

ANNEXURE C
ENHANCEMENTS TO THE REQUIREMENTS ON PROVISION FOR FINANCIAL ASSISTANCE
CONSEQUENTIAL TO THE FINANCIAL SERVICES ACT 2013
[Draft for Consultation – 18 November 2014]

ANNEXURE C

ENHANCEMENTS TO THE REQUIREMENTS ON PROVISION FOR FINANCIAL ASSISTANCE
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UNDER PART 3 OF THE CONSULTATION PAPER

Proposal 3.1

Requiring the former ‘scheduled institutions’ which are not under the regulation and supervision of Bank Negara Malaysia to adhere to the requirements on provision of financial assistance

Main Market Listing Requirements

CHAPTER 8 – CONTINUING LISTING OBLIGATIONS

8.23 Provision of financial assistance

- (1) Except as otherwise prohibited under the law or in relation to a foreign corporation, the relevant laws of the place of incorporation and subject to subparagraph (2) below, a listed issuer or its unlisted subsidiaries may only -
- (a) lend or advance any money; or
 - (b) guarantee, indemnify or provide collateral for a debt,
- (“**provision of financial assistance**”) to or in favour of the following:
- (i) directors or employees of the listed issuer or its subsidiaries;
 - (ii) persons to whom the provision of financial assistance -
 - (aa) is necessary to facilitate the ordinary course of business of the listed issuer or its subsidiaries; or
 - (bb) pursuant to the ordinary course of business of the listed issuer or its subsidiaries;such as the provision of advances to its sub-contractors or advances made to clients in the ordinary course of its moneylending business; or
 - (iii) the subsidiaries or associated companies of the listed issuer, the listed issuer (in the case of the subsidiaries providing the financial assistance) or its immediate holding company which is listed.

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- (2) Where a listed issuer or its subsidiaries provide financial assistance -
- (a) the board of directors of such listed issuer must ensure -
 - (i) that the provision of the financial assistance referred to in subparagraph (1) above is fair and reasonable to the listed issuer and is not to the detriment of the listed issuer and its shareholders; and
 - (ii) where a listed issuer or its subsidiary lends or advances money in the ordinary course of its business as a moneylender (“**moneylending company**” and “**moneylending operations**”), that the board of directors of the listed issuer oversees the moneylending operations and the management of credit risk of the moneylending company including ensuring that adequate policies and procedures are put in place which must be reviewed regularly to enable -
 - (aa) maintenance of sound credit-granting standards;
 - (bb) maintenance of a clear and defined credit approval process including a list of the approving party(ies), which must include the board of directors of the listed issuer, for different quantum of financial assistance granted by the moneylending company;
 - (cc) monitoring and control of credit risk; and
 - (dd) timely identification and administration of problem credits;
 - (b) where it is a related party transaction as defined in paragraph 10.02, the listed issuer complies with the requirements of paragraph 10.08 in addition to this provision;
 - (c) where the provision of financial assistance is to the associated company, and the aggregate amount provided or to be provided at any time to each associated company compared to the net tangible assets of the group is 5% or more, the listed issuer must issue a circular to its shareholders and seek its shareholder approval in general meeting of such provision of financial assistance;
 - (d) where shareholder approval is required pursuant to subparagraphs (b) or (c) above, the listed issuer must state in its circular, the proposed utilisation of the amount of the financial assistance; and
 - (e) in addition to the announcement as may be required by the Exchange, the listed issuer must announce the information set out in Appendix 8D in relation to each moneylending company for each quarter of its financial year, if any, not later than 7 market days after the end of each quarter of a financial year.
- (3) Except as otherwise prohibited under the law or in relation to a foreign corporation, the relevant laws of the place of incorporation and without limiting the generality of Part D of Chapter 2 -
- (a) a listed issuer or its directors must give the Exchange any information, document or explanation that the Exchange requests for in relation to moneylending operations in accordance with the instructions or request of the Exchange, including but not limited to the following information in relation to the 20 debtors of each moneylending company having the highest amount of outstanding loans and/or advances (“**Loans**”) (with aggregation of Loans granted to persons connected with each other):

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- (i) the names of the debtors and, in relation to each debtor, a statement as to whether the debtor is a related party;
 - (ii) the outstanding Loan amounts with aggregation of Loans granted to persons connected to each other, and the breakdown into principal and interest owing;
 - (iii) the salient terms of the outstanding Loans including the interest rate, terms as to the repayment of interest and principal and the security provided; and
 - (iv) the length of default on interest and/or principal, if applicable; and
- (b) the Exchange may, at its absolute discretion, forward such information, document or explanation to the relevant authorities including the SC.
- (4) Subparagraphs (1), (2) and (3) above do not apply to -
- (a) any provision of financial assistance provided to or in favour of the listed issuer or wholly owned subsidiaries of the listed issuer;
 - (b) a corporation whose activities are regulated by any written law relating to banking, finance corporations or insurance and are subject to supervision by Bank Negara Malaysia;
 - (c) ~~a corporation which is registered as a scheduled institution with and supervised by Bank Negara Malaysia under the Banking and Financial Institutions Act 1989~~ ~~[deleted]~~; or
 - (d) share financing or share margin financing carried out by a listed issuer or its unlisted subsidiary which is a Participating Organisation.

[Cross reference: Practice Note 11]

PRACTICE NOTE 11

PROVISION OF FINANCIAL ASSISTANCE

Details		Cross References
Effective date:	1 July 2001	Paragraph 8.23
Revision date:	3 August 2009 <u>18 November 2014</u>	

1.0 - 2.0 [No change]

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3.0 Disclosure obligations

- 3.1 A listed issuer must announce the financial assistance rendered or made by the said listed issuer or its unlisted subsidiaries pursuant to paragraph 8.23(1)(ii) of the Listing Requirements for each quarter of its financial year, if any, simultaneously with its quarterly report pursuant to paragraph 9.22 of the Listing Requirements and in any event not later than 2 months after the end of each quarter of a financial year. The listed issuer must include in its announcement the information set out in Annexure PN11-A.
- 3.2 Paragraph 3.1 above does not apply to provision of financial assistance in respect of the business of ~~leasing, factoring,~~ share financing, share margin financing or hire purchase carried out by a listed issuer or its unlisted subsidiaries in the ordinary course of business, or such other similar business that may be determined by the Exchange.
- 3.3 Where a listed issuer and/or its subsidiary lends or advances money in the ordinary course of its business as a moneylender pursuant to paragraph 8.23(1)(ii) of the Listing Requirements, the listed issuer must include in its announcement referred to in paragraph 3.1 above the information prescribed under Appendix 8D of the Listing Requirements.

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ACE Market Listing Requirements

CHAPTER 8 – CONTINUING LISTING OBLIGATIONS

8.25 Provision of financial assistance

- (1) Except as otherwise prohibited under the law or in relation to a foreign corporation, the relevant laws of the place of incorporation and subject to sub-Rule (2) below, a listed corporation or its unlisted subsidiaries may only -
- (a) lend or advance any money; or
 - (b) guarantee, indemnify or provide collateral for a debt,
- (“**provision of financial assistance**”) to or in favour of the following:
- (i) directors or employees of the listed corporation or its subsidiaries;
 - (ii) persons to whom the provision of financial assistance -
 - (aa) is necessary to facilitate the ordinary course of business of the listed corporation or its subsidiaries; or
 - (bb) pursuant to the ordinary course of business of the listed corporation or its subsidiaries,

such as the provision of advances to its sub-contractors or advances made to clients in the ordinary course of its moneylending business; or
 - (iii) the subsidiaries or associated companies of the listed corporation, the listed corporation (in the case of the subsidiaries providing the financial assistance) or its immediate holding company which is listed.
- (2) Where a listed corporation or its subsidiaries provide financial assistance -
- (a) the board of directors of such listed corporation must ensure -
 - (i) that the provision of the financial assistance referred to in sub-Rule (1) above is fair and reasonable to the listed corporation and is not to the detriment of the listed corporation and its shareholders; and
 - (ii) where a listed corporation or its subsidiary lends or advances money in the ordinary course of business as a moneylender (“**moneylending company**” and “**moneylending operations**”), that the board of directors of the listed corporation oversees the moneylending operations and the management of credit risk of the moneylending company including ensuring that adequate policies and procedures are put in place which must be reviewed regularly to enable –
 - (aa) maintenance of sound credit-granting standards;

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- (bb) maintenance of a clear and defined credit approval process including a list of the approving party(ies), which must include the board of directors of the listed corporation, for different quantum of financial assistance granted by the moneylending company;
 - (cc) monitoring and control of credit risk; and
 - (dd) timely identification and administration of problem credits;
 - (b) where it is a related party transaction as defined in Rule 10.02, the listed corporation complies with the requirements of Rule 10.08 in addition to this provision;
 - (c) where the provision of financial assistance is to the associated company, and the aggregate amount provided or to be provided at any time to each associated company compared to the net tangible assets of the group is 5% or more, the listed corporation must issue a circular to its shareholders and seek its shareholder approval in general meeting of such provision of financial assistance;
 - (d) where shareholder approval is required pursuant to sub-Rules (b) or (c) above, the listed corporation must state in its circular, the proposed utilisation of the amount of the financial assistance; and
 - (e) in addition to the announcement as may be required by the Exchange, the listed corporation must announce the information set out in Appendix 8D in relation to each moneylending company for each quarter of its financial year, if any, not later than 7 market days after the end of each quarter of a financial year.
- (3) Except as otherwise prohibited under the law or in relation to a foreign corporation, the relevant laws of the place of incorporation and without limiting the generality of Part D of Chapter 2 -
 - (a) a listed corporation or its directors must give the Exchange any information, document or explanation that the Exchange requests for in relation to moneylending operations in accordance with the instructions or requests of the Exchange, including but not limited to the following information in relation to the 20 debtors of each moneylending company having the highest amount of outstanding loans and/or advances (“**Loans**”) (with aggregation of Loans granted to persons connected with each other):
 - (i) the names of the debtors and, in relation to each debtor, a statement as to whether the debtor is a related a party;
 - (ii) the outstanding Loan amounts with aggregation of Loans granted to persons connected to each other, and the breakdown into principal and interest owing;
 - (iii) the salient terms of the outstanding Loans including the interest rate, terms as to the repayment of interest and principal and the security provided; and
 - (iv) the length of default on interest and/or principal, if applicable; and
 - (b) the Exchange may, at its absolute discretion, forward such information, document or explanation to the relevant authorities including the SC.

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- (4) Sub-Rules (1), (2) and (3) above do not apply to -
- (a) any provision of financial assistance provided to or in favour of the listed corporation or wholly owned subsidiaries of the listed corporation;
 - (b) a corporation whose activities are regulated by any written law relating to banking, finance corporations or insurance and are subject to supervision by Bank Negara Malaysia;
 - (c) ~~a corporation which is registered as a scheduled institution with and supervised by Bank Negara Malaysia under the Banking and Financial Institutions Act 1989[deleted]~~; or
 - (d) share financing or share margin financing carried out by a listed corporation or its unlisted subsidiary which is a Participating Organisation.

[Cross reference: Guidance Note 4]

GUIDANCE NOTE 4

PROVISION OF FINANCIAL ASSISTANCE

Details	Cross References
Effective date: 22 May 2006	Rule 8.25
Revision date: 3 August 2009, <u>18 November 2014</u>	

1.0 – 2.0 [No change]

3.0 Disclosure obligations

- 3.1 A listed corporation must announce the financial assistance rendered or made by the said listed corporation or its unlisted subsidiaries pursuant to Rule 8.25(1)(ii) of the Listing Requirements for each quarter of its financial year, if any, simultaneously with its quarterly report pursuant to Rule 9.22 of the Listing Requirements and in any event not later than 2 months after the end of each quarter of a financial year. The listed corporation must include in its announcement the information set out in Annexure GN4-A.
- 3.2 Paragraph 3.1 above does not apply to provision of financial assistance in respect of the business of ~~leasing, factoring~~, share financing, share margin financing or hire purchase carried out by a listed corporation or its unlisted subsidiaries in the ordinary course of business, or such other similar business that may be determined by the Exchange.

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- 3.3 Where a listed corporation and/or its subsidiary lends or advances money in the ordinary course of its business as a moneylender pursuant to Rule 8.25(1)(ii) of the Listing Requirements, the listed corporation must include in its announcement referred to in paragraph 3.1 above the information prescribed under Appendix 8D of the Listing Requirements.

[End of Annexure C]