
CHAPTER 12 SHARE BUY-BACKS**PART A – GENERAL****12.01 Introduction**

This Chapter sets out the requirements that must be complied with by a listed corporation or a listed issuer which is a business trust or REIT in respect of the purchase of its own securities.

PART B – DEFINITIONS**12.02 Definitions**

For the purpose of this Chapter, unless the context otherwise requires -

- (a) **“Direct Business Transaction”** means a transaction in securities entered into outside the Automated Trading System of the Exchange (**“ATS”**) in accordance with the Rules of the Exchange;
- (b) **“odd lot”** in relation to any securities quoted on the Official List, means any number of such securities which is less than the number of securities prescribed by the Exchange as a board lot;
- (c) **“On-Market Married Transactions”** has the meaning given under the Rules of the Exchange; and
- (d) **“on the market”** transaction means transaction made through the ATS and it excludes Direct Business Transactions, and On-Market Married Transactions.

PART C – GENERAL REQUIREMENTS**12.03 Authorisation**

A listed corporation must not purchase its own shares unless its shareholders have, by ordinary resolution passed at a general meeting, given an authorisation to its directors to make such purchase(s) and –

- (a) where it is incorporated under the Companies Act, it complies with sections 112, 113 and 127 of the Companies Act; or
- (b) where it is a foreign corporation, it complies with sections 112, 113 and 127 of the Companies Act subject to the necessary modifications.

12.04 On the market transactions

Subject to paragraphs 12.25(1) and 12.26(2) below, a listed corporation must ensure that any purchase by the listed corporation of its own shares, or resale of its treasury shares is effected only on the market of the Exchange.

12.05 Announcement of intention to propose a share buy-back

A listed corporation must immediately announce to the Exchange any decision by its board of directors to submit to shareholders a proposal for the listed corporation to be authorised to purchase its own shares.

12.06 Share Buy-back Statement to shareholders for purchase of own shares

- (1) A listed corporation seeking authorisation from its shareholders to purchase its own shares or renew an existing authorisation, must issue a statement accompanying its notice of general meeting ("**Share Buy-back Statement**") that includes the information set out in Appendix 12A.
- (2) [Deleted]
- (3) [Deleted]
- (4) [Deleted]
- (5) The listed corporation must submit the Share Buy-back Statement to the Exchange together with a checklist showing compliance with Appendix 12A.

12.07 Contents of ordinary resolution for share buy-back

- (1) A listed corporation must include in the ordinary resolution required under paragraph 12.03 for a listed corporation to purchase its own shares the information set out in Appendix 12B.
- (2) The listed corporation must submit the resolution to the Exchange together with a checklist showing compliance with Appendix 12B.
- (3) Any authority conferred by such resolution may only continue to be in force until -
 - (a) the conclusion of the first annual general meeting of the listed corporation following the general meeting at which such resolution was passed at which time it will lapse unless by ordinary resolution passed at that meeting, the authority is renewed, either unconditionally or subject to conditions;
 - (b) the expiration of the period within which the next annual general meeting after that date is required by law to be held; or
 - (c) revoked or varied by ordinary resolution passed by the shareholders in general meeting,whichever occurs first.

12.08 Announcement of outcome of general meeting

A listed corporation must immediately announce to the Exchange the outcome of the general meeting called to consider the proposed purchase of its own shares on the Exchange, immediately following such meeting.

12.09 Maximum limit

A listed corporation 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 total number of issued shares.

PART D – SOURCE OF FUNDS**12.10 Source of funds**

- (1) A listed issuer must ensure that the proposed purchase(s) of its own shares is made wholly out of retained profits of the listed corporation.
- (2) For the purpose of calculating the total amount of retained profits available for effecting a share buy-back, the listed corporation must not use the amount of retained profits available on a group basis.

12.11 Types of funds

For the purpose of paragraph 12.10, there are no restrictions on the types of funds which can be utilised so long as the share buy-back is backed by an equivalent amount of retained profits. The use of borrowings as a funding source is entirely within the ambit envisaged by this Chapter.

PART E – [DELETED]**12.12 [Deleted]****12.13 [Deleted]****PART F – ADDITIONAL REQUIREMENTS****12.14 Public shareholding**

A listed corporation must not purchase its own shares on the Exchange if that purchase(s) will result in the listed corporation being in breach of paragraph 8.02(1).

12.15 Appointment of stockbroker

A listed corporation intending to purchase its own shares or resell treasury shares on the Exchange may appoint up to 2 Participating Organisations for that purpose. The listed corporation must ensure that all dealing(s) in its own shares or treasury shares are made through the said Participating Organisations only.

12.16 Notice of appointment of stockbroker

A listed corporation must lodge a notice of the appointment of the Participating Organisations concerned with the Exchange immediately and the listed corporation must open one securities account in its own name with such Participating Organisations designated as “Share Buy-Back Account” which must solely be used for the purchase of its own shares or resale of treasury shares.

12.17 Purchase price

A listed corporation may only purchase its own shares on the Exchange at a price which is not more than 15% above the weighted average market price for the shares for the 5 market days immediately before the purchase.

12.18 Resale or transfer price

A listed corporation may only resell treasury shares on the Exchange or transfer treasury shares pursuant to section 127(7) of the Companies Act, at -

- (a) a price which is not less than the weighted average market price for the shares for the 5 market days immediately before the resale or transfer; or
- (b) a discounted price of not more than 5% to the weighted average market price for the shares for the 5 market days immediately before the resale or transfer provided that -
 - (i) the resale or transfer takes place not earlier than 30 days from the date of purchase; and
 - (ii) the resale or transfer price is not less than the cost of purchase of the shares being resold or transferred.

12.19 Notification of purchase

A listed corporation must immediately announce to the Exchange any purchase(s) of its own shares not later than 6.30 p.m. on the day of the purchase. The listed corporation must include in its announcement, the information set out in Part A of Appendix 12C.

12.20 Notification of resale or transfer

A listed corporation must immediately announce to the Exchange any resale or transfer of its treasury shares pursuant to section 127(7) of the Companies Act, not later than 6.30 p.m. on the day of the resale or transfer. The listed corporation must include in its announcement the information set out in Part B of Appendix 12C.

12.21 Notification of cancellation

A listed corporation must immediately announce to the Exchange any cancellation of its shares or treasury shares not later than 6.30 p.m. on the day of the cancellation. The listed corporation must include in its announcement the information set out in Part C of Appendix 12C.

12.22 Exercise of powers

- (1) A listed corporation and its directors in exercising the power to purchase a listed corporation's own shares or resell treasury shares, are subject, at all times, to all such obligations imposed on them under the law, including but not limited to the provisions of Part V of the CMSA.
- (2) In exercising its power to purchase its own shares or resell treasury shares, a listed corporation must not engage in speculative trading activities in relation to such purchase or resale.

12.23 [Deleted]**12.24 Status of purchased shares**

All shares which are purchased by the listed corporation will be automatically de-listed upon their cancellation by the listed corporation.

PART G – SPECIFIC REQUIREMENTS FOR SHARE BUY-BACK BY A SPECIAL PURPOSE ACQUISITION COMPANY**12.25 Share buy-back by a SPAC**

- (1) Notwithstanding paragraph 12.04, a SPAC may purchase its own shares in accordance with sections 112, 113 and 127 of the Companies Act, through a Direct Business Transaction solely for the purpose of paying a pro rata portion of the amount held in the SPAC's Trust Account to holders of the voting securities who voted against the qualifying acquisition proposed to be undertaken by the SPAC.
- (2) The following provisions are not applicable to a SPAC which purchases its own shares in accordance with subparagraph (1) above:
 - (a) paragraph 12.03;
 - (b) paragraph 12.04;
 - (c) paragraph 12.06;
 - (d) paragraph 12.07;
 - (e) paragraph 12.08;
 - (f) paragraph 12.09;
 - (g) paragraph 12.14, provided that the SPAC undertakes reasonable steps to comply with the spread requirement set out in paragraph 8.02;
 - (h) paragraph 12.17;
 - (i) paragraph 12.18; and
 - (j) paragraph 12.20.
- (3) A SPAC must immediately cancel all the shares it purchased pursuant to subparagraph (1) above and make an announcement pursuant to paragraph 12.21.
- (4) Except as provided in this paragraph 12.25, a SPAC must not purchase its own shares until it has fully paid or satisfied the consideration of the qualifying acquisition and the ownership of the assets acquired by the SPAC is beneficially and legally vested in the SPAC.

PART H – REQUIREMENTS RELATING TO BUY-BACK OF ODD LOT SHARES**12.26 Buy-back of odd lot shares**

- (1) A listed corporation which intends to purchase its own shares in odd lots ("**odd lot shares**") must comply with the provisions in this Part, in addition to those set out in Parts B, C, D, E and F of this Chapter, where applicable and with the necessary modifications.
- (2) Notwithstanding paragraph 12.04, a listed corporation may purchase its odd lot shares:
 - (a) through a Direct Business Transaction; or

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- (b) in any other manner as may be approved by the Exchange,
in accordance with such requirements as may be prescribed or imposed by the Exchange.

PART I – SPECIFIC REQUIREMENTS FOR UNIT BUY-BACK BY A BUSINESS TRUST

12.27 Unit buy-back by a business trust

- (1) A trustee-manager must comply with the following when undertaking a purchase of the business trust's own units:
- (a) the provisions in this Part, in addition to the relevant provisions in this Chapter, where applicable and with the necessary modifications; and
 - (b) sections 112, 113 and 127 of the Companies Act as if the business trust were a company mentioned in those provisions of the Companies Act, where applicable and with the necessary modifications.
- (2) A trustee-manager must ensure that any purchase of the business trust's own units is made in good faith and in the interest of the unit holders.
- (3) The following provisions are not applicable to a unit buy-back of a business trust:
- (a) paragraph 12.18;
 - (b) paragraph 12.20; and
 - (c) paragraph 12.23.
- (4) A trustee-manager must immediately cancel all the units it purchased pursuant to subparagraph (1) above.

PART J – SPECIFIC REQUIREMENTS FOR UNIT BUY-BACK BY A REIT

12.28 Unit buy-back by a REIT

- (1) A management company must comply with the following when undertaking a purchase of the REIT's own units:
- (a) the provisions in this Part, in addition to the relevant provisions in this Chapter, where applicable and with the necessary modifications; and
 - (b) sections 112, 113 and 127 of the Companies Act as if the REIT were a company mentioned in those provisions of the Companies Act, where applicable and with the necessary modifications.
- (2) A management company must ensure that any purchase of the REIT's own units is made in good faith and in the interest of the unit holders.
- (3) The following provisions are not applicable to a unit buy-back of a REIT:
- (a) paragraph 12.18; and
 - (b) paragraph 12.20.

- (4) A management company must immediately cancel all the units it purchased pursuant to subparagraph (1) above.

[End of Chapter]

APPENDIX 12A**Contents of Share Buy-back Statement**

(paragraph 12.06(1))

- (1) A heading drawing attention to the importance of the circular and advising holders of shares who are in any doubt as to what action to take to consult appropriate independent advisers.
- (2) A statement that Bursa Malaysia Securities Berhad takes no responsibility for the contents of the Share Buy-back Statement, makes no representation as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of the Share Buy-back Statement. In relation to the Share Buy-back Statement which has not been perused by Bursa Malaysia Securities Berhad before its issuance, a statement to that effect.
- (3) The reasons for the proposed purchase.
- (4) The maximum number or percentage of shares to be acquired.
- (5) The total maximum amount of funds to be allocated for the proposed purchase or otherwise a basis, other than reference to any person's discretion or opinion, or a formula to determine the maximum fund that is to be allocated.
- (6) The amount of retained profits based on the latest audited and unaudited financial statements.
- (7) The number of shares held directly and indirectly by the directors and substantial shareholders.
- (8) The source of funds for the purpose of the proposed purchase including, where applicable, details relating to financing for the proposed purchase, the repayment capabilities of the listed corporation and the impact on its cash flow.
- (9) The direct and indirect interests of the directors and major shareholders and any person connected with the directors or major shareholders, or both, in the proposed purchase of shares or resale of treasury shares.
- (10) Both the potential advantages and disadvantages of the proposed purchase to the listed corporation and its shareholders respectively.
- (11) Any material financial effect on the listed corporation or group if the proposed purchase(s) were to be carried out in full at any time during the proposed authorised period (such as the working capital of the listed corporation as compared with the position disclosed in the most recent published or announced audited financial statements).
- (12) A statement as to the consequences of the proposed purchase on the listed corporation and its shareholders with regard to the Take-Overs and Mergers Code or in relation to a foreign corporation, the relevant laws of the place of incorporation in respect of take-overs and mergers.
- (13) The details of any purchase made in the preceding 12 months giving the date of each purchase, the purchase price per share or the highest, lowest and average prices paid, and total consideration paid for such purchase(s).

Appendix 12A
Contents of share buy-back statement

- (14) The number of shares currently held as treasury shares and details of any resale or transfer of treasury shares made in the preceding 12 months including -
- (a) date of each resale or transfer;
 - (b) in the case where the shares are resold, the resale price per share or the highest, lowest and average resale prices, and total consideration received for such resale(s); and
 - (c) in the case where the shares are transferred, the purpose of the transfer, the transfer price and the basis for such price.
- (15) The details of any cancellation of shares made in the preceding 12 months.
- (16) The details of the highest and lowest prices at which the relevant shares were traded on the Exchange for the preceding 12 months and the last transacted price on the latest practicable date before printing the circular.
- (17) Whether it is the proposed intention of the directors to retain the shares as treasury shares or cancel them, or both, the rationale for the alternatives chosen, and if available, information as to the percentage or number of shares purchased which are to be retained or cancelled, or both.
- (18) The public shareholding spread of the listed corporation, as at the latest practicable date.
- (19) A statement by the board of directors whether the proposal is in the best interest of the listed corporation.
- (20) A recommendation from the board of directors as to the voting action that shareholders should take.
- (21) An appendix containing the following information:
- (a) a responsibility statement by the directors that the circular has been seen and approved by the directors of the listed corporation and that they collectively and individually accept full responsibility for the accuracy of the information given and confirm that after making all reasonable enquiries to the best of their knowledge and belief, there are no other facts the omission of which would make any statement in the circular misleading;
 - (b) where a person is named in the circular as having advised the listed corporation or its directors, a statement that such adviser has given and has not withdrawn its written consent to the inclusion of the adviser's name and/or letter (where applicable) in the form and context in which it is included;
 - (c) [deleted]
 - (d) [deleted]
 - (e) a statement that for a period of not less than 2 weeks following the publication of the Share Buy-back Statement, the following documents (or copies of the documents) may be inspected at the registered office of the listed corporation:
 - (i) its constitution;

Appendix 12A
Contents of share buy-back statement

- (ii) the audited financial statements of the listed corporation/group for the past 2 financial years and the latest unaudited results since the last audited financial statements;
 - (iii) all reports, letters or other documents, statement of financial position, valuations and statements by any expert, any part of which is extracted or referred to in the circular; and
 - (iv) the letters of consent referred to in subparagraph (b) above.
 - (v) [deleted]
 - (vi) [deleted]
- (22) Any other information concerning the proposed purchase as shareholders and their advisers would reasonably require and would reasonably expect to find in the Share Buy-back Statement for the purposes of making an informed assessment as to the merits of approving the proposed purchase and the extent of the risks involved in doing so.

[End of Appendix]

Appendix 12B
Contents of ordinary resolution for share buy-back

APPENDIX 12B**Contents of ordinary resolution in relation to a share buy-back**
(paragraph 12.07(1))

- (1) The total number or percentage and description of the shares which the listed corporation is authorised to purchase on the Exchange.
- (2) The dates on which the authority conferred by the resolution will commence and determine.
- (3) The maximum funds to be allocated by the listed corporation for the purpose of purchasing its own shares or a basis, other than reference to any person's discretion or opinion, or a formula to determine the maximum fund that is to be allocated.
- (4) Whether the shares are proposed to be cancelled or retained as treasury shares, or both and, if available, information as to percentage or number of shares purchased which are to be retained and/or cancelled.

[End of Appendix]

Appendix 12C
Contents of announcement for purchase,
resale, transfer or cancellation of shares

APPENDIX 12C**Part A****Contents of announcement in relation to shares purchased**
(paragraph 12.19)

- (1) The date of purchase.
- (2) The description of shares purchased.
- (3) The number of shares purchased.
- (4) The price of each share or, where relevant, the highest and lowest price paid.
- (5) The total consideration paid.
- (6) The number of shares purchased retained in treasury.
- (7) The number of shares purchased which are proposed to be cancelled.
- (8) The cumulative net outstanding treasury shares at the date of notification, where applicable.
- (9) Where all or any of the shares are proposed to be cancelled, the adjusted share capital.

Part B**Contents of announcement in relation to resale or transfer of treasury shares**
(paragraph 12.20)

- (1) The date of resale or transfer.
- (2) [Deleted]
- (3) The number of shares resold or transferred.
- (4) In the case where the shares are resold, the resale price of each share or, where relevant, the highest and lowest resale price sold, and the total consideration received.
- (5) [Deleted]
- (5A) In the case where the shares are transferred –
 - (a) the purpose of the transfer;
 - (b) the transfer price and basis for the price;
 - (c) the direct and indirect interests of the directors and major shareholders and any person connected with the directors or major shareholders in the transfer, if any; and

Appendix 12C
Contents of announcement for purchase,
resale, transfer or cancellation of shares

- (d) if the treasury shares are transferred as purchase consideration, details of the vendor as set out in paragraph 3(e), Part A of Appendix 10A.
- (6) Total number of treasury shares held after the resale or transfer.

Part C

Contents of announcement in relation to cancellation of shares
(paragraph 12.21)

- (1) The number of shares cancelled.
- (2) The date of cancellation.
- (3) The outstanding and paid-up capital of the listed corporation after cancellation.

[End of Appendix]

Appendix 12D
Disclosure in annual report for share buy-back

APPENDIX 12D

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[End of Appendix]