

**PARTICIPATING ORGANISATIONS' CIRCULAR**

Date: 30 September 2024

No.: G 32 of 2024

**Enforcement Action Pursuant to the Rules of Bursa Malaysia Securities Berhad and Rules of Bursa Malaysia Derivatives Berhad****30 September 2024****BURSA MALAYSIA REPRIMANDS, FINES AND ORDERS TO STRIKE OFF TAN GIM HUI, FOR MISCONDUCTS AND VIOLATION OF RULES**

Bursa Malaysia Securities Berhad [Registration No.: 200301033577 (635998-W)] (**Bursa Malaysia Securities**) and Bursa Malaysia Derivatives Berhad [Registration No.: 199301007200 (0261937-H)] (**Bursa Malaysia Derivatives**) have publicly reprimanded, imposed a fine of RM163,000 and ordered to strike off Tan Gim Hui (**JERRY TAN**), from the Register as a Registered Person of Bursa Malaysia Securities and Bursa Malaysia Derivatives (hereinafter collectively referred to as **Bursa Malaysia**) (notwithstanding that he had ceased to be a Registered Person of Bursa Malaysia) for various misconducts including using false/unlawful/dishonest means to open trading accounts in his friend's name and operating the said accounts as "secret accounts" for his personal/third party trades.

JERRY TAN, who was at the material time of the breach a Salaried Dealer's Representative (under the Rules of Bursa Malaysia Securities) and a Registered Representative (**RR**) (under the Rules of Bursa Malaysia Derivatives) of RHB Investment Bank Berhad (**RHBIB**) at its Principal Office, had contravened and/or triggered the provisions of: -

- (a) Rules 404.3(1)(a) & (b), 1302.1(1)(i)(i)(aa) & 1302.1(1)(i)(ii) of the Pre-Revamped Rules of Bursa Malaysia Securities;
- (b) Rules 3.14(d) & (f) and 5.01(a) of the Revamped Rules of Bursa Malaysia Securities read together with Paragraph 1.1(1)(e) of Directives No. 5-001 of the Participating Organisations' (**PO**) Directives and Guidance (**POs' Directives**);
- (c) Rules 510.1 & 510.2(b) (applicable until 31 August 2016) and 508(c) (applicable w.e.f. 1 September 2016 until 14 August 2019) of the Pre-Revamped Rules of Bursa Malaysia Derivatives; and
- (d) Rules 3.24(1)(d) & (f) and 4.01(1)(a) of the Revamped Rules of Bursa Malaysia Derivatives read together with Paragraph 1.1(1)(d) of Directives No. 4-001 of the Trading Participants' (**TP**) Directives and Guidance (**TPs' Directives**),

(collective referred to as the **Rules**).

Bursa Malaysia takes a serious stance of any misconducts that impinge on the professional conduct and integrity of Registered Persons as such misconducts may adversely affect and damage market integrity and public confidence. In this regard, Bursa Malaysia will not tolerate/condone any misconduct involving opening/operation of "secret account(s)" by Registered Persons using false/unlawful/dishonest means for any reasons whatsoever, including actions or inactions to conceal the Registered Person's trades from the PO/TP. Bursa Malaysia 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 breach and imposition of the sanctions on JERRY TAN were made pursuant to Rule 15.02 of the Rules of Bursa Malaysia Securities and Rule 11.02 of the Rules of Bursa Malaysia Derivatives after according due process to JERRY TAN and taking into consideration all facts and circumstances including the following: -

- (1) JERRY TAN had: -
  - (a) used false/unlawful/dishonest means to open a securities and a derivatives trading account in his friend's name in 2010 (**Accounts**) where he had: -
    - (i) completed/filled up his friend's details in the account opening forms and procured his (i.e. JERRY TAN's) wife or a third party to sign/write his friend's name in the account opening forms to pose as his friend's signature; and
    - (ii) inserted an email address, which was created and accessible only by him, in the account opening forms to enable him to receive the monthly statements of accounts;
  - (b) operated/used the Accounts to execute his personal trades over a period of 11 years and trades for a third party based on instructions to trade from the third party on several market days; and
  - (c) arranged for a joint bank account to be opened in the name of his friend and his (i.e. JERRY TAN's) wife for the purpose of withdrawal of funds from the trust accounts in RHBIB.

JERRY TAN had admitted that he had opened the Accounts and executed his personal trades to conceal his trading activities from the monitoring of RHBIB. This was a circumvention of the relevant monitoring rules which required approval by/notification to the PO/TP of the Dealer's Representatives' (**DR**)/RRs' trades to enable the PO/TP to manage conflict of interest and risks in accordance with the Rules (**Monitoring Rules**). Hence, JERRY TAN had failed to observe professional conduct, standards of integrity and fair dealing, failed to act honestly and engaged in unlawful or irregular or unhealthy practice.

- (2) The sanctions were imposed on JERRY TAN having considered various factors including: -
  - (a) JERRY TAN had self-reported his misconducts to the regulator.
  - (b) The severity/extent/materiality of the breaches which spanned over 11 years and involved multiple serious misconducts and extensive personal trades.
  - (c) The profits generated by JERRY TAN from the trades in the Accounts.
  - (d) Notwithstanding the self-reporting by JERRY TAN, a severe fine and striking off were imposed on him in view that: -
    - (i) The breaches involved multiple serious misconducts where JERRY TAN had used false/unlawful/dishonest means to open the Accounts and operated the Accounts as his "secret accounts" to conceal his trading activities from RHBIB's

monitoring. As a Registered Person, JERRY TAN knew or ought to have known that he should not engage in such unlawful/irregular/unhealthy practices including approaching/engaging other persons to participate in/facilitate/enable such practices by him.

- (ii) The breaches were intentionally perpetrated, had elements of fraud and concealment and demonstrated dishonesty on JERRY TAN's part, all of which impinged on his integrity/honesty as a Registered Person and brought into question as to whether he is a fit and proper person to be in the industry.

In this regard, his friend's knowledge of and verbal approval/consent for the opening and utilisation of the Accounts by JERRY TAN for his personal trades, would not absolve him from the breaches or mitigate/derogate from the severity of the breaches.

- (e) The public reprimand was imposed to serve as a deterrence to other Registered Persons and create awareness on the serious view taken by Bursa Malaysia against such unlawful/irregular/unhealthy practices/misconducts involving operation of secret accounts by Registered Persons to circumvent the provisions of the Rules. It further underlines the importance of the Registered Person's duty to act honestly and observe professional conduct and standards of integrity at all times.
- (3) As a Registered Person, JERRY TAN must at all times: -
- (a) observe professional conduct, standards of integrity and fair dealing; and
  - (b) act honestly and refrain from engaging in any unlawful or irregular or unhealthy practices or any misconducts in circumvention of the Rules, including operating secret accounts for his personal trades.

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Head, Investigation & Enforcement

## ADDENDUM

**Rules 404.3(1)(a) & (b), 1302.1(1)(i)(i)(aa) & 1302.1(1)(i)(ii) of the Pre-Revamped Rules of Bursa Malaysia Securities (applicable prior to 2 May 2013)** provided, among others, that: -

- Every PO and every DR employed or engaged by the PO shall at all times –
  - (a) observe professional standards of integrity and fair dealing; and
  - (b) act honestly and in the best interest of their clients.
- Any Participant who, in any circumstances, directly or indirectly being a DR –
  - (a) without prejudice to the generality of the foregoing, falsely declares authentication of an account opening application; or
  - (b) falsifies particulars of an account;

shall be liable and be dealt with in accordance with the provisions of the Rules relating to the same.

**Rules 3.14(d) & (f) and 5.01(a) of the Revamped Rules of Bursa Malaysia Securities read together with Paragraph 1.1(1)(e) of Directives No. 5-001 of the POs' Directives (w.e.f. 2 May 2013)** provide, among others, that: -

- Throughout the term of a Registered Person's registration, a Registered Person must:
  - (a) observe professional conduct, standards of integrity and fair dealing; and
  - (b) act honestly and in the best interest of the Client and the PO.
- A PO and Registered Person 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 Registered Person must not engage in any unlawful or irregular or unhealthy practice and must not participate in any operation by others that might have the same result.

**Rules 510.1 & 510.2(b) (applicable until 31 August 2016) and 508(c) (applicable w.e.f. 1 September 2016 until 14 August 2019) of the Pre-Revamped Rules of Bursa Malaysia Derivatives** provided, among others, that: -

- All persons trading on the Exchange shall not commit or attempt to commit any or all of the offences stated hereunder. Offences under the Rules shall be classified into major offences and minor offences.
- Major offences shall include being guilty of fraud or any act of bad faith or of any dishonest conduct.
- Any Participant or Registered Person who, in any circumstances, directly or indirectly 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 disciplinary proceedings.

**Rules 3.24(1)(d) & (f) and 4.01(1)(a) of the Revamped Rules of Bursa Malaysia Derivatives read together with Paragraph 1.1(1)(d) of Directives No. 4-001 of the TPs' Directives (w.e.f. 15 August 2019)** provide, among others, that: -

- Throughout a Registered Person's registration, a Registered Person must: -
  - (a) observe professional conduct, standards of integrity and fair dealing; and
  - (b) act honestly and in the best interest of the Client and the TP.
- A Participant and Registered Person must, in the conduct of the Participant'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 Participant and Registered Person must not engage in any unlawful or irregular or unhealthy practice and must not participate in any operation by others that might have the same result.

The relevant Monitoring Rules were/are as follows: -

- **Rule 601.2B(a) of the Pre-Revamped Rules of Bursa Malaysia Derivatives** provided that a TP must ensure that an employee, RR, or director of a TP who trades in Contracts for his own account notifies it of such trades in writing or by electronic means and upon receipt of the notifications, the TP takes the necessary steps to manage conflicts of interests and risks, in accordance with Rule 601.2D. For the purposes of the Rule, a director's account will include an account in which such a director has a direct or indirect interest.
- **Rule 4.04 of the Revamped Rules of Bursa Malaysia Derivatives** provides that a TP must ensure that an employee, RR or director of a TP who trades in Contracts for his own account notifies the TP of such trades in writing or by electronic means. Upon receipt of the notifications, a TP must take the necessary steps to manage conflict of interest and risks in accordance with Rule 4.02. For the purposes of this Rule 4.04, a director's account will include an account in which such a director has a direct or indirect interest.
- **Rule 702.2(2) of the Pre-Revamped Rules of Bursa Malaysia Securities** provided that a DR shall not place an order on behalf of an employee, Commissioned DR or RR of the PO to whom the DR is attached, unless for each transaction the order is first authorised in writing by a director of the PO.
- **Rule 7.26(1) of the Revamped Rules of Bursa Malaysia Securities** provides that subject to compliance with the provisions on conflicts of interests as set out in Rules 3.16 and 5.02, an employee, DR, Trading Representative or Director of a PO who trades in securities for his own account must notify the PO of such trades in writing or by electronic means. For purposes of Rule 7.26, a Director's account will include an account in which such a Director has a direct or indirect interest.