# Bursa Malaysia Rules – Key Enforcement Cases in 2020

## F. Other Significant Cases

**Case F1: Failure to verify clients' identity and authenticity of clients' applications to open trading and CDS accounts which were opened via Non Face-to-Face ("NFTF")**

(1) Bursa Malaysia Securities had imposed a private reprimand and fine of RM4,000 on a PO/ADA for its failure to verify clients' identity and authenticity of clients' applications to open trading and CDS accounts which were opened via NFTF. In conducting the NFTF verifications, the PO/ADA had failed to adopt one or more of the verification methods prescribed under Paragraph 9.1(4) of Directives No. 5-001 of the POs' Directives and Guidance.

(2) The sanctions, including the fine, were imposed on the PO/ADA collectively after considering, amongst others, the following:

(a) The breaches involved numerous trading accounts and CDS accounts that were opened via NFTF where the verifications of the clients' identities were undertaken via/based on CTOS search and bank statement of the respective clients which were not in accordance with/did not fulfill any of the verification methods set out in Paragraph 9.1(4) of Directives No. 5-001. Hence, there was no evidence of NFTF verification of the clients' identity and the authenticity of the application for opening of the trading and CDS accounts.

(b) Due to lapses in review by the PO/ADA, there were suspicious/questionable accounts opened where there were close and personal/familial relationships between a number of the clients with another client which indicated that the clients' accounts may have been opened and operated by a third party. These accounts were subsequently closed. Hence, the PO/ADA's failure is viewed more seriously as compared to other similar breach cases.

(c) The requirement to ensure that clients' identities are verified and account opening are authenticated in accordance with the Rules, particularly for accounts opened via NFTF is fundamental for client/investors' protection to curb/protect against possible abuses/misuse of clients' accounts by third party. Hence, failure to comply with the verification methods was viewed seriously.

(d) The rectification actions by the PO/ADA.

(e) The PO/ADA's admission/non-dispute of the breach committed.

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Glossary:
ADA: Authorised Depository Agent
ADM: Authorised Direct Member
Bursa Malaysia Securities: Bursa Malaysia Securities Berhad
Bursa Malaysia Derivatives Clearing: Bursa Malaysia Derivatives Clearing Berhad
Bursa Malaysia Depository: Bursa Malaysia Depository Sdn Bhd
CDSPM: CDS Procedures Manual
CP: Clearing Participant
PO: Participating Organisation
TP: Trading Participant

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**Case F2: Failure to settle payments of margin calls within the prescribed payment cut-off times**

(1) Bursa Malaysia Derivatives Clearing had imposed three private reprimands and a total fine of RM12,000 on a CP for its failure to settle payments required under margin calls by the prescribed payment cut-off times on three occasions.

(2) The sanctions, including the fine, were imposed on the CP after considering, amongst others, the following:

(a) the extent of the breaches, i.e. the three breaches occurred in close proximity of time within days and the length of delays in payment;

(b) the actions/steps taken by the CP in attempting to meet the payment cut-off times;

(c) the remedial steps proposed to be undertaken by the CP to prevent recurrence of similar breaches in the future; and

(d) the CP's admissions/non-disputes of the breaches committed.

**Case F3: Transfers of various securities from Authorised Nominees accounts ("AN Accounts") to various segregated CDS accounts causing a change in beneficial ownership**

(1) Bursa Malaysia Depository had imposed a private reprimand and fine of RM4,000 on an ADM in relation to the transfer of various securities from two accounts which were opened as AN Accounts, to the various segregated CDS accounts which had resulted in change of beneficial ownership that did not come within Category A of the Approved Reasons for Transfer - No Change in Beneficiary Ownership ("**NCBO**") as provided in Appendix 52 of the CDSPM.

(2) The sanctions, including the fine, were imposed on the ADM after considering, amongst others, the following:

(a) the extent of the transfer which involved two AN Accounts and numerous CDS nominee accounts and significant number of shares;

(b) the ADM had affirmed and declared in the Transfer Confirmation Report transmitted to Bursa Depository pursuant to paragraph 6.10.1 of the CDS Procedures Manual that the information in the report that the Transfers fell under Category A (NCBO) was true; and

(c) the ADM's admissions/non-disputes of the breach committed.

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**Case F4: Sharing of commission with persons not permitted to receive such commission under the Rules of Bursa Malaysia Securities**

(1) Bursa Malaysia Securities had imposed a private reprimand and fine of RM4,000 on a PO for it had shared its commission by paying cross-selling fees and tiered-based incentives (collectively, "Incentives") to investment services officers who were not DRs, trading representatives or marketing representatives of the PO or persons permitted to share the PO's commission under the Guidelines for Marketing Representative and hence breaching Rule 11.02(3) of the Rules of Bursa Malaysia Securities.

(2) The sanctions, including the fine, were imposed on the PO after considering, amongst others, the following:

(a) the breach was due to the PO's oversight in relation to the restrictions under the Rules of Bursa Malaysia Securities on commission sharing, which would not absolve the PO from liability for the breach;

(b) the immediate rectification action undertaken by the PO in ceasing payments of the Incentives; and

(c) the PO's admission/non-dispute of the breach committed.

**Case F5: Investment of clients' monies in clients' Segregated Account without clients' prior consent**

(1) Bursa Malaysia Derivatives had imposed a private reprimand and fine of RM4,000 on a TP for it had invested clients' monies in clients' segregated accounts in Short Term Money Market Deposit ("STM Deposit") without prior instructions/directions from the clients.

(2) The sanctions, including the fine, were imposed on the TP after considering, amongst others, the following:

(a) the extent of the breach, i.e. the total amount of investment made by the TP in STM Deposit vis-à-vis clients' monies;

(b) the absence of the clients' agreements or notice of the clients' statements procuring the clients' written direction/consent in respect to the investment of their monies in STM Deposit; and

(c) the TP's admission/non-dispute of the breach committed.

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