

**CHAPTER 4 CONDUCT OF BUSINESS BY PARTICIPATING ORGANISATIONS**

**RULE 401 PROHIBITED CONDUCT, ADVERTISING AND STAFF PINCHING AMONG PARTICIPATING ORGANISATIONS**

**RULE 401.1 PROHIBITED CONDUCT**

- (1) No Participating Organisation, Head of Dealing or Dealer's Representative shall, in the conduct of their business for the sale, disposal, purchase, acquisition or exchange of securities -
- (a) make use of share hawking or other methods which are not approved by the Exchange, or which, in the opinion of the Exchange, amounts to advertising securities for sale or purchase;
  - (b) knowingly transact business for or on behalf of any person, firm or company which conducts business in whole or in part in the manner as stated in paragraph (a) of this Rule 401.1(1);
  - (c) knowingly permit any other company or firm in which it has an interest to do any of the acts contained in paragraphs (a) or (b) of this Rule 401.1;
  - (d) deal with any stockbroking firm or company other than another Participating Organisation or a member of a recognised stock exchange, unless the prior written consent of the Exchange has been obtained;
  - (e) for the purpose of evading the same, act as principal or in any other manner in connection with any dealing prohibited under paragraph (d) of this Rule 401.1(1);
  - (f) engage themselves in, or be a party to, any unlawful practices; and
  - (g) without the prior written consent of the Exchange, knowingly employ in its business a person who has –
    - (i) committed a default under these Rules or a breach of any provision of the Securities Laws; or
    - (ii) has been expelled from membership or participantship of the Exchange for any reason whatsoever.
- (2) Participating Organisations, Heads of Dealing and Dealer's Representatives shall, in the conduct of their business for the sale, disposal, purchase, acquisition or exchange of securities, refrain themselves from engaging in, or be a party to, any unethical practices that may damage the confidence of investors and hamper the sound development of the stock market.
- (3) Participating Organisations, Heads of Dealing and Dealer's Representatives shall avoid any act or practice which might -
- (a) lead to a false or misleading appearance of active trading in any securities on the stock market of the Exchange or a false or misleading appearance with respect to the market for, or the price of, any such securities; or
  - (b) directly or indirectly be tantamount to stock market manipulations,
- and shall not participate in any operation by others which might have the same result.

**RULE 401.2 ADVERTISING**

- (1) **Advertising:** No Participating Organisation shall advertise its business of dealing in securities or any other services or matters in connection thereto other than in the manner determined by the Exchange from time to time.
- (2) **Literature:** Every Participating Organisation shall take reasonable steps to ensure that all sales and educational literature, bulletins, newsletters and similar publication issued by the Participating Organisation to its clients from time to time do not contain -
  - (a) any information which is untrue or inaccurate;
  - (b) claims that are unwarranted, exaggerated or incapable of substantiation;
  - (c) any material which would be likely to bring the Exchange or Participating Organisations into disrepute; or
  - (d) any unqualified statement on profit forecasts or projections with respect to any securities or their Issuers.

Participating Organisations shall take reasonable steps to ensure the accuracy and contents of their sales and educational literatures, bulletins, newsletters and similar public medium and may be required by the Exchange to justify the contents thereof. For the purposes of this Rule, every Participating Organisation shall establish and implement properly documented procedures for the review of all sales and educational literature, bulletins, newsletters and similar public medium.

**RULE 401.3 STAFF PINCHING AMONG PARTICIPATING ORGANISATIONS**

- (1) Participating Organisations shall at all times promote the continuous enhancement of business professionalism in the stockbroking industry. Participating Organisations shall ensure that the training system established and implemented by them pursuant to Rule 404.2 promotes such professionalism among their employees and Commissioned Dealer's Representatives.
- (2) A Participating Organisation shall recruit and train its own employees and Commissioned Dealer's Representatives and shall not employ an employee or engage a Commissioned Dealer's Representative of another Participating Organisation except in accordance with guidelines or directives as may be issued by the Exchange in respect thereof from time to time and in the case of an employee other than a Salaried Dealer's Representative of an Investment Bank, in accordance with the guidelines or directives issued by the Central Bank.
- (3) [Deleted]

**RULE 402 BUSINESS INTERESTS**

**RULE 402.1 INTERESTS IN OTHER COMPANY DEALING IN SECURITIES**

- (1) Unless otherwise approved in writing by the Commission, no Participating Organisation shall –
- (a) directly hold any shares, debentures or any other securities or interests in another Participating Organisation or any company which is incorporated for the purpose of, or is in fact engaged in the business of dealing in securities; or
  - (b) subject to Chapter 3, appoint as its director any person who -
    - (i) is a director of another Participating Organisation;
    - (ii) is a shareholder or debenture holder in another Participating Organisation; or
    - (iii) has any direct interest in another Participating Organisation or in any corporation which is formed for the purpose of carrying out, or is in fact engaged in, the business of dealings in securities.
- (2) Nothing contained in Rule 402.1(1) shall prevent a Participating Organisation from acquiring any shares, other securities or interests in another Participating Organisation in any of the following circumstances -
- (a) an acquisition of such shares, other securities or interests made pursuant to or in the exercise of -
    - (i) any of its underwriting obligations;
    - (ii) its rights in respect of any margin account established by it in favour of its clients or any collateral provided by the clients in respect thereof;
  - (b) an acquisition of such shares, other securities or interests in another Participating Organisation which is for the time being quoted on the Official List; or
  - (c) an acquisition of such shares, other securities or interests in another Participating Organisation pursuant to a corporate restructuring scheme approved by the Exchange and the Commission;

Provided that the acquisition or holding of such shares or other securities or interests shall be subject to such terms and conditions as determined by the Exchange from time to time.

**RULE 402.2 INTERESTS OTHER THAN DEALING IN SECURITIES**

- (1) [Deleted]
- (2) [Deleted]

**RULE 403 CLIENTS RELATION**

**RULE 403.1 CLIENTS' FAILURE TO MEET OBLIGATIONS**

- (1) Where a person ("alleged defaulter") fails to meet a financial obligation with a Participating Organisation of not less than Ringgit Malaysia Two Thousand (RM2,000) or any other obligation relating to or in respect of any transaction in securities or arising out of any matter regulated by these Rules, the Participating Organisation may report to the Exchange such failure by the person. However, a Participating Organisation may only report such a person to the Exchange if it has satisfied all requirements as stipulated in Schedule 5 of these Rules.
- (2) Upon receipt of a report under Rule 403.1(1), the Exchange will -
  - (a) enquire into the report, and may call upon the Participating Organisation to -
    - (i) furnish in writing full particulars of any open transaction with the alleged defaulter;
    - (ii) disclose any information of which the Participating Organisation may have cognisance in relation thereto;
    - (iii) provide or submit any evidence in its possession bearing on the transaction in question; and
  - (b) call upon the alleged defaulter to -
    - (i) furnish in writing full particulars of any open transaction with the Participating Organisation in respect of the transaction in question or request the alleged defaulter to be present before an authorised officer of the Exchange;
    - (ii) provide or submit any evidence in his possession bearing on the transaction in question.
- (3) Where the Exchange is satisfied that a default has been made or committed by the alleged defaulter ("defaulter"), the Exchange shall, unless a satisfactory arrangement has been made between the defaulter and the Participating Organisation and the same is reported to the Exchange promptly -
  - (a) cause him to be posted as a "defaulter" in the relevant defaulters list maintained by the Exchange; and
  - (b) cause such matter to be notified to all Participating Organisations accordingly.
- (4) A Participating Organisation shall not transact business for any person who has been notified to the Participating Organisation as a defaulter under Rule 403.1(3) save and except that a Participating Organisation may proceed to sell securities held by the defaulter in accounts held with the Participating Organisation solely for the purpose of reducing a financial obligation or any other obligation relating to or in respect of any transaction in securities arising out of any matter regulated by these Rules in relation to the defaulter and Provided That -
  - (a) there is no dispute by any party with respect to the outstanding obligation aforesaid;
  - (b) the Participating Organisation has the contractual right to sell the securities and the defaulter being given prior reasonable notice;
  - (c) the proceeds from the sale of the securities shall be fully utilised towards reducing the outstanding obligation aforesaid; and
  - (d) the mark to market value (as defined in Rule 1105) of the securities sold in the manner herein shall not exceed the outstanding obligation aforesaid.

- (4A) A Participating Organisation carrying out any sale of securities held by a defaulter in accounts held with the Participating Organisation pursuant to Rule 403.1(4) shall indemnify and keep the Exchange indemnified against all suits, actions, claims, demands, proceedings, losses, damages, charges and expenses of whatsoever nature and howsoever arising from, incidental to or in connection with the aforesaid sale.
- (5) A person's name will be removed by the Exchange from the defaulters list in any of the following circumstances -
- (a) upon the fulfilment by him of his obligation to the Participating Organisation concerned provided that the same shall have been notified to the Exchange by the Participating Organisation in writing;
  - (b) where the Exchange in its absolute discretion is of the view that such posting can no longer be justified.

#### **RULE 403.2 COMPLAINTS**

- (1) Where a person ("Complainant") lodges a written complaint to the Exchange against a Participating Organisation or its Dealer's Representative in respect of transactions in securities effected on the stock market of the Exchange, the Exchange shall look into the circumstances of the complaint with a view to assessing whether an investigation into the complaint is necessary.
- (2) If the Exchange decides that an investigation is necessary, the Exchange shall inform the complainant and the Exchange shall cause an investigation to be carried out in respect of the complaint and in cases where further action is appropriate or necessary, to submit the results of the investigation for purposes of disciplinary proceedings, and the Participating Organisation or its Dealer's Representative against whom the complaint is made shall be bound to submit to the jurisdiction of the Exchange, whose decision shall be final and binding on the Participating Organisation or its Dealer's Representative, as the case may be, and the Complainant.

#### **RULE 403.3 RECORD OF COMPLAINTS**

- (1) Every Participating Organisation shall establish and implement written procedures for the handling of complaints received by it, including the performance of reviews on clients' complaint files to ensure that all complaints have been duly investigated and dealt with within such time as shall be prescribed under such procedures. Every Participating Organisation shall designate an officer of the level of an assistant manager or above to handle all complaints lodged with it, and the name of such officer shall be displayed at a prominent place in the premises of the Participating Organisation.
- (2) Every Participating Organisation shall maintain a copy of all written complaints received by it, together with a copy of any reply thereto, in a file or register established for that purpose. All such complaints and replies shall be maintained in the file or register for a period of not less than seven (7) years from the date of the last correspondence in relation to the complaint.
- (3) The contents of the file or register kept under this Rule shall be made available by the Participating Organisation to the Exchange forthwith upon a request made by the Exchange.

**RULE 404 BEST BUSINESS PRACTICE**

**RULE 404.1 GENERAL CONDUCT**

- (1) Participating Organisations shall adhere to the principles of good business practice in the conduct of their respective business and shall take all such steps as may be reasonably necessary in order to ensure that the Securities Laws and the Companies Act, these Rules, any directives or rulings of the Exchange as may from time to time be imposed or issued upon them or otherwise applicable to them, the Depository Rules and Clearing House Rules are complied with, both in letter and in spirit.
- (2) All decisions, rulings and directives of the Exchange or Exchange holding company, as the case may be, and any other persons authorised by the Exchange in the lawful execution of its authority pursuant to these Rules shall be final and binding on Participating Organisations and where applicable, the registered person(s).
- (3) Participating Organisations shall not do or cause or permit to be done any act which -
  - (a) would adversely affect the goodwill or public image of the Exchange;
  - (b) would bring or is likely to bring the Exchange into disrepute;
  - (c) is injurious to the character and interest or prejudicial to the objects of the Exchange.
- (4) A Participating Organisation shall not allow any form of irregular and/or unhealthy practice to exist or prevail in its daily and professional business conduct.
- (5) A Participating Organisation shall ensure issues and problems which affect itself and other Participating Organisations be deliberated and resolved amicably without affecting or prejudicing the interests of their clients.
- (6) Every Participating Organisation shall at all times maintain adequate financial and operational resources and efficient procedures necessary for the proper conduct of its business.
- (7) Every Participating Organisation shall -
  - (a) ensure that its employees are fit and proper persons with regard to the position and responsibility they hold;
  - (b) at all times exercise strict supervision over the overall operation of its business activities and the activities of its registered person(s) and employees, and for this purpose shall maintain a proper and adequate supervisory and compliance system with a view to preventing any contravention of the Securities Laws and other applicable laws and regulations, these Rules, any directives or rulings issued by the Exchange from time to time, the Depository Rules, the Clearing House Rules and the Participating Organisation's own internal policies and procedures;
  - (c) at all times maintain a proper supervisory programme and a system of internal controls which must take into account the Participating Organisation's operations, financial soundness, proper conduct of its business and proper undertaking of its risk management. The final responsibility of the above rests with the Participating Organisation and its board of directors;
  - (d) ensure that it has in place internal guidelines for the purpose of reviewing unusual patterns of large trading, frequent margin calls or other signs of apparent increase of risk exposure pertaining to margin facilities;
  - (e) ensure that the internal disciplinary procedures be regularly reviewed;
  - (f) ensure and be satisfied with the good character, business repute, qualification and experience of a person before appointing him as a supervisor or head of department or delegating to him supervisory functions;

#### Chapter 4 – Conduct of Business By Participating Organisations

- (g) maintain an internal record of all employees designated as supervisors and those delegated with supervisory functions, including the dates on which such designation or delegation take effect and ensure that all supervisors and heads of departments are registered with the Exchange; and
- (h) establish and maintain procedures for the review, by its Compliance Officer or other supervisory personnel, of transactions carried out and correspondences undertaken or received by its Dealer's Representatives pertaining to the solicitation or execution of transactions;

The Exchange may require at any time that the name, terms of employment, and actual duties of any person employed by a Participating Organisation be furnished to the Exchange together with such other information of such employee as it deems fit to enable it to enforce compliance with these Rules.

- (8) Every Participating Organisation shall formulate a code of conduct for its registered person(s) and employees which shall deal with matters including best sales practices, compliance and transactions by registered person(s) and employees. The code of conduct shall be reviewed by the Compliance Officer to ensure its adequacy and effectiveness.
- (9) Every Participating Organisation shall -
  - (a) ensure that its supervisory, compliance and internal control systems are properly documented and regularly updated to take into account any changes that may occur in the current regulatory requirements, and that such documented systems and any updates thereon are properly disseminated and effectively enforced within the Participating Organisation;
  - (b) conduct regular and periodic reviews over its supervisory, compliance and internal control systems and a written record of the dates of such reviews shall be maintained.
- (10) Where a Participating Organisation or registered person(s) becomes aware of any breach, infringement, or non-compliance of any Rule by another Participating Organisation, or has reason to believe that another Participating Organisation or registered person(s) has breached, infringed or failed to comply with any Rule, the Participating Organisation or registered person(s) shall report the matter in writing to the Exchange. Such report shall give particulars of such breach, infringement or non-compliance together with any other relevant documents and information, or the reasons for believing the same.
- (11) Every Participating Organisation shall have an appropriate internal risk management system which will be able to detect, monitor and control risks in relation to financial losses or legal suits arising from theft, fraud and other dishonest act and/or omissions.
- (12) Every Participating Organisation shall ensure there is a clear segregation of duties and reporting lines between those employees dealing in securities and those having duties administrative/operational in nature. For this purpose, such segregation of duties shall have the basis of protecting clients' interest and any form of abuse in such clients' interest resulting from the overlapping of job functions will be viewed seriously by the Exchange.
- (13) **Chinese Walls:**
  - (a) Every Participating Organisation which assumes more than one function, permitted by its dealer's licence or otherwise must maintain proper segregation of those functions within its organization to prevent -
    - (i) the flow of "information" between different parts of its organization which performs each function; and
    - (ii) any conflict of interest which may arise as a result.

## Chapter 4 – Conduct of Business By Participating Organisations

- (b) For the purpose of this Rule 404.1(13), "information" means information as defined in Section 183 of the Capital Markets and Services Act, relating to -
    - (i) one or more corporations admitted to the Official List; or
    - (ii) any securities of the corporations mentioned above; and
  - (c) such "information" if it were communicated would amount to an offence under Section 188(3) of the Capital Markets and Services Act.
- (14) Every Participating Organisation shall establish effective policies and procedures to minimise the existence of conflict of interests, potential or otherwise, between the Participating Organisation and its clients. In cases where conflict of interests and/or conflict of duty cannot be avoided, the conflict shall be fully disclosed to the client prior to the execution of the transaction.

### **RULE 404.2 TRAINING SYSTEM**

- (1) Every Participating Organisation shall establish, implement and maintain a reasonably comprehensive system of training towards –
  - (a) ensuring the continuous improvement in critical areas of its principal activities and operations; and
  - (b) enhancing the technical knowledge of its employees to enable them to understand the operational and internal control policies and procedures of the Participating Organisation and all applicable legal and regulatory requirements.
- (2) Such system of training shall be properly documented in a manual form which shall -
  - (a) set out details of the training programmes which the Participating Organisation proposes to implement; and
  - (b) be regularly updated in line with the development in the securities industry.
- (3) The training programmes shall be -
  - (a) conducted regularly by Participating Organisations; and
  - (b) open to -
    - (i) their Commissioned Dealer's Representatives, employees and apprentices, in an equitable manner and without any form of discrimination whatsoever; and
    - (ii) students from tertiary institutions of learning involved in studies relating to the securities industry.
- (4) Every Participating Organisation shall -
  - (a) make available to the Exchange a copy of the manual referred to in Rule 404.2(2) forthwith upon request from the Exchange. The Exchange shall be promptly notified by the Participating Organisation in respect of any amendments or updating made from time to time to the contents of the manual;
  - (b) keep proper records of all training programmes carried out by it including particulars of the trainees, apprentices and students who have taken part in such programmes; and
  - (c) at the end of every year, submit to the Exchange a complete report in respect of the training programmes carried out by it during the preceding year period.

- (5) The Exchange may from time to time, if it considers appropriate, require any part of the manual kept by a Participating Organisation pursuant to Rule 404.2 (2) to be amended so as to ensure the maintenance of reasonably acceptable standard and quality of training carried out by the Participating Organisation.

**RULE 404.3 DOING BUSINESS WITH CLIENTS**

- (1) **Standard of conduct:** Every Participating Organisation and every Dealer's Representative employed or engaged by the Participating Organisation shall at all times -
- (a) observe professional standards of integrity and fair dealing;
  - (b) act honestly and in the best interest of their clients; and
  - (c) conduct their business in a manner which contributes to the maintenance of a fair and orderly market.
- (2) **Guidelines on regulated short selling:** Every Participating Organisation shall formulate guidelines on regulated short selling by its clients as required under Rule 704.3 and shall ensure that such guidelines are strictly complied with by all its Dealer's Representatives.
- (3) **Knowledge about client:** Every Participating Organisation shall implement and maintain appropriate guidelines for its Dealer's Representatives to assist them in learning essential facts about their clients' backgrounds, including the clients' investment objectives, knowledge and experience in dealing in securities, financial background and any other information as may be required by the Exchange from time to time.
- (4) **Information given to client:** Participating Organisations shall take reasonable steps to ensure that accurate information are given to their clients and shall not make any misleading or deceptive representation or statement to any of its clients.
- (5) **Recommendations to clients:** Where a Participating Organisation or its Dealer's Representative recommends to any client any transaction for the buying or selling of securities, the Participating Organisation or Dealer's Representative shall -
- (a) take into account and ensure the suitability for the client of such recommended transaction, on the basis of accurate information provided by the client concerning his investment objectives, knowledge and experience in dealing in securities, financial background and other relevant information. In assessing the client's suitability to any transaction, a Participating Organisation or its Dealer's Representative is entitled to rely on representations made by the client;
  - (b) disclose to the client the potential risk involved in such recommended transactions and ensure that the client has the knowledge and experience in financial matters that will enable him to evaluate such risks;
  - (c) satisfy itself that the client has the financial capability to bear any risk attached to such recommended transactions.

It is the responsibility of the Compliance Officer to ensure that the Dealer's Representative takes due consideration of information provided by the client as well as other available information in determining whether a client shall be approved in respect of a transaction or recommendation and the extent to which the client shall be so approved.

- (6) **Client's order:**
- (a) Every Participating Organisation shall ensure that its Dealer's Representatives carry out client's instructions with proper skill, care and diligence and give priority to execution of orders given by the clients in the sequence in which they are received.

- (b) No Participating Organisation, Head of Dealing and Dealer's Representative shall, prior to obtaining written authorisation from a client, accept or act on any instruction received from any other person purporting to act on behalf of that client.
- (7) **Disclosure by Clients:**
- (a) Without derogation to the generality of Rule 404.4(1)(b), Participating Organisations shall, when requested by the Exchange, require a client to disclose and the client shall be bound to disclose, information and documents in relation to any dealing in securities in respect of the client's trading account(s), including but not limited to information on whether or not any dealing in the above account is carried out on another person's behalf and in such instance, the name of, and particulars sufficient to identify the person from whom, through whom or on whose behalf the securities are dealt with by the client. If that person is not the beneficial owner(s) of the securities, the client shall also be required to procure the particulars of the beneficial owner(s) of the securities.
- (b) [Deleted]
- (8) **Client's tradeable balance:** Upon receiving instructions from a client to execute a sell order, a Dealer's Representative shall require the client to disclose the availability of sufficient securities as tradeable balance for purposes of delivery in respect of that particular transaction.
- (9) **Contract Note:**
- (a) Every Participating Organisation shall ensure that all contract notes issued to its client shall comply with the Regulations issued by the Minister pursuant to Section 90 of the Capital Markets and Services Act.
- (b) The names of the buyer and seller in the contract notes issued in respect of trades done on the Exchange shall, unless otherwise permitted by the Exchange upon notification to the Commission, be the name of the client.
- (10) **Conflict of interest:**
- (a) No Participating Organisation nor any of its Dealer's Representatives shall knowingly enter into any transaction in which either of them has any interest which conflicts or which may possibly conflict with the interest of any of its client or otherwise conflict with its duty to such client.
- (b) Notwithstanding Rule 404.3(10)(a) hereinabove, in cases where conflict of interest or conflict of duty cannot be avoided, the Dealer's Representative shall fully disclose such conflict to the Participating Organisation and the client prior to the execution of the transaction.
- (11) **Clients' assets:** A Participating Organisation shall ensure that clients' assets which for the time being are in its custody are adequately safeguarded. It shall promptly and properly account for such assets and always ensure compliance with any laws, the provisions of these Rules and directives issued by the Exchange in respect thereof.
- (12) **No unethical inducement:** No Participating Organisation shall practise nor provide any form of unethical inducement to any of its clients.
- (13) **Action against a client:**
- (a) Without prejudice to any of the powers granted to the Exchange in these Rules or under any written law, the Exchange may direct a Participating Organisation to refrain from trading and/or from effecting any dealings in securities for a client, whether that

## Chapter 4 – Conduct of Business By Participating Organisations

client is a client of the Participating Organisation or of another Participating Organisation, in any of the following circumstances:-

- (i) In relation to a request made under Rule 404.3(7)(a), until the information and document requested therein is furnished by the client or where the client refuses to furnish the same; and/or
  - (ii) where an act or omission by the client in relation to or arising from any transactions or dealings in securities reflected in the trading account(s) of the client and/or held in CDS Account(s) pursuant to Rule 404.4(1A), directly or indirectly causes, aids or facilitates a breach of these Rules.
- (b) The Exchange may impose any other terms and conditions it deems fit in relation to the directive issued herein. Where such a directive is issued, the Participating Organisation(s) shall be bound to comply with the same.
  - (c) The Exchange shall notify the Securities Commission of any action taken under Rule 404.3(13).

### **RULE 404.4 CLIENTS' ACCOUNTS**

#### **(1) Opening of Accounts by Participating Organisations:**

- (a) Every Participating Organisation shall open a trading account for each and every client and bring to the notice of every person who applies to open trading account with it the terms and conditions upon which such account shall be operated, which shall include an obligation on the part of the client to comply with these Rules, where the provisions therein apply to the client directly or indirectly and the consequence of a breach thereof. In this respect, the Participating Organisation shall ensure that the client executes the relevant agreement to be bound by the terms and conditions prescribed herein.
- (b) Participating Organisation shall take all reasonable steps to ensure that all essential particulars and information about their clients (including but not limited to the clients' financial standing or credit worthiness and clients investment objectives) are obtained and shall satisfy themselves that all such information are accurate before opening any trading account for them. For the purposes of this Rule, Participating Organisations shall establish written procedures on the opening of accounts for their clients and adequate internal control to ensure that all information obtained is properly verified.
- (c) All particulars of clients of every Participating Organisation shall be properly recorded and maintained up to date at the office of the Participating Organisation. Participating Organisations should, from time to time as and when material changes occur or otherwise as they deem fit, request their clients to update their particulars as previously provided by them.
- (d) In amplification of Rule 404.4(1)(a) and Rule 404.4(b) and without prejudice to Rule 404.3(7), a Participating Organisation shall enquire from its client as to whether the client is trading for himself as a beneficial owner or on behalf of another person. Where the client represents that he is trading on behalf of another person, the Participating Organisation shall only be allowed to open a trading account for that client in the event the following conditions are complied with:-
  - (i) that the client is an authorised nominee or exempt authorised nominee; and
  - (ii) brings to the notice of that client of its obligation as stipulated in Rule 404.3(7) and the consequence of a breach thereof.

#### **(1A) CDS Account:**

#### Chapter 4 – Conduct of Business By Participating Organisations

- (a) Where a trading account is opened for a client, the Participating Organisation shall clearly identify the CDS Account where the securities arising from all dealings in the trading account shall be credited into or debited from, as the case may be.
- (b) In relation to the CDS Account referred to in Rule 404.4(1A)(a), the Participating Organisation shall procure confirmation and undertaking in writing from the client that the beneficial owner in relation to the securities dealt with in the trading account and the CDS Account is the same in the circumstances stipulated below:-
  - (i) Where the client is an authorised nominee or exempt authorised nominee in relation to the securities held in the CDS account; or
  - (ii) Where the client is not the beneficial owner, authorised nominee or exempt authorised nominee in relation to the securities held in the CDS account.
- (c) In addition to the requirements stipulated under Rule 404.4(1A)(b), the client shall submit to the Participating Organisation a written authorisation and consent from the beneficial owner, authorised nominee or exempt authorised nominee, as the case may be:-
  - (i) to effect any entries in the CDS Account, in relation to or arising from any transactions executed in accordance with these Rules, the Clearing House Rules and Depository Rules in the trading account of the client; and
  - (ii) to the exercise of any rights over the securities held in the CDS Account therein in accordance with these Rules, the Clearing House Rules and Depository Rules, in relation to or arising from any transactions executed by the client as stipulated under Rule 404.4(1A)(c)(i).
- (d) For the avoidance of doubt and without prejudice to Rule 404.4(1):
  - (i) the particulars of the CDS Account given for the purpose stipulated under Rule 404.4(1A)(a) need not match the particulars of the trading account of the client, provided always the requirements of Rule 404.4(1A)(b) is complied with; and
  - (ii) notwithstanding that the client may be an authorised nominee or exempt authorised nominee, as the case may be, the particulars of the trading account need only stipulate the particulars of the client.
- (2) **Maintenance of Records:** Participating Organisation shall in respect of each client's account maintain records including the following -
  - (a) date of opening of the account;
  - (b) client's financial position;
  - (c) name of the officer which approved the opening of the account and the date of approval;
  - (d) the types of transactions for which the account is approved;
  - (e) in respect of the transactions effected under the account, the following information -
    - (i) particulars of all transactions including amount of commissions charged in respect of each transaction and type of transactions;
    - (ii) current position of the account including compliance with any margin set by the Participating Organisation;
  - (f) the Dealer's Representative handling the account; and

- (g) where credit facilities have been granted to the client, the information as to whether the client is a spouse, parent or child of any of the Commissioned Dealer's Representatives of the Participating Organisation.
- (3) **Suitability of Requirements:** A Participating Organisation shall ensure that all necessary evaluations and assessments of its clients including those recommended by Commissioned Dealer's Representatives be undertaken. For this purpose the Participating Organisation shall maintain an internal guideline that shall be reviewed from time to time.
- (4) **Monthly Statement:** A Participating Organisation shall in respect of each client send monthly statements, in such form as may be prescribed by the Participating Organisation or the Exchange if deemed necessary or expedient, to such client on the movement of the client's assets (which shall include monies, other assets and collateral) by such date every month as determined by the Exchange. Such monthly statements shall also include interest and other charges imposed on the clients.
- (5) **Rule on Debtor - Client:**
- (a) Every Participating Organisation shall maintain accounts for each client and such account shall be maintained in such a way that the outstanding balance can be readily identified with specified transactions and with the dates on which those transactions occur;
- (b) All clients' accounts having debit balances of Ringgit Malaysia Two Thousand (RM2,000) or more which have remained unpaid for two (2) months or more must be listed so far as they have not been compensated for by subsequent credits or are not secured by satisfactory collateral. Such debts may be excluded from the computation of net assets if they are considered bad or doubtful by the Inspector (as defined in Rule 1303.2).
- (6) **Authentication of clients' application for account opening by Dealer's Representatives:**
- (a) Where a client submits an application to open an account with the Participating Organisation through a Dealer's Representative, the Dealer's Representative shall authenticate his client's application for account opening by ensuring that the application form(s) for account opening is(are) –
- (i) duly completed and all particulars and information of the client in the application form(s) are verified against relevant supporting documents in accordance with the requirements stipulated by the Exchange, the Depository and the written procedures established by the Participating Organisation; and
- (ii) duly executed by his client in person before the Dealer's Representative.
- (b) A Dealer's Representative shall be held liable for any losses arising from his breach of Rule 404.4(6)(a).
- (7) **Exception:** Notwithstanding Rule 404.4(6)(a), a Participating Organisation may at its discretion –
- (a) in the case of an application for the opening of an account made by an institution or corporation, approve such application without requiring the authorised representative of such institution or corporation to be present before the Participating Organisation or its Dealer's Representative; or
- (b) in the case of an application by a client other than that specified in Rule 404.4(7)(a), allow the authentication of a client's application for account opening under Rule 404.4(6)(a) to be done by any of the following persons in place of a Dealer's Representative –
- (i) officers authorised by the Participating Organisation;

## Chapter 4 – Conduct of Business By Participating Organisations

- (ii) authorised officers of a Malaysian Embassy or High Commission Consulate;
- (iii) Notary Public, or in countries that do not have a Notary Public, advocates and solicitors or officers authorised by a licenced stockbroking company with a recognised stock exchange;
- (iv) officer of a registered person, who is authorised by the registered person to perform pass through activities; or
- (v) such other person as may be approved by the Exchange from time to time.

PROVIDED THAT the Participating Organisation shall in such cases take all such steps as shall be necessary to ensure the genuineness or authenticity of the application.

- (c) Where reference is made to the following terms in Rule 404.4(7), it shall be construed respectively as follows –
  - (i) “pass through activities” means the act of a registered person, of soliciting and accepting orders from its clients to transact in securities and passing such orders to a participating organisation for execution; as referred to in the context of the Guidelines;
  - (ii) “registered person” means: -
    - (aa) banks licensed under the Islamic Banking Act 1983; and
    - (bb) licensed institutions as defined under the BAFIA,  
which have been specified to be registered persons under the Capital Markets and Services Act; and
  - (iii) “Guidelines” means Guidelines for Exempt Dealers on Pass Through Activities issued jointly by the Commission and Central Bank on 24 April 2003.
- (8) **Arrangement with Clients:** Except where expressly permitted by the Exchange, no Participating Organisation, Head of Dealing and Dealer’s Representative shall –
  - (a) accept a share in the profits of a client’s accounts or have any arrangement with a client to share in the profits of the client’s account;
  - (b) have any arrangement with a third party to allocate profits or losses in a client’s account; and
  - (c) lead a client to believe that the client will not suffer loss as a result of opening an account or dealing in securities.
- (9) **Unauthorised Trading Through Client’s Account:** No Participating Organisation, Head Of Dealing and Dealer’s Representative shall –
  - (a) execute their personal trades in the account of a client; or
  - (b) use a client’s account to trade for a third party.

### RULE 404.5 COMMUNICATION

- (1) **Exchange’s notices, etc.:** A Participating Organisation shall (if not already disseminated on-line via the Exchange’s computer network) ensure that all relevant notices, bulletins and circulars issued by the Exchange and the Commission are promptly disseminated to all its registered person(s) and relevant employees. Procedures for the said prompt dissemination shall be established by Participating Organisations.

(2) **Communication:**

- (a) A Participating Organisation shall record and retain the names of persons who prepared materials in all sales and educational literature, and advertisements, the name of persons who approved the same and the source of any recommendation contained therein for a minimum period of seven (7) years.
- (b) A Participating Organisation shall not forward any form of communication or duplicate copies thereof intended for a client to any other person unless the said client has instructed the Participating Organisation in writing to forward such communication to such other person.

**RULE 404.6 BROKERS ACCOUNTS**

- (1) Every Participating Organisation shall maintain accounts for each other Participating Organisation and each account shall be kept in such a way that the outstanding balance can be readily identified with specified transactions and the date on which these transactions occurred.

**RULE 404.7 BASIC REQUIREMENTS**

- (1) All Participating Organisations shall have accounting systems and controls designed in such a way that -
  - (a) Outstanding contracts can be readily identified with date sequence within counter;
  - (b) Outstanding debtor balances can be readily identified with specific transactions and with the dates on which these transactions occur;
  - (c) General ledger trial balances can and shall be, extracted and squared at least once a month by not later than the tenth (10th) day of the following month;
  - (d) Where client and broker balances are represented by control accounts in the general ledger, the individual client and broker balance can and shall be extracted and reconciled with the control account at least once a month by not later than tenth (10th) day of the following month; and
  - (e) Bank reconciliations shall be prepared at least once a month by not later than the tenth (10th) day of the following month.
- (2) All Participating Organisations shall submit to the Exchange a monthly declaration in the format set out in Appendix 4 or such other format as may be determined by the Exchange, not later than the fifteenth (15<sup>th</sup>) day of the following calendar month or as may be prescribed by the Exchange from time to time.

**RULE 405 PARTICIPATING ORGANISATION'S TRUST ACCOUNT**

**RULE 405.1 PARTICIPATING ORGANISATION'S TRUST ACCOUNT**

- (1) Every Participating Organisation shall open or maintain at least one (1) trust account with a licensed institution as defined in the Banking and Financial Institutions Act 1989 ("Trust Account").
- (2) A Participating Organisation shall pay into its Trust Account -
  - (a) all monies, less any brokerage and other proper charges, received by the Participating Organisation from or on account of a client for the purchase of securities, not later than the next bank business day or such other day as may be specified by the Commission on which they were received by the Participating Organisation;
  - (b) all monies, less any brokerage and other proper charges, received by the Participating Organisation for or on account of a client for the sale of securities by a client, not later than the next bank business day or such other day as may be specified by the Commission on which they were received by the Participating Organisation.
- (3) Any cheques issued to a client in respect of sale of securities by the client shall be issued out of the Trust Account.
- (4) Participating Organisations shall establish clear written guidelines on the treatment of client's monies under this Rule 405.
- (5) A Participating Organisation shall not, by way of an agreement or by any other way, obtain the consent of the client which would result in a variation or avoidance of the obligation imposed on the Participating Organisation under this Rule 405.

**RULE 406      OUTSOURCING**

**RULE 406.1      DEFINITION**

(1) For the purposes of this Rule 406 –

Back Office Functions means the back office functions as envisaged under clause 4 of the Guiding Principles.

Guiding Principles means the “Guiding Principles For Outsourcing of Back Office Functions For Capital Market Intermediaries” issued by the Securities Commission on 29 June 2005, including subsequent amendments, modifications, variations, supplements or substitutes thereto and any directives or guidelines as may be issued thereunder.

**RULE 406.2      OUTSOURCING OF BACK OFFICE FUNCTIONS**

- (1) A Participating Organisation may be permitted to outsource its Back Office Functions subject to the prior approval of the Exchange and compliance with the Guiding Principles.
- (2) The Guiding Principles shall be regarded as part of these Rules and consequently, any breach by the Participating Organisations of the Guiding Principles shall be deemed to be a breach of these Rules.
- (3) The Exchange may issue any directives, rulings and guidelines in relation to the outsourcing of the Back Office Functions of a Participating Organisation, in consultation with the Commission, from time to time.

**RULE 406.3      INVESTMENT BANK**

- (1) This Rule 406 does not apply to an Investment Bank and is substituted with the provisions in the Guidelines on Investment Bank and such other requirements of the Central Bank relating to the outsourcing of back-office functions (“the Relevant Guidelines and Requirements”), if any. The Relevant Guidelines and Requirements are deemed to be part of these Rules.

**RULE 407 INSURANCE REQUIREMENTS**

**RULE 407.1 OBLIGATION TO HAVE INSURANCE**

- (1) Every Participating Organisation must either, on its own or at Group level, take out and maintain at all times an insurance policy in connection with its business as permitted in Rule 503 (“Permitted Activities”).
- (2) The Participating Organisation must ensure that the insurance policy taken out and maintained in accordance with Rule 407.1 (1) above complies with the relevant laws, rules and guidelines.

**RULE 407.2 AMOUNT AND NATURE OF COVER**

- (1) The Participating Organisation must ensure that the insurance policy taken out and maintained in accordance with Rule 407.1 (1) above is adequate having regard to the nature and extent of its Permitted Activities and the responsibilities and risks assumed or which may be assumed by the Participating Organisation in connection with those activities.
- (2) Without restricting the generality of Rule 407.2 (1) above, the Participating Organisation must ensure that the insurance policy taken out and maintained by it:-
  - (a) has a minimum limit of indemnity of RM5 million; and
  - (b) includes the areas of coverage set out in Schedule 11.
- (3) The Participating Organisation must within 2 weeks following the issuance of a new insurance policy or the renewal of an existing insurance policy :-
  - (a) notify the Exchange in writing of the following:-
    - (i) the name of the insurer;
    - (ii) the amount and nature of cover;
    - (iii) the date on which the cover becomes effective; and
    - (iv) the date on which the cover will expire.
  - (b) submit to the Exchange a written confirmation that the amount and nature of cover complies with Rules 407.2(1) and 407.2(2).

**RULE 407.3 NOTIFICATION OF CLAIMS**

- (1) The Participating Organisation must notify the Exchange of any claim or potential claim against the insurance policy taken out and maintained in accordance with Rule 407.1 (1) above within 2 market days from when it becomes aware of the claim or potential claim.
- (2) The Participating Organisation must ensure that the notification includes the relevant details of the claim or potential claim.

[End of Chapter]