

BURSA MALAYSIA DERIVATIVES BERHAD

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Trading Participant Circular: 25/2022

AMENDMENTS TO THE RULES AND DIRECTIVES OF BURSA MALAYSIA DERIVATIVES BERHAD (“BMD RULES AND DIRECTIVES”) IN RELATION TO THE INTRODUCTION OF REMOTE TRADING PARTICIPANT (“RTP”)**1. INTRODUCTION**

- 1.1 Bursa Malaysia Derivatives Berhad (“**BMD**” or the “**Exchange**”) has developed the framework for RTP to facilitate a broader range of global players licensed in identified jurisdictions to have direct access to trade in the Malaysian derivatives market, without the need for a heavy capital outlay to set up operations in Malaysia.
- 1.2 By doing so, the Exchange hopes to attract a fresh trading segment amongst foreign clients currently untapped by existing Trading Participants (“**TPs**”).
- 1.3 Under the framework, a RTP is able to trade in the Malaysian derivatives market without having to be incorporated in Malaysia and licensed under the Capital Markets and Services Act 2007 (“**CMSA**”), on the basis that it is dealing in derivatives for clients outside Malaysia.
- 1.4 A RTP is however required to be registered with the Exchange under the BMD Rules, and must fulfil the eligibility criteria prescribed in the rules, such as only trading for clients outside Malaysia, being registered, licensed, approved or otherwise regulated in respect of dealing in derivatives by its home regulator, and having a clearing arrangement with a Clearing Participant¹ (“**CP**”) to clear its trades on the Exchange.
- 1.5 In terms of the supervisory framework, a RTP and its registered persons (“**RPs**”) would be subjected to similar supervisory framework applicable for TP’s and RPs under the BMD Rules and Directives. However, given the location of RTPs, certain approaches may differ, such as performing remote inspections instead of physical onsite inspections.
- 1.6 The amendments have been approved by the Securities Commission Malaysia (“**SC**”) pursuant to section 9 CMSA and are further explained in paragraph 2 below.

2. KEY AMENDMENTS TO THE BMD RULES AND DIRECTIVES

- 2.1 The key amendments in respect of RTP are as follows:
- (a) prescribing the following additional requirements² for registering a RTP:
- (i) it is licensed, registered, approved or otherwise regulated in respect of dealing in derivatives by a home regulator³;

¹ A CP is a participant of Bursa Malaysia Derivatives Clearing Berhad or any other clearing house the Exchange specifies for the clearing, settlement and exercise of contracts.

² A RTP must comply with the requirements in Rule 3.10(1)(b) to Rule 3.10(1)(f).

³ A home regulator is a foreign authority that exercises corresponding functions as the SC and that is either a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding (IOSCO MMOU) or has a bilateral memorandum of understanding with the SC.

- (ii) its home jurisdiction must be a member of the Financial Action Task Force on Money Laundering or the Asia/Pacific Group on Money Laundering; and
 - (iii) it has for the past 3 years or more been a participant in a home derivatives exchange⁴;
- (b) allowing the RTP to only trade for clients outside Malaysia;
- (c) requiring the RTP to enter into a clearing arrangement with a domestic CP to clear its derivatives contracts traded on the Exchange; and
- (d) requiring the RTP to comply with the following continuing obligations:
- (i) the same continuing obligations a Malaysian TP is subjected to, including compliance with the BMD Rules and Directives;
 - (ii) the requirements in a RTP's home jurisdiction where applicable, including requirements on outsourcing, marketing representatives and the preparation and submission of financial statements;⁵
 - (iii) the prescribed obligations on issuing contract notes and maintaining clients' segregated accounts, notwithstanding that it is not a Capital Markets Services Licence holder for dealing in derivatives; and
 - (iv) the relevant Securities Laws⁶ and the SC's requirements under the provisions of the BMD Rules and Directives, to the extent that are relevant and applicable to a RTP.

2.2 The key amendments in respect of a RTP's RPs are as follows:

- (a) requiring a RTP to register its Head of Dealing⁷, Compliance Officer⁸ and Registered Representatives⁹ with the Exchange, in accordance with the requirements applicable to a Malaysian TP;
- (b) requiring a RTP's RPs to be subjected to the same qualification criteria as a Malaysian TP's RPs, except that the Head of Dealing and Registered Representative appointed by the RTP must be licensed, registered or approved by its home regulator or home derivatives exchange for dealing in derivatives, instead of being licensed by the SC;
- (c) in the case of a RTP's Compliance Officer, similar to a Compliance Officer of a Malaysian TP, it must not be licensed, registered or approved by the home regulator or home derivatives exchange for dealing in derivatives; and

⁴ A home derivatives exchange is a derivatives exchange in a jurisdiction outside of Malaysia which is a member, or a subsidiary of a member or part of an exchange group that is a member of the World Federation of Exchanges.

⁵ The Exchange amended the BMD Rules and Directives to refer to the corresponding requirements of the RTP's home jurisdiction, given that the RTP is licensed, registered, approved or otherwise regulated in respect of dealing in derivatives by its home jurisdiction as opposed to being licensed under the CMSA framework.

⁶ Securities Laws are as defined in the Securities Commission Malaysia Act 1993.

⁷ Rule 1.01 defines Head of Dealing to mean a person appointed by a TP under Rule 3.30(1) of the BMD Rules.

⁸ Rule 1.01 defines Compliance Officer to mean a person who is appointed by a TP and is registered with the Exchange as a Compliance Officer under Part G of Chapter 3 of the BMD Rules.

⁹ Rule 1.01 defines Registered Representative to mean a holder of a Capital Markets Services Representative's Licence for dealing in derivatives.

- (d) requiring a RTP's RPs to comply with the following continuing obligations:
- (i) the same continuing obligations a Malaysian TP's RPs are subjected to, including compliance with the BMD Rules and Directives; and
 - (ii) the relevant Securities Laws and the SC's requirements under the provisions of the BMD Rules and Directives, to the extent that are relevant and applicable to a RTP's RP.

2.3 The detailed amendments to the BMD Rules and Directives are as set out in **Annexures 1** and **2**, respectively.

3. FREQUENTLY ASKED QUESTIONS ("FAQs")

The FAQs in relation to the RTP framework can be accessed at the following link:
https://www.bursamalaysia.com/regulation/faqs_relating_to_bursa_malaysia_rules

4. EFFECTIVE DATE

The amendments to the BMD Rules and Directives as set out in paragraph 2 above will take effect from **16 January 2023**.

5. CONTACT PERSON

In the event of any queries in relation to the above matter, kindly contact us at the following:

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This Circular is available at:

https://www.bursamalaysia.com/regulation/derivatives/rules_of_bursa_malaysia_derivatives

Regulation