

Bursa Malaysia Rules – Key Enforcement Cases in 2023

C. Cases of misconduct/non-compliances by DRs who:-

- (a) executed unauthorised/personal trades in clients' accounts;
- (b) misapplied or misused monies/sales proceeds/gains from the selling of clients' shares; and/or
- (c) acted on instructions of beneficiary of the estate of a deceased client without prior proper authorisation.

Bursa Malaysia Securities emphasises that safeguarding the interests of investors in particular protection of clients' monies/assets/accounts is one of the fundamental obligations/duties of a DR and cornerstone of market integrity which must be upheld at all times.

In this regard:-

- (a) **DRs must not use their client's account for their personal trades.**
- (b) **upon the demise of a client, a DR must not act on any third party instructions without adequate due diligence and verification including obtaining the relevant documents to verify and ensure that the person/third party has legal authority to act for the deceased's estate such as the Grant of Probate/Letters of Administration for the deceased's estate and other letter of authorisation from the executor of the deceased's estate.**

- (i) Bursa Malaysia Securities had imposed a public reprimand, fine of RM27,600 and striking off on the following DR, the details of which can be found in the media release issued:-

No.	DR	Type of misconducts	Date of media release
1.	Kho Kian Lock ("KKL")	<ul style="list-style-type: none"> • Executed personal and unauthorised trades in 2 clients' accounts • Misapplied/misused the clients' monies/sales proceeds/gains from the 	12 September 2023

Glossary:

Bursa Malaysia Securities	Bursa Malaysia Securities Berhad
CDR	Commissioned Dealer's Representative
DR	Dealer's Representative
Mandatory Training	Requirement to undergo training on conduct or professionalism of DRs/Registered Persons/market offences
PO	Participating Organisation
Pre-Revamped Rules of Bursa Malaysia Securities	Rules of Bursa Malaysia Securities Berhad applicable prior to the revamped Rules of Bursa Malaysia Securities Berhad which came into effect on 2 May 2013
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No.	DR	Type of misconducts	Date of media release
		<p>selling of the clients' shares to fully/partly off-set against the contra losses incurred from the unauthorised trades and/or to fund the unauthorised trades</p> <ul style="list-style-type: none"> Accepted cash payments/fund transfer from one client into the DR's own account instead of ensuring that the client made payment directly to the PO 	

- (II) Bursa Malaysia Securities had also imposed a private reprimand, fine and Mandatory Training on one DR for failure to exercise due skill, care and diligence as set out below:-

Case C1: Failure to exercise due skill, care and diligence relating to deceased client's account

- (1) A CDR was imposed a private reprimand, fine of RM6,700 and Mandatory Training for breach of Rule 1302(1)(1)(g) of the Pre-Revamped Rules of Bursa Malaysia Securities and Rules 15.09(g) and 5.16(1)(a) of the Revamped Rules of Bursa Malaysia Securities (collectively, "**the Rules**") for failing to act with due skill, care and diligence and perform her duties as a DR efficiently in relation to the account of a deceased client. In this regard:-
- (a) the CDR (who was not aware of the client's demise) had acted on the instructions of a beneficiary of the deceased client ("**the Beneficiary**") for a period of 12 years, based merely on the Beneficiary's verbal claim that the Beneficiary was in-charge of the client's account, without any verifications/enquiries including procuring the client's prior written authorisation; and
 - (b) the CDR had failed to prevent the trades undertaken in the deceased's account for a period of almost 9 years, based on the instructions of the Beneficiary. The Beneficiary had no proper/legal authority to manage/give instructions for the deceased's account as the Grant of Probate for the deceased's estate has yet to be issued at the material time. Hence, those trades tantamount to unauthorised/unlawful trades in contravention of the Rules.

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- (2) The CDR did not make any attempt to communicate with the client to verify the Beneficiary's claim or undertake the necessary due diligence and verifications/enquiries e.g. request for proof of relationship between the client and Beneficiary or procure a written authorisation from the client for the Beneficiary to give instructions to trade on the client's behalf as required by the Rules. Had the CDR undertaken the necessary due diligence/enquiries and verifications, it could have led to the Beneficiary revealing the client's demise earlier.
- (3) Despite the CDR's knowledge of the Rules requirements and the PO's internal policies against taking instructions from a third party without prior written authorisation of the client, even if the third party is purportedly related to the client, the CDR had proceeded to and continued to take instructions from the Beneficiary to trade in the deceased's account for many years without undertaking any due diligence/enquiries and verifications.
- (4) The sanctions, including the fine and Mandatory Training, were imposed on the CDR having considered, amongst others, the CDR's admission of the breach and the following:-
 - (a) The materiality/severity/extent of the breach including that it spanned over a prolonged period of time.
 - (b) The CDR was not informed of the client's demise and upon being made aware of the client's demise, the CDR had immediately informed the PO of the same and requested to suspend the deceased's account.
 - (c) The Beneficiary was subsequently appointed as the Executrix of the deceased's estate and there was no dispute on the trades undertaken or the balance monies in the deceased's account by the other beneficiaries.
 - (d) There was no abuse/misuse of the deceased's account and no evidence of bad faith, fraud or dishonesty on the part of the CDR or that the CDR had undertaken the trades for her own benefit.

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