



BURSA MALAYSIA

CONSULTATION PAPER

REVAMP OF THE RULES OF BURSA MALAYSIA SECURITIES BHD

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Bursa Securities and Bursa Clearing (S) invites your written comments on the issues set out in this Consultation Paper by 18 February, 2011 via:

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Respondents to this Consultation Paper are requested to use the reply format as stipulated in Annexure 4 and 5 respectively.

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Table of contents

	<i>Page</i>
1 Introduction	1
A. Purpose of the Consultation Paper	1
B. Structure of the Consultation Paper	1
C. Areas of proposed amendments	1
2 Objective and Consultation Process	2
A. Background	2
B. Revamp of the Rules of Bursa Securities and Rules of Bursa Clearing(S)	5
C. Procedure and Deadline for Submission Of Comments	7
3. Discussion on the Salient Changes	8
A. Powers of the Exchange	8
B. Admission of Participating Organisations and Registered Persons	9
C. Obligations of Registered Person(s)	10
D. Organisation Structure of a PO	17
E. Governance of a PO	18
F. Conduct of a PO	19
G. Trading	20
H. Defaulters List	25
I. Conduct of Other Business Activities	25
J. Financial Requirements	26
K. Transitional Provisions	26
L. Amendments consequential to the Revamped Securities Rules	27
M. Novation of on-market transactions	27
Annexure 1A Proposed Amendments to the Rules of Bursa Securities (marked-up)	
Annexure 1B Proposed Amendments to the Rules of Bursa Securities (clean)	
Annexure 2A Directives (marked-up)	
Annexure 2B Directives (clean)	
Annexure 3A Proposed Amendments to the Rules of Bursa Clearing (S) (marked-up)	
Annexure 3B Proposed Amendments to the Rules of Bursa Clearing (S) (clean)	
Annexure 4 Comments to Proposed Amendments to the Rules of Bursa Malaysia Securities Bhd and New Directives	
Annexure 5 Comments to Proposed Amendments to the Rules of Bursa Clearing (S)	

1 Introduction

A. Purpose of the Consultation Paper

1. This Consultation Paper seeks comments from the public and the industry participants on the proposed amendments made by:
 - (a) Bursa Malaysia Securities Bhd (“Bursa Securities” or “the Exchange”) to the Rules of Bursa Malaysia Securities Bhd (“Rules of Bursa Securities”) and new directives issued under the Rules of Bursa Securities arising from the revamp of the Rules of Bursa Securities as explained in Chapter 2 of this consultation paper; and
 - (b) Bursa Malaysia Securities Clearing Sdn. Bhd, (“Bursa Clearing (S)”) to the Rules of Bursa Clearing (S) arising from the revamp of the Rules of Bursa Securities as well as certain other matters as explained in Chapter 3 below.

B. Structure of the Consultation Paper

2. This Consultation Paper has 3 parts:
 - (a) Chapter 1 provides an introduction to this consultation paper, its structure and a list of areas of proposed amendments contained in this consultation process;
 - (b) Chapter 2 provides objectives of the amendments proposed to the Rules of Bursa Securities and Rules of Bursa Clearing (S) including the consultation process for the amendments; and
 - (c) Chapter 3 describes the salient amendments proposed to the Rules of Bursa Securities and Rules of Bursa Clearing (S).

C. Areas of proposed amendments

3. The amendments proposed to the Rules of Bursa Securities cover the following main areas:
 - (a) Powers of the Exchange;

- (b) Admission of Participating Organisations (“POs”) and Registered Persons;
 - (c) Obligations of Registered Persons;
 - (d) Organisation structure of a PO;
 - (e) Governance of a PO;
 - (f) Conduct of a PO;
 - (g) Trading;
 - (h) Defaulters List;
 - (i) Conduct of other business activities;
 - (j) Financial requirements; and
 - (k) Transitional provisions.
4. The amendments proposed to the Rules of Bursa Clearing (S) cover the main areas:
- (a) reflecting the delivery and settlement obligations between Bursa Clearing (S) and Clearing Participants which are going to be removed from the Rules of Bursa Securities as discussed below; and
 - (b) clarifying the provisions relating to the novation of an on-market transaction especially in relation to the exact point in time the novation occurs and the delivery of securities under a novated contract.

2. Objective and Consultation Process

A. Background

5. The landscape of the stock broking industry has seen a notable shift in the last ten years. In addition to the traditional stock broking activity of trading in securities on the stock market maintained by the Exchange, POs have progressed to providing varied capital market services such as fund management, advising on corporate finance, financial planning and investment banking activities. Capital markets are moving towards a more globalised and borderless environment. With that, there is growth in remote trading via internet and other electronic device and investors getting greater access to investment options from products offered. These developments have made the current environment for trading more vibrant and competitive. In tandem with this, the rules of the

Exchange have undergone changes to ensure that they remain relevant and effective.

6. Given the current environment, the Exchange as provider of a market place for capital raising and investment must remain flexible and agile in meeting the demands of investors, capital raisers as well as the intermediaries operating in its market. The Exchange must ensure that the business needs of the relevant stakeholders continues to be balanced with a transparent, effective and clear regulatory framework that provides for an orderly and fair market, prevention of systemic risk and protection of investors. While changes have been made from time to time, the Exchange is of the view that it is timely to undertake a review of the Rules of Bursa Malaysia Securities Bhd taking cognisance of the growth, developments and changes currently in the trading landscape. The last major revamp of the rules was undertaken in 2004 arising from the demutualisation of the Exchange. This current revamp is aimed at facilitating greater effectiveness in market regulation and greater efficiency in the conduct of business of the PO given the growth, developments and changes in the current trading landscape. The revamp exercise is important to ensure that the Exchange's Rule framework remains effective and balanced in safeguarding the interest of investors, preventing systemic risk and ensuring an orderly and fair market whilst being facilitative of business and market development.
7. Based on the above review, we have identified the following key areas for change:
 - (a) adopt a more principles-based rules, where appropriate. Principles based regulation provides the POs with the understanding of the outcome intended to be achieved and thus, enable the POs to ensure that they have in place the necessary controls and processes to achieve the intended outcome of the principles, taking into account their business model and their exposure to risk based on the type and size of their business as well as the profile of their clients. Armed with this understanding of the objectives of the rules at the outset, the POs will be able to better comply with the rules in substance and not only in form;
 - (b) enhance the Exchange's effectiveness to regulate POs and registered persons, given the change and developments in the trading landscape by further strengthening the

governance framework of the POs, enhancing framework for self-regulation and clarifying the powers of the Exchange;

- (c) enhance investor protection framework through enhancements in the framework for risk management, conflicts management, compliance and the standard of conduct of POs and the Dealer's Representatives;
- (d) simplify, streamline and enhance efficiency in processes, application and reporting requirements for example on submission of documents for admission as a participating organisation and registration of registered persons and submission of periodic reports to the Exchange;
- (e) remove prescription of commercial terms and arrangements between POs and their clients but where necessary, to state the principles that POs must observe to the extent where there may be regulatory risks to the market and clients. This is a more effective way of regulating the market and protecting investors whilst providing the POs and the investors room to negotiate commercial terms that best suit them rather than 'one fit' for all;
- (f) provide POs with greater flexibility to manage and operate their business based on their business model, activities and risks whilst not compromising on regulatory effectiveness and objectives. This is important as the business model, activities and risk profile of one PO may differ from one to the other. In a competitive environment, POs must innovate and be cost effective. The rule framework must facilitate this;
- (g) remove requirements in the Rules of Bursa Securities on matters already regulated by other authorities or on matters already provided for in the rules of any other Bursa entity in order to remove duplicity of requirements and for better streamlining;
- (h) make the Rules of Bursa Securities clearer and easier to understand and also simpler to find by maintaining only two reference points, namely, the Rules of Bursa Securities and the PO Manual. The Exchange proposes to have a PO Manual to consolidate all directives issued by the Exchange thus far and all new directives issued from time to time;

- (i) use ‘plain language’ in the drafting of the Rules of Bursa Securities for better understanding of the rules; and
 - (j) refine the structure of the Rules of Bursa Securities to facilitate easy reading and understanding of the rules.
8. We had, as part of the review process of the rules, engaged the POs and considered the practices and trends in other comparable markets to ensure that our proposals meet the business needs of the POs whilst ensuring that our regulatory framework is comprehensive and where relevant, is aligned to international standards and practices.

B. Revamp of the Rules of Bursa Securities and Rules of Bursa Clearing (S)

9. Arising from the review as explained earlier, the Exchange is proposing amendments to the current Rules of Bursa Securities to meet the requirements as stated under paragraph 2A above (“the Proposals”).
10. The Proposals involve amendments to both the Rules of Bursa Securities (“the Revamped Securities Rules”) and the Rules of Bursa Clearing (S) and issuance of new directives under the Revamped Securities Rules.
11. On the proposed amendments to the Rules of Bursa Clearing (S), in addition to the consequential amendments being made pursuant to the Revamped Securities Rules, Bursa Clearing (S) is taking this opportunity to clarify certain matters relating to the clearing and settlement of securities transactions.
12. This paper is a consultation paper for the purpose of soliciting comments on the Revamped Securities Rules and the proposed amendments to the Rules of Bursa Clearing (S) referred to in paragraph 16 (“Clearing Rules”) (collectively, “the Rules”) and on the new directives proposed under the Revamped Securities Rules.
13. The Proposals and the Rules have not been approved by the Securities Commission (SC). Bursa Securities and Bursa Clearing (S) will submit the Rules to SC for approval after receipt of comments on the Rules and making the relevant changes, where

appropriate, to the Rules. Thus, the final amendments to the Rules may be different from those found in this consultation paper.

14. The amendments proposed to the Rules are marked up against the current Rules. All deletions to the current Rules are denoted in 'strike through' and all new insertions are underlined. The rationale for the deletions and insertions are provided at the side of the text of the amendments.
15. As explained earlier, Bursa Securities has where appropriate, adopted 'principles' based rules in the drafting of the Revamped Securities Rules. Where principles are reflected in the Revamped Securities Rules, the principles may be supplemented with issuance of directives and best practices from time to time by the Exchange to guide the POs on the measures that need to be undertaken or adopted to achieve compliance with the principles. Directives are binding in nature whilst best practices are guidance and are not binding although highly recommended to be complied with by the POs. The issuance of directives is proposed for areas in the rules where the Exchange is of the opinion further guidance and prescription may be necessary. Hence, directives may not be issued for all principles reflected in the rules.
16. New directives are proposed under the Revamped Securities Rules to explain and elaborate on certain principles reflected in the Revamped Securities Rules. The Revamped Securities Rules must be read together with the new directives. We have attached only new directives arising from the Revamped Securities Rules in this consultation paper. The new directives, for the major part are derived from the current requirements in the Rules of Bursa Securities which are either operational or prescriptive in nature and which may be further changed arising from 'plain' language drafting or further improvements, simplification or clarity of the current requirements. The changes are tracked in the new directives. All other existing directives (issued vide PO circulars) to the current Rules of Bursa Securities which are not affected or modified by the Revamped Securities Rules are not attached here.
17. All existing directives and the new directives drafted under the Revamped Securities Rules will be consolidated into a PO Manual and re-issued when the Revamped Securities Rules are implemented.
18. The Revamped Securities Rules are attached here as Annexure 1A for the marked up version and Annexure 1B for the 'clean version' (that is without the mark up). New directives arising from the

Revamped Securities Rules are attached as Annexure 2A for the marked up version and Annexure 2B for the 'clean version' (that is without the mark up). For ease of reference we have also attached a table of index of all new directives proposed under the relevant chapters of the Revamped Securities Rules in Annexure 2A and Annexure 2B. The Clearing Rules are attached here as Annexure 3A (marked-up) and Annexure 3B (clean).

19. The salient changes in the Rules are discussed in Chapter 3 of this paper. However, you must read the full text of the amendments as contained in the Revamped Securities Rules, the Clearing Rules and the new directives proposed under the Revamped Securities Rules in providing your comments.

C. Procedure and Deadline for Submission Of Comments

20. Comments are sought for each part of the changes explained in Chapter 3. Please provide your comments in the template set out in Annexure 4 for Revamped Securities Rules and Annexure 5 for Clearing Rules.
21. Written submissions are to be sent to the Exchange through email or either by post/courier or by fax as stated in the cover page.
22. Supporting material may be placed in an annexure. All submissions should be clearly and concisely written, and should provide a reasoned explanation for any proposed revision to the rules. Respondents should identify the specific rule on which they are commenting. In any case in which a respondent chooses to suggest revisions to the text of the rules, the respondent should state clearly the specific changes to the text that it is proposing.
23. All submissions should be made on or before 18 February, 2011.
24. The Exchange reserves the right to make public all or parts of any written submission. Respondents may request confidential treatment for any part of the submission that the respondent believes to be proprietary, confidential or commercially sensitive. Any such information should be clearly marked and placed in a separate annex.

3. Discussion on the Salient Changes Rules of Bursa Securities

A. Powers of the Exchange

25. The powers of the Exchange are proposed to be enhanced and streamlined as reflected in the changes to Rule 201.2. The objective of the changes is to ensure that there is greater transparency and clarity on the powers that can be exercised by the Exchange in operating and regulating the market.
26. The salient enhancements proposed are as follows:
- (a) to interpret conclusively any provision in the Rules of Bursa Securities and directives having regard to the spirit, intention, purpose and the substance of such rules and directives, in a case of dispute over such rules and directives. This is to provide certainty and finality to the interpretation of the rules as well as to re-assure, that the Exchange will consider the spirit and not merely the letter of the rules [See Rule 201.1(2)(e)];
 - (b) to disclose to the public or other POs action taken against the POs or registered persons by the Exchange under the rules. This is to promote transparency on the types of breaches and actions that the Exchange takes against the POs and the registered person. This publication is consistent with the practice in other markets [See Rule 201.1(2)(g)];
 - (c) to clarify that normal disciplinary processes will not apply for administrative actions against the POs and registered persons. However, the POs and the registered persons will be given an opportunity to make representations to the Exchange for the discontinuance of the action taken [See Rule 201.2]. The normal disciplinary processes should not apply as the actions undertaken are not disciplinary in nature but administrative in that it is part of management of the market. See Rule 301.5(3), Rule 301.7(2), Rule 302.11, Rule 310.2(2), Rule 311, 403.2(1), 404.6(1), 706.11(1), 802.6(1), and 803.10(1) for examples of rules where the normal disciplinary processes will be disapplied;

- (d) to clarify that any amendments made to the rules will not vitiate any action taken or proposed to be taken under the old rules [See Rule 201.3]; and
- (e) to clarify that any actions taken against the POs and the registered persons are also binding on the agents, proxies and nominees of the POs and registered persons. This is to ensure that agents, proxies and nominees are not used to circumvent or vitiate the actions taken against the POs and registered persons [See Rule 201.6].

B. Admission of Participating Organisations and Registered Persons

- 27. The framework for admission of POs and registered persons remains substantially the same that is the POs and the relevant registered persons are still required to be registered with the Exchange and to provide the Exchange with an undertaking to comply with the rules.
- 28. However, the Exchange is proposing to do away with registration of certain categories of registered persons namely, the registration of compliance officers, heads at branch levels and trading clerks. The rationale for this is discussed under Part C: Obligations of Registered Person(s).
- 29. Changes proposed to the substantive requirements for admission of POs are as follows:
 - (a) The grounds for disqualification for admission of a PO and registered persons have been further added [See Rule 301.2(3) and Rule 302.2];
 - (b) The different categories under which a PO can be registered that is as Investment Bank, Universal Broker etc. is now clarified in the Rules [See Rule 301.2(5)];
 - (c) The circumstances under which a PO may cease to enjoy using the facilities of the Exchange have been amended [See Rule 301.5(3)]; and
 - (d) All operational requirements in relation to the admission and registration of the POs and registered persons are moved from the current Rules and set out in a directive. Where possible, the Exchange has further simplified the operational

requirements in particular on the documentation required to be submitted and the certification of such documents.

C. Obligations of Registered Person(s)

Enhanced Obligations

30. The framework for the discharge of obligations by registered persons is proposed to be amended as discussed below.

- (a) The obligations of a 'Registered Person' will be 'principles' based to capture the outcome that needs to be discharged by the 'Registered Person' rather than how the outcome is to be discharged [See Rules 302.5, 305.3 and 306.3, 308.3, 309.2, 310.4].
- (b) The obligations of a Registered Person are beefed up to enhance the standards of conduct and to further clarify the role and obligations of a Registered Person as explained below:
 - i. To further clarify on the continuing obligations of a Registered Person [See Rule 302.5]. A Registered Person is a key personnel in the PO and can affect the standards of conduct and compliance of the PO. The amendments proposed are to clarify the obligations that the Registered Person is expected to discharge;
 - ii. To expand the obligation of a Registered Person to report on a breach of any rules by another PO to the Exchange, to include breach of rules by the PO that employed the Registered Person and a Registered Person of another PO [See Rule 302. 7(1)]. This is a new obligation. As a Registered Person is involved in the day to day operations of the PO and is a key personnel in the PO, the Registered Person is most likely to know of a breach committed or if the breach is committed by a Registered Person himself, the breach can impact not only the PO but the market. Therefore, it is important the Exchange is alerted on the commission of the breach at an early stage. For this reason, the reporting obligation of a Registered Person is expanded to include a breach committed by

the PO itself and of another Registered Person of a PO.

- iii. To clarify that Registered Person can be held liable for a breach committed by the PO, if the Registered Person caused or aided etc the breach [See Rule 302. 6(1)]. This means that even, if the obligation under the Rule is directed at a PO, the Registered Person can still be held liable for the breach, if it can be shown that the Registered Person caused or aided the commission of the breach. This is important, to ensure that a Registered Person as a key personnel in the PO does not facilitate a commission of a breach or conducts himself in a manner that facilitates a breach of the rules.
- iv. To require the Registered Person to self report where the Registered Person fails to perform his obligations under the Rules or is subject to enforcement actions by another regulatory authority [See Rule 302. 7(2)]. This is to encourage self regulation on the part of the Registered Person and to ensure that the Exchange is alerted at an early stage of any circumstances that could undermine the ability of the Registered Person to discharge his role under the Rules of Bursa Securities;
- v. Where there are vacancies in the position of Head of Dealing, Head of Compliance or Head of Operations, an interim person must be appointed and registered with the Exchange pending filling in of the vacancy [See Rule 302.10]. This was previously required for Head of Compliance and Head Group Compliance only. However, in view of the importance of the functions that Head of Operations and Head of Dealing undertake, the Exchange is expanding this obligation of having interim persons as explained above to include vacancies in the positions of Head of Operations and Dealing. This is to ensure continuity in the discharge of key functions in the PO and to mitigate the POs exposure to risk arising from vacancies in key positions in the PO;
- vi. Insertion of a new provision on circumstances under which a Registered Person can be automatically

deregistered [See Rule 302.11]. These are clear circumstances under which a Registered Person should not continue as one, for example, when the Registered Person no longer holds the relevant license or becomes of unsound mind. Automatic deregistration mechanism ensures that a person who is no longer fit to continue as a Registered Person, ceases to work immediately, as otherwise such person can pose a risk to the PO concerned and the market, if allowed to continue to work; and

- vii. Insertion of a new provision on duty of a Registered Person to identify and manage any potential or actual conflict of interest [See Rule 302.8]. This is inserted to ensure that a Registered Person self regulate and is constantly aware and mindful of conflicts that can arise. Conflicts can pose harm to the POs and undermine investor protection, hence the emphasis for a Registered Person to manage such conflicts.

Accountability for Compliance is shared

31. Currently, the Head of Compliance and compliance officers (in the case on non Investment Banks and Universal Brokers) are responsible to carry out compliance matters as stated under the rules. The current Rules of Bursa Securities also hold the directors accountable for compliance of the rules.
32. The Exchange proposes for Head of Dealing and Head of Operations to also be made accountable for compliance with the rules on matters under their purview [See Rules 305.3 and 306.3]. This is because the Head of Dealing and Head of Operations are involved in the day to day operations of the PO and are in a position to direct and supervise compliance with the rules in relation to matters under their purview. The obligation to ensure compliance must be imposed on key management personnel in the PO and not just the Head of Compliance. The role of ensuring compliance must be shared by all key management personnel in the PO. This ensures that the PO adheres to high standards of conduct in the operations of its business.
33. With the above proposal, all directors (which is in the current Rules of Bursa Securities), Head of Dealing, Head of Operations and Head of Compliance (which is in the current Rules of Bursa Securities) are made accountable for compliance of the Rules of

Bursa Securities. This is in addition to making the PO ultimately accountable for compliance of the rules, which is in the current Rules of Bursa Securities [See Rule 604].

34. We further propose that a PO and registered persons report to the Exchange if they become aware of any breach of the rules on matters set out under the Rule 307.5(1) of the Revamped Securities Rules [See Rule 604.3 and Rule 302.7]. This obligation in the current Rules of Bursa Securities is imposed on the Head of Compliance and compliance officers. This proposal is aimed at ensuring all key matters are reported to the Exchange by persons who may have information of the same.

Appointment of Heads at Branch Offices removed

35. The Exchange proposes for the removal of the appointment of Heads of Branch Offices.
36. The basis for the above proposal is that, the responsibility for operations, dealing and compliance of a PO rest with the respective Head of Dealing, Head of Operations and Head of Compliance of the PO whether such activities are carried out at the principal office or branch office. Therefore, it is for the respective Heads to have in place the relevant framework and processes to supervise the activities at both principal and branch offices of the PO. The respective Heads will then decide whether the appointment of branch heads is required to facilitate the supervision of the activities at the branch office or that the supervision can be undertaken through institution of other internal controls and processes. The determination on the appropriate supervision framework will depend on the size and types of business the PO undertakes as well as the skill and experience of the relevant Heads and the employees of the PO. The Exchange finds that this is a better approach as it accords greater flexibility to the POs and Heads in managing their business and ensures greater accountability on the part of the Heads in relation to matters under their purview.
37. However, a PO will still be required to appoint at least one person at the branch office to ensure proper segregation of duties within the branch and to oversee the administrative activities of the branch. This person is not required to be registered with the Exchange.
38. The appointment of the above person referred to in paragraph 37 at the branch office does not vitiate the obligation of the respective

Heads to carry out proper supervision at the branch office and be responsible for the activities at the branch office.

39. With the above change, all requirements under the current Chapter 5 of the Rules of Bursa Securities on organization and reporting structures for branch offices are proposed to be removed [See Rule 602].

Registration of Trading Clerks removed

40. The Exchange is proposing for the removal of registration of trading clerks. The rationale for the removal of the registration of trading clerks is to place more accountability on the POs and Dealer's Representatives (DRs) that appoint them to manage and supervise the activities of the trading clerks. The trading clerk is neither a licensed person nor approved by the SC. The current requirement for the registration of trading clerk was made, to ensure that all persons other than the registered DRs who have access to the trading system e.g. central buyers and remisier's assistant are identified and made aware of their roles and responsibilities which must not include dealing directly with clients. While clearly identifying the trading clerks may be required to ensure proper supervision by the POs, the additional step of registering them is not necessary. The registration process to begin with is merely administrative in nature.
41. The responsibility of ensuring that trading clerks perform their obligations as per their roles and responsibilities can be achieved by making it clear to the POs and the DRs in the rules on the scope of work that can and cannot be undertaken by the trading clerks appointed by the POs and DRs. The responsibility is then on the POs and the DRs that appointed the trading clerk, to supervise and manage the trading clerks to ensure compliance. Hence, the requirement for registration is proposed to be removed. The scope of activities that can be done by the trading clerk is maintained for the purpose of ensuring that the POs and the DRs do not allow the trading clerks to carry out activities beyond what is stated in the rules. POs are required to have proper records of each trading clerk [See Rule 502.3].

Appointment of Head of Compliance ("HOC") for all POs

42. The Exchange is proposing for all POs and not just Investment Banks ("IB") and Universal Brokers ("UB"), to each have a Head of Compliance. This is to ensure parity in the requirements imposed

on all POs and a clear accountability of the person responsible for compliance matters within the PO. Currently, a PO who is not an IB or UB is required to appoint compliance officers (“COs”) to undertake compliance function within the PO. A PO who is an IB or UB is also required to appoint a CO in addition to a Head of Compliance. A PO currently may also appoint more than one CO. The current framework blurs the line of accountability between the Head of Compliance and the CO (for IB and UB) and between one CO and the other (for non IB and UB). Having clearly the Head of Compliance responsible for compliance matters ensures that proper focus and supervision of compliance function is carried out in addition to accountability of the function.

43. The experience requirement for Head of Compliance is proposed as follows:
- (a) Head Of Compliance for IBs and UBs – must have a recognised degree with at least 3 years of direct experience as a CO in the capital market (“CM”) or recognised degree and at least 5 years relevant experience in the CM or recognised diploma and at least 8 years relevant in the CM; and
 - (b) Head Of Compliance for non IBs and UBs – must have a recognised degree with 3 years relevant experience in the CM or a recognised diploma and 5 years relevant experience in the CM.

Registration of Compliance Officers removed

44. With the proposal for all POs to have Head of Compliance, the requirement to appoint and register CO with the Exchange is proposed to be removed.
45. As stated earlier having both the Head of Compliance and the CO appointed and registered with the Exchange blurs the line of accountability between the Head of Compliance and the CO. It is sufficient to mandate the appointment and registration of the Head of Compliance as the person who is accountable for matters relating to compliance. With this proposal all provisions in the current rules on compliance officers are proposed to be deleted [See Rule 309].

Registered Person having interest in another business

46. In relation to the registered person holding directorships and having interest in other businesses, the Exchange is proposing to reflect a principle that as long as:

(a) there is no conflict of interests;

(b) the registered person is able to discharge their obligations under the Rules; and

(c) the PO's consent is obtained,

the registered person can hold other interests. This is premised on the fact that PO will be in the best position to determine whether there is any conflict, given that the registered person is employed by the PO and is serving the PO. However, for directors, the restriction of holding not more than 15 directorships in other companies, is maintained. POs must maintain proper records of the approval given [See Rules 303.2, 305.4, 306.4, 307.4, 308.4 and 309.3].

Obligations of a Dealer's Representative

47. The Exchange proposes for the 'Standard Remisiers' Agreement' ("SRA") prescribed in the current Rules of Bursa Securities to be removed. POs are free to negotiate with the Commissioned Dealer's Representatives, as the terms are commercial in nature. This includes terms on commission sharing which will be fully liberalised come 1 January 2011. However salient provisions in the SRA that are fundamental to asset protection and protection of interest of clients, are proposed to be incorporated into the Rules as obligations imposed on the POs or the Commissioned Dealer's Representative. For example, obligation on the POs to segregate and safeguard the security deposit lodged by the Commissioned Dealer's Representative [See Rule 310.7] and obligations on the Dealer's Representative to be of good character, act faithfully and not accept payment or hold client's asset in name of the Dealer's Representative [See Rule 310.4].

48. On the framework for the transfer of a Dealer's Representative from one PO to another PO, the Exchange proposes to give the former PO not longer than 14 days to issue a letter of consent for the transfer unless the Dealer's Representative has debts owing to the former PO or has committed a material breach of the Rules [See Rule 310.10]. This is to ensure that the former PO does not delay in the issuance of the letter of consent as this can delay the Dealer's Representatives continuity of work and livelihood.
49. All requirements which are operational in nature such as registration, re-designation and transfer procedures of Dealer's Representatives are proposed to be taken out from the Rules and incorporated into a directive in the PO Manual.

D. Organisation Structure of a PO

50. The current framework in the Rules of Bursa Securities requires IBs and UBs to have a minimum of 3 heads namely, Head of Dealing, Head of Operations and Head of Compliance and minimum of 2 heads namely, Head of Dealing and Head of Operations for POs other than IBs and UB. In addition to this, currently POs must also appoint 3 heads in the respective area of dealing, operations and compliance at the branch level who report to the above Heads respectively.
51. The Exchange proposes to change the current structure, in that all POs must now have minimum of 3 heads namely, Head of Dealing, Head of Operations and Head of Compliance and the requirement to appoint 3 heads at branch level is removed. The above proposals are discussed under paragraphs 35 and 42 above.
52. On back office functions and proprietary trading, the current Rules of Bursa Securities require all back office functions and proprietary trading to be centralised at the principal office. The Exchange is proposing to remove the above requirements for centralisation at the principal office. For back office systems, it is proposed that the POs operate their own back office systems whether at the principal or branch offices unless the operations of the same have been outsourced in accordance with the Guidelines on Back Office Functions [See Rule 603.1]. The above proposal is to accord POs the flexibility to organize their business in the manner that best suit their business model.

E. Governance of a PO

53. The current Rules of Bursa Securities require POs to carry out risk management functions, internal audit functions and compliance functions. These requirements are proposed to be maintained. However, the Exchange is proposing a 'principles' based approach for the specific duties and functions in relation to the above as opposed to prescriptive rules as in the current Rules of Bursa Securities [See Rules 604, 605 and 606]. The enumeration of 'principles' is intended to ensure that, POs are clear on the outcome intended for the carrying out of such functions as well as to allow POs to determine processes and controls that best suit their business needs and risk. This in turn will translate to better standards in the carrying out of the above functions as well as in addressing the business needs and risks of the POs which can vary from one PO to the other.
54. In relation to internal audit, the Exchange is proposing that the annual audit in relation to the business of the POs be conducted on 'risk' based approach. Currently, the Rules of Bursa Securities require the POs to conduct audits annually on the areas specified in the rules. It is proposed for the POs to determine the scope of the audit to be conducted based on the risk assessment made by the POs in their areas of operation. The risk assessment methodology used must be clear and documented. Having the audit tailored on a 'risk' based approach ensures that the PO's resources are focussed in auditing areas that are of risk to the PO. The areas of risk can differ from one PO to another. Therefore, it is important for each PO to determine own scope of audit [See Rule 606.3(2)].
55. For risk management committee and audit committee the Exchange will no longer prescribe who can sit in the above committees but instead prescribe the skill and experience of persons required in the above committees, that is, such person must be independent, competent and have no conflict of interest in the discharge of the functions [See Rules 605.2, and 606.2].
56. In relation to risk management committees, currently there is no requirement for a PO that only conducts the activities of trading in securities and margin financing to have a risk management committee. The Exchange is proposing for all POs to have a body to monitor risk of the PO. A PO is given the flexibility of utilising its board of directors or establishing a separate committee or utilising any existing committees that the PO has (provided there is no

conflict of interest) to undertake the functions of a 'risk management committee' [See Rule 605.1(2)].

F. Conduct of a PO

57. The framework for the conduct of a PO is proposed to be 'principles' based [See Chapter 5 of the Revamped Securities Rules]. This is to ensure that POs are clear of the outcome intended on their conduct. The principles cover 3 main broad areas namely the POs' general conduct in their business [See Rule 501], PO's resources [See Rule 502] and PO's dealings with clients [See Rule 503]. On each area we have enumerated the principles for POs to adhere to.
58. The salient principles covering the above areas are as follows:
- (a) Conduct required when operating the POs business and when dealing with clients, where POs are expected to act with due care, skill and diligence and with due regard for the integrity of the market [See Rules 501.1];
 - (b) Management of conflicts of interest and risk where POs are expected to identify, monitor and manage all conflicts of interest and risk that may arise in the conduct of the PO's business [See Rule 501.2];
 - (c) Advertising, where POs are expected to ensure adequate risk disclosure statements are sufficiently displayed in all advertisements or any other form of publicity [See Rule 501.6];
 - (d) POs are expected to have adequately equipped business premises as well as adequate security and emergency arrangements to ensure continuous business operations with minimal disruptions [501.5];
 - (e) Information given to the Exchange, where POs and relevant registered persons are expected to ensure the accuracy of all statements, information and documents sent to the Exchange. POs and relevant registered persons are also expected to promptly notify the Exchange upon becoming aware of any discrepancy in the statements, information and documents sent to the Exchange [See Rule 501.9];

- (f) Principles governing resources and personnel used by the POs for example, adequacy of resources and the skill and experience of personnel [Rule 502]; and
- (g) Principles governing PO's conduct when dealing with a client for example, the standards expected of a PO, requirement to keep client's information confidential and requirement to safeguard the client's assets [Rule 503].

59. The above principles are drafted based on the current requirements in the Rules of Bursa Securities. What is proposed here is, to reflect the principles behind the requirements in the current Rules of Bursa Securities in the rules itself. The current requirements in the Rules of Bursa Securities are transferred into directives as elaboration of the principles. Hence, Chapter 5 of the Revamped Securities Rules must be read together with the new directives drafted for Chapter 5 [See Directives 500-001]. An example to explain what is proposed here is on 'trust account'. Trust account stems from the principle of ensuring that clients' assets are safeguarded. We have reflected this principle in the Revamped Securities Rules [See Rule 503.2(4)]. We have moved all requirements on trust account in Rule 405 into directives [See paragraph 13 of Directives 500-001] as requirements to keep a client's money in a trust account is a measure undertaken to safeguard client's assets. We are proposing to further amend the current requirement for payment of money into the trust account by the next bank business day, to cover payment that are not paid to the client or as the client directs. In other words payment can be made by a PO directly to the client from an account other than a trust account if payment is made to the client or as the client directs prior to the next bank business day. The changes proposed are consistent with the requirements under section 111 of the Capital Markets and Services Act. We have also further clarified that the circumstances where POs can withdraw money from the trust account follow the requirements in the Capital Markets and Services Act [See paragraph 13 of Directives 500-001].

G. Trading

General Principles

60. The framework for trading on the Exchange remains substantially the same in that under the current framework trades must be done on market whether by entering the orders into the order book of the

Exchange or by doing an on market married transaction (“OMMT”). The only off market trades allowed are Direct Business Transactions (‘DBT’).

61. Currently the POs are considered as principals for both on market transactions and DBT irrespective of the fact that the POs may be acting as agents for the client. The Exchange does not recognize the rights or interest of third parties for the trades matched or reported in the trading system. Once the orders are matched a contract is formed between the POs. This contract is firm and binding and can only be cancelled under the circumstances stated in the Rules. The circumstances under which a contract can be cancelled remain the same as per the current Rules of Bursa Securities.
62. Currently, a contract may also be amended on the same day as the orders are matched (T day), if the amendments do not result in a change in the beneficial ownership of the parties that instructed for the sale or purchase. The current provision in the Rules of Bursa Securities requires for prior approval of the POs to be obtained before a contract can be amended. Under the Revamped Securities Rules, instead of requiring specific prior approval, the Exchange proposes to reflect a principle in the rules that POs are prohibited from amending a contract, if:
 - a) the amendment results in a change in the party that instructed for the trade;
 - b) the amendments are not as a result of an error; and
 - c) done outside the time permitted by the Exchange.

In order to give effect to this requirement, POs must institute the relevant processes and controls to ensure that the amendments to the contracts do not breach the above requirements [See Rule 801.8(4)]. In line with making the rules more ‘principles’ based and giving the POs the discretion to determine controls and processes that best suit their risk, it is proposed that POs be allowed the discretion to determine whether to institute a prior approval process or otherwise.

63. We are proposing to reflect the above principles stated under paragraphs 60 to 62 under the Revamped Securities Rules [See Rules 701 and 801].

Delivery and Settlement

64. Currently both on-market transactions and DBTs are cleared and settled by Bursa Clearing (S) based on Fixed Delivery and Settlement System (“FDSS”) as stipulated in the Rules of Bursa Securities. Under the Revamped Securities Rules, the Exchange proposes to further clarify under the FDSS requirements for on market transactions, that buying client has to make payments for the securities bought on T day, on T+3 by 12.30 pm notwithstanding the seller has failed to deliver the securities. This is on the basis that the buyer has the right to deal with the securities i.e. sell the securities from T day onwards notwithstanding that the securities have not been delivered yet. Consistent with this right, the buyer must pay for the securities bought within the time frame stated above [See Rule 905.1(2)].
65. We have also in Rule 1001 of the Revamped Securities Rules proposed for a new rule to clarify on the timing for delivery and settlement of DBTs. This is to avoid any confusion on the timing for the delivery and settlement of DBT which is different from on market transactions. We further propose for a new rule to clarify that POs must institute a selling out for failure on the part of the client to pay for the DBT when the securities for the DBT have been delivered and settled through Bursa Clearing (S). This means rules for selling out under on market transactions are also applicable to DBT.
66. As part of our process to streamline the requirements of the Exchange and the Clearing House, the Exchange is proposing for further changes referred to under paragraphs 67, 68 and 69.
67. In relation to delivery and settlement of trades for on-market transactions, the current Rules of Bursa Securities [Schedule 2A] cover the delivery and settlement obligations between POs and their client and between Bursa Clearing and the POs in their capacity as Clearing Participants. We propose to remove the above obligations between Bursa Clearing and the POs in their capacity as Clearing Participants from the Rules of Bursa Securities. Such obligations are proposed to be inserted into the Rules of Bursa Clearing (S). The Revamped Securities Rules will only reflect the timing for delivery and settlement of contracts relevant to POs and clients [See Rules 902.1, 905.1 and Schedule 3].

68. In respect of buying-in, as buying-in is instituted by Bursa Clearing (S) as part of Bursa Clearing's settlement process, the relevant provisions for buying-in such as the bidding price for buying-in and the levy that is payable by the POs in their capacity as the Clearing Participants will be transferred to the Rules of Bursa Clearing (S).
69. In relation to the provisions governing all claims for entitlements made to the Clearing House arising from failure of delivery of securities from on market transactions, which are currently in the Rules of Bursa Securities [Rule 907], such provisions will also be moved to the Rules of Bursa Clearing (S). The Revamped Securities Rules will merely reflect POs' obligation to inform the client that claims can be made to Bursa Clearing (S) and the time frame for such claims to be made [See Rule 907].

Proprietary Trading

70. Presently under the Rules of Bursa Securities, in order to manage conflict of interest, there must be a clear segregation between trades for POs' proprietary positions and agency trades. This segregation is preserved but flexibility is proposed to be given for a DR that does proprietary trades to also do trades for related corporations of the POs [See Rules 701.4].
71. The Exchange further proposes to remove the current restriction for proprietary trades of POs to be conducted at the principal office only. This is to accord greater flexibility to the POs to manage their business in the way that best suit them.

Financing

72. The provision of financing to clients is regulated under the Rules of Bursa Securities. Currently the Rules of Bursa Securities permit POs to provide margin financing and discretionary financing. All other types of financing for subscription and purchase of securities require the prior approval of the Exchange.
73. The Exchange proposes to remove the above requirement for prior approval. This is because the financial risk of providing other types of financing is already captured in the computation of Capital Adequacy Ratio ("CAR"). With the proposed removal to obtain prior approval of the Exchange for other types of financing, POs can better compete with other institutions that offer financing for trading.

74. The Exchange is also proposing to add a new requirement to allow lending of money by POs to related corporation. This is arising from the proposed removal of the Guidelines on Chinese Walls for Dealers and Future Brokers by SC. With the intended removal of the guidelines by SC, there will not be a prohibition for POs to provide financing to its related corporation as referred to in the guidelines. However this does not mean that POs can now be in the business of money lending. The Exchange is proposing to permit lending activities by the POs but only for the following purpose:
- a) lending to clients for subscription and purchase of securities that is listed or proposed to be listed which is in the current Rules of Bursa Securities; and
 - b) lending to related corporations of the POs for any purpose. This is proposed in the Revamped Securities Rules.

However, the POs are expected to ensure effective implementation of policies and procedures to control and manage risk exposure when carrying out lending activities to their related corporations [See Rule 708.4].

Systems Failure and Malfunction

75. The Exchange endeavours to provide continuous trading without malfunction or system failure. Nevertheless, should such malfunction or system failure occur, the Exchange proposes to impose an obligation on the PO to inform the Exchange when the PO becomes aware of such failure or malfunction affecting the PO. A PO is also required to take steps to mitigate its losses when such a failure or malfunction occurs. This is to ensure that the integrity of the market is maintained at all times and that parties do not profit against another when such a failure or malfunction occurs [See Rule 701.6].

Off Balanced Sheet Transaction

76. Currently in the Rules of Bursa Securities, the Exchange requires off balance sheet transaction to be reported to the Exchange. In the Revamped Securities Rules, the provisions for Off Balanced Sheet Transactions have been made more principles based [See Rule 702]. The operational requirements for reporting of Off Balanced Sheet Transactions as contained in the current Rules of Bursa Securities are incorporated into directives.

H. Defaulters List

77. The Exchange is proposing to maintain the current prohibition in the Rules of Bursa Securities for POs to transact with clients who are posted as 'Defaulters' by the Exchange. Currently, the Exchange may verify with the client on the debt owing to the PO before proceeding to post the client as a defaulter. The Exchange is proposing instead, for POs to declare that the client has defaulted in his payment obligations and that the necessary due process has been accorded to the client before the Exchange posts the client as a defaulter. This is to improve on the operational efficiency when posting a client as a defaulter. In making the declaration to the Exchange, the POs are required to affirm that:
- a) a letter of demand has been sent to the client for the debt;
 - b) that the client has not paid the debt;
 - c) client has not disputed the debt; and
 - d) the PO has cautioned the client in the letter of demand of the possibility of being made a defaulter under the Rules of Bursa Securities and the consequences of being posted as a defaulter.
78. The above declaration by the PO ensures that adequate steps have been taken by the PO in notifying and demanding the debt from the client and that the debt is not disputed by the client. The Exchange will proceed to post the client as a defaulter upon receipt of the declaration from the PO. If the Exchange is notified of any dispute by the client or the PO on the debt prior to posting the client as a defaulter, the Exchange will not proceed with the posting. If a client disputes the debt owing to the POs after the client is posted as a defaulter, the dispute will be a matter between the PO and the client. The Exchange will only remove the name of the client as a defaulter, if the dispute is settled between both parties either through a dispute resolution mechanism or a court process or if the PO instructs for the removal of the client as a defaulter on the basis that the client has settled the debt owing [See Rule 503].

I. Conduct of Other Business Activities

79. The scope of other activities (other than trading in securities on the stock market of the Exchange) permitted to be carried out by the

POs is in SC's licensing handbook. This principle is proposed to be reflected in the Revamped Securities Rules [See Rule 601.1].

80. With the above proposal, all provisions in the current Rules of Bursa Securities in relation to other capital market activities such as corporate finance, private debt securities, fund management, unit trust etc as contained in the current Chapter 5 of the Rules of Bursa Securities are proposed to be deleted.

J. Financial Requirements

81. The current requirements in the Rules of Bursa Securities for POs to maintain prescribed level of effective shareholders' fund, capital adequacy ratio and gearing ratio are maintained. The rules on capital requirements are, however, moved to a separate chapter from the current Chapter 11 [See Chapter 13] for better structure and focus.
82. The Exchange proposes to remove the requirement for POs to annually set aside a certain minimum percentage of the POs' audited profit after tax to a reserve fund which is contained in the current Rule 1101.2. This is because the reserve fund will be transferred back, if the PO incurs a loss for a particular year. This will not have any effect on the shareholders' funds of a PO and therefore, does not serve any regulatory purpose.
83. In relation to capital adequacy ratio, the details on the calculation of the ratio have been moved to a directive. Under the Revamped Securities Rules only broad principles on the calculation of the above ratio are reflected [See Chapter 13].
84. All details on the information required for accounts and financial requirements have been moved to a directive from the current Rules of Bursa Securities. The Revamped Securities Rules will reflect the broad principles on accounting and financial requirements [See Chapter 12].

K. Transitional Provisions

85. The current Rule on Related Provisions [Rule 102] is proposed to be renamed as Transitional Provisions [Rule 103] to address the transition not only in relation to the Demutualisation Act but also transition from the current Rules of Bursa Securities (Rules of Bursa Securities in force prior to the implementation of the

Revamped Securities Rules) to the Revamped Securities Rules [See Rule 103.2].

86. The purpose of the above transitional provisions is address ambiguity on the rights and obligations and acts or things done or pending under the Old Rules and the continuity of the application of the Old Rules in those instances.

Rules of Bursa Clearing (S)

L. Amendments consequential to the Revamped Securities Rules

87. The Rules of Bursa Clearing (S) are proposed to be amended to reflect the delivery and settlement obligations between Bursa Clearing (S) and the Clearing Participants which are proposed to be removed from the Rules of Bursa Securities as discussed above [See new Rule 5.2A and the proposed amendments to Rules 5.3 and 5.5].

M. Novation of on-market transactions

88. Novation, in the context of the discussion in this Consultation Paper, is the process of replacing an on-market transaction entered into between the buyer and seller with a contract between the buyer and Bursa Clearing (S) and another between the seller and Bursa Clearing (S).
89. Bursa Clearing (S) is proposing to clarify the provisions relating to the novation of an on-market transaction especially in relation to the exact point in time the novation occurs and the delivery of securities under a novated contract [See Rules 5.1A and 5.1B].

Annexure 1A Proposed Amendments to the Rules of Bursa Securities

[Please see the tracked proposed amendments enclosed with this Consultation Paper]

Annexure 1B Proposed Amendments to the Rules of Bursa Securities

[Please see the clean copy of the proposed amendments enclosed with this Consultation Paper]

Annexure 2A Directives

[Please see the tracked proposed directives enclosed with this Consultation Paper]

Annexure 2B Directives

[Please see the clean copy of the proposed directives enclosed with this Consultation Paper]

Annexure 3A Proposed Amendments to the Rules of Bursa Clearing (S)

[Please see the tracked proposed amendments enclosed with this Consultation Paper]

Annexure 3B Proposed Amendments to the Rules of Bursa Clearing (S)

[Please see the clean copy of the proposed amendments enclosed with this Consultation Paper]

NO	SUBJECT MATTER	COMMENTS
J.	Financial Requirements	
K.	Transitional Provisions	

Annexure 5 Comments to Proposed Amendments to the Rules of Bursa Clearing (S)

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NO	SUBJECT MATTER	COMMENTS
A.	Clarifying the exact point in time when an On-Market Transaction is novated to Bursa Clearing (S) and what happens upon novation of the On-Market Transaction Note: Rule 5.1A	
B.	Clarifying Bursa Clearing (S)'s obligations in respect of the delivery of securities required to be delivered pursuant to a novated contract Note: Rule 5.1B	
C.	Reflecting the delivery and settlement and settlement obligations between Bursa Clearing (S) and the POs in their capacity as Clearing	

NO	SUBJECT MATTER	COMMENTS
	Participants which are going to be removed from the Rules of Bursa Securities Note: Rules 5.2A and 5.3	