CONSULTATION PAPER NO. 1/2017

REVIEW OF BURSA MALAYSIA SECURITIES BERHAD MAIN MARKET AND ACE MARKET LISTING REQUIREMENTS ARISING FROM THE IMPLEMENTATION OF COMPANIES ACT 2016

Date of Issue: 20 March 2017

Bursa Malaysia Securities Berhad ("Bursa Securities") invites your written comments on the issues set out in this Consultation Paper by 14 April 2017 (Friday) via:

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Respondents to this Consultation Paper are requested to use the reply format as stipulated in the *Attachment*.

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A. INTRODUCTION

This Consultation Paper is to seek public feedback on the proposed amendments to Bursa Malaysia Securities Berhad ("**the Exchange**") Main Market Listing Requirements ("**Main LR**") and ACE Market Listing Requirements ("**ACE LR**") (collectively the "**LR**") arising from the implementation of Companies Act 2016 ("**CA 2016**").

The Exchange reviews the LR from time to time to ensure that it is updated and continues to be relevant. In this regard, the Exchange has, consequential to the CA 2016 coming into effect, undertaken this review to ensure that the provisions under the LR are aligned with the CA 2016 and shareholders' interests are safeguarded. In this review, the Exchange also ensures that the proposals are benchmarked with international standards.

At the same time, the Exchange also sought to simplify the requirements under the LR, in the areas of review, where appropriate, to ensure that the LR remains clear, relevant and practical, for ease of compliance by listed issuers.

B. KEY AREAS OF REVIEW

The key areas of review arising from the CA 2016 are as follows (collectively referred to as the "**Proposed Amendments**"):

(a) reflecting the no-par value regime, including removing the terms *"**share premium**"*, *"**nominal or par value**"*, *"**authorised share capital**"* and aligning the concepts and terms used with the reference to the "**total number of issued shares**" or "**issued share capital**" of a listed issuer;

(b) enhancing the framework for bonus issue and subdivision of shares;

(c) enhancing the share buy-back framework in light of the expansion of the permitted usage of treasury shares and the abolishment of the share premium account;

(d) facilitating electronic communication with shareholders;

(e) enhancing the contents of articles of association of a listed issuer (known as the "**constitution**" under the CA 2016);

(f) promoting transparency in the disclosure of directors' remuneration in annual reports; and

(g) ensuring consistency and providing clarity by making other consequential change.

C. STRUCTURE OF THE CONSULTATION PAPER

Details of the Proposed Amendments and their rationale are provided in the "**Details of Proposals**" in **Parts 1 to 2** of this Consultation Paper.

The text of the Proposed Amendments are provided in **Annexures A and B** and are reflected in the following manner:

- portions underlined are text newly inserted/added/replaced onto the existing rules; and
- portions struck through are text to be deleted.

The table below provides a snapshot of the relevant details of the Proposed Amendments as well as the related Parts and Annexures for ease of reference:

Part No.	Details of Proposals	Proposed Amendments (Annexure)
1.	Key proposals arising from the CA 2016 1.1 Amendments to certain concepts and terms used arising from the no par value regime 1.2 Enhancements to the framework for bonus issue and subdivision of shares 1.3 Enhancements to the share buy-back framework 1.4 Introduction of a framework for electronic communication under the LR 1.5 Amendments and enhancements to the content of the constitution 1.6 Enhancements to the disclosure of directors' remuneration in annual reports	**Annexure A for the Main LR** **Annexure B for the ACE LR**
2.	Other proposed amendments	

Comments on the Proposed Amendments can be given by filling up the template as attached in the ***Attachment.***

Note:

As the Proposed Amendments are open to comments and feedback from the public, the final amendments may be different from those stated in this Consultation Paper. Further, the Proposed Amendments have NOT been approved by the SC and as such are not the final amendments. The Exchange will submit the Proposed Amendments to the SC for approval after receipt of comments pursuant to this Consultation Paper and making the relevant changes, where appropriate, to the Proposed Amendments.

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D. DETAILS OF PROPOSALS

PART 1 KEY PROPOSALS ARISING FROM THE CA 2016

Up until recently, companies in Malaysia had been governed by the provisions of the Companies Act 1965 ("**CA 1965**"). The CA 2016, which replaces the CA 1965, is intended primarily to simplify how companies do business in Malaysia, strengthen corporate governance, facilitate management and restructuring of share capital, simplify the winding-up process, and update the sanctions and enforcement procedures. On the whole, the CA 2016 aims to modernise the company legislation.

Pursuant to the Federal Government Gazette dated 26 January 2017, the CA 2016 came into effect on 31 January 2017 except for provisions relating to the registration of company secretaries with the Registrar and corporate rescue mechanisms[1].

The key changes in the CA 2016 which impact the capital market include –

(i) migrating to the no-par value regime;

(ii) expanding the usage of treasury shares such as for purposes of an employee's share scheme or as purchase consideration;

(iii) shortening the timeframe for notification of substantial shareholders' and directors' interests;

(iv) requiring the fees and benefits of directors of listed companies and their subsidiaries to be approved by shareholders at general meeting;

(v) facilitating communication via electronic means between a company and its members on matters relating to meetings and shareholder resolutions, supply of information or documents;

(vi) facilitating the dematerialisation framework by dispensing with the issuance of share certificates by a company unless a shareholder makes an application or the company's constitution caters for the same;

(vii) empowering shareholders to question, discuss and comment or make recommendations on the management of company in a meeting of members; and

(viii) enhancing financial and non-financial reporting by, among others, requiring disclosure of business review on a voluntary basis.

[1] Section 241 deals with the provision relating to the requirement for company secretaries to register with Registrar; and Division 8 of Part III deals with provisions relating to corporate rescue mechanisms on corporate voluntary arrangement and judicial management.

The Exchange had, as an interim measure, issued a letter dated 2 February 2017 setting out the application of key provisions under the LR which are affected by the CA 2016 pending the issuance of the LR amendments. These include specifying the changes in terminologies or references arising from the no par value regime, clarifying that share premium is no longer a source of funding for share buy-back and maintaining that the listed issuer's articles of associates are still applicable.

The Proposed Amendments are formulated after a thorough review of the CA 2016 by the Exchange. The Proposed Amendments seek to align the LR with the relevant key changes and ensure shareholders' interest is and continues to be safeguarded. The details of the proposals are discussed below.

PROPOSAL 1.1: AMENDMENTS TO CERTAIN CONCEPTS AND TERMS USED ARISING FROM THE NO PAR VALUE REGIME

Description	Affected Provision(s)	
	Main LR	ACE LR
Aligning the concepts and terms used in the LR arising from the no par value regime	▪ As stated in paragraph 4 below	

1. Under the CA 1965, shares issued by a company must be issued with par or nominal value. In line with the CA 1965, the LR was drafted on the basis that shares have a nominal value and the issued share capital is tied to the number of issued shares.

2. One of the key changes introduced under the CA 2016 is the abolishment of the par value for shares for Malaysian incorporated companies. Shares under the no par value regime may be issued at a price determined by the companies or their boards based on among others, the current value of the companies, factors affecting the businesses of the companies and the capital that the companies is seeking to raise. This facilitates businesses to be more competitive and enable companies to raise capital with greater flexibility. The no-par value regime has been implemented in other countries such as Australia, New Zealand, Singapore and Hong Kong.

3. Arising from the migration to no par value regime, concepts such as -

   (a) par or nominal value, authorised capital, share premium, capital redemption reserve and share discounts are no longer relevant; and

   (b) paid-up capital, issued capital and partly paid shares are still relevant although they will now refer to the total consideration paid or agreed to be paid for the shares issued, instead of being based on the nominal or par value of the shares.

4. In view of the above, the Exchange proposes to replace the terminologies or concepts currently used in the LR as follows:

No.	Current Application and Proposed Amendments	Affected Provisions	
		Main LR	**ACE LR**
(a)	References to the *"nominal value or amount"* of shares or the *"issued share capital"* or *"issued and paid-up capital"* which are used to denote the number of issued shares are proposed to be amended to the **total number of issued shares or the total number of voting shares**, as the case may be. These apply to the calculation of percentage thresholds, changes in shareholding interests or entitlements in a listed issuer. In the case of ACE Market listed corporations, the change also applies to the moratorium requirements imposed on promoters' shareholdings.	• Paragraph 1.01 - definition of "**major shareholder**" • Paragraph 5.13 • Paragraphs 6.03(1); 6.21(2); 6.37(3)(b); 6.38; 6.45C(4)(a); 6.50; and Appendix 6B, Part A, paragraph 20(b) • Paragraph 7.40 • Paragraphs 8.12 and 8.13 • Paragraphs 9.19(25) and (26); and Appendix 9A, Part G, paragraph (b) • Paragraph 10.02(g)(iv) • Paragraph 12.09 • Appendix 13C, Part A, paragraph 2(c); Appendix 13D, paragraph 5(a); and Appendix 13E, paragraph 10(a) • Practice Note 13, paragraph 3.2(a)	• Rule 1.01 - definition of "**major shareholder**" • Rules 3.13(3); 3.19(1)(b) and (e) • Rule 3.15(3) • Rule 4.08 • Rules 6.04(1); 6.22(2)(a); 6.38(3)(b); 6.39; 6.46C(4)(a); 6.51; and Appendix 6B, Part A, paragraph 21(b) • Rules 8.14 and 8.15 • Rules 9.19(26) and (27); and Appendix 9A, Part G, paragraph (b) • Rule 10.02(g)(iv) • Rule 12.09 • Appendix 13C, Part A, paragraph 2(c); Appendix 13D, paragraph 5(a); and Appendix 13E, paragraph 11(a) • Guidance Note 9, paragraph 3.2(a)
(b)	References to *"issued and paid up capital"* which are used to denote the share capital in terms of value are proposed to be amended to the **share capital or issued share capital**.	• Appendix 6A, Part A, paragraph 9(a); and Appendix 6B, Part A, paragraph 16(a) • Appendix 8E in relation to listed corporations	• Appendix 6A, Part A, paragraph 9(a); and Appendix 6B, Part A, paragraph 17(a) • Appendix 8E

No.	Current Application and Proposed Amendments	Affected Provisions	
		Main LR	**ACE LR**
	This applies to the following: • relevant disclosures made in connection with a corporate proposal or transaction; • determination of whether the announcement requirement in relation to a Recurrent Related Party Transaction is triggered; • determination of whether listed issuer's level of operations is adequate to warrant continued trading or listing; and • determination of whether the listed issuer's financial condition warrants continued trading or listing.	• Appendix 10B, Part A, paragraph 28(d)(iii) • Paragraph 13.05(b) • Practice Note 19, paragraphs 2.3(a) and 4.2(a) • Annexure PN21-A, Part A, paragraphs 4D(d) and 5F; and Part B, paragraph 1(d) under the heading "Particulars" • Annexure PN22-A, Part A, paragraph 7 • Annexure PN22-E, Part B, paragraph 2 • Annexure PN23-I, Part A, paragraph 7(d) • Paragraph 10.09(1) • Paragraph 8.03A(7)(b) • Practice Note 17, paragraphs 2.1(a) and (e)	• Appendix 10B, Part A, paragraph 29(d)(iii) • Guidance Note 13, paragraphs 2.3(a) and 4.2(a); Annexure GN15-A, Part A, paragraphs 4E, 4F(d) and 5G; and Part B, paragraph 1(d) under the heading "Particulars" • Rule 10.09(1) • Rule 8.03A(7)(b) • Rule 13.05(b) • Guidance Note 3, paragraphs 2.1(a), (b), (c)(iii) and (g)
(c)	References to *"authorised capital"* or *"issued and paid-up capital"* which are used to denote the share capital in terms of value and number of shares are proposed to be amended to the **share capital and number of issued shares**. This is for purposes of disclosures made in connection with a corporate proposal or transaction.	• Appendix 10A, Part A, paragraph 6(c)(v); and Part B, paragraph 3; Appendix 10B, Part A, paragraph 28(b); and Part B, paragraphs 2 and 5 • Practice Note 21, paragraph 8.2(b) • Practice Note 28, paragraph 13.2(d); and Annexure PN28-B, Part C, paragraph 1(a)	• Appendix 10A, Part A, paragraph 6(c)(v); and Part B, paragraph 3 • Appendix 10B, Part A, paragraph 29(b); and Part B, paragraphs 2 and 5 • Guidance Note 15, paragraph 8.2(b)

No.	Current Application and Proposed Amendments	Affected Provisions	
		Main LR	ACE LR
			• Guidance Note 17, paragraph 12.2(d); and Annexure GN17-B, Part C, paragraph 1(a)

5. Terminologies which are no longer relevant such as share premium, par or nominal value and authorised capital, are also deleted[2].

6. The proposals above are intended to update the terminologies arising from the no par value regime and provide clarity to the listed issuers in respect of the application of the relevant LR provisions.

[2] **"Share premium**" is currently used in –

(a) paragraph 12.10, paragraph 12.11, paragraph 6 of Part A in Appendix 12A, paragraph 3 of Part B in Appendix 12A, and paragraph 17B of Part A in Annexure PN28-B of the Main LR; and

(b) Rule 12.10, Rule 12.11, paragraph 6 of Part A in Appendix 12A, paragraph 3 of Part B in Appendix 12A, and paragraph 17B of Part A in Annexure GN17-B of the ACE LR.

"**Authorised share capital**" is currently used in –

(a) paragraph 28 of Part A in Appendix 10B, paragraph 2 of Part B in Appendix 10B, and paragraph 2.1(g) of Practice Note 18 of the Main LR; and

(b) paragraph 29 of Part A in Appendix 10B and paragraph 2 of Part B in Appendix 10B of the ACE LR.

"**Nominal value/amount**" or "**par value**" are currently used in –

(a) paragraphs 1.01, 6.03(1), 6.21(2)(a), paragraph (1) of Part A in Appendix 6A, paragraph (5) of Part A of Appendix 6B, paragraph 10.08(11)(a), paragraphs (6)(c) and 7(a)(i) of Part A in Appendix 10A, paragraph (4) of Part B in Appendix 10A, paragraph (4) of Part B in Appendix 10A, paragraphs (13)(a)(i), (14)(d)(i), (28)(c) of Part A in Appendix 10B, paragraph (6) of Part B in Appendix 10B, paragraphs 13.08(g) and 13.10(2)(b), paragraph 1(c) and 2(b) of Part A and paragraph (1) of Part C in Appendix 13C, paragraph (1) of Appendix 13D, paragraph (6) of Appendix 13E, paragraph (6) of Appendix 13F, paragraph 8.2(b) of Practice Note 21, paragraph 2 of Part A in Annexure PN21-A, paragraph 1(b) of Part A in Annexure PN22-E, paragraph 2 in Part B of Annexure PN22-E, paragraph 2 of Part A in Annexure 23-I, paragraph (c) of Part A of Annexure PN24-A, paragraph 13.2(d) of Practice Note 28, and paragraph 8 of Part A in Annexure PN28-B of the Main LR; and

(b) Rules 1.01, 6.04(1), 6.22(2)(a), paragraph (1) of Part A in Appendix 6A, paragraph (6) of Part A of Appendix 6B, Rule 10.08(11)(a), paragraphs (6)(c)(i) and 7(a)(i) of Part A in Appendix 10A, paragraph (4) of Part B in Appendix 10A, paragraph (4) of Part B in Appendix 10A, paragraphs (14)(a)(i), (15)(d)(i), (29)(c) of Part A in Appendix 10B, paragraph (6) of Part B in Appendix 10B, Rules 13.08(g) and 13.10(2)(b), paragraph 1(c) and 2(b) of Part A and paragraph (1) of Part C in Appendix 13C, paragraph (1) of Appendix 13D, paragraph (7) of Appendix 13E, paragraph (7) of Appendix 13F, paragraph 8.2(b) of Guidance Note 15, paragraph 2 of Part A in Annexure GN15-A, paragraph 12.2(d) of Guidance Note 17, and paragraph 8 of Part A in Annexure GN17-B of the Main LR.

Proposal 1.1 – Issues for Consultation

1. Do you agree with our proposals to replace the concepts and terminologies used in the LR *[paragraph 4 above]*?

   Please state the reasons for your views and suggestions, if any.

PROPOSAL 1.2: ENHANCEMENTS TO THE FRAMEWORK FOR BONUS ISSUE AND SUBDIVISION OF SHARES

Description	Affected Provision(s)	
	Main LR	**ACE LR**
Enhancing the framework for bonus issue of securities and subdivision of shares	▪ Paragraph 6.08 ▪ Paragraph 6.30 ▪ Paragraph 6.32 ▪ New paragraph 6.50A ▪ Appendix 6A, Part A ▪ Appendix 6B, Part B ▪ Part C, Chapter 13 ▪ Practice Note 18, paragraphs 2.1(c) and 4.1(f) ▪ Practice Note 28, Part A, paragraphs 1, 3 and 4A ▪ Annexure PN28-B, Part A, paragraphs 2 and 17 ▪ Annexure PN28-B, Part B, paragraph 1(dA) and new paragraph 1(dB)	▪ Rule 6.31 ▪ Rule 6.33 ▪ Rule 6.51A ▪ Appendix 6A, Part A ▪ Appendix 6B, Part B ▪ Part C, Chapter 13 ▪ Guidance Note 17, Part A, paragraphs 1, 3 and 4A ▪ Annexure GN17-B, Part A, paragraphs 2 and 17 ▪ Annexure GN17-B, Part B, paragraph 1(dA) and new paragraph 1(dB) ▪ Guidance Note 22, paragraphs 2.1(c) and 4.1(f)

7. Under the LR currently, a listed issuer is only allowed to undertake a bonus issue by way of capitalisation either from its retained profits or reserves arising from revaluation of assets. In doing so, the listed issuer must also satisfy certain conditions as prescribed in the LR.

8. Under the no par value regime, shares without consideration i.e. bonus shares can be issued without transferring an amount to the share capital account. As such, a bonus issue can now be undertaken with or without increasing the issued share capital of the listed issuer[3]. Where a bonus issue is undertaken without increasing the issued share capital, such issue would be akin to a subdivision of shares in that both increase the number of issued shares and reduce the share price.

9. Based on the above, the Exchange proposes to streamline the requirements relating to bonus issue and subdivision of shares, where appropriate, as discussed below.

Pricing Condition for bonus issue

10. The LR currently stipulates that the adjusted share price arising from a subdivision of shares must not be less than RM0.50 based on the daily closing price of the listed issuer's shares during the 3 month period before the application date. The key objective of this requirement is to avoid the listed issuer undertaking a corporate exercise that will give rise to more penny stocks in the market.

11. In line with streamlining the requirements for both bonus issue made without increasing the share capital and subdivision of shares, as mentioned, the Exchange proposes to also impose a pricing requirement for a bonus issue as follows ("**Pricing Condition**"):

    (a) in relation to the Main Market listed issuers, the adjusted share price following the bonus issue must not be less than RM0.50 based on the daily volume weighted average price of the listed issuer's shares during the 3-month period before the application date; and

    (b) in relation to the ACE Market listed corporations, the adjusted share price following the bonus issue must not be less than RM0.20 (instead of RM0.50 currently) based on the daily volume weighted average price of the listed corporation's shares during the 3-month period before the application date.

12. In coming up with the proposals above, we had analysed the trading price of shares listed on the Main and ACE Market[4]. Based on the statistics, we found that a majority (about 73.5%) of the Main Market listed issuers are trading at a price of more than RM0.50. In view of this, we propose to maintain the quantum of the adjusted share price arising from bonus issue or subdivision of shares undertaken by a Main Market listed issuer at RM0.50.

13. With regard to the ACE Market listed corporations, we propose to set the quantum at RM0.20 instead. This is in view of the fact that there is no minimum issue price for an initial public offering on ACE Market, unlike the Main Market. Based on our statistics, there are about 54.4% of the listed corporations which are trading at a price of more than RM0.20. In view of the fact that the Pricing Condition is intended to apply to both a bonus issue and subdivision of shares, we believe it is appropriate to set the quantum of the Pricing Condition at RM0.20 for an ACE Market listed corporation. Given the nature and size of

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3 Bonus issue of securities can be made without increasing share capital. This is benchmarked against Singapore and Hong Kong.

4 The findings are based on the statistics obtained as at the close of trading on 17 March 2017.

ACE Market listed corporations, we believe that the proposed quantum will facilitate an ACE Market listed corporation in undertaking a bonus issue without compromising the intent of the Pricing Condition.

14. The imposition of a Pricing Condition for both a bonus issue and subdivision of shares is benchmarked with the requirements in Singapore and Australia[5]. Singapore also applies a differentiated approach for its Mainboard and Catalist listed issuers in terms of the pricing requirements.

Removal of Unimpaired Losses Criterion for bonus issue and subdivision

15. Currently, a listed issuer may only undertake a bonus issue or subdivision of shares if the following are unimpaired by losses on a consolidated basis based on the listed issuer's latest audited financial statements as well as its latest quarterly report ("**Unimpaired Losses Criterion**"):

(a) in the case of a bonus issue, the reserves required for capitalisation; and

(b) in the case of a subdivision of shares, the issued and paid-up capital.

16. In line with our objective of ensuring a balanced regulatory framework, the Exchange proposes to do away with the Unimpaired Losses Criterion for a bonus issue and subdivision of shares as we believe that the imposition of the Pricing Condition is adequate. We note that Singapore, Hong Kong and Australia which impose similar pricing requirements, do not impose the Unimpaired Losses Criterion.

Adequacy of reserves for bonus issue

17. Presently, a listed issuer which intends to undertake a bonus issue by way of capitalisation must ensure that the available reserves for capitalisation are adequate to cover the entire bonus issue of securities. This is in addition to the Unimpaired Losses Criterion referred to in paragraph 15(a) above.

18. As a bonus issue can now be undertaken with or without increasing the issued share capital of a listed issuer, we propose to clarify that in the case of a bonus issue by way of capitalisation, the listed issuer must ensure it has sufficient reserves to cover the capitalisation issue.

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[5] **Singapore**: The daily weighted average price, adjusted for the capitalization issue or subdivision of shares, for a Mainboard listed issuer must not be less than S$0.50. In the case of a Catalist listed issuer, the adjusted price must not be less than S$0.20.

Australia: A listed issuer must not issue bonus securities or reorganise its capital if the effect of doing so would be to decrease the trading price of its securities after the issue or reorganisation to an amount less than 20 cents.

Bonus issue of warrants

19. Currently, a listed issuer which undertakes a bonus issue of warrants must comply with the requirements in relation to bonus issue and convertible securities under the LR, where applicable.

20. In view of the proposal to impose the Pricing Condition for a bonus issue as discussed in paragraph 11 above, we propose to clarify that a bonus issue of warrants is not subject to the Pricing Condition given the nature of warrants which enables the company to raise funds upon the exercise of such warrants.

Other streamlining proposals

21. Apart from the above, the Exchange also proposes to streamline the frameworks for bonus issue and subdivision of shares by having similar requirements and procedures for both. For this purpose, we propose to extend the requirements applicable to a bonus issue as set out in Chapter 6 of the LR to a subdivision, with the necessary modifications. This will provide consistency in both frameworks.

22. The table below sets out the key requirements which will be streamlined:

No.	Current Requirements		Proposed streamlining of the requirements for bonus issue and subdivision of shares
	Bonus issue	**Subdivision of shares**	
Appointment of Principal Adviser			
(a)	A listed issuer which undertakes a bonus issue **must appoint a Principal Adviser**	A listed issuer which undertakes a subdivision of shares is **not required to appoint a Principal Adviser**.	We propose to adopt the requirement under the bonus issue framework for a subdivision. This means that a listed issuer which undertakes a subdivision of shares **must appoint a Principal Adviser**.
Removal of prohibition for issuance of subdivision of shares			
(b)	-	A listed issuer which is a Cash Company or PN 17 or GN 3 company cannot undertake a standalone sub-division of shares which is not part of its regularisation plan.	We propose to remove this requirement for sub-division of shares, to streamline with a bonus issue where there is no such prohibition for a Cash Company or PN 17 or GN3 company.

No.	Current Requirements		Proposed streamlining of the requirements for bonus issue and subdivision of shares
	Bonus issue	**Subdivision of shares**	
Application procedures and timeframe			
(c)	The application in respect of a bonus issue must be submitted as soon as possible and in any event **not later than 2 months** from the date of the announcement.	The application for subdivision of shares must be filed with the Exchange **not later than 1 month** from the date of the listed corporation's announcement pertaining to the proposed subdivision.	We propose to apply the timeframe stipulated under the bonus issue framework to a subdivision. Hence, it is proposed that the application for subdivision of shares must be filed with the Exchange **not later than 2 month** from the date of the listed issuer's announcement pertaining to the proposed subdivision.
(d)	The listing procedures, application form, and supporting documents to be filed with the listing application are set out in Practice Note 28 of the Main LR and Guidance Note 17 of the ACE LR.	The application contents, procedures and supporting documents are set out in Chapter 13 of the LR.	We propose to require a listed issuer which intends to undertake a subdivision, to comply with the listing procedures and requirements applicable to a bonus issue under Chapter 6 and Practice Note 28/Guidance Note 17 of the LR instead.
Requirements for non-Specified Subdivision – announcement & timeframe for allotment			
(e)	Where the date of listing and quotation in the case of a non-Specified Bonus Issue ("**Relevant Date**") cannot be ascertained at the time of announcement of the books closing date, the listed issuer must **state that the Relevant Date is dependent upon the other corporate proposal being completed or**	-	We propose to require the same information in the announcement of the books closing date for **a non-Specified Subdivision**[6].

[6] A non-Specified Subdivision refers to a subdivision which is conditional on another corporate proposal.

No.	Current Requirements		Proposed streamlining of the requirements for bonus issue and subdivision of shares
	Bonus issue	**Subdivision of shares**	
	becoming unconditional.		
(f)	In the case of a non-Specified Bonus Issue, immediately **upon the other corporate proposal being completed or becoming unconditional and the listed issuer becoming aware of or ascertaining the Relevant Date**, the listed issuer must **announce** - • the **exact number of bonus issue securities which will be listed and quoted**; and • the Relevant Date, if not previously announced.	-	We propose to require similar announcement for **a non-Specified Subdivision** where the other corporate proposal is completed or becomes unconditional. In this regard, a listed issuer is proposed to **announce the number of subdivided shares which will be listed and quoted** and the Relevant Date, if not previously announced.
(g)	The timeframe for the allotment of securities, despatch of notices of allotment and application for quotation in respect of non-Specified Bonus Issue is in **accordance with the corporate proposals of which it is conditional upon.** This is typically done within 8 market days of the final applications date.	Allotment of securities, despatch of notices of allotment and application for quotation in respect of a non-Specified Subdivision must be done within **4 market days** of the books closing date for the proposed subdivision or such other period as may be prescribed by the Exchange.	We propose to align the timeframe for the allotment of securities, despatch of notices of allotment and application for quotation in respect of non-Specified Subdivision with the timeframe for a non-Specified Bonus Issue. This means that in the case of a non-Specified Subdivision, the timeframe is proposed to be in **accordance with the corporate proposals of**

No.	Current Requirements		Proposed streamlining of the requirements for bonus issue and subdivision of shares
	Bonus issue	**Subdivision of shares**	
			which it is conditional upon.
(h)	Adjustments of price or number of shares to be issued under a Share Issuance Scheme due to a bonus issue **do not require confirmation** in writing either by the external auditors or the listed issuer's Principal Adviser.	-	It is proposed that adjustments of price or number of shares to be issued under a Share Issuance Scheme due to a subdivision of shares, **do not require confirmation** in writing either by the external auditors or the listed issuer's Principal Adviser. This is the same as in the case of a bonus issue presently.
Perusal of circulars			
(i)	Circular for bonus issue is an **exempt circular** i.e. does not require perusal by the Exchange before issuance.	Circular for subdivision of shares is subject to a **limited review** i.e. review on areas which pose a high risk in terms of disclosure or compliance with the LR.	We propose to adopt the approach currently applicable to a subdivision of shares for the review of circulars, to a bonus issue. In this regard, it is proposed that the **circular** for a bonus issue will be subject to a **limited review** by the Exchange, as in the case of a subdivision of shares presently.

Proposal 1.2 – Issues for Consultation

Pricing Condition for bonus issue

2. Do you agree with the proposal to impose the Pricing Condition for a bonus issue? If so, do you agree that different Pricing Condition should be imposed for the Main Market and ACE Market respectively? *[paragraph 11 above]*?

   Please state the reasons for your views.

Removal of Unimpaired Losses Criterion for a bonus issue and subdivision of shares

3. Do you agree with the requirement to remove the Unimpaired Losses Criterion for both a bonus issue and subdivision of shares *[paragraph 16 above]*?

   Please state the reasons for your views.

Adequacy of reserves for bonus issue

4. Do you agree with the proposal to clarify that in the case of a bonus issue by way of capitalisation, the listed issuer must ensure that the reserves are sufficient to cover the capitalisation issue *[paragraph 18 above]*?

   Please state the reasons for your views.

Bonus issue of warrants

5. Do you agree with the proposal not to impose the Pricing Condition for a bonus issue of warrants *[paragraph 20 above]*?

   Please state the reasons for your views.

Other streamlining proposals

6. Is it appropriate to treat a bonus issue without increasing the share capital like a subdivision of shares in a no par value regime? If so, do you agree with the proposal to extend the requirements applicable to a bonus issue in Chapter 6 of the LR to a subdivision of shares *[paragraph 21 above]*?

   Please state the reasons for your views.

7. Do you agree with the other key streamlining proposals in relation to a bonus issue and subdivision of shares *[table in paragraph 22 above]*?

   Please state the reasons for your views.

8. Apart from the proposals above, is there any other requirement that should be imposed for a bonus issue without increasing the issued share capital or subdivision of shares?

   Please provide your suggestions and reasons for the suggestions.

PROPOSAL 1.3: ENHANCEMENTS TO THE SHARE BUY-BACK FRAMEWORK

Description	Affected Provision(s)	
	Main LR	**ACE LR**
• Updating the source of funds for a share buy-back consequential to the abolishment of share premium account • Enhancing the announcement requirements arising from the expanded usage of treasury shares	▪ Paragraph 12.06 ▪ Paragraph 12.10 ▪ Paragraph 12.20 ▪ Appendix 12A, Parts A and B ▪ Appendix 12C, Part B	▪ Rule 12.06 ▪ Rule 12.10 ▪ Rule 12.20 ▪ Appendix 12A, Parts A and B ▪ Appendix 12C, Part B

23. The requirements governing a share buy-back by a listed issuer are set out in Chapter 12 of the LR. These requirements were aligned with the provisions set out in section 67A of the CA 1965. In this regard, presently a listed issuer must, among others, comply with the following requirements if it intends to repurchase its shares:

(a) obtain shareholders' approval at a general meeting for the repurchase and include the prescribed disclosures in the circular or statement;

(b) ensure that the repurchase does not result in the aggregate of the shares purchased or held exceeding 10% of its issued and paid-up capital;

(c) ensure that the repurchase is made wholly out of retained profits or share premium account or both;

(d) lodge the solvency declaration as required under the Companies Act with the Exchange;

(e) ensure that the public spread requirements are not breached;

(f) comply with the relevant pricing requirements;

(g) cancel, resell or retain the shares purchased as treasury shares; and

(h) comply with the relevant announcement requirements pertaining to the purchase, resale or cancellation of shares.

24. In line with the migration to the no-par value regime and abolishment of the share premium account under the CA 2016, we propose to clarify in the LR that a listed issuer is allowed to repurchase its own shares wholly out of retained profits only.

25. Further to the above, given that the permitted utilisation of treasury shares under the CA 2016 has been expanded to include a transfer or use for purposes of an **employee share scheme**, **purchase consideration**, or any **other purpose as may be prescribed by the Minister**[7], we propose to require the listed issuer to make an announcement of the following information to the Exchange, on the same day of the transfer of the treasury shares for the uses permitted under the CA 2016:

    (a) the date of transfer;

    (b) the purpose of the transfer;

    (c) the number of shares transferred;

    (d) the transfer price and the basis for such price; and

    (e) the total number of treasury shares held after such transfer.

26. Additionally, the Exchange also proposes to enhance disclosure of utilisation of treasury shares by a listed issuer when it seeks its shareholder approval for a share buy-back. It is proposed that a listed issuer must ensure that the Share Buy-back Statement[8] issued for that purpose, contains the information in paragraphs 25(b) and (d) above in relation to any transfer of treasury shares in the preceding 12 months. This is to keep shareholders apprised of the past utilisation of treasury shares by their listed issuers and to enable them to make informed decision when approving any new proposed share buy-back.

27. We believe that apart from aligning the LR with the CA 2016, the proposal above provides transparency to the market as to how the treasury shares are utilised. This is also benchmarked with the requirements in Singapore and the United Kingdom.

28. In addition to the above, we have also taken this opportunity to simplify the circular requirements for a share buy-back. Currently, the LR requires a listed issuer to issue a circular containing the information as set out Part A of Appendix 13A of the LR for purposes of seeking a new authorisation to purchase its own shares[9]. In the case of a renewal of an existing authorisation, the listed issuer is required to issue a Share Buy-back Statement containing the information set out in Part B of Appendix 13A of the LR[10]. Given that most of the information required in the circular and Share Buy-back Statement is similar, we propose to simplify the framework by requiring a listed issuer to only send a Share Buy-back Statement to its shareholders whether for purposes of seeking a new authorisation or renewing an existing authorisation to purchase its own shares. The Share Buy-back Statement must contain the information currently required for a circular in Part A of Appendix 13A except for information on material contracts and material litigations as this information is not relevant to the share buy-back.

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7 See section 127(7) of the CA 2016.

8 A Share Buy-back Statement refers to a statement accompanying the notice of general meeting that includes the information set out in Part B of Appendix 12A in Chapter 12 of the LR, in substitution of the circular.

9 See paragraphs/Rules 12.06(1) and (3) of the LR.

10 See paragraphs/Rules 12.06(2) and (4) of the LR.

Proposal 1.3 – Issue(s) for Consultation

9. Do you agree with the proposed information relating to a transfer or use of treasury shares that must be included in an announcement, circular and Share Buy-back Statement *[paragraphs 25 and 26 above]*?

   Please state the reasons for your views.

10. Is there any other information relating to the transfer or use of treasury shares that should be included in the announcement, circular and Share Buy-back Statement?

    Please state your suggestions and the reasons for the suggestions.

11. Apart from the disclosure requirements, is there any other requirement which should be prescribed in the LR in view of the expanded utilisation of treasury shares under the CA 2016?

    Please state your suggestions and the reasons for the suggestions.

12. Do you agree with the proposal to simplify the circular requirements by only requiring the issuance of a Share Buy-back Statement to shareholders for purposes of seeking a new authorisation or renewing an existing authorisation, to purchase shares? If so, do you agree that the Share Buy-back Statement must contain the information as set out in Part A of Appendix 13A of the LR except for information on material contracts and material litigation *[paragraph 28 above]*?

    Please state the reasons for your views.

PROPOSAL 1.4: INTRODUCTION OF A FRAMEWORK FOR ELECTRONIC COMMUNICATION UNDER THE LR

Description	Affected Provision(s)	
	Main LR	ACE LR
Facilitating issuance of documents under the LR to securities holder via electronic means	▪ New Paragraph 2.19B ▪ Paragraph 9.26	▪ New Rule 2.19B ▪ Rule 9.26

29. Presently, documents under the LR such as circulars, notices of general meetings and proxy forms, must be issued in printed/hardcopy. Annual reports may, in addition to printed copies, be issued in electronic format such as CD-ROM and thumb-drive.

30. The CA 2016 now allows communication between a company and its members on matters relating to meetings and resolutions, as well as supply of information or documents (collectively referred to as the "**communication**"), to be done electronically[11]. This is subject to, among others, the following:

    (a) the constitution sets out the manner and procedures to be adopted for the electronic communication. Otherwise, the communication must be addressed to the members at the last known address provided for that purpose[12];

    (b) notices of meetings sent electronically must be addressed to the electronic address provided by the member to the company for such purpose, or published on the website[13]; and

    (c) if the notice of meeting is published on the website, notification of such publication must be given in writing (either electronically or in hardcopy) stating that it concerns a meeting of members, the place, date and time of the meeting; and whether the meeting is an annual general meeting[14].

31. The Exchange welcomes and supports this development as it is aligned with our objectives of promoting sustainable practices, costs savings and greater efficiency in the marketplace. This development is also in tandem with our initiatives to migrate to a paperless environment, where feasible such as eDividend which allows listed issuers to electronically pay cash dividend directly into their shareholders' bank accounts, eStatement which enables central depository system ("**CDS**") account holders to receive CDS statements of accounts, CDS notices and any other communication from Bursa Malaysia Depository Sdn Bhd ("**Depository**") electronically via email, and eRights which allows individual shareholders to subscribe for rights issue via the ATM and internet banking facility of participating banks. We have also digitised the disclosure and submission processes through our listing information network system, Bursa LINK and promoted the use of online listing enquiry service, AskListing@Bursa for more efficient and systematic response on enquiries.

32. Based on the Internet Survey 2016[15] published by the Malaysian Communications and Multimedia Commission, 77.6% of the Malaysian population in 2015 were internet users with a large majority of them being concentrated in the urban areas. This is supported by statistics from the same survey on the internet penetration at the urban and rural areas which were at 62.1% and 37.9% respectively.

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[11] See **section 612** of the CA 2016 which sets out the general provisions on the methods of communication between a company and its members, **section 319** on requirements pertaining to the notice of meeting sent electronically and **section 320** on the requirement for notification if the notice of meeting is published on the company's website.

[12] See section 612 of the CA 2016.

[13] See section 319 of the CA 2016.

[14] See section 320 of the CA 2016.

[15] The document is available at http://www.skmm.gov.my/skmmgovmy/media/General/pdf/IUS2016.pdf.

33. In light of the CA 2016 and the growing numbers in internet users, we believe that it is timely now to facilitate issuance of documents under the LR to securities holders by way of electronic means.

34. In this regard, we propose that where the LR requires a listed issuer to issue documents (such as notices, circulars, quarterly and annual reports) to its securities holders ("**Documents**"), the listed issuer may send the Documents by electronic means subject to compliance with certain conditions as set out below.

General conditions for issuance of Documents via electronic means

Constitution must allow electronic means

35. The listed issuer must ensure that its constitution -

(a) provides for the use of electronic means to communicate with its securities holders which is in line with the CA 2016 as highlighted in paragraph 30(a) above. We also believe that this is an appropriate safeguard for permitting electronic means as a mode of issuance as the amendments to the constitution must be approved by way of a special resolution. Once approved, the provisions pertaining to the usage of electronic means in the constitution will bind all securities holders. Based on this and as contemplated under the CA2016, the issue of procuring individual consent of securities holders for the use of electronic means should not arise. This approach will make it easier and more practical for a listed issuer to adopt electronic means to communicate with their securities holders.

(b) specifies the manner in which the electronic means is to be used. This ensures that shareholders are aware of, and clear about the procedures relating to the electronic means for communication.

(c) states that the contact details of a member as set out in the Record of Depositors[16] shall be deemed to be the last known address for purposes of receiving documents under the LR. This will facilitate practical compliance by listed issuers with the requirements in the CA 2016 as highlighted in paragraph 30 above i.e. communication between a company and its members may be done electronically if, among others, the communication is sent to the latest address of the members provided to the company for that purpose.

[16] Paragraph/Rule 1.01 of the LR defines the **Record of Depositors** to mean a record provided by Depository to a listed issuer under Chapter 24.0 of the Rules of the Depository.

Types of electronic means

36. To keep the framework under the LR flexible enough to cater for future technological advancements, we do not propose to define "**electronic means**" in the LR. Whilst this is the approach that we are taking, we had nonetheless considered the various types of electronic means that could be used and the controls that would need to be imposed for investor protection. In this regard, some of the electronic means which we contemplated include using email and the listed issuer's website, or other electronic platforms whether maintained by the listed issuer or a third party that can host the information in a secure manner for access by the securities holders. Where email is used, there must be proof of email delivery.

Securities holders are still entitled to hardcopies upon request

37. While the Exchange is supportive of using electronic means to communicate with shareholders, we are also cognisant of the fact that some shareholders may not be used to new technologies in the area of communication or may not have efficient access to internet. We are also mindful that some shareholders may prefer the existing method of receiving hard copies of such documents.

38. Hence, to address these concerns, we are proposing that if a securities holder requests for hard copies of the Documents, the listed issuer must forward the hard copies to the securities holder within 2 market days from the date of receipt of the request, free of charge.

Additional conditions for publication of such documents on website

39. Where listed issuers employ their websites as a means of electronic communication with their securities holders, which is allowed in other developed markets such as United Kingdom, Hong Kong and Singapore, we propose that the listed issuer must, in addition to the conditions set out in paragraphs 35, 37 and 38 above and any provisions in the CA 2016, separately and immediately notify its securities holders in writing of the following:

    (a) the publication of the Document on the website; and

    (b) the designated website link or address where a copy of the Document may be downloaded.[17]

40. The separate notification may be in hard copy (e.g. letter) or electronic form (e.g. email, short messaging service or any other form of electronic communication as may be appropriate).

Consequential amendments relating to annual reports

41. Consequential to our proposal on electronic means above, we propose to remove the requirement on issuance of annual report in electronic format (such as CD-ROM and thumb-drive).

[17] The requirement to notify the securities holders for publication of documents on website is benchmarked against Singapore, Hong Kong and United Kingdom.

42. With the implementation of the proposal on electronic means, the requirements in paragraph 41 will become redundant. Further, the proposed deletion provides flexibility for a listed issuer to issue its annual report by way of email, website or other appropriate electronic means.

Issuance of documents required to be completed by securities holders

43. We note that documents in relation to rights issues (e.g. notices of provisional allotment and rights subscription forms) or offer for sale ("**Rights Issue and Offer for Sale Documents**") contain important procedural instructions and forms that securities holders need to complete and submit to the listed issuer within a specified timeframe, typically a relatively short period.

44. Given the importance of the Rights Issue and Offer for Sale Documents to securities holders, we propose to provide that such documents may be given to securities holders through electronic mail, in hard copy or in any other manner as the Exchange may prescribe from time to time. If such documents are given via electronic mail, the securities holders would still have the right to request for hardcopies in which case the listed issuer must ensure that such hardcopies are forwarded to the securities holders within 2 market days from the date of receipt of the request, just like other documents as mentioned above.

45. The proposal above was formulated after taking into account the following key considerations:

(a) securities holders are accorded sufficient time to understand the procedures involved and act immediate or promptly to complete the forms within the specified timeframe for the rights issue or offer for sale. This is to safeguard their interests in the corporate proposal;

(b) the framework should be practical and efficient for both the listed issuers and securities holders; and

(c) the framework should be flexible enough to accommodate new technologies and developments in communication space.

46. Further to the above, we also propose to clarify that if a listed issuer sends a documents through electronic mail, there must be proof of electronic mail delivery. This is to address circumstances where there is a failure to deliver the document via electronic mail due to the size of the document, for instance. In such a situation, the document will not have been delivered to the securities holders. Hence, the listed issuer must make other arrangements to send the document to its securities holders such as in hardcopies.

47. With regards to the documents pertaining to take-over offers and exit offers, they will be regulated under the Malaysian Code on Take-Overs and Mergers 2016 and the Rules on Take-Overs, Mergers and Compulsory Acquisition 2016[18]. Hence, the requirements proposed under the LR above will be inapplicable to such documents.

Proposal 1.4 – Issue(s) for Consultation

13. Do you agree with the proposal of allowing a listed issuer to issue the Documents (save for Rights Issue and Offer For Sale Documents) through electronic means if it complies with the prescribed conditions *[paragraphs 34, 35, 3737 and 38 above]*?

    Please state the reasons for your views

14. If so, do you agree with the proposed prescribed conditions? What are the practical issues, if any, that a listed issuer may face in complying with the proposed prescribed conditions? Are there any other conditions that should be imposed before the Documents can be sent by electronic means *[paragraphs 35, 37 and 38 above]*?

    Please state the reasons for your views and suggestions, if any.

15. Do you agree that the listed issuer must forward a hard copy of the Documents to the securities holder within 2 market days from the date of receipt of the request for a hard copy of the Documents? Is the time given appropriate both from the listed issuer's and securities holder's perspective *[paragraph 38 above]*?

    Please state the reasons for your views and suggestions on a reasonable timeframe, if any.

16. Do you agree to allow a listed issuer to use its website as a mode of electronic means to send the Documents to its securities holders, subject to a separate notification regarding the publication of Document being sent? Is there any other safeguard that we should impose on the listed issuer for using its website as a means of communication with its securities holders? *[paragraph 39 above]*?

    Please state the reasons for your views and suggestions, if any.

[18] Rule 11.06 of the Rules on Take-Overs, Mergers and Compulsory Acquisition 2016 stipulates that a document or information required to be sent to any person, will be treated as having been sent –

(a) in the case of delivery by post, if it is properly addressed, pre-paid and dispatched by post; and

(b) where the shareholder has opted to receive electronic documents, if it is properly addressed and there is proof of email delivery.

17. Do you agree with the proposal that the Rights Issue and Offer for Sale Documents may be issued through electronic mail, in hardcopy or in any other manner as the Exchange may prescribe from time to time? Do you have any concerns with the mode of issuance of such documents *[paragraph 44 above]*?

    Please state the reasons for your views.

18. Is the timeframe of 2 market days from the date of receipt of request appropriate for a listed issuer to forward the Rights Issue and Offer for Sale Documents to its securities holder who has made such request? If not, what is the appropriate timeframe for the listed issuer to forward such documents to its securities holder *[paragraph 44 above]*?

    Please state the reasons for your views and suggestions on the appropriate timeframe, if any.

19. Do you have any other suggestions as to the manner in which the Rights Issue and Offer for Sale Documents should be sent to securities holders?

    Please state the reasons for your suggestions, if any.

20. Is there any other document which is required to be sent to securities holders under the LR that should be sent in hardcopies in addition to the documents in relation to Rights Issues and Offer for Sale? If so, what are they?

    Please state the reasons for your suggestions, if any.

21. What are the other safeguards that should be imposed before the Rights Issue and Offer for Sale Documents can be issued electronically?

    Please state the reasons for your suggestions, if any.

PROPOSAL 1.5: AMENDMENTS AND ENHANCEMENTS TO THE CONTENT OF THE CONSTITUTION

Description	Affected Provision(s)	
	Main LR	**ACE LR**
Maintaining the requirement for a listed issuer to have a constitution and enhancing the contents of the constitution	▪ Paragraph 7.03 ▪ Paragraph 7.21A ▪ Paragraph 7.24 ▪ Paragraph 7.27 ▪ Paragraph 7.29 ▪ Paragraph 7.31 ▪ Paragraph 7.35 ▪ Paragraph 15.05(3)	▪ Rule 7.03 ▪ Rule 7.21A ▪ Rule 7.24 ▪ Rule 7.27 ▪ Rule 7.29 ▪ Rule 7.31 ▪ Rule 7.35 ▪ Rule 15.05(3)

48. Under the CA 1965, it was mandatory for a company to have a memorandum and articles of association ("**M&A**"). This, however, is no longer the case in the CA 2016. The constitution (which replaces the M&A) is now optional for a company unless it is a company limited by guarantee[19].

49. Notwithstanding the above, under section 619(3) of the CA 2016, the memorandum and articles of association of an existing company shall continue to have effect as if made or adopted under the CA 2016 unless otherwise resolved by the company.

50. In view of the above and for the reasons stipulated in paragraph 51 below, we propose to maintain the requirement for listed issuers to continue having a constitution with the prescribed contents as set out in Chapter 7 of the LR with the following modifications:

    (a) deletion of certain provisions which have already been codified in the CA 2016, prescribed as a continuing listing obligation or are redundant; and

    (b) enhancement of certain provisions to address a gap or for greater clarity.

    The details on the proposed modifications are discussed in paragraphs 52 and 53 below.

51. Although the CA 2016 provides companies with the flexibility of doing away with the constitution, we believe that it is important for listed issuers to continue maintaining one as the constitution would clearly document or set out the contractual rights and obligations of the listed issuer, directors and shareholders, thus ensuring greater clarity as to the roles and responsibilities of the parties. It also preserves the shareholders' legal rights against the listed issuer directly.

[19] See section 31 of the CA 2016.

Proposed deletions of certain contents of the constitution

52. As stated in paragraph 50(a) above, we propose to delete the following contents of the constitution as currently prescribed in Chapter 7:

(a) Participation of directors in a Share Issuance Scheme

We propose to remove paragraph/Rule 7.03 of the LR which stipulates that no director shall participate in a Share Issuance Scheme[20] unless shareholders in general meeting have approved the specific allotment to be made to such director. As the requirement to obtain shareholder approval for any specific allotment of shares to the directors of the listed issuer or its holding company is already prescribed in the LR[21], we are of the view that the requirement in paragraph/Rule 7.03 of the LR is no longer necessary.

(b) Qualification and rights of proxy

(i) Paragraph/Rule 7.21A of the LR was previously prescribed to facilitate participation in meetings by members via proxies and accord such proxies the same rights as members to speak at the meeting. This requirement was made as the CA 1965, imposed a restriction on proxy's qualification – a person who is not a member cannot be appointed as proxy unless he is an advocate, an approved company auditor or a person approved by the Registrar in a particular case.

(ii) Given that the CA 2016 has removed the restriction on the qualification of a proxy and codified the rights of a proxy to attend, participate, speak and vote at a meeting of members, we propose to delete the requirements as set out in paragraph/Rule 7.21A of the LR which stipulates that there shall be no restriction as to the qualification of the proxy and empowers the proxy to have the right to speak at a general meeting.

(c) Vacation of office of director

(i) Paragraph/Rule 7.27 of the LR currently provides that the office of a director shall become vacant if the director becomes of unsound mind or bankrupt during his term of office.

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[20] Share Issuance Scheme means a scheme involving a new issuance of shares to the employees.

[21] See paragraph/Rule 6.06 of the LR.

(ii) The CA 2016 on the other hand provides that the office of a director shall be vacated if he[22] –

- resigns;
- has retired in accordance with the CA 2016 or the constitution but is not re-elected;
- is removed from office in accordance with the CA 2016 or the constitution;
- becomes disqualified from being a director under sections 198 or 199 of the CA 2016 such as if he is undischarged bankrupt;
- becomes of unsound mind;
- dies; or
- otherwise vacates his office in accordance with the constitution.

(iii) In addition, paragraph/Rule 15.05(3) of the LR also stipulates that the office of a director will become vacant if the director, among others, becomes of unsound mind or bankrupt.

(iv) As the circumstances where a director becomes of unsound mind or bankrupt constitute an automatic vacation of office under the CA 2016 and the LR, the similar provision under the constitution as prescribed in paragraph/Rule 7.27 of the LR is proposed to be deleted. Consequential to this, we propose to enhance paragraph/Rule 15.05(3) of the LR to state that the office of a director will become vacant if the director falls within the circumstances set out in section 208 of the CA 2016.

(d) Payment of liquidator's commission or fee in a voluntary winding up

Paragraph/Rule 7.35 of the LR currently stipulates that a liquidator's commission or fee in a voluntary winding-up shall only be paid after it has been approved by shareholders. We note that such provision may not be of much relevance as it is unlikely for a listed issuer to resort to a voluntary winding up after it is listed. In view of this, we propose to delete the said provision in paragraph/Rule 7.35 of the LR as it is redundant.

Proposed enhancements to the contents of the constitution

53. As highlighted in paragraph 50(b) above, we propose to enhance the following contents of the constitution in Chapter 7 of the LR:

[22] See section 208 of the CA 2016.

(a) Annual shareholder approval for directors' fees and benefits

(i) Paragraph/Rule 7.24 of the LR currently provides that any increase in the fees payable to directors must be approved by shareholders at a general meeting. We have also issued a letter dated 30 May 2016 to clarify that in giving effect to paragraph/Rule 7.24 of the LR, a listed issuer must obtain specific shareholders' approval for any increase in the directors' fees.

(ii) The CA 2016 now codifies the requirement for shareholders' approval for fees and benefits payable to directors of a listed issuer and its subsidiary[23].

(iii) In view of the above, we propose to delete the requirement for shareholder approval in relation to any increase in directors' fees under paragraph/Rule 7.24 of the LR. Instead, we will prescribe the requirement that the fees and benefits payable to directors are subject to **annual** shareholders' approval. This is aimed at promoting better governance practice and according shareholders the opportunity to approve or reject any fees and benefits to directors annually, instead of relying on a mandate for a capped amount for successive years without the need to procure specific shareholder approval.

(b) Oversight of managing director or person in equivalent position

Paragraph/Rule 7.29 of the LR provides that a managing director of a listed issuer is subject to the control of the board of directors. We propose to expand this requirement to **a person holding an equivalent position**. This is to cover situations where a managing director may be named as, or called by, a different designation.

(c) Appointment of alternate director

Paragraph/Rule 7.31 of the LR provides that a director may appoint a person approved by a majority of his co-directors to act as his alternate, provided that any fee paid to the alternate shall be deducted from that director's remuneration. In this regard, as a matter of good corporate practice, we propose to clarify in the requirement that **no director may act as an alternate director**, and **a person may not act as an alternate director for more than one director**.

Proposal 1.5 – Issues for Consultation

22. Do you agree with the proposed deletions of the following provisions of a listed issuer's constitution:

    (a) participation of directors in a Share Issuance Scheme *[paragraph 52(a) above]*;

[23] See section 230 of the CA 2016.

(b) qualification and rights of proxy *[paragraph 52(b) above]*;

(c) vacation of office of director *[paragraph 52(c) above]*; and

(d) payment of liquidator's commission or fee in a voluntary winding up *[paragraph 52(d) above]*?

Please state the reasons for your views.

23. Is there any other provision required to be incorporated in the constitution via Chapter 7 of the LR which should be deleted? Please provide your suggestions together with your reasons.

24. Do you agree with the following proposed enhancements to the contents of a listed issuer's constitution:

(a) annual shareholder approval for directors' fees and benefits *[paragraph 53(a) above]*;

(b) oversight of managing director or person in equivalent position *[paragraph 53(b) above]*; and

(c) appointment of alternate director *[paragraph 53(c) above]*?

Please state the reasons for your views.

25. Is there any other provision required to be incorporated in the constitution via Chapter 7 of the LR which should be enhanced or amended? Please provide your suggestions together with your reasons.

PROPOSAL 1.6: ENHANCEMENTS TO THE DISCLOSURE OF DIRECTORS' REMUNERATION IN ANNUAL REPORTS

Description	Affected Provision(s)	
	Main LR	**ACE LR**
Promoting greater transparency in the disclosure of directors remuneration in annual reports by requiring disclosure on a named basis	▪ Appendix 9C, Part A, paragraph 11	▪ Appendix 9C, paragraph 12

54. Currently under the LR, a listed issuer is only required to disclose in its annual report, the aggregate remuneration of its directors (including the remuneration for services rendered to the listed issuer as a group) categorised into appropriate components, and the number of directors whose remuneration falls in successive bands of RM50,000.

55. In the recent CG Watch 2016 Special Report, *Ecosystem Matter : Asia's path to better home-grown governance* ("**CG Watch 2016 Report**"), it was highlighted that disclosure on remuneration in Malaysia is found to be lacking and should be improved so that shareholders know the fees and can understand how incentive structures relate to individual pay and company performance.

56. Statistics in the Malaysia-ASEAN Corporate Governance Report 2015 further support the findings in the CG Watch 2016 Report. Based on the said report, only 33% of the Top 100 listed issuers disclose their directors' remuneration on a named basis in annual reports for 2015. In terms of all listed issuers, only 9% made such disclosures.

57. In tandem with the CA 2016 mandating that directors' fees and benefits of a listed issuer and its subsidiary be approved by shareholders at a general meeting[24], there is now a demand for greater transparency on remuneration levels and the link to the listed issuer's performance, so that shareholders are in a better position to assess the appropriateness of the remuneration paid. The call for greater remuneration disclosures goes a long way towards enhancing accountability and bolstering shareholder confidence in listed issuers.

58. In fact, most jurisdictions globally have moved towards a more detailed disclosure of director and executive remuneration together with the remuneration policy in annual reports. In Hong Kong, Australia and United Kingdom for instance, disclosure of directors' remuneration on a named basis and the remuneration policy is mandated either through the listing rules or the corporations legislation. In Singapore, the detailed disclosure requirement is prescribed in the Code of Corporate Governance and is subject to the "comply or explain" approach.

59. We are cognisant that there are also notable reservations from the listed issuers, their directors and senior management towards greater transparency on their remuneration due to the sensitivity of the information and the desire by the directors and executives for privacy in their financial affairs. Some of the common issues highlighted include the issue of security risk to the individual and family members, increased competition for talent and pressure to raise the remuneration levels.

60. However, on balance, we are of the view that detailed disclosure of directors' remuneration is important particularly to enable shareholders to understand how incentive structures relate to individual director and company performance and, thus, enable them to make better informed decisions accordingly. In view of the above, we propose to mandate disclosure of directors' remuneration (e.g. directors' fees, salaries, percentages, bonuses, commission, compensation for loss of office, benefits in kind based on an estimated money value) on a named basis in annual reports.

61. Whilst only the disclosure of directors' remuneration on a named basis is proposed to be mandated, a listed issuer is also strongly encouraged to disclose its directors' remuneration policy in the annual report to complement the detailed disclosure of directors' remuneration. This will enable shareholders to assess whether the remuneration of directors are commensurate with their individual performance, and understand the link between their remuneration with the company's performance.

[24] See section 230 of the CA 2016.

Proposal 1.6 – Issues for Consultation

26. Do you agree with the proposal to mandate disclosure of directors' remuneration on a named basis in respect of both Main Market and ACE Market? Alternatively, do you think such detailed disclosure should be limited to Main Market listed issuers only *[paragraph 60 above]*?

    Please state the reasons for your views.

[End of Part 1]

PART 2 OTHER PROPOSED AMENDMENTS

The Exchange also proposes to make other amendments to the LR consequential to the CA 2016 with the primary objective of providing greater clarity and certainty.

The other miscellaneous amendments together with the rationale for the amendments are as set out below.

In addition to the above, we propose to make other housekeeping amendments to the LR –

- to update the various references to the provisions under the CA 1965 with the latest sections in the CA 2016; and
- where appropriate, to simplify the drafting for easy understanding.

PROPOSAL 2.1

62. The miscellaneous amendments or other enhancements proposed are as follows:

No.	Paragraph/Rule	Proposal	Rationale
MAIN and ACE LR			
(a)	Paragraph/Rule 1.01 of the LR.	Amending the percentage threshold from 15% to 20% for purposes of determining "deemed interest" in accordance with the CA 2016, in the definition of "associate" and "person connected".	The current percentage threshold of 15% for the purpose of determining deemed interest in the definition of "associate" and "person connected" was intended to align with the requirement in the CA 1965. Under the CA 2016, the said percentage threshold has been increased to 20%[25].

[25] Section 8(4) of the CA 2016 stipulates that a person shall be deemed to have an interest in a share where a body corporate has an interest in a share and –

(a) the body corporate is, or its directors are accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person in relation to that share;

(b) that person has a controlling interest in the body corporate; or

(c) that person or his associates, or that person and his associates are entitled to exercise or control the exercise of **not less than twenty per centum** of the votes attached to the voting shares in the body corporate.

No.	Paragraph/Rule	Proposal	Rationale
			The proposed amendments are made to ensure parity and consistency with the CA 2016, in respect of the threshold of "deemed interest" via a corporation.
(b)	Paragraph 4A.18B of the Main LR Rule 5.26 of the ACE LR	Streamlining the drafting of the requirement on system of internal control for foreign issuer in the LR with the CA 2016	To align with the CA 2016
(c)	Paragraph 6.19; Appendix 6A, Part A, paragraph 16; Appendix 6B, Part A, paragraph 26; and Annexure PN28-B, Part A, Paragraph 17 of the Main LR. Rule 6.20 ; Appendix 6A, Part A, paragraph 16; Appendix 6B, Part A, Paragraph 27; and Annexure PN17-B, Part A, Paragraph 17 of the ACE LR.	Removing the requirements relating to two-call rights issue.	Two-call rights issue is no longer relevant under the no-par value regime as securities can be issued at any price determined by the listed issuer.
(d)	Paragraph 8.29(1) of the Main LR. Rule 8.31(1) of the ACE LR.	Streamlining the drafting of the provisions relating to prior securities holder approval for transaction or corporate proposals with the CA 2016 by clarifying that a listed issuer must not enter into or carry into	This is to ensure consistency and clarity in the requirements.

No.	Paragraph/Rule	Proposal	Rationale
		effect such transaction or corporate proposal unless - (a) the entering into the transaction or corporate proposal is made subject to the securities holder approval; or (b) the carrying into effect of the transaction or corporate proposal has been approved by the securities holders.	In addition to the above, the proposed amendment in subparagraph (a) is made to facilitate listed issuers to enter into conditional transaction or corporate proposal, subject to securities holder approval. This is to promote business efficacy and efficiency, and to avoid opportunity loss to listed corporations due to lapse of time. As regards the proposed amendment in subparagraph (b), the term "carry into effect" is meant to address a scenario where a listed issuer proceeds to execute the terms of the arrangement ahead of its securities holder approval. The proposed clarification is particularly important in circumstances where there is no formal written agreement being entered into. In such instance, listed issuers must obtain securities holder approval before they commence implementing any transaction or corporate proposal.
(e)	Paragraph 9.19(19) and Appendix 9A, Part C, paragraphs (d) and (e) of the Main LR	Maintaining the current requirements on the announcement of the presentation of winding-up petition made against a listed issuer, its subsidiary or major associated company.	The CA 2016 states that the commencement of a court winding up shall be on the date of the winding up order. On the other hand, under the previous CA 1965, the commencement of a court winding up is at the time of the presentation of the petition for the winding up.

No.	Paragraph/Rule	Proposal	Rationale
	Rule 9.19(20) and Appendix 9A, Part C, paragraphs (d) and (e) of the ACE LR.		In view of the above change, we propose to maintain that a listed issuer is required to make an immediate announcement when the presentation of winding-up petition is made against a listed issuer, its subsidiary or major associated company. This is also to ensure that shareholders are apprised of the status of the listed issuer in a timely manner when a petition for court winding-up is presented.
(f)	Paragraph 9.19(20) of the Main LR. Rule 9.19(21) of the ACE LR.	(i) Changing the reference from 'provisional liquidator' to 'interim liquidator' (ii) Requiring immediate announcement on any **change** of a receiver, manager or receiver and manager, liquidator or special administrator or such other person of a similar capacity	(i) This is to align with the term used in the CA 2016 where references to 'provisional liquidator' has been changed to 'interim liquidator'. (ii) Further, we propose to extend the immediate announcement by a listed issuer to include any **change** of a receiver, manager or receiver and manager, liquidator or special administrator or such other person of a similar capacity, in addition to the appointment of such person.
(g)	Paragraph 12.12 and 12.13 of the Main LR.	Changing the reference from 'solvency declaration' to 'solvency statement'.	This is to align with the CA 2016.

No.	Paragraph/Rule	Proposal	Rationale
	Rule 12.12 and 12.13 of the ACE LR.		
(h)	Paragraphs 15.05(1) and Annexure PN28-B, Part A, paragraph 4(b) of the Main LR Rule 15.05(1), Annexure GN15-A, Part B, paragraph 1(n)(ii), Annexure 17-B, Part A, paragraph and 4(b) and Guidance Note 18, paragraph 5.4(b) of the ACE LR	Enhancing requirements on the qualification of directors by clarifying that a director will be disqualified if such director has been convicted of an offence involving **bribery.**	This is to align with the CA 2016
(i)	Practice Note 20, Paragraph 2.1(h) Guidance Note 14, Paragraph 2.1(h)	Maintaining the current requirements on the announcement of the presentation of winding-up petition made against a listed issuer, its subsidiary or major associated company	This is to provide clarity that notwithstanding the change in CA 2016 as discussed in paragraph 62(e) of this table, an announcement of the presentation of winding-up petition is material and may warrant a trading halt. This is to align with the proposed changes made in paragraph 9.19(19) of the Main LR/Rule 9.19(20) of the ACE LR

Proposal 2.1 – Issues for Consultation

27. Do you agree with the proposed amendments or enhancements as set out in the table above *[table in paragraph 62 above]*?

Please state the reasons for your views.

[End of Part 2]

ANNEXURE A - B PROPOSED AMENDMENTS

*[Please see **Annexure A – B** enclosed with this Consultation Paper]*

ATTACHMENT TABLE OF COMMENTS

[Please see the Attachment setting out the Table of Comments enclosed with this Consultation Paper]

APPENDIX BURSA MALAYSIA SECURITIES BERHAD'S PERSONAL DATA NOTICE

In relation to the Personal Data Protection Act 2010 and in connection with your personal data provided to us in the course of this consultation, please be informed that Bursa Securities' personal data notice ("**Notice**") is available at www.bursamalaysia.com. Kindly ensure that you read and are aware of the Notice.

If you are submitting personal data of an individual other than yourself ("**data subject**"), please ensure that prior to such submission, you have provided the data subject with written notice of the Notice unless section 41 of the Personal Data Protection Act 2010 ("**PDPA**") applies or Bursa Securities otherwise specifies in connection with the PDPA.

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Berhubung Akta Perlindungan Data Peribadi 2010 dan berkenaan semua data peribadi anda yang diberikan di dalam proses konsultasi ini, sila ambil maklum bahawa notis Bursa Securities mengenai data peribadi ("**Notis tersebut**") boleh didapati di www.bursamalaysia.com. Sila pastikan yang anda membaca dan memahami Notis tersebut.

Jika anda mengemukakan data peribadi individu pihak ketiga ("**Subjek Data**"), anda mesti memastikan bahawa Subjek Data telah diberi notis bertulis mengenai Notis tersebut terlebih dahulu kecuali seksyen 41 Akta Perlindungan Data Peribadi 2010 ("**APDP**") terpakai atau [Bursa Securities sebaliknya menyatakan berkenaan dengan APDP]

[End of the Appendix]
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