

QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD LISTING REQUIREMENTS FOR THE ACE
MARKET
(As at 13 July 2015)

CHAPTER 1 – DEFINITIONS AND INTERPRETATION

1.2 Definition of “independent director”

- (iv) **What are the examples of "adviser" used in sub-Rule (f) of the said definition?**

"adviser" is as defined in Rule 1.01 of the ACE LR and includes, amongst others, Advisers or Sponsors, advocates and solicitors, licensed investment banks~~merchant banks~~, universal brokers, tax consultants, accounting firms etc offering professional advisory services to the listed corporation or its related corporation.

CHAPTER 3 - ADMISSION**Pre-admission consultation**

3.0 The ACE LR states that a potential applicant is strongly encouraged to consult Bursa Securities prior to its application for admission to the Official List.

(a) Who from the potential applicant should attend the pre-admission consultation with Bursa Securities?

Bursa Securities expects the key promoters, chief executive officer or chief financial officer to attend the pre-admission consultation. A potential applicant may consult with Bursa Securities, with or without a Sponsor.

(b) What does a potential applicant need to prepare for a pre-admission consultation with Bursa Securities?

A potential applicant would first need to make an appointment with the Listing Division, ACE Market Department for pre-admission consultation. It should then furnish to Bursa Securities the documents and information set out in Appendix 3A of the ACE LR at least 1 week prior to its consultation. However, even where the potential applicant is unable to furnish some of the documents and information set out in Appendix 3A to Bursa Securities, the potential applicant may still be able to engage in the pre-admission consultation.

(c) Is there a fee payable by the potential applicant to Bursa Securities for a pre-admission consultation?

No, the pre-admission consultation with Bursa Securities is free of charge.

(d) Can the potential applicant request for more than one pre-admission consultation with Bursa Securities?

Yes, the potential applicant may request for more than one pre-admission consultation with Bursa Securities, if necessary.

Criteria for admission

3.4A Paragraph 3.2 of the Guidance Note 18 in the ACE LR prescribes amongst others, that an applicant is generally not regarded as suitable for listing if its business is loss making, shows declining profits which may raise doubt on its potential or it suffers from low profitability and without any growth in financial results (“Negative List”). However, such applicant may still be considered for listing if it is an innovative company involved either in technology-based business or research and development or it has taken steps to improve its financial performance or it has strategy to revive its business in the future, and there are acceptable justifications on the prospects of the applicant’s business.

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(a) Is there a specific quantum and time frame applicable in assessing whether the applicant's business is loss making, shows declining profits or suffers from low profitability without any growth in financial results?

No, there is no specific quantum and timeframe which will be applied as the criteria will operate on a case by case basis, having considered the relevant facts and circumstances.

(b) Does an applicant which triggers the Negative List need to include prospective financial information in an initial listing application to Bursa Securities to justify the prospect of its business?

No, an applicant is not required to include prospective financial information in an initial listing application to Bursa Securities pursuant to the ACE LR. Submission of any prospective financial information by an applicant is purely voluntary in nature.

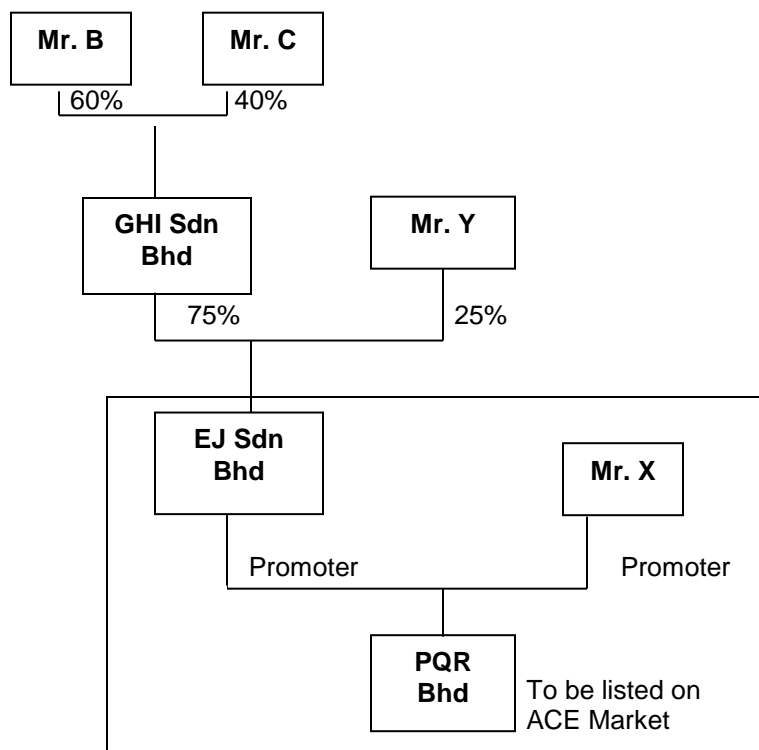
(c) Would the requirements relating to Negative List apply to assets to be injected in a listed corporation, resulting in a significant change in business direction or policy of the listed corporation?

Yes, the same requirements relating to Negative List would also be applicable to assets injected in a corporation, resulting in a significant change in business direction or policy.

Methods of offering of securities

- 3.15 EJ Sdn Bhd and Mr. X are the promoters of PQR Bhd, a corporation which intends to list on the ACE Market. EJ Sdn Bhd is an unlisted corporation.

A chart depicting the corporate structure of PQR Bhd is as follows:



- (a) Are the promoters of PQR Bhd required to provide Bursa Securities with an undertaking that they will comply with the moratorium requirements set out in Rule 3.19 of the ACE LR?

Yes, all the promoters of PQR Bhd are required to provide Bursa Securities with the undertaking on moratorium. As such, both EJ Sdn Bhd and Mr. X must give the said undertaking to Bursa Securities.

- (b) In the case of EJ Sdn Bhd, are its shareholders also required to provide Bursa Securities with the undertaking that they will comply with the moratorium requirements set out in Rule 3.19 of the ACE LR?

Rule 3.19(2) of the ACE LR provides that where the promoters of an applicant seeking listing on the ACE Market or a vendor of the asset in a reverse take-over/back-door listing is an unlisted corporation, all direct and indirect shareholders of the unlisted corporation (whether individuals or other unlisted corporation) up to the ultimate individual shareholders must give undertakings to

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Bursa Securities that they will comply with the moratorium requirements set out in Rule 3.19 of the ACE LR.

As EJ Sdn Bhd is an unlisted corporation, all its shareholders (whether individuals or other unlisted corporation) up to its ultimate individual shareholders, must provide the undertaking on moratorium to Bursa Securities in compliance with Rule 3.19(2) of the ACE LR. Hence, GHI Sdn Bhd, Mr. Y, Mr. B and Mr. C are required to give the undertaking on moratorium to Bursa Securities.

3.15A Mr. X is the founder and has 60% equity interest in GHI Bhd, a corporation which intends to list on the ACE Market. He is also the managing director of GHI Bhd and an accredited Angel Investor with Malaysian Business Angel Network. In respect of the shares held by Mr. X in GHI Bhd, will Mr. X be entitled to a moratorium period of 6 months only pursuant to Rule 3.19(1A)(a)(ii)?

No. The nature of Mr. X's investment in GHI Bhd is not as an angel investor, but as a promoter that drives its business. As such, he is not entitled to the 6 months moratorium period stipulated in Rule 3.19(1A)(a)(ii) in respect of his shares held in GHI Bhd. Both GHI Bhd and Mr. X will have to ensure full compliance with Rule 3.19(1) of the ACE LR.

3.15B What is meant by the quantitative criteria for admission to the Main Market of the Exchange in Rule 3.19(1A)(b), Rule 3.19(1B) and Rule 3.21(2A)?

The quantitative criteria for admission to the Main Market as stated in these rules refers to the profit test or market capitalisation test as set out in the SC Equity Guidelines, which is accessible at <http://www.sc.com.my/legislation-guidelines/equity/>.

3.15C JKL Bhd, a corporation listed on the ACE Market, enters into several acquisitions post-listing. Based on the pro-forma accounts, the enlarged group meets the quantitative criteria for admission to the Main Market of Bursa Securities.

Can JKL Bhd and its promoters apply to Bursa Securities to be exempted from continued compliance with Rules 3.19(1)(b) and 3.19(1)(c) of the ACE LR based on the pro-forma accounts?

No, JKL Bhd and its promoters may only apply to Bursa Securities to be exempted from continued compliance with Rules 3.19(1)(b) and 3.19(1)(c) pursuant to Rule 3.19(1B) after the first audited consolidated financial statements of the JKL Bhd show that it has met the quantitative criteria for admission to the Main Market of Bursa Securities.

3.15D Apart from the shares a promoter holds in a listed corporation prior to listing, what other type of securities held by the promoter which would also be placed under the moratorium pursuant to Rule 3.19(1A) and 3.19(1D)?

Such securities include all shares in the listed corporation issued to the promoters during the moratorium period, and all shares issued arising from the conversion or exercise of any convertible securities or warrants held by the promoters as at the date of listing of the listed corporation on the ACE Market. The enlarged number of shares to be held under moratorium is in proportion stated in Rule 3.19(1)(a) to (d).

CHAPTER 4 – SPONSORS

Eligibility, roles and responsibilities of a Sponsor

- ~~4.7 Would Rule 4.12(a), which requires a Sponsor to be co-signatory for all correspondences between a Sponsored Corporation and Bursa Securities be applicable also to the Public Documents referred to in Rule 4.10(1)(a) to (c)[†] that are submitted or disclosed by a Sponsored Corporation to Bursa Securities?~~

~~No, Rule 4.12(a) of the ACE LR is not applicable to the Public Documents referred to in Rule 4.10(1)(a) to (c) that are submitted or disclosed by a Sponsored Corporation to Bursa Securities. [Deleted]~~

Resignation and termination of a Sponsor

- ~~4.11 X is the Sponsor who makes an application for listing on behalf of A Bhd. A Bhd is listed on the ACE Market on 1 September 2009. Based on Rule 3.21 of the ACE LR, A Bhd must secure and maintain the services of a Sponsor for at least 3 full financial years after its admission to the Official List, and extended to at least 1 full financial year after the applicant has generated operating revenue. A Bhd financial period ends on 31 December 2010. Assuming the first full financial year of A Bhd ends on 31 December 2010.~~

- ~~(a) Can X resign or A Bhd terminate X's appointment as the Sponsor of A Bhd before 31 December 2010?~~

~~No, based on Rule 4.18 of the ACE LR, X who makes a listing application on behalf of an applicant must act as the Sponsor for at least 1 full financial year after admission. During the said period, X cannot resign, neither can A Bhd terminate X's appointment as its Sponsor.~~

- ~~(b) Can X resign or A Bhd terminate X's appointment as A Bhd's Sponsor automatically after 31 December 2010?~~

~~No, X must seek Bursa Securities' approval if it intends to resign as a Sponsor. Similarly, A Bhd must seek Bursa Securities' prior approval if it intends to terminate X's appointment as its Sponsor. X or A Bhd, must provide detailed reasons for its application.~~

~~It depends on whether A Bhd has found a replacement Sponsor to succeed X. Based on Rule 4.19(1), if a replacement Sponsor has been found, X can resign by notifying Bursa Securities of the proposed resignation, together with the detailed reasons for the resignation. However, if no replacement Sponsor has~~

~~[†]The Public Documents referred to in Rule 4.10(1)(a) to (c) of the ACE LR are—~~

~~(a) — the annual audited financial statements issued by the Sponsored Corporation;
(b) — announcements made by the Sponsored Corporation as referred to in Rule 9.17(2)(a); and
(c) — where the Sponsored Corporation has appointed, an entity other than the Sponsor to be an Adviser for the purpose of~~

~~preparation or submission of the Public Document to Bursa Securities.~~

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been found, X must seek the Exchange's prior approval for its proposed resignation, together with the detailed reasons for the resignation.

- (c) **On 1 June 2011, X decides to resign as a Sponsor in A Bhd. A Bhd agrees to X's resignation and has found Y as its new Sponsor, who is willing to take over X as A Bhd's Sponsor immediately. Must X ~~still~~ seek Bursa Securities' approval for its resignation?**

~~Yes, pursuant to Rule 4.19(a) of the ACE LR, even though A Bhd has found a replacement sponsor, X must still seek Bursa Securities' prior approval before X can resign as A Bhd's Sponsor. X must provide the detailed reasons for its application for Bursa Securities' approval.~~ No, pursuant to Rule 4.19(1)(a) of the ACE LR, X only needs to notify Bursa Securities together with detailed reasons for its resignation.

- (d) **If X intends to resign as A Bhd's Sponsor but A Bhd refuses to accept X's resignation, what can X do to end the sponsorship?**

Notwithstanding A Bhd's objection, X may apply to Bursa Securities to resign as A Bhd's Sponsor. X must provide the detailed reasons for its application. Based on Rule 4.19(3b) of the ACE LR, Bursa Securities will not grant its approval unless ~~the Sponsored Corporation has found a replacement sponsor or~~ there are exceptional circumstances which warrant the consideration of Bursa Securities.

- (e) **Further to Question (d) above, what are the exceptional circumstances under which Bursa Securities may consider in allowing a resignation or termination of X as A Bhd's Sponsor?**

Generally, Bursa Securities will consider whether the parties have acted "reasonably". The exceptional circumstances which Bursa Securities may consider X's resignation or termination as A Bhd's Sponsor include circumstances where –

- (i) there is an irreconcilable breakdown in the relationship between X and A Bhd; or
- ~~(ii) A Bhd refuses or fails to pay the sponsorship fees to X; or~~
- (iii) X is no longer qualified to act as a Sponsor for any reasons, including not having the minimum number of Qualified Senior Personnel or being removed from the Register of Sponsors by Bursa Securities.

The parties must substantiate their application with the relevant facts and information.

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- (f) **Assuming X resigns as A Bhd's Sponsor and A Bhd appoints Y as its new Sponsor for the remaining sponsorship period. Must A Bhd still include a statement in the Public Documents that its admission was sponsored by X for the remaining sponsorship period?**

Yes, pursuant to Rule 4.27(2) of the ACE LR, even though X has ceased to be A Bhd's Sponsor, A Bhd must still include X's name as its listing sponsor on all Public Documents issued by A Bhd during the remaining sponsorship period.

- (g) In a case where A Bhd applies for and obtains an exemption from Bursa Securities from continued compliance with the remaining sponsorship period pursuant to Rule 3.21(2A), must A Bhd still state in the Public Documents that its admission was sponsored by X after the date the exemption was obtained?

No, A Bhd would not be required to state that its admission was sponsored by X in the Public Documents issued after the effective date of the exemption.

- 4.12 **A Sponsor's resignation or termination is approved by Bursa Securities in the second year of sponsorship under some exceptional circumstances, even though no replacement Sponsor has been found. What action will Bursa Securities take if after the expiry of the 3 months from the date of Bursa Securities' approval, a Sponsored Corporation has yet to find a replacement sponsor?**

Pursuant to Rule 4.19(5e) of the ACE LR, if a Sponsored Corporation fails to find a replacement Sponsor after the expiry of the 3 months from the date of Bursa Securities' approval ~~notice period~~, Bursa Securities shall suspend trading in the Sponsored Corporation's listed securities. If the Sponsored Corporation still fails to find a replacement sponsor at the end of 2 months after the expiry of the 3 months period, Bursa Securities shall automatically de-list the Sponsored Corporation.

CHAPTER 8 – CONTINUING LISTING OBLIGATIONS

Shareholding spread

8.3 On 5 August 2009, *D Bhd*'s public shareholding spread is 18% of its total listed shares (excluding treasury shares).

(c) When will the trading of securities of *D Bhd* be suspended after its announcement in Question (b) above?

Pursuant to Rule ~~16.06(2)(a)~~ 16.02(2)(a) of the ACE LR, Bursa Securities shall suspend trading of securities of *D Bhd* upon expiry of 30 market days from the date of *D Bhd*'s announcement. However, if the public shareholding spread of *D Bhd* increases to above 10% before the expected date of suspension, *D Bhd* should immediately inform Bursa Securities of its improvement in its public spread and seek its confirmation on whether the suspension will still be imposed.

In addition, where appropriate, Bursa Securities may also take such enforcement action as it deems fit against *D Bhd* pursuant to Rule 16.19 of the ACE LR.

Financial assistance

8.42 ~~Rule 8.25(4)(c) of the ACE LR stipulates that the requirements under Rule 8.25(1), (2) and (3) are not applicable to a corporation which is registered as a scheduled institution with and supervised by Bank Negara Malaysia under the Banking and Financial Institutions Act, 1989 (“BAFIA”). What are instances where a scheduled institution is regarded as being “supervised by Bank Negara Malaysia”? In the absence of a specific regulatory framework governing “scheduled institutions” in the Financial Services Act 2013 which replaces the Banking and Financial Institutions Act 1989 (“BAFIA”), Rule 8.25(4)(c) of the ACE LR has been deleted, which previously exempted scheduled institutions which were registered and supervised by Bank Negara Malaysia under the BAFIA from complying with the requirements in Rule 8.25. Does it mean that all corporations which were previously “scheduled institutions” under the BAFIA must now comply with Rule 8.25 in full?~~

~~A scheduled institution is regarded as being supervised by Bank Negara Malaysia where it is subject to any or all the provisions of Part V, VI, VII, VIII, IX, X and XIII of BAFIA pursuant to section 24 of BAFIA.~~

~~Only corporations which were previously “scheduled institutions” and which are no longer subjected to Bank Negara Malaysia’s regulation and supervision² must now adhere strictly to the requirements set out in Rule 8.25 when providing financial assistance.~~

² ~~For example, corporations which carry out building credit business, factoring or leasing business or development finance institutions which are not prescribed under the Development Financial Institutions Act 2002.~~

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On the other hand, previous “scheduled institutions” such as the development finance institutions which are prescribed under the Development Financial Institutions Act 2002³, and therefore, still regulated and supervised by Bank Negara Malaysia will continue to enjoy the exemption from the provision on financial assistance under Rule 8.25(4)(b) of the ACE LR.

³ The existing prescribed development finance institutions are:

- (a) Bank Pembangunan Malaysia Berhad;
- (b) Bank Perusahaan Kecil & Sederhana Malaysia Berhad (SME Bank);
- (c) Export-Import Bank of Malaysia Berhad (EXIM Bank);
- (d) Bank Kerjasama Rakyat Malaysia Berhad;
- (e) Bank Simpanan Nasional; and
- (f) Bank Pertanian Malaysia Berhad (Agrobank)

CHAPTER 9 – CONTINUING DISCLOSURE

Periodic disclosures – annual report

9.40 What is the definition of “relevant regulatory bodies” referred to in item (18) of Appendix 9C?

“Relevant regulatory bodies” refers to any regulator that regulates a listed corporation or its subsidiaries or any authority or organisation which regulates the business activity of a listed corporation or its subsidiaries. This includes Bursa Securities, the SC, Bank Negara Malaysia, the Companies Commission of Malaysia, the Employees Provident Fund, the Inland Revenue Board, the Department of Environment and, the local municipal councils, ~~and associations referred to in section 22(1) of the Insurance Act 1996.~~

Circular and other requirements

9.47 ~~Under Rule 9.30 of the ACE LR, Bursa Securities will not be perusing circulars and documents before they are issued to the holders of listed securities. Will this apply to all circulars and documents?~~

~~No. Bursa Securities will still review the draft circulars and documents issued by listed corporations for the following proposals before they are issued to the holders of listed securities:~~

- ~~(a) — a transaction resulting in a significant change in business direction or policy of a listed corporation under Rule 10.11 of the ACE LR;~~
- ~~(b) — a proposal by Cash Company to acquire a new core business under Rule 8.03 of the ACE LR;~~
- ~~(c) — a regularisation plan by a GN3 Company under Rule 8.04 of the ACE LR; or~~
- ~~(d) — an exceptional circumstance where Bursa Securities deems fit.~~

Paragraph 9.30A(2)(c) of the ACE LR provides that the obligation on a listed corporation or offeror in an offer for sale of listed securities to submit a draft copy of all circulars and other documents proposed to be sent to the holders of the listed securities, does not apply, amongst others, to any document that is not prepared by the listed corporation or its advisers on its behalf. What are examples of such documents?

Examples of documents that have not been prepared by the listed corporation or its advisers on its behalf, include amongst others, representations made by directors to the listed corporation pursuant to section 128(3) of the Companies Act 1965 and notices issued by trustees to bondholders pursuant to the provisions of a trust deed.

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9.48 ~~What are the main obligations of a listed corporation and its Adviser or Sponsor, as the case may be, in respect of the circulars or documents which will no longer be perused by Bursa Securities prior to their issuance to securities holders?~~

~~Pursuant to Rule 9.30(2) of the ACE LR, such circulars or documents must include a statement that Bursa Securities has not perused the circulars or documents before issuance. Further, pursuant to Rule 9.30(4) of the ACE LR, the listed corporation must submit the requisite number of copies of the circulars or documents to Bursa Securities together with a checklist showing compliance with the relevant parts of the ACE LR upon issuance of the same to the listed securities holders. The listed corporation, its directors and Adviser or Sponsor, must also ensure that the circulars and documents comply with the ACE LR, including the standard of disclosure prescribed in Rule 9.31 of the ACE LR.~~

What are the main obligations of a listed corporation or the adviser in respect of the Exempt Circulars given that such circulars will not be perused by Bursa Securities?

Pursuant to paragraph 3.2 of Guidance Note 22, the Exempt Circulars must include a statement that Bursa Securities has not perused the circular before its issuance. Further, a listed corporation must submit a checklist showing compliance with the relevant parts of the ACE LR immediately upon issuance of the Exempt Circulars to securities holders. The listed corporation, its directors, Sponsor or adviser, as the case may be, must also ensure that the Exempt Circulars comply with the ACE LR, including the standard of disclosure prescribed in Rule 9.31 of the ACE LR and the prescribed minimum contents, if any, failing which, Bursa Securities may take enforcement action against the listed corporation, its directors, Sponsor or adviser, as the case may be.

9.48A What are the areas that Bursa Securities will focus on in respect of the Limited Review Circulars?

In conducting a limited review, Bursa Securities will only focus on key disclosure areas and not the entire circular. However, Bursa Securities may conduct a full review in circumstances where it deems fit. In any event, listed corporations, their directors, Sponsor or adviser, as the case may be, must ensure the accuracy and completeness of the Limited Review Circulars pursuant to Rule 9.31 of the ACE LR.