

Implementation of the IOSCO Objectives & Principles of Securities Regulation

The President's Committee of IOSCO adopted the Objectives & Principles of Securities Regulation ("the Principles") in September 1998. The Principles were updated as of May 2003 to cross reference additional IOSCO resolutions and reports to each Principle.

The IOSCO Principles are one of twelve standards and codes highlighted by the Financial Stability Forum as key to sound financial systems and deserving priority implementation.

The SC has, at its own initiative, undertaken a self assessment exercise to determine the extent to which the internationally-recognised Principles have been observed. The self assessment was undertaken in line with IOSCO's Methodology for Assessing Implementation of the IOSCO Objectives and Principles of Securities Regulation.

The results of this self assessment (as at September 2006) are contained in this online report which we believe would provide useful information for market participants, and interested parties.

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Principles Relating to the Regulator (1-5)

Principle 1

The responsibilities of the regulator should be clearly and objectively stated (Key Issues)

Description	<p>The powers of the Malaysian capital market regulator, the Securities Commission of Malaysia (SC) are clearly defined in the Securities Commission Act (SCA). The SC is the sole regulator for all matters relating to securities and futures. Specific provisions in the securities laws further set out various aspects of the SC's powers in its oversight and regulation of the capital market and enforcement of the provisions of the law.</p> <p>The SC regulates companies and financial services, and promotes investor protection under the securities laws, which include the Securities Commission Act, Securities Industry Act 1983 (SIA), Futures Industry Act (FIA) 1993 and the Securities Industry (Central Depositories) Act (SICDA) 1991.</p> <p>Safeguards are in place to preclude situations in which there might be an abuse of discretion in the exercise of the SC's powers, including:</p> <ul style="list-style-type: none">• Requiring the written consent of the Public Prosecutor before initiating a criminal prosecution;• Allowing a person affected by SC's administrative actions to be given an opportunity to be heard;• Giving the SC the power to review any of its own decisions under the SCA upon the application of a person aggrieved by the decision;• Allowing a person aggrieved by the SC's decision to appeal to the Minister of Finance in respect of certain decisions taken by the SC; and• Requiring certain actions to be taken only with the consent of the Minister of Finance. <p>Additionally, the SC is also subject to judicial review where it is considered to be acting beyond its powers and authority granted under the law.</p> <p>The SC has effective channels of communication and cooperation with other responsible authorities such as Bank Negara Malaysia (Central Bank), the Labuan Offshore Financial Services Authority (LOFSA), Companies Commission of Malaysia (CCM) and the Royal Malaysia Police.</p>
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Principle 2**The regulator should be operationally independent and accountable in the exercise of its powers and functions.****(Key Issues)**

Description	<p>On the issue of independence, the SC as the regulator of the capital market is provided with a clear mandate under the law to undertake its day-to-day functions without political or commercial interference.</p> <p>The SC is made up of 9 members, of whom 7 are non-executive members representative of the public and private sector such as the Ministry of Finance, the Central Bank, the Companies Commission, senior members of the legal and accounting professions and senior members of the industry.</p> <p>The SCA sets out specific requirements relating to the appointments and powers of the SC and its Board. The Minister of Finance appoints all Commission members and entrusts the day-to-day administration of the SC to the Chairman (who is an Executive Chairman). The terms of appointment in respect of tenure, resignation, revocation and vacation of office are clearly set out in the law. Additionally, the SCA requires members of the SC or any of its Committees to disclose any direct or indirect interest in relation to any matter under discussion by the SC or the Committee. The law also disqualifies any full-time office holder in any public listed company from becoming or remaining a member of the SC.</p> <p>The conduct of SC's day-to-day functions such as corporate submission approvals, licensing reviews and recommendations, monitoring and surveillance of markets and intermediaries are determined through set procedures and guidelines. The SC also has internal processes in place such as Committees of the Commission, comprising largely of members of the Commission, to consider and review the SC's decisions.</p> <p>The SC has a stable and continuous source of funding through the imposition of levies on securities transactions. Other sources of income include fees and charges for approvals and other processing functions.</p> <p>The SC and its staff are provided protection under the SCA for any action or proceedings for damages made in respect of any act or statement made or omitted in pursuance of any securities law or in the performance of any function or the exercise of any power under the securities law. The protection is extended against any action or other proceeding for damages in respect of the above provided that the act, statement or performance of the function or exercise of power is made in good faith.</p> <p>On the issue of accountability, the SC being a body created by statute is ultimately accountable to Parliament. It is also accountable, as a matter of administrative law to be transparent in its procedures, practices, use of powers and resources. Under the securities laws it is accountable to both the Minister of Finance and Parliament and has to</p>
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<p>submit its annual report and audited accounts to the Minister to be tabled to both houses of Parliament. The SC releases its Annual Report to the public which includes details of its use of resources and its actions over the financial year. All administrative actions taken by the SC are in writing with reasons for the action taken. This due process is clearly set out in the relevant laws.</p>
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Principle 3

The regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its powers.

(Key Issues)

Description	<p>The SC has wide powers sufficient to enable it to carry out the functions entrusted to it under the law, such as powers of licensing, supervision, inspection, investigation and enforcement. The laws are also continuously reviewed and where necessary, recommendations are made to the government for amendments to ensure that the SC continues to have adequate powers to effectively discharge its functions.</p> <p>The SC is self-funded and has accumulated substantial reserves sufficient to meet the needs of the SC to carry out its regulatory and supervisory functions.</p> <p>The SC recognises the importance of having experienced and a highly competent workforce and allocates as much as approximately 72% of its total budget to personnel and workforce matters. The SC's workforce consists of graduates with various professional qualifications.</p> <p>Significant emphasis is placed by the SC to ensure that its staff receive ongoing training as required. The SC has a structured development programme for staff including the development of identified competencies and exposure of staff to new developments in the industry and sharing of experiences through attachments and workshops.</p>
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Principle 4**The regulator should adopt clear and consistent regulatory processes****(Key Issues)**

Description	<p>The SC has clearly established processes and criteria for the exercise and discharge of its powers. Any developments in policy or amendments to securities laws go through an internal challenge process and an external consultation process before being finalised for implementation. This process may include the circulation of consultation papers to relevant industry participants, publication of exposure drafts for public consultation, formal and informal consultations with industry participants, other government agencies, industry participants and regulators from other jurisdictions. Additionally, members of the public may seek clarification from the Technical Reference Panel for matters relating to the SC's Policies and Guidelines on the Issue/Offer of Securities, Guidelines on Unit Trust, securities laws, licensing policies and procedures.</p> <p>Where appropriate, the SC issues press releases, made available on its website, to announce and explain policy changes, amendments to the law and key decisions made. Additionally, the SC sets out a detailed report of its activities and key policy developments and decisions made during the year in its Annual Report.</p> <p>Securities laws and regulations including guidelines, codes and practice notes may be accessed by the public through the SC's website. In addition, copies of the securities laws and regulations are available for purchase from the government printers.</p> <p>The administration of securities laws by the SC is governed by general administrative laws and principles on procedural fairness. Where the SC is making a decision that has an adverse impact on a market participant, the SC informs the market participant of that potential action and allows the affected person an opportunity to be heard. The decisions of the SC are subject to judicial review.</p> <p>The Securities Industry Development Centre (SIDC), as the training and education arm of the SC, plays an active role in promoting education in the interest of protecting investors. Among its core objectives is to promote financial literacy and awareness of investing in the capital market to Malaysian investors. In October 2005, the SIDC launched a 5-year campaign to promote smart investing.</p>
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Principle 5**The staff of the regulator should observe the highest professional standards including appropriate standards of confidentiality****(Key Issues)**

Description	<p>The staff of the SC are required to observe a Code of Conduct relating to the avoidance of conflict of interest, restrictions in investing in securities and observance of confidentiality.</p> <p>Secrecy obligations are also provided for in the SCA requiring all members of the SC, its committees, its officers, servants or agents not to disclose any information obtained in the course of duty, which has not already been published.</p> <p>The SC has established internal disciplinary procedures and guidelines for investigating and resolving alleged violations of the SC's Code of Conduct, Terms and Conditions of Employment and any conduct which is inconsistent with a staff's faithful discharge of his duties.</p>
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Principles for Self Regulation (6-7)

Principle 6

The regulatory regime should make appropriate use of self-regulatory organisations (SROs) that exercise some direct oversight responsibility for their respective areas of competence and to the extent appropriate to the size and complexity of the markets.

(Key Issues)

Description	<p>Bursa Malaysia together with its subsidiaries conduct the functions of a front-line regulator of the markets which they operate. Bursa Malaysia is vested with regulatory powers under the law and has a statutory responsibility to ensure a fair and orderly market and prudent risk management. These responsibilities relate to the regulation and surveillance of securities markets. Bursa Malaysia has provisions for the expulsion, suspension and discipline of its participating organisations and any persons acting on behalf of the participating organisations.</p> <p>The Federation of Malaysian Unit Trust Managers (FMUTM) is the industry body for unit trust managers in Malaysia, responsible for the conduct of the following functions:</p> <ul style="list-style-type: none">▪ The registration of Institutional Unit Trust Agents (IUTAs) through the Guidelines for Registration of Institutional Unit Trust Agents for the Marketing and Distribution of Units);▪ The registration of Persons Dealing in Unit Trusts (PDUTs) and the conduct of the examinations for the registration of PDUTs;▪ Administering the Code of Conduct, including the Code of Ethics and Standards of Professional Conduct for any organisation registered as an IUTA under the Guidelines for IUTA; and▪ Administering the Code of Conduct, including the Code of Ethics and Standards of Professional Conduct for any PDUT.
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Principle 7

SROs should be subject to the oversight of the regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.

(Key Issues)

Description	<p>The SIA provides that in approving a stock exchange, the Minister of Finance upon the recommendation of the SC, shall be satisfied that the exchange shall have sufficient financial, human and other resources to ensure its functions can be conducted satisfactorily, including ensuring that the exchange has proper premises, personnel and systems and other security arrangements.</p> <p>Bursa Malaysia has all the requirements necessary for it to carry out its functions, such as enforcing compliance by its members to its rules, to operate an orderly and fair market in relation to securities that are traded through its facilities, for the exclusion of persons who are not of good character and high business integrity from being recognised as participants and for the carrying on of the business with due regard to the need for investor protection and public interest.</p> <p>Bursa Malaysia is empowered to make its own Rules, subject to approval by the SC. These rules are publicly available. Amendments to the rules of the exchange also require the SC's approval. The Rules set standards of behaviour for all Bursa's participants. Bursa Malaysia's governance arrangements at the Board level are determined by statute and include independent/public interest directors. Governance arrangements are in place to ensure that fairness and consistency is practiced in enforcing compliance with these Rules.</p> <p>Bursa Malaysia is a demutualised and listed exchange, thus issues of conflicts are taken very seriously. Should the exchange be unable to discharge its functions properly due to conflicts between its commercial interests and public duty, the SIA provides for the SC to issue directions to the exchange or its subsidiaries to take appropriate remedial actions.</p> <p>In respect of oversight of the exchange, the SC conducts ongoing monitoring of the activities of Bursa Malaysia, through discussions, reports and areas in which work is conducted collaboratively. Over and above this, the exchange is required to prepare an annual regulatory report within 3 months after the end of each financial year. The SC may also conduct a regulatory audit on the exchange based on the annual regulatory report. The Minister of Finance may also require a special report from the exchange on its compliance with securities laws at any time. The exchange is also obliged to notify the SC if it becomes aware of any matter which adversely affects the ability of a participant to meet its obligations.</p> <p>The Minister of Finance may amend, revoke or impose new terms and conditions on the exchange if the Minister is satisfied that it is appropriate to do so for investor protection or in the public interest or for the proper regulation of the stock market.</p>
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<p>The SC has recognised the Federation of Malaysian Unit Trust Managers (FMUTM) as an approved body under the relevant provisions in the SIA. Therefore, as an approved body, the FMUTM falls under SC's supervision in that it requires SC's approval for any changes or amendments to its Memorandum and Articles of Association, its functions and responsibilities.</p>
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Principles for the Enforcement of Securities Regulation (8-10)

Principle 8

The regulator should have comprehensive inspection, investigation and surveillance powers.

(Key Issues)

Description	<p>The SC has powers under the securities laws to inspect a regulated entity's operations, including its books and records. The law provides that the SC may from time to time examine without any prior notice the books or documents of a licensed person, including the stock, exchange, central depository and clearing house. SC's Investigating Officers are also empowered to carry out investigations and enter any place to inspect or make copies of any books or documents.</p> <p>The SC has the power to supervise, surveil and monitor the activities of the exchange as to the performance of its functions (as to integrity of market).</p> <p>The law prescribes record keeping requirements on entities regulated by the SC. Additionally the law requires all customers of the regulated entities who wish to trade in securities to open an account with the Central Depository, which must be in the name of the beneficial owner.</p> <p>Dealers, fund managers, futures brokers and futures fund managers are required to comply with the Anti-Money Laundering Act 2001. The SC has also issued Guidelines on Prevention of Money Laundering and Terrorism Financing For Capital Market Intermediaries.</p>
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Principle 9**The regulator should have comprehensive enforcement powers****(Key Issues)**

Description	<p>The SC has the power to initiate criminal prosecution with the written consent of the Public Prosecutor. SC's officers who are authorised in writing by the Public Prosecutor may prosecute securities law offences.</p> <p>The SC has the power to seek orders from the High Court to ensure compliance with regulatory requirements. These include an order to restrain the contravention; to restrain the acquisition, disposal or dealing of assets; to restrain a person's voting rights; appointment of receiver etc.</p> <p>The SC has the power to institute civil actions for breaches of securities laws. The range of civil remedies has also been enhanced to cover a wide range of orders, including orders to restrain the person from acquiring, disposing of or otherwise dealing with assets. In addition to common law rights, securities law provides a statutory avenue for aggrieved investors to recover loss or damages arising out of offences such as insider trading and market manipulation. These civil powers do not preclude private persons from seeking their own remedies for misconduct.</p> <p>The SC has the power to take administrative actions against the exchange, central depository, licensed persons, directors and officers of licensed persons for a breach of law, regulations and rules of the exchanges and central depository. The SC may direct the person in breach to comply with, observe, enforce or give effect to such rules or provisions, impose a penalty not exceeding RM1 million depending on the severity of the breach; reprimand the person in breach and require the person to take such steps the SC may direct to remedy or mitigate the effect of the breach including making a restitution to an aggrieved party.</p> <p>The SC may, with the consent of the Public Prosecutor, compound an offence by accepting a sum of money from the person reasonably suspected of having committed the offence. The SC may impose conditions on the compounds imposed.</p> <p>The SC also has wide investigative powers to require documents, records and to compel any person involved in alleged breach of securities laws or who may have information relevant to an investigation to give a statement to SC's Investigating Officer.</p> <p>The SC is the main enforcement agency to ensure compliance with the laws and regulations relating to securities activities. Other relevant enforcement agencies include the Companies Commission of Malaysia and the Royal Malaysia Police.</p>
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Principle 10

The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance programme.

(Key Issues)

Description	<p>Both the SC and Bursa Malaysia carry out inspection and surveillance functions.</p> <p>Inspections on a routine periodic basis are carried out by Bursa Malaysia Bhd on stockbroking companies and futures broking companies, and a copy of the audit report is submitted to the SC for review. Inspection on a routine periodic basis on asset management companies, unit trust management companies and investment advisory companies are also carried out by the SC.</p> <p>Bursa Malaysia conducts frontline surveillance (daily real time surveillance) of securities and futures markets operated by its subsidiary exchanges and inter-market activities. The SC conducts parallel surveillance in tandem with Bursa Malaysia.</p> <p>The Rules of the exchange provide for each Participating Organisation to conduct regular and periodic reviews over its supervisory, compliance and internal control systems and for the maintenance of a written record of such reviews. The compliance officer of the regulated entity is required to submit a compliance report on a monthly basis to the exchange.</p> <p>The SC has a dedicated Complaints Department to receive and respond to investor complaints. The Complaints Department enquires into public complaints on improper conduct and other irregularities in the securities and futures markets to assess whether they disclose offences under securities laws.</p>
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Principles for Cooperation in Regulation (11-13)

Principle 11

The regulator should have the authority to share both public and non-public information with domestic and foreign counterparts.

(Key Issues)

Description	<p>The SC generally has the authority to share information with other domestic regulators and authorities. Notwithstanding the secrecy provisions in the SCA, the law permits the provision of information for the purposes of civil or criminal proceedings or where it has been authorised by the SC, or to assist a police or other public officer in the discharge of his duties.</p> <p>The SC can share information with foreign counterparts even if the alleged conduct under investigation by the foreign authority is not such that would constitute a breach of law in Malaysia. The SCA provides that the SC may, upon receiving a written request from a foreign supervisory authority for assistance to investigate into an alleged breach of a legal or regulatory requirement which the foreign supervisory authority enforces or administers, provide assistance as the SC thinks fit. The SC is empowered to provide such assistance as if the breach were an offence under Malaysian securities law, and is therefore able to exercise its wide range of investigation powers under the SCA in offering its assistance.</p>
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Principle 12**Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts****(Key Issues)**

Description	<p>The SC has entered into information-sharing arrangements with other domestic as well as foreign authorities.</p> <p>On the domestic front for example, the SC has signed MOUs with the Companies Commission and the Royal Malaysian Police, and has formed a High Level Committee whose main objective is to foster closer cooperation between the 3 authorities in taking enforcement action against capital market offences. The SC has also signed MOUs with Bank Negara Malaysia and holds regular bilateral meetings to discuss issues of common concern, including the sharing of information for investigation purposes.</p> <p>The SC is committed to international regulatory cooperation and has actively pursued assistance and information sharing arrangements with its foreign regulatory counterparts. The SC has to date (Nov. 2006) entered into 24 Memoranda of Understanding. The MOUs signed by the SC contain clauses which govern the permissible uses of information obtained through the MOU and confidentiality requirements.</p> <p>The MOUs entered into by the SC are in relation to all areas of regulation, supervision, enforcement and capital market development. The MOUs have been used extensively for enforcement purposes, to enforce cross-border misconduct and to discharge licensing, surveillance and investigation responsibilities.</p> <p>Aside from the MOU's entered into, the SC has a close and cooperative arrangement with a substantial number of regulators. It can and does share information when requested to do so by another authority (non-MOU counterpart).</p>
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Principle 13

The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers

(Key Issues)

Description	<p>The SC's powers to provide assistance to foreign regulators are broad and are found in section 150 of the SCA. The legislation enables the SC to provide assistance to a foreign regulator by carrying out investigation of the alleged breach of the legal or regulatory requirement, or to provide such other assistance to the foreign regulator as the SC thinks fit.</p> <p>In carrying out investigations to assist the requesting foreign regulator, the SC may use its full range of enforcement powers as if the breach of the legal or regulatory requirement which the foreign regulator enforces or administers were an offence under Malaysian securities law. As such, the SC is in a position to obtain records, whether through compulsion or otherwise, to reconstruct securities and derivatives transactions, identify details on the transaction such as the client or beneficial owner, the amount, time and price of the transaction.</p>
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Principles for Issuers (14-16)

Principle 14

There should be full, timely and accurate disclosure of financial results and other information that is material to investors' decisions.

(Key Issues)

Description	<p>Issuers are required to make full, timely and accurate disclosure of information to the public under the securities laws, and guidelines issued by the SC. Under these laws, the SC also issued several fund-raising guidelines, setting out in detail the kind of information that the SC requires or that is required to be disclosed to the general public. These apply to conditions for the offer for sale of securities to the public, prospectuses and other offer documents and supplementary documents, advertising, significant shareholdings or interests, shareholding giving rise to control of a company and other information material to the investor. Pursuant to the SCA, most of these documents are pre-vetted and approved by the SC prior to public distribution. Failure to comply with these statutory provisions is a serious offence.</p> <p>In addition, the Listing Requirements of Bursa Malaysia Securities Berhad (including the Listing Requirements of the MESDAQ Market) impose continuous disclosure obligations on listed issuers, which covers annual report, quarterly reports and all other form of material/relevant information. The Listing Requirements requires disclosure of all material information necessary to make an informed investing decision and that could affect the price or value of the securities. The issuer must ensure equal access to such information. In addition, the Listing Requirements also provides examples of events where immediate disclosure is required.</p> <p>The regulatory framework requires financial information and other required disclosures in prospectuses, listing documents, annual and other periodic reports to be of sufficient timeliness to be useful to investors. According to the SC's Prospectus Guidelines on Public Offering, the information disclosed must remain relevant and current as at the date of issue of a prospectus. If there are significant changes or new matters arising that would affect the content of the prospectus after the issuance of the prospectus, a supplementary prospectus incorporating the changes would need to be issued. When the audited financial statements in the prospectus for public offerings are stale, the most recent unaudited quarterly financial statements are to be provided. For continuous disclosures, there is a general obligation to immediately disclose material information.</p> <p>Measures are available to the regulator to help assure the sufficiency, accuracy and timeliness of the required disclosures. Issuers must submit its proposal for the approval of SC prior to applying for listing on the Exchange. The SC undertakes due diligence in ensuring that all necessary information required is provided for in the proposal. As of</p>
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October 2005, the SC has begun post-vetting prospectuses.

The SCA and the Listing Requirements ensures that proper responsibility is taken for the content of information in disclosure documents (including prospectuses) and the timeliness of disclosure by providing for sanctions or liability of the issuer and those responsible persons who fail to exercise due diligence in the gathering and provision of information such as advisors and experts, or for those who delay release of periodic or other material information. The SCA imposes criminal liability on persons who authorise or cause to issue a prospectus that contains false or misleading information. Bursa Malaysia can issue public reprimands for delays in releasing quarterly reports.

Principle 15**Holders of securities in a company should be treated in a fair and equitable manner.**

(Key Issues)

Description	<p>In Malaysia, the rights and treatment of shareholders are found in the Companies Act. This provides for rules and procedures in respect of voting, notice of shareholder meetings, proxy voting, ownership registration and receipt of dividends and other distributions. Moreover, the Corporate Governance Code requires the Board to act in the interest of shareholders and protect minority shareholder rights. As such, minority shareholders may take majority shareholders to task for their actions. While the Code of Corporate Governance is voluntary, a company is required to disclose the extent to which it adopts or derogates from the Code. Institutions such as the Minority Shareholder Watchdog Group have been established to further protect interests of minority shareholders.</p> <p>With respect to takeover and change of control, the Malaysian Code on Take-overs and Mergers 1998 (Take-Over Code) provides shareholders with reasonable time and adequate information in which to consider a take-over proposal. The information required to be disclosed in the offer document and the independent advice circular serves to provide the shareholders with information on the identity of the parties involved, background of the transactions, pricing, basis of valuing the pricing involved etc.</p> <p>Provisions in the SCA address the rights and equitable treatment of shareholders to ensure that the shareholders and directors of an offeree are aware of the identity of the acquirer and offeror, have reasonable time in which to consider a take-over offer and are supplied with sufficient information necessary to enable them to assess the merits of any take-over offer. The SCA requires, so far as practicable, that all shareholders of an offeree have equal opportunities to participate in benefits accruing from the take-over offer, including in the premium payable for control and that fair and equal treatment of all shareholders, in particular, minority shareholder, in relation to the take-over offer, merger or compulsory acquisition be achieved. The Take-Over Code has legal backing, thus attracting legal sanctions.</p> <p>The Companies Act and the SIA Regulations requires that substantial shareholders having shareholdings of 5% and above must inform the company of the shareholding within 14 days of becoming a substantial shareholder. Non-compliance of this requirement is an offence under the law.</p> <p>Information regarding substantial owners is disclosed by the issuer in offering documents and annual reports. Shareholders, individually as well as when acting in concert, must disclose to the public promptly every time their holdings reach a threshold level or change materially. Ownership by directors and senior management is reported in offering documents and annual reports, and all changes in their ownership are required to be reported promptly, are posted on Bursa Malaysia's website, and summarised in the annual reports. Non-compliance of the</p>
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	above ownership disclosure requirements results in penalty of a fine.
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Principle 16**Accounting and auditing standards should be of a high and internationally acceptable quality.****(Key Issues)**

Description	<p>The financial reporting framework in Malaysia is internationally benchmarked. The audited financial statements included in public offering documents and listing particular documents, and annual reports are prepared based on standards issued by the Malaysian Accounting Standards Board (MASB) and audited based on standards issued by the Malaysian Institute of Accountants (MIA). Both the MASB and MIA have policies that aim to ensure that standards issued by the respective bodies are consistent with international standards. Given global developments to achieve convergence with international standards, both the MASB and MIA are working towards aligning their standards with international standards issued by the International Accounting Standards Board (IASB) and the International Federation of Accountants (IFAC).</p> <p>With respect to accounting standards, the Financial Reporting Act 1997 established the MASB as an independent standard setter and the Financial Reporting Foundation (FRF) to have an oversight role over MASB's activities. The MASB is widely represented by members from the profession, preparers, users, government, regulators and academicians. In addition, MASB standards are accorded the force of law. Companies, including foreign companies seeking listing on Bursa Malaysia, are required to comply with approved standards as prescribed by the Financial Reporting Act 1997, in preparing their financial statements.</p> <p>Under the financial reporting framework, the regulators, namely, the Securities Commission, the Companies Commission of Malaysia and the Central Bank are responsible for the enforcement of accounting standards. For instance, the SC may direct a public listed company (PLC) to rectify its financial statements, provide relevant undertakings to the SC with regard to compliance with approved accounting standards and make such announcements as the SC deems fit in relation to any non-compliance with accounting standards. Consistent with the Financial Reporting Act, the SC has a dedicated department, the Financial and Corporate Surveillance Department, to ensure compliance of PLCs with accounting standards and other financial reporting requirements in the preparation and presentation of their financial statements.</p> <p>With respect to audited financial statements included in public offering and listing documents and publicly available annual reports, these are required to be audited in accordance with a comprehensive body of auditing standards. These auditing standards are issued by the MIA and are based on International Auditing Standards issued by the IFAC. Standards or requirements to ensure that the external auditor independence are sufficient are stipulated in the MIA By-Laws, as well as in other pronouncements which address auditor independence requirements.</p>
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Principles for Collective Investment Schemes (17-20)

Principle 17

The regulatory system should set standards for the eligibility and the regulation of those who wish to market or operate a collective investment scheme.

(Key Issues)

Description	<p>The SCA provides that no person except a unit trust management company (UTMC) approved by the SC or a person authorised to act on its behalf can market a scheme which is to issue, offer for subscription or purchase or invite any person to subscribe for or purchase any unit. The approved management company should comply with the SC's Guidelines on Marketing & Distribution of Unit Trust Funds.</p> <p>The approved UTMC must ensure that all persons involved in the marketing and distribution of unit trusts are authorised by and registered by the Federation of Malaysian Unit Trust Managers (FMUTM). Registration requires compliance with set minimum standards including the requirement to pass an examination. A code of ethics and professional conduct is also required to be adhered to. FMUTM oversees the conduct of these named parties, complaints handling and disciplinary proceedings both for individual registered agents and institutional unit trust agents registered to market unit trusts.</p> <p>In order to operate a unit trust, the UTMC must fulfill the eligibility criteria set out in the Guidelines for Unit Trust Funds (GUTF), including honesty and integrity of the operator; competence, in the form of adequate human and technical resources, to carry out the functions and duties of the operator; sufficient financial capacity including minimum shareholders' funds; clear and sufficient operator specific powers and duties; and adequate internal management procedures (including an internal compliance and audit unit).</p> <p>The eligibility criteria must be complied with at all times.</p> <p>The SC conducts on-site inspection on UTMCs. The SC has clear powers with respect to remedial action, and provides for a set of internal criteria before imposing sanctions. The SC may impose penalties for any non-compliance with the regulatory requirements. The sanctions imposed by the SC for contravention of the provisions of the SCA or other securities laws may include the imposition of other terms and conditions for approval of the UTMC or trustee, the revocation of the approval, an order to stop the issue of units, criminal liability for false or misleading statement or material omission in the prospectus, etc. In addition, remedial action must be taken by the Fund's operator in the event of a breach or default. This can occur for various reasons e.g. UTMC's failure to exercise the degree of care and diligence or incorrect valuation and pricing, and rectification may extend to reimbursement of money.</p>
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Regulatory provisions ensure that conflicts of interest are minimised through provisions that prohibit, restrict or disclose certain conduct likely to give rise to conflicts of interest such as the requirement for independent directors, and independence of the investment committee. Other provisions include rules on best execution, appropriate trading and timely allocation of transactions, churning, related party transactions including a prohibition against principal transactions between the UTMC and the fund, and a prohibition against underwriting. UTMCs are also prohibited from holding units in the fund, exercising voting rights, and have limitation in their use of brokers. UTMCs are required to act in the best interest of the unit holder.

Delegation of functions are permitted provided that the delegator assumes responsibility for the actions of the delegate, as though it were the delegator's own action. Delegation requires approval by the SC, except delegation to a licensed fund manager. The SC requires that the delegator ensure that adequate procedures are in place to monitor the conduct of the delegate and that the delegated function is conducted in a proper and efficient manner. The delegate is accountable and legally responsible for the actions of the delegate.

Principle 18

The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets.

(Key Issues)

Description	<p>In accordance with the Guidelines for Unit Trust Funds (GUTF), the regulatory framework on the legal form and structure of a unit trust is based on a trust mechanism, which delineates the interest of participants and their related rights. The trust mechanism ensures that the assets are segregated and kept in the custody of the trustee, who is the registered owner of the Trust. The UTMC administers and manages the unit trust fund and the Trustee monitors the conduct of the management company and has a fiduciary duty to ensure that the interests of the investors are protected and safeguarded.</p> <p>The interest of the participants whether it be the UTMC, Trustee or the investors are stipulated in the minimum mandatory covenants inserted in the trust deeds and disclosed to investors. The nature of the unit trust fund, and the nature of the unit are similarly disclosed to investors, while risks related to the product and investment objectives are included in the prospectus.</p> <p>The assets of the CIS are required to be separated and segregated from the assets of the CIS operator and its management. The Trustee holds the CIS assets in trust for unit holders in accordance with the provisions of the deed, the SCA and other securities laws and regulations. A unit trust fund is audited annually.</p> <p>The GUTF stipulates the obligation for assets to be entrusted to the Trustee, the Trustee must be independent of the CIS in that the Trustee must not hold units or other interests in the CIS on its own behalf, and custodial functions of the CIS can never be performed by the same legal entity responsible for investment functions of the CIS. The GUTF provides for the keeping of books and records in relation to transactions involving the CIS units, in accordance with the minimum contents requirement for deeds of the GUTF. Audit requirements in relation to the assets of a CIS, as well as provisions for orderly winding up of CIS business are also provided in the GUTF. The trust deed also provides for the orderly winding up of a fund.</p>
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Principle 19

Regulation should require disclosure, as set forth under the principles for issuers, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor's interest in the scheme.

(Key Issues)

Description	<p>The SC requires that all matters material to the evaluation of a CIS and the value of an investor's interest be disclosed to investors and potential investors, in an easy to understand format i.e. the interim and annual report which is sent to the unitholder without charge. Furthermore, under the SCA, issuers are subject to a general duty to disclose in the prospectus all such information that investors and potential investors would reasonably require and expect to find in the prospectus for the purpose of evaluating the suitability of the CIS. Prospectuses are vetted by the SC. The prospectus' contents are detailed under the Prospectus Guidelines for Unit Trust Funds.</p> <p>The GUTF requires that offering documents, or other publicly available information include information such as the rights of investors, information on the operator, the methodology for asset valuation, procedures for purchase, redemption and pricing of units, relevant audited financial information, information on the custodian, investment policies and the risks involved in achieving the investment objectives, the appointment of any external administrator or investment managers or advisors who have a significant and independent role in relation to the CIS, and fees and charges in relation to the CIS.</p> <p>The SC is empowered to hold back or intervene in an offering in the event that the prospectus or issuance does not comply with any provisions of the SCA, the prospectus contains false or misleading information, failure to comply with any condition in relation to approval of the management company or Trustee and the issuer has contravened any provision of the securities law or Companies Act. The SC may initiate criminal prosecutions in cases of contravention of the law which the SC administers.</p> <p>The GUTF requires that offering documents be kept up to date to take account of any material changes affecting the CIS, as well as for the periodic preparation of reports on the CIS's activities and for such reports to be distributed on a timely basis. Under the SCA and the GUTF, material changes affecting the CIS are required to be updated through the issuance of a supplementary prospectus. In addition, the GUTF requires that reports, such as annual reports, biannual reports (i.e. interim reports), and yearly prospectus, on the activities of the CIS be prepared and distributed in a timely manner. Also, the GUTF requires accounts of a CIS to be prepared in accordance with the approved accounting standards issued by the Malaysian Accounting Standards Board.</p>
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Principle 20**Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a collective investment scheme****(Key Issues)**

Description	<p>The regulatory framework requires that the property of a CIS be fairly and accurately valued and the NAV be correctly calculated on a daily basis at least once every business day at the end of the close of business. Calculation of the NAV must be calculated based on approved accounting standards issued by the MASB and the valuation basis provided in the GUTF. The valuation methodology as required under the law must be strictly adhered to by the CIS operators to ensure there is fair pricing across all investments and unit holders' interests are protected.</p> <p>The GUTF requires that the fair value in the absence of market prices be based on methods or bases which have been verified by the auditor of the fund and approved by the Trustee and adequately disclosed in the offer documents or prospectus. The GUTF requires debt securities to be marked to market wherever possible. Independent auditors are required to check the valuations of CIS assets and it is a requirement that the last audited statements be provided in the prospectus.</p> <p>It is a requirement that a mandatory covenant be stipulated in the deed which states that the UTMC must not sell or purchase any unit of the Fund other than at a price calculated according to the deed. And the UTMC shall at the request of the unit holder purchase from the unit holder the unit held at a price calculated according to the deed. It is also a requirement that the UTMC must publish the price in at least one national language and one English newspaper.</p> <p>The Trustee may suspend sale and repurchase of units in cases where the Trustee considers it not in the interests of the unit holders to permit the assets of the fund to be sold or that the assets cannot be liquidated at an appropriate price or adequate terms. The GUTF requires that the SC be notified by the Trustee of any suspension or deferral of redemption rights. Furthermore, the SC has powers under the SCA to issue a written notice, circulars or guidelines, as the SC considers desirable. Failure of a person to give effect to any notice, circular, guideline, after having an opportunity to be heard, allows the SC to take action as deemed fit.</p>
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Principles for Market Intermediaries (21-24)

Principle 21

Regulation should provide for minimum entry standards for market intermediaries.

(Key Issues)

Description	<p>All market intermediaries must be licensed by the SC in order to carry out the permitted activities under the SIA and FIA. Minimum entry standards, which include initial capital requirements, are applied equally and consistently to applicants applying for the same category of licences.</p> <p>All licence applicants must meet 'fit and proper' criteria. Ethical, educational, industry knowledge, skills and experience are assessed in approving principal officers which include directors, company secretary and key management personnel such as the compliance officer.</p> <p>Prior to the approval of a licence, an assessment on internal controls, risk management and supervisory systems is conducted and subsequently upon being licensed, on site/off site audits would be conducted either by the Exchange on its Participating Organisations or by the SC for those under its direct supervision. i.e. fund management companies, futures fund management companies, investment advisors, futures trading adviser companies.</p> <p>The SC is empowered by law to refuse an application for a licence, subject to administrative and judicial review. Prior to refusing a licence, the SC must allow the applicant a right to be heard. The SC is also empowered to revoke, suspend or impose conditions on a licence while it is in force.</p> <p>Direct supervision of stockbroking companies and futures broking companies is conducted by Bursa Malaysia. The SC supervises asset management companies and unit trust management companies, and conducts oversight regulation on Bursa Malaysia.</p> <p>Licensing requirements must be met on an ongoing basis. Licencees are required to update periodically information such as the auditor's report as well as the prescribed financial/compliance report requirements. They are also required to report to the SC any material changes within the stipulated time frame. In addition, the law requires licencees to lodge with the SC the auditor's report within three months of the close of its financial year.</p> <p>All the information on licences and licensed persons are publicly available in Bursa Malaysia's Rules or on the SC website. Information on the status and category of licences is available to the public from the register of licence holders or on the SC's website. The details are updated on a monthly basis. Information of the principal directors, company secretary and compliance officers are available to the public</p>
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<p>through the SC's website. Permissible activities allowed by category of licence is available to the public through the licensing application kit at the SC's website, licensing guidelines or provisions under the SIA or FIA.</p>

<p>Investment advisors in Malaysia are not permitted to have custody of client assets or to deal on behalf of their clients. The licence is limited to providing advice and research. IOSCO recognises the difference in Malaysia's definition and permitted scope of activities for our investment advisors.</p>

Principle 22

There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.

(Key Issues)

Description	<p>All licensed intermediaries are required to have initial capital requirements (these requirements are found in the relevant SC Guidelines and Rules of the Exchange).</p> <p>In addition, all stockbroking companies are required to maintain a determined Capital Adequacy Ratio at all times. The capital adequacy requirements are sensitive to the quantum of risks undertaken by an intermediary – whose computation takes into account a host of risks such as operational risk, counterparty risk, position risk, large exposure risk and underwriting risk. The capital adequacy requirement also captures the risks arising from off-balance sheet transactions. Stockbroking companies are required to obtain the approval of the Exchange before entering into off-balance sheet transactions.</p> <p>In addition, liquid capital requirements also ensure that the financial resources of a stockbroker is in a readily realisable form, to meet its total risk requirement. Liquid capital refers to securities or other current assets which have a ready market, or which are capable of realisation within 30 days. This requirement would allow for an orderly winding down of business over a short period of time.</p> <p>Under the Rules of Bursa Malaysia, stockbroking companies must maintain records such that capital levels can be determined at the end of each day. The capital requirement is reported via an automated system to the Exchange.</p> <p>Under the Rules of the Exchange, stockbroking companies are required to have its accounts audited by a company auditor for each financial year. The audit report is to be furnished to the Exchange and SC within 3 months of the close of its financial year.</p> <p>Futures brokers are required by the Rules of Bursa Derivatives to maintain a determined Adjusted Net Capital (ANC). A trading suspension will be imposed whenever a futures broker fails to pay the margin calls regardless of their capital requirement. Also, if they fail to meet the capital requirement, they will be suspended from trading. Futures brokers are required to submit audited accounts annually upon renewal of their licence.</p> <p>Where the CAR or ANC of an intermediary indicate material deficiencies, Bursa and the SC can take a series of steps ranging from asking the intermediary to submit its plan of action to suspending business and ordering the transfer of client assets to other intermediaries. Other measures available to the SC include imposing conditions on or revoking the licence of an intermediary.</p>
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Principle 23

Market intermediaries should be required to comply with standards for internal organisation and operational conduct that aim to protect the interests of clients, ensure proper management of risk, and under which management of the intermediary accepts primary responsibility for these matters.

(Key Issues)

Description	<p>Intermediaries are required to have appropriate management and organisational structure which includes a clear line of responsibility, proper check and balance and segregation of functions, as stipulated under the relevant Rules. Furthermore, appropriate supervisory and compliance functions to ensure compliance with the relevant rules and laws are required. Written policies and procedures on internal controls are required to be maintained (and regularly updated as necessary). The Rules also require proper and effective dissemination of such written policies and procedures.</p> <p>The final responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures lies with senior management and the Board of Directors, as stipulated by the relevant Bursa Rules and SC Guidelines.</p> <p>Asset management companies are similarly guided by the SC's Guidelines on Compliance Function for Fund Managers (Fund Managers Compliance Guidelines). The Guidelines require fund managers to adhere to best practices for trading and portfolio management, reporting to clients, safeguarding of clients assets and specifying best practices for complying with "know your client" obligations, as well as the roles and responsibilities of the Board of Directors and Compliance Officers.</p> <p>For stockbroking companies, the Rules of Bursa Malaysia Securities require written procedures for handling complaints received. This includes the performance of reviews on clients' complaint files to ensure that all complaints have been duly investigated and dealt with. The register of complaints shall be made available to the Exchange upon a request made by the Exchange. Similar provisions are set out in the Business Rules of Bursa Malaysia Derivatives where intermediaries are required to lodge the complaint register to the Exchange if more than 10 complaints are received in a particular month. Asset management companies are also required to establish, maintain and implement written policies and procedures to ensure that complaints from clients are handled in a timely and appropriate manner. Over and above this, complainants have access to the SC's Complaints Department.</p> <p>The law provides for the segregation of clients' assets through the establishment of trust accounts . These requirements are also found in the Rules of Bursa Malaysia Securities and Derivatives, respectively. In addition, the Bursa Malaysia Rules facilitate the transfer of client money or securities and the transfer of open positions to other intermediaries in circumstances where Bursa deems it in the interest of investor protection.</p>
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Equity and derivatives brokers are also expected to know their customers and to retain basic information from a customer. Any information given to customers must also be accurate and recommendations made to clients should be based on the customer's investment objectives, knowledge and experience in dealing in securities and financial background, and the intermediary must also disclose to the client the potential risk involved in such recommended transactions and satisfy itself that the client has the financial capability to bear any risk attached to such recommended transactions. Investment advisors are also obliged to have a reasonable basis when making recommendations to customers.

All intermediaries are required to have a written agreement with the client. The Rules of Bursa Malaysia Securities require that there shall be a written agreement between the SBCs and its clients for any margin account. For the opening of trading accounts, the Rules require the SBC to bring the terms and conditions of the account to the attention of the client. The terms and conditions are in written form and the clients are required to sign the form. The Rules of Bursa Malaysia Derivatives require the client to sign a standard trading agreement that has been approved by the Exchange.

Pursuant to the Fund Management Licensing Condition, a fund manager is to ensure that a written agreement is entered into with each client before any fund management services are provided, or transactions are carried out on behalf of a client. The investment management agreement (IMA) shall cover areas such as, the client's investment objectives, investment restrictions, risk profile and instructions and, notification of any significant change to the investment policy or investment recommendation.

Details of remuneration are also required to be provided to the client regularly. Statements of accounts containing details on commissions or other fees charged and transactions undertaken must be provided to clients on a regular basis. In the case of asset managers, this extends to soft commissions of the asset manager.

SBCs, derivatives brokers and asset managers are required to establish the position of a compliance officer to carry out an independent monitoring function, and are required to maintain records under statute. To further safeguard the interests of investors, the rules of the securities and derivatives exchange expressly deal with, among others, guidelines on Chinese walls, the segregation of functions, staff dealing rules, fair dealing rules, and standards of conduct in order to ensure the treatment of clients in a fair, honest and professional manner.

The Rules of Bursa Malaysia Securities prescribes that every SBC shall ensure there is a clear segregation of duties and reporting lines between those employees dealing in securities and those having duties administrative/ operational in nature and for every SBC which assumes more than one function, permitted by its dealer's licence or otherwise, it must maintain proper segregation of those functions within its

organisation to prevent the flow of "information" between the different parts of the organisation which performs each function and to prevent any conflict of interest that may arise. Similar requirements apply to intermediaries dealing in derivatives. For asset management companies, the provisions on firewalls of the Guidelines on Compliance Function for Fund Managers provide for segregation of duties and functional separation, and states that where the fund manager is part of a group of companies that undertake other financial activities, the fund manager shall ensure that there is an effective system of functional barriers (firewalls) in place to prevent the flow of information that may be price sensitive or material and non-public, between the different areas of operations.

Stockbroking companies are explicitly required to avoid conflicts of interest and to act honestly in the best interest of their clients. The Rules of Bursa Malaysia Securities prohibits the SBC and its representatives from knowingly entering into any transaction which may possibly conflict with the interest of the client or conflict with their duty to the client. Similar provisions are set out in the Rules of Bursa Malaysia Derivatives.

For all intermediaries, their interests shall not supersede the interests of their clients.

Principle 24

There should be a procedure for dealing with the failure of a market intermediary in order to minimise damage and loss to investors and to contain systemic risk.

(Key Issues)

Description	<p>The SC has in place a crisis management action plan which details the steps to be taken in a situation where there may be potential significant impact to the market, including in the situation of a failure of an intermediary. In addition, the provisions contained in the SIA empower the SC to take a series of regulatory actions where the intermediary's financial position shows a high risk of failure, including restricting and suspending operations. The SC may apply to the High Court for orders, inter alia, appointing a receiver of the property of the participant whether held on trust or otherwise; or vesting securities held by the participant in the SC or in a Trustee appointed by the Court.</p> <p>Similarly, the Rules of Bursa Malaysia Securities enable it to take a range of actions against a defaulting intermediary. In addition to trading restrictions, Bursa is able to suspend an intermediary from trading and strike off an intermediary from the Register of the Exchange. Bursa may in its discretion appoint a manager or receiver by application to the High Court for the purpose of enabling any defaulting participant to clear all outstanding contracts entered into with any member of the public or with another participant. Any default by a participant and any subsequent action taken by Bursa must be notified to the SC. Additional measures that Bursa Malaysia may take include assuming control (upon notification to the SC) of the property and business of the defaulting participant as well as requiring the participant to effect transfers of monies or securities of its clients to new accounts with other participants as determined by the Exchange. Provisions requiring all clients' monies to be kept in a dedicated clients' trust account also contain the potential loss of clients' monies in the event of a failure of a stockbroking company.</p> <p>The capital adequacy requirements (CAR) system has an early warning trigger built into the daily capital adequacy computation, and Bursa conducts financial monitoring on a daily basis.</p> <p>In the derivatives market, "Default Procedures" are stipulated in the Business Rules of Bursa Malaysia Derivatives Clearing. Segregation of clients' money and property are addressed by the FIA and the Rules of Bursa Malaysia Derivatives. The margining procedure provides an early warning system for the derivatives market. The earliest signal of a potential default is if a Clearing Participant fails to meet its margin call by T+2 or within a few hours if it is an intra-day margin call. The margin required usually provides 99% protection and it is set based on the volatility of the market. In terms of monitoring for potential defaults, the Clearing House also undertakes market surveillance in relation to, among others, the relationship between the futures and cash prices and concentration of positions.</p> <p>SC's processes and procedures for addressing financial disruption</p>
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	<p>includes communication and cooperation with other regulators, both domestic and foreign. The SC is a party to multi-agency committees such as the High Level Committee on Corporate Governance, which comprises the Malaysian Royal Police, Companies Commission and the SC. On the international front, communication with SC's foreign regulatory counterparts takes place on a regular basis.</p>
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Principles for the Secondary Market (25-29)

Principle 25

The establishment of trading systems including securities exchanges should be subject to regulatory authorisation and oversight.

(Key Issues)

Description	<p>The establishment of a stock exchange and futures market of an exchange company requires the Minister of Finance's approval, on the recommendation of the SC, as provided under the SIA and the FIA. The approval of an exchange requires the applicant entity to meet criteria set out in the SIA and the FIA, which will be assessed by the SC prior to making a recommendation to the Minister.</p> <p>For a stock exchange, the applicant must satisfy the SC and the Minister that, in terms of operational or other competence, it shall at all times manage any risks prudently, be able to take appropriate action against its participating organisations, and have sufficient resources to ensure the provision of adequate premises for the conduct of its business, competent personnel for the conduct of its business and automated systems with adequate capacity, security arrangements and facilities to meet emergencies. For a futures exchange, the applicant must, among others, be able to maintain an adequate and properly equipped place of business and facilities, and be able to establish, operate and maintain the futures market.</p> <p>The SC approves all rules and amendments to the rules of the Exchange. In addition, the SC may instruct the Exchange to amend its rules where it considers necessary, e.g. to ensure consistency in operations and policies across the capital market.</p> <p>The SIA requires the Exchange to make satisfactory provisions for an orderly and fair market in relation to the securities that are traded through its facilities, for the proper regulation of and supervision of its Participating Organisations (PO), for the exclusion of persons who are not of good character and high business integrity from being recognised as Participating Organisations and for the carrying on of the business of the proposed stock exchange with due regard to the need for the protection of investors and public interest. The Exchange has in place dispute resolution and appeals procedures, backup facilities to manage operational failures, a record keeping system, and adequate arrangements for the safety of client funds. The Exchange conducts front-line surveillance of the market and supervision of its participating organisations and clearing members. The Exchange also has in place mechanisms to manage disorderly or unusual market movements such as trading halts and other trading limitations. The Exchange is also entrusted with the enforcement of its Rules. The Exchange must report to the SC where it is unable to meet its obligations, or where it is in a position of conflict.</p> <p>All securities and derivatives products admitted to listing and trading are approved by the SC. In terms of access to the trading system,</p>
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	<p>there is no differentiation among approved participants. Order routing procedures and execution rules are contained in the relevant rules of the Exchange and are publicly available. With respect to trading information, the Exchange provides pre-trade and post-trade information via its MASA system, which is a subscription service. Alternatively, trading related information can also be obtained from Bursa's website and the media. Safeguards are in place where confidentiality is required.</p>
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Principle 26

There should be ongoing regulatory supervision of exchanges and trading systems, which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.

(Key Issues)

Description	<p>The day-to-day monitoring of daily and real-time surveillance of activities in the securities and futures markets, as well as the day-to-day monitoring of equity and derivatives brokers are entrusted to the Exchange. The Exchange is required to report to SC immediately on any irregular activities detected which may give rise to suspected violations of securities laws. The Exchange administers and takes necessary actions against market participants for breach of the Exchange rules.</p> <p>The SC's market surveillance function provides an oversight function over the exchange's surveillance function. Over and above this, SC monitors the market to detect activities which may give rise to breaches of securities laws.</p> <p>Rules and amendments to the rules of the stock exchange, the derivatives exchange, the clearing house and the central depository are approved by the SC.</p> <p>The SC verifies the exchange's compliance with its statutory or administrative responsibilities through the annual regulatory audit and quarterly review which the SC conducts on Bursa, as well as via the submission of Bursa's Annual Regulatory Report on compliance with ongoing requirements. Under the SIA, the stock exchange is required to prepare an annual regulatory report within three months after the end of each financial year. Upon receipt of the regulatory report, the SC may, if it deems it necessary, conduct a regulatory audit of the exchange. During such regulatory audits, the SC may assess, among others, Bursa's dispute resolution and appeal procedures, its technical systems standards and procedures related to operational failure and information on its record keeping system.</p> <p>The SIA empowers the SC to institute a variety of administrative sanctions against the exchange or exchange holding company for non-compliance with conditions of its approval or the provisions of the law. A suspension order relating to the exchange can also be made by the Minister on the recommendation of the SC. The FIA provides similar powers for the SC in relation to the derivatives market. In relation to the withdrawal of an exchange's authorisation, the SIA and the FIA provide the circumstances under which a withdrawal of approval of an exchange company may be instituted by the Minister on the recommendation of the SC.</p>
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Principle 27**Regulation should promote transparency of trading.****(Key Issues)**

Description

The Exchange provides pre-trade and post-trade information via its MASA system. For pre-trade information, three levels of best bids and offers comprising price and volume information are posted real-time through the MASA system. For post trade information, the last done price and volume are disseminated real-time through the MASA system. For the derivatives market, the pre and post trade information is disseminated via the WinKLOFFE system.

There is no derogation from real-time transparency – all transactions at Bursa Malaysia consist of real-time trades with the trade information disseminated on a real-time basis as discussed above.

For the bond market, the Bond Information and Dissemination System, (BIDS), is a computerised centralised database on Malaysian debt securities, providing information on the terms of issue, real-time prices, details of trades done and relevant news on the various debt securities issued by both the Government and the private sector. The objective of BIDS is to provide transparency with regards to information on bonds issued, thereby facilitating efficient trading in the secondary over-the-counter market and enhancing liquidity in the debt securities market.

Principle 28**Regulation should be designed to detect and deter manipulation and other unfair trading practices.****(Key Issues)**

Description	<p>The SIA and FIA prohibit market conduct such as price manipulation, insider trading, front running and other deceptive or misleading conduct. The SC enforces the law through administrative, civil and criminal actions.</p> <p>The Exchange performs day-to-day monitoring of trading activities. It has real time surveillance systems to monitor the equity and derivative markets, respectively. The Exchange is responsible for monitoring the conduct of its participating organisations, carrying out inspections and conducting primary investigation into suspicious transactions. Where in the course of investigating any breach of the rules, the Exchange detects any violation of securities laws or the Anti-Money Laundering Act, the Exchange is required to report the violation to the SC. The Exchange also has the power to halt or suspend trading, and to prescribe circuit breaker levels in connection with its duty to ensure a fair and orderly market. In checking unhealthy trading practices, apart from mechanisms such as designations and suspensions, which are prescribed under Bursa/Listing Requirements, the SIA enables the SC to prohibit trading in particular securities.</p> <p>The SC takes an oversight role in the supervision and inspection functions of Bursa Malaysia. The issue of international co-operation is important in light of the introduction of foreign linkages and the increase in foreign participation in the market. With respect to foreign regulatory cooperation, the SC has entered into 24 Memoranda of Understanding (MOUs) with its foreign regulatory counterparts, as of 2006. The MOUs are intended primarily to establish a framework for cooperation in relation to investigation and enforcement purposes. The Exchange has similarly entered into MOUs with its foreign exchange counterparts, which facilitate, among others, the sharing of market surveillance information.</p>
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Principle 29**Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.****(Key Issues)**

Description	<p>Provisions on Large Exposure Risk are prescribed under the Rules on Capital Adequacy Requirements (CAR) and Accounting Requirements of the Rules of Bursa Malaysia Securities. The CAR, which is a risk based capital charge, specifically addresses large position limits and intermediaries are required to report their large exposure positions to Bursa. In turn, Bursa reports to the SC. The prudential requirements of the Rules of Bursa Malaysia Securities Berhad also provide a limit in terms of maximum exposure of the stockbroking companies, and if minimum capital adequacy requirements are not complied with, participating organisations may be required to reduce their exposures.</p> <p>Trading Participants of Bursa Derivatives are prescribed a limit on their open positions depending on the contract type. Bursa Derivatives conducts daily monitoring of open positions of a contract held by a client alone or in concert with others and monitors concentration of open positions to ensure that large positions do not pose a threat to the integrity of the contract. SC performs an oversight function with access to data feed from Bursa Derivatives.</p> <p>The exchange has access to information on the size and beneficial ownership of positions held by customers via the Central Depository System account structure. The SC and Bursa may take a variety of actions against a market intermediary that does not provide relevant information needed to evaluate an exposure including requiring increased margins. In addition to margin, clearing fund and security deposit requirements, which are applicable to all Clearing Participants, the Clearing House is empowered under the Rules to call for payment of additional funds in the form of intraday margin requirement, Special Margin for long holiday periods and a Special Deposit.</p> <p>Default procedures are made available to market participants as they are prescribed in the Bursa Malaysia Derivatives Clearing ("BMDC") Business Rules and the Bursa Malaysia Securities Clearing ("BMSC") Rules. These provisions cover matters such as 'Grounds for default action', 'Default action', 'Novation or liquidation of Open Position'.</p> <p>There are laws and rules in place, which address the issue of proprietary positions, client positions and the protection of client assets when an intermediary defaults. Both the FIA and SIA prescribe the requirement to segregate clients' money and property into the appropriate trust accounts. For derivatives, this includes novating all open contracts of a defaulting participant to another clearing participant, where upon all monies and approved collateral held by the defaulting participant would also be transferred to the new clearing participant. For securities, the BMSC Rules provide that on the occurrence of any event of default under specified circumstances, the Clearing House may settle the defaulting Trading Clearing Participant's Market Contracts.</p>
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	<p>For further protection, insolvency laws were disapplied in January 2004 to protect the Clearing House in default actions whereby default proceedings taken by the Clearing House would take precedence over laws of insolvency.</p>
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Principle Relating to Clearing and Settlement¹ (30)

Principle 30

Systems for clearing and settlement of securities transactions should be subject to regulatory oversight, and designed to ensure that they are fair, effective and efficient and that they reduce systemic risk

(Key Issues)

Description	<p>The SC regulates the manner in which the clearing house is authorized. Any amendments to the business rules or by-laws of the authorized clearing house are subject to the approval of the SC. All the relevant laws governing clearing and settlement of trading in securities and exchange-traded derivatives in Malaysia are publicly available and are accessible on the SC website.</p> <p>The legal framework ensures the enforceability of contracts through the law as well as the relevant rules. In addition, the SIA provides for proceedings of the clearing house to take precedence over the law of insolvency, which provides protection for investors and market contracts. Also, segregation of accounts is required to be strictly practised by equity and derivatives intermediaries.</p> <p>All trades between direct market participants are confirmed on the trade date (T+0). Trades in the equity market are settled on a T+3 rolling settlement cycle. In the derivatives market, trades are settled on an immediate basis at T+0.</p> <p>An important prerequisite for financial stability is the safe operation of clearing and settlement facilities – systems that provide mechanisms for parties involved in financial transactions to meet their obligations to each other. To help achieve this, stringent financial and operational standards must be met by clearing participants. Credit risk is managed through capital adequacy rules monitored on a daily basis.</p> <p>There is full immobilisation of securities traded and the transfer of securities is carried out by way of book-entry. Similarly in the debt securities market, all bonds are scripless, and therefore, dematerialised. The transfer of bonds is done by book entry. The technical, legal and contractual framework ensures that securities transactions are settled on a DVP basis.</p> <p>Several clearing banks are used as settlement agents by the clearing house to diversify the concentration of risks. Payment flows are generally evenly distributed between the settlement banks. The concentration of exposures and financial condition of the settlement banks are monitored and evaluated continuously.</p> <p>The clearing house and depository have established processes to identify, monitor and manage risks, including a business continuity</p>
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¹ This Principle is further articulated in the *Recommendations for Securities Settlement Systems* issued by the IOSCO/CPSS Task Force in 2001.

plan and a disaster recovery centre. In addition, operational reliability is subjected to internal audits. External audits of the IT system are also conducted.

As all securities in Malaysia are scripless and required to be deposited into Bursa Malaysia Depository (BMD) for trading, a person holding securities in a securities account is accorded all rights to that security, with the central depository as a bare trustee. In addition to the segregation of accounts for each beneficial owner, BMD also maintains a Compensation Scheme, which shall cover loss or damage arising from specific circumstances, to further protect the interest of its depositors. System reconciliation on depositors' holdings in BMD is done on a daily basis.

Further, in the event any of the participants of the clearing house becomes insolvent, trades on the stock exchange continue to be enforceable. This is provided for under the SIA, to protect the integrity of the market in the event of insolvency of any of the participants of the clearing house.

Bursa Malaysia was demutualised into a company limited by shares in January 2004, and listed in January 2005. In conjunction with demutualisation, Bursa's corporate governance practices have been reviewed and enhanced. In undertaking the review, Bursa was guided by the Malaysian Code on Corporate Governance.

The governance model of Bursa Malaysia is based on the concept of an exchange holding company (EHC) where the overall administration and management of the operating subsidiaries of EHC such as exchanges, clearing houses and central securities depository are centralized at the EHC level including the discharge of the statutory/regulatory duties of these operating subsidiaries.

The composition of the Board is determined under statute and represents its shareholding structure, and includes public interest directors who are appointed by the Minister of Finance as well as non-executive independent directors. They represent a wide range of skills in the private and public sector. In undertaking their regulatory duties, Bursa Malaysia and its subsidiaries are obliged under the SIA to act, first and foremost, in the public interest, with particular regard to the need for investors' protection.

The ownership structure, composition of Board and management as well as a discussion of Bursa Malaysia's business operations are available in Bursa's Annual Reports which are publicly available. Major decisions are communicated through the press, circulars; etc.

The access rules/criteria are contained in the rules of the depository and clearing house, which are made available to all potential applicants. Arrangements to facilitate the exit of members who no longer meet the participation requirements are also spelt out in the relevant rules of the central depository and clearing house.

A review of pricing levels against costs of operation is conducted at least once a year as well as benchmarking the performance of the company against selected market system operators in terms of revenues and expenses. Service levels are reviewed through a customer satisfaction survey that is conducted approximately once a year. Daily systems monitoring is also carried out to ensure that the systems perform optimally.

The rights and obligations of clearing participants are provided in the relevant rules of the clearing house, while operational procedures and circulars are regularly issued to clearing participants. Similarly for the derivatives market, relevant documentation and information are disseminated to all clearing participants of the depository in the form of business rules, clearing participants' manuals and circulars.

System operators (the central depository, the derivatives clearing house and the securities clearing house) must be approved or recognized, at the recommendation of the SC, by the Minister under the relevant securities laws, and the rules of these system operators require the SC's approval. The SC's role with respect to regulation and oversight in relation to securities settlement systems is defined in the SCA. Major policies are disclosed publicly and made available on the SC website or the Bursa Malaysia website, where relevant. The SC and Bank Negara Malaysia (central bank) cooperate with one another and have in place an MOU.
