

A. Market Abuses and Market Misconduct Cases where Enforcement Actions were Taken Against the POs and Registered Persons

Case A1: Manipulative trading activities – (churning activities with excessive buying and selling)

In this case, the DR engaged in manipulative trading activities in a counter. There were churning activities with excessive buying and selling of the securities in his clients' accounts on a daily basis and buying and selling activities among the clients which had their orders matched against each other and NCBO Trades (trades with no change in the beneficial ownership), with the DR concerned being their common DR. Despite the concerns raised by Bursa, the PO did not take the necessary actions to ensure that its DR conducted his dealing activities in an orderly and fair manner and had facilitated the DR to further increase his clients' domination of the trades in the said securities. The DR failed to refrain from undertaking manipulative dealing activities in his clients' accounts despite being warned by Bursa.



The following enforcement actions were taken against the PO, the DR and the relevant principal officers, taking into consideration, amongst others, the severity of the breach which impacted market integrity and co-operation given by the parties to expedite the resolution of the enforcement proceedings.

- the DR was imposed a public reprimand, fined RM100,000 and struck off from the Register with regard to the manipulative trading activities; and
- the PO was imposed a public reprimand and a fine of RM700,000 and its Executive Director Dealing (EDD) and Executive Director Operations (EDO) were both imposed a private reprimand for failing to exercise strict supervision over the PO's branch office's business activities and the activities of the branch office's Registered Persons and employees in relation to the dealing activities of the DR.

Case A2: Intra-day short selling

Despite a letter issued by the Securities Commission to the PO and DR cautioning them of the misconduct of the DR that the DR should refrain from engaging in intra-day short selling which was carried out by the DR in his sibling's account, the DR's dealing activities was not closely monitored by the PO and the DR continued with his intra-day short selling activities. The sales of shares were carried out by the DR when the client's account did not have the requisite tradable balance of the shares for the sale transactions to be carried out.

Enforcement actions were taken against the PO (private reprimand) for failing to take steps and/or maintain a proper and adequate system including strict supervision to ensure that Section 98 of the Capital Markets and Services Act (CMSA) was complied with by its DR at all times and exercise strict supervision on the dealing activities by the DR.

Bursa Malaysia Rules Enforcement In Focus

Bursa found that the actions taken by the PO had fallen short of undertaking reasonable follow-up actions in monitoring and supervising the DR's dealing activities, including carrying out checks after the trading misconduct was brought to the notice of the PO. Bursa however noted that it was an isolated incident not indicative of a systemic failure of the PO's internal controls. It was further noted that the PO has subsequently implemented corrective action by suspending the DR's dealing activities and establishing a monitoring mechanism thereafter to identify possible short selling activities on the next trading day.

The DR was imposed a fine of RM10,000 and a deferred suspension (6 months' suspension deferred for 2 years).

Case A3: Market abuses and misconduct – inflated trades and misrepresentation to Bursa

In this case, two principal officers, i.e., Heads of Dealings (HODs) had undertaken dealing activities in several counters over a period of 8 months which resulted in inflated volumes of trades for the relevant securities in excess of clients' orders (Inflated Trades). These Inflated Trades also had the following features:-

- (a) trades with no change in the beneficial ownership (NCBO Trades); and
- (b) short selling/intra-day short selling as a portion of the sale transactions were carried out without the requisite tradeable balance.

Registered Persons

They had failed to:-

- (a) ensure the proper execution of the orders in the clients' accounts so as to ensure compliance with the Rules of Bursa Securities; and/or
- (b) refrain from engaging in the execution of Inflated Trades which might lead to a false or misleading appearance of active trading in/market for/price of the securities concerned (False/Misleading Appearance for the relevant securities).

One HOD had an arrangement with other party (in this case, the facilitation desk), to execute trades in such a manner which had the effect of bringing down the Volume Weighted Average Price (VWAP) whilst fulfilling client's guaranteed VWAP order. This was not an appropriate conduct of a Registered Person and it was not done in the best interest of the client (the end client).

In an instance of a breach involving a client's sell order (careful discretion and market VWAP order), one HOD had an arrangement with the facilitation desk to carry out inflated volumes of buy and sell orders in the market. These orders were in excess of client's order so that the VWAP could be artificially adjusted closer to the average selling price. In this regard, 6 sets of buy/sell orders at 500,000 units each were arranged to be entered into Bursa's Trading System by the 2 HODs. This had brought about the effect of a lower market VWAP upon completion of the Inflated Trades. As a result, the end client received lesser sales proceeds compared to the supposed-to-be sales proceeds if the 2 HODs had not undertaken the Inflated Trades. As the client's sell order was for a certain quantity, the remaining sell orders pre-arranged to be entered into the market were without the requisite tradeable balance. This caused oversold positions which were however squared off by the corresponding buys resulting in some NCBO Trades.

Bursa Malaysia Rules Enforcement In Focus

The HODs were publicly reprimanded and imposed a fine of RM25,000 and RM10,000 respectively. In addition, one HOD was struck off from the Register whilst the other HOD was imposed a restriction from any activities as a Registered Person including from trading on or through the stock market of the Exchange for a period of 18 months.

In imposing the differing sanctions on both HODs, the roles played by them with regard to the commission of the breaches of the relevant Rules were considered. In this regard, one HOD was noted to be the main person who arranged for the trades concerned so as to attain the intended desire/effect in violation of the Rules and the other HOD played a lesser/secondary role in the commission of the breach.

PO

As against the PO, it was found that there were lapses/weaknesses of supervision/compliance system and monitoring/internal controls on the dealing activities by the PO arising from the Inflated Trades activities taking place for at least 8 months prior to the discovery of the same by the PO. It was noted that the PO:-

- (a) did not show that it had in place at the material time of the breach a proper/adequate supervisory programme and internal control to identify, manage and control any conflicts of interest that might arise in the provision of the facilitation service that it provided to the end clients;
- (b) did not have sufficient measures to prevent abusive trading activities and failed to detect that its HODs had engaged in improper trading activities; and
- (c) allowed the dealing/trading activities for clients to be undertaken without proper segregation and adequate independent checks being carried out on their dealing/trading activities. As a result, the conflicts of interest between that of the facilitation desk and the end clients were not properly managed by the PO.



In addition, the PO had reported to Bursa that the Inflated Trades were due to communication breakdown between the facilitation desk and the PO which gave rise to the crossing of the aforesaid trades in the market. To the contrary, the Inflated Trades were carried out pursuant to the arrangement made by its HOD and the facilitation desk. As such, the PO failed to ensure accuracy of the information provided to Bursa by not undertaking an independent verification of the details provided to Bursa. The PO had merely relied on representations made by its HODs who were the very persons involved in the concerned trades.

The PO was publicly reprimanded and imposed a fine of RM50,000. In addition, the PO was further directed to carry out an audit on the monitoring mechanism and controls that are put in place for the trades from the facilitation desk to address concerns on possible conflicts of interest and market abuses that may arise from the said trades and to report the audit findings and recommendations to Bursa.

Information on this case can be found in the Media Release dated [18 August 2011](#).