

## **CHAPTER 3 PARTICIPANTSHIP**

### **RULE 301 GENERAL**

#### **RULE 301.1 CLASSES**

- (1) There will be the following classes of Participants:
  - (a) CSP;
  - (b) CTP;
  - (c) CEP; and
  - (d) such other class as specified by BMIS.
- (2) BMIS may increase, vary or delete the classes of Participants from time to time.

#### **RULE 301.2 ADMISSION AND RESIGNATION**

- (1) Admission or resignation as a Participant and procedures for the same will be in accordance with these Rules.
- (2) BMIS retains discretion to admit or reject an application for admission as a Participant except where BMIS has delegated the admission function to a specified third party, in which case that third party will retain discretion to admit or reject an application for admission as a Participant.

#### **RULE 301.3 APPROVAL FOR PARTICIPATION**

- (1) A Participant may trade only in the Approved Commodity that has been approved by BMIS in respect of that Participant.
- (2) A Participant may apply, to BMIS in the manner as specified by BMIS to participate in the trading of other Approved Commodity.
- (3) Any decision by BMIS to reject an application to participate in the trading of other Approved Commodity is final.

#### **RULE 301.4 MANNER OF ADMISSION**

- (1) The Applicant must apply for admission as a Participant, to BMIS in the manner as specified by BMIS, or, where BMIS has specified a third party to which it has delegated the admission function, to that third party in the manner as specified by that third party; and
- (2) BMIS, or a specified third party to which BMIS has delegated the admission function, may impose any terms and conditions in connection with the admission of a Participant.
- (3) Any decision by BMIS, or by a specified third party to which BMIS has delegated the admission function, to reject an application to become a Participant is final.
- (4) A Participant admitted by a party to whom BMIS has delegated the admission function will be subject to these Rules in the same way as a Participant admitted directly by BMIS.

#### **RULE 301.5 PROHIBITION AGAINST USE OF NAME AND TITLE**

- (1) No person is allowed to trade on the Market or describe itself as a Participant of BMIS unless it is admitted as a Participant in accordance with these Rules.

#### **RULE 301.6 EVENTS OF DEFAULT**

- (1) Upon the occurrence of any of the following Events of Default, BMIS may in its absolute discretion immediately upon written notice to a Participant take any action under Rule 207.1:
  - (a) a Participant's failure to perform or comply with an obligation to make payment or make or accept a delivery of the Approved Commodity under the terms of the Market;
  - (b) having insolvency proceedings commenced against a Participant or the Participant has been dissolved or wound up;
  - (c) a Participant being in breach of or suspended or expelled from membership of a regulatory body to which the Participant is subject or a regulatory body taking or threatening to exercise its powers to restrict or prohibit the Participant from entering into transactions or carrying on its business or dealing with its assets; or
  - (d) a license or authorisation relating to a Participant being materially modified or withheld or ceasing to remain full force and effect.
- (2) A Participant must immediately notify BMIS in writing upon becoming aware of any of the circumstances stipulated in Rule 301.6(1).

#### **RULE 301.7 RESIGNATION OR SUSPENSION BY PARTICIPANT**

- (1) The Participant may apply to BMIS to suspend its activities or any part of its activities relating to trading on the Market.
- (2) Any request for suspension must be submitted to BMIS at least 7 Market Days before the intended suspension date.
- (3) Any decision by BMIS to reject an application for suspension is final.
- (4) Upon such suspension, the Participant shall not be able to carry out the said activities.
- (5) If a Participant intends to resign, the Participant must give a written notice of such intention to BMIS at least 30 days prior to the proposed date of resignation.

#### **RULE 301.8 TERMINATION OR SUSPENSION BY BMIS**

- (1) BMIS may terminate or suspend its Participants or suspend any of its Participants' rights in the following circumstances:
  - (a) the Participant breaches any of the Rules; or
  - (b) on the occurrence of an Event of Default; or
  - (c) the Participant has been dormant for the period of 5 years or more; or
  - (d) Any transaction on the Market by the Participant facilitates a transaction that is not in compliance with Shariah Principles.
- (2) Upon termination of or suspension of Participantship, the Participant shall cease to be able to exercise Participantship related rights.
- (3) Upon suspension of particular Participantship rights, a Participant shall not be able to exercise those rights.

#### **RULE 301.9 CONTINUING OBLIGATION AND LIABILITY**

- (1) Any obligation or liability which the Participant may have towards BMIS, another Participant or a CTP's Client prior to cessation of Participantship continues to subsist after cessation until discharged or satisfied.
- (2) A Participant's suspension, resignation or termination will not in any way:
  - a. diminish any liability which the Participant may have to BMIS under these Rules;
  - b. affect or render void any trade entered into by the Participant prior to the suspension, resignation, termination of the Participant; and
  - c. affect any right, obligation or liability arising under any trade entered into by the Participant prior to the suspension, resignation, termination of the Participant.
- (3) A former Participant remains liable to disciplinary action for any breach of these Rules committed during the period while it was a Participant.
- (4) A former Participant must retain all its records for at least 7 years from the date of cessation and produce such records in a legible form to BMIS upon demand.

#### **RULE 301.10 NON-TRANSFERABILITY**

- (1) A Participant must not transfer its participantship status, rights and liabilities to any other person except where permitted by BMIS.

#### **RULE 301.11 PARTICIPANTS' DUTIES AND OBLIGATIONS**

- (1) A Participant must:
  - (a) comply with and observe these Rules including any amendments, supplements or substitution of the said Rules and all undertakings made or entered into pursuant to the above Rules and shall take all necessary steps to ensure its ability to comply with such Rules and undertakings;
  - (b) provide true and correct information and documents whenever information and documents are required to be given under these Rules;
  - (c) put in place proper procedures to ensure that the Participant's business in relation to its trading activities complies with Shariah Principles
  - (d) adhere to the principles of best business practices in the conduct of the Participant's trading activities; and
  - (e) comply with all laws applicable to their participation in BSAS and to all other activities conducted on BSAS; and
  - (f) throughout its participation, continuously fulfill its eligibility criteria.

#### **RULE 301.12 MAINTENANCE OF DOCUMENTS**

- (1) A Participant must maintain or cause to be maintained on a continual basis documents, including books in a form and manner which:
  - (a) sufficiently show and explain the transactions of its trading activities including the ability to disclose with substantial accuracy the financial position of the Participant at the close of business on any Market Day; and
  - (b) are up-to-date and continually updated.
- (2) A Participant must keep and preserve its documents referred to under this Rule 301.12(1) for a period of not less than 7 years after the date on which they were first made or prepared.
- (3) A Participant must maintain adequate procedures and systems to ensure reasonable safeguard against loss, unauthorised access, alteration or destruction of the Participant's documents referred to in this Rule 301.12(1).

#### **RULE 301.13 CONTINUING ELIGIBILITY REQUIREMENT**

- (1) Pursuant to Rules 302.1, 303.1 and 304.1, a Participant must promptly give written notice to BMIS of the Participant's inability to fulfill the eligibility criteria.

## **RULE 302 COMMODITY SUPPLYING PARTICIPANT**

### **RULE 302.1 ELIGIBILITY**

- (1) A person is eligible to be admitted as a CSP to trade in a particular Approved Commodity if that person is in possession of such quantity of the Approved Commodity as may be specified by BMIS.

### **RULE 302.2 FUNCTIONS**

- (1) A CSP may perform the following activities in and through the Market in relation to the Approved Commodity for which it has been approved to trade in accordance with these Rules:
  - (a) submit an offer to sell Approved Commodity;
  - (b) sell Approved Commodity to a CTP only through the BSAS System;
  - (c) purchase the Approved Commodity from BMIS;
  - (d) issue the Delivery Document, if physical delivery of the Approved Commodity is required; and
  - (e) such others activities as specified by BMIS.
- (2) Notwithstanding that the CSP may be acting as agent of an owner of Approved Commodity, the CSP will be deemed to be acting and liable as principal and not as agent, for the activities performed as CSP in and through the Market in relation to such Approved Commodity.

### **RULE 302.3 OBLIGATIONS**

- (1) A CSP must ensure the Approved Commodity is placed at the Specified Location before the CSP enters an offer into the BSAS System.
- (2) A CSP must ensure that, from the time the CSP submits an offer to sell the Approved Commodity until the Approved Commodity is delivered to the Identified Owner, the Approved Commodity must:
  - (a) be an Unencumbered Approved Commodity; and
  - (b) fulfill both the quality and quantity requirements as set out under these Rules.
- (3) A CSP must own and be in actual or constructive possession of such quantity of the Approved Commodity as it has offered to sell through the BSAS System.

## **RULE 303 COMMODITY TRADING PARTICIPANT**

### **RULE 303.1 ELIGIBILITY**

- (1) A person is eligible to be admitted as a CTP if the person:
  - (a) is either:
    - (i) a financial institution licensed under the laws or rules of its domestic supervisory framework that has in place systems and procedures to ensure its Islamic business is carried out in compliance with Shariah Principles; or
    - (ii) such other institution as specified by BMIS that has in place systems and procedures to ensure its Islamic business is carried out in compliance with Shariah Principles, and
  - (b) fulfills such other conditions as specified by BMIS.

### **RULE 303.2 FUNCTIONS**

- (1) A CTP may perform the following activities in and through the Market in relation to the Approved Commodity for which it has been approved to trade in accordance with these Rules:
  - (a) submit a bid to buy Approved Commodity as principal or as agent for its Client in accordance with these Rules;
  - (b) buy, as principal, or as agent for its Client, Approved Commodity from the CSP;
  - (c) conduct an Onward Sell Trade to its Client, or purchase Approved Commodity from its Client for the purpose of an Islamic financial transaction which is Shariah-compliant in accordance with Shariah Principles;
  - (d) sell, as principal or as an agent for its Client, Approved Commodity to BMIS; or
  - (e) such other activities as specified by BMIS.

### **RULE 303.3 COMMODITY TRADING PARTICIPANT'S CLIENT AGREEMENT**

- (1) A CTP must enter into an agreement with its Client prior to trading, in order to enable the CTP to perform the functions referred to in Rule 303.2(1)(a)-(e). The agreement must include the minimum contents as may be specified by BMIS and must be in compliance with the CTP's own Shariah requirements.
- (2) A CTP must ensure that all transactions it carries out in BSAS will be solely for the purpose of Shariah-compliant transactions.

### **RULE 303.4 APPOINTMENT OF AUDITOR FOR SHARIAH AUDIT**

- (1) Pursuant to Rule 201.2, a CTP may, upon notification to BMIS, appoint an auditor to conduct Shariah Audit upon any trade concluded between the CSP and the CTP.

## **RULE 304 COMMODITY EXECUTING PARTICIPANT**

### **RULE 304.1 ELIGIBILITY**

- (1) A party is eligible to be admitted as a CEP if the party:
  - (a) is a corporation which fulfills such other conditions as may be specified by BMIS and carrying out business in compliance with Shariah Principles ; and
  - (b) has established a set of internal guidelines, policies and procedures and has in place relevant personnel, systems and infrastructure with the relevant controls for the carrying out of activities on BMIS; and
  - (c) has been appointed as a CEP by a CSP or a CTP.
- (2) A party who is not a Domestic Party must also demonstrate to BMIS' satisfaction that it is able to bring in either offers to supply Approved Commodity by CSPs or bids to purchase Approved Commodity by CTPs and fulfills such other conditions as may be specified by BMIS.

### **RULE 304.2 FUNCTIONS**

- (1) A CSP or a CTP may appoint a CEP and if they do, they must inform BMIS of such appointment.
- (2) If the CSP or CTP has appointed the CEP and informed BMIS of such appointment, the CEP may perform the following activities in and through the Market in relation to the Approved Commodity for which it has been approved to trade in accordance with these Rules:
  - (a) submit an offer on behalf of a CSP;
  - (b) submit a bid on behalf of a CTP;
  - (c) submit an offer to sell to BMIS, on behalf of a CTP; or
  - (d) such other activities as may be specified by BMIS.

### **RULE 304.3 OBLIGATIONS**

- (1) A CEP must carry out its principal's instructions with proper skill, care and diligence.
- (2) A CEP must act only on instructions of a person authorised by the principal to give such instructions.

### **RULE 304.4 KNOW YOUR CLIENT**

- (1) Prior to accepting instructions from its client, a CEP must obtain such information as may be specified by BMIS from time to time, in order to ascertain its client's identity.
- (2) A CEP must take all reasonable steps to ensure that all essential particulars and information about its clients are obtained and must satisfy itself that all such information is accurate before opening any trading account for them and comply with such other laws as may apply to it in this regard. For

the purposes of this Rule 304.4, a CEP must establish written procedures on the opening of accounts for its clients and adequate internal controls to ensure that all information obtained is properly verified.

- (3) A CEP must properly record and maintain up to date, at the office of the CEP, all particulars of clients of the CEP. The CEP should, from time to time as and when changes occur, request its clients to update their particulars as previously provided by them.

**[End of Chapter 3]**