

FREQUENTLY ASKED QUESTIONS

I. FIC Guidelines on the Acquisition of Interests, Mergers and Take-overs by Local and Foreign Interests

1. Do we need to submit FIC applications¹ to both the SC and the FIC?

For FIC applications which require compliance with regulations falling under the purview of the SC, they are to be submitted ONLY to the SC.

For FIC applications which do NOT require compliance with any regulations under the purview of the SC, they are to be submitted ONLY to the FIC.

If the FIC applications comprise transactions which are inter-conditional upon each other, and require the consideration of both the SC and the FIC, they are to be submitted ONLY to the SC.

2. Does the acquisition of interest in manufacturing companies, licensed by the Ministry of International Trade and Industry (MITI), require approval from the SC?

Yes, **unless** the target company is a private limited company, **and** the transaction is to be satisfied by cash and does not fall under section 32, 33 or 34 of the *Securities Commission Act 1993* (SCA).

3. For a company that proposes to seek a waiver under section 33C of the SCA, must the proposal be submitted to the FIC or SC?

The SC.

4. If a public-listed company (PLC) seeks an extension of time or waiver to comply with an equity condition imposed earlier by the FIC, to whom should the application be made?

Such applications should be submitted to the FIC.

¹ FIC applications refer to applications that require approval under the FIC Guidelines

5. To whom should FIC applications require approval under section 32(g) of SCA be submitted?

Vendor	Purchaser	Approving Authority for Approval for FIC Applications
PLC	PLC	SC
PLC	Non-PLC	SC
Non-PLC	PLC	SC
Non-PLC	Non-PLC	FIC

Note: For the above transactions, FIC applications for the consideration of the SC are to be made by the purchaser (via the principal adviser).

6. **Is the National Development Policy (NDP) requirement for the 30% Bumiputera equity stated in the Listing Requirements of Bursa Malaysia Securities Berhad for the MESDAQ Market still applicable even after it has been superseded by the new Guidelines for Initial Public Offerings (IPO) and Listings on the MESDAQ Market issued by the SC?**

Yes, even though the NDP requirement for the 30% Bumiputera equity is silent in the IPO and listings guidelines on the MESDAQ Market issued by the SC, it remains applicable to companies seeking listing on the MESDAQ Market.

7. **Can a proposed listed vehicle, which is a Multimedia Super Corridor (MSC) status company, that intends to list on the Main or Second Board or the MESDAQ Market of Bursa Malaysia, be exempted from complying with the NDP requirement for the 30% Bumiputera equity?**

Yes, but only for the **purpose of listing**. However, the applicant (via a principal adviser) is required to **notify** the SC in writing of the proposed listing exercise, and submit together relevant documents showing that the proposed listed vehicle has been granted MSC status.

8. **Are PLCs (with MSC status) required to make a submission to the SC for subsequent corporate proposals that they intend to undertake?**

Yes.

9. Are PLCs required to make a submission to the SC for the acquisition of interest in MSC-status companies?

A **notification** of the proposal is required to be submitted to the SC. The relevant documents of the MSC status granted to the target company are required to be submitted when the notification is made.

10. Is a PLC deemed complied with the NDP requirement once it has complied with the 30% Bumiputera equity requirement upon listing of the company?

Yes, a PLC is deemed to have complied with the NDP requirement upon meeting the 30% Bumiputera equity requirement upon listing.

If the PLC undertakes a corporate exercise–

- (a) less than three years after listing, the company is still deemed complied with the NDP requirement and will not be imposed any equity condition (as long as the 30% Bumiputera equity requirement upon listing is met); or
- (b) three years after listing, equity condition may be imposed if there is a dilution in the Bumiputera equity percentage after the corporate proposal.

11. In the event the Bumiputera percentage drops below 30% after listing and the PLC undertakes a new corporate exercise, is it required to increase its Bumiputera equity back to 30%?

No, a company need not increase its Bumiputera equity back to 30% nor continuously maintain 30% Bumiputera equity in its shareholding, post listing.

If the PLC undertakes a corporate exercise three years after listing which results in a dilution of its Bumiputera equity percentage after the corporate proposal:

- (a) 30% of the new shares issued will be offered to Bumiputera investors; or
- (b) The company may be required to reinstate its Bumiputera equity percentage prior to the corporate proposal (i.e. which is normally less than 30% of the new shares issued).

- 12. Is a company in compliance with the NDP requirement upon completion of a special issue to Bumiputera investors?**

Yes, if the special issue is implemented to comply with an earlier condition imposed on the company. Further equity condition may be imposed on the company in the event it undertakes another corporate exercise.

- 13. How does the SC impose the number of shares to be issued and/or existing shares to be offered to Bumiputera investors as part of complying with the equity condition imposed?**

Please refer to [attached table \(Number of New Shares to Be Issued for Compliance with Equity Condition Imposed\)](#) for the computation.

- 14. Is the computation to meet the 30% Bumiputera equity requirement for MESDAQ companies based on the current issued and paid-up share capital or as at listing?**

The computation to meet the 30% Bumiputera equity requirement should be based on the current issued and paid-up share capital. In addition, if there are existing Bumiputera shareholders in the company, they may be considered as part of the 30% computation as long as they are recognised by MITI.

- 15. Is approval/recognition on Bumiputera investors required from MITI or the Ministry of Finance (MoF)?**

Approval/recognition from MITI (for sectors other than those under the purview of the MoF) or the MoF (for the financial sector) are required for the following:-

- (a) Any allocation/holding of existing (on offer shares) or new issuance of shares (on public shares) pursuant to listing exercises; and
- (b) New issuance of shares (via and implementation of special issue or private placement) and offer of existing shares to Bumiputera investors, for the purpose of compliance with the NDP requirement pursuant to the Bumiputera equity condition imposed earlier under the FIC Guidelines.

- 16. Are companies with foreign-based operations seeking for primary or secondary listing on Bursa Malaysia required to comply with the NDP requirement?**

No, they are not required as stated under clause 7.8.3 of the FIC Guidelines. Nevertheless, a submission to the SC is required for **all** corporate proposals (including the initial listing) to determine whether these companies can be

categorised as having major foreign-based operations. The major determination is based on the profit contribution from domestic and foreign operations of the group.

- 17. Is clause 7.8.3 of the FIC Guidelines applicable to companies with foreign-based operations to be listed under the domestic requirements as allowed under paragraph 5 of Guidance Note 7E of the Policies and Guidelines on Issue/Offer of Securities (Issues Guidelines)?**

Yes, as long as the profits derived from the foreign assets and/or operations are **higher** than the domestic assets and/or operations.

- 18. Are these companies subject to the NDP requirement for subsequent issues after listing?**

Yes, as long as the profits derived from the foreign assets and/or operations are **lower** than the domestic assets and/or operations, 30% of the new shares issued are to be placed out to Bumiputera investors.

- 19. Are Bursa Malaysia-listed companies that wish to obtain secondary listing on foreign exchanges as allowed under Guidance Note 7F of the Issues Guidelines required to comply with the NDP requirement?**

No. Nevertheless, a **notification** on the proposal must be submitted to the SC.

- 20. Are companies proposing to transfer its listing status required to make an application under the FIC Guidelines?**

Yes, an application is required for the proposed transfer of listing status. In addition, relevant documents (such as approvals from MITI/MoF for the recognition and allocation of shares to Bumiputera investors) showing compliance with the 30% Bumiputera equity requirement imposed pursuant to its listing exercise, must be attached to the said application.

- 21. Is the issuer required to allocate additional shares to Bumiputera investors in relation to the NDP requirement when it transfers its listing status?**

Yes, if the proposed transfer involves any issuance of new shares (other than through rights and bonus issue), 30% of these shares need to be allocated to Bumiputera investors.

22. Is the target company (i.e. a PLC) required to meet the 30% Bumiputera equity pursuant to a take-over offer?

No, unless the target company under its licence condition or any condition imposed by an approving authority is required to maintain 30% Bumiputera equity at all times.

23. Is there any equity condition imposed on the target company (i.e. a PLC) pursuant to a take-over offer?

Equity condition may be imposed after analysing the outcome of the acceptances of the offer submitted to the SC. The foreign shareholding (if any) that can be held in the target company should not be more than 70% of the voting shares or any other limit as imposed by other approving authorities in certain sectors, such as tourism, telecommunication or those involved in national interests activities.

II. FIC Guidelines on the Acquisition of Properties by Local and Foreign Interests

1. Does the acquisition or disposal of properties under the real estate investment trust (REIT) structure require submission to the SC?

No. If the REIT fund is incorporated as a private limited company, submission must be made for the consideration of the FIC.

For further information, please contact:

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