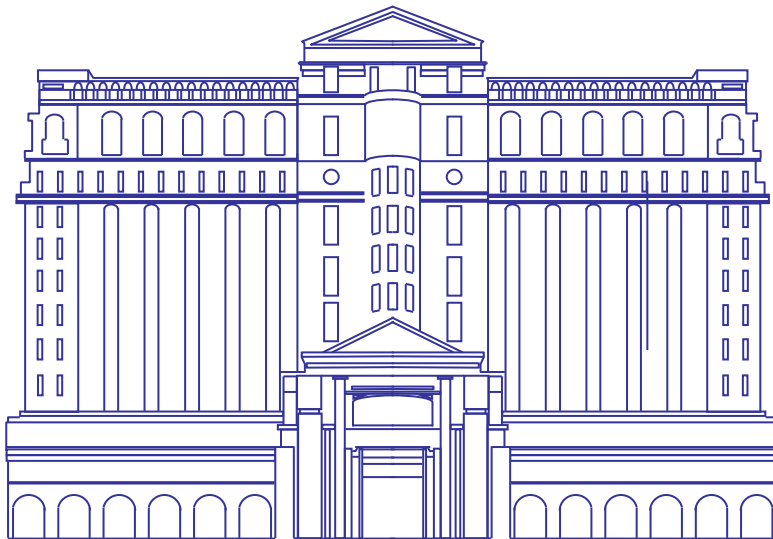




# BOARD CHARTER



As at 6 December 2019

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## 1. Introduction

1.1 The Kuala Lumpur Stock Exchange is a public company incorporated under the Companies Act, 1965 on 14 December 1976 as a public company limited by guarantee. It subsequently changed its name to Kuala Lumpur Stock Exchange (“**KLSE**”) on 26 April 1994. Pursuant to the Demutualisation (Kuala Lumpur Stock Exchange) Act 2003, KLSE was converted from a company limited by guarantee to a company limited by shares on 5 January 2004. KLSE changed its name and assumed its present name as Bursa Malaysia Berhad (“**Bursa**” or “**Company**”) on 14 April 2004, and is deemed registered under the Companies Act, 2016.

1.2 Bursa was listed on the Main Board of Bursa Malaysia Securities Berhad on 18 March 2005.

1.3 The vision, mission and strategic intents of Bursa are as follows:

### Vision of Bursa

To be the preferred partner in Asia for fund raising, trading and investment.

### Mission of Bursa

As the preferred partner, Bursa Malaysia offers a fair and orderly market that is easily accessible with diverse and innovative products and services.

### Strategic Intents

We have a clear goal to become **ASEAN's Multinational Marketplace**. We begin by putting in place four strategic building blocks and move forward by making everything we do matter. We strive to achieve our goal, step by step, success by success.

**Strategic Intent 1** : Create a more facilitative trading environment

**Strategic Intent 2** : Facilitate more tradeable alternatives

**Strategic Intent 3** : Reshape market structure and framework

**Strategic Intent 4** : Regional Marketplace with global access

**Strategic Intent 5** : High Performance Organisation

1.4 Apart from being incorporated as a commercial entity, Bursa is an exchange holding company (“**EHC**”) approved by the Minister for the time being charged with the responsibility for finance (“**Minister**”) pursuant to Section 15(2) of the Capital Markets & Services Act, 2007 (“**CMSA**”).

1.5 As an EHC, Bursa is responsible to ensure<sup>1</sup>:

- (a) an orderly and fair market in relation to securities that are traded on the market through the facilities of the stock exchange of the exchange holding company or through the facilities of any of its subsidiaries that is duly approved as a stock exchange, as the case may be;

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<sup>1</sup> Section 21(1) of the CMSA

- (b) an orderly and fair market for trading in derivatives on the derivatives market through the facilities of the derivatives exchange of the exchange holding company or through the facilities of any of its subsidiaries that is duly approved as a derivatives exchange, as the case may be;
- (c) that there are orderly dealings in securities deposited or lodged with a central depository through the facilities of a central depository of the exchange holding company or through the facilities of any of its subsidiaries that is duly approved as a central depository, as the case may be;
- (d) that there are orderly, clear and efficient clearing and settlement arrangements for any transaction in securities cleared or settled through the facilities of a clearing house for a stock market of a stock exchange or through the facilities of any of the subsidiaries of an exchange holding company that is an approved clearing house, as the case may be; and
- (e) that there are orderly, clear and efficient clearing and settlement arrangements for any transaction in derivatives cleared or settled through the facilities of a clearing house for a derivatives market of a derivatives exchange or through the facilities of any of its subsidiaries that is duly approved as a clearing house of a derivatives exchange, as the case may be;
- (f) the prudent risk management of its business and operations; and
- (g) that the stock exchange, derivatives exchange, approved clearing house or central depository, as the case may be, comply with any lawful requirements placed on it under any securities laws and any other laws applicable to it.

1.6 In the performance of its duties, Bursa shall<sup>2</sup>:

- (a) act in the public interest, having particular regard to the need for the protection of investors; and
- (b) ensure that where its own interest or any interest that it is required to serve under any law relating to corporations conflicts with the interest referred to in paragraph (a), the latter shall prevail.

1.7 In addition to its duties as prescribed by the CMSA, Bursa will also need to comply with the following:

- (a) the “*Guidance on Self-Listing*”, which sets out the manner in which Bursa will be regulated by the Securities Commission (“**SC**”) as a listed company on the Main Market of Bursa Malaysia Securities Berhad (“**Bursa Securities**”) and includes the arrangement as contemplated by Section 51 of the CMSA; and
- (b) the ‘*Guidance on the Regulatory Role of Bursa*’, which sets out the manner in which Bursa and its subsidiaries shall fulfill their regulatory obligations and functions under the securities laws and their respective rules as an EHC, a stock exchange, a recognised clearing house, a central depository, an exchange company and a clearing house of an exchange company and includes the arrangement as contemplated by Section 21 of the CMSA.

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<sup>2</sup> Section 21(2) of the CMSA

## 2. Purpose

### 2.1 Purpose of the Board

- 2.1.1 The business and affairs of the Company must be managed by, or under the direction of, the Board of Directors<sup>3</sup> (“**Board**”).
- 2.1.2 The Board of Bursa has primary responsibility for the governance and management of the Company, and fiduciary responsibility for the financial and organisational health of the Company.
- 2.1.3 The Board has established a Governance Model<sup>4</sup> for Bursa and its subsidiaries (“**the Group**”), where specific powers of the Board are delegated to the following Board Committees i.e. Governance Committees, Development Committees and Regulatory Committees and the Chief Executive Officer<sup>5</sup> (“**CEO**”) in discharging its functions and responsibilities:-
- (a) Governance Committees comprise the Audit Committee, Risk Management Committee, Governance and Nomination Committee, and Remuneration Committee;
  - (b) Development Committees comprise the Technology and Cybersecurity Committee, and Market Development Committee; and
  - (c) Regulatory Committees comprise the Regulatory and Conflicts Committee, Listing Committee, Market Participants Committee, and Appeals Committee.
- 2.1.4 The Board monitors the functions of the Governance Committees, Development Committees and Regulatory Committees, which correspond to respective subsidiary companies within the Group. The Terms of Reference (“**TOR**”) of the Board Committees are available on Bursa’s website at: [www.bursamalaysia.com](http://www.bursamalaysia.com), About Us-Corporate Governance.

### 2.2 Purpose of the Charter

- 2.2.1 This Board Charter serves as a source reference and primary induction literature, providing insights to existing and prospective board members to assist the Board in the performance of their fiduciary duties as directors of Bursa, being an EHC. It will also assist the Board in the assessment of its own performance and of its individual Directors. This Charter is available on Bursa’s website at: [www.bursamalaysia.com](http://www.bursamalaysia.com), About Us-Corporate Governance.

<sup>3</sup> Section 211 of the Companies Act 2016 (“**Co Act**”), Article 21.1 of the Company’s Constitution

<sup>4</sup> The Terms of Reference of the Board and Board Committees set out their respective roles and responsibilities in line with Practice No. 2.1 of the Malaysian Code on Corporate Governance (“**MCCG**”). The Governance Model documents are available on Bursa’s website at: [www.bursamalaysia.com](http://www.bursamalaysia.com), About Us-Corporate Governance

<sup>5</sup> Guidance No. 1.3 of the MCCG - Cross Reference to Paragraph 8.2 of the Board Charter

### 3. Composition

#### 3.1 Size and Mix of Skills

- 3.1.1 The Board shall comprise of not less than two (2) nor more than fourteen (14) Directors<sup>6</sup>.
- 3.1.2 The Board shall at all times comprise the following Directors<sup>7</sup>:
- (a) Directors who are appointed by the Minister in consultation with the SC, referred to as Public Interest Directors (“**PIDs**”) under the CMSA;
  - (b) Directors who are appointed by the Board or elected by the shareholders with the concurrence of the SC pursuant to the CMSA.
- 3.1.3 No person other than a PID shall accept appointment, re-appointment, election or re-election as a Director of Bursa, unless the concurrence of the SC is obtained<sup>8</sup>.
- 3.1.4 In the event of any vacancy in the Board, resulting in non-compliance with Paragraph 3.1.2(b) above, Bursa must fill the vacancy within three (3) months<sup>9</sup>.
- 3.1.5 The Board through the Governance and Nomination Committee (“GNC”) shall review the size and composition of the Board and Board Committees, which include the skill sets, experience and functional knowledge of its members on a periodic basis, to ensure an appropriate balance of skills, experience and diversity.
- 3.1.6 Considering Bursa’s unique composition comprising PIDs as required under Section 10(1) of the CMSA, and taking into account the governance, capital market development and regulatory functions of Bursa as an EHC in pursuance of its integrated regulatory and commercial objective, the Board considers an optimal size of twelve (12) for the Board of Bursa in order to ensure that the Board has access to full range of required business experience and insight to facilitate effective oversight, and in view of the implementation of the 9-year policy for the Independent Non-Executive Directors (“**NEDs**”).

#### 3.2 Independence

- 3.2.1 An Independent Director shall, upon his appointment, give to Bursa Securities a letter of confirmation that he is an Independent Director as defined under Paragraph 1.01 of the Main Market Listing Requirements (“**MMLR**”) of Bursa Securities.

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<sup>6</sup> Article 18.1 of the Company’s Constitution

<sup>7</sup> Section 10(1)(a) of the CMSA, Article 18.2 of the Company’s Constitution, Paragraph 15.02(1) of the Main Market Listing Requirements (“**MMLR**”)

<sup>8</sup> Section 10(1)(b) of the CMSA

<sup>9</sup> Paragraph 15.02(3) of the MMLR

- 3.2.2 An Independent Director means a director who is independent of management and free from any business or other relationship which could interfere with the exercise of independent judgement or the ability to act in the best interests of the Company. Without limiting the generality of the foregoing, an independent director is one who:
- (a) is not an executive director of Bursa or any related corporation of Bursa (each corporation is referred to as “**said Corporation**”);
  - (b) has not been within the last two (2) years and is not an officer (except as a non-executive director) of the said Corporation. For this purpose, “**officer**” has the meaning given in section 2 of the Companies Act 2016 (“**Co Act**”);
  - (d) is not a major shareholder the said Corporation;
  - (e) is not a family member of any executive director, officer or major shareholder of the said Corporation;
  - (f) is not acting as a nominee or representative of any executive director or major shareholder of the said Corporation<sup>10</sup>;
  - (g) has not been engaged as an adviser by the said Corporation under such circumstances as prescribed by Bursa Securities or is not presently a partner, director (except as an independent director) or major shareholder, as the case may be, of a firm or corporation which provides professional advisory services to the said Corporation under such circumstances as prescribed by Bursa Securities<sup>11</sup>; or
  - (g) has not engaged in any transaction with the said Corporation under such circumstances as prescribed by Bursa Securities or is not presently a partner, director or major shareholder, as the case may be, of a firm or corporation (other than subsidiaries of the applicant or listed issuer) which has engaged in any transaction with the said Corporation under such circumstances as prescribed by Bursa Securities<sup>12</sup>.
- 3.2.3 A PID who satisfies the independence test under the MMLR is also an Independent NED.
- 3.2.4 Having regard to the above, the Board of Bursa as an exchange holding company may comprise NEDs who are deemed non-independent under those circumstances as stipulated in Paragraphs 3.2.2 and 3.2.3 above, but shall not comprise a nominee director [Paragraph 3.2.2(e) above] i.e. a NED who is nominated by a substantial shareholder to represent its interest on the Board of Directors of Bursa.

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<sup>10</sup> Cross reference to Paragraph 3.1 of Practice Note 13 of the MMLR

<sup>11</sup> Cross reference to Paragraph 4.1 of Practice Note 13 of the MMLR

<sup>12</sup> Cross reference to Paragraph 5.1 of Practice Note 13 of the MMLR

### 3.3 Diversity

- 3.3.1 The Board has identified the ideal board matrix, gap analysis and criteria for new board appointments. In undertaking the process of reviewing and selecting potential candidates to fill in the vacancies on the Board of Bursa, the GNC is mindful of various diversity factors to strengthen the Board composition that meets the objectives and strategic goals of the Company<sup>13</sup>.
- 3.3.2 The Board shall endeavour to maintain at least 30% women directors. In seeking potential candidate(s) for new appointments, the Board takes into account ethnicity and age distribution of the Directors to maintain a balanced Board composition.
- 3.3.3 In summary, the Board expresses its commitment to maintain a balanced diversity as set out in the Board Diversity Policy statement<sup>14</sup> below:-

#### **BOARD DIVERSITY POLICY**

Bursa Malaysia's diversity policy is to ensure that the mix and profiles of our Board members in terms of age, ethnicity and gender, provide the necessary range of perspectives, experience and expertise required to achieve effective stewardship and management. We believe that a truly diverse and inclusive board will leverage differences in thought, perspective, knowledge, skill, regional and industry experience, cultural and geographical background, age, ethnicity and gender, which will ensure that Bursa Malaysia retains its competitive advantage.

In this regard, the GNC is responsible for reviewing and assessing the composition and performance of the Board, as well as identifying appropriately qualified persons to occupy Board positions. In reviewing the composition of the Board, the GNC will consider the benefits of diversity in order to maintain an optimum mix of skills, knowledge and experience on the Board. Diversity and its benefits underpinned by meritocracy will continue to be the focus of the GNC when identifying and recommending new candidates for Board memberships, as well as evaluating the performance of the Board and its individual members.

In connection with its efforts to create and maintain a diverse Board, the GNC will:

- Assess the appropriate mix of diversity (including gender, ethnicity and age), skills, experience and expertise required on the Board and address gaps if any;
- Adhere to the recruitment protocol that seeks to include diverse candidates in any director search;
- Make recommendations to the Board in relation to appointments, and maintain an appropriate mix of diversity, skills, experience, and expertise on the Board, etc;
- Periodically review and report to the Board on requirements in relation to diversity on the Board, if any.

The GNC will discuss and agree annually on all measurable objectives for achieving diversity on the Board and recommend them to the Board for adoption. At any given time, the Board may seek to improve one or more aspects of its diversity and measure progress accordingly.

The Board shall maintain at least 30% representation of women on boards.

<sup>13</sup> Principle A-II: Board Composition of the MCGG

<sup>14</sup> Practice No. 4.5 of the MCGG, and Paragraph 15.08A of the MMLR



## 4. Retirement, Re-election and Re-appointment

### 4.1 Expiry of Term of Appointment of Public Interest Director (PID)

- 4.1.1 The directorship of the PIDs is subject to the terms and conditions of their appointment by the Minister provided that all PIDs shall retire after a term of three (3) years or such other shorter period as stipulated in his terms of appointment but may be eligible for re-appointment by the Minister<sup>15</sup>.
- 4.1.2 The relevant parties who are involved in the process for appointment of the PIDs of Bursa will be notified on the expiry of the term of appointment of a PID, at least three (3) months prior to the expiry date.
- 4.1.3 The GNC will review and assess the performance, contribution and independence of the PIDs through the same process in determining the eligibility of the Directors to stand for re-election or re-appointment [Paragraph 4.2.5 below], prior to recommending to the Board for decision on the proposed extension of the PID's term of appointment.

### 4.2 Election, Re-election, Appointment or Re-appointment of Directors

- 4.2.1 An election of Directors other than the PIDs shall take place each year at the annual general meeting of the Company where one third (1/3) of the Directors for the time being, or, if their number is not three (3) or a multiple of three (3), then the number nearest to one third (1/3) shall retire from office and be eligible for re-election. All Directors, other than the PIDs, shall retire from office once at least in each three (3) years but shall be eligible for re-election. A retiring Director shall retain office until the close of the meeting at which he retires<sup>16</sup>.
- 4.2.2 Other than the PID, the Directors to retire in each year shall be those who have been the longest in office since their last election, but as between persons who became Directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot<sup>17</sup>.
- 4.2.3 Bursa has adopted a 9-year policy<sup>18</sup> for Independent Directors taking into account the need for progressive refreshing of the Board. This step-up practice has been adopted by Bursa and the requirements as prescribed under Practice No. 4.2 of the Malaysian Code on Corporate Governance ("MCCG") are therefore not applicable to Bursa.
  - (a) In any event, the Board should justify and seek annual shareholders' approval for retaining a person who has served in that capacity for more than nine (9) years, as an independent director<sup>19</sup>. In considering independence, the GNC/Board must conduct a rigorous review of the Directors' background and current activities, to determine whether he can act independently of management, and whether the Director's independence has been impaired, taking into account the need for progressive refreshing of the Board.

<sup>15</sup> Article 18.4 of the Company's Constitution, Section 10(1)(a)(ii) of the CMSA

<sup>16</sup> Article 18.4 of the Company's Constitution, Paragraph 7.26 of the MMLR

<sup>17</sup> Article 18.5 of the Company's Constitution

<sup>18</sup> Practice No. 4.3 of the MCCG

<sup>19</sup> Guidance No. 4.2 of the MCCG

4.2.4 The Board is guided by the approved policies and procedures<sup>20</sup> for recruitment or appointment (including re-election/re-appointment) of Directors.

### 4.3 Disqualification or Vacation of Office

4.3.1 The office of a Director shall become vacant if the Director<sup>21</sup>:

- (a) becomes disqualified from being a Director under Sections 198 or 199 of the Co Act;
- (b) ceases to be or is prohibited from being a Director by virtue of the Co Act or the Securities Laws or the MMLR;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the Mental Health Act 2001;
- (d) dies;
- (e) resigns his office by notice in writing to the Company and deposited at the registered office of Bursa and in respect of PIDs by notice in writing to the Minister;
- (f) is removed from his office as Director by ordinary resolution of the Company in a meeting of shareholders of which special notice has been given in accordance with Section 206(3) of the Co Act, and in respect of the PIDs, whose appointment is revoked by the Minister or the period of appointment specified by the Minister has come to an end.

4.3.2 In addition to the above, the SC may remove where it appears to the SC that by reason of any chief executive or Director of Bursa<sup>22</sup>:

- (a) having been convicted of an offence under a securities law;
- (b) having had an action taken against him under Section 199, 200, 210, 211, 354, 355 or 356 or Section 201(5) or (6) or Section 360 of the CMSA; or
- (c) having been compounded for an offence under Section 373 of the CMSA,

the chief executive or the Director is unfit, to be directly or indirectly concerned, or to take part, engage, in the management of Bursa, the SC may apply to the court to remove from office such chief executive or Director of Bursa or bar such person from becoming a director or chief executive of any public company for such period of time as may be determined by the Court.

4.3.3 A chief executive or Director removed from office by the Court pursuant to an application made by the SC [Paragraph 4.3.2 above] shall cease to hold office from the date set out in the order, and shall not thereafter hold any other office in Bursa or in any manner, whether directly or indirectly, be concerned with, or take part, or engage, in any activity, affairs or business of or in relation to Bursa<sup>23</sup>.

4.3.4 A Director will also vacate office should he be absent from more than 50% of the total board of directors' meetings held during a financial year<sup>24</sup>. The TOR of the Board requires each Director to attend at least 75% of the total Board meetings held during the year.

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<sup>20</sup> Practice No. 4.3 of MCGG and Protocol for Appointment of Directors and Members of Board Committees of Bursa

<sup>21</sup> Article 20.1 of the Company's Constitution, Paragraph 15.05(3) of MMLR

<sup>22</sup> Section 318(3) of the CMSA

<sup>23</sup> Section 318(6) of the CMSA

<sup>24</sup> Paragraph 15.05(3)(c) of the MMLR

## 5. Roles and Responsibilities of the Board

### 5.1 Duties and Responsibilities of the Directors

- 5.1.1 A Director shall at all times exercise his powers for a proper purpose and in good faith in the best interest of the Company and shall act honestly and use reasonable care, skill and diligence<sup>25</sup> in the discharge of the duties of his office and shall not make use of any information acquired by virtue of his position to gain directly or indirectly an improper advantage for himself or for any other person or to cause detriment to the Company<sup>26</sup>.
- 5.1.2 A Director shall at all times avoid conflicts of interest, and shall as soon as practicable after the relevant facts have come to his/her knowledge, declare the nature of his/her interest at a meeting of the directors of the Company<sup>27</sup>. Every Director shall give notice to the Company of such events and matters relating to him/her as may be necessary or expedient to enable the Company and its officers to comply with the requirements of the Co Act<sup>28</sup>.
- 5.1.3 In line with the Guidance No. 1.1 of the MCCG, the Board of Directors has the following key responsibilities<sup>29</sup>:-
- (a) Promote good corporate governance culture within the Group which reinforces ethical, prudent and professional behavior;
  - (b) Review, challenge and decide on Management's proposal on matters as set out in the Group Corporate Authority Manual, which includes the overall corporate strategy, business plan, budget and regulatory plan, and monitor the implementation by Management;
  - (c) Review and approve strategic initiatives including corporate business restructuring or streamlining and strategic alliances, to ensure that they support long-term value creation and take into account economic, environment and social considerations underpinning sustainability;
  - (d) Oversee the conduct of the Group's businesses to evaluate and assess management performance whether the businesses are being properly managed;
  - (e) Assess and identify the principal risks of the Group's businesses in recognition that business decisions involve the taking of appropriate risks;

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<sup>25</sup> Section 213(1) and (2) of the Co Act, Article 21.6 of the Company's Constitution

<sup>26</sup> Section 218 of the Co Act

<sup>27</sup> Section 221 of the Co Act

<sup>28</sup> Article 21.7 of the Company's Constitution

<sup>29</sup> Guidance No. 1.1 of the MCCG and the full Terms of Reference of the Board of Directors is available at [www.bursamalaysia.com](http://www.bursamalaysia.com), About Us-Corporate Governance

- (f) Set the risk appetite within which the Board expects Management to operate, and ensure that there is an appropriate risk management framework to identify, analyse, evaluate, manage and monitor significant financial and non-financial risks;
- (g) Approve the nomination, selection, succession policies, and remuneration packages for the Board members, Board Committee members, Nominee Directors on the functional Boards of the subsidiaries and CEO, and the annual manpower budget for the Group, including managing succession planning, appointing, training, fixing the compensation of, and where appropriate replacing senior management or key management personnel;
- (h) Approve the appointment, resignation or removal of Company Secretaries of Bursa;
- (i) Develop and implement an 'investor relations programme' or 'shareholder communications policy' for the Group;
- (j) Review the adequacy and integrity of the Group's internal control systems and management information systems, including systems for compliance with applicable laws, regulations, rules, directives and guidelines (including the securities laws, Co Act and MMLR);
- (k) Review and approve the Financial Statements encompassing annual audited accounts and quarterly reports, dividend policy, credit facilities from financial institutions and guarantees;
- (l) Review and approve the Audit Committee Report, Risk Management and Internal Control Statement for the Annual Report;
- (m) Review and approve the Annual Regulatory Report prepared in accordance with Section 16 of the CMSA;
- (n) Prepare a Corporate Governance (CG) Overview Statement and CG Report on compliance with the Malaysian Code on Corporate Governance for the Annual Report;
- (o) Review and approve investment policies and guidelines for the Company's surplus funds, asset allocation policy and policy on exposure limits on investment with banking institutions;
- (p) Review and approve the capital expenditure, purchase of fixed assets, operating expenditure, variation order and any other matters in accordance with the Group Corporate Authority Manual;
- (q) Approve the appointment of external auditors<sup>30</sup> and their related audit fees.

5.1.4 The Directors have individual and independent access to the advice and dedicated support services of the Company Secretary<sup>31</sup> in ensuring the effective functioning of the Board. The Directors may seek advice from the management on issues under their respective purview. The Directors may also interact directly with, or request further explanation, information or updates, on any aspect of the Company's operations or business concerns from the management.

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<sup>30</sup> Paragraph 15.21 of the MMLR

<sup>31</sup> Practice No. 1.4 of the MCGG

- 5.1.5 In addition, the Board may seek independent professional advice at the Company's expense on specific issues to enable the Board to discharge its duties in relation to the matters being deliberated. Individual Directors may also obtain independent professional or other advice in furtherance of their duties, subject to approval by the Chairman or the Board, depending on the quantum of the fees involved.

## **5.2 Roles of Public Interest Directors (PIDs)/Non-Executive Directors (NEDs)/Independent NEDs (INEDs)**

- 5.2.1 PIDs appointed by the Minister shall have the same rights, powers, duties and obligations, liberties and privileges as any director of the EHC<sup>32</sup>, all of whom are NEDs save for the CEO who is an Executive Director. The NEDs may be further classified into INEDs and Non-Independent NEDs based on the following:-

- (1) The general 'test' of independence [Paragraph 3.2.1 above];
- (2) The disqualifying circumstances which deem a director as non-independent [Paragraphs 3.2.2 and 3.2.3 above].

- 5.2.2 Directors must give effect to the spirit, intention and purpose of the said definition of "independence" in Paragraph 3.2.1 above.

The Annual Board Effectiveness Evaluation ("BEE") exercise facilitates the assessment of the level of independence demonstrated by each NED in their exercise of judgement and ability to act in the best interest of the Company in decision-making, as well as clarity of thought and objectivity in problem solving during deliberations at Board meetings.

- 5.2.3 INEDs are those who have no direct or indirect pecuniary interest in the Company other than the remuneration for their services as members of the Board of Directors and Board committees of the Company and the Group.

- 5.2.4 NEDs are persons of calibre, credibility and have the necessary skill and experience to bring an independent judgement to bear on the issues of strategy, performance and resources, including key appointments and standards of conduct. For discharging the roles and responsibilities as a Board member<sup>33</sup>:-

- (a) NEDs are required to make an independent assessment of the information, reports or statements, having regard to the directors' knowledge, experience and competence, to provide an independent view and demonstrate objectivity in reviewing and challenging the management's proposals at meetings.

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<sup>32</sup> Section 10(1)(a)(i) of the CMSA

<sup>33</sup> Guidance No. 2.1 of the MCCG

- (b) NEDs are expected to devote sufficient time to update their knowledge and enhance their skills through appropriate continuing education programmes, so as to keep abreast of industry issues, market development and trend, and enable them to sustain their active participation in board deliberations.
- (c) NEDs act as a channel of communication between Management, shareholders and other stakeholders, and provide the relevant checks and balances, focusing on shareholders' and other stakeholders' interests and ensuring that high standards of corporate governance are applied.

## **6. Senior Independent Non-Executive Director**

- 6.1 The Board approves the appointment of a Senior Independent Non-Executive Director (“**SID**”) to act as an additional safeguard and to serve as a fallback point of contact for investors and shareholders when the normal channel of communication is considered to be inappropriate or inadequate.
- 6.2 The SID shall be nominated from amongst the Independent NEDs, but excludes the Audit Committee Chairman, who is also an Independent Director of the Company.
- 6.3 The GNC shall make its recommendation to the Board for approval of the proposed appointment of the SID for a term of two (2) years or such other term as may be determined by the Board.
- 6.4 The SID shall have specific responsibilities which include, to:-
  - (a) Serve as a designated contact for consultation and direct communication with shareholders on areas that cannot be resolved through normal channels of contact with the Chairman or CEO;
  - (b) Serve as the principal conduit between the Independent Directors and the Chairman on sensitive issues;
  - (c) Lead the succession planning and appointment of the Board members, including the future Chairman and CEO<sup>34</sup>;
  - (d) Lead the annual review of board effectiveness, ensuring that the performance of each individual director is independently assessed<sup>35</sup> [Paragraph 11 below];
  - (e) Receive report(s) made by employees, shareholders or external parties/other stakeholders for the purpose of whistleblowing in the form as prescribed under the Whistleblower Policy and Procedures of Bursa Group, and thereafter submit the same to the Audit Committee Chairman with an opinion as to whether the report is frivolous or vexatious based on alleged facts;

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<sup>34</sup> Guidance No. 4.7 of the MCCG

<sup>35</sup> Guidance No. 4.7 of the MCCG

- (f) Ensure all Independent Directors have the opportunity to provide input on the agenda, and advise the Chairman on the quality, quantity and timeliness of the information submitted by management that is necessary or appropriate for the Independent Directors to perform their duties effectively;
- (g) Consult with the Chairman regarding Board meeting schedules to ensure Independent Directors can perform their duties responsibly and with sufficient time for discussion of all agenda items; and
- (h) Chair meetings of the Board or NEDs, in the absence of the Chairman or his abstention.

## **7. Chairman of the Board**

- 7.1 The Minister shall, in consultation with the SC, appoint one (1) person from amongst the PIDs to be the non-executive Chairman of the Board of Bursa<sup>36</sup>.
- 7.2 The Chairman leads the Board with a keen focus on governance and compliance. His roles/responsibilities<sup>37</sup> include, inter alia:
  - (a) to provide leadership to the Board, and oversee the Board in the effective discharge of its fiduciary duties;
  - (b) to set the Board agenda and ensure the Board members receive complete and accurate information in a timely manner;
  - (c) to lead in discussions at meetings and ensure efficient and effective conduct of the Board meetings;
  - (d) to encourage active participation and allow dissenting views to be freely expressed;
  - (e) to promote constructive and respectful relations between Board members and manage the interface between the Board and Management;
  - (f) to facilitate effective communication between the Board and the stakeholders;
  - (g) to lead the Board in establishing and monitoring good corporate governance practices in the Company; and
  - (h) to commit time necessary to discharge effectively his role as Chairman.

## **8. Separation of Functions between the Chairman and Chief Executive Officer (CEO)**

- 8.1 The roles of the Chairman and CEO of Bursa are distinct. The distinct and separate roles of the Chairman and CEO, with a clear division of responsibilities, ensures a balance of power and authority, such that no one individual has unfettered powers of decision-making.

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<sup>36</sup> Section 10(3) of the CMSA, Article 18.3 of the Company's Constitution

<sup>37</sup> Guidance No. 1.2 of the MCCG and the Terms of Reference of the Chairman of Bursa



- 8.2 CEO is the highest ranking officer across the Group. He is responsible for the day-to-day business of the Group, within the authorities as delegated by the Board. The primary job tasks<sup>38</sup> for the CEO are as follows:
- (a) Strategy development, monitoring and tracking;
  - (b) Business development;
  - (c) Regulation;
  - (d) Performance management;
  - (e) Human resources management;
  - (f) Risk management; and
  - (g) Stakeholder management.

The CEO is supported by a Management Committee and other committees established under the Group's Management Governance Framework<sup>39</sup>.

## **9. Remuneration**

- 9.1 The fees of the NEDs and any benefits payable to the Directors including any compensation for loss of employment of a Director shall from time to time be determined by an Ordinary Resolution of the Company in general meeting and shall (unless such resolution otherwise provides) be divisible among the Directors as they may agree<sup>40</sup>.
- 9.2 The Directors shall be paid all their travelling and other expenses properly and necessarily expended by them in and about the business of the Company including their travelling and other expenses incurred in attending meetings of Directors of the Company<sup>41</sup>.
- 9.3 The Board has established a formal and transparent process for approving the remuneration of the NEDs and the Executive Director/CEO, whereby the Remuneration Committee ("RC") is responsible for reviewing the remuneration policy and making recommendations on the same to the Board for approval. In its review, the RC considers various factors including the NEDs' fiduciary duties, time commitments expected of them and the Company's performance.
- 9.4 The review of the Directors' remuneration will be carried out by the RC on an annual basis for the approval of the Board prior to recommending the same for shareholders' approval at the annual general meeting of Bursa.
- 9.5 The RC may engage an external consultant to conduct the board remuneration review in conjunction with the engagement of an external consultant for the board effectiveness evaluation once every three (3) years.

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<sup>38</sup> Job Description of the CEO as approved by the Board on 22 September 2010

<sup>39</sup> The Management Governance Framework sets out the Terms of Reference of the committees chaired by the CEO, with regard to the Management's roles and responsibilities, in line with Practice No. 2.1 of the MCCG

<sup>40</sup> Section 230 of the Co Act and Article 19.1 of the Company's Constitution

<sup>41</sup> Article 19.2 of the Company's Constitution and Remuneration Policy for the Members of the Board, Board Committees and Other Committees



## 10. Meetings

10.1 The Board shall convene at least six (6) meetings in each financial year and at any such times as it deems necessary to fulfil its responsibilities. The Board's annual meeting calendar is prepared and circulated to Directors before the beginning of each year. It provides the scheduled dates for meetings of the Board and Board Committees, annual general meeting, major conferences hosted by the Company, as well as the closed period for dealings in securities by Directors based on the targeted date of announcement of quarterly results of the Group.

10.2 The quorum for Board meetings shall be at least two-third (2/3) of the number of Directors on the Board, including a minimum of two (2) PIDs.

Each member of the Board is entitled to one (1) vote in deciding the matters deliberated in the meeting. The decision that gained the majority votes of the Board shall be the decision of the Board. In the event of an equality of votes, the Chairman of the Board shall be entitled to a second or casting vote.

10.3 Each Director shall attend at least 75% of the total Board meetings held during the year. Except for the Chairman of the meeting, the rest of the Directors may participate in a meeting by means of a conference telephone or similar electronic telecommunication device<sup>42</sup>. For this purpose, the Director shall ensure that:-

- (a) The Company Secretary (or personnel of Corporate Governance & Secretarial Division) is informed of the Director's requirements at least three (3) working days before the meeting date;
- (b) The Director shall participate in the meeting from a confined room or space, with no access by or without the presence of any third party;
- (c) The Director shall ensure all deliberations or information being communicated during the telephone/video conferencing are treated with confidence, and he/she shall prevent any leakage of information/materials to any third party; and
- (d) The Director shall at all times take all necessary precautions to strictly maintain confidentiality of information.

10.4 The agenda of each Board meeting is finalised by the Chairman. Meeting papers are prepared by management in accordance with the format as provided in the Guideline on Submission of Board Memoranda, to provide relevant facts, analysis and recommendation for supporting the proposals to enable informed decision-making by the Board.

10.5 The Board should have access to all information pertaining to the Company in a timely manner for the discharge of its duties effectively. The agenda and papers for meetings should be furnished to the Directors at least five (5) business days prior to the meetings<sup>43</sup>, to enable them to prepare for

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<sup>42</sup> Article 22.1 of the Company's Constitution

<sup>43</sup> Guidance 1.5 of the MCGG

these meetings. At Board meetings, the Management presents the papers and consultants may be invited to provide further insight.

- 10.6 The Board members are invited to provide their feedback, either verbally or in written form on the adequacy of contents and quality of information presented by the Management in these Board papers, as well as presentation skills.
- 10.7 The Chairman encourages constructive, healthy debate, and Directors are given the chance to freely express their views or share information with their peers in the course of deliberation as a participative Board.
- 10.8 Any Director who has a direct or deemed interest in the subject matter to be deliberated abstains from deliberation and voting<sup>44</sup> on the same during the meeting.
- 10.9 The minutes prepared by the Company Secretary memorialise the proceedings of all meetings, including the tabling of pertinent issues, the substance of inquiry and response, members' suggestions and the decisions made, including whether any director abstained from voting or deliberating on a particular matter<sup>45</sup>, as well as the rationale behind those decisions.

## **11. Board Effectiveness Evaluation (BEE)**

- 11.1 The Board has entrusted the GNC with the responsibility for carrying out the annual BEE.
- 11.2 The Board's effectiveness is assessed in the areas of composition, administration, accountability and responsibility, conduct, and the performance of the Chairman and CEO. The Board, through the Governance and Regulatory Committees effectiveness assessment, examines the respective Governance and Regulatory Committees, including their respective Chairmen, to ascertain whether their functions and duties are effectively discharged in accordance with their respective Terms of Reference.
- 11.3 The Directors' Self and Peer Assessment is intended to evaluate the mix of skills, experience and other relevant qualities the Directors bring to the Board, and takes into account the individual director's ability to exercise independent judgement at all times and to contribute to the effective functioning of the Board. The Self and Peer Assessment process also examines the ability of each Board or Committee member to give material input at meetings and to demonstrate a high level of professionalism and integrity in the decision-making process.
- 11.4 The GNC shall engage an external consultant to conduct the BEE exercise once every three (3) years to facilitate an objective and candid board evaluation<sup>46</sup>.
- 11.5 The assessment results from the BEE form the basis of the GNC's recommendation to the Board for the re-election and/or re-appointment of Directors and Board Committee members as well as for further development of the Board and Board Committees.

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<sup>44</sup> Article 22.7 of the Company's Constitution

<sup>45</sup> Guidance No. 1.5 of the MCCG

<sup>46</sup> Practice No. 5.1 of the MCCG

## 12. Dealing in Securities

- 12.1 Bursa has in place “*Guidance to Directors on Dealing in Securities*” to guide Directors on the process and requirements when dealing in the securities of the Company so as to ensure compliance with the MMLR.
- 12.2 “*Dealings*”<sup>47</sup> includes any one or more of the following actions, whether undertaken as principal or as agent:
- (i) acquiring or disposing of securities or any interest in securities;
  - (ii) subscribing for or underwriting securities;
  - (iii) making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into -
    - (aa) any agreement for or with a view to acquiring or disposing of securities or any interest in securities;
    - (bb) any agreement for or with a view to subscribing for or underwriting securities; or
    - (cc) any agreement the purpose or avowed purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the values of securities; and
  - (iv) granting, accepting, acquiring, disposing of, exercising or discharging an option (whether for the call or put or both) or any other right or obligation, present or future, conditional or unconditional, to acquire or dispose of securities or any interest in securities.
- 12.3 A Director must not deal in the securities of Bursa as long as he is in possession of price-sensitive information relating to such listed securities<sup>48</sup>. “*Price-sensitive information*” means information that “on becoming generally available would or would tend to have a material effect on the price or value of securities” as referred to in section 185 of the CMSA.

## 13. Conflict of Interest and Transaction involving Directors

- 13.1 Bursa has in place “*Guidelines for Handling Conflict of Interest (“COI Guidelines”)*” to manage situations where conflict of interest on the part of the Directors may arise.
- 13.2 Conflict arising from the interest (direct or indirect) of a director, member or major shareholder or person connected with such director, member or major shareholder in a transaction proposed to be entered into or action/decision to be taken by Bursa or its subsidiaries.
- 13.3 Where a Director has an interest (direct or indirect) in a transaction proposed to be entered into or action/decision to be taken by Bursa or its subsidiaries, he/she may be biased in making the commercial or regulatory decision which could be to the detriment of Bursa or its subsidiaries.

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<sup>47</sup> Paragraph 14.02(c) of the MMLR

<sup>48</sup> Paragraph 14.04 of the MMLR, Part V Subdivision 2 of the CMSA

- 13.4 Directors can be regarded as having a conflict of interest where the company, he or she is associated with derives an advantage from him being a Director. Therefore a director is required at all times to declare such conflict and if so required by the Board, to withdraw from any voting or deliberation of a matter in which the Director or member may have an interest.
- 13.5 The Co Act provides that a Director who is in any way, whether directly or indirectly, interested in a contract entered into or proposed to be entered into by the Company shall be counted only to make the quorum at the board meeting but shall not participate in any discussion while the contract or proposed contract is being considered at the board meeting and shall not vote on the contract or proposed contract<sup>49</sup>.
- 13.6 Where a contract or proposed contract is entered into in contravention of Section 221 of the Co Act, the contract or proposed contract shall be voidable at the instance of the Company except if it is in favour of any person dealing with the Company for a valuable consideration and without any actual notice of the contravention. A director who knowingly contravenes Section 221 of the Co Act shall be guilty of an offence against the Co Act<sup>50</sup>.
- 13.7 The MMLR further provides that a Director with any interest, direct or indirect, must abstain from board deliberation and voting on the relevant resolution in respect of the related party transaction<sup>51</sup>.

## **14. Code of Ethics**

- 14.1 The Directors are to maintain the highest degree of integrity and professionalism while at the same time promoting transparency and accountability in their actions.
- 14.2 Bursa has in place “*Code of Ethics for Directors*<sup>52</sup>” which is formulated to enhance the standard of corporate governance and behaviour through:
- (a) Establishing standards of ethical conduct for Directors based on acceptable beliefs and values;
  - (b) Upholding the spirit of social responsibility and accountability in line with the legislations, regulations and guidelines governing Bursa; and
  - (c) Documenting and emphasizing to the Directors, the integral obligation of each Director in performing his/her duty, to act in a manner that is lawful, honest, ethical and free from any conflict of interest or perceived conflict of interest.

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<sup>49</sup> Section 221 of the Co Act

<sup>50</sup> Section 221(12) of the Co Act

<sup>51</sup> Paragraph 10.08(6) of the MMLR

<sup>52</sup> Guidance No. 3.1 of the MCCG. For details, please refer to the Code of Ethics for Directors

## 15. Whistleblower Policy and Procedures

- 15.1 “*Whistleblowing*” is defined as “the deliberate, voluntary disclosure or reporting of individual or organisational malpractice by a person who has or had privileged access to data, events or information about an actual, suspected or anticipated improper conduct within the organisation or by an organisation that is within its ability to control”.
- 15.2 Bursa has in place “*Whistleblower Policy and Procedures for Directors*<sup>53</sup>” to manage improper conduct on the part of the Directors, if any. This policy covers areas from lodging of reports to investigation and corrective actions that are required to be taken.
- 15.3 Director’s improper conduct is generally described as any conduct by a Director which if proved constitutes a criminal offence or any conduct that constitutes a wrongdoing or malpractice and may include any of the following:
- (a) The breach of any law, regulation or rule that is applicable to the Company. For example, a breach of insider trading laws;
  - (b) Any criminal act, including criminal breach of trust, extortion and sabotage;
  - (c) Any act that is likely to cause significant financial loss or costs to the Company including any intentional misrepresentation of the Company’s financial statements;
  - (d) Any other action that would cause significant harm to the Company or to any person(s);
  - (e) The deliberate concealment of information concerning any of the matters listed above.
- 15.4 The Board has overall responsibility for this policy and shall oversee the implementation of this policy.

## 16. Review

- 16.1 The Board will review<sup>54</sup> this Charter annually to keep it up to date and consistent with the Board’s objectives and responsibilities as well as the Governance Model of Bursa.

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<sup>53</sup> For details, please refer to the Whistleblower Policy and Procedures for Directors

<sup>54</sup> Practice No. 2.1 of the MCGG