

F. Other Significant Cases

Case F1: Failure to close off the purchase position

- (1) A PO was imposed a private reprimand and a fine of RM25,000 for it had failed to close off the purchase positions of its clients who failed to pay their purchases by the scheduled settlement time.
- (2) The sanctions were imposed having considered the facts and circumstances leading to the breach by the PO, in particular, the following:-
 - (a) the number of instances of purchase positions that were not closed off within the scheduled settlement time which occurred for an extended period. In this regard, the frequency of the non-compliances could have been avoided/minimised had the PO put in place adequate controls to ensure that force selling was initiated within the scheduled settlement time; and
 - (b) the failure to close off the purchase positions were due to, amongst others, the following reasons which were not acceptable to Bursa Malaysia Securities:-
 - (i) clients and/or DRs failed or overlooked to sell/make prompt payment/late payment rejected by management/clients' payments were unsuccessful; and
 - (ii) staff's failure to monitor T+4 report.

Case F2: Inaccurate Capital Adequacy Requirement (CAR) ratio reporting/computation of Large Exposure Risk Requirement (LERR)

- (1) A PO was imposed a private reprimand and a fine of RM2,500 for it had failed to:-
 - (a) compute its LERR for its direct exposure to a single client or counterparty for the derivatives market; and

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CDR: Commissioned Dealer's Representative

CMSA: Capital Markets & Services Act 2007

DR: Dealer's Representatives

Mandatory Training: Requirement to undergo training on conduct or professionalism of DRs/Registered

Persons/Head of Dealing/Compliance Officer/market offences

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- (b) submit true and accurate information and records pertaining to the daily reporting through electronic transmission of its CAR.
- (2) The sanctions were imposed having considered, amongst others:-
- (a) the extent and the impact/materiality of the breach by the PO including the number of instances where the LERR to single derivatives client was not computed in the system;
 - (b) although the omission had resulted in overstatement of the CAR, the difference in the CAR for the relevant dates concerned upon re-computation of the CAR with the inclusion of the LERR was insignificant and the revised CAR was well above the minimum prescribed level of 1.20 times;
 - (c) the omission was due to system shortcoming/limitation and hence, unintentional;
 - (d) the breach was self-reported by the PO; and
 - (e) the requirement to transmit the relevant and accurate information to Bursa Malaysia Securities for the purpose of calculating the CAR ratio must be strictly complied with by POs to ensure that the PO's CAR is calculated accurately so as to reflect the accurate ratio which must be maintained at or above the minimum prescribed level of 1.20 at all times.

Case F3: Clients' orders not audibly captured on voice recording

- (1) A TP was imposed a private reprimand, a fine of RM2,000 and directive to rectify its shortcomings towards compliance of the Rules for it was found that there were several instances of orders made by its clients that were captured in the Daily Order Maintenance Report but not recorded in the Voice Recording System (VRS), as required by the Rules.
- (2) In imposing the sanctions on the TP, various factors were taken into account including the following:-
- (a) the RRs had raised order forms to record the orders even though the VRS was functioning and available, in contravention of Rule 603.3(a) of the Rules of Bursa Malaysia Derivatives which provides, amongst others, that the order forms should only be used in the event of temporary unavailability of the VRS;
 - (b) the Compliance Officer and the senior management of the TP had overlooked the non-compliance;

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- (c) the matter was not reported in the monthly compliance reports which were submitted to the Exchange; and
- (d) this was a repeat breach by the TP for enforcement actions had previously been taken against the TP for similar breach.

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