

Our Ref: YYT/TAC(ro)/LD25/17 [CA & CG]

29 November 2017

The Company Secretary
(Listed Corporations)

Via email

Dear Sir/Madam,

AMENDMENTS TO BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS (“ACE LR”) RELATING TO -

- 1. THE COMPANIES ACT 2016 AND OTHERS;**
- 2. CORPORATE GOVERNANCE REQUIREMENTS; AND**
- 3. CODIFICATION OF CERTAIN FRS 139 DISCLOSURE REQUIREMENTS**

(A) INTRODUCTION

1. Pursuant to section 9 of the Capital Markets and Services Act 2007 (“**CMSA**”), Bursa Malaysia Securities Berhad (“**the Exchange**”) has amended the ACE LR as follows (collectively referred to as the “**Amendments**”):
 - (a) amendments arising from the implementation of the Companies Act 2016 (“**CA 2016**”) and others (“**CA Amendments**”);
 - (b) amendments relating to corporate governance requirements (“**CG Amendments**”); and
 - (c) amendments arising from the codification of certain disclosure requirements pursuant to the removal of directives dated 25 March 2010 and 20 December 2010 on disclosure requirements relating to implementation of FRS 139 and disclosure of realised and unrealised profits/losses (“**Codification of Financial Disclosures**”).
2. The Amendments above were made as part of the Exchange’s ongoing efforts to ensure that the ACE LR is updated and continues to be effective. By doing so, the Exchange seeks to keep the ACE LR relevant and in sync with industry needs and market development whilst safeguarding investor protection.

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3. The Amendments this time are predicated on the following themes:
 - (a) aligning the ACE LR with the relevant laws, codes or guidelines;
 - (b) promoting business efficacy and growth through a balanced and proportionate framework; and
 - (c) improving corporate governance practices and disclosures.
4. In finalising the Amendments, the Exchange has considered various feedback and comments received including that received in response to the public consultation papers issued in relation to the CA Amendments and CG Amendments respectively.

(B) CA AMENDMENTS

Background

5. Arising from the implementation of the CA 2016¹, the Exchange undertook a review of the ACE LR to ensure that the provisions are aligned with the CA 2016 and shareholders' interests continue to be safeguarded.
6. At the same time, the Exchange also took the opportunity to enhance and simplify the drafting of various requirements under the ACE LR, in the areas of review, to ensure that the ACE LR remains clear, relevant and practical, for ease of compliance by listed corporations.

Objectives of CA Amendments

7. The CA Amendments, among others, seek to achieve the following objectives:
 - (a) promote greater business efficacy and effectiveness of listed corporations;
 - (b) ease regulatory compliance through simplification of requirements in appropriate areas;

¹ Pursuant to the Federal Government Gazette dated 26 January 2017, the CA 2016 came into effect on 31 January 2017 (with the exception of section 241 and Division 8, Part III which deal with the provisions relating to the registration of company secretaries with the Registrar and corporate rescue mechanisms).

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- (c) modernise the mode of securities holder engagement and promote sustainable practices by facilitating the use of technology as a means of communication with securities holders; and
- (d) streamline the ACE LR with the CA 2016, where necessary for consistency and ease of application by listed corporations.

Key CA Amendments

8. The key CA Amendments are as follows:

Enhanced Framework for a Bonus Issue and Subdivision of Shares

- 8.1 Streamlining the framework for bonus issue of securities and subdivision of shares given that bonus issue can now be undertaken without capitalisation and therefore, is akin to a subdivision. The enhancements are as follows:

Bonus issue

- (a) allowing bonus issue to be undertaken with or without increasing the issued share capital of the listed corporation;
- (b) removing the requirement for appointment of a Sponsor or an Adviser for a straightforward bonus issue of equity securities which is not conditional upon other corporate proposal(s);
- (c) imposing a pricing condition where the adjusted share price following a bonus issue must not be less than RM0.20 based on the daily volume weighted average price of the listed corporation's shares during the 3-month period before the application date ("**Pricing Condition**");
- (d) in the case of a bonus issue by way of capitalisation –
 - (i) removing the requirement for reserves to be unimpaired by losses on a consolidated basis; and
 - (ii) requiring a listed corporation to ensure that there are sufficient reserves to cover the capitalisation issue;
- (e) requiring circulars for a bonus issue to be subjected to limited review by the Exchange; and
- (f) disapplying the Pricing Condition for bonus issue of warrants;

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Subdivision of shares

- (g) removing the requirement for the issued and paid-up capital to be unimpaired by losses on a consolidated basis;
- (h) extending the requirements applicable to a bonus issue as set out in Chapter 6 of the ACE LR, to a subdivision, with the necessary modifications; and

Bonus issue and subdivision of shares

- (i) removing the prohibition for a Cash Company² or GN3 Company³ from undertaking a bonus issue without capitalisation or subdivision of shares on a standalone basis which is not part of a regularisation plan.

Enhanced Framework for Share Buy-back

8.2 Enhancing and simplifying the share buy-back framework in light of the various changes made in the CA 2016 to this area as below:

- (a) removing share premium account as a source of funds for the purpose of a share buy-back in line with the no par value regime;
- (b) requiring immediate announcement of a transfer of treasury shares with prescribed details;
- (c) requiring any transfer of treasury shares to be subjected to similar pricing requirements currently applicable to a resale of treasury shares;
- (d) removing the requirements on execution of solvency declaration by the majority of the directors of a listed corporation and lodgment of such declaration with the Exchange, given that a listed corporation must comply with the CA 2016 on solvency and purchase of its own shares;
- (e) requiring the issuance of a Share Buy-back Statement only for purposes of seeking new shareholder mandate or renewing an existing mandate to purchase own shares; and

² **Cash Company** means a listed corporation whose assets on a consolidated basis, consist of 70% or more of cash or short term investments, or a combination of both as set out in Rule 8.03 of the ACE LR.

³ **GN3 Company** means a financially distressed listed corporation classified under Guidance Note 3 of the ACE LR.

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- (f) refining the prescribed minimum contents of the Share Buy-back Statement by -
 - (i) removing information on material contracts and material litigations (which has been announced previously); and
 - (ii) requiring details of the transfer of treasury shares for the preceding 12 months such as the date and purpose as well as the transfer price and basis for the price.

Communication with Securities Holders via Electronic Means

8.3 Facilitating issuance of documents required to be sent to securities holders under the ACE LR (“**Document(s)**”) via electronic means subject to the listed corporation complying with the following:

- (a) amending its constitution to permit the use of electronic means to issue the Documents;
- (b) if the Document is published on the listed corporation’s website, notifying its securities holders separately in writing about the publication and the designated website link to download the Document;
- (c) ensuring there is proof of delivery for any Document or notification sent via electronic mail;
- (d) reserving the right of a securities holder to request for a hard copy of the Document in which case the listed corporation must forward such Document to the securities holder, as soon as reasonably practicable after the receipt of the request, free of charge; and
- (e) in the case of Documents required to be completed by securities holders for rights issue and offer for sale, allowing such documents to be sent via electronic mail, in hard copy or in any other manner as prescribed by the Exchange from time to time.

Consequential to the above, the requirement on issuance of annual report in electronic format (such as CD-ROM and thumb-drive) is removed.

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Enhanced Contents of Constitution

8.4 Maintaining the requirement for a listed corporation to have a constitution (previously known as the “articles of association”) with modifications to the prescribed contents as follows:

- (a) deleting certain prescribed contents of constitution which have already been codified in the CA 2016, prescribed as a continuing listing obligation or are redundant; and
- (b) enhancing certain provisions to address a gap or for clarity.

Other Amendments

8.5 Providing clarity and certainty by making other miscellaneous changes such as the following:

- (a) amending the percentage threshold from 15% to 20% for purposes of determining “deemed interest” in the definition of “associate” and “person connected”;
- (b) clarifying that in an issuance of new securities other than via a general mandate, a listed corporation must procure specific shareholder approval under the ACE LR notwithstanding the relevant CA 2016 provisions which allow certain issuance of new securities to be undertaken without shareholder approval⁴;
- (c) clarifying that an immediate announcement is required upon presentation of winding-up petition against a listed corporation, its subsidiary or major associated company, in addition to announcement of a winding up order being made or commencement of a voluntary winding-up; and
- (d) clarifying that a director will be disqualified if such director has been convicted of an offence involving bribery.

8.6 Aligning the concepts and terms used arising from the no par value regime and deleting terminologies such as *share premium* and *authorised capital* which are no longer relevant.

⁴ Section 75(2) of the CA 2016 provides that shareholder approval is not required for pro rata allotment, bonus issue, allotment to promoters or issuance of shares as acquisition consideration.

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(C) CG AMENDMENTS

Background

9. The Malaysian Code on Corporate Governance (“**MCCG**”) was issued by the SC on 26 April 2017 and took effect immediately. Listed corporations are required to report their application of the corporate governance practices pursuant to the MCCG in annual reports with effect from financial year ending on or after 31 December 2017.
10. Consequent to the MCCG, the Exchange made the CG Amendments to reflect the new corporate governance (“**CG**”) disclosure approaches and requirements set out in the MCCG. Amendments were also made to enhance disclosure of directors’ remuneration in annual reports and the functions of the audit committee in relation to its oversight over the internal audit function of a listed corporation.

Objectives of CG Amendments

11. The CG Amendments are intended to:
 - (a) align the CG disclosure requirements under the ACE LR with the MCCG;
 - (b) improve the quality of CG disclosures and promote transparency on listed corporations’ CG practices;
 - (c) facilitate reporting as well as monitoring of CG practices and progress of the same through a prescribed CG report format; and
 - (d) enhance the audit committee’s oversight over a listed corporation’s internal audit function.

Key CG Amendments

12. The key CG Amendments are as follows:
 - (a) requiring a listed corporation to provide an overview of the application of the Principles set out in the MCCG in the annual report (“**CG Overview Statement**”);
 - (b) requiring a listed corporation to disclose the application of each Practice set out in the MCCG during the financial year to the Exchange, in a prescribed format (“**CG Report**”) and announce the same to the Exchange together with the annual report;

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- (c) enhancing standards of corporate governance disclosures in Guidance Note 11 of the ACE LR;
 - (d) promoting transparency over directors' remuneration by requiring disclosure of director's remuneration on a named basis in annual reports; and
 - (e) enhancing the role of audit committee in respect of the internal audit function of a listed corporation by requiring the audit committee to review and report to the board of directors of the listed corporation on the internal audit plan and the results of the internal audit assessments.
13. Pursuant to the amendments highlighted in paragraph 12(b) above (which are reflected in Rule 15.25(2) of the ACE LR), the Exchange prescribes that the CG Report must be disclosed in the format as set out in **Appendix 1** to this letter. In this regard, a listed corporation must -
- (a) strictly comply with the prescribed format of the CG Report, with no exception whatsoever; and
 - (b) announce the completed CG Report in PDF format to the Exchange together with the announcement of the annual report.

(D) CODIFICATION OF FINANCIAL DISCLOSURES

Background

14. Previously, the Exchange had issued the following directives ("**Directives**") pursuant to the implementation of FRS 139 on 1 January 2010:
- (a) directive dated 25 March 2010 on disclosure requirements pursuant to implementation of FRS 139 ("**FRS 139 Directive**"); and
 - (b) directive dated 20 December 2010 on disclosure of realised and unrealised profits/losses ("**Realised & Unrealised Profits/Losses Directive**").
15. Arising from the implementation of the CA 2016, the Exchange undertook a review of the Directives and amended the ACE LR by codifying certain existing disclosure requirements which are still relevant.

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Objectives of the Codification of Financial Disclosures

16. The Codification of Financial Disclosures are aimed at –
 - (a) enhancing the transparency of derivatives and gains/losses arising from fair value changes of financial liabilities in the notes to quarterly reports; and
 - (b) simplifying listed corporations' compliance obligations by ensuring that only relevant disclosure requirements are prescribed in the ACE LR.

Key Codification of Financial Disclosures

17. The key Codification of Financial Disclosures in the ACE LR entails the following disclosures to be made in the notes to quarterly reports:
 - (a) information on derivatives entered into by a listed corporation such as its value and maturity analysis, rationale and the expected benefits for entering into a new type of derivative, as well as discussion on the risks associated with the derivatives and policies to mitigate such risks, if there is a change in such information previously disclosed; and
 - (b) amount of gains/losses arising from fair value changes of a listed corporation's financial liabilities.
18. Apart from the above, all other disclosure requirements in the Directives are no longer applicable.

(E) FULL TEXT OF THE ACE LR

19. The full text of the ACE LR (with the Amendments duly tracked) is attached as **Appendix 2**. The Amendments are reflected in the following manner:
 - portions underlined are text newly inserted / added onto the existing rules; and
 - portions struck through are text deleted.

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(F) IMPLEMENTATION AND TRANSITIONAL PROVISIONS

20. All Amendments are effective from **2 January 2018** onwards except for the amendments set out in the table below. The Exchange is mindful that listed corporations should be given sufficient grace period to comply with the Amendments especially on changes relating to their constitution.

| No. | Amendments | Implementation Date(s) |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| CA Amendments | | |
| (a) | Amendments to the prescribed contents of constitution [<i>Chapter 7</i>]. | Listed corporations to amend their constitutions by 31 December 2019 . |
| CG Amendments | | |
| (b) | <ul style="list-style-type: none"> • Enhancements to CG disclosures pursuant to MCCG [<i>Rule 15.25</i>]. • Enhancements to the disclosure of directors' remuneration on named basis in annual reports [<i>paragraph (12) of Appendix 9C</i>]. | Applicable for annual reports issued for financial year ending ("FYE") on or after 31 December 2017 . |

Earlier transitional requirements

21. Upon the implementation of the CA Amendments, the letter dated 2 February 2017 relating to the application of the ACE LR arising from the CA 2016 will be superseded with effect from 2 January 2018.
22. However, the letter dated 10 March 2017 relating to the transitional requirement on computation of issued share capital for purposes of determining the financial condition and level of operations of a listed corporation under the ACE LR, remains valid and effective until 31 January 2019.

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Transitional arrangements for bonus issue and issuance of annual report in electronic format

23. In order to accord some flexibility to listed corporations undertaking bonus issue and to ensure smooth transition of the requirements pertaining to issuance of documents via electronic means, the Exchange has put in place transitional arrangements to enable listed corporations to take all necessary steps to comply with the relevant CA Amendments.
24. Transitional arrangements for bonus issue
- 24.1 Pursuant to section 618 of the CA 2016, any amount standing to the credit of a listed corporation's share premium account and capital redemption reserve shall automatically become part of the listed corporation's share capital from 31 January 2017 onwards in view of the no par value regime. However, the Exchange is cognisant that for a period of 2 years from 31 January 2017 ("**transitional period**"), companies are permitted to use the amount in the share premium account or capital redemption reserve to, among others, issue bonus shares.
- 24.2 At the same time, the Exchange is also mindful that there are some listed corporations which may be unable to undertake bonus issue during the transitional period as they cannot comply with the Pricing Condition.
- 24.3 Given that the CA 2016 permits all companies to issue bonus shares out of their share premium account or capital redemption reserves without any restrictions during the transitional period, the Exchange provides listed corporations with the option of undertaking bonus issue by complying with either the enhanced framework or previous regime for bonus issue during the transitional period in the manner as set out below:

| No. | Enhanced bonus issue framework (no par value regime) | Bonus issue under the previous framework (the par value regime) |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| (a) | No limit to the type of bonus issue – it is applicable for bonus issue by way of capitalisation (from retained profits or reserves) or without increasing the share capital. | Limited to a bonus issue by way of capitalisation from the share premium account or capital redemption reserves of a listed corporation. |
| (b) | Pricing Condition applies. | Pricing Condition is not applicable. |

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| No. | Enhanced bonus issue framework (no par value regime) | Bonus issue under the previous framework (the par value regime) |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (c) | <p>For a bonus issue by way of capitalisation:</p> <ul style="list-style-type: none"> ▪ there is no minimum amount required to be capitalised; | <p>The amount to be capitalised must be based on the par value per share of the listed corporation before 31 January 2017.</p> |
| (d) | <ul style="list-style-type: none"> ▪ there is no requirement for reserves to be unimpaired by losses; and ▪ reserves must be sufficient to cover the capitalisation issue. | <p>Reserves for capitalisation must be –</p> <ul style="list-style-type: none"> ▪ unimpaired by losses; and ▪ adequate to cover the entire bonus issue. |

24.4 The transitional arrangement for bonus issue above is to facilitate listed corporations which have amounts outstanding in their share premium accounts or capital redemption reserves prior to 31 January 2017, to apply section 618 of the CA 2016 by undertaking a bonus issue during the transitional period without the need to comply with the Pricing Condition, as long as they comply with the existing framework under the par value regime. After the expiry of the transitional period (i.e. after 31 January 2019), listed corporations undertaking bonus issue must comply with the requirements under the enhanced framework.

25. Issuance of annual report in electronic format

25.1 Notwithstanding the deletion of the requirement on issuance of annual report in electronic format such as CD-ROM and thumb-drive, a listed corporation may continue to send its annual report to securities holders in electronic format subject to compliance with paragraph 25.2 below, until its constitution is amended to allow issuance of documents via electronic means.

25.2 In this regard, a listed corporation may issue its annual report in electronic format to its securities holders provided that it –

- (a) gives a printed copy of its annual report to its shareholder upon the shareholder's request, whether verbal or written;
- (b) designates a person to attend to the shareholders' requests as stated in subparagraph 25.2(a) above;

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- (c) ensures that a hard copy of the annual report is forwarded to the shareholder requesting the same within 4 market days from the date of receipt of the request;
- (d) designates person(s) to answer queries from shareholders relating to the use of the electronic format; and
- (e) issues hard copies of the notice of the annual general meeting, the proxy form and the following documents to its shareholders together with the annual report in electronic format –
 - (i) a note containing the following statement or information:
 - (aa) the listed corporation will forward a hard copy of the annual report to the shareholder within 4 market days from the date of receipt of the verbal or written request;
 - (bb) the listed corporation’s website and e-mail address, name(s) of designated person(s) attending to shareholders’ requests and queries and contact number(s); and
 - (cc) the designated website link or address where a copy of the annual report may be downloaded; and
 - (ii) a request form to enable the shareholder to request for the annual report in hard copy, with the particulars of the listed corporation’s facsimile number and mailing address.

Directives

26. The Codification of Financial Disclosures also supersedes the Directives upon implementation.

(G) ADDITIONAL INFORMATION

27. In addition, we have also provided “Questions and Answers” as set out in **Appendix 3** to facilitate a listed corporation’s better understanding of, and compliance with the Amendments.
28. This letter and all the above documents are also available at Bursa Malaysia Berhad’s website at www.bursamalaysia.com.

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29. If you have any queries on the above, please do not hesitate to contact the following persons from Listing Advisory & Development, Listing Division at 03-2034 7766:

- (a) Ms. Tiffany Yan Wei Mee;
- (b) Pn. Razalina Suriati Abdullah; or
- (c) Ms. Sim Wai Ling.

Thank you.

Yours faithfully,



YEW YEE TEE
Chief Regulatory Officer

Encls. (3)

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