

PARTICIPATING ORGANISATIONS' CIRCULAR

Date: 14 March 2018

No. : G 7 of 2018

Enforcement Action Pursuant to the Rules of Bursa Malaysia Securities Berhad

14 March 2018

BURSA MALAYSIA SECURITIES REPRIMANDS, FINES AND SUSPENDS FOO BOON MENG FOR MISCONDUCTS/VIOLATION OF RULES

Bursa Malaysia Securities Berhad (635998-W) (Bursa Malaysia Securities) has publicly reprimanded, imposed a fine of RM29,100 and suspended/restricted (as the case may be) Foo Boon Meng (FOO) for 3 months as/from being a Registered Person of Bursa Malaysia Securities which is deferred for 2 years (Deferred Suspension), for engaging in misconducts/breaches and unhealthy/irregular practice relating to personal/unauthorised trades undertaken in the account of a client (Client A) and receipt of client's monies.

In addition, FOO was required to undergo training on conduct or professionalism of Dealer's Representatives (DRs)/market offences.

FOO, who was at the material time of the breach a Commissioned Dealer's Representative of Hong Leong Investment Bank Berhad at its Taman Tun Dr. Ismail branch office, had contravened and/or triggered the provisions of (Breaches):-

- (i) Rules 404.4(9)(a), 1302.1(1)(a), (g) & (i)(iii) and 404.3(1)(a) & (b) of the Pre-Revamped Rules of Bursa Malaysia Securities (for breaches which occurred prior to 2 May 2013); and
- (ii) Rules 15.09(a), (g) & (i)(iii), 3.47(1)(f) and 3.14(d), (e), (f), (h) & (i) of the Rules of Bursa Malaysia Securities and Paragraphs 11.2(a) & (b) and 1.1(1)(e) of Directives No. 5-001 of the Participating Organisations' Directives and Guidance (POs' Directives) (for breaches which occurred from 2 May 2013 onwards).

The finding of the breach and imposition of the sanctions on FOO were made pursuant to Rule 15.02 of the Rules of Bursa Malaysia Securities after according due process to FOO and taking into consideration the following:-

- (a) all facts and circumstances, including the severity, extent and impact of the Breaches and the commission earned by FOO; and

- (b) FOO's co-operation with Bursa Malaysia Securities in the enforcement action against him by admitting/not disputing the breaches, hence resulting in earlier resolution of the case. In this regard, in determining the sanctions to be imposed, Bursa Malaysia Securities will take into account the extent of co-operation by the errant party (including admission of the breaches/timing of the initiation of settlement by the errant party).

Bursa Malaysia Securities views seriously misconducts that impinge on the professional conduct 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) FOO had:-
- (a) used Client A (his daughter)'s account to undertake:-
 - his personal trades/operated Client A's account based on his own discretion over a period of time; and
 - trades for a third party (Client B) pending the opening of Client B's trading account, and hence unlawfully transacted in Client A's account; and
 - (b) failed to ensure that payments made by Client B were paid directly to the Participating Organisation (PO) for he had accepted payments from Client B and deposited the payments into his joint bank account with Client A.
- (2) As an experienced DR, FOO knew/ought to know that he is prohibited from using Client A's account for personal trades/third party's trades and/or accepting payments from client under his name. His misconducts of operating and using Client A's account to execute his personal and third party's trades and accepting payments from Client B showed that he had engaged/failed to refrain from engaging in irregular/unhealthy practices and disregarded his obligations as a DR, amongst others, to observe professional standard of integrity and fair dealing and act in the best interest of the client.
- (3) The sanctions including the public reprimand were imposed on FOO as deterrence and to create market awareness and educate investors not to allow their accounts to be used by their DR for the DR's personal trades/third party's trades, irrespective of any personal relationship with the DR.

- (4) The Deferred Suspension imposed on FOO was to ensure that he does not commit similar breach(es) relating to unauthorised trades/abuse or misuse of client's account. Thus, the 3 months suspension is deferred and will be waived if there is no commission of similar breach(es) by FOO within 2 years.
- (5) As a Registered Person acting in the capacity of a DR, FOO must at all times:-
- observe professional conduct, standards of integrity and act honestly in the best interest of his client including not use his client's account for his personal trades/third party's trades; and
 - refrain from accepting payments from his clients and ensure that such payments are made directly to the PO.

-End-

Senior Vice President/Head,
Enforcement

ADDENDUM

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

- every PO and every DR employed or engaged by the PO shall at all times –
 - observe professional standards of integrity and fair dealing;
 - act honestly and in the best interests of their clients;
- no PO, Head of Dealing and DR shall execute their personal trades in the account of a client; and
- any Participant (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,shall be liable and be dealt with in accordance with the provisions of the Rules relating to the same.

Rules 3.14(d), (e), (f), (h) & (i), 3.47(1)(f) and 15.09(a), (g) & (i)(iii) of the Rules of Bursa Malaysia Securities and Paragraphs 1.1(1)(e) and 11.2(a) & (b) of Directives No. 5-001 of the POs' Directives (which came into effect on 2 May 2013) 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 PO;
 - effectively discharge the RP's duties while in office;
 - not act in a manner that may compromise the RP's function and position;
 - not accept payment from Clients or hold any Client's assets in the DR's name and must ensure that Clients make payments and lodgement of assets directly to 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, 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 and RP must not engage in any unlawful or irregular or unhealthy practice; and
- a PO, HOD and DR must not:-
 - execute the personal trades of the PO's HOD or DR (as applicable) in the Client's account; and
 - use a Client's account to trade for a third party.