

BURSA MALAYSIA SECURITIES BERHAD

Date : 13 January 2012

R/R No.: 2 of 2012

DIRECTIVES TO PRESCRIBE THE SCHEDULED DELIVERY TIME AND SCHEDULED SETTLEMENT TIME FOR RECALLED SECURITIES

1. INTRODUCTION

- 1.1 In general, a person must not sell securities unless he has reasonable grounds to believe he has a right to vest the securities in a purchaser. An exception is being made under *The Capital Markets and Services (Securities Borrowing and Lending) Regulations 2012*, which came into effect on 9 January 2012 ("Regulations"). The Regulations provide that for the purposes of subsection 98(1) of the Capital Markets and Services Act 2007, a lender who sells loaned securities under a securities borrowing and lending transaction before recalling the loaned securities shall be deemed as having a right to vest the securities in a purchaser of the securities if certain conditions are met. One of the conditions is that the sale of the loaned securities is settled on the settlement date as may be prescribed by the stock exchange or the clearing house. A copy of the Regulations is enclosed as **Annexure 1**.
- 1.2 Pursuant to the Regulations and Rule 201.1(2)(d) of the Rules of Bursa Malaysia Securities Berhad, the Exchange is prescribing the Scheduled Delivery Time and Scheduled Settlement Time for Recalled Securities as set out in section 2 below.
- 1.3 For the avoidance of doubt, the Scheduled Delivery Time and Scheduled Settlement Time for Recalled Securities also apply if a lender sells the securities after recalling the same from the borrower.

2. SCHEDULED DELIVERY TIME AND SCHEDULED SETTLEMENT TIME FOR RECALLED SECURITIES

2.1 Recalled Securities

For the purposes of this section 2, Recalled Securities means such portion of the Ready Basis Contract arising from a sale that satisfies the following conditions:

- (a) the seller intends to use securities returned from a securities borrowing and lending transaction to settle, in part or in full, the sale;
 - (b) the seller has made the recall on the same market day as the day the sale was entered into;
 - (c) the seller has notified the Clearing House of the relevant details in connection with the sale and the recalled securities in the manner and within the time prescribed by the Clearing House;
 - (d) the delivery of the portion of the sale that fulfills the conditions in items (a) to (c) is still outstanding after the Scheduled Delivery Time; and
 - (e) the seller fulfils such other conditions as may be prescribed by the Clearing House.
- 2.2 The term "seller" means the selling Participating Organisation ("PO") or selling Client or both, whichever is applicable.

2.3 Scheduled Delivery Time

The Scheduled Delivery Time as set out in paragraph A in Part 1 of Schedule 2A is modified as follows for Recalled Securities:

- (a) there must be sufficient securities in the seller's CDS Account to facilitate delivery by the seller, by 4.00 pm on the third (3rd) market day following the contract date; and
- (b) in respect of delivery to the buyer, not later than the end of the third (3rd) market day following the contract date.

2.4 Scheduled Settlement Time

The Scheduled Settlement Time as set out in paragraphs A(1)(c) and A(1)(d) in Part 2 of Schedule 2A is modified as follows for Recalled Securities:

- (a) in respect of payment by the Clearing House to the net selling PO, not later than 10.00 am on the fourth (4th) market day following the contract date; and
- (b) in respect of payment by POs to sellers, not later than 12.30 pm on the fourth (4th) market day following the contract date.

2.5 Buying-In

Rule 803.1(1) is modified to the extent that buying-in of Recalled Securities that have not been delivered in accordance with paragraph 2.3 above will be instituted against defaulting POs on the fourth (4th) market day following the contract date.

2.6 Extent of the Directives

For avoidance of doubt, the Scheduled Settlement Time for a Ready Basis Contract stated in paragraphs A(1)(a) and A(1)(b) in Part 2 of Schedule 2A will apply where payment by a buying client to a PO or payment by a net buying PO to the Clearing House is concerned.

3. EFFECTIVE DATE

The directives are effective with immediate effect.

4. CONTACT PERSONS

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This Circular is available at

http://www.bursamalaysia.com/website/bm/regulation/rules/bursa_rules/bm_securities.html

CAPITAL MARKETS AND SERVICES ACT 2007

**CAPITAL MARKETS AND SERVICES (SECURITIES BORROWING AND LENDING)
REGULATIONS 2012**

IN exercise of the powers conferred by subsection 378(1) and paragraph 98(4)(e) of the Capital Markets and Services Act 2007 [*Act 671*], the Commission, with the approval of the Minister, makes the following regulations:

Citation and commencement

1. (1) These regulations may be cited as the **Capital Markets and Services (Securities Borrowing and Lending) Regulations 2012**.

(2) These Regulations come into operation on 9 January 2012.

Interpretation

2. In these Regulations, unless the context otherwise requires–

“Act” means the Capital Markets and Services Act 2007;

“borrower” means a person who borrows securities from a lender under a securities borrowing and lending transaction;

“lender” means a person who lends securities to a borrower under a securities borrowing and lending transaction;

“loaned securities” means any eligible securities which has been delivered by a lender to a borrower under a securities borrowing and lending transaction;

“eligible securities” has the same meaning assigned to it in the rules of the clearing house;

“securities borrowing and lending transaction” means any securities borrowing and lending transaction entered into under the rules of the stock exchange and the clearing house.

Sale before recall of loaned securities

3. (1) For the purposes of subsection 98(1) of the Act, a lender who sells loaned securities under a securities borrowing and lending transaction before recalling the loaned securities shall be deemed to have a presently exercisable and unconditional right to vest the securities in a purchaser of the securities, subject to the following conditions:

- (a) the sale is a bona fide sale transaction;
- (b) at the time of sale, the lender is entitled to recall from the borrower, at least the number of loaned securities which are the subject of the sale;
- (c) the lender recalls the loaned securities as soon as practicable within the same market day the loaned securities were sold; and
- (d) the sale of the loaned securities is settled on the settlement date as may be prescribed by the stock exchange or the clearing house.

(2) Notwithstanding anything contained in this regulation, paragraph 3(1)(d) shall not apply to a lender if the borrower fails to deliver the loaned securities to the lender in circumstances where:

- (a) the securities has been suspended;
- (b) the borrower is only able to make partial delivery of the recalled loaned securities; or
- (c) the borrower is unable to make delivery of the recalled loaned securities.

Made 21 December 2011

[RS(A&R)/SBL-Crpdn.13/11(060)-1D; PN(PU2)662/VI]

TAN SRI ZARINAH ANWAR
Chairman Securities Commission

Approved 4 January 2012

[KK/BPKA/K1/(S)/483/128/1/1 Jld.4; PN(PU2) 662/V]

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