

PARTICIPATING ORGANISATIONS' CIRCULAR

Date: 12 September 2023

No.: G 26 of 2023

Enforcement Action Pursuant to the Rules of Bursa Malaysia Securities Berhad

12 September 2023

BURSA MALAYSIA SECURITIES PUBLICLY REPRIMANDS, FINES AND ORDERS TO STRIKE OFF KHO KIAN LOCK FOR MISCONDUCTS AND VIOLATION OF RULES

Bursa Malaysia Securities Berhad [Registration No.: 200301033577 (635998-W)] (**Bursa Malaysia Securities**) has publicly reprimanded, imposed a fine of RM27,600 and ordered to strike off Kho Kian Lock (**KKL**) from the Register (notwithstanding that he had ceased to be a Registered Person of Bursa Malaysia Securities) for misconducts/breaches involving, amongst others, personal/unauthorised trades and misuse of monies in the accounts of two clients (**Clients**).

KKL, who was at the material time of the breaches, a Commissioned Dealer's Representative of Affin Hwang Investment Bank Berhad (**AHIBB**) at its Bukit Mertajam branch office, had contravened and/or triggered the provisions of Rules 3.14(d), (e) & (f), 3.47(1)(f) & (m)(i), 5.16(1)(a) & (b), 15.09(a) & (g), 15.09(i)(iii) & (i)(vi) [prior to 21 August 2020], 15.09(i)(iv) & (i)(vii) [with effect from 21 August 2020] of the Rules of Bursa Malaysia Securities read together with Paragraph 11.2(a) of Directives No. 5-001 of the Participating Organisations' Directives and Guidance (**POs' Directives**) (**Relevant Rules**).

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 actions against anyone who engages/participates in such misconducts or fails to carry out their duties with utmost integrity, including striking off a Registered Person from the Register and imposing a fine that commensurate with the severity of the breach.

BACKGROUND

The finding of the breaches and imposition of the sanctions on KKL were made pursuant to Rule 15.02 of the Rules of Bursa Malaysia Securities after according due process to KKL, taking into consideration all facts and circumstances and mitigating/aggravating factors including the following:-

- (1) KKL had:-
 - (a) executed numerous personal and/or unauthorised trades (**Unauthorised Trades**) in the Clients' accounts including selling their shares in certain counters without their knowledge and/or authorisation;

- (b) misapplied/misused the Clients' monies/sales proceeds/gains from the selling of the Clients' shares to fully/partly off-set against the contra losses incurred from KKL's Unauthorised Trades and/or to fund the Unauthorised Trades (**Misapplication of Monies**); and
 - (c) accepted cash payments/fund transfer from one client (**Client A**) into his bank account to settle Client A's purchase of shares instead of ensuring that Client A made the payments directly to AHIBB.
- (2) The sanctions were imposed having considered, amongst others, the following:-
- (a) KKL had used Client A's account to carry out the Unauthorised Trades to generate commission for himself.
 - (b) The selling of the Clients' shares and the Misapplication of Monies had impinged on KKL's integrity/honesty as a Dealer's Representative (**DR**)/Registered Person and brought into question as to whether he was a fit and proper person to be in the industry. In this regard, his effort in replacing certain shares sold by him in the Clients' accounts and any monies paid by KKL to the Clients did not derogate from the severity of the breaches or absolve him from/mitigate the breaches.
 - (c) KKL's asserted financial condition/hardship and his non-dispute/admission of the breaches.
 - (d) The sanctions, in particular the fine and striking off, were reflective of the severity and extent of the breaches that involved multiple misconducts over a period ranging from 1 – 4.5 months and were imposed to underline the importance of investor protection (in particular protection of clients' monies, assets and accounts) as one of the fundamental obligations/duties of a DR and cornerstone of market integrity and hence must be upheld at all times.
- (3) The public reprimand was imposed as a deterrent consideration so as to create market awareness and reinforce the serious view taken by Bursa Malaysia Securities for cases involving abuse/misuse of clients' monies/assets/accounts by DRs.
- (4) As a Registered Person acting in the capacity of a DR, KKL must, at all times:-
- (a) observe professional conduct and standards of integrity;
 - (b) exercise proper skill, care and diligence;
 - (c) act honestly and in the best interest of the client;
 - (d) perform his duties efficiently, honestly and fairly; and
 - (e) not abuse/misuse client's monies/assets/accounts.

-End-

Head, Enforcement

ADDENDUM

The Relevant Rules triggered/breached by KKL are as follows:-

- **Rules 3.14(d), (e) & (f)** provide that throughout the term of a Registered Person's (RP) registration, a RP must:
 - observe professional conduct, standards of integrity and fair dealing;
 - exercise proper skill, care and diligence; and
 - act honestly and in the best interest of the client and the Participating Organisation (PO).
- **Rules 3.47(1)(f) & (m)(i)** provide that throughout the term of a DR's registration with the Exchange, the DR must:
 - 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; and
 - not apply any amount paid or securities deposited by a client to any person not entitled.
- **Rules 5.16(1)(a) & (b)** provide that a PO and RP must act with:-
 - (a) due skill, care and diligence; and
 - (b) honestly and fairly.
- **Rules 15.09(a) & (g)** provide that any Defaulting Participant who, in any circumstances, directly or indirectly:-
 - (a) commits a breach of or violates any of the Rules; and
 - (g) fails to perform his duties efficiently, honestly or fairly,will be in breach of the Rules and be dealt with in accordance with the provisions of the Rules relating to the disciplinary proceedings.
- **Rules 15.09(i)(iv) & (i)(vii) [with effect from 21 August 2020]** provide that any Defaulting Participant who, in any circumstances, directly or indirectly, being a DR:-
 - unlawfully transacts on another person's account⁽¹⁾; 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⁽²⁾,will be in breach of the Rules and be dealt with in accordance with the provisions of the Rules relating to the disciplinary proceedings.
- **Paragraph 11.2(a) of Directives No. 5-001 of the POs' Directives** provides that 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.

[Note: Prior to 21 August 2020:-

⁽¹⁾ Rule 15.09(i)(iv) was numbered as Rule 15.09(i)(iii). Rule 15.09(i)(iii) of the Rules of Bursa Malaysia Securities stated that any Defaulting Participant who, in any circumstances, directly or indirectly 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.

⁽²⁾ Rule 15.09(i)(vii) was numbered as Rule 15.09(i)(vi). Rule of 15.09(vi) of the Rules of Bursa Malaysia Securities stated that any Defaulting Participant who, in any circumstances, directly or indirectly, being a DR 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.]