

AMENDMENTS TO THE DIRECTIVES OF BURSA MALAYSIA DERIVATIVES BERHAD (“BMD DIRECTIVES”) IN RELATION TO DISCRETIONARY TRADING AND OTHER AMENDMENTS

PARA GRAPH	EXISTING PROVISIONS	PARA GRAPH	AMENDED PROVISIONS
(1) Directive on Readiness Audit – Self Assessment Approach, Declaratory Approach and Green Lane (No. 2.01(2)-002)			
2(2)	<p>An applicant wishing to commence new activities requiring the Exchange’s approval only must also first undertake a readiness audit in accordance with this Directive. These activities are:</p> <ul style="list-style-type: none"> (a) the relocation or change of business address of its Principal Office; (b) the offering of discretionary account trading facilities to clients; and (c) the commencement of proprietary trading. 	2(2)	<p>An applicant wishing to commence new activities requiring the Exchange’s approval only must also first undertake a readiness audit in accordance with this Directive. These activities are:</p> <ul style="list-style-type: none"> (a) the relocation or change of business address of its Principal Office; (b) the offering of eDiscretionary aAccount trading facilities to eClients; and (c) the commencement of proprietary trading.
4.2	<p>Activities</p> <p>Subject to paragraph 4.3, the Exchange may apply the Green Lane Policy to the following types of activities:</p> <ul style="list-style-type: none"> (a) the relocation or change of business address of its Principal Office ²; (b) the offering of discretionary account trading facilities to clients; and (c) the commencement of proprietary trading. 	4.2	<p>Activities</p> <p>Subject to paragraph 4.3, the Exchange may apply the Green Lane Policy to the following types of activities:</p> <ul style="list-style-type: none"> (a) the relocation or change of business address of its Principal Office ²; (b) the offering of eDiscretionary aAccount trading facilities to eClients; and (c) the commencement of proprietary trading.

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(2) Directive for Compliance Officers (No. 3.36-001)			
Annex 1 (c)(xiv) of Appendix 1 on Guidelines for Compliance Functions	<p>DUTIES AND RESPONSIBILITIES OF THE COMPLIANCE OFFICER</p> <p><i>to review, monitor and supervise other supervisory measures to ensure compliance</i></p> <p>review discretionary accounts to ensure compliance with rules and that transaction are not in excess of clients' financial resources;</p>	Annex 1 (c)(xiv) of Appendix 1 on Guidelines for Compliance Functions	<p>DUTIES AND RESPONSIBILITIES OF THE COMPLIANCE OFFICER</p> <p><i>to review, monitor and supervise other supervisory measures to ensure compliance</i></p> <p>review dDiscretionary aAccounts <u>for the following:</u></p> <p><u>(a) to ensure compliance with Exchanges' business rules the Rules and Directives and that transaction are not in excess of clients' financial resources;</u></p> <p><u>(b) to ensure that prior written authorisation from the client has been obtained;</u></p> <p><u>(c) to ensure that the Trading Participant has entered into a written agreement with the Client which sets out the terms and conditions for the operation of the Client's Discretionary Account, including adequate and accurate disclosure of the risks involved;</u></p> <p><u>(d) to ensure each discretionary order must be identified as a discretionary order at the time of the entry;</u></p> <p><u>(e) to review the trades done in a Discretionary Account regularly;</u></p>

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			<p>(f) <u>to ensure that in operating a Discretionary Account, the Trading Participant must at all times act in the best interest of the Client. In this regard, the review must include the assurance that there is a mechanism in place to prevent the churning of such accounts purely to generate commission;</u></p> <p>(g) <u>to ensure that all discretionary trades are executed within the proper discretionary authority granted to the Trading Participant and that such trades are properly recorded;</u></p> <p>(h) <u>to ensure the maintenance of complete and accurate documentation of every transaction undertaken under any Discretionary Account; and</u></p> <p>(i) <u>to review the Discretionary Account transactions to ensure there is no conflict of interest in the execution of Client trades and proprietary trades.</u></p>
(c)(xv) of Appendix 1 on Guidelines for Compliance Functions	<p><i>to review, monitor and supervise other supervisory measures to ensure compliance</i></p> <p>review of all proprietary account and discretionary accounts transactions, and ensure there is no conflict of interests during the execution of client trades and house trades;</p>	(c)(xv) of Appendix 1 on Guidelines for Compliance Functions	<p><i>to review, monitor and supervise other supervisory measures to ensure compliance</i></p> <p>review of all proprietary account and discretionary accounts transactions, and ensure there is no conflict of interest during the execution of client trades and house <u>proprietary</u> trades;</p>

PARA GRAPH	EXISTING PROVISIONS	PARA GRAPH	AMENDED PROVISIONS
(3) Directive on Conduct of Business (No. 4-001)			
10.1	<p>Arrangement with Clients</p> <p>A Trading Participant, Head of Dealing and Registered Representative must not:</p> <ul style="list-style-type: none"> (a) accept a share in the profits of a Client's accounts or have any arrangement with a Client to share in the profits of the Client's account; (b) have any arrangement with a third party to allocate profits or losses in a Client's account; or (c) lead a Client to believe that the Client will not suffer loss as a result of opening an account or dealing in derivatives. 	10.1	<p>Arrangement with Clients</p> <p>A Trading Participant, Head of Dealing and Registered Representative must not:</p> <ul style="list-style-type: none"> (a) accept a share in the profits of a Client's accounts or have any arrangement with a Client to share in the profits of the Client's account <u>unless it is in accordance with the provisions on operating a Discretionary Account under Rule 4.17;</u> (b) have any arrangement with a third party to allocate profits or losses in a Client's account; or (c) lead a Client to believe that the Client will not suffer loss as a result of opening an account or dealing in derivatives.
12	New provision	12	<p><u>Rule 4.17</u></p> <p><u>(1) Rule 4.17 provides that in operating a Discretionary Account, a Trading Participant or a Registered Representative must comply with the requirements the Exchange prescribes in respect of Discretionary Accounts.</u></p> <p><u>(2) In discharging the obligations under the said Rule, a Trading Participant or a Registered Representative must, amongst others, comply with the requirements set out below.</u></p>

PARA GRAPH	EXISTING PROVISIONS	PARA GRAPH	AMENDED PROVISIONS
12.1	New provision	12.1	<p><u>Eligibility criteria for Registered Representative</u></p> <p><u>A Trading Participant must ensure that a Registered Representative is able to fulfil the following criteria before the Registered Representative begins operating a Discretionary Account:</u></p> <p><u>(a) a minimum of 5 years' experience in dealing in derivatives; or</u></p> <p><u>(b) a minimum of 5 years' direct experience in fund management; and</u></p> <p><u>(c) no adverse findings or enforcement proceedings or actions commenced or taken against the Registered Representative under the Rules and Directives or Securities Laws.</u></p>
12.2	New provision	12.2	<p><u>Obligations of a Trading Participant with respect to Discretionary Accounts</u></p> <p><u>In order for a Trading Participant to exercise discretionary authority in a Client's Discretionary Account, the Trading Participant must ensure compliance with the following requirements:</u></p> <p><u>(a) before any discretionary authority can be exercised, prior written authorisation from the Client must be obtained. Comprehensive records of such authorisation must be maintained;</u></p>

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			<p><u>(b) the Trading Participant must enter into a written agreement with the Client which sets out the terms and conditions for the operation of the Client's Discretionary Account, including adequate and accurate disclosure of the risks involved;</u></p> <p><u>(c) complete and accurate records of every transaction undertaken under any Discretionary Account must be documented and maintained including the details of the Contract, the date and time the transaction is effected and the name of the Registered Representative who executed the transaction;</u></p> <p><u>(d) in operating a Discretionary Account, the Trading Participant must at all times act in the best interest of the Client. In this regard, there must be a mechanism in place to prevent the churning of Discretionary Accounts purely to generate commission; and</u></p> <p><u>(e) there must be no conflict of interest arising from such transactions.</u></p>
12.3	New provision	12.3	<p><u>Requirements pertaining to trading in a Discretionary Account</u></p> <p><u>(1) A Trading Participant and a Registered Representative must ensure the following:</u></p>

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			<p><u>(a) operate a Discretionary Account by opening for each of its Client, a new trading account, and ensuring that a new Sub-Account is opened for the client in accordance with the requirements in the Clearing House Rules; and</u></p> <p><u>(b) ensure that the trading account and Sub-Account are designated as a Discretionary Account, which is subject to each account code containing the letters "DT" at the end, and the account name containing the full name of the client, followed by the word "-DISC". An example is set out below:</u></p> <p style="margin-left: 40px;"><u>Illustration:</u> <u>Account code: 1234DT</u> <u>Account name: Tan Chong Wei-DISC</u></p> <p><u>(2) A Trading Participant and a Registered Representative must comply with the following requirements in operating a Discretionary Account:</u></p> <p><u>(a) trading must be carried out in the designated Discretionary Account;</u></p> <p><u>(b) trading in a Discretionary Account must be confined to the Contracts which are traded on the Exchange;</u></p>

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			<p><u>(c) trading in a Discretionary Account must commence with a cash transfer from a Client instead of a transfer of Open Positions or other types of collateral in lieu of cash, and must be carried out on a cash upfront basis; and</u></p> <p><u>(d) funds in a Client's Discretionary Account must be identifiable from the funds in the Client's non-Discretionary Account, if the funds are maintained in the same trust account.</u></p> <p><u>(3) For the purposes of paragraph 12.3(1), "Sub-Account" has the meaning ascribed to it in the Clearing House Rules.</u></p>
12.4	New provision	12.4	<p><u>Profit-sharing or fee arrangement</u></p> <p><u>(1) A Trading Participant or a Registered Representative may charge a Client in the following manner for the service of operating a Discretionary Account:</u></p> <p><u>(a) have an arrangement with a Client to accept a share in the profits from the Client's Discretionary Account; or</u></p> <p><u>(b) charge a fee calculated based on a percentage of the total value of assets or portfolio managed under a Client's Discretionary Account.</u></p>

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			<u>(2) A Trading Participant or a Registered Representative must not share in the profits under paragraph 12.4(1)(a) and concurrently charge a fee under paragraph 12.4(1)(b).</u>

[End of Amendments to the BMD Directives]