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**BURSA MALAYSIA SECURITIES BERHAD**
**GUIDANCE NOTE 21****ENFORCEMENT PROCEEDINGS & RELATED MATTERS**

Details		Cross References
Effective date:	8 May 2013	Rules 16.26, 16.27 & 16.29

**1.0 Introduction**

- 1.1 Pursuant to Rule 16.26 of the Listing Requirements, the Exchange will determine the procedures applicable to any enforcement action taken under Chapter 16 of the Listing Requirements.
- 1.2 Parts I and II of this Guidance Note set out the procedures and requirements relating to a full and expedited enforcement proceeding respectively.
- 1.3 Pursuant to Rule 16.27 of the Listing Requirements, any person who is dissatisfied with a decision resulting from an enforcement action taken may appeal against such decision in the manner as may be prescribed by the Exchange from time to time. Part III of this Guidance Note sets out the procedures and requirements relating to the appeal procedure.
- 1.4 Part IV of this Guidance Note sets out the oral representation that may be requested by a person in an enforcement proceeding.
- 1.5 For the avoidance of doubt, the Exchange is not bound by legal rules of evidence and procedure in any enforcement proceedings under the Listing Requirements.

**PART I FULL ENFORCEMENT PROCEEDING****2.0 Requisite Notice**

- 2.1 When the Exchange proposes to take an enforcement action against a person under the Listing Requirements, the Exchange will serve the person a written notice specifying the nature and particulars of the breach the person is alleged to have committed ("**Requisite Notice**").

**3.0 Response to Requisite Notice**

- 3.1 A person may submit to the Exchange a written response to the Requisite Notice ("**Response**") within the time stipulated in the Requisite Notice.

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- 4.1 After the conclusion of an enforcement proceeding, the Exchange will notify the person in writing of the decision including the penalty imposed (if any).

**PART II EXPEDITED ENFORCEMENT PROCEEDING****5.0 Procedures relating to an expedited enforcement proceeding**

- 5.1 The Exchange may initiate expedited enforcement proceedings under this Part II against a person whom enforcement action is proposed to be taken, instead of proceedings under Part I, in circumstances the Exchange deems fit, such as in respect of a breach of the Listing Requirements which does not typically attract a penalty beyond -

- (a) a reprimand; or
- (b) a fine of more than RM 10,000.00.

- 5.2 In an expedited enforcement proceeding, the Exchange will notify the person against whom the enforcement action is proposed to be taken, in writing, of the breach and penalty imposed on that breach ("**Determination**").

- 5.3 The person must, within the time specified in the Determination, inform the Exchange in writing whether or not the person agrees with the Determination. A person is deemed to have agreed with the Determination if the person does not respond within the specified time.

- 5.4 If the person agrees or is deemed to have agreed with the Determination, the person must give effect to the penalty imposed. Enforcement action will be recorded as having been taken against the person upon the expiry of the specified time.

- 5.5 If the person does not agree with the Determination, the matter will proceed under Part I. The person may submit a written response to the Determination as if the Determination is a Requisite Notice under Part I. In deliberating the matter, the Exchange is not bound by the Determination and may impose a higher penalty based on the facts or evidence presented during the proceeding under Part I.

**6.0 No limitation**

- 6.1 Nothing in this Part prevents the Exchange from proceeding with the full enforcement proceeding under Part I for any breach of the Listing Requirements.

**PART III APPEAL****7.0 Notice of appeal**

- 7.1 If a person appeals against a decision referred to in Part I above, the person must within the time stated in the notification of decision given under Part I, give to the Exchange a notice in writing ("**Notice of Appeal**") that -

- (a) identifies the decision against which the appeal is made; and
- (b) sets out the ground(s) of the appeal together with representations to justify the ground(s) relied upon.

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**8.0 Deliberation of appeals**

- 8.1 A person may produce evidence that was not presented at the initial enforcement proceeding if -
- (a) the evidence was not available at the time of the initial enforcement proceeding; and
  - (b) the evidence would have been likely to have had a determining influence upon the decision appealed against.
- 8.2 The person must produce the new evidence as stated in paragraph 8.1 above when submitting the Notice of Appeal.
- 8.3 The Exchange may produce new evidence arising from the Notice of Appeal submitted by the person.
- 8.4 The Exchange may affirm, vary or set aside the decision appealed against.

**9.0 Notification of decision on appeal**

- 9.1 After the conclusion of an appeal, the Exchange will notify the person in writing of the decision of the appeal and such decision is final.

**PART IV ORAL REPRESENTATIONS****10.0 Request for oral representations etc.**

- 10.1 The Exchange may allow an oral representation, submission or attendance of witnesses for any proceedings commenced against a person under this Guidance Note.
- 10.2 The person against whom the enforcement action is taken may only request for the oral representation, oral submission or attendance of witnesses if it has submitted –
- (a) a Response as required in Part I; or
  - (b) a Notice of Appeal as required in Part III.