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

CHAPTER 6 – NEW ISSUES OF SECURITIES

Admission

- 6.1 Pursuant to Rule 6.02(3)(d) of the ACE LR, Bursa Securities when granting approval for the listing of a new issue of securities by listed corporations, will consider amongst others, whether the listed corporation has satisfactory corporate governance practices. What will Bursa Securities consider in determining whether that is fulfilled?**

Bursa Securities in considering a proposal, would take into account a listed corporation's corporate governance record, including any previous actions taken against the listed corporation for any breach of any relevant laws, guidelines or rules issued by the SC or Bursa Securities, or for failure to comply with any written notice or condition imposed by the SC or Bursa Securities.

In addition, Bursa Securities will also consider the past corporate conduct of the board of directors.

6.1A The facts are as follows:

- *XYZ Bhd* was a corporation listed on the LEAP Market which had successfully transferred its listing to the ACE Market.
- *RAA Sdn Bhd* is a Recognised Approved Adviser and had acted as an Approved Adviser for *XYZ Bhd's* initial listing on the LEAP Market. It was also the Joint Transfer Sponsor for the submission of *XYZ Bhd's* transfer of listing application.
- *XYZ Bhd* proposes to undertake a private placement made under a general mandate.

- (a) If *XYZ Bhd* is not the Sponsored Corporation of *RAA Sdn Bhd*, can *XYZ Bhd* appoint *RAA Sdn Bhd* to submit its listing application for the new issue of securities pursuant to the private placement?**

Yes. Pursuant to Rule 6.02(4A) of the ACE LR, as long as *RAA Sdn Bhd* had acted as the Joint Transfer Sponsor for *XYZ Bhd*, *RAA Sdn Bhd* can be appointed by *XYZ Bhd* to submit its listing application in respect of the issue of new securities pursuant to the private placement.

- (b) If *RAA Sdn Bhd* is not permitted to act as the placement agent, it must ensure that *XYZ Bhd* appoints a qualified person to be the placement agent under Rule 6.13(2) of the ACE LR. Who is the qualified person for this purpose?**

XYZ Bhd may appoint any person who holds a license for dealing in securities under the SC's Licensing Handbook, as the qualified person to be the placement agent. This includes a Sponsor or Adviser.

6.2 Is a listed corporation allowed to submit its listing application for a new issue of securities to Bursa Securities on its own?

Yes, but only in relation to a listing application of Specified Bonus Issue¹ of equity securities, which may be submitted by the listed corporation on its own pursuant to Rule 6.02(4) of the ACE LR.

Listing procedures**6.2A What is the key difference between the procedures under paragraphs 2.0 and 4.0 of Guidance Note 17?**

Pursuant to paragraph 2.0 of Guidance Note 17, the listed corporation is required to submit 2 applications to Bursa Securities for approval –

- (a) Additional Listing Application (“**ALA**”) - of which the approval from Bursa Securities will be sought for the listing of new securities; and
- (b) Quotation Application – of which listed corporation is required to furnish Bursa Securities with the requisite documents/confirmations to facilitate the listing and quotation of the new securities on Bursa Securities.

However, under paragraph 4.0 of Guidance Note 17, the Quotation Application is merged with the ALA. Hence, only 1 application is required to be submitted to Bursa Securities (“**Consolidated Application**”). All the requisite documents/confirmations required under the Quotation Application will be procured in the form of undertakings when the listed corporation submits its Consolidated Application.

The procedures under paragraph 4.0 of Guidance Note 17 are similar to paragraph 3.0 of Guidance Note 17 in relation to the listing of bonus issue of securities and convertible securities arising from the bonus issue, which was implemented successfully in April 2007 with the objective of shortening the time to market.

6.3 Y Bhd is a company listed on the ACE Market. It proposes to make a rights issue to raise further funds and Bursa Securities' review of such circular is not required. In this situation, must Y Bhd submit the printed circular to Bursa Securities together with the listing application?

In the event the circular has been issued to its shareholders when *Y Bhd* submits the listing application to Bursa Securities for the rights issue of securities, *Y Bhd* must enclose the circular together with its listing application to Bursa Securities. However, if the circular has not been issued to shareholders when *Y Bhd* submits the listing application to Bursa Securities, then *Y Bhd* must enclose a copy of the draft circular together with its listing application.

¹ A “**Specified Bonus Issue**” is a bonus issue of securities which –

- (i) is not conditional upon any other corporate proposal, or
- (ii) is conditional upon another corporate proposal but –
 - (aa) that other corporate proposal is a subdivision or consolidation of shares; or
 - (bb) that other corporate proposal has been completed or become unconditional.

- 6.4 ***X Bhd* is a Cash Company. It proposes to undertake a regularisation proposal which involves new issue of securities. When must *X Bhd* submit the draft circular for such proposal to Bursa Securities for its review before issuing the same to its shareholders?**

X Bhd must submit the draft circular to Bursa Securities together with its regularisation proposal for Bursa Securities' approval and clearance before *X Bhd* issues the circular.

- 6.5 **Please elaborate further on the type of proposals to which the procedures under paragraph 4.0 of Guidance Note 17 apply.**

This procedure is applicable to the additional securities which will be listed and quoted as the existing listed securities of the same type and class.

Examples where paragraph 4.0 is applicable

Example 1

PLC A proposes to issue additional new ordinary shares pursuant to the exercise of Share Issuance Scheme where the new ordinary shares arising from the Share Issuance Scheme will be listed and quoted as the existing listed ordinary shares.

In this instance, *PLC A* will adhere to the procedures under paragraph 4.0 for the listing and quotation of the new ordinary shares issued pursuant to the Share Issuance Scheme as it involves the same class of securities.

Example 2

PLC B has existing ordinary shares and warrants listed on Bursa Securities. *PLC B* proposes to undertake a rights issue of 100 million new ordinary shares on the basis of 1 new ordinary share for every 2 existing ordinary shares held ("**Rights Issue**"). Pursuant to the provision in the deed poll, additional warrants will be issued arising from the adjustment pursuant to the Rights Issue ("**Additional Warrants**").

In this instance, *PLC B* will adhere to the procedures under paragraph 4.0 provided that the additional 100 million new ordinary shares and the Additional Warrants will be listed and quoted as the existing listed ordinary shares and warrants respectively.

Example 3

PLC E undertakes a corporate exercise which entails the following:

- (a) Proposed acquisition of *ABC company* for a purchase consideration of RM100 million to be satisfied by the issuance of 50 million new ordinary shares at RM2.00 per share ("**Acquisition**").
- (b) Rights issue of 80 million new ordinary shares on the basis of 1 new ordinary share for every 1 share held ("**Rights Issue**").

Facts

- (i) The Acquisition shares and Rights Issue will be listed and quoted as the existing listed ordinary shares; and

- (ii) The Acquisition and Rights Issue are inter-conditional upon each other and hence, the new ordinary shares arising from both the Rights Issue and Acquisition must be listed and quoted at the same time.

In this instance, *PLC E* will adhere to the procedures under paragraph 4.0 of Guidance Note 17 because both the new shares arising from the Acquisition and Rights Issue will be listed and quoted as the existing listed shares.

Examples where paragraph 4.0 of Guidance Note 17 is NOT applicable

Example 4

PLC C proposes to undertake a private placement of new ordinary shares and these new ordinary shares will not be entitled to the final dividend for the financial year ended 30 March 2009.

As the new ordinary shares to be issued pursuant to the private placement will not be listed and quoted as the existing listed ordinary shares to which the procedures under paragraph 4.0 apply, *PLC C* must follow the procedure under paragraph 2.0 of Guidance Note 17.

Example 5

PLC D has existing ordinary shares and warrants listed on Bursa Securities and propose to undertake a rights issue of 80 million new ordinary shares and RM80 million nominal value of Irredeemable Convertible Loan Stocks (“**ICULS**”) to its shareholders.

As the rights issue involves the issuance of a new type of securities i.e. ICULS, which is not currently listed, *PLC D* must follow the listing procedures under paragraph 2.0 of Guidance Note 17 similar to Example 3 above.

Example 6

PLC F undertakes a corporate exercise which entails the following:

- (a) Proposed acquisition of *DEF company* for a purchase consideration of RM100 million to be satisfied by the issuance of 50 million new ordinary shares at RM2.00 per share (“**Acquisition**”).
- (b) Rights issue of 80 million new ordinary shares on the basis of 1 new ordinary share for every 1 share held (“**Rights Issue**”).

Facts

- (i) the new ordinary shares arising from the Acquisition will not be entitled to the Rights Issue;
- (ii) the Rights Issue shares will be listed and quoted as the existing listed ordinary shares; and
- (iii) the Acquisition is not conditional upon the Rights Issue.

In this instance, *PLC F* will adhere to the following procedures:

- procedures under paragraph 2.0 of Guidance Note 17 for new ordinary shares arising from Acquisition as it involves the issuance of a new class of securities i.e. “A” shares; and
- procedures under paragraph 4.0 of Guidance Note 17 for Rights Issue because the new shares arising from the Rights Issue will be listed and quoted as the existing listed shares.

Please refer to Annexure GN17-A of Guidance Note 17 for a better understanding on the application of each additional listing procedure set out under paragraphs 2.0, 3.0 and 4.0 of Guidance Note 17.

6.6 When will the listing and quotation of the additional securities be effected under paragraph 4.0 of Guidance Note 17?

Pursuant to the procedures under paragraph 4.0 of Guidance Note 17, the additional securities will be listed and quoted on the next market day after the listed corporation has -

- (a) submitted the relevant certificate together with a covering letter containing the summary of the corporate proposal to Bursa Depository before **10 a.m.** on the market day before the listing date;
- (b) received confirmation from Bursa Depository that the additional securities are ready for crediting into the respective account holders; and
- (c) announced pursuant to paragraph 12.2 of Guidance Note 17 through *Bursa Link* via a dedicated template, “*ALA template*” before **3 p.m.** on the market day before the listing date the following:
 - (i) details of corporate proposal;
 - (ii) total number of securities issued under each proposal and its issue price, if any;
 - (iii) date of listing and quotation; and
 - (iv) latest share capital and number of issued shares after the proposal indicating the number of shares (in units and RM).

6.7 A controlling shareholder which is a statutory institution managing funds belonging to the public is no longer required to list down its directorships or substantial shareholdings in all other listed corporations in Malaysia for the past 3 years, in the additional listing application for new issue of securities under paragraph 12, Part A of Annexure GN17-B. What are some examples of “statutory institutions managing funds belonging to the public”?

Examples of statutory institutions managing funds belonging to the public include the Employees Provident Fund (“**EPF**”), Lembaga Tabung Angkatan Tentera (“**LTAT**”), Kumpulan Wang Persaraan (Diperbadankan) (“**KWAP**”) and Lembaga Tabung Haji.

- 6.8 Paragraph 1(c) of Part C Annexure GN17-B of Guidance Note 17 requires a listed corporation to enclose among others, a confirmation from the listed corporation that Bursa Depository is ready to credit the new securities to the accounts of the entitled holders. Are there any specific requirements to be complied with by a listed corporation with regard to providing this confirmation?**

In order to provide the confirmation that Bursa Depository is ready to credit the new securities to the accounts of the entitled holders, a listed corporation must procure a confirmation from Bursa Depository as set out below when the listed corporation submits the new scrip in respect of new securities to Bursa Depository. The listed corporation must include the following confirmation in its cover letter to Bursa Depository when submitting the said new scrip:

"(To be completed by Bursa Malaysia Depository Sdn Bhd)

We hereby confirm that Bursa Malaysia Depository Sdn Bhd has received all the relevant documents from the share registrar/ issuer to facilitate the crediting of the above allotment. The above securities will be credited into the designated CDS accounts one (1) market day prior to the listing/quotation of the above securities.

.....
Name : (Authorised signatory)
Date : "

Bursa Depository will then acknowledge on the said cover letter. The listed corporation must submit a copy of the cover letter duly acknowledged by Bursa Depository to Bursa Securities as the confirmation required under paragraph 1(c) of Part C, Annexure GN17-B, together with the other documents as required under Part C of Annexure GN17-B in support of an application for quotation of new issue of securities.

General requirements for new issue of securities

- 6.9 When should a listed corporation seek a general mandate from its shareholders to issue new securities?**

A listed corporation is encouraged to seek a general mandate from its shareholders only when it has a clear purpose for the utilization of the general mandate, such as for working capital or debt repayment.

- 6.10 The facts are as follows:**

- **On 31 July 2017, PLC A obtained a general mandate from its shareholders under Rule 6.04(1) of the ACE LR to issue shares at any time until the conclusion of its next annual general meeting provided that the aggregate number of shares to be issued does not exceed 10% of its total number of issued shares for the time being.**
- **PLC A's total number of issued shares as at 31 July 2017 was 95 million shares.**

- On 1 September 2017, *PLC A*'s total number of issued shares increased to 100 million shares pursuant to a private placement exercise of 5 million shares of RM1.00 each issued under the general mandate.
- On 31 December 2017, *PLC A* issued another 50 million shares of RM1.00 each pursuant to a rights issue exercise which has been approved under a specific shareholders' approval.
- *PLC A* intends to undertake another private placement exercise by 30 June 2018.

What is the maximum amount of shares that *PLC A* can issue for the private placement exercise under the general mandate?

As at 30 June 2018, *PLC A*'s total number of issued shares is 150 million. Therefore, the maximum amount that *PLC A* can issue under the general mandate is 15 million shares. Since *PLC A* has issued 5 million shares under the general mandate in the preceding 12 months, the maximum number of shares that can be issued under the general mandate as at 30 June 2018 is 10 million shares.

- 6.11 The minimum information that is to be disclosed in an announcement or circular in relation to a new issue of securities has been prescribed in Chapter 6 of the ACE LR. Would a listed corporation be in compliance with the disclosure requirement if it merely complies with the minimum content of information prescribed in Chapter 6?**

No, in addition to complying with the minimum content of information prescribed under the ACE LR, a listed corporation must always also ensure compliance with other applicable disclosure obligations such as the standard of disclosure prescribed under Rule 9.35 of the ACE LR.

- 6.12 *B Sdn Bhd* is a subsidiary company of *A Bhd*, a listed corporation. *B Sdn Bhd* intends to issue shares to its own director. This director is not a director or major shareholder of *A Bhd* or its holding company or a person connected with such director or shareholder. Must *A Bhd* obtain shareholder approval for this issuance of securities?**

Subject to Rule 8.23 of the ACE LR, *A Bhd* need not obtain shareholder approval for the above issuance of securities under the ACE LR. However, pursuant to Rule 6.07(4) of the ACE LR, the board of directors of *A Bhd* must approve the allotment/issuance to the director and ensure that it is fair and reasonable to the listed corporation, and is in its best interests. Further, *A Bhd* must make an announcement which contains the prescribed information under Rule 6.07(4)(c) and since it is not an exempted transaction under Rule 10.08(11)(a) of the ACE LR, the announcement must also comply with Rule 10.08(1) of the ACE LR.

- 6.13 *A Bhd*, a listed corporation, is issuing shares to a director of its subsidiary, *C Sdn Bhd* for cash. The director is not a director or major shareholder of *A Bhd* or its holding company or a person connected with such director or shareholder. Must *A Bhd* obtain shareholder approval for the issuance of securities?**

No, Rule 6.07 of the ACE LR does not impose any obligation on *A Bhd* in relation to such issuance of securities. Hence, shareholder approval is not required pursuant to Rule 6.07. In addition, *A Bhd* need not comply with the requirements of Part E of Chapter 10 of the ACE LR as this is an issuance of securities by the listed corporation for cash and hence, exempted under Rule 10.08(11)(a) of the ACE LR. However, please note that the general disclosure obligations under Chapter 9 of the ACE LR may apply.

- 6.14** *D Sdn Bhd, a subsidiary of A Bhd, a listed corporation. D Sdn Bhd intends to issue shares to a director of A Bhd. What are the obligations set out in Rule 6.07 and Part E of Chapter 10 of the ACE LR that A Bhd must comply with?*

Pursuant to Rule 6.07(1) of the ACE LR, *A Bhd* must obtain shareholder approval for the proposed allotment/issuance. *A Bhd* must also comply with the requirements of Part E of Chapter 10 of the ACE LR as this is not a transaction exempted under Rule 10.08(11)(a) of the ACE LR. As such, the announcement in relation to the issuance/allotment must include the information set out in Appendices 10A and 10C of Chapter 10 and the circulars to shareholders must include the information in Appendices 10B and 10D of Chapter 10.

- 6.15** **Under Rule 6.15(2) of the ACE LR, one of the requirements in a back-to-back placement is that the listed corporation must give Bursa Securities a declaration from its existing shareholders involved in the back-to-back placement arrangement, that they will not derive any financial benefit from such an arrangement, directly or indirectly. When must such declaration be given to Bursa Securities?**

The declaration must be submitted to Bursa Securities as part of the supporting documents for its listing application for new issue of securities.

Requirements relating to a rights issue

- 6.16** **What are the corporate exercises which will be processed under SPEEDS?**

The following corporate exercise will be processed under SPEEDS:

- (a) Specified Bonus Issue;
- (b) Specified Subdivision²;
- (c) Specified Consolidation³;

² A “**Specified Subdivision**” is a subdivision of shares which –

- (i) is not conditional upon any other corporate proposal, or
- (ii) is conditional upon another corporate proposal but –
 - (aa) that other corporate proposal is a bonus issue; or
 - (bb) that other corporate proposal has been completed or become unconditional.

³ A “**Specified Consolidation**” is a consolidation of shares which –

- (i) is not conditional upon any other corporate proposal, or
- (ii) is conditional upon another corporate proposal but –
 - (aa) that other corporate proposal is a bonus issue; or
 - (bb) that other corporate proposal has been completed or become unconditional.

- (d) Crediting of shares from capital restructuring involving share cancellation and reduction in the number of shares held by each shareholder of a listed corporation; and
- (e) Crediting of rights entitlement (“Rights”).

6.17 How does a shareholder know whether a particular corporate exercise is processed under SPEEDS?

Shareholders may refer to the listed corporation’s announcement of the books closing date (“BCD”) in relation to the corporate exercise. If a corporate exercise is processed under SPEEDS, the date of listing and quotation of the securities will be on the next market day after the BCD, and such date will be stated in the announcement.

6.18 What is the timeline for the quotation of the rights for trading if the Rights are processed under SPEEDS?

The timelines for the crediting of Rights processed under SPEEDS are set out in the table below.

| Activities | Current Timeline for Rights Issue | SPEEDS timeline |
|----------------------------|-----------------------------------|-----------------|
| Announcement of BCD | BCD - 10 | BCD - 10 |
| Books closing date | BCD | BCD |
| Trading of Rights Commence | BCD + 3 | BCD + 1 |

6.19 When will a listed corporation be required to announce the important relevant dates of a rights issue pursuant to Rule 6.25 of the ACE LR?

A listed corporation is required to announce the important relevant dates concurrently with the announcement of the BCD for a rights issue. A listed corporation must make the announcement via Bursa Link by using the relevant templates for announcements of the BCD and important relevant dates i.e. the "Entitlements (Notice of Books Closure)" and "Important Relevant Dates for Renounceable Rights" templates respectively.

6.20 What is the cut-off time for a listed corporation to submit to Bursa Securities a copy of the abridged prospectus (“AP”) in respect of a rights issue pursuant to Rule 6.18B(3) of the ACE LR?

A listed corporation must submit to Bursa Securities a copy of the AP together with a soft copy in PDF file format before 3.00 p.m. at least 1 market day before the commencement of trading of Rights.

6.21 Is the listed corporation required to submit any document to Bursa Depository before the BCD for the purpose of processing the Rights under SPEEDS?

The listed corporation must submit an undertaking letter in the prescribed format to Bursa Depository on the announcement date of the BCD for the Rights to be processed under SPEEDS. The undertaking letter must include the following:

- (a) The current share capital and number of issued shares of the listed corporation;
- (b) Designated CDS account for the crediting of fractional shares /rights;

- (c) Options on the allotment of fractional rights; and
- (d) An undertaking that the new share certificates will be submitted to Bursa Depository on the BCD.

6.22 If a shareholder maintains his shares in a few Central Depository System (“CDS”) accounts and the Rights are processed under SPEEDS, how will the Rights arising from the process under SPEEDS be calculated and credited into the shareholder’s CDS accounts?

All Rights will be calculated separately based on the shareholder’s shareholdings in the respective CDS accounts. The Rights will be credited into the respective CDS accounts. Notice of Provisional Allotment Letter with details of the transaction for each CDS account will be issued to the shareholder.

6.23 When is the share registrar required to submit the Provisional Allotment Letter (“PAL”) to Bursa Depository for the Rights to be processed under SPEEDS?

For share registrars located within Klang Valley, the PAL must reach Bursa Depository by 5.30 p.m. on the BCD and in respect of outstation share registrars, the new certificates and PAL must be faxed to Bursa Depository by 5.30 p.m. on the BCD before being delivered to Bursa Depository.

6.24 How does a shareholder get a copy of the Rights Subscription Form if he has not received his Rights Subscription Form posted by the listed corporation?

A shareholder can get a copy of the Rights Subscription Form from the share registrar. He can also download the Rights Subscription Form from www.bursamalaysia.com on the BCD of the rights issue onwards.

6.25 If a shareholder does not receive his Notice of Provisional Allotment Letter and Rights Subscription Form, who can he refer to?

The shareholder can contact the respective share registrar handling the Rights issue exercise.

6.26 Under the SPEEDS processing, when will the share registrar receive the file containing the details on the crediting of the Rights (“SPEEDS entitlement file”) from Bursa Depository for the purpose of despatching the Notice of Provisional Allotment Letter and Rights Subscription Form?

The SPEEDS entitlement file will be made available to the relevant share registrar on the morning of the listing date (BCD+1). After processing based on the SPEEDS entitlement file, the share registrar will print and despatch the Notice of Provisional Allotment Letter and Rights Subscription Form together with the prospectus not later than 2 market days after the BCD of the rights issue.

6.27 Can a shareholder sell his Rights even though he has not received the Notice of Provisional Allotment Letter and Rights Subscription Form?

The Rights will be credited into shareholders CDS accounts before the commencement of the trading of Rights on BCD+1. Shareholders may sell their Rights from BCD+1 without having to wait for the Notice of Provisional Allotment Letter and Rights Subscription Form.

6.28 Is there any fee imposed by Bursa Depository for the processing of shares from the crediting of Rights under SPEEDS and if so, how much is the fee?

Bursa Depository will impose on the issuer a processing fee of RM0.50 per account processed under SPEEDS. The processing fee is inclusive of the fee for the Record of Depositors (“**ROD**”). The fee of RM2.20 for the crediting of shares per account allotted remains the same.

Requirements in relation to bonus issue**6.29 What are the circumstances where the listed corporation, or the external auditors/reporting accountants, is required to provide confirmations that the available reserves for capitalization are sufficient to cover the capitalisation issue under Rule 6.31(2)(b)⁴ of the ACE LR and paragraph 1(dA) in Part B, Annexure GN17-B⁵ of Guidance Note 17?**

The following table clarifies the obligations of the listed corporation and the external auditors/reporting accountants in providing the relevant confirmations required for purposes of complying with Rule 6.31(3) of the ACE LR and paragraph 1(dA) in Part B, Annexure GN17-B of Guidance Note 17:

| | SCENARIO | FINANCIAL STATEMENTS RELIED UPON | | | OBLIGATIONS | |
|--------------------------------|------------|-------------------------------------|--|---------------------------------------|---|---|
| | | Latest audited financial statements | Latest audited financial statements adjusted for subsequent events | Latest unaudited financial statements | Must the listed corporation confirm the sufficiency of reserves for capitalization? | Must the reserves for capitalization be verified and confirmed by the external auditors (or reporting accountants) and the report be submitted to Bursa Securities? |
| Are the available reserves for | Scenario 1 | Yes | N/A | Yes | Yes | No |

⁴ Rule 6.31(2)(b) stipulates that a listed corporation undertaking a bonus issue by way of capitalisation must ensure that it has sufficient reserves to cover the capitalisation issue. If the reserves for capitalisation are not based on the annual audited financial statements of the listed corporation, such reserves must be verified and confirmed by the external auditors or reporting accountants of the listed corporation. Where a confirmation by the external auditors or reporting accountants is required, the reserves for capitalisation, which may be adjusted for subsequent events, must be based on the latest audited financial statements or the latest quarterly report, whichever is the later.

⁵ Paragraph 1(dA) of Part B, Annexure GN17-B provides that a listed corporation must file the following documents in support of the listing application for a bonus issue by way of capitalisation:

- (a) confirmation from the listed corporation on the sufficiency of the reserves to cover the capitalization; and
- (b) where the confirmation from the external auditors or reporting accountants is required, the report from the external auditors or reporting accountants.

Chapter 6 New Issue of Securities
[Questions & Answers]

| | SCENARIO | FINANCIAL STATEMENTS RELIED UPON | | | OBLIGATIONS | |
|---|-------------------|-------------------------------------|--|--|---|---|
| | | Latest audited financial statements | Latest audited financial statements adjusted for subsequent events | Latest unaudited financial statements | Must the listed corporation confirm the sufficiency of reserves for capitalization? | Must the reserves for capitalization be verified and confirmed by the external auditors (or reporting accountants) and the report be submitted to Bursa Securities? |
| capitalization sufficient? | Scenario 2 | Yes | N/A | No | Cannot undertake bonus issue | N/A |
| | Scenario 3 | No | Yes | N/A (Latest quarterly financial statements subsequent to the audited financial statements is not due for release) | Yes | Yes |
| Are the available reserves for capitalization sufficient? | Scenario 4 | No | N/A | Yes | Yes | Yes |

6.30 In circumstances where the reserves for capitalization are based on the latest unaudited financial statements and such reserves must be verified and confirmed by the external auditors or reporting accountants, what is the required scope of the audit verification or confirmation?

The audit verification or confirmation must be made in accordance with the approved auditing standards applied in Malaysia for review of interim financial statements.

In relation to a foreign corporation with primary listing on Bursa Securities, the audit verification or confirmation may also be made in accordance with the International Standards on Auditing.

- 6.31** Rule 6.32 of the ACE LR requires a listed corporation which makes a bonus issue by way of capitalization of reserves arising from revaluation of real estate to submit 2 copies of the valuation report on the real estate to Bursa Securities immediately after the listed corporation announces the bonus issue or as soon as the valuation report is ready. Must the listed corporation submit the valuation report to the SC as well?

No, a valuation report required under Rule 6.32 of the ACE LR must be submitted to Bursa Securities only. A listed corporation need not submit the report to the SC.

- 6.32** Must a valuer who is required to submit an undertaking to Bursa Securities under Rule 6.32 of the ACE LR, file an undertaking each time it acts for a listed corporation?

No, a valuer is only required to provide Bursa Securities its letter of undertaking to comply with the ACE LR once. The same undertaking will be applicable for all listed corporations which the valuer acts for.

- 6.33** *C Bhd*, a listed corporation is undertaking a bonus issue by capitalising its reserves arising from the revaluation of real estate. The valuation figure of the real estate is RM100 million. Pursuant to Rule 6.32(4) of the ACE LR, Bursa Securities obtains a second opinion valuation, by which the real estate is valued at RM80 million. *C Bhd* is required to retain at least 20% of the valuation amount of the real estate in the revaluation reserves after undertaking the bonus issue in accordance with the provisions of the ACE LR. How much should *C Bhd* retain?

C Bhd should retain at least RM16 million in the revaluation reserves after taking into account/undertaking the bonus issue (i.e. based on the lower of the 2 valuation figures). The 20% is computed based on the valuation amount for the real estate set out in the valuation report. Where a second opinion valuation is required, the 20% would be based on the lower of the 2 valuation figures.

- 6.34** *ABC Bhd* is considering a proposal to undertake a capitalisation issue. Based on its latest consolidated audited accounts, *ABC Bhd* has revaluation reserves of RM60 million. *ABC Bhd* however has accumulated losses of RM80 million. Can *ABC Bhd* undertake a capitalisation issue?

Yes, *ABC Bhd* can undertake a capitalisation issue provided that it complies with Part F in Chapter 6 of the ACE LR including ensuring that the reserves are sufficient for the capitalisation issue and its share price adjusted for a bonus issue is not less than RM0.20 based on the daily volume weighted average share price during the 3-month period before the application date.

- 6.35** [Deleted]

Requirements relating to a Share Issuance Scheme

- 6.36** With Rule 6.42(d) of the ACE LR, who can confirm adjustments (other than on a bonus issue, subdivision or consolidation of shares) under a Share Issuance Scheme?

Pursuant to Rule 6.42(d) of the ACE LR, either the listed corporation's external auditor, Sponsor or Adviser, may confirm adjustments (other than on a bonus issue, subdivision or consolidation of shares) under a Share Issuance Scheme. However, this is subject to the provisions contained in the listed corporation's bylaws of the Share Issuance Scheme.

6.37 Pursuant to Rule 6.39(1) of the ACE LR, the total number of shares to be issued under a Share Issuance Scheme must not exceed 30% of the total number of issued shares at any one time. How is this percentage calculated?

Where a listed corporation has issued a percentage out of the 30% allowed under Rule 6.39(1) of the ACE LR, for the following issue, the listed corporation would need to deduct from the total number of issued shares, the number of shares already issued and paid for under the Share Issuance Scheme. The result from the deduction would be the new basis for calculating the percentage allowed for the scheme.

Illustration:

PLC A procured shareholder approval to implement a 5-year Share Issuance Scheme of up to 30% of its total number of issued shares on 8 February 2017. *PLC A* has a total number of issued shares of 20 million but arising from a rights issue implemented on 28 March 2017, the total number of issued shares is now 25 million. In addition, arising from the exercise of all the options offered by *PLC A* pursuant to the Share Issuance Scheme, as at December 2017, 5 million new shares were issued. Pursuant to Rule 6.39 of the ACE LR, what is the number of shares under the Share Issuance Scheme that can be offered by *PLC A* to its employees in year 2018?

Based on this example, the computation of the shares under the Share Issuance Scheme that may be offered by *PLC A* is as follow:

| | Total Number of Issued Shares |
|--|-------------------------------|
| 8 February 2017 | 20 million |
| 28 March 2017 (Issuance of new shares arising from rights issue – 5 million) | 25 million |
| December 2017 (Total issuance of shares under the Share Issuance Scheme – 5 million) | 30 million |

Shares under the Share Issuance Scheme that can be offered by *PLC A* in year 2018:

= (30% x 30 million shares) LESS shares already issued under the Share Issuance Scheme (i.e. 5 million shares)

= 4 million new shares

6.38 Can a listed corporation establish more than 1 Share Issuance Scheme at any point in time?

Yes, a listed corporation may establish more than 1 Share Issuance Scheme provided that the aggregate number of shares available under all the Share Issuance Schemes does not exceed 30% of its total number of issued shares (excluding treasury shares).

Share Issuance Scheme by subsidiary**6.39 Is a Share Issuance Scheme undertaken by a subsidiary of a listed corporation subject to the approval of the listed corporation's shareholders?**

Generally, any Share Issuance Scheme implemented by a subsidiary of a listed corporation is no longer subjected to the approval of the listed corporation's shareholders under Rule 6.45 of the ACE LR. The Share Issuance Scheme implemented by the subsidiary will only require the approval of the listed corporation's shareholders if such Share Issuance Scheme is –

- (a) undertaken by a principal subsidiary⁶ and results in, or could potentially result in, a dilution amounting to 25% or more of the listed corporation's equity interest in the principal subsidiary under Rule 8.23 of the ACE LR; or
- (b) very material and triggers the percentage ratio of 25% or more under Rule 10.07 of the ACE LR where it will be considered as a "disposal of asset" by the listed corporation, due to dilution of its equity interest in the subsidiary.

In determining whether the obligations under Rules 8.23 or 10.07 of the ACE LR are triggered, the listed corporation must compute the relevant thresholds prior to implementation of the Share Issuance Scheme of the subsidiary based on the assumption that the Share Issuance Scheme is implemented in full.

Dividend Reinvestment Scheme**6.40 Will the shareholders having registered addresses outside Malaysia be entitled to participate in the Dividend Reinvestment Scheme?**

In addition to the requirements in Chapter 6 of the ACE LR, a listed corporation which intends to issue shares pursuant to a Dividend Reinvestment Scheme must also comply with the relevant provisions of law governing such issuance.

Hence, the listed corporation must ensure that there is no prohibition under the relevant laws in determining whether shareholders having registered addresses outside Malaysia are entitled to participate in the Dividend Reinvestment Scheme.

⁶ A "principal subsidiary" is defined in Rule 1.01 of the ACE LR as a subsidiary which accounts for 25% or more of the profit after tax or total assets employed of the listed corporation based on the latest published or announced audited financial statements of the listed corporation or audited consolidated financial statements of the listed corporation, as the case may be.

Issuance of convertible securities

6.41 Can a listed corporation revise the provisions in its deed poll or trust deed pertaining to the following changes as set out in Rule 6.55(3) of the ACE LR (“said restrictions”):

- **the tenure of the convertible securities; or**
- **the number of shares received for the exercise or conversion of each convertible security or pricing mechanism for the exercise or conversion price (other than adjustments following certain corporate exercises),**

if there are provisions allowing for alteration or adjustment in the deed poll or trust deed and the listed corporation complies with such provisions?

No, and this is clarified in Rule 6.56(b)⁷ of the ACE LR. The said restrictions are imposed on convertible securities (other than debt securities⁸) to provide certainty to the holders of such securities and avoid changes or adjustments to the terms and conditions of the convertible equity securities which may be detrimental to them.

Electronic mode for submission and payment of specified corporate exercises

6.42 Can a listed corporation offer the electronic mode as the only way of performing the corporate exercises as specified under Rule 6.09A of the ACE LR?

No, a listed corporation must still provide the manual method in addition to the electronic mode. This is to ensure that securities holders may continue to use the manual method to perform the relevant steps or procedures specified, if they choose to do so.

6.43 Where can a securities holder find out about the procedures for the subscription and payment of a rights issue?

The securities holder can obtain such information from the abridged prospectus of a rights issue.

6.44 The facts of the matter are as follows:

- **PLC A announces its issuance of convertible securities on 30 June 2020.**
- **PLC A issues the convertible securities on 1 July 2021.**
- **Shareholder B intends to exercise/convert its convertible securities on 31 November 2021.**

⁷ Rule 6.56 of the ACE LR stipulates that a listed corporation may make an alteration or adjustment to the terms of the convertible securities during the tenure of the securities only if such alteration or adjustment –

- (a) is provided upfront in the deed poll or trust deed governing the securities; and
- (b) does not relate to the provisions set out in in Rule 6.55(3) above.

⁸ Rule 6.55(4) of the ACE LR.

The requirements under Rule 6.09A of the ACE LR comes into effect for any rights issue, Dividend Reinvestment Scheme or issue of convertible securities announced on or after 2 February 2021. Based on the facts above, must *PLC A* facilitate the exercise/conversion of convertible securities by its securities holders electronically as required under Rule 6.09A of the ACE LR?

No. *PLC A* is only required to offer the electronic mode for issuance of convertible securities announced on or after 2 February 2021. However, *PLC A* may opt to offer the electronic mode to the securities holders provided that –

- it complies with all the requirements relating to the provision of electronic mode including the disclosure of the process involved in the notice of conversion or exercise of convertible securities; and
- the trust deed or deed poll in respect of the convertible securities facilitates such electronic mode.