

**QUESTIONS & ANSWERS
MAIN LR AMENDMENTS RELATING TO CA, CG, MOG, SPAC
& CODIFICATION OF FINANCIAL DISCLOSURES**

APPENDIX 3

QUESTIONS AND ANSWERS

**AMENDMENTS TO BURSA MALAYSIA SECURITIES BERHAD
MAIN MARKET LISTING REQUIREMENTS RELATING TO THE VARIOUS AREAS
[AMENDMENTS RELATING TO CA, CG, MOG, SPAC
AND CODIFICATION OF FINANCIAL DISCLOSURES]**

(As at 29 November 2017)

CHAPTER 1 - DEFINITIONS AND INTERPRETATION

1.2 Definition of “independent director”

- (i) **Is there a difference between the definition of “officer” in paragraphs (b) and (d) of the said definition of “independent director” in Chapter 1 of the Main LR (“the said definition”)?**

Yes. For the purpose of paragraph (b) of the said definition, “officer” has the meaning set out in section 42 of the Companies Act 1965/2016 whereas for the purpose of paragraph (d) of the said definition, “officer” has been defined in paragraph 1.01 of the Main LR to be the chief executive, the chief operating officer, the chief financial controller or any other person primarily responsible for the operations or financial management of an applicant, a listed issuer or its related corporation, by whatever name called.

CHAPTER 2 - GENERAL

Letters of compliance

- 2.3 Can a listed issuer provide a letter of compliance which contains certain qualifications, for example, that generally a particular document complies with the Main LR except for a few provisions, which are specifically set out in the letter of compliance itself?**

Listed issuers must ensure that the ~~articles of association~~ constitution, trust deed, deed poll or bylaws of a Share Issuance Scheme and any amendments to the said documents comply with the Main LR. As such, a letter of compliance must not contain any qualifications. The letter of compliance must state that the whole document complies with the Main LR and the Rules of Bursa Malaysia Depository Sdn Bhd.

- 2.4 Who should write the letter of compliance?**

Pursuant to paragraph 2.12(4) of the Main LR, the letter of compliance must be written by a person with legal qualifications provided that in circumstances set out below, it may be written by the following additional persons:

- (a) in the case of bylaws of a Share Issuance Scheme (and any amendment to the bylaws), by the listed issuer's advisers; and

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- (b) in the case of an amendment to ~~an articles of association~~ constitution, by the listed issuer's advisers or its company secretary.

Controlling Person

2.11 Who are the Controlling Person referred to in paragraph 2.22 of the Main LR?

“Controlling Persons” is defined in paragraph 2.22 as a person who is, pursuant to a court order or otherwise, appointed to take possession or control over all or major assets of, or becomes responsible for the management of a listed issuer. This includes an an ~~provisional-interim~~ liquidator appointed by the court.

Issuance of documents through electronic means

2.15 Paragraph 2.19B of the Main LR provides that a listed issuer may send any document required to be sent under the Main LR to its securities holders (“Documents”), by electronic means subject to compliance with certain prescribed conditions. What constitutes electronic means under Paragraph 2.19B of the Main LR?

Some of the electronic means contemplated include electronic mail (“email”), listed issuer’s website, or other electronic mode of communication agreed between the listed issuer and its securities holders.

2.16 A listed issuer which intends to send Documents to its securities holders via electronic means must, among others, ensure that its constitution provides for the use of electronic means, specifies the manner in which the electronic means is to be used and states that the contact details of a securities holder as provided to the Depository shall be deemed as the last known address provided by the securities holder to the listed issuer for purposes of communication with the securities holder.

What are the details that a listed issuer’s constitution should specify relating to the manner in which the electronic means is to be used?

The listed issuer may set out operational details pertaining to the use of the electronic means such as information on –

- the type of electronic means adopted and specific provisions relating to such electronic means such as the requirement for separate notification for publication on website and proof of delivery for Documents issued via email;
- the type of Documents which may be issued via electronic means;
- the addresses or contact details in which the Documents will be sent to;
- when a Document is deemed delivered pursuant to the electronic means; and
- alternative arrangements to send the Documents to securities holders in the event of delivery failure.

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2.17 If a listed issuer chooses website as the mode of communication with its securities holders, how may the listed issuer give the separate notification in writing as required under paragraph 2.19B(b) of the Main LR?

The listed issuer may give the separate notification in writing in hard copy (e.g. letter) or by way of electronic means other than through the listed issuer's website (e.g. email, short messaging service ("SMS")) or any other form of communication permitted under the listed issuer's constitution for purposes of written notification.

2.18 Paragraph 2.19B(c) of the Main LR stipulates that there must be proof of delivery if a Document or notification is sent to securities holders through email. How does a listed issuer show proof of email delivery?

An email is deemed delivered if there is no written notification of delivery failure and there is record of the email being sent. This would serve as proof of email delivery as required under the Main LR.

2.19 Where a listed issuer sends the Documents via email to its securities holders, what should a listed issuer do in the event of a delivery failure?

In the event of a delivery failure, the listed issuer must immediately send the Documents to the affected securities holders by other appropriate means as permitted under the listed issuer's constitution, such as in hardcopies. In this regard, the listed issuer should ensure that its constitution sets out, among others, the manner of which the Documents are to be sent to the affected securities holders in the event of a delivery failure.

2.20 What are the additional information which a listed issuer should provide to its securities holders when sending them the Documents by electronic means?

A listed issuer should, among others, inform the securities holders that they have the right to request for a hard copy of the Documents and how may they make such a request.

2.21 Paragraph 2.19B(e) of the Main LR stipulates that a listed issuer must send documents required to be completed by securities holders for a rights issue or offer for sale ("Rights Issue and Offer for Sale Documents") through electronic mail, in hard copy or in any other manner as the Exchange may prescribe from time to time. What are the documents that fall within the ambit of Rights Issue and Offer for Sale Documents?

The Rights Issue and Offer for Sale Documents are documents or forms that securities holders need to complete and submit to the listed issuer within a specified timeframe in relation to a rights issue or offer for sale. These include, the notices of provisional allotment and rights subscription forms (in the case of a rights issue), notices of provisional offer and offer acceptance forms (in the case of an offer for sale).

2.22 Is the Notice of Election and Dividend Reinvestment Form ("DRS Document") in relation to the Dividend Reinvestment Scheme subject to the requirements set out in paragraph 2.19B(e) of the Main LR which must be sent via email, hardcopy or in any other manner prescribed by the Exchange?

No, the DRS Document is not subject to the requirements set out in paragraph 2.19B(e). A listed issuer may determine how the DRS Document should be sent to its securities holders in accordance with its constitution to encourage greater participation.

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2.23 Is a listed issuer in compliance with paragraph 2.19B(e) of the Main LR if it publishes its abridged prospectus in relation to a rights issue on its website and forward the rights subscription form in hardcopies to its securities holders?

Yes. The listed issuer is in compliance with the requirement under the Main LR so long as the documents which are required to be completed by securities holders in relation to the rights issue (e.g. notices of provisional allotment and rights subscription forms) are sent in hardcopy, by way of email, or in any other manner as the Exchange may prescribe from time to time.

2.24 A listed issuer has opted to send the Rights Issue and Offer for Sale Documents via email to its shareholders who have given their email addresses to the Depository. Must the listed issuer forward hard copies of the documents if these shareholders request for hard copies of the same?

Yes, the listed issuer is still required to send hard copies of the notices of provisional allotment and rights subscription forms to its shareholders who request for the same pursuant to paragraph 2.19B(d) of the Main LR.

2.25 Paragraph 2.19B(d) of the Main LR requires a listed issuer to forward a hard copy of the Document to the securities holder as soon as reasonably practicable after the receipt of the request. What is the reasonably practicable timeframe for a listed issuer to forward hard copies of the Document after the receipt of such request?

Generally, hardcopies of the Rights Issue and Offer for Sale Documents, should be given within 2 market days after the receipt of the request. This is to ensure that securities holders have sufficient time to understand the procedures involved and act immediately or promptly to complete the forms within the specified timeframe for the rights issue or offer for sale.

As for Documents other than the Rights Issue and Offer for Sale Documents, hardcopies of such documents should be given within 4 market days after receipt of the request.

CHAPTER 3 – ADMISSION

Admission Processes & Procedures

3.5 When will the listing and quotation of the new securities be effected on Bursa Securities?

The admission and listing of new securities on Bursa Securities will take place on the next market day upon the receipt of confirmation by the applicant from Bursa Depository that the new securities are ready for crediting into the respective securities accounts provided that the applicant has made the following announcements:

- (a) Announcement pursuant to paragraph 8.1 of Practice Note 21 through Bursa Link via a dedicated template, “Timetable for IPO” on the issuance date of the prospectus.

The announcement must include the following information:

- The opening and closing date of the offer period;
- The balloting date;

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- The allotment date of the IPO; and
- The tentative listing date.

If there is any change to the tentative listing date, the applicant must immediately announce the change to Bursa Securities.

- (b) Announcement pursuant to the paragraph 8.2 of Practice Note 21 through Bursa Link via a dedicated template, “IPO template” before 3 p.m. on the market day before the listing date;

The announcement must include the following information:

- Actual date of listing;
- ~~Enlarged issued and paid up capital of the listed issuer indicating the number of shares and its par value, if any~~ total number of shares which will be listed;
- Stock Short Name, Stock Code, ISIN Code; and
- Sector and market under which the new securities will be admitted.

CHAPTER 6 – NEW ISSUES OF SECURITIES

Admission

6.2 Is a listed issuer allowed to submit its listing application for a new issue of securities to Bursa Securities on its own?

~~No.~~ Yes, but only in certain specified instances pursuant to paragraph 6.02(4) of the Main LR.¹⁷ Pursuant to the said requirement, a listing application in relation to any new issue of securities must be submitted to Bursa Securities through a Principal Adviser. A Specified Bonus Issue¹ of equity securities or an issue of new units by an exchange-traded fund, may be submitted by the listed issuer on its own or the management company of the exchange-traded fund, as the case may be, without a Principal Adviser. Apart from this, listing applications for all the other new issue of securities must be submitted through a Principal Adviser.

¹ A “**Specified Bonus Issue**” is a bonus issue of securities which –

(i) is not conditional upon any other corporate proposal, or

(ii) is conditional upon another corporate proposal but –

(aa) that other corporate proposal is a subdivision or consolidation or shares; or

(bb) that other corporate proposal has been completed or become unconditional.

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Listing procedures

6.5 Please elaborate further on the type of proposals to which the procedures under paragraph 4.0 of Practice Note 28 apply.

This procedure is applicable to the additional securities which will be listed and quoted as the existing listed securities of the same type and class.

Examples where paragraph 4.0 is applicable

Example 1

PLC A proposes to issue additional new ordinary shares pursuant to the exercise of Share Issuance Scheme where the new ordinary shares arising from the Share Issuance Scheme will be listed and quoted as the existing listed ordinary shares.

In this instance, *PLC A* will adhere to the procedures under paragraph 4.0 for the listing and quotation of the new ordinary shares issued pursuant to the Share Issuance Scheme as it involves the same class of securities.

Example 2

PLC B has existing ordinary shares and warrants listed on Bursa Securities. *PLC B* proposes to undertake a rights issue of 100 million new ordinary shares on the basis of 1 new ordinary share for every 2 existing ordinary shares held ("**Rights Issue**"). Pursuant to the provision in the deed poll, additional warrants will be issued arising from the adjustment pursuant to the Rights Issue ("**Additional Warrants**").

In this instance, *PLC B* will adhere to the procedures under paragraph 4.0 provided that the additional 100 million new ordinary shares and the Additional Warrants will be listed and quoted as the existing listed ordinary shares and warrants respectively.

Example 3

PLC E undertakes a corporate exercise which entails the following:

- (a) Proposed acquisition of *ABC company* for a purchase consideration of RM100 million to be satisfied by the issuance of 50 million new ordinary shares at RM2.00 per share ("**Acquisition**").
- (b) Rights issue of 80 million new ordinary shares on the basis of 1 new ordinary share for every 1 share held ("**Rights Issue**").

Facts

- (i) The Acquisition shares and Rights Issue will be listed and quoted as the existing listed ordinary shares; and
- (ii) The Acquisition and Rights Issue are inter-conditional upon each other and hence, the new ordinary shares arising from both the Rights Issue and Acquisition must be listed and quoted at the same time.

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In this instance, *PLC E* will adhere to the procedures under paragraph 4.0 of Practice Note 28 because both the new shares arising from the Acquisition and Rights Issue will be listed and quoted as the existing listed shares.

Examples where paragraph 4.0 of Practice Note 28 is NOT applicable

Example 4

PLC C proposes to undertake a private placement of new ordinary shares and these new ordinary shares will not be entitled to the final dividend for the financial year ended 30 March 2009.

As the new ordinary shares to be issued pursuant to the private placement will not be listed and quoted as the existing listed ordinary shares to which the procedures under paragraph 4.0 apply, *PLC C* must follow the procedure under paragraph 2.0 of Practice Note 28.

Example 5

PLC D has existing ordinary shares and warrants listed on Bursa Securities and proposes to undertake a rights issue of 80 million new ordinary shares and RM80 million nominal value of Irredeemable Convertible Loan Stocks (“**ICULS**”) to its shareholders.

As the rights issue involves the issuance of a new type of securities i.e. ICULS, which is not currently listed, *PLC D* must follow the listing procedures under paragraph 2.0 of Practice Note 28 similar to Example 3 above.

Example 6

PLC F undertakes a corporate exercise which entails the following:

- (a) Proposed acquisition of *DEF company* for a purchase consideration of RM100 million to be satisfied by the issuance of 50 million new ordinary shares at RM2.00 per share (“**Acquisition**”).
- (b) Rights issue of 80 million new ordinary shares on the basis of 1 new ordinary share for every 1 share held (“**Rights Issue**”).

Facts

- (i) The new ordinary shares arising from the Acquisition will not be entitled to the Rights Issue;
- (ii) The Rights Issue shares will be listed and quoted as the existing listed ordinary shares; and
- (iii) The Acquisition is not conditional upon the Rights Issue.

In this instance, *PLC F* will adhere to the following procedures:

- Procedures under paragraph 2.0 of Practice Note 28 for new ordinary shares arising from Acquisition as it involves the issuance of a new class of securities i.e. “A” shares; and

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- Procedures under paragraph 4.0 of Practice Note 28 for Rights Issue because the new shares arising from the Rights Issue will be listed and quoted as the existing listed shares.

Please refer to Annexure PN28-A of Practice Note 28 for a better understanding on the application of each additional listing procedure set out under paragraphs 2.0, 3.0 and 4.0 of Practice Note 28.

6.6 When will the listing and quotation of the additional securities be effected under paragraph 4.0 of Practice Note 28?

Pursuant to the procedures under paragraph 4.0 of Practice Note 28, the additional securities will be listed and quoted on the next market day after the listed issuer has -

- (a) submitted the relevant certificate together with a covering letter containing the summary of the corporate proposal to Bursa Depository before **10 a.m.** on the market day before the listing date;
- (b) received confirmation from Bursa Depository that the additional securities are ready for crediting into the respective account holders; and
- (c) announced pursuant to paragraph 13.2 of Practice Note 28 through *Bursa Link* via a dedicated template, "*ALA template*" before **3 p.m.** on the market day before the listing date the following:
 - (i) details of corporate proposal;
 - (ii) total number of securities issued under each proposal and its issue price, if any ;
 - (iii) date of listing and quotation; and
 - (iv) latest ~~issued and paid up~~ share capital and number of issued shares after the proposal indicating the number of shares (in units and RM) ~~and their par value, if any.~~

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General requirements for new issue of securities

6.10 The facts are as follows:

- On 31 July 201~~74~~, *PLC A* obtained a general mandate from its shareholders under paragraph 6.03(1) of the Main LR to issue shares at any time until the conclusion of its next annual general meeting provided that the aggregate number of shares to be issued does not exceed 10% of its ~~issued and paid-up capital~~total number of issued shares for the time being.
- ~~The nominal value of PLC A's issued and paid-up capital~~total number of issued shares as at 31 July 201~~74~~ was RM95 million shares.
- On 1 September 201~~74~~, ~~the nominal value of PLC A's issued and paid-up capital~~ total number of issued shares increased to RM100 million shares pursuant to a private placement exercise of 5 million shares of RM1.00 each issued under the general mandate.
- On 31 December 201~~74~~, *PLC A* issued another 50 million shares of RM1.00 each pursuant to a rights issue exercise which has been approved under a specific shareholders' approval.
- *PLC A* intends to undertake another private placement exercise by 30 June 201~~85~~.

What is the maximum amount of shares that *PLC A* can issue for the private placement exercise under the general mandate?

As at 30 June 201~~85~~, ~~the nominal value of PLC A's issued and paid-up capital~~ total number of issued shares is RM150 million. Therefore, the maximum amount that *PLC A* can issue under the general mandate is 15 million shares ~~of RM1.00 each~~. Since *PLC A* has issued 5 million shares under the general mandate in the preceding 12 months, the maximum number of shares that can be issued under the general mandate as at 30 June 201~~85~~ is 10 million shares.

Requirements relating to a rights issue

6.21 Is the issuer required to submit any document to Bursa Depository before the BCD for the purpose of processing the Rights under SPEEDS?

The issuer must submit an undertaking letter in the prescribed format to Bursa Depository on the announcement date of the BCD for the Rights to be processed under SPEEDS. The undertaking letter must include the following:

- (a) The current ~~issued and paid-up capital~~ share capital and number of issued shares of the issuer;
- (b) Designated CDS account for the crediting of fractional shares/rights;
- (c) Options on the allotment of fractional rights; and
- (d) An undertaking that the new share certificates will be submitted to Bursa Depository on the BCD.

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Requirements in relation to bonus issue

- 6.29 What are the circumstances where the listed issuer, or the external auditors/reporting accountants, is required to provide confirmations that the available reserves for capitalization are ~~adequate~~ sufficient to cover the ~~entire bonus~~ capitalisation issue under paragraph 6.30(32)(b)² of the Main LR and paragraph 1(dA) in Part B, Annexure PN28-B³ of Practice Note 28?

The following table clarifies the obligations of the listed issuer and the external auditors/reporting accountants in providing the relevant confirmations required for purposes of complying with paragraph 6.30(3) of the Main LR and paragraph 1(dA) in Part B, Annexure PN28-B of Practice Note 28:

	SCENARIO	FINANCIAL STATEMENTS RELIED UPON			OBLIGATIONS	
		Latest audited financial statements	Latest audited financial statements adjusted for subsequent events	Latest unaudited financial statements	Must the listed issuer confirm the adequacy <u>sufficiency</u> of reserves for capitalization?	Must the reserves for capitalization be verified and confirmed by the external auditors (or reporting accountants) and the report be submitted to Bursa Securities?
Are the available reserves for capitalization adequate <u>sufficient</u> ?	Scenario 1	Yes	N/A	Yes	Yes	No
	Scenario 2	Yes	N/A	No	Cannot undertake bonus issue	N/A

² Paragraph 6.30(32)(b) stipulates that a listed issuer ~~must ensure that the available reserves for capitalisation are adequate to cover the entire bonus issue of securities undertaking a bonus issue by way of capitalisation must ensure that it has sufficient reserves to cover the capitalisation issue.~~ If the reserves for capitalisation are not based on the annual audited financial statements of the listed issuer, such reserves must be verified and confirmed by the external auditors or reporting accountants of the listed issuer. Where a confirmation by the external auditors or reporting accountants is required, the reserves for capitalisation, which may be adjusted for subsequent events, must be based on the latest audited financial statements or the latest quarterly report, whichever is the later.

³ Paragraph 1(dA) of Part B, Annexure PN28-B provides that a listed issuer must file the following documents in support of the listing application for a bonus issue by way of capitalisation:

- (a) confirmation from the listed issuer on the ~~adequacy~~ sufficiency of the reserves ~~to cover the~~ capitalization; and
- (b) where the confirmation from the external auditors or reporting accountants is required, the report from the external auditors or reporting accountants.

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	SCENARIO	FINANCIAL STATEMENTS RELIED UPON			OBLIGATIONS	
		Latest audited financial statements	Latest audited financial statements adjusted for subsequent events	Latest unaudited financial statements	Must the listed issuer confirm the <u>adequacy</u> of reserves for capitalization?	Must the reserves for capitalization be verified and confirmed by the external auditors (or reporting accountants) and the report be submitted to Bursa Securities?
	Scenario 3	No	Yes	N/A (Latest quarterly financial statements subsequent to the audited financial statements is not due for release)	Yes	Yes
	Scenario 4	No	N/A	Yes	Yes	Yes

- 6.34 **ABC Bhd** is considering a proposal to undertake a **bonus capitalisation** issue. Based on its latest consolidated audited accounts, **ABC Bhd** has **share premium of RM100 million and revaluation reserves of RM60 million**. **ABC Bhd** however has accumulated losses of **RM180 million**. Can **ABC Bhd** undertake a **bonus capitalisation** issue?

No, **ABC Bhd** cannot undertake a bonus issue as its accumulated losses (RM180 million) exceed the necessary reserves required for capitalisation of bonus issues (i.e. RM100 million + RM60 million = RM160 million). Yes, **ABC Bhd** can undertake a capitalisation issue provided that it complies with Part F in Chapter 6 of the Main LR including ensuring that the reserves are sufficient for the capitalisation issue and its share price adjusted for a bonus issue is not less than RM0.50 based on the daily volume weighted average share price during the 3-month period before the application date.

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- 6.35 ~~XYZ Bhd is considering a proposal to undertake a bonus issue. Based on its latest consolidated audited accounts, XYZ Bhd has share premium of RM200 million and revaluation reserves of RM250 million (assuming that the surplus does not arise from revaluation of real estates). XYZ Bhd has accumulated losses of RM150 million. Can XYZ Bhd undertake a bonus issue?~~

~~Yes, XYZ Bhd can undertake a bonus issue provided that the amount to be capitalised for the bonus issue does not exceed RM300 million. [Deleted]~~

Requirements relating to a Share Issuance Scheme

- 6.36 With paragraph 6.41(d) of the Main LR, who can confirm adjustments (other than on a bonus issue, subdivision or consolidation of shares) under a Share Issuance Scheme?

Pursuant to paragraph 6.41(d) of the Main LR, either the listed issuer's external auditor or Principal Adviser may confirm adjustments (other than on a bonus issue, subdivision or consolidation of shares) under a Share Issuance Scheme. However, this is subject to the provisions contained in the listed issuer's bylaws of the Share Issuance Scheme.

- 6.37 Pursuant to paragraph 6.38(1) of the Main LR, the total number of shares to be issued under a Share Issuance Scheme must not exceed 15% of the ~~issued and paid-up capital~~ total number of issued shares at any one time. How is this percentage calculated?

Where a listed issuer has issued a percentage out of the 15% allowed under paragraph 6.38(1) of the Main LR, for the following issue, the listed issuer would need to deduct from the total ~~issued and paid-up capital~~ number of issued shares, the number of shares already issued and paid for under the Share Issuance Scheme. The result from the deduction would be the new basis for calculating the percentage allowed for the scheme.

Illustration:

PLC A procured shareholder approval to implement a 5-year Share Issuance Scheme of up to 15% of its ~~issued and paid-up capital~~ total number of issued shares on 8 ~~January~~ February 2017~~09~~. PLC A has ~~an issued and paid-up capital~~ a total number of issued shares of RM100 million but arising from a rights issue implemented on 28 ~~February~~ March 2017~~09~~, the ~~enlarged issued and paid-up capital~~ total number of issued shares is now RM120 million. In addition, arising from the exercise of all the options offered by PLC A pursuant to the Share Issuance Scheme, as at December 2017~~10~~, 10 million new shares were issued ~~amounting to RM10 million~~. Pursuant to paragraph 6.38 of the Main LR, what is the number of shares under the Share Issuance Scheme that can be offered by PLC A to its employees in year 2018~~11~~?

Based on this example, the computation of the shares under the Share Issuance Scheme that may be offered by PLC A is as follow:

	<u>Issued and Paid-Up Capital Total Number of Issued Shares</u>
8 January <u>February 2017</u> 09	RM100 million
February 2009 <u>28 March 2017</u> (Issuance of new shares arising from rights issue – RM20 million)	RM120 million

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	Issued and Paid-Up Capital Total Number of Issued Shares
December 2017 40 (Total issuance of shares under the Share Issuance Scheme – RM10 million)	RM130 million

Shares under the Share Issuance Scheme that can be offered by PLC A in year ~~2011~~2018:

= (15% x RM130 million shares) LESS shares already issued under the Share Issuance Scheme (i.e. RM10 million shares)

= 9.5 million new shares

6.38 Can a listed issuer establish more than 1 Share Issuance Scheme at any point in time?

Yes, a listed issuer may establish more than 1 Share Issuance Scheme provided that the aggregate number of shares available under all the Share Issuance Schemes does not exceed 15% of its issued and paid-up capitaltotal number of issued shares (excluding treasury shares).

CHAPTER 7 – ARTICLES OF ASSOCIATION CONSTITUTION

General

7.1 ~~Must a company⁴ incorporate all provisions from Chapter 7 of the Main LR into its articles of association, even if some of the provisions are not applicable? An example of such provision is where the company has not reserved any right to issue preference shares under its articles of association. In that situation, does it still have to incorporate provisions such as paragraphs 7.05 and 7.06 of the Main LR?~~

~~No. If a provision is not applicable to a company, it need not incorporate it into its articles of association. However, it must notify Bursa Securities of such provisions that it has not incorporated. [Deleted]~~

7.2 If a company listed corporation undertakes amendments to its articles—of association constitution, is there a requirement for the company listed corporation to submit a letter of compliance and checklist of compliance similar to the requirement of paragraph 3.07 of the Main LR?

Pursuant to paragraphs 2.11 and 2.12 of the Main LR, any amendments made to the articles of association constitution by listed issuers corporations must be submitted to Bursa Securities no later than 5 market days after the effective date of the amendment together with a letter of compliance. In relation to a checklist of compliance for such amendment, there is no requirement for submission of the same unless Bursa Securities requests for it.

⁴ ~~For the purpose of this Questions & Answers for Chapter 7 of the Main LR, unless the context otherwise requires, references to “company” means a company which is seeking a listing on the Official List or a listed corporation.~~

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Enhancements to proxy requirements

- 7.3 Under paragraph 7.21 of the Main LR, where a member of a listed issuer corporation is an exempt authorised nominee, there is no limit to the number of proxies which the exempt authorized nominee may appoint in respect of each omnibus account it holds. Who is an “exempt authorised nominee” for purposes of paragraph 7.21 of the Main LR?**

Under the Rules of Bursa Depository, an authorised nominee is defined as a person who is authorised to act as a nominee in accordance with the schedule prescribed under Part VIII of the Rules. This means that such person can hold securities on behalf of another person. On the other hand, an exempt authorised nominee is an authorised nominee who may hold deposited securities for more than one beneficial owner in respect of each securities account it holds, or commonly known as the omnibus account.

- ~~7.4 Are individual members or authorised nominees of a listed issuer allowed to have unlimited number of proxies pursuant paragraph 7.21 of the Main LR?~~**

~~No, only an exempt authorised nominee holding omnibus accounts is allowed to appoint unlimited number of proxies pursuant to paragraph 7.21 of the Main LR. The number of proxies which may be appointed by individual members and authorised nominees is not regulated under the Main LR. The listed issuer is free to determine this through its articles of association. [Deleted]~~

Annual shareholder approval for directors’ fees and benefits

- 7.4A Given that section 230 of the Companies Act 2016 already requires that the fees of directors, and any benefits payable to directors to be approved at a general meeting, why must a listed corporation amend its constitution to the effect that the fees of directors, and any benefits payable to directors (“Directors Fees and Benefits”) shall be subject to annual shareholder approval at a general meeting pursuant to the Main LR?**

This is to make clear that apart from seeking shareholder approval on director’s fees on an annual basis pursuant sections 230 and 340(1)(c) of the Companies Act 2016, a listed corporation must also seek its shareholder approval for benefits payable to directors on an annual basis. This will provide greater clarity on the frequency of shareholder approval for directors’ benefits as the Companies Act 2016 is silent on this point.

- 7.4B Is a listed corporation required to seek shareholder approval for its Directors’ Fees and Benefits even though there is no increase in such fees and benefits?**

Yes. A listed corporation must seek shareholder approval for its Directors’ Fees and Benefits annually irrespective of whether there is an increase in the amount of such fees and benefits or otherwise.

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Effect of the Main LR

- 7.5 In the event a ~~company~~**listed corporation** has incorporated the deeming provision under paragraph 7.36(4) of the Main LR in its ~~articles of association~~**constitution**, is the ~~company~~**listed corporation** still required to amend its ~~articles of association~~**constitution** if there are amendments made to Chapter 7 of the Main LR which are not already in its ~~articles of association~~**constitution**?

Yes, a ~~company~~**listed corporation** is still required to amend its ~~articles of association~~**constitution** in accordance with the relevant amendments of Chapter 7 of the Main LR. This is to ensure that shareholders have access to ~~articles of association~~**constitution** which are updated and comprehensive.

CHAPTER 8 – CONTINUING LISTING OBLIGATIONS

- 8.20 The auditors of *XYZ Bhd* highlighted a material uncertainty related to going concern on *XYZ Bhd* in its latest audited financial statements for the financial year ended 30 June 2017 (“Financial Statement”). *XYZ Bhd*’s shareholders’ equity on a consolidated basis based on the Financial Statement was 60% of its ~~issued and paid up~~**share** capital (excluding treasury shares).

However, *XYZ Bhd*’s subsequent quarterly results for the period ended 30 September 2017 (“quarterly results”) shows that its shareholders’ equity has reduced to 35% of its ~~issued and paid up~~**share** capital (excluding treasury shares).

Will *XYZ Bhd* trigger the Prescribed Criteria upon the release of its quarterly results?

Yes, since *XYZ Bhd*’s auditors have highlighted a material uncertainty related to going concern on *XYZ Bhd* in its latest Financial Statement and based on *XYZ Bhd*’s latest available results which is the quarterly results, its shareholders’ equity is less than 50% of its ~~issued and paid up~~**share** capital (excluding treasury shares), *XYZ Bhd* will trigger the Prescribed Criteria pursuant to paragraph 2.1(e) of Practice Note 17. In this event, *XYZ Bhd* must immediately make the First Announcement under paragraph 4.1(a) of Practice Note 17 upon the release of its quarterly results.

Securities holders approval

- 8.30 Where the Main LR specifies that a transaction ~~or corporate proposal~~ **requires the approval of shareholders, would ratification of the transaction or corporate proposal by the shareholders be acceptable?**

No, ~~a listed issuer must ensure that approval of shareholders, where required, is obtained before the completion of the transaction~~ a listed issuer must obtain its shareholder approval before completing or implementing its transaction or corporate proposal.

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Electronic payment of cash distributions

- 8.44** Must a listed issuer amend its ~~articles of association constitution~~ to allow for payment of cash dividends electronically to its shareholders pursuant to paragraph 8.26A of the Main LR?

By virtue of paragraph 7.36 of the Main LR, a listed issuer is in a position to pay cash dividends to its shareholders electronically pursuant to paragraph 8.26A of the Main LR regardless of what may be stated in its ~~articles of association constitution~~ in relation to cash dividend payment.

Notwithstanding this, to ensure that the listed issuer's ~~articles of association constitution~~ are updated and comprehensive, it should proceed to amend the relevant provisions in its ~~articles of association constitution~~ that may be inconsistent with the requirements for the listed issuer to pay cash dividends electronically as set out in paragraph 8.26A of the Main LR. ~~An amendment to its articles of association, if required, may be done at the listed issuer's next annual or extraordinary general meeting.~~

- 8.45** What should a listed issuer do if its securities holders have not provided their bank account information to the Depository?

A listed issuer must take all reasonable and appropriate steps to engage and communicate with its securities holders on the availability and benefits of the electronic payment of cash distributions, for example, in the various channels or means set out in the directive dated 19 February 2010 (Ref. No. SR/TAC/ro/LD07/10) ("**Directive**"), and encourage its securities holders to provide their bank account information to the Depository. If, after taking such steps, the securities holders still do not provide their bank account information to the Depository, the listed issuer may continue to pay cash distributions to these securities holders in the existing manner as authorized under the listed issuer's constituent documents or issuing documents such as the ~~articles of association constitution~~, trust deed or terms of issuance.

Poll Voting

- 8.54C** Under paragraph 8.29A(2) of the Main LR, a scrutineer appointed to validate the votes cast at the general meeting must fulfill the following requirements:

- the scrutineer must not be an officer⁵ of the listed issuer or its related corporation;
- the scrutineer must be independent of the person undertaking the polling process; and
- if the scrutineer is interested in a resolution to be passed at the general meeting, the scrutineer must refrain from acting as scrutineer for that resolution.

⁵ "Officer" has the meaning given in section 42 of the Companies Act 1965/2016 and includes the director, company secretary and employees.

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- (a) **In view of the above, can a listed issuer’s external auditor be appointed as a scrutineer for the general meeting?**

Yes, the listed issuer’s external auditor can be appointed as the scrutineer for the general meeting so long as the external auditor is independent of the person undertaking the polling process and refrains from acting in a resolution that it may be interested in, e.g. the resolution seeking its reappointment.

- (b) **If the external auditor must refrain from acting as the scrutineer in a resolution seeking its reappointment, who can be the scrutineer to validate the votes cast for such resolution?**

The listed issuer may appoint any other person to be the scrutineer for such resolution so long as the said person is not an officer of the listed issuer or its related corporation and is independent of the person undertaking the polling process.

Continuing obligation of a special purpose acquisition company (“SPAC”)

8.57 Prior to the completion of a qualifying acquisition, is a SPAC required to comply with all the corporate governance provisions as set out in Chapter 15?

Yes. Apart from those obligations in Chapter 8 which a SPAC is exempted from complying with⁶, all other continuing listing obligations including those relating to corporate governance are applicable to a SPAC prior to the completion of a qualifying acquisition.

CHAPTER 9 – CONTINUING DISCLOSURE

Immediate disclosure of material information

- 9.06 Is a listed issuer required to make immediate disclosure of a notice of demand issued pursuant to section 248466(1)(a) of the Companies Act, 19652016 (“S. 248466 Notice”)?**

There is usually no requirement for an immediate announcement to be made by a listed issuer of a S.248466 Notice as this is merely a letter of demand. However, where a S.248466 Notice is considered to be material pursuant to paragraph 9.03 of the Main LR based on the facts and circumstances of a particular listed issuer, the listed issuer must make an immediate announcement of the same.

⁶ Pursuant to paragraph 8.42 of the Main LR, a SPAC is not subject to the continuing listing obligations set out in paragraph 8.11 and Parts D, E and G of Chapter 8.

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Prescribed events which require immediate announcement

9.17 A winding-up petition is served on the subsidiary of a listed issuer. However, the winding-up petition has no financial or operational impact on the listed issuer and the listed issuer forms the view that there is no merit to the winding-up petition. Is the listed issuer still required to make an immediate announcement of the winding-up petition?

Yes. Pursuant to paragraph 9.19(19) of the Main LR, a listed issuer must make an immediate announcement of any ~~commencement of winding-up proceedings~~presentation of winding up petition against the listed issuer or any of its subsidiaries or major associated companies irrespective of whether -

- the winding-up has financial or operational impact on the listed issuer;
- the listed issuer is contesting the winding-up petition or forms the view that there is no merit to the winding-up petition; or
- the listed issuer is in negotiation with the petitioner to arrive at a settlement arrangement.

~~Issuance of annual report in electronic format [Deleted]~~

~~9.31 Under paragraph 9.26 of the Main LR, a listed issuer may issue its annual report in electronic format to its shareholders provided that the relevant requirements are complied with⁷. What constitutes “electronic format” in which an annual report may be issued in?~~

~~⁷—The listed issuer must comply with the following:~~

- ~~(a) give a printed copy of its annual report to its shareholder upon the shareholder’s request, whether verbal or written;~~
- ~~(b) designate a person to attend to the shareholders’ requests as stated above;~~
- ~~(c) ensure that a hard copy of the annual report is forwarded to the shareholder requesting the same within 4 market days from the date of receipt of the request;~~
- ~~(d) designate person(s) to answer queries from shareholders relating to the use of the electronic format; and~~
- ~~(e) issue hard copies of the notice of the annual general meeting, the proxy form and the following documents to its shareholders together with the annual report in electronic format –~~
 - ~~(i) a note containing the following statement or information:

 - ~~(aa) the listed issuer will forward a hard copy of the annual report to the shareholder within 4 market days from the date of receipt of the verbal or written request;~~
 - ~~(bb) the listed issuer’s website and e-mail address, name(s) of designated person(s) attending to shareholders’ requests and queries and contact number(s); and~~
 - ~~(cc) the designated website link or address where a copy of the annual report may be downloaded; and~~~~
 - ~~(ii) a request form to enable the shareholder to request for the annual report in hard copy, with the particulars of the listed issuer’s facsimile number and mailing address.~~

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~~Issuance of annual report in “electronic format” under paragraph 9.26 of the Main LR includes issuance in CD-ROM, USB thumb drive, USB flash drive or USB pen drive. [Deleted]~~

Timeframe for issuance of annual report

9.40A XYZ Bhd’s financial year end (“FYE”) falls on 31 March 2016. Prior to 31 December 2015, XYZ Bhd has been –

- holding its annual general meeting within 6 months from the close of its financial year (i.e. in September); and
- including the notice convening the annual general meeting and proxy forms in its annual report, and forwarding them together to shareholders.

Pursuant to the Phase 2 Requirements, XYZ Bhd is required to issue its annual report that includes the annual audited financial statements together with the auditors’ and directors’ reports, to the Exchange and shareholders by July 2016 (i.e. 4 months from the close of its financial year end).

(a) Does this mean that XYZ Bhd is also required to convene its annual general meeting within the shorter timeframe?

The Main LR does not prescribe when a listed issuer must convene its annual general meeting. Hence, it is up to XYZ Bhd to determine when it should convene its annual general meeting so long as it complies with the relevant requirements of the Companies Act ~~49652016~~.

(b) Assuming that XYZ Bhd convenes its annual general meeting in September 2016, can XYZ Bhd send the notice convening the annual general meeting and the proxy forms separately from the annual report?

As the annual general meeting will only be held in September 2016, XYZ Bhd may send out the notice convening the annual general meeting and the proxy forms separately from the annual report so long as it complies with the relevant requirements of the Companies Act ~~49652016~~.

Circulars and other requirements

9.54 Paragraph 9.30(2)(c) of the Main LR provides that the obligation on a listed issuer or offeror in an offer for sale of listed securities to submit a draft copy of all circulars and other documents proposed to be sent to the holders of the listed securities, does not apply, amongst others, to any document that is not prepared by the listed issuer or its advisers on its behalf. What are examples of such documents?

Examples of documents that have not been prepared by the listed issuer or its adviser on its behalf, include amongst others, representations made by directors to the listed issuer pursuant to section ~~428207~~(3) of the Companies Act ~~49652016~~ and notices issued by trustees to bondholders pursuant to the provisions of a trust deed.

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Disclosure of Sustainability Statement in Annual Report

9.51C Can a listed issuer issue a standalone Sustainability Statement separately from its annual report?

Yes, the listed issuer may do so provided that the standalone Sustainability Statement –

- (a) complies with paragraphs 6.1 to 6.3 of Practice Note 9 of the Main LR or is prepared in accordance with the GRI Sustainability Reporting Guidelines; and
- (b) is issued concurrently with the annual report.

9.51D Assuming that a listed issuer chooses to issue a standalone Sustainability Statement that satisfies the requirements in Question 9.51C above, must the listed issuer send a hard copy of the standalone Sustainability Statement to its shareholders who request for a hardcopy of the annual report?

Yes. As the standalone Sustainability Statement forms part of the annual report, the listed issuer must send a hard copy of the standalone Sustainability Statement together with its annual report to its shareholder who has requested for a hard copy of the annual report.

Disclosure requirements for MOG listed issuers

9.65 A MOG listed issuer is required to provide a summary of Reserves or Resources at the end of the financial year, including an update, if any, and a comparison with the Reserves or Resources reported in the previous year, in its annual report. Must the summary of Reserves or Resources be supported by a separate independent competent person's report?

No, the MOG listed issuer may exercise its discretion on whether the engagement of a separate independent competent person is necessary for such purpose.

9.66 Pursuant to paragraphs 6.2 of Practice Note 32 of the Main LR, if a MOG listed issuer makes an immediate announcement relating to material exploration results, material discovery of new Reserves or Resources or material change to Reserves or Resources, it is required to publish a copy of the competent person's report on its website and make available a copy of such report for inspection at its registered office.

(a) When is the MOG listed issuer required to publish the competent person's report on its website and make available a copy of such report for inspection at its registered office?

The MOG listed issuer must do so immediately after the competent person's report is available and as soon as practicable from the date of such immediate announcement.

(b) Must the competent person who prepares the competent person's report be an external party?

No. For purposes of immediate announcements, the competent person may be an in-house expert. However, the competent person must meet the requirements as stipulated in Appendix 5 of the SC's Equity Guidelines.

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CHAPTER 10 – TRANSACTIONS***Computation of percentage ratio*****10.10 Does a listed issuer need to exclude treasury shares when computing the percentage ratios of a transaction?**

A listed issuer must exclude treasury shares in computing the -

- (a) ~~equity share capital~~ total number of shares previously in issue under paragraph 10.02(g)(iv); and
 - (b) market value of all the ordinary shares of the listed issuer under paragraph 10.02(g)(v),
- when determining the percentage ratio of a transaction under Chapter 10 of the Main LR.

Related party transactions**10.22 Must a listed issuer immediately announce all related party transactions?**

A listed issuer must immediately announce all the following related party transactions:

- (a) related party transactions which do not fall within the category of recurrent related party transaction of a revenue or trading nature and necessary for its day to day operations (“RRPT”) and -
 - (i) the value of the consideration of the transaction is RM500,000 or more; and
 - (ii) the percentage ratio of such related party transaction is 0.25% or more; and
 - (b) RRPTs which are not comprised in a valid mandate from its shareholders (“Mandate”) and-
 - (i) in relation to a listed issuer with ~~an issued and paid-up capital~~ share capital of RM60 million and above, the consideration, value of the assets, capital outlay or costs of the RRPT is RM1 million or more, or the percentage ratio of such RRPT is 1% or more, whichever is the higher; or
 - (ii) in relation to a listed issuer with ~~an issued or paid-up capital~~ share capital of less than RM60 million, the consideration, value of the assets, capital outlay or costs of the RRPT is RM1 million or more, or the percentage ratio of such RRPT is 1% or more, whichever is the lower,
- (“Prescribed Limit”).

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- 10.43** ~~Mr. X holds an aggregate nominal amount of 8% of the total number of~~ voting shares in *ABC Berhad*, a listed issuer and he is not the largest shareholder of *ABC Berhad*. Is he a major shareholder in *ABC Berhad* under Chapter 10 of the Main LR?

No, even though he holds more than 5% of the ~~aggregate of the nominal amounts~~total number of ~~all the~~ voting shares in *ABC Berhad* (“shareholdings”), he is not regarded as a major shareholder of *ABC Berhad* under Chapter 10 of the Main LR as he holds less than 10% of the shareholdings and is not the largest shareholder of *ABC Berhad*.

MOG listed issuer

- 10.64** The criteria of “MOG listed issuer” in paragraph 3.2 of Practice Note 32 of the Main LR excludes a listed issuer which purely provides services or equipment to other corporations engaged in such core business i.e. mineral, oil and gas exploration or extraction activities. What are examples of such services or equipment?

In relation to mineral exploration or extraction activities, examples of such services or equipment include but are not limited to contract field exploration services or assay equipment. In relation to oil and gas exploration or extraction activities, examples of such services or equipment include but are not limited to engineering project support services or the manufacturing or fabrication of offshore cranes.

Listed issuers which are in doubt about the nature of their activities are invited to seek further clarification from Bursa Securities.

- 10.65** *DEF Bhd*, a MOG listed issuer, has diversified its operations pursuant to paragraph 10.13 of the Main LR, resulting in its mineral, oil and gas exploration or extraction activities no longer contributing 25% or more of its net profits. Must *DEF Bhd* continue to comply with the specific disclosure obligations applicable to a MOG listed issuer?

Yes, *DEF Bhd* must continue to comply with the specific disclosure obligations applicable to a MOG listed issuer after the diversification in operations, unless it has procured an exemption from Bursa Securities. Such exemptions will be considered on a case by case basis, having regards to the relevant facts and circumstances.

CHAPTER 12 – SHARE BUY-BACKS

- 12.1** ~~Is it mandatory for a listed corporation to issue a circular to its shareholders when it seeks renewal of authorisation from its shareholders to purchase its own shares?~~

No, where it is a renewal of an existing authorisation, the listed corporation has an option of issuing either a circular or a statement accompanying the notice of general meeting i.e. the Share Buy-back Statement.~~[Deleted]~~

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- 12.2** If a listed corporation obtains an authorisation from its shareholders to purchase its own shares in year 2017~~09~~ but did not renew the said authorisation in year 2018~~0~~, can it still issue a Share Buy-back Statement to its shareholders to seek their authorisation for the purchase of its own shares in year 2019~~14~~?

~~No, under paragraph 12.06 of the Main LR, listed corporations are only allowed to issue a Share Buy-back Statement to renew an existing authorisation. If the listed corporation does not renew the said authorisation in year 2010, it will lapse. As such, in year 2011, there will not be an existing authorisation and the listed corporation will have to issue a circular to procure its shareholder approval for the purchase of its own shares.~~ Yes. Under paragraph 12.06(1) of the Main LR, a listed corporation is only required to issue a Share Buy-back Statement to its shareholders, for purposes of either seeking a new authorisation or renewing an existing authorisation to purchase its own shares. The Share Buy-back Statement must include the prescribed information as set out in Appendix 12A of the Main LR.

- 12.4** A *Bhd*, a listed corporation has ~~an issued and paid-up capital a total number of RM100 million comprising~~ of 100 million issued ordinary shares ~~of RM1.00 each~~. Pursuant to its authorisation in year 2017~~09~~, A *Bhd* had purchased 10 million of its own shares and retained the shares purchased as treasury shares. Can A *Bhd* still purchase its own shares in year 2018~~0~~?

No, pursuant to paragraph 12.09 of the Main LR, A *Bhd* must not purchase its own shares or hold any of its own shares as treasury shares if this results in the aggregate of the shares purchased or held exceeding 10% of its ~~issued and paid-up capital~~ total number of issued shares. Hence, as the treasury shares held by A *Bhd* in year 2018~~0~~ is already 10% of its ~~issued and paid-up capital~~ total number of issued shares, A *Bhd* may not purchase its own shares in year 2018~~0~~. However, if the treasury shares are cancelled in year 2018~~0~~ and subject to the authorisation from shareholders, A *Bhd* may purchase its own shares subsequently.

- 12.6** B *Bhd*, a listed corporation has ~~an issued and paid-up capital a total number of RM120 million comprising~~ 120 million issued ordinary shares ~~of RM1.00 each~~. For year 2017~~09~~, B *Bhd* procured its shareholder approval to undertake share buy-back of up to 10% of its ~~issued and paid-up capital~~ total number of issued shares. Pursuant to its authorisation in year 2017~~09~~, B *Bhd* had purchased 3 million of its own shares in February 2017~~09~~ and retained the shares purchased as treasury shares. Subsequently in August 2017~~09~~, the ~~issued and paid-up capital~~ total number of issued shares of B *Bhd* is reduced to RM100 million upon completion of its corporate exercise. What is the remaining number of its own shares that B *Bhd* may purchase in year 2017~~09~~?

The maximum limit that a listed corporation may purchase its own shares or hold any of its own shares as treasury shares under paragraph 12.09 of the Main LR will be based on the ~~adjusted issued and paid-up capital~~ total number of issued shares of the listed corporation adjusted pursuant to a corporate exercise. Hence, in this case, the maximum limit of its own shares that B *Bhd* may purchase in year 2017~~09~~ is 10 million based on its ~~adjusted issued and paid-up capital~~ total number of issued shares adjusted pursuant to the corporate exercise in August 2017~~09~~. ~~and~~ In view of the 3 million shares purchased in February 2017~~09~~, B *Bhd* may purchase an additional 7 million of its own shares for the remaining period in year 2017~~09~~.

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12.6A Is a listed corporation required to lodge a solvency statement made pursuant to section 113 of the Companies Act 2016 with the Exchange?

No, a listed corporation is not required to lodge the solvency statement with the Exchange.

CHAPTER 13 – ARRANGEMENTS AND RECONSTRUCTIONS

Subdivision of shares

13.1 Can a Cash Company, ~~or a PN17 Company~~ Issuer or a listed issuer with inadequate level of operations apply for subdivision of its shares?

A Cash Company, ~~ies, and PN17 Companies~~ Issuer and listed issuer with inadequate level of operations may now apply for subdivision of their shares only if even though the subdivision is not undertaken as part of their proposal or plan to regularise their condition pursuant to paragraph 8.03, 8.03A and 8.04 of the Main LR respectively, provided that they comply with the requirements in Chapter 6 as if the subdivision is a bonus issue as stipulated in paragraph 13.04(1) of the Main LR. Among others, the Cash Company, PN17 Issuer and listed issuer with inadequate level of operations must ensure that their share price adjusted for the subdivision of shares is not less than RM0.50 based on the daily volume weighted average share price during the 3-month period before the application date.

13.1A Is a listed issuer allowed to submit its application for subdivision of shares to Bursa Securities on its own?

Similar to a bonus issue under Chapter 6, a listed issuer may submit its application for a Specified Subdivision⁸ on its own under paragraph 13.04(1) of the Main LR. Apart from this, applications for all other subdivision of shares must be submitted through a Principal Adviser.

13.2 ~~One of the criteria for subdivision of shares, i.e. paragraph 13.05(b) of the Main LR is that the issued and paid up capital of the listed corporation must be unimpaired by losses on a consolidated basis (“Criterion (b)”). What does this mean?~~

It means that the listed corporation’s shareholders’ funds on a consolidated basis must be at least equal to or greater than the issued and paid up capital of the corporation. ~~[Deleted]~~

13.3 ~~If the listed corporation has accumulated losses on a consolidated basis but has other reserves would the listed corporation fulfill Criterion (b)?~~

The listed corporation would fulfill Criterion (b) as long as its shareholders’ funds, after the issued and paid up capital is adjusted for accumulated losses and reserves, is equal to or greater than the issued and paid up capital. ~~[Deleted]~~

⁸ A Specified Subdivision is defined in paragraph 13.04(3) of the Main LR as a subdivision of shares which –

(a) is not conditional upon any other corporate proposal; or

(b) is conditional upon another corporate proposal but –

(i) that other corporate proposal is a bonus issue; or

(ii) that other corporate proposal has been completed or become unconditional.

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- 13.4** Is there a requirement as regards ~~how many~~ the number of shares which one share of ~~the~~ listed corporation can be subdivided into?

No, there is no requirement on the manner in which the shares must be subdivided, provided that the listed corporation's share price adjusted for the subdivision of shares must not be less than RM0.50 based on the daily closing price volume weighted average share price of the listed corporation's shares during the 3-month period before the application date.

Others

- 13.6** Is a listed issuer required to submit any document to Bursa Depository before the books closing date for the purpose of processing the Specified Capital Restructuring under SPEEDS?

A listed issuer must submit an undertaking letter in the prescribed format to Bursa Depository on the announcement date of the books closing date for Specified Capital Restructuring that is to be processed under SPEEDS. The undertaking letter must include the following:

- (a) The current ~~issued and paid up capital share capital and number of issued shares~~ of the listed issuer;
- (b) Designated CDS account for the crediting of fractional shares /rights;
- (c) Options on the allotment of fractional rights; and
- (d) An undertaking that the new share certificates shall be submitted to Bursa Depository on the books closing date.

CHAPTER 15 – CORPORATE GOVERNANCE

Directors

- 15.8** Can a board of directors' meeting that is conducted via teleconferencing, video conferencing or other electronic, audio or audio-visual means which allows simultaneous or instantaneous transmission be considered as a board of directors' meeting of a listed issuer for the purposes of paragraph 15.05(3)(c) of the Main LR?

Yes, provided that such mode of meeting is valid under the relevant laws and/or ~~articles of association constitution~~ of the listed issuer concerned.

Audit committee

- 15.24** Who will be the signatory to the statutory declaration pursuant to section ~~469(16)~~ 251(1)(b) of the Companies Act ~~1965~~ 2016, who may be approved by Bursa Securities as referred to under paragraph 9.27(c) of the Main LR? Similarly, what are the other requirements as may be approved by Bursa Securities under paragraph 15.09(1)(c)(iii) of the Main LR, pertaining to the audit committee?

The approval will be given on the basis of an application made by a listed issuer. Bursa Securities will examine the merits of each application and the approval of such signatory or requirements pertaining to audit committee member will be given on a case by case basis.

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Corporate Governance ~~Statement~~Disclosures

15.29 Are there any specific requirements in relation pertaining to the disclosure to be made in the annual report in relation to the MCCG Malaysian Code on Corporate Governance?

Practice Note 9 elaborates on the disclosure to be made in the annual report of a listed issuer in relation to this requirement.

15.29A Under paragraph 15.25(1) of the Main LR, a listed issuer's board of directors must provide an overview of the application of the Principles set out in the MCCG ("Principle") in its annual report ("CG Overview Statement"). In this regard, what are the information that must be disclosed in the CG Overview Statement?

As stipulated under paragraph 3.1A of Practice Note 9 of the Main LR, the listed issuer must disclose a summary of its corporate governance practices during the financial year with reference to the 3 Principles set out in the MCCG which are -

- (a) board leadership and effectiveness;
- (b) effective audit and risk management; and
- (c) integrity in corporate reporting and meaningful relationship with stakeholders.

In addition, the listed issuer should also highlight the following in the CG Overview Statement:

- (i) its key focus areas in relation to its corporate governance practices for the reporting financial year; and
- (ii) its future priorities or plans moving forward, in key areas for the forthcoming financial years.

Further guidance on the CG Overview Statement is available at the Executive Summary of the Corporate Governance Guide issued by the Exchange.

15.30 ~~Under paragraph 3.2 of Practice Note 9, a listed issuer must ensure that it has regard to the Recommendations when disclosing the application of each Principle. In view of this, must the listed issuer comment separately on each Recommendation with which it follows? Paragraph 15.25(2) of the Main LR requires a listed issuer to disclose the application of each Practice set out in the MCCG during the financial year, to the Exchange in a prescribed format ("CG Report") and announce the same together with the announcement of the annual report.~~

If a shareholder requests for a hard copy of the annual report from a listed issuer, must the listed issuer send a hard copy of the CG Report together with the annual report to the shareholder?

In describing how it has applied each Principle, a listed issuer need not comment separately on each Recommendation with which it follows. However, a listed issuer must ensure that its Corporate Governance Statement in its annual report contains adequate information and provides a meaningful description or discussion of its corporate governance practices to shareholders. No, there is no obligation for the listed issuer to forward a hard copy of the CG Report together with its annual report to its shareholder who has requested for a hard copy of the annual report. Under paragraph 15.25(2) of the Main LR, the listed issuer is only required to state in its annual report,

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the designated website link or address where the CG Report may be downloaded by its shareholders.

15.30A Can a listed issuer modify the prescribed format for the CG Report?

No. The listed issuer must strictly comply with the prescribed format of the CG Report with no exception whatsoever. In this regard, the listed issuer must ensure that each applicable field in the prescribed format relating to each Practice is completed before announcing the CG Report to the Exchange.

15.30B Can a listed issuer disclose the application of each Practice set out in the MCCG during the financial year in the annual report instead of in a prescribed format?

No, a listed issuer must disclose the application of each Practice set out in the MCCG during the financial year in a prescribed format.

15.30C If a listed issuer has adopted and disclosed Step Up practice 4.3 or 7.3 of the MCCG in its CG Report, is the listed issuer still required to disclose the application of Practice 4.2 or 7.2?

No. The listed issuer is only required to select the dropdown option “Not applicable – Step Up 4.3 adopted” for Practice 4.2 or “Not applicable – Step Up 7.3 adopted” for Practice 7.2, as the case may be, in the CG Report.

15.30D In explaining the departure from a Practice and the adoption of an alternative practice for such departure as required under paragraph 3.2A in Practice Note 9 of the Main LR, can a listed issuer state the adoption of another Practice in the MCCG as the justification or its alternative practice?

No, the listed issuer must still provide an explanation for the departure and disclose its alternative practice (other than the adoption of another Practice in the MCCG) and how the alternative practice achieves the Intended Outcome as required under paragraph 3.2A of Practice Note 9.

15.31 Can a listed issuer insert the CG Overview~~Corporate Governance~~ Statement (as referred to Practice Note 9) in its directors’ report in the annual report?

Yes, a listed issuer may insert the CG Overview~~Corporate Governance~~ Statement in its directors’ report in the annual report. However, a listed issuer must ensure that the said statement is prominently and clearly set out.

15.32 Must the CG Overview Statement and CG Report~~Corporate Governance Statement~~ be signed by the directors of a listed issuer in the same manner as the directors’ report?

No. It is not the requirement of Bursa Securities that the CG Overview Statement and CG Report~~Corporate Governance Statement~~ must be signed by the directors of a listed issuer. However, the listed issuer~~statement~~ must ensure that the CG Overview Statement and CG Report are approved by its board of directors~~clearly identify the board of directors as the party which is making the statement.~~

**QUESTIONS & ANSWERS
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15.33 ~~Does the Corporate Governance Statement have to be reviewed by external auditors of a listed issuer?~~

~~No, it is not the requirement of Bursa Securities that the said statement must be reviewed by the external auditors of the listed issuer. [Deleted]~~

15.33A Is it mandatory for a listed issuer to comply with the Corporate Governance Guide issued by the Exchange when it prepares its CG Overview Statement and CG Report?

Whilst it is not mandatory, a listed issuer is strongly **encouraged as a best practice** to refer to the Corporate Governance Guide when preparing its CG Overview Statement and CG Report.

CHAPTER 16 – SUSPENSION, DE-LISTING & ENFORCEMENT

Suspension of trading imposed by Bursa Securities

16.1 In relation to a voluntary winding-up of a listed issuer, when would Bursa Securities suspend the trading of its listed securities?

Pursuant to paragraph 16.02(1)(i) of the Main LR, Bursa Securities may suspend the trading of a listed issuer's listed securities upon the commencement of a voluntary winding-up in accordance with the Companies Act, ~~1965~~2016. Pursuant to section ~~255(6)441(1)~~ of the Companies Act, ~~1965~~2016, a voluntary winding-up commences –

- (a) where ~~a provisional~~an interim liquidator has been appointed before the resolution for voluntary winding-up was passed, at the time when the declaration referred to in section ~~255(1)440~~ of the Companies Act 2016, ~~was~~is lodged with the Registrar ~~of Companies;~~
and
- (b) in any other case, at the time of the passing of the resolution for voluntary winding-up,
as the case may be.

[End of Appendix 3]