

## Bursa Malaysia Rules – Key Enforcement Cases in 2021

### C. Cases of misconducts/irregular or unhealthy practice/lapses/non-compliances by:

#### (I) DRs:-

- (a) who undertook discretionary trading without approval, had a profit or loss sharing arrangement with client and executed DBTs which benefitted the DR's relatives to client's detriment; and
- (b) who acted as a mere order taker and executed trades in client's account based on instructions from another DR without prior verification/post confirmation with client and failed to detect and prevent another DR from engaging in discretionary trading without approval.

#### (II) TP and Principal Officers in relation to management of conflict of interest.

#### Bursa Malaysia Securities says:-

- (i) **The protection of client's interest/monies is one of the fundamental obligations/duties of a RP which must be upheld at all times and should not be compromised.**
- (ii) **In this regard, DRs:-**
  - **must not undertake discretionary trading activities which were not permitted by/without the prior approval of the PO, notwithstanding any purported discretionary trading arrangement with the client;**
  - **must not abuse the trust placed on them by their clients or put themselves in a position of conflict of duties and interest; and**
  - **should ensure that they are not involved in any arrangement/agreement with client to share the profits/loss made from trades in the client's account.**
- (iii) **DRs must exercise proper skill, care and diligence in executing trades for clients and should verify/confirm trade instructions received from another third party (including a DR) with the clients.**

#### Glossary:

Bursa Malaysia Securities	Bursa Malaysia Securities Berhad
Bursa Malaysia Derivatives	Bursa Malaysia Derivatives Berhad
DBT	Direct Business Transaction
DR	Dealer's Representative
Mandatory Training	Requirement to undergo training on conduct or professionalism of DRs/ Registered Persons/Head of Dealing/Compliance Officer/market offences
PO	Participating Organisation
RP	Registered Person
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TP	Trading Participant

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- (I) Bursa Malaysia Securities had imposed a public reprimand, fines and/or deferred suspension/striking off and/or Mandatory Training on the following DRs for engaging in various misconducts, details of which can be found in the media release issued:-

No.	RP/DR	Type of misconduct	Date of media release
1.	Ang Kian Chuan (ANG)	<ul style="list-style-type: none"> <li>Undertaking unpermitted discretionary trading activities</li> <li>Had a profit or loss sharing arrangement with client</li> <li>Execution of DBTs between client and DR's relatives which benefitted the relatives</li> </ul>	<a href="#">9 September 2021</a>
2.	Mun Szu Mae	<ul style="list-style-type: none"> <li>Acted as a mere order taker and executed trades in client's account based on instructions from ANG without prior verification/post-trade confirmation with client and failed to detect and prevent ANG from engaging in unpermitted discretionary activities</li> </ul>	

- (II) Cases against TP and Principal Officers:-

### Case C1: Lapses/non-compliances by TP and Principal Officers vis-à-vis management of conflict of interest

#### Against TP

A TP was imposed a **private reprimand and fined RM4,000** for not having adequate and effective written policies and procedures to identify, monitor and manage/minimise conflict of interest (COI) that may arise in the conduct of its business, particularly in relation to the opening of and trading in one client's account (Client A). The TP was also directed to review, establish and implement adequate and effective internal control and written policies and procedures designed to identify, monitor and manage COI in an effective manner.

The sanctions, including the fine, were imposed having considered amongst others, the facts and circumstances of the breach including the following:-

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- (1) There was a potential/actual COI vis-à-vis the opening of and trading in Client A's account as:-
- (a) Client A's account was opened without further checks/assessment for potential COI, despite clear red flags/indicators of potential/actual COI (Red Flags) that ought to have prompted further checks/assessment by the TP as follows:-
- (i) Client A is the brother of the Head of Dealing cum Executive Director (ED) of the TP at the material time and was introduced by the ED as a client to the TP.
  - (ii) Client A's account was opened without approval or evidence of approval by any of the approving authorities under the TP's policies and Authority Matrix.
  - (iii) Client A was allowed to commence trading several days after the account was opened.
  - (iv) Client A's account was tagged to the ED under his trader code.
  - (v) The ED had credit control function privileges that enabled him to view, create and modify Client A's trading limit.
- (b) The TP had allowed Client A to trade numerous times in foreign exchanges without having first obtained minimum initial margins and despite there being outstanding margin calls exceeding 3 business days from the transaction date (Trading Exceptions) which were not in compliance with the margin requirements under the Rules and the TP's policies.

The cash deposited by Client A was insufficient to cover the initial margin for the exposures which had resulted in margin calls at the end of trading days.

However, there was no evidence that the TP had identified and/or managed/mitigated/addressed the said COI.

- (2) There were gaps identified in the TP's policies as there were no clear policies/procedures/mechanisms to identify and escalate actual/potential COI which may arise between a client and the ED (e.g. the TP's policies did not provide for the ED's credit control function privileges to be granted to an alternate authority in situations of COI or other approving authorities) and to guide the TP's personnel in identifying, addressing or managing COI situations.
- (3) The TP's admission/non-dispute of the breach.

### **Against Principal Officers:**

- (4) Arising from the TP's breach above, actions were also taken against the following Principal Officers of the TP:-

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- (a) the Compliance Officer for failing to:-
    - (i) carry out proper checks and reviews to monitor and ensure the TP's compliance in management of COI and margin requirements;
    - (ii) identify and manage the actual/potential COI arising from the opening of Client A's account; and
    - (iii) detect and report the Red Flags/Trading Exceptions to the Board of the TP and/or Bursa Malaysia Derivatives; and
  - (b) the ED for failing to identify and manage the potential/actual COI and supervise and direct the TP's compliance with the Rules of Bursa Malaysia Derivatives vis-à-vis management of COI and margin requirements in relation to the opening of and trading in Client A's account.
- (5) **A private reprimand and fine of RM4,000 each** was imposed on the Compliance Officer and ED having considered, amongst others, the facts and circumstances in (1)(a) & (b) above and the following:-
- (a) Despite knowing that Client A is the brother of the ED, the Compliance Officer had signed-off Client A's account opening application form without further checks and assessment. He also did not highlight the Red Flags and Trading Exceptions to the Board and/or Bursa Malaysia Derivatives.
  - (b) The Red Flags were clearly within the ED's knowledge and clearly indicated the existence of a potential/actual COI between Client A and him in the discharge of his duties as the ED of the TP. There was lack of proper supervision/monitoring of the trading activities in Client A's account resulting in numerous Trading Exceptions.
  - (c) The ED knew or ought to have known that the Trading Exceptions were not in compliance with the margin requirements in the TP's policies and the Rules.
  - (d) The breach by the Compliance Officer and ED had led to:-
    - (i) the TP's failure to properly identify/manage the potential/actual COI arising from the opening of and trading in Client A's account; and
    - (ii) the Trading Exceptions/continuance of the Trading Exceptions which increased Client A's exposures leading to margin calls made at the end of trading days.
  - (e) The Compliance Officer's and ED's admission/non-dispute of their respective breach.

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