

Bursa Malaysia Derivatives Berhad

Date : 12 August 2016

Trading Participant Circular : 11/2016

AMENDMENTS TO THE RULES OF BURSA MALAYSIA DERIVATIVES BERHAD (“RULES OF BURSA DERIVATIVES”):

1. IN RELATION TO INSPECTIONS, INVESTIGATIONS, DISCIPLINARY ACTIONS AND SETTLEMENT OF DISPUTES; AND
2. FOR CONSISTENCY WITH THE CAPITAL MARKETS AND SERVICES ACT 2007 (“CMSA”) AND THE SECURITIES COMMISSION MALAYSIA ACT 1993 (“SCMA”).

1. INTRODUCTION

- 1.1 Bursa Malaysia Derivatives Berhad (“**the Exchange**”) has undertaken a review of the Rules of Bursa Derivatives (“**the Review**”) with the aim of enhancing the framework and processes for inspections, investigations and disciplinary actions, and to replace the dispute resolution framework with a more efficient process.

2. RULE AMENDMENTS

- 2.1 The key aspects of the changes to the Rules of Bursa Derivatives arising from the Review (“**Rule Amendments**”) include as follows:

- (a) setting out the procedures and requirements relating to “expedited enforcement proceedings” whereby a person who has breached the rules now has the opportunity to agree with the decision made by the Exchange and give effect to the penalty imposed without being subjected to the process of a full disciplinary proceeding, thus saving time and cost;
- (b) incorporating provisions to allow a person who has breached the rules to propose an “agreed settlement” to the Exchange, so that the breach can be resolved and completed expeditiously at the option of the person;
- (c) clarifying the Exchange’s powers of inspections and investigations;
- (d) enhancing the types of disciplinary actions which may be taken by the Exchange;
- (e) streamlining the procedures for disciplinary action with the procedures contained in the Rules of Bursa Malaysia Securities Berhad (“**Rules of Bursa Securities**”);
- (f) removing the distinction between “major” and “minor” offences, in order to allow each breach of the Rules of Bursa Derivatives to be decided on the facts and for an appropriate sanction to be imposed;

- (g) clarifying the types of violations which may result in a disciplinary action being taken by the Exchange;
 - (h) clarifying the requirement to keep confidential the inspection and investigation findings of the Exchange as well as testimony and documents in connection with the disciplinary proceedings.
 - (i) empowering the Exchange to require a Participant or Registered Person to take appropriate action against any of the Participant's or Registered Person's employees or agents, if such employee or agent caused the Participant or Registered Person to violate the Rules of Bursa Derivatives;
 - (j) empowering the Exchange to disclose and make public any disciplinary actions it has taken;
 - (k) clarifying that a decision of the Exchange is final and binding, and a person may only appeal against any action or decision of the Exchange if the right of appeal is expressly provided for under the relevant Rules;
 - (l) providing that if requested by the Exchange, a Trading Participant must require its Clients to disclose information on the Clients' trading accounts including information on the beneficial owner of the accounts. The Trading Participant must inform a Client trading on behalf of another of this requirement before the Trading Participant opens the trading account for the Client; and
 - (m) replacing the current provisions on settlement of disputes with a simplified process, whereby the Exchange will no longer act as the secretariat to an arbitration, or appoint an arbitration panel or committee to hear the dispute.
- 2.2 The detailed amendments to the Rules of Bursa Derivatives are set out in **Annexure 1**. These amendments have been approved by the Securities Commission.

3. ISSUANCE OF NEW DIRECTIVES ON CONDUCT OF BUSINESS AND ON ARBITRAL FORUM FOR DISPUTES

3.1 Pursuant to the Rule Amendments, the following directives have been issued:

- (a) Directive No. 601.2C-001 (Directive on Conduct of Business) - to clarify that carrying out a false or misleading appearance of active trading or market manipulation, and manipulation of the price of derivatives and cornering are conduct which are prohibited under the Rules of Bursa Derivatives.
- (b) Directive No. 620.1(c)-001 (Directive on Arbitral Forum for Disputes) - to prescribe that if parties are unable to agree on an arbitral forum for the settlement of disputes, then such parties must settle disputes by arbitration before the Kuala Lumpur Regional Centre of Arbitration ("KLRCA"), and that such arbitration before the KLRCA must be done in accordance with the Fast Track Rules of the KLRCA.

3.2 Directive Nos. 601.2C-001 and 620.1(c)-001 are attached respectively as **Annexures 2 and 3**.

4. AMENDMENTS TO THE RULES OF BURSA DERIVATIVES FOR CONSISTENCY WITH THE CMSA AND THE SCMA

4.1 In addition, the Exchange has also amended the Rules of Bursa Derivatives for consistency with the CMSA and the SCMA ("**Consequential Amendments**"). The Consequential Amendments include, among others, the following:

- (a) replacing references to "the Central Bank of Malaysia Ordinance 1958" with "the Central Bank of Malaysia Act 2009";
- (b) replacing references to "Securities Commission Act 1993" with "Securities Commission Malaysia Act 1993";
- (c) amending the definition of "Contract" by referring to the definition of a "derivative" in the CMSA instead of referring to an Option or a Futures Contract;
- (d) replacing references to "futures contract", "contracts", "futures and options contracts" and "futures, options", with "Contracts"; and
- (e) replacing references to "futures trading", "futures broking", "trading in futures contract" and the like with "dealing in derivatives".

4.2 Pursuant to the Consequential Amendments, amendments have also been made to Directive No. 711-001 (Directive on the List of Specified Exchanges) for consistency with section 105 of the CMSA in respect of Specified Exchanges.

4.3 The Consequential Amendments and amendments to Directive No. 711-001 are attached respectively as **Annexure 4** and **Annexure 5**.

5. REVOCATION OF DIRECTIVE ON FEES ON ARBITRATION

5.1 Following the Rule Amendments, Directive No. 513.5-001 (Directive on Fees on Arbitration) is revoked with effect from the Effective Date.

6. EFFECTIVE DATE

6.1 The amendments to the Rules of Bursa Derivatives, the new Directives, and amendment and revocation of existing Directives as set out in paragraphs 2 to 5 above take effect on **1 September 2016** ("**Effective Date**").

6.2 All rules, directives or circulars in force which make references to or contain provisions relating to the above matters shall have effect from the Effective Date as if such reference or provisions relate to the amended provisions aforesaid.

7. CONTACT PERSONS

In the event of any queries in relation to the above matter, kindly contact the following persons:

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Regulation