

APPENDIX 2**QUESTIONS AND ANSWERS****AMENDMENTS TO BURSA MALAYSIA SECURITIES BERHAD
MAIN MARKET LISTING REQUIREMENTS IN RELATION TO
COLLECTIVE INVESTMENT SCHEME AND BUSINESS TRUST
(As at 2 April 2018)****CHAPTER 1 - DEFINITIONS AND INTERPRETATION****1.1A Definition of “collective investment scheme”**

Pursuant to paragraph 1.01 of the Main LR, “collective investment scheme” includes REITs, ETFs and closed-end funds. Does “collective investment scheme” include business trusts?

No, the definition of “collective investment scheme” under the Main LR does not include business trusts. This is aligned with the definition of “collective investment scheme” under the SC’s Guidelines for Listed REITs.

CHAPTER 2 - GENERAL

Application of Main LR to a management company of collective investment scheme or trustee manager of business trust

2.9 If a listed issuer was a collective investment scheme or business trust, how does it ensure compliance with the Main LR?

Pursuant to paragraph 2.09 of the Main LR, if a listed issuer was a collective investment scheme, (for example a real estate investment trust or an exchange-traded fund) or business trust, the management company ~~of the collective investment scheme or trustee-manager~~ must ensure that the collective investment scheme or business trust, as the case may be, complies with the Main LR.

CHAPTER 4 – ADMISSION FOR SPECIFIC APPLICANTS

4.2 ~~A-ETF A which has been approved by the SC to list on Bursa Securities management company has obtained the approval from SC for the listing of up to an initial size of 300 million units of an ETF.~~ However, the management company of ETF A intends to issue and list only 160 million ETF units at the initial listing stage. What is the total number of ETF units that the management company must apply for listing in the Initial Listing Application that is submitted to Bursa Securities for approval, pursuant to paragraph 9.0 of Practice Note 23?

The management company of *ETF A* must apply for listing of the maximum number of ETF units ~~as approved by SC based on its initial size of i.e. 300 million ETF units (“Approved Fund Size”)~~, even though the number of ETF units to be issued upon listing is only 160 million units. The management company must also apply for quotation of the same quantum of ETF units i.e. up to 300 million units in its application for quotation. In view of the nature of an ETF with the in-kind creation and redemption feature, the number of ETF units issued and listed may increase and

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decrease from time to time, depending on the demand and supply of the ETF units traded on Bursa Securities. Thus, in order to facilitate and expedite the in-kind creation and redemption of ETF units, no additional application for listing and quotation will be required by the management company as long as it is within ~~the Approved Fund Size~~ its initial size.

- 4.3 Based on the same facts as in Question 4.2 above, assuming that the management company of ETF A plans to issue and list new ETF units subsequent to the listing in addition to the 160 million ETF units but which is less than the ~~total fund initial~~ size approved by SC, i.e. of 300 million units, do they need to submit a new additional listing application and application for quotation for these additional 140 million ETF units to Bursa Securities for approval?**

No, the management company of ETF A need not apply for listing and quotation of the additional units issued, i.e. 140 million units, as the total number of ETF units to be issued, i.e. 300 million ETF units is still within the ~~Approved Fund Size~~ initial size of the ETF as approved under the Initial Listing Application.

- 4.4 This question is independent from Question 4.3 above. Based on the same facts as in Question 4.2 above, assuming that the management company intends to issue an additional 340 million units, can it still proceed without applying to Bursa Securities for listing and quotation of the additional units?**

No, in this case, as the total number of ETF units to be issued, i.e. 500 million units (160 million units issued in Question 4.2 above plus the additional 340 million units issued under this Question) will exceed the ~~Approved Fund Size~~ initial size of ETF A i.e. 300 million units which listing and quotation had been approved by Bursa Securities at the initial listing stage, the management company must first apply to SC to increase the Approved Fund Size to 500 million units. Upon receipt of SC's approval, the management company must file with Bursa Securities an application for listing and quotation of the additional 200 million new ETF units ~~pursuant to paragraph 6.60~~ in accordance with the requirements under Chapter 6 of the Main LR.

- 4.5 Based on the examples given in Questions 4.2 and 4.4 above, what are the initial listing fee and additional listing fee payable by the management company respectively?**

Based on the Main Market Schedule of Fees ~~prescribed under the Main LR~~, in relation to an ETF, a management company must pay the listing fee on the ~~size of the~~ initial size of fund that has been approved for listing by Bursa Securities. As such, for Question 4.2 above, the initial listing fee payable by the management company will be based on the ~~Approved Fund Size~~ initial size of 300 million ETF units, ~~i.e. RM50,000.00~~. This fee is payable to Bursa Securities upon the submission of application for listing by the management company to Bursa Securities pursuant to paragraph 7.0 of Practice Note 23. As for Question 4.4 above, the additional listing fee payable will be based on the additional 200 million ETF units, ~~which amounts to RM50,000.00~~. This additional listing fee is payable upon submission of the application for listing and quotation of the 200 million new ETF units by the management company to Bursa Securities pursuant to ~~paragraph 6.60~~ Chapter 6 of the Main LR.

CHAPTER 4A – FOREIGN LISTING***Continuing obligations of a foreign issuer¹*****4A.3 In the event *Y Ltd* has a primary listing on the Main Market, are the continuing listing obligations imposed on *Y Ltd* the same compared with those imposed on other Malaysian listed corporations under the Main LR?**

Yes, once *Y Ltd* is listed on the Main Market, *Y Ltd* is required to comply with all the other relevant requirements under the Main LR. However, *Y Ltd* must also comply with some additional requirements imposed under Part C of Chapter 4A in the Main LR such as the obligations to –

- (a) have directors or independent directors with place of residence in Malaysia;
- (b) ensure that the audit committee has at least 1 independent director with a place of residence in Malaysia;
- (c) appoint an external auditor from an international accounting firm or an accounting firm with international affiliation, which is duly registered or recognised by the Audit Oversight Board pursuant to section 31O of the Securities Commission Act 1993;
- (d) comply with relevant auditing standards;
- (e) obtain prior shareholder approval in a general meeting to appoint or remove its external auditor;
- (f) distribute notices, documents or information which it is required to distribute in its place of incorporation, to its Malaysian shareholders;
- (g) announce to Bursa Securities any change in interest(s) of its substantial shareholders;
- (h) prepare financial statements on consolidated basis and in accordance with approved accounting standards;
- (i) immediately notify Bursa Securities of any suspension in trading or de-listing of its securities listed on other stock exchange(s);
- (j) immediately announce to Bursa Securities any change in the laws of its country of incorporation or the laws in the country of incorporation of its foreign principal subsidiaries, which may affect the rights of shareholders; and
- (k) ensure that it has in place a system of internal control.

¹ Paragraph 4A.01(2)(a) of the Main LR defines “**foreign issuer**” as a foreign corporation, ~~or~~ foreign collective investment scheme or foreign business trust listed on the Main Market.

CHAPTER 6 – NEW ISSUES OF SECURITIES**Requirements for new issue of securities by REITs****6.41 Is the SC’s approval required for any new issuance of securities by a REIT?**

No, except for debt securities. A REIT may issue new securities such as placement, bonus issue, rights issue or issuances of new securities as consideration for an acquisition by procuring approval from Bursa Securities only.

CHAPTER 8 – CONTINUING LISTING OBLIGATIONS**Continuing obligation of a REIT and ~~an exchange traded fund (“ETF”)~~ business trust****8.55 ~~Paragraphs 8.37 and 8.40 of the Main LR among others, require a REIT and an ETF respectively, to submit a draft circular and other documents proposed to be sent to its unit holders to Bursa Securities for perusal, within a reasonable time before printing. What is considered as a “reasonable time”?~~**

~~— A REIT or ETF should submit the draft circular and other documents proposed to be sent to its unit holders in accordance with paragraph 9.33 of the Main LR, i.e. as soon as possible and in any event not later than 2 months from the date of the announcement or the date of the last approval necessary for the proposal is obtained from the relevant authority, whichever is the later. [Deleted]~~

8.55A Must REITs and business trusts comply with the unit spread requirement under paragraph 8.02?

Yes, both REITs and business trusts must comply with the unit spread requirement under paragraph 8.02 of the Main LR.

CHAPTER 9 – CONTINUING DISCLOSURE**Publication of certain information in annual reports on the listed issuer’s website****9.29A Can a collective investment scheme or business trust publish the information required to be included in its annual report, on its website?**

Yes, a collective investment scheme or business trust can do so provided the following conditions in paragraph 9.25(1) of the Main LR are complied with:

- (a) the information has been previously announced or disclosed to unit holders or shareholders pursuant to the Main LR, or remains substantially unchanged from year to year;
- (b) the collective investment scheme or business trust publishes such information on its website; and
- (c) the collective investment scheme or business trust discloses in the annual report, the address of its website and the place on its website where the information can be accessed.

Contents of annual report of a business trust

- 9.52** ~~In disclosing the fees or remuneration paid to the trustee-manager in the annual report of a business trust under paragraph 4(a) in Part C, Appendix 9C of the Main LR, the trustee-manager must include the details of the fees paid to it. Paragraph 5 in Part C, Appendix 9C prescribes that the annual report of a business trust must include the details of fees paid to the trustee-manager for the financial year.~~ **What are the details that should be disclosed?**

The details that should be disclosed include, among others, the breakdown of the fees payable to the trustee-manager such as management fee, trustee fee or performance fee, the rate payable, the frequency of payment and whether such fees are paid in cash or in kind.

- 9.53** Paragraph ~~67(b)(iv)~~ in Part C, Appendix 9C of the Main LR prescribes that the annual report of the business trust must include the disclosure of the manager's fee to average total asset ratio together with any other ratios that may be appropriate for the specific business of the business trust in its 5 year financial highlights. **What are the other ratios envisaged under this requirement?**

This may include management fee to operating cash flow ratio.

Statutory declaration in relation to accounts

- 9.53A** ~~It is noted that the requirements in paragraph 9.27 of the Main LR apply to a person signing the statutory declaration pursuant to any guidelines issued by the SC under section 377 of the CMSA. Who is the signatory referred to?~~

~~The signatory referred to is the director of the management company or trustee-manager, or person primarily responsible for the financial management of the collective investment scheme or business trust, as the case may be, who may sign the statutory declaration accompanying the audited financial statements pursuant to the relevant guidelines issued by the SC under section 377 of the CMSA.~~

CHAPTER 10 – TRANSACTIONS***Transactions by REITS***

- 10.66** ~~It is noted that paragraph 10.04 of the Main LR requires valuation to be conducted for transactions entered into by a REIT which trigger the percentage ratio for unit holders' approval. Does this mean that a REIT is not required to conduct valuation for transactions which do not require unit holders' approval?~~

~~No. Pursuant to paragraph 10.02(b) of the SC's Guidelines on Listed REITs, a REIT must carry out valuation on all real estate to be acquired or disposed by the REIT.~~

- 10.67** ~~Where valuation is conducted for a transaction that does not require unit holders' approval, is the valuation report required to be submitted to the Exchange?~~

~~No, the valuation report is not required to be submitted to the Exchange.~~

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10.68 A REIT has completed its property development project on its vacant land and intends to dispose the developed real estate immediately after completion for a consideration of RM2 million, to a related party (“said disposal”). The percentage ratio for the disposal is 3%.

(a) Is the REIT required to procure unit holders’ approval for the said disposal under the Main LR?

Yes. Pursuant to paragraph 10.16 of the Main LR, a REIT must, among others, procure its unit holders’ approval for the said disposal by way of special resolution, irrespective of the materiality threshold of the transaction.

(b) Is the REIT required to appoint an independent adviser for the purpose of the said disposal?

No. Even though unit holders’ approval is required for the said disposal, the REIT is only required to appoint an independent adviser if the percentage ratio of the transaction is 5% or more and the value of the consideration of the transaction is RM500,000 or more, as set out in paragraph 10.16(2) of the Main LR.

10.69 Paragraph 10.16(1) of the Main LR sets out the requirements pertaining to disposal of developed real estate by a REIT within 2 years from the date of completion of property development activities. What does the “date of completion” refer to?

The “date of completion” in paragraph 10.16(1) of the Main LR refers to the date the developed real estate attains its certificate of fitness.

CHAPTER 14 – DEALINGS IN SECURITIES

14.5 ~~X is the chief financial officer of A Berhad, a company listed on Bursa Securities. If X does not have access or is not privy to price sensitive information in relation to A Berhad, will he still be considered as a principal officer for the purpose of paragraph 14.03 of the Main LR?~~

Yes, pursuant to paragraph 14.02(i) of the Main LR, since X is a chief financial officer of A Berhad, he is considered as a principal officer of A Berhad.

The same principle applies for the meaning of “principal officer” of a listed issuer which is a collective investment scheme under paragraph 14.02(i)(ii) of the Main LR. ~~[Deleted]~~

CHAPTER 15 – CORPORATE GOVERNANCE

Directors

15.10 Paragraph 15.06(1) of the Main LR states that a director of an applicant or a listed issuer must not hold more than 5 directorships in listed issuers.

(a) Does the restriction apply to directorships held in corporations listed overseas?

No. The restriction is only applicable to directorships held in listed issuers on Bursa Securities. Hence, in computing the number of directorships that may be held pursuant to the restriction, a director should take into account his directorships held in –

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- (a) listed corporations (which include locally incorporated companies listed on Bursa Securities or corporations incorporated outside Malaysia but listed on Bursa Securities);
- (~~b~~ii) management companies of the collective investment schemes which are listed on Bursa Securities; ~~or~~
- (~~e~~iii) trustee-managers of the business trusts which are listed on Bursa Securities; or
- (iv) issuers of any other listed securities on Bursa Securities.

(b) When a management company of an ETF manages 5 listed ETFs, how many directorships does a director of such management company hold?

For purposes of paragraph 15.06(1), all the 5 directorships in the listed ETFs will be considered as one.

[End of Appendix 2]