

BURSA MALAYSIA SECURITIES BERHAD

PRACTICE NOTE NO. 17/2005

CRITERIA AND OBLIGATIONS PURSUANT TO PARAGRAPH 8.14C OF THE LISTING REQUIREMENTS

Issued in relation to paragraphs 8.14C, 16.02 and 16.09 of the Listing Requirements;

And

Pursuant to paragraph 2.08 and 2.19 of the Listing Requirements.

1.0 Introduction

1.1 This Practice Note sets out, amongst others, the following:-

- (a) the criteria in relation to the financial condition and level of operations of a listed issuer, the fulfillment of one or more of which will require a listed issuer to comply with the provisions of this Practice Note (a listed issuer which fulfils one or more of the aforesaid criteria shall hereinafter be referred to as “an Affected Listed Issuer”); and
- (b) the requirements that must be complied with by an Affected Listed Issuer.

1.2 Nothing in this Practice Note shall be read to restrict the generality of paragraph 8.14C of the Listing Requirements.

1.3 The provisions of this Practice Note are in amplification and not in derogation of the obligations of a listed issuer as contained in the Listing Requirements.

2.0 Criteria

2.1 Pursuant to paragraph 8.14C(2) of the Listing Requirements, the Exchange prescribes the following criteria (hereinafter referred to as the “Prescribed Criteria”), the fulfillment of one or more of which will require a listed issuer to comply with the provisions of paragraph 8.14C and this Practice Note :-

- (a) the shareholders’ equity of the listed issuer on a consolidated basis is equal to or less than 25% of the issued and paid-up capital of the listed issuer and such shareholders’ equity is less than the minimum issued and paid-up capital as required under paragraph 8.16A(1) of the Listing Requirements;
- (b) receivers and/or managers have been appointed over the asset of the listed issuer, its subsidiary or associated company which asset accounts for at least 50% of the total assets employed of the listed issuer on a consolidated basis;
- (c) a winding up of a listed issuer’s subsidiary or associated company which accounts for at least 50% of the total assets employed of the listed issuer on a consolidated basis;

- (d) the auditors have expressed an adverse or disclaimer opinion in the listed issuer's latest audited accounts;
- (e) the auditors have expressed a modified opinion with emphasis on the listed issuer's going concern in the listed issuer's latest audited accounts and the shareholders' equity of the listed issuer on a consolidated basis is equal to or less than 50% of the issued and paid-up capital of the listed issuer;
- (f) a default in payment by a listed issuer, its major subsidiary or major associated company, as the case may be, as announced by a listed issuer pursuant to Practice Note No 1/2001 and the listed issuer is unable to provide a solvency declaration to the Exchange.
- (g) the listed issuer has suspended or ceased:-
 - (i) all of its business or its major business; or
 - (ii) its entire or major operations,

for any reasons whatsoever including, amongst others, due to or as a result of:-

- (aa) the cancellation, loss or non-renewal of a licence, concession or such other rights necessary to conduct its business activities;
- (bb) the disposal of the listed issuer's business or major business; or
- (cc) a court order or judgment obtained against the listed issuer prohibiting the listed issuer from conducting its major operations on grounds of infringement of copyright of products etc; or
- (h) the listed issuer has an insignificant business or operations.

2.2 For the purposes of this Practice Note, unless the context otherwise requires:-

- (a) the components of "shareholders' equity" shall be as prescribed under the approved accounting standards of the Malaysian Accounting Standards Board;
- (b) "total assets employed" shall be based on the listed issuer's latest audited or unaudited accounts;
- (c) in relation to paragraph 2.1(g), "major" means such proportion that contributes or generates 70% or more of the listed issuer's revenue on a consolidated basis based on its latest annual audited or unaudited accounts; and
- (d) "insignificant business or operations" means business or operations which generates revenue on a consolidated basis that represents 5% or less of the issued and paid-up capital (excluding any redeemable preference shares) of the listed issuer (hereinafter referred to as "Capital") based on its latest annual audited or unaudited accounts.

For the purpose of computation, the following shall apply:-

- (i) "revenue on a consolidated basis" shall comprise of the revenue of the listed issuer, its subsidiaries, as well as revenue from the listed issuer's associated companies, calculated on a proportionate basis, based on the listed issuer's equity holding in the associated companies; and
- (ii) where there is/are a change/changes to the Capital in that financial year, the weighted average Capital for that financial year shall be used. The weighted average Capital means the total amount of the Capital at the beginning of the financial year, adjusted by the amount of increase or reduction in the Capital during that financial year multiplied by a time-weighting factor. The time-

weighting factor is the number of days that the specific Capital is outstanding as a proportion of the total number of days in that financial year.

Example - Weighted Average of Capital for financial year ended 31 December 2xx1

		Issued and Paid up Capital (RM)
1 January 2xx1	Balance	60,000,000
1 June 2xx1	Issue of 10,000,000 new shares for cash	70,000,000
1 Dec 2xx1	Issue of 12,000,000 new shares for cash	82,000,000

Computation of weighted average:

$$(60,000,000 \times 151/365) + (70,000,000 \times 183/365) + (82,000,000 \times 31/365) = 66,882,185$$

- 2.3 Paragraph 2.1 (h) shall not be applicable to closed-end funds, real estate investment trusts, exchange traded funds and infrastructure project companies which have not completed and commenced operations on their infrastructure project(s). For the purpose of this paragraph, "infrastructure project" shall be as defined in the Commission's Guidelines on the Offering of Equity and Equity-Linked Securities.

3.0 Disclosure obligations of the Affected Listed Issuer

- 3.1 Pursuant to paragraph 8.14C(2)(b) of the Listing Requirements, an Affected Listed Issuer must comply with the following disclosure requirements:-

- (a) announce the following, on an immediate basis (hereinafter referred to as "the First Announcement") upon the Affected Listed Issuer fulfilling one or more of the Prescribed Criteria:-
 - (i) that the listed issuer is an Affected Listed Issuer pursuant to this Practice Note;
 - (ii) the obligations of the listed issuer pursuant to this Practice Note;
 - (iii) the consequences of non-compliance with such obligations; and
 - (iv) the status of the listed issuer's plan to comply with the Obligation to Regularise (as defined in paragraph 8.14C(2)(a) of the Listing Requirements) or the status of its endeavours to formulate such a plan, whichever is applicable, or where neither a plan nor any endeavour to formulate such a plan has been undertaken, an appropriate negative statement to such effect;
- (b) announce the status of its plan as referred to in paragraph (a)(iv) above and the number of months to the end of the relevant timeframes referred to in paragraph 4.1 or 4.2 below, as may be applicable, on a monthly basis (hereinafter referred to as the "Monthly Announcement") until further notice from the Exchange;
- (c) announce its compliance or non-compliance with a particular obligation imposed pursuant to this Practice Note on an immediate basis; and

- (d) announce details of the Regularisation Plan as referred to in paragraph 8.14C(3) of the Listing Requirements which announcement must fulfill the requirements set out in paragraph 3.1A below (hereinafter referred to as “the Requisite Announcement”).

3.1A The Requisite Announcement must satisfy the following conditions:-

- (a) the announcement must contain details of the Regularisation Plan and a timeline for the complete implementation of the Regularisation Plan; and
- (b) it must be announced by a corporate finance adviser that may act as a principal adviser under the Commission’s Guidelines on Principal Advisers for Corporate Proposals.

3.1B An Affected Listed Issuer must ensure that prior to the making of the Requisite Announcement:-

- (a) all agreements to be entered into with third parties as part of the Regularisation Plan, have been duly executed by all parties to such agreements; and
- (b) where the Regularisation Plan involves a compromise or arrangement with the Affected Listed Issuer’s creditors, the Affected Listed Issuer has taken reasonable steps to procure the agreement-in-principle of such creditors.

3.2 The Monthly Announcements must be made on the first market day of each month beginning with the month following the date of the First Announcement.

4.0 Obligation to Regularise

4.1 An Affected Listed Issuer must submit a Regularisation Plan as referred to in paragraph 8.14C(3) of the Listing Requirements to the Approving Authority as referred to in paragraph 8.14C(2)(a)(i) of the Listing Requirement for approval within 8 months from the date of the First Announcement (i.e. the Submission Timeframe).

4.2 An Affected Listed Issuer must implement the Regularisation Plan within the timeframe stipulated by the relevant Approving Authority.

5.0 Effective Date

5.1 This Practice Note takes effect on 3 January 2005.