

PARTICIPATING ORGANISATIONS' CIRCULAR

Date: 5 September 2018

No. : G 24 of 2018

Enforcement Action Pursuant to the Rules of Bursa Malaysia Securities Berhad**5 September 2018****BURSA MALAYSIA SECURITIES REPRIMANDS, FINES AND ORDERS TO STRIKE OFF MOHD IZZAIDI BIN HAMZAH FOR MISCONDUCTS AND VIOLATION OF RULES**

Bursa Malaysia Securities Berhad (635998-W) (Bursa Malaysia Securities) has publicly reprimanded, imposed a fine of RM75,000 and ordered to strike off Mohd Izzaidi bin Hamzah (Izzaidi) from the Register if he was still a Registered Person of Bursa Malaysia Securities for misconducts/breaches and engaging in unlawful/irregular/unhealthy practice relating to account opening and unauthorised trades undertaken in the accounts of two clients (Clients).

Izzaidi, who was at the material time of the breaches a Commissioned Dealer's Representative (CDR) of Affin Hwang Investment Bank Berhad (AHIBB) at its Taman Midah branch office, had contravened and/or triggered the provisions of Rules 3.14(c), (d), (e) & (f), 5.15(1)(b) and 15.09(a), (g), (i)(i)(aa) & (i)(iii) of the Rules of Bursa Malaysia Securities and Paragraphs 1.1(1)(e), 9.1(1) & (2) and 11.2(b) 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 Izzaidi were made pursuant to Rule 15.02 of the Rules of Bursa Malaysia Securities after according due process to Izzaidi and taking into consideration all facts and circumstances, including the severity and extent of the breaches by Izzaidi.

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 striking off a Registered Person from the Register commensurate with the severity of the breach.

BACKGROUND

- (1) Izzaidi had participated/allowed himself to be a conduit in a scheme/arrangement (Scheme) orchestrated by/involving third parties (Third Parties) which had ultimately resulted in:-
- (a) the opening of the Clients' CDS and trading accounts without proper verification/authentication (Account Opening Breach); and
 - (b) unauthorised trades in the Clients' accounts (Unauthorised Trades).

In this regard, Izzaidi had:-

- (i) relied on the information/documents and partially filled account opening application forms (Forms) received from one of the Third Parties (Third Party A) and proceeded to submit the applications to open the Clients' accounts with AHIBB without proper verification and authentication; and
- (ii) undertaken trades in the Clients' accounts based on Third Party A's instructions which resulted in trading/contra losses in the Clients' accounts.

The Clients had denied opening the accounts and disputed the trades which resulted in losses in their accounts. The Clients asserted that they did not fill in and sign the Forms.

- (2) The evidence showed that the Scheme had/involved, amongst others, the following nature/characteristics which showed that the Scheme was fraudulent/illegal/illicit:-
- (a) Third Party A would pass the pre-signed Forms (including partially completed Forms), supporting documents and details of the Clients to Izzaidi. Izzaidi would proceed to complete and submit the Forms to AHIBB without proper verification and authentication, hence the Account Opening Breach. Besides the Clients' accounts, there were other clients' accounts opened in similar manner;
 - (b) Izzaidi was paid a salary under the Scheme which indicated elements of moonlighting by him whilst being a CDR of AHIBB. This could result in potential conflict of interest between him and AHIBB/the Clients. Izzaidi and Third Party A had also attempted to recruit other Dealer's Representatives (DRs) into the Scheme;
 - (c) Third Party A would secure funding for the trades undertaken in the Clients' accounts including for losses incurred and had provided the funds for Izzaidi's remisier's deposit; and
 - (d) the Clients' accounts were managed/operated by Third Party A who determined the trading limits and gave specific instructions to trade in the Clients' accounts.

- (3) Izzaidi had participated/continued to participate in the Scheme despite/even after being aware that the Scheme had elements of fraud/forgery and hence was fraudulent/illegal/illicit. In this regard, Izzaidi had, amongst others, attempted to conceal his wrongdoings/role and/or the Scheme (after the Clients had disputed the account opening and trades) (Aggravating Conducts) by:-
- (a) persuading the Clients to settle the losses via instalments to buy time for the Third Parties to secure the funds to settle the losses; and
 - (b) concocting explanations for the trades undertaken in the Clients' accounts.

Hence, Izzaidi had engaged in or failed to refrain from engaging in unlawful/irregular/unhealthy practice as he had participated/allowed himself to be a conduit in the Scheme which was fraudulent/illegal/illicit.

- (4) The sanctions, in particular the fine and striking off, were imposed on Izzaidi having considered, amongst others, the following:-
- (a) the breaches by Izzaidi involved multiple misconducts i.e. Account Opening Breach, Unauthorised Trades and unlawful/irregular/unhealthy practice;
 - (b) the severity of Izzaidi's breaches was amplified by his Aggravating Conducts which showed, amongst others, lack of remorse on his part and that he had compromised his duty as a Registered Person;
 - (c) the losses incurred in the Clients' accounts and the benefits earned by Izzaidi from the Scheme i.e. commission earned and salary paid by Third Party A; and
 - (d) Izzaidi's involvement/continued involvement in the Scheme which had elements of fraud/forgery coupled with the Aggravating Conducts had impinged on his professional standards of integrity which brought into question whether he was a fit and proper person to be in the industry.
- (5) The public reprimand was imposed on Izzaidi as a deterrent consideration so as to create market awareness and reinforce the serious view taken by Bursa Malaysia Securities for cases involving DRs' participation/failure to refrain themselves from participating in illegal/fraudulent/illicit schemes resulting in account opening breach and abuse of clients' accounts by DRs to the detriment of clients/investors.
- (6) As a Registered Person acting in the capacity of a DR, Izzaidi must at all times:-
- (a) observe professional conduct, standards of integrity and act honestly and in the best interest of his clients including not engage in any unlawful or irregular or unhealthy practice;
 - (b) not falsely declare authentication of an account opening application;
 - (c) not unlawfully transact in another person's account; and
 - (d) not abuse/misuse clients' accounts.

-End-

Head,
Enforcement

ADDENDUM

Rules 3.14(c), (d), (e) & (f), 5.15(1)(b) and 15.09(a), (g), (i)(i)(aa) & (i)(iii) of the Rules of Bursa Malaysia Securities and Paragraphs 1.1(1)(e), 9.1(1) & (2) and 11.2(b) 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:-
 - comply and give effect to the Rules and the Directives and to any undertaking given to the Exchange whether before or after registration as a Registered Person;
 - 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);
- before a PO opens a trading account for a Client, the PO must verify the Client's identity and the authenticity of the application to open a trading account with the PO;
- 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:-
 - without prejudice to the foregoing falsely declares authentication of an account opening application;
 - unlawfully transacts on another person's account,will be liable and be dealt with in accordance with the provisions of the Rules relating to the same;
- a PO, Head of Dealing (HOD) and DR must not engage in any unlawful or irregular or unhealthy practice;
- a PO must take all reasonable steps to verify, by reliable means, the Client's identity and the authenticity of the application before a PO opens a trading account for the Client;
- a PO must comply with the following in verifying the Client's identity and the authenticity of the application:
 - (a) where the Client appears in person before the PO to submit the application, the PO must ensure the Client signs the account opening application form in the presence of an officer, a DR, a Marketing Representative or a Trading

Representative authorised by the PO, and the officer, DR, Marketing Representative or Trading Representative verifies the Client's identity and the authenticity of the application;

- (b) where the Client does not appear in person before the PO to submit the application, the PO must, as the case may be:-
 - (i) ensure that the account opening application form is signed in the presence of an Acceptable Witness as referred to in paragraph 9.1(3) of the Directive and the Acceptable Witness has verified the Client's identity and the authenticity of the application; or
 - (ii) where such form is not signed in the presence of an Acceptable Witness, take any of the steps set out in paragraph 9.1(4) to verify the Client's identity and the authenticity of the application; and
- a PO, HOD and DR must not use a Client's account to trade for a third party.