

## BURSA MALAYSIA SECURITIES BERHAD

## PRACTICE NOTE NO-1/2001

## DEFAULT IN PAYMENT

<u>Details</u>	<u>Cross References</u>
<u>Effective date:</u> 1 June 2001	<u>Paragraphs 9.03, 9.04(l), 9.16</u>
<u>Revision date:</u> 3 August 2009	

~~Issued in relation to paragraphs 9.03, 9.04(l) and 9.16 of the Listing Requirements;~~

~~And~~

~~Pursuant to paragraphs 2.08 and 2.19 of the Listing Requirements.~~

## 1.0 Introduction

- 1.1 ~~This Practice Note enumerates some circumstances upon which a listed issuer must announce an event of default of interest or principal payments for loans under paragraphs 9.03 and 9.04(l) of the Listing Requirements. This Practice Note is issued to highlight the obligation of a listed issuer to make immediate announcements in the event of default of interest and/or principal payments in respect of loans pursuant to paragraphs 9.03 and 9.04(l).~~
- 1.2 ~~This Practice Note is issued to enumerate some circumstances upon which a listed issuer is required to make such announcements under paragraphs 9.03 and 9.04(l). It is to be noted that the circumstances enumerated set out in this Practice Note are not exhaustive of all circumstances upon which the listed issuer is required to make such announcements.~~
- 1.3 ~~Nothing in this Practice Note shall be read to restricts the generality of paragraphs 9.03, 9.04(l) and 9.16 of the Listing Requirements.~~

## 2.0 ~~Circumstances~~ Events of default

- 2.1 ~~The following are some situations several events of default ("Default(s)") the occurrence of upon which a listed issuer shall be required to make an immediately announcement to the Exchange under paragraphs 9.03 and 9.04 of the Listing Requirements, irrespective of whether a demand has been made to the listed issuer, its subsidiaries or associated companies, as the case may be:-~~
- (a) ~~(a) default in payments of interest in respect of loan stocks or bonds, whether listed or unlisted on the Exchange;~~
- (a) ~~irrespective of whether a demand has been made;~~
- (b) ~~default in principal payments in respect of loan stocks or bonds, whether listed or unlisted on the Exchange;~~

- (c) default in payments under a debenture;
- ~~(e)~~(d) default in payments of either interest, or principal sums or both in respect of a credit facility where the total amount outstanding of the defaulted credit facility is 5% or more of the net assets of the listed issuer based on the latest published or announced financial statements;
- (e) default in payments of either interest or principal sums or both in respect of a credit facility, which is reasonably expected to have a material effect on the price, value or market activity of any of the listed issuer's securities or the decision of a listed issuer's securities holder of securities of the listed issuer or an investor in determining his choice of action. For the purpose of this subparagraph, where a listed issuer has a negative net asset, any amount in default will be considered as material.
- 2.2 The ~~d~~Defaults referred to above may be that of the listed issuer, its subsidiaries or associated companies.

### 3.0 Details of the announcement

- 3.1 ~~In the event of default in payments in circumstances stipulated under paragraph 2.1 above, A listed issuer must include the following information when announcing a Default to the Exchange the announcement to be made under paragraph 9.16 of the Listing Requirements shall include specifically the following information:-~~
- (a) the date of Default;
- ~~(a)~~(b) the reasons for the default in paymentsDefault;
- ~~(b)~~(c) the measures by the listed issuer to address the default in paymentsDefault;
- ~~(e)~~(d) the financial and legal implications in respect of the default in paymentsDefault including the extent of the listed issuer's liability in respect of the obligations incurred under the agreements for the indebtedness;
- ~~(e)~~ the business, financial and operational impact of the Default on the listed issuer;
- ~~(d)~~(f) in the event the defaultDefault is in respect of secured loan stocks or bonds, the lines of action available to the guarantors or security holders against the listed issuer;
- ~~(d)~~
- ~~(e)~~(g) in the event the defaultDefault is in respect of payments under a debenture, to specify whether the Defaultdefault will empower the debenture holder to appoint a receiver or receiver and manager;
- ~~(f)~~(h) whether the default in paymentDefault constitutes an event of default under a different agreement for indebtedness (cross default) and the details for such other default thereof, where applicable; and
- ~~(g)~~(i) where the default in paymentDefault is in respect of a subsidiary or associated company, a confirmation as to whether the subsidiary or associated company is a major subsidiary or major associated company, as the case may be;
- ~~(i)~~(j) where the default in paymentDefault is in respect of a listed issuer, major subsidiary or major associated company, as the case may be, -
- (i) a statement as to whether the listed issuer is solvent (hereinafter referred to as the "Solvency Declaration"). For this purpose, a listed issuer is regarded as "solvent" if the majority directors have formed the opinion that the listed

issuer will be able to pay all its debts as and when they fall due within the period of 12 months from the date of the announcement; and

~~(h)(ii)~~ In the event if the listed issuer is solvent, a statement that the listed issuer undertakes to provide to the Exchange, the Solvency Declaration duly executed by ~~the~~its board of directors ~~of the listed issuer, in respect of the listed issuer~~ within 3 market days from the announcement date; ~~of the announcement. For this purpose, a listed issuer is regarded as being "solvent" if the majority directors have formed the opinion that the listed issuer will be able to pay all its debts in full within a period not exceeding twelve months from the date of the announcement~~and

~~(i)(k)~~ any other information that the Exchange may require from time to time.

3.2 After the announcement in paragraph 2.1 above, the listed issuer must announce to the Exchange ~~The listed issuer shall thereafter be required to -~~

(a) ~~make periodic announcements on a monthly basis of the current status of the default~~Default and the steps taken by the listed issuer to address the ~~default~~Default on a monthly basis until such time when the defaultDefault is remedied; and

(b) immediately upon the listed issuer becoming aware of any circumstance which may render the Solvency Declaration inaccurate.

#### **4.0 Solvency Declaration**

4.1 In relation to paragraph 3.1(j)(ii) above, a listed issuer must ensure that its board of directors executes and submits to the Exchange, the Solvency Declaration within 3 market days from the date when the listed issuer announces a Default to the Exchange under paragraph 2.1 above.

#### **4.0 Effective Date**

4.1 ~~This Practice Note takes effect on 1 June 2001.~~