

QUESTIONS AND ANSWERS IN RELATION TO BURSA MALAYSIA SECURITIES BERHAD LISTING REQUIREMENTS

GENERAL

For the purpose of all the Questions and Answers issued by Bursa Malaysia Securities Berhad, unless the context otherwise requires, the words and expressions defined in the “Bursa Malaysia Securities Berhad Main Market Listing Requirements” and “Bursa Malaysia Securities Berhad ACE Market Listing Requirements” respectively (collectively “**Listing Requirements**”), when used in the Questions and Answers, have the meanings given in the said Listing Requirements, and –

“**ACE LR**” means Bursa Malaysia Securities Berhad ACE Market Listing Requirements;

“**Bursa Securities**” means Bursa Malaysia Securities Berhad; and

“**Main LR**” means Bursa Malaysia Securities Berhad Main Market Listing Requirements.

The Questions and Answers illustrate and clarify the relevant provisions under the Listing Requirements. They are issued to aid listed issuers’ understanding and compliance with the Listing Requirements.

A user of the Questions and Answers should always read the Questions and Answers together with the Listing Requirements and, where necessary, seek qualified professional advice. These Questions and Answers are not a substitute for the Listing Requirements or the professional advice.

In formulating the “Answers”, we have in some cases assumed certain underlying facts, summarised the relevant provisions of the Listing Requirements or concentrated on one particular aspect of the question as the focal point of the issue. The “Answers” should therefore not be construed as being definitive and applicable to all cases where the scenario may appear to be similar. In any given case, a listed issuer must assess all the relevant facts and circumstances in complying with the Listing Requirements.

The Listing Division of Bursa Securities is available for consultation where interpretation or clarification of the Listing Requirements is required. Listed issuers and practitioners are welcome to contact Bursa Securities’ Listing Division should they have any query on the Listing Requirements.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD LISTING REQUIREMENTS FOR THE ACE
MARKET
(As at 13 July 2015)**

CHAPTER 1 – DEFINITIONS AND INTERPRETATION

1.1 Definition of “core business”

Pursuant to Rule 1.01 of the ACE LR, “core business” means the business which provides the principal source of operating revenue or after-tax profit to a corporation and which comprises the principal activities of the corporation and its subsidiary companies.

The principal activities of ABC Bhd are manufacturing and property development.

(i) Scenario 1

Both principal activities of ABC Bhd generate the following operating revenue and after-tax profit for ABC Bhd:

	Manufacturing Business	Property Development Business
Operating Revenue	RM20 million	RM30 million
After-Tax Profit	RM15 million	RM24 million

Pursuant to the definition of “core business” in Rule 1.01 of the ACE LR, what is the core business of ABC Bhd?

As the operating revenue and after-tax profit of its property development business provide the higher quantitative contribution compared to the operating revenue and after-tax profit of its manufacturing business, the core business of ABC Bhd is property development.

(ii) Scenario 2

How does ABC Bhd determine its core business if both its principal activities generate the following operating revenue and after-tax profit?

	Manufacturing Business	Property Development Business
Operating Revenue	RM25 million	RM30 million
After-Tax Profit	RM18 million	RM15 million

If the figures in relation to the quantitative aspect of the core business definition do not clearly show the core business of ABC Bhd (i.e. where the operating revenue of its property development business is higher than that for its manufacturing business but its after-tax profit of its manufacturing business is

higher than that for its property development business), ABC Bhd may take into account other relevant factors such as its corporate objectives and plans when determining its core business.

1.2 Definition of “independent director”

- (i) **Is there a difference between the definition of “officer” in sub-Rules (b) and (d) of the said definition of “independent director” in Chapter 1 of the ACE LR (“the said definition”)?**

Yes. For the purpose of sub-Rule (b) of the said definition, “officer” shall have the meaning set out in section 4 of the Companies Act 1965 whereas for the purpose of sub-Rule (d) of the said definition, “officer” has been defined in Rule 1.01 of the ACE LR to be the chief executive, the chief operating officer, the chief financial controller or any other person primarily responsible for the operations or financial management of an applicant, a listed corporation or its related corporation, by whatever name called.

- (ii) **Would an independent director of a subsidiary of a listed corporation, who is proposed to be appointed as an independent director of such listed corporation, be disqualified from acting as an independent director of such listed corporation pursuant to sub-Rule (b) of the said definition?**

No, an independent director of a subsidiary will not be disqualified from acting as an independent director of such listed corporation pursuant to sub-Rule (b) of the said definition.

- (iii) **If Mr A were to be appointed by a listed corporation to act as a non-executive director of the listed corporation’s unlisted subsidiary, would such appointment disqualify him from being an independent director of the listed corporation pursuant to sub-Rule (e) of the said definition?**

No, the appointment of Mr A by the listed corporation as a non-executive director of a non-listed subsidiary of a listed corporation would not disqualify him from being an independent director of such listed corporation pursuant to sub-Rule (e) of the said definition.

- (iv) **What are the examples of “adviser” used in sub-Rule (f) of the said definition?**

“adviser” is as defined in Rule 1.01 of the ACE LR and includes, amongst others, Advisers or Sponsors, advocates and solicitors, licensed investment banks, universal brokers, tax consultants, accounting firms etc offering professional advisory services to the listed corporation or its related corporation.

- (v) Paragraph 5.1 of Guidance Note 9 in relation to sub-Rule (g) of the said definition states that a person is disqualified from being an independent director of a listed corporation if he had engaged personally in transactions with the listed corporation or its related corporation (other than for board services as a non-executive director) within the last 2 years, or is presently a partner, director or major shareholder of a firm or corporation (“the Entity”) (other than subsidiaries of the listed corporation) which has engaged in transactions with the listed corporation or its related corporation within the last 2 years, and the consideration in aggregate exceeds 5% of the gross revenue on a consolidated basis (where applicable) of the person or the Entity or RM1 million, whichever is the higher (“the said Threshold”). Mr A is an independent director of X Bhd, a listed corporation. If Mr A were to purchase a car from X Bhd for his own use, the value of which exceeds the said Threshold, would he be disqualified from being an independent director of X Bhd pursuant to sub-Rule (g) of the said definition and Paragraph 5.1 of Guidance Note 9?

As clarified under paragraph 5.2(a) of Guidance Note 9, an acquisition of a car from the listed corporation will not be considered a “transaction” where it is purchased for personal use provided that the transaction is on normal commercial terms. Therefore, Mr A would not be disqualified from being an independent director of X Bhd pursuant to sub-Rule (g) of the said definition and paragraph 5.2(a) of Guidance Note 9 due to the purchase of the car, provided that the purchase is on normal commercial terms.

- (vi) Mr X is a director (and not a major shareholder) of A Bhd, a listed corporation. He is proposed to be appointed as an independent director of B Bhd, another listed corporation. A Bhd and B Bhd are engaged in transactions, the consideration of which exceeds the said Threshold. Would paragraph 5.1 of Guidance Note 9 preclude Mr X from being appointed as an independent director of B Bhd?

Mr X would not be disqualified from being an independent director of B Bhd pursuant to sub-Rule (g) of the said definition and paragraph 5.2(b) of Guidance Note 9 if Mr X is not involved in the transactions entered into between A Bhd and B Bhd, i.e. Mr X is not the initiator, promoter, agent or is not a party to such transactions, and provided that such transactions are on normal commercial terms.

- (vii) Mr X is an executive director of A Bhd, a listed corporation and is proposed to be appointed as an independent director of B Bhd, another listed corporation. A Bhd is a telecommunications corporation and provides telecommunications services to B Bhd, the amount of which exceeds the said Threshold. Mr X, being the executive director of A Bhd, is directly involved in the transactions entered into with B Bhd. Would sub-Rule (g) of the said definition preclude Mr X from acting as an independent director of listed corporation B Bhd?

Mr X would not be disqualified from being an independent director of B Bhd pursuant to sub-Rule (g) of the said definition and paragraph 5.2(c)(i) of Guidance Note 9 provided that the services rendered by A Bhd are based on a non-negotiable fixed price or rate, which is published or publicly quoted, and the

material terms including the prices or charges are applied consistently to all customers or classes of customers.

- (viii) **In order to come within the ambit of “published or publicly quoted” as provided under paragraph 5.2(c) of Guidance Note 9, must the prices be advertised to the public?**

In order to satisfy the criterion of “published or publicly quoted” under paragraph 5.2(c) of Guidance Note 9, the prices need not be advertised. So long as the pre-determined prices are or can be made readily available to the public or customers, this criterion is deemed satisfied.

- (ix) **Mr A is appointed a director of X Bhd, a listed corporation on 5 August 2009. Mr A is also a major shareholder of Y Sdn Bhd. 5% of Y Sdn Bhd’s gross revenue for the financial years ending 31 December 2007 and 31 December 2008 amounted to RM800,000. Y Sdn Bhd supplied X Bhd with raw materials in March 2009 and April 2009 the value of which amounted to RM900,000. Is Mr A disqualified from being an independent director of X Bhd?**

The relevant threshold to be considered pursuant to paragraph 5.1 of Guidance Note 9 is RM1 million or 5% of Y Sdn Bhd’s gross revenue for the last 2 financial years whichever is the higher. As 5% of the gross revenue of Y Sdn Bhd for the last 2 financial years amounted to only RM800,000, the relevant threshold is RM1 million. Pursuant to paragraph 5.1 of Guidance Note 9, Mr A will not be disqualified from being an independent director of X Bhd because the value of the transactions entered into with Y Sdn Bhd of which Mr A is a major shareholder does not exceed RM1 million.

- (x) **Mr A is an independent director of X Bhd, a listed corporation. Mr A entered into a contract to provide technical services to a subsidiary of X Bhd, the consideration of which is RM5 million and constitutes 10% of Mr A’s gross revenue. Does this mean that Mr A is disqualified from being an independent director insofar as that transaction is concerned?**

The disqualification to act as an independent director is not specific to a transaction. As Mr A had entered into a transaction that exceeds the said Threshold, Mr A is disqualified from being an independent director. Mr A would not qualify to act as an independent director of X Bhd until such time when he fulfils all the requirements of the said definition.

- (xi) **Would the issuance of shares by a listed corporation or its subsidiary to a director of such listed corporation constitute a “transaction” as used in sub-Rule (g) of the said definition?**

No, the issuance of shares by a listed corporation or its subsidiary to a director of such listed corporation would not constitute a “transaction” for the purposes of sub-Rule (g) of the said definition.

- (xii) **Mr X will receive remuneration from the listed corporation for services rendered to the listed corporation as a director. Would Mr X be disqualified from being an independent director pursuant to sub-Rule (g) of the said definition, for receiving remuneration from the listed corporation, particularly if the remuneration exceeds the said Threshold?**

No, the receipt of remuneration for services rendered to the listed corporation as a director would not constitute a “transaction” for the purposes of sub-Rule (g) of the said definition.

1.3 Definition of “person connected”

Is the stepmother of a director of a listed corporation deemed a family member of that director and hence, a person connected with that director?

Although a stepmother would not be regarded as a family member for purposes of the ACE LR, a stepmother may still be regarded as a person connected with the director if she fulfils the other criteria of the definition of “person connected” as stipulated under Rule 1.01 of the ACE LR.

1.4 Definition of “public”

- (i) **A collective investment scheme or statutory institution that is managing funds belonging to contributors or investors who are members of the public, subject to fulfilling certain conditions as set out in the ACE LR, would be deemed as "public" where its interest, direct or indirect, in a listed corporation is more than 5% but less than 15% of the total number of shares of such listed corporation. Would an associate of such collective investment scheme or statutory institution also be deemed as "public"?**

No, the associate of such a collective investment scheme or statutory institution would not be deemed as "public" under sub-Rule (c) of the definition “public” in Rule 1.01 of the ACE LR. Accordingly, the associate’s shareholdings should be excluded from comprising the public shareholding spread.

- (ii) **Scheme A is a unit trust with an interest in 10% of the total number of listed shares in X Bhd. B is the fund manager of Scheme A. B holds 3% of the total number of shares of X Bhd. In computing its public spread, can X Bhd include both Scheme A and B as part of the public spread?**

X Bhd may include Scheme A in computing its public spread provided that Scheme A satisfies certain conditions as set out in the ACE LR but it cannot include B as "public". This is because B is an associate of Scheme A, which is a substantial shareholder of X Bhd.

- (iii) **It is noted that a “public” shareholder excludes a person who holds or acquires shares through artificial means. What are the circumstances or examples where a person is deemed to hold or acquire shares through artificial means?**

Some examples which fall within the ambit of “artificial means” are as follows:

- (a) shares given away as free shares;

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- (b) shares given as a gift; and
 - (c) providing financial assistance or loans to acquire shares to nominees of the directors or substantial shareholders.

1.5 What is the definition of “year” in the ACE LR? Does it refer to a calendar year or a financial year?

Where there is a reference to “year” in the ACE LR, it refers to a calendar year. Where the reference is intended to be in relation to a “financial year”, the provision in the ACE LR will clearly state so.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 3 May 2016)**

CHAPTER 2 – GENERAL

Guidance Notes

- 2.1 If a listed corporation breaches a requirement set out in a Guidance Note, will it be in breach of the ACE LR?**

Yes, Guidance Notes form part of the ACE LR. Hence, a listed corporation that fails to comply with a Guidance Note would be in breach of the ACE LR and would be subject to enforcement action by Bursa Securities.

Letters of compliance

- 2.2 What should be contained in a "letter of compliance" referred to in Rule 2.12 of the ACE LR and to whom must the "letter of compliance" be addressed?**

The "letter of compliance" must be addressed to Bursa Securities and should confirm that the provisions of the document to which it relates, comply with the ACE LR and the Rules of Bursa Malaysia Depository Sdn Bhd.

- 2.3 Can a listed corporation provide a letter of compliance which contains certain qualifications, for example, that generally a particular document complies with the ACE LR except for a few provisions, which are specifically set out in the letter of compliance itself?**

Listed corporations must ensure that the articles of association, trust deed, deed poll or bylaws of a Share Issuance Scheme and any amendments to the said documents comply with the ACE LR. As such, a letter of compliance must not contain any qualifications. The letter of compliance must state that the whole document complies with the ACE LR and the Rules of Bursa Malaysia Depository Sdn Bhd.

- 2.4 Who should write the letter of compliance?**

Pursuant to Rule 2.12 of the ACE LR, the letter of compliance must be written by a person with legal qualifications provided that in circumstances set out below, it may be written by the following additional persons:

- (a) in the case of bylaws of a Share Issuance Scheme (and any amendment to the bylaws), by the listed corporation's advisers; and
- (b) in the case of an amendment to an articles of association, by the listed corporation's advisers or its company secretary.

2.5 Can the in-house legal adviser of a listed corporation write the letter of compliance to Bursa Securities?

Yes, the in-house legal adviser of a listed corporation may write the letter of compliance to Bursa Securities.

Qualification of directors, chief executive and chief financial officer**2.6 A listed corporation must ensure that each of its directors, chief executive and chief financial officer has the character, experience, integrity, competence and time to effectively discharge his role as a director, chief executive or chief financial officer, of the listed corporation. How does the listed corporation comply with this requirement as set out in Rule 2.20A of the ACE LR¹?**

In ensuring that its directors, chief executive and chief financial officer meet the requirements set out in Rule 2.20A of the ACE LR, a listed corporation should, as a minimum, be guided by the principles, recommendations and commentaries set out in the Malaysian Code of Corporate Governance 2012, particularly Principle 2 and Principle 4. This assessment should be undertaken whenever –

- (a) the listed corporation appoints, elects or re-elects its directors, chief executive or chief financial officer, as the case may be; or
- (b) the listed corporation conducts its yearly assessment on the performance of its directors, chief executive or chief financial officer, as the case may be; or
- (c) material information involving the said persons comes to the knowledge of the listed corporation.

2.6A What are some of the factors which a listed corporation and its nominating committee should consider when assessing whether a director has the time to effectively discharge his or her role as director pursuant to Rule 2.20A of the ACE LR?

In undertaking the assessment on the director's time commitment, the listed corporation and its nominating committee should evaluate whether sufficient time and attention is given to the affairs of the listed corporation, in light of the position(s) the director holds in the listed corporation. In this regard, the listed corporation and its nominating committee should consider, among others, the director's –

- attendance at board or committee meetings, major company events, briefings or site visitations;
- participation in continuing training programmes;
- directorships in other listed corporations, public companies and corporations incorporated and listed outside Malaysia; and

¹ Rule 2.20A of the ACE LR provides that a listed corporation must ensure that each of its directors, chief executive and chief financial officer has the character, experience, integrity, competence and time to effectively discharge his role as a director, chief executive or chief financial officer, of the listed corporation.

- other commitments or positions and the time commitment involved.

Undertaking by adviser

2.7 Are advisers required to file undertakings with Bursa Securities?

Under Rule 2.21 of the ACE LR, only advisers who present, submit or disclose an application, circular or any other document to Bursa Securities on behalf of an applicant or a listed corporation, must file undertakings with Bursa Securities.

2.8 Must an adviser who is subject to Rule 2.21 of the ACE LR file an undertaking each time it acts for a listed corporation?

No, an adviser who is subject to Rule 2.21 has to file only 1 undertaking. Such undertaking will be applicable for all clients. The form of the undertaking has been prescribed in Appendix 2A of the ACE LR.

2.9 When must an adviser who is subject to Rule 2.21 of the ACE LR file an undertaking with Bursa Securities?

An adviser who is subject to Rule 2.21 must file an undertaking with Bursa Securities before the submission of documents to Bursa Securities. All advisers who may act as principal adviser under the SC's Principal Advisers Guidelines may file the undertaking immediately if they have not already done so.

Share registrar

2.10 How does a listed corporation ensure compliance with Rule 2.21A of the ACE LR in relation to the appointment of its share registrar?

The requirements under Rule 2.21A of the ACE LR set out the general criteria and factors to be taken into account by a listed corporation when appointing and retaining a share registrar. The main objectives of the requirements are to facilitate the appointment and retention of suitable share registrars who are able to ensure the proper performance of the listed corporation's obligations under the ACE LR and provide better quality services in a professional manner.

Hence, a listed corporation in appointing a share registrar, must be satisfied that the share registrar is able to provide the services that meet with its needs and expectations in line with the objectives of the requirements. For this purpose, the listed corporation may, amongst others:

- (a) make reasonable due enquiries to ensure and satisfy itself that the share registrar complies with Rule 2.21A of the ACE LR prior to the appointment of the share registrar; and
- (b) reflect the relevant provisions in Rule 2.21A of the ACE LR in the terms of engagement or service agreements entered into between the listed corporation and the share registrar, where appropriate.

2.11 How does a listed corporation ensure that the share registrar it has appointed continues to comply with the provisions set out in Rule 2.21A of the ACE LR?

A listed corporation may, for instance, monitor and review the performance of the share registrar in providing its services from time to time. Again, the listed corporation must be guided by the requirements of Rule 2.21A where relevant, in making its assessment. For example, the listed corporation should take into account whether the share registrar had, from the last review, provided its services in a timely and efficient manner. In this regard, the listed corporation should take into account the feedback received from its shareholders, and also take the appropriate steps to investigate into complaints received from its shareholders in relation to the services provided by its share registrar.

Controlling Person**2.12 Who are the Controlling Person referred to in Rule 2.22 of the ACE LR?**

“Controlling Persons” is defined in Rule 2.22 as a person who is, pursuant to a court order or otherwise, appointed to take possession or control over all or major assets of, or becomes responsible for the management of a listed corporation. This includes a provisional liquidator appointed by the court.

2.13 Must a Controlling Person file an undertaking each time it acts for a listed corporation?

Yes, a Controlling Person must file 1 undertaking for each listed corporation it acts for. The form of the undertaking has been prescribed in Appendix 2B of the ACE LR.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD LISTING REQUIREMENTS FOR THE ACE MARKET
(As at 13 July 2015)**

CHAPTER 3 - ADMISSION*Pre-admission consultation*

3.0 The ACE LR states that a potential applicant is strongly encouraged to consult Bursa Securities prior to its application for admission to the Official List.

(a) Who from the potential applicant should attend the pre-admission consultation with Bursa Securities?

Bursa Securities expects the key promoters, chief executive officer or chief financial officer to attend the pre-admission consultation. A potential applicant may consult with Bursa Securities, with or without a Sponsor.

(b) What does a potential applicant need to prepare for a pre-admission consultation with Bursa Securities?

A potential applicant would first need to make an appointment with the Listing Division, ACE Market Department for pre-admission consultation. It should then furnish to Bursa Securities the documents and information set out in Appendix 3A of the ACE LR at least 1 week prior to its consultation. However, even where the potential applicant is unable to furnish some of the documents and information set out in Appendix 3A to Bursa Securities, the potential applicant may still be able to engage in the pre-admission consultation.

(c) Is there a fee payable by the potential applicant to Bursa Securities for a pre-admission consultation?

No, the pre-admission consultation with Bursa Securities is free of charge.

(d) Can the potential applicant request for more than one pre-admission consultation with Bursa Securities?

Yes, the potential applicant may request for more than one pre-admission consultation with Bursa Securities, if necessary.

Criteria for admission

3.1 It is noted that the existing provisions relating to the approval from the SC for admission to the Official List have been removed under the ACE LR. Does this mean that the approval of the SC is no longer required for listing on the ACE Market?

Yes. Except for debt securities issues, corporations seeking listing on the ACE Market will not require the SC's approval under section 212 of the CMSA. All requirements relating to admission will be governed by the ACE LR. However, applicants are still required to submit and register their prospectus with the SC pursuant to section 232 of the CMSA.

3.2 What are the types of corporations that may be listed on the ACE Market?

Eligible corporations from all business sectors will be allowed to raise funds from the ACE Market except special purpose acquisition companies (“SPACs”), incubators and corporations seeking secondary listing on the ACE Market.

3.3 Can an issuer list structured warrants, real estate investment trusts or exchange traded funds on the ACE Market?

No. Structured warrants, real estate investment trusts and exchange traded funds are only allowed to be listed on the Main Market.

3.4 Are shares held by employees of an applicant, its subsidiaries and holding company included for purposes of computing the public shareholding spread of an applicant?

Yes, the shares held by employees of an applicant, its subsidiaries and holding company can be included for purposes of computing the public shareholding spread provided that such employees fall within the definition of “public” in Rule 1.01 of the ACE LR.

3.4A Paragraph 3.2 of the Guidance Note 18 in the ACE LR prescribes amongst others, that an applicant is generally not regarded as suitable for listing if its business is loss making, shows declining profits which may raise doubt on its potential or it suffers from low profitability and without any growth in financial results (“Negative List”). However, such applicant may still be considered for listing if it is an innovative company involved either in technology-based business or research and development or it has taken steps to improve its financial performance or it has strategy to revive its business in the future, and there are acceptable justifications on the prospects of the applicant’s business.**(a) Is there a specific quantum and time frame applicable in assessing whether the applicant’s business is loss making, shows declining profits or suffers from low profitability without any growth in financial results?**

No, there is no specific quantum and timeframe which will be applied as the criteria will operate on a case by case basis, having considered the relevant facts and circumstances.

(b) Does an applicant which triggers the Negative List need to include prospective financial information in an initial listing application to Bursa Securities to justify the prospect of its business?

No, an applicant is not required to include prospective financial information in an initial listing application to Bursa Securities pursuant to the ACE LR. Submission of any prospective financial information by an applicant is purely voluntary in nature.

(c) Would the requirements relating to Negative List apply to assets to be injected in a listed corporation, resulting in a significant change in business direction or policy of the listed corporation?

Yes, the same requirements relating to Negative List would also be applicable to assets injected in a corporation, resulting in a significant change in business direction or policy.

Admission processes & procedures**3.5 Must an applicant submit both the initial listing application (“ILA”) and quotation application (“Quotation Application”) to Bursa Securities before the listing of its securities?**

Under the enhanced initial listing process as set out in paragraph 2.0 of Guidance Note 15, an applicant is no longer required to submit 2 applications to Bursa Securities, namely –

- (a) an ILA for an approval-in-principle for the admission of securities; and
- (b) a Quotation Application for quotation of securities on Bursa Securities.

Instead, the Quotation Application will be merged with the ILA and thus only one application is required to be submitted to Bursa Securities for listing of securities (“**Consolidated Application**”).

3.6 What are the additional documents required to be submitted together with the Consolidated Application?

In addition to the existing documents required under the ILA, all the requisite documents/confirmations required under the existing Quotation Application will also be procured in the form of undertakings when the applicant submits its Consolidated Application.

3.7 When will the listing and quotation of the new securities be effected on Bursa Securities?

The admission and listing of new securities on Bursa Securities will take place on the next market day upon the receipt of confirmation by the applicant from Bursa Depository that the new securities are ready for crediting into the respective securities accounts provided that the applicant has made the following announcements:

- (a) Announcement pursuant to paragraph 8.1 of Guidance Note 15 through Bursa Link via a dedicated template, “Timetable for IPO” on the issuance date of the prospectus.

The announcement must include the following information:

- The opening and closing date of the offer period;
- The balloting date;
- The allotment date of the IPO; and
- The tentative listing date.

If there is any change to the tentative listing date, the applicant must immediately announce the change to Bursa Securities.

- (b) Announcement pursuant to the paragraph 8.2 of Guidance Note 15 through Bursa Link via a dedicated template, “IPO template” before 3 p.m. on the market day before the listing date.

The announcement must include the following information:

- Actual date of listing;
- Enlarged issued and paid up capital of the listed corporation indicating the number of shares and its par value, if any;
- Stock Short Name, Stock Code, ISIN Code; and
- Sector and market under which the new securities will be admitted.

3.8 Where can an applicant obtain the form prescribed by Bursa Securities for the classification of an applicant into a specific sector, as mentioned in paragraph 7.2 of Guidance Note 15?

The classification form can be obtained from the official website of Bursa Securities.

Methods of offering of securities

3.9 Can an applicant undertake an offer for sale during the initial public offer under the ACE LR?

Yes, an offer for sale is allowed provided that the applicant has generated 1 full financial year of operating profit based on its latest audited financial statements and all its promoters in aggregate, hold not less than 45% of the enlarged issued and paid-up capital of the applicant at the date of admission to the ACE Market.

3.10 Is an offer of securities to the general public via balloting mandatory for an applicant seeking admission to the ACE Market?

No. An applicant is free to determine its methods of offering of securities.

3.11 Is there any minimum issue price prescribed under the ACE LR?

No, there is no minimum issue price prescribed.

3.12 Is underwriting mandatory before an offering of securities is made under the ACE LR?

No, underwriting is no longer mandatory. Underwriting arrangement is now at the discretion of the applicant and its Sponsor.

3.13 Mr. A and Mr. B are the promoters of X Bhd, a corporation which is admitted to the ACE Market on 15 August 2009. As at 15 August 2009 –

- the issued and paid up ordinary share capital of X Bhd is RM500,000.00 consisting 500,000 ordinary shares of RM1.00 each; and
- both Mr. A and Mr. B hold in aggregate 300,000 ordinary shares of RM1.00 each representing 60% of the issued and paid up share capital of X Bhd.

(a) Is there a moratorium imposed on the shareholdings of Mr. A and Mr. B?

Yes. Pursuant to Rule 3.19 of the ACE LR, a moratorium is imposed over the shareholdings of Mr. A and Mr. B in the following manner:

- (i) From 15 August 2009 until 14 February 2010 (6 months), a moratorium is imposed on the entire shareholdings of Mr. A and Mr. B amounting to 300,000 ordinary shares of RM1.00 each in X Bhd;
- (ii) From 15 February 2010 until 14 August 2010 (the following 6 months), a moratorium is imposed on the aggregate shareholdings of Mr. A and Mr. B amounting to 225,000 ordinary shares of RM1.00 each in X Bhd which represents 45% of X Bhd's issued and paid up capital;
- (iii) After 14 August 2010, Mr. A and Mr. B may sell up to a maximum of 1/3rd per annum (on straight line basis) of the 225,000 ordinary shares held under moratorium provided that X Bhd has generated 1 full financial year of operating revenue based on its latest audited financial statements.

(b) If, after 14 August 2010, X Bhd is unable to generate 1 full financial year of operating revenue based on its latest audited financial statements, can Mr. A and Mr. B sell their 225,000 ordinary shares in X Bhd held under moratorium?

No, the moratorium over their 225,000 ordinary shares in X Bhd must remain. Mr. A and Mr. B may only sell their 225,000 ordinary shares in X Bhd up to a maximum of 1/3rd per annum (on straight line basis) after X Bhd has generated 1 full financial year of operating revenue based on its latest audited financial statements.

3.14 Mr X and Mr Y are the promoters of ABC Bhd, a corporation which is admitted to the ACE Market on 1 September 2009. As at 1 September 2009 –

- Mr. X and Mr. Y hold in aggregate 30 million ordinary shares of RM1.00 each and 10 million convertible securities which are convertible into 10 million ordinary shares of RM1.00 each, in ABC Bhd;
 - ABC Bhd has an issued and paid up ordinary share capital of RM45 million consisting of 45 million ordinary shares of RM1.00 each; and
 - ABC Bhd has also issued a total of 15 million convertible securities which are convertible into 15 million ordinary shares of RM1.00 each in ABC Bhd.
- (a) For purposes of Rule 3.19 of the ACE LR, what is the amount of shares held by Mr. X and Mr. Y which are to be placed under moratorium?**

The shares of Mr. X and Mr. Y which are to be placed under moratorium are as follows:

- (i) From 1 September 2009 until 30 March 2010 (6 months), the entire shareholdings of Mr. X and Mr. Y amounting to 30 million ordinary shares of RM1.00 each in ABC Bhd, must be placed under moratorium;
- (ii) Pursuant to Rule 3.19(1)(e) of the ACE LR, where the promoters also own securities which are convertible or exercisable into ordinary shares of the

applicant, the promoters' shareholdings to be placed under moratorium should amount to 45% of 60 million enlarged share capital of ABC Bhd assuming full conversion or exercise of such securities owned by the promoters.

As such, from 1 April 2010 until 30 October 2010 (the following 6 months), the aggregate shareholdings of Mr. X and Mr. Y amounting to 27 million ordinary shares of RM1.00 each in ABC Bhd, must be placed under moratorium;

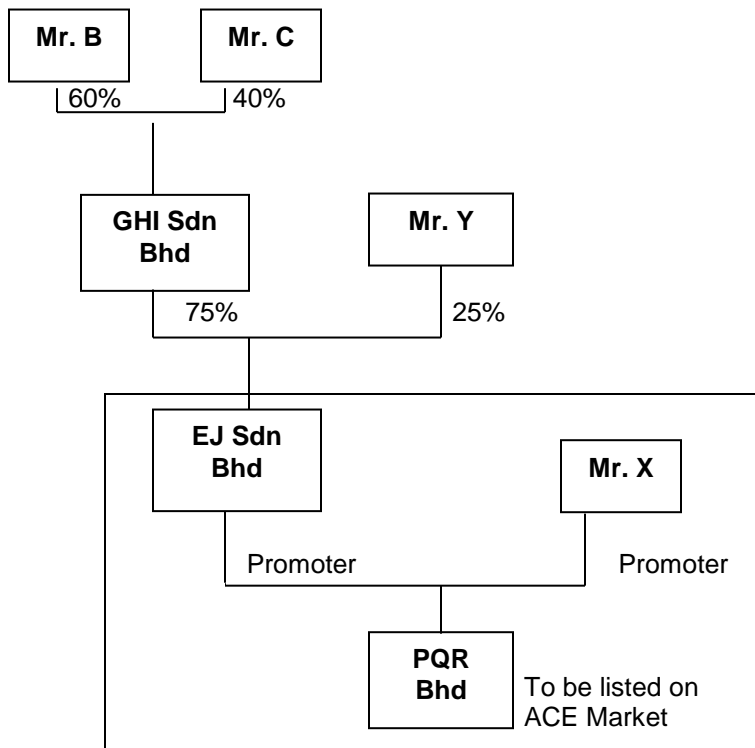
(iii) After 30 October 2010, Mr. X and Mr. Y may sell up to a maximum of 1/3rd per annum (on straight line basis) of the 27 million ordinary shares held under moratorium provided that ABC Bhd has generated 1 full financial year of operating revenue based on its latest audited financial statements.

(b) If, after 30 October 2010, ABC Bhd is unable to generate 1 full financial year of operating revenue based on its latest audited financial statements, can Mr. X and Mr. Y sell their 27 million shares held under moratorium?

No. The moratorium over their 27 million ordinary shares in ABC Bhd must remain. Mr. X and Mr. Y may only sell 1/3rd of their 27 million ordinary shares in ABC Bhd per annum (on straight line basis) after ABC Bhd has generated 1 full financial year of operating revenue based on its latest audited financial statements.

3.15 EJ Sdn Bhd and Mr. X are the promoters of PQR Bhd, a corporation which intends to list on the ACE Market. EJ Sdn Bhd is an unlisted corporation.

A chart depicting the corporate structure of PQR Bhd is as follows:



- (a) **Are the promoters of PQR Bhd required to provide Bursa Securities with an undertaking that they will comply with the moratorium requirements set out in Rule 3.19 of the ACE LR?**

Yes, all the promoters of PQR Bhd are required to provide Bursa Securities with the undertaking on moratorium. As such, both EJ Sdn Bhd and Mr. X must give the said undertaking to Bursa Securities.

- (b) **In the case of EJ Sdn Bhd, are its shareholders also required to provide Bursa Securities with the undertaking that they will comply with the moratorium requirements set out in Rule 3.19 of the ACE LR?**

Rule 3.19(2) of the ACE LR provides that where the promoter of an applicant seeking listing on the ACE Market or a vendor of the asset in a reverse take-over/back-door listing is an unlisted corporation, all direct and indirect shareholders of the unlisted corporation (whether individuals or other unlisted corporation) up to the ultimate individual shareholders must give undertakings to Bursa Securities that they will comply with the moratorium requirements set out in Rule 3.19 of the ACE LR.

As EJ Sdn Bhd is an unlisted corporation, all its shareholders (whether individuals or other unlisted corporation) up to its ultimate individual shareholders, must provide the undertaking on moratorium to Bursa Securities in compliance with Rule 3.19(2) of the ACE LR. Hence, GHI Sdn Bhd, Mr. Y, Mr. B and Mr. C are required to give the undertaking on moratorium to Bursa Securities.

- 3.15A Mr. X is the founder and has 60% equity interest in GHI Bhd, a corporation which intends to list on the ACE Market. He is also the managing director of GHI Bhd and an accredited Angel Investor with Malaysian Business Angel Network. In respect of the shares held by Mr. X in GHI Bhd, will Mr. X be entitled to a moratorium period of 6 months only pursuant to Rule 3.19(1A)(a)(ii)?**

No. The nature of Mr. X's investment in GHI Bhd is not as an angel investor, but as a promoter that drives its business. As such, he is not entitled to the 6 months moratorium period stipulated in Rule 3.19(1A)(a)(ii) in respect of his shares held in GHI Bhd. Both GHI Bhd and Mr. X will have to ensure full compliance with Rule 3.19(1) of the ACE LR.

- 3.15B What is meant by the quantitative criteria for admission to the Main Market of the Exchange in Rule 3.19(1A)(b), Rule 3.19(1B) and Rule 3.21(2A)?**

The quantitative criteria for admission to the Main Market as stated in these rules refer to the profit test or market capitalisation test as set out in the SC Equity Guidelines, which is accessible at <http://www.sc.com.my/legislation-guidelines/equity/>.

- 3.15C JKL Bhd, a corporation listed on the ACE Market, enters into several acquisitions post-listing. Based on the pro-forma accounts, the enlarged group meets the quantitative criteria for admission to the Main Market of Bursa Securities.**

Can JKL Bhd and its promoters apply to Bursa Securities to be exempted from continued compliance with Rules 3.19(1)(b) and 3.19(1)(c) of the ACE LR based on the pro-forma accounts?

No, JKL Bhd and its promoters may only apply to Bursa Securities to be exempted from continued compliance with Rules 3.19(1)(b) and 3.19(1)(c) pursuant to Rule 3.19(1B) after the

first audited consolidated financial statements of JKL Bhd. show that it has met the quantitative criteria for admission to the Main Market of Bursa Securities.

3.15D Apart from the shares a promoter holds in a listed corporation prior to listing, what other type of securities held by the promoter which would also be placed under the moratorium pursuant to Rule 3.19(1A) and 3.19(1D)?

Such securities include all shares in the listed corporation issued to the promoters during the moratorium period, and all shares issued arising from the conversion or exercise of any convertible securities or warrants held by the promoters as at the date of listing of the listed corporation on the ACE Market. The enlarged number of shares to be held under moratorium is in proportion stated in Rule 3.19(1)(a) to (d).

Others

3.16 Must a listed corporation undertaking a corporate proposal which will result in a significant change in the business direction or policy of the listed corporation, comply with the admission requirements under Chapter 3?

Yes, as Bursa Securities will treat such listed corporation as if it were a new applicant seeking admission to the Official List.

3.17 In 2008, Applicant A established its existing Share Issuance Scheme. Applicant A is seeking admission to the Official List of Bursa Securities in 2009. Must Applicant A terminate its existing Share Issuance Scheme before listing?

No, Applicant A need not terminate its existing Share Issuance Scheme before listing. However, in order for Applicant A to continue with the said scheme post-listing, it must ensure that the scheme complies with the provisions set out in the ACE LR.

3.18 Applicant B is seeking admission to the Official List of Bursa Securities. It is intending to establish a Share Issuance Scheme as part of its listing proposal. Must shareholder approval for such scheme be in accordance with Rule 6.45 of the ACE LR?

No, the requirements in relation to the procurement of shareholder approval in accordance with Rule 6.45 of the ACE LR are only applicable where the schemes are established after listing.

3.19 Must a listed corporation undertaking a corporate proposal which will result in a significant change in the business direction or policy of the listed corporation, comply with the admission procedures under Chapter 3 and Guidance Note 15?

Yes, as Bursa Securities will treat such listed corporation as if it were a new applicant seeking admission to the Official List.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 13 July 2015)**

CHAPTER 4 – SPONSORS

Definition of “Public Document”

4.1 Does “Public Document”¹ as referred to in certain rules such as Rules 4.02 and 4.10 of the ACE LR, include an announcement made by a Sponsored Corporation?

Yes, “Public Document” means any document issued by a Sponsored Corporation to the public or holders of any class of securities. This includes an announcement made to Bursa Securities for dissemination to the public.

Eligibility, roles and responsibilities of a Sponsor

4.2 Who is eligible to be a Sponsor?

A Sponsor must be an adviser who has been admitted to the Approved List of Principal Advisers Submitting Specific Corporate Proposals under the SC’s Principal Adviser Guidelines and admitted to the Register of Sponsor of the ACE Market.

4.3 Pursuant to Rule 4.08(4) of the ACE LR, a Sponsor must not sponsor an applicant or listed corporation if it has 5% or more of the enlarged issued and paid-up share capital in the applicant or listed corporation. Are shares held by the Sponsor’s director or employee included for the purpose of computing the 5% shareholding?

No, only shares held by the Sponsor is counted for the purpose of determining whether the Sponsor holds 5% or more of the enlarged issued and paid-up share capital in the applicant or listed corporation. However, the Sponsor must still assess if its directors’ and employees’ shareholding in the Sponsored Corporation would impair its ability to discharge its functions independently.

4.4 Pursuant to Rule 4.09(a) of the ACE LR, a Sponsor must among others, maintain regular contact with the Sponsored Corporation, including being available at all times to advise and guide the Sponsored Corporation. Does this mean that the Sponsor must assign or station an officer in the Sponsored Corporation’s office at all times?

Bursa Securities does not prescribe the manner in which a Sponsor must undertake this duty. As long as the Sponsor is available to advise and guide the Sponsored Corporation and its directors as prescribed under the ACE LR, the Sponsor is considered to have fulfilled its duty,

¹ Rule 4.02 of the ACE LR defines “Public Document” as any document issued by a Sponsored Corporation to the public or to the holders of any class of securities in a listed corporation pursuant to the ACE LR.

- 4.5 Pursuant to Rule 4.09(c) of the ACE LR, a Sponsor must advise the Sponsored Corporation if the trading of the Sponsored Corporation's listed securities will or should be halted or suspended. What are the key roles of a Sponsor under this Rule 4.09(c)?**

A Sponsor must among others, assess and advise the Sponsored Corporation whether there is a need to request for suspension pursuant to Guidance Note 12.

When a Sponsored Corporation makes an announcement during trading hours, a Sponsor is expected to advise the Sponsored Corporation whether the announcement will trigger a trading halt and the period of such trading halt, if applicable, under Guidance Note 14.

The above is not exhaustive. A Sponsor is expected to advise a listed corporation to request for suspension where a situation warrants it. For example, X Bhd's board of directors deliberated on a material acquisition at a meeting ended at 2 p.m. on Monday. The board decided to make an announcement after 5 p.m. while maintaining the confidentiality of the acquisition. However, there is unusual trading in the securities of X Bhd when trading commences at 2.30 p.m. X Bhd is uncertain whether there is a leak of information. In such instances, the Sponsor must advise X Bhd to request a suspension of trading in its securities pending the release of the announcement on the acquisition.

- 4.6 Pursuant to Rule 4.11(c) of the ACE LR, a Sponsor may seek necessary assistance and consultation from other appropriately qualified and suitable professionals when required. Does it mean that a Sponsor is absolved of its responsibilities when it has obtained the necessary assistance or consultation from the said professionals?**

No, the Sponsor is not absolved of its responsibilities under the ACE LR and must at all times ensure full compliance with the requirements imposed on it as a Sponsor.

- 4.7 [Deleted]**

- 4.8 Pursuant to Rule 4.12(b) of the ACE LR, a Sponsor must notify Bursa Securities immediately when it believes or becomes aware that a matter reported by it to the board of directors of its Sponsored Corporation has not been satisfactorily resolved resulting in a breach of the ACE LR. In this regard, must the notification be in writing?**

No. However, a Sponsor is encouraged to notify the same to Bursa Securities in writing to ensure that the information given to Bursa Securities is communicated clearly.

Appointment of an Adviser for a corporate proposal

- 4.9 Can a Sponsored Corporation appoint an Adviser other than its Sponsor, to act on its behalf when undertaking a corporate proposal during the Sponsorship Period?**

Yes, a Sponsored Corporation may appoint an Adviser other than its Sponsor to act on its behalf when undertaking a corporate proposal during the Sponsorship Period. However, the Sponsored Corporation must obtain the prior written consent of its Sponsor for such appointment pursuant to Rule 4.25 of the ACE LR. The responsibilities of a Sponsor and Adviser in this circumstance are as set out in Rule 4.16 of the ACE LR.

4.10 Can a Sponsor reject a Sponsored Corporation's request to appoint an Adviser to undertake a corporate proposal?

Yes, however pursuant to Rule 4.25 of the ACE LR, a Sponsor must not unreasonably withhold its consent to the Sponsored Corporation's request to appoint an Adviser for the purpose of undertaking a corporate proposal. The Sponsor should act professionally in considering the request for the appointment of an Adviser.

Resignation and termination of a Sponsor**4.11 X is the Sponsor who makes an application for listing on behalf of A Bhd. A Bhd is listed on the ACE Market on 1 September 2009. Based on Rule 3.21 of the ACE LR, A Bhd must secure and maintain the services of a Sponsor for at least 3 full financial years after its admission to the Official List, and extended to at least 1 full financial year after the applicant has generated operating revenue. A Bhd financial period ends on 31 December 2010.****(a) Can X resign or A Bhd terminate X's appointment as the Sponsor of A Bhd before 31 December 2010?**

No, based on Rule 4.18 of the ACE LR, X who makes a listing application on behalf of an applicant must act as the Sponsor for at least 1 full financial year after admission. During the said period, X cannot resign, neither can A Bhd terminate X's appointment as its Sponsor.

(b) Can X resign as A Bhd's Sponsor after 31 December 2010?

It depends on whether A Bhd has found a replacement Sponsor to succeed X. Based on Rule 4.19(1), if a replacement Sponsor has been found, X can resign by notifying Bursa Securities of the proposed resignation, together with the detailed reasons for the resignation. However, if no replacement Sponsor has been found, X must seek the Exchange's prior approval for its proposed resignation, together with the detailed reasons for the resignation.

(c) On 1 June 2011, X decides to resign as a Sponsor in A Bhd. A Bhd agrees to X's resignation and has found Y as its new Sponsor, who is willing to take over as A Bhd's Sponsor immediately. Must X seek Bursa Securities' approval for its resignation?

No, pursuant to Rule 4.19(1)(a) of the ACE LR, X only needs to notify Bursa Securities together with detailed reasons for its resignation.

(d) If X intends to resign as A Bhd's Sponsor but A Bhd refuses to accept X's resignation, what can X do to end the sponsorship?

Notwithstanding A Bhd's objection, X may apply to Bursa Securities to resign as A Bhd's Sponsor. X must provide the detailed reasons for its application. Based on Rule 4.19(3) of the ACE LR, Bursa Securities will not grant its approval unless there are exceptional circumstances which warrant the consideration of Bursa Securities.

- (e) **Further to Question (d) above, what are the exceptional circumstances under which Bursa Securities may consider in allowing a resignation or termination of X as A Bhd's Sponsor?**

Generally, Bursa Securities will consider whether the parties have acted "reasonably". The exceptional circumstances which Bursa Securities may consider X's resignation or termination as A Bhd's Sponsor include circumstances where –

- (i) there is an irreconcilable breakdown in the relationship between X and A Bhd; or
- (ii) X is no longer qualified to act as a Sponsor for any reasons, including not having the minimum number of Qualified Senior Personnel or being removed from the Register of Sponsors by Bursa Securities.

The parties must substantiate their application with the relevant facts and information.

- (f) **Assuming X resigns as A Bhd's Sponsor and A Bhd appoints Y as its new Sponsor for the remaining sponsorship period. Must A Bhd still include a statement in the Public Documents that its admission was sponsored by X for the remaining sponsorship period?**

Yes, pursuant to Rule 4.27(2) of the ACE LR, even though X has ceased to be A Bhd's Sponsor, A Bhd must still include X's name as its listing sponsor on all Public Documents issued by A Bhd during the remaining sponsorship period.

- (g) **In a case where A Bhd applies for and obtains an exemption from Bursa Securities from continued compliance with the remaining sponsorship period pursuant to Rule 3.21(2A), must A Bhd still state in the Public Documents that its admission was sponsored by X after the date the exemption was obtained?**

No, A Bhd would not be required to state that its admission was sponsored by X in the Public Documents issued after the effective date of the exemption.

- 4.12 A Sponsor's resignation or termination is approved by Bursa Securities in the second year of sponsorship under some exceptional circumstances, even though no replacement Sponsor has been found. What action will Bursa Securities take if after the expiry of the 3 months from the date of Bursa Securities' approval, a Sponsored Corporation has yet to find a replacement sponsor?**

Pursuant to Rule 4.19(5) of the ACE LR, if a Sponsored Corporation fails to find a replacement Sponsor after the expiry of the 3 months from the date of Bursa Securities' approval, Bursa Securities shall suspend trading in the Sponsored Corporation's listed securities. If the Sponsored Corporation still fails to find a replacement sponsor at the end of 2 months after the expiry of the 3 months period, Bursa Securities shall automatically de-list the Sponsored Corporation.

Rules governing Sponsored Corporations in dealing with Sponsors**4.13 Rule 4.26 of the ACE LR provides that a Sponsor must be consulted in certain prescribed circumstances. Does this requirement apply to all listed corporations?**

This requirement applies only to Sponsored Corporations i.e. listed corporations which are still being sponsored by a particular Sponsor.

4.14 What are some examples of the types of transactions referred to under Rule 4.26(1)(a) of the ACE LR?

Rule 4.26(1)(a) of the ACE LR requires Sponsored Corporations to consult their Sponsors in relation to proposals or transactions which, if undertaken, will require a listed corporation, at the minimum, to announce the proposal or transaction to Bursa Securities. This includes for example -

- (i) transactions which fall under Rules 10.06 and 10.07 of the ACE LR i.e. non-related party transactions where the percentage ratio is 5% or 25% respectively;
- (ii) related party transactions which are subject to Rule 10.08 of the ACE LR; and
- (iii) transactions which fall under Rule 10.13 of the ACE LR.

4.15 (a) Rule 4.26 of the ACE LR provides that a Sponsored Corporation must consult and seek the advice of its Sponsor when it contemplates certain corporate proposals or transactions. What are the obligations of the Sponsor when it is consulted by its Sponsored Corporation pursuant to Rule 4.26 of the ACE LR?

The Sponsor must advise the Sponsored Corporation on the relevant legislation, guidelines and requirements which are applicable to the circumstances set out in Rule 4.26 of the ACE LR. If the Sponsor is appointed as an Adviser, it must also comply with the requirements in Rule 4.16.

(b) Does the Sponsor have a right to request have a right to request further information from the Sponsored Corporation?

Under Rule 4.28 of the ACE LR, a Sponsored Corporation must provide its Sponsor with all the relevant information it possesses which is necessary and reasonable to enable the Sponsor to discharge its duties.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 1 July 2015)**

CHAPTER 5 – FOREIGN LISTING

General

5.1 *X Ltd* is a corporation incorporated outside Malaysia. It intends to seek a listing on the ACE Market.

(a) Can *X Ltd* seek a primary listing on the ACE Market?

Yes, *X Ltd* can seek a primary listing on the ACE Market.

(b) If *X Ltd* has a primary listing on another stock exchange, can it seek a secondary listing on the ACE Market?

No, it cannot. *X Ltd* is not allowed to seek a secondary listing on the ACE Market. Secondary listing of a foreign corporation is only allowed on the Main Market.

Admission criteria

5.2 Based on the same facts as in Question 5.1 above, what are the criteria to be fulfilled by *X Ltd* if it intends to have a primary listing on the ACE Market?

X Ltd must –

- (a) apply for a listing on the ACE Market through a Sponsor. The Sponsor must be one from the Register of Sponsors for the ACE Market;
- (b) be incorporated in a jurisdiction where the corporation laws are at least equivalent to those in Malaysia particularly on corporate governance, shareholders' and minority interest protection and take-overs and mergers;
- (c) be registered as a foreign corporation under the Companies Act 1965;
- (d) have a majority of directors whose principal or only place of residence is within Malaysia if its operations are predominantly Malaysian-based, or at least 2 independent directors whose principal or only place of residence is within Malaysia if its operations are predominantly foreign-based;
- (e) ensure that the audit committee has at least 1 independent director whose principal or only place of residence is within Malaysia;
- (f) appoint an external auditor from an international accounting firm or an accounting firm with international affiliation, which is duly registered or recognised by the Audit Oversight Board pursuant to section 31O of the Securities Commission Act 1993;

- (g) appoint an agent or representative in Malaysia to liaise with Bursa Securities;
- (h) establish a share transfer or share registration office in Malaysia;
- (i) prepare its financial statements in accordance with approved accounting standards (which include International Accounting Standards) and for this purpose, provide Bursa Securities with a confirmation from a professional accountant qualified under the Accountants Act 1967 and from an international accounting firm, that the financial statements comply with the said approved accounting standards; and
- (j) ensure that the auditing standards applied are in accordance with approved auditing standards applied in Malaysia or the International Standards on Auditing.

5.3 If the jurisdiction in which the foreign corporation is incorporated does not have corporation laws equivalent to the standard of law in Malaysia, does this mean that the foreign corporation is unable to fulfil the entry criteria stipulated in Rule 5.03 of the ACE LR?

If the standards required under Rule 5.03(1) of the ACE LR can be provided by means of varying the foreign corporation's constituent document, then Bursa Securities may still consider approving the listing of the foreign corporation. In this regard, the foreign corporation must ensure that its constituent documents are varied to be in line with the standards required. For this purpose, the foreign corporation must, in addition to the listing application, submit to Bursa Securities, a comparison of the laws and regulations of its jurisdiction and those provided in Malaysia together with the proposed variations in its constituent documents.

External auditors of an applicant – accounting firms with international affiliation

5.3A Rule 5.11(a) of the ACE LR requires an applicant¹ to appoint an external auditor from an international accounting firm or an accounting firm with international affiliation. What are the criteria which the applicant should consider in determining whether an accounting firm has “international affiliation”?

In determining whether an accounting firm is affiliated with an international firm, the applicant may consider whether the accounting firm -

- is associated with an international firm;
- pays royalties or annual fees to the international firm;
- has shared services with the international firm such as the accounting firm may deploy services of the international firm for its overseas clients; and
- is able to provide all relevant accounting and auditing services akin to an international auditing firm.

¹ An “**applicant**” is defined in Rule 5.01(2) of the ACE LR to mean a foreign corporation seeking a primary listing on the ACE Market.

Admission processes & procedures**5.4 What are the admission procedures that a foreign corporation must comply with for this purpose?**

The foreign corporation must comply with the admission processes and procedures as set out in paragraph 2.0 of Guidance Note 15. In this regard, the foreign corporation must–

- (a) submit a registrable prospectus to the Securities Commission; and
- (b) submit to Bursa Securities –
 - (aa) a listing application (in a template as set out in Part A of Annexure GN15-A of Guidance Note 15); and
 - (bb) all the requisite documents and/or confirmations required for quotation including the supporting documents specified in Part B of Annexure GN15-A of Guidance Note 15 and Annexure GN16-A of Guidance Note 16.

5.5 Are all the directors of a foreign corporation seeking primary listing on the ACE Market required to provide Bursa Securities with the undertakings set out in Annexure GN15-C and Annexure GN15-D of Guidance Note 15?

Yes, the foreign corporation must enclose and submit all its directors' undertakings in the format as prescribed in Annexure GN15-C and Annexure GN15-D of Guidance Note 15 to Bursa Securities, together with its application for listing.

Continuing obligations of a listed corporation**5.6 Based on the same facts as in Question 5.1 above, in the event *X Ltd* has a primary listing on the ACE Market, are the continuing listing obligations imposed on *X Ltd* the same compared with those imposed on other Malaysian listed corporations under the ACE LR?**

Yes, once *X Ltd* is listed on the ACE Market, *X Ltd* is required to comply with all the other relevant requirements under the ACE LR. However, *X Ltd* must also comply with some additional requirements imposed under Part C of Chapter 5 in the ACE LR such as the obligations to –

- (a) have directors or independent directors with place of residence in Malaysia;
- (b) ensure that the audit committee has at least 1 independent director with a place of residence in Malaysia;
- (c) appoint an external auditor from an international accounting firm or an accounting firm with international affiliation, which is duly registered or recognised by the Audit Oversight Board pursuant to section 310 of the Securities Commission Act 1993;

-
- (d) comply with relevant accounting and auditing standards;
 - (e) obtain prior shareholder approval in a general meeting to appoint or remove its external auditor;
 - (f) distribute notices, documents or information which it is required to distribute in its place of incorporation, to its Malaysian shareholders;
 - (g) announce to Bursa Securities any change in interest(s) of its substantial shareholders;
 - (h) prepare financial statements in accordance with approved accounting standards;
 - (i) immediately notify Bursa Securities of any suspension in trading or de-listing of its securities listed on other stock exchange(s);
 - (j) immediately announce to Bursa Securities any change in the laws of its country of incorporation or the laws in the country of incorporation of its foreign principal subsidiaries, which may affect the rights of shareholders; and
 - (k) ensure that it has in place a system of internal control.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 27 January 2015)**

CHAPTER 6 – NEW ISSUES OF SECURITIES

Admission

- 6.1 Pursuant to Rule 6.02(3)(d) of the ACE LR, Bursa Securities when granting approval for the listing of a new issue of securities by listed corporations, will consider amongst others, whether the listed corporation has satisfactory corporate governance practices. What will Bursa Securities consider in determining whether that is fulfilled?**

Bursa Securities in considering a proposal, would take into account a listed corporation's corporate governance record, including any previous actions taken against the listed corporation for any breach of any relevant laws, guidelines or rules issued by the SC or Bursa Securities, or for failure to comply with any written notice or condition imposed by the SC or Bursa Securities.

In addition, Bursa Securities will also consider the past corporate conduct of the board of directors.

- 6.2 Is a listed corporation allowed to submit its listing application for a new issue of securities to Bursa Securities on its own?**

No, pursuant to Rule 6.02(4) of the ACE LR, a listing application in relation to any new issue of securities must be submitted to Bursa Securities through a Sponsor or Adviser, as the case may be.

Listing procedures

- 6.3 What is the key difference between the procedures under paragraphs 2.0 and 4.0 of Guidance Note 17?**

Pursuant to paragraph 2.0 of Guidance Note 17, the listed corporation is required to submit 2 applications to Bursa Securities for approval –

- (a) Additional Listing Application (“**ALA**”) - of which the approval from Bursa Securities will be sought for the listing of new securities; and
- (b) Quotation Application – of which listed corporation is required to furnish Bursa Securities with the requisite documents/confirmations to facilitate the listing and quotation of the new securities on Bursa Securities.

However, under paragraph 4.0 of Guidance Note 17, the Quotation Application is merged with the ALA. Hence, only 1 application is required to be submitted to Bursa Securities (“**Consolidated Application**”). All the requisite documents/confirmations required under the Quotation Application will be procured in the form of undertakings when the listed corporation submits its Consolidated Application.

The procedures under paragraph 4.0 of Guidance Note 17 are similar to paragraph 3.0 of Guidance Note 17 in relation to the listing of bonus issue of securities and convertible securities arising from the bonus issue, which was implemented successfully in April 2007 with the objective of shortening the time to market.

- 6.4 *Y Bhd* is a company listed on the ACE Market. It proposes to make a rights issue to raise further funds and Bursa Securities' review of such circular is not required. In this situation, must *Y Bhd* submit the printed circular to Bursa Securities together with the listing application?**

In the event the circular has been issued to its shareholders when *Y Bhd* submits the listing application to Bursa Securities for the rights issue of securities, *Y Bhd* must enclose the circular together with its listing application to Bursa Securities. However, if the circular has not been issued to shareholders when *Y Bhd* submits the listing application to Bursa Securities, then *Y Bhd* must enclose a copy of the draft circular together with its listing application.

- 6.5 *X Bhd* is a Cash Company. It proposes to undertake a regularisation proposal which involves new issue of securities. When must *X Bhd* submit the draft circular for such proposal to Bursa Securities for its review before issuing the same to its shareholders?**

X Bhd must submit the draft circular to Bursa Securities together with its regularisation proposal for Bursa Securities' approval and clearance before *X Bhd* issues the circular.

- 6.6 Please elaborate further on the type of proposals to which the procedures under paragraph 4.0 of Guidance Note 17 apply.**

This procedure is applicable to the additional securities which will be listed and quoted as the existing listed securities of the same type and class.

Examples where paragraph 4.0 is applicable

Example 1

PLC A proposes to issue additional new ordinary shares pursuant to the exercise of Share Issuance Scheme where the new ordinary shares arising from the Share Issuance Scheme will be listed and quoted as the existing listed ordinary shares.

In this instance, *PLC A* will adhere to the procedures under paragraph 4.0 for the listing and quotation of the new ordinary shares issued pursuant to the Share Issuance Scheme as it involves the same class of securities.

Example 2

PLC B has existing ordinary shares and warrants listed on Bursa Securities. *PLC B* proposes to undertake a rights issue of 100 million new ordinary shares on the basis of 1 new ordinary share for every 2 existing ordinary shares held ("**Rights Issue**"). Pursuant to the provision in the deed poll, additional warrants will be issued arising from the adjustment pursuant to the Rights Issue ("**Additional Warrants**").

In this instance, *PLC B* will adhere to the procedures under paragraph 4.0 provided that the additional 100 million new ordinary shares and the Additional Warrants will be listed and quoted as the existing listed ordinary shares and warrants respectively.

Example 3

PLC E undertakes a corporate exercise which entails the following:

- (a) Proposed acquisition of *ABC company* for a purchase consideration of RM100 million to be satisfied by the issuance of 50 million new ordinary shares at RM2.00 per share (“**Acquisition**”).
- (b) Rights issue of 80 million new ordinary shares on the basis of 1 new ordinary share for every 1 share held (“**Rights Issue**”).

Facts

- (i) The Acquisition shares and Rights Issue will be listed and quoted as the existing listed ordinary shares; and
- (ii) The Acquisition and Rights Issue are inter-conditional upon each other and hence, the new ordinary shares arising from both the Rights Issue and Acquisition must be listed and quoted at the same time.

In this instance, *PLC E* will adhere to the procedures under paragraph 4.0 of Guidance Note 17 because both the new shares arising from the Acquisition and Rights Issue will be listed and quoted as the existing listed shares.

Examples where paragraph 4.0 of Guidance Note 17 is NOT applicable**Example 4**

PLC C proposes to undertake a private placement of new ordinary shares and these new ordinary shares will not be entitled to the final dividend for the financial year ended 30 March 2009.

As the new ordinary shares to be issued pursuant to the private placement will not be listed and quoted as the existing listed ordinary shares to which the procedures under paragraph 4.0 apply, *PLC C* must follow the procedure under paragraph 2.0 of Guidance Note 17.

Example 5

PLC D has existing ordinary shares and warrants listed on Bursa Securities and propose to undertake a rights issue of 80 million new ordinary shares and 80 million nominal value of Irredeemable Convertible Loan Stocks (“**ICULS**”) to its shareholders.

As the rights issue involves the issuance of a new type of securities i.e. ICULS, which is not currently listed, *PLC D* must follow the listing procedures under paragraph 2.0 of Guidance Note 17 similar to Example 3 above.

Example 6

PLC F undertakes a corporate exercise which entails the following:

- (a) Proposed acquisition of *DEF company* for a purchase consideration of RM100 million to be satisfied by the issuance of 50 million new ordinary shares at RM2.00 per share (“**Acquisition**”).
- (b) Rights issue of 80 million new ordinary shares on the basis of 1 new ordinary share for every 1 share held (“**Rights Issue**”).

Facts

- (i) the new ordinary shares arising from the Acquisition will not be entitled to the Rights Issue;
- (ii) the Rights Issue shares will be listed and quoted as the existing listed ordinary shares; and
- (iii) the Acquisition is not conditional upon the Rights Issue.

In this instance, *PLC F* will adhere to the following procedures:

- procedures under paragraph 2.0 of Guidance Note 17 for new ordinary shares arising from Acquisition as it involves the issuance of a new class of securities i.e. “A” shares; and
- procedures under paragraph 4.0 of Guidance Note 17 for Rights Issue because the new shares arising from the Rights Issue will be listed and quoted as the existing listed shares.

Please refer to Annexure GN17-A of Guidance Note 17 for a better understanding on the application of each additional listing procedure set out under paragraphs 2.0, 3.0 and 4.0 of Guidance Note 17.

6.7 When will the listing and quotation of the additional securities be effected under paragraph 4.0 of Guidance Note 17?

Pursuant to the procedures under paragraph 4.0 of Guidance Note 17, the additional securities will be listed and quoted on the next market day after the listed corporation has -

- (a) submitted the relevant certificate together with a covering letter containing the summary of the corporate proposal to Bursa Depository before **10 a.m.** on the market day before the listing date;
- (b) received confirmation from Bursa Depository that the additional securities are ready for crediting into the respective account holders; and
- (c) announced pursuant to paragraph 12.2 of Guidance Note 17 through *Bursa Link* via a dedicated template, “*ALA template*” before **3 p.m.** on the market day before the listing date the following:

- (i) details of corporate proposal;
- (ii) total number of securities issued under each proposal and its issue price, if any;
- (iii) date of listing and quotation; and
- (iv) latest issued and paid up share capital after the proposal indicating the number of shares (in units and RM) and their par value, if any.

6.8 A controlling shareholder which is a statutory institution managing funds belonging to the public is no longer required to list down its directorships or substantial shareholdings in all other listed corporations in Malaysia for the past 3 years, in the additional listing application for new issue of securities under paragraph 12, Part A of Annexure GN17-B. What are some examples of “statutory institutions managing funds belonging to the public”?

Examples of statutory institutions managing funds belonging to the public include the Employees Provident Fund (“EPF”), Lembaga Tabung Angkatan Tentera (“LTAT”), Kumpulan Wang Persaraan (Diperbadankan) (“KWAP”) and Lembaga Tabung Haji.

6.9 Paragraph 1(c) of Part C Annexure GN17-B of Guidance Note 17 requires a listed corporation to enclose among others, a confirmation from the listed corporation that Bursa Depository is ready to credit the new securities to the accounts of the entitled holders. Are there any specific requirements to be complied with by a listed corporation with regard to providing this confirmation?

In order to provide the confirmation that Bursa Depository is ready to credit the new securities to the accounts of the entitled holders, a listed corporation must procure a confirmation from Bursa Depository as set out below when the listed corporation submits the new scrip in respect of new securities to Bursa Depository. The listed corporation must include the following confirmation in its cover letter to Bursa Depository when submitting the said new scrip:

“(To be completed by Bursa Malaysia Depository Sdn Bhd)

We hereby confirm that Bursa Malaysia Depository Sdn Bhd has received all the relevant documents from the share registrar/ issuer to facilitate the crediting of the above allotment. The above securities will be credited into the designated CDS accounts one (1) market day prior to the listing/quotation of the above securities.

.....
Name : (Authorised signatory)

Date : "

Bursa Depository will then acknowledge on the said cover letter. The listed corporation must submit a copy of the cover letter duly acknowledged by Bursa Depository to Bursa Securities as the confirmation required under paragraph 1(c) of Part C, Annexure GN17-B, together with the other documents as required under Part C of Annexure GN17-B in support of an application for quotation of new issue of securities.

General requirements for new issue of securities**6.10 When should a listed corporation seek a general mandate from its shareholders to issue new securities?**

A listed corporation is encouraged to seek a general mandate from its shareholders only when it has a clear purpose for the utilization of the general mandate, such as for working capital or debt repayment.

6.11 The facts are as follows:

- On 31 July 2014, *PLC A* obtained a general mandate from its shareholders under Rule 6.04(1) of the ACE LR to issue shares at any time until the conclusion of its next annual general meeting provided that the aggregate number of shares to be issued does not exceed 10% of its issued and paid-up capital for the time being.
- The nominal value of *PLC A*'s issued and paid-up capital as at 31 July 2014 was RM95 million.
- On 1 September 2014, the nominal value of *PLC A*'s issued and paid-up capital increased to RM100 million shares pursuant to a private placement exercise of 5 million shares of RM1.00 each issued under the general mandate.
- On 31 December 2014, *PLC A* issued another 50 million shares of RM1.00 each pursuant to a rights issue exercise which has been approved under a specific shareholders' approval.
- *PLC A* intends to undertake another private placement exercise by 30 June 2015.

What is the maximum amount of shares that *PLC A* can issue for the private placement exercise under the general mandate?

As at 30 June 2015, the nominal value of *PLC A*'s issued and paid-up capital is RM150 million. Therefore, the maximum amount that *PLC A* can issue under the general mandate is 15 million shares of RM1.00 each. Since *PLC A* has issued 5 million shares under the general mandate in the preceding 12 months, the maximum number of shares that can be issued under general mandate as at 30 June 2015 is 10 million shares.

6.12 The minimum information that is to be disclosed in an announcement or circular in relation to a new issue of securities has been prescribed in Chapter 6 of the ACE LR. Would a listed corporation be in compliance with the disclosure requirement if it were to merely comply with the minimum content of information prescribed in Chapter 6?

No, in addition to complying with the minimum content of information prescribed under the ACE LR, a listed corporation must always also ensure compliance with the standard of disclosure prescribed under Rules 9.16 and 9.31 of the ACE LR, as may be applicable.

- 6.13** *B Sdn Bhd* is a subsidiary company of *A Bhd*, a listed corporation. *B Sdn Bhd* intends to issue shares to its own director. This director is not a director or major shareholder of *A Bhd* or its holding company or a person connected with such director or shareholder. Must *A Bhd* obtain shareholder approval for this issuance of securities?

Subject to Rule 8.23 of the ACE LR, *A Bhd* need not obtain shareholder approval for the above issuance of securities under the ACE LR. However, pursuant to Rule 6.07(4) of the ACE LR, the board of directors of *A Bhd* must approve the allotment/issuance to the director and ensure that it is fair and reasonable to the listed corporation, and is in its best interests. Further, *A Bhd* must make an announcement which contains the prescribed information under Rule 6.07(4)(c) and since it is not an exempted transaction under Rule 10.08(11)(a) of the ACE LR, the announcement must also comply with Rule 10.08(1) of the ACE LR.

- 6.14** *A Bhd*, a listed corporation, is issuing shares to a director of its subsidiary, *C Sdn Bhd* for cash. The director is not a director or major shareholder of *A Bhd* or its holding company or a person connected with such director or shareholder. Must *A Bhd* obtain shareholder approval for the issuance of securities?

No, Rule 6.07 of the ACE LR does not impose any obligation on *A Bhd* in relation to such issuance of securities. Hence, shareholder approval is not required pursuant to Rule 6.07. In addition, *A Bhd* need not comply with the requirements of Part E of Chapter 10 of the ACE LR as this is an issuance of securities by the listed corporation for cash and hence, exempted under Rule 10.08(11)(a) of the ACE LR. However, please note that the general disclosure obligations under Chapter 9 of the ACE LR may apply.

- 6.15** *D Sdn Bhd*, a subsidiary of *A Bhd*, a listed corporation. *D Sdn Bhd* intends to issue shares to a director of *A Bhd*. What are the obligations set out in Rule 6.07 and Part E of Chapter 10 of the ACE LR that *A Bhd* must comply with?

Pursuant to Rule 6.07(1) of the ACE LR, *A Bhd* must obtain shareholder approval for the proposed allotment/issuance. *A Bhd* must also comply with the requirements of Part E of Chapter 10 of the ACE LR as this is not a transaction exempted under Rule 10.08(11)(a) of the ACE LR. As such, the announcement in relation to the issuance/allotment must include the information set out in Appendices 10A and 10C of Chapter 10 and the circulars to shareholders must include the information in Appendices 10B and 10D of Chapter 10.

Requirements relating to placement

- 6.16** Under Rule 6.15(2) of the ACE LR, one of the requirements in a back-to-back placement is that the listed corporation must give Bursa Securities a declaration from its existing shareholders involved in the back-to-back placement arrangement, that they will not derive any financial benefit from such an arrangement, directly or indirectly. When must such declaration be given to Bursa Securities?

The declaration must be submitted to Bursa Securities as part of the supporting documents for its listing application for new issue of securities.

Requirements relating to a rights issue**6.17 What are the corporate exercises which will be processed under SPEEDS?**

The following corporate exercise will be processed under SPEEDS:

- (a) Specified Bonus Issue¹;
- (b) Specified Subdivision²;
- (c) Specified Consolidation³;
- (d) Crediting of shares from capital restructuring involving share cancellation and reduction in the number of shares held by each shareholder of a listed corporation; and
- (e) Crediting of rights entitlement (“Rights”).

6.18 How does a shareholder know whether a particular corporate exercise is processed under SPEEDS?

Shareholders may refer to the listed corporation’s announcement of the books closing date (“BCD”) in relation to the corporate exercise. If a corporate exercise is processed under SPEEDS, the date of listing and quotation of the securities will be on the next market day after the BCD, and such date will be stated in the announcement.

¹ A “**Specified Bonus Issue**” is a bonus issue of securities which –

- (i) is not conditional upon any other corporate proposal, or
- (ii) is conditional upon another corporate proposal but –
 - (aa) that other corporate proposal is a subdivision or consolidation or shares; or
 - (bb) that other corporate proposal has been completed or become unconditional.

² A “**Specified Subdivision**” is a subdivision of shares which –

- (i) is not conditional upon any other corporate proposal, or
- (ii) is conditional upon another corporate proposal but –
 - (aa) that other corporate proposal is a bonus issue; or
 - (bb) that other corporate proposal has been completed or become unconditional.

³ A “**Specified Consolidation**” is a consolidation of shares which –

- (i) is not conditional upon any other corporate proposal, or
- (ii) is conditional upon another corporate proposal but –
 - (aa) that other corporate proposal is a bonus issue; or
 - (bb) that other corporate proposal has been completed or become unconditional.

6.19 What is the timeline for the quotation of the rights for trading if the Rights are processed under SPEEDS?

The timelines for the crediting of Rights processed under SPEEDS are set out in the table below.

Activities	Current Timeline for Rights Issue	SPEEDS timeline
Announcement of BCD	BCD - 10	BCD - 10
Books closing date	BCD	BCD
Trading of Rights Commence	BCD + 3	BCD + 1

6.20 When will a listed corporation be required to announce the important relevant dates of a rights issue pursuant to Rule 6.25 of the ACE LR?

A listed corporation is required to announce the important relevant dates concurrently with the announcement of the BCD for a rights issue. A listed corporation must make the announcement via Bursa Link by using the relevant templates for announcements of the BCD and important relevant dates i.e. the "Entitlements (Notice of Books Closure)" and "Important Relevant Dates for Renounceable Rights" templates respectively.

6.21 What is the cut-off time for a listed corporation to submit to Bursa Securities a copy of the abridged prospectus ("AP") in respect of a rights issue pursuant to Rule 6.26 of the ACE LR?

A listed corporation must submit to Bursa Securities a copy of the AP together with a soft copy in PDF file format before 3.00 p.m. at least 1 market day before the commencement of trading of Rights.

6.22 Is the listed corporation required to submit any document to Bursa Depository before the BCD for the purpose of processing the Rights under SPEEDS?

The listed corporation must submit an undertaking letter in the prescribed format to Bursa Depository on the announcement date of the BCD for the Rights to be processed under SPEEDS. The undertaking letter must include the following:

- (a) The current issued and paid up capital of the listed corporation;
- (b) Designated CDS account for the crediting of fractional shares /rights;
- (c) Options on the allotment of fractional rights; and
- (d) An undertaking that the new share certificates will be submitted to Bursa Depository on the BCD.

- 6.23 If a shareholder maintains his shares in a few Central Depository System (“CDS”) accounts and the Rights are processed under SPEEDS, how will the Rights arising from the process under SPEEDS be calculated and credited into the shareholder’s CDS accounts?**

All Rights will be calculated separately based on the shareholder’s shareholdings in the respective CDS accounts. The Rights will be credited into the respective CDS accounts. Notice of Provisional Allotment Letter with details of the transaction for each CDS account will be issued to the shareholder.

- 6.24 When is the share registrar required to submit the Provisional Allotment Letter (“PAL”) to Bursa Depository for the Rights to be processed under SPEEDS?**

For share registrars located within Klang Valley, the PAL must reach Bursa Depository by 5.30 p.m. on the BCD and in respect of outstation share registrars, the new certificates and PAL must be faxed to Bursa Depository by 5.30 p.m. on the BCD before being delivered to Bursa Depository.

- 6.25 How does a shareholder get a copy of the Rights Subscription Form if he has not received his Rights Subscription Form posted by the listed corporation?**

A shareholder can get a copy of the Rights Subscription Form from the share registrar. He can also download the Rights Subscription Form from www.bursamalaysia.com on the BCD of the rights issue onwards.

- 6.26 If a shareholder does not receive his Notice of Provisional Allotment Letter and Rights Subscription Form, who can he refer to?**

The shareholder can contact the respective share registrar handling the Rights issue exercise.

- 6.27 Under the SPEEDS processing, when will the share registrar receive the file containing the details on the crediting of the Rights (“SPEEDS entitlement file”) from Bursa Depository for the purpose of despatching the Notice of Provisional Allotment Letter and Rights Subscription Form?**

The SPEEDS entitlement file will be made available to the relevant share registrar on the morning of the listing date (BCD+1). After processing based on the SPEEDS entitlement file, the share registrar will print and despatch the Notice of Provisional Allotment Letter and Rights Subscription Form together with the prospectus not later than 2 market days after the BCD of the rights issue.

- 6.28 Can a shareholder sell his Rights even though he has not received the Notice of Provisional Allotment Letter and Rights Subscription Form?**

The Rights will be credited into shareholders CDS accounts before the commencement of the trading of Rights on BCD+1. Shareholders may sell their Rights from BCD+1 without having to wait for the Notice of Provisional Allotment Letter and Rights Subscription Form.

6.29 Is there any fee imposed by Bursa Depository for the processing of shares from the crediting of Rights under SPEEDS and if so, how much is the fee?

Bursa Depository will impose on the issuer a processing fee of RM0.50 per account processed under SPEEDS. The processing fee is inclusive of the fee for the Record of Depositors (“**ROD**”). The fee of RM2.20 for the crediting of shares per account allotted remains the same.

Requirements in relation to bonus issue

6.30 What are the circumstances where the listed corporation, or the external auditors/reporting accountants, is required to provide confirmations that the available reserves for capitalization are adequate to cover the entire bonus issue under Rule 6.31(3)⁴ of the ACE LR and paragraph 1(dA) in Part B, Annexure GN17-B⁵ of Guidance Note 17?

The following table clarifies the obligations of the listed corporation and the external auditors/reporting accountants in providing the relevant confirmations required for purposes of complying with Rule 6.31(3) of the ACE LR and paragraph 1(dA) in Part B, Annexure GN17-B of Guidance Note 17:

	SCENARIO	FINANCIAL STATEMENTS RELIED UPON			OBLIGATIONS	
		Latest audited financial statements	Latest audited financial statements adjusted for subsequent events	Latest unaudited financial statements	Must the listed corporation confirm the adequacy of reserves for capitalization?	Must the reserves for capitalization be verified and confirmed by the external auditors (or reporting accountants) and the report be submitted to Bursa Securities?
Are the available reserves for capitalization adequate?	Scenario 1	Yes	N/A	Yes	Yes	No

⁴ Rule 6.31(3) stipulates that a listed corporation must ensure that the available reserves for capitalisation are adequate to cover the entire bonus issue of securities. If the reserves for capitalisation are not based on the annual audited financial statements of the listed corporation, such reserves must be verified and confirmed by the external auditors or reporting accountants of the listed corporation. Where a confirmation by the external auditors or reporting accountants is required, the reserves for capitalisation, which may be adjusted for subsequent events, must be based on the latest audited financial statements or the latest quarterly report, whichever is the later.

⁵ Paragraph 1(dA) of Part B, Annexure GN17-B provides that a listed corporation must file the following documents in support of the listing application for a bonus issue:

- (a) confirmation from the listed corporation on the adequacy of the reserves for capitalization; and
- (b) where the confirmation from the external auditors or reporting accountants is required, the report from the external auditors or reporting accountants.

	SCENARIO	FINANCIAL STATEMENTS RELIED UPON			OBLIGATIONS	
		Latest audited financial statements	Latest audited financial statements adjusted for subsequent events	Latest unaudited financial statements	Must the listed corporation confirm the adequacy of reserves for capitalization?	Must the reserves for capitalization be verified and confirmed by the external auditors (or reporting accountants) and the report be submitted to Bursa Securities?
Are the available reserves for capitalization adequate?	Scenario 2	Yes	N/A	No	Cannot undertake bonus issue	N/A
	Scenario 3	No	Yes	N/A (Latest quarterly financial statements subsequent to the audited financial statements is not due for release)	Yes	Yes
	Scenario 4	No	N/A	Yes	Yes	Yes

6.31 In circumstances where the reserves for capitalization are based on the latest unaudited financial statements and such reserves must be verified and confirmed by the external auditors or reporting accountants, what is the required scope of the such audit verification or confirmation?

The audit verification or confirmation must be made in accordance with the approved auditing standards applied in Malaysia for review of interim financial statements.

In relation to a foreign corporation with primary listing on Bursa Securities, the audit verification or confirmation may also be made in accordance with the International Standards on Auditing.

- 6.32** Rule 6.32 of the ACE LR requires a listed corporation which makes a bonus issue by way of capitalization of reserves arising from revaluation of real estate to submit 2 copies of the valuation report on the real estate to Bursa Securities immediately after the listed corporation announces the bonus issue or as soon as the valuation report is ready. Must the listed corporation submit the valuation report to the SC as well?

No, a valuation report required under Rule 6.32 of the ACE LR must be submitted to Bursa Securities only. A listed corporation need not submit the report to the SC.

- 6.33** Must a valuer who is required to submit an undertaking to Bursa Securities under Rule 6.32 of the ACE LR, file an undertaking each time it acts for a listed corporation?

No, a valuer is only required to provide Bursa Securities its letter of undertaking to comply with the ACE LR once. The same undertaking will be applicable for all listed corporations which the valuer acts for.

- 6.34** *C Bhd*, a listed corporation is undertaking a bonus issue by capitalising its reserves arising from the revaluation of real estate. The valuation figure of the real estate is RM100 million. Pursuant to Rule 6.32(4) of the ACE LR, Bursa Securities obtains a second opinion valuation, by which the real estate is valued at RM80 million. *C Bhd* is required to retain at least 20% of the valuation amount of the real estate in the revaluation reserves after undertaking the bonus issue in accordance with the provisions of the ACE LR. How much should *C Bhd* retain?

C Bhd should retain at least RM16 million in the revaluation reserves after taking into account/undertaking the bonus issue (i.e. based on the lower of the 2 valuation figures). The 20% is computed based on the valuation amount for the real estate set out in the valuation report. Where a second opinion valuation is required, the 20% would be based on the lower of the 2 valuation figures.

- 6.35** *ABC Bhd* is considering a proposal to undertake a bonus issue. Based on its latest consolidated audited accounts, *ABC Bhd* has share premium of RM100 million and revaluation reserves of RM60 million. *ABC Bhd* however has accumulated losses of RM180 million. Can *ABC Bhd* undertake a bonus issue?

No, *ABC Bhd* cannot undertake a bonus issue as its accumulated losses (RM180 million) exceed the necessary reserves required for capitalisation of bonus issues (i.e. RM100 million + RM60 million = RM160 million).

- 6.36** *XYZ Bhd* is considering a proposal to undertake a bonus issue. Based on its latest consolidated audited accounts, *XYZ Bhd* has share premium of RM200 million and revaluation reserves of RM250 million (assuming that the surplus does not arise from revaluation of real estates). *XYZ Bhd* has accumulated losses of RM150 million. Can *XYZ Bhd* undertake a bonus issue?

Yes, *XYZ Bhd* can undertake a bonus issue provided that the amount to be capitalised for the bonus issue does not exceed RM300 million.

Requirements relating to a Share Issuance Scheme**6.37 With Rule 6.42(d) of the ACE LR, who can confirm adjustments (other than on a bonus issue) under a Share Issuance Scheme?**

Pursuant to Rule 6.42(d) of the ACE LR, either the listed corporation's external auditor, Sponsor or Adviser, may confirm adjustments (other than on a bonus issue) under a Share Issuance Scheme. However, this is subject to the provisions contained in the listed corporation's bylaws of the Share Issuance Scheme.

6.38 Pursuant to Rule 6.39(1) of the ACE LR, the total number of shares to be issued under a Share Issuance Scheme must not exceed 30% of the issued and paid-up capital at any one time. How is this percentage calculated?

Where a listed corporation has issued a percentage out of the 30% allowed under Rule 6.39(1) of the ACE LR, for the following issue, the listed corporation would need to deduct from the total issued and paid-up capital, the number of shares already issued and paid for under the Share Issuance Scheme. The result from the deduction would be the new basis for calculating the percentage allowed for the scheme.

Illustration:

PLC A procured shareholder approval to implement a 5-year Share Issuance Scheme of up to 30% of its issued and paid up capital on 8 January 2009. *PLC A* has an issued and paid-up capital of RM20 million but arising from a rights issue implemented on 28 February 2009, the enlarged issued and paid-up capital is now RM25 million. In addition, arising from the exercise of all the options offered by *PLC A* pursuant to the Share Issuance Scheme, as at December 2010, new shares were issued amounting to RM5 million. Pursuant to Rule 6.39 of the ACE LR, what is the number of shares under the Share Issuance Scheme that can be offered by *PLC A* to its employees in year 2011?

Based on this example, the computation of the shares under the Share Issuance Scheme that may be offered by *PLC A* is as follow:

	Issued and Paid-Up Capital
8 January 2009	RM20 million
February 2009 (Issuance of new shares arising from rights issue – RM5 million)	RM25 million
December 2010 (Total issuance of shares under the Share Issuance Scheme – RM5 million)	RM30 million

Shares under the Share Issuance Scheme that can be offered by *PLC A* in year 2011:

= (30% x RM30 million) LESS shares already issued under the ESOS (i.e. RM5 million)

= 4 million new shares

6.39 Can a listed corporation establish more than 1 Share Issuance Scheme at any point in time?

Yes, a listed corporation may establish more than 1 Share Issuance Scheme provided that the aggregate number of shares available under all the Share Issuance Schemes does not exceed 30% of its issued and paid-up capital (excluding treasury shares).

Share Issuance Scheme by subsidiary**6.40 Is a Share Issuance Scheme undertaken by a subsidiary of a listed corporation subject to the approval of the listed corporation's shareholders?**

Generally, any Share Issuance Scheme implemented by a subsidiary of a listed corporation is no longer subjected to the approval of the listed corporation's shareholders under Rule 6.45 of the ACE LR. The Share Issuance Scheme implemented by the subsidiary will only require the approval of the listed corporation's shareholders if such Share Issuance Scheme is –

- (a) undertaken by a principal subsidiary⁶ and results in, or could potentially result in, a dilution amounting to 25% or more of the listed corporation's equity interest in the principal subsidiary under Rule 8.23 of the ACE LR; or
- (b) very material and triggers the percentage ratio of 25% or more under Rule 10.07 of the ACE LR where it will be considered as a "disposal of asset" by the listed corporation, due to dilution of its equity interest in the subsidiary.

In determining whether the obligations under Rules 8.23 or 10.07 of the ACE LR are triggered, the listed corporation must compute the relevant thresholds prior to implementation of the Share Issuance Scheme of the subsidiary based on the assumption that the Share Issuance Scheme is implemented in full.

Dividend Reinvestment Scheme**6.41 Will the shareholders having registered addresses outside Malaysia be entitled to participate in the Dividend Reinvestment Scheme?**

In addition to the requirements in Chapter 6 of the ACE LR, a listed corporation which intends to issue shares pursuant to a Dividend Reinvestment Scheme must also comply with the relevant provisions of law governing such issuance.

Hence, the listed corporation must ensure that there is no prohibition under the relevant laws in determining whether shareholders having registered addresses outside Malaysia are entitled to participate in the Dividend Reinvestment Scheme.

⁶ A "principal subsidiary" is defined in Rule 1.01 of the ACE LR as a subsidiary which accounts for 25% or more of the profit after tax or total assets employed of the listed corporation based on the latest published or announced audited financial statements of the listed corporation or audited consolidated financial statements of the listed corporation, as the case may be.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD LISTING REQUIREMENTS FOR THE ACE MARKET
(As at 3 January 2012)**

CHAPTER 7 – ARTICLES OF ASSOCIATION

General

- 7.1 Must a company¹ incorporate all provisions from Chapter 7 of the ACE LR into its articles of association, even if some of the provisions are not applicable? An example of such provision is where a company has not reserved any right to issue preference shares under its articles of association. In that situation, does the company still have to incorporate provisions such as Rules 7.05 and 7.06 of the ACE LR?**

No. If a provision is not applicable to a company, it need not incorporate it into its articles of association. However, the company must notify Bursa Securities of such provisions that it has not incorporated.

- 7.2 If a company undertakes amendments to its articles of association, is there a requirement for the company to submit a letter of compliance and checklist of compliance similar to the requirement of Rule 3.11 of the ACE LR?**

Pursuant to Rules 2.11 and 2.12 of the ACE LR, any amendments made to the articles of association by listed corporations must be submitted to Bursa Securities no later than 5 market days after the effective date of the amendment together with a letter of compliance. In relation to a checklist of compliance for such amendment, there is no requirement for submission of the same unless Bursa Securities requests for it.

Enhancements to proxy requirements

- 7.3 Under Rule 7.21 of the ACE LR, where a member of a listed corporation is an exempt authorised nominee, there is no limit to the number of proxies which the exempt authorized nominee may appoint in respect of each omnibus account it holds. Who is an “exempt authorised nominee” for purposes of Rule 7.21 of the ACE LR?**

Under the Rules of Bursa Depository, an authorised nominee is defined as a person who is authorised to act as a nominee in accordance with the schedule prescribed under Part VIII of the Rules. This means that such person can hold securities on behalf of another person. On the other hand, an exempt authorised nominee is an authorised nominee who may hold deposited securities for more than one beneficial owner in respect of each securities account it holds, or commonly known as the omnibus account.

¹ For the purpose of this Questions & Answers for Chapter 7 of the ACE LR, unless the context otherwise requires, references to “company” means a company which is seeking a listing on the Official List or a listed corporation.

7.4 Are individual members or authorised nominees of a listed corporation allowed to have unlimited number of proxies pursuant Rule 7.21 of the ACE LR?

No, only an exempt authorised nominee holding omnibus accounts is allowed to appoint unlimited number of proxies pursuant to Rule 7.21 of the ACE LR. The number of proxies which may be appointed by individual members and authorised nominees is not regulated under the ACE LR. The listed corporation is free to determine this through its articles of association.

Effect of the ACE LR

7.5 In the event a company has incorporated the deeming provision under Rule 7.36(4) of the ACE LR in its articles of association, is the company still required to amend its articles of association if there are amendments made to Chapter 7 of the ACE LR which are not already in its articles of association?

Yes, a company is still required to amend its articles of association in accordance with the relevant amendments of Chapter 7 of the ACE LR. This is to ensure that shareholders have access to articles of association which are updated and comprehensive.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 1 July 2016)**

CHAPTER 8 – CONTINUING LISTING OBLIGATIONS

General

8.1 What are the sectors that are prescribed by Bursa Securities for entities listed on the ACE Market?

The sectors for entities listed on the Official List of the ACE Market are as prescribed by Bursa Securities from time to time. The list of sectors can be obtained from Bursa Securities' official website at www.bursamalaysia.com, or upon request.

Shareholding spread

8.2 Pursuant to Rule 8.02(1) of the ACE LR, a listed corporation must ensure that at least 25% of its total listed shares (excluding treasury shares) are in the hands of the public shareholders. Do these public shareholders need to hold at least 1 board lot, i.e. 100 shares each?

No, there is no minimum number of shares that need to be held by these public shareholders.

8.3 On 5 August 2009, *D Bhd*'s public shareholding spread is 18% of its total listed shares (excluding treasury shares).

(a) What are *D Bhd*'s key obligations under the ACE LR in relation to this non-compliance?

D Bhd must take immediate steps to comply with the public shareholding spread requirement.

Pursuant to Rule 8.02(3) of the ACE LR, *D Bhd* must immediately announce to Bursa Securities that it does not comply with the required shareholding spread prescribed under Rule 8.02(1). *D Bhd* must include the information set out in paragraph 3.2 of Guidance Note 13 in its announcement. After that, *D Bhd* must announce the status of its efforts to comply with the public shareholding spread requirement for each quarter of its financial year in accordance with paragraphs 3.3 and 3.4 of Guidance Note 13.

If *D Bhd* requires an extension of time to rectify its situation, it must request for an extension under Rule 8.02(4) of the ACE LR. However, even though an extension of time is granted, *D Bhd* must comply with the public shareholding spread requirement as soon as possible.

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- (b) **On 30 August 2009, *D Bhd*'s public shareholding spread is 9% of its total listed shares (excluding treasury shares). What is *D Bhd*'s additional obligation in regard to its public shareholding spread of 9%?**

In addition to the disclosure obligations under Question (a) above, *D Bhd* must immediately announce to Bursa Securities the information set out in paragraph 5.4 of Guidance Note 13.

- (c) **When will the trading of securities of *D Bhd* be suspended after its announcement in Question (b) above?**

Pursuant to Rule 16.02(2)(a) of the ACE LR, Bursa Securities shall suspend trading of securities of *D Bhd* upon expiry of 30 market days from the date of *D Bhd*'s announcement. However, if the public shareholding spread of *D Bhd* increases to above 10% before the expected date of suspension, *D Bhd* should immediately inform Bursa Securities of its improvement in its public spread and seek its confirmation on whether the suspension will still be imposed.

In addition, where appropriate, Bursa Securities may also take such enforcement action as it deems fit against *D Bhd* pursuant to Rule 16.19 of the ACE LR.

- 8.4 **On 5 August 2009, pursuant to a take-over offer, *Company P* holds 76% of the listed shares (excluding treasury shares) of *Y Bhd*, a listed corporation. If *Company P*'s intention is to maintain *Y Bhd*'s listing status, what are *Y Bhd*'s key obligations in regard to its non-compliance with the public shareholding spread requirement prescribed under Rule 8.02(1) of the ACE LR?**

Y Bhd must take immediate steps to comply with the public shareholding spread requirement.

Pursuant to Rule 8.02(3) of the ACE LR, *Y Bhd* must announce that it does not comply with the required shareholding spread prescribed in Rule 8.02(1) of the ACE LR. *Y Bhd* must include the information set out in paragraph 3.2 of Guidance Note 13 in its announcement.

Y Bhd must announce the status of its efforts to comply with the public shareholding spread requirement for each quarter of its financial year in accordance with paragraphs 3.3 and 3.4 of Guidance Note 13.

If *Y Bhd* requires an extension of time to rectify its situation, it must request for an extension under Rule 8.02(4) of the ACE LR. However, even though an extension of time is granted, *Y Bhd* must comply with the public shareholding spread requirement as soon as possible.

- 8.5 **On 19 August 2009, pursuant to a take-over offer, *Company X* holds 91% of the listed shares (excluding treasury shares) of *Z Bhd*, a listed corporation. If *Company X*'s intention is to maintain *Z Bhd*'s listing status, what must *Z Bhd* do?**

Pursuant to Rule 9.19(48) of the ACE LR, *Z Bhd* must announce that 90% or more of its shares are being held by *Company X*. *Z Bhd* must include the information set out in Part J of Appendix 9A in the announcement.

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After that, *Z Bhd* may withdraw its listing from the Official List of Bursa Securities under Rule 16.07 of the ACE LR. In requesting to withdraw its listing, *Z Bhd* need not comply with the requirements under Rule 16.06 of the ACE LR including the requirement to obtain shareholder approval.

Cash Companies

- 8.6 If a listed corporation's assets on a consolidated basis, consist of 70% or more of cash or short term investments, or a combination of both, is the listed corporation automatically considered a "Cash Company"?**

No, it is not. The listed corporation must notify Bursa Securities immediately of the fact and Bursa Securities will determine as to whether the listed corporation should be considered a "Cash Company". Bursa Securities will notify the listed corporation of its determination.

- 8.7 What are the "short-dated securities" referred to in Rule 8.03(4) of the ACE LR?**

"Short-dated securities" include money market instruments, structured deposits, debt securities, or any other type of deposit or products which are short term in nature (i.e. less than 12 months) offered by financial institutions.

- 8.8 A Bhd has disposed of its core business resulting in it triggering the Cash Criterion. Before it is classified as a Cash Company, A Bhd has existing investments in short-dated securities with institutions other than financial institutions licensed by Bank Negara Malaysia ("BNM"). How does A Bhd comply with Rule 8.03(4) of the ACE LR?**

Upon triggering the Cash Criterion, these short-dated securities must be placed with a custodian. When these short-dated securities mature or are converted into cash, *A Bhd* must immediately place the funds with an account opened with financial institutions licensed by BNM, and operated by the custodian.

- 8.9 In year 2010, X Bhd disposes of its core business relating to printing and has been classified as a Cash Company by Bursa Securities. X Bhd intends to expand its other existing business, which is cartridge manufacturing. Can X Bhd regularise its condition by developing this cartridge manufacturing as its new core business?**

No, a regularisation proposal under Rule 8.03 of the ACE LR must involve an acquisition of a new core business and not by developing the Cash Company's existing business.

- 8.10 Pursuant to Rule 8.03(5)(a)(ii) of the ACE LR, a Cash Company must appoint a Sponsor within 3 months from the date it announces that it is a Cash Company. Who can be the Cash Company's Sponsor in this instance?**

Any person from the Register of Sponsor can be the Cash Company's Sponsor. This includes a Sponsor that has acted for the Cash Company during the Sponsorship Period.

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- 8.11 Rule 8.03(5)(b) of the ACE LR requires a Cash Company to retain the services of a Sponsor for at least 3 full financial years after it is no longer considered a Cash Company. Who can be the Cash Company's Sponsor in this instance?**

The Sponsor who is appointed by the Cash Company in Question 8.10 above must act as the Cash Company's Sponsor in this instance for at least the first full financial year. After that, the Cash Company can either retain that Sponsor or retain another person from the Register of Sponsor to be the Cash Company's Sponsor for the remaining 2 full financial years.

- 8.12 A Bhd's Sponsorship Period ends in 2009. In 2010, A Bhd is classified as a Cash Company. In accordance with Rule 8.03(5)(a)(ii) of the ACE LR, A Bhd appoints X as its Sponsor within 3 months from the date it announces that it is a Cash Company. Before A Bhd completes the implementation of its regularisation proposal, can it replace X with any other person as its Sponsor?**

No, A Bhd must retain X as its Sponsor until it completes the implementation of its regularisation proposal and for at least 1 full financial year after A Bhd is no longer considered as a Cash Company. If X resigns or has its appointment terminated before A Bhd completes its regularisation proposal, A Bhd is deemed to have failed its obligation to regularise under Rule 8.03(5)(a) of the ACE LR. In this case, Bursa Securities may suspend the trading of A Bhd's listed securities and de-list A Bhd.

- 8.13 Is a Cash Company required to disclose its failure to comply with any obligation imposed pursuant to Rule 8.03(5)(a) of the ACE LR?**

Yes, the Cash Company must announce its failure to comply with a particular obligation imposed pursuant to Guidance Note 2 and ensure that the announcement complies with Rule 9.16 of the ACE LR with regard to the contents of the announcement. In addition, the Cash Company must also include the consequences of such failure in its announcement.

- 8.14 Can a Cash Company include the announcement on the status of its proposal as required under paragraph 2.1(b) of Guidance Note 2 ("status report") in its quarterly report?**

No, the quarterly announcement of the status report must be made separately.

- 8.15 X Bhd has been classified as a Cash Company by Bursa Securities. Pursuant to Rule 8.03(5)(a)(i) of the ACE LR, X Bhd submits a proposal to acquire a new core business to Bursa Securities for approval. While X Bhd is awaiting Bursa Securities' approval, it has ceased to trigger the Cash Criterion. Can X Bhd apply to Bursa Securities for it to be no longer considered a Cash Company?**

No, pursuant to Rule 8.03(8) of the ACE LR, X Bhd must complete the implementation of the proposal before it can apply to Bursa Securities for it to be no longer considered a Cash Company. So, even though X Bhd has ceased to trigger the Cash Criterion, that would not entitle it to be no longer considered as a Cash Company until it has completed its proposal to regularise its condition.

Listed corporations with inadequate level of operations**8.16 Is there any difference in the obligations of an affected listed corporation¹ under the previous framework set out in Guidance Note 3 and the new framework in Rule 8.03A of the ACE LR?**

Under the new framework in Rule 8.03A of the ACE LR, generally the obligations of the affected listed corporation remain the same as that of a GN3 Company including the requirement to submit and implement a regularisation plan within the prescribed timeframe. However, taking into consideration that there are differences between these listed corporations (an affected listed corporation vis-a-vis a GN3 Company), under the new framework -

- (a) an affected listed corporation will not be tagged or classified as a “GN3” Company;
- (b) if the affected listed corporation fails to regularise its condition, Bursa Securities has the discretion to suspend and delist its securities, whilst in the case of a GN3 Company, the suspension and delisting is automatic; and
- (c) there is an express provision in Rule 8.03A for the affected listed corporation to apply not to undertake any regularisation plan if it is able to demonstrate to Bursa Securities’ satisfaction that its remaining business is sustainable and has growth prospects with appropriate justifications, and its level of operations remains suitable for continued listing.

8.17 Which regularisation obligation must a listed corporation comply with in the following scenarios:**Scenario 1**

The listed corporation first triggers the criteria for inadequate level of operations set out in Rule 8.03A of the ACE LR and subsequently triggers the Prescribed Criteria set out in Guidance Note 3.

Scenario 2

The listed corporation first triggers the criteria for inadequate level of operations set out in Rule 8.03A of the ACE LR and subsequently triggers the Cash Criterion in Rule 8.03 of the ACE LR.

The general principle is that the listed corporation must comply with the stricter obligations.

Hence in Scenario 1, the listed corporation must comply with the obligations imposed on a GN3 Company under Rule 8.04 and Guidance Note 3 of the ACE LR.

In Scenario 2, the listed corporation must comply with the obligations imposed on a Cash Company under Rule 8.03 and Guidance Note 2 of the ACE LR.

¹ As stipulated in Rule 8.03A(3) of the ACE LR, an affected listed corporation refers to a listed corporation which has triggered the criteria of inadequate level of operations under Rule 8.03A(2) of the ACE LR namely that the listed corporation has –

- (a) suspended or ceased all of its business or its major business; or
- (b) suspended or ceased its entire or major operations; or
- (c) an insignificant business or operations.

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In both the Scenarios, the timeframe for the listed corporation to regularise its condition commences 12 months from the date the listed corporation announces that it triggers the criteria for inadequate level of operations under Rule 8.03A of the ACE LR.

GN3 Companies**8.18 When must a listed corporation assess whether it is a GN3 Company?**

All listed corporations must on a continuing basis undertake a self-assessment of their financial condition and level of operations. At any given time if a listed corporation finds that it triggers any one or more of the criteria prescribed in paragraph 2.1 of Guidance Note 3 (“**Prescribed Criteria**”), the listed corporation must comply with the requirements of Rule 8.04 of the ACE LR and Guidance Note 3.

8.19 Pursuant to Rule 8.04(3)(a)(ii) of the ACE LR, a GN3 Company must appoint a Sponsor within 3 months from the date it announces that it is a GN3 Company. Who can be the GN3 Company’s Sponsor in this instance?

Any person from the Register of Sponsor can be the GN3 Company’s Sponsor. This includes a Sponsor that has acted for the GN3 Company during the Sponsorship Period.

8.20 Rule 8.04(3)(c) of the ACE LR requires a GN3 Company to retain the services of a Sponsor for at least 3 full financial years after it is no longer considered a GN3 Company. Who can be the GN3 Company’s Sponsor in this instance?

The Sponsor who is appointed by the GN3 Company in Question 8.19 above must act as the GN3 Company’s Sponsor in this instance for at least the first full financial year. After that, the GN3 Company can either retain that Sponsor or retain another person from the Register of Sponsor to be the GN3 Company’s Sponsor for the remaining 2 full financial years.

8.21 A Bhd’s Sponsorship Period ends in 2009. In 2010, A Bhd is classified as a GN3 Company. In accordance with Rule 8.04(3)(a)(ii) of the ACE LR, A Bhd appoints X as its Sponsor within 3 months from the date it announces that it is a GN3 Company. Before A Bhd completes the implementation of its regularisation plan, can it replace X with any other person as its Sponsor?

No, A Bhd must retain X as its Sponsor until it completes the implementation of its regularisation plan and for at least 1 full financial year after A Bhd is no longer considered as a GN3 Company. If X resigns or has its appointment terminated before A Bhd completes its regularisation plan, A Bhd is deemed to have failed its obligation to regularise under Rule 8.04(3)(a) of the ACE LR. In this case, Bursa Securities shall, in accordance with Rule 8.04(5) of the ACE LR –

- (a) suspend the trading of the GN3 Company’s listed securities on the next market day after 5 market days from the date of notification of suspension by Bursa Securities; and
- (b) de-list the GN3 Company subject to the latter’s right to appeal against the de-listing.

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- 8.22** *X Bhd* is a GN3 Company. Pursuant to Rule 8.04(3)(a)(i) of the ACE LR, *X Bhd* submits a plan to regularise its condition to Bursa Securities for approval. While *X Bhd* is awaiting Bursa Securities' approval, it has ceased to trigger the Prescribed Criteria. **Can *X Bhd* apply to Bursa Securities for it to be no longer considered a GN3 Company?**

No, pursuant to Rule 8.04(8) of the ACE LR, *X Bhd* **must** complete the implementation of the plan to regularise its condition before it can apply to Bursa Securities for it to be no longer considered a GN3 Company. So, even though *X Bhd* has ceased to trigger the Prescribed Criteria, that would not entitle it to be no longer considered as a GN3 Company until it has completed its plan to regularise its condition.

- 8.23** *ABC Berhad*, a listed corporation has changed its financial year end from 31 December 2009 to 31 March 2010. *ABC Berhad's* financial statements for the said period of 15 months show that it has incurred losses. For the purposes of determining if *ABC Berhad* triggers one of the Prescribed Criteria in Guidance Note 3, will the losses for the whole 15 months period be considered?

Yes, the losses incurred for the full financial year of *ABC Berhad* i.e. the 15 months period from 1 January 2009 to 31 March 2010, will be taken into consideration. If the losses equal to or exceed the amount of its shareholders' equity and the shareholders' equity is 50% or less of the issued and paid up capital of the listed corporation at the end of the financial year 31 March 2010, *ABC Berhad* will trigger the Prescribed Criteria.

- 8.24** Which type of accounts can be used by a listed corporation in order to make a determination of "shareholders' equity", "total assets employed", "major" and "insignificant business or operations" under the Prescribed Criteria?

The determination of "shareholders' equity", "total assets employed", "major" and "insignificant business or operations" under the Prescribed Criteria must be based on either the audited or unaudited accounts, which includes the management accounts of the listed corporation.

- 8.25** Paragraph 2.2(a) of Guidance Note 3 provides that "shareholders' equity" refers to the equity attributable to equity holders of the listed corporation. Is minority interest included in determining "shareholders' equity"?

No, shareholders' equity excludes minority interest.

- 8.26** The auditors of *XYZ Bhd* express an emphasis of matter on *XYZ Bhd's* ability to continue as a going concern in its latest audited financial statement for the financial year ended 30 June 2009 ("Financial Statement). *XYZ Bhd's* shareholders' equity on a consolidated basis based on the Financial Statement was 60% of its issued and paid up capital (excluding treasury shares).

However, *XYZ Bhd's* subsequent quarterly results for the period ended 30 September 2009 ("quarterly results") shows that its shareholders' equity has reduced to 35% of its issued and paid up capital (excluding treasury shares).

Will *XYZ Bhd* trigger the Prescribed Criteria upon the release of its quarterly results?

Yes, since the auditors of *XYZ Bhd* have expressed an emphasis of matter on its ability to continue as a going concern in its latest Financial Statement, based on *XYZ Bhd's* latest available results which is the quarterly results, its shareholders' equity is less than 50% of its issued and

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paid up capital (excluding treasury shares), *XYZ Bhd* will trigger the Prescribed Criteria pursuant to paragraph 2.1(g) of Guidance Note 3. In this event, *XYZ Bhd* must immediately make the First Announcement under paragraph 4.1(a) of Guidance Note 3 upon the release of its quarterly results.

8.27 Are the obligations of a GN3 Company whose securities have been suspended from trading different from the obligations of a GN3 Company whose securities have not been suspended from trading?

No, the obligations are the same irrespective of whether the securities of the GN3 Company have been suspended or not from trading.

8.28 On 3 February 2010, *X Bhd* triggers the Cash Criterion and announces that it is a Cash Company. On 2 June 2010, *X Bhd* also triggers one of the Prescribed Criteria and announces that it is a GN3 Company.

(a) Must *X Bhd* comply with the regularisation obligations set out in Rule 8.03 (as a Cash Company) or 8.04 (as a GN3 Company) of the ACE LR?

X Bhd must comply with the stricter obligations i.e. those imposed on a Cash Company under Rule 8.03 and Guidance Note 2 of the ACE LR. Among others, the listed corporation must place at least 90% of its cash and short-dated securities in an account opened with a financial institution licensed by Bank Negara Malaysia and operated by a custodian.

(b) What is the applicable timeframe for *X Bhd* to submit its proposal to regularise its condition as a Cash Company and GN3 Company?

X Bhd must regularise its condition by submitting a proposal to Bursa Securities within 12 months from the date *X Bhd* announces that it is a Cash Company, i.e. by 2 February 2011.

(c) Must *X Bhd* regularise its condition by undertaking a regularisation proposal/plan under Rule 8.03(5)(a) or that under Rule 8.04(3)(a)(i) of the ACE LR?

X Bhd must undertake a regularisation proposal under Rule 8.03(5)(a) of the ACE LR. This proposal must be able to regularise *X Bhd's* condition as a Cash Company and GN3 Company. In this regard, the proposal must be one to acquire a new core business as required under Rule 8.03(5)(a)(i), and which will also fulfill the conditions set out in paragraphs 5.2 and 5.3 of Guidance Note 3.

8.29 Paragraph 2.1(e) of Guidance Note 3 sets out a criterion of a winding up of the listed corporation's subsidiary or associated company which accounts for at least 50% of the total assets employed of the listed corporation on a consolidated basis ("Criterion 2.1(e)").

(a) If a winding-up order has been made against such subsidiary or associated company of a listed corporation but the winding-up order is either stayed or under appeal, will the listed corporation still be classified as a GN3 Company?

Yes, a stay order only has the effect of suspending the operation of the winding-up order. It does not change the fact that Criterion 2.1(e) has been triggered. Thus the classification as a GN3 Company will take effect. Similarly, if the winding-up order is

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pending appeal, the listed corporation will nonetheless be classified as a GN3 Company, pending the outcome of the appeal.

(b) Will a winding-up order against a listed corporation, instead of such subsidiary or associated company of a listed corporation, trigger Criterion 2.1(e)?

No. However, pursuant to Rule 16.11(2)(d) of the ACE LR, Bursa Securities shall de-list a listed corporation where a winding up order has been made against the listed corporation itself.

8.30 What are the measures that will be taken by Bursa Securities to assist investors in identifying listed corporations which are GN3 Companies?

The full list of GN3 Companies and announcements relating to them are available on Bursa Malaysia's website. Hence, investors may access Bursa Malaysia's website to be kept informed and updated on the status of the financial condition of the GN3 Companies.

Compliance with enhanced regularisation plan requirements

8.31 *X Bhd* triggers the Prescribed Criteria under Guidance Note 3 on 29 December 2014 but has not submitted its regularisation plan to Bursa Securities. Is *X Bhd* required to comply with the enhanced requirements on regularisation plan in paragraphs 5.3, 5.4 and 5.5 of Guidance Note 3 which takes effect on 27 January 2015?

X Bhd must comply with the enhance requirements on regularisation plan in paragraphs 5.3, 5.4 and 5.5 of Guidance Note 3 if it submits its regularisation plan to Bursa Securities on or after 27 January 2015.

8.31A *Y Bhd* is a GN3 Company which intends to undertake a regularisation plan to regularize its financial condition pursuant to Rule 8.04 and GN3 of the ACE LR. In the regularisation plan submitted to Bursa Securities, *Y Bhd* has included information relating to its financial forecast. What are the specific requirements under the ACE LR that *Y Bhd* must comply with in relation to the disclosure of financial forecast in the regularisation plan?

Y Bhd and its Sponsor or Adviser must ensure that the preparation and disclosure of the financial forecast in the regularisation plan complies with Chapters 12 and 13 in Part I, Division 1 of the SC's Prospectus Guidelines in relation to future financial information ("**SC FFI Standards**") as required under Rule 2.19A of the ACE LR. *Y Bhd* must also ensure that its reporting accountant reviews and reports on the underlying accounting policies and assumptions relied on in the preparation of the financial forecast in accordance with the SC FFI Standards.

In addition to the above, *Y Bhd* must, amongst others, ensure that -

- the contents of the regularisation plan submitted to Bursa Securities comply with the requirements as set out in Rule 2.18 of the ACE LR; and
- the draft circular submitted to Bursa Securities together with the regularisation plan complies with the standard of disclosure for circulars as prescribed under Rule 9.31 of the ACE LR.

Appointment of Adviser for proposals

8.32 Pursuant to Rule 8.06 of the ACE LR, a listed corporation must engage the services of an Adviser where it undertakes such corporate proposals or activities prescribed by Bursa Securities as requiring the services of an Adviser.

(a) What are such corporate proposals or activities that require the services of an Adviser?

The corporate proposals or activities which have been prescribed by Bursa Securities as requiring the services of an Adviser are set out in paragraph 2.0 of Guidance Note 19. In addition, the corporate proposals or activities which do not require the services of an Adviser are set out in paragraph 3.0 of Guidance Note 19.

(b) Who can be the Adviser?

The Adviser must be a person registered on the Register of Sponsors of the ACE Market.

8.33 Are Rule 8.06 and Guidance Note 19 applicable to all listed corporations or listed corporations which are still under the Sponsorship Period only?

Yes, Rule 8.06 and Guidance Note 19 apply to all listed corporations, including those under the Sponsorship Period.

Material Variations

8.34 Rule 8.24 of the ACE LR requires the listed corporation to issue a circular to its shareholders and seek its shareholder approval for any material amendment, modification or variation to a proposal which has been previously approved by shareholders in general meeting. When is an amendment, modification or variation considered as “material”?

Pursuant to Rule 8.24(2) of the ACE LR, an amendment, modification or variation is considered material if it can be reasonably expected to have a material effect on the decision of a holder of securities of the listed corporation in relation to such proposal.

8.35 Pursuant to Rule 8.24(3) of the ACE LR, an amendment, modification or variation to a proposal which has been approved by shareholders resulting from the direction or condition imposed by the relevant authorities does not require shareholder approval under Rule 8.24(1) of the ACE LR.

***Company A* obtains shareholder approval for its corporate proposal i.e. to purchase a 10% interest in *Company B*. Subsequently, before making a submission for approval to the relevant authority, *Company A* revises its proposed purchase to a 30% interest in *Company B*. *Company A* then submits the amended proposal to the relevant authority for approval. The amended proposal is approved by the relevant authority. Although the amendment is material, it is already approved by the relevant authority. Would *Company A* still need to obtain shareholder approval for the amendment?**

Yes, the material amendment to *Company A*'s proposal would still require shareholder approval under Rule 8.24(1) of the ACE LR. Although the amended proposal may have been approved by the relevant authority, the amendment was not made pursuant to a direction or condition imposed by such authority.

- 8.36 Is Rule 8.24 of the ACE LR only applicable to proposals where Bursa Securities will conduct a review of the circulars before its issuance?**

No, the approved proposal referred to in Rule 8.24 of the ACE LR covers all proposals that require shareholder approval.

Securities holders approval

- 8.37 Where the ACE LR specifies that a transaction requires the approval of shareholders, would ratification of the transaction by the shareholders be acceptable?**

No, a listed corporation must ensure that approval of shareholders, where required, is obtained before the completion of the transaction.

Financial assistance

- 8.38 Rule 8.25(1) of the ACE LR stipulates that the requirements relating to the provision of financial assistance in the ACE LR are applicable to a listed corporation and its subsidiaries which are not listed on any stock exchange. Does this mean that a subsidiary listed on a stock exchange outside Malaysia is not required to comply with Rule 8.25 of the ACE LR if such subsidiary provides financial assistance?**

Yes, the subsidiary listed on a stock exchange outside Malaysia is not subjected to the requirements under Rule 8.25 of the ACE LR. Instead, such subsidiary, in giving financial assistance, will be required to comply with its home exchange rules.

- 8.39 What are the disclosure requirements of a listed corporation in respect of financial assistance provided by the listed corporation or its subsidiaries not listed on any stock exchange pursuant to Rule 8.25(1)(ii) of the ACE LR?**

Pursuant to paragraph 3.1 of Guidance Note 4, the listed corporation must announce any financial assistance provided by such listed corporation or its subsidiaries not listed on any stock exchange pursuant to Rule 8.25(1)(ii) of the ACE LR for each quarter of its financial year, simultaneously with its quarterly results pursuant to Rule 9.22 of the ACE LR and in any event no later than 2 months after the end of each quarter of its financial year. In this respect, the listed corporation must ensure that the announcement includes such information as set out in Annexure GN4-A of Guidance Note 4 and Appendix 8D (if applicable) of the ACE LR.

- 8.40 Will a listed corporation (other than a listed corporation whose activities are regulated by any written law relating to banking, finance companies or insurance and are subject to supervision by Bank Negara Malaysia or an equivalent foreign regulatory authority as Bursa Securities deems appropriate) which lends money pursuant to a moneylending licence ("Moneylending") be exempted from compliance with Rule 8.25 of the ACE LR?**

No, a listed corporation which is involved in Moneylending is subject to and hence, must ensure compliance with Rule 8.25 of the ACE LR notwithstanding that it has a valid moneylending licence.

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8.41 Will the Moneylending carried out by a listed corporation automatically fall within the ambit of Rule 8.25(1)(ii) of the ACE LR, as being those "necessary to facilitate the ordinary course of business of the listed corporation or its subsidiaries"?

No, the listed corporation must ascertain whether the Moneylending is "necessary to facilitate the ordinary course of business of the listed corporation or its subsidiaries" in accordance with Guidance Note 4.

8.42 In the absence of a specific regulatory framework governing "scheduled institutions" in the Financial Services Act 2013 which replaces the Banking and Financial Institutions Act 1989 ("BAFIA"), Rule 8.25(4)(c) of the ACE LR has been deleted, which previously exempted scheduled institutions which were registered and supervised by Bank Negara Malaysia under the BAFIA from complying with the requirements in Rule 8.25. Does it mean that all corporations which were previously "scheduled institutions" under the BAFIA must now comply with Rule 8.25 in full?

Only corporations which were previously "scheduled institutions" and which are no longer subjected to Bank Negara Malaysia's regulation and supervision² must now adhere strictly to the requirements set out in Rule 8.25 when providing financial assistance.

On the other hand, previous "scheduled institutions" such as the development finance institutions which are prescribed under the Development Financial Institutions Act 2002³, and therefore, still regulated and supervised by Bank Negara Malaysia will continue to enjoy the exemption from the provision on financial assistance under Rule 8.25(4)(b) of the ACE LR.

8.43 A listed corporation grants a corporate guarantee to a third party for services rendered by the third party to the listed corporation's non-wholly owned subsidiary. Is the corporate guarantee subject to disclosure requirements under Guidance Note 4?

No, a corporate guarantee granted to a subsidiary by a listed corporation would not be subject to Guidance Note 4 as it is provided pursuant to Rule 8.25(1)(iii) of the ACE LR and not Rule 8.25(1)(ii). In the circumstances, the quarterly disclosure under paragraph 3.1 of Guidance Note 4 is not applicable.

² For example, corporations which carry out building credit business, factoring or leasing business or development finance institutions which are not prescribed under the Development Financial Institutions Act 2002.

³ The existing prescribed development finance institutions are:

- (a) Bank Pembangunan Malaysia Berhad;
- (b) Bank Perusahaan Kecil & Sederhana Malaysia Berhad (SME Bank);
- (c) Export-Import Bank of Malaysia Berhad (EXIM Bank);
- (d) Bank Kerjasama Rakyat Malaysia Berhad;
- (e) Bank Simpanan Nasional; and
- (f) Bank Pertanian Malaysia Berhad (Agrobank)

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A moneylending company is defined under Rule 8.25(2)(a)(ii) of the ACE LR as a listed corporation or its subsidiary that lends or advances money in the ordinary course of business as a moneylender pursuant to the Moneylenders Act 1951. As such, provision of corporate guarantees or advances necessary to facilitate the ordinary course of business of the listed corporation or its subsidiary (i.e. for purposes of getting a contract or to enable a sub-contractor to commence work) would not be regarded as moneylending operations.

8.45 Under Rule 8.25(2)(c) of the ACE LR, a listed corporation must procure its shareholders' prior approval for any provision of financial assistance to an associated company or joint arrangement where the aggregate amount provided compared to the net tangible assets of the group is 5% or more. In such circumstances, what is the prescribed content of the circular to be issued to the shareholders?

The minimum content of a circular for purposes of seeking shareholder approval for provision of financial assistance which is not a related party transaction is not specifically prescribed under the ACE LR. However, a listed corporation can seek guidance from the minimum content prescribed for circulars in relation to transactions as set out under Appendix 10B of the ACE LR.

8.46 Pursuant to Rule 8.25(2)(a)(i) of the ACE LR, where a listed corporation or any of its subsidiaries provides financial assistance, the board of directors must ensure, amongst others, that the provision of financial assistance is fair and reasonable to the listed corporation. What would be considered as "fair and reasonable"?

What would be considered as "fair and reasonable" is subjective and varies from case to case. To ascertain the fairness and reasonableness of the financial assistance granted, the board of directors is required to make an assessment of the circumstances and terms of the provision of financial assistance including comparisons with market practices. For instance, if the proposal is for a one-off lump sum payment to be given to a sub-contractor for services rendered in the listed corporation's housing development project when the market practice is typically for advances to be given by way of instalments and subject to certification of staggered work done by the sub-contractor, the board of directors should scrutinise the proposal to see whether there are exceptional circumstances to justify that such an advance is nonetheless fair and reasonable.

8.47 Pursuant to Rule 8.25(2)(e) of the ACE LR, a moneylending company must make quarterly disclosures of certain information as prescribed not later than 7 market days after the end of each quarter of a financial year ("Quarterly Disclosure"). A moneylending company does not lend or advance any money in a particular quarter. Does it still have to make the Quarterly Disclosure?

In a situation where there is no new money lending activities in that particular quarter and no outstanding advances or loans from the previous quarters, then for subsequent Quarterly Disclosure, the listed corporation would only need to make a negative statement to that effect in its Quarterly Disclosure. If there are still outstanding advances or loans, the listed corporation is required to comply with Rule 8.25(2)(e) of the ACE LR.

**Chapter 8 Continuing Listing Obligations
[Questions & Answers]****8.48 Can a listed corporation or any of its subsidiaries commence or continue to lend or advance monies to third party(ies) pursuant to its moneylending business?**

Pursuant to Rule 8.25(1)(ii) of the ACE LR, a listed corporation or any of its subsidiaries can provide such financial assistance where it is made pursuant to or where it is necessary to facilitate the ordinary course of business of the listed corporation or its subsidiaries. As such loans/advances made to a third party by the listed corporation or any of its subsidiaries in the ordinary course of its moneylending business is permitted. However, unless the listed corporation or its wholly owned subsidiary is exempted under Rule 8.25(4), the conditions set out in Rule 8.25 of the ACE LR must be satisfied and in particular, Rule 8.25(2). In this respect, the board of directors of the listed corporation would have to oversee the moneylending operations and the management of credit risk of the moneylending company including ensuring adequate policies and procedures are in place in relation to the matters set out in Rule 8.25(2)(a)(ii)(aa)-(dd).

In addition to this, the listed corporation will have to make the relevant quarterly announcements for each of the moneylending company not later than 7 market days after the end of each quarter of the financial year as prescribed under Rule 8.25(2)(e) of the ACE LR.

8.49 What are “problem credits” as referred to in Rule 8.25(2)(a)(ii)(dd) of the ACE LR?

“Problem credits” means such problems arising from, amongst others, the borrower’s non-compliance with the terms of the financial assistance including failure to meet repayment of principal/interest or collateral obligations. It is to be noted that the assessment as to what “problem credits” are by the listed corporation/board of directors should not be limited to actual occurrence of default only but may include possible defaults such as signs of the borrower having difficulties in complying with the terms of the financial assistance (e.g. making or requesting for partial or late payments).

8.50 Do all listed corporations which are subject to the requirements in paragraph 3.1 of Guidance Note 4 also have to make the quarterly disclosures stipulated in Rule 8.25(2)(e) of the ACE LR?

No, Rule 8.25(2)(e) is only applicable where a listed corporation or its subsidiary lends or advances money in the ordinary course of its business as a moneylender.

Electronic payment of cash distributions**8.51 Must a listed corporation amend its articles of association to allow for payment of cash dividends electronically to its shareholders pursuant to Rule 8.28A of the ACE LR?**

By virtue of Rule 7.36 of the ACE LR, a listed corporation is in a position to pay cash dividends to its shareholders electronically pursuant to Rule 8.28A of the ACE LR regardless of what may be stated in its articles of association in relation to cash dividend payment.

Notwithstanding this, to ensure that the listed corporation’s articles of association are updated and comprehensive, it should proceed to amend the relevant provisions in its articles of association that may be inconsistent with the requirements for the listed corporation to pay cash dividends electronically as set out in Rule 8.28A of the ACE LR. An amendment to its articles of association, if required, may be done at the listed corporation’s next annual or extraordinary general meeting.

**Chapter 8 Continuing Listing Obligations
[Questions & Answers]**

8.52 What should a listed corporation do if its securities holders have not provided their bank account information to the Depository?

A listed corporation must take all reasonable and appropriate steps to engage and communicate with its securities holders on the availability and benefits of the electronic payment of cash distributions, for example, in the various channels or means set out in the directive dated 19 February 2010 (Ref. No. SR/TAC/ro/LD08/10) (“**Directive**”), and encourage its securities holders to provide their bank account information to the Depository. If, after taking such steps, the securities holders still do not provide their bank account information to the Depository, the listed corporation may continue to pay cash distributions to these securities holders in the existing manner as authorized under the listed corporation’s constituent documents or issuing documents such as the articles of association, trust deed or terms of issuance.

8.53 Where can a listed corporation obtain its securities holders' relevant contact details for purposes of compliance with Rule 8.28A(2) of the ACE LR?

A listed corporation can obtain its securities holders' relevant contact details from the Depository when requesting for the bank account information.

8.54 Must a listed corporation notify all its securities holders electronically for purposes of electronic notification under Rule 8.28A(2) of the ACE LR?

Currently, a listed corporation must provide electronic notification to all its securities holders who have provided their email details to the Depository to receive electronic notification. In addition, the listed corporation may also, at its discretion, provide other means of electronic notification such as notification via SMS to securities holders who have provided their mobile phone numbers only.

8.55 For purposes of compliance with Rule 8.28A(2) of the ACE LR, must a listed corporation provide the electronic notification to its securities holders by itself?

No, while a listed corporation is at liberty to issue the electronic notification itself, this function can also be done by the listed corporation’s service provider such as the bank which debits the cash distributions from the listed corporation's account or through its share registrar.

8.56 When must a listed corporation notify its securities holders electronically under Rule 8.28A(2) of the ACE LR?

A listed corporation must notify its securities holders electronically, as soon as practicable after the cash distributions have been paid out of its account.

8.57 Who can be the service providers for the electronic payment of cash distributions?

The service providers for the electronic payment of cash distributions include the share registrars (whether external or in-house), the paying agents providing cash management services for payment to third parties such as the banks or lead arranges of the listed corporations who offer such facilities, and the Depository.

Chapter 8 Continuing Listing Obligations
[Questions & Answers]

- 8.58 Can a listed corporation appoint another share registrar or the Depository to be its service provider for the electronic payment of cash distributions such as cash dividends whilst at the same time maintaining its existing share registrar for other services?**

Yes, a listed corporation may appoint another share registrar or the Depository to be its service provider for the electronic payment of cash distributions such as cash dividends.

- 8.59 Does a listed corporation have to procure the consent of each of its securities holders to receive payment of the cash distributions electronically?**

No. The consent will be procured by the Depository when the securities holders provide their bank account information to the Depository.

- 8.60 Is a listed corporation required to provide the services for electronic payment of cash distributions to its securities holders if payment of the dividend is satisfied by an issue of shares (dividend in specie) and in cash?**

Where payment of dividend is to be satisfied by an issue of shares (dividend in specie) and in cash, a listed corporation is still required to provide the services for electronic payment of cash distributions to its securities holders in respect of the cash dividend portion. However, electronic payment of cash distributions is not applicable to the dividend in specie.

- 8.61 Can a listed corporation pay other types of cash payments not falling within Rule 8.28A(3) of the ACE LR, to its securities holders electronically?**

Yes, a listed corporation may voluntarily pay the other types of cash payments not falling within Rule 8.28A(3) of the ACE LR, to its securities holders via direct crediting into the bank accounts of its securities holders who have provided their bank account details to the Depository. For this, the listed corporation must refer to and comply with the relevant requirements set out in the Rules of the Depository.

Poll Voting

- 8.61A Under Rule 8.31A(1) of the ACE LR, a listed corporation must, among others, ensure that any resolution set out in the notice of any general meeting, is voted by poll. What is an example of a matter that is not set out in the notice of general meeting and therefore not subjected to the poll voting requirements?**

Adjournment of general meeting due to unforeseen circumstances is an example of a matter that is not set out in the notice of general meeting.

- 8.61B Are resolutions set out in an addendum, errata or amendment to the notice of general meeting subjected to voting by poll under Rule 8.31A(1) of the ACE LR?**

Yes, "notice of any general meeting" in Rule 8.31A(1) of the ACE LR includes any addendum, errata or amendment to the earlier notice of general meeting. Hence, any resolution set out in the addendum, errata or amendment to the notice of general meeting is subjected to voting by poll.

8.61C Under Rule 8.31A(2) of the ACE LR, a scrutineer appointed to validate the votes cast at the general meeting must fulfill the following requirements:

- **the scrutineer must not be an officer⁴ of the listed corporation or its related corporation;**
- **the scrutineer must be independent of the person undertaking the polling process; and**
- **if the scrutineer is interested in a resolution to be passed at the general meeting, the scrutineer must refrain from acting as scrutineer for that resolution.**

(a) In view of the above, can a listed corporation's external auditor be appointed as a scrutineer for the general meeting?

Yes, the listed corporation's external auditor can be appointed as the scrutineer for the general meeting so long as the external auditor is independent of the person undertaking the polling process and refrains from acting in a resolution that it may be interested in, e.g. the resolution seeking its reappointment.

(b) If the external auditor must refrain from acting as the scrutineer in a resolution seeking its reappointment, who can be the scrutineer to validate the votes cast for such resolution?

The listed corporation may appoint any other person to be the scrutineer for such resolution so long as the said person is not an officer of the listed corporation or its related corporation and is independent of the person undertaking the polling process.

⁴ "Officer" has the meaning given in section 4 of the Companies Act 1965 and includes the director, company secretary and employees.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 1 July 2016)**

CHAPTER 9 – CONTINUING DISCLOSURE

General

9.1 Does the ACE LR impose an obligation on listed corporations to make an announcement on financial estimate, forecast or projection?

The ACE LR does not impose an obligation on listed corporations to announce its financial estimate, forecast or projection.

However, if the listed corporations choose to announce their financial estimate, forecast or projection, the listed corporations must, amongst others, comply with the following:

- the requirements on the contents of announcement as set out in Rule 9.16 of the ACE LR and in particular, the preparation and the announcement of the financial estimate, forecast or projection must comply with Chapters 12 and 13 in Part I, Division 1 of the SC's Prospectus Guidelines in relation to future financial information ("**SC FFI Standards**") as required under Rule 9.16(1)(c)(v) of the ACE LR. This includes the obligation to ensure that the underlying accounting policies and assumptions of the financial estimate, forecast or projection are reviewed by the external auditors or reporting accountants, as the case may be, in accordance with the SC FFI Standards;
- the requirements as set out in Rule 9.19(37) of the ACE LR and Notes 3(b) and 4 of Appendix 9B of the ACE LR; and
- the disclosure must adhere to the Corporate Disclosure Policy prescribed under the ACE LR including the requirement that there should not be selective disclosure of the financial estimate, forecast or projection to the investors, press, analysts or any other parties prior to the release or simultaneous release, of the financial estimate, forecast or projection through Bursa Link.

9.2 If a listed corporation chooses to announce its internal targets that are set as part of its business plan, is it required to comply with the SC FFI Standards in respect of such announcement?

No. The listed corporation need not comply with the SC FFI Standards. However, the listed corporation must comply with the following obligations instead when it announces its internal targets:

- the requirements on the contents of announcement as set out in Rule 9.16 of the ACE LR and in particular the announcement on its internal target must explain the nature of the internal targets in accordance with Rule 9.16(1)(f) of the ACE LR;
- the immediate and periodic disclosures must comply with Rule 9.19(37) of the ACE LR and Notes 3(b) and 4 of Appendix 9B of the ACE LR; and

- the disclosure must adhere to the Corporate Disclosure Policy prescribed under the ACE LR including the requirement that there should not be selective disclosure of the internal targets to the investors, press, analysts or any other parties prior to the release or simultaneous release, of the internal targets through Bursa Link.

9.3 Are key performance indicators (“KPIs”) considered internal targets which must comply with the disclosure obligations under the ACE LR?

KPIs are regarded as internal targets and as such, any listed corporation which makes disclosures of its KPIs would need to adhere to the disclosure obligations including Rule 9.16 of the ACE LR and provide the requisite updates as part of the quarterly reports under the ACE LR.

Immediate disclosure of material information

9.4 Is a listed corporation required to make immediate disclosure of a notice issued pursuant to section 218 of the Companies Act, 1965 (“S. 218 Notice”)?

There is usually no requirement for an immediate announcement to be made by a listed corporation of a S.218 Notice as this is merely a letter of demand. However, where a S. 218 Notice is considered to be material pursuant to Rule 9.03 of the ACE LR based on the facts and circumstances of a particular listed corporation, the listed corporation must make an immediate announcement of the same.

9.5 *Mr. P* was required to despatch certain private and confidential documents pertaining to a material corporate proposal of *X Bhd* which has yet to be announced. *Mr. P* subsequently discovered that the documents were missing under suspicious circumstances and hence, was unable to despatch the same. *Mr. P* immediately reported the matter to *X Bhd*. Is *X Bhd* required to make an immediate disclosure of the corporate proposal?

X Bhd would be required to make an assessment of the circumstances and must make an immediate announcement pursuant to the Rule 9.06(3) of the ACE LR if the suspicious circumstances aforesaid would reasonably lead to the belief that the material information has been inadvertently disclosed. It is to be noted that the illustration provided above is not exhaustive and the circumstances which may cause a listed corporation to believe that material information may have been inadvertently disclosed are varied and subjective on a case to case basis. It may include situations where a listed corporation is of the view that the necessary degree of confidentiality cannot be maintained or suspicious ‘leak’ of the information by party(ies) privy to the material information have occurred. In such circumstances, the listed corporation would have to make an immediate announcement notwithstanding that there is no unusual market activity or insider trading in the listed corporation’s securities or rumours / reports concerning the information.

Thorough public dissemination

9.6 Is selective disclosure of material information allowed under the ACE LR?

Pursuant to Rule 9.08(2) of the ACE LR, listed corporations must ensure that under no circumstances disclosure of material information is made on an individual or selective basis to analysts, shareholders, journalists or other persons unless such information has previously been fully disclosed and disseminated to the public.

However, pursuant to Rule 9.08(3) of the ACE LR, under limited circumstances, selective disclosure to such persons where it is necessary towards achieving certain corporate objectives is permitted subject to the requirements in the said Rule. Hence, disclosure of unpublished material information to solicitors and advisers in undertaking a corporate or due diligence exercise is permitted provided that the strictest confidentiality is imposed and maintained.

Preparation of announcements – content of press or public announcement

9.7 [Deleted]

9.8 [Deleted]

Prescribed events which require immediate announcement

9.9 ***A Bhd does not have a chief financial officer. Financial matters fall under the responsibility of its general manager, Mr. X. These matters include signing cheques, monitoring cash flow, financial planning and preparing the financial statements. Mr. X is also responsible for signing the statutory declaration in relation to the accounts of A Bhd. Mr. X has recently resigned from A Bhd. Must A Bhd announce Mr. X's resignation and provide reasons for the resignation in accordance with Rule 9.19(14A)(b) of the ACE LR?***

Under Rule 9.19(14A) of the ACE LR, *A Bhd* is required to announce the cessation of office of its chief financial officer and to include the reasons for such cessation. Rule 1.01 of the ACE LR further defines “**chief financial officer**” to mean the person primarily responsible for the management of the financial affairs of the corporation (such as record keeping, financial planning and financial reporting) by whatever name called. As *Mr. X* is primarily responsible for the management of *A Bhd*'s financial affairs, *Mr. X* would fall within the definition of “**chief financial officer**”. Hence, *A Bhd* is required to make the relevant announcement under Rule 9.19(14A)(b) of the ACE LR in relation to the resignation of *Mr. X*.

9.10 ***Listed corporations are now required to immediately announce the reasons given for cessation of office of a director¹, chief executive² and chief financial officer³ including but not limited to any information relating to his disagreement with the board and a statement as to whether or not there are any matters that need to be brought to the attention of the shareholders. If the reasons for cessation are contentious in nature, for example, where the reasons are defamatory or where there is an existing dispute in relation to the cessation of office, how does a listed corporation ensure compliance with such requirement?***

Listed corporations must adhere to the standard of disclosure set out in Rule 9.16 under the ACE LR. Amongst others, the listed corporation must ensure that its announcement is factual, clear, unambiguous, accurate, succinct and contains sufficient information to enable investors to make informed investment decisions. Further, the announcement must be balanced and fair, and does not contain any language which is inflammatory, defamatory or scandalous of another person.

¹ See Rule 9.19(12)(b) of the ACE LR.

² See Rule 9.19(14)(b) of the ACE LR.

³ See Rule 9.19(14A)(b) of the ACE LR.

In instances where the reasons for cessation of office are contentious in nature, the listed corporation should seek prior legal advice in the preparation of the announcement required.

9.11 A director resigns from a listed corporation and does not provide reasons for his resignation. Is the listed corporation still required to provide reasons for the resignation of the director in the announcement under Rule 9.19(12)(b) of the ACE LR?

Under Rule 9.19(12)(b), the listed corporation is required to disclose the reasons for the cessation of office of its director. Hence, the listed corporation must engage with the relevant director for the reasons of his resignation.

9.12 If a listed corporation's shareholders requisition for the removal of a director or auditor of the listed corporation, is the listed corporation required to disclose the reasons for removal pursuant to the shareholders' requisition, under Rules 9.19(12)(b) or 9.19(15) of the ACE LR respectively?

The listed corporation is expected to use its best endeavours to obtain the reasons for such removal from the shareholders making the requisition, and subsequently announce the reasons under Rules 9.19(12)(b) or 9.19(15) of the ACE LR, as the case may be.

9.13 A chief executive resigns and provides the official reasons for his resignation in his letter to the listed corporation. The listed corporation makes the announcement required under Rule 9.19(14)(b) of the ACE LR. Subsequently, the actual reasons for the resignation of the chief executive surfaced. Will there be any enforcement action taken against the listed corporation in this instance by Bursa Securities?

In making an announcement, the listed corporation must ensure adherence to the requirements under the ACE LR including Rule 9.16(1) which requires the listed corporation to make, amongst others, clear, factual and accurate announcements. Where there are discrepancies in the said announcement, Bursa Securities will investigate to see whether the listed corporation has done all that is necessary to ensure factual and accurate disclosure of facts. Additionally, under Rule 9.16(4) of the ACE LR, the listed corporation is required to immediately notify Bursa Securities when it becomes aware that the announcement does not fulfill the requirements of Rule 9.16(1) of the ACE LR, and do the necessary to rectify the earlier announcement made. If, in the course of Bursa Securities' investigation, it is found that the listed corporation has not taken the necessary steps to ensure accurate and complete disclosure of information, Bursa Securities may take the necessary enforcement action.

9.14 Rule 9.19(14B) of the ACE LR requires a listed corporation to announce any appointment or change in the legal representative(s) with sole powers to represent, exercise rights or enter into binding obligations, on behalf of the listed corporation or its foreign principal subsidiary pursuant to any relevant law applicable to the listed corporation or its foreign principal subsidiary. Who is a legal representative for purposes of Rule 9.19(14B) of the ACE LR?

As expressly stated in Rule 9.19A(14B) of the ACE LR, a legal representative is a person with sole powers to represent, exercise rights or enter into binding obligations, on behalf of the listed corporation or its foreign principal subsidiary. It is a requirement imposed under the law of the relevant country like China for example which permits the appointment of a legal person who has the sole power to manage and direct the corporation, holds the corporation's common seal and is authorized to perform all acts regarding the general administration of the corporation including executing powers of attorney and any legal transaction on the corporation's behalf.

The legal representative however, is separate from the director or senior officers of the listed corporation or its foreign principal subsidiary.

9.15 A winding-up petition is served on the subsidiary of a listed corporation. However, the winding-up petition has no financial or operational impact on the listed corporation and the listed corporation forms the view that there is no merit to the winding-up petition. Is the listed corporation still required to make an immediate announcement of the winding-up petition?

Yes. Pursuant to Rule 9.19(20) of the ACE LR, a listed corporation must make an immediate announcement of any commencement of winding-up proceedings against the listed corporation or any of its subsidiaries or major associated companies irrespective of whether –

- the winding-up has financial or operational impact on the listed corporation;
- the listed corporation is contesting the winding-up petition or forms the view that there is no merit to the winding-up petition; or
- the listed corporation is in negotiation with the petitioner to arrive at a settlement arrangement.

9.16 Does a listed corporation need to inform Bursa Securities when a listed corporation wants to utilise the balance of its initial public offerings proceeds which have been allocated for a project as disclosed in the prospectus, for another project?

Pursuant to Rule 9.19(33) of the ACE LR, a listed corporation is required to make an immediate announcement to Bursa Securities in respect of any change to the utilisation of proceeds raised from issuance of securities (including arising from initial public offerings) that deviates by 5% or more from the original utilisation of proceeds.

9.17 *Z Bhd* has disclosed in its prospectus issued for the initial public offering of *Z Bhd* that it expects the gross proceeds from the public issue of approximately RM35million to be fully utilised as follows:

Details of proposed utilisation of proceeds	Proceeds (RM 000)
Acquisition of a new factory	5,000
Purchase of equipment	6,000
Repayment of bank borrowings	13,000
Working capital	10,000
Estimated listing expenses	1,000
Total	35,000

Subsequent to the listing of *Z Bhd*, *Z Bhd* decides that it would need to purchase additional equipment and thus, *Z Bhd* would need a total of RM6.4 million towards the purchase of equipment. *Z Bhd* further decides that the additional RM400,000 would be from its working capital. Is *Z Bhd* required to make an immediate announcement of these changes to its proposed utilisation of proceeds?

As *Z Bhd* would now utilise RM6.4 million towards the purchase of equipment, *Z Bhd* would be required to make an immediate announcement of the changes including the deviation in the utilisation of the RM400,000 which was originally proposed for working capital purposes pursuant to Rule 9.19(33) of the ACE LR. The requisite announcement under Rule 9.19(33) of the ACE LR refers to instances of deviation to the amount allocated for a particular purpose.

9.18 Based on the same facts as in Question 9.17 above, would *Z Bhd* be required to make an immediate announcement pursuant to Rule 9.19(33) of the ACE LR notwithstanding that *Z Bhd* has yet to proceed with the purchase of the additional equipment?

Yes, *Z Bhd* would be required to make the immediate announcement pursuant to Rule 9.19(33) of the ACE LR notwithstanding that *Z Bhd* has yet to proceed with the purchase. For purposes of Rule 9.19(33) of the ACE LR, listed corporations would inherently be required to make the announcement once a decision has been made to change the proposed utilization of proceeds and not until actual implementation of the change.

9.19 Rule 9.19(37) of the ACE LR requires the listed corporation to make an immediate announcement of any circumstances or development which are likely to materially affect the results or outcome of any financial estimate, forecast, projection or internal targets of the listed corporation previously announced or disclosed in a public document. What is the extent of the variation to the results or outcome of the financial estimate, forecast, projection or internal targets that would be considered as “material”?

Bursa Securities does not prescribe a threshold where the variation would be considered “material” for purposes of making the requisite announcement under Rule 9.19(37) of the ACE LR. The variation would be considered material if the information of such variation is reasonably expected to have a material effect on –

- (a) the price, value or market activity of any of the listed corporation’s securities; or
- (b) the decision of a holder of securities of the listed corporation or an investor in determining his choice of action.

9.20 [Deleted]

9.21 [Deleted]

9.22 Rule 9.19(46) of the ACE LR requires an immediate announcement of any valuation which has been conducted on the non-current assets of the group, where the revaluation surplus or deficit will be incorporated in the financial statements of the listed corporation. Would this include valuation of the listed corporation’s investment in subsidiaries?

No. For purposes of Rule 9.19(46) of the ACE LR, the valuation is only in respect of the non-current assets of the group and thus, it would not include valuation of the listed corporation’s investment in subsidiaries.

9.23 Rule 9.19(47) of the ACE LR requires a listed corporation to make an immediate announcement of any material development to corporate proposals previously announced. What will be considered “corporate proposals” under Rule 9.19(47) of the ACE LR?

“**Corporate proposals**” for purposes of Rule 9.19(47) of the ACE LR refers to any proposals, transactions, arrangements or exercises by a listed corporation. Corporate proposals include but are not limited to capital raising exercises, transactions, rights issue, bonus issue, capital consolidation, scheme of arrangement, compromise, amalgamation capital reduction, capital repayment and employee share schemes.

Immediate disclosure requirements – dealings in quoted securities

9.24 For the purpose of Rule 9.20 of the ACE LR, is a listed corporation only required to aggregate the purchases or sales of the quoted securities of a particular corporation?

No. Pursuant to Rule 9.20 of the ACE LR, a listed corporation is required to aggregate all purchases or sales of quoted securities respectively within the preceding 12 months excluding such purchases or sale which has been previously announced.

9.25 Website

(a) Under the ACE LR, Rule 9.21 mandates a listed corporation to have its own website. Is there a timeframe prescribed by Bursa Securities for the listed corporation to set up its website?

A listed corporation must have its own website by 3 August 2009 when the ACE LR takes effect.

(b) Is a listed corporation required to comply with a prescribed minimum content in respect of its website?

No. However, a listed corporation must publish on its website all announcements made to Bursa Securities. Further, the listed corporation must ensure that the website is current, informative and contains all information which may be relevant to the listed corporation’s shareholders including analyst’s briefings.

(c) When is a listed corporation required to publish announcements on its website?

A listed corporation is required to publish announcements made to Bursa Securities on its website as soon as practicable after such announcements are released on Bursa Securities’ website. The listed corporation must not publish any announcements on its website before the same is released by Bursa Securities.

- (d) **Rule 9.21(2) of the ACE LR requires every listed corporation to publish on its website all announcements made to the Exchange pursuant to the ACE LR. How long must a listed corporation maintain such announcements on its website?**

The ACE LR does not prescribe the duration for such announcements to be maintained on a listed corporation's website. The listed corporation may exercise its discretion on how long it will maintain its announcements on its website. In any event, a listed corporation should ensure that its website is current, informative and contain all information which may be relevant to its shareholders, as provided under Rule 9.21(4) of the ACE LR.

- (e) **Rule 9.21(3) of the ACE LR requires a listed corporation to ensure that its website contains the email address, name(s) of designated person(s) and their contact numbers to enable the public to forward queries to the listed corporation. What are the queries envisaged by this requirement, and must the listed corporation answer all queries?**

This requirement is imposed to enable a listed corporation to improve its investor relations with its stakeholders, especially the shareholders. Hence, a shareholder may forward any query to its listed corporation. The listed corporation should use its best endeavours to respond to the queries.

- (f) **Can a listed corporation provide a link in its website that enables its announcements that are posted on Bursa Securities' website to be similarly made available on its website?**

Yes, a listed corporation may do so only if it has procures Bursa Malaysia's approval and enters into an agreement with Bursa Malaysia. This is to avoid any issue of copyright infringement by such listed corporation. Further, the listed corporation must ensure that the link will enable announcements to be viewed seamlessly as part of the listed corporation's web pages. The listed corporation may contact Bursa Securities' Information Services Division for further details on such arrangements.

- (g) **Can a group of corporations share one website?**

Yes, provided that each listed corporation within the group has its own distinctive and designated web pages and shareholders are able to retrieve the information on each of their listed corporations easily. In short, the listed corporations within the group must each ensure compliance of its web pages within the shared website with Rule 9.21(1) of the ACE LR.

Publication of certain information in annual reports on the listed corporation's website

- 9.26 What information set out in Appendix 9C which may be published on the listed corporation's website pursuant to Rule 9.25(1) of the ACE LR?**

Under Rule 9.25(1) of the ACE LR, a listed corporation may publish information set out in Appendix 9C which has been **previously announced or disclosed to shareholders pursuant to the ACE LR, or remains substantially unchanged from year to year ("said information")** provided that the listed corporation discloses in the annual report, the address of its website and the place on its website where the information can be accessed. The said information may include -

-
- (a) list of material properties;
 - (b) profile of directors, chief executive and key senior management;
 - (c) material contracts and loans involving the interest of directors, chief executive who is not a director and major shareholders; and
 - (d) terms of references, policies and processes of board committees.

9.27 Is the listed corporation required to update the said information published on its website from time to time?

Yes, the listed corporation must update the said information as and when there is a material change to the information. The listed corporation must also ensure that it complies with following requirements of the ACE LR:

- (a) Rule 9.21 which, among others, provide that a listed corporation should ensure that its website is current, informative and contains all information relevant to the listed corporation's shareholders; and
- (b) Rule 2.18 which requires a listed corporation to ensure that any application, proposal, statement, information or document presented, submitted or disclosed pursuant to ACE LR is –
 - clear, unambiguous and accurate;
 - does not contain any material omission; and
 - is not false or misleading.

Publication of summary of key matters discussed at annual general meetings on the listed corporation's website

9.27A What should be covered under the summary of key matters discussed at the annual general meetings which a listed corporation must publish on its website pursuant to Rule 9.21(2)(b) of the ACE LR?

The summary of the key matters discussed at the annual general meeting which must be published on the listed corporation's website should include a summary of the discussions or explanations on the matters set out in the agenda, substantial or pertinent comments or queries from shareholders relating to the agenda and responses from the board and management.

Issuance of annual report in electronic format

9.28 Under Rule 9.26 of the ACE LR, a listed corporation may issue its annual report in electronic format to its shareholders provided that the relevant requirements are complied with¹. What constitutes "electronic format" in which an annual report may be issued in?

Issuance of annual report in "electronic format" under Rule 9.26 of the ACE LR includes issuance in CD-ROM, USB thumb drive, USB flash drive or USB pen drive.

Periodic disclosures – quarterly report

- 9.29** If a listed corporation changes its financial year end which results in a change to the periods to be covered by the quarterly report, how would the listed corporation determine such periods?

Rule 9.22(3) of the ACE LR states that a listed corporation must consult Bursa Securities to determine the period to be covered by the quarterly reports if there is a change of financial year end.

- 9.30** Does a listed corporation have to provide the selected explanatory notes in the same sequence as provided in paragraph 16 of FRS 134 on Interim Financial Reporting in the quarterly report? How should the listed corporation disclose the additional information required under Appendix 9B of the ACE LR?

The listed corporation is not required to disclose the selected explanatory notes in the same sequence as paragraph 16 of FRS 134. However, the listed corporation is encouraged to disclose information required under FRS 134 first and then followed by those required by Appendix 9B of the ACE LR.

- 9.31** If any one of the notes required under FRS 134 and/or Appendix 9B of the ACE LR is not applicable to the listed corporation, does the listed corporation have to state specifically that the particular note is not applicable?

If a particular note is not applicable to the listed corporation, then the listed corporation is encouraged to state specifically that the particular note is not applicable.

- 9.32** Paragraph 1 in Appendix 9B of the ACE LR now requires a listed corporation to disclose a detailed analysis of the performance of all operating segments of the group setting out the material factors affecting the earnings and/or revenue of each segment for the current quarter and financial year-to-date. What is the extent of information required to be disclosed that would be considered as a “detailed analysis”?

In making the disclosure of a detailed analysis, a listed corporation must comment on the performance of each of its business activity (as segmented in the annual report) and the factors that resulted in the revenue or profits improving or declining as compared to the corresponding period. In this regard, the listed corporation’s board of directors should discuss, among others, the following factors:

- (a) the market condition and demand for its goods and services;
- (b) the level of its operating activities;
- (c) the factors or circumstances affecting the changes to the revenue, costs and profit margin of each business activity or segment;
- (d) any unusual or one-off gains/losses affecting the revenue or profit; or
- (e) any other information which can provide a better understanding of the listed corporation's performance.

A general statement that the revenue and profit for the period has increased or decreased by a certain percentage without any elaboration of the above factors is not acceptable.

9.33 To what extent must a listed corporation's board of directors comment on the listed corporation's prospects in the quarterly report pursuant to paragraph 3 of the Appendix 9B of the ACE LR⁴?

In commenting on the listed corporation's prospects under paragraph 3 of Appendix 9B of the ACE LR, the board of directors must discuss in detail the prospects on each segmented activities and the material factors that are likely to influence the listed corporation's prospects for the remaining period of the financial year. The commentary should include –

- (a) the prospects of each of the group's business segments, including contracts at hand, tender book value, competitive challenges, customers' trend and supply constraint;
- (b) significant changes in raw material costs and selling prices affecting demand and profit margins;
- (c) financial impact arising from currency fluctuation and steps taken to mitigate such fluctuation;
- (d) changes in product or service mix and their impact on profit margin;
- (e) financial impact from recently completed acquisition, disposal or merger;
- (f) new regulations or rules which may affect the group's operating activities; or
- (g) any changes in business direction or new development of the group which may have an impact on the prospects of any business segment.

A general statement such as the board is optimistic of achieving better performance for the financial year or the board expects the group's results for the remaining period to be profitable, without discussing the above matters is not acceptable.

9.34 Listed corporations are now required to disclose, on a quarterly basis, the details of major components on their operating, investing and financing activities in their statement of cash flows pursuant to paragraph 17 in Appendix 9B of the ACE LR. How should the listed corporations make the additional disclosures in their statement of cash flows?

In making the additional disclosures required under paragraph 17 in Appendix 9B of the ACE LR, listed corporations should provide the following details:

- (a) The details in respect of the operating activities may include –
 - receipts from customers
 - payments to suppliers, contractors and employees
 - interest paid
 - payment of income taxes

⁴ Paragraph 3 of Appendix 9B of the ACE LR, among others, requires a listed corporation to provide in its quarterly report, a commentary on the prospects, including the factors that are likely to influence the listed corporation's prospects for the remaining period to the end of the financial year or the next financial year if the reporting period is the last quarter.

Total Cash Flow from/(used in) operating activities

- (b) The details in respect of the investing activities may include –
- purchase of property, plant and equipment
 - disposal of property, plant and equipment
 - payment of intangible assets
 - acquisition of investments
 - disposal of investments
 - advances to associates/jointly controlled entities
 - repayment of advances from associates/jointly controlled entities
 - interest received

Total Cash Flow from/(used in) investing activities

- (c) The details in respect of the financing activities may include –
- dividend paid to equity holders
 - proceeds from borrowings
 - repayment of borrowings
 - proceeds from rights issue

Total Cash Flow from/(used in) financing activities**Timeframe for issuance of annual report**

9.35 Rule 9.23 of the ACE LR in relation to the timeframe for issuance of annual reports has been amended to be implemented in phases in the following manner:

- **annual reports for financial years ending on or after 31 December 2014 must be issued to Bursa Securities and shareholders within 5 months from the close of the financial year end (“Phase 1 Requirements”); and**
- **annual reports for financial years ending on or after 31 December 2015 must be issued to Bursa Securities and shareholders within 4 months from the close of the financial year end, and the separate announcement of the annual audited financial statements can be dispensed with (“Phase 2 Requirements”).**

ABC Berhad’s financial year end (“FYE”) falls on 31 December. Is ABC Berhad still required to announce its annual audited financial statements to Bursa Securities?

ABC Berhad is still required to announce its annual audited financial statements for FYE 31 December 2014 by 30 April 2015 under the Phase 1 Requirements. However, it is not required to announce its annual audited financial statements for FYE 31 December 2015 and the subsequent financial years after 31 December 2015 when the Phase 2 Requirements become effective as its annual reports issued within 4 months for those financial years would already include its annual audited financial statements, directors’ and auditors’ reports.

9.35A *XYZ Bhd's* financial year end ("FYE") falls on 31 March 2016. Prior to 31 December 2015, *XYZ Bhd* has been –

- holding its annual general meeting within 6 months from the close of its financial year (i.e. in September); and
- including the notice convening the annual general meeting and proxy forms in its annual report, and forwarding them together to shareholders.

Pursuant to the Phase 2 Requirements, *XYZ Bhd* is required to issue its annual report that includes the annual audited financial statements together with the auditors' and directors' reports, to the Exchange and shareholders by July 2016 (i.e. 4 months from the close of its financial year end).

(a) Does this mean that *XYZ Bhd* is also required to convene its annual general meeting within the shorter timeframe?

The ACE LR does not prescribe when a listed corporation must convene its annual general meeting. Hence, it is up to *XYZ Bhd* to determine when it should convene its annual general meeting so long as it complies with the relevant requirements of the Companies Act 1965.

(b) Assuming that *XYZ Bhd* convenes its annual general meeting in September 2016, can *XYZ Bhd* send the notice convening the annual general meeting and the proxy forms separately from the annual report?

As the annual general meeting will only be held in September 2016, *XYZ Bhd* may send out the notice convening the annual general meeting and the proxy forms separately from the annual report so long as it complies with the relevant requirements of the Companies Act 1965.

Periodic disclosures – annual report

9.36 Pursuant to Rule 9.25(1) of the ACE LR, a listed corporation must set out separately in its annual report, the items set out in Appendix 9C of the ACE LR (hereinafter referred as "Appendix 9C"). Does the listed corporation have to provide a negative statement if a particular item contained in Appendix 9C is not applicable to the listed corporation?

No, the listed corporation does not have to provide a negative statement if a particular item in Appendix 9C is not applicable to the listed corporation except where it is expressly required under Appendix 9C, namely items (19)(b), (22) and (30) of Appendix 9C.

9.37 What is the definition of "family" relationship as stated in items (3)(f), (4)(f) and (4A)(e) of Appendix 9C?

"Family" relationship shall have the same meaning as assigned to "family" under section Rule 1.01 of the ACE LR.

9.38 What is the definition of “conflict of interest” as stated in item (3)(g) of Appendix 9C?

“Conflict of interest” for the purposes of item (3)(g) of Appendix 9C, refers to a situation where the director concerned has personal pecuniary interests which are in conflict with those of the listed corporation or its subsidiaries. It excludes transactions entered into by a listed corporation or its subsidiaries involving the interest of the director concerned which are regarded as related party transactions pursuant to Chapter 10 of the ACE LR.

The following are illustrations. A sale of property by the listed corporation to a corporation owned by the director would be a related party transaction which does not require disclosure pursuant to item (3)(g) of Appendix 9C. If the director is a major shareholder of another corporation which is the competitor of one of the subsidiaries of the listed corporation, such information must be disclosed pursuant to item (3)(g) of Appendix 9C.

9.39 [Deleted]

9.40 What is the definition of “relevant regulatory bodies” referred to in items (3)(h), 4(h) and 4A(g) of Appendix 9C?

“Relevant regulatory bodies” refers to any regulator that regulates a listed corporation or its subsidiaries or any authority or organisation which regulates the business activity of a listed corporation or its subsidiaries. This includes Bursa Securities, the SC, Bank Negara Malaysia, the Companies Commission of Malaysia, the Employees Provident Fund, the Inland Revenue Board, the Department of Environment and the local municipal councils.

9.41 Pursuant to item (19)(b) of Appendix 9C, are listed corporations required to disclose non-audit fees paid to corporations which are owned by the external auditors i.e. the partners of the auditing firm?

Yes, pursuant to item (19)(b) of Appendix 9C, listed corporations are required to disclose non-audit fees paid to corporations owned by the external auditors of the listed corporations.

9.42 What is considered as “non-audit fees” pursuant to item (19)(b) of Appendix 9C?

“Non-audit fees” would encompass any fees paid for services rendered to the listed corporation or its subsidiaries other than for statutory auditing work. An example would be consultancy services.

9.42A Pursuant to item 19(b) of Appendix 9C, listed corporations are required to set out in their annual reports, the details on the nature of the services rendered by the external auditors if the non-audit fees incurred were significant. For this purpose, what is regarded as “significant” non-audit fees?

In determining what could be regarded as “significant” non-audit fees, listed corporations should consider the amount of non-audit fees incurred compared to the amount of audit fees paid. Generally, if the non-audit fees constitute 50% of the total amount of audit fees paid to their external auditors, then such non-audit fees are regarded as significant.

- 9.43 Pursuant to items (3)(h), (4)(h) and (4A)(g) of Appendix 9C, listed corporations are required to set out in their annual report the particulars of the directors, chief executive and key senior management respectively including the list of convictions for offences within the past 5 years other than traffic offences, if any. What is regarded as “convicted of an offence”?**

“Convicted of an offence” includes any finding of guilt or any order involving any finding of guilt by any court of competent authority in Malaysia or outside Malaysia in relation to any act or omission punishable under criminal law.

- 9.44 In relation to the statement on internal audit function as required under item (31) of Appendix 9C, where should such statement be located in the annual report?**

There is no specific requirement for the location of the internal audit statement as long as the statement is clear and contains the information required.

- 9.45 In relation to item (31) of Appendix 9C, when the internal audit is conducted in-house, should the cost be disclosed?**

Yes, the cost is to be disclosed regardless of whether the internal audit function is performed in-house or outsourced. Such cost should include all costs involved in performing the internal audit function.

- 9.46 Corporate social responsibility (“CSR”) referred to in Item (30) of Appendix 9C**

- (a) What is “corporate social responsibility”?**

Corporate social responsibility (“CSR”) is a concept that focuses on a corporation’s behaviour and actions. CSR has been defined as open and transparent business practices that are based on ethical values and respect for the community, employees, the environment, shareholders and other stakeholders. In essence, what this means is corporations integrating socially responsible behaviour into their business operations. For instance, this can range from making charitable donations or enhancing employee welfare to aligning or modifying the corporation’s operations to ensure that it is more environmentally friendly. These are of course very limited examples as there is no singular model on how to approach CSR. Each corporation, based on the nature of their business and resources may choose to undertake the CSR activities that are more suitable for them at that point in time.

- (b) Pursuant to item 30 of Part A, Appendix 9C, listed corporations are required to set out in their annual report, a description of the CSR activities or practices undertaken by the listed corporation. Does Bursa Securities prescribe the contents of the disclosure to be made in relation to the CSR activities or practices?**

No, Bursa Securities does not prescribe the contents of what the listed corporations should disclose. A listed corporation must, however, ensure that the disclosure complies with the requirements of Rule 2.18 of the ACE LR, as the case may be. Where a listed corporation has not undertaken any CSR activities for a particular year, pursuant to item 30 of Part A, Appendix 9C, a negative statement must be inserted.

- (c) **By requiring listed corporations to disclose CSR activities in their annual reports, does it mean that Bursa Securities is making CSR activities compulsory for all listed corporations?**

No, the practice of CSR is completely voluntary and at the discretion of listed corporations. The requirement for disclosure of CSR activities is for enhanced transparency and to encourage listed corporations to bear in mind CSR when undertaking their business and operations.

- (d) **Which part of the annual report should the CSR activities of the listed corporations and its subsidiaries be disclosed?**

Bursa Securities has not prescribed any specific requirements pertaining to where the CSR statement should be located. A listed corporation may disclose the statement anywhere in the annual report so long as it is clearly set out.

- (e) **How can I find out more about CSR?**

Further information on CSR can be found on Bursa Securities' website at www.bursamalaysia.com under the CSR Framework for Malaysian public listed corporations.

Circular and other requirements

- 9.47 Paragraph 9.30A(2)(c) of the ACE LR provides that the obligation on a listed corporation or offeror in an offer for sale of listed securities to submit a draft copy of all circulars and other documents proposed to be sent to the holders of the listed securities, does not apply, amongst others, to any document that is not prepared by the listed corporation or its advisers on its behalf. What are examples of such documents?**

Examples of documents that have not been prepared by the listed corporation or its advisers on its behalf, include amongst others, representations made by directors to the listed corporation pursuant to section 128(3) of the Companies Act 1965 and notices issued by trustees to bondholders pursuant to the provisions of a trust deed.

- 9.48 What are the main obligations of a listed corporation or the adviser in respect of the Exempt Circulars given that such circulars will not be perused by Bursa Securities?**

Pursuant to paragraph 3.2 of Guidance Note 22, the Exempt Circulars must include a statement that Bursa Securities has not perused the circular before its issuance. Further, a listed corporation must submit a checklist showing compliance with the relevant parts of the ACE LR immediately upon issuance of the Exempt Circulars to securities holders. The listed corporation, its director, Sponsor or adviser, as the case may be, must also ensure that the Exempt Circulars comply with the ACE LR, including the standard of disclosure prescribed in Rule 9.31 of the ACE LR and the prescribed minimum contents, if any, failing which, Bursa Securities may take enforcement action against the listed corporation, its directors, Sponsor or adviser, as the case may be.

9.48A What are the areas that Bursa Securities will focus on in respect of the Limited Review Circulars?

In conducting a limited review, Bursa Securities will only focus on key disclosure areas and not the entire circular. However, Bursa Securities may conduct a full review in circumstances where it deems fit. In any event, listed corporations, their directors, Sponsor or adviser, as the case may be, must ensure the accuracy and completeness of the Limited Review Circulars pursuant to Rule 9.31 of the ACE LR.

Others – Default in Payment**9.49 Rule 9.19A(1) of the ACE LR among others, requires a listed corporation to immediately announce any default in payment of either interest or principal sums, or both, in respect of debt securities (whether listed or unlisted on Bursa Securities) by the listed corporation. In this regard, what would constitute a default in payment in respect of debt securities?**

Default in payments in respect of debt securities includes -

- (a) default in payments of the interest or principal sum or both in respect of loan stocks or bonds;
- (b) default in payments under a debenture.

9.50 Does a listed corporation have to make an immediate announcement when its 49% associated company defaults in payment of either interest or principal sums but the associated company's bankers do not issue any notices/demand letter?

Pursuant to Rules 9.19A(1)(b) of the ACE LR, any such default in payments (as envisaged in the loan/credit facility agreement) including by an associated company of a listed corporation which is material (ie. vis-à-vis the group) would require immediate announcement irrespective of whether a notice or demand has been issued by the bankers.

9.51 With effect from 27 January 2015, Guidance Note 5 will be deleted from the ACE LR and the requirements relating to default in payment will be set out in Rule 9.19A of the ACE LR instead.

- (a) ***DEF Bhd***, a listed corporation, triggers the criteria for default in payment on 30 January 2015. Which template under Bursa LINK should ***DEF Bhd*** use to make the immediate announcement and monthly status updates required under Rule 9.19A of the ACE LR?

DEF Bhd must make the required immediate announcement and monthly status updates in the “**General Announcement**” template under the main keyword “**Others**” in the “Subject” column. There will no longer be any sub keyword in the “Subject” column for a default in payment announcement.

- (b) If *DEF Bhd* triggered the criteria for default in payment under Guidance Note 5 on 15 January 2015 which was announced by *DEF Bhd* on the same date, which template under Bursa LINK should *DEF Bhd* use to make the announcement of the default in payment as well as the monthly status updates?

DEF Bhd must make the required immediate announcement and monthly status updates in the following manner:

- (i) the announcement of the default in payment on 15 January 2015 should be made in the “**General Announcement**” template under the main keyword “**Practice Note 1/Guidance Note 5**” and sub keyword “**New Default**” in the “Subject” column; and
- (ii) the announcement of the monthly status update in February 2015 and thereafter should be made in the “**General Announcement**” template under the main keyword “**Others**” in the “Subject” column. There will no longer be any sub keyword in the “Subject” column for the monthly status update announcement.

- 9.52 *A Berhad’s* net assets based on the latest published or announced financial statements is RM100 million. *A Berhad* has procured a credit facility of RM8 million from a bank and has withdrawn RM5 million from the facility as at 30 August 2009. On 30 August 2009, *A Berhad* defaults in the repayment of a monthly installment of RM100,000. As a result, the bank recalls the credit facility and demanded that *A Berhad* repays the bank the total outstanding sum due and owing under the credit facility amounting to RM5 million.

In this case, what is the “total amount outstanding of the defaulted credit facility” referred to in Rule 9.19A(1)(a) of the ACE LR in determining whether *A Berhad* is required to announce the default under Rule 9.19A of the ACE LR?

The “total amount outstanding of the defaulted credit facility” referred to in Rule 9.19A(1)(a) of the ACE LR is the total outstanding sum due and owing under the credit facility when the bank issued the demand, i.e. RM5 million.

- 9.53 The facts of the matter are as follows:

- *X Berhad* has a financial year end on 31 December.
- *X Berhad’s* net assets as at 30 June 2015, based on its latest financial statements published on 30 July 2015 is RM250 million.
- In 2015, *X Berhad* had defaulted in the following payments of its credit facilities/debt securities:

Date	Default in payments	Total Amount Outstanding (RM'000)
31 July 2015	Default in repayment of loan instalments to <i>Bank A</i> ("Default 1")	10,000
21 August 2015	Default in payment of interests due to bond holders which had become due and payable ("Default 2")	4,000

Based on the facts above, is *X Berhad* required to immediately announce each default in payment pursuant to Rule 9.19A of the ACE LR?

Under Rule 9.19A(1)(a) of the ACE LR, a listed issuer must immediately announce any default in payment where the total amount outstanding either singly or collectively is 5% or more of the net assets of the listed corporation based on the latest published or announced financial statements. In this regard, the table below clarifies the immediate announcement obligation of *X Berhad* as required under Rule 9.19A(1)(a) of the ACE LR:

Date	Default in Payments	Total Amount Outstanding (RM'000)	Immediate Announcement Required?
31 July 2015	Default 1	10,000	No as total amount outstanding of Default 1 is only 4% of the net assets.
21 August 2015	Default 1 (which is still outstanding) and Default 2	14,000	Yes as the total amount outstanding of Default 1 and Default 2 are collectively 5.6% of the net assets.

9.54 The facts of the matter are as follows:

- *X Berhad* has a financial year end on 31 December.
- *X Berhad's* net assets as at 30 June 2015, based on its latest financial statements published on 30 July 2015 is RM250 million.
- *X Berhad's* net assets as at 30 September 2015, based on its latest financial statements published on 23 November 2015 is RM200 million.
- In 2015, *X Berhad* had defaulted in the following payments of its credit facilities/debt securities:

Date	Default in payments	Total Amount Outstanding (RM'000)
31 July 2015	Default in repayment of loan instalments to <i>Bank A</i> ("Default 1")	10,000
21 August 2015	Default in payment of interests due to bond holders which had become due and payable ("Default 2")	1,500

Based on the facts above, is *X Berhad* required to immediately announce each default in payment pursuant to Rule 9.19A of the ACE LR?

The table below clarifies the immediate announcement obligation of *X Berhad* as required under Rule 9.19A(1)(a) of the ACE LR:

Date	Default in Payments	Total Amount Outstanding (RM'000)	Immediate Announcement Required?
31 July 2015	Default 1	10,000	No as total amount outstanding of Default 1 is only 4% of the net assets as at 30 July 2015.
21 August 2015	Default 1 (which is still outstanding) and Default 2	11,500	No as the total amount outstanding of Default 1 and Default 2 are collectively only 4.6% of the net assets as at 30 July 2015.
23 November 2015	Default 1 and Default 2 (which are still outstanding)	11,500	Yes as the total amount outstanding of Default 1 and Default 2 are collectively 5.75% of the net assets as at 23 November 2015.

9.55 If a listed corporation, its major subsidiary or major associated company commits a default in payment pursuant to Rule 9.19A of the ACE LR, when does the listed corporation have to furnish a statement of solvency declaration to Bursa Securities?

The statement of solvency declaration duly executed by the board of directors of the listed corporation must be submitted via fax and mail to the Head of Listing, Bursa Securities within 3 market days from the date of the announcement on the default in payment pursuant to Rule 9.19A of the ACE LR.

9.56 If a listed corporation has negative net assets, how should the listed corporation determine how material a default in payment is for the purpose of making an announcement under the ACE LR?

Where a listed corporation has negative net assets, any amount in default will be considered as material pursuant to Rule 9.19A(2) of the ACE LR and the listed corporation must announce any amount in default.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 3 May 2016)**

CHAPTER 10 – TRANSACTIONS

Definition of “transaction”

10.1 Is the definition of "transaction" the same for both non-related party and related party transactions?

No, there is a different definition of "transaction" in the context of non-related party transactions and related party transactions respectively.

In the context of non-related party transactions, it means acquisitions or disposals of assets by a listed corporation or its subsidiaries and includes any of the following actions undertaken by the listed corporation:

- disposing of; or
- granting, accepting, exercising or discharging an option or any other right or obligation, present or future, conditional or unconditional, to dispose of,

the listed corporation's developmental rights, all or substantially all its rights, benefits, or control in an asset. However, it excludes transactions of a revenue nature in the ordinary course of business.

In the context of related party transactions, it includes, acquisitions, disposals or leasing of assets, establishment of joint ventures, provision of financial assistance, provision or receipt of services or any business transaction or arrangement entered into by a listed corporation or its subsidiaries.

10.2 For the purpose of Part D of Chapter 10 of the ACE LR, would an acquisition or disposal of property by a property development corporation be considered as being “in the ordinary course of business”?

No, Bursa Securities does not consider such transaction as being in the ordinary course of business of a property development corporation. However, where the property development corporation disposes of property which has been developed in the ordinary course of its business as a property developer, the listed corporation concerned would be excluded from complying with the provisions under Part D of Chapter 10. An example would be the sale of completed link houses, bungalows or bungalow lots by the property development corporation.

10.3 Is the receipt of financial assistance by a listed corporation or its subsidiaries from a major shareholder or director considered a “transaction” for the purpose of Part E, Chapter 10 of the ACE LR?

No, the receipt of financial assistance by a listed corporation or its subsidiaries from a major shareholder or director is not “provision of financial assistance” as envisaged under Rule 10.02(j) and therefore, it is not a “transaction” for the purposes of Part E of Chapter 10 of the ACE LR.

- 10.4** *A Bhd*, a listed corporation entered into a transaction with *B Sdn Bhd* to purchase shares of a company. *A Bhd* paid a deposit of RM10 million for the said purchase. *A Bhd* obtained shareholder approval for the said purchase. Subsequently, the said purchase was aborted. Instead, *B Sdn Bhd* offered land of equivalent market value, in settlement of the deposit of cash to be refunded. Will the acceptance of the land in settlement of the debt owed by *B Sdn Bhd* be considered as a new transaction, which may trigger the obligations set out in Chapter 10 of the ACE LR?

Yes, the acceptance of the land in settlement of the debt owed by *B Sdn Bhd* to *A Bhd* will be considered a new transaction which may trigger the obligations set out in Chapter 10 of the ACE LR.

- 10.5** What amounts to an “interest” as referred to in the definition of related party transaction set out in Rule 10.02(i) of the ACE LR?

Interest includes directorships, shareholdings (direct or deemed), commissions or such other benefits received or derived from the transaction.

- 10.6** Are outstanding receivables of a related party deemed to be financial assistance by a listed corporation?

“Financial assistance” is regarded as a transaction for purposes of Part E of Chapter 10 and is defined to include forgiving a debt or releasing or neglecting to enforce a financial obligation of another. In this regard, outstanding receivables of a related party which are written off or neglected to be enforced would be regarded as a related party transaction.

General requirements

- 10.7** Where the listed corporation and its subsidiary are both listed on the Official List of Bursa Securities and the listed subsidiary enters into a transaction that requires an announcement to be made pursuant to Chapter 10 of the ACE LR, is the announcement to be made by both the listed corporation and its listed subsidiary?

No, only the listed subsidiary is required to make the announcement pursuant to Chapter 10 of the ACE LR. The listed corporation would not be required to make the announcement.

- 10.8** Similarly, if the listed subsidiary aforesaid enters into a transaction that requires, amongst others, shareholder approval to be obtained, pursuant to Chapter 10 of the ACE LR, will the listed corporation also be required to obtain the shareholder approval under the ACE LR?

No, only the listed subsidiary is required to obtain shareholder approval pursuant to Chapter 10 of the ACE LR.

Computation of percentage ratio**10.9 If the transaction is entered into, not by the listed corporation but by its subsidiary, how are the percentage ratios referred to in Rule 10.02(g) of the ACE LR applied?**

In applying the percentage ratios the listed corporation should take into account its interest in the subsidiary in question. For example, *A Bhd*, a listed corporation, has a 60% owned subsidiary, *B Sdn Bhd*. *B Sdn Bhd* acquires a piece of land for the consideration of RM10 million. The calculation of the percentage ratio in respect of Rule 10.02(g)(iii) should be as follows:

60% x RM10 million

Net assets of *A Bhd* on consolidated basis

10.10 Does a listed corporation need to exclude treasury shares when computing the percentage ratios of a transaction?

A listed corporation must exclude treasury shares in computing the -

- (a) equity share capital previously in issue under Rule 10.02(g)(iv); and
- (b) market value of all the ordinary shares of the listed corporation under Rule 10.02(g)(v),

when determining the percentage ratio of a transaction under Chapter 10 of the ACE LR.

10.11 If the application of a prescribed percentage ratio to a transaction results in an anomalous result (for example, a negative figure), must it still be applied?

No, such percentage ratio may be disregarded in such circumstances.

10.12 *XY Bhd*, a listed corporation has positive net assets. It enters into a transaction to acquire a piece of land from *A* ("Land Transaction"), an unrelated party for RM1 million which is payable by *XY Bhd* wholly in cash. Pursuant to Rule 10.02(g) of the ACE LR, the only applicable percentage ratio of the said transaction which exceeds 5% is Rule 10.02(g)(v) ("Market Cap Test"). Is *XY Bhd* required to comply with the relevant provisions of Part D of Chapter 10 of the ACE LR? Similarly, will *XY Bhd* be required to comply with the relevant provisions of Part D of Chapter 10 of the ACE LR if the parties agree that the consideration for the Land Transaction be in the form of *XY Bhd's* shares?

Pursuant to Rule 10.03(8) of the ACE LR, if *XY Bhd* pays for the land in cash, the Market Cap Test will not be applicable. As such, *XY Bhd* will not be required to comply with Part D of Chapter 10 because all the other applicable percentage ratios are less than 5%.

However, if the payment for the land is settled by issuance of *XY Bhd's* new listed shares (partly or wholly) and the percentage ratio of the same pursuant to the Market Cap Test is 5% or more, *XY Bhd* will be required to comply with the relevant provisions of Part D, Chapter 10 of the ACE LR.

- 10.13** The following question is based on similar facts as set out in Question 10.12 above, except that in this instance, *XY Bhd* has negative net assets. All the relevant percentage ratios are found to be inapplicable or produce anomalous results except for the Market Cap Test. In light of this, will *XY Bhd* be required to comply with Part D, Chapter 10 of the ACE LR in relation to the Land Transaction where *XY Bhd* pays for the land in cash?

Pursuant to Rule 10.03(8) of the ACE LR, the Market Cap Test will only be applicable if –

- (a) the Land Transaction involves consideration in the form of listed shares; or
- (b) all the other percentage ratios produce anomalous results or are inapplicable.

In this respect, as all the other relevant percentage ratios are inapplicable or produce anomalous results, even if *XY Bhd* pays for the land wholly in cash, *XY Bhd* will have to ensure that the relevant provisions of Part D, Chapter 10 of the ACE LR are complied with.

- 10.14** In relation to any acquisition or disposal of equity interest in a corporation, when will the total assets ratio provided in Rule 10.02(g)(vi) of the ACE LR (“Total Assets Ratio”) be applicable?

Pursuant to Rule 10.03(9) of the ACE LR, in relation to any acquisition or disposal of equity interest in a corporation, the Total Assets Ratio is applicable –

- (a) if the acquisition will result in such corporation’s total asset being consolidated into the group accounts after the acquisition; or
- (b) in the disposal where such corporation’s total asset has been consolidated in the group accounts before the disposal.

- 10.15** For the purposes of computation of indicators of materiality under Chapter 10 of the ACE LR, must a listed corporation submit a copy of the external auditors’ review report to Bursa Securities?

Yes, a copy of the external auditors’ review report must be furnished by the listed corporations to Bursa Securities where the figures used such as in the case of total assets, net assets, net book value of assets, net profits and cost of investment are based on the published or announced interim or unaudited financial report which must be the latest.

Valuation

- 10.16** What is considered as real estate for the purpose of determining whether the requirement for a valuation under Rule 10.04 of the ACE LR is applicable?

For the purpose of determining whether the requirement of Rule 10.04 of the ACE LR is applicable, real estate means land and all things that are a natural part of the land as well as all things attached to the land both below and above the ground and includes the rights, interests and benefits related to the ownership of the real estate.

Example of the rights, interests and benefits over real estate includes development rights, timber concession, mining concession etc.

10.17 Rule 10.04 of the ACE LR requires a valuation to be conducted when a transaction involves an acquisition or disposal of any real estate, and when the percentage ratio of the transaction is 5% or more for a related party transaction or 25% and more for a transaction falling under Part D of Chapter 10 of the ACE LR.

What will be considered as a transaction which “involves an acquisition or disposal of any real estate”?

These will be the acquisition or disposal of real estate or corporation(s) with real estate.

The following table further clarifies the requirement on valuation report pursuant to Rule 10.04 of the ACE LR:

	Transaction which percentage ratio is – <ul style="list-style-type: none"> ▪ ≥ 25% pursuant to Part D (Transaction), Chapter 10 of the ACE LR; or ▪ ≥ 5% pursuant to Part E (Related Party Transaction), Chapter 10 of the ACE LR 	Valuation required to be conducted and valuation report submitted to Bursa?
(i)	Acquisition or disposal of <u>a real estate</u>	Yes
(ii)	Acquisition or disposal of a <u>property development¹/ property investment² corporation</u>	Yes, the valuation report must be submitted for all material real estate.
(iii)	Acquisition or disposal of a corporation (other than defined in (ii)) which owns real estate	Yes, only if the real estate has been revalued and the revalued amount is used as the basis in determining the purchase or disposal consideration

¹ “**property development corporation**” means a corporation whose core business is in –

- (a) development or redevelopment of real estate; or
- (b) real estate with development potential,

and includes those rights to develop pursuant to a joint venture agreement, privatisation agreement or some other forms of joint arrangement.

² “**property investment corporation**” means a corporation whose core business is in –

- (a) the holding of investment properties for letting and retention as investments; or
- (b) the purchase of investment properties for subsequent sale.

- 10.18 In an acquisition or disposal of a manufacturing corporation by a listed corporation, a revaluation on all the manufacturing corporation's lands, plant and machinery for the purpose of determining the purchase consideration of the said corporation has been carried out. In this situation, is a submission of a valuation report to Bursa Securities required?**

Pursuant to Rule 10.04 of the ACE LR, a valuation report only needs to be submitted for the real estate. The listed corporation need not submit a valuation report on the plant and machinery.

- 10.19 A Sdn Bhd revalued its real estate 5 years ago. PLC B plans to acquire A Sdn Bhd. Pursuant to Rule 10.04 of the ACE LR, such acquisition requires a valuation report to be submitted to Bursa Securities. Can PLC B use the revaluation report conducted 5 years ago by A Sdn Bhd, for the purpose of submission to Bursa Securities under Rule 10.04 of the ACE LR?**

No, pursuant to Rule 10.04(2)(b) of the ACE LR, PLC B must ensure that the date of valuation which forms the basis of the valuation certificate included in the circular is not more than 6 months before the date of circular issued to shareholders.

- 10.20 When a valuation report is required, must the listed corporation submit the valuation report to the SC or Bursa Securities?**

A valuation report required under Rule 10.04 of the ACE LR must be submitted to Bursa Securities. A listed corporation need not submit the report to the SC.

- 10.21 Must a valuer who is required to submit an undertaking to Bursa Securities under Rule 10.04 of the ACE LR, file an undertaking each time it acts for a listed corporation?**

No, a valuer is required to provide Bursa Securities its letter of undertaking to comply with the ACE LR once. The same undertaking will be applicable for all listed corporations which the valuer acts for.

Related party transactions

- 10.22 Must a listed corporation immediately announce all related party transactions?**

A listed corporation must immediately announce all the following related party transactions:

- (a) related party transactions which do not fall within the category of recurrent related party transaction of a revenue or trading nature and necessary for its day to day operations ("RRPT") and -
- (i) the value of the consideration of the transaction is RM200,000 or more; and
 - (ii) the percentage ratio of such related party transaction is 0.25% or more; and

- (b) RRPTs which are not comprised in a valid mandate from its shareholders ("**Mandate**") and -
- (i) in relation to a listed corporation with an issued and paid-up capital of RM60 million and above, the consideration, value of the assets, capital outlay or costs of the RRPT is RM1 million or more, or the percentage ratio of such RRPT is 1% or more, whichever is the higher; or
 - (ii) in relation to a listed corporation with an issued or paid-up capital of less than RM60 million, the consideration, value of the assets, capital outlay or costs of the RRPT is RM1 million or more, or the percentage ratio of such RRPT is 1% or more, whichever is the lower,
- ("Prescribed Limit").

10.23 *P Bhd*, a listed corporation enters into a sale and purchase agreement with an unrelated party, *Q Bhd* to acquire a piece of property from *Q Bhd* for RM1 million ("**Land Acquisition**"). In consideration of the Land Acquisition, *P Bhd* issues to *Q Bhd* 500,000 new *P Bhd*'s shares of RM1 each ("**Consideration Shares**") and RM500,000 cash. The Land Acquisition is subject to conditions, including the requirement that *Company X*, a major shareholder of *P Bhd* must underwrite the sale of the Consideration Shares by *Q Bhd* subsequently ("**Underwriting Arrangement**"). Is the Land Acquisition a related party transaction?

Yes, as the Land Acquisition is conditional upon the Underwriting Arrangement and involves the indirect interest of a major shareholder of *P Bhd* (i.e. *Company X*), the Land Acquisition is a related party transaction.

10.24 *S Bhd*, a listed corporation enters into a subscription agreement with an unrelated party, *Mr A* to issue *Mr A* 50,000 new *S Bhd*'s shares of RM1 each ("**New Shares**"). The completion date of the subscription agreement is 6 months from 1 January 2010. On 1 April 2010, *Mr A* enters into a share sale agreement with *Mr B*, a director and a major shareholder of *S Bhd* for the sale of the New Shares ("**Shares Sale Agreement**"). Prior to this, *Mr B* has never had any dealings with *Mr A*. In addition, the Shares Sale Agreement was never envisaged on or before the execution of the subscription agreement between *S Bhd* and *Mr A*. On 30 April 2010, *S Bhd* and *Mr A* enter into a supplemental agreement in relation to the New Shares varying amongst others, the purchase price ("**Supplemental Agreement**"). Will *S Bhd* be required to comply with Part E of Chapter 10 of the ACE LR in relation to the Supplemental Agreement?

Yes, the Supplemental Agreement will be regarded as a related party transaction as it involves the indirect interest of a director and major shareholder of *S Bhd* i.e. *Mr B* and hence, *S Bhd* would be required to comply with Part E of Chapter 10.

- 10.25** *X Bhd*, a listed corporation has obtained a general mandate pursuant to Rule 10.09 of the ACE LR (“Mandate”) for provision of financial assistance to its subsidiaries, which constitute related party transactions. If the actual provision of financial assistance exceeds the corresponding value or amount prescribed in the Mandate, does *X Bhd* have to make an announcement in relation to the excess amount?

Yes, pursuant to paragraph 3.4(a)(ii) of Guidance Note 8, if the actual amount of financial assistance provided exceeds the corresponding amount in the Mandate, *X Bhd* must immediately announce the same notwithstanding that the excess amount does not trigger the Prescribed Limit as referred to in Question 10.22. In addition, if the percentage ratio of the amount of financial assistance provided or rendered in excess of the value or amount prescribed in the Mandate is 5% or more, *X Bhd* must also comply with the relevant requirements of Rule 10.08 of the ACE LR.

- 10.26** In respect of a related party transaction where the percentage ratio is 5% or more but less than 25%, an independent adviser must be appointed by the listed corporation in respect of such transaction. Does the independent adviser have to provide a confirmation to Bursa Securities of its eligibility to act as an independent adviser?

No, such a confirmation by an independent adviser is not required under the ACE LR and only a general undertaking letter under Rule 2.21(1) of the ACE LR is required. However, an independent adviser must ensure its independence within the definition of independence under Rule 1.01 of the ACE LR. Under Rule 10.08(5) of the ACE LR, Bursa Securities has the discretion not to allow an independent adviser to continue to act or be appointed as an independent adviser if in its opinion, the adviser is deemed not to be independent. Bursa Securities may also take enforcement action against independent advisers who misrepresented their independence.

- 10.27** What are the duties of an interested director in relation to the related party transaction under this Chapter?

Pursuant to Rules 10.08(6) to (8) of the ACE LR, an interested director is imposed with an obligation to ensure that the board of directors is notified of the nature and extent of his interests. He must also abstain from board deliberation and voting on the relevant resolution in respect of the transaction. In addition, he must also ensure that persons connected with him also abstain from voting on the relevant resolution in respect of the transaction.

- 10.28** What is meant by “investee corporation” as used in Rule 10.08(11)(q) of the ACE LR?

“Investee corporation” as used in Rule 10.08(11)(q) refers to any corporation in which the listed corporation has direct or indirect shareholdings.

- 10.29** Does the term “another person” as used in Rules 10.08(11)(c), (g), (k), (l), (m), (n) and (o) of the ACE LR include investee corporations of the listed corporation?

Yes, “another person” includes investee corporations of the listed corporation.

- 10.30** What is meant by “no other interested relationship” as used in Rules 10.08(11)(c), (l), (m), (n) and (o) of the ACE LR?

For the purposes of Rules 10.08(11)(c), (l), (m), (n) and (o) of the ACE LR, there would be “no other interested relationship” if the transaction does not involve any other interest of related party(ies).

10.31 Other than prices or charges, what are the “material terms” as envisaged under Rule 10.08(11)(g)(ii) of the ACE LR?

The phrase “material terms” would include terms such as the mode of payment or settlement or the period of settlement.

10.32 If the listed corporation gives discounts on the provision of its goods on the basis of volume or bulk purchases to all its customers, can such provision still fall within the exemption set out in Rule 10.08(11)(g) of the ACE LR?

Yes, provided that the provision of goods meets the conditions set out in Rule 10.08(11)(g). However, discounts given or granted purely on the basis that the customer is a related party will not meet the condition that “all material terms are applied consistently to all customers or classes of customers.”

10.33 *ZZ Bhd*, a listed corporation, is an investment holding company and it has one main subsidiary, *YY Sdn Bhd* which conducts stockbroking business. *YY Sdn Bhd* provides a wide range of products or services to its clients which may involve related parties. As *ZZ Bhd*'s main business involves or relates to dealings in securities, can *ZZ Bhd* rely on Rule 10.08(11)(g) of the ACE LR in respect of dealings in securities involving related parties to state that such transactions are not related party transactions, particularly since securities do not fall within the ambit of Rule 10.08(11)(g) of the ACE LR?

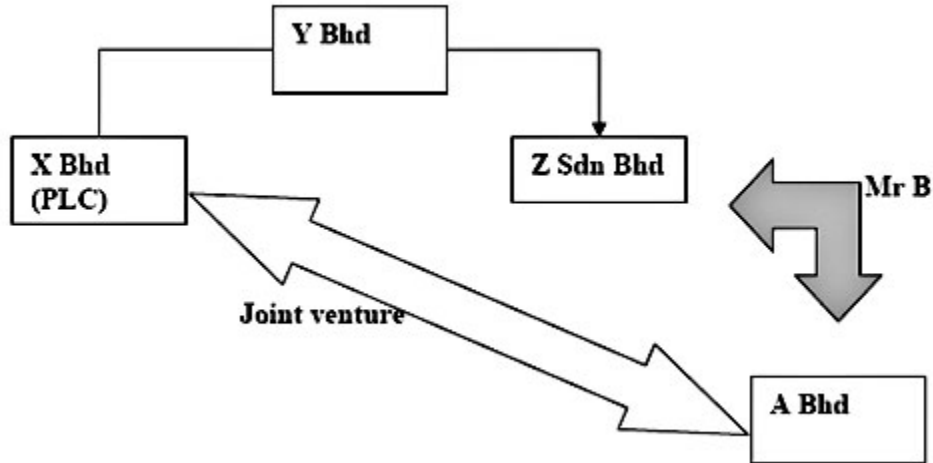
The products or services provided by *ZZ Bhd* to its related parties such as taking orders to acquire or dispose securities, nominees and custody services which although are in relation to securities, would come within the ambit of “stockbroking services” under Rule 10.08(11)(g) of the ACE LR. Therefore, offering of such products or services to *ZZ Bhd*'s related parties would not be considered as related party transactions provided that all conditions in Rule 10.08(11)(g) of the ACE LR are fulfilled. However, *ZZ Bhd*'s dealings in securities as a principal would not be exempted under Rule 10.08(11)(g) of the ACE LR (as the definition of “goods” excludes securities) and therefore, would be regarded as related party transactions if they involve interests of related parties.

10.34 In order to come within the ambit of “published or publicly quoted” as provided under Rule 10.08(11)(g) of the ACE LR, must the prices be advertised to the public?

In order to satisfy the criterion of “published or publicly quoted” under Rule 10.08(11)(g), the prices need not be advertised. So long as the pre-determined prices are or can be made readily available to the public or customers, this criterion is deemed satisfied.

10.35 *X Bhd*, a listed corporation, has a holding company, i.e. *Y Bhd*. *Y Bhd* has a subsidiary, *Z Sdn Bhd*. *X Bhd* is proposing to enter into a joint venture arrangement with *A Bhd*. *Mr B* who is a director and substantial shareholder of *Z Sdn Bhd* is also a substantial shareholder of *A Bhd*. Assuming that *Mr B* has no interest in *X Bhd* or *Y Bhd*, is this a related party transaction?

Illustration 1



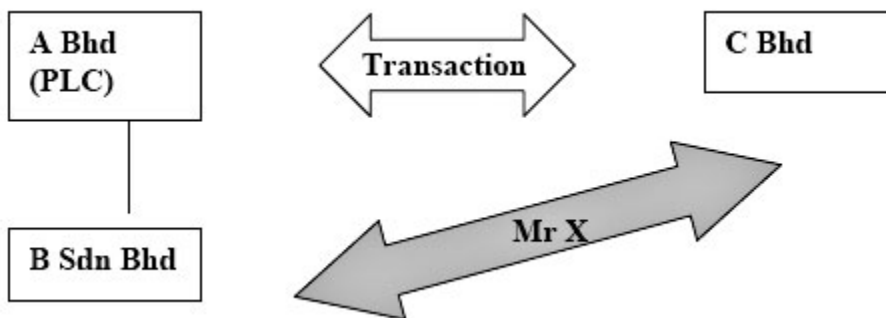
No, based on the above facts, in view of the definition of “related party” under the ACE LR, the joint venture with *A Bhd* is not a related party transaction as it does not involve the interest of any related party (i.e. directors, major shareholders or persons connected with them) of *X Bhd* and *Y Bhd*.

10.36 Referring to the facts as set out in Question 10.35 above, will a transaction between *X Bhd* and *Z Sdn Bhd* be deemed a related party transaction?

Yes, a transaction between *X Bhd* and *Z Sdn Bhd*, its sister company, will be deemed to be a related party transaction as it involves the interests of a common major shareholder, *Y Bhd*.

10.37 *A Bhd*, a listed corporation, is entering into a transaction with *C Bhd*. *Mr X* who is a director of a subsidiary of *A Bhd*, i.e. *B Sdn Bhd*, is also a director and a substantial shareholder of *C Bhd*. *A Bhd* has no holding company. Assuming that *Mr X* has no interest in *A Bhd*, is this a related party transaction?

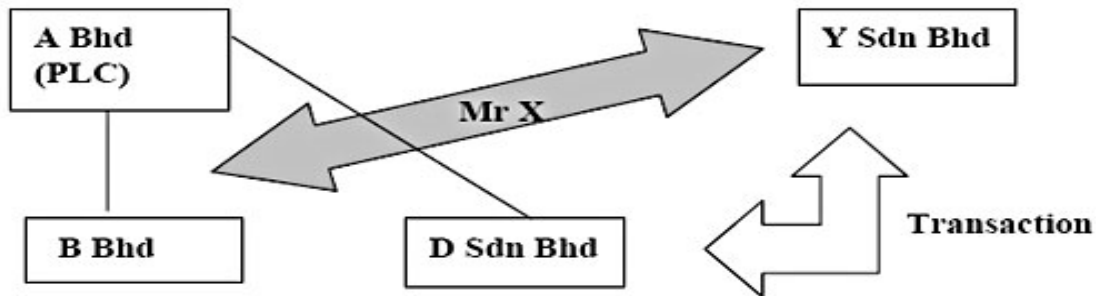
Illustration 2



No, based on the facts above, this transaction is exempted under Rule 10.08(11)(n) of the ACE LR.

- 10.38 *D Sdn Bhd*, a subsidiary company of *A Bhd*, the listed corporation, is entering into a transaction with *Y Sdn Bhd*. *Mr X* who is a director of *B Bhd*, a subsidiary of the listed corporation is also a director and a substantial shareholder of *Y Sdn Bhd*. *A Bhd* has no holding company. Assuming that *Mr X* has no interest in *A Bhd*, is this a related party transaction?

Illustration 3



No, based on the facts above, this transaction is exempted under Rule 10.08(11)(o) of the ACE LR.

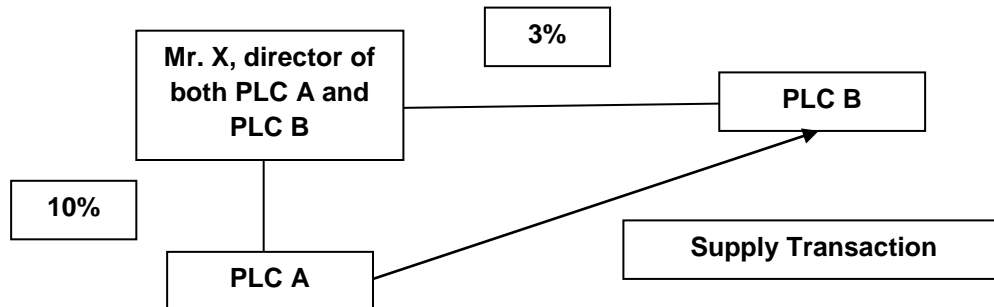
- 10.39 Referring to the facts as set out in Question 10.38 above, *D Sdn Bhd*, is entering into a transaction with *Y Sdn Bhd*. *Mr Z* who is a director and a substantial shareholder of *D Sdn Bhd* is also a director and a substantial shareholder of *Y Sdn Bhd*. *A Bhd* has no holding company. Assuming that *Mr Z* has no interest in *A Bhd*, the listed corporation, is this a related party transaction?

Yes, this situation is considered a related party transaction. However, pursuant to Rule 10.08(9) of the ACE LR, *A Bhd* does not need to obtain shareholder approval, issue a circular or appoint an independent adviser or engage the service of a Sponsor or Adviser. *A Bhd* must however make an announcement which contains the prescribed information under Rule 10.08(1) of the ACE LR. In addition, the board of directors of *A Bhd* must approve the transaction before the terms of the transaction are agreed upon and ensure that the transaction is fair and reasonable to *A Bhd* and is in the best interests of *A Bhd*.

- 10.40 *X Bhd* is a listed corporation. *X Bhd* holds 20% of the total shares in *Y Sdn Bhd*. *Mr. A* is a major shareholder of *X Bhd* and *Y Sdn Bhd*. *X Bhd* intends to dispose of its 20% shareholding in *Y Bhd* to the shareholders in *X Bhd*, including *Mr. A*, on a pro-rata basis via a restricted offer for sale. Will this be considered as a related party transaction?

No, pursuant to Rule 10.08(11)(q) of the ACE LR, this disposal will not be considered as a related party transaction.

- 10.41 *PLC A* and *PLC B* are listed corporations. *Mr. X* is the common director of *PLC A* and *PLC B*. *Mr. X* has shareholdings of 10% in *PLC A* and 3% in *PLC B* respectively. *PLC A* enters into a supply transaction with *PLC B*. What is the nature of the supply transaction vis-à-vis *PLC A* and *PLC B*?



In so far as *PLC A* is concerned, the supply transaction would not be regarded as a related party transaction pursuant to Rule 10.08(11)(c) of the ACE LR provided that *Mr. X* does not receive or derive any benefits from *PLC A* and *PLC B* in relation to the said transaction. The transaction would however be regarded as a related party transaction vis-à-vis *PLC B*.

- 10.42 *ABC Berhad* and/or its subsidiaries propose(s) to enter into the following transactions:

No.	Details of transactions	Party(ies)	Highest percentage ratio triggered	Value of consideration given or received
1.	Transaction 1 in September 2009	<i>ABC Berhad</i> and <i>Mr. X</i> , a major shareholder of <i>ABC Berhad</i>	5%	RM90,000
2.	Transaction 2 in October 2009	<i>ABC Berhad</i> and <i>Syarikat 123 Sdn Bhd</i> , a joint venture company of <i>ABC Berhad</i> and <i>Mr. Z</i> , a major shareholder of <i>ABC Berhad</i> .	0.22%	RM500,000

What are the obligations of *ABC Berhad* in relation to the above transactions?

The obligations of *ABC Berhad* are as follows:

Transaction 1

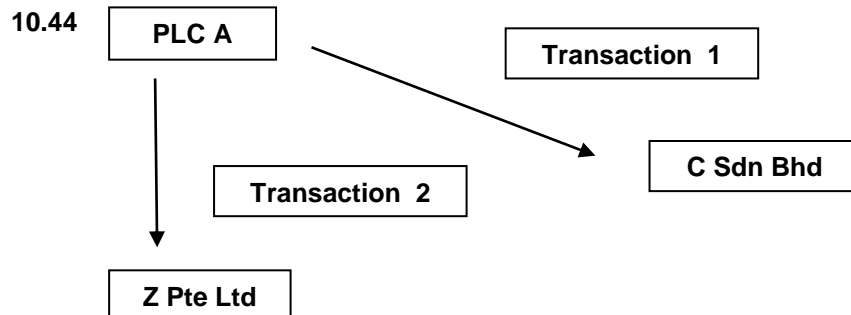
Pursuant to Rule 10.08(1)(a) of the ACE LR, no obligation is triggered by *ABC Berhad* in relation to the related party transaction as even though the highest percentage ratio triggered is 5% (i.e. threshold for shareholder approval for related party transactions), the value of consideration given is less than RM200,000.

Transaction 2

Pursuant to Rule 10.08(1) of the ACE LR, as the highest percentage ratio is less than 0.25%, no requirement is imposed on *ABC Berhad* to immediately announce the related party transaction.

- 10.43** *Mr. X holds an aggregate nominal amount of 8% of the voting shares in ABC Berhad, a listed corporation and he is not the largest shareholder of ABC Berhad. Is he a major shareholder in ABC Berhad under Chapter 10 of the ACE LR?*

No, even though he holds more than 5% of the aggregate of the nominal amounts of all the voting shares in *ABC Berhad* (“shareholdings”), he is not regarded as a major shareholder of *ABC Berhad* under Chapter 10 of the ACE LR as he holds less than 10% of the shareholdings and is not the largest shareholder of *ABC Berhad*.



PLC A proposes to enter into Transactions 1 and 2 with *C Sdn Bhd* and *Z Pte Ltd* respectively. The terms and conditions of the transactions were agreed upon on 30 January 2010. *Mr. C*, a director and major shareholder of *C Sdn Bhd*, was also a director and major shareholder in *PLC A* but has resigned as a director of and disposed of his shares in *PLC A* on 1 September 2009 and 29 September 2009 respectively. *Mr. Z*, a director and major shareholder of *Z Pte Ltd*, was also a major shareholder of *PLC A* before 1 March 2009. Are Transactions 1 and 2 related party transactions?

As Transaction 1 involves the interest of *Mr. C* who was a director and major shareholder of *PLC A* within the preceding 6 months from 30 January 2010, Transaction 1 is regarded as a related party transaction pursuant to the ACE LR.

However, as Transaction 2 merely involves the interest of *Mr. Z* who is no longer a major shareholder within the preceding 6 months from 30 January 2010, *Mr. Z* is not regarded as a major shareholder under the new definition of “major shareholder” and Transaction 2 would not be regarded as a related party transaction pursuant to the ACE LR.

Recurrent related party transaction of a revenue or trading nature and necessary for its day to day operations (“RRPT”)

- 10.45** *If the relevant percentage ratio of a RRPT exceeds 0.25%, must a listed corporation announce the RRPT?*

The threshold set out in Rule 10.08(1) i.e. if the relevant percentage ratio is 0.25% or more is not applicable to RRPTs. The obligation to immediately announce RRPTs (where no mandate has been obtained) is set out in Rule 10.09(1) of the ACE LR.

10.46 Must a listed corporation obtain shareholder approval for RRPTs, where such transactions reach the threshold that requires shareholder approval?

Yes, however, the shareholder approval may be in the form of a general mandate from shareholders procured on a yearly basis pursuant to Rule 10.09 of the ACE LR. Where no general mandate is obtained from its shareholders, specific shareholder approval must be obtained for such transactions that reach the threshold which requires shareholder approval before the said transaction is completed.

10.47 A Berhad obtains a general mandate from its shareholders on 3 September 2009 for among others, RRPT with its major shareholder, Mr. X, as follows:

- (i) supply of cement for an estimated value of RM2 million; and
- (ii) rental of cranes for an estimated value of RM5 million.

After obtaining the general mandate, assuming -

- (a) the actual value of the RRPT entered into by *A Berhad* with *Mr. X* up to 3 June 2010 is RM8 million, what is the obligation of *A Berhad* under the ACE LR in regard to under the Main LR in regard to the deviation between the estimated and actual value of the RRPT?

Since the actual value of the RRPT entered into by *A Berhad* with *Mr. X* exceeds the estimated value of the RRPT by 10% or more, *A Berhad* must immediately announce the deviation to Bursa Securities pursuant to Rule 10.09(2)(e) of the ACE LR (“**Announcement 1**”). *A Berhad* must include in Announcement 1 the information set out in Annexure GN8-B of Guidance Note 8.

- (b) up to 15 July 2010, the actual value of the RRPT entered by *A Berhad* with *Mr. X* has increased to RM8.6 million, must *A Berhad* announce the RRPT again?

No, *A Berhad* is only required to announce the RRPT again when there is an increment of at least RM0.7 million (i.e. 10% of the general mandate estimated value of RM7 million) to the actual amount disclosed in Announcement 1.

10.48 Pursuant to Rule 10.09(2)(e) of the ACE LR, a listed corporation must immediately announce to the Exchange when the actual value of a RRPT (“Actual Value”) entered into by the listed corporation, exceeds the estimated value of the RRPT (“Estimated Value”) disclosed in the circular by 10% or more. Can the listed corporation wait until its next AGM (which is the date on which the current mandate expires) to make this announcement?

No, the listed corporation must make the announcement immediately when it becomes aware that the Actual Value has exceeded the Estimated Value by 10% or more. This applies even though the current mandate has yet to expire. For this purpose, the listed corporation is expected to closely monitor and track the value of the RRPTs transacted, as and when a transaction is entered into.

- 10.49 *A Bhd* has obtained mandate from shareholders for entering into the following RRPTs with corporations involving the interests of its director, *Mr. X*:

Transaction No.	Description	Estimated Value (RM)
1	Acquisition of stationery	500,000
2	Provision of secretarial, accounting and registration services	2,500,000
3	Receipt of insurance services/products	4,000,000
	Total	7,000,000

- (a) For the purpose of determining whether the Actual Value of the RRPTs entered into by *A Bhd* with *Mr. X* exceeds the Estimated Value, can *A Bhd* use the aggregated Estimated Value for Transactions 1, 2 and 3 and compare it to the aggregated Actual Value for the 3 transactions?

Yes, as Transaction 1, 2 and 3 involve the interests of the same related party, pursuant to Rule 10.12 of the ACE LR, *A Bhd* may aggregate, the Estimated Value and Actual Value of those transactions respectively and determine whether the aggregated Actual Value exceeds the aggregated Estimated Value by 10% or more, in which case an announcement would be required.

- (b) Assuming only the actual value of Transaction 2 exceeds 10% of its estimated value, but the aggregated actual value of Transactions 1, 2 and 3 is below the aggregated estimated value of the RRPT or does not exceed the aggregated estimated value of the RRPT by 10% or more, must *A Bhd* make an announcement under Rule 10.09(2)(e) of the ACE LR relating to Transaction 2 only?

No, *A Bhd* need not make such announcement for Transaction 2 only. It only needs to announce under Rule 10.09(2)(e) of the ACE LR if the aggregated actual value of Transactions 1, 2 and 3 exceeds the aggregated estimated value of the RRPT by 10% or more.

- 10.50 Pursuant to paragraph 3 of Annexure GN8-A, a listed corporation has to disclose, among others, the “*estimated aggregate value of the respective Recurrent Related Party Transactions contemplated under the Mandate*” (“Estimated Value”). What are the RRPTs covered under the Estimated Value?

For the purpose of paragraph 3 of Annexure GN8-A, the listed corporation must disclose the Estimated Value in respect of RRPTs expected to be entered into from the date of the current AGM until the date of the next AGM.

10.51 Pursuant to paragraph 11 of Annexure GN8-A, a listed corporation must disclose the thresholds for the approval of RRPTs within its group of corporations.

(a) What is the approval referred to in paragraph 11?

It refers to the listed corporation's internal approval.

(b) Does Bursa Securities prescribe these thresholds?

No, the listed corporation may determine the appropriate thresholds for the approval of RRPTs within its group of corporations.

(c) A *Bhd* currently has its own internal authority matrix for approvals of transactions/procurement. However, this authority matrix makes no distinction between a transaction/procurement which involves the interest of a related party and a transaction/procurement which does not involve the interest of a related party. Can *A Bhd* use this authority matrix for the purpose of disclosure pursuant to paragraph 11 of Annexure GN8-A?

Yes, so long as the said authority matrix is wide enough to cover the RRPTs for which shareholders approval is being sought, *A Bhd* may use its internal authority matrix for the purpose of disclosure under paragraph 11 of Annexure GN8-A.

10.52 Pursuant to paragraph 12 of Annexure GN8-A, a listed corporation must include a statement that at least 2 other contemporaneous transactions with unrelated third parties for similar products/services and/or quantities will be used as comparison, wherever possible, to determine whether the price and terms offered to/by the related parties are fair and reasonable, and comparable to those offered to/by other unrelated third parties for the same or substantially similar type of produces/services and/or quantities. If a listed corporation can find only one other contemporaneous transaction with an unrelated third party, would it be deemed in compliance with paragraph 12 of Annexure GN8-A?

Yes, but the listed corporation must disclose in its circular that it has used its best endeavours to locate at least 2 contemporaneous transactions with unrelated third parties, but could only locate one.

10.53 *A Bhd's* AGM for its financial year ended 31 December 2008 was on 8 May 2009 ("2009 AGM"), while the AGM for its financial year ending 31 December 2009 falls on 20 May 2010 ("2010 AGM"). During its 2009 AGM, *A Bhd* has obtained its shareholder mandate for some RRPTs. *A Bhd* intends to obtain its shareholder approval to renew the RRPTs at the 2010 AGM. Pursuant to paragraph 14 of Annexure GN8-A, in its circular to renew the RRPTs, *A Bhd* must disclose the actual value transacted of each RRPT from the date on which the mandate was obtained (8 May 2009) up to the latest practicable date before the printing of the circular (assuming it falls on 15 April 2010) ("Actual Value"). Must this Actual Value be audited?

No, the Actual Value need not be audited. *A Bhd* may extract the Actual Value from its management accounts.

Major Disposal

- 10.54** What is meant by “substantially all of a listed corporation’s assets” under the definition of “Major Disposal” in Rule 10.02(eA) of the ACE LR?

Disposal of “substantially all of the listed corporation’s assets” refers to a disposal by a listed corporation of almost all of its assets, which is so material that upon the completion of the transaction, it will result in the listed corporation triggering the criteria for a cash company under Rule 8.03 and Guidance Note 2 or any of the criteria prescribed under Rule 8.04 and Guidance Note 3 of the ACE LR.

- 10.55** Under Rule 10.11A(1)(bA) of the ACE LR, a listed corporation undertaking a Major Disposal is required to conduct a valuation on all its material real estate if the total net book value of all the listed corporation’s real estate contributes 50% or more to the total assets of the listed corporation on a consolidated basis. What constitutes material real estate for the purpose of Rule 10.11A(1)(bA) of the ACE LR?

Bursa Securities does not prescribe a definition or threshold for material real estate under Rule 10.11A(1)(bA) of the ACE LR. Generally, material real estate is real estate owned by the listed corporation that will reflect a close estimate of the total real estate value of the listed corporation.

- 10.56** If a Major Disposal also involves a take-over offer pursuant to the Take-Overs and Mergers Code, can the independent adviser required to be appointed under the Take-Overs and Mergers Code and under the ACE LR for the Major Disposal be the same party?

Yes, the independent adviser appointed can be the same party. The said independent adviser must comply with the relevant requirements under both the Take-Overs and Mergers Code as well as the ACE LR.

- 10.57** Where the Major Disposal involves a related party, can the independent adviser required to be appointed for the related party transaction and the Major Disposal be the same party?

Yes, the independent adviser appointed can be the same party. The said independent adviser must comply with the relevant requirements under Rules 10.08 (Related Party Transaction) and 10.11A (Major Disposal) of the ACE LR.

- 10.58** Where the consideration for the Major Disposal is by way of cash or partly in cash, who should make the statement whether the acquirer has sufficient financial resources to undertake the acquisition, as required under paragraph 4 in Part I of Appendix 10A of the ACE LR?

The announcement in relation to the Major Disposal as required under paragraph 4 in Part I of Appendix 10A of the ACE LR is to be made by the listed corporation that is disposing its assets. In making the statement, the board of directors of the listed corporation must take all reasonable steps to satisfy itself that the acquirer has sufficient financial resources to undertake the acquisition.

Aggregation of transactions**10.59 What is the definition of “parties connected with one another” as used in Rule 10.12(2)(a) of the ACE LR?**

“Parties connected with one another” has the same meaning as assigned to “person connected” with a director or a major shareholder, as contained in Chapter 1 of the ACE LR.

10.60 Z Bhd, a listed corporation enters into transactions involving the acquisitions and disposal of securities in A Sdn Bhd with various parties who are not connected with each other. The transactions are as follows:

Transactions	Type of Transactions	Date of Transactions	Relevant % ratio
Transaction 1	Acquisition from a related party	October 2009	1%
Transaction 2	Acquisition from a non-related party	November 2009	4%
Transaction 3	Acquisition from a non-related party	February 2010	21%

Must the above transactions be aggregated to determine whether Z Bhd needs to comply with Chapter 10 of the ACE LR in respect of the aggregated transactions?

Yes, pursuant to Rule 10.12(2)(b) of the ACE LR and paragraph 2.0 of Guidance Note 7, the transactions must be aggregated as follows:

- Transaction 2 will be aggregated with Transaction 1 where Z Bhd will be required to announce Transactions 1 and 2 in accordance with Rule 10.06 of the ACE LR.
- Transaction 3 will be aggregated with Transactions 1 and 2 where Z Bhd will be required to, amongst others, seek its shareholder approval for Transaction 3 in accordance with Rule 10.07 of the ACE LR. However, Z Bhd must ensure that the circular issued to its shareholders includes information on Transactions 1, 2 and 3.

Contents of announcements and circulars**10.61 Can a listed corporation appoint a foreign valuer to prepare the requisite valuation report on the foreign assets proposed to be acquired under item 3 of Part F Appendix 10B of the ACE LR?**

Yes, a listed corporation may appoint an independent valuer registered with the relevant professional body in the country where the foreign asset is located independently or jointly with an independent registered valuer in Malaysia to prepare the requisite valuation report. Further, the listed corporation must also ensure that the appointment of the valuer including the independent registered valuer in Malaysia fulfils the requirements under the SC’s Asset Valuation Guidelines in relation to the appointment of valuer for valuation of foreign property assets.

10.62 “Conflicts of interest” on the part of the adviser or expert, where appointed which is required to be disclosed in circulars to shareholders has been defined to mean circumstances or relationships which affect or may affect the ability of the adviser or expert to act independently and objectively or where the adviser or expert has an interest in the outcome of the proposal which interferes or is likely to interfere with its independence and objectivity. What are the factors that should be taken into consideration by the adviser or expert to ascertain whether the “conflict of interest” exists?

The factors that should be taken into consideration by the adviser or expert to ascertain whether the “conflict of interest” exists or is likely to exist in relation to its role as an adviser or expert are varied and subjective. The adviser or expert must make that assessment and take all reasonable steps to ascertain whether the conflict of interest exists or is likely to exist. After that, full disclosure must be made in the circular of the nature and extent of the conflict of interests.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 3 August 2009)**

CHAPTER 12 – SHARE BUY-BACKS

12.1 Under the ACE LR, can all listed corporations undertake a share buy-back?

No, listed corporations may undertake a share buy-back only after their Sponsorship Period, provided that they fulfill the conditions set out under Chapter 12 of the ACE LR, including procuring their shareholder approval for the share buy-back.

12.2 Is it mandatory for a listed corporation to issue a circular to its shareholders when it seeks renewal of authorisation from its shareholders to purchase its own shares?

No, where it is a renewal of an existing authorisation, the listed corporation has an option of issuing either a circular or a statement accompanying the notice of general meeting i.e. the Share Buy-back Statement.

12.3 If a listed corporation obtains an authorisation from its shareholders to purchase its own shares in year 2009 but did not renew the said authorisation in year 2010, can it still issue a Share Buy-back Statement to its shareholders to seek their authorisation for the purchase of its own shares in year 2011?

No, under Rule 12.06 of the ACE LR, listed corporations are only allowed to issue a Share Buy-back Statement to renew an existing authorisation. If the listed corporation does not renew the said authorisation in year 2010, it will lapse. As such, in year 2011, there will not be an existing authorisation and the listed corporation will have to issue a circular to procure its shareholder approval for the purchase of its own shares.

12.4 Under Rule 7.15 of the ACE LR, notices of general meetings are required to be advertised in a daily press. Are listed corporations required to advertise the Share Buy-back Statement as well?

No, only notices of the general meeting for the renewal of an existing authorization for share buy-back are required to be advertised in the daily press.

12.5 A Bhd, a listed corporation has an issued and paid-up capital of RM100 million comprising of 100 million ordinary shares of RM1.00 each. Pursuant to its authorisation in year 2009, A Bhd had purchased 10 million of its own shares and retained the shares purchased as treasury shares. Can A Bhd still purchase its own shares in year 2010?

No, pursuant to Rule 12.09 of the ACE LR, A Bhd must not purchase its own shares or hold any of its own shares as treasury shares if this results in the aggregate of the shares purchased or held exceeding 10% of its issued and paid-up capital. Hence, as the treasury shares held by A Bhd in year 2010 is already 10% of its issued and paid-up capital, A Bhd may not purchase its own shares in year 2010. However, if the treasury shares are cancelled in year 2010 and subject to the authorisation from shareholders, A Bhd may purchase its own shares subsequently.

- 12.6** Based on the same facts as in Question 12.5 above, assuming that pursuant to its authorisation in year 2009, A Bhd had purchased 5 million of its own shares and cancelled the shares purchased in April 2009. What is the remaining number of its own shares that A Bhd may purchase in year 2009?

Pursuant to Rule 12.09 of the ACE LR, A Bhd may purchase an additional 5 million of its own shares for the remaining period in year 2009.

- 12.7** B Bhd, a listed corporation has an issued and paid-up capital of RM120 million comprising 120 million ordinary shares of RM1.00 each. For year 2009, B Bhd procured its shareholder approval to undertake share buy-back of up to 10% of its issued and paid-up capital. Pursuant to its authorisation in year 2009, B Bhd had purchased 3 million of its own shares in February 2009 and retained the shares purchased as treasury shares. Subsequently in August 2009, the issued and paid-up capital of B Bhd is reduced to RM100 million upon completion of its corporate exercise. What is the remaining number of its own shares that B Bhd may purchase in year 2009?

The maximum limit that a listed corporation may purchase its own shares or hold any of its own shares as treasury shares under Rule 12.09 of the ACE LR will be based on the adjusted issued and paid-up capital of the listed corporation pursuant to a corporate exercise. Hence, in this case, the maximum limit of its own shares that B Bhd may purchase in year 2009 is 10 million based on its adjusted issued and paid-up capital in August 2009 and in view of the 3 million shares purchased in February 2009, B Bhd may purchase an additional 7 million of its own shares for the remaining period in year 2009.

- 12.8** What does “cost of purchase” in Rule 12.18(b)(ii) of the ACE LR refer to?

The “cost of purchase” refers to the amount paid by the listed corporation for the shares, which includes the transaction costs.

- 12.9** M Bhd, a listed corporation purchases 10,000 of its own shares in January 2010 and keeps them as treasury shares. Subsequently, M Bhd wishes to sell the treasury shares on 12 March 2010 (i.e. more than 30 days from the date of purchase, in accordance with Rule 12.18 of the ACE LR). The weighted average market price of M Bhd’s shares for the 5 market days preceding the resale on 12 March 2010 (“5 days weighted average market price”) is RM2.00. Can M Bhd sell its treasury shares at RM1.60 on 12 March 2010?

No, M Bhd is not permitted to sell its treasury shares at RM1.60 on 12 March 2010. The price of RM1.60 represents a discount of 20% from the 5 days weighted average market price of RM2.00, which exceeds the 5% discount on the 5 days weighted average market price immediately before 10 March 2010. According to Rule 12.18 of the ACE LR, a listed corporation may only sell its treasury shares at a discount if the discount is not more than 5% of the 5 days weighted average market price.

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- 12.10 N Bhd, a listed corporation purchases 15,000 of its own shares in January 2010 and keeps them as treasury shares. Subsequently, N Bhd wishes to sell the treasury shares on 19 March 2010 (i.e. more than 30 days from the date of purchase, in accordance with Rule 12.18 of the ACE LR). The 5 days weighted average market price of N Bhd's shares immediately before 19 March 2010 is RM3.20. Can N Bhd sell its treasury shares at RM3.10 on 19 March 2010?**

Yes, N Bhd may sell its treasury shares at RM3.10 on 19 March 2010 provided that the price of RM3.10 is not less than the cost of purchase of the shares being sold. In fact, N Bhd may sell its treasury shares at any price not less than RM3.04 on 19 March 2010, which represents a discount of not more than 5% from the 5 days weighted average market price of RM3.20 immediately before 19 March 2010 provided that the price is not less than the cost of purchase of the shares being resold.

QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 17 June 2009)

CHAPTER 13 – ARRANGEMENTS AND RECONSTRUCTIONS

Subdivision of shares

13.1 Can a Cash Company or a GN3 Company apply for subdivision of its shares?

Cash Companies and GN3 Companies may apply for subdivision of their shares only if the subdivision is undertaken as part of a proposal or plan to regularise their condition pursuant to Rules 8.03 and 8.04 of the ACE LR respectively.

13.2 One of the criteria for subdivision of shares, i.e. Rule 13.05(b) of the ACE LR is that the issued and paid up capital of the listed corporation must be unimpaired by losses on a consolidated basis (“Criterion (b)”). What does this mean?

It means that the listed corporation’s shareholders’ funds on a consolidated basis must be at least equal to or greater than the issued and paid up capital of the corporation.

13.3 If the listed corporation has accumulated losses on a consolidated basis but has other reserves, would the listed corporation fulfill Criterion (b)?

The listed corporation would fulfill Criterion (b) as long as its shareholders’ funds, after the issued and paid up capital is adjusted for accumulated losses and reserves, is equal to or greater than the issued and paid up capital.

13.4 Is there a requirement as regards how many shares one share of the listed corporation can be subdivided into?

No, there is no requirement on the manner in which the shares must be subdivided, provided that the listed corporation’s share price adjusted for the subdivision of shares must not be less than RM0.50 based on the daily closing price of the listed corporation’s shares during the 3-month period before the application date.

Others

13.5 What are the enhancements in relation to a Specified Capital Restructuring¹ exercise (“Specified Capital Restructuring”) under the SPEEDS processing?

Specified Capital Restructuring (i.e. capital reduction, consolidation of shares or shares cancellation) will no longer require a suspension on the trading of securities. In addition, such corporate exercise can be completed earlier, i.e. on the next market day after the books closing date.

¹ “Specified Capital Restructuring” means capital restructuring involving share cancellation and reduction in the number of shares held by each shareholder of a listed corporation.

**Chapter 13 Arrangements and Reconstructions
[Questions & Answers]**

13.6 Is a listed corporation required to submit any document to Bursa Depository before the books closing date for the purpose of processing the Specified Capital Restructuring under SPEEDS?

The listed corporation must submit an undertaking letter in the prescribed format to Bursa Depository on the announcement date of the books closing date for Specified Capital Restructuring that is to be processed under SPEEDS. The undertaking letter must include the following:

- (a) The current issued and paid up capital of the listed corporation;
- (b) Designated CDS account for the crediting of fractional shares /rights;
- (c) Options on the allotment of fractional rights; and
- (d) An undertaking that the new share certificates shall be submitted to Bursa Depository on the books closing date.

13.7 Is there any fee imposed by Bursa Depository for the processing of shares from the Specified Capital Restructuring under SPEEDS and if so, how much is the fee?

Bursa Depository will impose on the listed corporation a processing fee of RM0.50 per account processed under SPEEDS. The processing fee is inclusive of the fee for the Record of Depositors (“**ROD**”). The fee of RM2.20 for the crediting of shares per account allotted remains the same.

13.8 When is the share registrar required to submit the new certificates to Bursa Depository for the Specified Capital Restructuring to be processed under SPEEDS?

For share registrars located within Klang Valley, the new certificates must reach Bursa Depository by 5.30 p.m. on the books closing date and in respect of outstation share registrars, the new certificates must be faxed to Bursa Depository by 5.30 p.m. on the books closing date before being delivered to Bursa Depository. In relation to Specified Capital Restructuring, Bursa Depository will return the old certificates to the relevant share registrar on the listing date.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 27 January 2015)**

CHAPTER 14 – DEALINGS IN SECURITIES

- 14.1** *ABC Berhad* has fixed the targeted date for announcement of its 1st quarterly results for 2010 on 15 May 2010. *Mr X*, a director of *ABC Berhad*, intends to deal with the shares of *ABC Berhad*. If the announcement of *ABC Berhad's* 1st quarterly results is made on 15 May 2010, what is the closed period for dealings by *Mr. X*?

Closed period is defined in Rule 14.02(b) of the ACE LR to mean a period commencing 30 calendar days before the targeted date of announcement of a listed corporation's quarterly results up to the date of announcement of the quarterly results.

As the targeted and actual date of announcement for *ABC Berhad's* 1st quarterly results falls on 15 May 2010, the closed period for dealings by *Mr. X* will commence from 15 April 2010 until 15 May 2010.

- 14.2** The term “dealing” under Rule 14.02(c) of the ACE LR includes “acquiring or disposing of securities or any interest in securities”. Does this include “transferring”?

Yes, the terms “acquiring or disposing” include “transferring” of securities or any interest in securities.

- 14.3** During the closed period, a principal officer of the listed corporation transfers his shares in the listed corporation to his wife and the consideration is in-kind (as opposed to cash). Is this regarded as a dealing in securities and hence, require notification?

“Dealing” is defined under Rule 14.02(c) of the ACE LR to include any disposal of securities or any interest in securities. As such a transfer of a principal officer's shares in the listed corporation to his wife without consideration or consideration in-kind would be regarded as dealing in securities under Chapter 14 of the ACE LR and subject to the notification requirements set out in that Chapter.

- 14.4** Are the requirements in Chapter 14 only applicable to dealing by affected persons personally?

No, the dealings falling under Chapter 14 include those undertaken by the affected persons as principal or as agent. This includes dealing via the nominee company of the affected persons. In this respect, a nominee company includes a body corporate which is wholly owned by the affected persons or where the affected persons have a controlling interest or a body corporate which 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 the affected persons.

14.5 *X* is the chief financial officer of *A Berhad*, a corporation listed on Bursa Securities. If *X* does not have access or is not privy to price sensitive information in relation to *A Berhad*, will he still be considered as a principal officer for the purpose of Rule 14.03 of the ACE LR?

Yes, pursuant to Rule 14.02(i) of the ACE LR, since *X* is a chief financial officer of *A Berhad*, he is considered as a principal officer of *A Berhad*.

14.6 When an affected person deals in the listed securities of his own listed corporation during closed periods, and the dealing falls within Rule 14.06¹ of the ACE LR (“14.06 Dealings”), are the affected person, the listed corporation and the company secretary exempted from the requirements of both Rules 14.08 and 14.09?

No, they are only exempted from the requirements of Rule 14.08. All 14.06 Dealings are still subject to Rule 14.09 of the ACE LR.

14.7 *X* is a director of *A Berhad*. Does he need to comply with the dealing procedures set out in Rule 14.08 or 14.09 if he wishes to deal with the listed securities of *A Berhad*’s associate, subsidiary, or related corporation during or outside the closed period?

No. *X* is only required to comply with the dealing procedures set out in Rule 14.08 or 14.09 if he wishes to deal with the listed securities of *A Berhad*.

14.8 Pursuant to Rule 14.08 of the ACE LR, a director who wishes to deal in securities during a closed period must announce the proposed dealing to Bursa Securities before the proposed dealing. Currently, all announcements to Bursa Securities are made via the Bursa LINK. How can a director make an announcement to Bursa Securities if he has no access to the Bursa LINK?

The director who wishes to make an announcement to Bursa Securities should request the listed corporation to send the announcement to Bursa Securities on his behalf using the Bursa LINK.

¹ Rule 14.06 reads as follows:

The following categories of dealings are exempted from the restrictions or requirements of Rules 14.04 and 14.05 respectively:

- (a) the acceptance or exercise of options or rights under a Share Issuance Scheme or share option scheme;
- (b) the exercise of warrants;
- (c) the conversion of convertible securities;
- (d) the acceptance of entitlements under an issue or offer of securities, where such issue or offer is made available to all holders of a listed issuer’s securities or to all holders of a relevant class of its securities, on the same terms;
- (e) the undertaking to accept, or the acceptance of a take-over offer; and
- (f) the undertaking to accept, or the acceptance of securities as part of a merger by way of a scheme of arrangement.

14.9 A director must announce his dealings in securities within the timeframes stipulated under the ACE LR. Should the director still proceed to announce the dealings even if it is no longer within the timeframes prescribed under the ACE LR?

Yes, the director should still proceed to make the announcement even if it is no longer within the timeframes prescribed under the ACE LR to mitigate the failure to comply with the ACE LR

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 3 May 2016)**

CHAPTER 15 – CORPORATE GOVERNANCE

Directors

- 15.1 To calculate the number of independent directors required under Rule 15.02 of the ACE LR, should the listed corporation take into account the number of alternate directors?**

No. The listed corporation must not take into account alternate directors for the purpose of calculating the requisite number of independent directors in order to comply with Rule 15.02 of the ACE LR.

- 15.2 Can an independent director appoint a person who is not independent to be his alternate director?**

No. If an independent director wishes to appoint another person to be his alternate director, such person must also satisfy the definition of “independent director” under Rule 1.01 of the ACE LR.

- 15.3 A listed corporation has 10 directors on board. However, there are only 3 independent directors. Does the listed corporation comply with Rule 15.02 of the ACE LR or does the listed corporation have to appoint another independent director?**

Yes, the listed corporation would be in compliance with Rule 15.02 as the number nearest to 1/3rd shall apply, which in this scenario would be 3 independent directors.

- 15.4 Would a director who sits on the boards of directors of a few listed corporations be required to provide a separate undertaking in respect of each listed corporation?**

No. Such director may provide one undertaking to Bursa Securities in respect of all his directorships in various listed corporations. However, if after filing the undertaking, such director becomes a director of another listed corporation which is not indicated in the undertaking, he must provide another undertaking in respect of that listed corporation.

- 15.5 Is the requirement to provide Bursa Securities with the requisite undertaking in Annexure GN15-C and Annexure GN15-D of Guidance Note 15 pursuant to Rule 15.03 of the ACE LR applicable to alternate directors?**

Yes, alternate directors must also provide to Bursa Securities the undertaking in the form of Annexure GN15-C and/or Annexure GN15-D, as the case may be.

15.6 Under the ACE LR, are there any persons who are specifically disqualified from acting as a director of a listed corporation?

Yes. Under Rule 15.05(1) of the ACE LR, the following persons may not act as a director of a listed corporation or be involved either directly or indirectly in the management of a listed corporation, including in an advisory capacity:

- a person who has been convicted by a court of law, whether within Malaysia or elsewhere, of an offence in connection with the promotion, formation or management of a corporation;
- a person who has been convicted by a court of law, whether within Malaysia or elsewhere, of an offence, involving fraud or dishonesty or where the conviction involved a finding that he acted fraudulently or dishonestly; or
- a person has been convicted by a court of law of an offence under the Capital Market and Services Act 2007, Securities Industry (Central Depositories) Act 1991, Securities Commission Act 1993 or the Companies Act 1965,

within a period of 5 years from the date of conviction or if sentenced to imprisonment, from the date of release from prison, as the case may be.

15.7 Rule 15.05(3)(c) of the ACE LR states that the office of a director shall become vacant if the director is absent from more than 50% of the total board of directors' meetings held during a financial year. If *Mr A* is appointed as a director of *B Bhd*, a listed corporation, mid-way through a financial year, how does *Mr A* compute the minimum number of board meetings that he must attend for that financial year?

The computation of the minimum number of board meetings to be attended in the financial year will take into account only the meetings that were held on or after the appointment of the director in question. Therefore, if *B Bhd's* financial year end is December 2009, *Mr A* is appointed on 15 August 2009 and the number of board meetings held after his appointment is 6, *Mr A* must attend at least 3 of the board meetings.

15.8 Can the attendance of an alternate director be taken into account for the purpose of computation of the 50% of the total number of board meetings attended?

No. The director himself (and not his alternate director) must personally attend at least 50% of the total number of board meetings held during a financial year.

15.9 Can a board of directors' meeting that is conducted via teleconferencing, video conferencing or other electronic, audio or audio-visual means which allows simultaneous or instantaneous transmission be considered as a board of directors' meeting of a listed corporation for the purposes of Rule 15.05(3)(c) of the ACE LR?

Yes, provided that such mode of meeting is valid under the relevant laws and/or articles of association of the listed corporation concerned.

- 15.10 It is noted that a director of a listed corporation must attend at least 50% of the total board meetings held during a financial year pursuant to Rule 15.05(3)(c) of the ACE LR (“50% Requirement”). What happens if a director fails to comply with the 50% Requirement? Will that particular director be deemed to have automatically vacated his office?**

Pursuant to the ACE LR, the office of the director shall become vacant if the director fails to comply with the 50% Requirement. In this regard, the vacation of the office would be automatic and the listed corporation must make an immediate announcement of the vacation of office pursuant to Rule 15.05(3)(c) of the ACE LR.

- 15.11 Rule 15.06(1) of the ACE LR states that a director of an applicant or a listed corporation must not hold more than 5 directorships in listed issuers. Does the restriction apply to directorships held in corporations listed overseas?**

No. The restriction is only applicable to directorships held in listed issuers on Bursa Securities. Hence, in computing the number of directorships that may be held pursuant to the restriction, a director should take into account his directorships held in -

- (a) listed corporations (which include locally incorporated companies listed on Bursa Securities or corporations incorporated outside Malaysia but listed on Bursa Securities);
 - (b) management companies of the collective investment schemes which are listed on Bursa Securities; or
 - (c) issuers of any other listed securities on Bursa Securities.
- 15.12 Can a director aggregate a directorship that is held in a listed subsidiary with directorship in the listed holding company?**

No. A directorship in a listed company is to be counted as 1 directorship in a listed issuer and cannot be aggregated with a directorship in any other company, including a listed subsidiary.

- 15.13 Would a director of a listed corporation who lives overseas be required to attend the Mandatory Accreditation Programme (“MAP”)?**

Yes. Every director of a listed corporation must attend the MAP, regardless of his place of residence.

- 15.14 Would an alternate or substitute director of a listed corporation be required to attend the MAP?**

Yes, an alternate or substitute director of a listed corporation must also attend the MAP.

- 15.15 What happens if a director does not attend the MAP within the timeframes specified under Guidance Note 10?**

A director that does not attend the MAP within the timeframes specified under Guidance Note 10 is in breach of the ACE LR and enforcement action may be taken against him by Bursa Securities.

15.16 Pursuant to Rule 15.08(2) of the ACE LR, the board of directors must on a continuous basis, evaluate and determine the “training” needs of its directors. What would constitute “training” for the purposes of Rule 15.08(2) of the ACE LR?

Pursuant to Rule 15.08(2) of the ACE LR, the board of directors of the listed corporation is given the discretion to determine what constitutes “training” for its directors. In this respect, “training” could include, for example, the following:

- in-house training programmes organised by listed corporations for their directors;
- courses attended by directors as members of professional bodies which require mandatory training for their members;
- diploma/degree/post graduate courses; or
- courses/workshops conducted within or outside Malaysia.

15.17 Can the “training” prescribed by the board of directors for its directors relate to any topic at all, as may be determined at the absolute discretion of the board?

Under Rule 15.08(2) of the ACE LR, the training that is determined by the board of directors for its directors must be on a subject matter that aids the directors in the discharge of their duties as directors. Thus the board must exercise its discretion within the confines of that requirement.

In this regard, the findings from annual performance assessment of directors are useful as they provide valuable insights into the training and development needs of directors. The board or nominating committee will be able to prescribe the training required by its directors based on the areas for improvement identified in the findings. In addition, the board may also regularly request each director to identify appropriate training that he believes will enhance his contribution to the board.

Broadly, the training should include key developments in the legal and regulatory framework, as well as the industry within which the listed corporation operates. The training could also cover areas such as financial literacy, technical know-how, business and industry specific trends, business strategies, risk management and internal control.

15.18 Under Rule 15.08(3)(b) and item (29) of Appendix 9C of the ACE LR, a brief description of the type of training attended by the directors for the financial year is required to be disclosed in the annual report. What are examples of the type of information that is required to be included in the brief description?

Examples of the types of information that should be disclosed in the brief description are the mode of training i.e. via seminar, workshops or courses; the title of the seminar, workshop or courses and the number of hours/days spent.

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- 15.19 Under Rule 15.08(3)(c) and item (29) of Appendix 9C of the ACE LR, a listed corporation must provide valid justifications if, in exceptional circumstances, its directors are unable to attend any training during the financial year. What are some of the “exceptional circumstances” envisaged under Rule 15.08(3)(c) of the ACE LR?**

Generally, a director is expected to attend continuous training to update and enhance his skills and knowledge. This is important for the director to ensure that he continues to carry out his role effectively. It is also recognized that there may be exceptional circumstances where a director may not be able attend any training. However, these circumstances should be **rare and uncommon**, such as if a director is suffering from a long term illness or is bedridden over a prolonged period.

Generally, it **will not be** considered as an exceptional circumstance if a director is unable to attend any training because he does not have the time due to business commitment or tight schedule for instance, or there are no suitable programmes or courses available.

Nominating committee

- 15.20 Rule 15.08A(3) of the ACE LR states that a listed corporation must provide in its annual report, a statement about the activities of its nominating committee in the discharge of its duties for the financial year. Such statement must include how the requirements set out in Rule 2.20A of the ACE LR are met and contain the following information:**

- (a) the policy on board composition having regard to the mix of skills, independence and diversity (including gender diversity) required to meet the needs of the listed corporation;**
- (b) the board nomination and election process of directors and criteria used by the nominating committee in the selection process; and**
- (c) the assessment undertaken by the nominating committee in respect of its board, committees and individual directors together with the criteria used for such assessment.**

Can a listed corporation publish the information required under sub-Rule (a), (b) and (c) above on its website instead of the annual report?

A listed corporation must publish the above information in its first annual report issued after the effective date of Rule 15.08A(3). In respect of the subsequent financial years, the listed corporation may publish such information on its website provided that the requirements under Rule 9.25(1) of the ACE LR are complied with.

- 15.21 Must a listed corporation disclose the targets and measures taken to meet the targets in relation to its gender diversity policy when it provides its statement on the activities of its nominating committee pursuant to Rule 15.08A(3) of the ACE LR?**

Although Rule 15.08A(3) of the ACE LR does not explicitly require such disclosure, a listed corporation is strongly encouraged to disclose the targets and measures taken to meet the targets in relation to its gender diversity policy as recommended in the Malaysian Code on Corporate Governance.

In this regard, we wish to draw the listed corporation's attention to the announcement made by the Prime Minister Datuk Seri Najib Tun Razak on 27 June 2011 on the Government's policy approved by the Cabinet that women must comprise at least 30% of those in decision-making positions in the corporate sector within 5 years (i.e. by 2016).

Audit committee

- 15.22 Would a person with a degree in accounting and who possesses 3 years' post qualification experience in finance but who is currently not a member of Malaysian Institute of Accountants meet the requirements of Rules 9.27 and 15.09(1)(c) of the ACE LR?**

Yes, pursuant to paragraph 7.1 of Guidance Note 9, such person would be acceptable for the purposes of Rules 9.27 and 15.09(1)(c) of the ACE LR.

- 15.23 What are some of the examples of persons who have "experience in accounting or finance" as referred to in paragraph 7.1 of Guidance Note 9?**

Some of the examples of persons who have "experience in accounting or finance" are accountants, auditors in an audit firm, financial controllers, finance executives, finance managers or finance directors.

- 15.24 Mr A started as a clerk in a corporation and gradually worked his way up to being a finance director. He has in total 20 years' experience in finance related work. In the last 8 years, he was the finance director of a family-owned company where he was primarily responsible for the management of the financial affairs of the corporation. However, he only has a diploma in accounting. Does Mr A meet the requirements of Rules 9.27 and 15.09(1)(c) of the ACE LR?**

Yes, pursuant to paragraph 7.1 of Guidance Note 9, Mr A's qualifications will be acceptable for the purposes of Rules 9.27 and 15.09(1)(c) of the ACE LR.

- 15.25 Who will be the signatory to the statutory declaration pursuant to section 169(16) of the Companies Act 1965, who may be approved by Bursa Securities as referred to under Rule 9.27(c) of the ACE LR? Similarly, what are the other requirements as may be approved by Bursa Securities under Rule 15.09(1)(c)(iii) of the ACE LR, pertaining to the audit committee?**

The approval will be given on the basis of an application made by a listed corporation. Bursa Securities will examine the merits of each application and the approval of such signatory or requirements pertaining to audit committee member will be given on a case by case basis.

- 15.26 In relation to the requisite qualifications for the signatory under Rule 9.27 of the ACE LR and a member of the audit committee under Rule 15.09 of the ACE LR, if the person concerned fulfils the requirements set out in the said provisions or paragraph 7.1 of Guidance Note 9 (“Said Qualifications”), does he still have to submit an application to Bursa Securities for approval?**

No. He does not have to submit any application to Bursa Securities for approval. The requirement to seek Bursa Securities’ approval is only necessary if the person concerned does not fulfill the Said Qualifications but is nonetheless considered by the listed corporation to have the requisite knowledge and experience that will enable him to discharge his obligations as a signatory or audit committee as if he had the Said Qualifications.

- 15.27 In relation to Rule 9.27 of the ACE LR where it is stated that the “signatory” must satisfy such other requirements as approved by Bursa Securities, what are the specific requirements that may be approved by Bursa Securities?**

The “signatory” must provide justification to Bursa Securities that the knowledge and experience that he has are adequate to enable him to discharge his role effectively as a signatory to the statutory declaration even though he does not have the Said Qualifications. This justification will be considered by Bursa Securities on a case-by-case basis.

- 15.28 To whom should the application for approval under Rules 9.27 and 15.09 of the ACE LR as referred to in Question 15.27/15.26 above be made?**

Any application should be made in writing to the Listing Division of Bursa Securities, addressed to the Head, Listing together with the necessary documents to support the application.

- 15.28A Under Rule 15.12(1)(j) of the ACE LR, an audit committee is required to review whether there is reason (supported by grounds) to believe that the listed corporation’s external auditor is not suitable for re-appointment, and make the relevant recommendation to the board.**

What are some of the key factors that may assist the audit committee in determining whether such reason exists where the external auditor is not suitable for re-appointment?

In making the determination, the audit committee should, in addition to the suitability factors as set out in Rule 15.21 of the ACE LR¹, also consider the performance of the external auditor and its independence such as -

¹ Rule 15.21 of the ACE LR provides that in appointing an external auditor, a listed corporation must consider, among others –

- (a) the adequacy of the experience and resources of the accounting firm;
- (b) the persons assigned to the audit;
- (c) the accounting firm’s audit engagements;
- (d) the size and complexity of the listed corporation’s group being audited; and
- (e) the number and experience of supervisory and professional staff assigned to the particular audit.

-
- the external auditor's ability to meet deadlines in providing services and responding to issues in a timely manner as contemplated in the external audit plan;
 - the nature of the non-audit services provided by the external auditor and fees paid for such services relative to the audit fee; and
 - whether there are safeguards in place to ensure that there is no threat to the objectivity and independence of the audit arising from the provision of non-audit services or tenure of the external auditor.

15.28B Pursuant to Rule 15.15(3)(d) of the ACE LR, a listed corporation must disclose in the audit committee report, a summary of work of the audit committee in the discharge of its functions and duties for the financial year, and how the audit committee has met its responsibilities. What is the information that a listed corporation is expected to disclose under this requirement?

When describing the summary of work of the audit committee in the discharge of its functions and duties, and how the audit committee has met its responsibilities, a listed corporation must be mindful that the purpose is to provide shareholders with an insight on how the audit committee performed its functions during the financial year, to, among others, safeguard the integrity of financial reporting.

Hence, the listed corporation is expected to discuss the areas over which the audit committee exercised its oversight, and explain with sufficient details what it did to execute its oversight responsibilities.

For example, the listed corporation should, in relation to the audit committee's role to oversee financial reporting, include details such as –

- the dates when the audit committee met with the external (and internal) auditors without the presence of management and the topics discussed;
- identified new financial reporting standards and other standards that were discussed and which may have had a significant impact on the listed corporation's financial statements;
- the review undertaken on matters relating to management judgments and estimates;
- the processes and controls that were in place for effective and efficient financial reporting and disclosures under the financial reporting standards.

With regards to the audit committee's role to review any related party transactions ("RPTs") and conflict of interest ("COI") situations that may arise within the listed corporation or group, the listed corporation should include –

- information on the framework in place for the purposes of identifying, evaluating, approving, reporting and monitoring such COI situations and transactions; and
- the key considerations taken by the audit committee when it reviews the RPTs or COI situations.

The listed corporation must avoid providing a generic or boilerplate statement that fails to reflect the breadth and depth of the important activities undertaken by the audit committee. It should also avoid merely re-stating its terms of reference or charter, which is typically static information that should be made available on the listed corporation's website.

The listed corporation and its audit committee may be further guided in disclosing the summary of the audit committee's work as required under Rule 15.15(3)(d) of the ACE LR by referring to the **Corporate Governance Guide: Towards Boardroom Excellence (2nd Edition)** and the **2015 Analysis of Corporate Governance Disclosures in Annual Reports**².

15.28C What is a listed corporation expected to disclose in the summary of the work of the internal audit function under Rule 15.15(3)(e) of the ACE LR?

Similar to the above, a listed corporation should provide information which enables shareholders to have an insight into how the internal audit function discharged its roles and responsibilities during the financial year. With such information, shareholders are able to understand better the effectiveness and efficiency of the governance, risk management and internal control processes in place. The disclosure would also assist shareholders in assessing whether the audit committee has carried out its oversight duties over the internal audit, effectively.

In this regard, the listed corporation should provide information on the key specific areas that were audited and other information such as the resources made available to the internal audit function as well as the internal audit reporting and communication flow i.e. what was done with the internal audit report and whether concerns, if any, identified by internal audit in its report were addressed, during the financial year. The listed corporation should avoid providing generic statements about the general responsibilities of the internal audit function or its terms of reference which do not inform shareholders of the actual work performed by the internal audit function.

The listed corporation and its audit committee may be further guided in disclosing the summary of the internal audit function's work as required under Rule 15.15(3)(e) of the ACE LR by referring to the **Corporate Governance Guide: Towards Boardroom Excellence (2nd Edition)** and the **2015 Analysis of Corporate Governance Disclosures in Annual Reports**.

15.29 In view of Rule 15.17(f) of the ACE LR, can the company secretary of a listed corporation still attend the audit committee meeting?

Yes, the company secretary may attend. The discretion lies with the audit committee, whether it wishes to also exclude the attendance of the company secretary.

² This is available on Bursa Malaysia's website at:
<http://www.bursamalaysia.com/misc/system/assets/16493/2015%20Analysis%20of%20Corporate%20Governance%20Disclosures%20in%20Annual%20Reports%20-%20Report.pdf>

Corporate Governance Statement

- 15.30 Are there any specific requirements in relation to the disclosure to be made in the annual report in relation to the Malaysian Code on Corporate Governance?**

Guidance Note 11 elaborates on the disclosures to be made in the annual report of a listed corporation in relation to this requirement.

- 15.31 Under paragraph 3.2 of Guidance Note 11, a listed corporation must ensure that it has regard to the Recommendations when disclosing the application of each Principle. In view of this, must the listed corporation comment separately on each Recommendation with which it follows?**

In describing how it has applied each Principle, a listed corporation need not comment separately on each Recommendation with which it follows. However, a listed corporation must ensure that its Corporate Governance Statement in its annual report contains adequate information and provides a meaningful description or discussion of its corporate governance practices to shareholders.

- 15.32 Can a listed corporation insert the Corporate Governance Statement (as referred to Guidance Note 11) in its directors' report in the annual report?**

Yes, a listed corporation may insert the Corporate Governance Statement in its directors' report in the annual report. However, a listed corporation must ensure that the said statement is prominently and clearly set out.

- 15.33 Must the Corporate Governance Statement be signed by the directors of a listed corporation in the same manner as the directors' report?**

No. It is not the requirement of Bursa Securities that the Corporate Governance Statement must be signed by the directors of a listed corporation. However, the statement must clearly identify the board of directors as the party which is making the statement.

- 15.34 Does the Corporate Governance Statement have to be reviewed by external auditors of a listed corporation?**

No, it is not the requirement of Bursa Securities that the said statement must be reviewed by the external auditors of the listed corporation.

Risk Management and Internal Control Statement

- 15.35 Is there any guidance to assist directors of listed corporations in making the statement on risk management and internal control?**

In addition to Guidance Note 11, directors should also refer to the guidance entitled "Statement on Risk Management and Internal Control: Guidelines for Directors of Listed Issuers" issued by the Taskforce on Internal Control. A copy of the said guidelines is available on Bursa Securities' website at www.bursamalaysia.com.

Internal audit**15.36 What is meant by “an internal audit function which is independent of the activities it audits” as referred to under Rule 15.27 of the ACE LR?**

This means that the internal audit function of a listed corporation must be independent from the management and operations. A listed corporation must not allow or condone inter-management audit. For example, finance department performing audit on the other operation units within the group of a listed corporation. For the purposes of clarifying the phrase “independent of the activities of its audits”, reference may be made to the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors and the Internal Auditing Guidelines issued by the Malaysian Institute of Accountants (collectively referred to as “the Internal Audit Standards & Guidelines”).

15.37 Can the internal audit function of a listed corporation be outsourced?

Yes. The internal audit function of listed corporation can either be performed in-house or outsourced.

15.38 Where the internal audit function of a listed corporation is outsourced, what is the key issue that must be taken into consideration?

The key issue is the independence and objectivity of the firm/person to whom the internal audit function is outsourced. Again, for the purposes of clarifying the issue of “independence and objectivity”, reference may be made to the Internal Audit Standards & Guidelines.

15.39 Can the internal audit function be outsourced to the firm/person performing the statutory audit for the listed corporation?

Pursuant to section 290.186A of the By-Laws (On Professional Ethics, Conduct And Practice) of the Malaysian Institute of Accountants (“**Ethics By-Laws**”), where a financial statement audit client is a listed entity or public interest entity, the firm or network of firm performing the financial statement audit should not accept an engagement to provide internal audit services.

As such, the internal audit function of a listed corporation should not be outsourced to the firm/person performing the statutory audit for the listed corporation.

15.40 Can the internal audit function be outsourced to a group internal auditor who may be the internal auditor of the holding company, the subsidiary or subsidiary of the holding company?

Yes, all these can be considered as outsourcing. The listed corporation, however, must always adhere to the requirements of “independence and objectivity”.

15.41 With reference to Questions 15.37, 15.38 and 15.39 above, what are the requirements that must be complied with by the external party to whom the internal audit function is outsourced?

This depends on who the external party is. Such party must always comply with whatever legal requirements imposed on it by the relevant bodies or which it is subject to, in offering its services as an internal auditor. For example, in the case of a member of the Malaysian Institute of Accountants, it would have to comply with the Institute's requirements. This would include the Ethics By-Laws.

**QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 27 January 2015)**

CHAPTER 16 – SUSPENSION, DE-LISTING & ENFORCEMENT

Suspension of trading imposed by Bursa Securities

16.1 In relation to a voluntary winding-up of a listed corporation, when would Bursa Securities suspend the trading of its listed securities?

Pursuant to Rule 16.02(1)(h) of the ACE LR, Bursa Securities may suspend the trading of a listed corporation's listed securities upon the commencement of a voluntary winding-up in accordance with the Companies Act 1965. Pursuant to section 255(6) of the Companies Act, 1965, a voluntary winding-up commences –

(a) where a provisional liquidator has been appointed before the resolution for voluntary winding-up was passed, at the time when the declaration referred to in section 255(1) of the Companies Act, was lodged with the Registrar of Companies; or

(b) at the time of the passing of the resolution for voluntary winding-up,

as the case may be.

Withdrawal of listing

16.2 In a take-over offer situation pursuant to the Take-Overs and Mergers Code, other than those effected by way of a scheme of arrangement, compromise, amalgamation or selective capital reduction –

(a) when can a listed corporation withdraw its listing status?

In a take-over offer situation pursuant to the Take-Overs and Mergers Code, other than those effected by way of a scheme of arrangement, compromise, amalgamation or selective capital reduction, a listed corporation may withdraw its listing from the Official List of Bursa Securities when 90% or more of its listed shares (excluding treasury shares) are held by one shareholder either individually or jointly with associates of the said shareholder and the listed corporation has announced the offeror's intention not to maintain the listed corporation's listing status.

(b) must a listed corporation seek shareholder approval pursuant to Rule 16.06 of the ACE LR to withdraw its listing status?

No, a withdrawal of listing by a listed corporation in this situation is not subject to Rule 16.06 of the ACE LR and as such, no specific shareholder approval is required for the withdrawal.

Chapter 16 Suspension, De-listing & Enforcement
[Questions & Answers]

- 16.3 What are the types of corporate proposals envisaged in Rule 16.07(b) of the ACE LR where a listed corporation may withdraw its listing upon 100% of its listed shares being held by a shareholder either individually or jointly with the associates, and the listed corporation has announced the offeror's intention not to maintain the listed corporation's listing status?**

The corporate proposals in Rule 16.07(b) of the ACE LR include, among others, a scheme of arrangement, compromise, amalgamation or selective capital reduction under the Take-Overs and Mergers Code, and a Major Disposal.

Trading halt

- 16.4 If material information is announced during trading hours, for example a resolution in relation to a material corporate proposal rejected at an extraordinary general meeting which ended in the morning, will trading of securities of the listed corporation be suspended?**

Generally, if any announcement in relation to material corporate proposals including those stipulated under paragraph 2.1 of Guidance Note 14 is released during trading hours, unless the listed corporation has requested for a suspension of trading under Guidance Note 5, Bursa Securities will impose trading halt for 1 hour or until the end of that trading session, whichever is the earlier. The details of the trading halt periods are as set out in paragraph 3.1 of Guidance Note 14.

- 16.5 During PLC A's Board Meeting held on Monday, 24 August 2009 at 11.00 a.m., the Board resolves, amongst others, the declaration of a dividend. After the meeting ends at 12.45 p.m., PLC A immediately announces the declaration of dividend. Will trading halt be imposed on PLC A's securities?**

Pursuant to paragraph 3.1 of Guidance Note 14, a trading halt will not be imposed on PLC A's securities as the announcement on the declaration of dividend is made and released during the trading session break from 12.30 p.m. to 1.00 p.m. and investors have the opportunity to digest the information before the commencement of trading at 2.30 p.m.. However, where Bursa Securities is of the view that the period is insufficient for purposes of dissemination of a material announcement, Bursa Securities may, at its discretion impose a suspension pursuant to paragraph 3.2 of Guidance Note 14.

- 16.6 PLC B announces its quarterly report for the financial period ended 30 September 2009 ("3rd QR") on 30 November 2009 at 5.30 p.m. Will trading halt be imposed on PLC B's securities on 1 December 2009 (i.e. the next market day)?**

Generally, Bursa Securities will not impose any trading halt when a material announcement is released after 5 p.m. because investors have the opportunity to digest the information before the commencement of trading at 9 a.m. on the next market day. However, pursuant to paragraph 3.2 of Guidance Note 14, Bursa Securities may at its discretion, suspend the trading of the listed corporation's securities for the entire day or such period as Bursa Securities deems appropriate.

Enforcement**16.7 Other than the listed corporations, are there any other persons against whom Bursa Securities may take enforcement actions for breaches of the ACE LR?**

In addition to the listed corporations, Bursa Securities is empowered to take enforcement actions against advisers, directors, officers of listed corporations as well as any other persons to whom the ACE LR are directed.

16.8 If a listed issuer breaches the Main LR, can enforcement action be taken against its directors?

Yes, enforcement action can be taken against a director of a listed issuer, where the listed issuer has breached the Main LR under the circumstances referred to in paragraph 16.13 of the Main LR. In addition, enforcement action can also be taken against a director if he breaches an obligation imposed specifically on him as a director pursuant to the Main LR.

**QUESTIONS AND ANSWERS IN RELATION TO
FEES AND CHARGES FOR THE ACE MARKET
(As at 1 April 2015)**

Introduction

1. **Under the Fees and Charges, the amount of certain listing fees payable is based on the total market value of the issued capital of the listed corporation. What is the basis for calculating the said market value?**

The basis for calculating the market value of the security is provided for in paragraph 1.1 of the Fees and Charges.

2. **Pursuant to paragraph 1.1(a)(ii)(aa) of the Fees and Charges, in the case of initial listing fees where there is no issue or offer price, the market value of the security shall be based on the last traded price on the first day of listing. In this situation, when must the listing fees be paid to Bursa Securities?**

In this situation, listing fees must be paid to Bursa Securities on the next market day following the first day of listing.

Computation of listing fees for shares

3. **ABC Berhad has an existing issued and paid-up capital of RM25 million comprising of 25 million shares of RM1.00 each. ABC Berhad is to be listed on the ACE Market on 1 March 2010 and in conjunction with its listing, ABC Berhad is undertaking a public offering of 5 million new ordinary shares of RM1.00 each at an issue price of RM3.00 per share.**

- (a) **Based on paragraph 2.1 of the Fees and Charges, what is the amount of the initial listing fee payable by ABC Berhad?**

Based on paragraph 2.1 of the Fees and Charges, the initial listing fee will be calculated based on the market value of the enlarged issued and paid-up capital of ABC Berhad upon listing. The calculation is as follows:

Initial listing fee = 0.01% of total market value of issued capital of ABC Berhad

$$0.01\% \times [\text{RM}3.00 \times (25,000,000 + 5,000,000)] = \text{RM}9,000.$$

However, the minimum listing fee under paragraph 2.1 of the Fees and Charges is RM10,000. As such, the initial listing fee payable by ABC Berhad is RM10,000.

(b) ABC Berhad is listed on 1 March 2010.

(i) What is the annual listing fee payable by ABC Berhad for the year 2010?

As the nominal value of the issued and paid-up capital of ABC Berhad at the date of listing is RM30 million, pursuant to paragraph 2.3(a) of the Fees and Charges, the annual listing fee payable by ABC Berhad for the year 2010 is RM10,000.

(ii) Bearing in mind that ABC Berhad is only listed halfway through 2010, will the annual listing fee of RM10,000 be pro-rated for 2010?

No, ABC Berhad must pay the full fixed annual listing fee of RM10,000 for year 2010. The said amount of RM10,000 will not be pro-rated as it is a fixed fee payable by listed corporations.

(iii) As at 31 December 2010, ABC Berhad's issued and paid-up capital has increased to RM60 million. What is the annual listing fee payable by ABC Berhad for the year 2011?

Pursuant to paragraph 2.3(b) of the Fees and Charges, the annual listing fee payable by ABC Berhad for 2011 is RM20,000.

4. In relation to the annual listing fees payable by ACE Market corporations:

(a) What constitutes "nominal value"?

For the purposes of determining the amount of the annual listing fee payable by ACE Market corporations, "nominal value" is calculated as follows:

Nominal value = Par value of the shares/securities as at 31 December x Total number of shares/securities of the listed corporation as at 31 December

(b) Are treasury shares included in the above calculation of "nominal value"?

Yes, treasury shares form part of the "total number of shares/securities of the listed corporation as at 31 December" referred to in paragraph (a) above.

5. M Berhad is listed on the ACE Market. In January 2010, M Berhad submits its listing application for a Share Issuance Scheme to be implemented in 2010. In view that a separate quotation application is no longer required to be submitted to Bursa Securities, when will the additional listing fees for the Share Issuance Scheme be payable to Bursa Securities?

The fixed sum of RM10,000 being the additional listing fees is payable at the point of submission of the listing application to Bursa Securities.

6. Which category in the Fees and Charges would “preference shares” fall under in relation to the listing fees payable?

“Preference shares” would fall under the following:

- (a) Paragraph 2 of the Fees and Charges (Listing of fees for shares) which applies to non-convertible preference shares; or
- (b) Paragraph 4 of the Fees and Charges (Listing fees for convertible equity securities) which applies to convertible preference shares, whether irredeemable or otherwise.

7. XYZ Berhad is an existing listed corporation which proposes to undertake a bonus issue of 1 new share for every 2 existing shares held by its shareholders. How much is the additional listing fees payable by XYZ Berhad?

XYZ need not pay any additional listing fees. However, pursuant to paragraph 6.3 of the Fees and Charges, XYZ Berhad needs to pay a fixed processing fee of RM5,000.

8. N Berhad is an existing listed corporation on the ACE Market who wishes to undertake a corporate proposal comprising of a rights issue, private placement and issuance of shares for debt settlement purposes. How will the additional listing fees be calculated in respect of this proposal?

The additional listing fees payable by N Berhad in respect of the rights issue, private placement and issuance of shares for debt settlement purposes will be calculated separately notwithstanding that the shares are issued as part of one corporate proposal.

Listing fees for convertible equity securities

9. A listed corporation has issued warrants in March 2009 which are due to mature in March 2015. Assuming that based on paragraph 4.3 of the Fees and Charges, such listed corporation is required to pay the fixed annual listing fee of RM10,000 in respect of such warrants.

(a) Will the fixed annual listing fee of RM10,000 be pro-rated in 2009?

No, the listed corporation must pay the full amount of the fixed annual listing fee of RM10,000 for the year 2009.

(b) Will the fixed annual listing fee of RM10,000 be pro-rated in 2015?

Yes, the fixed annual listing fee of RM10,000 will be pro-rated according to the number of months the warrants are listed in the year of maturity (i.e from January until March 2015).

So the minimum annual listing fee payable by the listed corporation for the year 2015 is -

$$= (\text{RM}10,000 / 12 \text{ months}) \times 3 \text{ months}$$

$$= \text{RM}2,500.00$$

10. **Should the computation of annual listing fees for warrants and transferable subscription rights (“TSRs”) be based on the nominal value of the warrants/TSRs or the number of warrants/TSRs?**

Pursuant to paragraph 4.3 of the Fees and Charges, the computation of annual listing fees for warrants shall be based on the total number of outstanding warrants or TSRs as at 31 December. The nominal value of securities is applicable when computing other types of convertible equity securities such as convertible preference shares.

Valuation review fee

11. **Pursuant to a bonus issue proposal, A Bhd is required to conduct and submit a valuation report to Bursa Securities under Rule 6.32 of the ACE LR, for the purpose of disclosures in circulars for A Bhd’s bonus issue. Does A Bhd need to pay any valuation review fee to Bursa Securities?**

No, based on paragraph 7.1 of the Fees and Charges, the valuation review fee will only be charged when the valuation report is prepared for the purpose of disclosures in circulars and documents which require prior perusal by Bursa Securities. In this instance, the valuation report is prepared for the purpose of disclosures in circulars for bonus issue, which do not require the prior perusal of Bursa Securities under Rule 9.30 of the ACE LR. Therefore, A Bhd need not pay any valuation review fee to Bursa Securities.

12. **B Bhd intends to acquire several pieces of real estate. The total market value of the real estate is RM150 million and the percentage ratio of the proposed acquisition is 30%. The proposed acquisition will also result in a significant change in B Bhd’s business direction or policy. Pursuant to Rule 10.04 of the ACE LR, B Bhd is required to submit a valuation report for the real estate that it intends to acquire.**

- (a) Does B Bhd need to pay any valuation review fee to Bursa Securities?**

Yes. The circular in relation to the proposed acquisition is subject to Bursa Securities’ prior perusal under Rule 9.30(5) of the ACE LR. Pursuant to paragraph 7.1 of the Fees and Charges, valuation review fees will be charged for valuation reports submitted in relation to such circular.

- (b) If the answer to Question (a) above is yes, what is the valuation review fee payable by B Bhd to Bursa Securities?**

Pursuant to paragraph 7.1 of the Fees and Charges, the valuation review fees that B Bhd need to pay to Bursa Securities is –

$$\begin{aligned}
 &= 0.01\% \text{ of the total market value of the real estate that it intends to acquire} \\
 &= 0.01\% \times (\text{RM}150,000,000) \\
 &= \text{RM}15,000
 \end{aligned}$$

-
13. **Listed corporations are required to submit to Bursa Securities a copy of the details of the computation of the amount of initial and additional listing fees payable pursuant to Rule 2.20(8) of the ACE LR (“Submission”). Does the ACE LR prescribe the contents of the Submission?**

No. The ACE LR does not prescribe the contents of the Submission.

Sponsor

14. **ABC is an Adviser seeking admission to the Register of Sponsors. What is the applicable fees payable by ABC to Bursa Securities in respect of its admission to the Register of Sponsors?**

Part B of the Fees and Charges sets out the relevant fees payable for admission into the Register of Sponsors as follows:

- (a) initial admission fee of RM250,000 for its admission to the Register of Sponsors; and
- (b) annual fee of RM25,000.