

“ANNEXURE 2”

PROPOSED AMENDMENTS TO THE RULES OF BURSA MALAYSIA DEPOSITORY SDN. BHD. (“THE RULES OF BURSA DEPOSITORY”) IN RELATION TO SECURITIES BORROWING AND LENDING NEGOTIATED TRANSACTIONS (“SBL NEGOTIATED TRANSACTIONS”)

EXISTING PROVISIONS		PROPOSED PROVISIONS		RATIONALE
Rule 25.04A	<p>Authorisation for Bursa SBL Transaction:</p> <p>(1) Authorisation: The Depository shall be authorised by a depositor to effect any debit or credit entries in the depositor’s securities account upon the instructions of the Clearing House in accordance with the SBL Conditions or authorisation given by the depositor to the Clearing House, where a Bursa SBL Transaction has been executed for which the depositor’s securities account is to be used for delivery of securities into or from such securities account.</p> <p>(2) Definition: For the purposes of this Rule -</p> <p>“Bursa SBL” means the securities borrowing and lending business established and operated by the Clearing House acting as a central lending agency;</p> <p>“Bursa SBL Transaction” means <i>the securities borrowing and lending transaction entered into between the Clearing House and a person enabling the Clearing House to borrow or lend Eligible Securities from or to such person as the Clearing House may determine;</i></p> <p>“Eligible Securities” means the securities prescribed by the Clearing House in the SBL Circulars from time to time as approved for</p>	Rule 25.04A	<p>Authorisation for Bursa SBL Transaction:</p> <p>(1) Authorisation: The Depository shall be authorised by a depositor to effect any debit or credit entries in the depositor’s securities account upon the instructions of the Clearing House in accordance with the SBL Conditions, the Rules of the Clearing House or authorisation given by the depositor to the Clearing House, where a Bursa SBL Transaction or a SBL Negotiated Transaction has been executed or agreed or for which the depositor’s securities account is to be used for delivery of securities into or from such securities account.</p> <p>(2) Definition: For the purposes of this Rule -</p> <p>“Approved Borrower”</p> <p>means a person whose application to participate as a borrower in SBL Negotiated Transactions has been approved by the Clearing House.</p> <p>“Approved Lender”</p> <p>means a person whose application to participate as a lender in SBL Negotiated</p>	<p>This is to expand the application of the existing Rule 25.04A to encompass the authorisation given by depositors to Bursa Depository to make the relevant entries in the securities accounts of the respective depositors in relation to SBL Negotiated Transactions</p> <p>This is to distinguish the term “Approved Borrower” used in the context of SBL Negotiated Transactions from the term “Borrower” used in the context of Bursa SBL Transactions.</p> <p>This is to distinguish the term “Approved Lender” used in the context of SBL Negotiated Transactions</p>

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	<p>lending to or borrowing <i>from the Clearing House</i>;</p> <p>“SBL Circulars” means any circulars, guidelines, procedures, terms and conditions and all other written requirements as may be prescribed and issued from time to time by the Clearing House, whether or not electronically, relating to the Bursa SBL <i>and/or</i> the SBL Conditions <i>and/or</i> the transactions contemplated under the SBL Conditions; <i>and</i></p> <p>“SBL Conditions” means the prescribed application to be approved as a Lending Participant together with the Bursa SBL (Terms and Conditions for Lending Participant and Lender) or the prescribed application to be approved as a Borrower together with the Bursa SBL (Terms and Conditions for Borrower) individually or collectively, as the context may require, as may be amended, modified or varied from time to time, and shall include the SBL Circulars for the time being in force.</p>		<p>Transactions, either to lend its own securities or securities owned by its client, has been approved by the Clearing House.</p> <p>“Bursa SBL” means the securities borrowing and lending business established and operated by the Clearing House acting as a central lending agency;</p> <p>“Bursa SBL Transaction” means a securities borrowing and lending transaction where Eligible Securities are borrowed from or lent to the Clearing House acting as a central lending agency;</p> <p>“Eligible Securities” means the securities prescribed by the Clearing House in the SBL Circulars from time to time as approved for lending to or borrowing either in a Bursa SBL Transaction or a SBL Negotiated Transaction;</p> <p>“SBL Circulars” means any circulars, guidelines, procedures, terms and conditions and all other written requirements as may be prescribed and issued from time to time by the Clearing House, whether or not electronically, relating to the Bursa SBL Transactions, the SBL Negotiated Transactions, the SBL Conditions or the transactions contemplated under the SBL Conditions;</p>	<p>from the term “Lender” used in the context of Bursa SBL Transactions.</p> <p>This is to provide clarity to the existing definition.</p> <p>This is to expand the application of the existing definition (which is currently confined to the SBL-CLA model) to encompass the proposed SBLNT model.</p> <p>This is to expand the application of the existing definition to encompass the SBLNT model.</p>

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EXISTING PROVISIONS		PROPOSED PROVISIONS		RATIONALE
			<p>“SBL Conditions” means the prescribed application to be approved as a Lending Participant together with the Bursa SBL (Terms and Conditions for Lending Participant and Lender) or the prescribed application to be approved as a Borrower together with the Bursa SBL (Terms and Conditions for Borrower) individually or collectively, as the context may require, as may be amended, modified or varied from time to time, and shall include the SBL Circulars for the time being in force; and</p> <p>“SBL Negotiated Transaction” means a securities borrowing and lending transaction entered into between an Approved Lender and an Approved Borrower where the parties may negotiate and agree on the terms of the transaction.</p>	<p>This is to differentiate the 2 SBL models i.e. to distinguish the SBLNT model from the SBL Central Lending Agency (SBL-CLA) model.</p>
Rule 26.08	<p>Pledging:</p> <p><i>Pursuant to section 40 of the Act and subject to Rule 25.02B, any person (hereinafter in this rule referred to as “a pledgee”) intending to accept any deposited securities which have been pledged or charged by another person (hereinafter in this rule referred to as “a pledgor”) to the pledgee shall, if he does not already have a pledged securities account, open a securities account solely for the purposes of handling pledged deposited securities.</i></p>	Rule 26.08	<p>Pledging:</p> <p>Subject to Rule 25.02B and Rule 33.09(6), any person (hereinafter in this rule referred to as “the pledgee”) intending to accept any deposited securities which have been pledged or charged by another person to the pledgee may use a securities account designated as a “pledged securities account” and maintained in the name of any of the following persons to hold the pledged securities:-</p>	<p>This is to clarify that pledged securities may be held in a securities account in the name of the pledgee (where the pledgee is eligible to act as an authorised nominee and hold the pledged deposited securities in its own name) <u>or</u> in the name of its wholly owned nominee company</p>

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			<p>(a) The pledgee;</p> <p>(b) The pledgee’s wholly owned nominee company; or</p> <p>(c) A custodian which is a body corporate appointed by the pledgee.</p> <p>Where the said securities account is designated as a “pledged securities account”, such account must be used solely to hold pledged securities.</p>	<p>(where the pledgee’s wholly owned nominee company is eligible to act as an authorised nominee and hold the pledged deposited securities for the pledgee) <u>or</u> in the name of the pledgee’s custodian (where the pledgee appoints a custodian to hold the pledged deposited securities in the custodian’s nominee account for the pledgee.) Further, it is provided that if the said account is designated as “pledged securities account”, such account must be used to hold pledged securities only.</p> <p>It is also proposed that this Rule 26.08 be made subject to Rule 33.09(6) to ensure that in the event that the securities account is held by an Exempt Authorised Nominee, such EAN must hold securities therein for only one instructing client.</p>

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				Further, the reference to the term “pledgor” is deleted as such term is not used anywhere in this Rule.
Rule 33.04	<p>Mechanics of pledged securities accounts:</p> <p>(1) Establishment of accounts: Accounts which have been designated as pledged securities accounts may subject to Rule 33.09(1A) be established or opened –</p> <p>(a) subject to Rule 33.05, by an authorised depository agent on behalf of the Depository for its clients; or</p> <p>(b) by an authorised depository agent or an authorised direct member, as the case may be, in the name of its wholly owned nominee or company for itself.</p> <p>(2) Operation of accounts: A pledged securities account shall be credited with any deposited securities pledged, charged, mortgaged or otherwise encumbered (hereinafter referred to as “pledged deposited securities”) by any <i>depositor</i> (hereinafter referred to as “the pledgor”) in favour of <i>the account holder</i> (hereinafter</p>	Rule 33.04	<p>Mechanics of pledged securities accounts:</p> <p>(1) (No change)</p> <p>(2) Operation of accounts: A pledged securities account shall be credited with any deposited securities pledged, charged, mortgaged or otherwise encumbered (hereinafter referred to as “pledged deposited securities”) by any person (hereinafter referred to as “the pledgor”) in favour of another person (hereinafter</p>	<p>The proposed amendments to Rule 33.04(2) are to replace the term “depositor” (in the context of a pledgor) with the term “person” as the pledgor may not necessarily be the depositor i.e. the holder of a</p>

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	<p>referred to as “the pledgee”) and shall be debited with such securities upon any of the following circumstances -</p> <p>(a) a release or discharge of the said, pledge, charge, mortgage or encumbrance; or</p> <p>(b) a sale or disposal of such securities by the pledgee.</p> <p>(3) Release and discharge: Where a pledge, charge, mortgage or an encumbrance over any pledged deposited securities has been released or discharged, the Depository or the authorised depository agent, as the case may be, shall upon <i>receipt of a notice from the pledgee</i> transfer such securities into <i>the securities account of the pledgor</i>.</p> <p>(4) Sale of pledged securities: Notwithstanding anything contained in these Rules, the</p>		<p>referred to as “the pledgee”) and shall be debited with such securities upon any of the following circumstances -</p> <p>(a) a release or discharge of the said, pledge, charge, mortgage or encumbrance; or</p> <p>(b) a sale or disposal of such securities by the pledgee.</p> <p>(3) Release and discharge: Where a pledge, charge, mortgage or an encumbrance over any pledged deposited securities has been released or discharged, the Depository or the authorised depository agent, as the case may be, shall upon request by the pledged securities account holder transfer such securities into a securities account held by or for the pledgor.</p> <p>(4) (No change)</p>	<p>securities account. This is subject to the requirements provided in Rule 26.08 above.</p> <p>Further, the term “the account holder” (in the context of a pledgee) is replaced with the term “another person” as the pledgee is not necessarily the pledged securities account holder, particularly in situations where the pledged securities account is held by the pledgee’s wholly owned nominee company or custodian.</p> <p>It is also proposed that the term “pledgee” in Rule 33.04(3) be replaced with the term “pledged securities account holder” as the request for transfer of securities arising from a release or discharge of a pledge must be given by the holder of the pledged securities account who is the pledgee, the pledgee’s wholly owned nominee</p>

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EXISTING PROVISIONS		PROPOSED PROVISIONS		RATIONALE
	<p>Depository shall not be liable in respect of any sale by a pledgee of the pledged deposited securities pursuant to an exercise of any right or power of sale, disposal or otherwise. The Depository shall not be bound to inquire into the existence of any such right or power or on whether or not any right or power exercised or purported to be exercised by a pledgee has become exercisable or otherwise whatsoever.</p>			<p>company <u>or</u> the pledgee's custodian, as the case may be.</p> <p>Further, amendments are made to clarify that the securities account to which the pledged securities are transferred to upon discharge of the pledge, can either be held by the pledgor in its own name or held by an authorised nominee for the pledgor.</p>