

## PARTICIPATING ORGANISATIONS' CIRCULAR

Date: 9 September 2021

No.: G 30 of 2021

### Enforcement Action Pursuant to the Rules of Bursa Malaysia Securities Berhad

**9 September 2021**

#### **BURSA MALAYSIA SECURITIES PUBLICLY REPRIMANDS, FINES AND ORDERS TO STRIKE OFF/SUSPENDS TWO DEALER'S REPRESENTATIVES FOR MISCONDUCT AND VIOLATION OF RULES**

Bursa Malaysia Securities Berhad [Registration No.: 200301033577 (635998-W)] (Bursa Malaysia Securities) has taken enforcement actions against two (2) Dealer's Representatives (DRs) for breaches of the Rules of Bursa Malaysia Securities and directives in relation to, amongst others, discretionary trading undertaken in a client's account (referred to as Client A) as follows:

| No. | Details of DR        | Sanctions imposed  |
|-----|----------------------|--|
| 1.  | Ang Kian Chuan (ANG) | (a) Public reprimand;<br>(b) Fine of RM162,700; and<br>(c) Order to strike off ANG as a Registered Person of Bursa Malaysia Securities, if he was still a Registered Person.   |
| 2.  | Mun Szu Mae (MUN)    | (a) Public reprimand;<br>(b) Fine of RM8,000;<br>(c) 3 months suspension/restriction (as the case may be) from being a Registered Person of Bursa Malaysia Securities which is deferred for 2 years (Deferred Suspension); and<br>(d) Requirement to undergo training on conduct or professionalism of DRs/market offences (Mandatory Training). |

Both ANG and MUN were Commissioned DRs of RHB Investment Bank Berhad (RHBIB) at its Plaza OSK, Kuala Lumpur Branch Office/Principal Office at the material time of the breaches.

ANG had contravened and/or triggered the provisions of Rules 3.14(b), (d), (e) & (f), 5.01(a), 5.16(1)(a), (b) & (c) and 15.09(a) & (g) of the Rules of Bursa Malaysia Securities and Paragraphs 1.1(1)(e) and 11.1(a) of Directives No. 5-001 of the Participating Organisations' Directives and Guidance (Directives No. 5-001).

MUN had contravened and/or triggered the provisions of Rules 3.14(d), (e) & (f), 5.01(a), 5.16(1)(a), (b) & (c) and 15.09(a) & (g) of the Rules of Bursa Malaysia Securities and Paragraph 1.1(1)(e) of Directives No. 5-001.

Discretionary trading can only be undertaken in accordance with the relevant rules and guidelines and DRs must not abuse the discretion entrusted to them or put themselves in a position of conflict of duties and interest. 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 suspending/restricting/striking off a Registered Person from the Register, commensurate with the severity of the breach.

## **BACKGROUND**

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

### **Breaches by ANG:**

- (1) ANG had, over a period of more than two (2) years:-
  - (a) undertaken discretionary trading activities which were not permitted by/without the prior approval of RHBIB as required by Paragraph 7.0(a) of the Securities Commission's Guidelines on Market Conduct and Business Practices for Stockbroking Companies and Licensed Representatives (Prohibited Discretionary Trading) in the trading account of Client A. The Prohibited Discretionary Trading were carried out prior to and subsequent to Client A's demise;
  - (b) a profit/loss sharing arrangement with Client A (Profit Sharing Arrangement) despite knowing that profit sharing with a Client was prohibited under the Rules; and
  - (c) failed to act in the best interest of Client A for ANG had executed/caused to be executed numerous married Direct Business Transactions (DBTs) between

Client A and four (4) of ANG's relatives. The said DBTs had benefitted the accounts of ANG's relatives and did not benefit Client A (Unfavourable DBTs).

- (2) The trades in Client A's account were executed by ANG and MUN (based on instructions relayed by ANG). Most of the trades executed in Client A's account resulted in net loss with significant trading losses incurred. This resulted in depletion of Client A's trust monies which were used to settle these trading losses.
- (3) The Unfavourable DBTs were executed at higher purchase price and lower selling price in Client A's account (when the transaction could have been carried out on-market at more favourable price for Client A). As a result, there were substantial profitable trades in ANG's relatives' accounts to the disadvantage of Client A's account.
- (4) Notwithstanding that Client A had given ANG absolute discretion to trade and ANG's assertion that he was unaware of Client A's demise, by undertaking the discretionary trading including the Unfavourable DBTs which had benefitted ANG's relatives' accounts and caused significant losses to Client A, ANG had placed himself in a position of conflict of duties and interest and/or abused the trust Client A had placed in him.
- (5) ANG's assertion that Client A had given him absolute discretion to trade, did not dispute the trades and agreed to the Profit Sharing Arrangement would not absolve him from liability/culpability for the breaches as the discretionary trading and profit sharing arrangements were clearly prohibited by RHBIB and the Rules respectively. In this regard, although ANG knew of and had undertaken to abide by RHBIB's Rules and Regulations which clearly prohibited discretionary trading by its DRs, ANG proceeded to have the discretionary trading arrangement with Client A.

**Breaches by MUN:**

- (6) The accounts of ANG's clients including Client A were transferred to/parked by RHBIB under MUN's dealer code upon ANG's request and as agreed by MUN whilst ANG was serving a 3-month suspension imposed by Bursa Malaysia Securities. After the suspension, MUN and ANG's trading terminals were associated and ANG's clients' accounts remained under MUN's dealer code which enabled both ANG and MUN to execute orders for ANG's clients including Client A.
- (7) MUN had for a period of about one and a half year:-
  - (a) acted as a mere order taker and executed trades in Client A's account based on trade instructions received from ANG on the assumption that these instructions were from Client A. MUN did not undertake prior verification of the trade instructions/post-trade confirmation with Client A; and
  - (b) failed to detect and prevent ANG from engaging in Prohibited Discretionary Trading in Client A's account arising from her conduct above.

- (8) In this regard, MUN had:-
- (a) allowed herself to be involved in/a conduit to and failed to detect/prevent ANG's misconducts in particular ANG's Prohibited Discretionary Trading which could have been detected had she undertaken reasonable due enquiry as to the nature of the transactions executed in Client A's account; and
  - (b) compromised her duty as a Registered Person to ensure protection of client's interest as Client A's account had suffered significant losses and there was substantial reduction in Client A's trust account balance.
- (9) In imposing the sanctions on ANG and MUN, various factors were taken into account including:-
- (a) The severity/materiality/extent/impact of the breaches committed by each of them which involved multiple misconducts and extensive trades carried out in Client A's account, mostly by ANG.
  - (b) The differing roles played by/extent of the involvement of the DRs, amongst others:-
    - (i) ANG had played a primary role in operating Client A's account and was in control of/in a position to control the accounts of Client A and ANG's relatives. He had executed/instructed MUN to execute the trades in Client A's account.
    - (ii) MUN had played a secondary role by acting as a mere order taker, without more and there was no evidence of dishonesty/fraud/ill-intention/bad faith on MUN's part nor did she commit the breaches for her own benefit.
  - (c) The significant losses caused to Client A, commission earned by ANG and substantial profits made in ANG's relatives' accounts.
  - (d) ANG's past misconducts where enforcement actions had been taken against him by Bursa Malaysia Securities (see POs' Circular No. G 3 of 2015 dated 2 March 2015).
  - (e) ANG's multiple misconducts over an extended period of time, his Previous Breach coupled with his blatant disregard of the Rules of Bursa Malaysia Securities and RHBIB's Rules & Regulations had impinged on his integrity/honesty as a Registered Person and brought into question as to whether he was a fit and proper person to be in the industry. Hence, severe sanctions of striking off and substantial fine were imposed in him.
  - (f) MUN's co-operation including her admission of 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).

- (10) The Deferred Suspension was imposed on MUN to ensure that she does not commit another dealing related breach(es) within two (2) years from the date of notification of decision. Thus, the three (3) months suspension is deferred and will be waived if there is no commission of similar breach(es) by MUN within two (2) years.
- (11) The public reprimand was imposed on ANG and MUN as a deterrent consideration so as to create market awareness and reinforce the serious view taken by Bursa Malaysia Securities on the DR's obligations to ensure protection of clients' interest/monies at all times.
- (12) As Registered Persons acting in the capacity of a DR, ANG and MUN must at all times:-
  - (a) observe professional conduct, standards of integrity and fair dealing;
  - (b) exercise proper skill, care and diligence;
  - (c) act honestly and in the best interest of the client;
  - (d) perform their duties efficiently, honestly and fairly; and
  - (e) not to engage in/refrain from engaging in irregular or unhealthy practice.

-End-

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Head, Enforcement

## ADDENDUM

Rules 3.14(b), (d), (e) & (f), 5.01(a), 5.16(1)(a), (b) & (c) and 15.09(a) & (g) of the Rules of Bursa Malaysia Securities and Paragraphs 1.1(1)(e) and 11.1(a) of Directives No. 5-001 provide, amongst others, that:

- Throughout the term of a Registered Person (RP)'s registration, a RP must:-
  - comply with and give effect to the Securities Laws and the Commission's requirements;
  - observe professional conduct, 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).
- A PO and RP must, in the conduct of the PO's business adhere to just and equitable principles and act with due skill, care and diligence and with due regard for the integrity of the market.
- A PO and RP must act with due skill, care and diligence, honestly and fairly and in the best interests of the PO's clients.
- 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;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.
- A PO, Head of Dealing and RP must not accept a share in the profits of a Client's accounts or have any arrangement with a Client to share in the profits in the Client's account.