

Chapter 4 Sponsors and Recognised Approved Advisers
[Questions & Answers]

QUESTIONS AND ANSWERS IN RELATION TO
BURSA MALAYSIA SECURITIES BERHAD ACE MARKET LISTING REQUIREMENTS
(As at 1 April 2023)

CHAPTER 4 – SPONSORS AND RECOGNISED APPROVED ADVISERS

Definition of “Public Document”

4.1 Does “Public Document”¹ as referred to in certain rules such as Rules 4.02 and 4.10 of the ACE LR, include an announcement made by a Sponsored Corporation?

Yes, “Public Document” means any document issued by a Sponsored Corporation to the public or holders of any class of securities. This includes an announcement made to Bursa Securities for dissemination to the public.

Mandatory pre-admission consultation

4.1A Who are the key advisers for the purpose of the mandatory pre-admission consultation under Rule 4.06A of the ACE LR?

The key advisers would be advisers as may be specified by Bursa Securities, which may include the applicant’s financial adviser, legal adviser, reporting accountant and valuer.

4.1B Can an applicant undertake voluntary consultation with Bursa Securities prior to the mandatory pre-admission consultation under Rule 4.06A of the ACE LR?

Yes. An applicant is encouraged to undertake voluntary consultation with Bursa Securities prior to the mandatory pre-admission consultation particularly on key material or potential issues which may impede the proposed listing of the applicant.

Eligibility, roles and responsibilities of a Sponsor

4.2 Who is eligible to be a Sponsor?

A Sponsor must be a recognised principal adviser under the SC’s Licensing Handbook and admitted to the Register of Sponsor of the ACE Market.

4.3 Pursuant to Rule 4.08(4) of the ACE LR, a Sponsor must not sponsor an applicant or listed corporation if it has 5% or more of the enlarged issued and paid-up share capital in the applicant or listed corporation. Are shares held by the Sponsor’s director or employee included for the purpose of computing the 5% shareholding?

No, only shares held by the Sponsor is counted for the purpose of determining whether the Sponsor holds 5% or more of the enlarged issued and paid-up share capital in the applicant or listed corporation. However, the Sponsor must still assess if its directors’ and employees’ shareholding in the Sponsored Corporation would impair its ability to discharge its functions independently.

¹ Rule 4.02 of the ACE LR defines “Public Document” as any document issued by an applicant or a listed corporation to the public or to the holders of any class of securities in a listed corporation pursuant to the ACE LR.

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- 4.4 Pursuant to Rule 4.09(a) of the ACE LR, a Sponsor must among others, maintain regular contact with the Sponsored Corporation, including being available at all times to advise and guide the Sponsored Corporation. Does this mean that the Sponsor must assign or station an officer in the Sponsored Corporation's office at all times?**

Bursa Securities does not prescribe the manner in which a Sponsor must undertake this duty. As long as the Sponsor is available to advise and guide the Sponsored Corporation and its directors as prescribed under the ACE LR, the Sponsor is considered to have fulfilled its duty,

- 4.5 Pursuant to Rule 4.09(c) of the ACE LR, a Sponsor must advise the Sponsored Corporation if the trading of the Sponsored Corporation's listed securities will or should be halted or suspended. What are the key roles of a Sponsor under this Rule 4.09(c)?**

A Sponsor must among others, assess and advise the Sponsored Corporation whether there is a need to request for suspension pursuant to Guidance Note 12.

When a Sponsored Corporation makes an announcement during trading hours, a Sponsor is expected to advise the Sponsored Corporation whether the announcement will trigger a trading halt and the period of such trading halt, if applicable, under Guidance Note 14.

The above is not exhaustive. A Sponsor is expected to advise a listed corporation to request for suspension where a situation warrants it. For example, X Bhd's board of directors deliberated on a material acquisition at a meeting ended at 2 p.m. on Monday. The board decided to make an announcement after 5 p.m. while maintaining the confidentiality of the acquisition. However, there is unusual trading in the securities of X Bhd when trading commences at 2.30 p.m. X Bhd is uncertain whether there is a leak of information. In such instances, the Sponsor must advise X Bhd to request a suspension of trading in its securities pending the release of the announcement on the acquisition.

- 4.6 Pursuant to Rule 4.11(c) of the ACE LR, a Sponsor may seek necessary assistance and consultation from other appropriately qualified and suitable professionals when required. Does it mean that a Sponsor is absolved of its responsibilities when it has obtained the necessary assistance or consultation from the said professionals?**

No, the Sponsor is not absolved of its responsibilities under the ACE LR and must at all times ensure full compliance with the requirements imposed on it as a Sponsor.

- 4.7 [Deleted]**

- 4.8 Pursuant to Rule 4.12(b) of the ACE LR, a Sponsor must notify Bursa Securities immediately when it believes or becomes aware that a matter reported by it to the board of directors of its Sponsored Corporation has not been satisfactorily resolved resulting in a breach of the ACE LR. In this regard, must the notification be in writing?**

No. However, a Sponsor is encouraged to notify the same to Bursa Securities in writing to ensure that the information given to Bursa Securities is communicated clearly.

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Appointment of an Adviser for a corporate proposal**4.9 Can a Sponsored Corporation appoint an Adviser other than its Sponsor, to act on its behalf when undertaking a corporate proposal during the Sponsorship Period?**

Yes, a Sponsored Corporation may appoint an Adviser other than its Sponsor to act on its behalf when undertaking a corporate proposal during the Sponsorship Period. However, the Sponsored Corporation must obtain the prior written consent of its Sponsor for such appointment pursuant to Rule 4.25 of the ACE LR. The responsibilities of a Sponsor and Adviser in this circumstance are as set out in Rule 4.16 of the ACE LR.

4.10 Can a Sponsor reject a Sponsored Corporation's request to appoint an Adviser to undertake a corporate proposal?

Yes, however pursuant to Rule 4.25 of the ACE LR, a Sponsor must not unreasonably withhold its consent to the Sponsored Corporation's request to appoint an Adviser for the purpose of undertaking a corporate proposal. The Sponsor should act professionally in considering the request for the appointment of an Adviser.

Resignation and termination of a Sponsor**4.11 X is the Sponsor who makes an application for listing on behalf of A Bhd. A Bhd is listed on the ACE Market on 1 September 2009. Based on Rule 3.21 of the ACE LR, A Bhd must secure and maintain the services of a Sponsor for at least 3 full financial years after its admission to the Official List, and extended to at least 1 full financial year after the applicant has generated operating revenue. A Bhd financial period ends on 31 December 2010.****(a) Can X resign or A Bhd terminate X's appointment as the Sponsor of A Bhd before 31 December 2010?**

No, based on Rule 4.18 of the ACE LR, X who makes a listing application on behalf of an applicant must act as the Sponsor for at least 1 full financial year after admission. During the said period, X cannot resign, neither can A Bhd terminate X's appointment as its Sponsor.

(b) Can X resign as A Bhd's Sponsor after 31 December 2010?

It depends on whether A Bhd has found a replacement Sponsor to succeed X. Based on Rule 4.19(1), if a replacement Sponsor has been found, X can resign by notifying Bursa Securities of the proposed resignation, together with the detailed reasons for the resignation. However, if no replacement Sponsor has been found, X must seek the Exchange's prior approval for its proposed resignation, together with the detailed reasons for the resignation.

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- (c) On 1 June 2011, X decides to resign as a Sponsor in A Bhd. A Bhd agrees to X's resignation and has found Y as its new Sponsor, who is willing to take over as A Bhd's Sponsor immediately. Must X seek Bursa Securities' approval for its resignation?**

No, pursuant to Rule 4.19(1)(a) of the ACE LR, X only needs to notify Bursa Securities together with detailed reasons for its resignation.

- (d) If X intends to resign as A Bhd's Sponsor but A Bhd refuses to accept X's resignation, what can X do to end the sponsorship?**

Notwithstanding A Bhd's objection, X may apply to Bursa Securities to resign as A Bhd's Sponsor. X must provide the detailed reasons for its application. Based on Rule 4.19(3) of the ACE LR, Bursa Securities will not grant its approval unless there are exceptional circumstances which warrant the consideration of Bursa Securities.

- (e) Further to Question (d) above, what are the exceptional circumstances under which Bursa Securities may consider in allowing a resignation or termination of X as A Bhd's Sponsor?**

Generally, Bursa Securities will consider whether the parties have acted "reasonably". The exceptional circumstances which Bursa Securities may consider X's resignation or termination as A Bhd's Sponsor include circumstances where –

- (i) there is an irreconcilable breakdown in the relationship between X and A Bhd; or
- (ii) X is no longer qualified to act as a Sponsor for any reasons, including not having the minimum number of Qualified Person or being removed from the Register of Sponsors by Bursa Securities.

The parties must substantiate their application with the relevant facts and information.

- (f) Assuming X resigns as A Bhd's Sponsor and A Bhd appoints Y as its new Sponsor for the remaining sponsorship period. Must A Bhd still include a statement in the Public Documents that its admission was sponsored by X for the remaining sponsorship period?**

Yes, pursuant to Rule 4.27(2) of the ACE LR, even though X has ceased to be A Bhd's Sponsor, A Bhd must still include X's name as its listing sponsor on all Public Documents issued by A Bhd during the remaining sponsorship period.

- (g) In a case where A Bhd applies for and obtains an exemption from Bursa Securities from continued compliance with the remaining sponsorship period pursuant to Rule 3.21(2A), must A Bhd still state in the Public Documents that its admission was sponsored by X after the date the exemption was obtained?**

No, A Bhd would not be required to state that its admission was sponsored by X in the Public Documents issued after the effective date of the exemption.

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- 4.12 A Sponsor's resignation or termination is approved by Bursa Securities in the second year of sponsorship under some exceptional circumstances, even though no replacement Sponsor has been found. What action will Bursa Securities take if after the expiry of the 3 months from the date of Bursa Securities' approval, a Sponsored Corporation has yet to find a replacement sponsor?**

Pursuant to Rule 4.19(5) of the ACE LR, if a Sponsored Corporation fails to find a replacement Sponsor after the expiry of the 3 months from the date of Bursa Securities' approval, Bursa Securities shall suspend trading in the Sponsored Corporation's listed securities. If the Sponsored Corporation still fails to find a replacement sponsor at the end of 2 months after the expiry of the 3 months period, Bursa Securities shall automatically de-list the Sponsored Corporation.

Rules governing Sponsored Corporations in dealing with Sponsors

- 4.13 Rule 4.26 of the ACE LR provides that a Sponsor must be consulted in certain prescribed circumstances. Does this requirement apply to all listed corporations?**

This requirement applies only to Sponsored Corporations i.e. listed corporations which are still being sponsored by a particular Sponsor.

- 4.14 What are some examples of the types of transactions referred to under Rule 4.26(1)(a) of the ACE LR?**

Rule 4.26(1)(a) of the ACE LR requires Sponsored Corporations to consult their Sponsors in relation to proposals or transactions which, if undertaken, will require a listed corporation, at the minimum, to announce the proposal or transaction to Bursa Securities. This includes for example -

- (i) transactions which fall under Rules 10.06 and 10.07 of the ACE LR i.e. non-related party transactions where the percentage ratio is 5% or 25% respectively;
- (ii) related party transactions which are subject to Rule 10.08 of the ACE LR; and
- (iii) transactions which fall under Rule 10.13 of the ACE LR.

- 4.15 (a) Rule 4.26 of the ACE LR provides that a Sponsored Corporation must consult and seek the advice of its Sponsor when it contemplates certain corporate proposals or transactions. What are the obligations of the Sponsor when it is consulted by its Sponsored Corporation pursuant to Rule 4.26 of the ACE LR?**

The Sponsor must advise the Sponsored Corporation on the relevant legislation, guidelines and requirements which are applicable to the circumstances set out in Rule 4.26 of the ACE LR. If the Sponsor is appointed as an Adviser, it must also comply with the requirements in Rule 4.16.

- (b) Does the Sponsor have a right to request further information from the Sponsored Corporation?**

Under Rule 4.28 of the ACE LR, a Sponsored Corporation must provide its Sponsor with all the relevant information it possesses which is necessary and reasonable to enable the Sponsor to discharge its duties.

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Eligibility, roles and responsibilities of a Recognised Approved Adviser

4.16 Will an Approved Adviser which fulfills the criteria as set out in Rule 4.29 of the ACE LR² automatically become a Recognised Approved Adviser?

No. An Approved Adviser that fulfills the criteria as set out in Rule 4.29 of the ACE LR is required to seek approval from Bursa Securities to become a Recognised Approved Adviser. Bursa Securities retains its absolute discretion to subject the approval to such other conditions as Bursa Securities thinks fit, or decline an approval which will or is likely to adversely affect the reputation of Bursa Securities or the integrity of the market or that may be contrary to public interest.³

4.17 What are the roles that can be undertaken by a Recognised Approved Adviser in the ACE Market?

Pursuant to Rule 4.30 of the ACE LR, a Recognised Approved Adviser may, subject to the conditions being met, be appointed for the following:

	Role(s)	Conditions
(a)	Joint Transfer Sponsor in relation to a transfer of listing application	For a transfer applicant which the Recognised Approved Adviser has acted either – (i) as its Approved Adviser for its initial listing on the LEAP Market; or (ii) as its Continuing Adviser on the LEAP Market for at least 1 full financial year.
(b)	Replacement Sponsor	For a listed corporation which it has acted as its Joint Transfer Sponsor.

² The Approved Adviser must comply with the following:

- (a) have acted as an Approved Adviser for at least 3 initial listings on the LEAP Market;
- (b) have at least 1 employee who is a Qualified Person;
- (c) have satisfactory conduct and work record with no adverse record;
- (d) have no pending investigation or enforcement action initiated against it by Bursa Securities or SC;
- (e) provide Bursa Securities with an irrevocable and unconditional undertaking to comply with the ACE LR; and
- (f) satisfy such conditions as may be imposed by Bursa Securities.

³ Rule 4.29(2) of the ACE LR.

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	Role(s)	Conditions
(c)	Adviser for corporate proposals involving new issue of securities pursuant to a bonus issue, private placement made under a general mandate or a Dividend Reinvestment Scheme as set out in Rule 6.02(4A) of the ACE LR (“permitted corporate proposals”)	For any other listed corporation which it has acted as a Joint Transfer Sponsor during or after the Sponsorship Period.

4.18 Can a Recognised Approved Adviser be appointed as a main adviser for transactions or corporate proposals under the ACE LR (other than the permitted corporate proposals)?

No. The Recognised Approved Adviser is not permitted to act as the main adviser for transactions or corporate proposals under the ACE LR (other than the permitted corporate proposals).⁴

4.19 When a Recognised Approved Adviser is appointed as a Joint Transfer Sponsor to submit a transfer of listing application, is it required to assign and identify a Qualified Person and Senior Officer for the corporate proposal?

Yes. In such instance, the Qualified Person and Senior Officer of the Recognised Approved Adviser must also comply with the ACE LR including Chapter 4 and Guidance Note 18, to the extent they are applicable to them with the necessary modifications.⁵

⁴ Rule 4.30(1) of the ACE LR.

⁵ Rule 4.30(2) of the ACE LR.