

PARTICIPATING ORGANISATIONS' CIRCULAR

Date: 1 December 2015	No : G 16 of 2015
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Enforcement Action Pursuant to the Rules of Bursa Malaysia Securities Berhad

1 DECEMBER 2015

BURSA MALAYSIA SECURITIES REPRIMANDS, FINES AND SUSPENDS/RESTRICTS/STRIKES OFF FOUR DEALER'S REPRESENTATIVES FOR MISCONDUCTS/VIOLATION OF RULES

Bursa Malaysia Securities Berhad (635998-W) (Bursa Malaysia Securities) has imposed the following sanctions on the following four (4) Dealer's Representatives (DRs) for misconducts/breaches relating to misapplication of client's monies, unauthorised trades undertaken in the accounts of clients and sharing of User IDs and passwords:-

Details of DR	Sanctions imposed
Aizuddin bin Sidek (Aizuddin), Commissioned DR (CDR) of Kenanga Investment Bank Berhad (KIBB) at its Principal Office at the material time of the breaches	(a) Public reprimand; (b) Fine of RM50,000; and (c) Order to strike off as a Registered Person of Bursa Malaysia Securities if he was still a Registered Person.
Ahmad Zahril bin Mohd Yusof @ Yusof Omar (Zahril), CDR of KIBB at its Principal Office at the material time of the breaches	(a) Public reprimand; (b) Fine of RM100,000; and (c) Order to strike off as a Registered Person of Bursa Malaysia Securities if he was still a Registered Person.
Mohammad Nizam bin Mat Hussain (Nizam), Salaried DR of KIBB at its Principal Office at the material time of the breaches	(a) Public reprimand; (b) Fine of RM40,000; and (c) Order to strike off as a Registered Person of Bursa Malaysia Securities if he was still a Registered Person.
Masharumi binti Md Kassim (Masharumi), CDR of KIBB at its Principal Office at the material time of the breaches	(a) Public reprimand; (b) Fine of RM40,000; (c) 3 months suspension/restriction (as the case may be) from being a Registered Person of Bursa Malaysia Securities; and (d) Requirement to undergo training on conduct or professionalism of DRs/ market offences (Mandatory Training).

The finding of the breaches and imposition of the sanctions on Aizuddin, Zahril, Nizam and Masharumi were made pursuant to Rule 15.02 of the Rules of Bursa Malaysia Securities upon completion of the due process and after taking into consideration all facts and circumstances, including the severity of the breaches which involved several misconducts and the conduct/roles of the four DRs concerned.

Bursa Malaysia Securities views seriously misconducts that impinge on the professional conduct of Registered Persons and compromise protection of clients' accounts and monies as such misconducts may adversely affect and damage market integrity and confidence. Bursa Malaysia Securities will not hesitate to take appropriate actions 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 breaches.

BACKGROUND

- (1) The breaches by the four DRs were in relation to a deal/arrangement involving third party(ies) whereby several clients' accounts were identified/designated and/or used/allowed to be used to:-
 - (a) undertake deposits of substantial sums of monies which were paid/deposited by a client of KIBB (Client A) into the trust account of KIBB which were wrongly applied/paid to/for the benefits of other clients/their accounts, who were not entitled to the said monies; and
 - (b) undertake trades for the third party(ies).

The monies/sales proceeds were subsequently withdrawn from these other clients' accounts and paid to these other clients/various third parties and not to Client A, resulting in substantial losses to Client A (the Arrangement).

(A) Breaches by Aizuddin and Zahril:

- (2) Aizuddin had contravened and/or triggered the provisions of Rules 303.2(2), 401.1(2), 404.3(1)(a) & (b), 404.3(6)(b), 404.4(9)(b) and 1302.1(1)(a), (b), (g), (i)(iii) & (i)(vi) of the Pre-Revamped Rules of Bursa Malaysia Securities and Paragraphs 3.3a(3) & (4) of the Member Companies Information Technology Security Code (MCITS Code) for he had:-
 - (a) wrongly applied or caused KIBB to apply substantial sums of monies, deposited/paid by Client A into the trust account of KIBB, to/for the benefit of two (2) of his clients [Client B (who is related to Aizuddin) and Client C]/their accounts, who were not entitled to the said monies;
 - (b) unlawfully transacted in the accounts of Client B and Client C as:-
 - (i) the trades in these clients' accounts were executed based on instructions from third party(ies), without the written authorisations of Client B and Client C; and
 - (ii) Aizuddin had allowed the accounts of Client B and Client C to be used by and for trades of third party(ies) as instructed by the third party(ies); and

- (c) used the user ID and password of Zahril to access the trading system.
- (3) Aizuddin had acted based on instructions and allowed himself to be a conduit to the Arrangement despite knowing or ought to have known the irregularities of the Arrangement. In particular, there were various red flags/irregularities e.g. deposit of substantial sum of monies via a third party cheque issued by Client A which was paid into Client C's account and withdrawals of the monies/sales proceeds from the accounts of Client B and Client C which were subsequently paid to various third parties and/or within a short span of time, which ought to have raised his suspicion/concerns and prompted due enquiry on his part.

Hence, Aizuddin had failed to effectively and efficiently discharge his obligations as a DR to act in the best interest of his clients and to exercise due care and diligence in handling monies paid to KIBB and clients' accounts.

- (4) Zahril had contravened and/or triggered Rules 303.2(2), 401.1(2), 404.3(1)(a) & (b), 404.3(6)(b), 404.4(9)(b) and 1302.1(1)(a), (b), (g) & (i)(iii) of the Pre-Revamped Rules of Bursa Malaysia Securities and Paragraphs 3.3a(3) & (4) of the MCITS Code for he had:-
- (a) prior to the transfer Client C's account to Aizuddin:
- (i) taken instructions to trade (either by himself or through Aizuddin) in Client C's account from Client C's brother and sister without the written authorisation from Client C;
- (ii) allowed/failed to refrain Aizuddin from allowing Client C's account to be used by third parties (i.e. Client C's brother and sister) to undertake trading activities based on their instructions and hence unlawfully transacted in Client B's account;
- (b) initiated/facilitated or allowed/failed to refrain from being a party to the Arrangement for he had requested Aizuddin to enquire which clients' accounts could be used to facilitate the third party's request to use other clients' accounts to trade, hence resulting in Client B's and Client C's accounts being used to facilitate the Arrangement; and
- (c) revealed/shared his ID and password to/with Aizuddin in order for Aizuddin to access the trading system and/or undertake dealing activities in his clients' accounts and failed to keep his security password a secret and confidential.
- (5) Zahril had failed to effectively and efficiently discharge his obligations as a DR for despite, amongst others, the suspicious nature of the request by the third party and/or the Arrangement, Zahril had failed to undertake further enquiry/refrain from/refrain Aizuddin from initiating/facilitating the Arrangement. Hence, he had acted recklessly without due care and diligence and failed to perform his duties as a DR efficiently and fairly.

(B) Breaches by Nizam and Masharumi:

- (6) Nizam had contravened and/or triggered the provisions of Rules 303.2(2), 401.1(2), 404.3(1)(a) & (b), 404.3(6)(b), 404.4(9)(b) and 1302.1(1)(a), (b), (g), (i)(iii) & (i)(vi) of the Pre-Revamped Rules of Bursa Malaysia Securities and Paragraphs 3.3a(3) & (4) of the MCITS Code for he had: -
- (a) wrongly applied or caused KIBB to apply substantial sums of monies, deposited/paid by Client A into the trust account of KIBB, to/for the benefit of a client of Masharumi (Client D) (whose account was handled/managed by Nizam) who/which was not entitled to the said sums;
 - (b) unlawfully transacted in the account of Client D as:-
 - (i) the trades in Client D's account were executed based on instructions from a third party, without the written authorisation of Client D;
 - (ii) Nizam had allowed Client D's account to be used by and for the trades of the third party based on instructions from the third party; and
 - (c) used the user IDs and passwords of Masharumi and another CDR of KIBB, to access the trading system to execute trades for Masharumi's and the other CDR's clients.
- (7) Nizam had acted based on the third party's instructions, prepared an authorisation letter to purportedly "legitimize" the arrangement and allowed himself to be a conduit to the Arrangement and/or facilitated the Arrangement without undertaking further enquiry as to the nature/regularity of the Arrangement. Hence, Nizam had failed to effectively and efficiently discharge his obligations as a DR, exercise due care and diligence and perform his duties as a DR efficiently and fairly in handling monies paid to KIBB and client's account.
- (8) Masharumi had contravened and/or triggered the provisions of Rules 303.2(2), 401.1(2), 404.3(1)(a) & (b) and 1302.1(1)(a), (b) & (g) of the Pre-Revamped Rules of Bursa Malaysia Securities and Paragraphs 3.3a(3) & (4) of the MCITS Code for she had:-
- (a) revealed/shared her ID and password to/with Nizam who was her assistant, in order for him to access the trading system and/or undertake dealing activities in her clients' accounts and failed to keep her security password a secret and confidential; and
 - (b) failed to undertake proper supervision and monitoring over Nizam's activities, in particular the dealing activities in the account of Client D (who was her client but whose account was handled and managed by Nizam at the material time) and the payments into and subsequent withdrawals of large sums of monies from Client D's account,
- which resulted in/facilitated the breaches by Nizam.
- (9) Despite the unusual characteristics of the activities/red flags e.g. payments of large sums into and subsequent withdrawals of large sum of monies from Client D's account

and the purchase and sale of large quantities of shares in a short span of time which ought to have raised suspicions/concerns and prompted due enquiry, Masharumi had failed to do so and instead, had given a free hand/reign to Nizam to handle/manage her clients' accounts, in particular Client D's account.

Hence, Masharumi had failed to effectively and efficiently discharge her obligations as a DR, perform her duties efficiently, exercise due care and diligence and/or act in the best interest of her client.

(10) In imposing the sanctions on the four DRs, various factors were taken into account including:-

- (a) the severity of breaches committed by each of them which involved multiple misconducts and/or hinged on investor protection (in particular protection of clients' monies and accounts);
- (b) the differing roles played by/extent of the involvement of the DRs;
- (c) significant losses caused to the investor/Client A; and
- (d) Nizam's and Masharumi's co-operation including that they did not dispute the breaches against them.

(11) As DRs, Aizuddin, Zahril, Nizam and Masharumi must at all times: -

- (a) observe professional standards of integrity and fair dealing;
- (b) act honestly and in the best interests of their client;
- (c) perform their duties efficiently, honestly or fairly;
- (d) obtain prior written authorization from their client before accepting or acting on any instruction received from any other person purporting to act on behalf of that client;
- (e) not unlawfully transact in another person's account; and
- (f) not share their user IDs and passwords or use another DR's user ID and password as such IDs and passwords must be kept secret and confidential at all times.

-End-

Head, Enforcement

ADDENDUM

Rules 303.2(2), 401.1(2), 404.3(1)(a) & (b), 404.3(6)(b), 404.4(9)(b) and 1302.1(1)(a), (b), (g), (i)(iii) & (i)(vi) of the Pre-Revamped Rules of Malaysia Bursa Malaysia Securities (applicable prior to 2 May 2013) provide, amongst others, that: -

- every registered person(s) pursuant to Chapter 3 shall be bound by and comply with:-
 - the Rules; and
 - all directives, rulings or guidelines (other than those guidelines which are expressed to be non-binding) issued by the Exchange from time to time under and in accordance with Chapter 2;
- Participating Organisations (POs), Heads of Dealing (HODs) and DRs shall, in the conduct of their business for the sale, disposal, purchase, acquisition or exchange of securities, refrain themselves from engaging in, or be a party to, any unethical practices that may damage the confidence of investors and hamper the sound development of the stock market;
- every PO and every DR employed or engaged by the PO shall at all times –
 - observe professional standards of integrity and fair dealing; and
 - act honestly and in the best interests of their clients;
- no PO, HOD and DR shall, prior to obtaining written authorisation from a client, accept or act on any instruction received from any other person purporting to act on behalf of that client; and
- no PO, HOD and DR shall use a client's account to trade for a third party; and
- any Participant (Defaulting Participant) who, in any circumstances, directly or indirectly –
 - commits a breach of or violates any of the Rules;
 - has failed to comply with any of the Exchange's decisions, directives, rulings or guidelines (other than those guidelines which are expressed to be non-binding) made under the Rules and/or by the Exchange holding company;
 - fails to perform his duties efficiently, honestly or fairly;
 - being a DR –
 - unlawfully transacts on another person's account, and
 - 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;shall be liable and be dealt with in accordance with the provisions of the Rules relating to the same.

Paragraph 3.3a of the MCITS Code provides that computer information systems must require each user to identify him/herself to the system with a recognized approved user ID.

- Baseline Procedures (3) and (4) of Paragraph 3.3a provide that:-
 - users must not allow other persons to use their user IDs to gain access to computer resources; and
 - user IDs should not be shared.