

PARTICIPATING ORGANISATIONS' CIRCULAR

Date : 1 June 2012

R/R No. : 5 of 2012

DIRECTIVES ON REFERRAL AGENT ACTIVITIES

1. INTRODUCTION

- 1.1 The Securities Commission ("SC") has, effective 16 May 2012, amended the SC Licensing Handbook by inserting paragraph 7.04 to allow for a Participating Organisation ("PO") and its licensed persons to refer clients to a Trading Participant of Bursa Malaysia Derivatives Berhad ("TP"), and vice versa ("Referral Agent activities").
- 1.2 The regulatory framework set out in the SC's Licensing Handbook includes the eligibility criteria for persons carrying out Referral Agent activities, and the obligations of the CMSL and CMSRL holders undertaking Referral Agent activities. A copy of paragraph 7.04 of the SC's Licensing Handbook is enclosed as **Annexure 1**.
- 1.3 The following directives in paragraph 2 are issued pursuant to Rule 201.1(2)(d) and Rule 302.1(1)(d) of the Rules of Bursa Malaysia Securities Berhad ("Rules of Bursa Securities").

2. DIRECTIVES

Kindly be informed that the following directives must be complied with in carrying out Referral Agent activities:

2.1 Eligibility Criteria

The eligibility criteria to be a Referral Agent are as follows:

- (a) only the holders of Capital Markets Services Licence ("CMSL") and Capital Markets Services Representative Licence ("CMSRL") for dealing in securities are eligible to act as Referral Agent.
- (b) a CMSRL holder may only act as a Referral Agent through his or her PO.
- (c) a PO, in undertaking a referral arrangement with a TP, must set out the terms of the referral arrangements formally, including the details of the referral fee, commission or any other remuneration to be earned by the PO.

2.2 Obligations Of A Referral Agent

- (a) A Referral Agent must:
 - (i) act with honesty and integrity at all times;
 - (ii) only undertake the regulated activity he or she is licensed for, and not any other regulated activities;
 - (iii) be approved by his or her PO to undertake Referral Agent activities; and
 - (iv) make the appropriate disclosures to clients, which include the following:
 - (aa) the Referral Agent is carrying out Referral Agent activities on behalf of the PO;

- (bb) the Referral Agent is not allowed to give advice or provide recommendations in relation to dealing in derivatives; and
 - (cc) whether the Referral Agent will be remunerated for the Referral Agent activities and if so, the amount or rate of remuneration.
- (b) A Referral Agent must not:
- (i) accept orders for dealing in derivatives from clients while carrying out the Referral Agent activities;
 - (ii) receive or deal with client's money or property in relation to the Referral Agent activities; and
 - (iii) carry out Referral Agent activities as his or her sole business. The Referral Agent activities are only incidental to the Referral Agent's licensed activity.

2.3 Obligations Of Participating Organisations

- (a) A PO must:
- (i) approve the CMSRL holders who can act as Referral Agents;
 - (ii) notify the Participants Affairs Department of Bursa Malaysia Berhad if it is carrying out Referral Agent activities. The notification must be made in accordance with paragraph 2.4 below;
 - (iii) maintain a register of CMSRL holders who are approved to carry out Referral Agent activities. The register should include the name and contact details of the CMSRL holder, date of appointment as a Referral Agent, clients introduced, terms of the referral arrangement and any other relevant information that a PO would require in monitoring the activities of such CMSRL holder; and
 - (iv) undertake adequate supervision and monitoring of the Referral Agents by establishing proper policies and controls on the Referral Agent activities carried out or received.
- (b) A PO of a CMSRL holder who carries out the Referral Agent activities is responsible and accountable for the conduct of such CMSRL holder.
- (c) A PO and its CMSRL who carries out Referral Agent activities must not disclose any information of their clients to any person without authorization from the clients.

2.4 Notification

A PO is required to notify the Participants Affairs Department of Bursa Malaysia Berhad upon:

- (a) commencement of Referral Agent activities. A PO must give details of the TP with whom the referral arrangement is made and the CMSRL holders who are approved to act as Referral Agents. The following details of the CMSRL holders must be given:
 - (i) name;
 - (ii) identity card number;
 - (iii) CMSRL number;
 - (iv) the TP to whom a CMSRL holder is acting as Referral Agent; and
 - (v) effective date of commencement of Referral Agent activities;
- (b) termination of referral arrangements;
- (c) appointment of a new CMSRL holder to act as Referral Agent for a particular TP; and
- (d) cessation of a CMSRL holder acting as a Referral Agent.

3. REMINDER

- 3.1 A Dealer Representative acting as a Referral Agent must continue to comply with Rule 310.2(6) of the Rules of Bursa Securities which prohibits a Dealer Representative from sharing commission with any person other than his PO and/or any other Dealer's Representative employed or engaged by the first-mentioned Dealer's Representative's PO.
- 3.2 A PO must continue to comply with Rule 404.4(1)(b) of the Rules of Bursa Securities in opening a trading account for a client referred by a TP.
- 3.3 Non-compliance with any of the directives stated above is a breach of the Rules of Bursa Securities.

4. EFFECTIVE DATE

The directives are effective from 1 June 2012.

5. FREQUENTLY ASKED QUESTIONS (FAQs)

For further clarification on the above matters, kindly refer to **Annexure 2** for a set of FAQs.

6. CONTACT PERSONS

In the event of any queries in relation to the directives, kindly contact the following persons:

Name	Contact Details
Ahmad Sufian Mokhtar	03-2034 7242 Sufian@bursamalaysia.com
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This Circular is available at http://www.bursamalaysia.com/website/bm/regulation/rules/bursa_rules/

7.04 Permissible Activities for Referral Agents

General conditions and restrictions

Both CMSLs and CMSRLs in dealing in securities and dealing in derivatives can act as referral agents to introduce potential clients to the other, within the parameters set out in this paragraph.

(1) Eligibility Criteria

- (a) Only CMSLs and CMSRLs licensed for dealing in securities and dealing in derivatives are allowed to act as referral agents.
- (b) The CMSRLs of companies dealing in securities and derivatives are required to refer through their respective principals. Both principals must undertake a referral arrangement, setting out the terms of referral arrangement, including the referral fees or commissions or any other remuneration earned.

Note:

As a CMSRL of a principal that is licensed for dealing in securities, you can refer clients to a CMSRL of a company licensed for the regulated activity of dealing in derivatives through your principal.

It would be expected that the referral activity will occur within the same group if there are companies within the group licensed for both activities. For companies that do not belong to a group with either license, the principal may have a referral arrangement with another principal licensed for either activity, as applicable.

(2) The referral agent must comply with the following requirements:

- (i) The referral agent must act with honesty and integrity at all times;
- (ii) The referral agent cannot undertake the regulated activity that he is not licensed for;
- (iii) The referral agent cannot accept orders;
- (iv) The referral agent shall not receive or deal with client's money or property in relation to the introducing activity;
- (v) The introducing activity is incidental to his licensed activity and thus cannot be his sole business; and
- (vi) The referral agent must make the appropriate disclosures to the client, which include the following:
 - a. That he is carrying out introducing activities on behalf of his principal;
 - b. Inform the clients that he is not allowed to give advice or provide recommendations in relation to the activity; and
 - c. Whether he will be remunerated by the introduction and if so the amount or rate of remuneration.

(3) Obligations of the CMSL in undertaking introducing activities

- (i) The principals of the respective CMSRL are responsible and accountable for the conduct of their CMSRLs.
- (ii) The CMSL must notify Bursa Malaysia Securities Bhd and/or Bursa Malaysia Derivatives Bhd for registration of their CMSRLs as referral agents.

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- (iii) The principals are required to maintain a register of their CMSRLs who act as referral agents. The register should set out the names of the CMSRLs acting as referral agent, contact details, date of appointment as referral agent, clients introduced, terms of the referral arrangement and any other relevant information that the principal requires in monitoring the activity of its referral agents.
- (iv) The principals must establish proper policies and controls on the introducing activities carried out or received.
- (v) The principals must approve the CMSRLs that can act as referral agents.

Referral Agent Activities – Frequently Asked Questions (FAQs)

1. What is Referral Agent activity?

Referral Agent activity is where clients of a Participating Organization (“PO”) or the PO’s Capital Markets Services Representative Licence (“CMSRL”) holder dealing in securities is referred to a Trading Participant (“TP”) and vice versa (i.e. from one market to another).

2. Who can be a Referral Agent?

Only Capital Markets Services Licence (“CMSL”) holders (i.e. POs and TPs) and their CMSRL holders dealing in securities and dealing in derivatives can act as Referral Agents.

3. What are the eligibility criteria for a Referral Agent?

A Referral Agent must be a CMSL or CMSRL holder licensed for dealing in securities or dealing in derivatives.

The CMSRL holders can only carry out Referral Agent activities through their respective principals. Both principals must enter into a referral agreement, setting out the terms of the referral arrangement.

Reference can be made to paragraph 7.04 of the Securities Commission (“SC”) Licensing Handbook and directives found in POs’ Circular R/R No.5 of 2012 (“Bursa Malaysia Securities Directives”).

4. Are there any obligations and requirements a Referral Agent must satisfy?

The Referral Agent must comply with the obligations and requirements set out in the Paragraph 7.04 in Chapter 7 of the Licensing Handbook and Bursa Malaysia Securities Directives.

5. Is there a licensing requirement to be a Referral Agent?

There is no additional licensing requirement for POs or CMSRL holders to act as Referral Agents. The PO must approve a CMSRL to act as a Referral Agent and notify Participants Affairs Department of Bursa Malaysia Berhad within 2 weeks of such appointments.

6. Can a CMSRL holder act as Referral Agent even though the PO is not a Referral Agent?

No, any CMSRL who wishes to act as Referral Agent has to refer through their respective PO.

7. Who will sign the referral agreement?

The POs and TPs will sign the referral agreement.

8. Is the referral agreement between the 2 principals compulsory?

Yes, the referral agreement is compulsory. However, exemption is given to CMSL holders who carry out both dealing in securities and dealing in derivatives under the same entity and intends to refer clients within the entity.

9. Can a PO enter into referral agreements with more than 1 TP?

No, a PO can only enter into referral agreement with 1 TP.

10. Who will maintain the register of the Referral Agent?

The POs and TPs are required to maintain the register of their CMSRL holders who are approved to act as Referral Agents. The information required to be kept in the register is set out in Paragraph 7.04 of the Licensing Handbook and Bursa Malaysia Directives.

11. Who is responsible to supervise the activities of a CMSRL holder who is approved as Referral Agent?

A principal (i.e. PO) who approved a CMSRL holder to carry out Referral Agent activities is responsible to supervise him or her by establishing proper policies and controls for monitoring and supervision. In this respect, a PO is expected to adequately train and provide guidance to its CMSRL holders on their duties and obligations in carrying out Referral Agent activities. A PO is accountable for the conduct of its CMSRL holders approved as Referral Agents.

12. Can a PO or its CMSRL approved as a Referral Agent provide assistance to a client to open a futures trading account with the TP which has entered into a referral agreement with the PO?

No, Referral Agents are only allowed to refer their clients to the TP with whom the PO has a referral agreement. It is the duty of the TP to assess the clients referred by the PO and make recommendations on opening a futures trading account.

13. Can a PO or its CMSRL approved as a Referral Agent accept orders from his or her clients and relay those orders to such TPs, with whom the referred client has opened a futures trading account?

No, the Referral Agents can only refer clients and are not allowed to carry out any other regulated activities including accepting orders, receiving monies and rendering advice in respect of futures trading.

14. When a TP or its CMSRL holders approved as a Referral Agent refers a client to a PO, can the PO or its CMSRL immediately advise the client to open a trading account?

No, a PO must conduct the necessary assessments such as taking reasonable steps to ensure the financial standing or credit worthiness and investment objectives of the client referred by a TP. A PO must comply with Rule 404.4(1)(b) of the Rules of Bursa Securities in opening a securities account for all its clients, including those referred by the TP.

15. Can a non-CMSRL holder be involved in carrying out the Referral Agent activities for a PO?

No, persons who are not CMSRL holders cannot carry on Referral Agent activities.

16. Can a licensed director carry out Referral Agent activities?

Yes, a director who holds a CMSRL for dealing in securities or dealing in derivatives is eligible to carry out Referral Agent activities.