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**BURSA MALAYSIA SECURITIES BERHAD**
**GUIDANCE NOTE 3****CRITERIA AND OBLIGATIONS OF GN3 COMPANIES**

Details		Cross References
Effective date:	8 May 2006	Rules 8.03A, 8.04, 16.02 and 16.11
Revision date:	3 August 2009, 16 October 2013, 27 January 2015, 3 May 2016, 31 December 2016, 2 January 2018	

**1.0 Introduction**

1.1 This Guidance Note sets out, amongst others, the following:

- (a) the criteria in relation to the financial condition of a listed corporation, which if triggered, will give rise to an obligation for a listed corporation to comply with the provisions of this Guidance Note; and
- (b) the requirements that must be complied with by a GN3 Company.

**2.0 Criteria**

2.1 Pursuant to Rule 8.04(2) of the Listing Requirements, where a listed corporation triggers any one or more of the following Prescribed Criteria, it must comply with the provisions of Rule 8.04 and this Guidance Note:

- (a) the shareholders' equity of the listed corporation is 25% or less of the share capital of the listed corporation;
- (b) where the listed corporation has incurred loss in any 1 full financial year commencing on or after its listing, which equal to or exceed the amount of its shareholders' equity at the end of the said financial year and the shareholders' equity is equal to or less than 50% of the share capital of the listed corporation at the end of the said financial year;
- (c) where the listed corporation has incurred aggregated losses in any 2 consecutive full financial years commencing on or after its listing ("**said financial period**") –
  - (i) which exceed the amount of its shareholders' equity at the end of the said financial period;

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- (ii) the loss incurred in the second full financial year of the said financial period is 50% or more of the loss incurred in the first full financial year of the said financial period; and
- (iii) the shareholders' equity is equal to or less than 50% of the share capital of the listed corporation at the end of the said financial period;
- (d) receivers or managers have been appointed over the asset of the listed corporation, its subsidiary or associated company which asset accounts for at least 50% of the total assets employed of the listed corporation;
- (e) a winding up of a listed corporation's subsidiary or associated company which accounts for at least 50% of the total assets employed of the listed corporation;
- (f) the auditors have expressed an adverse or disclaimer opinion in the listed corporation's latest audited financial statements;
- (g) the auditors have highlighted a material uncertainty related to going concern or expressed a qualification on the listed corporation's ability to continue as a going concern in the listed corporation's latest audited financial statements and the shareholders' equity of the listed corporation is 50% or less of the share capital of the listed corporation; or
- (h) a default in payment by a listed corporation, its major subsidiary or major associated company, as the case may be, as announced by a listed corporation pursuant to Rule 9.19A of the Listing Requirements and the listed corporation is unable to provide a solvency declaration to the Exchange.
- (i) [deleted]
- (j) [deleted]

2.2 For the purposes of this Guidance Note unless the context otherwise requires -

- (a) **"shareholders' equity"** refers to the equity attributable to the equity holders of the listed corporation;
- (b) [deleted]
- (c) [deleted]
- (d) **"issued and paid-up capital"** excludes treasury shares;
- (e) the determination of whether any one or more of the Prescribed Criteria is fulfilled must be based on the latest audited or unaudited consolidated financial statements of the listed corporation; and
- (f) in relation to subparagraphs 2.1(b) and (c) above, **"loss"** or **"losses"** refers to the loss or losses attributable to ordinary shareholders of the listed corporation.

2.3 The following example illustrates the application of subparagraph 2.1(b) above:

Example 1

A Bhd

	Financial Year Ended (FYE) 31 December 2xx1 (FYE 1)
Losses (RM'million)	(4)
Shareholders' equity (RM'million)	3
Issued and Paid-up Capital (RM' million)	6

In Example 1 above, listed corporation A Bhd incurs losses amounting to RM4 million in FYE 1. The shareholders' equity for FYE 1 amounts to RM3 million. The issued and paid-up capital of A Bhd as at FYE 1 is RM 6 million.

Since the amount of losses has exceeded the amount of the shareholders' equity, and the shareholders' equity is equal to 50% of the issued and paid-up capital of A Bhd, A Bhd has triggered the criteria set out in subparagraph 2.1 (b) above and must therefore comply with the requirements of Rule 8.04 and this Guidance Note.

2.4 The following example illustrates the application of subparagraph 2.1(c) above:

Example 2

B Bhd

	FYE 31 December 2xx1 (FYE 1)	FYE 31 December 2xx2 (FYE 2)
Losses (RM'million)	(2)	(3)
Shareholders' equity (RM'million)	7	4
Issued and paid- up capital (RM'million)	9	9

In Example 2 above, listed corporation B Bhd incurs losses amounting to RM2 million in FYE 1. The shareholders' equity for FYE 1 amounts to RM7 million.

In the following financial year, FYE 2, B Bhd incurs losses amounting to RM3 million, whilst the shareholders' equity amounts to RM4 million.

The issued and paid-up capital for both FYE1 and FYE 2 of B Bhd is RM 9 million.

The aggregated losses incurred by B Bhd in both FYE 1 and FYE 2 amount to RM5 million, which in absolute terms exceed the amount of the shareholders' equity for FYE 2 of RM4 million. In addition, the amount of losses incurred in FYE 2 is 50% more than the amount of losses incurred in FYE 1 and the shareholders' equity is less than 50% of the issued and paid-up capital of B Bhd as at FYE 2.

As such, B Bhd has triggered the criteria set out in subparagraph 2.1 (c) above and must therefore comply with the requirements of Rule 8.04 and this Guidance Note.

### 3.0 [Deleted]

## 4.0 Disclosure obligations of the GN3 Company

4.1 Pursuant to Rule 8.04(3)(b) of the Listing Requirements, a GN3 Company must announce to the Exchange –

- (a) on an immediate basis (“**First Announcement**”) upon the GN3 Company triggering one or more of the Prescribed Criteria –
  - (i) that the listed corporation is a GN3 Company pursuant to this Guidance Note;
  - (ii) the listed corporation’s obligations pursuant to this Guidance Note;
  - (iii) the consequences of non-compliance with such obligations; and
  - (iv) the status of the listed corporation’s regularisation plan or the status of its endeavours to formulate such a plan, whichever is applicable, or where neither a plan nor any endeavour to formulate such a plan has been undertaken, an appropriate negative statement to such effect;
- (b) the status of its regularisation plan and the number of months to the end of the relevant timeframes referred to in Rule 8.04(3) of the Listing Requirements on a monthly basis (“**Monthly Announcement**”) until further notice from the Exchange;
- (c) its compliance or non-compliance with a particular obligation imposed pursuant to this Guidance Note, on an immediate basis;
- (d) details of the regularisation plan which announcement must fulfill the requirements set out in paragraph 4.2 below (“**Requisite Announcement**”); and
- (e) where the GN3 Company fails to regularise its condition, the dates of suspension and de-listing of its listed securities, immediately upon notification of suspension and de-listing by the Exchange.

4.2 The Requisite Announcement must -

- (a) contain details of the regularisation plan and sufficient information to demonstrate that the GN3 Company is able to comply with all the requirements set out in paragraph 5.2 below after the implementation of the regularisation plan;
- (b) include a timeline for the complete implementation of the regularisation plan; and
- (c) be announced by the GN3 Company’s Sponsor.

4.3 Before a GN3 Company makes the Requisite Announcement, it must ensure that -

- (a) all agreements to be entered into with third parties as part of the regularisation plan, have been duly executed by all parties to such agreements; and

- (b) where the regularisation plan involves a compromise or arrangement with the GN3 Company's creditors, the GN3 Company has taken reasonable steps to procure the agreement-in-principle of such creditors.

4.4 The Monthly Announcements must be made on the first market day of each month beginning with the month following the date of the First Announcement.

## 5.0 Obligation to Regularise

5.1 Pursuant to Rule 8.04(3)(a)(i) of the Listing Requirements, a GN3 Company must submit to the Exchange a regularisation plan and obtain the Exchange's approval to implement the plan within 12 months from the date of the First Announcement.

5.2 The GN3 Company and its Sponsor must ensure that the regularisation plan referred to in paragraph 5.1 above -

- (a) is sufficiently comprehensive and capable of resolving all problems, financial or otherwise that had caused the GN3 Company to trigger the Prescribed Criteria;
- (b) enables the GN3 Company to regularise its financial condition such that the GN3 Company no longer triggers any of the Prescribed Criteria; and
- (c) is fair and reasonable to the GN3 Company and its shareholders and will increase shareholder value.

5.3 In complying with the requirements under paragraph 5.2 above, the GN3 Company and its Sponsor must demonstrate to the satisfaction of the Exchange, the following:

- (a) the regularisation plan is able to strengthen the financial position of the GN3 Company including its shareholders' equity, gearing, net asset position, cash flow position and address its accumulated losses position;
- (b) the steps taken or proposed to be taken are comprehensive and capable of addressing the issues that had caused the GN3 Company to trigger the Prescribed Criteria, such that the GN3 Company will -
  - (i) no longer trigger any of the Prescribed Criteria upon implementation of the regularisation plan; and
  - (ii) not trigger any of the Prescribed Criteria in the near future;
- (c) the core business activities of the GN3 Company post-implementation of the regularisation plan is sustainable and has prospects to warrant continued trading or listing on the Official List. In this respect, the GN3 Company must comply with the requirements set out in paragraph 3.1 of Guidance Note 18, with the necessary modifications, and provide sufficient information in support of its regularisation plan.

5.4 A GN3 Company and its Sponsor must review the GN3 Company's risk management and internal control system, and submit to the Exchange the results of such review together with its action plans to address the weaknesses identified.

5.5 A GN3 Company must ensure that the submission to the Exchange under paragraph 5.1 above is accompanied by the following:

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- (a) a cover letter signed by 2 authorised signatories of the Sponsor, containing details of the proposals, any approvals, clearance or waivers sought, and such other information as may be prescribed by the Exchange from time to time;
- (b) a draft circular to shareholders containing the relevant information prescribed in the Listing Requirements, such as Appendix 6B or Appendix 10B, where applicable, and the additional information set out in Annexure GN3-A;
- (c) the listing application(s) together with the relevant submission documents as required under Chapter 6 of the Listing Requirements; and
- (d) any other supporting documents, including experts' reports, where relevant.

**Annexure GN3-A**

**Additional contents of circular for regularisation plan undertaken by a GN3 Company**

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**ANNEXURE GN3-A**

**Additional contents of circular for regularisation plan undertaken by a GN3 Company**  
(paragraph 5.5(b))

- (1) The historical financial information of the GN3 Company for the last 5 years or since listing, whichever is later, based on the audited or unaudited financial statements. This includes:
  - (a) the turnover;
  - (b) the gross profit/loss;
  - (c) the net profit/loss;
  - (d) the shareholders' funds;
  - (e) the borrowings; and
  - (f) the key ratios such as gross profit margin and gearing.
- (2) A commentary on the performance of the GN3 Company for the past 5 years or since listing, whichever is later. The commentary should include an analysis and discussion of significant and specific factors contributing to exceptional performance in any of the financial years under review and significant changes in the financial performance on a year-to-year basis, whether favourable or adverse.
- (3) A description of the business plan including information on the prospects of the GN3 Company having regards to the requirements set out in paragraph 3.1 of Guidance Note 18, with the necessary modifications.
- (4) An analysis of the business post implementation of the regularisation plan including –
  - (a) the nature and operational environment of the GN3 Company's business such as the introduction of new asset or business, new products, new markets or new contracts, to address the operational issues faced by the GN3 Company;
  - (b) industry overview and description of the growth prospects of the GN3 Company's business in light of the industry outlook;
  - (c) the risk factors affecting the GN3 Company and its business, together with the mitigating factors.
- (5) The reasons or issues which caused the GN3 Company to trigger any of the Prescribed Criteria, the steps taken or to be taken (whether short term or long term) to address such reasons or issues.
- (6) Where the proposal includes an injection of new asset or business, the following information where applicable:
  - (a) in relation to the new asset or business -
    - (i) name, qualification and experience of the directors, chief executive and key management; and
    - (ii) details of the substantial shareholders; and

**Additional contents of circular for regularisation plan undertaken by a GN3 Company**

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- (b) in relation to the GN3 Company -
  - (i) name, qualification and experience of the proposed new directors to the board; and
  - (ii) details of the proposed new substantial shareholders.
- (7) A statement by the directors as to whether, in their opinion, the working capital available to the GN3 Company will be sufficient for a period of 12 months from date of the circular. If not, how the additional working capital which is deemed to be necessary will be obtained.
- (8) The financial estimate, forecast or projection, and the underlying accounting policies and assumptions together with a copy of the reporting accountants' letter, if such information is provided to the Exchange in the submission.
- (9) The results of the risk management and internal control review together with the action plans to address the weaknesses identified.

[End of Annexure]