

Bursa Malaysia Rules – Key Enforcement Cases in 2021

F. Other Significant Cases

Case F1: Transfer of shares from Exempt Authorised Nominee (EAN) account to Authorised Nominee (AN) account resulting in change of beneficial ownership

- (1) Bursa Malaysia Depository had imposed a **private reprimand and fine of RM4,000 each** on an ADA and ADM in relation to transfer of shares of one counter from one EAN account to an AN account (Transfer) which had resulted in a change of beneficial ownership that did not come within Category A of the Approved Reasons for Transfer – No Change in Beneficiary Ownership (NCBO) as provided in Appendix 67 of the CDS Procedures Manual for ADA and Appendix 52 of the CDS Procedures Manual for ADM.
- (2) The sanctions, including the fine, were imposed on the ADA and ADM after considering, amongst others, the following:-
 - (a) The facts and circumstances leading to the breach including the following:-
 - (i) The evidence showed that the ADA and ADM knew/ought to have known that the Transfer would result in a change of beneficial ownership as they were involved in the initial DBT/transfer of the shares which clearly showed that the beneficial owners of the shares were not the same as the intended transferees.
 - (ii) Hence, the ADA and ADM should have been more vigilant and scrutinised the Transfer further to ensure compliance with the Rules and declined to effect the Transfer instead of merely relying on certain confirmations/verifications that the Transfer would not result in change of beneficial owner of the shares without further enquiry/assessment, particularly in view of the substantial amount of shares involved.
 - (b) The ADA and ADM had affirmed and declared in the Transfer Confirmation report transmitted to Bursa Malaysia Depository that the information on the Transfer falling under Category A (NCBO) was true.
 - (c) The ADA's and ADM's admission/non-dispute of the breach.

Glossary:

ADA	Authorised Depository Agent
ADM	Authorised Direct Member
Bursa Malaysia Depository	Bursa Malaysia Depository Sdn Bhd
Bursa Malaysia Securities	Bursa Malaysia Securities Berhad
CDS	Central Depository System
DBT	Direct Business Transaction
DR	Dealer's Representative
PO	Participating Organisation
Rules of Bursa Malaysia Securities	The revamped Rules of Bursa Malaysia Securities which came into effect on 2 May 2013 and as may be amended from time to time

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Case F2: Failure to institute selling-out by T+3 against clients who had failed to pay for their purchases

- (1) Bursa Malaysia Securities had imposed a private reprimand and fine of RM20,000 on a PO for its failure to institute selling-out by T+3, as prescribed in Schedule 2 of the Rules of Bursa Malaysia Securities, against its clients who had failed to pay for their purchases.
- (2) The sanctions, including the fine, were imposed on the PO after considering, amongst others, the following:-
 - (a) The breach occurred over a period of more than one year. In this regard, there was an uptrend of force-selling beyond T+3 for outstanding purchase contracts during the relevant period.
 - (b) The breach was mainly due to the DRs' omission to monitor the clients' outstanding positions.
 - (c) Notwithstanding the remedial steps taken including sending reminders to DRs, suspension of buy function and imposition of fines on the DRs, it was noted that the instances of failure to close off position by T+3 persisted with a significant percentage being due to the DRs' omission; and
 - (d) The PO's admission/non-dispute of the breach and additional/escalated remedial steps including heavier fine on the DRs to deter any recurrence.

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