

## Corporate/M&A

### Bursa Malaysia Issues Updated Corporate Governance Guide (4th Edition)

On 15 December 2021, Bursa Malaysia Berhad (“the Exchange”) issued an updated Corporate Governance Guide (“Updated CG Guide”).

The CG Guide adopts a thematic approach to provide PLCs with a focused view of the Malaysian Code on Corporate Governance (“MCCG”), beginning with the board and its responsibilities, addressing audit and risk management matters, and then concluding with corporate reporting and relationship management with stakeholders.

The Updated CG Guide includes Updated Practices for these areas as referred to in the MCCG:

- Write-up to Practice 5.3 and Step Up 5.4 of the MCCG: Tenure limit of independent directors.
- Write-up to Practice 5.5 of the MCCG: Appointment of board directors and senior management based on, objective criteria, merit and diversity.
- Write-up to Practices 5.6 and 5.7 of the MCCG: sourcing of directors and senior management, and disclosure on the appointment and reappointment of directors.
- Write-up to Practices 9.2 and 9.3 of the MCCG: new cooling-off period and policies and procedures to assess suitability of the external auditor.
- Write-up to Practices 13.3, 13.4, and 13.5 of the MCCG: The increased deployment of technology in general meetings and the democratisation of shareholders during AGMs.

More information on the Updated Practices in the Updated CG Guide may be obtained from the Executive Summary portion, specifically at page 9. which is available [here](#).

# Legal Updates

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The media release made by the Exchange may be accessed [here](#). The full Updated CG Guide, titled “*Corporate Governance Guide (4<sup>th</sup> Edition)*” may be accessed [here](#).

## Bursa Malaysia Securities Berhad Becomes One-Stop Centre for ACE Market IPOs And Prospectus Registration

In a joint statement, the Securities Commission Malaysia (“SC”) and Bursa Securities Malaysia Berhad (the “Exchange”) announced on 20 December 2021 that effective 1 January 2022, the Exchange will be the sole approving authority for Initial Public Offerings (“IPOs”) on the ACE Market, assuming the ACE Market prospectus review and registration functions from the SC.

Under the new regulatory framework, the Exchange will become a one-stop centre for all ACE Market IPO approvals, including the registration of abridged prospectus for the purpose of secondary fund-raising activities via rights issues by corporations listed on the ACE Market.

Nevertheless, the SC will continue to register ACE Market prospectuses that have been submitted to the SC prior to 1 January 2022.

In addition, the Exchange enhanced the ACE Market Listing Requirements as well as the principal adviser framework under the Main Market Listing Requirements.

The joint statement by the Exchange and the SC can be found [here](#).

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CORPORATE/M&A MATTERS.**

## Financial Services

### Exposure Draft on Business Continuity Management

On 14 December 2021, Bank Negara Malaysia (“BNM”) has issued an exposure draft setting out its proposed revision to the Business Continuity Management (Revised) policy document which was issued on 3 June 2011.

BNM has set out its proposals which aim to strengthen the state of preparedness of financial institutions to ensure continuous functioning of a financial institution during an event of disruption and improve the operational resilience.

The exposure draft, when issued, will apply to:

- banks, investment banks, insurers licensed under the **Financial Services Act 2013**;
- Islamic banks and takaful operators licensed under the **Islamic Financial Services Act 2013**;
- operators of designated payment systems and issuers of electronic money approved under the **Financial Services Act 2013** or the **Islamic Financial Services Act 2013**;
- development financial institutions prescribed under the **Development Financial Institutions Act 2002**.

Any feedback to the exposure draft must be provided to BNM by 31 March 2022.

### Exposure Draft on Payment System Operator

An exposure draft on payment system operator has been issued by BNM which are applicable to payment systems’ operator that have been approved under the **Financial Services**

**Act 2013** or the **Islamic Financial Services Act 2013**. Feedback on the exposure draft is to be provided by 31 March 2022.

BNM has indicated that the exposure draft is intended to set out the regulatory requirements which must be fulfilled by the approved payment systems' operators to:

- ensure the safety, efficiency and reliability of payment systems;
- preserve public confidence in the payment systems and the use of payment instruments; and
- ensure payment systems are aligned with relevant international standards, such as the Principles for Financial Market Infrastructures by the Bank for International Settlements ("BIS").

## Liberalisation to Unit Trust Framework

The Securities Commission Malaysia ("SC") had, on 21 December 2021, announced the liberalisation of unit trust framework to enable retail funds to invest in and offer a wider range of investment instruments and activities.

The enhancement to the guidelines include, without limitation:

- expansion of the list of permissible investments by unit trust funds;
- the operational processes in managing a fund;
- provision of further clarity on existing requirements;
- requirements for risk management at both entity and fund levels;
- transparency on fund information such as the requirement for fund information to be made available on the fund manager's website.

The liberalisation will take effect 1 March 2022 and, consequentially, the following guidelines will also be amended:

- Guidelines on Private Retirement Scheme;
- Guidelines on Exchange-Traded Funds;
- Prospectus Guidelines for Collective Investment Schemes;
- Guidelines on Compliance Function for Fund Management Companies.

## Upliftment of suspension on the IDSS And PDT Short Sale

With effect from 1 January 2022, both the suspension on the Intraday Short Selling (“IDSS”) and Intraday Short Selling by Proprietary Day Traders (“PDTSS”) will be uplifted.

Both the IDSS and PDTSS will resume with enhanced control measures:

- IDSS and PDTSS orders must be entered in accordance with the “*at-tick rule*”;
- PDTSS will only be permitted on securities listed as Approved Securities in the Main Market (Day Trading Eligible Securities) and where the Proprietary Day Trader already has in place an agreement to borrow the Day Trading Eligible Securities to settle all potential failed trades which may occur in the event the executed short sale in Day Trading Eligible Securities is not closed off on T-day itself.

Consequential to the upliftment of the suspension, Proprietary Day Trading temporary waivers relating to PDTSS which was announced on 15 June 2020 will be repealed.

## Consultation paper on Sustainable and Responsible Investment (“SRI”) Taxonomy

The SC issued a consultation paper to obtain feedback, by 31 March 2022, on the SRI Taxonomy for the Malaysian capital market.

The SRI Taxonomy was developed:

- with an aim to accelerate the development of the SRI asset class and promote greater awareness and adoption of sustainability practices. It seeks to set out principles and guidance which capital market participants may adopt to undertake sustainable economic activities;
- to enable capital market participants to identify economic activities that are aligned with environment, social and sustainability objectives;
- to provide guiding principles in financing a credible transition to enable more companies to leverage market-based instruments in meeting their transition finance needs.

## Amendments to Guidelines on Compliance Function for Fund Management Companies

Effective 1 March 2022, paragraphs 11.15 and 11.28 of the Guidelines on Compliance Function for Fund Management Companies will also be amended because of the liberalisation to the unit trust framework.

The revised requirements relate to rebates and soft commissions. A fund manager, in accepting or receiving rebates or soft commissions, has a duty to ensure, among others:

- goods and services bring a direct benefit or advantage to the management of client's investments;
- transactions are executed at terms which are most favourable to the clients; and
- it must not enter unnecessary trades in order to achieve a sufficient volume of transactions to qualify for soft commission.

## Guidelines for Shariah Advisers

A guideline for Shariah Advisers ("SAG") has been issued by the SC on 10 December 2021. The SAG will come into effect on 1 January 2022.

Pursuant to the SAG:

- the service of providing advice concerning Shariah compliance for the purposes of (a) making available, offering or issuing an Islamic capital market product or (b) carrying on an Islamic capital market activity, is specified to be a capital market service under section 76A of the **Capital Markets and Services Act 2007**.
- any person intending to provide the aforementioned capital market services must be registered with the Securities Commission Malaysia and comply with all regulatory requirements set out therein.
- it will also apply to:
  - Islamic bank licensed under the **Islamic Financial Services Act 2013**; and
  - banks or investments banks licensed under the **Financial Services Act 2013** and approved under section 15 thereof to carry on Islamic banking business,

which will be deemed to be registered with the SC as Shariah advisers.

The SAG, when comes into effect, will supersede the Registration of Shariah Advisers Guidelines which was issued on 10 August 2009.

**CONTACT US FOR FURTHER INFORMATION REGARDING  
FINANCIAL SERVICES MATTERS.**



## Intellectual Property

On 22 December 2021, the Dewan Negara (the upper house of the Parliament) passed the following bills after the third reading of the same by Deputy Domestic Trade and Consumer Affairs Minister Datuk Rosol Wahid:

- The Patents (Amendment) Bill 2021;
- The Copyright (Amendment) Bill 2021; and
- The Geographical Indications Bill 2021

Substantial amendments to the current **Patents Act 1983** and **Copyright Act 1987** are anticipated. On the other hand, the Geographical Indications Bill 2021 is intended to replace the current **Geographical Indications Act 2000** in its entirety.

We will keep you apprised when the relevant amendments to the Acts and the new Geographical Indications Act 2021 becomes enforceable.”

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INTELLECTUAL PROPERTY LAW MATTERS.**

# Tax & Revenue

## Income tax

The following Rules have recently been gazetted:

- [Income Tax \(Deduction for the Sponsorship of Scholarship to Malaysian Student Pursuing Studies in The Field of Engineering and Technology at the Technical and Vocational Certificate, Diploma or Bachelor's Degree Levels\) Rules 2021](#) — gazetted on 23 December 2021 and deemed to have effect from year of assessment 2019; and
- [Income Tax \(Deduction for Expenditure on Provision of Employees' Accommodation\) Rules 2021](#) — gazetted on 24 December 2021 and have effect from year of assessment 2021.

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