

PARTICIPATING ORGANISATIONS' CIRCULAR

Date: 1 August 2018

No. : G 20 of 2018

Enforcement Action Pursuant to the Rules of Bursa Malaysia Securities Berhad**1 August 2018****BURSA MALAYSIA SECURITIES REPRIMANDS, FINES AND ORDERS TO STRIKE OFF CHAN LING ERN FOR MISCONDUCTS AND VIOLATION OF RULES**

Bursa Malaysia Securities Berhad (635998-W) (Bursa Malaysia Securities) has publicly reprimanded, imposed a fine of RM20,000 and ordered to strike off Chan Ling Ern (CLE) from the Register if she was still a Registered Person of Bursa Securities for misconducts/breaches relating to personal/unauthorised trades in the account of a client (Client A) and misapplication of Client A's monies.

CLE, who was at the material time of the breaches a Salaried Dealer's Representative of RHB Investment Bank Berhad at its Kemaman branch office, had contravened and/or triggered the provisions of Rules 3.14(d), (e), (f), (h) & (i), 3.47(1)(m)(i) and 15.09(a), (g), (i)(iii) & (i)(vi) of the Rules of Bursa Malaysia Securities and Paragraphs 1.1(1)(e) and 11.2(a) of Directives No. 5-001 of the Participating Organisations' Directives and Guidance (POs' Directives).

The finding of the breaches and imposition of the sanctions on CLE were made pursuant to Rule 15.02 of the Rules of Bursa Malaysia Securities after according due process to CLE and taking into consideration all facts and circumstances, including the severity and extent of the breaches by CLE.

Bursa Malaysia Securities views seriously misconducts that impinge on the professional conduct and integrity of Registered Persons and compromise clients' protection as such misconducts may adversely affect and damage market integrity and public confidence. Bursa Malaysia Securities will not hesitate to take appropriate action against anyone who engages in such misconducts, including imposition of fines and suspension/restriction/striking off a Registered Person from the Register commensurate with the severity of the breach.

BACKGROUND

- (1) CLE had carried out a significant number of personal/unauthorised trades in Client A's account (including the sale of Client A's paid shares) over a period of several months without Client A's knowledge, consent or instruction. She had also wrongfully misapplied/used Client A's trust monies or caused Client A's trust monies to be applied/used to fund the trades which had resulted in trading losses in Client A's account.
- (2) CLE had carried out the aforesaid personal/unauthorised trades in Client A's account to generate brokerage to meet her performance target in order to be rewarded by her broker.
- (3) The sanctions, in particular the fine and striking off, were imposed on CLE having considered, amongst others, the following:-
 - the materiality and extent of the breaches committed by CLE;
 - even though CLE had reimbursed the trust monies to Client A, it did not absolve her from liability for the breaches;
 - the need to uphold investor protection which is one of the fundamental obligations/duties of a Dealer's Representative (DR) and cornerstone of market integrity;
 - CLE's dishonest misconducts (which could have gone undetected/continued had Client A not requested for the withdrawal of his trust monies) had impinged on her integrity and honesty as a Registered Person and brought into question whether she was a fit and proper person to be in the industry; and
 - CLE's asserted mitigating factors and extenuating circumstances.
- (4) The public reprimand was imposed on CLE as a deterrent consideration so as to create market awareness and reinforce the serious view taken by Bursa Malaysia Securities for cases involving abuse of clients' accounts/monies by DRs.
- (5) As a Registered Person acting in the capacity of a DR, CLE must at all times:-
 - (a) observe professional conduct and standards of integrity;
 - (b) act honestly and in the best interest of her client; and
 - (c) not abuse/misuse client's account and monies.

-End-

Senior Vice President/Head,
Enforcement

ADDENDUM

Rules 3.14(d), (e), (f), (h) & (i), 3.47(1)(m)(i) and 15.09(a), (g), (i)(iii) & (i)(vi) of the Rules of Bursa Malaysia Securities and Paragraphs 1.1(1)(e) and 11.2(a) of Directives No. 5-001 of the POs' Directives provide, amongst others, that:

- throughout the term of a Registered Person (RP)'s registration, a RP must:-
 - observe professional standards of integrity and fair dealing;
 - exercise proper skill, care and diligence;
 - act honestly and in the best interest of the Client and the Participating Organisation (PO);
 - effectively discharge the RP's duties while in office;
 - not act in a manner that may compromise the RP's function and position;
- throughout the term of a DR's registration with the Exchange, the DR must not apply any amount paid or securities deposited by a Client to any person not entitled;
- any Defaulting Participant who, in any circumstances, directly or indirectly –
 - commits a breach of or violates any of the Rules;
 - fails to perform his duties efficiently, honestly or fairly;
 - being a DR:-
 - unlawfully transacts on another person's account;
 - applies any amount paid or securities deposited by a Client to any person not entitled thereto or for payment other than the said Client's trading account;will be liable and be dealt with in accordance with the provisions of the Rules relating to the same;
- a PO and RP must not engage in any unlawful or irregular or unhealthy practice; and
- a PO, Head of Dealing (HOD) and DR must not execute the personal trades of the PO's HOD or DR (as applicable) in the Client's account.