

Bursa Malaysia Rules – Key Enforcement Cases in 2015

F. Other Significant Cases

Case F1: Breach relating to sharing of commission

Four POs were each imposed a private reprimand and a fine of RM5,000 for making payments calculated based on/derived from a percentage of the total monthly gross brokerage from volume traded by the said POs' clients (volume based payments) which tantamount to sharing of commission by the POs with person(s) other than with the POs' DRs which is prohibited by the Rules. In this regard, the payments were made to clients/individuals for introducing or referring new clients to the POs but who were not registered as Introducing Representatives pursuant to the SC's Guidelines for Registered Person (Registered Representative) issued on 8 October 2012.

Case F2: Failure to carry out internal audit

A PO was imposed a private reprimand and fine of RM5,000 for each year it failed to conduct/complete internal audits in several areas and/or at four branch offices for 2 consecutive years.

In imposing the sanctions on the PO, various factors were taken into account including the following:-

- (a) Internal audit is an essential and fundamental function which must be undertaken by POs to examine, evaluate and advise POs of, amongst others, the effectiveness and efficiency of the POs' operations including its internal system and controls and the reliability and integrity of the POs' financial and operating information. Hence, POs must ensure that all planned audits are completed.
- (b) Factors that could have contributed to the inability of the PO's internal auditors to complete the planned audit assignments, such as constraints on the PO's human capacity and experience in its group's internal audit department.
- (c) Conduct by the PO whereby despite not completing the planned audits for one year, the PO did not take immediate and adequate/effective measures to rectify the same and ensure that the audit plan for the subsequent year could be completed by year end.

Glossary:

Bursa Malaysia Securities: Bursa Malaysia Securities Berhad
Bursa Malaysia Derivatives: Bursa Malaysia Derivatives Berhad
CDR: Commissioned Dealer's Representative
CMSA: Capital Markets & Services Act 2007
CMSR: Capital Market Services Representative
DR: Dealer's Representatives
FBR: Futures Broker's Representative

Mandatory Training: Requirement to undergo training on conduct or professionalism of DRs/Registered Persons/Head of Dealing/Compliance Officer/market offences
PO: Participating Organisation
RP: Registered Person
RR: Registered Representative
SC: Securities Commission
TP: Trading Participant

Bursa Malaysia Rules – Key Enforcement Cases in 2015

Case F3: Failure to manage conflict of interest

A PO was imposed a private reprimand and a fine of RM5,000 for it had:-

- (1) extended margin financing for a large sum of monies to a related company/corporation of the PO (Company Y) which was approved by one the PO's directors (Director X) who was also deemed a manager/agent of Company Y;
- (2) failed to have in place adequate and effective written policies and procedures designed to identify, monitor and manage conflicts of interest that may arise in the conduct of the PO's business including to minimise such conflicts; and
- (3) failed to refrain from engaging in irregular or unhealthy practice.

The PO was further directed to:-

- (a) review, establish and implement adequate and effective internal controls and written policies and procedures designed to identify, monitor and manage conflict of interest in an effective manner, with the aim to deter and prevent occurrence of similar breach and provide written confirmation of the same to Bursa Malaysia Securities; and
- (b) close the relevant account in relation to the margin financing of monies granted to Company Y.

Director X was also imposed a private reprimand and a fine of RM5,000 for he had, whilst being the director of the PO responsible for compliance with the Rules by the PO:-

- (i) failed to identify and manage the potential or actual conflict of interest in relation to the discharge of his obligations and functions under the Rules; and
- (ii) failed to ensure the PO's compliance with the Rules of Bursa Malaysia Securities,

for he had approved/failed to refrain from approving the granting of the margin financing to Company Y which is a related company to the PO where he was also deemed a manager/agent of Company Y.

Glossary:

Bursa Malaysia Securities: Bursa Malaysia Securities Berhad
Bursa Malaysia Derivatives: Bursa Malaysia Derivatives Berhad
CDR: Commissioned Dealer's Representative
CMSA: Capital Markets & Services Act 2007
CMSR: Capital Market Services Representative
DR: Dealer's Representatives
FBR: Futures Broker's Representative

Mandatory Training: Requirement to undergo training on conduct or professionalism of DRs/Registered Persons/Head of Dealing/Compliance Officer/market offences
PO: Participating Organisation
RP: Registered Person
RR: Registered Representative
SC: Securities Commission
TP: Trading Participant

Bursa Malaysia Rules – Key Enforcement Cases in 2015

Case F4: Failure to properly witness/authenticate share transfer forms

A CDR was imposed a private reprimand and a fine of RM5,000 for he had witnessed/authenticated share transfer forms (the Forms) signed by a client without requiring the client to be present and/or sign the Forms before him in person. The CDR's failure to perform his duties as a CDR efficiently and fairly had caused the client's shares to be transferred into the account of the client's next-of-kin after the client's demise, which said transfer was disputed.

Glossary:

Bursa Malaysia Securities: Bursa Malaysia Securities Berhad
Bursa Malaysia Derivatives: Bursa Malaysia Derivatives Berhad
CDR: Commissioned Dealer's Representative
CMSA: Capital Markets & Services Act 2007
CMSR: Capital Market Services Representative
DR: Dealer's Representatives
FBR: Futures Broker's Representative

Mandatory Training: Requirement to undergo training on conduct or professionalism of DRs/Registered Persons/Head of Dealing/Compliance Officer/market offences
PO: Participating Organisation
RP: Registered Person
RR: Registered Representative
SC: Securities Commission
TP: Trading Participant