 6 months and average over 3 years

# Equity - Part II (continue)

## Accountants' Report (Chap. 10)

- Report on audited financial statements
- Auditors of financial statements

## Expert's Reports (Chap.11)

- Excerpts, summary, opinion and conclusion of reports
- Summary of valuations for inclusion in prospectus
- Compliance with *SC Guidelines on Asset Valuation*

## Additional Information (Chap.12)

- Share capital
- Limitations to own securities
- Options on shares, disclose details
- If >10% issued other than for cash in past 3 years, disclose

## Documents available for inspection (Chap.13)

- A period of 6 months from the date of issue of the prospectus

## Application for shares (Chap.14)

- Procedures to apply for the shares

## Requirement for specific issues

- IPC (Chap. 15)
- SPAC (Chap. 16)
- MOG Exploration/Extraction (Chap.17)

# Abridged Prospectus (Division 5)

- For rights issues
- Content requirement
  - Details of Rights Issue
  - Instructions for Acceptance, Payment and Excess Applications
  - Purpose and Utilisation of Proceeds
  - Risk Factors
  - Financial Effects
  - Future Prospects
  - Working Capital / Borrowing/Contingent Liabilities/Material Commitments
  - Shareholders' Undertakings and Underwriting Arrangements
  - Rights Subscription and Excess Form
  - Appendices

## SP/RP (Division 6)

Required when the issuer becomes aware of

- a new matter arising;
- significant change affecting matter disclosed in the prospectus;
- misleading or false information; or
- omission of material

# SP/RP Guidelines

## Issuer must:

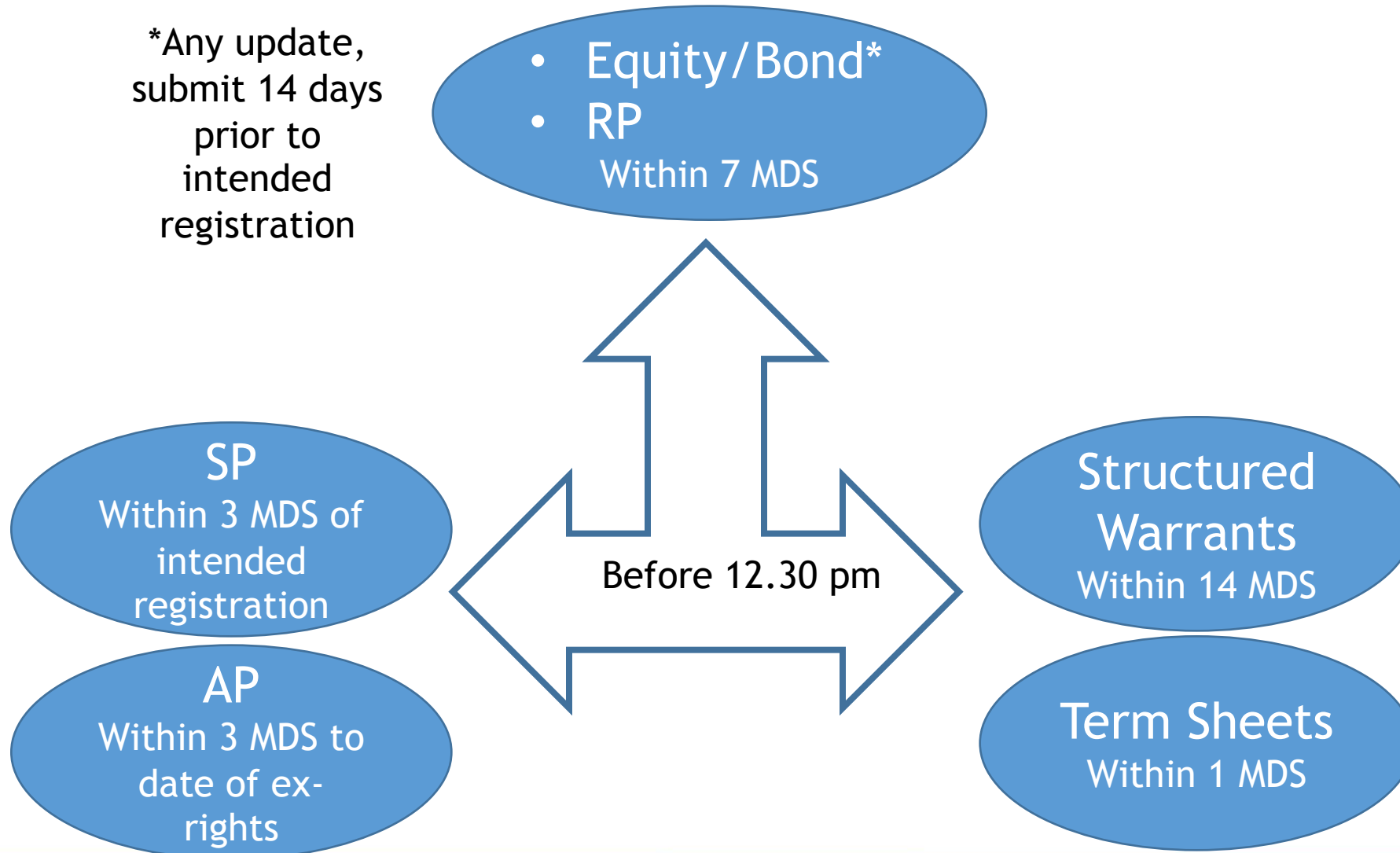
- give notice to applicants that a SP/RP has been registered
- give applicant not  $\leq$  14 days to withdraw application
- immediate repay any withdrawals
- advertise in prominent one BM and one English newspaper

# Registration of Prospectus

- SC may refuse to register a prospectus if:
  - the disclosure in the prospectus is incomplete and inadequate;
  - the prospectus is not in its final/complete form; and/ or
  - the prospectus is not accompanied by all relevant materials/ documents.

# Submission of Prospectus for Registration

\*Any update,  
submit 14 days  
prior to  
intended  
registration





# Malaysian Code on Take-Overs & Mergers 2016

Rules on Take-Overs, Mergers and Compulsory Acquisitions

All listed corporation and public companies with net assets  
> RM15m (including REITs and Business Trust)



**SIDC**



# Application of the Code

- The Code applies when the target entity is:
  - All listed corporations in Malaysia
  - Public companies with net assets > RM15m and >50 shareholders
  - Listed REITs and Business Trusts

# Non-Compliance of the Code

- The penalty, in proportion to the severity or gravity of the breach on the person in breach, not exceeding RM1,000,000;
- Private or public reprimand;
- The person being deprived of the facilities of the stock exchange;
- The person being directed to comply with, observe or give effect to any such provision or ruling;
- The person being required to take such steps as the SC may direct to remedy the breach or mitigate the effect of such breach.

# BOD's Responsibilities

## Offeror's BOD

- BEFORE the offer, seek advice of Principal Adviser (PA - Rule 3.01-3.05) on
  - ✓ Making a take-over offer
  - ✓ Effect a merger
  - ✓ Undertake a compulsory acquisition
  - ✓ Apply for exemptions from MO
  - ✓ Appoint IA (Rule 3.06-3.13 if interested parties involved)

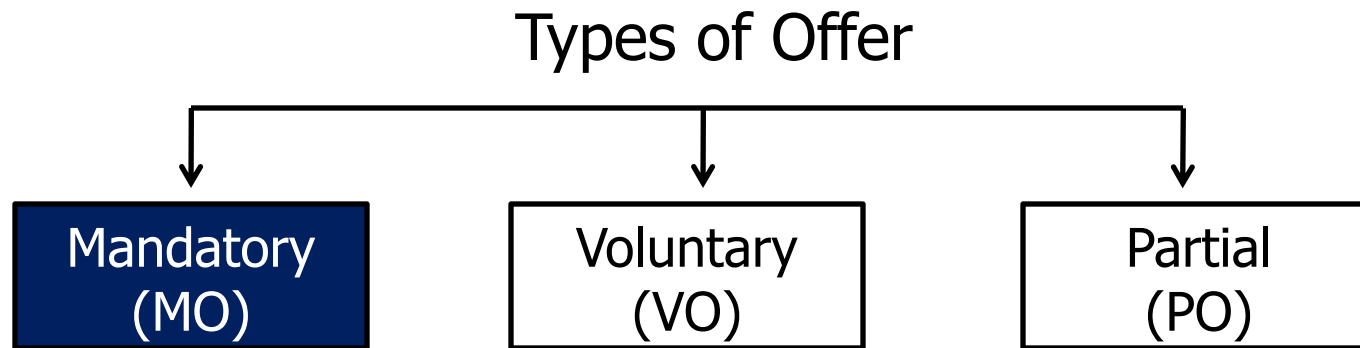
# BOD's Responsibilities

## Offeree's BOD

- Upon receiving the offer from the offeror
  - Not to frustrate offer without shareholder's approval
  - Seek advice of PA on merit of offer

# Some Terminologies

1.



2. Person acting in concert (Rule 4.03)

# Mandatory Offer

- An offer to buy all remaining shares NOT currently own
- When (Rule 4.01)?

Obtain control i.e.  
having acquired  
>33% of voting  
shares of a company

and

Obtain >2% of voting  
shares of a company  
in any 6 months, after  
obtaining control i.e.  
>33% up to 50% of  
voting shares in a  
company

# Voting Shares

- An issued share of the body corporate, not being:
  - a share to which, under no circumstances, there is attached a right to vote; or
  - a share to which there is attached a right to vote only where dividends in respect of the share are in arrears, on a proposal for reduction of capital, winding up, affecting the rights attached to the shares or for the disposal of the whole of the property, business and undertaking of the body corporate.

# Person Acting in Concert (PAC)

- Persons who, pursuant to an agreement, arrangement or understanding co-operate to:
  - acquire jointly or severally voting shares of a company for the purpose of obtaining control of that company; or
  - act jointly or severally for the purpose of exercising control over a company.



# Presumptions of PAC

- A corporation and its related and associate corporations and a person who owns or controls 20% or more of the voting shares of such corporation and any parent, child, brother, sister, spouse, relative or related trust of such person.
- A corporation and any of its directors, parent, child, brother or sister of any of its directors or the spouse of any such director or any such relative or any related.
- A corporation and any pension fund established by it.

# Presumptions of PAC

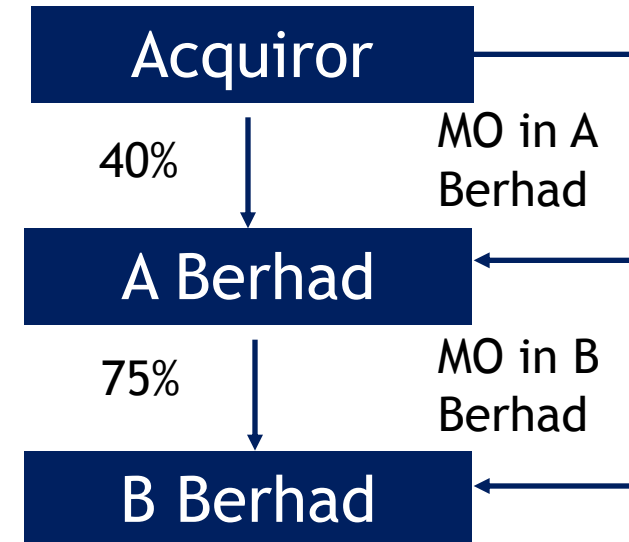
- A person and any investment company, unit trust or other fund whose investments such person manages on a discretionary basis.
- A financial adviser and its client which is a corporation, where the financial adviser manages on a discretionary basis, the corporation's funds and has 10% or more of the voting shares in that corporation.

# Presumptions of PAC

- A company, the directors of the company, and the shareholders of the company where there is an agreement, arrangement or understanding between the company or directors of the company, and shareholder of the company which restricts the director or the shareholder from offering or accepting a takeover offer for the voting shares or voting rights of the company or increasing or reducing his shareholdings in the company.
- A person who is a partner of a partnership.

# Downstream Companies

- MO obligation in a “downstream” entity if an “upstream” entity
  - ✓ have > 33% of the voting shares in a “downstream” entity; and
  - ✓ has a significant degree of influence in the “downstream” entity



# Mandatory Offer - Not Applicable

(Rule 4.02)

1. Promotors allotted shares at IPO
2. To replace shares transferred to ESOS and no benefits
3. Shares held by a licensed bank or licensed stock/derivatives brokers

# MO Exemption Considerations

1. Acquiring new voting shares (Rule 4.08 including Whitewash procedures)
  - i. as consideration for the sale or disposal of assets and/or interests
  - ii. cash subscription
  - iii. the exercise of any conversion or subscription rights or options into new voting shares
  - iv. Underwriting obligation
  - v. Acquiring from holders of shares who bought the new shares under (i) above to restore shareholding level to the previous level

# MO Exemption Considerations

2. Rescue operations (4.09) - for the company, not major shareholders
  - NTA < 50% of par value
  - Debt-equity ratio > 3:1
  - No dividend for last 2 consecutive years
  - Rights issue likely to undersubscribed
  - Benefits the offeree
  - REITS – Total asset value < 50% of cost of acquisition
3. Enforcement of security for a loan (4.10)
  - Restructuring and undertake to reduce the holdings < 33% within 6 months

# MO Exemption Considerations

4. Placement (for restructuring scheme) and reduce to 33% within 3 months after obtaining shares from a restructuring exercise or issuance of new shares (4.11)
5. Remaining shareholders (in an unlisted public company) giving written confirmation of not accepting the offer (4.12)
6. Acquisition from members acting in concert (4.13)
7. Acquisition under National Policy (4.14)
8. Share buy-back scheme (4.15)



# Voluntary Offer (Rule 5.01)

- VO - an offer by a person where he incurred no obligation to make a mandatory offer
- But must be a full offer
  - ✓ offer to all the remaining voting shares
  - ✓ accept all valid acceptances

# Partial Offer (Rule 5.02)

- Offer to all the remaining voting shares
- Accept up to a certain percentage but less than 100%
- If acceptances > the percentage - apportion equally
- If acceptances < the percentage - offer fails
- Requires SC's prior approval
- Approve only if:
  - not result in obtaining control of the offeree; or
  - already have statutory control of the offeree and the PO is maintain the public spread requirements

# Conditions (Rule 6.0)

- Acceptance condition
  - ✓ MO - 50%+1 share
  - ✓ VO - at offeror's discretion but at least 50%+1 share
    - Other conditions, must be fulfilled within 21 days of acceptance conditions being met.

# Offer price (Rule 6.03)

- MO
  1. > = to the highest price paid/ agreed to be paid by offeror/PAC in the last 6 months prior to the **offer period**
  2. revise to > = the higher price paid/ agreed to be paid, if higher than offer price during offer period
- VO
  1. > = to the highest price paid/ agreed to be paid by offeror/PAC in the last 3 months prior to the **offer period**
  2. revise to > = the higher price paid/ agreed to be paid, if higher than offer price during offer period

# Mode of Consideration

- If offeror purchased =>10% of offeree shares with securities 3 months prior or during offer period, must offer the securities as a consideration.
- MO -
  - Cash (compulsory); and/or
  - Similar to the acquisition that triggers MO
- VO -
  - At offeror's discretion
  - Cash if acquire  $\geq 10\%$  in cash within offer period or 6 months prior to offer period

# Valuation & Settlement

- Valuation of quoted shares
  1. Past 5 MDS preceding announcement
  2. If not traded, past 5 MDS from last trade
- **Settlement**
  1. Cash - within 10 days
  2. Securities - credit to account within 14 days

Earlier of valid acceptance, or  
Offer becomes unconditional,  
whichever is earlier

# Timeline

## Responsibilities of Directors

#	Activity	Deadline
1.	Offeror announces (press notice) and serve takeover (t/o) notice to offeree (and to SC and Bursa if necessary)	
2.	Offeree announces the receipt of t/o notice	Within 24 hours of #1
3.	Offeror send draft OD to SC for clearance	Within 4 days of #1
4.	Offeree post t/o notice to its shareholders	Within 7 days of #2
5.	Offeror post OD as consented by SC to offeree's shareholders <ul style="list-style-type: none"><li>• Offeree BOD appoint IA subject to SC's approval</li></ul>	Within 21 days of #1

# Timeline (continue)

## Responsibilities of Directors

#	Activity	Deadline
6.	Offeree BOD provide and post IA recommendation consented by SC to shareholders	Within 10 days of #5
7.	1 <sup>st</sup> closing date	At least 21 days from #5
8.	Last day for revision of takeover offer	46 days after #5
9.	Close of offer	Maximum 60 days or 74 days of #5



# Other obligations

## Restrictions during offer period

- No appointment of offeror's directors on BOD offeree or exercise voting rights attached to shares acquired before despatch OD
- No resignation of vendor or a director who acts in accordance with the vendor's direction from the BOD of the offeree before the 1st closing date or the acceptance conditional is met, whichever is later
- Offeror should not dispose of offeree shares during offer period unless between PAC
- BOD of offeree should not frustrate the offer

# Other obligations of directors

## Disclosure on dealings during offer period

- On Offeror
  - Offeror, PACs & connected persons must disclose dealings in voting shares of the offeror co. and offeree
- On Offeree
  - Offeree, certain PACs & connected persons must disclose dealings in voting shares of offeror co. and offeree

# Other obligations of directors

- Offeror cannot withdraw offer without SC's approval
- If offer is withdrawn, lapsed or failed;
  - prohibit from undertaking another offer on offeree; or
  - acquire shares if triggers MO; or
  - acquire any offeree shares (if he holds > 48% but <50% of shares); or
  - acquire shares at favourable terms than before until other competing offers completed/lapsed;in the next 12 months
- If offer is successful;
  - Cannot acquire shares at favourable terms the next immediate 6 months

# ASSET VALUATION GUIDELINES



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# Background (Chapter 1)

- To be complied when valuing property assets and PME's in conjunction with:
  - New issue of securities (S212 CMSA)
  - For inclusion in prospectus and circular to shareholders
- SC's approval of submission should not be construed as an endorsement of the valuation

# Appointment of Valuer (Chapter 3)

- Directors of the applicant/issuer to appoint valuer, with the concurrence of the principal adviser on the terms of reference of the appointment.
- 2<sup>nd</sup> opinion may be sought by SC, using other experts, with cost borne by the applicant.

# Criteria for Independent Valuer

## (Chapter 3)

- Registered with authorities or member of a recognised professional bodies
- Minimum 5 years post registration experience
- Not denied or disqualified from membership of the recognised professional organisation or subject to any sanction, disciplinary proceedings or investigation which might lead to disciplinary action by any relevant regulatory authority or recognised professional organisation
- Must be competent\* and employed/work in a firm

*\***Note:** Valuer must seek assistance from other professionals e.g. quantity surveyors, foresters, mining engineers, lawyers on matters outside his expertise*

# Firm of Independent Valuer

- Not subject to any sanction, disciplinary action or investigation which might lead to disciplinary action by any relevant regulatory authorities or professional bodies
- Has sufficient internal controls and procedures, i.e.
  - Has conducted necessary due diligence on all valuation reports prepared for submission to SC
  - Has established peer review
  - Has HO has oversight over all its branches



# Independent Valuer

- Independent
  - Neither he nor his partners or directors of the valuation firm are directors or employees of the client company or have a significant interest
  - Client company does not have significant financial interest in valuer's company
  - No pecuniary or other interest that may affect his ability to give an unbiased opinion
- No conflict of interest

# Valuation Approaches and Methods (Chapter 4)

- Basis of valuation
  - Market value
- Valuation approaches
  - Comparison (para 4.10 disclosures)
  - Cost/Replacement (para 4.11 disclosures)
  - Income capitalisation
    - Methods - Investment (4.12), Residual(4.13), Profits (4.14), DCF (4.15)
- Use at least 2 approaches, unless valid reason is disclosed

# Content

- Valuation report (Chapter 5)
- Valuation certificate (Chapter 6)

# Specific Properties (Chapter 7)

- PME - Comparison/Cost/Replacement Approaches
- Ongoing property developments
  - Appropriate methods
    - cash flow approach (phases already launched);
    - residual method or discounted cash flow method (phases for immediate development);
    - Other methods e.g. comparable method (future development)
- JVs
  - Contractual obligations of the parties involved in the development/JV agreement
  - Risks and uncertainties attached to such interests

# Specific Properties (Chapter 7)

- Timber concession or forest plantation
  - Forest assessment report (FAR)
- FAR prepared by qualified forester
  - Registered with the Institute of Foresters Malaysia (IRIM) as a fellow or an ordinary member;
  - Possesses a minimum of five years' experience in forestry;
  - Has the experience and competence in carrying out a forest inventory; and
  - Has no record of disciplinary action taken against the forester by IRIM in the past three years.

# Material Dates

- Date of Valuation Certificate =< 6 months from the date of submission (Para 5.08)
- Submission of report to SC (Para 8.02)
  - At least 2 weeks before submission of proposal; and
  - Not later than one month of the submission of proposal



# Guidelines on Issuance of Corporate Bonds and Sukuk to Retail Investors

*Not applicable to Seasoned Corporate Bonds/Sukuk, ABS or  
Corporate Bond/Sukuk issued with ABS features*



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# Eligible Issuers

- A PLC;
- A licensed bank;
- Cagamas, Danajamin, Khazanah; or
- A non-listed public company but irrevocably and unconditionally guaranteed in full by:
  - *The PLC, a licensed bank or Cagamas; or*
  - *Danajamin Nasional Berhad or Khazanah; or*
  - *Credit Guarantee and Investment Facility*

*Banks/Bank Holding companies may issue retail bonds/sukuk to meet capital adequacy requirements, subject to meeting BNM's requirements.*



# Qualified Issuers for Bonds/Sukuk

- Allowed to issue without prospectus, only PHS is required
- Must issued or guaranteed bonds
  - In aggregate => RM500m in last five years; and
  - With minimum rating =above AA-

# Characteristics of Retail PDS/Sukuk

- RM-denominated and tenure > 1 year
- Fixed term
- Fixed or variable rate of return/profit rate;
- Periodic payments, unless zeros
- Rank at least equal to unsecured/unsubordinated creditors
- No embedded derivatives, unless convertibles to listed shares

# Rating

- All must be rated by a credit rating agency registered with the SC.
- At least an indicative rating at the time of submission to SC.
- Partial rating, 1<sup>st</sup> issue must be rated
- Publish rating report => 7 business days before issuance
- No replacement of agency without investor's approval (and inform PA)

# Rating of Retail PDS/Sukuk

- Rating is NOT applicable to:
  - ✓ Irredeemable convertible loan stocks or Islamic loan stocks
  - ✓ convertible bonds, sukuk, loan stocks or Islamic loan stocks, and exchangeable bonds or sukuk which fulfill the following requirements:
    - Holders of such products are given the right to convert or exchange such products into underlying shares at any time or within a reasonable period(s) during the tenure of such products
    - the underlying shares are listed and quoted on a stock exchange.

# Features of Retail PDS/Sukuk

- Required a trust deed
- Implementation, after SC's approval
  - PDS (1 years) / Debt Programme (2 years)
- Proceeds are utilised in accordance with the purposes disclosed.
- Issued and tender via FAST, trade and process under RENTAS/Myclear, unless to be listed on Bursa.
- Shariah adviser is required for Sukuk
- Post issuance notice - submit to SC 7 business days after issuance

# Continuing Disclosure Obligations

- Announce on BIX material information
- Immediate announcements (Para 12.02)
- Announce maturity date at least one month before maturity date
- Early redemption details via BIX or stock exchange
- Made available (excl. bought deal/private placement arrangement) pricing supplement before issuance, consisting:-
  - Date, size, tenure and credit rating of issues
  - Coupon/interest/profit rate and proceed utilisation

# Revision of Terms & Conditions

- Before issuance - requires SC's approval
- After issuance - obtain (if necessary) consent from bondholders
  - unlisted PDS/Sukuk - update the SC within 14 business days after the proposed revision comes into effect
  - OTC bonds - announcement to bondholders through BIX the proposed revision and outcome of the revision immediately
  - listed PDS/Sukuk - inform the SC 2 business days after announcement to Bursa
- Upsizing - not allowed for one-off issuance
  - For debt programme, to obtain holders approval 'per series' and provided in initial lodgement documents. Announcement required.
- For revision of terms/conditions of Sukuk, endorsement of SAC.



# Guidelines on Unlisted Capital Market Products under the Lodge & Launch Framework (“LOLA”)



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# General Requirements

- Set out the requirements that must be observed for the purposes of exclusively making available unlisted capital market products (excluding shares and real estate investment trusts) to-
  - sophisticated investors in Malaysia\*; or
  - persons outside Malaysia.
- Unlisted capital market products will not require the SC's approval, authorisation or recognition, provided all the requirements under these Guidelines are complied with.

*\* Refer to Guidelines on Categories of Sophisticated Investors*

# General Requirements

- “Lodge” refers to the submission of information and documents to the SC prior to the launching of the product.
- “Launch” refers to the making available, offering for subscription or purchase of, or issuing of an invitation to subscribe for or purchase, an unlisted capital market product and includes any issuance, publication or release of any information, notice or advertisement.
- An unlisted capital market product must be launched within the timeframe, otherwise, the lodgement will be null and void.

# Relevant Topics

- Section B - Specific Requirements
  - Part 2 - Structured Products
  - Part 3 - Private Debt Securities and Sukuk
  - Part 4 - Asset-backed Securities
- Section C - Additional requirements for Shariah-compliant unlisted capital market products

# Structured Products(Section 2 Part 2)

- Definitions - any investment product that falls within the definition of “securities” under the Securities Commission Act 1993 and which derives its value by reference to the price or value of an underlying reference;
- **“Underlying reference”** means any
  - security,
  - index,
  - currency,
  - Commodity, or
  - other assets or reference, or combination of such assets or reference.

# Examples of Structured Products

- Non-exhaustive list of examples of structured products falling under these Guidelines:
  - Equity Linked Notes
  - Bond Linked Notes
  - Index Linked Notes
  - Currency Linked Notes
  - Interest Rate Linked Notes
  - Commodity (Contracts) Linked Notes
  - Credit Linked Notes

# Eligible Issuers of Structured Products

- A qualified bank
  - Commercial banks
  - Investment banks
  - Islamic banks
- A qualified dealer
  - Universal brokers
  - 1+1 brokers
  - Special scheme brokers

# Eligible Issuers of Structured Products

- Cagamas Bhd (Cagamas), provided that the underlying reference of the structured product is restricted to assets originated in the domestic banking sector.
- A locally incorporated special purpose vehicle (SPV) sponsored by a qualified bank, qualified dealer or Cagamas
  - only fully collateralised or guaranteed by a bank

# Structure and Other Requirements

- Any rating must be provided credit rating agency registered with the SC
  - Foreign agencies can be used for foreign-related structured products
- Maximum size of structured products issued in pursuant to these Guidelines must not exceed RM5 billion
- The structured programme must be fully utilised within three years from the date of its lodgement with the SC.



# Revisions

- No revisions or amendments can be made to the terms and conditions except for
  - business address
  - directors,
  - contact persons and
  - credit rating of the Eligible Issuer.
- If the changes or updates result in consequential amendments to be made in the product highlights sheet and other information and documents used in the issuance of the structured products, a replacement product highlights sheet and revised information and documents must be submitted.

# Corporate Bonds/Sukuk(Sect 2 Part 3)

- Debentures as defined in the CMSA
- Certificates of equal value which evidence undivided ownership or investment in the assets using Shariah principles and concepts endorsed by the Shariah Advisory Council.
- The Guidelines does not cover debt securities such as debentures issued by:
  - the Federal Government;
  - any State Government; or
  - Bank Negara Malaysia;

# Ratings

- Any rating must be provided by a credit rating agency registered with the SC.
- Holder's prior consent is required when:
  - Changing the status of rating from rated to unrated, or vice versa, during the tenure of the corporate bond or sukuk;
  - Replacing an appointed credit rating agency during the tenure of the corporate bond or sukuk; or
  - Removal of a rating where a corporate bond or sukuk has more than one rating.
- Rating report to be published within reasonable time before issuance of bonds/Sukuk

# Trustee & Deed Requirements

- Where a trustee is appointed, the trustee must be registered with the SC.
- Where a trust deed is not required (exempted under Schedule 8 CMSA), for ringgit-denominated bonds/Sukuk, issuer must ensure that:
  - in the event of default in payment, the investors are entitled to declare the bonds/Sukuk immediately due and payable. Remedy period allowed but must not exceed 7 business days, and
  - cancel and not to resell the bonds/Sukuk

# Tenure of Issue

- Where a debt programme involves an issuance of CPs or a combination of MTNs and CPs, the tenure for such debt programme must not exceed 7 years.
- Not applicable to:
  - a stand-alone MTN programme; or
  - an issue, offer or invitation to subscribe or purchase foreign currency-denominated bonds/Sukuk.

# Mode of Issue - LCY PDS/Sukuk

- Ringgit-denominated bonds/Sukuk (unless a full admission to listing and trading is sought on a stock exchange):
  - must be issued and/or tendered on the Fully Automated System for Issuing/Tendering (FAST)
  - must be issued on scripless basis, deposited and settled in the Real Time Electronic Transfer of Funds and Securities (RENTAS) system which is operated by MyClear.

# Mode of Issue - FCY Bonds/Sukuk

- Foreign currency-denominated bonds/Sukuk:
  - must be announced or reported on FAST
  - may be issued on scripless basis, deposited and settled in the RENTAS system with MyClear as the central securities depository and Authorised Depository Institutions in Malaysia as the sub-depositories.

# Utilisation of proceeds

- All proceeds from the approved bonds/Sukuk must be utilised in accordance with the purposes disclosed to the SC.
- Where the proceeds are utilised for a project which will generate cash flow for payments to investors, transaction documents relating to the bonds/Sukuk must include:
  - the relevant parameters, conditions, supporting documents and certificates to enable the bond trustee or facility agent, where applicable, to manage the release of the proceeds to the issuer.



# FCY-denominated bonds or Sukuk

- FCY bonds or sukuk issue through a roadshow must be:
  - conducted by authorised representatives of the foreign issuer together with a principal adviser who is appointed by the foreign issuer; and
  - Documentation of the proposed issuance must conform to international standards or standards which are acceptable in the Malaysian market.

# Negotiable Instrument of Deposits (NIDs)

- For an issuance of fixed-rate NIDs or INIDs the issuer must disclose to investors the following:
  - The inherent risks, including credit risks and price risks, in investing in NIDs or INIDs; and
  - The settlement procedures for any early redemption or termination of the issue to investors.
- A floating rate NID or INID with tenure of more than 5 years would fall within the definition of “structured products”

# Lodgement

Type of Issuer	Responsible Party
An issuer which is: <ul style="list-style-type: none"><li>• a multilateral development bank;</li><li>• a multilateral financial institution; or</li><li>• a principal adviser</li></ul>	<ul style="list-style-type: none"><li>• Issuer; or</li><li>• Principal adviser</li></ul>
An issuer issuing a foreign currency-denominated corporate bond or sukuk through a roadshow	<ul style="list-style-type: none"><li>• Principal adviser</li></ul>
An issuer other than those listed above	<ul style="list-style-type: none"><li>• Principal adviser</li></ul>

- Must be issued/first issued within 90 business days from the date of lodgement.
- Issuer to submit a post-issuance notice to the SC within 7 business days from the date of issuance.

# Redemption and call option

- Early redemption or exercise of a call option - immediate announcement through FAST/BURSA, or other means provided in trust deed/issue documents
- Notify the SC within 7 business days from the date of redemption.

# Revisions

- Must not contradict requirements of LOLA guidelines
- Pre-issuance revision - relodgement
- Post-issuance revision
  - Obtain prior consent from holders
  - Announce via FAST/to Bursa
    - Proposed revision prior to obtaining consent
    - Outcome after obtaining consent
  - Inform SC within 2 business day after announcement
- Any Shariah implications, obtain SAC endorsement and submit information to SC 10 business days before relodgement or update

# Appointment of Shariah Adviser

- A Shariah adviser must be appointed for Sukuk and Islamic Structured Products
- Must be registered with SC (unless Islamic banks or FIs)
- A Muslim
- Qualification - at least a degree in Shariah/Islamic Studies from an institution recognised by the Malaysian government
- Experience - at least 3 years in Islamic Finance
- Fit & proper (for company, directors and its Chief Executive)
- For a corporation, one officer comply with above requirements

Source: Guidelines on ICMPs

# Roles of Shariah Adviser

- Advising on all aspects of the issuance of sukuk in accordance with Shariah principles;
- Providing Shariah expertise and guidance on all matters, particularly in documentation, structuring and investment instruments, and ensure compliance with relevant securities laws and guidelines issued by the SC;
- Ensuring that the applicable Shariah rulings, principles and concepts endorsed by the SAC are complied with; and
- Applying *ijtihad* (intellectual reasoning) to ensure all aspects relating to the sukuk are in compliance with Shariah, in the absence of any rulings, principles and concepts endorsed by the SAC.

Source: Guidelines on ICMPs

# Shariah Principles\*

<b>Bai` bithaman ajil</b>	A contract that refers to the sale and purchase of assets on a deferred and instalment basis with pre-agreed payment period <b>(Deferred Payment)</b>
<b>Ijarah</b>	A contract whereby a lessor (owner) leases out an asset to a lessee at an agreed lease rental for a predetermined lease period. The ownership of the leased asset shall always remain with the lessor <b>(Leasing)</b> .
<b>Istisna`</b>	A purchase order contract where a buyer requires a seller or a contractor to deliver or construct the asset to be completed in the future according to the specifications given in the sale and purchase contract. The payment term can be as agreed by both parties in the contract <b>(Purchase order)</b> .

\* for a complete list of the principles, refer to Appendix 7 of the Guidelines on ICMPs



# Shariah Principles (cont..)

<b>Mudharabah</b>	A contract made between two parties to enter into a business venture. The parties consist of the rabb al-mal (capital provider) who shall contribute capital to finance the venture, and the mudharib (entrepreneur) who will manage the venture ( <b>Profit sharing</b> ).
<b>Murabahah</b>	A contract that refers to the sale and purchase of assets whereby the cost and profit margin (mark-up) are made known ( <b>Cost-plus sale</b> ).
<b>Musharakah</b>	A partnership arrangement between two or more parties to finance a business venture whereby all parties contribute capital either in the form of cash or in kind for the purpose of financing the said venture ( <b>Profit and loss sharing</b> ).
<b>Wakalah</b>	A contract where a party authorises another party to act on behalf of the former based on the agreed terms and conditions as long as he is alive ( <b>Agency</b> ).

# General Shariah Rulings

## Asset pricing

- For Sukuk involving sale and purchase arrangement, the purchase price *must not exceed 1.51 times of:*
  - (a) the market value of the asset; or
  - (b) In cases where the market value of a particular asset cannot be ascertained, a fair value or any other value must be applied.

# Some of SRI Projects

- Green projects - renewable energy/energy efficiency
- Social projects - affordable basic infrastructure and affordable housing
- Waqf projects that relate to the development of waqf properties or assets.

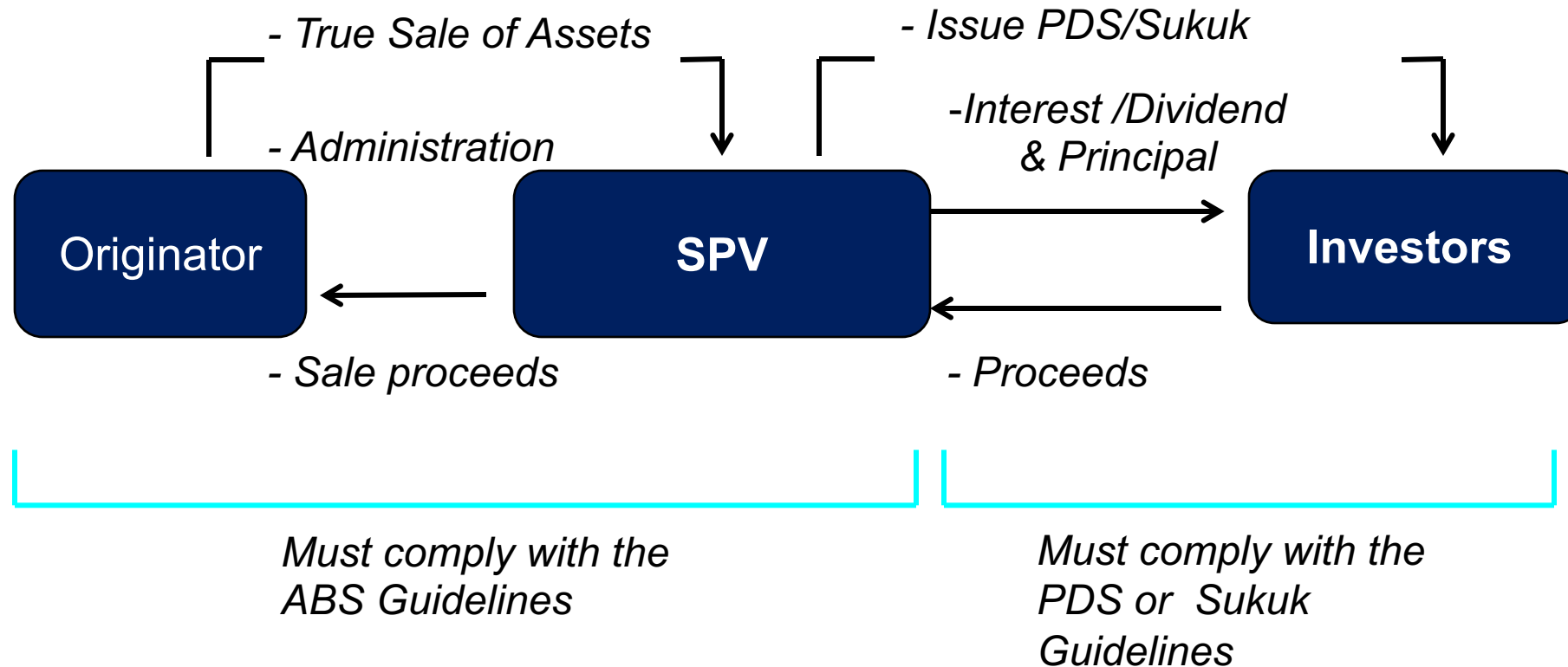
# Eligible SRI Projects

- Eligible SRI projects refer to projects that aim to:
  - preserve and protect the environment and natural resources
  - conserve the use of energy
  - promote the use of renewable energy
  - reduce greenhouse gas emission
  - improve the quality of life for the society
- The issuer may appoint an independent expert to undertake an assessment of the Eligible SRI project.

# ABS - Section 2 Part 4

- ABS means “private debt securities that are issued pursuant to a securitisation transaction”.
- Securitisation transaction means:
  - “an arrangement which involves the transfer of assets to a third party where such transfer is funded by issuance of debt securities to investors.”
  - Payments to investors in respect of such debt securities are principally derived, directly or indirectly, from the cashflows of the assets.”

# Scope of ABS Guidelines



# Securitised Assets

- Cash flow
- A valid and enforceable interest
- No impediments for transfer
- Transferred at fair value
- No competition from trust or third party's interest in the assets
- Originator a chargee, the charge => 6 month before the transfer.
- Compliance with Shariah principles if issue, offer or invitation of ABS is Islamic in nature.

# Originator

- Malaysia incorporated
- Going concern at the point of transfer of assets to SPV.
- Transfer of assets to SPV must be a true sale.
- Allow to purchase up to 10% of the ABS unless a primary subscriber but must dispose within 3 months of issue
- Internal systems to ensure “ring-fencing” of funds due to SPV and separated from other funds.



# True Sale Criteria

- Underlying assets isolated from an originator
- Effective legal transfer of rights and obligations on the assets to SPV
- Originator must not hold any equity stake in an SPV and exercise any control of the SPV
- SPV must not have any recourse to the Originator for losses arising from the assets
  - except for any credit enhancement provided by the originator at the outset of the securitisation
  - Where an originator is also the servicer, the services must be provided on an arm's length basis, on market terms and conditions

# Special-Purpose Vehicle (SPV)

- Resident in Malaysia for tax purposes.
- Independent and professional directors or trustee.
- “Bankruptcy remote”
- Must be dissolved when the following circumstances arise:
  - It refuses to accept transfers of the assets or issue ABS within 60 days after lodgement
  - More than 75% of ABS holders have resolved that the SPV shall be dissolved and the SC has been notified of this resolution with more than 50% of the senior classes of ABS holders must consent to the dissolution
  - Upon full repayment of the ABS

# Duties of Servicer

- Must keep proper accounts
- Inform trustee if there is a change of servicer
- Must have adequate operational systems and resources to administer the asset portfolio
- Where there is any change of servicer, provision must be made in the legal documentation for the periodic transfer of the necessary information from the originator to the substitute servicer to enable the monitoring of the asset portfolio, its performance analysis and collections from debtors of the originator.



# Section 3

## Bursa Malaysia Main/ACE/LEAP Market Listing Requirements



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# Listing Requirements - Main Market

Chapter	Descriptions
1.	Definitions & Interpretation
2.	General
3.	Admission
4. 4A. 4B.	Admission of Specific Applicants Foreign Listings Listing under Sukuk and Debt Securities
5.	Structured Warrants
6.	New Issues of Securities
7.	Articles of Association
8.	Continuing Listing Obligations

Chapter	Descriptions
9.	Continuing Disclosure
10.	Transactions
11.	<i>Deleted</i>
12.	Share Buy-backs
13.	Arrangements and Reconstructions
14.	Dealings in Listed Securities
15.	Corporate Governance
16.	Suspension, De-listing & Enforcement

# Practice Notes (PN) - Main Market

PN#	Descriptions
2.	Requests for Suspension
5.	Training for Directors
7.	Classification of Applicants/Listed Issuers
9.	Internal Control and CG Statement
11.	Provision of Financial Assistance
12.	Recurrent Related Party Transaction
13.	Requirements for Directors and Signatory of Statutory Declaration for Accounts
14.	Principle of Aggregation For Transactions
16.	Cash Companies
17.	Criteria & Obligations
18.	Perusal of Draft Circulars and Other Documents
19.	Public Shareholding Spread
20.	Trading Halt

PN#	Descriptions
21.	Listing Procedures for Initial Admission
22.	Transfer of Listing Corporations to Main Market
23.	Listing Procedures for Specific Applicants
24.	Listing Procedures for Foreign Listing
25.	Listing Procedures for New Issue by Corp with Secondary Listing
26.	Listing Procedures under an Exempt Regime
27.	Listing Procedures for Structured Warrants
28.	Listing Procedures for New Issues of Securities
29.	Saving and Transitional Provisions
30.	Enforcement Proceedings & Related Matters
31.	Stapled Securities
32.	Additional Requirements for Listed Issuers Involved In MOG Activities
33.	Specific Proposal

# Listing Requirements - ACE Market

Chapter	Descriptions
1.	Definitions & Interpretation
2.	General
3.	Admission
4.	Sponsors
5.	Foreign Listings
6.	New Issues of Securities
7.	Articles of Association
8.	Continuing Listing Obligations

Chapter	Descriptions
9.	Continuing Disclosure
10.	Transactions
11.	<i>Deleted</i>
12.	Share Buy-backs
13.	Arrangements and Reconstructions
14.	Dealings in Listed Securities
15.	Corporate Governance
16.	Suspension, De-listing & Enforcement

# Guidance Notes (GN) - ACE Market

GN#	Descriptions
1.	Classification of Applicants or Listed Companies
2.	Cash Companies
3.	Criteria and Obligations
4.	Provision of Financial Assistance
7.	Principle of Aggregation for Transactions
8.	Recurrent Related-Party Transactions
9.	Requirements for Directors and Signatory to Statutory Declaration for Accounts
10.	Training for Directors
11.	Internal Control and CG Statement
12.	Requests for Suspension

GN#	Descriptions
13.	Public Shareholding Spread
14.	Trading Halt
15.	Listing Procedures for Initial Admission
16.	Listing Procedures for Foreign Listing
17.	Listing Procedures for New Issues of Securities
18.	Roles and Responsibilities of Sponsors
19.	Appointment of Adviser for Corporate Proposals
20.	Saving and Transitional Provisions
21.	Enforcement Proceedings & Related Matters
22.	Perusal of Draft Circulars and Other Documents
23.	Requirements Relating to Prospectus and Advertising Restrictions

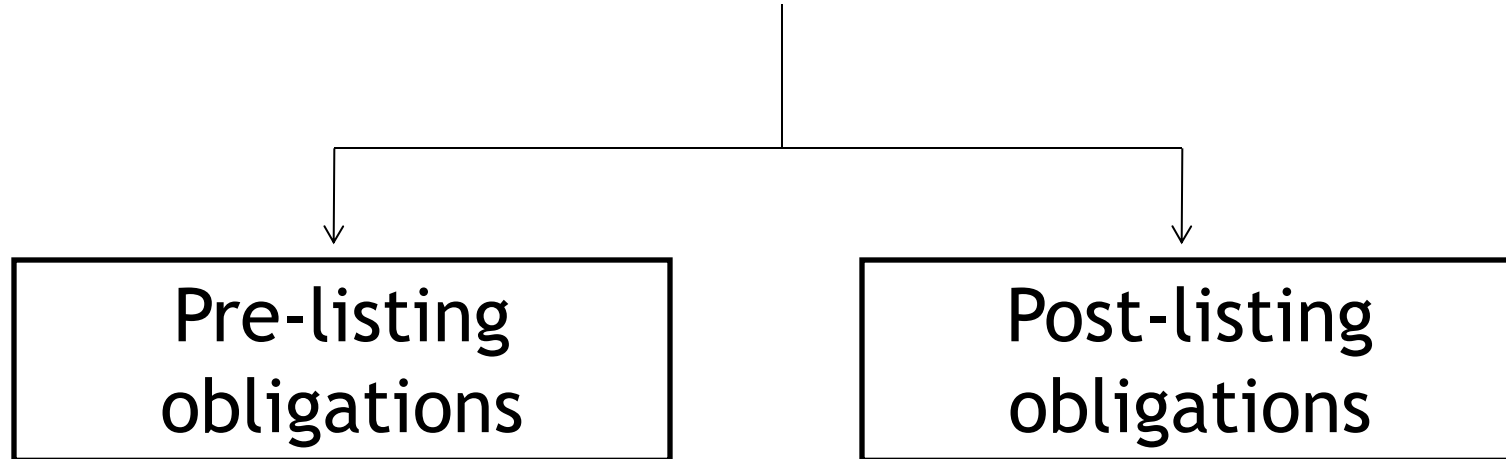


# Listing Requirements - LEAP Market

Chapter	Descriptions
1.	Definitions & Interpretation
2.	General
3.	Admission
4.	Advisers
5.	New Issues of Securities
6.	Continuing Listing Obligations
7.	Transactions
8.	Suspension, De-Listing and Enforcement

# Scope

## Listing Requirements



# Admission (General Requirements) Chapter 3 - MMLR/ACELR

# Admission Application (Chapter 3)

- Submission of application by PA/Sponsor
- Main Market - comply with Equity Guidelines
- ACE Market - similar requirement as Equity Guidelines on
  - Chain listing and independence
  - Management continuity
  - Working Capital
  - Restricted offer/Placements
- Prior approval from SC, if relevant, and other authorities
- Adequate independent directors
- Establish Audit Committee (see Chapter 15)
- Public Shareholding Spread
- Method of offering - sale to general public, placement or book-building.

# Admission Requirements (ACELR)

- Sponsor
  - Maintain for 3 full F/Y after admission
  - Initial sponsor at least 1 full F/Y or, after 1 full F/Y after generating revenue
- Issue price to related parties not less than IPO price
- Restricted offer - part of IPO - price => IPO price
- Offer for sale - only after 1 full year (audited) profit
- Underwriting - discretionary

# Admission Requirements (ACELR)

- Moratorium on Specified Shareholders (controlling shareholders and EDs with substantial shareholdings)
  - 6 months after listing
  - in aggregate, must retain their shareholdings amount to 45% of the share capital for another 6 months
  - 1/3 thereafter if generates 1 full F/Y audited operating revenue.
- Can dispose shares after 6 months of listing if quantitative criteria of Equity Guidelines are met
- Pre-IPO investors (i.e. VC/PE/Angels) - 6 months if :
  - acquire shares within 12 months of application, and
  - at price lower than IPO price

# Admission (Specific Requirements) Chapter 4 - MMLR

# MMLR (Chapter 4)

## Admission requirements for:

- Closed-end funds
- Mgt Co. of REITs
- Mgt Co. of ETF
- SPAC
- Business Trust
- Stapled Securities



# Specific Requirements

- Independent directors, must exclude
  - Directors/officer of related companies or managers of the funds
  - For REITs/ETFs, =< 6 months - receive remuneration from Mgt Co.
- Audit Committee - not required for REITs/ETFs
- Unit spread - for ETFs, prescribed by Bursa

# Sponsor

## Chapter 4 - ACELR

# Sponsors

## Eligibility

- Admitted to the Approved List of Principal Advisers
- Agree to and execute the prescribed Sponsor Agreement and payment of fees pursuant to the LR.
- Accept other conditions by Bursa.

## Admission

- Sound understanding of company it sponsoring.
- Must assess and in assessing undertake reasonable due diligence enquiries as to the suitability of the applicant for listing.

## Continuing Obligations

### Includes:

- To guide the sponsored company by maintaining regular contact, rendering advice on compliance issues and appointment of accounting firm, valuers and other experts, suspension etc;
- Review and approve any Public Document submitted by sponsored company to Bursa excluding certain documents (i.e. AAA);
- Co-signatory for all correspondences between its sponsored corporation and Bursa

# Sponsors - Resignation & Termination

- Must seek Bursa's approval to resign as/terminate the services of, a sponsor
- Upon approval, Sponsor must give 3 months' notice in writing to the other party and state reasons for resignation/termination.
- If after 3 months, no replacement sponsor is found, suspension on trading of the sponsored corporation's securities.
- If no replacement Sponsor at end of 2 months after expiry of notice period, Bursa shall automatically de-list the Sponsored Corporation.

# Structured Warrants

## Chapter 5 - MMLR

# Structured Warrants

- What is a warrant?
- Types of warrants
  - Company vs. Structured
  - American vs. European
- Applicable Guidelines
  - Issuer Eligibility Guidelines
  - Main Market Listing Rules – Chapter 5

# Issuer of Structured Warrants

- Issuer Eligibility
- Types
  - Fully-collateralised vs. non-collateralised
- Fully-collateralised - custodian to hold underlying shares
- Non-fully collateralised
  - An eligible broker or related company
  - Licensed FI approved by BNM
    - All possess investment grade rating
    - Have in place adequate and satisfactory risk management system

# Underlying Instruments

- Can be shares (ex Treasury shares), indexes or ETFs (ex Inverse or Leverage ETFs).
- Eligible securities
  - For Bursa quoted
    - Avg daily market cap.  $\geq$  RM0.5b, 3 months preceding the last market day of the month preceding issue, otherwise RM3b i.e. newly listed companies
  - For shares on a foreign exchange
    - Avg daily market cap.  $\geq$  RM3b, 3 months preceding the last market day of the month preceding issue, otherwise RM5b.



# Features

- Maximum size
  - In aggregate =<20% of issued share capital/ETF, settlement by delivery.
- Minimum Issue
  - Face/nominal value > RM5m
- Maturity Date
  - Warrants - between 6 mths (based on Index 3 mths) and 5 years
  - Bull-equity-linked structures - between 28 calendar days and 2 years
  - Callable bull/bear certificate - between 3 months to 5 years
- Put warrants on shares
  - On approved securities
  - If not on approved securities, issue together with call warrants with same underlying , size and tenure.

# Trading

- Board lots -100
- Conversion ratio - must be whole number of shares
- Spread, upon listing
  - At least 100 holders of 1 lot, or
  - 50 holders of 1 lot with min. holding  $\geq$ RM100,000
  - Not required
    - for bull equity-linked structured; or
    - where there is a market-maker
- Only 1 market maker
- At least RM0.15 per warrant
- Style - only European for bull equity-linked structure or CBBC

# Settlement

- Settlement price - Cash or delivery
  - Cash for index, foreign quoted shares, CBBC, commodity futures
- Basket warrants
  - Fully-collateralised: cash or delivery
  - Non-collateralised: cash only

# Settlement Price

- European style
  - For shares/ETF, either
    - Volume weighted average for 5 MDS prior to exercise date
    - Average closing price - 5 MDS prior to exercise date
    - Closing price on the market day before exercise date
  - For indices, either
    - Closing level on the market day before exercise date
    - Final settlement price for settling the corresponding index future contract on the expiry date
    - Average of the closing levels for the 5 MDS prior to exercise date

# Settlement Price

- American style
  - As per European styles, or
  - If exercise before 12.30pm, closing price/level on the day warrant is exercised
  - If exercise after 12.30pm, closing price/level on the day immediately following the exercise date.

# Periodic Reporting to Bursa

- For Amercian-type, no. of warrants
  - exercised during the period
  - exercised since issued
  - Outstanding
- Reporting time frame

Expiring	Timeframe
=< 28 days	Weekly, 1 <sup>st</sup> market day of the week
>28 to =<6 mths	Fortnightly, 1 <sup>st</sup> market day of the week
> 6 mths	Monthly =< 5 MDS

# Periodic Reporting to Bursa

- Notice of expiry, announce
  - If 28 days to  $\leq 6$  mths - 2 weeks before expiry
  - Others - not  $\leq 1$  mth
  - For Amercian-type, no. of warrants
- Crediting of securities or cash settlement -  $\leq 7$  MDS after expiry/exercise date
- Adjustments due to corporate proposal, announcement  $\leq 3$  MDS of announcement of corporat proposal
- Book closing date for adjustments - annoucement 3 MDS earlier
  - $\Rightarrow 10$  MDS for book closure after announcement

# New Issue of Securities

## Chapter 6 - MMLR/ACELR



# New Issues of Securities (MMLR/ACELR)

- Types
  - General Issues (Part C)
  - Placement (Part D)
  - Rights Issues (Part E)
  - Bonus Issues (Part F)
  - Scheme for Employees (Part G)
  - Debt Securities (Part H)

# New Issues of Securities (MMLR/ACELR)

- Bursa, among others, to consider:
  - Approval from relevant authorities - SC (MM only),etc
  - Shareholder's approval
  - Satisfactory corporate governance practices
  - Avoid conflicts of interest situation
  - Undermines public interest

# General mandate for new issues

- Unless with shareholder's approval , must not issues shares/convertible if >10% of issued share capital in the last 12 months
- Price =< 10% discount on WAMP over last 5 MDS immediately prior to price-fixing date
- Allotment of shares to interested directors, major shareholders and CEO and connection persons - shareholder's approval required

# Placements

- PA/Sponsor (ACE) as Placement Agent
- Payment by Placee =< 5 MDS of price-fixing date

# Rights Issues

- Underwriting - discretionary
- PA/Sponsor (ACE) - part of underwriting syndicate
- Must be renounceable
- Minimum level not achieve, terminate issue
- May fixed book closure date without shareholder's approval if:
  - >50% shareholders give written consent and not to dispose shares until after EGM
  - Last day for trading cum-rights => 1 MDS after EGM

# Rights Issues - Responsibilities

- Announce book closure at least 10 MDS before closure date
- Release Abridged Prospectus 1 MDS before trading of rights
- Issue notice of allotment/subscription form not later than 2 MDS after book closure
- Cease trading of rights not more than 5 MDS before closing of acceptance of rights
- Closing date for acceptance not less than 11 MDS of book closure

# Bonus Issues

- Out of retained profits & capitalisation of reserves
- Reserves arising from revaluation of:
  - Subs/Asso. Cos exclude plant, machinery and equipment
  - Real estate but  $\leq 80\%$  (for REITs  $\leq 90\%$ )
- Based on latest annual audited reports or latest quarterly reports, whichever is later
- Fixing book closure date
  - After Bursa and shareholder's approval
- Book closure date  $\Rightarrow$  10 market days after announcement
- Share price adjusted for a bonus issue is not less than RM0.50 based on the daily volume weighted average share price during the 3-month period before the application date.

# Scheme for Employees

- For director & employees of listed issuer's group.
- $\leq 15\%$  (MM) /  $30\%$  (ACE) of share capital at any one time
- Scheme maximum tenure = 10 years
- Directors and senior management do not participate in the deliberation or discussion of their own allocation
- If director/employee holds  $\geq 20\%$  of existing capital,  $\leq 10\%$  of shares in scheme
- Price
  - Not less than IPO price, if at IPO, or
  - $\leq 10\%$  discounts, 5 days WAMP
- $\leq 8$  MDS - allotment



# Dividend Reinvestment Scheme

- Obtain shareholders' approval
- Circular to shareholders, including
  - potential tax implication
  - odd lots
  - triggering of T/O Code
- Open to all shareholders who has 14 days to submit election notice
- Shareholders can elect to receive shares, cash or both.
- Not more than 10% discount

# Continuing Listing Obligations

(Chapter 8)

# Shareholding Spread (PN19/GN13)

## Initial listing

- $\geq 25\%$
- minimum 1000/200 public shareholders holding not less than 100 shares

## Continuing listing

- $\geq 25\%$
- no minimum no. of public shareholders

- Bursa SHALL suspend and de-list:-
  - Take-over offers - upon announcement that  $\geq 90\%$  shares are held by a shareholder and/or associates
  - Corporate proposals - upon announcement that 100% of shares are held by a shareholder (singly or jointly with its associates)
  - Where the spread is 10% or less

# Shareholding Spread

Market Capitalisation	(Subject to Bursa's Approval)
>RM1b but <RM3b	At least 20%
=>RM3b	At least 15%

Upon application with eligibility criteria:

- Sufficiency of liquidity in the securities
- Orderliness of trading of the securities
- Good corporate governance and compliance records
- Reasonable justification necessitating the lower public spread

# Cash Companies

- Practice Note No. 16 (PN16)/Guidance Note No. 2
- Notify Bursa immediately
- The assets (consolidated basis)  $\geq$  70% of cash and/or short term investments
- Exceptions - FIs, POs, ETFs, Closed-end funds, REITs, IPCs and SPACs

# Cash Companies - Requirements

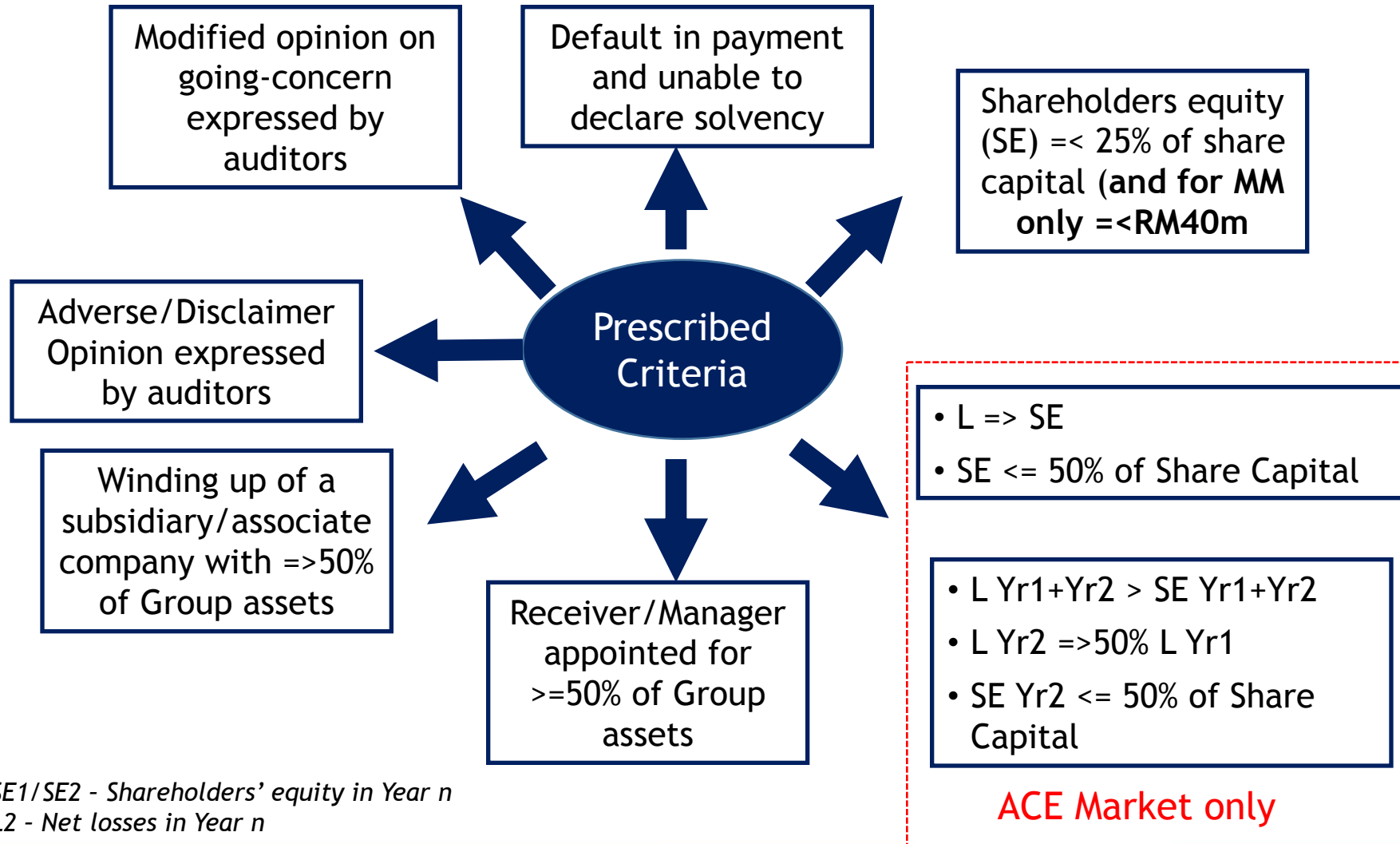
- Place 90% in cash or short-dated securities, cannot withdraw except for
  - to implement regularisation proposal; or
  - to distribute to shareholders if fail to regularise
- Account operated by custodian
- ACE Market company – appoint Sponsor with 3 months
- Submit regularisation proposal to SC/Bursa within 12 months
- Implement approved proposal within 6-to-12 months of approval
- Failure to regularise – may be suspended or delisted

# Level of Operations

- Maintain adequate level of operations at all times
  - Cannot have major portion of business suspended or ceased - => 70% of revenue
  - Cannot have insignificant business or activities - revenue =<5% of issued and paid-up capital

# Financial Conditions

## PN17/GN3 Triggering Criteria



SE/SE1/SE2 - Shareholders' equity in Year n  
L1/L2 - Net losses in Year n



# Corporate Disclosure

(Chapter 9)

# Immediate Disclosure

- Timely disclosure of material information
- Material information:-
  - price/value/market activity of a listed issuer's securities
  - the decision of a securities holder or an investor in determining his choice of action
- Events that requires immediate disclosure to:
  - public (Para 9.04)
  - Bursa(Para 9.19)

# Periodic Disclosures

- Quarterly results =< 2 months to Bursa
- Annual report/accounts =< 4 months to Bursa and shareholders
- Electronic format, upon request, hard-copy available in 4 MDS
- Exceed deadline - possible suspension after 5 MDS and delisting after 6 months
- Request for extension for submission - at least 15 days before expiry date
- Not able to submit on deadline - announce to Bursa at least 3 MDS

# Transactions

(Chapter 10)

# Obligations for Transactions

- Acquisitions or disposals (or option to) of assets by a PLC or subsidiaries except for transactions between a PLC (or any of its wholly owned subsidiaries) and its wholly owned subsidiary
- Exclude transactions which are of a revenue nature in the ordinary course of business

<b>% Ratios</b>	<b>Provided value <math>\geq</math> RM500k/RM200k</b>
< 5%	Announcement if consideration is wholly/partly in securities for which listing is sought
$\geq$ 5%	Announcement
$\geq$ 25%	Announcement + circular to shareholders + shareholders' approval <i>(Valuation for real estate transaction)</i>

# Related Party Transactions (RPT)

Transactions by PLC or subsidiaries which involves, the interest, direct and indirect, of a related party, includes :-

- acquisitions or disposals of assets (including securities)
- establishment of joint ventures
- provision of financial assistance
- provision or receipt of services
- business transactions or arrangements

But exclude:

- transactions between PLC (or any of its wholly owned subsidiaries) and its wholly owned subsidiary

*"Interest" - includes but is not limited to directorships, shareholdings (direct or deemed) and commission/benefits received*

# Related Parties

## Directors

- Of the PLC or subsidiaries or holding company (including any person who was a director/major shareholder within last 6 months)
- Exclude subsidiary of holding company

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## Persons connected to a director/major shareholder

- Family members
- Related cos. (subsidiaries, holding cos or sub. of holding cos)
- Body corporate to which can exercise or control the exercise of => 15% of voting shares
- Any company whose directors take instructions/directions to act from major shareholders.

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## Major shareholders

- Exclude shareholders with:
- < 5%; or
  - > 5% but < 10% if he is not the largest shareholder.

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## CEOs

# Obligations for RPT

<b>% Ratios</b>	<b>Provided value <math>\geq</math> RM500k / RM200k &amp; Not RRPT</b>
= / > 0.25%	Announcement
= / > 5%	Announcement + circular to shareholders + appointment of independent adviser (IA) + shareholders' approval <i>(Valuation for real estate transaction)</i>
= / > 25%	<ul style="list-style-type: none"><li>• Appointment of Principal Advisor (before proposal)</li><li>• Announcement + circular to shareholders + appointment of IA + shareholders' approval</li></ul>



# Revenue Nature Recurrent RPT (PN12)

Recurrent Transaction  
(Recurrent related party transactions of a revenue or trading nature, which are necessary for day-to-day operations)

Seek specific approval

OR

Seek general mandate

## Conditions

- In the ordinary course of business
- Terms not more favourable to the related party than those generally available to public
- Mandate subject to annual renewal
- Disclosure in annual report
- Circular to shareholders to include prescribed information
- Interested persons to abstain from voting

## PN No 12/2001/GN 12 clarifies -

- disclosure obligations relating to Recurrent Transactions
- application of the relevant provisions to Recurrent Transactions
- additional information to be provided in circular

# RRPT - Immediate Announcement

If does not come within a mandate,

- where the consideration, value of the assets, capital outlay or costs of the RRPT is equal to or exceeds RM1 million;
- or the % ratio of such RRPT is equal to or exceeds 1%:-
  - Whichever is the higher in relation to a PLC with an issued and paid up capital of RM60 million or more; and
  - Whichever is the lower in relation to a PLC with an issued and paid up capital of less than RM60 million.

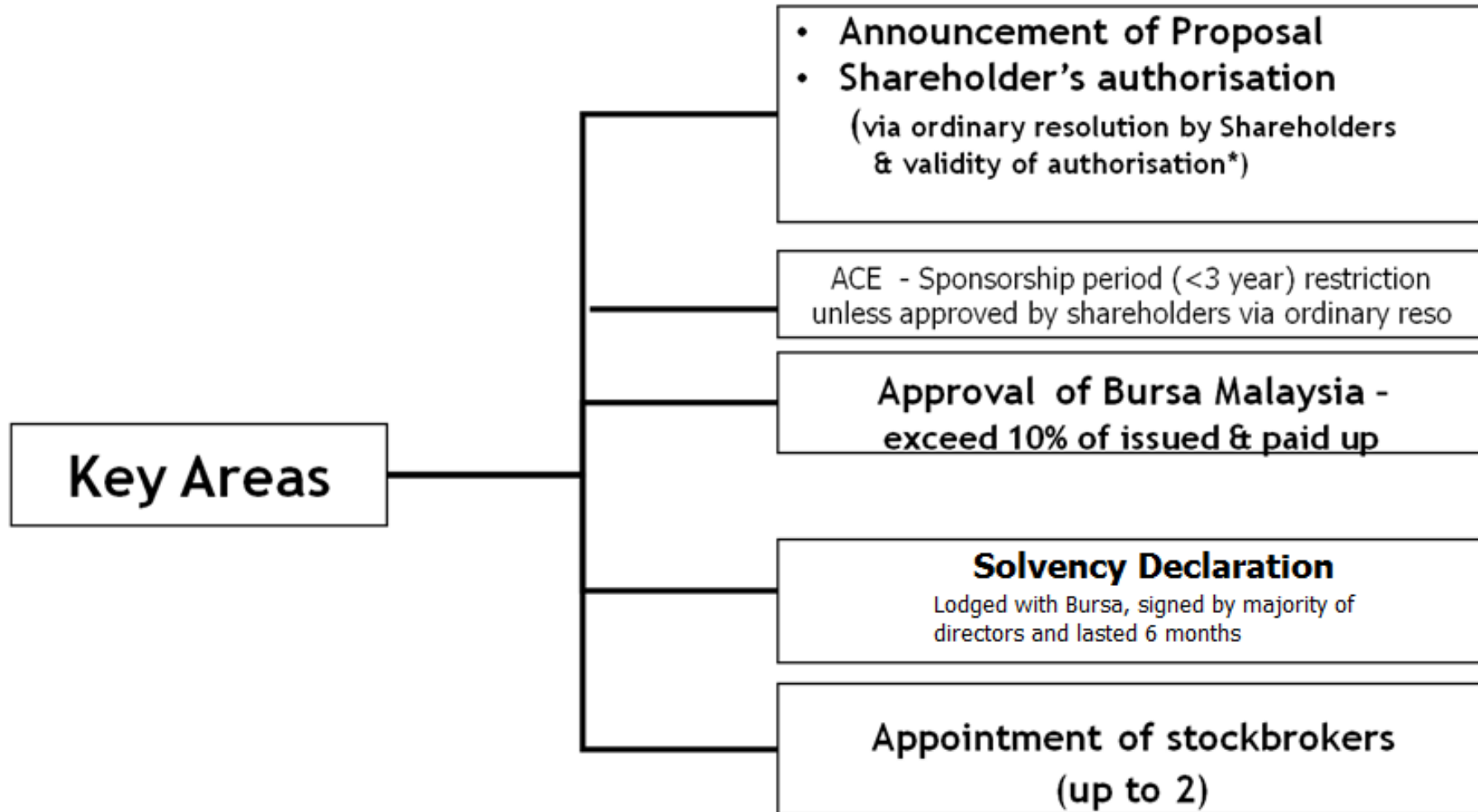
# Principles of Aggregation - Illustration

Transaction Date	Transactions - PLC and A, a non-related party
January 20X1	Transaction 1 where highest % ratio is 1%.
February 20X1	Transaction 2 where highest % ratio is 4%.
March 20X1	Transaction 3 where highest % ratio is 6%.
April 20X1	Transaction 4 where highest % ratio is 16%.
May 20X1	Transaction 5 where highest % ratio is 6%

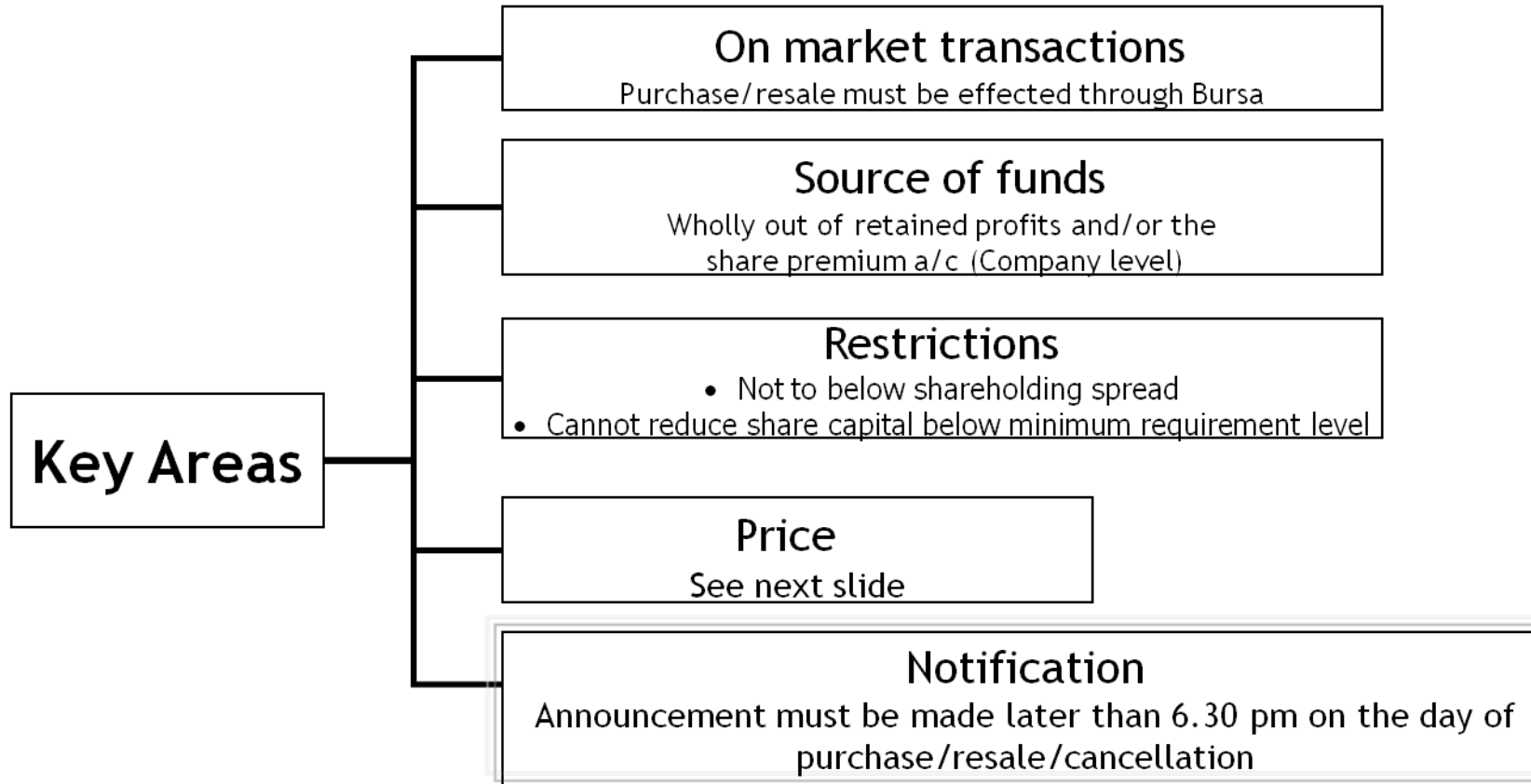
What is the obligation of PLC in relation to Transactions 1 – 5?

# Share Buy-Backs (Chapter 12)

# Pre-Implementation



# Implementation



# Price

## ➤ Purchase price

- $\leq 15\%$  preceding 5 MDS WAMP

## ➤ Resale price

- If  $< 30$  days of buy-back,  $\Rightarrow$  preceding 5 MDS WAMP
- If  $\Rightarrow 30$  days of buy back,  $\leq 5\%$  discount of preceding 5 MDS WAMP but  $\Rightarrow$  cost of buy back

# Post-implementation

## Disclosure in the annual report

- Monthly breakdown of purchases
  - number of shares purchased
  - purchase price per share or highest, lowest and average price
  - total consideration paid
- Monthly breakdown of resales
  - number of treasury shares resold
  - resale price of each share or highest, lowest and average price
  - total consideration received
- Details of shares retained as treasury shares
- Details of shares cancelled



# Arrangements & Reconstructions (Chapter 13)

# Announcement and Criteria

- Immediate announcement to Bursa Malaysia
- Approval from Bursa and shareholders
- Criteria for sub-division of shares
  - a) share price must not be less than RM0.50 based on the daily closing price the 3 month period before the application date;
  - b) the issued and paid-up capital must be unimpaired by losses on a consolidated basis
  - c) NOT a Cash Company or PN17/GN3 Issuer

# Dealing in Listed Securities (Chapter 14)

# Dealing Restrictions

Directors and principal officers must not deal in listed securities during :-

- Closed periods
  - from 1 month prior to the targeted date of announcement of quarterly results until after announcement is made
- Other than closed periods
  - whenever in possession of price sensitive information that is not generally available

# Corporate Governance (Chapter 15)

# Directors

- > 50% of BOD meetings
- =< 5 listed companies
- Adequate independent directors
- Nomination Committee - non-executive, majority independent
- Audit Committee - no less than 3 members
  - Non-executive, majority independent
  - At least one member a MIA member or possess recognised qualification
  - Fill vacancy within 3 months
- Internal audit - reports to Audit Committee

# Suspension, Delisting & Enforcement (Chapter 16)

# Trading Halt

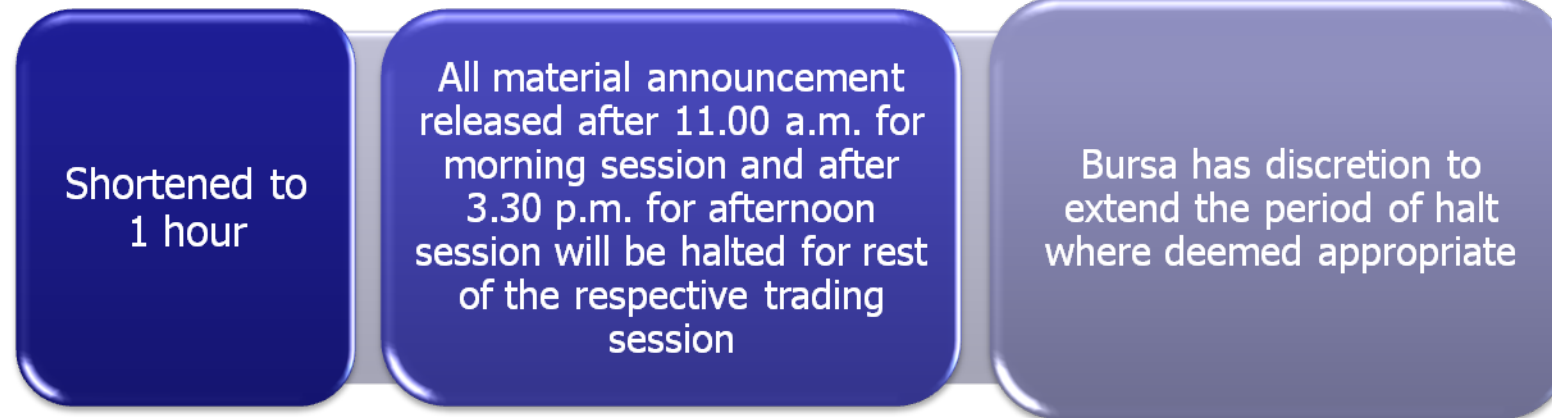
(for material announcements)

- Interim financial reports, bonus issues, share split/consolidation or other fund raising exercise
- Chapter 10 transactions
- Declaration of a dividend or distribution
- Change in the controlling shareholder
- Notice of take-over being served
- Commencement of winding-up proceedings
- Rejection of the corporate proposals previously announced
- Financial estimate, forecast, projection or internal targets and any circumstances or development which are likely to materially affect the results/outcome;
- Response to a rumour or report or UMA
- Events affecting share price or decision of shareholder.



# Trading Halt - Timing

## Trading Halt



## Request for suspension

- ❖ The above trading halt timeframe is not applicable for voluntary request for suspension
- ❖ Notice for request for suspension shortened to 1 hour

# Circumstances of suspension (16.02)

- Substantial corporate exercise or restructuring
- Conversion exercise of singly quoted shares to separately-quoted shares
- When necessary or expedient to maintain an orderly and fair market
- For a breach of the LR
- Upon notice by SC in certain specified circumstances
- Any circumstances as provided under the LR such as where the listed issuer's financial condition or shareholding spread does not warrant continued trading
- Upon maturity of a debt security, warrant, convertible security or call warrant
- Where public spread is less than 10%
  - After 30 days if listing status is to be maintained
  - After 5 market days if listing status is not to be maintained

# Voluntary Suspension

- A listed issuer may request for voluntary suspension
- The granting of suspension is at Bursa Securities' discretion
- Practice Note No 2/Guidance Note 12 is applicable

# Period for Suspension

(for announcements)

- Up to 3 market days only
  - a very substantial transaction
  - a significant change in the business direction or policy of a listed corporation.
- Up to 1 market day only (for ‘very material announcements’)
  - an interim financial report;
  - a bonus issue or fund raising exercise;
  - a transaction where the percentage ratio is 25% or more;
  - a notice of take-over being served on a listed issuer which the public has no prior knowledge of any other corporate exercise.
- Full market day - 9.00am to 5.00pm

# Circumstances of de-listing

- Failure to comply with the LR (Chapter 8)
- Where Bursa Securities is of the view that circumstances exist that do not warrant continued listing

# Withdrawal of Listing

- Bursa's discretion to grant a listed issuer's request
- Requirements:-
  - the shareholders' **approval**
  - the shareholders are offered a reasonable cash or other alternative
  - an independent adviser is appointed
  - the necessary application filed
  - any other conditions by Bursa

# Enforcement - Type of Actions

## Against the listed company

- Issuance of letter of rectification, caution letter or a public or private reprimand
- Imposition of fine not exceeding RM1 million
- Non-acceptance of applications or submissions (after consultation with the SC)
- Suspension
- De-listing (after consultation with the SC)
- Imposition of conditions for compliance
- Imposition of conditions on delivery or settlement of trades

# Enforcement - Type of Actions

## Against directors/officer/any other person to whom the LR are directed

- Issuance of letter of rectification, caution letter or a public or private reprimand
- Imposition of fine not exceeding RM1 million
- Moratorium on/prohibition of dealings in securities
- Imposition of conditions for compliance
- Any other action deemed appropriate



# Enforcement - Type of Actions

## Against advisers

- Issuance of letter of rectification, caution letter or a public or private reprimand
- Imposition of fine not exceeding RM1million
- Non-acceptance of application or submissions (after consultation with the SC)
- Imposition of conditions for compliance
- Any other action deemed appropriate

# LEAP MARKET Listing Requirements



[www.sidc.com.my](http://www.sidc.com.my)

**SIDC**

# Admission (Chapter 3)

- Must be a Malaysia-incorporated public company
- Apply through an Approved Adviser
- Must have a clearly identifiable core business i.e. not a subsidiary of Main/ACE listed company, an investment holding co. or an incubator eligible for Main Market listing
- At least 10% shareholding spread at point of admission
- Must maintain services of a Continuing Adviser for (whichever is later):
  - at least 3 years after admission, or
  - at least 1 full financial year after generated operating revenue

# Admission (Chapter 3)..continue

- Method of offering
  - New issue of securities through a public offer, placement or book building
  - Existing securities by way of introduction
- Placement - through an Approved Adviser and must avoid any conflict of interest
- No offer for sale by promoters unless:
  - Generated 1 full financial year OPERATING PROFIT;
  - Promoters are VC/PE registered with the SC; and
  - Promoters must hold at least 45% of the share capital at admission.

# Admission (Chapter 3)..continue

- Moratorium of promotor's shares
  - 12 month after admission
  - Hold at least 45% (including convertibles exercisable securities) for another 36 months, and at least generated 1 full financial year of operating revenue
- Monies from investors placed in a trust account held by a custodian until completion of listing
- Information memorandum, no prospectus required
- No audit committee nor independent director

# Advisers (Chapter 4)

	Approved Advisers	Continuing Advisers
Roles	<p>Pre &amp; Post-listing activities</p> <ul style="list-style-type: none"> <li>• Admission application</li> <li>• Suitability assessment (Para 4.10)</li> </ul>	<p>Post-listing activities</p> <ul style="list-style-type: none"> <li>• Continuing listing obligations (Para 4.17)</li> </ul>
Qualifications	<ul style="list-style-type: none"> <li>• A CF Adviser licensed by the SC</li> <li>• At least 1 Eligible Person (Para 4.02 (3)(b))</li> <li>• Maintain sufficient professional liability insurance</li> <li>• Satisfactory reputation and work record</li> </ul>	<ul style="list-style-type: none"> <li>• A CF adviser licensed by the SC</li> <li>• Satisfactory reputation and work record</li> </ul>
Others		<p>If resigned/terminated and no replacement after 3 months, Bursa may commence suspension, and delisting after 6 months</p>

# New Issues of Securities (Chapter 5)

- Shareholder's approval for new issue of securities unless general mandate is given
- Under general mandate, not more than 100% of issued share capital and not more than 50% to non-pro rata basis
- For issuance to interested parties (directors, major shareholders, CEO and connected parties) under general mandate, approval must be given expressly and not more than 10% of share capital.
- Immediate announcement to Bursa a proposed new issue of securities

# New Issues of Securities (Chapter 5)

## ..continue

- Placement - provide details of placee to Bursa before listing of the new securities
- Rights issues - non-renounceable and not more than existing share capital. No abridged prospectus required, notify shareholders immediately after announcement to Bursa
- Bonus issue - consult with Bursa before announcement with/without adviser
- Warrants - when exercise, must  $\leq 50\%$  of share capital



# Continuing Listing Obligations (Chapter 6)

- Immediate disclosure of material information to public (Rule 6.08)
- Immediate disclosure of significant events to Bursa (Rule 6.11)
- Immediate clarification, confirmation or denial of any rumour or report, true or false that contains material information, after making due enquiry
- Investigation into the cause of any unusual price movement and trading, and immediate disclosure to Bursa on its findings accordingly
- Not to use any promotional disclosure activity which may mislead investors or cause unwarranted securities price movement and trading

# Continuing Listing Obligations (Chapter 6)..continue

- Semi-financial statements - announcement to Bursa 2 months after period ended
- Annual audit financial statements - announcement to Bursa 4 months after period ended
- Bursa may suspend trading of securities after 5 MDS after deadline
- Fail to announce after 6 months, Bursa may commence delisting

# Transactions (Chapter 7 )

Types of transaction (>=RM250k)	Disclosable Transaction	RPT
>5%	-	Announcement to Bursa
>10%	Announcement to Bursa	Issue circular to shareholders and obtain approval at a general meeting
>25%	Issue circular to shareholders and obtain approval at a general meeting	

# Suspension, De-listing and Enforcement (Chapter 8 )

- As per Chapter 16 of MMLR/ACELR



# ADVISORY SERVICES (Rules & Regulations)

THE END – THANK YOU



**SIDC**